

# Australia Post National Change of Address (NCOA) Data End User Terms

April 2018

## SUPPRESS and UPDATE (NCOA, IAF and Deceased flag) TERMS AND CONDITIONS OF SERVICE

**IMPORTANT: These terms and conditions (this “Agreement”) govern the supply by Australia Post of the Australia Post Suppress and Update Services which may include National Change of Address (NCOA) service, Inactive Address Flag (IAF) service and Deceased Flag (DF) service (“Service”).**

1. Australia Post or its Licensee may provide the Service on a Client's List, as and when requested, in accordance with these terms and conditions, and subject to the payment of Service charges to the Licensee at the rate prescribed from time to time by Australia Post or its Licensee.
2. Australia Post or its Licensee shall provide the Service by matching addressee names and addresses of individuals on the Client List against the Data. Where a match on the End User List against the Data is successful on both name and former address of an individual (which occurs when the individual has redirected their mail), the Licensee may provide mailing house services on behalf of the End User that involves sending mail to this new address.
3. The following three types of matching Services may be provided under this Agreement:
  - (a) **Type 1** - Australia Post or its Licensee may communicate to the End User whether (or not) the Data, when matched to the addressee names and addresses of individuals, indicates (on a yes/no basis) that the addressee names and addresses of individuals on the End User List match. No other information in relation to the Data is made available to the End User (either by Australia Post or its Licensee), including any other Personal Information, or whether (or not) this mail has been successfully delivered.
  - (b) **Type 2** – The information set out in (a) Type 1 – above may be provided to the End User. The End User is then able to make business decisions on whether internally they want to act upon the application in compliance with applicable laws.
  - (c) **Type 3** – The information set out in paragraph (a) (Type 1) above may be provided to the End User. If the applicable individual has provided a NCOA Consent to Australia Post, Australia Post or its Licensee may also provide the new forwarding addresses of these individuals to the End User. Australia Post and its Licensee reserve the right to make minor alterations to the output format and content of address records in an End User's List.
4. Australia Post is the owner of the Data, including but not limited to the Inactive Address Flag and all intellectual and industrial property rights associated with the Data and the Inactive Address Flag, including trade secrets and copyright. No Party is authorised or permitted to use the Data or the Inactive Address Flag for any reason other than the permitted purposes specified in these terms and conditions, and no Party is authorised or permitted to sell, rent or otherwise deal with the Data, including but not limited to the Inactive Address Flag, to any third party, except as expressly authorised in this Agreement.
5. Any Data provided by Australia Post or its Licensee for the performance of the Service will be the most current information made available to Australia Post and its Licensees at the time of provision of the Service. Neither Australia Post nor any Licensee warrants that the provision of the Service will achieve any particular result for any mailing made using the Data provided or for any other use to which the Data is put.
6. Australia Post and its Licensees shall keep the End User List confidential, and shall take all reasonable steps to keep the End User List secure against third party access while it is in the possession of Australia Post or the Licensee.
7. The End User shall keep any Data provided to the End User under this Agreement confidential below, including the Inactive Address Flag, and or any other confidential information concerning the Service provided by Australia Post, or its Licensee and shall at all times only disclose this Data to any third party in accordance with this Agreement, and keep this information secure against unauthorised access, use, disclosure, modification or other misuse.
8. The obligations of confidentiality contained in this Agreement shall extend to all employees and agents of the Parties and shall continue beyond the date upon which the Service is provided, and is only limited to the extent required by law.
9. The End User warrants it will only use the Data for mail related purposes and the maintenance of its End User Database. The End User warrants that it will not use the Data or the Service, or disclose the Data to any third parties, for any of the following purposes:

- (a) for any debt collection purposes unless incidental (except in relation to the Inactive Address Flag and Deceased Flag);
  - (b) for the creation, update or maintenance of a movers list (i.e. a data file of name and addresses of customers who, or which, are known to have changed their postal address), other than an internal End User mover list that is created and maintained by the End User, or the End User's subcontractors that only use the Data for the purposes of maintaining this list for the End User and who do not disclose this Data to any third party
  - (c) for the creation, update or maintenance of left address files, other than internal left address file lists that are created and maintained by the End User, or the End User's subcontractors that only use the Data for the purposes of maintaining these lists for the End User and who do not disclose this Data to any third party; "Left Address Record" means a data record of customers who are known to have left an address;
  - (d) for the creation of lists used to target certain groups of individuals if these users have not explicitly consented to this type of targeting;
  - (e) to update or create, a master database which is subsequently used in place of the NCOA, or any similar service;
  - (f) to create statistical reports, determine moving patterns of individuals, or determine population moving patterns, that the End User directly or indirectly discloses to third parties, other than the End User's subcontractors that only use the Data for the purposes of maintaining these reports for the End User and who do not disclose this Data to any third party.
10. Australia Post, its employees and its Licensees shall not be liable to the End User for any loss or damage whatsoever suffered or that may be suffered (including but not limited to direct and consequential loss) as a result of any act or omission by Australia Post, its employees or Licensees, in the provision of the Service, except to the extent that such loss or damage is incurred as a direct result of Australia Post's fraud or wilful misconduct.
11. The End User indemnifies Australia Post and its Licensee against any loss or damage which Australia Post or its Licensee may suffer (including but not limited to direct and consequential loss) arising out of the provision of the Service except to the extent that such loss or damage results from the fraud, wilful misconduct, negligence or fault of Australia Post, its employees or Licensee.
12. The provisions of these Terms and Conditions shall be read subject to any implied terms, conditions or warranties imposed by the Competition and Consumer Act 2010 (Cth) or any other applicable Commonwealth or State legislation and which cannot be excluded. To the extent that such legislation permits a supplier to limit its liability for breach thereof, and where it is fair and reasonable to do so, the liability of Australia Post is limited at its discretion to the re-supply of the Service or the cost of re-supplying the Service.
13. Australia Post or its Licensee shall have no liability to the End User or to any other Party, or be in default under these terms, for failure to observe or perform any part of the Service, or perform any other obligation, for any reason or cause which could not with reasonable diligence be controlled or prevented by Australia Post or its Licensee.
14. Australia Post may vary or add to these terms and conditions at any time. All changes to the terms and conditions will be notified in writing within a reasonable period before they become operative.
15. Privacy Obligations
- 15.1 The End User must:
- (a) comply with any Privacy Law:
    - (i) by which it is bound; and
    - (ii) by which Australia Post or its Licensees are bound, including without limitation the Privacy Act and comply with Australia Post's reasonable requests to enable this to be achieved;
  - (b) use the Data only for mail related purposes, to update its End User Database or as otherwise specified by this Agreement, and ensure that it procures all applicable consents, required by Privacy Laws, from the applicable individual before using or disclosing the records contained in its updated End User Database, and acknowledges and agrees that Australia Post and its Licensees have not procured these consents on behalf of the End User;
  - (c) restrict access to the Data to those employees (and to the extent authorised in this Agreement, those subcontractors) requiring access to it in order to fulfil the End User's obligations and exercise the End User's rights under this Agreement;
  - (d) not disclose any Data to a third party without Australia Post or its Licensees consent in writing, or as otherwise agreed by Australia Post or its Licensee unless:
    - (i) the disclosure is to the individual to whom the Data relates; or
    - (ii) the individual to whom the Data relates has consented to the disclosure of their Personal Information to a third party; or

- (iii) the disclosure is required or authorised by or under law, in which case the Licensee must promptly notify Australia Post of any disclosure;
- (e) deal with the Data as directed or agreed by Australia Post or its Licensee, acting reasonably, provided that direction will not cause the End User to breach a Privacy Law by which it is bound.
- (f) take all reasonable steps to ensure the Data is protected against misuse and loss, unauthorised access, modification and disclosure, including obtaining a written agreement from any third party to whom the Data is disclosed (other than the individual to whom the Data relates), to comply with all Privacy Laws having the same effect as this clause;
- (g) not to do or omit to do anything with the Data that will cause Australia Post or its Licensee to breach any Privacy Law;
- (h) co-operate with Australia Post in the resolution of any complaint under, or relating to, any Privacy Law or relevant codes or policies;
- (i) promptly notify the Licensee if the End User becomes aware of any actual or suspected breach of Privacy Law in relation to the Data; and
- (j) indemnify Australia Post and its officers, employees, agents, the Licensee and contractors against all loss, damage, injury, claim, demand, cost or expense (including legal fees and expenses) that any or all of them suffer or incur as a result of any breach of this clause by the End User.

15.2 The End User acknowledges clause 15.1:

- (a) applies notwithstanding any other clause in this Agreement and shall prevail to the extent of any inconsistency; and
- (b) survives the termination of this Agreement.

16. Relationship with Australia Post

16.1 The Licensee acts an agent of Australia Post and enters into a contract with the End User strictly for the purpose of ensuring Australia Post can protect its rights and interests in connection with the Data.

16.2 The End User acknowledges that:

- (a) by entering into this Agreement it enters in to a contract with Australia Post on those terms and conditions set out in this Agreement that are necessary for Australia Post to enforce the terms of the Agreement and protect its interests, including, without limitation, all those clauses that refer to Australia Post; and
- (b) Australia Post may enforce its rights and assert the benefits set out in this Agreement directly against the End User or the Licensee may enforce those provisions on behalf of Australia Post.

## 17. Definitions

“**Data**” means the Personal Information including names, addresses and other information contained in the National Change of Address data, including forwarding address, held and owned by Australia Post which Australia Post or its Licensee uses to provide the Service which includes the Inactive Address Flag and Deceased Flag.

“**Deceased Flag**” means a file containing name and address details obtained from the Australia Post’s Mail Redirection Service of people that Australia Post has been notified are deceased.

“**End User**” means the entity described in the End User Details section of this Agreement

“**End User List**” means a database maintained by the Licensee’s End User containing Personal Information, including but not limited to, the names and addresses of individuals.

“**National Change of Address (NCOA) Consent**” means the consent provided by individual consumers collected via the mail redirection form (online) or (paper) to Australia Post, for Australia Post to release their new address where if there is a match on the End User List against the Data.

“**Inactive Address Flag**” means a flag that indicates that the customer has moved but no forwarding address is provided by Australia Post to the End User.

“**Licensee**” means any entity, business, not-for-profit organisation, government department or instrumentality which has contracted with Australia Post to act as its Licensee or agent for the Service.

“**Personal Information**” has the same meaning given to it in the Privacy Act.

“**Privacy Act**” means the Privacy Act 1988 (Cth) of Australia.

**“Privacy Law”** means all legislation, principles, industry codes and policies relating to the collection, use, disclosure, storage or granting of access rights to Personal Information and specifically includes those obligations imposed under Part 7B of the Australian Postal Corporation Act 1989 (Cth).