

## Background

- A. This Supplement is an addition to the Customer's Addressed Admail Agreement with Canada Post. The entirety of the Acquisition Admail Agreement includes the Acquisition Admail Specifications, the Acquisition Admail Order Form, the Acquisition Admail Rate Card and the documents that form the Addressed Admail Agreement. Any contradictions between the terms contained herein and the terms and conditions of the Addressed Admail Agreement shall be resolved by giving precedence to the terms contained herein, but only so far as necessary to resolve the contradiction.
- B. The Licensee (which means the Customer and/or the Third Party Service Provider identified in Schedule A, as the case may be) wishes to arrange for a copy of a Canada Post Acquisition List Plus address list for one time use only (hereinafter referred to as the "List"), to be provided to the Authorized Third Party Service Provider (henceforth referred to as the "Service Provider").

Therefore in consideration of the grant of the License and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Licensee and Canada Post agree as follows:

1. **LICENSE.** Subject to the terms and conditions set out in this Acquisition Admail Agreement, Canada Post is prepared
  - (a) to deliver a copy of the List to the Service Provider at the Service Provider's address set out in Schedule A to use in accordance to these terms and conditions,
  - (b) to grant Licensee a limited license during and for the 90-day period that commences on the date the List is provided by Canada Post to the Service Provider (such period being the "License Period").
  - (c) during the License Period, the Customer with the assistance of the Service Provider shall have the right to distribute a single direct-mail promotion to each address and,
  - (d) the List is supplied on a confidential basis, remains at all time the exclusive property of Canada Post, and may not be disclosed, rented, sold or otherwise transferred by the Licensee. In addition to the provisions of Section 6 (Proprietary Rights), it is further understood that any List provided hereunder shall not be copied and shall not be used for the setting up of additional lists, enhancing any lists or for any purpose whatsoever except as provided herein. Suppression activities can only be performed for the Permitted Purpose set out in Section 4 of this Agreement, and the resulting list cannot contain any address information other than what has been provided by Canada Post hereunder.
2. **LICENSE FEE.** The Customer agrees to pay the fee(s) set out in the Acquisition Admail Rate Card plus applicable taxes within 15 days from the date of invoice. Late payments shall be subject to a late payment fee of 1.5% per month (18% per annum) unless otherwise specified on the invoice. Licensee acknowledges that Canada Post shall not be required to refund any amount paid pursuant to the Acquisition Admail Agreement, under any circumstances. In the event the customer does not meet the mailing requirements set out herein, the license fees for Acquisition List will apply.
3. **SAFEGUARDING THE LIST.** Licensee is responsible for safeguarding the list at all times from being used or reproduced in any way contrary to the limited license rights granted herein.
4. **PERMITTED APPLICATIONS.** The license granted herein is strictly limited to use of the List during the Licensing Period for a ONE TIME USE ONLY and only for the purpose of promoting by mail the Customer's product or service. The Service Provider may not make the List available to any other person or entity, except for the purpose of addressing mail, without the express written consent of Canada Post. Except as permitted herein, Licensee may not distribute, redistribute, re-sell or release any of the information contained in the List. Without limiting the generality of the foregoing, the Licensee shall not use the List or any of the data contained therein to set up or maintain any direct marketing, telemarketing or mailing lists. Immediately following the termination of the License Period or the Licensee's use of the List for mailing purposes, the Service Provider shall destroy the List and all copies thereof and will certify such destruction in writing if requested to do so by Canada Post. The List will be provided in the context of a single mailing that must meet all of the requirements specified in the Acquisition Admail Specifications document.
5. **TRADE MARKS.** Licensee acknowledges that nothing in this Agreement shall be interpreted as granting any license to Licensee to use any of Canada Post's trade-marks or logos and any such use by Licensee is expressly prohibited. Licensee shall not, in any promotional material, depict stamps, mailboxes or other items used in Canada Post's operations and that are primarily associated with Canada Post.

# ACQUISITION ADMAIL™ AGREEMENT for Acquisition List Plus – Supplement



From anywhere... to anyone

- 6. PROPRIETARY RIGHTS.** The information used to produce the List is compiled by Canada Post. Each compilation of information is subject to copyright which is owned by Canada Post and constitutes valuable proprietary and confidential information which is subject to legal protection as trade secrets and under copyright laws. Licensee shall not de-compile or reverse assemble the said List or otherwise attempt to reveal the proprietary techniques and structures used therein, and shall not duplicate, transfer, sell or in any manner commercially exploit the List or any accompanying documentation. Each list will be seeded with control addresses to ensure compliance with these terms and conditions.
- 7. NO WARRANTIES.** Canada Post does not warrant that the Licensee's use of the List will be uninterrupted or error free, or that the results obtained from using the List will be successful, or accurate, or will satisfy the Licensee's requirements. Canada Post does not make any representation as to the completeness of any information contained in the List. EXCEPT AS EXPRESSLY PROVIDED HEREIN, CANADA POST DOES NOT MAKE ANY REPRESENTATIONS OR WARRANTIES WHATSOEVER WITH RESPECT TO THE LIST AND, IN PARTICULAR AS TO MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.
- 8. LIMITATION OF LIABILITY AND INDEMNIFICATION.** Canada Post shall not be liable for any damage or loss that Licensee may suffer or incur as a result of use of the List whether resulting from a defect or error in the Canada Post data file containing the List or otherwise. Without limiting the generality of the preceding sentence, the Licensee agrees that Canada Post shall not be liable for any damage to data or programs, or any direct, indirect, special, incidental or consequential damages (including, but not limited to, loss of profit, revenues, and savings) even if Canada Post knew or should have known of the possibility of such damages.
- 9. TERMINATION.** The license granted herein will terminate automatically, without notice to Licensee, if (a) Licensee uses the List for any other purpose than addressing mail, (b) Licensee does not comply with the terms and conditions of this Licensing Agreement, (c) Licensee becomes bankrupt or insolvent, or files any proposal or makes any assignment for the benefit of creditors, (d) a receiver is appointed for any of the property of Licensee, or (e) an order is made for the winding-up of Licensee, or if the Licensee fails to make payment of any amount due. Upon termination of the license, the Service Provider, at its own expense, shall destroy the List and all copies thereof and will certify such destruction in writing if requested to do so by Canada Post.
- 10. GENERAL TERMS and INTERPRETATION.** (a) Any question concerning the validity, construction, interpretation or performance of this Agreement shall be governed by the laws of the Province of Ontario and the laws of Canada applicable therein. (b) Any change to the terms and conditions of this Agreement must be in writing and signed by the authorized representatives of both parties. No course of conduct nor any delay by either party in exercising any of its rights under this Agreement shall waive such rights, or modify this Agreement in any manner. (c) Licensee shall not sell, transfer or assign its rights hereunder or part thereof to a third party without Canada Post's express written consent, which may be withheld at Canada Post's sole discretion. Canada Post shall be free to sell, transfer or assign its rights hereunder or part thereof upon written notice to Licensee. (d) In the event that any one or more of the provisions contained herein shall for any reason be held to be unenforceable, it shall not affect any other provision of this Agreement and this Agreement shall then be construed as if such unenforceable provision or provisions had never been contained herein. (e) This Agreement may be executed in counterparts, each of which shall be deemed to be an original and all of which together shall constitute one and the same agreement. The parties agree that this Agreement may be executed by either party and forwarded to the other by facsimile transmission or via e-mail and the receipt of the executed agreement by the receiving party shall bind the sending party to the terms of this Agreement.

Fax: 416-204-4410

Email: [data.targetingsolutions@canadapost.ca](mailto:data.targetingsolutions@canadapost.ca)

- 11. LANGUAGE.** It is the express wish of the parties that this Agreement, as well as related documents, be written in English. Les parties ont demandé expressément que la présente, ainsi que tout document afférent, soient rédigés en anglais.

Licensee acknowledges having read the foregoing terms and conditions of the License, agrees that all such terms and conditions are reasonable and necessary for the protection of Canada Post, and agrees to be bound by all such terms and conditions.

## AUTHORIZED THIRD PARTY SERVICE PROVIDER AGREEMENT

This Authorized Third Party Service Provider Agreement is made and entered into as of \_\_\_\_\_ M M DD YYYY (the "Effective Date") by and between \_\_\_\_\_ ("Service Provider"), a corporation incorporated under the laws of \_\_\_\_\_ (Province/State), and Canada Post Corporation ("Canada Post"), a corporation incorporated under the laws of Canada.

Whereas a Customer has asked for authorization to allow the Service Provider to process the Canada Post Acquisition List Plus address list on its behalf; and the Service Provider desires to be authorized to receive and to process exclusively at the Service Provider's location specified below, the Canada Post Acquisition List Plus address list for the Customer.

In consideration for the authorization provided for herein, Canada Post and Service Provider mutually agree as follows:

1. The Service Provider acknowledges that the Canada Post Acquisition List Plus address list (the "List") that will be provided to the Service Provider is and shall at all times remain the exclusive property of Canada Post.
2. The Service Provider agrees that the List shall only be used for the benefit of the Customer (but in no event disclosed to the Customer), for the direct mail promotion of the Customer's product or service. The Service Provider agrees not to use, reproduce, publish, disclose, distribute, display or transmit any of the List, except for the purpose set out herein.
3. The Service Provider agrees to keep the List separate from all other databases or information in its possession, and not to use or permit use of the List to modify or enhance any other database. Service Provider shall protect the List from any unauthorized use, publication or disclosure by its agents, employees, or others and shall ensure that the List is not copied, and shall not be used for the setting up of additional lists, enhancing any lists or for any purpose not expressly approved herein. Suppression activities can only be performed for the Permitted Purpose set out in this Agreement, and the resulting list cannot contain any address information other than what has been provided by Canada Post hereunder. Each list will be seeded with control addresses to ensure compliance with these terms and conditions.
4. The Service Provider shall take security measures to prevent the unauthorized duplication, distribution or use of the List and to preserve the confidentiality thereof. The Service Provider shall not allow any unauthorized person to have access to the List at any time. The Service Provider shall advise Canada Post, upon request, of the names of the Service Provider's locations, employees or agents who have access to the List. The Service Provider acknowledges that its duty of confidentiality survives the termination of this Agreement.
5. Canada Post shall not be liable for any damage or loss that the Service Provider may suffer or incur as a result of use of the List whether resulting from a defect or error in the Canada Post data file containing the List or otherwise. Without limiting the generality of the preceding sentence, the Service Provider agrees that Canada Post shall not be liable for any damage to data or programs, or any direct, indirect, special, incidental or consequential damages (including, but not limited to, loss of profit, revenues, and savings) even if Canada Post knew or should have known of the possibility of such damages.
6. Upon the expiration of Customer's authorization to use the List, the Service Provider shall (i) ensure that all copies of the List are deleted from its computers, servers, data base or any other automated or non-automated system; (ii) cease any and all use of the List.