



TERMS AND CONDITIONS

1. **DESCRIPTION OF SERVICES.** The following shared mail distribution and digital services ("Services") provided by Valassis Direct Mail, Inc. ("Valassis") and any future Services offered by Valassis may be available for ordering under these Terms and Conditions (herein referred to as "Agreement"). Valassis and Client are each referred to as a "Party" and are collectively referred to as the "Parties".
 - A. **Shared Mail.** Valassis will distribute Client Material (defined below) into Valassis's defined geographical regions ("Markets") as part of Valassis's standard shared mail programs, alternate delivery programs, or both, based upon Valassis's sole discretion ("Program"). Shared Mail includes collating, addressing, bundling, packaging, and mailing in accordance with US Postal Service ("USPS") requirements for mail programs and collating, bundling, and distribution to individual households for alternate delivery programs. Valassis anticipates that the Program will be delivered by the USPS or our alternate delivery program on the time frame targeted for distribution ("In-Home Date"), but Valassis cannot guarantee the exact delivery date. Valassis will not be liable for USPS delivery delays or performance failures. Valassis may restructure or cancel a Market, provided that Valassis will promptly notify Client, and will make an appropriate adjustment to Client's revenue or volume commitment (if any) if such restructuring negatively affects Client's scheduled distribution. Valassis may cancel a Program to a Market, provided that Valassis will promptly notify Client, and will mutually agree with Client on an alternative for the cancelled Program, or refund the fees relating to the cancelled Program if an alternative is unavailable.
 - B. **Wrap.** Wrap is a jacket for the Shared Mail package. Valassis will print Client Material as part of the Wrap, and include it as part of the Program for Client's In-Home Date. Wrap is subject to Valassis's booking and confirmation rules for the Wrap, which may be updated by Valassis from time to time.
 - C. **Variable Data Postcard.** The Variable Data Postcard ("VDP") is a household-targeted product that is distributed as part of the Shared Mail package, but sits separately as a postcard. The VDP will be imprinted with Client Material, and may be produced in versions based upon database criteria and other options selected by Client. Some options, such as limited Solo Mail (defined below) in conjunction with the Program, may be available at an additional charge. The VDP will also be imprinted with the household address for each Program and may contain other information. Solo Mail distribution will require prepayment of Solo Mail postage at least 2 weeks in advance. Valassis does not supply the mailing list used for a VDP order but it may be licensed pursuant to a separate license agreement between Valassis and Client.
 - D. **Solo Mail.** Valassis will distribute, by mail for the mutually agreed upon In-Home Dates, Client Material by itself and with no other mail in the USPS rate class that Client selects to addresses using Valassis's mailing list or a mailing list that Client supplies ("Solo Mail"). Solo Mail may include printing of Client Material, transportation, printing and affixing address labels, bundling, packaging, and tagging according to USPS requirements, and depositing the mail with the USPS. Valassis cannot guarantee the exact delivery date. Valassis will not be liable for USPS delivery delays or performance failures. If Solo Mail rates quoted do not include postage, Client must either: i) establish a postage account with the USPS for Valassis's use in connection with Client's Solo Mail; or ii) prepay to Valassis all Solo Mail postage at least 2 weeks in advance of the applicable In-Home Date.
 - E. **Digital.** Valassis will provide digital services, directly or through its suppliers and affiliates, independently or in conjunction with a specially paired shared mail or shared distribution Program ("Digital Add-On Program"). The Digital Add-On Program will be supplied in accordance with the applicable service description and specifications for the period and at the rates or other charges applicable and may be disseminated at the same time and similar geography as the paired shared mail or shared distribution Program (if applicable).
2. **ORDERS.** Client may place orders for Services in writing, by telephone, by electronic mail, or by facsimile detailing the specifications of the Services ("SM Order"). Valassis will not be responsible for SM Orders that are not confirmed by Valassis, such as lost, misdirected, incomplete, or unintelligible SM Orders. All SM Orders placed by Client are subject to the terms and conditions of this Agreement.
3. **RATES.** The rates for the Services are set forth on the SM Order. Upon 30 days' notice in writing, Valassis may increase rates to pass through costs attributable to: i) USPS rate cases, postage increases, rate restructuring, or mail class restructuring; ii) costs to qualify for, or participate in USPS discounts; and iii) costs to qualify program packages for mailing due to a change in USPS practices, rules or regulations. These costs will be distributed ratably among shared mail program participants. Valassis may pass through to Client increases relating to the cost of the SM Services, such as increases in printing, paper and fuel charges, upon 30 days written notice. In addition to the payment provisions of the General Terms of Service, Client shall pay Valassis the final amount(s) invoiced: i) in accordance with the section below entitled Household Counts; ii) based on the difference between the estimated and actual piece weight; or iii) relating to additional service charges.
4. **HOUSEHOLD COUNTS.** Estimated household counts for a SM Order are determined 28 days prior to the In-Home Date. Actual household counts are determined when the Program is completed. Valassis will apply a 2% adjustment as described in this section on Client's final invoice based on the actual household count of the SM Order. If the actual household count of the SM Order is no more than 2% below the estimate, Client will pay for the estimated household count. If the actual household count is more than 2% below the estimated household count, Client will pay for the actual household count plus 2%. If the actual household count for the SM Order is greater than the estimated household count, Client will pay for the actual household count.
5. **CLIENT SUPPLIED INSERTS.** Client shall supply Valassis with a sufficient quantity of the Client Material to include with the applicable SM Service, including a sufficient quantity to account for processing loss. Client Material must comply with the specifications set forth at <http://www.valassis.com/pdf/production-specs-templates/print/Direct-Mail-Specifications.pdf> and be provided to Valassis by the date set by Valassis. If the Client Material does not meet Valassis's specifications or is late, Valassis may, but is not required to, perform additional services, and incur additional expense. Client shall pay Valassis for these additional services, overtime and any late charges at Valassis's standard rates. All piece weights of Client Material are subject to verification by Valassis and the USPS and are rounded upward to the nearest hundredth of an ounce.
6. **VALASSIS CARE OF CLIENT MATERIAL.** Valassis shall use commercially reasonable efforts to keep Client Material in the same condition in which it arrived at Valassis's facility, but will not be responsible for damage or destruction, unless it was caused by Valassis's gross negligence or willful misconduct.



7. **VDP GUIDELINES.** Client warrants that the material used for VDP shall adhere to relevant Data & Marketing Association Guidelines which are specific to matters concerning privacy and confidentiality, and that Client will not reference in the VDP material any selection criteria or presumed knowledge about the recipient. For details, please refer to the Valassis "Rider to the Variable Data Postcard Program for Responsible Mailer Guidelines" which can be provided upon request by Client's sales executive.
8. **DISTRIBUTION VERIFICATION.** Upon request by Client within 90 days of the In-Home Date, Valassis will certify that the Shared Mail package including the applicable Client Material was deposited with the USPS and/or alternate delivery. No other evidence of distribution will be provided by Valassis.
9. **DIGITAL ADD-ON PROGRAMS.** In the event that Client provides Valassis email addresses, Client acknowledges that it is Client's responsibility to maintain a list of any do-not-email requests it receives from any source. Prior to and during any email campaign, Client agrees to timely deliver an accurate, complete and current list of any opt-out notices Client receives to Valassis, and as part of each campaign, Valassis may require that Client separately confirm in writing that Client has provided Valassis with Client's opt-out list. For a reasonable period of time following each email campaign, Valassis will make available to Client opt-out notices it or its affiliate/supplier receives as a result of the campaigns. Client is responsible for adding these opt-out email addresses to Client's general do-not-email list. Client will also supply a physical address to which communications may be directed.
10. **PRINTING SERVICES.** If Client is purchasing printing services ("Printing Services"), then the additional terms and conditions in this Section will apply to the Printing Services.
 - A. **Quality.** Any Client Material provided for Printing Services must comply with Valassis's printing specifications set forth at <http://www.valassis.com/resources/production-specs/print-specs/index>. Valassis will not be responsible for the accuracy or reproduction quality of Client Material that does not conform to the printing specifications.
 - B. **Proofs and Print Variance.** Proofs supplied by Client must comply with Valassis specifications. Valassis is not responsible for errors if Client: i) supplies erroneous Client Material; ii) has not ordered proofs; iii) has failed to return proofs with indication of changes; or iv) has instructed Valassis to proceed without submission of proofs, or for errors otherwise resulting from Client's instruction or approval. Valassis will use commercially reasonable efforts to obtain the best possible reproduction for Printing Services. However, variation is inherent in Printing Services and Client agrees and accepts that a reasonable variation in color, tone and/or sizing between the proof and the completed Printing Services is acceptable.
 - C. **Printing Overage Tolerance.** Consistent with industry standards, and to avoid distribution shortages, Valassis will print 2% more pieces than required to fulfill Client's orders (based on the original ordered counts) ("Print Overage Tolerance"). Client will pay for print and freight charges related to the Print Overage Tolerance.
11. **CANCELLATION FEES.** If Client cancels or changes a SM Order, or if Client defaults upon any obligation to Valassis and as a result Valassis cancels a SM Order, Client will pay the following cancellation fees based on the applicable percentage of the SM Order.
 - A. **Client Supplied Inserts.** 10% for cancellations or changes made 14 days or less from the beginning of Client's Program week, not to exceed a cancellation fee of \$1,500.
 - B. **Turnkey Products.** 50% for cancellations or changes after Valassis has begun printing; and 100% after Valassis has begun to merge the material into program packages. If Client orders store copy or other undistributed copy, Client's cancellation fee will be 50% after Valassis has begun printing. SM Orders cancelled prior to printing, but after ad production has begun, will be charged for any services incurred from the Valassis Insert Production Services and Pricing rate card.
 - C. **VDP.** 60% for cancellations or changes after Valassis has transmitted Client Materials to Valassis's printer; and 100% if the postcard has been printed. No partial cancellations will be accepted after materials have been transmitted to the printer.
 - D. **Custom Print and Custom VDP.** 25% for cancellations or changes after Client has placed Client's order; 60% after Valassis has ordered paper for Client custom print; and 100% for cancellations or changes 3 days or less prior to printing.
 - E. **Wrap.** 15% for cancellation or changes made between 91 and 150 days before the beginning of Client's Program week; 20% for cancellation or changes made between 61 and 90 days before the beginning of Client's Program week; 50% for cancellation or changes made between 46 days and 60 days before the beginning of Client's program week; 100% if 45 days or less from the beginning of Client's Program week.
 - F. **Digital Add-On Program.** \$1,000 for cancellations of emails associated with a Digital Add-On Program made more than 24 hours before the scheduled email deployment. Cancellation made within 24 hours of the scheduled email deployment will be charged 100% cost of the email campaign.
12. **PAYMENT AND TAXES.**
 - A. **Payment.** Client shall pay the amount due for Services by the payment due date specified on the invoice. Valassis will provide Client an invoice in accordance with Valassis's invoice standards for the Service purchased. Prepayment of Services is the standard payment term unless Valassis has approved credit terms for Client. Valassis reserves the right at any time to cancel any credit terms that may have been granted to Client. If Client fails to pay Valassis the payments when due, Valassis may suspend providing Services and terminate this Agreement. Client shall pay interest at the lesser of 1% per month or the highest rate permitted by law on overdue invoice amounts. If Valassis incurs any costs to collect unpaid and overdue amounts, Client will reimburse Valassis for such costs, including, but not limited to attorneys' fees.
 - B. **Taxes.** Client is responsible for all sales, use, or excise taxes, and any other similar taxes, duties and charges of any kind, applicable to taxable products and Services provided under this Agreement ("Taxes"). Valassis may collect and remit Taxes in certain states. Depending upon the rules of the applicable jurisdiction, Taxes may apply to the selling price or to Valassis's production costs. To the extent a Service is taxable in a state where Valassis does not collect Taxes, Client may be required to self-assess and remit Taxes directly to the state. Client will reimburse Valassis for any Washington B&O taxes (including variable amounts per distribution) paid by Valassis with respect to the Client's purchase of Services within Washington.
13. **PERSONAL DATA.** Client will only provide to Valassis personal data/personally identifiable information (as such term is defined under any and all local, state, federal or international laws and regulations that could be used to identify one or more specific individuals) only to



the extent necessary to perform the Services. Client represents and warrants to Valassis that Client will obtain any and all licenses, permissions, approvals and consents (including, where applicable, opt-out and/or opt-in consents) as may be necessary or appropriate for Valassis to perform the Services with such data.

14. **CLIENT MATERIAL.** Client may provide material for Valassis to use to perform the Services, such as advertising materials, client supplied inserts, and other information ("Client Material"). Client shall provide sufficient quantity of Client Material and otherwise provide Client Material in accordance with Valassis's then-current guidelines and specifications by the deadlines provided by Valassis. In the event Client fails to comply with these guidelines and specifications, delays and/or additional charges may result for which Client will be liable. Valassis may reject any Client Material submitted for advertising if Valassis determines, in its sole discretion, that such material: i) is in poor taste or potentially offensive to others; ii) disparages another person, entity, or product/service; or iii) fails to comply with federal, state, or local laws, statutes, rules or regulations ("Law") or Valassis's advertising acceptance policies.
15. **OWNERSHIP OF INTELLECTUAL PROPERTY.**
 - A. **Valassis Intellectual Property.** Except as expressly set forth herein, Valassis (and its licensors, where applicable) will retain all intellectual property rights relating to the Services or to any service customizations or modifications, or other information provided by any Valassis third party. Client will not copy, distribute, reproduce or use any Valassis intellectual property except as expressly permitted. All material, services, information and technology furnished by Valassis or prepared by or on behalf of Valassis in the course of performing the Services will remain the property of Valassis or its providers.
 - B. **Client Intellectual Property.** Client Material will remain the property of Client. Client grants Valassis and its licensors and agents a limited, perpetual, irrevocable, world-wide, nonexclusive, royalty-free license to use, reproduce, electronically distribute, display, process and create derivative works from Client Material for the purpose of providing the Services to Client and to test, improve, augment and enhance the Services and other Valassis products and services, provided that such usage does not disclose personal data or identify Client. Client represents and warrants that it owns or possesses all right, title and interest in and to the Client Material as provided by Client, and has the right to grant the foregoing license to Valassis. Client further represents, warrants and covenants that Client Material provided to Valassis provided electronically shall not contain any worms, Trojan horses, viruses, trap doors or similar issues. Client shall indemnify Valassis for any and all claims, suits, judgments, proceedings, losses, damages, fines, costs and expenses (including reasonable attorneys' fees) arising out of or relating to any breach by Client of this section.
16. **CLIENT OBLIGATIONS.** Client represents and warrants that it has the authority to allow Valassis to use any Client Material pursuant to this Agreement, including but not limited to the necessary licenses and permission to use any copyrighted material, trademarks, graphics or other content contained in the Client Material and that the Client Material complies with all Laws. Client is solely responsible for the advertising content and message of any Client Material submitted for advertising or any other Client-approved materials or information.
17. **VALASSIS OBLIGATIONS.** Valassis represents and warrants to use commercially reasonable efforts to provide Services in accordance with the SM Order. Valassis's obligation for breach of this warranty is for Valassis to perform one of the following actions, as selected by Valassis in its sole discretion: i) Valassis will use commercially reasonable efforts to correct defective Services in breach of this Agreement ("Defective Services") at no additional charge to Client, provided that, unless Valassis otherwise agrees in writing, Client gives Valassis specific written notice of the Defective Services within 10 business days after the Services are performed; or ii) Valassis will refund or credit the fees associated with such Defective Services. **THE FOREGOING REMEDIES SHALL BE THE CLIENT'S SOLE AND EXCLUSIVE REMEDY AND VALASSIS'S ENTIRE LIABILITY FOR ANY BREACH OF THE LIMITED WARRANTY SET FORTH IN THIS AGREEMENT OR OTHERWISE RELATING TO THE PERFORMANCE OF THE SERVICES.**
18. **DISCLAIMER OF OTHER WARRANTIES. THE FOREGOING WARRANTY IS THE EXCLUSIVE WARRANTY FOR THE SERVICES AND VALASSIS EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTY OF MERCHANTABILITY, WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, AND WARRANTY AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, VALASSIS DOES NOT WARRANT ANY RESULTS CLIENT MAY OBTAIN THROUGH SERVICES SUPPLIED BY VALASSIS.**
19. **LIMITATION OF LIABILITY. VALASSIS'S OBLIGATIONS AS STATED ABOVE ARE IN LIEU OF ALL LIABILITIES AND OBLIGATIONS OF VALASSIS IN CONNECTION WITH THIS AGREEMENT. FURTHER, IN NO EVENT WILL VALASSIS BE LIABLE FOR: I) ANY DIRECT DAMAGES IN EXCESS OF THE FEES PAID BY CLIENT TO VALASSIS FOR THE SPECIFIC SERVICES GIVING RISE TO THE DAMAGES; OR II) ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES EVEN IF VALASSIS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THESE LIMITATIONS SHALL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.**
20. **INDEMNIFICATION.** Client shall defend, indemnify and hold Valassis, its affiliates and their respective employees, contractors, advisors, representatives, and agents ("Valassis Parties") harmless from all claims, suits, judgments, proceedings, losses, damages, costs and expenses (including reasonable attorneys' fees) arising out of or relating to Client Material, unless due to Valassis's gross negligence or willful misconduct.
21. **CONFIDENTIALITY.** "Confidential Information" means any nonpublic, confidential, or proprietary information disclosed by one Party ("Discloser") to the other Party ("Recipient"), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure, including but not limited to this Agreement and the rates for the Services. Both parties agree to take reasonable precaution to protect each other's Confidential Information and keep it confidential. This obligation shall survive the termination of this Agreement for 3 years after such termination. Recipient shall not release Confidential Information to anyone except an employee, representative, contractor, financing source, advisor, or agent of Recipient or its affiliates ("Representatives") who has a need to know same for purposes of this Agreement and is bound by an obligation to keep such Confidential Information confidential. Confidential Information does not include any information that: i) is or becomes generally known to the public without breach of any obligation owed to Discloser; ii) was known to Recipient prior to disclosure by Discloser without breach of any obligation owed to Discloser; iii) is received from a third party having the right to possess and disclose the information; or iv) was independently developed by or for Recipient as evidenced by written or other tangible evidence. Notwithstanding the foregoing, Recipient may disclose Confidential Information in response to a valid order by a court or other governmental body, as otherwise required by applicable Laws, or as necessary to enforce its rights under this Agreement. Client acknowledges and agrees that, notwithstanding the foregoing or any other provision to the contrary, its information may be used for



analytical purposes and Valassis and its affiliates may disclose and use aggregated, summarized and/or anonymous data relating to the Services or the results thereof.

22. **TERMINATION.** A Party may terminate this Agreement if the other Party commits a material breach and fails to cure such breach within 30 days of receiving written notice of such breach. Upon the termination of this Agreement, Client shall pay Valassis the fees for all Services provided pursuant to this Agreement, all fees and expenses incurred by Valassis relating to the terminated Services or arising from or relating to such termination, and any applicable cancellation fees relating to the Services. For avoidance of doubt, the foregoing does not affect Valassis's rights or remedies for breach. In the event that Client purchases Services after the termination of this Agreement and has not entered into a new agreement in writing with Valassis relating to such Services then the terms of this Agreement shall remain in effect, except for rates.
23. **AGENT.** If an agent ("Agent") is signing this Agreement on behalf of its Client(s), Agent warrants that it is duly authorized to act on behalf of and bind such Client(s) to this Agreement, and agrees to indemnify, defend and hold Valassis and the Valassis Parties harmless from any and all claims, suits, judgments, proceedings, losses, damages, fines, costs and expenses (including reasonable attorneys' fees) arising out of or relating to a breach of the foregoing warranty. Further, Agent must provide Valassis the following information to properly establish Client's commitment to pay all payment obligations (including indemnity obligations) under this Agreement: i) documentation from Client(s) guaranteeing Client's payment of all charges and fulfillment of all obligations under this Agreement; and ii) the necessary credit information requested by Valassis, if applicable. If Agent fails to provide the foregoing Client information, Agent guarantees payment of the charges under this Agreement, including indemnification provisions.
24. **GENERAL PROVISIONS.**
- A. **Assignment.** Client shall not assign any of its rights or obligations under this Agreement without Valassis's prior written consent. Any purported assignment or delegation in violation of this Section is null and void.
 - B. **Compliance.** Each Party shall comply with all Laws applicable to the performance of their rights and obligations under this Agreement.
 - C. **No Waiver.** No waiver of any right under this Agreement shall be deemed effective unless contained in writing and signed by the waiving Party. No failure or delay by either Party in enforcing any right or remedy under this Agreement shall be construed as a waiver.
 - D. **Force Majeure.** Neither Party will be liable for any delay or failure in its performance, except the making of payments, due to causes which are beyond its reasonable control, including but not limited to, an act of God, an act of civil or military authority, fire, epidemic, flood, earthquake, hurricane, riot, war, sabotage, terrorist attack, financial or other crisis, failure of supplier or governmental action.
 - E. **Governing Law.** This Agreement will be governed in accordance with the laws of the state of Michigan, without regard to conflict of law principles. Each Party hereby consents and submits to the exclusive jurisdiction of any federal or state courts sitting in Michigan in any action, suit, or proceeding arising out of or based upon this Agreement.
 - F. **Severability.** If any provision of this Agreement is held invalid, illegal or unenforceable, such provision shall be deemed not to form part of this Agreement and shall be amended and interpreted so as to best accomplish the objectives of the original provision to the fullest extent allowed and the remaining provisions of this Agreement shall remain in full force and effect.
 - G. **Entire Agreement.** This Agreement constitutes the entire agreement between the Parties as to the subject matter hereof and supersedes all prior or contemporaneous understandings, agreements, and negotiations, both written and oral, between the Parties. The terms set forth in this Agreement prevail over any of Client's terms and conditions of purchase. Any Client issued purchase or insertion order is for Client's internal administrative purposes only, and does not serve to modify or amend the terms in this Agreement, even if acknowledged, executed, or processed. Further, any additional or different terms presented by Client that may accompany an order are expressly refused and Valassis's acceptance of such an order does not constitute acceptance of the additional or different terms.
 - H. **Amendment.** This Agreement may only be amended in a written document executed by the Parties. Notwithstanding anything to the contrary contained in this Agreement, Valassis may, from time to time, change its service offerings without the consent of Client provided that such changes do not materially affect the nature or scope of the Services, or the fees or any performance dates set forth herein.
 - I. **Independent Contractors.** The Parties are independent contractors and have no power to bind, contract in the name of or create any responsibility for or liability against the other Party. Nothing contained in this Agreement shall be deemed to constitute a partnership or any other form of legal association between the Parties.
 - J. **Publicity and Marketing.** Neither Party will issue any publication regarding this Agreement, such as a media release, press release or any other advertisement, without the prior written consent of the other Party; provided, however, that Valassis and its affiliates may use Client's name, logo, and any published advertisements on marketing materials and/or customer lists.
 - K. **Survival.** All rights and obligations pursuant to this Agreement which by their wording or nature shall continue after termination of this Agreement shall survive any termination or expiration of this Agreement, including but not limited to the provisions regarding Ownership of Intellectual Property, Limitation of Liability, Indemnification, Governing Law, and Survival.
 - L. **Acceptance of Agreement.** This Agreement may be executed in counterparts by the Parties, each of which constitutes one instrument. A signature of a Party sent by electronic transmission shall constitute an original and fully effective signature of the Party. This Agreement may also be accepted electronically or as incorporated as part of an order.