

**UNITED STATES POSTAL SERVICE**  
**NCOA<sup>Link</sup> END USER LICENSE AGREEMENT**

THIS AGREEMENT LICENSES THE USE OF THE NCOA<sup>Link</sup> PRODUCT TO AN “END USER LICENSEE” and is effective on the date signed by the United States Postal Service, by and between:

(Licensee) \_\_\_\_\_,

a \_\_\_\_\_ [insert type of entity] registered and in good standing under the laws of the State of \_\_\_\_\_, having its principal place of business at:

(Address) \_\_\_\_\_

(City) \_\_\_\_\_ (State) \_\_\_\_ (ZIP+4) \_\_\_\_\_ - \_\_\_\_\_, and the

United States Postal Service (USPS), with offices at NCOA<sup>Link</sup> Product Department, National Customer Support Center (NCSC), 6060 Primacy Pkwy, Suite 201, Memphis TN 38188-0001.

LICENSE AGREEMENT Number: 692301-03-NCOA-XXXXX

In consideration of the grant and mutual covenants set forth herein, the parties agree as set forth below:

***Summary of the Agreement***

- USPS has created a highly encrypted, confidential, and proprietary system for updating mailing addresses to which USPS delivers; this system is referred to herein as the “NCOA<sup>Link</sup> Product” and is further defined below.
- USPS wants to facilitate the use of the NCOA<sup>Link</sup> Product in commercial systems to update the address information in mailing lists used to prepare items for processing and delivery by USPS; and Licensee wishes to use the NCOA<sup>Link</sup> Product in one of these commercial systems.
- To enable the nonexclusive use of the NCOA<sup>Link</sup> Product, USPS has licensed to various entities the development, distribution, and use of software interface products that interact with the NCOA<sup>Link</sup> Product; these software interface products may be either stand alone products or components of multi-application products.
- Licensee has, is developing, or is obtaining directly or indirectly through rights granted by USPS one or more software interface products for each system platform on which it proposes to use the NCOA<sup>Link</sup> Product that it licenses from USPS. Licensee wishes to enter into a nonexclusive License with USPS to use the NCOA<sup>Link</sup> Product.

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*Specifics of the Agreement*

**1. Definitions and Certain Limitations**

- 1.1. **“Deliverables”** means letters, flats, postcards, packages, leaflets, magazines, postcards, advertisements, books, and other printed material, and any other item delivered by USPS.
- 1.2. **“Entity”** means a single corporation, partnership, non-for-profit organization, or an individual person (i.e., a sole proprietorship), in good standing, licensed and registered to do business in one or more states and excludes any party or affiliation(s) of parties, that is not recognized as a legal entity by the laws of the state(s) in which it conducts business.
- 1.3. **“Field of Use”** means use in mailing operations to prepare Deliverables for delivery by USPS.
- 1.4. **“Intellectual Property Rights”** means the various rights and responsibilities that USPS possesses or acquires under the law in effect in the United States of America in the NCOA<sup>Link</sup> Product and Licensed Materials (defined below), including, but not limited to, the laws concerning privacy, copyrights, inventions, patents, trademarks, and trade secrets.
- 1.5. **“Interface Product”** means a software interface product for use with the NCOA<sup>Link</sup> Product (defined below) to Update (defined below) Mailing Lists (defined below), which contains an interface licensed and certified by USPS and may or may not be bundled in the software product with other features, functions, applications and that a USPS-licensed Distributor packaged into a commercially available product or that Licensee may itself have developed for use with the NCOA<sup>Link</sup> Product.
- 1.6. **“License Fee Schedule”** means the fees shown on Exhibit A, attached hereto and made a part hereof, as may be modified by USPS from time to time.
- 1.7. **“Licensed Materials”** means:
  - 1.7.1. The NCOA<sup>Link</sup> Product.
  - 1.7.2. The test files having the features and attributes of the NCOA<sup>Link</sup> Product that USPS provides to Licensee for the purpose of testing the software Interface products.
  - 1.7.3. The Licensee Performance Requirements.
  - 1.7.4. All whole or partial copies on any media, adaptations, improvements, modifications, translations, derivative works, compilations, partial copies within

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modifications, including merges with other materials (from whatever source) and updates based on the foregoing, of the NCOA<sup>Link</sup> Product that are provided to Licensee by USPS in connection with this Agreement.

- 1.8. **“Licensee Performance Requirements”** refers to the most current copy of the End User Licensee Performance Requirements displayed by USPS upon its designated web site, as updated from time to time and incorporated herein by reference; under no circumstance shall USPS be responsible for Licensee’s failure to possess the most current copy of the Licensee Performance Requirements.
- 1.9. **“Mailing List”** means a list, system, group, or other collection of **at least 100** unique names and addresses used for addressing Deliverables for **delivery by USPS**.
- 1.10. **“NCOA<sup>Link</sup> Product”** means the highly encrypted, confidential, and proprietary system provided by the USPS for Updating address information in Mailing Lists.
- 1.11. **“Platform”** means the type of computer on which a given operating system or application runs for which Licensee obtained a certified Interface Product(s).
- 1.12. **“Site”** means the physical location(s) identified in the application(s) submitted to and accepted by USPS, as amended from time to time.
- 1.13. **“Territory”** means places of business operating within the geographic boundaries of the United States, its territories, and possessions.
- 1.14. **“Update”** means to identify the old or out-dated information in an address on a Mailing List and to provide the current replacement information.
- 1.15. **“USPS Trademarks”** means the USPS-owned trademarks NCOA<sup>Link</sup> and the USPS-owned and registered trademarks UNITED STATES POSTAL SERVICE®, POSTAL SERVICE®, US POSTAL SERVICE®, and USPS®.

## **2. Sole Purpose and Scope**

- 2.1. The purpose of this Agreement is to license the NCOA<sup>Link</sup> Product and the other Licensed Materials to an Entity for use in the Field of Use at the Site(s) with the Interface Product on one or more Platforms to Update that Entity’s Mailing Lists used to prepare that Entity’s Deliverables for delivery by the USPS.
- 2.2. The scope of this License does not permit any use of information, data, software, systems, updates, or the like obtained or derived from or based on or incorporating directly or indirectly the Licensed Materials, in whole or in part, for any purpose inconsistent with this Agreement, including but not limited to creating or maintaining

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- any derivative products that incorporate data obtained, directly or indirectly, from the Licensed Materials, either in whole or in part other than as expressly agreed to herein
- 2.3. Licensee has no right to develop or use the NCOA<sup>Link</sup> Product or any NCOA<sup>Link</sup> related product, service, interface, Interface Product, or any related item or technology to compile or maintain a list or collection of names and addresses, or of addresses only, of new movers or to create other products or data bases or collections of information concerning new movers, histories of address changes, lists or histories of residents, or other informational or data sources based upon information received from or through the NCOA<sup>Link</sup> Product or related technology for the purpose of renting, selling, transferring, disclosing, making available or otherwise providing such information to an individual or entity unrelated to Licensee.
- 2.4. For the purposes of communicating with addressees on Licensee's Mailing Lists and for the purpose of record-keeping, however, Licensee is permitted to retain Updated addresses so long as not used in violation of Section 2.3, for individuals and entities with whom it has or has had a business relationship, in connection with which it will use the Updated address; however, these Updated addresses may only be used by Licensee and Licensee may use them only for carrying out Licensee's organizational purposes in connection with that individual or entity and may not transfer, disclose, license or distribute to, or be used by any other entity or individual *whatsoever*.
- 2.5. No proprietary Mailing List that contains or conveys both old and corresponding Updated address records, or any service product or system of lists that can be used to link or to convey old and corresponding Updated address records, if Updated by use of the NCOA<sup>Link</sup> Product, shall be rented, sold, transferred, disclosed, made available, or otherwise provided, in whole or in part to Licensee's customers or any other individual or entity.

**3. The USPS Grant**

- 3.1. So long as exercised strictly in accordance with the terms and conditions set forth in this Agreement, USPS grants to Licensee in the Territory for the Term (unless terminated or suspended as set forth below), a non-exclusive, non-transferable, revocable license within the Scope and Purpose set forth above to use the NCOA<sup>Link</sup> Product with an Interface Product in the Field of Use on one or more Platforms at the Site(s) to Update Licensee's Mailing Lists; however, this grant is contingent upon:

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- 3.1.1. Licensee maintaining its status as an Entity; and
- 3.1.2. compliance with the Licensee Performance Requirements, including changes or requirements made or added to them by USPS from time to time, which shall be solely within USPS' discretion and which could include but are not limited to changes to the design, function, reporting requirements, or other components.
- 3.2. The grant of this license does *not* include the right to sublicense, sell or otherwise publicly distribute, reproduce, publicly perform, or prepare derivative works of the Licensed Materials;
  - 3.2.1. any efforts to do so shall be in breach of this Agreement;
  - 3.2.2. should any rights arise out of such efforts, Licensee agrees that such rights shall belong to USPS and promises to assign such rights to USPS in writing or to take such other steps as are necessary to effect a transfer of rights; and
  - 3.2.3. any attempt to sublicense this license shall be void;
- 3.3. The grant of this license does *not* grant Licensee a right to develop or use the NCOA<sup>Link</sup> Product, the Licensed Materials, or any related technology to compile or maintain address information concerning new movers or to create other products based upon information received from or through the NCOA<sup>Link</sup> Product technology.

**4. Licensee Obligations:**

- 4.1. Licensee acknowledges its obligation and its agreement to use the NCOA<sup>Link</sup> Product and other Licensed Materials strictly within the Scope and Purpose of this Agreement as set forth above and in accordance with the Licensee Performance Requirements.
- 4.2. Licensee agrees that to use the NCOA<sup>Link</sup> Product and other Licensed Materials outside of the Scope and Purpose breaches the terms of this Agreement.
- 4.3. Licensee acknowledges and agrees that this Agreement does not include any right to disassemble, reverse engineer, outsource, publicly distribute, or sublicense the NCOA<sup>Link</sup> Product or compile data from or using the NCOA<sup>Link</sup> Product.
- 4.4. Licensee alone, to the exclusion of USPS, has the responsibility to possess and/or maintain contemporaneous access to the most current copy of the Licensee Performance Requirements as well as any changes and/or new requirements made from time to time by USPS. The most current copy of the Licensee Performance Requirements shall be available upon the designated USPS web site.

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**5. Representations and Acknowledgments**

- 5.1. USPS represents that it is the sole owner of the Intellectual Property Rights in the Licensed Materials and the USPS Trademarks.
- 5.2. Licensee agrees and acknowledges that USPS is the sole owner of the Intellectual Property Rights in the Licensed Materials, including the NCOA<sup>Link</sup> Product, and any subsequent revisions thereof.

**6. Use Restrictions and Compliance Testing**

- 6.1. Licensee at all times shall comply with the terms and conditions of all other License Agreements which Licensee has entered into with USPS. Licensee will properly execute and maintain as current all licenses required to use the Licensed Materials in accordance with this License Agreement and will pay all fees required under this Agreement prior to using the Licensed Materials.
- 6.2. Prior to using the Licensed Materials to Update Mailing Lists, the Licensee must:
  - 6.2.1. permit USPS to test the performance of Licensee's systems that use the Licensed Materials to ensure compliance with the Licensee Performance Requirements.
  - 6.2.2. receive written notification from USPS that USPS has completed its testing of Licensee's systems and approves Licensee's use of the Licensed Materials in its systems as tested.
- 6.3. USPS reserves the right to make any and all changes within the Licensed Materials as it deems necessary, including in the design, function, reporting requirements, or other components established within the Licensee Performance Requirements.
  - 6.3.1. Licensee shall include all changes to the Licensed Materials in its use of the NCOA<sup>Link</sup> Product within sixty (60) calendar days of receipt. Only those changes tested and approved in writing by USPS shall be implemented by Licensee.
- 6.4. In the event Licensee modifies its systems for using the Licensed Materials for reasons unrelated to USPS change of the Licensed Materials, Licensee shall, under the direction of USPS, test the performance of Licensee's systems that use the Licensed Materials to ensure compliance with the Licensee Performance Requirements. Only those modifications tested and approved in writing by USPS shall be implemented by Licensee.

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- 6.5. Licensee shall, under the direction of USPS, test the performance of Licensee's systems that use the Licensed Materials at least once during each Term of this Agreement to ensure compliance with the Licensee Performance Requirements. Only those systems tested and approved in writing by USPS shall be operated by Licensee.
- 6.6. In the event that USPS determines that Licensee's systems for using the Licensed Materials do not meet USPS Licensee Performance Requirements, Licensee must elect either to terminate this License Agreement, or remedy the inadequacies of its system and shall, under the direction of USPS, re-test the performance of Licensee's systems. USPS may consider failure of Licensee to meet the Licensee Performance Requirements after three consecutive tests to be a default under this Agreement.
- 6.7. USPS may conduct any of its tests remotely or at Licensee's Site(s). In the event that Licensee uses the Licensed Materials with more than one Platform at a Site, USPS shall conduct tests on all Platforms. Licensee shall be required to pay fees for tests for each Platform as set forth in the Licensee Fee Schedule.
- 6.8. Within ten (10) calendar days of notification, Licensee shall remit payment to USPS in accordance with the License Fee Schedule. USPS may consider failure by Licensee to remit such payments in a timely manner to be a default under this License Agreement.

**7. *The Term Of This Agreement***

- 7.1. The Term of this License Agreement shall commence on the date of execution of this License Agreement by all parties, and continue until the following September 30<sup>th</sup>, unless earlier terminated pursuant to Section 9.
- 7.2. Provided that Licensee has received no notice of suspension, default, or termination under this License Agreement or other License Agreement with USPS, Licensee may elect to extend the Term of this License Agreement for an additional one-year Term, commencing on October 1 of each year, by payment to USPS of the required annual license fee no less than thirty (30) days prior to the expiration of this License Agreement.
- 7.3. The Term of the License agreement, as extended on an annual basis, shall not exceed ten (10) years.

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**8. Payment**

- 8.1. In consideration for the Licensee to use the Licensed Materials, Licensee shall pay to USPS within ten (10) calendar days of the execution of this Agreement an annual License fee in the amount set forth in the License Fee Schedule. USPS may consider failure by Licensee to pay any fees due to USPS, including test fees, under this or other License Agreement with USPS as a reason for issuing a notice of suspension or termination.
- 8.2. In consideration for the use of the Licensed Materials after the expiration of the initial one-year Term of this License Agreement, in the event Licensee elects to renew the Term of the License Agreement as set forth above, Licensee shall pay to USPS, no later than thirty days prior to the expiration of the Term of the License Agreement the annual license fee in the amount set forth in the License Fee Schedule.
- 8.3. USPS shall have the right to modify any or all fees associated with this License Agreement after the end of the first one-year Term, and at the end of any or all subsequent one-year Terms, by informing Licensee of such price modification. USPS shall inform Licensee of price increases at least ninety (90) days prior to the effective date of the price increases.
- 8.4. Licensee may elect to terminate this License Agreement upon receipt of License Fee Schedule with price increases by providing USPS written notice within thirty (30) days after receipt of License Fee Schedule with price increases. Termination of this License Agreement by Licensee subsequent to receipt of License Fee Schedule with price increases shall not relieve Licensee of any obligations under this License Agreement until the cancellation effective date.

**9. Termination and Suspension**

- 9.1. Notwithstanding the Term of the License Agreement established herein, either party may terminate this License Agreement upon sixty (60) days written notice to the other party except as provided in Section 9.2 below.
  - 9.1.1. In the event that the termination effective date does not correspond with the expiration of the current Term of this License Agreement, USPS shall allow the continued use of the Licensed Materials through the termination date. Licensee shall pay all license fees set forth in this License Agreement on a pro-rated basis for the time period between the end of the Term of the current

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License Agreement and the termination date specified by USPS in the event the termination date extends beyond the Term of the License Agreement.

- 9.2. If USPS determines that Licensee at any time during the Term of this License Agreement fails to comply with or fulfill any of the terms or conditions hereof, or the Licensee Performance Requirements, USPS may, solely at its discretion, terminate this License Agreement by sending Licensee a notice of termination. The notice shall state the reasons for the termination and provide Licensee with a period of thirty (30) days to cure all defects and avoid termination.
- 9.3. USPS shall incur no liability for any reason due to the termination of this Agreement.
- 9.4. If the Licensee at any time during the Term of this License Agreement fails to comply with any of the terms or conditions of this License Agreement or any other License Agreement with USPS, USPS may, solely at its discretion, as an interim measure in lieu of termination, suspend Licensee's right to use the Licensed Materials or the USPS Trademarks by sending Licensee a notice of suspension. Upon receiving notification of the suspension, Licensee shall cease the activities specified by USPS until authorized in writing by USPS that the activities may be resumed. USPS shall not be obligated to continue to provide the Licensed Materials to Licensee for its own use, nor shall USPS be obligated to reimburse any fees for use of the Licensed Materials.
- 9.5. Upon expiration or termination of the Agreement, Licensee shall immediately:
  - 9.5.1. destroy and/or deliver to USPS the NCOA<sup>Link</sup> Product and all other Licensed Materials along with all whole or partial copies thereof; and
  - 9.5.2. deliver to the USPS a notarized statement signed by an officer of Licensee confirming return and/or destruction of the items identified above.
- 9.6. Notwithstanding any such expiration or termination, Licensee shall remain obligated to abide by the confidentiality provisions of this Agreement.
- 9.7. No waiver by either party of a breach or a default of this Agreement shall be deemed a waiver by such party of a subsequent breach or default of a like or similar nature.
- 9.8. Resort by USPS to any remedies referred to in this Agreement or arising by reason of a breach of this Agreement by Licensee shall not be construed as a waiver by USPS of its right to resort to any and all other legal and equitable remedies available to USPS.

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**10. Limitation of Liability**

Other than as specifically set forth in this Agreement, USPS makes no representations or warranties, express or implied, as to merchantability, fitness for any particular purpose or otherwise with respect to the NCOA<sup>Link</sup> Product or the other Licensed Materials, nor shall USPS be liable for any special, incidental or consequential damages even if it has been or is hereafter advised of the possibility of such damages. USPS shall not be liable for any design, performance or other fault or inadequacy of the NCOA<sup>Link</sup> Product or the other Licensed Materials, or for damages of any kind arising out of or in any way related to or connected with such fault or inadequacy.

**11. Indemnity**

- 11.1. USPS agrees to hold harmless, defend and indemnify Licensee for infringement of any U.S. intellectual property rights in the Licensed Materials. The foregoing obligation shall not apply unless (1) USPS shall have been informed within ten [10] calendar days from when Licensee learned of the suit or action alleging such infringement and (2) USPS shall have been given such opportunity as is afforded by applicable laws, rules, or regulations to participate in the defense thereof.
- 11.2. Licensee agrees to hold harmless, defend and indemnify USPS for infringement of any U.S. intellectual property rights arising out of Licensee's modification to or development of applications, materials, software or anything else for use with the NCOA<sup>Link</sup> Product. In addition, Licensee agrees to hold harmless, defend and indemnify USPS and its officers, agents, representatives, and employees from all claims, losses, damage, actions, causes of action, expenses, and/or liability resulting from, brought forth, or on account of any injury or damage received or sustained by any person, persons or property growing out of, occurring, or attributable to any work performed under or related to this License, resulting in whole or in part from any breach of this Agreement or from the negligence or intentional misconduct, including any unauthorized disclosure or misuse of the Licensed Materials, by Licensee, or any employee, agent, or representative of Licensee.

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**12. Confidentiality of the NCOA<sup>Link</sup> Product, Licensed Materials and Change of Address Information**

- 12.1. The NCOA<sup>Link</sup> Product and the other Licensed Materials are confidential and proprietary to USPS and shall remain the property of USPS. Nothing contained in this Agreement shall give Licensee any right, title, or interest in or to the NCOA<sup>Link</sup> Product or the other Licensed Materials except as the recipient of the license granted in this Agreement.
- 12.2. Licensee agrees to hold all information concerning the NCOA<sup>Link</sup> Product and the other Licensed Materials in trust, to disclose said information only in accordance with the provisions of this Agreement, to take all reasonable steps (including as a minimum, but not limited to, those steps necessary to comply with Sections 12.4 and 18 of this Agreement) to safeguard the confidentiality of the NCOA<sup>Link</sup> Product and the other Licensed Materials and any or all parts thereof and to prevent unauthorized disclosure thereof by Licensee's employees, agents, representatives, and customers.
- 12.3. Unauthorized disclosure includes:
- 12.3.1. use of information, data, software, systems, updates, or the like obtained or derived from or based on or incorporating directly or indirectly the Licensed Materials, in whole or in part, for any purpose inconsistent with this Agreement, including but not limited to creating or maintaining any derivative products that incorporate data obtained, directly or indirectly, from the Licensed Materials, either in whole or in part other than as expressly agreed to herein; and
- 12.3.2. to develop or use the NCOA<sup>Link</sup> Product or any NCOA<sup>Link</sup> related product, service, interface, Interface Product, or any related item or technology to compile or maintain a list or collection of names and addresses, or of addresses only, of new movers or to create other products or data bases or collections of information concerning new movers, histories of address changes, lists or histories of residents, or other informational or data sources based upon information received from or through the NCOA<sup>Link</sup> Product or related technology for the purpose of renting, selling, transferring, disclosing, making available or otherwise providing such information to an individual or entity unrelated to Licensee.
- 12.4. Licensee agrees to provide security for all Licensed Materials and the NCOA<sup>Link</sup> Product that is equal to or greater than the level of security necessary for compliance

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with the USPS *ADP Security Handbook* (Handbook AS-805), a copy of which may be obtained from the USPS designated web site.

- 12.4.1. At all times, Licensee shall maintain (a) appropriate security controls to restrict access to the hardware, software (including the server and workstations), and data used in connection with the NCOA<sup>Link</sup> Product and to ensure a secure environment for maintaining that hardware, software, and data, (b) personnel and management policies sufficient to provide reasonable assurance of the trustworthiness and competence of its employees and the satisfactory performance of their duties and in accordance with all applicable laws, rules and regulations, and (c) appropriate computer and network security controls, including the use of reasonable security procedures which are sufficient to ensure that documents, notices and other information specified in this Agreement that are electronically created, communicated, processed, stored, retained, or retrieved are authentic, accurate, reliable, complete, and confidential, and that business records and data are protected from improper access.
- 12.5. To ensure the confidentiality of address information in the NCOA<sup>Link</sup> Product, Licensee shall ensure that none of its employees or any other individual or entity disclose to any third party any address information obtained through use directly or indirectly of the NCOA<sup>Link</sup> Product.
- 12.6. Licensee agrees to control and restrict any access to address information in or from the NCOA<sup>Link</sup> Product to employees or other persons who need it to perform work for Licensee under this Agreement.
- 12.7. Due to the sensitive nature of the confidential and proprietary information contained in the Licensed Materials, Licensee acknowledges that unauthorized use and/or disclosure of Licensed Materials will irreparably harm USPS's right to control its intellectual property. Accordingly, Licensee (a) agrees to reimburse USPS for any unauthorized use and/or disclosure at a rate of treble (3) times the current annual fee charged to Licensee under this License Agreement or treble the total revenue Licensee obtained through its used of the Licensed Materials during the period of breach, whichever amount is greater, and (b) consents to such injunctive, equitable or other monetary relief as a court of competent jurisdiction may deem proper.

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**13. Proprietary Notice**

Any copies of the NCOA<sup>Link</sup> Product or Licensed Materials produced by Licensee shall have a notice identifying the same as the confidential and proprietary property of USPS.

**14. Audit and Inspection Rights**

- 14.1. To the extent reasonably necessary to ensure Licensee's use of the USPS Trademarks and Licensed Materials in compliance with the Terms of this Agreement, USPS, through its employees or agents, may inspect, audit or perform reviews of Licensee's books and records, and the performance of Licensee's systems relating to the use of the NCOA<sup>Link</sup> Product, Interface Product or the Licensed Materials. In the event USPS determines that Licensee is not complying with any USPS requirements, USPS shall have the right to require an additional inspection, audit or review at the cost and expense of Licensee or issue a notice of suspension or termination.
- 14.2. USPS, or its designated agents or representative, shall have the right to visit Licensee's premises and examine Licensee's computer systems, processing files, documents, and other materials relating to the use of the Licensed Materials with or without notice to Licensee. Licensee shall provide USPS or its agents access during normal business hours to the premises, books, and records that relate to the use of the Licensed Materials and the USPS Trademarks by Licensee.
- 14.3. Books and records that relate to the use of the NCOA<sup>Link</sup> Product and Licensed Materials shall be retained in accordance with USPS's retention guidelines, but for no less than three (3) years after Licensee's final payment under this Agreement. USPS or its designated agents or representatives shall have the right to examine any such materials during this three-year period. Notwithstanding the foregoing, USPS may inspect, at any time, use of the USPS Trademarks on Licensee's web site.

**15. No Partnership or Joint Venture**

This Agreement does not create a partnership or joint venture between the parties and Licensee shall have no power to obligate or bind USPS in any manner whatsoever.

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**16. Notices**

All notices under this Agreement, except as set forth in the Licensee Performance Requirements for routine matters, shall be given in writing, and sent to the address of each party as set forth in this Agreement, by either U.S. Certified Mail, return receipt requested, postage paid, or by nationally-recognized overnight service. All such notices shall be effective upon receipt.

**17. Governing Law**

This Agreement shall be governed by the federal laws of the United States of America, or, when no such law is applicable, then by the laws of the State of New York as interpreted by the United States Court of Appeals for the Second Circuit.

**18. Applicable Law Compliance**

- 18.1. The NCOA<sup>Link</sup> Product, in particular, the address information contained therein, are governed by the provisions of 39 U.S.C. §412, which prohibits the disclosure of address lists. Accordingly, Licensee shall take all steps necessary to secure the NCOA<sup>Link</sup> Product in a manner that fully complies with the Section 412. Licensee shall ensure that it does not use the NCOA<sup>Link</sup> Product for the purpose of creating or maintaining new mover mailing lists.
- 18.2. Licensee shall adopt all security measures identified within the Licensee Performance Requirements to detect cases where names and address records have been artificially generated and presented to the NCOA<sup>Link</sup> Product for the apparent purpose of creating a new mover mailing list.
- 18.3. The NCOA<sup>Link</sup> Product is a derivative of National Change of Address (NCOA). NCOA is a system of records as defined in subsection (a) (5) of the Privacy Act of 1974, 5 United States Code 552a (the "Act"), and is subject to the provisions of the Act, and 39 CFR 266-268. Licensee shall use the NCOA<sup>Link</sup> Product for the preparation of Deliverables that will be submitted to the United States Postal Service for delivery and, in accordance with subsection (m) (i) of the Act, shall fully comply with the requirements of the Act while the information is in Licensee's custody. Included among these requirements are: (1) The prohibition against the disclosure or use of the information for any purpose other than to Update addresses on pre-existing address mailing lists; (2) Maintenance of an accurate accounting of all disclosures of the information in accordance with subsection (c) of the Act; and (3) Provision of rules of

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conduct and instruction for employees and institution of procedural and physical safeguards to ensure the security of the information in accordance with subsections (e) (9) and (e) (10) of the Act. Pursuant to subsection (m)(i) of the Act, Licensee and its employees are subject to the criminal penalties set out in subsection (i) (1) of the Act for any willful disclosure prohibited by the Act.

18.4. Licensee acknowledges that the export of the Licensed Materials may be subject to compliance with the Export Administration Act Regulations of the United States Department of Commerce, as amended, and other export controls of the United States (“Export Laws”). Licensee agrees that it will comply with such Export Laws and that it will not export or re-export any Licensed Materials or direct products thereof in violation of such Export Laws.

**19. Jurisdiction and Venue**

Each party submits to the exclusive jurisdiction of the United States District Court for the Eastern District of Virginia with respect to any proceeding arising under or relating to this Agreement and waives any objection it may have to the venue or jurisdiction of this court in any such proceeding.

**20. Entire Agreement**

This Agreement constitutes the entire Agreement between USPS and Licensee concerning the subject matter thereof and supersedes all previous agreements and understandings. This Agreement may not be altered, amended, or modified except by a written instrument signed by authorized representatives of USPS and Licensee. In the event Licensee alters this Agreement prior to execution by USPS, this Agreement shall be null and void.

**21. Non-Transferable**

21.1. This License shall not be transferable, in whole or in part. The rights and obligations of Licensee shall be terminated immediately in the event of the death of Licensee (if an individual) or, dissolution, merger, buy-out, or transfer (of any kind) of the assets of Licensee (if other than an individual). In case of an attempt to transfer this Agreement in whole or in part, this Agreement shall be void.

21.2. Any change to the personnel, location, and/or software systems for activities involving or relating to the NCOA<sup>Link</sup> Product, Licensed Materials, or to the information contained in the application materials submitted by Licensee to USPS must be reported to the

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USPS immediately. USPS may consider Licensee's failure to report such changes to USPS as a default under this Agreement.

**22. Survival Obligations**

Notwithstanding the expiration or termination of this Agreement, the obligation set forth in Sections 2, 8, 9, 12, 13, 14, 15, 17, 18, and 21 shall survive such expiration or termination.

**IN WITNESS THEREOF**, the parties have executed this Agreement effective as of the date signed by USPS:

LICENSEE: <<Company Name>> \_\_\_\_\_

BY: \_\_\_\_\_

NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

Sample

UNITED STATES POSTAL SERVICE:

BY: \_\_\_\_\_

NAME: Audrey K. Conley \_\_\_\_\_

TITLE: Contracting Officer's Representative \_\_\_\_\_

DATE: \_\_\_\_\_

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**Exhibit A  
License Fee Schedule**

**I. Annual License Fees**

**A. Initial Term (October 1 – September 30)**

\$7,500.00                      One Site  
\$3,750.00                      Each additional Site

**B. Initial Term License Fee Pro-Ration Schedule**

USPS shall pro-rate the Initial Term License Fee if the Term commences after October 1, except as set forth in I.C., below. This pro-ration shall not apply to any Extension Term.

System Certified Month of:	Fee Covers Period of:	Prorated Amount:
October	November – September	\$6,875.00
November	December – September	6,250.00
December	January – September	5,625.00
January	February – September	5,000.00
February	March – September	4,375.00
March	April – September	3,750.00
April	May – September	3,125.00
May	June – September	2,500.00
June	July – September	1,875.00
July	August – September	1,250.00
August	September	625.00
September	October – September, new license year	7,500.00

**C. Initial Term Transition License Fee for Current USPS FASTforward® Licensees**

The above Initial Term License Fee Pro-Ration Schedule does not apply to a Licensee that both: (1) has a current *FASTforward*® Mailing List Correction (MLC) License Agreement in good standing (Current MLC Licensee), and (2) enters into an End User License Agreement and obtains USPS system certification prior to September 30, 2004. A Current MLC Licensee that obtains USPS system certification under the End User License Agreement prior to September 30, 2004 shall be required to pay the following Initial Term License Fees:

\$ 2,500.00                      One Site  
\$ 1,250.00                      Each additional Site

The Initial Term Transition License Fee expires on September 30, 2004, and does not apply to any Extension Term.

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**II. Each One Year Extension Term (All Licensees)**

\$7,500.00	One Site
\$3,750.00	Each additional Site

**III. USPS Testing and Audit Fees**

- \$ 0 a. One USPS test prior to use at each Site
- \$ 0 b. One USPS test or audit at each Site during each One Year Extension Term
- \$ 0 c. One USPS test at each Site for each USPS modification of the Service Materials during any Term
- \$ 1,000.00 Each USPS test, re-test or audit in addition to a, b, or c, above, at each Site during any Term of the License Agreement
- \$ 1,000.00 Each USPS test or re-test for Licensee-initiated modifications
- \$ 1,000.00 Additional Platforms. In the event Licensee operates more than one Platform at a Site, the fee for each USPS test, re-test or audit for any reason shall be \$1,000.00.

Licensee must pay all test fees to USPS within ten (10) days after notification from USPS.

***The Fees shown on this License Fee Schedule are subject to modification by USPS after the Initial Term of this License Agreement.***