

SCHEDULE 22 – CHARITY MAIL LETTER 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; and
 - 1.2.2 Australia Post accepts that application.

2 Interpretation

- 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 "agreement" means an agreement between Australia Post and a customer for provision of the Service pursuant to clause 1.2.
- 2.3 "customer" means an entity having the status of a registered charity, and approval from the Australian Taxation Office for income tax exemption on that basis, and which is from time to time is approved by Australia Post as a customer of the service.
- 2.4 "letters" means small letters as defined in the Australia Post *PreSort Service Guide* 8833700;
- 2.5 "mailing conditions" means the conditions set out in the Australia Post *PreSort Service Guide* 8833700 or equivalent publication published by Australia Post from time to time;
- 2.6 "service" means the Charity Mail Letter Service which is a special service available to eligible customers who (a) make application to use the service on Australia Post form 8838713 and (b) which application is accepted by Australia Post. The service subsequently enables the customer to lodge letters in accordance with the Charity Mail Service mailing conditions and access preferential postage rates.

3 Rates and Charges

- 3.1 The customer shall pay to Australia Post the postal charges for the provision of the service as are determined and published by Australia Post from time to time.
- 3.2 The charges referred to in clause 3.1 shall be payable by the customer in cash at the time of lodgment of the letters or, where the customer has entered into an agreement with Australia Post for establishment of a charge account, shall be charged to (and paid in accordance with the terms and conditions of) that charge account.

- 3.3 Notwithstanding any termination of this Agreement, the customer shall remain liable to pay to Australia Post any charges, fees or postage due for articles carried pursuant to these terms and conditions.

4 Customers Warranty

- 4.1 The customer warrants and agrees that:
- 4.1.1 it has obtained the approval of Australia Post to use the service at the approved lodgment point/s;
 - 4.1.2 all letter comply with the requirements set out in the mailing condition current as at the date of lodgment of such letters;
 - 4.1.3 any change in the status of the customer as a registered and eligible charitable institution will be notified to Australia Post, and
 - 4.1.4 it will, as and when requested to do so by Australia Post, advise Australia Post in writing of the Income Tax Exempt Charity ("ITEC") approval code or designation allocated to, or in respect of the customer, (including any and each individual business unit of the customer) by the Australian Taxation Office.
- 4.2 The customer shall indemnify Australia Post against any loss or damage arising from a breach of any of the warranties in clause 4.1.

5 Discretionary Carriage and Lodgment

- 5.1 Australia Post may, in its sole and absolute discretion:
- 5.1.1 refuse to carry; or
 - 5.1.2 charge the customer postage at ordinary post rates for the carriage of any letters which are lodged by or on behalf of the customer contrary to any part of clause 4.1.
- 5.2 Australia Post may, in its sole and absolute discretion, direct a customer to lodge letters at any Australia Post lodgment facility.

6 No Other Service

- 6.1 The service cannot be used in conjunction with any other Australia Post service except as otherwise provided under a separate agreement between a customer and Australia Post.

7 Assignment

- 7.1 This Agreement cannot be transferred or assigned. Any purported transfer or assignment shall be void and of no effect.

8 Limitation of Liability Release and Indemnity

- 8.1 Subject to clause 8.2 and the Australia Post Terms and Conditions, Australia Post shall not be liable to the customer or to any other 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 provision of the service, or any other matter or thing relating to this Agreement.
- 8.2 To the maximum extent permissible by law, Australia Post expressly disclaims all conditions and warranties, express or implied, in respect of the service 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:
- 8.2.1 supplying the service again; or
- 8.2.2 payment of the cost of having the service supplied again.
- 8.3 The customer shall release and indemnify Australia Post from and 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 Service, 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.

9 Force Majeure

- 9.1 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.

10 Merger

- 10.1 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.

11 Termination

- 11.1 Australia Post may, in its sole and absolute discretion, terminate this Agreement and/or any approval granted to a customer to use the service, effective immediately, on written notice to the customer where:
- 11.1.1 the customer breaches or otherwise acts in a manner contrary to the Act, Regulations, the Australia Post Terms and Conditions (including this schedule), the Mailing Conditions or other written instructions published by Australia Post;

- 11.1.2 the customer fails, refuses, neglects or otherwise omits to properly discharge and perform any of its obligations under this Agreement;
 - 11.1.3 the customer fails, refuses, neglects or otherwise omits to remedy any breach of this Agreement as and when required to do so by Australia Post;
 - 11.1.4 an insolvency event occurs in relation to the customer; or
 - 11.1.5 the customer's status as a Charity ends or is suspended.
- 11.2 Australia Post may, without cause, in its sole and absolute discretion, terminate this agreement and/or any approval granted to a customer to use the service on fourteen days written notice to the customer.

12 Variation

- 12.1 These terms and conditions may be varied or added to from time to time 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 appropriate State Administration at its current address.

14 Conditions of Carriage

- 14.1 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 from time to time shall apply to the carriage of articles issued pursuant to the service except to the extent that they are inconsistent with this Agreement.

15 Law

- 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 Whole agreement

- 16.1 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.