Australia Post End User Licence Terms and Conditions

1. GENERAL

1.1. Interpretation

In the Agreement, unless the contrary intention appears:

1.1.1. "**AMAS Approved Software**" means the version of software produced by Experian (or Experian's licensor) that encapsulates or uses the Australia Post Data and approved by Australia Post in accordance with AMAS which (when used in conjunction with the PAF) can validate, match and correct address files, and append correct DPIDs, the software shall include any modifications to that software or new releases or versions of that software approved by Australia Post in accordance with this Schedule.

1.1.2. "**Australia Post**" means the Australian Postal Corporation, including, where permitted by context, all of the Australia Post's officers, employees, agents and contractors.

1.1.3. "**Australia Post Data**" means each data set which is supplied and licensed to Experian, and licensed by Experian to the End User, as specified in each Schedule.

1.1.4. "**Business Day**" means a day other than a Saturday, Sunday or gazetted public holiday in Victoria, Australia or an Australia Post authorised holiday.

1.1.5. "**Claim**" means any allegation, debt, cause of action, liability, claim, proceeding, suit or demand of any nature howsoever arising and whether present or future, fixed or unascertained, actual or contingent, whether at Law, in equity, under statute or otherwise.

1.1.6. "**Corporate Group**" means a group of Single Legal Entities consisting of the Corporate Group Owner and up to nine nominated Subsidiaries (as defined in the Corporates Act) of the Corporate Group Owner.

1.1.7. "**Corporate Group Owner**" means a Single Legal Entity that is the Holding Company (as defined in the Corporations Act) of each of the other entities of the Corporate Group.

1.1.8. "**Corporations Act**" means the *Corporations Act 2001* (Cth).

1.1.9. "**End User**" means a Single Legal Entity or Corporate Group Owner authorised to use the Solution granted by Experian in accordance with the Agreement.

1.1.10. "**Existing Address Database**" means an address owned or provided by Experian or a third party (including but not limited to an address which may be provided in a database, list, file or similar or provided as part of an interactive address capture process described as a "rapid" product as described in the AMAS Developers Guide) but which expressly excludes the Australia Post Data.

1.1.11. "**Intellectual Property Rights**" means all intellectual property rights including current and future registered and unregistered rights in respect of copyright, designs, circuit layouts, trademarks, know-how, confidential information, patents, inventions, domain names and discoveries and all other intellectual property as defined in article 2 of the convention establishing the World Intellectual Property Organisation 1967.

1.1.12. "**Internal Business Purpose**" means in respect of each End User, the validation of the locality name and assigned postcode for its own business processes including assisting with the provision of its products and services and engaging with its customers, but excludes validation for the benefit of another person or for reward.

1.1.13. "**List Creation**" means the use of the Licensed Materials and Data by the Client to create a new record or records containing address information or to enter a new address for an existing record provided that:

1.1.13.1. the Client only uses the Licensed Materials and Data to Validate the address information for the record on or about the same time as the address is collected and entered into the Client's records;

1.1.13.2. the records created by the Client this way must not include any information from the Australia Post Data (including but not limited to DPID) other than the address information; and

1.1.13.3. the Client must not represent that its records have been verified against the Australia Post Data

1.1.14. "**Loss**" means any damage, loss, cost and expense (including legal and other professional advisors' costs and expenses) suffered by a party.

1.1.15. "**Material Term**" means clauses 3.1.3, 3.1.4 and 4 of the Agreement.

1.1.16. "**Permitted Purpose**" means the permitted purpose as set out in the Annexure.

1.1.17. "**Personal Information**" has the meaning given in the *Privacy Act 1988* (Cth) (as amended).

1.1.18. "**Privacy Law**" means all Commonwealth, State and Territory legislation, principles, industry codes and policies relating to the collection, use, disclosure, storage or granting of access rights to the Personal Information including, but not limited to the

Privacy Act 1988 (as amended from time to time).

1.1.19. "**Prohibited Purpose**" means each of the prohibited purposes as set out in the Annexure.

1.1.20. "**Related Body Corporate**" has the meaning in the Corporations Act.

1.1.21. "**Representative**" of a party includes an employee, agent, officer, director, adviser, contractor or sub-contractor of that party or of a Related Body Corporate of that party.

1.1.22. "**Single Legal Entity**" means an individual person, body corporate or other legal entity and for the purposes of the government means an individual Agency as defined under the *Financial Management and Accountability Act 1997* or an individual Commonwealth authority or company under the *Commonwealth Authorities and Companies Act 1997*.

1.1.23. "**Solution**" means Experian's Licensed Materials (including software, products and/or services) which incorporates, reproduces, embodies or utilises the Australia Post Data or its derivative works, and licensed to the End User under this End User Agreement.

1.1.24. "**Subsidiary**" has the meaning given in the Corporations Act.

1.1.25. "**Validate**" means matching, correcting (including adding missing data to an existing address), manipulating, sorting, comparing and/or validating an Existing Address Database, and **Validation** and **Validating** have corresponding meanings.

2. **LICENCE**

2.1. Experian grants to the End User a non-exclusive, non-transferable, revocable licence for the term of the Agreement to use the Solution solely for the Permitted Purposes in respect of each applicable Schedule in accordance with the terms and conditions set out in the Agreement and the applicable Schedule, subject to any conditions and restrictions specified in the Permitted Purpose.

2.2. If a Schedule includes other terms and conditions, then those terms and conditions will apply, but only in respect of that Schedule.

2.3. Any rights not specifically granted to the End User under the Agreement are reserved to the extent permitted by law. Without limiting the previous sentence, the End User must not use the Solution for any Prohibited Purpose. To the extent that a particular purpose falls within the definition of both a Permitted Purpose and a Prohibited Purpose in a Schedule, such purpose is considered a Prohibited Purpose for the purposes of that Schedule.

2.4. For the avoidance of doubt, the End User shall not:

2.4.1. reproduce, copy, modify, amend, assign, distribute, transfer, sub-license, reverse assemble or reverse compile, merge or otherwise deal with, exploit or commercialise the whole or any part of the Australia Post Data (or directly or indirectly allow or cause a third party to do the same) including by using the Australia Post Data to derive other solutions (including software, products and/or services) unless expressly stated otherwise in the Agreement; and

2.4.2. create a Product (as defined below) or other derivative works from the Australia Post Data to commercialise as their own, unless that Product is solely for one of the End User's Permitted Purpose. "Product" means anything produced by End User which consists of, incorporates or is created using any part of the Australia Post Data and which may be produced in any form, including any device, solution, software or database and which may be in written form or produced electronically.

2.5. This clause 2 (and the Prohibited Purposes) do not prevent the End User from disclosing Australia Post Data to the extent that it is required by law to disclose the Australia Post Data, provided that the End User use all reasonable and legal means to minimise the extent of disclosure, and require the recipient to keep the Australia Post Data confidential.

3. **WARRANTIES AND ACKNOWLEDGEMENTS**

3.1. The End User represents and warrants that:

3.1.1. it has full capacity, power and authority to enter into the Agreement;

3.1.2. it will fully and completely comply with all of the terms and conditions of the Agreement);

3.1.3. it will only use the Solution for the Permitted Purposes and in accordance with the terms and conditions set out in the Agreement;

3.1.4. it will not use the Solution for any Prohibited Purpose;

3.1.5. it will not make any representation, statement or promise in respect of Australia Post, and has no authority to do so; and

3.1.6. it has not relied on any representation made by Australia Post in entering into the Agreement.

3.2. Without limiting this clause, the End User acknowledges that Australia Post has not made and does not make any representation or warranty as to the accuracy, content, completeness or operation of the Australia Post Data or to them being virus free.

3.3. The End User acknowledges and accepts that the Australia Post Data is not complete and it may contain errors.

3.4. The End User acknowledges that the Australia Post Data may include data sourced from third parties. The End User agrees to comply with third party terms and conditions which apply to the third party data referenced in the Agreement.

4. **CONFIDENTIALITY AND SECURITY**

4.1. The End User must ensure that while the Solution is in its possession or control:

4.1.1. it provides proper and secure storage for the Solution; and

4.1.2. use the same level of security to protect the Solution that it uses to protect its own

confidential information (but no less than the level of security a reasonable person would take to protect the confidential information);

4.1.3. it takes all reasonable steps to ensure that the Solution is protected at all times from unauthorised access, misuse, damage or destruction.

4.2. The provisions of clause 4 apply to all forms of media upon which the Solution is kept or transmitted.

4.3. The End User will ensure that all copies of the Solution are dealt with in accordance with Experian's or Australia Post's reasonable directions.

4.4. This clause 4 will survive termination or expiry of the Agreement.

5. PRIVACY

5.1. The parties acknowledge that while the Solution may not, on its own, constitute Personal Information, its use may result in the identity of individuals being reasonably ascertainable.

5.2. The End User agrees:

5.2.1. that it is responsible for ensuring that its exercise of rights under the Agreement and the use of the Solution do not infringe any Privacy Law;

5.2.2. to use or disclose Personal Information obtained during the course of the Agreement only for the purposes of the Agreement;

5.2.3. to take all reasonable measures to ensure that Personal Information in its possession or control in connection with the Agreement is protected against loss and unauthorised access, use, modification, or disclosure;

5.2.4. not to do any act or engage in any practice that would breach any Privacy Law;

5.2.5. to immediately notify Experian if the End User becomes aware of a breach or possible breach of any of the obligations contained in, or referred to in, this clause whether by the End User, its Related Body Corporate or any of its Representatives;

5.2.6. to cooperate with any reasonable demands or inquiries made by Australia Post on the basis of the exercise of the functions of the Office of the Australian Information Commissioner (OAIC) under Privacy Law or the Postal Industry Ombudsman under the *Australian Postal Corporation Act 1989*;

5.2.7. to ensure that any person who has access to any Personal Information is made aware of, and undertakes in writing, to observe Privacy Law and other obligations referred to in this clause;

5.2.8. to comply, as far as practicable, with any policy guidelines issued by the OAIC from time to time relating to the handling of Personal Information; and

5.2.9. to comply with any direction given by Australia Post to observe any recommendation of the OAIC or the Postal

Industry Ombudsman relating to acts or practices of the End User that the OAIC or the Postal Industry Ombudsman consider to be in breach of the obligations in this clause.

5.3. This clause 5 will survive termination or expiry of the Agreement.

6. INTELLECTUAL PROPERTY RIGHTS

6.1. The End User agrees that all Intellectual Property Rights in the Australia Post Data are and shall remain the sole property of Australia Post or its licensors.

6.2. The End User must notify Experian as soon as practicable if it becomes aware of any actual, suspected or anticipated infringement of Intellectual Property Rights in the Solution or in the Australia Post Data.

6.3. The End User must render all reasonable assistance to Experian and/or Australia Post in relation to any actual, suspected or anticipated infringement referred to in clause 6.2.

6.4. If a third party makes a Claim against the End User alleging that the Solution infringes the Intellectual Property Rights of the third party, the End User must immediately allow Experian (or Australia Post, if Australia Post directs) the right to control the defence of the claim and any related settlement negotiations.

6.5. This clause 6 will survive termination or expiry of the Agreement.

7. AUDIT

7.1. End User shall provide Australia Post and/or its agents reasonable accompanied access upon reasonable prior notice, during 9am and 5pm on a Business Day, to its premises, accounts and records relevant to the Agreement, for the purpose of verifying and monitoring the End User's obligations under the Agreement (the "Audit") and shall provide all reasonable cooperation and assistance in relation to the Audit.

7.2. If it is identified (through the Audit or otherwise) that the End User has not complied with an obligation under the Agreement, then without limiting any other rights or remedies, upon the request of Licensor, the End User will promptly take all necessary steps to rectify and/or remedy such non-compliance.

7.3. The cost of any Audit carried out under clause 7.1 shall be borne by Australia Post unless the Audit reveals a material breach by the End User of its obligation under the Agreement, in which case Australia Post shall be entitled to be reimbursed by the End User for all reasonable costs of the Audit (including any agent's fees) and the End User shall so reimburse Australia Post within twenty (20) Business Days of such request.

7.4. For the avoidance of doubt, a "material breach" for the purposes of this clause 7 includes, without limitation, any breach of Australia Post's Intellectual Property Rights or any breach of material terms.

7.5. Where the End User does not grant access to Australia Post and/or any of its agents for the purposes of an Audit in accordance with this clause 7 then the End User must pay Australia Post all

reasonable costs incurred by Australia Post in connection with such attempted Audit within twenty (20) Business Days of the date of Australia Post's invoice in respect of the same, and Australia Post may by written notice immediately suspend the supply and the End User's use of the Solution.

8. LIABILITY

Australia Post Not Liable

8.1. To the extent permitted by law, Australia Post is not liable to the End User for any Claim or Loss whatsoever suffered, or that may be suffered as a result of or in connection with the Agreement, and the End User releases Australia Post irrevocably releases and discharges Australia Post from all such Claims and Losses.

8.2. Without limiting clause 8.1, to the extent permitted by law, Australia Post will not be liable to the End User for any loss of profit, revenue or business, indirect, consequential, special or incidental Loss suffered or incurred by the End User arising out of or in connection with the Agreement, whether in contract, tort, equity or otherwise. This exclusion applies even if those Losses may reasonably be supposed to have been in contemplation of both parties as a probable result of any breach at the time they entered into the Agreement.

Indemnity

8.3. The End User must defend and indemnify Australia Post and its Representatives (those indemnified) from and against all Losses suffered or incurred by and of those indemnified to the extent that those Losses are suffered as a result of, whether directly or indirectly, of:

8.3.1. any breach of a Material Term by the End User or its Representatives;

8.3.2. any unlawful act by the End User or its Representative in connection with the Agreement;

8.3.3. any illness, injury or death to any person arising out of or in connection with the performance of the Agreement and caused or contributed to by the negligent or wrongful act or omission of the End User or its Representative; or

8.3.4. any loss or damage to any property of any person, arising out of or in connection with the performance of the Agreement and caused or contributed to by the negligent or wrongful act or omission of the End User or its Representative,

except to the extent that the Loss is caused by the negligence or wrongful act or omission of those indemnified.

8.4. This clause 8 will survive termination or expiry of the Agreement.

9. SUSPENSION AND TERMINATION

9.1. Experian may limit, suspend or terminate the End User's rights under the Agreement at any time upon notice when, and for the duration of the period during which:

9.1.1. the End User contravenes (or is believed on reasonable grounds to be in possible contravention of) any law of the Commonwealth or of a State or Territory;

9.1.2. the End User breaches the terms of the Agreement and the breach is not remedied within 14 days after receipt of notice from Experian specifying the breach and its intention to terminate the Agreement by reason of such breach; or

9.1.3. the End User commits a material breach of the Agreement which is not remediable; or

9.1.4. in the reasonable opinion of Experian, the End User is acting in a manner or providing a Solution which has the effect or potential to damage the reputation of Australia Post which is not remedied within 14 days after receipt of notice from Australia Post or Experian specifying the issues; or

9.1.5. the licensed right granted by Australia Post to Experian for the licensing of the Australia Post Data has been suspended or terminated.

9.2. The End User acknowledges that Experian may exercise its rights under clause 9.1 in accordance with the directions of Australia Post.

9.3. The termination, surrender or expiry of the Agreement for any reason will not extinguish or otherwise affect:

9.3.1. any rights of either party against the other which accrued before the termination, surrender or expiry and which remain unsatisfied; or

9.3.2. any other provisions of the Agreement which are expressly stated to, or which by their nature, survive termination, surrender or expiry of the Agreement.

9.4. If the Agreement is surrendered, terminated or expires, for any reason whatsoever, then the following provision of this clause will apply notwithstanding such surrender, termination or expiry the End User must cease using the Solution and the Australia Post Data and undertakes that it will destroy all copies, reproductions or adaptations of the Solution and Australia Post Data, or any part thereof made, held or controlled by it and, promptly upon written request from Experian, deliver a statutory declaration sworn by an authorised representative of the End User confirming that all copies, reproductions or adaptations of the Solution and Australia Post Data, and any part thereof, have been destroyed.

10. VARIATION

10.1. Pursuant to the agreement between Experian and Australia Post under which Experian is granted a licence to the Australia Post Data, Australia Post reserves the right to vary the terms of the agreement from time to time in certain circumstances. To the extent that those variations require a corresponding variation to the terms of the Agreement, Experian may do so, provided that Experian gives the End User reasonable prior notice of such variation (having regard to the period of notice received by Experian). The End User undertakes to do all things (including executing and entering into such amendment or restatement

deed) as reasonably required by Experian to formalise and give effect to any and all variations made by Experian under this clause 10.1.

11. CHANGES IN LEGISLATION

11.1. Notwithstanding any other provision of the Agreement, the End User acknowledges and agrees that Australia Post and/or Experian must comply with any future legislation and/or Government policy which imposes binding restrictions or limitations on Australia Post's or Experian's use of the Australia Post Data, including any restrictions or limitations relating to the supply of Australia Post Data or elements thereof to any person, and the terms of the Agreement, and the End User's agreements with any other parties, will be varied accordingly.

12. CORPORATE GROUP OWNER

12.1. This clause 12 applies if the End User is a Corporate Group Owner.

12.2. The Corporate Group for the purposes of the Agreement consists of the following entities

12.3. The End User must ensure, and warrants that:

12.3.1. each entity of the Corporate Group is a Subsidiary of the End User at all times during the term of the Agreement; and

12.3.2. each entity of the Corporate Group is a Single Legal Entity.

12.4. The End User may permit any or all members of the Corporate Group to enjoy the benefit of the licence granted to the End User under clause 2, subject to the following conditions:

12.4.1. the End User must ensure that all of the Corporate Group members comply with the Agreement, and do not do or omit to do anything that, if done by the End User, would be a breach of the Agreement;

12.4.2. the End User is responsible for all acts and omissions of the Corporate Group members as if they were acts and omissions of the End User; and

12.4.3. all uses of the Solution and Australia Post Data by the Corporate Group members are deemed to be uses by the End User.

13. GENERAL

13.1. The End User shall not, without Experian's prior written consent which may be provided or withheld in its absolute discretion, assign or sub-contract any of its rights and obligations under the Agreement.

13.2. Experian holds the benefit of all of the provisions of the Agreement that refer to Australia Post on trust for the benefit of itself and Australia Post, and Experian may enforce those provisions on behalf of Australia Post.

13.3. The Agreement is governed by the law in Victoria, Australia and each party submits to the non-exclusive jurisdiction of the courts of Victoria, Australia and courts of appeal from them.

Annexure – Australia Post Address Matching Approval System (AMAS) Permitted & Prohibited Purposes

Permitted Purpose

Each of the purposes set out is a "Permitted Purpose" in respect of the use of the Australia Post Data by an End User under an End User Agreement:

a)   use Experian's AMAS Approved Software for evaluation purposes, for a maximum period of 3 months;

b)   use Experian's AMAS Approved Software to Validate addresses and append DPIDs in an Existing Address Database solely owned by the End User for the internal business purpose of the End User;

c)   use Experian's AMAS Approved Software to Validate addresses in Existing Address Database solely owned by the End User for the purpose of joining and/or appending data or attributes from one database to the other for the internal business purpose of the End User;

d)   use Experian's AMAS Approved Software to Validate addresses and append DPIDs in Existing Address Databases owned by other End Users for the strict purpose of preparation the addresses for mail lodgment for the internal business purpose of the End User. No part of the validated addresses or any derived information resulting from the address validation may be passed back to the owner of the address database unless it is strictly related to the barcoding of mail;

e)   use Experian's AMAS Approved Software for List Creation and disclose the records created pursuant to List Creation to any person, on the condition that:
  (i)   the End User does not use Experian's AMAS Approved Software to perform List Creation on behalf of another person, or as a part of data entry services that the End User offers to another person; and
  (ii)   the End User does not systematically use Experian's AMAS Approved Software to create a list or set of records that is substantially similar or competitive to the Australia Post Data; and

f)   disclose the Validated addresses (created through one of the Permitted Purposes and in accordance with the End User Agreement) to another person (including subsidiaries, agents and franchisees of the End User), on the condition that:
  (i)   the recipient will not (and agrees not to) disclose the Validated addresses to any other person; and
  (ii)   the recipient will only use the Validated addresses for purposes that are directly related to the internal business purpose of the End User and not any other purpose.

Prohibited Purpose

Each of the purposes set out is a "Prohibited Purpose" in respect of the use of the Australia Post Data by the End User:

g)   sell, transfer, supply or otherwise deal with Experian's AMAS Approved Software;

h)   use the Australia Post Data other than through the permitted functionalities of Experian's AMAS Approved Software;

i)   use Experian's AMAS Approved Software to Validate addresses and or/append DPID's to an Existing Address Database which is not owned by the End User and the purpose of it is not for mail lodgment for the internal business purpose of the End User;

j)   use Experian's AMAS Approved Software to Validate addresses and/or append DPID's to an Existing Address Database, whether owned by the End User or not, for the purpose of on selling or commercial gain (including commercial gain from any derive insights), but this paragraph does not prohibit the End User from using the AMAS Approved Software for List Creation in accordance with clause e);

k)   use Experian's AMAS Approved Software for List Creation other than in accordance with clause e);

l)   provide Validated addresses to third parties unless those third parties are contracted to carry out some work on behalf of the End User strictly in accordance with the End User's Permitted Purpose or except as permitted by clause e) or f); and

m)   to reverse engineer, disassemble, alter or modify Experian's AMAS Approved Software.