

SCHEDULE 12 – POSTAGE METERS AND SERVICE TERMS AND CONDITIONS

1 Introduction

- 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 makes a written application to use the special service in or on a form prescribed by Australia Post for that purpose;
 - 1.2.2 Australia Post accepts that application; and
 - 1.2.3 the customer pays the fee, charge, premium, rate or price charged by Australia Post for the special service.

2 Interpretation

- 2.1 Except 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 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 "**agreement**" means an agreement between Australia Post and a customer pursuant to clause 1.2.
- 2.4 "**application**" means an application made to Australia Post by a person for the issue of a licence by Australia Post;
- 2.5 "**approved impression**" means an impression approved by Australia Post;
- 2.6 "**customer**" means a person who holds a current licence from Australia Post to operate a meter;
- 2.7 "**data matrix barcode**" means a two-dimensional sequence or series of squares, bars, lines or other symbols, contained in an approved impression, conforming to the barcode systems and protocols adopted by Australia Post;
- 2.8 "**impressed article**" means an article bearing an approved impression;
- 2.9 "**impression**" means an impression, indicium, mark or other token made by a meter;
- 2.10 "**impression dies**" means the engraved plates contained in a meter which are capable of applying an approved impression to an article;

- 2.11 "**licence**" means a licence issued by Australia Post to a customer, pursuant to this schedule, which is a special service allowing the customer to operate a meter and includes a postage meter licence;
- 2.12 "**licence controlling office**" means an Australia Post office or outlet specified in the licence or otherwise nominated by Australia Post as such;
- 2.13 "**meter**" means a make or model of postage meter authorised by Australia Post to make approved impressions;
- 2.14 "**modem reset**" means the resetting of a vault using a modem in the manner prescribed by Australia Post;
- 2.15 "**postage meter**" means a device which:
- 2.15.1 is capable of applying an approved impression, indicating the value of postage or other charges relating to an article;
 - 2.15.2 is capable of recording the value of an approved impression so made;
 - 2.15.3 is capable of being sealed or secured in such a manner that an approved impression cannot be made without the value being recorded by a vault and unless a credit value equal to the value of the approved impression exists in the vault;
 - 2.15.4 is capable of being modem reset;
 - 2.15.5 is capable of applying an approved impression containing a data matrix barcode; and
 - 2.15.6 has a printing mechanism and vault (which may be capable of being removed and separately sealed) which can be protected from tampering using Australia Post approved security standards; or
 - 2.15.7 Australia Post may determine as such;
- 2.16 "**postage meter licence**" means a licence allowing the customer to operate a postage meter;
- 2.17 "**printing mechanism**" means that component of, or mechanism contained in, a meter which is designed exclusively to apply an approved impression to an article and includes approved impression dies;
- 2.18 "**remote reset centre**" means a location which has been approved by Australia Post to set or reset postage credits on a meter by modem or other methods approved by Australia Post;
- 2.19 "**reset**" means to add postage credit to the vault of a meter,
- 2.20 "**service**" means to overhaul, adjust, repair or modify a meter and includes any inspection of the meter carried out for the purposes of this Division;
- 2.21 "**supplier**" means a person who has entered into a supplier agreement with Australia Post to supply or service machines (as the case requires), provided such supplier agreement remains in force, and where the context dictates or otherwise permits, includes the supplier's employees and agents;
- 2.22 "**supplier agreement**" means a written agreement between Australia Post and a supplier regarding the supply or service of a meter (as the case requires);
- 2.23 "**supply**" means to sell or lease or offer to sell or lease;
- 2.24 "**Term**" means the Term of a licence;

- 2.25 "vault" means the component of a meter containing a secure set of accounting registers which may be separately sealed and which record the value of approved impressions made by and the postage credit value contained in a meter.

3 Use of impressions

- 3.1 A person shall not lodge with Australia Post an impressed article for carriage unless –
- 3.1.1 that person is a customer or person authorised to lodge the impressed article on behalf of the customer;
 - 3.1.2 the article is lodged in accordance with this Agreement and the conditions of the customer's licence, and
 - 3.1.3 The customer complies in all respects with the Australia Post Terms and Conditions, provided that where any inconsistency arises between these terms and conditions and the Australia Post Terms and Conditions, then this Agreement shall prevail to the extent of any inconsistency.

4 Application for a licence

- 4.1 An application shall be made in a form and manner approved by Australia Post and disclose all information required by Australia Post.
- 4.2 Upon compliance with clause 4.1, Australia Post shall issue, and the applicant shall accept, an interim licence subject to these terms and conditions. The interim licence shall remain in force until –
- 4.2.1 the application is accepted or rejected by Australia Post; or
 - 4.2.2 Australia Post revokes the interim licence.
- 4.3 In submitting the application, an applicant shall provide such supplementary information and/or material as reasonably required by Australia Post.
- 4.4 Australia Post may refuse an application where –
- 4.4.1 the applicant has not provided the information required under clause 4.1 and 4.3;
 - 4.4.2 the particular meter to which the application relates has not been –
 - (i) approved by Australia Post; or
 - (ii) if approved by Australia Post, has not been inspected by a supplier or Australia Post (as the case requires) within seven days prior to the date on which the application was made, and the supplier or Australia Post (as the case requires) reasonably believes that the state of general operation and security of the meter is unsatisfactory; or
 - 4.4.3 the postage meter does not meet the conditions of the current Postage Meter Standard.
- 4.5 Where Australia Post accepts an application –
- 4.5.1 the Term shall be deemed to commence from the date specified in the application; and
 - 4.5.2 the interim licence shall become the licence from the date of that acceptance.

5 Licence conditions

- 5.1 5A The customer acknowledges and agrees that:
- 5.1.1 5A.1 the postage meter licence is not transferable; and
 - 5A.2 no representations shall be made by the customer that:
 - 5A.2.1 the postage meter meets Australia Post's licensing requirements; or
 - 5A.2.2 Australia Post will licence the machine to another person.

Meters

- 5.2 A licence shall continue in force until –
- 5.2.1 it expires;
 - 5.2.2 it is surrendered by a customer; or
 - 5.2.3 it is cancelled by Australia Post under clause 8, whichever occurs first.
- 5.3 Throughout the Term a customer shall –
- 5.3.1 keep secure and remain in possession of the meter until a supplier or Australia Post (as the case requires) has taken the necessary steps to disable the printing capabilities of the meter including, but not limited to, the removal of the printing mechanism;
 - 5.3.2 notify the licence controlling office in writing of any proposed sale or other disposal of the meter including any proposed change of ownership of the meter;
 - 5.3.3 immediately notify the licence controlling office, in writing, of any proposed change in the address of the premises at which the meter is sought by the customer to be kept;
 - 5.3.4 not use the meter unless –
 - (i) the vault has been set and reset in accordance with the method approved by Australia Post;
 - (ii) the meter is operating correctly; and
 - (iii) the meter contains a printing mechanism and vault approved by Australia Post;
 - 5.3.5 immediately report any defect in the operation or security of the meter to –
 - (i) the licence controlling office; and
 - (ii) if applicable, the supplier who supplied the meter.
 - 5.3.6 reset the meter in accordance with the reset instructions provided to the customer by a supplier and approved by Australia Post;
 - 5.3.7 operate the meter in accordance with the operating instructions provided to the customer by a supplier or Australia Post and as amended from time to time;
 - 5.3.8 not tamper with any seal, lock or device placed in or on the meter by a supplier or Australia Post;
 - 5.3.9 not allow any person other than a supplier or Australia Post to service the meter; and

- 5.3.10 not use any ink in the meter that is not of a colour, density and fluorescent quality approved by Australia Post.
- 5.4 A customer shall not dispose of or part with possession or control of a meter unless the customer delivers the meter to the licence controlling office or a supplier (as the case dictates) for the removal and surrender of the printing mechanism.
- 5.5 During the Term Australia Post or the supplier may –
- 5.5.1 take action to prevent the resetting of the meter;
 - 5.5.2 enter the premises of a customer to inspect and disable the vault and/or the printing mechanism of the meter; and/or
 - 5.5.3 take physical possession of the vault and/or the printing mechanism and hold those items indefinitely, where Australia Post –
 - (i) reasonably suspects fraudulent activity or other crime; or
 - (ii) has withdrawn its approval for the meter for which the customer is licensed due to that meter no longer complying with the standard prescribed by Australia Post; or
 - (iii) reasonably believes that the state of general operation and security of the meter is unsatisfactory.
 - 5.5.4 Save where Australia Post reasonably suspects fraudulent activity or other crime under paragraph 5.4.3(i), Australia Post shall give reasonable notice to a customer where it proposes to exercise its rights under this subclause, or where it instructs the supplier to exercise its rights on its behalf.
- 5.6 The customer shall indemnify and keep indemnified Australia Post against and in respect of –
- 5.6.1 all losses, damages, costs or expenses (including consequential losses) sustained or incurred by Australia Post as a consequence (direct or indirect) of the failure, refusal, neglect or omission of the customer to properly discharge and perform any of its obligations under these terms and conditions or under the licence;
 - 5.6.2 an amount equal to the amount of any loss in postage incurred and/or suffered by Australia Post as a consequence (direct or indirect) of the failure of the vault to accurately record the value of approved impressions made by the meter;
 - 5.6.3 all claims, actions and/or proceedings against Australia Post alleging liability arising from such failure, refusal, neglect or omission by the customer; and
 - 5.6.4 the costs and expenses (including legal costs) on a full indemnification basis incurred and/or suffered by Australia Post in respect of such claims, actions and/or proceedings.

For the purposes of this subclause, the amount of such liability shall be deemed a loss of the same amount incurred or suffered by Australia Post and may be recovered by Australia Post in any court or tribunal of competent jurisdiction as a debt due to Australia Post.

- 5.7 Unless contrary provision is made elsewhere in this Division, the obligations of a customer under this Division or under a licence shall bind the customer's respective administrators, guardians, personal representatives, employees, agents, permitted assigns, executors and trustees (howsoever appointed) and his/her/their respective administrators, executors and trustees.

Postage meters

- 5.8 A postage meter licence shall specify a licence controlling office –
- 5.8.1 which is within a 50 kilometre radius of the premises at which the postage meter is licensed to be kept; or
 - 5.8.2 where no licence controlling office is within a 50 kilometre radius of the premises at which the postage meter is licensed to be kept, then the nearest licence controlling office.
- 5.9 A postage meter customer shall connect its postage meter to a remote reset centre –
- 5.9.1 once every three calendar months or as otherwise directed by Australia Post; and
 - 5.9.2 using the method prescribed by Australia Post.

6 Refunds to customers in respect of approved impressions

- 6.1 Where:
- 6.1.1 the vault fails to accurately record the value of an approved impression made by a meter; and
 - 6.1.2 such failure has not been caused or contributed to (directly or indirectly) by the failure, refusal, neglect or omission of the customer to properly discharge and perform any of its obligations under this Agreement or under the licence; and
 - 6.1.3 such failure results in a loss to the customer,
- then Australia Post may, in its reasonable discretion, pay to the customer an amount equal to the amount of the loss. The customer shall be entitled to make representations to Australia Post regarding the payment to it of such amount.
- 6.2 Where –
- 6.2.1 an impression is defective or is made in error;
 - 6.2.2 the customer applies in writing to Australia Post for a refund of the value of the impression within six months after the date upon which the impression was made;
 - 6.2.3 the customer has provided, to the reasonable satisfaction of Australia Post, evidence that the value of the impression has been accurately recorded by the meter as a result of printing the approved impression;
 - 6.2.4 the impression has not been produced or reproduced by improper or fraudulent means, or by means which are not in accordance with these terms and conditions or under a licence, or which have been tampered with; and
 - 6.2.5 the customer surrenders to Australia Post the complete envelope, packet, parcel, container or wrapper bearing the impression (but not the contents),
- then Australia Post may, in its reasonable discretion, pay to the customer an amount equal to the value of the impression applied for in clause 6.2.2. The customer shall be entitled to make representations to Australia Post regarding the payment to it of such amount.

- 6.3 Where the value of an impression for which a refund is sought under clause 6.2 is unclear or otherwise illegible, then the value of that impression shall be deemed to be the lowest value of impression which the meter can make.
- 6.4 Australia Post will be entitled to refuse a refund for the value of any impression which has been produced or reproduced by improper or fraudulent means, or by means which are not in accordance with these terms and conditions or under a licence, or which have been tampered with. A refund will not be made for an impression which has been removed or separated from its original envelope, packet, parcel, container or wrapper.
- 6.5 Australia Post may refuse a refund for an impression the value (or part thereof) for which payment has not been received as cleared funds by Australia Post.

7 Conditions of lodgement of impressed articles for meters

- 7.1 A customer shall lodge impressed articles in the manner prescribed by Australia Post.
- 7.2 Impressed articles lodged for carriage must bear the address of the sender.
- 7.3 Where an approved impression on an article contains a date, that article shall be lodged only on the date contained within the approved impression.
- 7.4 Australia Post may either refuse to carry or treat as underpaid an article which has an impression that has been incorrectly positioned on the article and/or which does not comply with the relevant conditions for positioning of approved impressions prescribed by Australia Post.
- 7.5 Impressed articles for delivery by the local delivery service must be lodged at the counter of an office from which the articles will be delivered.
- 7.6 Impressed articles lodged for delivery under the barcoded and unbarcoded PreSort letter service must be accompanied by a PreSort letters meter lodgement document.
- 7.7 Impressed articles lodged for carriage must bear the address of the sender.

8 Termination by Australia Post

- 8.1 Australia Post may cancel a licence, under this Agreement, where:
- 8.1.1 the customer breaches Part 7A of the *Crimes Act 1914 (Cth)* (as amended) or equivalent state legislation;
- 8.1.2 the customer breaches its obligations under:
- (i) its licence; or
 - (ii) this Agreement; and
 - (iii) Australia Post has given written notice of such breach to the customer and the customer has failed to remedy such breach within seven days (or such other reasonable period as may be specified in the notice) after the notice was served on the customer;
- 8.1.3 the customer lodges for carriage with Australia Post an article bearing an impression containing a message or slogan which Australia Post reasonably deems, in its discretion, to be misleading, confusing, offensive, undesirable or otherwise objectionable;
- 8.1.4 the customer fails, refuses, neglects or otherwise omits to remedy any defect in the operation of the meter as and when required to do so by Australia Post;

- 8.1.5 the customer lodges articles in contravention of clause 7 after having been warned by Australia Post that further contraventions of that clause by the customer may result in the cancellation of its licence;
- 8.1.6 the customer engages in fraudulent activity in relation to a meter for which the customer is licensed or engages in other fraudulent activity; or
- 8.1.7 Australia Post withdraws its approval for the meter for which the customer is licensed due to that meter no longer complying with the standard prescribed by Australia Post from time to time.
- 8.1.8 Australia Post becomes aware that the meter for which the customer is licensed is lost, stolen or irreparably damaged;
- 8.1.9 the customer enters, or threatens or proposes to enter, into any form of insolvency administration, including a voluntary administration as referred to in the Corporations Act 2001 (Cth);
- 8.1.10 the customer passes a resolution or a court makes an order that the customer shall be wound up; or
- 8.1.11 a receiver or manager on behalf of a creditor shall be appointed to the customer or if circumstances shall arise which entitle a court or a creditor to appoint a receiver or manager.

The surrender or cancellation of a licence does not relieve a customer of any continuing obligation which may be imposed by these terms and conditions or by the customer's licence.

8.2 Australia Post may refuse to carry an article lodged for carriage bearing an impression of the type referred to in clause 8.1.3.

8.3 Where:

8.3.1 a licence has been surrendered or cancelled, and

8.3.2 a credit remains on the meter to which the licence relates,

subject to Australia Post's rights of set off, Australia Post shall pay the credit to the customer where –

8.3.3 the customer, or the supplier on behalf of the customer, has presented the meter to the licence controlling office;

8.3.4 the vault is functioning correctly;

8.3.5 any seal, lock or device placed in or on the meter by a supplier or Australia Post remains intact and has not otherwise been tampered with; and

8.3.6 the credit remaining on the meter constitutes funds cleared by Australia Post.

9 Supply and service of meters

9.1 Subject to clause 9.2, a person:

9.1.1 may supply or service a meter only where that person is a supplier.

9.1.2 shall not supply or service a meter unless that person is a supplier.

9.2 Australia Post may supply or service a meter.

10 Rebate for postage meter customers

- 10.1 A customer shall be entitled to a rebate on the value of the postage meter reset by modem at a rate determined by Australia Post for that purpose.

11 Rates and Charges

- 11.1 The Customer shall purchase postage as determined by Australia Post.

12 Variation

- 12.1 These terms and conditions may be varied or added to by Australia Post by notice in writing to the customer.

13 Notice

- 13.1 Any notice required to be served by or under these terms and conditions shall be sufficiently given to the customer if 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 Manager, Sales at the appropriate State Administration at its current address.

14 Limitation of Liability Release and Indemnity

- 14.1 Subject to clause 14.2 and Australia Post Terms and Conditions, Australia Post shall not be liable to any person (whether in contract, tort or otherwise) for any loss or damage suffered, or that may be suffered, as a result of any act or omission, whether negligent or otherwise, by or on behalf of Australia Post in relation to the licence, or any other matter or thing relating to this Agreement.
- 14.2 To the extent permissible by law, Australia Post expressly disclaims all conditions and warranties, express or implied, in respect of the licence and the carriage of letters pursuant to this Agreement. 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 any one or more of the following:
- 14.2.1 supplying the licence again; or
 - 14.2.2 payment of the cost of having the licence supplied again.
- 14.3 The customer shall release and indemnify Australia Post against any loss or damage whatsoever which Australia Post may suffer as a result of any action, proceeding, claim, demand or prosecution arising from the provision of the licence, or any other matter or thing arising as a result of this Agreement, including loss or damage arising from the negligent acts or omissions of Australia Post, pursuant to this Agreement.

15 Force Majeure

- 15.1 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.

16 Merger

16.1 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.

17 Law

17.1 This Agreement is governed by, and shall be construed in accordance with the laws in force in the State of Victoria which this Agreement is entered into and the courts and registries of courts in that State.

18 Whole of Agreement

18.1 Subject to clause 1.1 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.