

# Streetwise Addressing Terms and Conditions of Use

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## **Integrated with the PAF® - DIRECT END-USER – DATA LICENCE AGREEMENT**

**THIS AGREEMENT** is between **Westwood Forster/Royal Mail** and **End-User of PAF®**.

The terms of this Agreement are intended to govern the use of all Data supplied to the End-User pursuant to the Data Supply Agreement with Royal Mail and as specified in any Data Supply Order Form signed by the End-User and accepted by Royal Mail from time to time. Such signed and accepted Data Supply Order Form will not operate to form a separate contract incorporating the terms and conditions of this Agreement.

## **RECITALS**

(A) Royal Mail is the creator and owner of, or is otherwise authorised to use and exploit, the databases known as PAF® and Alias, and all Intellectual Property Rights subsisting in and/or relating to the same from time to time.

(B) It is Royal Mail's intention that the terms and conditions of this licence agreement are in accordance with Condition 22 of the licence (as amended) granted to Royal Mail by the Postal Services Commission under section 11 of the Postal Services Act 2000.

(C) Royal Mail has entered into open consultation with the users of the Data so that all reasonable efforts have been made to ensure that the terms and conditions of this licence agreement are in accordance with Condition 22 as described in Recital B. The terms and conditions of this licence agreement result from such consultation.

(D) The End-User wishes to use various data from the databases known as PAF® and Alias for its own internal use only except as and only to the extent expressly permitted pursuant to this Agreement.

(E) Royal Mail has agreed to grant to the End-User such rights to use the data from the databases known as PAF® and Alias in accordance with the terms of the relevant Data Supply Order Form and this Agreement.

(F) Royal Mail acknowledges that where it terminates this Agreement without cause it will make data from the PAF® database available to be licensed by the End-User on reasonable, transparent and non-discriminatory terms (the **“New Licence Terms”**) provided that:

(i) the End-User has not committed any breach or other act or omission which would have entitled Royal Mail to terminate this Agreement had it not already expired or been terminated by Royal Mail for convenience;

(ii) Royal Mail continues at that time to be the owner of, or otherwise authorised to use and exploit, the database known as PAF® and all Intellectual Property Rights subsisting in and/or relating to the same; and

(iii) Royal Mail continues to be under a statutory obligation to license PAF®.

(G) The End-User acknowledges that the New Licence Terms may differ from those currently contained in this Data Licence Agreement and Royal Mail agrees that it will give the End-User at least twelve months’ prior written notice of any such proposed New Licence Terms.

## 1. DEFINITIONS

1.1 In this Agreement the words and expressions set out below shall have the following meanings:

**“Address Management Unit”** shall mean the Address Management Unit at Fourth Floor, Slindon Street, PORTSMOUTH, PO1 1AF, or such other address as Royal Mail may notify the End-User from time to time;

**“Agreement”** means the body of this agreement together with its annexes as each may be amended from time to time in accordance with its provisions;

**“Associate”** means a business that has entered into and operates in accordance with an Associate Contract;

**“Associate Contract”** shall have the meaning given in paragraph 1.9 of Part 3 of Annex 1;

**“Associate Group”** means a network, established or operated by the End-User, of businesses comprising the End-User and a minimum of ten (10) Associates (unless otherwise agreed in writing with Royal Mail) each of which has an Associate Contract with the End-User;

**“Associate Group Owner”** means the End-User where it has established or operates an Associated End-User Group;

**“Associate Group Solution”** means a Solution (other than an External Transaction Solution) using Data supplied by Royal Mail to the End-User where it is an Associate Group Owner for use by it and Associates participating in its Associate Group to the extent permitted pursuant to this Agreement;

**“Audit”** shall have the meaning given in Clause 5.1;

**“Broker”** means a business that has entered into and operates in accordance with a Broker Contract;

**“Broker Contract”** shall have the meaning given in paragraph 1.10 of Part 4 of Annex 1;

**“Broker Group”** means a network, established or operated by the End-User, of businesses comprising the End-User and a minimum of ten (10) Brokers (unless otherwise agreed in writing with Royal Mail) each of which has a Broker Contract with the End-User;

**“Broker Group Owner”** means the End-User where it has established or operates a Broker Group;

**“Broker Group Solution”** means a Solution (other than an External Transaction Solution) using Data supplied by Royal Mail to the End-User where it is a Broker Group Owner for use by it and Brokers participating in its Broker Group to the extent permitted pursuant to this Agreement;

**“Bureau Fee”** means the element of the Licence Fees applicable in respect of the carrying out of Bureau Services;

**“Bureau Services”** shall have the meaning given in Clause 4.1.6;

**“Cleansed Customer Database”** means a Customer Database upon which Database Cleansing (or any element thereof) has been performed by the End-User;

**“Cleansed End-User Database”** means an End-User Database upon which Database Cleansing (or any element thereof) has been performed by the End-User;

**“Confidential Information”** means any information of a confidential or proprietary nature (irrespective of the form of presentation or communication including, but not limited to, computer software, databases and data, physical objects and samples) relating to the business, operations, customers, processes, budgets, product information, know-how and strategies of either party;

**“Corporate Licence Website”** means the Royal Mail website that lists Corporate Licensees and which is generally accessible to persons which have entered into a licence agreement with Royal Mail for the use of PAF®;

**“Corporate Licensee”** means a legal entity which is licensed to use PAF® pursuant to an agreement with Royal Mail known as the **“Corporate Group Licence Agreement”**;

**“Created Data”** means any data added to an End-User Database or to a Customer Database or to create a new database where previously there was none, as a result of the carrying out of Data Creation;

**“Customer Database”** means the End-User Customer’s electronic compilation of records, database or mailing list, which existed prior to any Database Cleansing being carried out pursuant to this Agreement in respect of the same; **“Data”** means the databases known as PAF® and/or Alias and any extracts from or updates to any of the same that the End-User has specified in the relevant Data Supply Order Form, and which form the subject matter of this Agreement;

**“Data Creation”** means the use of the Data, whether incorporated in a Solution or otherwise, to create a new Record or Records by:

- (i) add any PAF® Record or PAF® Records; and/or
- (ii) add any PAF® Record Element or PAF® Record Elements;

in each case, to an End-User Database or to a Customer Database or to create a new database where previously there was none;

**“Data Access Agreement”** means the agreement between the End-User and Westwood Forster for the supply of or access to certain of the databases known as PAF® and any extracts from or updates to the same;

**“Data Supply Medium”** means the format on or method by which the Data is supplied or made available to the End-User as specified in the Data Supply Order Form as may be amended by Westwood Forster from time to time;

**“Database Cleansing”** means any activity which involves the processing of an End-User Database or Customer Database using the Data and includes:

- (i) the verification of an existing Record in the End-User Database or Customer Database as being the same as the entry on the Data;
- (ii) the amendment of an existing Record in the End-User Database or Customer Database to correct the address so that it contains the same information as the entry on the Data;
- (iii) the standardisation of an existing Record in the End-User Database or Customer Database into a **“PAF® format”**;
- (iv) the flagging or marking of an existing Record in the End-User Database or Customer Database as being the same as the Data;
- (v) adding further information derived from the Data to an existing Record in the End-User Database or Customer Database; and/or
- (vi) extracting duplicate existing Records in the End-User Database or Customer Database;

but does not include Data Creation;

**“Delivery Point”** means a complete postal address (business or residential), including a Postcode, to which mail is delivered;

**“Effective Date”** shall have the meaning attributed to it on the Data Access Agreement;

**“End-User”** shall mean the single legal entity entering into this Agreement with Westwood Forster and the Royal Mail;

**“End-User Customer”** means a customer of the End-User which has entered into a written agreement with the End-User in respect of the End-User carrying out Database Cleansing for that customer;

**“End-User Database”** means the End-User’s electronic compilation of records, database or mailing list, which existed prior to any Database Cleansing being carried out pursuant to this Agreement in respect of the same;

**“European Commission Approved Transfers”** means transfers of personal data: (a) within the European Economic Area (b) to such other countries as are approved from time to time by the European Commission as having an adequate level of protection for personal information or (c) which are protected by legislation or frameworks within other countries where such legislation or frameworks have been approved by the European Commission as having an adequate level of protection for personal information;

**“Extended Use Solution”** means a Solution whereby the End-User is permitted to make the Data available to third party users of the End-User’s own services for the limited purpose of confirming certain address details for the purposes of the subsequent delivery of such third party user’s mail, packages, products or services by the End-User;

**“External Transaction Solution”** means a Solution whereby the End-User operates a publicly available website (or a technical equivalent) which offers products and services to its Service Recipients and which can capture, verify, update or amend an address or postcode entered by a Service Recipient;

**“Force Majeure Event”** shall have the meaning given in Clause 12.1;

**“Initial Term”** shall be the period of twelve (12) months from the Effective Date;

**“Insolvency Event”** means the occurrence of any of the following: (i) the End-User is unable to pay its debts as they fall due or otherwise becomes insolvent; or (ii) a receiver or an administrative receiver is appointed over any or all of the assets of the End-User; or (iii) any arrangement, compromise or composition of the End-User’s debts is proposed or made by the End-User; or (iv) the End-User enters or is entered into any proceedings for administration or liquidation or otherwise becomes subject to dissolution proceedings; or (v) any event analogous to those set out in (i) to (iv) occurs in any other jurisdiction in which the End-User carries out its business;

**“Intellectual Property Rights”** means all intellectual and industrial property rights including, without limitation, patents, utility models, trademarks, service marks, design rights (whether registered or unregistered), copyrights, database rights, semiconductor topography rights, proprietary information rights, any other similar proprietary rights and all applications, extensions and renewals in relation to such rights as may exist anywhere in the world or be recognised in the future;

**“Licence Fees”** means the fees payable by the End-User to Westwood Forster for the permitted use of the Data by the End-User pursuant to and calculated in accordance with Clause 6 and Annex 3;

**“Load-Balancing Purposes”** means the purposes of splitting work, data, software or other materials between multiple computers, network links or other resources in order to optimise resource usage, minimise response time and improve reliability;

**“Maximum Data Return”** shall have the meaning given in the definition of **“Transaction”** in this Clause 1.1;

**“PAF®”** means the database, or any part of it, known as the ‘Postcode Address File’ containing all known delivery address and Postcode information in the United Kingdom as may be amended from time to time. **“PAF”** is a registered trade mark of Royal Mail;

**“PAF® Agreements”** means the Data Access Agreement and this Agreement;

**“PAF® Record”** means an individual entry in the collection of data that comprises the database known as PAF® and in respect of the level of Data known as **“Full PAF®”** a whole **“PAF® Record”** will contain all those elements as indicated in Table 1 in Annex 3;

**“PAF® Record Element”** means an individual element of the data comprising a whole PAF® Record each element being as indicated in Table 1 in Annex 3;

**“Permitted RPI Increase”** means a percentage increase in the fees as set out in paragraph 6 of Annex 3 of no more than the percentage increase in the **“Retail Prices Index”** (as published by the Office for National Statistics (**“ONS”**) or any body replacing the ONS from time to time) since the date that Royal Mail previously increased such fees;

**“Postcode”** means a single alphanumeric code owned and developed by Royal Mail and allocated by Royal Mail to identify an address or number of addresses;

**“Postcode Area”** means the area identified by the outward part of the Postcode comprising the first two alphabetic characters;

**“Principal Products”** shall have the meaning given in paragraph 1.9 of Part 4 of Annex 1;

**“Record”** means an individual entry in or to be made in a collection of data containing a Delivery Point or details of part of a Delivery Point and which may also contain a business or consumer name;

**“Service Recipient”** means a recipient of products or services from the End-User, whether a fee-paying customer or otherwise. For the avoidance of doubt, such recipient must be a third party and not a representative of the End-User itself;

**“Solution”** means any product, service or other solution which is modified or enhanced by, incorporated with, created using, derived from or derives benefit from, or involves the supply or the making available of, the Data or any part of the Data (including the provision of raw Data). Such product, service or solution may: (i) be produced in any form, including any device, solution, software or database; (ii) be in written form or produced electronically; and/or (iii) include functionality, software, services or other data in addition to the Data itself;

**“Term”** shall mean the duration of the Initial Term and any Additional Terms, subject to earlier termination in accordance with the terms of this Agreement;

**“Total Licence Fees”** means all fees payable by the End-User to Royal Mail in respect of the PAF® Agreements;

**“Transaction”** means, in response to a query relating to a Delivery Point (or part thereof) and/or the Alias data relating to a Delivery Point, a verification of that query and/or a return of data of up to a maximum of one hundred (100) Delivery Points and the Alias data relating to such returned Delivery Points (**“Maximum Data Return”**). For the avoidance of doubt:

- (i) data comprising parts (rather than the whole) of Delivery Points may be returned;
- (ii) further searches within the returned data (provided no additional data is returned as part of such search) are not considered to be a further **“Transaction”**;
- (iii) returns of data in excess of the Maximum Data Return shall be an additional **“Transaction”** or additional **“Transactions”** (as appropriate depending on the amount of data returned);

**“Transaction Management System”** means a system or mechanism (whether electronic, software based or otherwise) to accurately count the number of Transactions and to ensure that the Maximum Data Return is not exceeded in any single Transaction;

**“User”** means an individual work station or terminal or hand-held or otherwise portable device internal to the End-User;

**“Working Day”** means any day which is not a Saturday, Sunday or public holiday in England; and

**“Year”** means the period of twelve (12) months commencing on the Effective Date and each successive twelve-month period.

1.2 Except where the context otherwise requires, words denoting the singular include the plural and vice versa, words denoting any gender include all genders and words denoting persons include firms and corporations and vice versa.

1.3 Unless otherwise stated, a reference to a clause or annex is a reference to a clause of or an annex to this Agreement. In the event of any inconsistency or conflict between any provisions of the clauses of the main body of this Agreement and any provision of the annexes, the former shall prevail, but only to the extent of the relevant conflict or inconsistency.

1.4 Clause headings are for ease of reference only and do not affect the construction of this Agreement.

1.5 Any references in this Agreement to any enactment, order, regulation or other similar instrument shall be construed as a reference to the enactment, order, regulation or instrument as amended by any subsequent enactment, order, regulation or instrument or as contained in any subsequent re-enactment thereof.

## 2. DURATION

2.1 This Agreement shall commence on the Effective Date and shall continue for the Initial Term unless terminated earlier in accordance with the terms of this Agreement. On expiry of the Initial Term and on each successive anniversary of the same this Agreement shall be renewed automatically for a period of twelve (12) months (each an “**Additional Term**”) unless either party gives written notice to the other party not to renew this Agreement, at least three (3) months prior to the expiry of the Initial Term or the relevant Additional Term.

### **3. LICENCE**

3.1 In consideration of the receipt of payments in accordance with Clause 6 and subject to the End-User being party to a valid and current Data Supply Agreement, Royal Mail hereby grants to the End-User the non-exclusive, non-transferable, revocable right for the Term to use the Data in accordance with the terms of this Agreement. .

### **4. LIMITATIONS ON USE OF THE DATA BY END-USERS**

#### **4.1 General Limits on Use**

4.1.1 The End-User shall use the Data for its own internal use only except as and only to the extent expressly permitted pursuant to this Agreement.

4.1.2 Except as is expressly permitted by the terms of this Agreement, the End-User shall not:

4.1.2.1 use any of the Data or any Solution to create its own products or services containing any of the Data to provide or offer to any third party;

4.1.2.2 copy or reproduce (subject to Clauses 4.1.3 and 4.1.4), extract, publish or reutilise the whole or any part of the Data;

4.1.2.3 transfer, sell, license, disseminate or in any way part with possession of the whole or any part of the Data to any third party.

4.1.3 The End-User may make copies of the Data to the extent reasonably necessary for the following purposes only: back-up, security, disaster recovery purposes and testing.

4.1.4 The End-User may also make identical copies of the Data supplied to it to the extent reasonably necessary for Load-Balancing Purposes. The End-User shall ensure that such copies are not used for any other purpose and shall notify Royal Mail where it does make any such copies.

4.1.5 Except as expressly stated in this Agreement, the End-User shall not:

4.1.5.1 carry out any Data Creation unless it has the prior written consent of Royal Mail and then provided only that any such Data Creation is deemed to be a further copy of the Data;

4.1.5.2 subject to the provisions of Annex 2, supply or give access to any Created Data or any database or copy of a database (or, in each case, any part thereof) which includes any Created Data.



4.1.6 The End-User is permitted to carry out Database Cleansing only in respect of its own End-User Databases and Customer Databases (and in respect of such Database Cleansing and then the supply of a Cleansed Customer Database to the End-User Customer from which it originated as a Customer Database, this shall be known as “**Bureau Services**”) and not any other databases and provided that:

4.1.6.1 in respect of End-User Databases, it at all times complies with the provisions of Clauses 4.1.7 to 4.1.11; and

4.1.6.2 in respect of Customer Databases, it at all times complies with the provisions of Part 5 of Annex 1.

4.1.7 The End-User shall only be entitled to use each Cleansed End-User Database for its own internal use and, subject to Clauses 4.1.8 to 4.1.10, for supply to third parties.

4.1.8 For the purposes of Clauses 4.1.9 and 4.1.10:

4.1.8.1 the meaning of “**series of connected databases**” shall include (but not be limited to) databases directly or indirectly derived from a single database or originating from the End-User or End-User Customer;

4.1.8.2 the meaning of “**substantially all**” can be determined qualitatively or quantitatively and shall be determined in the reasonable opinion of Royal Mail;

4.1.8.3 the expression “**normal data supply activities**” includes any activities carried out by the End-User as part of or in connection with its day to day business of providing address database services to third parties and may, as appropriate, include (but not be limited to) mailing list supply to mailing houses or other mailing list purchasers and the provision of sample address lists for market research purposes, but shall not include further database cleansing by the End-User, or the licensing of any third party by the End-User to reproduce the Cleansed End-User Database or to use it for database cleansing purposes; and

4.1.8.4 any description of a “**comprehensive postal address database**” includes a description of an address database as comprising all or substantially all the delivery points in the United Kingdom, England, Scotland, Wales or Northern Ireland, or any description of similar meaning or effect.

4.1.9 Any Cleansed End-User Database, which (as a single database or as part of a series of connected databases) comprises all or substantially all the Delivery Points in the United Kingdom or any of England, Scotland, Wales or Northern Ireland, may only be supplied by the End-User to a third party where it all times complies with the provisions of Clause 4.1.10.

4.1.10 Any Cleansed End-User Database which (either on its own or as part of series of connected databases) comprises all or substantially all the Delivery Points in the United Kingdom or any of England, Scotland, Wales or Northern Ireland may only be supplied by the End-User to third parties (the “**First Level Third Parties**”), and by such First Level Third Parties to other third parties (the “**Second Level Third Parties**”), provided that:

4.1.10.1 neither the End-User nor any third party shall at any time promote, market, represent or hold out the Cleansed End-User Database as being a “**master**” comprehensive postal address database or “**original**” comprehensive postal address database or as being of any similar description;

4.1.10.2 such Cleansed End-User Database shall be supplied by the End-User to a First Level Third Party or by a First Level Third Party to a Second Level Third Party, in each case only as part of its normal data supply activities;

4.1.10.3 any such supply to a Second Level Third Party is subject to a requirement that the Cleansed End-User Database shall at all times be used only for the internal purposes of any such Second Level Third Party (and not for supply to any other third party);

4.1.10.4 any such supply to a Second Level Third Party is subject to requirements on such Second Level Third Party not to reproduce or make any copies of the Cleansed End-User Database or of a substantial part thereof for supply to any other third party and not to make any such supplies; and

4.1.10.5 during the Term and for a period of six (6) years after the date of termination of this Agreement, any supply to any First Level Third Party or Second Level Third Party is subject to a prominent notice stating that the Cleansed End-User Database has been cleansed against Royal Mail’s PAF® being attached and embedded electronically in any soft copy of, and being attached to any hard copy medium comprising or containing any such Cleansed End-User Database.

The provisions of this Clause 4.1.10 shall continue to operate after any expiry or termination of this Agreement.

4.1.11 The End-User may include the following statement, provided only that its use is reasonable, on its business stationery and publicity material and provided that such use is not permitted after the date of expiry or termination of this Agreement: “[Name of End-User] processes databases against Royal Mail’s PAF® databases.”

4.1.12 During the Term and for a period of three (3) years after the date of termination of this Agreement, the End-User shall, upon request provide within twenty (20) Working Days to Royal Mail, the name and contact details of all third parties to whom the Cleansed End-User Database has been supplied. The provisions of this Clause 4.1.12 shall continue to operate after any expiry or termination of this Agreement.

4.1.13 The provisions of Annex 1 (Advanced Options) shall also apply where the End-User receives or is able to access a Solution or Data that is or includes the External Transaction Solution, Extended Use Solution, Associate Group Solution or Broker Group Solution or where it wishes to provide Bureau Services.

## 4.2 Data Protection

4.2.1 The Parties’ attention is drawn to the Data Protection Act 1998, Directive 95/46/EC of the European Parliament and any legislation and/or regulations implementing them or made in pursuance of them (the “**Data Protection Requirements**”). The End-User acknowledges that Royal

Mail is the data controller in respect of any personal data in the Data. Royal Mail acknowledges that the End-User is the data controller in respect of any personal data in its own database whether it has been cleansed, modified or otherwise. The End-User agrees it will not do or omit to do any act which would place it or Royal Mail in breach of the Data Protection Requirements and each Party warrants to the other that it will duly observe all its obligations under the Data Protection Requirements which arise in connection with the performance of this Agreement. The End-User agrees that it shall:

4.2.1.1 implement appropriate technical and organisational measures to protect personal data within the Data against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access;

4.2.1.2 promptly refer to Royal Mail any queries relating to the personal data within the Data from data subjects, the Information Commissioner or any other law enforcement authority, for Royal Mail to resolve;

4.2.1.3 promptly upon request from Royal Mail provide such information to Royal Mail as Royal Mail may reasonably require to allow it to comply, in relation to the personal data within the Data, with the rights of data subjects, including subject access rights, or with information notices served by the Information Commissioner; and

4.2.1.4 ensure that if, during the term of this Agreement, it intends to make any transfers of personal data within the Data which are not European Commission Approved Transfers, then it shall, prior to any such transfer, obtain Royal Mail's consent and at the End-User's own cost provide such further information and sign such further documents, agreements or deeds as Royal Mail may require to ensure the adequate protection of the personal data.

For the purposes of this Clause 4.2 **"data controller"**, **"data subject"**, **"personal data"** and **"processing"** shall have the meanings ascribed to them in the Data Protection Act 1998.

### 4.3 Sub-Contracting

4.3.1 The End-User shall be permitted to provide Data or allow the provision of or access to Data to its sub-contractors only for the purposes of and to the extent necessary for:

4.3.1.1 the provision of data storage and/or information technology services to the End-User; and/or

4.3.1.2 the sub-contractor to otherwise act on behalf of the End-User for the End-User's own internal business purposes;

and, in each case, only using the Data for the End-User's own business purposes and not otherwise for the sub-contractor's own purposes or benefit and only provided that it at all times complies with Clause 4.3.2.

4.3.2 The End-User shall ensure that:

4.3.2.1 such sub-contractor has entered into a written agreement with the End-User on terms which reflect the use of the Data permitted pursuant to Clause 4.3.2 and which are otherwise no less onerous, and which do not grant more extensive rights, than those contained in this Agreement (the **“Sub-Contractor Agreement”**) in relation to the Data and which:

(a) includes termination provisions equivalent, as between End-User and its sub-contractor, to those set out in this Agreement and which provide that the agreement will automatically terminate if this Agreement is terminated or if the End-User otherwise ceases to be licensed to use and/or permit the sub-contractor to use the Data;

(b) contains provisions relating to confidentiality and to the ownership and protection of the Data and Intellectual Property Rights subsisting in and/or relating to the Data, which are no less onerous than and which do not grant more extensive rights than those contained in this Agreement, including (without limitation) Clauses 3 (Licence), 4 (Limitations on Use of the Data by End-Users), 7 (Liability) and 8 (Property Rights in the Data); and

(c) enables Royal Mail to directly enforce all terms relating to the Data by virtue of the Contracts (Rights of Third Parties) Act 1999; and

4.3.2.2 it shall not be relieved of any of its obligations under this Agreement and shall remain primarily responsible for the acts and omissions of its sub-contractors as though they were its own and shall be responsible for all loss or damage (whether direct or indirect or consequential) howsoever arising out of or in connection with such sub-contractor’s use of or access to the Data.

## 5. END-USER OBLIGATIONS

### 5.1 Audit

5.1.1 The End-User shall keep a complete and accurate audit trail of all financial and non-financial transactions relating to this Agreement and shall retain the same for a period of six (6) years. The End-User shall grant Royal Mail and/or its agents reasonable accompanied access upon reasonable prior notice, during working hours, to its premises, accounts and records relevant to this Agreement for the purposes of verifying and monitoring the End-User’s compliance with its obligations under this Agreement (the **“Audit”**) and shall provide all reasonable cooperation and assistance in relation to the Audit. Royal Mail shall not carry out an Audit more than once in any twelve (12) month period except where it reasonably suspects that the End-User has failed to comply with any of its obligations under this Agreement. Where it is identified (through the Audit or otherwise) that:

5.1.1.1 the End-User has failed to comply with any of its obligations under the Agreement, the End-User will promptly take all necessary steps to implement appropriate remedial action;

5.1.1.2 the End-User has failed to pay any payable and due Licence Fees, the End-User shall pay that amount to Westwood Forster within twenty (20) Working Days, unless otherwise agreed with Royal Mail in writing;

### 5.2 Information to be provided on Request

5.2.1 The End-User shall within twenty (20) Working Days of request from Royal Mail provide to Royal Mail such of the following as Royal Mail may request from time to time:

5.2.1.1 details of the names and addresses of sub-contractors and such other details as Royal Mail may reasonably request and copies of Sub-Contractor Agreements;

5.2.1.2 where Multiple User Blocks apply to the End-User, an accurate report of the number of Users for which the End-User is licensed;

5.2.1.3 where the End-User is an Associate Group Owner' or Broker Group Owner, details of all Associates and Brokers that participate in its Associate Groups and/or Broker Groups and copies of the agreements between it and the Associates or Brokers that participate in any of its Associate Groups or Broker Groups;

5.2.1.4 evidence to Royal Mail's reasonable satisfaction which shows that each Associate that is identified by the End-User as an Associate and each Broker that is identified by the End-User as a Broker is a genuine Associate or Broker (as the case may be);

5.2.1.5 the name and contact details of all third parties to whom the End-User has supplied a Cleansed End-User Database and/or a Cleansed Customer Database;

5.2.1.6 the name and contact details of all End-User Customers and all third parties which have been supplied any Enhanced End-User Databases, Enhanced Customer Databases, Cleansed Enhanced Databases, Sample List Databases, and/or Sample PAF® Databases.

### **5.3 General Obligations**

5.3.1 The End-User shall comply with all laws and regulations applicable to its use of the Data.

5.3.2 The End-User shall at all times ensure that the Maximum Data Return is not exceeded in any single Transaction.

## **6. LICENCE FEES**

6.1 Where an End-User is a Corporate Licensee then it shall be under no obligation to pay Licence Fees to Royal Mail. The End-User acknowledges that it will be responsible for ascertaining whether or not it is a Corporate Licensee. However, if the End-User does pay Licence Fees where it is a Corporate Licensee then Royal Mail shall refund such amount to the End-User (unless otherwise agreed between the parties) provided that the End-User has notified Royal Mail of such payment within twelve (12) months of the date on which it made such payment and provided that the End-User has complied with its obligations pursuant to Clause 6.3.

6.2 The End-User acknowledges that it has made all reasonable efforts to ascertain if it is a Corporate Licensee in advance of paying any fees to Royal Mail, including making all reasonable enquiries of any parent companies and/or subsidiaries and checking the Corporate Licence Website.

## **7. LIABILITY**

7.1 Westwood Forster and the Royal Mail does not in any way warrant the accuracy or completeness of the Data and shall not be liable for any loss or damage (whether direct or indirect or consequential) howsoever arising out of or in connection with this Agreement or its termination, except to the extent that such liability may not be lawfully excluded.

7.2 Royal Mail does not in any way warrant that the Data or any Solutions have been tested for use by the End-User or any third party or that the Data or any Solutions will be suitable for or be capable of being used by the End-User or any third party.

7.3 In the event that the Data Supply Medium causes any loss whatsoever to the End-User or any third party, the liability of Westwood Forster and the Royal Mail shall be limited to the re-supply of the Data to the End-User.

7.4 Westwood Forster and the Royal Mail shall not be liable to the End-User for any of the following types of loss or damage arising under or in relation to any or all of the PAF® Agreements: (i) any wasted expenditure, temporary loss of access to web service, or any loss or corruption of data (regardless of whether any of these types of loss or damage are direct, indirect or consequential); or (ii) any indirect or consequential loss or damage whatsoever (including any loss of profits, business, contracts, anticipated savings, goodwill, or revenue); and in each case, even if Westwood Forster or the Royal Mail was aware of the possibility that such loss or damage might be incurred by the End-User.

7.5 Each party's total aggregate liability to the other for claims brought (including for claims brought after termination) during each Year under or in relation to any or all of the PAF® Agreements including (but not limited to) liability for breach of contract, misrepresentation (whether tortious or statutory), tort (including, but not limited to negligence) and breach of statutory shall not exceed the aggregate Total Licence Fees paid in the previous Year, unless such claim is in the first Year in which case it shall not exceed the aggregate Total Licence Fees paid to date.

7.6 Nothing in this Agreement shall operate to limit or exclude either party's liability for any negligence which results in personal injury or death, or for any other liability which may not be limited or excluded by law.

7.7 The express provisions of this Agreement are in place of all warranties, conditions, terms, undertakings and obligations implied by statute, common law, custom, trade usage, course of dealing or otherwise, all of which are hereby excluded to the maximum extent permitted by law.

7.8 Each provision of this Clause 7 is to be construed as a separate limitation or other provision (applying and surviving even if for any reason one or other of the said limitations or provisions is held inapplicable or unreasonable in any circumstances)

## **8. PROPERTY RIGHTS IN THE DATA**

8.1 The Data and all Intellectual Property Rights subsisting in and/or relating to the Data from time to time are and shall remain the property of Royal Mail or its licensors. The End-User shall acquire no rights in the Data or the Intellectual Property Rights except as expressly provided in this Agreement.

This Agreement shall not operate as an assignment by Royal Mail of any Intellectual Property Right that may subsist in or relate to the Data.

8.2 Royal Mail reserves all its Intellectual Property Rights in the Data and reserves its rights under this Agreement (including all its rights to take enforcement action in respect of the same) in relation to any use of the Data (or any part of the Data) by the End-User and/or any End-User Customer which is not permitted under this Agreement. This shall include, without limitation, any provision to a third party of a copy of or access to any Cleansed End-User Database or Cleansed Customer Database or any other database which is in breach of or results from a breach of this Agreement.

8.3 The End-User shall not remove or tamper with any Intellectual Property Rights notice attached or used in relation to the Data.

8.4 Property in any media format on which the Data is supplied to the End-User and all supporting documentation remains vested in Royal Mail at all times. Where any such media and/or documentation is outdated it shall be either securely stored or destroyed by the End-User at its discretion.

8.5 The Licence does not grant to the End-User any right to use any of the trademarks, service marks, business names or logos of Royal Mail.

## 9. ASSIGNMENT

9.1 The End-User shall not assign any of its rights or obligations under this Agreement or otherwise deal with this Agreement or any part of it without the prior written consent of Royal Mail, such consent not to be unreasonably withheld. Westwood Forster or the Royal Mail shall have the right to assign or sub-contract this Agreement without consent.

## 10. TERMINATION

10.1 The parties may terminate this Agreement at any time where they mutually agree to do so. The parties agree that they will evidence such termination in writing and ensure that the same is signed by an authorised signatory of each party.

10.2 This Agreement may be terminated forthwith by Royal Mail by written notice to the End-User upon the occurrence of any of the following:

10.2.1 the End-User breaching any of the terms of this Agreement and (where such breach is capable of being remedied) further fails to remedy the position within twenty (20) Working Days (or such other period agreed with Royal Mail) of the date of written notification of such; or

10.2.2 the End-User becoming bankrupt or insolvent or is unable to pay its debts as they fall due or passes a resolution for winding up or if a court makes an order that the End-User shall be wound up (in either case other than for the purposes of reconstruction) or if a receiver, manager or an administrator is appointed over any or all of the assets of the End-User or if the End-User makes any

composition or arrangement with or for the benefit of its creditors or if any analogous event occurs in any other jurisdiction in which the End-User carries out its business; or

10.2.3 the End-User failing to have entered into or ceasing to be a party to a valid and current Data Supply Agreement.

10.3 The End-User may terminate this Agreement:

10.3.1 in the manner and in the circumstances set out in paragraph 6.8 of Annex3; or

10.3.2 if Royal Mail fails to provide the Data in accordance with the terms of the Data Supply Agreement and such failure is not due to any act or omission of the End-User, its affiliates, employees, agents or sub-contractors or due to any Force Majeure Event,) Royal Mail fails to remedy the position within twenty (20) Working Days of the date of written notification of the failure served by the End-User.

## 11. CONSEQUENCES OF TERMINATION

11.1 Subject to the remainder of this Clause 11, as at the date of termination of the Agreement the licence granted to the End-User also terminates and accordingly the End-User shall cease to be permitted to, or to permit any third party to, make any use of any of the Data.

11.2 The End-User shall be entitled to retain a copy of the Data for archive purposes, to be used only in the event of and for the purposes of audit, to meet any legal or regulatory requirements or the requirements of a court of competent jurisdiction or as otherwise agreed with Royal Mail.

11.3 Termination of this Agreement shall not prejudice or affect the right of Westwood Forster and the Royal Mail to recover from the End-User the amount of any fees outstanding at the date of termination nor any other right whatsoever of either party which may have accrued at that date or which may accrue thereafter.

**Royal Mail:** Address Management Unit, Fourth Floor, Slindon Street, PORTSMOUTH, PO1 1AF;

**End-User:** the address and contact details given on Data Access Agreement or as otherwise notified to Royal Mail in writing.

## 15. ENTIRE AGREEMENT

15.1 Save as otherwise agreed in writing, this Agreement and the documents referred to in this Agreement constitute the entire agreement between the parties in relation to its subject matter and replaces and extinguishes any previous agreements, draft agreements, arrangements, undertakings or collateral contracts of any nature made between the parties whether oral or written, in relation to such subject matter, and there are no additional terms or obligations other than those contained therein.

15.2 Each party acknowledges that in entering into this Agreement it is not relying on, and shall have no rights or remedies (whether in tort, under statute or otherwise) in respect of any statements,



collateral or other warranties, assurances, undertakings or representations (whether innocently or negligently made) by the other party to this Agreement.

15.3 Nothing in this Clause 15 shall exclude or restrict the liability of either party arising out of fraudulent misrepresentation or fraudulent concealment.

15.4 Nothing in this Clause 15 shall waive any rights or remedies that either party may have accrued or which may accrue hereafter in respect of any other agreement or licence entered into between the parties whether before, on or after the date of this Agreement.

## **16. GENERAL**

16.1 This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with English law. The parties hereby irrevocably submit to the non-exclusive jurisdiction of the English courts.

16.2 The failure of either party to enforce or to exercise, at any time or for any period, any term of, or right arising pursuant to, this contract, does not constitute and shall not be construed as a waiver of such term or right and shall not affect the party's right later to enforce or exercise it.

16.3 In the event that any Clause or part of a Clause contained in this Agreement is declared invalid or unenforceable by any court or other regulatory authority of competent jurisdiction, all of the other Clauses or parts of Clauses contained in this Agreement shall remain in full force and effect and shall not be affected thereby.

16.4 Any additions to or variations of this Agreement must be in writing signed on behalf of all three parties.

16.5 A person who is not a party to this Agreement may not enforce any of its provisions under the Contracts (Rights of Third Parties) Act 1999.

## **ANNEX 1**

### **ADVANCED OPTIONS**

#### **PART 1 - EXTERNAL TRANSACTION SOLUTIONS**

##### **Recitals**

(A) External Transaction Solutions exist to allow End-Users to make limited amounts of Data available to third parties in order to confirm certain address details where a product or service is being made available to such third parties via the End-User's publicly available website.

(B) Where an End-User wishes to use any such External Transaction Solutions it must at all times do so on the terms and conditions consistent with this Part 1 of Annex 1.

##### **1. External Transaction Solutions: Operative Provisions**

1.1 Where the End-User uses an External Transaction Solution, the End-User shall:

1.1.1 only use the External Transaction Solution to carry out Transactions for the purpose of capturing, verifying, updating or amending details entered by a Service Recipient or prospective Service Recipient on the End-User's publicly available website and only for the purpose of despatching a product (such purpose may include the provision of the Service Recipient's verified, updated or amended details to a postal or delivery service provider for the purposes of carrying out that despatch) or for the purpose of the provision of a service, in each case that is offered on such publicly available website to the Service Recipient;

1.1.2 ensure that the External Transaction Solution is configured in such a way that a request is initiated by a Service Recipient of the End-User via the End-User's publicly available website to verify, update or amend a single address or Postcode entered by that Service Recipient on the End-User's publicly available website. Upon receipt of that request, the External Transaction Solution must respond by returning a correct address or Postcode or confirming that the address inputted is correct;

1.1.3 not use the Data, or any part of it, as contained in the External Transaction Solution elsewhere in its organisation or for any purpose other than to operate the External Transaction Solution.

1.2 The End-User shall not use the External Transaction Solution for any other purpose other than as permitted in paragraph 1.1 and shall not pass on any part of the Data obtained as a result of using the External Transaction Solution to any third party unless expressly permitted in accordance with this Agreement.

#### **PART 2 – EXTENDED USE SOLUTIONS**

##### **Recitals**

(A) Extended Use Solutions exist to allow End-Users to make the Data available to third party users of the End-User's own services for the limited purpose of confirming certain address details for the purposes of the subsequent delivery of such third party user's mail, packages, products or services by the End-User.

(B) Where an End-User wishes to use any such Extended Use Solutions it must at all times do so on the terms and conditions consistent with this Part 2 of Annex 1.

### **1. Extended Use Solutions: Operative Provisions**

1.1 Where the End-User uses an Extended Use Solution, the End-User shall:

1.1.1 only use Extended Use Solution for the purpose of making the Data available to third party users of the End-User's own services with whom it has a contractual relationship for the provision of such services (the **"Service Users"**);

1.1.2 only make the Data available to its Service Users for the purposes of that Service User verifying, updating or amending address details and only for the purpose of the subsequent delivery by the End-User of the Service User's mail, packages, products or services;

1.1.3 ensure that Service Users do not use the Data, or any part of it, for any other purpose other than that described in paragraph 1.1.2 and shall not supply or make the Data available to any other third party. For the avoidance of doubt, the Service User may supply an address which has been verified, updated or amended using the Data to the End-User for the purposes described in paragraph 1.1.2;

1.1.4 not use the Data, or any part of it, as contained in the Extended Use Solution for its own internal use or for any purpose other than to operate the Extended Use Solution as permitted pursuant to this paragraph 1.1.

## **PART 3 - ASSOCIATE GROUP SOLUTIONS**

### **Recitals**

(A) Associate Group Solutions exist to provide for cost effective use of the Data by an End-User where it has established or where it operates a closely connected group comprising other legal entities.

(B) In the case of Associate Groups, the relevant closely connected groups those in a franchise-type situation.

(C) For the purposes of Associate Group Solutions an End-User will be described as the Associate Group Owner.

(D) Where an End-User wishes to use any such Associate Group Solutions it must at all times do so on the terms and conditions of this Part 3 of Annex 1.

## 1. Associate Group Solutions: Operative Provisions

1.1 Where the End-User is an Associate Group Owner and receives or uses any Associate Group Solutions then it shall be liable to pay to Royal Mail the appropriate fees in respect of each Associate Group Solution and this shall be on behalf of itself and all Associates that participate in the same Associate Group.

1.2 The use by the Associate Group Owner of any other Solution, or the use of the Associate Group Solution or any Data for any purpose other than as expressly set out in this Part 3 of Annex 1 must be licensed appropriately in accordance with the other provisions of this Agreement and in respect of which the appropriate licence fees shall be paid.

1.3 The Associate Group Owner shall not permit any Associates to use or access the Associate Group Solution or any Data for any purpose other than as expressly set out in this Part 3 of Annex 1. Where an Associate wishes to use the Data in any way other than as expressly set out in this Part 3 of Annex 1 it shall first enter into an agreement with Royal Mail or other appropriately licensed third party.

1.4 The Associate Group Owner shall ensure that each Associate Group Solution shall only be used by it and the Associates that participate in that same Associate Group and not by any other person.

1.5 The Associate Group Owner shall remain primarily responsible for the acts and omissions of the Associates that participate in its Associate Groups as though they were its own and shall be responsible for all loss or damage (whether direct or indirect or consequential) howsoever arising out of or in connection with such Associates' use of or access to the Data.

1.6 Where the Associate Group Owner receives or uses an Associate Group Solution supplied by Royal Mail then it shall enter into and enforce the terms of a written agreement with each Associate that participates in its Associate Group. The terms of such agreement shall be equivalent to, no less onerous than and shall not grant more extensive rights than those terms relevant to the Associate Group Solution which are contained in this Agreement (including, without limitation, those provisions relating to the licensing and limitations on the use of the Data, termination, confidentiality, liability and property rights in the Data) and which:

1.6.1 only permits each such Associate to use the Associate Group Solution as set out in this Agreement and not for any other purpose, including any other internal use or for supplying or making available to any other third party; and

1.6.2 enables Royal Mail to directly enforce all terms relating to the Data by virtue of the Contracts (Rights of Third Parties) Act 1999.

1.7 The Associate Group Owner shall on request notify Royal Mail in writing of all Associates that participate in its Associate Group and shall provide it with copies of the agreements between it and the Associates that participate in its Associate Group.

1.8 Upon request from Royal Mail, the Associate Group Owner shall provide evidence to Royal Mail's reasonable satisfaction which shows that each Associate that is identified by the Associate Group Owner as an Associate is a genuine Associate.

1.9 The Associate Group Owner shall enter into or shall already have entered into a written contract with each Associate which:

1.9.1 authorises the Associate to undertake marketing, distributing, supplying, reselling or providing information to, or obtaining enquiries or orders from, third party Service Recipients or potential Service Recipients, in each case in respect of the products and/or services supplied in accordance with a common identity and business format or method;

1.9.2 obliges the Associate Group Owner to provide know-how and/or technical and/or business support to the Associate; and

1.9.3 obliges the Associate to operate according to specified methods or standards;

in each case in a manner which is consistent throughout the Associate Group (the "**Associate Contract**").

1.10 The Associate Group Owner shall ensure that the Associate Group Solution:

1.10.1 shall be securely held by it and only made available and accessible to it and the Associates participating in that same Associate Group with sufficient security to prevent use by any other person (the "**Secure Associate Network**");

1.10.2 where made available or is accessible to Associates over an electronic network, such electronic network shall be owned or controlled by the Associate Group Owner and the Associate Group Solution shall only be made available or accessible over a secure electronic connection with technical restrictions to prevent use by any other person (the "**Secure Associate Electronic Network**");

1.10.3 shall only be used for the purposes of capturing, completing and/or verifying address details of Service Recipients or potential Service Recipients and only provided such details are supplied to the Secure Associate Network or entered into the Secure Associate Electronic Network by the Associate Group Owner or the Associates participating in that same Associate Group and not by the Service Recipient or any other person;

1.10.4 is only used in connection with the supply or offers of supply of the products and/or services supplied in accordance with a common identity and business format or method which is specified in the Associate Contract and/or the provision of information on those products and/or services, in each case to Service Recipients or potential Service Recipients.

1.11 The Associate Group Owner shall ensure that Royal Mail and/or its agents may upon ten (10) Working Days' notice be entitled to reasonable accompanied access during business hours to its premises, systems, accounts and records and those of each Associate for the purpose of verifying

and monitoring the Associate Group Owner's compliance with and performance of its obligations under this Agreement.

## **PART 4 - BROKER GROUP SOLUTIONS**

### **Recitals**

(A) Broker Group Solutions exist to provide for cost effective use of the Data by an End-User where it has established or where it operates a closely connected group comprising other legal entities.

(B) In the case of Broker Groups, the relevant closely connected groups are those where an End-User and its group members are authorised brokers, agents or distributors of third party products and/or services or where the group members otherwise act on behalf of the supplier of those third party products and/or services and the usage of the Data by those group members is limited and is essentially for the benefit of that End-User in connection with the service it provides to the group members in facilitating the supply of the third party products and/or services.

(C) For the purposes of Broker Group Solutions an End-User will be described as the Broker Group Owner.

(D) Where an End-User wishes to use any such Broker Group Solutions it must at all times do so on the terms and conditions of this Part 4 of Annex 1.

### **1. Broker Group Solutions: Operative Provisions**

1.1 Where the End-User is a Broker Group Owner and receives or uses any Broker Group Solutions then it shall be liable to pay to Royal Mail the appropriate fee in respect of each Broker Group Solution and this shall be on behalf of itself and all Brokers that participate in the same Broker Group.

1.2 The use by the Broker Group Owner of any other Solution, or the use of the Broker Group Solution or any Data for any purpose other than as expressly set out in this Part 4 of Annex 1 must be licensed appropriately in accordance with the other provisions of this Agreement and in respect of which the appropriate licence fees shall be paid.

1.3 The Broker Group Owner shall not permit any Brokers to use or access the Broker Group Solution or any Data for any purpose other than as expressly set out in this Part 4 of Annex 1. Where a Broker wishes to use the Data in any way other than as expressly set out in this Part 4 of Annex 1 it shall first enter into an agreement with Royal Mail or other appropriately licensed third party.

1.4 The Broker Group Owner shall ensure that each Broker Group Solution shall only be used by it and the Brokers that participate in that same Broker Group and not by any other person.

1.5 The Broker Group Owner shall remain primarily responsible for the acts and omissions of the Brokers that participate in its Broker Groups as though they were its own and shall be responsible

for all loss or damage (whether direct or indirect or consequential) howsoever arising out of or in connection with such Brokers' use of or access to the Data.

1.6 Where the Broker Group Owner receives or uses a Broker Group Solution supplied by Royal Mail then it shall enter into and enforce the terms of a written agreement with each Broker that participates in its Broker Group. The terms of such agreement shall be equivalent to, no less onerous than and shall not grant more extensive rights than those terms relevant to the Broker Group Solution which are contained in this Agreement (including, without limitation, those provisions relating to the licensing and limitations on the use of the Data, termination, confidentiality, liability and property rights in the Data) and which:

1.6.1 only permits each such Broker to use the Broker Group Solution as set out in this Agreement and not for any other purpose, including any other internal use or for supplying or making available to any other third party; and

1.6.2 enables Royal Mail to directly enforce all terms relating to the Data by virtue of the Contracts (Rights of Third Parties) Act 1999.

1.7 The Broker Group Owner shall on request notify Royal Mail in writing of all Brokers that participate in its Broker Group and shall provide it with copies of the agreements between it and the Brokers that participate in its Broker Group.

1.8 Upon request from Royal Mail, the Broker Group Owner shall provide evidence to Royal Mail's reasonable satisfaction which shows that each Broker that is identified by the Broker Group Owner as a Broker is a genuine Broker.

1.9 The Broker Group Owner shall ensure that both it and each Broker participating in the same Broker Group is authorised to act as broker, distributor or agent or otherwise on behalf of principal suppliers (all of which shall be operating in the same industry) of products and/or services (the "**Principal Products**"), in each case pursuant to a written contract with each such supplier.

1.10 The Broker Group Owner shall enter into or shall already have entered into a written contract with each Broker which permits such Broker to use a service provided by the Broker Group Owner which facilitates both it and the Broker in acting as brokers, distributors or agents for the supply of the Principal Products (the "**Broker Contract**").

1.11 The Broker Group Owner shall ensure that the Broker Group Solution:

1.11.1 shall be securely held by it and only made available and accessible to it and the Brokers participating in that same Broker Group with sufficient security to prevent use by any other person (the "**Secure Broker Network**");

1.11.2 where made available or is accessible to Brokers over an electronic network, such electronic network shall be owned or controlled by the Broker Group Owner and the Broker Group Solution shall only be made available or accessible over a secure electronic connection with technical restrictions to prevent use by any other person (the "**Secure Broker Electronic Network**");

1.11.3 shall only be used for the purposes of capturing, completing and/or verifying address details of Service Recipients or potential Service Recipients, which shall only be for and on behalf of the Broker Group Owner and only provided such details are supplied to the Secure Broker Network or entered into the Secure Broker Electronic Network by the Broker Group Owner or Brokers participating in that same Broker Group and not by the Service Recipient or any other person;

1.11.4 is only used in connection with the supply or offers of supply of Principal Products, as set out in the Broker Contract, and/or the provision of information on those Principal Products, in each case to Service Recipients or potential Service Recipients.

1.12 The Broker Group Owner shall ensure that Royal Mail and/or its agents may upon ten (10) Working Days' notice be entitled to reasonable accompanied access during business hours to its premises, systems, accounts and records and those of each Broker for the purpose of verifying and monitoring the Broker Group Owner's compliance with and performance of its obligations under this Agreement.

## **PART 5 - DATABASE CLEANSING OF CUSTOMER DATABASES AND BUREAU SERVICES**

### **Recitals**

(A) The End-User is permitted to carry out certain database cleansing activities in respect of third party databases.

(B) Where the End-User cleanses a third party database and then supplies the resulting cleansed database back to that third party then it is intended that this shall be known as "**Bureau Services**".

(C) Where an End-User wishes to carry out any such database cleansing activities, as Bureau Services or otherwise, it must at all times do so on the terms and conditions consistent with this Part 5 of Annex 1.

### **1. Database Cleansing of Third Party Databases and Bureau Services: Operative Provisions**

1.1 The End-User shall be entitled to:

1.1.1 retain each Cleansed Customer Database provided that each such Cleansed Customer Database shall only be used by the End-User for its internal use only and, subject to paragraphs 1.2 to 1.5, below, for supply to third parties;

1.1.2 return each Cleansed Customer Database to the End-User Customer which supplied the relevant original Customer Database to the End-User provided that the End-User shall ensure that each such End-User Customer shall only:

1.1.2.1 use such Cleansed Customer Database for its own internal use; and

1.1.2.2 supply such Cleansed Customer Database to a third party provided it at all times complies with the provisions the equivalent of paragraphs 1.2 to 1.5, below.



1.1.2.3 Database Cleansing of Third Party Databases and operating as a Bureau Services for any purpose other than as expressly set out in this Part 5 of Annex 1 must be licensed appropriately in accordance with the other provisions of this Agreement and in respect of which the appropriate licence fees shall be paid.

1.2 For the purposes of paragraphs 1.3 and 1.4, below:

1.2.1 the meaning of “**series of connected databases**” shall include (but not be limited to) databases directly or indirectly derived from a single database or originating from the End-User Customer;

1.2.2 the meaning of “**substantially all**” can be determined qualitatively or quantitatively and shall be determined in the reasonable opinion of Royal Mail;

1.2.3 the expression “**normal data supply activities**” includes any activities carried out by the End-User or End-User Customer as part of or in connection with its day to day business of providing address database services to third parties and may, as appropriate, include (but not be limited to) mailing list supply to mailing houses or other mailing list purchasers and the provision of sample address lists for market research purposes, but shall not include further database cleansing by the End-User or End-User Customer, or the licensing of any third party by the End-User or End-User Customer to reproduce the Cleansed Customer Database or to use it for database cleansing purposes; and

1.2.4 any description of a “**comprehensive postal address database**” includes a description of an address database as comprising all or substantially all the delivery points in the United Kingdom, England, Scotland, Wales or Northern Ireland, or any description of similar meaning or effect.

1.3 Any Cleansed Customer Database, which (as a single database or as part of a series of connected databases) comprises all or substantially all the Delivery Points in the United Kingdom or any of England, Scotland, Wales or Northern Ireland, may only be supplied by the End-User to an End-User Customer (but not to any other third party) where such supply is at all times in compliance with the provisions of paragraph 1.4 and the End-User shall ensure that the End-User Customer shall only supply the same to a third party where such supply is at all times in compliance with the provisions of paragraph 1.4.

1.4 Any Cleansed Customer Database which (either on its own or as part of series of connected databases) comprises all or substantially all the Delivery Points in the United Kingdom or any of England, Scotland, Wales or Northern Ireland may only be supplied by the End-User or End-User Customer to third parties (the “**First Level Third Parties**”) and by such First Level Third Parties to other third parties (the “**Second Level First Parties**”) provided that:

1.4.1 neither the End-User, the End-User Customer nor any third party shall at any time promote, market, represent or hold out the Cleansed Customer Database as being a “master” comprehensive postal address database or “original” comprehensive postal address database or as being of any similar description;

1.4.2 such Cleansed Customer Database shall only be supplied by the End-User to an End-User Customer, or by the End-User or End-User Customer to a First Level Third Party, or by a First Level Third Party to a Second Level Third Party, in each case as part of its normal data supply activities;

1.4.3 any such supply to a Second Level Third Party is subject to a requirement that the Cleansed Customer Database shall at all times be used only for the internal purposes of any such Second Level Third Party (and not for supply to any other third party);

1.4.4 any such supply to a Second Level Third Party is subject to requirements on such Second Level Third Party not to reproduce or make any copies of the Cleansed Customer Database or of a substantial part thereof for supply to any other third party and not to make any such supplies; and

1.4.5 during the Term and for a period of six (6) years after the date of termination of this Agreement, any supply to any End-User Customer, First Level Third Party or Second Level Third Party is subject to a prominent notice stating that the Cleansed Customer Database has been cleansed against Royal Mail's PAF<sup>®</sup> being attached and embedded electronically in any soft copy of, and being attached to any hard copy medium comprising or containing any such Cleansed Customer Database.

The provisions of this paragraph 1.4 shall continue to operate after any expiry or termination of this Agreement.

1.5 The End-User shall enter into a written agreement with each End-User Customer on terms which are no less onerous than and which do not grant more extensive rights than those contained in this Agreement in connection with Bureau Services and which enables Royal Mail to directly enforce its terms by virtue of the Contracts (Rights of Third Parties) Act 1999.

1.6 The End-User may, and may permit the End-User Customer to, include the following statement, provided only that its use is reasonable, on its business stationery and publicity material and provided that such use is not permitted after the date of expiry or termination of this Agreement: "[Name of End-User or End-User Customer] processes databases against Royal Mail's PAF<sup>®</sup> and Alias databases."

1.7 During the Term and for a period of three (3) years after the date of termination of this Agreement, the End-User shall, upon request, provide within twenty (20) Working Days to Royal Mail, the name and contact details of all third parties to whom Cleansed Customer Databases have been supplied. The provisions of this paragraph 1.7 shall continue to operate after any expiry or termination of this Agreement.

## ANNEX 2

### USING THE DATA FOR MARKET RESEARCH

#### 1. General

1.1 The End-User shall be entitled to permit the use of the Data in the manner described in this Annex 2 for Market Research Purposes provided it all times complies with the provisions of this Annex 2.

1.2 For the purposes of this Annex 2, the following terms shall have the following meanings:

1.2.1 **“Market Research Purposes”** shall mean social and/or opinion research involving the systematic gathering and interpretation of information about individuals or organisations using the statistical and analytical methods and techniques of the applied social sciences in order to gain insight or support decision making in respect of such individuals or organisations;

1.2.2 **“Researchers”** shall mean (i) individuals employed by or contracted to an entity for the purposes of carrying out research activities for that entity’s own Market Research Purposes; or (ii) individuals employed by or contracted to an employment agency which has entered into a contract with that entity for the provision of such individuals to that entity for the purposes of carrying out research activities for Market Research Purposes for or on behalf of that entity.

#### 2. Data Creation in respect of End-User Databases and Cleansed End-User Databases

2.1 The End-User shall be entitled to carry out Data Creation such that it adds PAF® Records to its own End-User Databases or Cleansed End-User Databases provided that:

2.1.1 such added PAF® Records do not exceed 10% (ten percent) of the total number of PAF® Records in the copy of the Data that is used to carry out such Data Creation; and

2.1.2 each database that is created as result of adding PAF® Records to such End-User Database or Cleansed End-User Database (the **“Enhanced End-User Database”**) is used only in accordance with paragraph 2.2.

2.2 The End-User shall only use each Enhanced End-User Database for:

2.2.1 its own internal use and for supply to its own Researchers, in each case for Market Research Purposes;

2.2.2 for the creation of databases comprising no more than 200,000 (two hundred thousand) Records (which have been created through the carrying out of Data Creation) from the Enhanced End-User Database (each being a **“Sample List Database”**) which it may supply to other third parties (each being a **“Sample List Recipient”**) for use for Market Research Purposes and provided that each such Sample List Recipient:

2.2.2.1 deletes or destroys each Sample List Database within twenty (20) Working Days of the completion of the specific Market Research Purpose for which the Sample List Database was being used and confirms in writing to the End-User that it has done so;

2.2.2.2 shall not combine any Sample List Database with any other Sample List Database or use it in connection with any other Sample List Database for any purpose whatsoever; and

2.2.2.3 shall under no circumstances supply any such Sample List Databases or any such Records to any other third party other than its own Researchers for use in respect of the Sample List Recipient's Market Research Purposes; and/or

2.2.3 for supply to third parties for their own Market Research Purposes, subject to its compliance at all times with the provisions of Clauses 4.1.7 to 4.1.10 of the main body of this Agreement as if the Enhanced End-User Database was a Cleansed End-User Database, except that such third party may also be permitted to use such Enhanced End-User Database for the creation of Sample List Databases for supply to Sample List Recipients for use for Market Research Purposes and provided that each such Sample List Recipient:

2.2.3.1 may only receive a maximum of 200,000 (two hundred thousand) Records which have been created through the carrying out of Data Creation (in aggregate across any number of Sample List Databases) in any twelve (12) month period; and

2.2.3.2 shall under no circumstances supply any such Sample List Databases or any such Records to any other third party other than its own Researchers for use in respect of the Sample List Recipient's Market Research Purposes.

### **3. Data Creation in respect of Customer Databases and Cleansed Customer Databases**

3.1 The End-User shall be entitled to carry out Data Creation such that it adds PAF® Records to Customer Databases or Cleansed Customer Databases provided that:

3.1.1 such added PAF® Records do not exceed 10% (ten percent) of the total number of PAF® Records in the copy of the Data that is used to carry out such Data Creation; and

3.1.2 each database that is created as result of adding PAF® Records to such Customer Database or Cleansed Customer Database (the **"Enhanced Customer Database"**) is used only in accordance with paragraph 3.2.

3.2 The End-User shall only use each Enhanced Customer Database for:

3.2.1 its own internal use and for supply to its own Researchers, in each case for the End-User's Market Research Purposes; and/or

3.2.2 return to the relevant End-User Customer provided that such End-User Customer shall only use such Enhanced Customer Database internally for Market Research Purposes and for supply to its own Researchers for use in respect of the End-User Customer's Market Research Purposes.

#### 4. Using Enhanced End-User Databases for Enhanced Database Cleansing

4.1 For the purposes of this paragraph 4 only, “**Enhanced Database Cleansing**” shall mean any activity which involves the processing of an End-User Database or Customer Database using the Enhanced End-User Database and includes:

4.1.1 the verification of an existing Record in the End-User Database or Customer Database as being the same as the entry on the Enhanced End-User Database;

4.1.2 the amendment of an existing Record in the End-User Database or Customer Database to correct the address so that it contains the same information as the entry on the Enhanced End-User Database;

4.1.3 the standardisation of an existing Record in the End-User Database or Customer Database into a “**PAF® format**”;

4.1.4 the flagging or marking of an existing Record in the End-User Database or Customer Database as being the same as the Enhanced End-User Database;

4.1.5 adding further information derived from the Enhanced End-User Database to an existing Record in the End-User Database or Customer Database; and

4.1.6 extracting duplicate existing Records in the End-User Database or Customer Database;

but does not include Data Creation.

4.2 The End-User shall be entitled to carry out Enhanced Database Cleansing in respect of Customer Databases, Cleansed Customer Databases and/or Enhanced Customer Databases as, and only to the extent, permitted pursuant to this paragraph 4.

4.3 The End-User shall ensure that a Customer Database, Cleansed Customer Database and/or an Enhanced Customer Database upon which Enhanced Database Cleansing has been performed by it (the “**Cleansed Enhanced Database**”) shall be used by the End-User only for return to the relevant End-User Customer for its own internal Market Research Purposes (and not for any internal use by the End-User) and provided that such End-User Customer:

4.3.1 may only receive only one Cleansed Enhanced Database in any twelve (12) month period; and

4.3.2 shall under no circumstances supply such Cleansed Enhanced Database to any other third party other than its own Researchers for use in respect of the End-User Customer’s Market Research Purposes.

#### 5. Data Creation for Market Research Purposes

5.1 The End-User shall be entitled to carry out Data Creation provided that:

5.1.1 the number of PAF® Records added as a result of such Data Creation does not exceed 200,000 (two hundred thousand) (the **“Sample PAF® Database”**);

5.1.2 such Sample PAF® Database is used only for supply by the End-User to a third party and not for any internal use by the End-User (the **“Sample Recipient”**);

5.1.3 no Sample PAF® Database is combined with any other Sample PAF® Database or used in connection with any other Sample PAF® Database for any purpose whatsoever;

5.1.4 such Sample PAF® Database is used by the Sample Recipient only for its own internal use for Market Research Purposes and not for any other purpose and not for supply by the Sample Recipient to any other third party other than to its own Researchers for use in respect of the Sample Recipient’s Market Research Purposes; and

5.1.5 each such Sample Recipient deletes or destroys each Sample PAF® Database within twenty (20) Working Days of the completion of the specific Market Research Purpose for which the Sample PAF® Database was being used and confirms in writing to the End-User that it has done so.



## ANNEX 3

### LICENCE FEES AND PAYMENT

#### 1. Fees

1.1 The Data can only be utilised in the level known as “Full PAF®” with the relevant fees for User and Transaction based pricing as agreed. “Full PAF®” can contain the elements set out in Table 1 below.

**TABLE 1 – the elements of data comprising “Full PAF®” as supplied to Westwood Forster by the Royal Mail**

PAF® record element	A whole PAF® record for full PAF® comprises the following elements
Organisation Name	✓
Department Name	✓
PO Box	✓
Sub Building Name	✓
Building Name	✓
Building Number	✓
Thoroughfare	✓
Dependant Thoroughfare	✓
Dependant Locality	✓
Double Dependant Locality	✓
Post Town	✓
Postcode	✓
Delivery Point Suffix	✓
Checksum Digit	✓
UDPRN	✓
Postcode Type (small or large user)	✓
Small User Org Indicator	✓
Delivery Point Count for Postcode	✓
Mailsort code	✓
Concatenation Indicator	✓
Address Keys	✓
Organisation Key	✓
Number of Households	✓
DP Use Indicators	✓
Alias – Delivery Point	✓
Alias – Thoroughfare/Dependent Thoroughfare	✓
Alias - Locality	✓
Alias – Traditional County	✓
Alias – Former Postal County	✓
Alias – Administrative County	✓
For Welsh PAF® Records only:	
Welsh - Dependent Thoroughfare	✓
Welsh - Dependent Locality	✓
Welsh – Double Dependent Locality	✓
Welsh – Post Town	✓

## 2. Licence Fees calculated on a per User basis

Wherever the End-User elects for any Licence Fees to be calculated on the basis of a number of Users then the End-User shall comply with the following provisions:

### **General**

3.1 The Licence Fees shall be payable by the End-User annually in advance (unless expressly agreed otherwise with Royal Mail). Licence Fees may be payable on a pro-rated basis only where the End-User wishes to allow further Users to have the ability to access the Data in addition to those for which the annual Licence Fees had already been paid. Such pro-rating shall be on a monthly basis with each part month deemed to be a whole month for the purposes of calculating the applicable Licence Fees.

3.2 The relevant Licence Fees shall, subject to paragraph 3.3, be calculated on the basis of the total number of Users which have the ability to access, a single copy of the Data (in whole or in part) from time to time during the course of the period to which the relevant fees apply. The End-User shall not allow any Users in excess of the number that it has notified to Royal Mail or Westwood Forster to access or have the ability to access any of Data.

3.3 Where the same User has the ability to access more than one copy of the Data (in whole or in part and whether such copy is Created Data or otherwise) it shall be deemed to be an additional User in respect of which a fee is payable for each such copy of the Data, except in any of the circumstances set out below:

3.3.1 where such additional copies were made, exist and are used only for Load Balancing Purposes; or

3.3.2 where such additional copies are identical to the original copy in terms of format, structure, content and functionality and none of the copies are being accessed by any of the same Users for the same purpose;

3.3.3 where Data Creation has been carried out and accordingly the Created Data is deemed to be an additional copy, but is used only in the circumstances set out below:

3.3.3.1 where a User carries out Data Creation and the Created Data is only used accessible by that same User; or

3.3.3.2 where a User carries out Data Creation and the Created Data totals no more than 10,000 (ten thousand) Records (each such Record being identical to the original PAF® Record in terms of format, structure, content and functionality) in any twelve month period and such Created Data is only supplied or made available to, or accessible by, a maximum of ten (10) other Users internal to the End-User. In each case, this is provided that each such other User does not use the Created Data in



connection with any other Data whether provided to it by another User as Created Data or otherwise; or

3.3.3.3 where the End-User carries out Data Creation as permitted pursuant to and in accordance with Annex 2.

### ***Multiple User Blocks***

3.4 An End-User may elect to calculate the Licence Fees by using **“Multiple User Blocks”**. A **“Multiple User Block”** is a block of up to and including three hundred (300) Users of that End-User which have the ability to access the same copy of the Data (in whole or in part). For the purposes only of calculating the number of Users comprising a **“Multiple User Block”**, each User shall be deemed to be 1 User.

3.5 Subject to paragraph 3.6, the End-User shall be entitled to calculate the Licence Fees by using as many Multiple User Blocks as it wishes (and/or any combination of Users and Multiple User Blocks).

3.6 The End-User shall be entitled to calculate the Licence Fees in respect of its Associate Groups and/or Broker Groups and/or Extended Use Solutions by using as many Multiple User Blocks as it wishes (and/or any combination of Users and Multiple User Blocks) in respect of each such Associate Group or Broker Group or Extended Use Solution, but shall not share Multiple User Blocks across different or multiple Associate Groups and/or Broker Groups and/or Extended Use Solutions.

### **4. Licence Fees calculated on an Unlimited Transaction basis for the External Transaction Solution**

Wherever the End-User elects Licence Fees for the External Transaction Solution to be calculated on the basis of Transactions then it shall comply with the following provisions:

4.1 The End-User shall at all times ensure that the Maximum Data Return is not exceeded in any single Transaction.

4.2 The End-User shall pay the annual fee for unlimited Transactions (on the basis as set out in Table 1, above) regardless of the number of Transactions used as a per Transaction fee is not available.

4.3 The fee relating to **“Unlimited Transactions”** shall apply such that it includes all Transactions that the End-User wishes to carry out in relation to all External Transaction Solutions and any number of copies of the Data supplied or made available in respect of the same by Westwood Forster.

### **5. Licence Fees for Bureau Services**

Wherever the End-User provides Bureau Services then the applicable Licence Fees shall be calculated in accordance with the following provisions:

5.1 The Licence Fees shall be payable by the End-User annually in advance (unless expressly agreed otherwise with Royal Mail).

5.2 The Bureau Fee shall be calculated on the basis of a **“Bureau Fee”** to be applied in respect of the End-User where it carries out Bureau Services.

5.3 The agreed annual fees to be applied as the **“Bureau Fee”**.

5.4 The relevant **“Bureau Fee”** applicable to the End-User shall be calculated on the basis of the number of records in third party databases (whether End-User Customer Databases or otherwise) cleansed or processed by the End-User and supplied to a third party, in the End-User’s most recently completed financial year. For the avoidance of doubt, that period may be a period prior to the End-User entering into any agreement with Royal Mail.

## 6. Timescales and Invoicing

6.1 Westwood Forster shall be entitled to send the End-User valid invoices in respect of the Licence Fees due from the End-User under this Agreement. The End-User shall pay all such invoices in full within thirty (30) days of the date of invoice.

6.2 Subject to paragraph 6.3, Licence Fees shall be payable from the date that this Agreement is entered into.

6.3 Where any Data is first supplied or made available to the End-User after the commencement date of this Agreement, then Licence Fees shall be payable from the date such Data is supplied or made available to the End-User (as applicable).

6.4 All sums due to Westwood Forster under this Agreement are exclusive of VAT, if any, which shall be charged in addition to such sums in accordance with the relevant regulations in force at the time of making the relevant taxable supply and shall be paid by the End-User against receipt from Westwood Forster of a valid VAT invoice.

6.5 All amounts due under or in relation to this Agreement shall be paid in full without any deduction or withholding other than as required by law and the End-User shall not be entitled to assert any credit, set-off or counterclaim against Westwood Forster in order to justify withholding payment of any amount.

6.6 Westwood Forster or the Royal Mail shall be entitled to amend any or all of the fees or the basis for calculating any Licence Fees and/or the payments structure provided that such amendment applies generally to all end-users contracting with Royal Mail on its standard terms for the licensing of the Data (other than in respect of any licence agreements for certain specific uses).

6.7 Westwood Forster shall give the End-User twelve (6) months’ prior written notice of the details of any amendment to the fees or the basis for calculating any Licence Fees or to the payment structure made in accordance with paragraph 6.6. Except where such amendment is a decrease in the relevant fee or is an increase no greater than the Permitted RPI Increase, the End-User shall, upon receipt of notice of such an amendment be entitled to terminate this Agreement by giving Westwood Forster not less than one month’s notice in writing expiring on or before the last day of the notice given by Westwood Forster.

6.8 If the End-User does not pay Westwood Forster the Licence Fees due in accordance with this Agreement, without prejudice to any other right or remedy available to Westwood Forster, Westwood Forster shall be entitled to charge interest on all overdue amounts until payment is received in full. The annual rate of interest charged shall be 5% above the Bank of England base rate which prevails during the period of the overdue debt.

