

## SCHEDULE 9 – CHANGE OF ADDRESS – MAIL HOLDING 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 the 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 "**mail**" means letter mail and parcels.
- 2.6 "**service**" means the mail holding service which is a special service which enables the customer's mail to be held by Australia Post before delivery for a nominated period.

### 3 Period of Service

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- 3.1 Australia Post may in accordance with the application made for the service, hold mail for such period of time as may be nominated on the application form and approved by Australia Post.

## 4 Exclusions

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- 4.1 Australia Post may in its absolute discretion refuse to hold an article or articles where, in the reasonable opinion of Australia Post:
- 4.1.1 it may be difficult to isolate the article from other articles delivered to the same address; or
  - 4.1.2 the service is being used in the furtherance of a criminal offence;

## 5 Only Addressee May Apply

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- 5.1 Save as provided in clauses 6, 7 and 8 only the addressee entitled to receive the mail to which the application relates may make an application to redirect articles according to this Agreement.

## 6 Authorised Agent of Applicant

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- 6.1 An applicant, not the person referred to in clause 5.1 may apply on behalf of the addressee if;
- 6.1.1 the applicant is authorised by the addressee; or
  - 6.1.2 the addressee is a minor child and the applicant is the guardian or parent of that child with whom the child usually resides.

## 7 Applicant's Warranty

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- 7.1 If the application is made on behalf of other persons, the applicant hereby warrants that he is authorised to make the application on behalf of all persons as named as requiring all or some of the services and further, if the application is made on behalf of a spouse (including a de facto spouse), the applicant hereby warrants that the spouse and any children covered by the application are living with the applicant and the applicant is authorised to make the request on behalf of the spouse.

## 8 Applications by Partnership, Companies etc

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- 8.1 If the application is made on behalf of a company, partnership, sole trader, trust, government body and instrumentality, club or association, the applicant hereby warrants that he is authorised to make the application and the following procedures apply:
- 8.1.1 **Partnerships:** the application must be signed by a managing partner, or a person authorised in writing by all of the partners or the managing partner of the partnership;
  - 8.1.2 **Sole Trader:** the application must be signed by the registered proprietor of the business name or a person authorised in writing by the registered proprietor and the request must be accompanied with the original or certified copy of the Business Registration Certificate;
  - 8.1.3 **Companies:** the application must be signed by the company secretary or any other person authorised in writing by the company secretary and accompanied by the company seal;

- 8.1.4 **Trusts:** the application must be signed by the trustee or a person authorised in writing by the trustee;
- 8.1.5 **Government Bodies & Instrumentalities:** the application must be signed by a duly authorised person and a certified copy of the relevant authorisation must accompany the application. If the application is by a company, the common seal must be attached to the authorisation; and
- 8.1.6 **Clubs/Associations:** the application must be signed by the secretary of the club or association or a person authorised in writing by the secretary of the club or association.

## **9 Proof of Authority**

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- 9.1 Australia Post, may require the applicant to provide such information, document or thing as Australia Post, in its absolute discretion, deems necessary to establish to the satisfaction of Australia Post the applicant's entitlement to make the application or to provide the warranties given by the applicant.
- 9.2 The provisions of this clause apply notwithstanding that the application may have already been approved.

## **10 Criminal Offence**

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- 10.1 The applicant acknowledges that it may be a criminal offence to make the application:
- 10.1.1 if the applicant is not entitled to receive the mail in accordance with clause 5.1; or
- 10.1.2 if the applicant is not authorised, in accordance with clause 6 or clause 8, to make the application on behalf of the addressee; or
- 10.1.3 to intentionally or recklessly give false or misleading information; or
- 10.1.4 to omit a material particular without which the information is misleading.

## **11 Rates and Charges**

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- 11.1 Charges for use of the service shall be determined by Australia Post and are payable in advance.
- 11.2 Where a cancellation of the service is required, the applicant as provided in clauses 5, 6, 7 and 8 must advise Australia Post. If the service is cancelled prior to the expiration of the period for which payment is made in advance, Australia Post may refund all or part of the unused portion of the fee.

## **12 Termination or Extension by Applicant**

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- 12.1 The applicant may, by a further written request, terminate or extend the original application for the service.
- 12.2 Where a further written application is made under this clause, Australia Post shall use its best endeavours to ensure that the termination or extension is done within a reasonable time. This includes a reasonable time for Australia Post to make any further enquiries or obtain further evidence under clause 9 that it deems necessary.

## **13 Termination by Australia Post**

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- 13.1 Australia Post may terminate this Agreement where Australia Post believes on reasonable grounds that :
- 13.1.1 the service is being used for or in connection with an illegal activity;
  - 13.1.2 the applicant was not entitled or authorised to make the application; or
  - 13.1.3 the applicant has breached any term of this Agreement.
- 13.2 Upon expiration or termination of this Agreement mail received at the delivery office will be delivered as addressed or otherwise dealt with by Australia Post in accordance with the Australia Post Terms and Conditions.
- 13.3 Subject to clause 11.2 the addressee may terminate this Agreement in writing.
- 13.4 Notwithstanding the provisions of this clause, Australia Post reserves the right in its absolute discretion to refuse, suspend or terminate the mail holding service and no liability shall accrue to Australia Post for any loss or damage arising as a result of the refusal, suspension or termination.

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

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- 14.1 Subject to clause 14.2 and 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.
- 14.2 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:
- 14.2.1 supplying the service again; or
  - 14.2.2 payment of the cost of having the service supplied again.
- 14.3 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.

## **15 Force Majeure**

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- 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**

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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 Conditions of Carriage**

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17.1 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 to the carriage of any postal article. The *Australian Postal Corporation Act 1989*, the Regulations and the Australia Post Terms and Conditions made pursuant to the Act, 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.

## **18 Law**

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18.1 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.

## **19 Variation**

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19.1 These terms and conditions may be varied or added to from time to time by Australia Post by notice in writing to the customer.

## **20 Notice**

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20.1 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.

## **21 Whole of Agreement**

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21.1 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.