

# Terms and Conditions



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These Canada Complete List Rental Terms and Conditions ("Terms and Conditions") together with any document used to order the Canada Complete Lists ("Order Form") form the Canada Complete Agreement ("Agreement") between Canada Post and the Customer. In the event of any conflict or inconsistency between these Terms and Conditions and the Order Form, these General Terms and Conditions will prevail to the extent of the conflict or inconsistency.

**1.0 LICENSE AND LIMITS ON LIST USE.** Canada Post hereby grants the Customer a limited, non-exclusive, non-transferable license to use the Canada Complete list(s) identified in the Order Form (the "Lists"). The Customer agrees that:

- (a) The Lists are licensed to the Customer for its exclusive use and for the sole purpose of conducting direct mailings to promote the customer's products and services as outlined in the Agreement;
- (b) The Customer itself will not have access to the Lists;
- (c) The Customer may only use the Lists via a third party mail service provider (the "MSP") that has both (a) been identified in the Agreement and (b) has signed the *Canada Complete Mail Service Provider List Agreement* with Canada Post;
- (d) All of the Customer's direct mailings under the Agreement must be completed no later than 90 days from the order date upon which the Data File being utilized is received on behalf of the Customer;
- (e) The Lists will be seeded to ensure compliance with the Agreement.

**2.0 LICENSE AND LIMITS ON POSTAL CODE REPORT USE.** Canada Post hereby grants to the Customer a limited, non-exclusive, non-transferable license to use, with respect to non-mover and non-e-commerce campaigns, the Postal Codes and the number of dwellings in each Postal Code ("Postal Code Count") for each mailing permitted under the Agreement (collectively, "Postal Code Report"). In the event the Customer conducts mover and e-commerce campaigns, Canada Post grants to the Customer a limited, non-exclusive, non-transferable license to use the number of responders in each FSA for each mailing permitted under the Agreement ("FSA Report"). The Customer shall not:

- (a) use the Postal Code Report and the FSA Report other than for the purposes of conducting: (i) response analysis; and/or (ii) future Smartmail™ marketing campaigns with Canada Post;
- (b) rent, license, lease, or sell the Postal Code Report and the FSA Report;
- (c) make derivative works of the Postal Code Report and the FSA Report or combine the Postal Code Report and FSA Report with any other databases;
- (d) reproduce the Postal Code Report and FSA Report except as strictly necessary to use the Postal Code Report and FSA Report as authorized in the Agreement; and
- (e) use the targeting selects requested by the Customer in conjunction, in any way whatsoever, with the permitted uses of the Postal Code Report and FSA Report.

**3.0 PROPRIETARY RIGHTS.** The Lists, the Postal Code Report and the FSA Report (collectively the "Licenced Data") are the property of Canada Post and/or its licensors and remain at all times the exclusive property of Canada Post and/or its licensors. The Customer will, at the request of Canada Post, sign all documents as may be required to ensure that ownership of the Licenced Data remains with Canada Post and/or its licensors.

**4.0 SUPPRESSION FILES.** In the event that the Customer requests suppression services as part of the Agreement, and provides Canada Post with a list it wishes to suppress from its direct mailing, the Customer hereby grants to Canada Post a non-exclusive, limited license to use any such list provided to Canada Post by the Customer for the purposes of suppressing those records from the Licenced Data. The Customer represents that it has the required

authority to grant Canada Post such license. Canada Post agrees not to disclose or make available any part of the Customer's list to any third party or permit any third party to use any of the Customer's list, other than agents or contractors of Canada Post who have signed agreements containing confidentiality obligations that are at least as protective as those set out in the Agreement. Canada Post will destroy the Customer's list upon completion of the suppression services for which the Customer provided the list.

**5.0 MAILING LIST SPECIFICATIONS.** All direct mailings carried out using the Licenced Data must meet Canada Post's Canada Complete Specifications set out at: [https://www.canadapost.ca/cpo/mc/assets/pdf/business/canada\\_complete\\_spec\\_en.pdf](https://www.canadapost.ca/cpo/mc/assets/pdf/business/canada_complete_spec_en.pdf)

**6.0 FEE.** The Customer will pay Canada Post the fees set out in the Agreement, in accordance with invoice terms. All fees paid are non-refundable. Any fees charged by the Mail Service Provider are separate and apart from the Agreement and are the sole responsibility of the Customer.

**7.0 LIABILITY AND DISCLAIMER OF WARRANTY.** Canada Post is providing the Licenced and suppression services on an "as is" basis, and makes no representations or warranties about them. The fees set out in the Agreement reflect the "as is" nature of the Licenced Data and suppression services. The Customer will indemnify and hold Canada Post harmless from any and all claims, damages, losses, or expenses (including lawyer's fees) arising out of or relating to a breach of the agreement by the Customer. Monetary damages may not be a sufficient remedy for any breach of Section 1 or Section 2 of these Terms and Conditions by the Customer, and the Customer agrees that Canada Post will be entitled to interim and permanent equitable relief, including injunction and specific performance, as remedies for any breach. These remedies will not be deemed to be the exclusive remedies for any breach but will be in addition to all other remedies available at law or in equity. Canada Post will not be responsible for any direct, indirect, special, punitive or consequential damages arising out of or relating to the Agreement, whether arising in tort, contract or other legal theory, and even if Canada Post has been advised or is aware of the possibility of such damages. For greater certainty, Canada Post will not be liable to the Customer for consumer complaints regarding unwanted mail from the Customer. Should a consumer wish to opt out of receiving Canada Complete mailings from Canada Post, the Customer may direct them to: [www.canadapost.ca/list\\_optout](http://www.canadapost.ca/list_optout).

## 8.0 TERMINATION.

- 8.1** In the event that the Customer breaches the Agreement, Canada Post may, upon written notice to the Customer, immediately terminate the Agreement.
- 8.2** Canada Post may terminate the Agreement without cause upon 30 days' prior written notice to the Customer.
- 8.3** Upon termination or expiration of the Agreement, the Customer will immediately cease to use, and will have no further rights to use, the Licenced Data. The Customer shall destroy, and certify destruction of, the the Postal Code Report and the FSA Report.

## 9.0 GENERAL TERMS.

**9.1** The Agreement is governed by and will be construed in accordance with the laws of the jurisdiction in which the Customer is situated and the laws of Canada applicable therein, or if the Customer is not situated within Canada, the laws of the province of Ontario and the laws of Canada applicable therein, without regard to any choice or conflict of laws, rule or principle that will result in the application of the laws of any other jurisdiction.

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**9.2** No party has the authority to act on behalf of the other party or to commit the other party in any manner at all or cause any other party's name to be used in any way not specifically authorized by the Agreement.

**9.3** The Agreement sets forth the entire Agreement of the parties and supersedes all previous Agreements and understanding, whether written or oral, with regard to the Agreement.

**9.4** The Customer may not transfer or assign the Agreement without Canada Post's prior written consent.

**9.5** No amendment of the Agreement will be binding unless executed in writing by the parties.

**9.6** If a provision of the Agreement is held to be unenforceable, the other provisions will remain in effect.

**9.7** The failure of either party to exercise any right granted or to require any performance of any term of the Agreement or the waiver by either party of any breach of the Agreement will not be deemed a waiver of any subsequent breach of the same or any other term of the Agreement.