

SCHEDULE 17 – COMMUNITY BAG SERVICE CUSTODIAN 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 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 "**service**" means the Community Bag Service which is a special service provided to communities and localities that are remote, or to communities or localities which receive small quantities of mail.
- 2.5 "**custodian**" means a Community Bag custodian appointed pursuant to this agreement.

3 Conditions of service

- 3.1 A community bag custodian may be appointed by Australia Post in accordance with this agreement.
- 3.2 A custodian appointed under this agreement shall:
- 3.2.1 be responsible for the security of the community bag used in the service for which he is appointed and of the contents of the bag while they are in his custody;

- 3.2.2 ensure that bags dispatched by him are sealed and labelled as directed by Australia Post;
 - 3.2.3 report to Australia Post the receipt by him or her of any unsealed bag;
 - 3.2.4 deliver articles carried through the service to the persons to whom they are directed;
 - 3.2.5 before delivering any article on which any postage or cash is due – collect that postage or cash when so required by Australia Post;
 - 3.2.6 before delivering any signature service item – obtain a signature for it;
 - 3.2.7 before delivering any article requiring advice of receipt or delivery – obtain any necessary signature; and
 - 3.2.8 return to Australia Post all undeliverable articles, all forms of receipt and delivery of articles which he has received in the bag, and all missorted articles included in the bag.
- 3.3 Where a community bag service custodian is approved otherwise than to serve –
- 3.3.1 a number of households that are all situated on a single property; or
 - 3.3.2 a camp or construction site at which all persons receiving mail through the service are employees of, or sub-contractors to, a single employer or contractor,
- Australia Post may, upon appointment of a custodian to conduct the service, pay an annual payment to that custodian in respect of the services provided by him.
- 3.4 Clause 3.3 shall not prevent payment being made, during his continuance as a custodian, to any custodian in receipt of payment on 1 July 1975.
- 3.5 Notwithstanding anything contained in 3.3 and 3.4, a community bag service that was in operation on 1 July 1975 as a free bag service may continue to operate as a community bag service while the custodian of the service who was operating the service on that date continues to operate it.
- 3.6 Nothing in this agreement prevents Australia Post from discontinuing a community bag service and Australia Post may terminate the community bag service and cancel the appointment of a custodian at its absolute discretion.
- 3.7 Nothing in this agreement constitutes a relationship of agent, employee or partnership between Australia Post and the custodian appointed pursuant to this Agreement.

4 Limitation of Liability Release and Indemnity

- 4.1 Subject to clause 4.2 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 provision of the service, or any other matter or thing relating to this agreement.
- 4.2 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:

- 4.2.1 supplying the service again; or
- 4.2.2 payment of the cost of having the service supplied again.
- 4.3 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.

5 Force Majeure

- 5.1 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.

6 Merger

- 6.1 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.

7 Variation

- 7.1 These service terms and conditions may be varied or added to from time to time by Australia Post by notice in writing to the custodian.

8 Notice

- 8.1 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.

9 Law

- 9.1 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.

10 Whole of Agreement

- 10.1 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.