



# Customer Service Agreement

CON001407 V5.02

## Customer Service Agreement

### Parties

- (1) The company referred to in the Customer Service Agreement Form (Customer); and
- (2) Citipost Ltd t/a Citipost Mail incorporated and registered in England and Wales with company number 03451070 whose registered office is at 51 Hailey Road, Erith, Kent, DA18 4AA (Citipost).

### Background

- (a) Citipost provides bag labels, sorts and collects mail to include letters, large letters, packets and parcels and/or provides downstream access or delivery services to include parcels and packets courier services. It also provides ancillary services such as SMS texting services, digital marketing services, print management and Protago services.
- (b) The Customer wishes to appoint Citipost to provide services to it under this Customer Services Agreement.
- (c) When a Customer or a mailing house on its behalf, requests services from Citipost, and Citipost is able to provide such services, the relevant parties will enter into a separate Order in accordance with this Customer Services Agreement.
- (d) Each Order will incorporate either the Mail Conditions, Digi-Mail Conditions, SMS Conditions, Print Management Conditions, Protago Conditions, CitiCreative Conditions or LifeCycle Conditions.

## Agreed terms

### 1. Interpretation

- 1.1 The following definitions and rules of interpretation and those set out in Schedule 1 apply in this Agreement and in each of the Applicable Conditions:
  - (a) a person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);
  - (b) a reference to a party includes its personal representatives, successors or permitted assigns;
  - (c) a reference to a statute or statutory provision is a reference to such statute or provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision as amended or re-enacted;
  - (d) any phrase introduced by the terms including, include, in particular or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms;

- (e) a reference to writing or written includes fax and e-mails;
- (f) the word "indemnify" in this Agreement and any of the Applicable Conditions means to indemnify, keep indemnified and hold harmless the relevant party in full and on demand from and against all costs, expenses, liabilities, injuries, losses, damages, claims, proceedings (including legal and other professional fees and expenses on an indemnity basis) which the indemnified party incurs or suffers directly, indirectly or consequentially (all three of which terms include, without limitation, pure economic loss, loss of profits, loss of reputation, depletion of goodwill, internal management cost and all legal costs) and "indemnity", "indemnifies" and all similar wording have a corresponding meaning in such circumstances;
- (g) a reference to this Agreement or to any other agreement or document referred to in this Agreement is a reference to this Agreement or such other agreement or document as varied or novated (in each case, other than in breach of the provisions of this Agreement) from time to time; and
- (h) references to clauses and schedules are to the clauses and schedules of this Agreement or Order (as applicable); references to paragraphs are to paragraphs of the relevant schedule.

### 2. Order process

- 2.1 This Agreement governs the overall relationship of the parties in relation to the Services provided by Citipost to the Customer, and sets out:
  - (a) in this clause 2, the procedure for the Customer or the Mailing House on its behalf to request the provision of Services from Citipost under separate Orders;
  - (b) the relevant Applicable Conditions that are deemed incorporated into each Order.
- 2.2 Each Order shall not enter into force, be legally binding or have any other effect unless:
  - (a) the Order contains the information required by Citipost in accordance with the relevant Applicable Conditions (if any);
  - (b) the Order has been placed by an authorised representative of the Customer, or the Mailing House on the Customer's behalf;
  - (c) as at the date the Order is placed, this Agreement has not been terminated; and
  - (d) shall adhere to the terms of each applicable User Guide, which are incorporated into the Applicable Conditions by reference. Guide, which are incorporated into the Applicable Conditions by reference.

2.3 Each Order:

- (a) shall be entered into by the Customer and Citipost;
- (b) forms a separate contract between the parties;
- (c) shall be governed by and incorporate the:
  - (i) Mail Conditions where the Order is a Mail Order;
  - (ii) Digi-Mail Conditions where the Order is a Digi-Mail Order;
  - (iii) SMS Conditions where the Order is an SMS Order;
  - (iv) Print Management Conditions where the Order is a Print Management Order;
  - (v) Protago Conditions where the Order is a Protago Order or an Audit Order;
  - (vi) CitiCreative Conditions where the Order is a CitiCreative Order;
  - (vii) LifeCycle Conditions where the Order is a LifeCycle Order;
  - (viii) such other terms as are referred to in the Order if the Order is for other services; and
- (d) shall incorporate the following clauses of this Agreement: clauses 1.1, 7, 8, 10, 11, 12, 13, 14, 15,16 & 17, save that references in those clauses to “this Agreement” shall be substituted for references to “the Contract”.

2.4 Any amendment to this Agreement agreed by the Customer and Citipost shall be deemed to apply to all future Orders entered into after the date of such amendment and the Customer shall be responsible for notifying any other third parties involved, on behalf of the Customer, of the same.

### 3. Commencement and term

This Agreement shall commence on the date set out on the Front Sheet and shall continue, unless terminated earlier in accordance with its terms, until either party gives to the other party not less than 30 days’ written notice to terminate.

### 4. Limitation of liability

- 4.1 4.1 Nothing in this Agreement shall limit or exclude a party’s liability for:
- (a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;
  - (b) fraud or fraudulent misrepresentation; or
  - (c) breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession) or any other liability which cannot be limited or excluded by applicable law.
- 4.2 Subject to clause 4.1, neither party to this Agreement shall have any liability to the other party, whether in contract, tort (including negligence), breach of

statutory duty, or otherwise, for any loss of profit, or for any indirect or consequential loss arising under or in connection with this Agreement.

- 4.3 Subject to clause 4.1 and clause 4.2, Citipost’s total liability to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with this Agreement shall be limited:
- (a) in relation to any Order, to the sums set out in the Applicable Conditions relating to that Order; and
  - (b) for all other liability, to five (5) percent of the sums received by Citipost from the Customer in cash or cleared funds under all Orders.
- 4.4 This clause 4 shall survive termination of the Agreement.

### 5. Intellectual property and licence

- 5.1 Citipost and its licensors shall retain ownership of all Supplier Background IPRs.
- 5.2 Citipost grants the Customer, or shall procure the direct grant to the Customer of, a fully paid-up, worldwide, non-exclusive, royalty-free licence during the term of this Agreement:
- (a) to use and, where necessary, copy the Supplier Background IPRs for the purpose of receiving and using the Services and the Deliverables in its business;
  - (b) to use the BBS Software and the Documentation in accordance with the Licence.
- 5.3 The Customer shall not sub-license, assign or otherwise transfer the rights granted in clause 5.2.

### 6. Hardware, Software and the Portal

- 6.1 Citipost shall, from time to time, provide the Customer with the BBS Software and, depending on the volume purchased by the Customer, Citipost may provide the Customer with a printer (referred to herein, separately or together, as the Products). The Customer hereby acknowledges that in no event shall title in the Products pass to the Customer.
- 6.2 The Customer shall:
- (a) store such Products separately from all other goods held by the Customer so that they remain readily identifiable as Citipost’s property;
  - (b) not remove, deface or obscure any identifying mark or packaging on or relating to such Products; and
  - (c) maintain such Products in a clean and satisfactory condition, maintained in accordance with the manufacturer’s instructions and keep them insured on Citipost’s behalf for their full price against all risks with a reputable insurer. The Customer shall obtain an endorsement of Citipost’s interest in the Products on

its insurance policy, subject to the insurer being willing to make the endorsement. On request, the Customer shall allow Citipost to inspect such Products and the insurance policy.

- 6.3 If the Customer becomes subject to any of the events listed in clause 8.1(c) to 8.1(i) inclusive, then, without limiting any other right or remedy Citipost may have, Citipost may at any time:
- (a) require the Customer to deliver up the Products in its possession and promptly return them to Citipost;
  - (b) if the Customer fails to do so promptly, enter any premises of the Customer in order to recover them.
- 6.4 Citipost may, in the course of providing the Services, make available the Portal which will enable the Customer to submit Orders and pay all Charges due in relation to the same. Citipost will, as part of its customer onboarding process and free of charge, provide the Customer with training on how to access the Portal, submit Orders and pay Charges using the Portal, if required. Access to and use of the Portal is subject to the Customer complying with the provisions of clauses 6.5 to 6.9 below.
- 6.5 Citipost hereby grants Customer a non-exclusive licence to use, within the Customer's organisation and for the Customer's own internal purposes only, the Portal (including any updates to the same) to the extent necessary to enable the Customer to (a) submit Orders to the Portal; and (b) receive and use the Deliverables and the Services in accordance with the Contract; and (c) pay Charges due to Citipost.
- 6.6 The licence granted to the Customer pursuant to clause 6.5 does not (except as may be allowed by any applicable law which is incapable of exclusion by written agreement between the Parties) permit the Customer to:
- (a) sell, rent, lease, bureau, sub-licence, loan, copy, transfer, modify, duplicate, frame, mirror, re-publish, display, download, distribute, adapt, merge, translate, reverse engineer, de-compile, reverse compile, decode, disassemble or create derivative works based on, or otherwise reduce to human-perceivable form, or attempt to gain access to the source code of the whole or any part of the Portal and/or any associated documentation provided by Citipost in any form or media, or by any means without Citipost's prior written consent; or
  - (b) use, reproduce or deal in the Portal or any associated documentation in any way except as expressly provided in this Agreement or any Order; or
  - (c) access all or any part of the Portal and/or any associated documentation in order to build a product or service which competes with the Portal or any part of it or any of the Services and/or any associated documentation; or
- (d) use the Portal and/or any associated documentation to provide services to third parties.
- 6.7 The Customer acknowledges that the Portal will not be available during any periods of planned or emergency maintenance.
- 6.8 The Customer acknowledges that Citipost does not warrant that the Portal will meet its requirements or will be uninterrupted or error free or that defects will be corrected. Citipost is not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet, and the Customer acknowledges that its use of the Portal and/or any Services and Deliverables received through it may be subject to limitations, delays and other problems inherent in the use of such communications facilities.
- 6.9 The Customer warrants that none of the activities for which it shall use the Portal or any Specification, Order or other instruction which it uploads to or transmits via the Portal shall constitute, involve or facilitate, either directly or indirectly, the commission of any unlawful or illegal act or any offence or infringement of the rights of any person.
- 6.10 If the Customer requires any training on its access to and/or use of the Portal beyond the initial free of charge customer on-boarding provided to the Customer in accordance with clause 6.4, Citipost and the Customer shall agree the scope of such training and any Charges payable by the Customer to Citipost in relation to the same.

## 7. Force Majeure Event

- 7.1 Citipost will not be liable or responsible for any failure to perform, or delay in performance of, any of its obligations under a Contract that is caused by a Force Majeure Event.
- 7.2 If a Force Majeure Events takes place that affects the performance of the Contract:
- (a) Citipost shall notify the Customer as soon as reasonably possible; and
  - (b) Citipost's obligations under a Contract will be suspended and the time for performance of its obligations will be extended for the duration of the Force Majeure Event.
- 7.3 If a Force Majeure Event prevents, hinders or delays the Customer's performance of its obligations for a continuous period of more than 8 weeks, Citipost may terminate this Agreement by giving 2 weeks' written notice to the Customer.

## 8. Termination

- 8.1 Without limiting its other rights or remedies, this Agreement may be terminated by either party with immediate effect by giving written notice to the other party:
- (a) if the other party commits a material breach of any term of this Agreement and, if the breach is capable of remedy, that party has failed to remedy such breach within 30 days of being notified to do so;
  - (b) if the other party suspends, or threatens to suspend, payment of its debts, is unable to pay its debts as they fall due, admits inability to pay its debts or (being a company) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or (being a natural person) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply; or
  - (c) if the other party commences negotiations with all, or any class of, its creditors with a view to rescheduling any of its debts, or makes a proposal for, or enters into any compromise or arrangement with its creditors, other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies, or the solvent reconstruction of that other party; or
  - (d) if a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the other party other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies, or the solvent reconstruction of that other party; or
  - (e) if an application is made to court, or an order is made, for the appointment of an administrator, a notice of intention to appoint an administrator is given, or an administrator is appointed over the other party; or
  - (f) if a floating charge holder over the assets of the other party has become entitled to appoint, or has appointed, an administrative receiver; or
  - (g) if a person becomes entitled to appoint a receiver over the assets of the other party, or a receiver is appointed over the assets of the other party; or
  - (h) if a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days; or
  - (i) if the other party ceases or threatens to cease to carry on business.

- 8.2 Without limiting its other rights or remedies, either party may terminate the Agreement by giving one month's notice in writing to the other party.
- 8.3 On termination (or expiry) of this Agreement, howsoever arising, each Contract then in force at the date of termination shall continue in full force and effect for the remainder of the term of such Contract, unless terminated earlier in accordance with the terms of such Contract.
- 8.4 The termination of any Contract shall not affect any other Contracts or this Agreement.
- 8.5 On termination of this Agreement, the following clauses shall continue in force: clauses 2.3(d), 10, 13, 14, 15 and 16.

## 9. Conflict

- 9.1 In the event of any inconsistency or conflict between this Agreement, the Order or the Front Sheet, the following order of priority shall apply:
- (i) the Order;
  - (ii) the Front Sheet; and
  - (iii) this Agreement (and within this Agreement clauses 1 to 16 shall have priority over the Applicable Conditions).

## 10. Confidentiality

- 10.1 Subject to clause 10.2 the Customer and Citipost shall treat as strictly confidential all information received or obtained as a result of entering into or performing this Agreement or any Contract, the subject matter of this Agreement or Contract, and all other confidential information relating to the other party or its affairs.
- 10.2 Either party may disclose information which would otherwise be confidential if and to the extent it is:
- (a) required by law, court order or any governmental or regulatory authority; or
  - (b) the information has come into the public domain through no fault of the disclosing party.
- 10.3 Both parties agree that they will not make any announcement to the public or any section thereof in connection with this Agreement without first obtaining the agreement of the party as to the text and method of such announcement.

## 11. Data Protection: Contact Data

- 11.1 Under this Agreement and each Contract, the parties shall each act as independent controllers in respect of the processing of Contact Data for each party's representative's ad this clause 11 shall apply. Clause 12 and the data protection details set out in

the Applicable Conditions shall apply to Citipost's processing of Customer's customer and recipient personal data during the provision of the Services.

11.2 The parties each acknowledge and agree that they may need to process personal data relating to each party's representatives such as names, email and contact details (Contact Data) in their respective capacities as controllers) in order to (as appropriate):

- (a) administer this Agreement and any Contract;
- (b) supply or receive the Services and any Deliverables;
- (c) manage this Agreement and any Contract and resolve any disputes relating to it;
- (d) respond and/or raise general queries relating to this Agreement and any Contract; and
- (e) comply with their respective legal and regulatory obligations.

11.3 In relation to the Contact Data, the parties each agree to comply with the Data Protection Laws in the performance of their obligations.

11.4 When providing the other party with Contact Data, each party shall also ensure that it is not subject to any prohibition or restriction which would:

- (a) prevent or restrict that party from disclosing or transferring the personal data to the other party; or
- (b) prevent or restrict that party from processing the personal data as envisaged under this Agreement or Contract.

11.5 Each party shall process the Contact Data relating to each party's representatives for the purposes set out in Clause 11.2 in accordance with their respective privacy policies.

## 12. Data protection: End Customer Data

12.1 Both parties will comply with all applicable requirements of the Data Protection Laws. This clause 12 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Laws.

12.2 The parties acknowledge that for the purposes of the Data Protection Laws, the Customer is the Controller and Citipost is the Processor. The Applicable Conditions (as amended by any Order) sets out the scope, nature and purpose of processing by Citipost, the duration of the processing and the types of Personal Data and categories of Data Subject.

12.3 Without prejudice to the generality of clause 12.1, the Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data to Citipost and/or lawful collection of the Personal Data by Citipost on

behalf of the Customer for the duration and purposes of this Agreement.

12.4 Without prejudice to the generality of clause 12.1, Citipost shall, in relation to any Personal Data processed in connection with the performance by Citipost of its obligations under this Agreement:

- (a) process that Personal Data only on the documented written instructions of the Customer which are set out in the Applicable Conditions as supplemented by each Order unless Citipost is required by Domestic Law or EU Law to otherwise process that Personal Data. Where Citipost is relying on Domestic Law or EU Law as the basis for processing Personal Data, Citipost shall promptly notify the Customer of this before performing the processing required by the Domestic Law or EU Law unless the Domestic Law or EU Law prohibits Citipost from so notifying the Customer;
- (b) ensure that it has in place appropriate technical and organisational measures, to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);
- (c) ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential; and
- (d) not transfer any Personal Data outside of the UK or EEA unless the prior written consent of the Customer has been obtained and the following conditions are fulfilled:
  - (i) the Customer or Citipost has provided appropriate safeguards in relation to the transfer;
  - (ii) the data subject has enforceable rights and effective legal remedies;
  - (iii) Citipost complies with its obligations under the Data Protection Laws by providing an adequate level of protection to any Personal Data that is transferred; and
  - (iv) Citipost complies with reasonable instructions notified to it in advance by the Customer with respect to the processing of the Personal Data;



- (e) assist the Customer, at the Customer's cost, in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Laws with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
- (f) notify the Customer without undue delay on becoming aware of a Personal Data Breach;
- (g) at the written direction of the Customer, delete or return Personal Data and copies thereof to the Customer on termination of the agreement unless required by Domestic Law or EU Law to store the Personal Data; and
- (h) maintain complete and accurate records and information to demonstrate its compliance with this clause 12 and allow for audits by the Customer or the Customer's designated auditor and immediately inform the Customer if, in the opinion of Citipost, an instruction infringes the Data Protection Laws.

12.5 The Customer grants its prior general authorisation for Citipost to appoint Third Party Providers to process the Personal Data provided that:

- (a) Citipost enters into a written contract with the Third-Party Provider that complies with the Data Protection Legislation and are consistent with the terms set out in this Agreement;
- (b) Citipost maintains control over all of the Personal Data it entrusts to the Third-Party Provider;
- (c) Citipost provides the Customer with details of the category of such Third-Party Providers in the Applicable Conditions (if applicable); and
- (d) the Third-Party Provider's contract terminates automatically on termination of this Agreement for any reason.

12.6 Where the Third-Party Provider fails to fulfil its obligations under the written agreement with Citipost which contains terms substantially the same as those set out in this Agreement, Citipost remains fully liable to the Customer for the Third-Party Provider's performance of its agreement obligations.

12.7 Citipost may, at any time on not less than 30 (thirty) days' notice, revise this clause 12 by replacing it with any applicable controller to processor standard clauses or similar terms adopted under the Data Protection Laws or forming part of an applicable certification scheme (which shall apply when replaced by attachment to this agreement).

12.8 The Customer acknowledges that Citipost is reliant on the Customer for direction as to the extent to which

Citipost is entitled to use and process the Personal Data. Consequently, Citipost will not be liable for any claim brought by a Data Subject arising from any action or omission by Citipost to the extent that such action or omission resulted from the Customer's instructions or from the Customer's failure to comply with Data Protection Laws or its obligations under this Agreement.

12.9 Each audit and inspection referred to in clause 12.4 (h) shall be carried out:

- (a) during normal business hours on at least 20 Business Days' prior written notice to Citipost and shall take no longer than two Business Days;
- (b) not more than once in any twelve-month period;
- (c) in a manner that is limited to that which is reasonably required to demonstrate compliance with Citipost's obligations under the Data Protection Laws and this clause 12; and
- (d) in so far as reasonably possible, in a manner that minimises disruption to Citipost's business and the delivery of the Deliverables and Services.

12.10 This clause 12 shall survive termination of the Agreement.

## 13. Anti-bribery

13.1 Citipost and the Customer agree:

- (a) to comply with all applicable laws, statutes, regulations, and codes relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 (Relevant Requirements);
- (b) not to engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK;
- (c) to have and maintain in place throughout the term of this Agreement its own policies and procedures, including but not limited to adequate procedures under the Bribery Act 2010 (Relevant Policies), to ensure compliance with the Relevant Requirements and the Relevant Policies and will enforce them where appropriate;
- (d) promptly report to the other party any request or demand for any undue financial or other advantage of any kind received by a party in connection with the performance of this Agreement; and
- (e) immediately notify the other party (in writing) if a foreign public official becomes an officer or employee of Citipost or the Customer or acquires a direct or indirect interest in Citipost or the Customer.

## 14. General

- 14.1 Third Party Rights: a person who is not a party to this Agreement shall not have any rights to enforce the terms of this Agreement.
- 14.2 Assignment and other dealings:
- (a) Citipost may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights under this Agreement and may subcontract or delegate in any manner any or all of its obligations under this Agreement to any third party or agent.
- (b) The Customer shall not, without the prior written consent of Citipost, assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under this Agreement.
- 14.3 No partnership or agency: Nothing in this Agreement is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, nor constitute either party the agent of the other for any purpose. Neither party shall have authority to act as agent for, or to bind, the other party in any way.
- 14.4 Variation: This Agreement shall not incorporate any other terms that the Customer seeks to impose or incorporate at any time unless Citipost agrees in writing. Citipost, has the right to vary this Agreement and any of the Applicable Conditions from time to time on giving the Customer at least 45 days' notice in writing. The variations will be summarised in Citipost's notice and the new Agreement or Applicable Conditions will be uploaded to [Citipost Mail T&C's](#) In the event that the Customer does not wish to be bound by the variations, the Customer shall be entitled to terminate this Agreement in accordance with clause 3 and any Contracts in force as at the date of termination shall continue to be bound by the previous provisions.
- 14.5 Waiver: A waiver of any right under this Agreement or law is only effective if it is in writing and shall not be deemed to be a waiver of any subsequent breach or default. No failure or delay by a party in exercising any right or remedy provided under this Agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict its further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.
- 14.6 This Agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- 14.7 Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in this Agreement.
- 14.8 Change Management: If either party requests a change to the scope, specification or execution of all or any of the Deliverables and/or Services to be supplied:
- (a) Citipost shall, within a reasonable time, provide a written estimate to the Customer of: (i) the likely time required to implement the change; (ii) any necessary variations to the Charges arising from the change; and (iii) any other impact of the change on the Contract; and
- (b) If the Customer wishes Citipost to proceed with the change, the parties shall agree the necessary variations to the Charges, Deliverables and/or Services and any other relevant terms of the Contract to take account of the change.
- 14.9 Business Continuity: Citipost shall operate and maintain a business continuity plan which shall be utilised should a disaster occur which threatens or affects the operation of Citipost's business. Citipost shall produce a copy of the business continuity plan to the Customer on request.

## 15. Notices

- 15.1 Any notice given to a party under or in connection with this Agreement shall be in writing and shall be:
- (a) delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or
- (b) sent by email to Citipost at [commercial@citipost.co.uk](mailto:commercial@citipost.co.uk) and to the Customer at the email address set out on the Front Sheet, or such other email address as a party provides to the other from time to time for such purposes.
- 15.2 Any notice shall be deemed to have been received:
- (a) if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address;
- (b) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting or at the time recorded by the delivery service; and
- (c) if sent by email, at the time of transmission, provided that transmission is within business hours (if not, at 9 am on the next Business Day after transmission) and provided that no error message is received.



15.3 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution. For the purposes of this clause, "writing" shall not include e-mail..

## 16. Governing law

This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

## 17. Jurisdiction

Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims).

THIS AGREEMENT has been entered into on the date stated at the beginning of it.

## Schedule 1 – Definitions

### 1. Definitions

1.1 In this Agreement and each of the Applicable Conditions, the following definitions apply:

Applicable Conditions: Mail Conditions, Digi-Mail Conditions, SMS Conditions, Print Management Conditions, Protago Conditions, CitiCreative Conditions, LifeCycle Conditions and any other service conditions set out at **Citipost Mail T&C's**, so far as they relate to Services provided in accordance with an Order.

**Audit Order:** The Customer's order (if any) for Audit Services (as defined in the Protago Conditions).

**BBS Software:** as defined in the Mail Conditions.

**Business Day:** a day (other than a Saturday, Sunday or public holiday) when banks in London are open for business.

**Charges:** the charges payable for the Services the subject of an Order in accordance with the Applicable Conditions.

**Citipost:** Citipost Limited, incorporated and registered in England and Wales with company number 03756000 whose registered office is at 51 Hailey Road, Erith, Kent, DA18 4AA.

**Complaint:** a complaint or request relating to either party's obligations under Data Protection Laws relevant to this Agreement, including any compensation claim from a Data Subject or any notice, investigation or other action from a Supervisory Authority.

**Consignment:** has the meaning given to it in the Mail Conditions.

**Controller, Processor, Data Subject, Personal Data, Personal Data Breach, processing and appropriate technical and organisational measures:** as defined in the Data Protection Laws.

**Customer:** the person or company who purchases the Services from Citipost.

**Customer Service Agreement or Agreement:** the agreement entered into by Citipost and the Customer for the supply of Services incorporating the Customer Service Agreement Form, the Customer Service Agreement Terms and all the Applicable Conditions as referred to in the Customer Service Agreement Form.

**Customer Service Agreement Form:** the document with such title which is signed by the Customer and Citipost.

**Customer Service Agreement Terms:** these customer service agreement terms:

**Data Protection Laws:**

(a) To the extent the UK GDPR applies, the law of the United Kingdom or of a part of the United Kingdom which relates to the protection of Personal Data.

(b) To the extent the EU GDPR applies, the law of the European Union or any member state of the European Union to which the Customer or Provider is subject, which relates to the protection of personal data

**Deliverables:** all documents, products and materials developed by Citipost or its agents, contractors and employees as part of or in relation to the Services in any form, including without limitation computer programs, data, reports and specifications (including drafts).

**Digi-Mail Conditions:** Citipost's terms and conditions, as set out at **Citipost Mail T&C's**, which shall apply to each Digi-Mail Order, as amended from time to time by Citipost.

**Digi-Mail Order:** The Customer's Order for Digi-Mail Services, as defined in the Digi-Mail Conditions.

**Documentation:** all printed materials and electronic documentation in respect of the BBS Software.

**Domestic Law:** the law of the United Kingdom or a part of the United Kingdom.

**EU GDPR:** The General Data Protection Regulation ((EU) 2016/679).

**EU Law:** the law of the European Union or any member state of the European Union.

**Force Majeure Event:** any act or event beyond Citipost's reasonable control, including without limitation strikes, lock-outs or other customer industrial action by third parties, civil commotion, riot, invasion, terrorist attack or threat of terrorist attack, war (whether deceased or not) or threat or preparation for war, fire, explosion, storm, flood, earthquake, subsidence, epidemic, pandemic or other natural disaster or failure of public or private telecommunications network, lack or defective condition of packaging, handling, loading, stowage or unloading of the Consignment by or on behalf of the Customer or the consignee or, the nature of the Consignment exposing them to total or partial loss or damage through breakage, rust, decay, desiccation, leakage, wastage, inherent or latent defect or vice or natural deterioration or insufficiency or inadequacy of marks or numbers on the Consignment or any act or omission of the Customer or their respective employees, agents or contractors or mechanical breakdown accident or other delay or routing the package through any particular country or zone or introduction of the Consignment into a recognised postal system or the use of any other delivery agency or carrier.

**Foreground IPRs:** all Intellectual Property Rights in the Deliverables excluding Supplier Background IPRs.

**Intellectual Property Rights:** all patents, rights to inventions, utility models, copyright and related rights, trade-marks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights, moral

rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world.

**Licence:** the licence terms set out at [Citipost Mail T&C's](#), which apply if the Customer uses the BBS software (as defined in the Mail Conditions).

**Mail Conditions:** Citipost's terms and conditions, as set at [Citipost Mail T&C's](#), which shall apply to each Mail Order as amended from time to time by Citipost.

**Mailing House:** the mailing house, as appointed by the Customer, to place Orders on Customer's behalf.

**Mail Order:** The Customer's Order for Mail Services (as defined in the Mail Conditions).

**Order:** A Mail Order, a Digi-Mail Order, a Print Management Order, an SMS Order, a Protago Order, a CitiCreative Order, LifeCycle Order or any other order placed in respect of services to be provided by Citipost to the Customer.

**Portal:** Citipost's online portal available at <https://portal.digi-mail.co.uk/> or such other address as Citipost specifies from time to time.

**Print Management Conditions:** Citipost's terms and conditions, as set out at [Citipost Mail T&C's](#), which shall apply to each Print Management Order, as amended from time to time by Citipost.

**Print Management Order:** The Customer's order for Print Management Services (as defined in the Print Management Conditions).

**Protago Conditions:** Citipost's terms and conditions, as set at [Citipost Mail T&C's](#), which shall apply to each Protago Order and any Audit Order, as amended from time to time by Citipost.

**Protago Order:** The Customer's order for Protago Services (as defined in the Protago Conditions).

**Services:** means any of the Mail Services, Digi-Mail Services, Print Management Services, SMS Services, Protago Services, CitiCreative Services, LifeCycle Services and/or Audit Services (as defined in the Mail Condition, the Digi-Mail Conditions, Print Management Conditions, SMS Conditions and Protago Conditions, CitiCreative Conditions, LifeCycle Conditions respectively) and any other services provided to the Customer by Citipost.

**SMS Conditions:** Citipost's terms and conditions, as set out at [https://www.citipostmail.co.uk/cpm\\_customerserviceagreement/](https://www.citipostmail.co.uk/cpm_customerserviceagreement/) which shall apply to each SMS Order, as amended from time to time by Citipost.

**SMS Order:** The Customer's Order for SMS Services (as defined in the SMS Conditions).

**Standard Rate:** Citipost rate tariffs as set out in Citipost's then current price list (as amended from time to time) excluding VAT.

**Supervisory Authority:** any local, national or multinational agency, department, official, parliament, public or statutory person or any government or professional body, regulatory or supervisory authority, board or other body responsible for administering Data Protection Laws.

**Supplier Background IPR:** all Intellectual Property Rights that are owned by or licensed to Citipost and which are or have been developed independently of this Agreement (whether prior to the date of this Agreement or otherwise) in each case either subsisting in the Deliverables or otherwise necessary or desirable to enable the Customer to receive and use the Services.

**Third Party Provider:** a third party with whom Citipost has a direct contract to provide all or part of the Services.

**UK GDPR:** has the meaning given to it in section 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018.

**User Guide:** The Royal Mail user guide and the user guide of any other Delivery Partner as notified to the Customer and used by Citipost in the performance of the Services including all relevant terms and conditions comprising such user guide, as made available to the Customer upon request to Citipost and each as published and updated from time to time.

## Mail Conditions

### Citipost Mail Limited Terms and Conditions of Services

#### 1. Interpretation and Definitions

1.1 Definitions. In these Mail Conditions, the following definitions apply:

**BBS software:** The Border Business Software system used by Citipost and as licenced to the Customer under the Licence.

**CAP Code:** The Committee of Advertising Practice Code of Non-broadcast, Advertising, Sales Promotion, and Direct Marketing, as amended from time to time.

**Charges:** the charges payable by the Customer for the supply of the Mail Services in accordance with clause 6.

**Consignment:** Domestic Consignment or International Consignment and the relevant Consignment Item.

**Consignment Item:** any individual item in a Domestic Consignment or International Consignment which includes letters, large letters, packets and parcels.

**Contract:** the contract between Citipost and the Customer for the supply of Mail Services in accordance with these Mail Conditions and any Mail Order.

**Delivery Partner:** the third parties appointed by Citipost to transport or deliver the Consignment.

**Domestic Consignment:** the mail items that are to be delivered to addresses within the UK and are the subject of the Mail Services which includes letters, large letters, packets and parcels.

**International Consignment:** the mail items that are to be delivered to addresses outside of the UK and are the subject of the Mail Services which includes letters, large letters, packets and parcels.

**Licence:** the licence granted by Citipost to the Customer for the use of the BBS Software, as set out at [Citipost Mail T&C's](#).

**Mail Conditions:** these terms and conditions as amended from time to time in accordance with the Customer Services Agreement.

**Mail Order:** The Customer's order for the Mail Services either notified by Customer to Citipost via a pre-alert generated by the BBS Software, in writing or verbally.

**Mail Services:** the production and/or supply to the Customer of bag labels, the sorting (if required), collection, processing and/or shipping of the Consignment as set out in the Mail Order.

**Prohibited Items:** any hazardous or combustible materials, including fluids, paints, acids, chemicals explosives or radioactive materials, firearms or parts thereof, drugs, live or dead plants or animals, perishable or non-perishable foods, cosmetics and liquor, fine arts and antiques, literature or material that may be pornographic, offensive or physically sensitive, precious stones or jewellery including commercial carbons or industrial diamonds, precious materials, gold or silver in the form of bullion, coins, dust, cyanides, precipitates or any other form, currency (paper or coin) of any nationality, negotiable securities, stocks, bonds, bond certificates, coupons or stamps, negotiable cheques and any materials that are prohibited under applicable law and any materials that are prohibited under applicable law, legislation or regulation from time to time or by Citipost's Delivery Partners from time to time. In addition, in relation to International Consignments this term will include inflammable, toxic, corrosive or other dangerous items, ammunitions, maroons, flares and like items, offensive or noisome smelling items or items capable of contaminating others by smell or otherwise unless securely packed by air-tight containers, or other instruments, travel cheques, cheque bearer cheques, or I.A.T.A (International Air Transport Association) articles (as updated from time to time) or anything prohibited by Citipost's Delivery Partners from time to time.

**Standard Rate:** Citipost rate tariffs as set out in Citipost's then current price list (as amended from time to time) excluding VAT.

**VAT:** value added tax chargeable under English law for the time being and any similar additional tax.

#### 2. Basis of contract

- 2.1 The Customer shall, or the Customer shall procure that the Mailing House shall, notify Citipost that it wishes to place a Mail Order at least 24 hours in advance of requiring the Mail Services to be provided.
- 2.2 Subject to clause 2.1 above, the Customer or the Mailing House shall be entitled from time to time in writing, verbally or via the BBS Software to place an order for the provision of any or all of the Mail Services from Citipost.
- 2.3 The Customer shall, or the Customer shall procure that the Mailing House shall, specify in each Mail Order:
  - (a) whether the Customer, or the Mailing House on its behalf, will sort the Consignment itself or whether it requires Citipost to do so;
  - (b) the number of bag labels required for the Consignment;
  - (c) the number of containers required for the Consignment;

- (d) whether it requires Citipost to provide the bag labels directly to the Customer or to the Mailing House and if it is the latter, provide relevant details to assist Citipost in delivering the same to the Mailing House;
  - (e) the date and time that the Consignment shall be ready for collection by Citipost.
- 2.4 The Mail Order constitutes an offer by the Customer to purchase Mail Services in accordance with these Mail Conditions and the Customer Service Agreement.
- 2.5 The Mail Order shall only be deemed to be accepted when Citipost confirms to the Customer that it is acceptable to Citipost (either in writing or verbally), at which point and on which date the Contract shall come into existence.
- 2.6 These Mail Conditions, the Customer Service Agreement, the Mail Order, the Licence and any applicable User Guide constitute the entire agreement between Citipost and the Customer in relation to each Mail Order. In the event of a dispute between any of the terms contained in Agreement and these Mail Conditions, then the terms set out in these Mail Conditions shall prevail.
- 2.7 These Mail Conditions, the Customer Service Agreement, the Mail Order, the Licence and any applicable User Guide apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

### 3. Mail Services

- 3.1 Citipost shall supply the Mail Services to the Customer in accordance with the Mail Order in all material respects.
- 3.2 Citipost shall use all reasonable endeavours to meet any performance dates specified in the Mail Order, but any such dates shall be estimates only and time shall not be of the essence for performance of the Mail Services.
- 3.3 Citipost reserves the right to make any changes to the Mail Services which are necessary to comply with any applicable law or safety requirement, or which do not materially affect the nature or quality of the Mail Services, and Citipost shall notify the Customer in any such event.
- 3.4 Citipost warrants to the Customer that the Mail Services will be provided using reasonable care and skill.
- 3.5 The Customer may, without incurring Charges, cancel a Mail Order for Domestic Consignments;
- (a) due to be collected after 4pm, at any time up to 10am on

the day the Mail Services are to be supplied; or

- (b) due to be collected before 4pm, at any time up to 5pm on the day before the Mail Services are to be supplied by email to: **bookings@citipost.co.uk** or by telephone: **0203 260 0240**, followed by a confirmation email.
- 3.6 In the event that the Customer fails to cancel a Mail Order in accordance with clause 3.5, the Customer will be liable to pay the Charges in accordance with clause 6.
- 3.7 In relation to both Domestic Consignments and International Consignments, Citipost:
- (a) so far as reasonably practicable shall comply with any lawful instructions given in writing by the Customer or given in writing by the consignee when the UK or International Consignment is in the possession of the Delivery Partner concerning the UK or International Consignment, provided that Citipost shall be entitled to payment for any Mail Services provided by it in pursuance of such instructions and particularly where such instructions are postponement of delivery, Citipost shall be entitled to charge a reasonable storage fee and where the instructions involve a change in delivery address, Citipost shall be entitled to charge for any additional mileage on the basis of the applicable Delivery Partner's normal scale of charges;
  - (b) shall not be liable for any delay or loss after proper presentation of the International Consignment to the postal system delivery agency or carrier.
- 3.8 An International Consignment shall be carried at the Customer's risk in all respects except where damage or loss occurs whilst in the possession of Citipost. Subject always to the provisions of Clause 8, if the International Consignment is lost or damaged whilst on premises of the Citipost, then Citipost may accept liability provided that the fault is due to an error by or fault of Citipost. Citipost shall not be in any way liable for damage or loss caused by poor packaging or poor presentation of the International Consignment by the Customer. Citipost shall not be liable for any of the following whether by reason of the negligence or otherwise:
- (a) delay, mistake or error in delivery of the International Consignment;
  - (b) failure to follow any instruction or direction of the Customer.
- 3.9 Unless otherwise agreed, all International Consignments are delivered duty unpaid. The Customer or the recipient of any International Consignments shall be responsible for arranging and paying for import clearance, import duties and all other import related taxes.

## 4. Non-delivery

- 4.1 Citipost reserves the right to refuse to perform the Mail Services, refuse to collect or accept a Consignment or refuse carriage of the Consignment for any reason whether before or after carriage has commenced (including but not limited to, if Citipost has reason to believe the Consignment contains Prohibited Items) and upon such refusal Customer shall have no right of recourse against Citipost.
- 4.2 In the event that a Consignment Item is not delivered for whatever reason and has no visible return address, the Customer permits Citipost to open the item in order that it may take reasonable steps to return it to the sender at the Customer's cost. The Customer permits Citipost to deal with such undelivered Consignment Item in any way it considers appropriate (which may involve arranging delivery, returning it to the Customer or by destroying the Consignment Item). If Citipost incurs any charge in respect of non-delivery under this clause 4.2, it shall be entitled to pass such charges on to the Customer, at Citipost's original charging rate.
- 4.3 A Consignment shall, in the reasonable opinion of Citipost, be deemed undeliverable if it is refused delivery at the delivery point or no person takes delivery of the Consignment or if Citipost has been provided with the wrong address for delivery.
- 4.4 If in the reasonable opinion of Citipost any Consignment is or may become dangerous, inflammable, explosive, volatile, offensive or of a damaging nature the same may at any time be destroyed, disposed of, abandoned or rendered harmless by Citipost or its agent without compensation to the Customer and without prejudice to the right of Citipost to recover any charges or expenses hereunder. In each and any case the Customer shall be liable for all costs, loss and damage caused thereby.
- 4.5 The Customer shall provide samples of the Consignment to Citipost on request (any provision of samples shall not transfer any responsibility to Citipost).
- 4.6 If the Customer provides any Prohibited Items or Prohibited Items are included in the Consignment, the Customer will indemnify Citipost and hold Citipost harmless from any claims made against Citipost and for any related loss, liability or damages that Citipost may incur. The Customer agrees that Citipost may deal with Prohibited Items in whatever way Citipost thinks fit, and Citipost shall not be obliged to return such Prohibited Items or related Consignment to the Customer.

## 5. Sub-contracting

- 5.1 Citipost shall be entitled to use such Delivery Partner as Citipost sees fit, and shall be entitled to procure the use of subcontractors, agents and affiliate companies to collect, sort, transport, deliver or otherwise handle

the Consignment or any of its contents and as such these third parties will be entitled to rely on these Mail Conditions.

## 6. Charges and payment

- 6.1 The Charges payable by the Customer to Citipost for the Mail Services shall be the charges as agreed between Citipost and the Customer and as set out in the rate card or email confirmation supplied by Citipost. If no such charges have been agreed in accordance with this clause 6.1, Citipost's Standard Rate from time to time shall apply. The Customer shall also be charged and shall pay any surcharge (including but not limited to surcharges for missorts, mailmark, under volume container charges or missing emanifest charges) levied by Royal Mail or its other third-party suppliers due to the Customer's non-compliance with the Royal Mail terms or any third-party supplier terms of which Citipost has made the Customer aware.
- 6.2 Citipost reserves the right to increase the Standard Rates at any time upon 14 days-notice.
- 6.3 Subject to clause 6.2, Citipost reserves the right to increase the Charges at any time and without notice, to reflect increases in costs that may affect Citipost in the provision of the Mail Services, including but without limitation, any increase in respect of rates of VAT, other taxes, duties, Royal Mail rates, fuel cost or surcharges, HGV charges, legal or regulatory requirements.
- 6.4 Unless a Mail Order is cancelled in accordance with clause 3.5, the Customer shall be deemed to incur the Charges as soon as the Customer has commenced the supply of the Mail Services and the Customer agrees to pay such Charges in full and in accordance with clause 6.6 of these Mail Conditions.
- 6.5 The Charges are exclusive of amounts in respect of Value Added Tax (or any local equivalent) or customs duty if applicable.
- 6.6 The Customer shall pay each invoice submitted by Citipost:
  - (a) within the specified period stated on the invoice; and
  - (b) in full and in cleared funds to the bank account nominated in writing by Citipost; and time for payment shall be of the essence of the Contract.
- 6.7 If the Customer fails to make any payment due to Citipost under the Contract by the due date for payment, then the Customer shall pay interest on the overdue amount under the Late Payment of Commercial Debts (Interest) Act 1998. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount.



- 6.8 The Customer shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law). Citipost may at any time, without limiting its other rights or remedies, set off any amount owing to it by the Customer against any amount payable by Citipost to the Customer.
- 6.9 Where Citipost identify and notify the Customer of any invoicing errors within one year from the date of an invoice, including any undercharges based on the rates provided to the Customer, Citipost shall be entitled to recover any underpayments from the Customer.

## 7. Route

- 7.1 Where an International Consignment is delivered by Citipost or a Delivery Partner, Citipost will carry the International Consignment by any route and may at its discretion employ any mode of transport and in any event neither Citipost or the Delivery Partner will be liable for any delay in pick up, transportation or delivery whatsoever or howsoever caused and no obligation is assumed in respect of routing of the International Consignment nor as to local international regulations applicable in respect of carriage of the International Consignment.

## 8. Limitation of liability

- (a) Citipost shall make reasonable efforts to complete the Mail Services by sorting and procuring the delivery of the Consignment safely and on time, however, no

guarantee or warranty is given that delivery times will be met. Accordingly, Citipost shall not be liable if delivery of a Consignment is delayed. Unless otherwise agreed in writing, Citipost will have no liability to the Customer other than as set out in this clause 8.

- 8.1 Nothing in these Mail Conditions shall limit or exclude Citipost's liability for:
- death or personal injury caused by its negligence, or the negligence of its employees, agents or sub- contractors; or
  - fraud or fraudulent misrepresentation.
- 8.2 Subject to clause 8.2:
- Citipost shall under no circumstances whatsoever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, loss of goodwill, loss of business, wasted costs, loss of business opportunity, loss of anticipated savings or any indirect or consequential loss arising under or in connection with the Contract;
  - Citipost shall under no circumstances whatsoever be liable to the Customer for any failure to deliver or delay in delivering a Consignment, a Consignment Item or any part of it once it has been transferred to a Delivery Partner at which point the Delivery Partner's User Guide shall apply;
  - Citipost's total liability to the Customer in respect of all losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the sums set out below for each Consignment (as appropriate):

Type of Consignment	Items	Delivery Service	Citipost's Maximum liability if lost between receipt and dispatch by Citipost	Citipost's maximum liability if lost after it is passed by Citipost to Delivery Partner
Domestic Consignment (Down Stream Access Items)	Mail only	All sorted, unsorted letters, large letters and packets	£75.00 for each mailing order (minimum of 2000 items)	Nil for packets As set out in clause 8.3 for letters, large letters and magazines
Domestic Consignment (Non Down Stream Access Items)	Unsorted packets	Standard 72 hour delivery service	Cost Price or, if not proven by Customer, a maximum of £15.00 per packet	Nil
		Insured Tracked Courier Services	Cost Price per packet or, if not proven by Customer, a maximum of £15.00 per packet	Cost Value up to a maximum of £30.00
International Consignment	Mail only	All sorted, unsorted letters, large letters and packets	£75.00 for each mailing order (minimum of 2000 items)	Nil
	Unsorted packets	Standard 72 hour delivery service	Cost Price or, if not proven by Customer, a maximum of £15.00 per packet	Nil
		Insured Tracked Courier Services	Cost Price per packet or, if not proven by Customer, a maximum of £15.00 per packet	Cost Value up to a maximum of £50

In this table 'mail' shall refer to a Domestic Consignment mail item that is less than 750 grams in weight and is within the following dimensions: 250x353x25mm and an International Consignment item that is less than 500 grams and is within the following dimensions: 381x305x20mm and 'packet' shall mean any mail item that is not 'mail'.

Customer acknowledges that it should obtain appropriate insurance if it requires protection above these limits; and

- (d) in the event that a Customer has ordered Mail Services where no signature is required, then delivery of a Domestic Consignment in a safe place (at the Delivery Partner's discretion) means that delivery of such Domestic Consignment is deemed to have taken place safely. Accordingly, Citipost shall have no liability for loss or damage occurring to any Domestic Consignment so delivered.
- 8.3 Where the Consignment is a Domestic Consignment (Down Stream Access Items), Citipost's Delivery Partner has agreed to do its best to deliver the items contained in the Consignment safely but Citipost does not accept unlimited responsibility for anything that happens to the Consignment or any individual mail item. If the Consignment, or any of the items in it, is lost or damaged Citipost will compensate the Customer for direct losses suffered by the Customer (i.e. the actual cost of production of the lost item), up to a maximum of (i) in respect of magazine and packets (subject to proof of the production cost which is acceptable to Citipost), £1 per item and (ii) in respect of all other items, 10 pence per item or £2 per kilo (whichever is the lower).
- 8.4 Citipost shall not be liable for loss or damage to any Consignment once delivery has taken place.
- 8.5 Citipost shall not be liable nor shall it be required to indemnify or compensate the Customer or refund any monies paid by Customer to Citipost for any re-routing, rejection, seizures, confiscation, mishandling of the Consignment or any part thereof by any Delivery Partner, post office or customs authorities or persons acting on their behalf on the grounds that the Consignment or any part thereof contravenes or is alleged to contravene laws or regulations in place from time to time.
- 8.6 Unless otherwise agreed, Citipost shall deliver International Consignments delivered duty unpaid. Without prejudice to clause 3.9, it shall not be responsible for or liable to the Customer or any third party for any penalties imposed on the Customer or any third party or for any loss incurred due to delay by customs or other authorities or due to the Consignment being impounded by customs or other authorities and the Customer shall indemnify Citipost on demand in respect of any such penalty or loss suffered by Citipost.
- 8.7 In the event that a Domestic Consignment or an International Consignment is not delivered, the Customer shall notify Citipost in writing in respect of any claim the Customer wishes to make within 14

days of the processing date, which must include the tracking number along with evidence of the actual cost price of the Consignment.

- 8.8 Citipost shall not be liable for any loss, damage, error or delay in connection with International Consignment unless it is "Insured and Tracked Courier Service" in which case the limits in clause 8.3 shall apply.
- 8.9 Citipost shall:
  - (a) not be required to pay the agreed compensation to any person other than the Customer;
  - (b) have a lien on an International Consignment in respect of franchise custom duties and other charges and shall have the right to refuse to deliver any International Consignment or surrender possession until all charges have been paid in full.
- 8.10 The shipment of an International Consignment is subject to all applicable law's customs and government regulations of the countries through which the International Consignment shall be carried, including those of the country of dispatch and country of arrival and (subject to clauses 3.9 and 8.6) the Customer shall provide such information as may be necessary to enable Citipost and/or a Delivery Partner to comply with the local regulations and shall indemnify Citipost in respect of any damage suffered as a result of any breach and in particular shall ensure that the International Consignment does not breach any import or export regulation and that any tax or other import or delivery duty is paid in advance.
- 8.11 Citipost does not provide a warranty, either expressed or implied, of accuracy or fitness for purpose in relation to any advice given by Citipost in connection with a mailing sample's compliance with the relevant User Guide and shall not be directly or indirectly liable for any loss or damage resulting from the use of Citipost's advice or representation in relation to the applicable User Guide.

## 9. Customer warranty and indemnity

- 9.1 The Customer warrants that:
  - (a) The particulars relating to the Consignment as shown in the Mail Order, stipulating amongst other things, the collection date and the declared value for customs (where applicable), are correct and that the Consignment is accurately labelled and addressed, both readable and of a quality which is sufficient for Citipost or its Delivery Partners to enable effective delivery;
  - (b) The Consignment:
    - (i) does not contain any Prohibited Items;
    - (ii) does not break the CAP Code;

- (iii) is not prohibited by any law or by the postal licence under which the Consignment is delivered (in the UK or the Consignment delivery destination country) or dangerous goods rules;
  - (c) The Consignment meets the specifications as set out in any applicable User Guide;
  - (d) The Consignment tendered for carriage is not volatile spirits or of a nature which, in Citipost's reasonable opinion, may become dangerous, inflammable, or offensive (including radioactive materials) or which is or may become liable to damage any property whatsoever;
  - (e) It has complied with all laws and regulations relating to the nature, contents, packaging, labelling, place of origin or otherwise relating to the carriage of the Consignment and that the Consignment is packed in a manner adequate to withstand the ordinary risk of carriage having regard to its nature;
  - (f) If part or all of the Consignment contains documents, such documents have neither commercial value nor customs value in the country of destination; and
  - (g) The Customer complies with all processes and procedures notified to it by Citipost and paid any applicable charges on the date due in order to comply with the applicable User Guide.
- 9.2 Citipost shall be entitled, at all times and at its sole discretion, to open the Consignment if it has reasonable suspicion that the Customer has not complied with the warranty in clause 9.1 above and shall not be liable to the Customer for any loss, damage or expenses incurred by the Customer by reason of exercising its right under this clause 9.2. The Customer holds Citipost harmless against any claims it may receive to make good any loss or damages it incurs.
- 9.3 Should the Consignment breach the requirements in clause 9.1, then without limitation to any other right or remedy Citipost may have, Citipost may at any time:
- (a) refuse to deliver the relevant Consignment;
  - (b) immediately terminate the Contract and/or the Mail Order entered into in relation to the relevant Consignment;
  - (c) claim any additional costs and expenses incurred in dealing with the relevant Consignment;
  - (d) claim any charges incurred by Citipost as a result of the Customer's failure to comply with the applicable User Guide; and/or
  - (e) extend the period of time Citipost has to deliver the Consignment by the equivalent number of days the delivery is delayed due to the Customer's failure to comply with clause 9.1.

- 9.4 The Customer shall indemnify Citipost in respect of any breach of any warranty set out in this clause 9.
- 9.5 In the case of an International Consignment:
- (a) the Customer shall pay to Citipost on demand the amount required to indemnify Citipost against any claim arising out of the custodial carriage of the International Consignment by any person or entity having an interest in the International Consignment and any cost and expenses associated with such claim;
  - (b) Citipost shall hold any sum paid in respect of any such claim against any of the Delivery Partner's employees, agents or sub-contractors and their costs and expenses associated with such claim in trust for such persons.

## 10. Customer Property and Lien

- 10.1 In appointing Citipost to fulfil Mail Services, the Customer may provide Citipost with items of property ("Property") comprising the Consignment. Citipost acknowledges that such Property will continue to belong to the Customer. Citipost will use reasonable efforts to keep the Property in a secure location and to use it only in fulfilling its obligations under these Mail Conditions.
- 10.2 Citipost shall have a general and particular lien on the Property in its possession as security for payment of all sums claimed by Citipost from the Customer, whether or not that payment relates to the Property over which the lien is claimed. If an invoice or other demand for payment of the Charges is not paid in full on its due date for payment, Citipost may, without prejudice to its other rights and remedies, give notice in writing to the Customer of its intention to sell or otherwise dispose of some or all of the Property in its possession if the amount outstanding is not paid in full within 14 days..

## 11. Consequences of termination

- 11.1 On termination of the Contract or the Customer Service Agreement for any reason:
- (a) the Customer shall immediately pay to Citipost all of Citipost's outstanding unpaid invoices and interest and, in respect of Mail Services supplied but for which no invoice has been submitted, Citipost shall submit an invoice, which shall be payable by the Customer immediately on receipt;
  - (b) the accrued rights, remedies, obligations and liabilities of the parties as at expiry or termination shall be unaffected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry.

## 12. Data Protection Details

- 12.1 Subject matter of processing: Citipost is providing Mail Services which may involve the production and delivery of physical mail items and or the provision of a software platform for production and delivery of physical mail items and a software platform for the transmission of SMS messages (as set out in this Agreement).
- 12.2 Duration of Processing: the duration of this Agreement.
- 12.3 Nature and Purpose of Processing: Personal Data will be processed by Citipost to enable Citipost to provide the Mail Services to the Customer.
- 12.4 Types of Personal Data to be Processed Data to be processed will be: Name, home address (full address including postcode) of recipients and any other information as detailed to be included in correspondence by the Customer to their customer.
- 12.5 Categories of Data Subjects: The Data Subjects will be recipients of mailings and SMS messages from the Customer and Customer employees.
- 12.6 Transfers of Personal Data to a country outside EEA/ international organisation: None

## License

### Standard End User Software Licence and Services Agreement

Citipost undertakes to provide for the duration of this agreement reasonable assistance and advice in the use of the Licensed Products (as defined below) provided by trained personnel over the telephone between the hours of 9.00a.m. and 5.00 p.m. Monday to Friday excluding statutory holidays (“Technical Support”), with effect from the date of this agreement or the first Use of the Licensed Products by the Licensee (as defined below), whichever the earlier.

Technical Support does not include the diagnosis and rectification of any fault resulting from the operational failure through improper use, operation or neglect of the Licensed Products, or except by prior written agreement with Citipost, the Licensee’s failure to install and use in substitution for the previous release any New Release of the Licensed Products within 60 days of receipt of the same.

#### 1. Definitions

**Data:** shall for the purpose of this Licence incorporate the confidential Information of the Royal Mail and including “Royal Mail Section Files & PIF” and any other data from time to time supplied in conjunction or combination with or as part of the Licensed Products including information from any other postal operators.

**Licensee:** shall mean the individual or body corporate entering into an Agreement of which this licence forms part with Citipost directly.

**Licensed Products:** means such of the BBS’ Products and Data as Citipost makes available to the Licensee from time to time.

**User:** shall mean an individual, PC, work station or terminal within the Licensee’s organisation which has access (either directly or indirectly) to any part of the Licensed Products or the Data through any software routines whether supplied by BBS, Citipost or any third-party supplier or developed by or for the Licensee by its employees, agents or sub-contractors.

#### 2. Licence and support

- 2.1 Citipost hereby grants the Licensee a non-exclusive licence to use, within the Licensee’s organisation, for the Licensee’s own internal purposes only, the Licensed Products and Data, and updates to the Licensed Products and Data provided to the Licensee by BBS or Citipost in accordance with the specification for the use of the Licensed Products and Data as provided by Citipost to the Licensee from time to time.
- 2.2 The Licensee shall ensure that any changes in the details relating to its use of the Licensed products and Data from that specified at the time the licence is

granted are notified to Citipost and that the Number of Users does not exceed that permitted by the numbers and type of licences purchased by the Licensee.

- 2.3 The Licensee shall have a reasonable mechanism or process in place to ensure that the number of users accessing the Licensed Products or Data does not exceed the number of Licences purchased.
- 2.4 The Licensee shall install and use any new release or updates to the Licensed products and Data supplied by BBS or Citipost within 30 days of receipt.
- 2.5 The Licensee shall comply with all requirements of the Data Protection Act 2018, the UK GDPR (as defined in the Data Protection Act 2018), the General Data Protection Regulation (2016/679/EU) and the Privacy and Electronic Communications (EC Directive) Regulations 2003 implementing Directive 2002/58/EC, as updated by Directive (2009/136/EC) (ePrivacy Directive), and all other applicable laws, rules and regulations relating to data protection and privacy (“the Data Protection Laws”) relevant to its possession or use of the Licensed Products and Data and shall ensure that such use is not inconsistent with its own registration under the Data Protection Laws.

#### 3. Limit on licensee’s use of the data and licensed products

- 3.1 The Licensee shall not at any time reproduce, publish, sell, let, lend or otherwise part with possession of any part of Licensed Products or Data save to make such backup copies as may be consistent with the licensed distribution & installation of the same within the scope of the licence agreed with Citipost, including storage on alternative computer systems (such copies to be subject to the terms and conditions of this Licence and deemed to form part of the Licensed Products save that no further copies may be made thereof). The Licensee shall ensure that its employees, agents and sub-contractors comply with the terms of this Clause.

#### 4. Fees

- 4.1 The Licensee shall pay to Citipost such licence fees as the parties agree from time to time in accordance with the following timescales:
  - (a) the first year’s fee shall become payable within fourteen days of the date of invoice to which this Licence Agreement relates. Subsequent year’s fees shall become due for payment by the Licensee on each anniversary of this Licence Agreement.
  - (b) This Licence Agreement shall terminate immediately where the Licensee fails to pay the appropriate fees by the due date.

4.2 The Licence Fees may, subject to clauses 4.2 (a) below, be increased or decreased or the payment structure modified or amended by Citipost during the currency of this Licence Agreement to take effect on any anniversary of this Licence Agreement save that;

- (a) any increase in the Licence Fees shall be subject to not less than 28 days prior notice and shall not exceed the increase in the Retail Price Index during the period since the last occasion upon which the Licensee's Licence Fees were increased.

## 5. Limitation of liability

The following provisions set out Citipost's entire liability to the Licensee in respect of breach of its contractual obligation, and pursuant to any representation, statement, tortious act or omission ("Event of Default"), arising in connection with or under this agreement.

5.1 Citipost's liability to the Licensee:

- (a) in respect of death or personal injury resulting from its own negligence shall not be limited and the exclusion in this clause 5.1 shall not apply thereto;
- (b) in respect of damage to the Licensee's tangible property resulting from Citipost's negligence and in respect of any Event of Default, shall be limited to damages of an amount equal to the aggregate of the Licence Fee paid in respect of the current annual licence period;
- (c) shall in no circumstances include any loss of profits, goodwill or any type of special indirect or consequential loss, including loss of any Postal discounts, even if reasonably foreseeable, or clearly anticipated by Citipost;
- (d) If a number of Events of Default give rise to the same (or substantially the same) loss, then they shall be regarded as giving rise to only one claim;
- (e) The Licensee hereby agrees to afford Citipost not less than 60 days in which to remedy any Event of Default, following receipt by Citipost of such notification, and except in the case of an Event of Default specifically arising under clause 5.1 (a) above, Citipost shall have no liability to the Licensee unless the latter shall have served a notice upon Citipost forthwith on becoming aware of the circumstances giving rise to the Event of Default or the date when it ought reasonably to have become so aware, whichever the earlier;
- (f) Nothing in this clause shall confer any right or remedy upon the Licensee to which it would not otherwise be legally entitled; and
- (g) The Licensee acknowledges that the Licence fees are calculated by reference to the limits of liability set out in this clause 5 and that the Licensee may by

written notice request Citipost to agree a higher limit of liability to which Citipost may, at its sole discretion, agree subject to Insurance cover being available and on condition that any increased insurance premiums and other costs associated with providing such increased liability shall be borne by the Licensee.

## 6. Warranties

- 6.1 Citipost does not warrant that the use of the Licensed Products will meet the Licensee's data processing or other business requirements or that the operation of the Licensed Products will be uninterrupted or error free and the Licensee accepts that the Licensed Products were not designed and produced to its individual requirements and that it was responsible for their selection.
- 6.2 Citipost warrants that:
  - (a) It has taken reasonable precautions to ensure that all software supplied by BBS or Citipost will be virus-free checked prior to delivery to the Licensee;
  - (b) The Licensed Products and all supporting literature shall conform with all descriptions applied to them in writing by Citipost;
  - (c) The proper use by the Licensee of the Licensed Products and Data will not in any way infringe any letters patent, registered design, trademark, trade name, copyright or any other right of any third party;
  - (d) Citipost shall use reasonable skill and care in providing Technical Support and the Licensee agrees that Citipost's sole and exclusive liability for breach of the warranty under this License Agreement, and the licensee's sole and exclusive remedy shall be that Citipost will so perform the services as set out under Citipost's responsibilities at no additional charge to the Licensee;
  - (e) Citipost and the Licensee each warrant to the other that it holds all necessary registrations, licences and consents including but not limited to those required by Law and in particular the Data Protection Laws (as the same may be amended or superseded) and will comply with and keep in force all such registrations, licenses and consents and produce evidence of the same to the other on request including contracts with Royal Mail and any other postal operators; and
  - (f) The Licensee warrants that none of the activities for which it shall use the Licensed Products or Data shall constitute, involve or facilitate, either directly or indirectly, the commission of any unlawful or illegal act or any offence or infringement of the rights of any person.



## 7. Intellectual property rights and confidentiality

- 7.1 The Licensed Products and Data contain confidential information of BBS and all intellectual property rights (“IPRS”) in the Licensed Product are BBS’s exclusive property.
- 7.2 The Licensee shall not perform the following acts:
- (a) copy the whole or any part of the Licensed Product or Data;
  - (b) modify, merge or combine with any other software or documentation or reverse engineer or decompile the whole or any part of Licensed Products or Data. In the event that the Licensee wishes to create an interoperable program with the Licensed Products or Data, it shall notify Citipost of such intent and Citipost shall use reasonable endeavours to make readily available or procure that BBS makes readily available to the Licensee such information as is necessary to enable the Licensee to create such an interoperable program provided that on termination of this Licence Agreement, the Licensee shall remove the Licensed Products and Data from any software with which they have been so interoperated and comply with the provisions of clause 8.3 below.
- 7.3 The Licensee shall perform the following acts:
- (a) keep the Licensed Products and Data confidential and take all steps to protect BBS’s confidential information and all IPRS in the Licensed Products; and
  - (b) reproduce on any copy of the Licensed Products or Data BBS’s copyright and trade mark notices.
- 7.4 Each Party agrees:
- (a) to maintain as confidential and not to disclose to any third party any confidential information derived from the other party in connection with the Licence Agreement without the consent of the disclosing party save to the extent reasonably necessary for the proper performance of this Licence Agreement;
  - (b) to restrict the disclosure of the relevant and necessary part of the confidential information to such of its officers, employees, agents and sub-contractors who of necessity require the same in performance of their duties as envisaged by this Licence Agreement; and
  - (c) to make all relevant officers’ employees, agents and sub-contractors aware of the confidentiality of the confidential information and the provisions of this Clause 7 and without prejudice to the generality of the foregoing to take all such steps as shall from time to time be reasonably necessary to ensure compliance by its officer’s employee’s agents and sub-contractors with the provisions of this Clause 7.

- 7.5 The obligations in this Clause 7 shall continue in full force and effect during the term of and after the termination of this Agreement provided however that the following shall not be subject to restrictions:
- (a) any information which was lawfully in the possession of the receiving Party prior to its disclosure by the disclosing Party without restriction as to its disclosure;
  - (b) any information which is or shall lawfully become part of the public domain; or
  - (c) any information which shall otherwise lawfully become available to one Party from a source independent of the other Party without restriction as to its disclosure.

## 8. Termination

This Licence Agreement may be terminated without notice by Citipost if the Licensee is in breach of any of the terms of this Licence Agreement.

In addition to the foregoing, this Licence Agreement may be terminated:

- 8.1 by either party giving not less than 14 days’ notice to the other party expiring on the anniversary of this Licence Agreement; or
- 8.2 forthwith by Citipost, if the Licensee:
  - (a) fails to pay any sum due hereunder on the due date;
  - (b) becomes insolvent, or has a trustee, receiver, administrative receiver or similar officer appointed in respect of any part of its business or assets or enters into any agreement with creditors or has an order or resolution passed for it to be wound up; or
  - (c) in any way brings BBS or Citipost into disrepute or challenges the Intellectual Property Rights of BBS.
- 8.3 Upon termination of this Agreement (howsoever arising) the Licensee shall confirm in writing to Citipost within 14 days of termination that all copies of the Licensed Products and Data and any information derived from comparison with, by reference to, or resulting from the authorised or unauthorised use of the Licensed Products or Data has been removed from all systems whatsoever used by or accessible to the Licensee and that no further use will be made of such information or any of the Licensed Products or Data.
- 8.4 Any termination of this Licence Agreement shall be without prejudice to any rights or remedies either party may be entitled to and shall not affect any accrued rights or liabilities of either party.
- 8.5 Howsoever this Licence Agreement is determined the Licensee shall not under any circumstances become entitled to the repayment of the Licence Fee or any other sums payable under this Licence Agreement.

## 9. General

- 9.1 Any addition to or variations of this Licence Agreement must be in writing signed on behalf of both parties.
- 9.2 If any part of this Licence Agreement shall be found by any court to be invalid or unenforceable, the invalidity or unenforceability of such shall not affect the other provisions of this Licence Agreement, which shall remain in full force and effect.
- 9.3 The headings herein are for the purpose of information and identification only.
- 9.4 Neither party shall be entitled to assign or sub- contract this Licence Agreement or any part of it.

## 10. Law

This Licence Agreement shall be governed by and construed in accordance with English Law and the parties hereby agree to submit to the exclusive jurisdiction of the English Courts.

## Digi-Mail Conditions

### Standard End User Software Licence and Services Agreement

Citipost undertakes to provide for the duration of this agreement reasonable assistance and advice in the use of the Licensed Products (as defined below) provided by

trained personnel over the telephone between the hours of 9.00a.m. and 5.00p.m. Monday to Friday excluding statutory holidays (“Technical Support”), with effect from the date of this agreement or the first Use of the Licensed Products by the Licensee (as defined below), whichever the earlier.

Technical Support does not include the diagnosis and rectification of any fault resulting from the operational failure through improper use, operation or neglect of the Licensed Products, or except by prior written agreement with Citipost, the Licensee’s failure to install and use in substitution for the previous release any New Release of the Licensed Products within 60 days of receipt of the same.

### 1. Definitions and Interpretation

#### 1. Definitions and Interpretation

1.1 Definitions. In these Digi-Mail Conditions, the following definitions apply:

**Administration Fee:** the fee notified to the Customer by Citipost from time to time.

**CAP Code:** The Committee of Advertising Practice Code of Non-broadcast, Advertising, Sales Promotion, and Direct Marketing, as amended from time to time.

**Charges:** the charges payable by the Customer for the supply of the Deliverables and/or Digi-Mail Services in accordance with clause 6.

**Digi-Mail Conditions:** these terms and conditions as amended from time to time in accordance with the Customer Services Agreement.

**Contract:** the contract between Citipost and the Customer for the supply of Deliverables and/or Digi-Mail Services in accordance with these Digi-Mail Conditions and any Digi-Mail Order.

**Deliverables:** the product of the printing services comprising letters, large letters and postcards or other printed items (or any part of them) as set out in the Digi-Mail Order.

**Delivery Partner:** the third parties appointed by Citipost to transport or deliver the Deliverables.

**Digi-Mail Order:** The Customer’s order for the supply of Deliverables and/or Digi-Mail Services as set out in the Customer’s purchase order form submitted via the Portal.

**Digi-Mail Services:** the production and delivery of the Deliverables including the electronic transfer, processing, and printing of the Deliverables in accordance with the Digi-

Mail Order.

**Specification:** the specification for the Deliverables, including any relevant drawings or designs, provided by the Customer to Citipost via the Portal.

**Standard Rate:** Digi-Mail rate tariffs as set out in Citipost’s then current price list (as amended from time to time) excluding VAT.

**Subscription Term:** the subscription term set out in the Digi-Mail Order

**User Guides:** Digi-Mail User Guide as published by Citipost from time to time and Royal Mail’s user guide, as published from time to time.

**VAT:** value added tax chargeable under English law for the time being and any similar additional tax.

1.2 Construction - In these Digi-Mail Conditions, the following rules apply:

- (a) a person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);
- (b) a reference to a party includes its personal representatives, successors or permitted assigns;
- (c) a reference to a statute or statutory provision is a reference to such statute or provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted;
- (d) any phrase introduced by the terms including, include, in particular or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms;
- (e) a reference to writing or written includes faxes and e-mails;
- (f) the word “indemnify” in these Digi-Mail Conditions means to indemnify, keep indemnified and hold harmless the relevant party in full and on demand from and against all costs, expenses, liabilities, injuries, losses, damages, claims, proceedings (including legal and other professional fees and expenses on an indemnity basis) which the indemnified party incurs or suffers directly, indirectly or consequentially (all three of which terms include, without limitation, pure economic loss, loss of profits, loss of reputation, depletion of goodwill, internal management cost and all legal costs) and “indemnity”, “indemnifies” and all similar wording have a corresponding meaning in such circumstances.

## 2. Basis of contract

- 2.1 The Digi-Mail Order constitutes an offer by the Customer to purchase the Deliverables and/or Digi-Mail Services in accordance with these Digi-Mail Conditions and the Customer Service Agreement.
- 2.2 The Digi-Mail Order shall only be deemed to be accepted if it is not rejected when it is uploaded to the Portal, at which point, and on which date the Contract shall come into existence. The Customer cannot amend or withdraw a Digi-Mail Order once it has been accepted. Citipost shall be entitled to amend or cancel a Digi-Mail Order once it has been accepted if it discovers an issue with fulfilment of the same, upon notice to the Customer. Citipost shall have no liability or obligation to Customer in relation to any Digi-Mail Order which is either not accepted when it is uploaded or is subsequently cancelled by Citipost in accordance with this clause.
- 2.3 The Customer is responsible for ensuring that the Digi-Mail Order and the applicable Specification submitted by the Customer are complete and accurate. The Customer shall give Citipost all necessary information relating to the Digi-Mail Services and/or the Deliverables that Citipost reasonably require in order to fulfil each Digi-Mail Order. The Customer acknowledges that it is responsible for approving its own artwork and content.
- 2.4 These Digi-Mail Conditions, the Customer Service Agreement, the Digi-Mail Order, and the User Guide;(Agreement Documents) constitute the entire agreement between Citipost and the Customer. In the event of a dispute between any of the terms contained in the Agreement Documents, then the terms set out in these Digi-Mail Conditions shall prevail.
- 2.5 These Digi-Mail Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

## 3. Deliverables and/or Digi-Mail Services

- 3.1 The Customer shall indemnify Citipost against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other professional costs and expenses) suffered or incurred by Citipost in connection with any claim made against Citipost for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with Citipost's use of the Specification. This clause 3.1 shall survive termination of this Contract.

- 3.2 Citipost shall supply the Digi-Mail Services to the Customer and procure the delivery of the Deliverables in accordance with the Digi-Mail Order in all material respects.
- 3.3 Citipost shall use reasonable endeavours to meet any performance dates specified in the Digi-Mail Order, but any such dates shall be estimates only and time shall not be of the essence for performance of the Digi-Mail Services.
- 3.4 Citipost reserves the right to make any changes to the Digi-Mail Services or the Deliverables which are necessary to comply with any applicable law or safety requirement, or which do not materially affect the nature or quality of the Digi-Mail Services, and Citipost shall notify the Customer in any such event.
- 3.5 Citipost warrants to the Customer that the Digi-Mail Services will be provided using reasonable care and skill.
- 3.6 Citipost warrants that the date of production the Deliverables shall conform with the Specification.
- 3.7 Citipost shall not be liable for the Deliverables' failure to comply with the warranty set out in clause 3.6 if:
  - (a) the defect arises as a result of Citipost following any drawing, design or Specification supplied by the Customer;
  - (b) the Deliverables differ from the Specification as a result of changes made to ensure they comply with applicable statutory or regulatory requirements.
- 3.8 The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 are, to the fullest extent permitted by law, excluded from this Contract.
- 3.9 Citipost reserves the right to refuse to perform the Digi-Mail Services and/or produce the Deliverables for any reason, whether before or after printing has commenced and upon such refusal Customer shall have no right of recourse against Citipost.

## 4. Delivery

Citipost shall arrange for the Deliverables to be sorted, processed and shipped as set out in the Digi-Mail Order. The Mail Conditions (but not clause 9(a) and clause 9.1(b) (i)) shall apply to such Digi-Mail Services and shall be incorporated into this Contract.

## 5. Sub-contracting

Citipost shall be entitled to use such subcontractors as Citipost sees fit, and as such these third parties will be entitled to rely on these Digi-Mail Conditions.

## 6. Charges and payment

- 6.1 The Charges payable by the Customer to Citipost under the Digi-Mail Order shall be the charges (including any subscription fees where there is a Subscription Term) as agreed between Citipost and the Customer or as published by Citipost. If no such charge has been agreed in accordance with this clause 6.1, Citipost's Standard Rate from time to time shall apply.
- 6.2 Citipost reserves the right to increase the Standard Rates at any time upon 14 day's notice.
- 6.3 Without limiting clause 6.2, Citipost reserves the right to increase the Charges at any time and without notice, to reflect increases in costs that may affect Citipost in the provision of the Deliverables and/or the Digi-Mail Services, including but without limitation, any increase in respect of rates of VAT, other taxes, duties, Royal Mail rates, legal or regulatory requirements.
- 6.4 The Customer shall be deemed to incur the Charges as soon as the Customer has commenced the supply of Deliverables and/or the Digi-Mail Services and the Customer agrees to pay such Charges in full and in accordance with clause 6.5 of these Digi-Mail Conditions.
- 6.5 The Charges quoted or rate card are excluding amounts in respect of Value Added Tax (or any local equivalent) or customs duty if applicable.
- 6.6 The Customer shall pay each invoice by bank card or BACS transfer:
- (a) within the specified period stated on the invoice; and
  - (b) in full and in cleared funds to the bank account nominated in writing by Citipost, and time for payment shall be of the essence of this Contract.
- 6.7 If the Customer fails to make any payment due to Citipost under this Contract by the due date for payment, then the Customer shall pay interest on the overdue amount under the Late Payment of Commercial Debts (Interest) Act 1998. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount.
- 6.8 The Customer shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law). Citipost may at any time, without limiting its other rights or remedies, set off any amount owing to it by the Customer against any

amount payable by Citipost to the Customer.

- 6.9 Citipost reserves the right to close any Customer account through which a Digi-Mail Order has not been submitted to Citipost for a period of 6 months or more. The Customer shall be charged an Administration Fee by Citipost for closing any such account.
- 6.10 The Customer may request to close its account by notifying Citipost by email to [Digimailsupport@citipost.co.uk](mailto:Digimailsupport@citipost.co.uk)

## 7. Limitation of liability

- 7.1 Citipost shall make reasonable efforts to complete the Deliverables and/or Digi-Mail Services by printing, sorting and procuring the delivery of the Deliverables safely and on time, however, no guarantee or warranty is given that delivery times will be met.
- Accordingly, Citipost shall not be liable if delivery of the Deliverables is delayed. Unless otherwise agreed in writing, Citipost will have no liability to the Customer other than as set out in this clause 7.
- 7.2 Where the Customer makes a claim that the Deliverables and/or the Digi-Mail Services do not comply with the provisions of this clause 7, Citipost shall be entitled (at its sole discretion) to re-perform the Digi-Mail Services free of charge (and to pay for any reprint costs only) and Citipost shall have no further liability to the Customer. For the avoidance of doubt, the Customer shall pay for all costs associated with posting reprinted items.
- 7.3 Nothing in these Digi-Mail Conditions shall limit or exclude Citipost's liability for:
- (a) death or personal injury caused by its negligence, or the negligence of its employees, agents or sub-contractors;
  - (b) fraud or fraudulent misrepresentation;
  - (c) breach of the terms implied by section 12 of the Sale of Goods Act 1979;
  - (d) defective products under the Consumer Protection Act 1987; or
  - (e) any matter in respect of which it would be unlawful for the Supplier to exclude or restrict liability.
- 7.4 Subject to clause 7.3:
- (a) Citipost shall under no circumstances whatsoever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, loss of goodwill, loss of business, loss of business opportunity, loss of anticipated savings or any indirect or consequential loss arising under or in connection with the Contract; and

- (b) Citipost's total liability to the Customer in respect of all losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the total sums paid by the Customer for those Digi-Mail Services in respect of which the liability arises (and for the avoidance of doubt, where Citipost has failed to comply with its obligations under the Contract in relation to any one or more Deliverables, its liability shall be limited to the sums paid by the Customer to Citipost in relation to those Deliverables only).

## 8. Customer warranty and indemnity

8.1 The Customer warrants that:

- (a) The particulars relating to the Deliverables as shown in the Digi-Mail Order are correct and that at least 90% of the Deliverables (when printed in accordance with the Specification) shall carry a full and accurate delivery address and corresponding postcode;
- (b) The Deliverables (when printed in accordance with the Specification):
- (i) comply with the User Guide and, without limiting the foregoing, do not contain any offensive material (as described in Royal Mail's guidelines) and/or any material which is in breach of any applicable laws;
- (ii) do not contain any Prohibited Items (as defined by the Mail Digi-Mail Conditions);
- (iii) do not break the CAP Code;
- (iv) are not prohibited by any law or by the postal licence under which the Deliverable is delivered (in the UK or the Deliverable delivery destination country) or dangerous goods rules.

8.2 Should the Deliverables breach the requirements in clause 8.1, then without limitation to any other right or remedy Citipost may have, Citipost may at any time:

- (a) refuse to deliver the Deliverables;
- (b) immediately terminate any Customer Service Agreement and/or the Digi-Mail Order entered into in relation to the Deliverables; and/or
- (c) claim any additional costs and expenses incurred in dealing with the relevant Deliverables.

8.3 The Customer shall indemnify Citipost in respect of any breach of any warranty set out in this clause 8.

## 9. Subscription Term

9.1 Where the Order specifies a Subscription Term, the Contract shall commence on the date that Citipost accepts the Order and shall, unless terminated earlier in accordance with clause 8 of the Agreement

(incorporated into these Digi-Mail Conditions by reference), continue for the Subscription Term (Initial Term) after which time the Contract shall automatically extend for another period which is the length of the original Subscription Term (Extended Term) at the end of the Initial Term and at the end of each Extended Term unless either party gives at least 30 days written notice to the other party to terminate the Contract at the end of the Initial Term or relevant Extended Term, as the case may be.

## 10. Data Protection Details

- 10.1 Subject matter of processing: Citipost is providing the Digi-Mail Services Which may involve the production and delivery of physical mail items and or the provision of a software platform for production and delivery of physical mail items and a software platform for the transmission of SMS messages (as set out in this Agreement).
- 10.2 Duration of Processing: the duration of this Agreement.
- 10.3 Nature and Purpose of Processing: Personal Data will be processed by Citipost to enable Citipost to provide the Digi-Mail Services to the Customer.
- 10.4 Types of Personal Data to be Processed Data to be processed will be: Name, home address (full address including postcode) of recipients and any other information as detailed to be included in correspondence by the Customer to their customer.
- 10.5 Categories of Data Subjects: The Data Subjects will be recipients of mailings and SMS messages from the Customer and Customer employees.
- 10.6 Transfers of Personal Data to a country outside EEA/ international organisation: None



## SMS Conditions

### 1. Definitions and Interpretation

#### 1. Definitions and Interpretation

1.1 Definitions. In these SMS Conditions, the following definitions apply:

**Charges:** the charges payable by the Customer for the supply of the SMS Services as agreed between Citipost and the Customer or, if not agreed, the charges calculated in accordance with the Standard Rates.

**Commencement Date:** has the meaning set out in clause 2.2.

**Contract:** the contract between Citipost and the Customer for the supply of SMS Services in accordance with these SMS Conditions.

**Data:** such data, including mobile telephone numbers, as is required by Citipost to carry out the SMS Services.

**SMS Conditions:** these terms and conditions as amended from time to time in accordance with the Customer Services Agreement.

**SMS Order:** The Customer's order for SMS Services placed via the Portal.

**SMS Services:** the services detailed in the SMS Order and all other text messaging services supplied by Citipost to the Customer.

**Service Delivery Period:** the period during which the SMS Services are to be provided as set out in the SMS Order.

1.2. In these SMS Conditions, the following rules apply:

- (a) a person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);
- (b) a reference to a party includes its successors or permitted assigns;
- (c) a reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted;
- (d) any phrase introduced by the terms including, include, in particular or any similar expression, shall be construed as illustrative and shall not limit the sense of the words preceding those terms; and
- (e) a reference to writing or written includes e-mails.

### 2. Basis of Contract

2.1. The Portal will guide the Customer through the steps required to place an order. Once the SMS Order has been submitted by the Customer via the Portal, the SMS Order constitutes an offer by the Customer to purchase

SMS Services in accordance with these SMS Conditions.

- 2.2. The SMS Order shall only be deemed to be accepted when Citipost performs the SMS Order by sending the SMS text messages at which point and on which date the Contract shall come into existence (Commencement Date).
- 2.3. The Contract constitutes the entire agreement between the parties. The Customer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of Citipost which is not set out in the Contract.
- 2.4. These SMS Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

### 3. Supply of SMS Services

- 3.1 The SMS Services allow the Customer to send SMS text messages to recipients designated by the Customer.
- 3.2 Citipost shall supply the SMS Services to the Customer in accordance with the terms of the Contract in all material respects.
- 3.3 Citipost shall use reasonable endeavours to provide the SMS Services within the Service Delivery Period but any such dates shall be estimates only and time shall not be of the essence for performance of the SMS Services.
- 3.4. Citipost warrants to the Customer that the SMS Services will be provided using reasonable care and skill.
- 3.5 Citipost may establish limits concerning the use of the SMS Services for example the maximum size of a text message that may be sent or received or a monthly limit on how many messages the Customer can send or receive.
- 3.6 The Customer acknowledges that Citipost may monitor text messages to ensure compliance with Citipost's policies and any applicable law including any legislation relating to electronic communications.

### 4. Customer's Obligations

- 4.1. The Customer shall:
  - (a) ensure that the terms of the SMS Order are complete and accurate;
  - (b) co-operate with Citipost in all matters relating to the SMS Services;
  - (c) provide Citipost with such information and materials as Citipost may reasonably require in order to supply the SMS Services (including but not limited to the Data), and ensure that such information is accurate in all respects;
  - (d) ensure that all information provided to Citipost complies fully with all Data Protection Legislation;

- (e) ensure that the owners of the personal details supplied or uploaded by the Customer have consented or opted in in accordance with Data Protection Legislation and any guidance or regulations outlined by the Information Commissioner's Office;
  - (f) not require Citipost to send, or cause to be sent, a commercial electronic message without a clear opt-out procedure;
  - (g) not use the SMS Service for any improper, immoral, fraudulent or unlawful purposes or for the sending of any communication or storing of any information which is of an offensive, abusive, indecent, obscene, defamatory, threatening or menacing nature or which is pornographic or liable to incite racial hatred or acts of terrorism;
  - (h) not use the SMS Service (partly or wholly) for the purpose of spamming (which term shall mean the sending of text messages where implied or specific consent to such messages has not been given by the recipient);
  - (i) not act in any way, whether knowingly or otherwise, such that the operation of Citipost will be jeopardised or impaired;
  - (j) comply with any reasonable instructions issued by Citipost which concern the Customer's use of the SMS Services and co-operate with Citipost in their reasonable security and other checks;
  - (k) not send or upload anything which may contain viruses or any other harmful deleterious program; and/or
  - (l) not send or upload anything which in any way breaches the intellectual property rights of any third party.
- 4.2 If Citipost's performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation (Customer Default):
- (a) Citipost shall without limiting its other rights or remedies have the right to suspend performance of the SMS Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations to the extent the Customer Default prevents or delays Citipost's performance of any of its obligations;
  - (b) Citipost shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from Citipost's failure or delay to perform any of its obligations as set out in this clause 4.2; and
  - (c) the Customer shall reimburse Citipost on written demand for any costs or losses sustained or incurred by Citipost arising directly or indirectly from the Customer Default.

## 5. Suspending and Varying the SMS Services

Citipost reserves the right to alter or update the SMS Services at any time. For the avoidance of doubt Citipost will not be liable for any loss suffered by the Customer as a result of any suspension of or variation to the SMS Services.

## 6. Charges and Payment

- 6.1. The Charges for the SMS Services shall be as set out in the SMS Order.
- 6.2. The maximum size of a text message that may be sent or received is 918 characters. If the Customer sends a text message that has more than 918 characters, Citipost has the right to automatically deduct a charge from the Customer's account. Citipost may amend the limits concerning the use of the SMS Services at its reasonable discretion.
- 6.3. Unless the Customer Service Agreement specifies otherwise, the Customer shall pay for the SMS Services on a pre-paid basis. Once the Customer makes payment in full for the Charges, Citipost shall use reasonable endeavours to credit the Customer's account within 1 Business Day. Where Citipost provides services in addition to the SMS Services the charges for such additional services shall be Citipost's standard charge for such services.
- 6.4. The Customer must (unless otherwise agreed) pre-pay the Charges by bank transfer to the bank account set out on Citipost's invoice or otherwise notified by Citipost from time to time.
- 6.5. Where the Customer Service Agreement states that the Customer may pay for the SMS Services after the SMS Services have been provided, the Customer shall pay each invoice submitted by Citipost in accordance with the payment terms agreed and set out in the credit application form agreed between the parties.
- 6.6. Citipost has the right to amend the options for payment set out in clause 6.4 at any time.
- 6.7. Time for payment shall be of the essence of the Contract.
- 6.8. Any payment made by the Customer is non-refundable unless otherwise agreed by Citipost in writing.
- 6.9. All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax chargeable for the time being (VAT). Where any taxable supply for VAT purposes is made under the Contract by Citipost to the Customer, the Customer shall, on receipt of a valid VAT invoice from Citipost, pay to Citipost such additional amounts in respect of VAT as are chargeable on the supply of the SMS Services at the same time as payment is due for the supply of the SMS Services.

- 6.10. If the Customer fails to make any payment due to Citipost under the Contract by the due date for payment, then the Customer shall pay interest on the overdue amount under the Late Payment of Commercial Debts (Interest) Act 1998. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount.
- 6.11. The Customer shall pay all amounts due under the Contract in full without any deduction or withholding except as required by law and the Customer shall not be entitled to assert any credit, set-off or counterclaim against Citipost in order to justify withholding payment of any such amount in whole or in part. Citipost may, without limiting its other rights or remedies, set off any amount owing to it by the Customer against any amount payable by Citipost to the Customer.

## 7. Intellectual Property Rights

- 7.1. All Intellectual Property Rights in or arising out of or in connection with the provision of the SMS Services shall be owned by Citipost.
- 7.2. The Customer acknowledges that, in respect of any third-party Intellectual Property Rights, the Customer's use of any such Intellectual Property Rights is conditional on Citipost obtaining a written licence from the relevant licensor on such terms as will entitle Citipost to license such rights to the Customer.

## 8. Limitation of Liability

- 8.1. Nothing in these SMS Conditions shall limit or exclude Citipost's liability for:
- (a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors; or
  - (b) fraud or fraudulent misrepresentation.
- 8.2. Subject to clause 8.1:
- (a) Citipost shall under no circumstances whatsoever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the Contract;
  - (b) Citipost's liability to the Customer in respect of all losses arising in connection with Citipost's failure to provide the SMS Services in accordance with the Contract shall in no circumstances exceed the amount paid by the Customer to Citipost for the SMS messages that are impacted by Citipost's failure; and

- (c) Citipost's total liability to the Customer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the amount paid by the Customer to Citipost for the SMS Services.
- 8.3. Except as set out in these SMS Conditions, all warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.
- 8.4. The Customer agrees that Citipost has no responsibility for the deletion, corruption or failure to store any of the Customer's content provided, uploaded, maintained or transmitted when the Customer uses the SMS Services.
- 8.5. Citipost accepts no liability for the loss, late receipt or non-readability of any text message sent using the SMS Services.
- 8.6. If the Customer uses the SMS Services to send SMS text messages to a country outside of the UK, or from a country outside the UK, the Customer may be subject to different laws and regulations that apply in that other country. Citipost is not liable for the Customer's failure to comply with those laws or regulations.
- 8.7. The SMS Services facilitate the sending and receiving of SMS text messages to the Customer's designated recipients. Citipost does not send or cause to be sent any SMS text messages which sending is the responsibility of the applicable mobile network operator or telecommunications provider. Whilst Citipost shall use all commercially reasonable efforts to transmit SMS text messages to the applicable mobile network operator or telecommunications provider as quickly as possible, final delivery of all SMS text messages to designated recipients is the responsibility of such operator or provider and Citipost accepts no liability if final delivery does not take place or is delayed as a result of an action, omission or any other failure of the relevant mobile network operator or telecommunications provider.
- 8.8. This clause 8 shall survive termination of the Contract.

## 9. Data Protection Details:

- 9.1. Subject matter of processing: Citipost is providing the SMS Services which involves the transmission of SMS messages as set out in these Conditions.
- 9.2. Duration of Processing: the duration of this Agreement.
- 9.3. Nature and Purpose of Processing: Personal Data will be processed by Citipost to enable Citipost to provide the SMS Services to the Customer.
- 9.4. Types of Personal Data to be Processed Data to be processed will be: Mobile number of recipients and any other information as detailed to be included in correspondence by the Customer to their customer.
- 9.5. Categories of Data Subjects: The Data Subjects will be recipients of mailings and SMS messages from the Customer and Customer employees.
- 9.6. Transfers of Personal Data to a country outside EEA/ international organisation: None

## Print Management Conditions

### 1. Definitions and Interpretation

#### 1. Definitions and Interpretation

1.1 Definitions. In these Print Management Conditions, the following definitions apply:

**Customer Materials:** has the meaning set out in clause 8.1 (d)

**Citipost Materials:** has the meaning set out in clause 8.1 (d).

**Citipost Materials:** has the meaning set out in clause 8.1 (f).

**Contract:** means the contract between Citipost and the Customer for the supply of Print Management Services comprising the Print Management Order and these Print Management Conditions.

**Deliverables:** means the deliverables set out in the Print Management Order.

**Delivery Location:** has the meaning set out in clause 4.2.

**Goods:** means the goods (or any part of them) to be supplied by Citipost as part of the Print Management Services and set out in the Print Management Order.

**Goods Specification:** means any specification for the Goods that is agreed in writing by the Customer and Citipost, either in Citipost's quotation for the Goods or as otherwise agreed between the Customer and Citipost.

**Intellectual Property Rights:** means all patents, rights to inventions, utility models, copyright and related rights, trademarks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database rights, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world.

**Print Management Conditions:** means these terms and conditions as amended from time to time in accordance with the Customer Services Agreement.

**Print Management Order:** means the Customer's order for the supply of Goods and/or Print Management Services, as set out in the Customer's purchase order form or

as otherwise agreed by the parties, the basis of which shall be Citipost's quotation for the Goods and/or Print Management Services.

**Print Management Services:** means the services, including the Deliverables, supplied by Citipost to the Customer as set out in the Print Management Order and as more fully described in the relevant Service Appendix.

**Service Specification:** means the description or specification for the Print Management Services provided in writing by Citipost to the Customer in Citipost's quotation for the Print Management Services or as otherwise agreed between Citipost and the Customer.

**Service Appendix:** The Appendix to these Print Management Conditions which contains particulars of the Print Management Services which may be supplied by Citipost.

**Work-in-Progress:** the unfinished work which, when finished, will be the Deliverables.

1.2 Interpretation - In these Print Management Conditions, the following rules apply:

(a) a person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);

(b) a reference to a party includes its personal representatives, successors or permitted assigns;

(c) a reference to a statute or statutory provision is a reference to such statute or provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made

under that statute or statutory provision, as amended or re-enacted;

(d) any phrase introduced by the terms including, include, in particular or any similar expression shall be

construed as illustrative and shall not limit the sense of the words preceding those terms;

(e) a reference to writing or written includes faxes and e-mails;

(f) the word "indemnify" in these Print Management Conditions means to indemnify, keep indemnified and hold harmless the relevant party in full and on demand from and against all costs, expenses, liabilities, injuries, losses, damages, claims, proceedings (including

legal and other professional fees and expenses on an indemnity basis) which the indemnified party incurs or suffers directly, indirectly or consequentially (all three of which terms include, without limitation, pure economic loss, loss of profits, loss of reputation, depletion of goodwill, internal management cost and all legal costs) and "indemnity", "indemnifies" and all similar wording have a corresponding meaning in such circumstances.

### 2. Basis of Contract

2.1 The Print Management Order constitutes an offer by the Customer to purchase the Print Management Services in accordance with these Print Management Conditions and the Customer Service Agreement.

- 2.2 The Print Management Order shall only be deemed to be accepted when Citipost confirms it is acceptable to the Customer (either in writing or verbally), at which point, and on which date the Contract shall come into existence. Citipost may accept or decline Print Management Orders at its absolute discretion. Citipost will not be able to accept an amendment to a Print Management Order which Citipost has accepted.
- 2.3 The Customer is responsible for ensuring that the Print Management Order and the Service Specification are complete and accurate. The Customer shall give Citipost all necessary information relating to the Print Management Services and/or the Goods that Citipost reasonably require in order to fulfil each Print Management Order. The Customer acknowledges that it is responsible for approving its own artwork and content.
- 2.4 These Print Management Conditions, the Customer Service Agreement, the Print Management Order and the User Guide (Agreement Documents) constitute the entire agreement between Citipost and the Customer. In the event of a dispute between any of the terms contained in the Agreement Documents, then the terms set out in these Print Management Conditions shall prevail.
- 2.5 These Print Management Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

### 3. Goods

- 3.1 The Goods are described in the Goods Specification.
- 3.2 To the extent that the Goods are to be manufactured in accordance with a Goods Specification supplied by the Customer, the Customer shall indemnify Citipost against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other reasonable professional costs and expenses) suffered or incurred by Citipost in connection with any claim made against Citipost for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with Citipost's use of the Goods Specification. This clause 3.2 shall survive termination of the Contract.
- 3.3 Citipost reserves the right to amend the Goods Specification if required by any applicable statutory or regulatory requirements.

### 4. Delivery of Goods

- 4.1 Citipost shall ensure that each delivery of the Goods is accompanied by a delivery note which details the relevant Citipost reference numbers and the description and quantity of the Goods.

- 4.2 The parties shall specify in the Print Management Order as to how Goods are to be delivered to the Customer or if the Customer will collect the Goods from Citipost. Where:
- (a) Citipost agrees to deliver the Goods to the Customer, the "Delivery Location" shall be the location set out in the Print Management Order or such other location as the parties may agree;
- (b) if the parties agree that the Customer shall collect the Goods from Citipost, the "Delivery Location" shall be either Citipost's premises at Criterion Building, Crabtree Manor Way North, Belvedere, DA 17 6FQ or such mailing house as may be advised by Citipost before delivery. The Customer shall collect the Goods from Citipost within five (5) Business Days of Citipost notifying the Customer that the Goods are ready.
- 4.3 Delivery of the Goods shall be completed on the Goods' arrival at the Delivery Location or on completion of loading of the Goods at the Delivery Location, as applicable.
- 4.4 Any dates quoted for delivery of the Goods are approximate only, and the time of delivery is not of the essence. Citipost shall not be liable for any delay in delivery of the Goods that is caused by a Force Majeure Event or the Customer's failure to provide Citipost with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.
- 4.5 If Citipost fails to deliver the Goods, its liability shall be limited to the costs and expenses incurred by the Customer in obtaining replacement goods of similar description and quality in the cheapest market available, less the price paid for the Goods. Citipost shall have no liability for any failure to deliver the Goods to the extent that such failure is caused by a Force Majeure Event, the Customer's failure to provide Citipost with adequate delivery instructions for the Goods or any relevant instruction related to the supply of the Goods.
- 4.6 If the Customer fails to accept or take delivery of the Goods within five (5) Business Days of Citipost notifying the Customer that the Goods are ready, then except where such failure or delay is caused by a Force Majeure Event or by Citipost's failure to comply with its obligations under the Print Management Contract in respect of the Goods:
- (a) delivery of the Goods shall be deemed to have been completed at 9.00 am on the sixth (6th) Business Day following the day on which Citipost notified the Customer that the Goods were ready; and
- (b) Citipost shall store the Goods until delivery takes place and charge the Customer for all related costs and expenses (including insurance).



- 4.7 If ten (10) Business Days after Citipost notified the Customer that the Goods were ready for delivery the Customer has not accepted or taken delivery of them, Citipost may resell or otherwise dispose of part or all of the Goods.
- 4.8 The Customer shall not be entitled to reject the Goods if Citipost delivers up to and including five (5) per cent more or less than the quantity of Goods ordered.
- 4.9 Citipost may deliver the Goods by instalments, which may be invoiced and paid for separately. Each instalment shall constitute a separate contract. Any delay in delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment.

## 5. Quality of Goods

- 5.1 Citipost warrants that on delivery, the Goods shall:
- (a) conform in all material respects with their description and any applicable Goods Specification;
  - (b) be free from material defects in design, material and workmanship; and
  - (c) be of satisfactory quality (within the meaning of the Sale of Goods Act 1979).
- 5.2 Subject to clause 5.3, if:
- (a) the Customer gives notice in writing within seven (7) days of discovery that some or all of the Goods do not comply with the warranty set out in clause 5.1;
  - (b) Citipost is given a reasonable opportunity of examining such Goods; and
  - (c) the Customer (if asked to do so by Citipost) returns such Goods to Citipost's place of business at the Customer's cost, Citipost shall, at its option, repair or replace the defective Goods, or refund the price of the defective Goods in full.
- 5.3 Citipost shall not be liable for the Goods' failure to comply with the warranty in clause 5.1 if:
- (a) the Customer makes any further use of such Goods after giving a notice in accordance with clause 5.2;
  - (b) the defect arises because the Customer failed to follow Citipost's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Goods or (if there are none) good trade practice;
  - (c) the defect arises as a result of Citipost following any drawing, design or Goods Specification supplied by the Customer;
  - (d) the Customer alters or repairs such Goods without the written consent of Citipost;
  - (e) the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal working conditions; or
- (f) the Goods differ from their description or any relevant Goods Specification as a result of changes made to ensure they comply with applicable statutory or regulatory standards.
- 5.4 Except as provided in this clause 5, Citipost shall have no liability to the Customer in respect of the Goods' failure to comply with the warranty set out in clause 5.1.
- 5.5 The terms of these Print Management Conditions shall apply to any repaired or replacement Goods supplied by Citipost under clause 5.2.

## 6. Title and Risk

- 6.1 The risk in the Customer Materials, the Work-in-Progress and the Deliverables shall remain with the Customer at all times and Citipost shall not be responsible for any loss, damage or theft of the Customer Materials, Work-in-Progress or the Deliverables whilst in transit to and from Citipost or its sub-contractors or whilst in Citipost's possession and control. The risk in the Goods shall pass to the Customer on completion of hand over to the Customer's carrier/courier.
- 6.2 Title to the Goods shall not pass to the Customer until Citipost has received payment of the Charges and all other sums due to Citipost in full (in cash or cleared funds) for:
- (a) the Goods; and
  - (b) any other goods that Citipost has supplied to the Customer.
- 6.3 Until title to the Goods has passed to the Customer, the Customer shall:
- (a) hold the Goods on a fiduciary basis as Citipost's bailee;
  - (b) store the Goods separately from all other goods held by the Customer so that they remain readily identifiable as Citipost's property;
  - (c) not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
  - (d) maintain the Goods in satisfactory condition and keep them insured against all risks for their full price on Citipost's behalf from the date of delivery;
  - (e) notify Citipost immediately if it becomes subject to any of the events listed in clauses 8.1 (b) to clause 8.1(i) of the Customer Service Agreement; and
  - (f) give Citipost such information relating to the Goods as Citipost may require from time to time, but the Customer may resell or use the Goods in the ordinary course of its business.

6.4 If before title to the Goods passes to the Customer the Customer becomes subject to any of the events listed in clauses 8.1 (b) to clause 8.1(i) of the Customer Service Agreement, or Citipost reasonably believes that any such event is about to happen and notifies the Customer accordingly, then, provided the Goods have not been resold, or irrevocably incorporated into another product, and without limiting any other right or remedy Citipost may have, Citipost may at any time require the Customer to deliver up the Goods and, if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Goods are stored in order to recover them.

## 7. Supply of Services

- 7.1 Citipost shall provide the Print Management Services to the Customer in accordance with the Service Specification in all material respects.
- 7.2 Citipost shall use all reasonable endeavours to meet any performance dates for the Print Management Services specified in the Print Management Order, but any such dates shall be estimates only and time shall not be of the essence for the performance of the Print Management Services.
- 7.3 Citipost shall have the right to make any changes to the Print Management Services which are necessary to comply with any applicable law or safety requirement, or which do not materially affect the nature or quality of the Print Management Services, and Citipost shall notify the Customer in any such event.
- 7.4 Citipost warrants to the Customer that the Print Management Services will be provided using reasonable care and skill.

## 8. Customer's Obligations

- 8.1 The Customer shall:
- (a) ensure that the terms of the Print Management Order and (if submitted by the Customer) the Goods Specification and/or the Service Specification are complete and accurate;
  - (b) co-operate with Citipost in all matters relating to the Print Management Services;
  - (c) provide Citipost, its employees, agents, consultants and subcontractors, with access to the Customer's premises and other facilities as reasonably required by Citipost to provide the Print Management Services;
  - (d) provide Citipost with such information and materials (Customer Materials) as set out in the Print Management Order or as Citipost may reasonably require, to supply the Print Management Services and ensure that such information is accurate in all material respects;

- (e) obtain and maintain all necessary licenses, permissions and consents which may be required for the Print Management Services before the date on which the Print Management Services are to start; and
  - (f) keep and maintain all materials, equipment, documents and other property of Citipost (Citipost Materials) at the Customer's premises in safe custody at its own risk, maintain Citipost Materials in good condition until returned to Citipost, and not dispose of or use Citipost Materials other than in accordance with Citipost's written instructions or authorisation.
- 8.2 If Citipost's performance of any of its obligations in respect of the Print Management Services is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation (Customer Default):
- (a) Citipost shall without limiting its other rights or remedies have the right to suspend performance of the Print Management Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations to the extent the Customer Default prevents or delays Citipost's performance of any of its obligations;
  - (b) Citipost shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from Citipost's failure to or delay in performing any of its obligations as set out in this clause 8.2; and
  - (c) the Customer shall reimburse Citipost on written demand for any costs or losses sustained or incurred by Citipost arising directly or indirectly from the Customer Default.

## 9. Charges and Payment

- 9.1 Subject to any changes made pursuant to clause 9.3, the Charges for Goods and the Print Management Services shall be the charges set out in the Print Management Order or, where not set out in the Print Management Order, shall be calculated in accordance with the Standard Rates and, subject to clause 9.2, any additional costs will be agreed between Citipost and the Customer.
- 9.2 Citipost shall be entitled to charge the Customer for any expenses reasonably incurred by the individuals whom Citipost engages in connection with the Print Management Services including, but not limited to, travelling expenses, hotel costs, subsistence and any associated expenses, and for the cost of services provided by third parties and required by Citipost for the performance of the Print Management Services, and for the cost of any materials.

- 9.3 Citipost reserves the right to:
- (a) increase the Charges for the Print Management Services. Citipost will give the Customer written notice of any such increase at least fourteen (14) days before the proposed date of the increase. If such increase is not acceptable to the Customer, it shall notify Citipost in writing within ten (10) days of the date of Citipost's notice and Citipost shall have the right, without limiting its other rights or remedies, to terminate any Contracts then in existence by giving written notice to the Customer. For the avoidance of doubt, any Print Management Orders which have not been fulfilled at the date of termination shall, unless otherwise agreed, be cancelled and Citipost shall have no liability or obligation to the Customer in relation to the same; and
  - (b) increase the Charges for the Goods, by giving notice to the Customer at any time before delivery, to reflect any increase in the cost of the Goods to Citipost that is due to:
    - a. any factor beyond the control of Citipost (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);
    - b. any request by the Customer to change the delivery date(s), quantities or types of Goods ordered, or the Goods Specification; or
    - c. any delay caused by any instructions of the Customer in respect of the Goods or failure of the Customer to give Citipost adequate or accurate information or instructions in respect of the Goods.
- 9.4 In respect of Print Management Services, Citipost shall invoice the Customer on or at any time after completion of delivery or completion of the Print Management Services unless agreed otherwise by the parties.
- 9.5 The Customer shall pay each invoice submitted by Citipost:
- (a) within 30 days of the date of the invoice or within such other period as is specified in the Print Management Order; and
  - (b) in full and in cleared funds to a bank account nominated in writing by Citipost, and time for payment shall be of the essence of the Contract.
- 9.6 All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax chargeable from time to time ("VAT"). Where any taxable supply for VAT purposes is made under the Contract by Citipost to the Customer, the Customer shall, on receipt of a valid VAT invoice from Citipost, pay to Citipost such additional amounts in respect of VAT as are chargeable on the supply of the Print Management Services or Goods at the same time as payment is due for the supply of the Print Management Services or Goods.

- 9.7 Without limiting any other right or remedy of Citipost, if the Customer fails to make any payment due to Citipost under the Contract by the due date for payment, then the Customer shall pay interest on the overdue amount under the Late Payment of Commercial Debts (Interest) Act 1998. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount.
- 9.8 The Customer shall pay all amounts due under the Contract in full without any deduction or withholding except as required by law and the Customer shall not be entitled to assert any credit, set-off or counterclaim against Citipost in order to justify withholding payment of any such amount in whole or in part. Citipost may, without limiting its other rights or remedies, set off any amount owing to it by the Customer against any amount payable by Citipost to the Customer.

## 10. Intellectual Property Rights

- 10.1 All Intellectual Property Rights in or arising out of or in connection with the Print Management Services shall be owned by Citipost unless agreed otherwise in writing by the parties.
- 10.2 The Customer acknowledges that, in respect of any third-party Intellectual Property Rights in the Print Management Services, the Customer's use of any such Intellectual Property Rights is conditional on Citipost obtaining a written license from the relevant licensor on such terms as will entitle Citipost to license such rights to the Customer.
- 10.3 All Citipost Materials are the exclusive property of Citipost.
- 10.4 Where, as part of the Print Management Services, Citipost is required to use Intellectual Property Rights belonging to the Customer or otherwise, the Customer hereby grants to Citipost or shall procure the grant to Citipost of a non-exclusive right to use such Intellectual Property Rights for the purpose of providing the Print Management Services. Any such right will cease on completion of the Print Management Services. All such Intellectual Property Rights shall remain the property of the Customer or owner of the Intellectual Property Rights.
- 10.5 The Customer shall keep Citipost indemnified in full against all costs, expenses, damages and losses (whether direct or indirect) including any interest, fines, legal and other professional fees and expenses awarded against or paid by Citipost as a result of or in connection with any claim made against Citipost for actual or alleged infringement of a third party's Intellectual Property Rights arising out of or in connection with the use of any Intellectual Property

Rights in accordance with the Customer's instructions or directions.

## 11. Limitation of Liability

11.1 Nothing in these Print Management Conditions shall limit or exclude Citipost's liability for:

- (a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;
- (b) fraud or fraudulent misrepresentation;
- (c) breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession);
- (d) breach of the terms implied by section 12 of the Sale of Goods Act 1979 (title and quiet possession); or
- (e) defective products under the Consumer Protection Act 1987.

11.2 Subject to clause 11.1:

- (a) Citipost shall under no circumstances whatsoever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under, or in connection with, the Contract; and
- (b) Citipost's total liability to the Customer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall under no circumstances exceed the value of the Goods and/or Print Management Services supplied under this Contract.

11.3 Except as set out in these Conditions, all warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.

11.4 This clause 11 shall survive termination of the Contract.

## 12. Termination

12.1 Without limiting its other rights or remedies, Citipost may terminate the Contract:

- (a) by giving the Customer 30 days' written notice;
- (b) with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under this Contract on the due date for payment.

12.2 Without limiting its other rights or remedies, Citipost shall have the right to suspend the supply of Print Management Services or all further deliveries of Goods

under the Contract or any other contract between the Customer and Citipost if:

- (a) the Customer fails to make pay any amount due under this Contract on the due date for payment; or
- (b) the Customer becomes subject to any of the events listed in clause 8.1 (b) to clause 8.1(i) of the Customer Service Agreement Terms or Citipost reasonably believes that the Customer is about to become subject to any of them.

## 13. Consequences of Termination

13.1 On termination of the Contract for any reason:

- (a) the Customer shall immediately pay to Citipost all of Citipost's outstanding unpaid invoices and interest and, in respect of Print Management Services supplied but for which no invoice has yet been submitted, Citipost shall submit an invoice, which shall be payable by the Customer immediately on receipt;
- (b) the Customer shall return all of Citipost Materials and any Deliverables which have not been fully paid for. If the Customer fails to do so, then Citipost may enter the Customer's premises and take possession of them. Until they have been returned, the Customer shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this Contract;
- (c) the accrued rights and remedies of the parties as at termination shall not be affected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry; and
- (d) clauses which expressly or by implication have effect after termination shall continue in full force and effect.

## 14. Exit and Service Transfer

14.1 Subject to clause 14.2, if the Contract terminates or expires for any reason, Citipost shall co-operate with the Customer and/or any incumbent supplier to the extent reasonably required to facilitate the smooth migration of the provision of Goods and/or Print Management Services from Citipost to the Customer and/or the incumbent supplier.

14.2 The Customer shall pay Citipost's charges in respect of the provision of such transitional assistance services.

## 15. Data Protection Particulars:

- 15.1 Subject matter of processing: Citipost is providing the Print Management Services Which may involve the production and delivery of physical mail items and or the provision of a software platform for production and delivery of physical mail items and a software platform for the transmission of SMS messages (as set out in this Agreement).
- 15.2 Duration of Processing: Processing will take place throughout the term of the agreement however individual Personal Data files will be retained for a maximum of 90 days after which time they will be deleted.
- 15.3 Nature and Purpose of Processing: Use, collection, storage or otherwise required to enable Citipost to provide the Print Management Services to the Customer.
- 15.4 Types of Personal Data to be Processed Data to be processed will be: Name, home address (full address including postcode) of recipients and any other information as detailed to be included in correspondence by the Customer to their customer. Analytical and technical data.
- 15.5 Categories of Data Subjects: The Data Subjects will be recipients of mailings and SMS messages from the Customer.
- 15.6 Categories of Sub-processors: Printers to whom the Print Management Services are subcontracted by Citipost.
- 15.7 Transfers of Personal Data to a country outside EEA/ international organisation: None

## The Appendix

### Services Appendix

The following Appendix provides, in more detail, information regarding the Print Management Services Citipost may make available to its Customers. The Print Management Order will specify the Print Management Service(s) to be provided and the relevant section(s) of this Appendix shall apply. If there is any conflict between the Conditions and this Appendix, the provisions of this Appendix shall take precedence.

#### A. PRINTING SERVICES (LITHOGRAPH & DIGITAL PRINT)

##### 1. Print Types

- 1.1 Lithograph printing is where Citipost prints items on behalf of the Customer in a traditional manner using printing presses and plates.
- 1.2 Digital printing is where Citipost prints items on behalf of the Customer using digital and laser technology.
- 1.3 Citipost may, from time to time, adopt new technologies to provide printing services to the Customer unless the Customer expressly requires a particular type of print to be used.

##### 2. Preliminary Work

All work carried out by Citipost at the Customer's request, in advance of these Print Management Services being supplied, whether experimentally, or otherwise, shall be chargeable by Citipost.

##### 3. Copy

Citipost is entitled to make a charge to cover any additional work involved where the Customer supplies copy to Citipost which is not clear and/or legible.

##### 4. Electronic Files

- 4.1 It is the Customer's responsibility to maintain copies of all electronic files which are sent to Citipost for provision of the Print Management Services.
- 4.2 Citipost shall not be responsible for checking the accuracy of input which is supplied by the Customer using an electronic file unless otherwise agreed between Citipost and the Customer.
- 4.3 If an electronic file is not suitable for outputting on equipment normally adequate for such purposes without adjustment or other corrective action, Citipost may charge the Customer for any resulting additional costs which it incurs.

##### 5. Proofs

- 5.1 Proofs of all work may be submitted by Citipost for the Customer's approval, and Citipost shall not incur any liability for any errors which are not corrected by the Customer in any proofs which are submitted.

Any alterations made by the Customer which result in additional proofs being necessary shall be charged for separately by Citipost in addition to the cost of the Print Management Services

- 5.2 When style, type or layout is left to the judgement of Citipost, any changes made thereto by the Customer shall be subject to an additional charge by Citipost. Due to differences in equipment, paper, inks and other conditions between colour proofing and production runs, a reasonable variation in colour between colour proofs and the completed job will be deemed acceptable unless otherwise agreed between the parties.

##### 6. Variations in Quality

Every endeavour will be made to deliver the correct quantity ordered, but estimates are conditional upon margins of 5 per cent for work in one colour and 10 per cent for other work being allowed for overs and shortage (4 per cent and 8 per cent respectively for quantities exceeding 50,000 units).

##### 7. Standing Material

- 7.1 Metal, film, glass and other materials owned by Citipost and used in the production of type, plates, moulds, stereotypes, electrotypes, film set in negatives, positives and the like shall remain the exclusive property of Citipost. For the purposes of the Contract such items will be Citipost Materials. Where such items are supplied by the Customer, such items shall be the Customer's property and shall at all times remain the Customer's property.
- 7.2 Type may be distributed and lithographic, photogravure or together work effaced immediately after the order is executed unless written arrangements are made to the contrary. In the latter event, rent may be charged.

##### 8. Materials Supplied by the Customer

- 8.1 Citipost may reject any paper, plates or other materials supplied or specified by the Customer, which appear, in Citipost's full discretion, to be unsuitable for use. Additional costs incurred if materials are found to be unsuitable during production may be charged by Citipost except that if the whole or any parts of such additional costs could have been avoided but for unreasonable delay by Citipost in ascertaining the unsuitability of materials, then that amount shall not be charged to the Customer.
- 8.2 Where materials are supplied or specified, Citipost will take care to secure the best results, but responsibility will not be accepted for imperfect work caused by defective or unsuitable materials supplied by the Customer.
- 8.3 Quantities of materials supplied shall be adequate to cover normal spoilage.



## 9. Customer's Property

- 9.1 Except in the case of a Customer who is not contracting in the course of a business or holding himself or herself out as doing so, any Customer's property and all property supplied to Citipost by or on behalf of the Customer shall be deemed to be at the Customer's risk whilst it is in the possession of Citipost or in transit to or from the Customer unless agreed otherwise in writing.
- 9.2 Citipost shall be entitled to make a reasonable charge for the storage of any Customer's property left with Citipost before receipt of the Print Management Order or after the Customer has been notified by Citipost that the Print Management Services have been completed.

## 10. Illegal Matter

- 10.1 Citipost shall not be required to print, and may refuse to print, any matter which in Citipost's reasonable opinion is, or may be, of an illegal or libellous nature or an infringement of the proprietary or other rights of any third party. Citipost shall not be liable to the Customer for any losses the Customer suffers as a direct or indirect result of any such decision taken by Citipost.
- 10.2 Citipost shall be indemnified by the Customer in respect of any claims, costs and expenses arising out of any libellous matter or any infringement of any third parties Intellectual Property Rights.

## 11. Periodical Publications

Any Contract for the printing of a periodical publication may not be terminated by either party unless at least 60 days' prior notice in writing is given. Notice may be given at any time but wherever possible should be given after completion of work on any one issue. Notwithstanding this Citipost may terminate any such Contract immediately should any sum due in respect thereof remain unpaid.

## B. DIRECT MAIL

### 1. Direct Mail Services

- 1.1 Citipost and the Customer shall agree the specifics of the direct mail services to be provided in the Print Management Order or the Services Specification. However, for the purposes of this Section B of this Appendix, direct mail services mean that Citipost will complete specific services on behalf of the Customer (which may include (without limit) data manipulation, data cleansing, lasering and/or printing, fulfilment and distribution) and facilitate distribution of such items as directed by the Customer, and/or the Customer will supply to Citipost certain items which Citipost will facilitate the distribution thereof to end users.
- 1.2 Any direct mail services provided by Citipost as part of the Print Management Services shall be subject to the Mail Conditions.

## 2. Print Management Order, Supply and Delivery of Materials

- 2.1 Supply of Materials
- 2.1.1 The Customer shall be responsible for ensuring that the materials supplied by the Customer or on the Customer's behalf:
- 2.1.1.1 conform to the specifications detailed in the Print Management Order or detailed in any Services Specification, as well as the relevant carrier's requirements;
- 2.1.1.2 conform to Citipost's goods inward delivery instructions, further details of which are available from Citipost on request;
- 2.1.1.3 are supplied to Citipost punctually;
- 2.1.1.4 are delivered on pallets, boxed, packed and supplied in such a way as to withstand normal storage and handling; and
- 2.1.1.5 are provided in sufficient quantity so as to enable Citipost to deliver the correct quantity of any printing or reproductive work allowing for normal wastage and spoilage.
- 2.1.2 Citipost shall use its reasonable endeavours to provide the Customer with a reasonable estimate of the quantity of printing or reproductive work required.
- 2.2 Checking Materials  
Citipost shall count the number of pallets containing materials supplied by or on behalf of the Customer against any delivery note and shall, as soon as reasonably practicable, report any discrepancies to the Customer. Citipost shall not be required and shall have no responsibility for any losses arising from any errors or omissions in the materials supplied by or on behalf of the Customer to Citipost. Citipost shall not be required to check the contents of the pallets supplied by or on behalf of the Customer.
- 2.3 Insurance of Materials  
All materials supplied by or on behalf of the Customer will be held at the Customer's risk whilst on Citipost's premises or in transit to such premises and the Customer is responsible for arranging adequate insurance cover for those materials unless arrangements have been made to the contrary with Citipost.
- 2.4 Storage of Materials  
Any of the Customer's materials which remain in Citipost's possession after one month (or such other period as Citipost may notify to the Customer in the quotation) from completion of the Print Management Order may be subject to storage charges at Citipost's

standard rates. Citipost reserve the right to destroy or dispose of all such materials at the Customer's cost not less than 14 days after written notice is given to that effect to the Customer.

#### 2.5 Physical Delivery of Materials

Unless agreed otherwise, the cost of collection and delivery of the Customer's goods or materials is not included within any quotation provided by Citipost. Where this is a service which is carried out by Citipost on behalf of the Customer it will be charged for as an extra service and Citipost shall furnish the Customer with details of such costs in advance of the Print Management Services being supplied.

### 3. Codes of Practice and Indemnities

3.1 The Customer shall:

- 3.1.1 provide Citipost with a true copy of all advertising material or other material intended to be enclosed with any material prepared by Citipost;
- 3.1.2 ensure that all information or materials provided by the Customer comply with all applicable statutory requirements and with the codes of practice of the appropriate supervisory bodies including, but not limited to, the British Code of Advertising and Sales Promotion (BCASP) and the Direct Marketing Association Codes of Practice;
- 3.1.3 indemnify Citipost against all costs, claims, liabilities, penalties and expenses which Citipost may incur by reason of its works being illegal, unlawful, infringing any copyright, trademark or other intellectual or proprietary rights of any third party or is defamatory, obscene or the distribution of which may infringe postal or other regulations or which is in breach of any trade description or other legislation. Citipost shall have the right upon request from anybody authorised to administer quality standards in mail production, to supply that body with samples of any mailings relating to the contract.

### 4. Provision of Computer Data:

The Customer shall ensure that any computer data supplied to Citipost is clean, unadulterated, capable of being read and processed and does not contain any computer viruses, worms, or Trojan horses. If the computer data being supplied by the Customer, or on the Customer's behalf, is corrupt, Citipost shall either require the Customer to supply clean, unadulterated data which does not contain any computer viruses or to decontaminate the data itself but at the Customer's expense. The Customer shall ensure that all data supplied to Citipost are completely unambiguous with regard to their format. A specification of the formats of the data supplied and instructions for interpretation must be provided in writing.

#### C. ACCESS

As and when the Customer requires access to any items stored by Citipost or requires Citipost to deliver such stored items to end users on its behalf, it will provide Citipost with detailed instructions and give Citipost reasonable advance notice of its requirements. Citipost will advise the Customer promptly as to whether the request can be fulfilled and the estimated timescales for fulfilment and the charges to be made by Citipost.

## Protago Conditions

### 1. Definitions and Interpretation

#### 1. Definitions and Interpretation

1.1 Definitions. In these Protago Conditions, the following definitions apply:

**Administration Fee:** the fee notified to the Customer by Citipost from time to time.

**Audit:** an audit of the Customer's methods of production and/or delivery (including the electronic transfer, processing, and printing) of printed materials to be distributed by post, based on the scope agreed between the Customer and Citipost from time to time, which may or may not include the production of an Audit Report.

**Audit Report:** Citipost's written report (if any) of the Audit including any recommendations in relation to the Customer's methods of production and/or delivery (including the electronic transfer, processing, and printing) of printed materials to be distributed by post.

**Audit Order:** the order (if any) agreed on behalf of each of the Customer and Citipost relating to the Audit, which shall set out or refer to the scope of the Audit and the Charges payable by the Customer to Citipost in relation to the Audit.

**Audit Services:** if applicable, the conduct of an Audit in accordance with an Audit Order.

**CAP Code:** The Committee of Advertising Practice Code of Non-broadcast, Advertising, Sales Promotion, and Direct Marketing, as amended from time to time.

**Charges:** the charges payable by the Customer for the supply of the Deliverables and/or Protago Services and/or any Audit Services in accordance with clause 7.

**Contract:** the contract between Citipost and the Customer for the supply of: (a) Deliverables and/or Protago Services in accordance with these Protago Conditions and any Protago Order; or (b) Audit Services in accordance with these Protago Conditions and any Audit Order.

**Deliverables:** the product of the Protago Services comprising letters, large letters, postcards or other printed items (or any part of them) as set out in the Protago Order but excluding any Audit Report or other deliverables relating to the Audit.

**Delivery Partner:** the third parties appointed by Citipost to transport or deliver the Deliverables.

**Portal:** the portal through which the Customer may submit orders for Protago Services, which is accessible at <https://portal.protago.io> or such other address as Citipost shall notify the Customer from time to time.

**Protago Conditions:** these terms and conditions as amended from time to time.

**Protago Order:** The Customer's order for the supply of Deliverables and/or Protago Services as set out in the Customer's purchase order form submitted via the Portal.

**Protago Services:** the production of any Deliverables including the electronic transfer, processing, and printing of the Deliverables, in each case in accordance with the Protago Order.

**Security Information Document:** Citipost's document setting out the security measures it adheres to in relation to the performance of the Protago Services.

**Specification:** the specification for the Deliverables, including any relevant drawings, designs or instructions, provided by the Customer to Citipost via the Portal.

**Rates:** Citipost's rate tariffs as set out in the Protago price list (as amended from time to time) excluding VAT.

**User Guide:** the Protago User Guide as published by Citipost from time to time and Royal Mail's user guide, as published by Royal Mail from time to time.

**VAT:** value added tax chargeable under English law for the time being and any similar additional tax.

1.2 Construction - In these Protago Conditions, the following rules apply:

- (a) a person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);
- (b) a reference to a party includes its personal representatives, successors or permitted assigns;
- (c) a reference to a statute or statutory provision is a reference to such statute or provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted;
- (d) any phrase introduced by the terms including, include, in particular or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms;
- (e) a reference to writing or written includes faxes and e-mails;
- (f) the word "indemnify" means to indemnify, keep indemnified and hold harmless the relevant party in full and on demand from and against all costs, expenses, liabilities, injuries, losses, damages, claims, proceedings (including legal and other professional fees and expenses on an indemnity basis) which the indemnified party incurs or suffers directly, indirectly or consequentially (all three

of which terms include, without limitation, pure economic loss, loss of profits, loss of reputation, depletion of goodwill, internal management cost and all legal costs) and “indemnity”, “indemnifies” and all similar wording have a corresponding meaning in such circumstances.

## 2. Basis of Contract

- 2.1 The Protago Order constitutes an offer by the Customer to purchase, receive and use the Protago Services including any Deliverables in accordance with these Protago Conditions, the Customer Service Agreement and the User Guide. The Audit Order (if any) constitutes an offer by the Customer to purchase, receive and use the Audit Services including any Audit Report or other deliverables resulting from the Audit Services in accordance with these Protago Conditions, the Customer Service Agreement and the User Guide.
- 2.2 The Protago Order shall only be deemed to be accepted if it is not rejected when it is uploaded to the Portal, at which point and on which date the Contract shall come into existence. The Audit Order shall be deemed accepted when it has been agreed and signed on behalf of Citipost and the Customer. The Customer cannot amend or withdraw a Protago Order or an Audit Order once it has been accepted. Citipost shall be entitled to amend or cancel a Protago Order or an Audit Order once it has been accepted if it discovers an issue with fulfilment of the same, upon notice to the Customer. Citipost shall have no liability or obligation to Customer in relation to any Protago Order or Audit Order which is either not accepted in accordance with this clause or is subsequently cancelled by Citipost in accordance with this clause.
- 2.3 The Customer is responsible for ensuring that the Protago Order, any Audit Order and the applicable Specification submitted by the Customer are complete and accurate. The Customer shall give Citipost all necessary information relating to the Protago Services (including any Deliverables) and the Audit Services that Citipost reasonably require in order to fulfil each Protago Order and any Audit Order. The Customer acknowledges that it is responsible for approving its own artwork and content.
- 2.4 These Protago Conditions, the Customer Service Agreement, the Security Information Document, the Protago Order, any Audit Order and the User Guide (together the Agreement Documents) constitute the entire agreement between Citipost and the Customer in relation to the Protago Services the subject of a Protago Order and the Audit Services the subject of an Audit Order. In the event of a dispute between any of the terms contained in the Agreement Documents, then the terms set out in these Protago Conditions shall prevail.

- 2.5 These Protago Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 2.6 The Customer’s access to and use of the Portal is subject to the terms set out in the Appendix..

## 3. Deliverables, Protago Services, Audit Services and Security

- 3.1 The Customer shall indemnify Citipost against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other professional costs and expenses) suffered or incurred by Citipost in connection with any claim made against Citipost for actual or alleged infringement of a third party’s intellectual property rights arising out of or in connection with Citipost’s use of the Specification. This clause 3.1 shall survive termination of the Contract.
- 3.2 Citipost shall supply: (a) the Protago Services to the Customer and procure the delivery of the Deliverables in accordance with the Protago Order; and, if relevant
  - (a) the Audit Services to the Customer in accordance with the Audit Order.
- 3.3 Citipost shall use reasonable endeavours to meet any performance dates specified in the Protago Order and any Audit Order, but any such dates shall be estimates only and time shall not be of the essence for performance of any of the Protago Services or the Audit Services.
- 3.4 Citipost reserves the right to make any changes to the Protago Services (including any Deliverables) or any Audit Services which are necessary to comply with any applicable law or safety requirement, or which do not materially affect the nature or quality of the Protago Services or Audit Services (as appropriate), and Citipost shall notify the Customer in any such event.
- 3.5 Citipost warrants to the Customer that the Protago Services and any Audit Services will be provided using reasonable care and skill.
- 3.6 Citipost warrants to the Customer that the Protago Services will be provided in accordance with the Security Information Document. Without limiting the foregoing, Citipost warrants that:
  - (a) the information in the Security Information Document relating to the security of the Portal and the Protago Services is up to date and accurate as at the date of that document and that it will update the Customer following any material changes to such document;

- (b) the Portal through which the Protago Services are provided shall be hosted in a secure environment which is and shall continue to be compliant with the following certification/accreditation schemes:
    - (i) ISO 27001;
    - (ii) ISO 14001;
    - (iii) ISO 9001;
  - (c) it shall notify the Customer as soon as reasonably possible following it becoming aware of any security incident which has or may affect any data or other information of the Customer uploaded to the Portal and it shall provide the Customer with such information as it reasonably requires in relation to the same.
- 3.7 Citipost warrants that, at the date of production, the Deliverables shall conform in all material respects with the Specification.
- 3.8 Citipost shall not be liable if any of the Deliverables fail to comply with the warranty set out in clause 3.7 if:
- (a) the defect arises as a result of Citipost following any Specification supplied by the Customer; or
  - (b) the Deliverables differ from the Specification as a result of changes made to ensure they comply with applicable statutory or regulatory requirements.
- 3.9 The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 are, to the fullest extent permitted by law, excluded from the Contract.
- 3.10 Citipost reserves the right to refuse to perform the Protago Services and/or any Audit Services in whole or part for any reason, whether before or after the provision of such services has commenced, and upon such refusal Customer shall have no right of recourse against Citipost.

## 4. Audit

- 4.1 Without limiting clauses 2.3, 3.3 and 8, where Citipost is conducting an Audit as part of the Audit Services:
- (a) the Customer shall provide Citipost with access to such information, materials, systems and processes as Citipost reasonably requires to enable it to conduct the Audit, including as specified in the Audit Order;
  - (b) Citipost shall, if specifically agreed with the Customer, provide the Customer with an Audit Report within a reasonable period of conducting the Audit;
  - (c) Customer is responsible for deciding whether or not to remedy any deficiencies and/or implement any recommendations identified as part of the Audit.
- 4.2 All information, materials, systems and processes which Citipost accesses as part of the Audit shall be

deemed to be the Customer's confidential information and Citipost shall comply with clause 10 of the Customer Service Agreement in relation to the same.

- 4.3 To the extent that Citipost processes any Personal Data as part of an Audit, the provisions of clause 10 of these Protago Conditions shall apply in relation to the same.

## 5. Delivery

Citipost shall arrange for the Deliverables to be sorted, processed and shipped as set out in the Protago Order. The Mail Conditions (but not clause 9.1(a) and clause 9.1(b) (i)) shall apply to such Protago Services and shall be incorporated into this Contract.

## 6. Sub-Contracting

Citipost shall be entitled to use such subcontractors as Citipost sees fit, and as such these third parties will be entitled to rely on these Protago Conditions.

## 7. Charges and Payment

- 7.1 The Charges payable by the Customer to Citipost in consideration for the provision of the Protago Services and any Audit Services shall be the charges as agreed between Citipost and the Customer. If no such charges have been agreed in accordance with this clause 7.1, Citipost's Rates from time to time shall apply.
- 7.2 Citipost reserves the right to increase the Rates at any time upon 14 days' notice.
- 7.3 Without limiting clause 7.2, Citipost reserves the right to increase the Charges at any time and without notice, to reflect increases in costs that may affect Citipost in the provision of the Protago Services and/or any Audit Services, including but without limitation, any increase in respect of rates of VAT, other taxes, duties, Royal Mail rates, legal or regulatory requirements.
- 7.4 The Customer shall be deemed to incur the Charges as soon as Citipost has commenced the supply of the Protago Services or Audit Services (as appropriate) and the Customer agrees to pay such Charges in full and in accordance with clause 7.6 of these Protago Conditions.
- 7.5 The Charges are exclusive of amounts in respect of Value Added Tax (or any local equivalent) or customs duty if applicable.
- 7.6 The Customer shall either pay each invoice raised by Citipost in relation to the Protago Services and any Audit Services by bank card or BACS transfer:
- (a) within the specified period stated on the invoice; and

- (b) in full and in cleared funds to the bank account nominated in writing by Citipost; and time for payment shall be of the essence of this Contract.
- 7.7 If the Customer fails to make any payment due to Citipost under this Contract by the due date for payment, then the Customer shall pay interest on the overdue amount under the Late Payment of Commercial Debts (Interest) Act 1998. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount.
- 7.8 The Customer shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law). Citipost may at any time, without limiting its other rights or remedies, set off any amount owing to it by the Customer against any amount payable by Citipost to the Customer.
- 7.9 Citipost reserves the right to close the Customer's account if it has not submitted a Protago Order to Citipost for a period of 6 months or more. The Customer shall be charged an Administration Fee by Citipost for closing its account.
- 7.10 The Customer may request to close its account by notifying Citipost by email to protago@citipost.co.uk. The Customer shall be charged an Administration Fee by Citipost for closing its account.

## 8. Limitation of Liability

- 8.1 Citipost shall make reasonable efforts to complete the Protago Services including, where relevant, by printing, sorting and procuring the delivery of the Deliverables safely and on time, however, no guarantee or warranty is given that delivery times will be met. Accordingly, Citipost shall not be liable if delivery of the Deliverables and/or any Protago Services is delayed. Customer acknowledges that any dates provided by Citipost to the Customer in relation to the performance of the Audit Services are estimates only. Citipost shall not be liable if it fails to perform all or any of the Audit Services in accordance with such dates. Unless otherwise agreed in writing, Citipost will have no liability to the Customer other than as set out in this clause 8.
- 8.2 Where the Customer makes a claim that the Protago Services or any Audit Services do not comply with the provisions of the Contract in whole or part, Citipost shall be entitled (at its sole discretion) to re-perform the relevant Protago Services free of charge (and to pay for reprint costs only) or the Audit Services free of charge and Citipost shall have no further liability to the Customer. For the avoidance of doubt, the Customer shall pay for all costs associated with posting reprinted items.
- 8.3 Nothing in these Protago Conditions shall limit or exclude Citipost's liability for:
  - (a) death or personal injury caused by its negligence, or the negligence of its employees, agents or sub-contractors;
  - (b) fraud or fraudulent misrepresentation;
  - (c) breach of the terms implied by section 12 of the Sale of Goods Act 1979;
  - (d) defective products under the Consumer Protection Act 1987; or
  - (e) any matter in respect of which it would be unlawful for the Supplier to exclude or restrict liability.
- 8.4 Subject to clause 8.3:
  - (a) Citipost shall under no circumstances whatsoever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, loss of goodwill, loss of business, loss of business opportunity, loss of data or information, loss of anticipated savings or any indirect or consequential loss arising under or in connection with the Contract; and
  - (b) Citipost's total liability to the Customer in respect of all losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed:
    - (i) subject to clause 8.4 (b) (ii), in relation to the Protago Services, the total sums paid by the Customer to Citipost for the supply of those Protago Services in respect of which the liability arises (and for the avoidance of doubt, where Citipost has failed to comply with its obligations under the Contract in relation to any one individual item comprising a Deliverable, its liability shall be limited to the sums paid by the Customer to Citipost in relation to that individual item only);
    - (ii) in relation to the Customer's access to and use of the Portal, to the licence fees paid by the Customer to Citipost in relation to the same in the year in which the liability arises save that in relation to Citipost's provision of Technical Support (as defined in the Appendix), to the re-performance of the Technical Support; and
    - (iii) in relation to the Audit Services, the total sums paid by the Customer to Citipost for the supply of those Audit Services.



## 9. Customer Warranty and Indemnity

- 9.1 The Customer warrants that:
- (a) The particulars relating to the Deliverables as shown in the Protago Order are correct and that at least 90% of the Deliverables (when printed in accordance with the Specification) shall carry a full and accurate delivery address and corresponding postcode;
  - (b) The Deliverables (when printed in accordance with the Specification):
    - (i) comply with the User Guides and, without limiting the foregoing, do not contain any offensive material (as described in Royal Mail's guidelines) and/or any material which is in breach of any applicable laws;
    - (ii) do not contain any Prohibited Items (as defined by the Mail Conditions);
    - (iii) do not break the CAP Code; and/or
    - (iv) are not prohibited by any law or by the postal licence under which the Deliverables are delivered (in the UK or any other Deliverable delivery destination country) or dangerous goods rules.
- 9.2 Should the Deliverables breach the requirements in clause 9.1, then without limiting any other right or remedy Citipost may have, Citipost may at any time:
- (a) refuse to perform all or any of the Protago Services in relation to the Deliverables;
  - (b) immediately terminate the Contract and/or the Protago Order entered into in relation to the Deliverables; and/or
  - (c) claim any additional costs and expenses incurred in dealing with the relevant Deliverables.
- 9.3 The Customer shall indemnify Citipost in full and on demand in respect of any breach of any warranty set out in this clause 9.

## 10. Data Protection

- 10.1 Subject matter of processing: Citipost is providing Protago Services and ancillary Audit Services (if agreed) which may involve the production and delivery of physical mail items, the provision of a software platform for production and delivery of physical mail pieces, a software platform for the transmission of SMS messages (as set out in the Contract) and/or the auditing of Customer's current methods of production and delivery of physical mail items.
- 10.2 Duration of Processing: Personal Data will be processed for the duration of the Contract.
- 10.3 Nature and Purpose of Processing: Personal Data will be processed by Citipost to enable Citipost to provide the Protago Services and Audit Services to the Customer.
- 10.4 Types of Personal Data to be Processed: Name, home address (full address including postcode) of recipients and any other information as detailed to be included in correspondence by the Customer to their customer. Any data detailed in the Audit Order
- 10.5 Categories of Data Subjects: The Data Subjects will be recipients of mailings and SMS messages from the Customer and Customer employees.
- 10.6 Transfers of Personal Data to a country outside EEA/ international organisation: None

## Appendix to Protago Conditions

### Standard End User Software Licence and Support Services Agreement relating to the Portal

All capitalised terms used in this Appendix which are not defined in paragraph 1, below, have the meaning given to them in the Protago Conditions to which this Appendix is attached, or the Customer Services Agreement between the Customer and Citipost, of which the Protago Conditions form part.

This Appendix sets out the terms upon which:

- (a) Citipost grants the Customer a licence to access and use the Portal; and
- (b) Citipost shall provide support to the Customer in relation to its access and use of the Portal.

#### 1. Definitions

**Authorised Users:** means an individual (or, if specifically agreed, any one PC, work station or terminal) within the Customer's organisation who (or which) has access to the Portal.

**Licence:** the licence granted by Citipost to the Customer to access and use the Portal in accordance with this Appendix and the Protago Conditions.

**Licence Date:** the date on and from which Citipost grants the Customer and its Authorised Users a Licence.

**User Subscriptions:** means the number of user subscriptions purchased by the Customer which entitle up to and including that number of Authorised Users to access and use the Portal in accordance with the Protago Conditions and this Appendix.

#### 2. Licence and Support

- 2.1 Subject to and in consideration for the Customer paying Citipost the Licence Fees in accordance with clause 4 of this Appendix, Citipost grants the Customer, from the Licence Date, a non-exclusive licence to enable its Authorised Users to access and use the Portal to:
  - (a) submit Protago Orders;
  - (b) submit Specifications relating to Protago Orders.
- 2.2 Customer shall ensure that the number of Authorised Users who from time to time have access to and/or use the Portal does not exceed the number of User Subscriptions.
- 2.3 The Customer may request additional User Subscriptions at any time. To do so it shall notify Citipost in writing. If Citipost accepts the request, it shall confirm the additional charges that are payable and upon receipt of payment for such additional charges, Citipost shall activate the additional User Subscriptions.
- 2.4 Citipost shall provide reasonable assistance and advice to the Customer in relation to its and its Authorised

Users' access to and use of the Portal, which shall be provided by trained personnel over the telephone between the hours of 9.00 a.m. and 5.00 p.m. Monday to Friday excluding statutory holidays ("Technical Support"), with effect from the Licence Date.

- 2.5 Technical Support does not include the diagnosis and rectification of any fault resulting from the operational failure through improper use or operation of the Portal.

#### 3. Customer's Obligations and Restrictions

- 3.1 The Licence does not permit the Customer or any of its Authorised Users to:
  - 3.1.1 sell, rent, lease, bureau, sub-licence, loan, copy, transfer, modify, duplicate, frame, mirror, re-publish, display, download, distribute, adapt, merge, translate, reverse engineer, de-compile, reverse compile, decode, disassemble or create derivative works based on, or otherwise reduce to human-perceivable form, or attempt to gain access to the source code of the whole or any part of the Portal and/or any associated documentation provided by Citipost in any form or media, or by any means, without Citipost's prior written consent; or
  - 3.1.2 except as expressly provided in this Appendix or the Protago Conditions, use, reproduce or deal in the Portal in any way; or
  - 3.1.3 access all or any part of the Portal in order to build a product or service which competes with the Portal or any part of it or any of the products or services offered from time to time by Citipost; or;
  - 3.1.4 use the Portal and/or any associated documentation to provide services to third parties.
- 3.2 Customer shall:
  - 3.2.1 maintain a written, up to date, list of current Authorised Users and provide such list to Citipost within five (5) days of receipt of written request from Citipost;
  - 3.2.2 ensure that the maximum number of Authorised Users that it authorises to access and use the Portal shall not exceed the number of User Subscriptions it has purchased from time to time;
  - 3.2.3 not allow or suffer any User Subscription to be used by more than one individual Authorised User unless it has been reassigned in its entirety to another individual Authorised User (in which case the prior Authorised User shall no longer have any right to access or use the Portal);
  - 3.2.4 ensure that each Authorised User shall keep secure log-in credentials (including a secure password) for her / his use of the Portal, that such password shall be changed frequently and that each Authorised User shall keep her / his log in credentials confidential;]

- 3.2.5 not and shall ensure that none of its Authorised Users bypass, breach or disable any security device, copy control or digital rights management tool, or similar, forming part of the Portal or permit, induce or assist anyone else to do so;
- 3.2.6 ensure that each Authorised User shall immediately change his/her secure password if he/she suspects unauthorised use of his/her secure log-in credentials and notify Citipost's support team of the same;
- 3.2.7 implement appropriate security measures to prevent any unauthorised access to, or use of, the Portal and notify Citipost as soon as it becomes aware of any unauthorised access/use of the Portal by any person;
- 3.2.8 the customer is liable for all costs and services to install and maintain up to date, generally accepted virus checking software to ensure that any customer materials and information, including, without limitation, any Protago Orders and/or any Specifications, do not contain any viruses.

## 4. Fees

- 4.1 In consideration for Citipost granting the Customer a Licence, the Customer shall pay to Citipost annual licence fees, as agreed between the parties in writing. Such licence fees shall be invoiced by Citipost and paid by the Customer by the dates agreed between the parties.
- 4.2 Citipost may vary the licence fees at any time by notice to the Customer, to take effect on any anniversary of the Licence Date, provided that any increase in the licence fees shall be subject to not less than 28 days prior notice and shall not exceed the increase in the Retail Price Index during the period since the last occasion upon which the licence fees were increased (or the Licence Date, whichever is later).

## 5. Warranties

- 5.1 The Customer acknowledges that the Portal will not be available during any periods of planned or emergency maintenance.
- 5.2 Citipost does not warrant that the use of the Portal will meet the Customer's business requirements or that the operation of the Portal will be uninterrupted or error free or that defects will be corrected. The Customer accepts that the Portal was not designed to its individual requirements and that it was responsible for their selection. or that defects will be corrected. Citipost is not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet, and the Customer acknowledges that the Protago Services, any Deliverables and the Customer's access to and use of the Portal may be subject to limitations, delays

and other problems inherent in the use of such communications facilities.

- 5.3 Citipost warrants that:
  - 5.3.1 It has and shall, in accordance with good industry practice, take reasonable precautions to ensure that the Portal is virus-free;
  - 5.3.2 The proper use by the Customer of the Portal will not infringe any intellectual property right of any third party;
  - 5.3.3 Citipost shall use reasonable skill and care in providing the Technical Support.
- 5.4 Customer warrants that:
  - 5.4.1 it holds all necessary registrations, licences, permissions and consents including but not limited to those required by applicable law (including Data Protection Law) to enable it to access and use the Portal in the manner envisaged by the Protago Conditions and this Appendix and that it will comply with and keep in force all such registrations, licenses and consents and produce evidence of the same to Citipost on request;
  - 5.4.2 none of the activities for which it shall use the Portal shall constitute, involve or facilitate, either directly or indirectly, the commission of any unlawful or illegal act or any offence or infringement of the rights of any person.

## 6. Intellectual Property Rights and Confidentiality

- 6.1 The Portal contains and/or comprises confidential information and intellectual property rights of Citipost and its licensors and all confidential information and intellectual property rights are the exclusive property of Citipost and its licensors.
- 6.2 The provisions of clause 10 of the Customer Services Agreement shall apply to the Portal and all information available to the Customer through it.

## 7. Termination

- 7.1 The Licence may be terminated without notice by Citipost if the Customer is in breach of any of the terms of this Appendix or the Protago Conditions.
- 7.2 In addition to the foregoing, the Licence may be terminated:
  - 7.2.1 by either party giving not less than 14 days' notice to the other party expiring on the anniversary of the Licence Date; or
  - 7.2.2 forthwith by Citipost, if the Customer:
    - 7.2.3 fails to pay any licence fees or other sums due hereunder on the due date;

- 7.2.3.1 becomes insolvent, or has a trustee, receiver, administrative receiver or similar officer appointed in respect of any part of its business or assets or enters into any agreement with creditors or has an order or resolution passed for it to be wound up;
- 7.2.3.2 in any way brings Citipost or its licensors into disrepute or challenges the intellectual property and proprietary rights of Citipost or its licensors;
- 7.2.3.3 ceases carrying on business.
- 7.3 Upon termination of the Licence (howsoever arising) the Customer shall immediately cease to access and use the Portal and Citipost may delete all information and data relating to the Customer within the Portal, including all Specifications and Protago Orders, save that if the parties agree that Citipost shall continue to provide any Protago Services in respect of which a Protago Order has been accepted, Citipost shall not delete such information and data until completion of the Protago Services the subject of such Protago Order.
- 7.4 Termination of the Licence shall be without prejudice to any rights or remedies either party may be entitled to and shall not affect any accrued rights or liabilities of either party.
- 7.5 Howsoever the Licence is terminated, the Customer shall not under any circumstances become entitled to the repayment of any licence fees or other sums paid in relation to the Licence.

## 8. General

- 8.1 Any addition to or variations of the terms of this Appendix must be in writing signed on behalf of both parties.
- 8.2 If any part of this Appendix shall be found by any court to be invalid or unenforceable, the invalidity or unenforceability of such shall not affect the other provisions of this Appendix, which shall remain in full force and effect.
- 8.3 The headings herein are for the purpose of information and identification only.
- 8.4 Customer shall be not be entitled to assign or sub- contract the Licence or any part of it.

## 9. Law

This Licence shall be governed by and construed in accordance with English Law and the parties hereby agree, that if any dispute arises between them in relation to this Licence, they each submit to the exclusive jurisdiction of the English Courts.

## CitiCreative Conditions

### 1. Definitions and Interpretation

#### 1. Definitions and Interpretation

1.1 Definitions. In these CitiCreative Conditions, the following definitions apply:

**Charges:** the charges payable by the Customer for the supply of the CitiCreative Services as agreed between Citipost and the customer or, if not agreed, the charges calculated in accordance with the Standard Rates.

**Commencement Date:** has the meaning set out in clause 2.2.

**Contract:** the contract between Citipost and the Customer for the supply of CitiCreative Services in accordance with these CitiCreative Conditions and any Special Conditions.

**CitiCreative Conditions:** these terms and conditions as amended from time to time in accordance with the Customer Services Agreement.

**CitiCreative Order:** The Customer's order for CitiCreative Services in the Customer's purchase order form or the Customer's written acceptance of a quotation or proposal by Citipost as the case may be.

**CitiCreative Services:** the services detailed in the CitiCreative Order supplied by Citipost to the Customer.

**Customer's Property:** any and all materials, documents, records, research, photography, logos, designs, software or other property (including all Intellectual Property rights therein) belonging to the Customer and which are provided to Citipost by or on behalf of the Customer and/or otherwise come into the possession, custody or control of Citipost in connection with the provision of the CitiCreative Services.

**Deliverables:** all copy, layouts, artwork, storyboards, scripts, presentations, drawings, documents, items, plans, products, goods, charts, graphics, photographs, films, methodologies, ideas, designs and/or other materials created or produced by or on behalf of Citipost for the Client in the course of providing the CitiCreative Services, on any media (whether any media exist at the Commencement Date or are subsequently developed).

**Intellectual Property Rights:** patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

**Service Delivery Period:** the period during which the CitiCreative Services are to be provided as set out in the CitiCreative Order.

**Service Specification:** means the description or specification for the CitiCreative Services provided in writing by Citipost to the Customer in Citipost's quotation or proposal.

**Special Conditions:** any additional conditions set out in the Order.

1.2. In these CitiCreative Conditions, the following rules apply:

- (a) a person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);
- (b) a reference to a party includes its successors or permitted assigns;
- (c) a reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted;
- (d) any phrase introduced by the terms including, include, in particular or any similar expression, shall be construed as illustrative and shall not limit the sense of the words preceding those terms; and
- (e) a reference to writing or written includes e-mails.

### 2. Basis of Contract

2.1 The CitiCreative Order constitutes an offer by the Customer to purchase the CitiCreative Services in accordance with these CitiCreative Conditions, the Special Conditions and the Customer Service Agreement.

2.2 The CitiCreative Order shall only be deemed to be accepted when Citipost confirms it is acceptable to the Customer (either in writing or verbally), at which point, and on which date the Contract shall come into existence (Commencement Date). Citipost may accept or decline CitiCreative Orders at its absolute discretion. Citipost will not be able to accept an amendment to a CitiCreative Order which Citipost has accepted.

2.3 The Customer is responsible for ensuring that the CitiCreative Order and the Service Specification are complete and accurate. The Customer shall give Citipost all necessary information relating to the CitiCreative Services and/or the Goods that Citipost reasonably require in order to fulfil each CitiCreative Order. The Customer acknowledges that it is responsible for approving its own artwork and content.

- 2.4 These CitiCreative Conditions, the Customer Service Agreement and the CitiCreative Order (Agreement Documents) constitute the entire agreement between Citipost and the Customer. In the event of a dispute between any of the terms contained in the Agreement Documents, then the terms set out in these CitiCreative Conditions shall prevail.
- 2.5 These CitiCreative Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

### 3. Supply of CitiCreative Services

- 3.1 In consideration for the payment of the Charges by the Customer, Citipost shall perform the CitiCreative Services for, and provide the Deliverables to, the Customer. The CitiCreative Services will be provided from the Commencement Date for the Service Delivery Period unless the Contract is terminated earlier in accordance with the agreement Documents.
- 3.2 Citipost shall supply the CitiCreative Services and the Deliverables to the Customer in accordance with the terms of the Contract in all material respects.
- 3.3 Citipost shall use reasonable endeavours to provide the CitiCreative Services on dates specified in the CitiCreative Order but any such dates shall be estimates only and time shall not be of the essence for performance of the CitiCreative Services.
- 3.4. Citipost warrants to the Customer that the CitiCreative Services will be provided using reasonable care and skill and in accordance with generally recognised commercial practices and standards in the creative industry.

### 4. Customer's Obligations

- 4.1. The Customer shall:
- (a) ensure that the terms of the CitiCreative Order are complete and accurate;
  - (b) co-operate with Citipost in all matters relating to the CitiCreative Services;
  - (c) provide Citipost with such information and materials as Citipost may reasonably require in order to supply the CitiCreative Services and ensure that such information is accurate in all respects;
  - (d) obtain and maintain all necessary licences, permissions and consents which may be required for the CitiCreative Services before the date on which the CitiCreative Services are to start
  - (e) not send anything to Citipost which in any way breaches the Intellectual Property Rights of any third party;

- (f) comply with any additional obligations set out in the CitiCreative Order.
- 4.2 Unless a specific time frame for the Customer's response is specified, the Customer shall respond reasonably promptly to any request by Citipost for information or approval.
- 4.3 If Citipost's performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation (Customer Default):
- (a) Citipost shall without limiting its other rights or remedies have the right to suspend performance of the CitiCreative Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations to the extent the Customer Default prevents or delay's Citipost's performance of any of its obligations;
  - (b) Citipost shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from Citipost's failure or delay to perform any of its obligations as set out in this clause 4.2; and
  - (c) the Customer shall reimburse Citipost on written demand for any costs or losses sustained or incurred by Citipost arising directly or indirectly from the Customer Default.

### 5. Change Control

- 5.1 The Customer may request, a change to the CitiCreative Services or a change in the Service Specification or addition of new services (a Change) at any time. Where the Customer requests any Change, Citipost shall promptly:
- (a) Confirm its acceptance of the Change without any further variation to the Contract, in which case the parties shall execute a variation to the Contract as soon as reasonably practicable and Citipost shall implement the Change accordingly;
  - (b) provide the Customer with a detailed note for accepting the Change subject to any variation that it reasonably considers necessary to the CitiCreative Services, the Service Specification or the Charges including any new Services (Change Proposal); or
  - (c) if Citipost believes it is not reasonably practicable to accept the Change, with or without any such variation, provide the Customer with a written statement of its reasons for doing so.
  - (d) Citipost may propose a Change at any time in which case it shall provide a Change Proposal to the Customer.
- 5.2 The Customer shall give due consideration to



Citipost's Change Proposal and shall either give Citipost written notice accepting the Change Proposal or rejecting the Change Proposal. If the Customer accepts the Change Proposal, the parties shall as soon as reasonably practicable execute a variation to the Contract and Citipost shall implement such agreed variation.

- 5.3 Where any Change has been requested by the Customer or proposed by Citipost, the parties will continue to perform their respective obligations under the Contract, without taking account of that requested or proposed change, until that Change takes effect in accordance with clause 5.2.
- 5.4 A Change Proposal signed by the Customer and Citipost shall constitute an amendment to the Contract.

## 6. Charges and Payment

- 6.1 The Charges for the CitiCreative Services shall be as set out in the CitiCreative Order.
- 6.2 Time for payment shall be of the essence of the Contract.
- 6.3 Any payment made by the Customer is non-refundable unless otherwise agreed by Citipost in writing.
- 6.4 All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax chargeable for the time being (VAT). Where any taxable supply for VAT purposes is made under the Contract by Citipost to the Customer, the Customer shall, on receipt of a valid VAT invoice from Citipost, pay to Citipost such additional amounts in respect of VAT as are chargeable on the supply of the CitiCreative Services at the same time as payment is due for the supply of the CitiCreative Services.
- 6.5 Where the CitiCreative Services are provided on a time and materials basis:
- (a) the Charges shall be calculated in accordance with Citipost's standard daily fee rates for each individual person and are calculated on the basis of an eight-hour day from 9.00 am to 5.00 pm worked on Business Days and otherwise by arrangement between the parties;
- (b) Citipost will ensure that each individual whom it engages in relation to the CitiCreative Services completes time sheets recording time spent on the Services and/or Deliverables; and
- (c) Unless otherwise set out in the CitiCreative Order, Citipost will invoice the Customer weekly in arrears for its charges for time, expenses and materials for the month concerned in respect of work that has completed a work stage, accompanied by any relevant receipts for any materials and expenses as incurred in accordance with the clause below.

Completion of a work stage shall have taken place where there has been either (1) a delivery of a concept; (2) the Customer has signed off artwork; (3) Citipost has delivered the final artwork.

- 6.6 Where CitiCreative Services are provided for a fixed price, the total price for the Services will be as set out in the CitiCreative Order. On completion of the Services or when an agreed instalment is due, Citipost shall invoice the Customer for the Charges that are then payable, together with any materials and expenses which have not been expressly included in the fixed price.
- 6.7 Expenses incurred by Citipost may include: the cost of hotel, subsistence, travelling and any other expenses reasonably incurred by the individually whom Citipost engages in connection with the Services, the cost of any materials and the cost of service reasonably and properly provided by third parties and required by Citipost for the supply of the CitiCreative Services. Any expenses in excess of £1500 must be pre-approved by the Customer in writing.
- 6.8 The Customer shall pay each invoice submitted by Citipost within 30 days of its date and in full and in cleared funds to the bank account nominated in writing by Citipost.
- 6.9 If the Customer fails to make any payment due to Citipost under the Contract by the due date for payment, then:
- 6.10 The Customer shall pay interest on the overdue amount under the Late Payment of Commercial Debts (Interest) Act 1998. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount.
- 6.11 Citipost may suspend all CitiCreative Services until the payment has been made in full.
- 6.12 The Customer shall pay all amounts due under the Contract in full without any deduction or withholding except as required by law and the Customer shall not be entitled to assert any credit, set-off or counterclaim against Citipost in order to justify withholding payment of any such amount in whole or in part. Citipost may, without limiting its other rights or remedies, set off any amount owing to it by the Customer against any amount payable by Citipost to the Customer.

## 7. Intellectual Property Rights

- 7.1 All Intellectual Property Rights in or arising out of or in connection with the provision of the CitiCreative Services shall be owned by Citipost.

- 7.2 Citipost licences all such rights to the Customer free of charge and on a non-exclusive, worldwide basis to such extent as is necessary to enable the Customer to make reasonable use of the Deliverables and Services.
- 7.3 If this Contract is terminated, this licence shall terminate.
- 7.4 The Customer acknowledges that, in respect of any third-party Intellectual Property Rights, the Customer's use of any such Intellectual Property Rights is conditional on Citipost obtaining a written licence from the relevant licensor on such terms as will entitle Citipost to license such rights to the Customer.
- 7.5 The Customer's Property shall, at all times be and remain, as between the Customer and Citipost, the exclusive property of the Customer. Citipost shall not dispose of, or use, any of the Customer's Property other than in accordance with the provisions of this Contract and/or the Customer's written instructions.
- 7.6 The Customer grants Citipost a non-exclusive, non-transferable, royalty-free licence for the Service Delivery Period to use, and permit its subcontractors to use, the Customer's agreed trade marks in the creation of the Deliverables and performance of the CitiCreative Services.
- 7.7 Citipost acknowledges that it will not gain any right, title or interest in any Customer trademarks or associated goodwill, which shall vest automatically in the Customer (and/or its Affiliates as applicable) and Citipost shall not make any use of them except in accordance with the terms of the Contract.

## 8. Limitation of Liability

- 8.1 Nothing in these CitiCreative Conditions shall limit or exclude Citipost's liability for:
- (a) death or personal injury caused by its negligence or, the negligence of its employees, agents or subcontractors; or
- (b) fraud or fraudulent misrepresentation.
- 8.2 Subject to clause 8.1:
- (a) Citipost shall under no circumstances whatsoever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, loss of sales or business, loss of agreements or contracts, loss of or damage to goodwill, loss of use or corruption of software, data or information or any indirect or consequential loss arising under or in connection with the Contract;

- (b) Citipost's liability to the Customer in respect of all losses arising in connection with Citipost's failure to provide the CitiCreative Services in accordance with the Contract shall in no circumstances exceed the lower of £7,000 and the amount paid by the Customer to Citipost for the CitiCreative Services.
- 8.3 Except as set out in these CitiCreative Conditions, all warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.
- 8.4 This clause 8 shall survive termination of the Contract.

## 9. Data Protection:

- 9.1 The parties acknowledge that there is no data processing by Citipost under a Contract formed under these CitiCreative Conditions.

## 10. General

- 10.1 If a Force Majeure Event prevents, hinders or delays wither party's performance of its obligations for a continuous period of 90 days, the unaffected party may terminate the Services to be carried out under the Contract. This clause 10.1 shall be deemed to supersede the provisions of clause 7.4 of the Customer Service Agreement.
- 10.2 The Customer shall not, without Citipost's prior written consent, at any time from the Commencement Date to the expiry of 12 months after the last date of supply of the Services or termination of the Contract (whichever is latest) solicit or entice away from Citipost or its subcontractors and agents, or employ or attempt to employ any person who is or who has been engaged as an employee, consultant of sub-contractor of Citipost or its subcontractors or agents in the provision of the Services.

## 11. Termination

Without limiting its other rights or remedies, either party may terminate the Contract by giving the other party 30 days written notice.

## LifeCycle Advertisement Conditions

### 1. Definitions and Interpretation

#### 1. Definitions and Interpretation

1.1 Definitions. In these Advertisement Conditions the following definitions apply:

**Advertisement:** means any advertising material or promotional material supplied by the Customer to be printed on a page or separately inserted into LifeCycle or such of Citipost's other printed publication.

**Advertisement Conditions:** these terms and conditions as amended from time to time.

**Advertisement Services:** the services in relation to the Advertisement as detailed in the Advertisement Order supplied by the Customer to Citipost.

**Charges:** the charges payable by the Customer for the supply of the Advertisement Services as agreed between Citipost and the Customer or, if not agreed, the charges calculated in accordance with the Standard Rates in force from time to time.

**Commencement Date:** has the meaning set out in clause 2.2.

**Contract:** the contract between Citipost and the Customer for the supply of Advertisement Services in accordance with these Advertisement Conditions.

**Citipost:** Citipost Ltd t/a Citipost Mail incorporated and registered in England and Wales with company number 03451070 whose registered office is at 51 Hailey Road, Erith, Kent, DA18 4AA.

**Customer:** means the person or entity placing with Citipost the Advertisement Order for the insertion of the Advertisement, or the Customer's advertising agency or media buyer.

**LifeCycle:** Citipost's printed publication named LifeCycle.

**Advertisement Order:** The Customer's order for Advertisement Services in the Customer's purchase order form or the Customer's written acceptance of a quotation or proposal by Citipost as the case may be.

**Standard Rates:** Citipost's rates in effect for the time being and may include, among other matters, its scale of advertisement rates, technical specifications, copy and cancellation deadlines and setting styles.

**Term:** means the period from the Commencement Date for the agreed period for the editions as specified in the Advertisement Order for which the Advertisement is to be placed in LifeCycle until terminated in accordance with these Advertisement Conditions.

- 1.2 In these Advertisement Conditions the following rules apply:
- (f) a person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);
  - (g) a reference to a party includes its successors or permitted assigns;
  - (h) a reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted;
  - (i) any phrase introduced by the terms including, include, in particular or any similar expression, shall be construed as illustrative and shall not limit the sense of the words preceding those terms; and
  - (j) a reference to writing or written includes e-mails.

### 2. Basis of Contract

- 2.1 The Advertisement Order constitutes an offer by the Customer to purchase Advertisement Services in accordance with these Advertisement Conditions.
- 2.2 The Advertisement Order shall only be deemed to be accepted when Citipost accepts the Advertisement Order at which point and on which date the Contract shall come into existence (Commencement Date).
- 2.3 These Advertisement Conditions, the Customer Service Agreement and the Advertisement Order (Agreement Documents) constitute the entire agreement between Citipost and the Customer. In the event of a dispute between any of the terms contained in the Agreement Documents, then the terms set out in these Advertisement Conditions shall prevail.
- 2.4 These Advertisement Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

### 3. Supply of Advertisement Services

- 3.1 Citipost shall supply the Advertisement Services to the Customer in accordance with the terms of the Contract in all material respects.
- 3.2 Citipost shall use reasonable endeavours to provide the Advertisement Services in accordance with the Customer's preferred edition dates but any such dates shall be estimates only and time shall not be of the essence for performance of the Advertisement Services.

- 3.3 Citipost warrants to the Customer that the Advertisement Services will be provided using reasonable care and skill.
- 3.4 Citipost:
- a) shall upon receipt of the Charges and Citipost's acceptance of the Advertisement perform the Advertisement Services for the Term subject to the Contract;
  - b) has the right and sole discretion to decline to publish or to omit, suspend or change the position of any Advertisement accepted by it;
  - c) may, without derogation from the warranties and obligations set out in clause 4, refuse or require to be amended any artwork, materials or copy for or relating to an Advertisement so as to comply with the legal or moral obligations placed upon Citipost or the Customer or to avoid infringing a third party's rights or any statutory or regulatory requirements; and
  - d) reserves the right at any time during the Term to remove the Advertisement from LifeCycle or such other publication in the event that Citipost considers the Advertisement breaches any applicable laws or the rights of any third party or is prejudicial to the interests of Citipost and/or its business;
  - e) Citipost will use reasonable efforts to comply with the wishes of the Customer although it does not warrant the date of insertion, the wording, or the quality of the colour or mono reproduction of the Advertisement;
  - f) Citipost will not be liable for any loss of copy, artwork, photographs or other materials, which the Customer warrants that it has retained in sufficient quality and quantity for whatever purpose.
  - g) Where the entity placing an Advertisement, Order is an advertising agency or is acting on the instructions of the Customer (Agency) the Agency warrants that it is authorised by the Customer to place the Advertisement with Citipost and the Agency will indemnify Citipost against any claim made by the Customer against Citipost arising from the publication thereof.
  - h) Citipost shall have the right to change its Standard Rates at any time.
- 3.5 If Citipost's performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation (Customer Default) Citipost shall without limiting its other rights or remedies have the right to suspend performance of the Advertisement Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the

performance of any of its obligations to the extent the Customer Default prevents or delays Citipost's performance of any of its obligations.

- 3.6 Citipost shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from Citipost's failure or delay to perform any of its obligations as set out in this clause 3.
- 3.7 The Customer shall reimburse Citipost on written demand for any costs or losses sustained or incurred by Citipost arising directly or indirectly from the Customer Default.

## 4. Customer's Obligations

- 4.1 The Customer undertakes and warrants to Citipost that:
- (a) in relation to any Advertisement Services the Customer enters into the Contract as a principal notwithstanding that the Customer may be acting directly or indirectly for the person whose products or services are being advertised by Citipost;
  - (b) the reproduction and/or publication of the Advertisement by Citipost as originally submitted or as amended pursuant to the original Advertisement Order will not breach any agreement or infringe or violate any copyright, trade mark, or any other personal or property of any person or render Citipost liable to any proceedings whatsoever;
  - (c) any information supplied by the Customer in connection with the provision of the Services is accurate, complete and true in all respects;
  - (d) in respect of any Advertisement which contains the name or pictorial representation (photographic or otherwise) of any living person and/or any part of any living person and/or any copy by which any living person is or can be identified the Customer has obtained the authority of such living person to make use of such name, representation and/or copy;
  - (e) the Advertisement complies with the requirements of all relevant legislation (including subordinate legislation for the time being in force or which may be applicable in such jurisdiction as the Advertisement shall be made available;
  - (f) the Advertisement is legal, decent, honest and truthful and complies with the rules of English national law and international codes and all other such relevant codes relating to advertising as may be appropriate; and particularly
  - (g) the Advertisement shall not contain any data, image or other material which:
    - i. is offensive, obscene or indecent, or is capable of being resolved into obscene or indecent images or material;

- ii. is defamatory, sexist, threatening or racially, ethnically or otherwise objectionable;
  - iii. is designed or likely to cause annoyance, inconvenience, unwanted attention or needless anxiety to any other person;
  - iv. is designed to or is likely to cause disruption to any computer system or to any network;
  - v. is illegal or is likely to induce an illegal act; and
  - vi. it has authority to enter into and implement the Agreement.
- 4.2 The Customer shall provide to Citipost the Advertisement in the format expressly specified (if any) by Citipost.
- 4.3 It is the responsibility of the Customer to check the accuracy of the Advertisement and, without prejudice to the provisions of clause 7 (Liability), Citipost assumes no responsibility for the repetition of an error in an Advertisement.

## 5. Charges and Payment

- 5.1 The Charges for the Advertisement Services shall be as set out in the Advertisement Order and calculated in accordance with Citipost's Standard Rates.
- 5.2 Unless Citipost agrees otherwise in writing, the Customer shall pay for the Advertisement Services on a pre-paid basis which means that payment must be received by Citipost before the production date for the issue of LifeCycle to which the Advertisement Services relate.
- 5.3 The Customer must (unless otherwise agreed) pre-pay the Charges by bank transfer to the bank account set out on Citipost's invoice or otherwise notified by Citipost from time to time.
- 5.4 Where Citipost agrees in writing that the Customer may pay for the Advertisement Services after the Advertisement Services have been provided, the Customer shall pay each invoice submitted by Citipost in accordance with the payment terms agreed and set out in the credit application form agreed between the parties.
- 5.5 Citipost has the right to amend the options for payment set out in clause 5.4 at any time.
- 5.6 Time for payment shall be of the essence of the Contract.
- 5.7 Any payment made by the Customer is non-refundable unless otherwise agreed by Citipost in writing.
- 5.8 All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax chargeable for the time being (VAT). Where any taxable supply for VAT purposes is made under the Contract by Citipost to the Customer, the Customer shall, on receipt of a valid VAT invoice from Citipost, pay to Citipost such additional amounts in respect of VAT as are chargeable on the supply

of the Advertisement Services at the same time as payment is due for the supply of the Advertisement Services. If the Customer fails to make any payment due to Citipost under the Contract by the due date for payment, then the Customer shall pay interest on the overdue amount under the Late Payment of Commercial Debts (Interest) Act 1998. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount.

- 5.9 The Customer shall pay all amounts due under the Contract in full without any deduction or withholding except as required by law and the Customer shall not be entitled to assert any credit, set-off or counterclaim against Citipost in order to justify withholding payment of any such amount in whole or in part. Citipost may, without limiting its other rights or remedies, set off any amount owing to it by the Customer against any amount payable by Citipost to the Customer.

## 6. Intellectual Property Rights

- 6.1 The Customer retains all rights, title and interest in and to the Advertisement, including without limitation copyrights, trademarks, database rights and other intellectual property rights.
- 6.2 All Intellectual Property Rights in or arising out of or in connection with the provision of the Advertisement Services shall be owned by Citipost including any ideas, concepts, know-how or techniques developed by Citipost or obtained during the execution of the Advertisement Services.
- 6.3 For the purpose and duration of the Advertisement Services the Customer grants to Citipost a royalty-free, non-exclusive licence to use, publish and reproduce the Customer's name, logo, trade marks and brands to the extent necessary to enable Citipost to comply with its obligations under these Advertisement Conditions.

## 7. Liability

- 7.1 Nothing in these Advertisement Conditions shall limit or exclude Citipost's liability for:
- (a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors; or
  - (b) fraud or fraudulent misrepresentation.
- 7.2 Subject to clause 7.1 Citipost shall under no circumstances whatsoever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for:
- i. Loss of profits.
  - ii. Loss of sales or business.

- iii. Loss of agreements or contracts.
  - iv. Loss of anticipated savings.
  - v. Loss of use or corruption of software, data or information.
  - vi. Loss of or damage to goodwill.
  - vii. Indirect or consequential loss.
  - viii. Wasted expenditure.
- 7.3 Citipost's total liability to the Customer in respect of all losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the Charges paid by the Customer to Citipost for the Advertisement Services.
- 7.4 Except as set out in these Advertisement Conditions all warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.
- 7.5 The Customer agrees that Citipost has no responsibility for the deletion, corruption or failure to store any of the Customer's content provided, uploaded, maintained or transmitted when the Customer uses the Advertisement Services.
- 7.6 The Customer undertakes to Citipost that the Customer will, without prejudice to any other right of action which Citipost may have, at all times keep Citipost fully and effectively indemnified against any liability (which liability shall include, without limitation, all losses, costs, claims, demands, actions, damages, legal and other professional fees and expenses on a full indemnity basis) which Citipost may suffer or incur as a result of any Advertisement, the infringement of any intellectual property rights of any third party, or by reason of any breach or non-fulfilment of any of the Customer's obligations in respect of the Contract.
- 7.7 This clause 7 shall survive termination of the Contract.

## 8. Data Protection

- 8.1 The parties acknowledge that there is no data processing by Citipost under a Contract formed under these Advertising Conditions.





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