

## SCHEDULE 2 – PRESORT LETTER 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 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

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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 "**agreement**" means an agreement between Australia Post and a customer pursuant to clause 1.2.
- 2.4 "**Customer**" means a person who from time to time is approved by Australia Post as a customer of the service and any permitted transferee in respect thereof;
- 2.5 "**Insolvency Event**" means for any corporation, the liquidation, administration, official management, compromise, arrangement, amalgamation, reconstruction, winding up or dissolution or analogous occurrence of that corporation, and for a natural person means an assignment for the benefit of creditors, an arrangement or composition with creditors, bankruptcy, incapacity to deal with one's affairs, gaoling, death or analogous occurrence;
- 2.6 "**Letters**" means large and small letters as defined in the *PreSort Service Guide* 8833700;
- 2.7 "**Mailing Conditions**" means the conditions set out in the *PreSort Service Guide* 8833700 or equivalent publication published by Australia Post from time to time;
- 2.8 "**Service**" means the PreSort Letter Service which is a special service available to customers who lodge 300 or more letters in accordance with the mailing conditions and providing the customer with reduced postage rates.

### **3 Rates and Charges**

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- 3.1 The customer shall pay to Australia Post the postal charges for the provision of the service as determined by Australia Post.
- 3.2 The charges referred to in clause 3.1 shall be payable in cash at the time of lodgment of the letters or, where the customer has entered into an agreement with Australia Post for a charge account, charged to that charge account.
- 3.3 Notwithstanding any termination of this Agreement, a person 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**

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- 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; and
  - 4.1.2 all letters comply with the requirements set out in the Mailing Conditions current as at the date of lodgment of such letters.
- 4.2 To the extent permitted by law, 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**

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- 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 ratesin respect of letters lodged contrary to 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**

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

### **7 Assignment**

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- 7.1 This Agreement shall not be transferred without the prior written consent of Australia Post. Any purported transfer without such consent shall be void and of no effect.
- 7.2 Where the customer, being a partnership, is reconstituted by the retirement or addition of partners, the reconstituted partnership is deemed to be the customer.

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

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- 8.1 Subject to clause 8.2 and the 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 provision of the service, or any other matter or thing relating to this Agreement.

8.2 To the extent permitted 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, if legally permissible, to:

8.2.1 supplying the service again; or

8.2.2 payment of the cost of having the service supplied again.

8.3 To the extent permitted by law, 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 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**

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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**

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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**

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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, Australia Post Terms and Conditions, 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; or

11.1.4 an insolvency event occurs in relation to the customer.

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**

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- 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**

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- 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**

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- 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**

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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 Whole Agreement**

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- 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.