

UNITED STATES POSTAL SERVICE
NCOA^{Link} SOFTWARE
INTERFACE DISTRIBUTION LICENSE AGREEMENT

THIS AGREEMENT GOVERNS THE DISTRIBUTION OF LICENSEE'S CERTIFIED NCOA^{Link} SOFTWARE INTERFACE 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^{Link} Product Department, National Customer Support Center (NCSC), 225 N Humphreys Blvd, Suite 501, Memphis TN 38188-1001.
LICENSE AGREEMENT Number: 671440-03-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^{Link} Product" and is further defined below.
- USPS has decided to offer the NCOA^{Link} Product commercially for the purpose of facilitating the mailing industry's use of updated mailing address information.
- Previously, USPS and Licensee entered into a separate agreement entitled "NCOA^{Link} Software Interface Developer License Agreement" (herein "**Developer's Agreement**") that grants Licensee the right to develop interfaces to be certified by USPS for use with the NCOA^{Link} Product.
- Licensee desires to distribute the interfaces it developed under the Developer's Agreement (and that USPS has certified) as a component of Licensee's own software product(s) and USPS wants the interfaces to be distributed so that they are available to authorized Users (defined below) of the NCOA^{Link} Product.
- The present agreement (herein the "**Agreement**") provides the right to distribute the interface(s) developed by Licensee under the Developer's Agreement, after certification, to Users (defined below) who are appropriately authorized, so long as in accordance with the provisions set forth below.

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The Specifics of the Agreement

1. Definitions and Certain Limitations

- 1.1. **“Advertising”** means advertising, promotions, news releases, direct mail promotions, packaging, point-of-sale ads, informational and/or instructional pamphlets, sheets, booklets, or other documents, oral public disclosures or statements, or any other public disclosure or statement concerning Licensee’s Product, in any media or form, including but not limited to, radio, television, electronic messaging, World Wide Web, magazine and newspaper advertising, and trade shows.
- 1.2. **“Deliverables”** means letters, flats, postcards, packages, leaflets, magazines, postcards, advertisements, books, and other printed material, and any other item delivered by USPS.
- 1.3. **“Entity”** means a single corporation, partnership, not-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 does not include 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.
- 1.4. **“Field of Use”** means use in mailing operations to prepare Deliverables for delivery by USPS.
- 1.5. **“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^{Link} Product and Subject Matter (defined below), including, but not limited to, the laws concerning privacy, copyrights, inventions, patents, and trademarks.
- 1.6. **“Interface”** means one or more interfaces (1) that Licensee developed for use with the NCOA^{Link} Product by commercial systems to Update (defined below) Mailing Lists (defined below); (2) that the Licensee tested with USPS for certification operating on specified Platforms (defined below); (3) that USPS certified as being in compliance with the Software Performance Requirements and Software Developer’s Guide; and (4) that has not been changed materially since USPS certified it.
- 1.7. **“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.

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- 1.8. **“Licensee Performance Requirements”** refers to the most current copy of the Interface Distribution 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. **“Licensee’s Product”** means the software products that Licensee develops for marketing to Users, which (1) consist of the Interface as a stand alone product or which (2) incorporate the Interface as part of a package of software products bundled together.
- 1.10. **“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**.
- 1.11. **“NCOA^{Link} Product”** means the highly encrypted, confidential, and proprietary system provided by the USPS for Updating (defined below) address information in Mailing Lists.
- 1.12. **“Platform”** means the type of computer on which a given operating system or application runs for which Licensee developed and obtained certification, under the Developer’s Agreement, separate, individual Interfaces, each of which can run only on one Platform.
- 1.13. The definition of **“Subject Matter”** includes the items listed below insofar as USPS, in its sole discretion, provides them to Licensee:
- 1.13.1. The electronic files that USPS provides to Licensee to use in demonstrating Licensee’s Products to potential Users (defined below).
- 1.13.2. The materials licensed in the Developer’s Agreement, more specifically, the “Licensed Materials” defined in and provided by USPS under the Developer’s Agreement, to the extent that Licensee/Developer incorporated those Materials into the Interface and to the extent that the Interface is derived from those Materials, as well as to the extent that those Materials are used in the course of performance under this Agreement (herein the **“Development Materials”**).
- 1.13.3. The Licensee Performance Requirements.
- 1.13.4. The NCOA^{Link} Product.
- 1.14. **“Territory”** means places of business operating within the geographic boundaries of the United States, its territories, and possessions.
- 1.15. **“Update”** means to identify the old or out-dated information in an address on a Mailing List and to provide the current replacement address information.

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- 1.16. **“User”** means an Entity that USPS has certified and licensed to use the NCOA^{Link} Product to Update address information in Mailing Lists, and who has presented to Licensee a valid authorization number for purchase of an Interface.
- 1.17. **“USPS Trademarks”** means the USPS-owned trademarks NCOA^{Link} and the USPS-owned registered trademarks UNITED STATES POSTAL SERVICE[®], POSTAL SERVICE[™], U.S. POSTAL SERVICE[®], and USPS[®].

2. Scope and Purpose

- 2.1. The scope of this Agreement is limited to distributing and marketing Interfaces as a component of Licensee’s Products to Users for their use with the NCOA^{Link} Product in the Field of Use to Update Mailing Lists in accordance with the Licensee Performance Requirements to prepare Deliverables for delivery by USPS.
- 2.2. The scope of this Agreement does not permit any use of:
information, data, software, code, systems, updates, or the like obtained or derived from or based on or incorporating directly or indirectly, in whole or in part, the Subject Matter,
to create or maintain *anything* that incorporates in whole or in part directly or indirectly the Subject Matter.
- 2.3. The scope of this Agreement does not include any use of information, data, software, systems, Updates, or the like obtained or derived from or based on or incorporating directly or indirectly the Subject Matter, 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 Subject Matter, either in whole or in part.
- 2.4. Except to the extent explicitly authorized by this Agreement for demonstrating the use of the Interface (as a component of Licensee’s Product) to Update a Mailing List, the scope of this Agreement does not include using the Interface with the NCOA^{Link} Product directly or indirectly to Update address information nor using any address processed using the NCOA^{Link} Product to Update any other address record or record that contains address information.

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The scope of this Agreement does not include any right to develop or use the NCOA^{Link} Product, the Interface, or any related technology to compile or maintain a list or collection of names and addresses or 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^{Link} Product for the purpose of renting, selling, transferring, disclosing, making available or otherwise providing such information to an entity unrelated to Licensee.

- 2.5. The scope of this Agreement does not include any express or implied right to use, display, reproduce, distribute, outsource, sublicense, disassemble or reverse engineer, or compile data from or using the NCOA^{Link} Product, except to the very limited extent necessary to demonstrate the Interface as a component of Licensee's Products.
- 2.6. The scope of this Agreement does not include any right to use the Subject Matter to conduct any research, experiments, evaluations, comparisons, inventive endeavors.
- 2.7. The scope of this Agreement does not include any right:
 - 2.7.1. to improve, correct, enhance, modify, alter, reconfigure, change, or prepare derivatives or variations of the NCOA^{Link} Product or other Subject Matter, or any portion thereof directly or indirectly; or
 - 2.7.2. to reduce to practice any concepts, ideas, or thoughts related to the NCOA^{Link} Product or other Subject Matter, or any portion thereof, (collectively referred to herein as "Improvements"). Nonetheless, USPS is willing to consider separately licensing Licensee non-exclusively to pursue the foregoing activities and encourages Licensee to contact USPS if it is interested.

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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 (until terminated or suspended as set forth below) a non-exclusive, non-transferable, revocable license under the USPS Intellectual Property Rights but restricted to the Scope and Purpose set forth above and only in the Field of Use to use the Subject Matter to:
 - 3.1.1. market the Interface as a component of Licensee's Products.
 - 3.1.2. sublicense to Users the Interface as a component of Licensee's Products to use with the NCOA^{Link} Product, provided that Users may use the Interface only subsequent to legally obligating themselves to a sublicense in accordance with the terms set forth below;
- 3.2. USPS reserves the right to make any and all changes to the Subject Matter, the NCOA^{Link} Product, and the Development Materials as it deems necessary.
- 3.3. USPS grants Licensee the right to display USPS Trademarks in reference to the NCOA^{Link} Product and the USPS on Licensee's Products and in Advertising and packaging for Licensee's Products so long as in accordance with the provisions set forth below and contingent upon receipt of USPS's approval prior to the public display, distribution, or sale of Licensee's Products or Advertising.

4. Licensee Obligations

- 4.1. Licensee acknowledges its obligation to and agrees to use the Subject Matter and the Interface only within the Scope and Purpose of this Agreement as set forth above.
- 4.2. Licensee agrees that to use the Interface or the Subject Matter outside of the Scope and Purpose of this Agreement breaches the terms of this Agreement (though such breach is excusable to the extent expressly permitted under another valid agreement in effect between Licensee and USPS at the time of the breach).
- 4.3. Licensee agrees that any sales or distribution of the Interface (by itself or in Licensee's Products) outside the Territory violates this Agreement.
- 4.4. Licensee acknowledges and agrees that this Agreement does not include any right to use, disassemble, reverse engineer, outsource, reproduce, distribute, sublicense, or compile data from or using the Subject Matter.
- 4.5. Licensee acknowledges and agrees that this Agreement provides only the right to distribute the certified Interface and not any right to change the Interface in any manner.

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(Changes can be made under a valid Developer's Agreement, but the Interface must be re-certified.)

- 4.6. Licensee agrees to incorporate into Licensee's Products only the Interface that it developed and USPS certified.
- 4.7. In the event USPS, pursuant to the Development Agreement, approves and certifies Licensee's modification to the Interface on account of USPS's changes to the Developer's Materials, Licensee shall distribute the modified Interface to all its Users no later than thirty (30) calendar days from the date Licensee receives notice of USPS approval of the modifications to the Interface.
- 4.8. Licensee acknowledges and agrees that the Scope of this Agreement does not encompass using the Interface internally in Licensee's own operations and thus agrees that use of the Interface in its own operations without an appropriate agreement would violate USPS Intellectual Property Rights. (Licenses for internal use are available.)
- 4.9. 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.

5. Sublicense

- 5.1. Licensee shall distribute Licensee's Products only to Users who have agreed to the sublicensing terms specified below and who have agreed to such terms in a manner that fully legally obligates the User to abide by those terms, whether in the form of a legally-binding "shrink-wrap license" or a "click-on license" or a written license agreement or other legally binding license agreement.
- 5.2. The sublicense must not contain any terms that are any less restrictive than the terms in this Agreement and must include the contractual language set forth below, as well as other provisions or terms specified from time to time by USPS:
 - 5.2.1. [Sublicensee] has no rights as to the NCOA^{Link} Interface under this agreement beyond using it as a component of [Licensee's Products] in conjunction with the NCOA^{Link} data product to update a list, system, group or other collection of **at least 100** unique names and addresses (herein "Mailing Lists") used for addressing letters, flats, postcards, packages, leaflets, magazines, advertisements, books and

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other printed material, and any other deliverable item handled by the United States Postal Service (herein “Deliverables”) for delivery by the United States Postal Service (herein “USPS”).

- 5.2.2. [Sublicensee] has no right to develop or use any NCOA^{Link} product, service, interface, or any related item or technology to compile or maintain a list or collection of names and addresses or 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^{Link} data or technology for the purpose of renting, selling, transferring, disclosing, making available or otherwise providing such information to an entity unrelated to [Sublicensee].
- 5.2.3. For the purposes of communicating with addressees on [Sublicensee’s] Mailing Lists and for the purpose of record-keeping, however, [Sublicensee] is permitted to retain updated addresses so long as not used in violation of 5.2.2, 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 [Sublicensee] and [Sublicensee] may use them only for carrying out [Sublicensee’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*.
- 5.2.4. No proprietary Mailing List that contains both old and corresponding updated address records, or any service product or system of lists that can be used to link old and corresponding updated address records, if updated by use of NCOA^{Link}, shall be rented, sold, transferred, disclosed, made available, or otherwise provided, in whole or in part to [Sublicensee’s] customers or any other individual or entity.
- 5.2.5. [Sublicensee’s] right to use the NCOA^{Link} Interface is strictly limited to use only within the United States, its territories, and possessions.
- 5.2.6. As to the Interface, [Sublicensee] has the right only to update Mailing Lists used to prepare Deliverables that will be deposited with the USPS.
- 5.2.7. [Sublicensee] has no right to sublicense, sell, assign, or otherwise transfer rights in, reproduce, perform, attempt to improve, reverse engineer, modify or otherwise change, or prepare derivative works of the Interface. Any attempt to sublicense,

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sell, assign, or otherwise transfer rights in, or otherwise distribute the Interface shall be void.

5.2.8. [Sublicensee] acknowledges

5.2.8.1. that USPS owns the NCOA^{Link} data, technology, and system in its entirety including that used in the development of the Interface;

5.2.8.2. that USPS owns and retains rights in the trademark of NCOA^{Link} and in the registered trademarks UNITED STATES POSTAL SERVICE®, POSTAL SERVICE®, US POSTAL SERVICE®, AND USPS®;

5.2.8.3. that Licensee is providing the Interface as a component of Licensee's products to [Sublicensee] solely for use with the NCOA^{Link} Product under a nonexclusive, limited distribution license from USPS; and

5.2.8.4. that the rights [Sublicensee] obtains in this license are derived from Licensee's agreement with USPS and [Sublicensee] obtains from Licensee no broader right than Licensee obtains from USPS, except as to [Sublicensee's] specific right to use the NCOA^{Link} Interface to access the NCOA^{Link} data.

5.2.9. [Sublicensee] is strictly limited to using the Interface only as a component of Licensee's Product; and

5.2.10. [Sublicensee] acknowledges and agrees that [Sublicensee] has no right to sublicense, sell, distribute, reproduce, or display USPS trademarks or sell the Interface or other products under USPS's trademarks.

6. Representations and Acknowledgments

6.1. USPS represents that it is the sole owner of the Intellectual Property Rights in the Subject Matter.

6.2. Licensee agrees and acknowledges that USPS is the sole owner of the Intellectual Property Rights in the Subject Matter, the NCOA^{Link} Product, and any subsequent revisions thereof.

7. Trademarks, Marketing, Approvals

7.1. Licensee agrees and acknowledges that USPS Trademarks are trademarks owned by the USPS and that it will use USPS Trademarks only as trademarks in reference to the USPS and its products and services as appropriate.

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- 7.2. Licensee agrees and acknowledges that it will use USPS Trademarks only with the specific permission and approval of the USPS and specifically in accordance with the specifications and guidelines provided by the USPS.
- 7.3. Licensee agrees that all of Licensee's use of USPS Trademarks shall inure to the benefit of USPS and Licensee shall not acquire any rights in the USPS Trademarks except as a Licensee under this Agreement.
- 7.4. With regard to Licensee's Products under this Agreement, Licensee agrees **not to use** any of the following names or marks nor any derivative thereof nor any confusingly similar name or mark:

CASS
CASS-Certified
COA
COA/Link
DPV
DSF²
eLOT
FASTforward
IZ4
LACS^{Link}
LINK
MAC
MAC Gold
MASS
NCOA
NCOA^{Link}
ZIP

as or part of Licensee's company name, trade name, product names, domain names, trademarks (including word marks, service marks, logos, slogans).

- 7.5. Licensee agrees that these provisions concerning Advertising are not exclusive and that USPS may impose additional requirements which, in its sole discretion, it finds necessary.
- 7.6. Licensee agrees that Licensee's Products and each piece of Advertising
- 7.6.1. shall display the words "Non-exclusive Interface Distributor of the United States Postal Service" once, but not more than once;

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- 7.6.2. will direct that all payment for Licensee's Product shall be made payable to Licensee;
- 7.6.3. shall clearly state that the price at which Licensee's Product is sold "is not established, controlled or approved by the United States Postal Service;"
- 7.6.4. if the Advertising, for example, the User's Guide or the like, contains commercial advertising by the Licensee or others, a statement that such advertising is neither approved nor endorsed by the United States Postal Service.
- 7.7. Licensee agrees that Licensee's Products and each piece of Advertising that displays a USPS Trademark shall be accompanied by an acknowledgement of USPS's ownership in the following form: "The following trademarks are owned by the United States Postal Service®: [insert all USPS Trademarks used in the product, packaging, product literature, or advertising at issue here]."
- 7.8. The page following the title page of each Licensee's Operating Manual/User Guide and as an insert with each media edition shall contain a prominent notice furnishing the following information:
 - 7.8.1. That Licensee publishes the information in the Guide (or Manual) and offers Licensee's Product to the public under a non-exclusive license from the United States Postal Service.
 - 7.8.2. That the price of Licensee's Product is not established, controlled or approved by the United States Postal Service.
- 7.9. Licensee agrees not to employ in its Advertising or in-person marketing any language or other representation or sales technique from which a prospective purchaser might infer that Licensee or its agent is an employee or representative of USPS.
- 7.10. To ensure that prospective purchasers or Users are not misled by any aspect of the Advertising and method of sale used by Licensee to sell Licensee's Product, to ensure that the relationship between the Licensee and USPS is correctly represented, to ensure that USPS Trademarks are displayed correctly, and for other similar purposes, the Licensee shall submit to USPS, well prior to any use, ("use" includes, but is not limited to, display or distribution) samples of each proposed method of sale and each proposed piece of Advertising using any USPS Trademarks.
- 7.11. Licensee shall not publish or distribute any Advertising or engage in any method of sale of Licensee's Product until after it has received approval from USPS. USPS shall grant or withhold approval solely at its discretion.

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8. Use Restrictions

- 8.1. Licensee agrees to immediately cease all distribution of Licensee's Products if Licensee does not:
- 8.1.1. properly execute, comply with, and maintain as current all licenses associated with this License Agreement and pay all fees required under this Agreement prior to using the Subject Matter or selling and/or distributing the Licensee's Product.
 - 8.1.2. The Licensee shall not encourage or permit, to the knowledge of the Licensee, unauthorized use or duplication of the Subject Matter.
 - 8.1.3. Licensee's Product shall include the provision for updating the Subject Matter provided by USPS.
 - 8.1.4. Licensee's Product shall not obligate USPS to provide Subject Matter for a period in excess of the Term of this License Agreement.
 - 8.1.5. Licensee shall make provisions with all its Users to whom Subject Matter are supplied to protect the security and unique value of the Subject Matter.

9. Term of License Agreement

- 9.1. 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 30th, unless earlier terminated pursuant to Section 11.
- 9.2. 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.

10. Payment

- 10.1. In consideration for the Licensee to use the Subject Matter and for its Users' use of the Subject Matter in Licensee's Product, 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 under this or other License Agreement with USPS as a default hereunder and reason for issuing a notice of suspension or termination.

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- 10.2. In consideration for the use of the Subject Matter 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, Licensee shall pay to USPS, no later than thirty (30) 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.
- 10.3. 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.
- 10.4. 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 increase. Termination of this License Agreement by Licensee subsequent to receipt of License Fee Schedule with price increase shall not relieve Licensee of any obligations under this License Agreement until the termination effective date.

11. Termination and Suspension

- 11.1. 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 11.2 below.
- 11.1.1. 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 Subject Matter 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 License Agreement and the termination date specified by USPS in the event the termination date extends beyond the Term of the License Agreement.
- 11.2. 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 shall provide Licensee with a period of no greater than thirty (30) days to cure all defects to the satisfaction of USPS and avoid termination.

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- 11.3. USPS shall incur no liability for any reason due to the termination of this Agreement.
- 11.4. Upon receipt of any written notice of termination from USPS, Licensee shall immediately notify its Users of the termination date and modify Licensee's Product to reflect that its use of the Subject Matter will expire upon the termination date.
- 11.5. 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, USPS may, solely at its discretion, suspend Licensee's right to use the Subject Matter 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 Subject Matter to Licensee nor shall USPS be obligated to reimburse any fees for use of the Subject Matter upon issuance of a notice of suspension or termination.
- 11.6. Upon expiration or termination of the Agreement, Licensee shall immediately:
- 11.6.1. Cease advertising and providing Subject Matter and Licensee's Product;
 - 11.6.2. Refund to Users any sums received for use of the Subject Matter that Licensee has not yet provided to the Users;
 - 11.6.3. Destroy and/or deliver to USPS the Interface and all other Subject Matter along with all whole or partial copies of the foregoing; and
 - 11.6.4. Deliver to the USPS a notarized statement signed by an officer of Licensee confirming return and/or destruction of the items identified above.
- 11.7. Notwithstanding any such expiration or termination, Licensee shall remain obligated to abide by the confidentiality provisions of this Agreement.
- 11.8. 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.
- 11.9. Resort by USPS to any remedies referred to in this License 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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12. 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^{Link} Product and the other Subject Matter, 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^{Link} Product and the other Subject Matter, or for damages of any kind arising out of or in any way related to or connected with such fault or inadequacy.

13. Indemnity

- 13.1. USPS agrees to hold harmless, defend and indemnify Licensee for infringement of any U.S. intellectual property rights in the Subject Matter. 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.
- 13.2. 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^{Link} Product, Licensee's Product, the Interface, and/or the Subject Matter. 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 Subject Matter, by Licensee, or any employee, agent, or representative of Licensee.

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14. Confidentiality of the NCOA^{Link} Product, Subject Matter, and Change of Address Information

- 14.1. The NCOA^{Link} Product and the other Subject Matter 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^{Link} Product or the other Subject Matter except as the recipient of the license granted in this Agreement.
- 14.2. Licensee agrees to hold all information concerning the NCOA^{Link} Product and the other Subject Matter 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 14.4 and 20 of this Agreement) to safeguard the confidentiality of the NCOA^{Link} Product and the other Subject Matter and any or all parts thereof and to prevent unauthorized disclosure thereof by Licensee's employees, agents, representatives, and customers.
- 14.3. Unauthorized disclosure includes:
- 14.3.1. use of information, data, software, systems, Updates, or the like obtained or derived from or based on or incorporating directly or indirectly the Subject Matter, 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 Subject Matter, either in whole or in part;
- 14.3.2. using the Interface with the NCOA^{Link} Product directly or indirectly to Update address information nor using any address processed using the NCOA^{Link} Product to Update any other address record or record that contains address information; and
- 14.3.3. to develop or use the NCOA^{Link} Product, the Interface, or any related technology to compile or maintain a list or collection of names and addresses or 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^{Link} Product for the purpose of renting, selling, transferring, disclosing, making available or otherwise providing such information to an entity unrelated to Licensee.
- 14.4. Licensee agrees to provide security for all Subject Matter that is equal to or greater than the level of security necessary for compliance with the USPS *ADP Security Handbook*

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

- 14.4.1. 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 Subject Matter 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.
- 14.5. To ensure the confidentiality of address information in the NCOA^{Link} 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^{Link} Product.
- 14.6. Licensee agrees to control and restrict any access to address information in or from the NCOA^{Link} Product to employees or other persons who need it to perform work for Licensee under this Agreement.
- 14.7. Due to the sensitive nature of the confidential and proprietary information contained in the Subject Matter, Licensee acknowledges that unauthorized use and/or disclosure of Subject Matter 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 Subject Matter 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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15. Proprietary Notice

Any copies of the Subject Matter produced by Licensee shall have a notice identifying the same as the confidential and proprietary property of USPS.

16. Audit and Inspection Rights

- 16.1. To the extent reasonably necessary to ensure Licensee's use of the USPS Trademarks and Subject Matter in compliance with the terms of this License 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 Interface or the Subject Matter. 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 or issue a notice of suspension or termination.
- 16.2. 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 Subject Matter 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 Subject Matter and the USPS Trademarks by Licensee or its Users.
- 16.3. Books and records that relate to the use of the Subject Matter 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 or any User's web site.

17. 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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18. 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.

19. Governing Law

This Agreement shall be governed by and construed in accordance with principles of federal law. Further, the parties each agree and acknowledge that the provisions of USPS Purchasing Manual shall not apply to this Agreement, and the parties waive any and all express and implied remedies, recourse or administrative procedures provided or created thereby.

20. Applicable Law Compliance

20.1. The NCOA^{Link} Product, in particular, the address information contained therein, is 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^{Link} Product in a manner that fully complies with the Section 412. Licensee shall ensure that it does not use the NCOA^{Link} Product for the purpose of creating or maintaining new mover mailing lists.

20.2. 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^{Link} Product for the apparent purpose of creating a new mover mailing list.

20.3. The NCOA^{Link} 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 and Licensee's customers and Users shall use the NCOA^{Link} 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

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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 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.

20.4. Licensee acknowledges that the export of the Subject Matter 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 Subject Matter or direct products thereof in violation of such Export Laws.

21. Jurisdiction and Venue

The Parties acknowledge and agree that any action taken with respect to claims filed in court, whether at law or equity, shall be brought, if possible, in the District of Columbia.

22. 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.

23. Non-Transferable

23.1. 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 or ownership 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.

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23.2. Any change to the personnel, location, and/or software systems for activities involving or relating to the Subject Matter or to the application materials submitted by Licensee to USPS must be reported to the USPS immediately. USPS may consider Licensee's failure to report such changes to USPS as a default under this Agreement.

24. Nature of Licensee's Business

The License in this Agreement shall be null and void automatically and immediately as to any businesses or organizations or their parent, subsidiary or affiliate that delivers packages, parcels, envelopes, flats, letters, or the like to U.S. addresses.

25. Survival Obligations

Notwithstanding the expiration or termination of this Agreement, the obligation set forth in Sections 2, 10, 11, 14, 15, 16, 17, 19, 20, and 23 shall survive such expiration or termination.

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

LICENSEE: <<Company Name>>

BY: _____

NAME: _____

TITLE: _____

DATE: _____

UNITED STATES POSTAL SERVICE:

BY: _____

NAME: James D. Wilson

TITLE: Director, Addressing & Geospatial Technology

DATE: _____

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**Exhibit A
License Fee Schedule**

\$35,500.00 Initial Term
\$35,500.00 Each One Year Extension Term

USPS shall prorate the License Fee for the Initial Term if it starts after October 1 as follows:

| License Executed Month of: | Fee Covers Period of: | Prorated Amount: |
|----------------------------|-----------------------|------------------|
| October | October – September | \$35,500.00 |
| November | November – September | 35,500.00 |
| December | December – September | 35,500.00 |
| January | January – September | 26,625.00 |
| February | February – September | 26,625.00 |
| March | March – September | 26,625.00 |
| April | April – September | 17,750.00 |
| May | May – September | 17,750.00 |
| June | June – September | 17,750.00 |
| July* | July – September | 8,875.00 |
| August* | August – September | 8,875.00 |
| September* | September | 8,875.00 |

* 4th quarter fees will also include renewal fees to be paid by August 31

The Fees set forth above are subject to modification by USPS.