

# Paying and Terms



## General Terms and Conditions Customers with a Standing Offer Agreement

## IMPORTANT UPDATES

DESCRIPTION OF CHANGE		LOCATION
Amendment v1.0	Posted on November 16, 2018	Effective on January 14, 2019
No updates.		

When the document is amended or revised, the version number will be modified as follows:

- an amendment increases the first digit in the version (e.g., version 2.0, 3.0)
- a revision increases the second digit in the version (e.g., version 1.1, 1.2)
- the version number restarts at 1.0 every January of a given year.

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## GENERAL TERMS AND CONDITIONS WITH A STANDING OFFER AGREEMENT

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 12 consecutive calendar months falling between two 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-Developed/Third-Party Shipping system"** means the suite 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](http://canadapost.ca/eLink).

#### 1.8

**"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.

#### 1.9

**"Electronic Goods"** means electronic devices or their mechanisms, memory and all ancillary or related data storage devices, including but not limited to computers, televisions, tablets, cellular phones, audio equipment, media recording devices, cameras, camcorders, GPS and car audio equipment.

#### 1.10

**"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/est](http://canadapost.ca/est).

#### 1.11

**"Fragile Items"** means items of an inherently fragile nature such as, but not limited to, glass, framed glass, mirrors, crystal, ceramics, pottery, porcelain and china, perishable items or items requiring refrigeration or temperature-controlled transport.

#### 1.12

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

#### 1.13

**"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*.

#### 1.14

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

#### 1.15

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

#### 1.16

**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](http://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 plus 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.

### 3.6

#### Use of Marks and Indemnification Obligation

Except as specifically provided for in this Agreement, no party shall use any trademarks, trade names, official marks and any other rights of another party ("the Marks") without the prior written authorization of such other party. Nothing contained in this Agreement is intended as an assignment or grant of any right, title or interest in or to the Marks. The Customer warrants that it is the owner or licensed user of the Marks, and has the authority to and does grant Canada Post and its Designated Representative the right to use such Marks as required to perform under this Agreement. Any use by the Customer of Canada Post's intellectual property or third-party intellectual property used under licence by Canada Post, including, but not limited to usage of any Canada Post logos or trade names must be approved in writing in advance by Canada Post.

The Customer shall indemnify Canada Post from any and all claims, demands, loss or damage suffered by Canada Post and its Designated Representative as a result of, or in any way connected with the artwork (including Marks) provided by or on behalf of the Customer.

### 3.7

#### Customized Postal Indicia

##### Use of Images

The image submitted must be suitable for family audiences.

The image cannot contain any trademarks, trade names, official marks and any other rights of another party ("the Marks") without the prior written authorization of such other party. The Customer warrants that it is the owner or licensed user of the Marks, and has the authority to and does grant Canada Post and its agents the right to use such Mark's as required in performing its obligations.

The Customer shall indemnify Canada Post from any and all claims, demands, loss or damage suffered by Canada Post and its agents as a result of, or in any way connected with the artwork (including Marks) provided by or on behalf of the Customer.

In the event that an image depicts one or more individuals is submitted, the customer represents and warrants that it has the permission of the individual(s) depicted to use the image. In the case of an image of a celebrity or an image that appears to have been taken without the knowledge of the individual being depicted, the customer may be asked to provide written proof of permission (by way of email or mail) to use the image.

Canada Post reserves the right to refuse any proposed Customized Postal Indicia design that it, at its sole discretion, deems unsuitable for any reason.

Items with Customized Postal Indicia are not considered postage paid and must be inducted with an *Order (Statement of Mailing)* at a Canada Post facility.

Customized Postal Indicia products designs are subject to change without notice.

## 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 within Canada. 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 (OS) surcharge;
- Unpackaged surcharge;
- Non-transmitted Order surcharge;
- Non-manifested Item 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.

## 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 (EXCLUDES BUSINESS REPLY MAIL™ SERVICE)**

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.

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

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 30 calendar days of such change in relationship.

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 the Customer's own use as an end user or for the use of an Authorized User. Unless otherwise expressly permitted by Canada Post, the Customer 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*, 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 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 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 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 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™ or by Xpresspost™. 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](http://canadapost.ca/notice)), including in particular [canadapost.ca/customerguides](http://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 B0230  
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™ or Xpresspost™ 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 *Mail Forwarding* request form submitted to Canada Post, for the purpose of contacting the Customer with respect to this Agreement.

## 23 CONFIDENTIALITY

### 23.1

Definition of "Confidential Information": Means all information, whether disclosed in written, oral or visual form, which is identified as confidential at the time of disclosure or that a reasonable person would consider, from the nature of the information or circumstances of disclosure, as being confidential. Confidential Information includes, but is not limited to, customer lists, including Personal Information under the *Privacy Act*, as amended, information relating to the research, development, technology, pricing, finances, marketing or business plans and general affairs of the other party or any subsidiary of such other party.

#### 23.1.1

For clarity, Confidential Information does not include such observations and general knowledge of consumer and business trends in the purchase and sale of goods and services as a party to this Agreement may learn in providing or receiving any product or service under this Agreement and uses in the development and sale of new products and services.

#### 23.2

Each party to this Agreement (the "Receiving Party") agrees to hold all Confidential Information of the other party (the "Disclosing Party") in confidence and not use any Confidential Information other than permitted by this Agreement. The Receiving Party shall not disclose any Confidential Information of the Disclosing Party without the prior written consent of the Disclosing Party, other than to those employees, agents, subcontractors or representatives of the Receiving Party who have a need to know such Confidential Information for the purposes contemplated in this Agreement.

#### 23.3

Section 23.2 will not apply to any information which:

- a) is publicly available;
- b) is independently developed by the Receiving Party;
- c) is known by the Receiving Party without restriction on disclosure prior to its initial disclosure by the Disclosing Party;
- d) is lawfully received from a third party on a non-confidential basis; or
- e) is required to be disclosed by government or court order or other legal process, provided that the Receiving Party will promptly notify the disclosing Party of such requirement and will take reasonable steps to permit the Disclosing Party to prevent or limit such disclosure.

**23.4**

The Confidential Information shall be maintained by the Receiving Party in the same manner as the Receiving Party keeps its own Confidential Information of a similar nature and in any event shall be kept in accordance with the same care as a reasonable and prudent person would care for such Information.

**23.5**

Canada Post has policies and procedures in place to protect the Confidential Information and Personal Information, as defined in the *Privacy Act* 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.

**23.6**

Upon execution of the Agreement, any confidentiality obligations set out in any other agreement, relating in any way to parcel services, entered into by the parties shall be subject to these General Terms and Conditions, including, without limitation, the limitation of liability in Section D. In the event of any conflict or inconsistency between the terms and conditions of such agreement and these General Terms and Conditions, these General Terms and Conditions shall prevail to the extent of the conflict or inconsistency.

**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 (EXCLUDES BUSINESS REPLY MAIL™ SERVICE)**

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.