

General Terms and Conditions



International Incentive Letterpost™ Terms and Conditions



TABLE OF CONTENTS

International Incentive Letter-post™	
Terms and Conditions	1
1 Definitions	1
2 Canada Post's Obligations	2
3 Customer's Obligations	3
4 Exclusive Privilege	3
5 Criteria for Qualification	4
6 Surcharges	4
7 Currency	5
8 Audits	5
9 Authorized Users	5
10 Mailers, On Behalf Of	6
11 Resale or Interlining	6
12 Assignment	6
13 Entire Agreement and Alterations	7
14 Waiver	7
15 Amendments	8
16 Survival	8
17 Severability	8
18 Governing Law	8
19 Excusable Delay	9
20 Limitation of liability	9
21 Termination	9
22 Notices	10
23 Confidentiality	11
24 Language	11
25 Ownership of Mail	11

INTERNATIONAL INCENTIVE LETTER-POST™

TERMS AND CONDITIONS

Canada Post is in the business of providing mail and other related delivery products and services. The parties wish to set out the terms by which Canada Post will provide and the Customer will use such products and services. In consideration of the mutual obligations specified in this Agreement, the parties agree to the following:

1 DEFINITIONS

1.1

“**Affiliate**” means an affiliated body corporate as defined by the *Canada Business Corporations Act* as amended from time to time.

1.2

“**Agreement**” has the meaning set out in [section 13](#).

1.3

“**Agreement Year**” means twelve (12) consecutive calendar months falling between two (2) anniversary dates.

1.4

“**Applicable Published Prices**” means, with respect to each Product and Service, the applicable prices, including any applicable fees, charges or surcharges, and less any applicable rebates, set by Canada Post and in effect at the time of mailing, as published and/or made available by Canada Post for general application to its Customers, as amended from time to time.

1.5

“**Authorized User**” means a party designated by the Customer and who is approved by Canada Post to have access to the Products and Services offered under this Agreement. Unless otherwise specified in this Agreement, an Authorized User has full access to the Products and Services offered under this Agreement.

1.6

“**Business Day**” means a day other than Saturday, Sunday, a statutory holiday and any day normally observed as a holiday by Canada Post.

1.7

“**Customer Guide**” means the document of the same name issued by Canada Post for each of the Products and Services, as amended from time to time.

1.8

“**Electronic Shipping Tools (EST)**” means the software system made available under license by Canada Post or a third party shipping system approved by Canada Post, which allows for automated preparation of shipping documentation including labels and contains other features to facilitate shipping with Canada Post, and which is further described at canadapost.ca/cpo/mc/business/tools/est.jsf.

1.9

“**Customer-Developed/Third-Party Shipping system**” means the software approved by Canada Post, which allows for automated preparation of shipping documentation, including labels, and contains other features to facilitate shipping with Canada Post, and which is further described at canadapost.ca/eLink.

1.10

“**Item**” means a single item or mail piece prepared and mailed using one of the Products and Services in accordance with this Agreement.

1.11

“**Products and Services**” means any of the Products and Services, with the exception of *Priority*™ Worldwide service, offered for sale as described in the *Canada Postal Guide* or other Canada Post publication of application to commercial Customers generally, including the applicable *Customer Guide*.

1.12

“**Subsidiary**” means a subsidiary body corporate as defined by the *Canada Business Corporations Act* as amended from time to time.

1.13

“**Term**” means the period set out in the *Customer Guide* for each Product or Service.

1.14

Other terms not specifically defined in this Agreement have the meanings defined in the applicable *Customer Guide*, the *Canada Postal Guide* or other Canada Post publication of application to customers generally.

2 CANADA POST'S OBLIGATIONS

2.1

Canada Post agrees to deliver Items of each Product and Service mailed under this Agreement according to the applicable delivery standards set out in the *Customer Guide* or canadapost.ca/deliverystandards and of general application to Canada Post's Customers, as amended from time to time. Unless expressly stated in this Agreement, delivery standards established by Canada Post for its Products and Services are not performance guarantees.

2.2

Canada Post agrees to provide or make available to the Customer upon execution of this Agreement, the *Canada Postal Guide* or other material published by Canada Post, including the *Customer Guide* corresponding to a particular Product or Service of general application to Customers, and any subsequent amendment thereto.

3 CUSTOMER'S OBLIGATIONS

3.1

The Customer agrees to prepare and mail Items in accordance with this Agreement.

3.2

The Customer agrees to purchase and pay for the Products and Services at the Applicable Published Prices specified in the *Price Sheet*, subject to any applicable rebates and including all applicable fees, charges, surcharges and taxes. The Applicable Published Prices charged are subject to verification, correction and adjustment for any applicable fees, charges, surcharges and taxes.

3.3

The Customer agrees to pay for the Products and Services purchased using the payment method(s) specified in the applicable *Customer Guide*.

3.4

If so specified in the Agreement, the Customer agrees to meet the minimum volume of Items required per deposit or per annual commitment for each Product and Service.

3.5

If so specified in the Agreement for a Product or Service, the Customer shall include an electronic order, in such form as approved or stipulated by Canada Post, with each mailing.

4 EXCLUSIVE PRIVILEGE

4.1

The Customer acknowledges that Canada Post has, pursuant to and in accordance with the *Canada Post Corporation Act* and *Regulations*, the sole and exclusive privilege of collecting, transmitting and delivering letters. Without prejudicing any other rights or remedies Canada Post may otherwise have, the Customer agrees that Canada Post may terminate the Agreement if the Customer, or any Authorized User of the Customer, directly or indirectly contravenes this privilege. If the Agreement is terminated for contravention of this privilege, then, in addition to any amounts otherwise due, the Customer shall pay to Canada Post an amount equal to the difference between the amount paid or payable for all Items mailed up to the date of termination and the amount that would have been payable for that volume, at current undiscounted prices, that would have been payable, but for this Agreement.

5 CRITERIA FOR QUALIFICATION

5.1

The Customer is responsible for ensuring that all Items comply with the requirements set out in this Agreement and, except for *Priority*™ Worldwide services, the *Canada Post Corporation Act* and *Regulations*; and, for international Items, the Universal Postal Union (UPU) requirements and any receiving postal administration or designated operator requirements and the laws of the country of destination, all as may be amended from time to time. Items not complying with these requirements may not be mailed under this Agreement. Canada Post retains the right to refuse to accept any Item that it, in its sole discretion, deems unacceptable.

5.2

Mailings not previously approved by Canada Post and assessed by the Customer, or on behalf of the Customer, are subject to pricing verification and correction by Canada Post.

5.3

Items presented for mailing to Canada Post may be verified to determine compliance with applicable Terms and Conditions. Items determined not to be compliant may, at the discretion of Canada Post, be:

- a) returned at the Customer's expense, to be made compliant by the Customer, where possible;
- b) processed and charged at the next or most appropriate Product or Service category, where available;
- c) subject to a surcharge; or
- d) refused for mailing.

5.4

Canada Post may correct the Customer's order documentation if it contains incomplete or incorrect information.

5.5

Canada Post shall not be responsible for meeting any delivery standards, where applicable, for delays arising from the mailing of non-compliant Items.

6 SURCHARGES

6.1

Items mailed under this Agreement may be subject to one or more of the following surcharges:

- Surcharges for non-compliance with mail specification or preparation requirements;
- Fuel surcharge;
- Mailing tube surcharge;
- Oversize (O/S) surcharge;
- Unpackaged surcharge.

Details regarding such surcharges are set out in the applicable *Customer Guide*. Canada Post may amend the surcharges at any time immediately upon Notice to the Customer.

6.2 Receiving Postal Administration or Designated Surcharge

The Customer agrees to reimburse Canada Post for any incremental terminal dues costs such as, but not limited to, bulk mail and remail charges that are applied by the receiving postal administration or designated operator, as specified in the Universal Postal Union Convention.

6.3 Receiving Postal Administration Surcharge

The Customer agrees to reimburse Canada Post for any incremental terminal dues costs such as, but not limited to, bulk mail and remail charges that are applied by the receiving Postal Administration, as specified in the *Universal Postal Union Convention*.

7 CURRENCY

7.1

Unless expressly noted to the contrary, all monetary amounts are stated and shall be paid in Canadian currency.

8 AUDITS

8.1

On request, the Customer shall permit Canada Post and its authorized representatives access to its premises and, if applicable, those of Authorized Users and the Mailer, On Behalf Of the Customer, during the Term, and for a reasonable period of time after the expiry or earlier termination of this Agreement. The Customer agrees to facilitate Canada Post's access, examination and audit of the records, databases and information relating to the Items mailed under this Agreement and the Customer's obligations, including, if applicable, those of Authorized Users and the Mailer, On Behalf Of the Customer, under this Agreement.

9 AUTHORIZED USERS

9.1

All references to the Customer include the Customer's Authorized Users and any actions taken by an Authorized User are deemed to be the actions of the Customer. The designation of Authorized User is subject to the approval of Canada Post. The List of Authorized Users is set out in an appendix to this Agreement.

9.2

The Customer may amend the List of Authorized Users upon consent of Canada Post.

9.3

An Authorized User who ceases to be an Affiliate, Subsidiary or a franchisee of the Customer will no longer be entitled to mail Items under this Agreement as of the date upon which it ceases to be an Affiliate, Subsidiary or franchisee of the Customer. In the event that an Authorized User ceases to be an Affiliate, Subsidiary or a franchisee of the Customer, the Customer shall give Notice to Canada Post within thirty (30) calendar days of such change in relationship.

9.4

The Customer is responsible for the compliance by each Authorized User with this Agreement. In the event that an Authorized User fails to pay for Products or Services provided under this Agreement, the Customer shall pay the amount owing.

10 MAILERS, ON BEHALF OF

10.1

Canada Post will accept Items mailed by another party on behalf of the Customer, provided that the mailing of such Items complies with the Terms and Conditions of this Agreement. The Customer shall require a Mailer, On Behalf Of, to abide by the Agreement. The actions taken by the Mailer, On Behalf Of, are deemed to be the actions of the Customer.

11 RESALE OR INTERLINING

11.1

The Customer agrees that any Products and Services purchased under this Agreement are for its own use as an end user or for the use of an Authorized User and that it will not sell or permit the resale of any services or supplies received from Canada Post, nor use the Products and Services offered under this Agreement for the purposes of interlining. Interlining is the process in which a carrier uses another carrier's transportation service in the course of a continuous freight movement.

12 ASSIGNMENT

12.1

The Customer shall not assign this Agreement without the prior written consent of Canada Post and any purported assignment without prior consent is void. Canada Post may assign the benefits of this Agreement or make any arrangements that would result in the performance, in whole or in part, of the obligations of Canada Post under this Agreement by a person other than Canada Post.

12.2

If the Customer amalgamates, merges or enters into a similar business combination with any other entity, including without limitation by means of

- a) acquisition of all or substantially all of the assets of another entity; or

- b) the sale of all or substantially all of the assets to another party, then, for the purpose of this Agreement, such amalgamation, merger or combination will be deemed to be an assignment requiring the prior written consent of Canada Post.

13 ENTIRE AGREEMENT AND ALTERATIONS

13.1

All references to this Agreement shall be deemed to include:

- a) The *Agreement Activation Form(s)*;
- b) These General Terms and Conditions;
- c) The applicable *Customer Guide(s)*;
- d) The applicable *Price Sheet(s)*;
- e) The *Credit Application Form*, if applicable;
- f) The *Canada Postal Guide*;
- g) Any appendices and any documents referenced therein;

all as may be amended from time to time.

13.2

Without limiting the generality of the above, in the event of any inconsistency between this Agreement, and any document other than the *Canada Post Corporation Act* or its *Regulations* referred to herein, the terms of this Agreement shall prevail and be interpreted in the order of priority listed above.

13.3

No representations, warranties, negotiations or conditions, either verbal or written, will bind the parties except as expressly set out in this Agreement. Except as set out in the section on "[Waiver](#)" below, no agent or representative of either party to this Agreement has authority to alter the provisions of this Agreement, and any such purported alteration shall not be binding.

14 WAIVER

14.1

Except as specifically stated in this Agreement, no waiver or amendment of this Agreement shall be binding unless executed in writing by the appropriate party's authorized representative. No waiver of any provision of this Agreement shall constitute a continuing waiver unless otherwise expressly provided. Acceptance of Items for mailing shall not constitute a waiver by Canada Post of the Customer's obligations under this Agreement.

15 AMENDMENTS

15.1

Canada Post reserves the right to modify, discontinue Products or Services, or otherwise amend this Agreement, including prices, by giving the Customer thirty (30) calendar days' written Notice as specified in this Agreement.

15.2

Canada Post reserves the right to amend the *Canada Postal Guide* without Notice to the Customer.

16 SURVIVAL

16.1

The termination or expiry of this Agreement will not affect the survival and enforceability of any provision of this Agreement that is expressly or implicitly intended to remain in force after such termination or expiry.

17 SEVERABILITY

17.1

If any part of the Agreement is unenforceable or invalid for any reason whatsoever, such part shall be severable from the remainder of the Agreement and its unenforceability or invalidity shall not affect the enforceability or validity of the remaining parts of the Agreement.

18 GOVERNING LAW

18.1

This Agreement is made subject to and in accordance with the *Canada Post Corporation Act* (the "Act"), R.S.C. 1985, c. C-10, as amended from time to time, and any of the *Regulations*, which are or may be from time to time made under the *Act*.

18.2

If the Customer's address is not in a Canadian province or territory, this Agreement shall be governed by, and interpreted under, the laws in force in the province of Ontario, Canada. The forum for any legal proceedings shall be the province of Ontario, Canada.

19 EXCUSABLE DELAY

19.1

Except for the Customer's payment obligations, neither party shall be liable to the other for any failure to perform, or delay in the performance of, any obligation under the Agreement due to causes beyond its reasonable control, including, but not limited to, acts of God, epidemics, labour disruptions, failures or fluctuations in electrical power, heat, light, air conditioning or telecommunications equipment or lines, or other equipment if applicable, delays caused by customs authorities, provided that the party experiencing such circumstances immediately notifies the other party in writing of the circumstances and minimizes, to the extent reasonably practicable, the impact of such circumstances on the performance of the obligations under the Agreement.

20 LIMITATION OF LIABILITY

20.1

Canada Post reserves the right to independently review and verify any and all claims made by the Customer arising from missed delivery and/or service commitments.

20.2

Except as specified in the *Customer Guide* for the Product or Service, Canada Post shall not be responsible for any direct, indirect, general, special or consequential damages arising out of the Agreement regardless of whether such damages result from loss, mishandling or delay in delivery of any Item.

21 TERMINATION

21.1

Either party may terminate this Agreement at any time, without cause, by giving thirty (30) calendar days' written Notice to the other.

21.2

Either party may immediately terminate this Agreement upon written Notice to the other party if at any time during the Term:

- a) either party ceases to carry on business or makes a sale in bulk of all or substantially all of its assets; or
- b) either party becomes insolvent or bankrupt, or files any proposal or makes any assignment for the benefit of creditors; or
- c) a receiver, trustee or other person with like powers is appointed to handle the affairs or property of either party; or
- d) an order is made for the winding up or liquidation of either party; or
- e) either party continues to be in default of any of its obligations after being provided thirty (30) calendar days' Notice of the default.

21.3

Should the Customer fail to purchase Products and Services under this Agreement for a period of more than twelve (12) consecutive months, Canada Post may terminate the Agreement or amend the List of Authorized Users without notice.

21.4

Termination of this Agreement shall be without prejudice to any rights of the Customer or Canada Post that have accrued prior to the date of termination.

21.5

Neither party shall have a right to damages as a result of termination of this Agreement.

22 NOTICES

22.1

Any Notice given by either party shall be in writing and delivered personally, by Registered Mail, by *Priority*™ with Signature or by Xpresspost™ with Signature. Alternatively, Notices regarding Amendments to this Agreement by Canada Post may be sent to the Customer via email or by Canada Post posting such changes on Canada Post's website (canadapost.ca/notice), including in particular canadapost.ca/customerguides, which will be deemed received upon posting.

Notices to Canada Post shall be sent to:

AGREEMENT MONITORING
CANADA POST CORPORATION
2701 RIVERSIDE DR SUITE C0157
OTTAWA ON K1A 0B1

Notices to the Customer shall be sent to the Customer's general contact at the mailing or email address set out in the *Agreement Activation Form*.

22.2

Notices delivered personally shall be deemed received at the time of delivery, Notices sent by Registered Mail shall be deemed received on the fourth Business Day following the date of mailing, and Notices sent by *Priority*™ with Signature or Xpresspost™ with Signature shall be deemed received on the second Business Day following the date of mailing. Weekend and statutory holiday mailings will count as originating on the following Business Day.

22.3

Either party may change its address by giving Notice to the other party.

22.4

The Customer agrees that Canada Post may update the Customer's address information obtained from any source, including any *Change of Address Notification (COAN)* form submitted to Canada Post, for the purpose of contacting the Customer with respect to this Agreement.

23 CONFIDENTIALITY

23.1

Except as may be required by law or for those Terms and Conditions that have been made publicly available by Canada Post, neither party nor their employees (including directors and officers) or agents shall disclose to any third party, with the exception of Authorized Users, prices or any other Terms or Conditions contained in this Agreement.

23.2

Canada Post has policies and procedures in place to protect the confidential information that it handles. Canada Post is subject to the federal *Privacy Act* and the *Canada Post Corporation Act*. Any third parties who are involved in handling confidential information on behalf of Canada Post are required to agree to appropriate contractual provisions.

24 LANGUAGE

24.1

It is the express wish of the parties that this Agreement, as well as all related documents, be written in the English language. *Les parties ont demandé expressément que la présente ainsi que tout document afférent soient rédigés en anglais.*

25 OWNERSHIP OF MAIL

25.1

The Customer agrees that Items mailed under this Agreement will be mailed only on the Customer's or its Authorized User's behalf, and that Items will not include commingled mail, being consolidated mail of a type or from sources other than those approved by Canada Post.