

## SCHEDULE 3 - UNADDRESSED MAIL SERVICE TERMS AND CONDITIONS

### **1 Introduction**

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- 1.1 These special service terms and conditions are supplementary to the Australia Post Terms and Conditions and to the extent that any aspect of this special service is not expressly included herein, the Australia Post Terms and Conditions apply.
- 1.2 These special service terms and conditions apply when:
- 1.2.1 a Customer or a Mailing Agent makes an application to use the special service in a manner (including through any online application process) prescribed by Australia Post for that purpose; and
  - 1.2.2 all Australia Post Instructions and Procedures concerning the making of an application to use the special service have been fully complied with; and
  - 1.2.3 Australia Post accepts that application; and
  - 1.2.4 the Customer or Mailing Agent pays or agrees to pay the fee, charge, premium, rate or price charged by Australia Post for the special service.

### **2 Interpretation**

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- 2.1 Except as where expressly defined, all words and phrases used in this Agreement shall have the same meaning if any, given to them in *The Australian Postal Corporation Act 1989* and in the Australia Post Terms and Conditions provided, however, that where there is any inconsistency, the meaning shall be as defined in this Agreement to the extent of that inconsistency.
- 2.2 In these terms and conditions unless the contrary intention appears:
- 2.2.1 where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have a corresponding meaning;
  - 2.2.2 words importing a gender include any other gender; and
  - 2.2.3 words in the singular number include the plural and words in the plural number include the singular.
- 2.3 "**Actual points**" means the number of delivery points of any type which are actually available for delivery in a designated delivery area at the time of delivery pursuant to this Agreement.
- 2.4 "**Agreement**" means an agreement for the supply of the UM Service made between Australia Post and a Customer or Mailing Agent pursuant to clause 1.2.
- 2.5 "**Article**" means an unaddressed article or mail piece covered by this Agreement;
- 2.6 "**Cancellation or Variation Policy**" means Australia Post's policy governing the cancellation or variation of Unaddressed Mail orders and lodgements, set out in the Instructions and Procedures and updated from time to time.
- 2.7 "**Community notices**" means articles lodged pursuant to this Agreement by or under the authority of, local, State or Federal government or their agencies, political organisations, religious or educational institutions, or charitable bodies (including benevolent and welfare societies).

- 2.8 "**Customer**" means the owner or generator of the articles which are to be lodged and delivered through the UM Service, and includes 'Mailing Agent' where applicable.
- 2.9 "**Instructions and Procedures**" means all of Australia Post's information, bulletins, user guides, manuals, and other directions and instructions (however published or displayed) to Unaddressed Mail users for use of the Unaddressed Mail Service
- 2.10 "**Lodgement**" means the lodgement of Articles made by a Customer for delivery through the UM Service
- 2.11 "**Mailing Agent**" means any person or company entering into this Agreement and seeking lodgement and delivery through the UM Service of articles which are owned or generated by a third party.
- 2.12 "**Materials**" has the meaning set out in clause 3.8.
- 2.13 "**Online Service**" means the Unaddressed Mail Booking System which amongst other things, allows Customers who wish to use the UM Service, to register and make bookings online.
- 2.14 "**UM Service**" means the Unaddressed Mail Service which is special service for delivery of unaddressed letters to delivery points within a specified geographic area.

### **3 Conditions of Service**

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- 3.1 Australia Post may publish Service Instructions and Procedures for the UM Service, which will be made available to a Customer before any application to use the Service is made by a Customer. Any UM Service Instructions and Procedures (which may be contained within a UM Service guide) will form a part of this Agreement and the Customer must comply with all Service Instructions and Procedures at all times when applying for, and using, the UM Service. Further, the Customer must supply full and accurate information to Australia Post whenever requested to do so. Without limitation, the Customer must supply accurate information concerning such matters as the Customer's personal and payment information, and in respect of all lodgement and delivery information.
- 3.2 Unless Australia Post agrees in writing to vary this clause, the standard requirement is that all Articles lodged for delivery through the UM Service pursuant to this Agreement must not be larger than 360mm x 260mm. All articles in a booking must be identical in size and mass.
- 3.3 Articles may be lodged enveloped, wrapped or unwrapped. If an unwrapped article measures more than 360mm x 260mm when flat and unopened, then it must be folded flat prior to lodgement to a maximum width of 125mm (any number of folds is acceptable) and a maximum thickness of 20mm.
- 3.4 A sample of an Article may be required before the distribution is approved.
- 3.5 Apart from the Reply Paid service, no other special Australia Post service may be used in conjunction with the UM Service unless Australia Post has consented to such use in writing.
- 3.6 No explosive substances or prescribed or dangerous or deleterious substances may be lodged, in or with Articles except in accordance with the Australia Post Terms and Conditions.
- 3.7 All text and images in Articles must meet acceptable community standards of reasonableness, honesty and decency. Any Article which contains text or images which (in Australia Post's reasonable opinion) does not meet current community standards or expectations, or which may cause offence to a reasonable person, or which contains, or may contain, material which is defamatory or offensive, may be

refused by Australia Post. Australia Post reserves the right to examine a sample of an Article before proceeding to formal acceptance of a UM Service agreement or effecting delivery. Australia Post also reserves the right to decline to offer the UM Service, or to cancel or suspend the operation of the UM Service after acceptance, if it believes that it is appropriate to do so under this clause. Provided Australia Post acts reasonably, a Customer has no claim against Australia Post in respect of any refusal to supply the UM Service based upon the provisions of this clause.

- 3.8 Australia Post will provide the Customer with data, information, documents and other materials, including maps ('Materials'), necessary to prepare and submit the lodgement. The Materials remain the property of Australia Post and must not be used for purposes other than to prepare and submit the lodgement.
- 3.9 The technology and processes used in the production of the Materials supplied by Australia Post are the subject of intellectual property rights owned by Australia Post or by third parties. No licence is granted in respect of those intellectual property rights. Use of the Materials must not in any way infringe the intellectual property rights of any person and must not be used for other purposes including commercial exploitation by the Customer, Mailing Agent or other parties.
- 3.10 While every care is taken to ensure the accuracy of the Materials the owners of the Materials (including the State, Territory and Commonwealth Governments of Australia) do not make any representations or warranties about its accuracy, reliability, completeness or suitability for any particular purpose and, to the extent permitted by law, the owners of the Materials disclaim all responsibility and all liability (including without limitation, liability in negligence) for all expenses, losses, damages (including indirect or consequential damages) and costs which might be incurred as a result of the Materials being inaccurate or incomplete in any way and for any reason. Delivery point numbers may change without notice. The Materials must not be used for any purposes other than those identified in these terms and conditions or given to other persons.
- 3.11 Where the Customer has been provided with a username and password to make a booking or use the Online Service, the Customer is solely responsible for maintaining the secrecy and security of any username and password and the Customer shall notify Australia Post immediately if it has reason to suspect the unauthorised use or access of the Online Service.
- 3.12 Where the Customer is a partnership, company, incorporated or unincorporated association or institution, the Customer must ensure that all Customer personnel (including any employees or contractors of the Customer) are aware of and comply with these terms and conditions.

## **4 Lodgement**

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- 4.1 Australia Post is deemed to have accepted the lodgement only when:
- 4.1.1 all UM Service Instructions and Procedures (particularly, but not limited to, instructions concerning the manner in which lodgements are to be bundled, lodged in trays, and correctly labelled) have been fully complied with and the mailing statement accompanying a lodgement of articles is correctly receipted and stamped;
  - 4.1.2 the information supplied by a Customer (including information contained in the mailing statement has been verified; and
  - 4.1.3 the Customer's instructions, and the UM Service transaction, has been processed and payment for the Service has been made.
- 4.2 Lodgement irregularities
- 4.2.1 Australia Post reserves the right to inspect and verify the contents and presentation of all lodgements either at the time of lodgement and/or thereafter while the lodgement is in the possession of Australia Post, in order to verify the accuracy of information supplied by the Customer (including any information contained in the mailing statement) or to verify that this Agreement and/or the UM Service Instructions and Procedures have been complied with. If on inspection it becomes apparent that Service Instructions and Procedures have not been fully complied with, Australia Post may at that time decline to provide the Service if it is entitled to do so, or alternatively if it appears that additional tasks are – by reason of the Customers failure to fully comply with this Agreement and/or the UM Service Instructions and Procedures - required to be implemented by Australia Post before lodgement and delivery can be completed, the additional costs incurred by Australia Post in completing additional work may be claimed from, and are to be paid by, the Customer on demand.
  - 4.2.2 If any lodgement is delivered by a Customer either late, or at a place different to that specified and agreed in the UM Service booking, and such late or incorrect lodgement results in additional costs being incurred by Australia Post, the additional costs incurred by Australia Post may be claimed from, and are to be paid by, the Customer on demand.

## **5 Disclosure**

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- 5.1 The Customer (including any Mailing Agent) agrees that Australia Post may disclose the Customer's (and the Mailing Agent's) name and address to a person to whom an article has been delivered upon the request of that person.

## **6 Customer and Mailing Agent Warranty**

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- 6.1 The Customer (including any Mailing Agent) if any warrants to Australia Post:
- 6.1.1 that it has fully complied with all laws and Regulations, both State and Federal, relating to the content and presentation of advertising material contained in the articles lodged for delivery by Australia Post;
  - 6.1.2 that the articles do not contain anything which is defamatory or offensive, and that the provisions of clause 3.6 of these terms have been read and accepted;

- 6.1.3 that the content of any advertising does not breach the provisions of any consumer protection legislation, or the copyright, trademark or other intellectual property rights of any person; and
- 6.1.4 that if the Agreement involves a Mailing Agent, any Mailing Agent entering into this Agreement has the full authority of the owner or generator of the articles which are to be lodged and delivered through the UM Service to lodge the Articles for delivery through the UM Service, to enter into this Agreement, and to give the warranties and promises stated herein.

## **7 Delivery**

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- 7.1 Australia Post shall deliver Unaddressed Mail in the normal course of its business provided always that:
  - 7.1.1 delivery of articles shall be made between Monday to Friday of the nominated delivery week;
  - 7.1.2 delivery after the first week in December and before the first week of January is not available unless otherwise agreed in writing by Australia Post;
  - 7.1.3 articles, cannot be delivered to points displaying stickers or signs bearing the words "no unaddressed advertising material" or other similar request unless they are community notices and their delivery is permitted by law; and
  - 7.1.4 articles lodged pursuant to this Agreement may be subject to further requirements contained in the UM Service Instructions and Procedures published by Australia Post in relation to matters which may include:
    - i. the sorting and/or arrangement of articles so as to facilitate their delivery;
    - ii. notice periods for use of the UM Service;
    - iii. a prohibition of lodgment of articles for delivery generally, or in respect of particular areas during a nominated period or periods; and
    - iv. fees for early or late lodgements, cancelled or varied delivery orders, and for managing and effecting returns of undelivered Articles.
- 7.2 Where articles are lodged for delivery from more than one delivery office, the person lodging the articles may nominate the proportion of the total lodgment that is to be delivered from each office.
- 7.3 Subject to clause 7.1 and clause 7.2, the articles shall be delivered as follows:
  - 7.3.1 where the number of articles lodged for delivery points in the designated delivery area equals the actual delivery points, one article shall be delivered to each delivery point;
  - 7.3.2 where the number of articles lodged is less than the number of actual delivery points in the designated delivery Australia Post shall have the discretion to select the delivery points to be serviced in the designated delivery area and deliver one article to each delivery point selected; and
  - 7.3.3 where the number of articles lodged exceeds the number of actual delivery points, in the designated delivery area, and one article has been delivered to each delivery point in the designated delivery area, the excess shall be disposed of either pursuant to any instructions agreed between a Customer and Australia Post or, if no such agreement on returns of excess articles is in force, in any manner as Australia Post in its absolute discretion decides.

## **8 Rates and Charges**

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- 8.1 Service charges (generally of an amount for each of the articles in the lodgment, equal to the agreed postage payable per item, plus any applicable additional fee or surcharge) are as set and published by Australia Post from time to time. Payments of service charges and fees may be made by cash, bank cheque, credit card, or by charge to a charge account approved by Australia Post for the purpose. Payment methods are offered and are available at the discretion of Australia Post, and particular limitations, conditions and requirements for payment by designated methods may apply to different ordering channels, and may be described in the Instructions and Procedures.

## **9 Limitation of Liability Release and Indemnity**

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- 9.1 Except as may apply by reason of clause 9.3, Australia Post offers the UM Service on a 'no liability' basis. The Customer acknowledges that Australia Post is not liable for any loss, damage, claim or demand which arises from the provision of the UM Service, including any loss, damage, claim or demand which arises from:
- 9.1.1 Any mis-delivery, early delivery, late delivery, incomplete delivery, or any failure of delivery, of any Article lodged for processing and delivery through the UM service;
  - 9.1.2 the injury, illness or death of any person, damage to property, whether concealed or otherwise, including but not limited to deterioration, contamination or evaporation of any article or thing; or
  - 9.1.3 the consequences or result of any mis-delivery, early delivery, late delivery, incomplete delivery, or any failure of delivery of any Article lodged for processing and delivery through the UM service.
- 9.2 Or from any other circumstance, however caused and whether direct or consequential, including, negligence or breach of contract by Australia Post, its employees, servants or agents, that arises in whole or in part from, or in connection with, any services provided by Australia Post. For avoidance of doubt it is specifically noted and agreed that Australia Post will not, at any time, be liable for, or accept any liability in respect of, the payment or reimbursement of any printing, production, or pre-lodgement costs incurred by a Customer in respect of articles to be delivered through the UM Service, nor will Australia Post be liable for any claim for lost or reduced profits, earnings, or any damage to reputation which a Customer may allege has arisen as a consequence of any act or omission on the part of Australia Post.
- 9.3 To the extent permissible by law, Australia Post expressly disclaims all conditions and warranties, express or implied in respect of the UM Service. Where the law precludes such exclusion and implies certain conditions and warranties into this Agreement, the liability of Australia Post for breach of such condition or warranty shall be limited, at the option of Australia Post to either:
- 9.3.1 supplying the service again; or
  - 9.3.2 payment of the cost of having the service supplied again, or the actual loss or damage, whichever is the lesser.
- 9.4 **Cancellations and Refunds**
- 9.4.1 Where a UM Service booking has been made and accepted, and the Customer (or Mailing Agent, as the case may be) either

- i. seeks to cancel or vary the booking prior to lodgement, or
  - ii. after lodgement of articles seeks to cancel the Agreement in its entirety,
- then - provided the Customer is not otherwise in breach of any obligations imposed upon the Customer by this Agreement or by the Instructions and Procedures, and provided it is operationally feasible for Australia Post to do so - the Customer's cancellation or variation request may be accepted by Australia Post, and the Customer (or Mailing Agent) may have entitlement to reimbursement of all or a part of the Service fee on the terms and conditions of Australia Post's UM Services Cancellation or Variation Policy, as in force at the time the cancellation or variation is accepted.

## **10 Force Majeure**

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- 10.1 Australia Post shall not be in default under the terms of this Agreement nor liable for failure to observe or perform in accordance with any provision of this Agreement for any reason or cause which could not with reasonable diligence be controlled or prevented by it, including without limitation, war, insurrection, riot, civil commotion, strikes, lock-outs, labour or industrial disputes, acts of God, acts of Governments or flood, storm, tempest, power shortages or power failure, inability to obtain sufficient labour, raw materials, fuel or utilities. During the period of an incident or incidents of "Force Majeure" this Agreement shall be suspended and delivery will recommence after the incident or incidents of "Force Majeure" end.

## **11 Merger**

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- 11.1 All the rights, immunities and limitations of liability in this Agreement shall continue to have their full force and effect in all circumstances notwithstanding any breach of contract or of any conditions hereof by Australia Post.

## **12 Severance**

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- 12.1 All the terms and conditions of this Agreement shall be severable and no provision shall be affected by the invalidity of any other provision except to the extent that such invalidity also renders such other provisions invalid and in the event of the invalidity of any provisions, this Agreement shall be interpreted and enforced as if the invalid provision was not contained in this Agreement.

## **13 Variation**

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- 13.1 Australia Post may vary or waive the terms and conditions of this Agreement provided that such variation or waiver is communicated to the Customer in writing and with reasonable notice.

## **14 Notice**

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- 14.1 Any notice required to be served by or under these terms and conditions shall be sufficiently given to the Customer if (i) sent by email to an email address supplied by a Customer to Australia Post in connection with any application to use the UM Service, (ii) left at or sent by post addressed to the Customer at its last known or usual place of address, and to Australia Post if sent by post to the appropriate State Administration at its current address.

## **15 Law**

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- 15.1 This Agreement is governed by, and shall be construed in accordance with, the laws in force in the State of Victoria and the courts and registries of courts in that State shall have jurisdiction in the event of a dispute.

## **16 Conditions of Carriage**

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- 16.1 This Agreement shall not constitute or imply any agreement between Australia Post and the Customer (or any undertaking or obligation whatsoever on the part of Australia Post) with respect of the carriage of any postal article. *The Australian Postal Corporation Act 1989*, the Regulations and the Australia Post Terms and Conditions and other written instructions published by Australia Post shall apply to the carriage of articles issued pursuant to the service except to the extent that they are inconsistent with this Agreement.

## **17 Whole of Agreement**

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- 17.1 Subject to clauses 1.1 and 3.1 this Agreement contains the whole of the agreement between the parties in relation to the special service and any representation or warranty made by either party prior to entering into this Agreement shall have no force or effect unless otherwise stated herein.