

## **SCHEDULE 1 - EXTRA COVER SERVICE TERMS AND CONDITIONS**

### **PRELIMINARY**

#### **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 Australia Post, the sender and the sender on behalf of the Claimant acknowledge and agree that:
  - 1.2.1 these special service terms and conditions do not constitute a contract (or a part of a contract) of the utmost good faith;
  - 1.2.2 without limiting any requirement under the Australia Post Terms and Conditions, there is no duty of disclosure in relation to the Service; and
  - 1.2.3 these special service terms and conditions are not intended to amount to a contract of insurance, to contain provisions of insurance or to otherwise involve an undertaking of liability by way of insurance.

#### **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 this Agreement 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 on the terms of this Schedule 1.
- 2.4 "**Carriage**" includes carriage by an employee before lodgment and after delivery in a bag that has been sealed by Australia Post or has been locked or held by a community bag holder for lodgment or delivery.
- 2.5 "**Claimant**" means the person (being either the sender or addressee of an article) who is entitled to claim under the Service in accordance with clause 13 (including pursuant to an assignment provided for under clause 13).
- 2.6 "**Limit**", in relation to an article, means the amount in respect of which the customer has paid the fee charged by Australia Post for the Service in accordance with clause 7, which in all events shall be no more than \$5,000.

- 2.7 "Lost" means unable to be found or located after reasonable inquiries by Australia Post and includes circumstances where Australia Post reasonably believes that an article has not been delivered.
- 2.8 "Service" means the Extra Cover service which is a special service provided by Australia Post in accordance with the terms of the agreement.
- 2.9 "SDR" means Special Drawing Right as defined by the International Monetary Fund.
- 2.10 "Valuable Document" includes but is not limited to passports, certificates of title, academic records, birth certificates and wills.

### **3 International carriage**

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- 3.1 Australia Post provides the Service in relation to articles lodged for international carriage but not for:
- 3.1.1 those articles lodged for carriage by the international registered post service;  
or
- 3.1.2 international prepaid air mail padded bags.
- 3.2 Where an amount payable by Australia Post pursuant to the Service is fixed by or under a convention, in terms of a number of SDRs, no amount shall be otherwise claimable and payments shall be the equivalent amount payable in Australian currency as determined by Australia Post.

### **4 Domestic carriage**

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- 4.1 Australia Post provides the Service in relation to selected articles (as published by Australia Post) lodged for domestic carriage in accordance with Clause 5 below.

## **DETAILS OF THE SERVICE**

### **5 Service provided**

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- 5.1 Australia Post shall provide the Service when:
- 5.1.1 a customer makes a written application for the Service in or on a form prescribed by Australia Post for that purpose;
- 5.1.2 that application does not relate to any article referred to in clause 8 (to the extent that can reasonably be ascertained at the time of application);
- 5.1.3 Australia Post accepts that application; and
- 5.1.4 the customer pays the fee charged by Australia Post for the Service in accordance with clause 7.
- 5.2 The Service consists of Australia Post's agreement that if an article (excluding a Valuable Document) referred to in clause 3 or 4 is lost or damaged whilst being carried by post by Australia Post, Australia Post will, subject to clauses 6 and 7, replace or repair the article or compensate the Claimant in an amount equal to the lesser of the following:
- 5.2.1 the Claimant's direct loss; or
- 5.2.2 the amount of the Limit in respect of that article.

- 5.3 If a Valuable Document is lost or damaged whilst being carried by post by Australia Post, Australia Post will, subject to clauses 6 and 7, compensate the Claimant in an amount equal to the cost of reconstruction or replacement of the document, at Australia Post's discretion.
- 5.4 The sender warrants that at the time of making an application in accordance with clause 5.1.1, the Limit sought was a true representation of the lesser of the following:
- 5.4.1 the replacement value of the article (GST inclusive); or
  - 5.4.2 the market value of the article (GST inclusive).

## **6 Exceptions**

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- 6.1 Australia Post shall not be liable for any amount by which the replacement, reconstruction and/or market value of an article, as applicable, exceeds the Limit in respect of that article.
- 6.2 Australia Post shall not be liable for any amount claimed under the Service:
- 6.2.1 where, in the reasonable opinion of Australia Post, damage to or loss of an article arises directly or indirectly from the failure of the sender to adequately wrap or package the article;
  - 6.2.2 where damage to or loss of an article arises from causes beyond the control of Australia Post including but not limited to natural disasters, acts of war or civil unrest; or
  - 6.2.3 which is consequential or special damage or other indirect loss howsoever arising, including but not limited to, loss of profits, interest, income, utility or loss of market opportunities.
- 6.3 To the extent permitted by law and notwithstanding anything contained in this part, where a person entitled to claim payment under the Service is also entitled to recover in respect of their loss under a policy of insurance or otherwise, other than from Australia Post, the amount payable under the Service shall be reduced by the amount of any recovery by the person, including recovery under any policy of insurance.
- 6.4 A Claimant will not be entitled to recover more than the amount of its direct loss.

## **7 Rates**

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- 7.1 The fee for the Service is to be calculated by multiplying the Limit by the rate determined by Australia Post from time to time and in its absolute discretion.
- 7.2 Australia Post may, from time to time and in its absolute discretion, determine different rates for different ranges of Limit under clause 7.1.
- 7.3 The fee is inclusive of any applicable GST.

## **8 Articles for which the Service is unavailable**

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- 8.1 No monies are payable under the Service for loss or damage relating to the carriage of articles:
- 8.1.1 containing bank notes, or bullion;

- 8.1.2 containing any other substance or thing the carriage of which is prohibited by or under the laws of the Commonwealth or any State or Territory or under the Australia Post Terms and Conditions;
- 8.1.3 which, in the reasonable opinion of Australia Post, were not or could not be adequately or appropriately packaged for carriage by post; or
- 8.1.4 where Australia Post upon making reasonable enquiries is unable to determine the extent to which damage was caused or contributed to by Australia Post.

## **9 Australia Post may retain damaged articles**

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- 9.1 Where an amount paid by Australia Post under the Service in respect of an article, or the contents of an article, is greater than or equal to the lesser of the replacement or market value of that article or those contents, Australia Post may retain possession of that article or those contents and in that event such property becomes the property of Australia Post.
- 9.2 Where an article has, or the contents of an article have, been lost and a payment has been made by Australia Post under the Service in respect of that loss and the article is, or the contents are, subsequently found by Australia Post, Australia Post may notify the Claimant and that Claimant shall, on repayment of Australia Post's payment within 30 days after receipt of that notice, be entitled to receive delivery of the article or contents.

## **10 GST**

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- 10.1 All payments made by Australia Post under the Service, whether represented by the acquisition of goods, services, other supplies or otherwise, shall be deemed to be GST inclusive.

## **PROCESSING OF CLAIMS**

### **11 Claim form**

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- 11.1 A claim must be made on a duly completed form authorised by Australia Post for the purpose.
- 11.2 A claim for the loss of an article must provide, together with the claim form -
  - 11.2.1 a receipt evidencing payment of the fee charged by Australia Post for the Service in accordance with clause 7;
  - 11.2.2 such further or other evidence as Australia Post may reasonably require including evidence of entitlement to claim including personal identification, and evidence of the value of the article; and
  - 11.2.3 a statutory declaration as to the details and circumstances of the claim.

### **12 Time for claim**

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- 12.1 No payments will be made under the Service unless a claim is made under clause 11 within 6 months from the date of lodgment of the article, excluding claims in respect of goods carried under the EMS International Courier Service and articles carried

under the EMS International Courier Guaranteed Service, for which no payments will be made under the Service unless a claim is made within 30 days of the date of delivery or of the date when delivery ought to have, or would have in the course of business, been effected.

### **13 Who can claim**

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13.1 Subject to clause 13.2:

13.1.1 if the article in relation to which the Service applies has been delivered, only the addressee may claim under the Service; and

13.1.2 if the article in relation to which the Service applies has not been delivered, only the sender may claim under the Service,

13.1.3 provided, however, that either the sender or the addressee may irrevocably assign in writing its right to claim to the other.

13.2 Where an EMS International Courier article has been lodged for carriage in Australia or in an overseas country, only the sender of the article may claim under the Service, regardless of whether the article has been delivered.

### **14 Proof of damage**

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14.1 A Claimant for damage to an article must provide to Australia Post the damaged article, the wrappings in which the article was carried and delivered together with sufficient evidence to permit Australia Post to reasonably determine that:

14.1.1 the article was in Australia Post's reasonable opinion adequately packed; and

14.1.2 the damage occurred during the carriage of the article by Australia Post or any subsequent authorised carrier of the article.

### **15 Payment of claim**

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15.1 Upon receipt of a valid claim, Australia Post will pay to the Claimant:

15.1.1 the amount required to be paid pursuant to clauses 5 and 6; and

15.1.2 in respect of a claim for a Lost article, a refund of the postage originally paid on carriage of the article, excluding the fee charged by Australia Post for the Service in accordance with clause 7, and any registered post or cash-on-delivery fee paid.

### **16 Release and indemnity**

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16.1 To the extent permitted by law and subject to clause 16.2, upon receipt of a payment under the Service, the sender and the sender on behalf of the Claimant releases and indemnifies Australia Post from and against any action, matter, suit or claim arising directly or indirectly from the loss of or damage to the article or otherwise related directly or indirectly to the carriage of the article.

16.2 The limit of the indemnity provided by the sender pursuant to clause 16.1 will be the amount of any payment made to the Claimant pursuant to this service, in addition to the cost of any legal expenses incurred by Australia Post defending any claim by a sender or addressee in relation to this service.

## EXCLUSIONS AND LIMITATIONS

### 17 Limitation of liability

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17.1 To the extent permitted by law including the Australian Consumer Law, Australia Post expressly disclaims all conditions and warranties, express or implied, in relation to the provision of the Service, or any other matter or thing relating to the agreement. Where the law precludes such exclusion and implies certain conditions and warranties into the agreement, the liability of Australia Post for breach of such condition or warranty shall be limited, if legally permissible, to:

17.1.1 supplying the service (including the Service) again; or

17.1.2 payment of the cost of having the service (including the Service) supplied again, or the direct loss or damage whichever is the lesser.

17.2 Nothing done in pursuance of the agreement, whether constituted by a refund of postage or a payment of money or otherwise, shall constitute an admission of liability by Australia Post.

### 18 Law

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18.1 The 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 Conditions of carriage

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19.1 The 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 except to the extent that they are inconsistent with the agreement.

### 20 Whole agreement

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20.1 Subject to clause 1.1 this Agreement contains the whole of the agreement between the parties in relation to the Service and any representation or warranty made by either party prior to entering into the agreement shall have no force or effect unless otherwise stated herein.