

MODE OF DELIVERY AGREEMENT

This agreement outlines the commitments made by the United States Postal Service, and by the business/property owner either on its own or by and through its agent, manager, or representative (collectively, "Property Agent"), **for establishment or conversion** of a delivery mode and for the installation, maintenance, and replacement of a Cluster Box Unit (the "Delivery Equipment") at the site and delivery points listed below for the property addresses covered by this Agreement (individually, a "Property" and collectively, the "Properties"). The Agreement is entered into voluntarily by the parties and is for a permanent change in the mode of delivery.

I. General Information

District	
Area	
Postal Service Representative	
Property Management Company	
Management Representative	
Primary Address of Location and Addresses Covered by this Agreement	
City, State, Zip Code	
Range of Possible Deliveries (Start-End)	
Number of Possible Deliveries Converted	
Route #	

II. Commercial Property (if residential, leave blank and proceed to Section III)

This project is: **NEW CONSTRUCTION** _____ **RENOVATION** _____
 Estimated 1ST Occupancy Date: _____ 10% Occupancy: _____ Completion: _____
Delivery options will be explained by Postal Service representative

<u>Type of Project</u>	<u>Deliveries</u>	<u>Equipment-Type / #</u>	<u>Pad size</u>
Office Bldg. (__ Floors)	_____	_____	_____
Shopping Mall	_____	_____	_____
Strip Mall	_____	_____	_____
Other	_____	_____	_____

ADDITIONAL COMMENTS:

- Postal Service shall:
 - Label all keys and the insides of the Delivery Equipment by suite numbers.
 - Provide an electronic directory for key distribution to tenants.
 - Provide a letter of introduction and instruction "How to Use the CBU and Parcel Lockers."

III. Residential Property (if commercial, leave blank and proceed to Section IV)

<u>Type of Project</u>	<u>Deliveries</u>	<u>Equipment-Type #</u>	<u>Pad size</u>
Apartment complex (walk)	_____	_____	_____
Apartment complex (other)	_____	_____	_____
Mobile Homes	_____	_____	_____
Townhouses	_____	_____	_____
Condos	_____	_____	_____
Single family homes	_____	_____	_____
Other	_____	_____	_____

ADDITIONAL COMMENTS:

- Customer signatures must be obtained prior to a conversion.
 - In single-family housing areas (including manufactured housing and mobile homes) where the residences and lots are owned, each owner must agree to the conversion in writing. Owners who do not agree must be allowed to retain their current mode of delivery.
 - If an owners' association or developer represents the community, it can direct the mode of delivery for the community.
 - In rental areas, such as apartment complexes and mobile home parks, the owner or manager can approve a conversion.
- When a residence is sold, the mode of delivery cannot be changed arbitrarily prior to the new resident moving in. The existing mode of delivery must be retained absent an agreement otherwise.

IV. Equipment Provided and Installation Requirements

EQUIPMENT (ENTER # OF PIECES)

TYPE I	TYPE II	TYPE III	TYPE IV	TYPE V	TYPE VI	TOTAL

Comments:

DATE OF INSTALLATION: _____

Circle the Responsible Party

Property Agent	USPS	Shall pay for every cost associated with the purchase of the Delivery Equipment.
Property Agent	USPS	Shall pay for every cost associated with the issuance of keys to occupants.
Property Agent	USPS	Shall pay for every cost associated with the changing of locks to the Delivery Equipment.

Location and installation of all Delivery Equipment must be approved by Postal Service representative to confirm ready and reasonable access to the Delivery Equipment, as well as compliance with any applicable federal laws. See attached site map of complex, for pad(s) location and box configuration onto pad(s). This notice will serve as an Agreement/Letter of Consent between

the Postal Service and the Property Agent for the placement of Delivery Equipment at the agreed upon location(s) indicated on the plot map. Property Agent accepts the Delivery Equipment pursuant to the Bill of Sale in Section V below.

V. BILL OF SALE

1. In consideration for the agreement by Property Agent to modify the mode of delivery for the address(es) described in this Agreement, the USPS does hereby sell, convey, transfer and deliver to Property Agent the following personal property:

The Delivery Equipment and any fixtures to attach that Delivery Equipment to the property of the Property Agent (collectively, the "Personal Property"),

subject, however, to USPS's right to uninstall Delivery Equipment in the event that the installation and use of the Delivery Equipment on the property of the Property Agent violates any laws, rules, regulations or ordinances applicable to the USPS.

2. USPS warrants that USPS is the legal owner of the Personal Property and that the Personal Property is free of all liens and encumbrances.
3. Except as set forth in item 2 immediately above, the Personal Property is transferred in "as is" condition without representations or warranties of any kind, expressed or implied, of merchantability, fitness for a particular purpose, condition, design operation, capacity or otherwise.
4. The Personal Property shall be delivered to Property Agent on the Date of Installation agreed upon in this Agreement.
5. This Bill of Sale shall be governed by and construed in accordance with Federal law.
6. This Bill of Sale shall bind and inure to the benefit of Property Agent and the USPS and their respective successors and assigns.

VI. Installation and Maintenance

- a. Property Agent shall pay for every cost associated with the installation of the Delivery Equipment.
- b. Property Agent shall pay for every cost associated with the current and future maintenance and replacement of the Delivery Equipment, except in the limited circumstances regarding keys and locks if the Responsible Party is noted as the USPS in Section IV above.

VII. General Terms and Conditions

Binding on Successors and Assigns. Property Agent, on behalf of itself and each and every owner of the Properties, understands and agrees that this Agreement binds and shall inure to the benefit of Property Agent and to each and every owner of the Properties covered by this Agreement and their respective successors and assigns, agents, employees, servants, tenants, occupants. All parties hereto agree that the owner of each Property shall include this Agreement in any document transferring rights in the Property to any successor in ownership for that Property. This Agreement and any obligation for future maintenance and replacement of the Delivery Equipment contained herein shall survive any expiration, termination or modification of this Agreement. Property Agent represents that it is or acts on behalf of (a) the only person or entity with an interest in the Property (b) the only person or entity with authority to enter into this Agreement and bind owner(s) to the terms and conditions set forth herein and (c) that it has the legal capacity to execute this Agreement, including but not limited to, in the case of a Property Agent that is an individual, being of sound mind, being capable of understanding the language of this Agreement, and being of the age of majority.

Notice. Any notice hereunder shall be given in writing to the party for whom it is intended to the following addresses or such future addresses as may be designated in writing:

Property Agent: Notice will be sent to the address provided for registration above.

United States Postal Service: Notice should be provided to Vincent Harps, Postmaster or Michael Jackson, Supervisor. 817-645-3991/3992.]

No Waiver. If either the Property Agent or USPS shall overlook, excuse, condone or suffer any default, breach, non-observance, improper compliance or non-compliance by the other of any obligation hereunder, this shall not operate as a waiver of such obligation in respect of any continuing or subsequent default, breach, or non-observance, and no such waiver shall be implied but shall only be effective if expressed in writing.

Integration. This Agreement constitutes the full and complete agreement between the parties and supersedes any and all prior representations, promises, and/or understandings pertaining to the subject matter hereof. No modifications to this Agreement are binding unless made in writing and signed by the parties.

Severability. Should any provision or provisions of this Agreement be illegal or not enforceable, it or they shall be considered separate and severable from this Agreement and its remaining provisions shall remain in force and be binding upon the parties hereto as though the said provision or provisions had never been included.

Interpretation, Construction, Choice of Law. This Agreement shall be interpreted in accordance with the plain meaning of its terms and not strictly for or against any of the Parties hereto. This Agreement shall be governed by the Federal laws of the United States.

Claims and Disputes. This Agreement, and any dispute arising hereunder, is subject to the Contract Disputes Act of 1978 (41 U.S.C. §§ 7101-7109).

Attachments. In the event that one or more Attachments are intended to be included with this Agreement, then any such Attachments appended hereto are made a part of this Agreement and are incorporated herein by this reference.

By signing below, the parties agree to be bound by the terms and conditions of this Agreement, its Bill of Sale, and any applicable attachments as determined below and attached hereto.

Attachments (circle if applicable):

USPS-MOD-A1

USPS-MOD-A2

USPS Signature and Date

Property Agent Signature and Date

District Manager Signature and Date

Area Vice President Signature and Date

MOD Attachment-1: USPS INSTALLATION
Include Attachment-1 ONLY if USPS agrees to install Delivery Equipment

Installation and Temporary License Agreement

This Installation and Temporary License Agreement (hereinafter "Temporary License") is attached to, made a part of, and amends the Mode of Delivery Agreement (hereinafter "Delivery Agreement"). All capitalized terms used, but not defined, herein shall have the definition ascribed to them in the Delivery Agreement.

WHEREAS, the United States Postal Service ("USPS") and the business/property owner, either on its own or by and through its agent, manager, or representative (collectively, "Property Agent"), have agreed that USPS shall pay for every cost associated with the installation of, and shall install, the Delivery Equipment at the Property or Properties identified in the Delivery Agreement; and

WHEREAS, USPS, as agrees to install and wishes to enter upon the Property for the purpose of installing (hereinafter, the "Work") the Delivery Equipment and any fixtures used to attach the Delivery Equipment to the Property; and

WHEREAS, the Property Agent agrees to permit such Work by the USPS under this Temporary License on the following terms and conditions:

1. **Installation Agreement.** USPS and Property Agent agree that Section VI(a) of the Delivery Agreement is deleted in its entirety and replaced as follows: "USPS shall pay for every cost associated with the installation of the Delivery Equipment, subject to the terms of the Temporary License in Attachment-1."
2. **License.** Property Agent hereby grants USPS and its employees, agents, consultants, and contractors a nonexclusive, temporary license, for purposes of entering upon the Property and performing all Work necessary or desirable to install the Delivery Equipment and any fixtures used to attach Delivery Equipment to the Property, conditioned upon the further terms and conditions set forth below.
3. **License Term.** The term of this Temporary License (hereinafter, the "Term") shall commence 10 days before, and expire 30 days after the Date of Installation as described above in the Delivery Agreement.
4. **License Area.** The License Area is that area of the Property which will be more particularly delineated by the USPS and Property Agent on or prior to the Date of Installation, as explained in the Delivery Agreement. USPS shall have a right to perform the Work within the agreed-upon License Area and to access and use on a temporary basis any portion of the Property that is reasonably necessary to perform the Work.
5. **USPS's Right of Access.** The Property Agent shall, for the duration of this Temporary License, provide USPS, its employees, agents, consultants, and contractors with continual and uninterrupted access to the Property for purposes of performing the Work. USPS shall not use the Temporary License in a manner that unreasonably interferes with Property Agent's use of the Property.
6. **Installation.** USPS shall be responsible, at USPS's cost, for installation of the Delivery Equipment on the License Area, which involves work to attach the Delivery Equipment to the Property, including but not limited to the use of bolts to attach the Delivery Equipment to existing pavement and structures, the pouring of concrete to provide a level and accessible platform for installation where pavement is not provided, and similar types of construction work. If USPS requires additional space to accommodate the Delivery Box, the License Area shall be reasonably expanded to accommodate the requirements of USPS.
7. **Maintenance of Private Property.** USPS shall be under no obligation to maintain any private property under or around the Delivery Equipment or the area where the Delivery Equipment is located. Upon installation by the Postal Service of any concrete pad to which the Delivery Equipment is attached, the concrete pad automatically becomes the property of, and the responsibility of, the Property Agent. USPS claims no rights in or to the private property upon which the Delivery Equipment is affixed nor any property surrounding the Delivery Equipment. Property Agent shall be responsible for ordinary maintenance of the property upon which the Delivery Equipment is located and the surrounding property, including, without limitation, maintenance, repair and replacement of any concrete pad to which the Delivery Equipment is attached, as well as snow, ice, and trash removal.

8. **Assumption of Work Associated Costs.** USPS expressly agrees that all the Work conducted under this Temporary License shall be performed at the USPS' sole cost and expense.

9. **Insurance.** Property Agent acknowledges that Property Agent has been informed that as an independent establishment of the executive branch of the United States Government, USPS does not routinely purchase commercial insurance or maintain a separate account for potential claims, as is required to technically be considered "self-insured." Rather, liability claims against the USPS are governed by the Federal Tort Claims Act, 39 U.S.C. §409(c). Property Agent understands that Property Agent is responsible for obtaining any liability and property damage insurance for the Property to protect Property Agent's interests.

10. **Indemnification.** Property Agent agrees to defend, indemnify and hold harmless the USPS and its officers, employees, agents, successors and assigns ("USPS Indemnitees") with counsel acceptable to the USPS in its sole discretion, from and against any and all claims, demands, actions, liability, causes of action, losses or damages, including, without limitation, claims for damages or loss to property, injuries, or death, asserted against USPS and/or the USPS Indemnitees by any person or entity whomsoever arising out of the exercise by the USPS of its rights under this Temporary License or a negligent or wrongful act or omission by the Property Agent, its employees or agents or a breach by any of them of their obligations hereunder.

11. **Release.** Property Agent hereby generally and completely releases USPS from any and all claims, liabilities and obligations, both known and unknown, that arise out of or are in any way related to events, acts, conduct, or omissions occurring prior to, on the date of, or during the duration of the Term of this Temporary License with respect to the exercise by the USPS of its rights hereunder. This Release does not release any claims for wrongful acts or omissions by a USPS employee while acting in the scope of his or her employment, any rights or claims that cannot be waived as a matter of law, or any claims for breach by the USPS of this Temporary License.

Initials: _____
Property Agent

Initials: _____
USPS

MOD Attachment-2: USPS MAINTENANCE

Include Attachment-2 ONLY if USPS agrees to maintain Delivery Equipment whether or not USPS installs the Delivery Equipment

Maintenance and Service Access License Agreement

This Maintenance and Service Access License Agreement (hereinafter "Access License") is attached to, made a part of, and amends the Mode of Delivery Agreement (hereinafter "Delivery Agreement"). All capitalized terms used, but not defined, herein shall have the definition ascribed to them in the Delivery Agreement.

WHEREAS, United States Postal Service ("USPS") and the business/property owner, either on its own or by and through its agent, manager, or representative (collectively, "Property Agent"), have agreed that USPS shall maintain, repair and replace, as deemed necessary by the USPS, the Delivery Equipment at the Property or Properties identified in the Delivery Agreement;

WHEREAS, USPS agrees to maintain, inspect, repair, replace, as deemed necessary by USPS, and, in specified circumstances below, remove (hereinafter, the "Work") the Delivery Equipment and any fixtures used to attach the Delivery Equipment to the Property and wishes to enter upon the Property for such purposes; and

WHEREAS, the Property Agent agrees to permit such Work by the USPS on the following terms and conditions:

1. **Installation Agreement.** USPS and Property Agent agree that Section VI(b) of the Delivery Agreement is deleted in its entirety and replaced as follows: "USPS shall pay for every cost associated with the current and future maintenance, repair and replacement of the Delivery Equipment, and the removal of the same under the circumstances set forth in Attachment-2, except in the limited circumstances regarding keys and locks if the Responsible Party is noted as the USPS in Section IV above.
2. **License.** Property Agent hereby grants to USPS and its employees, agents, consultants, and contractors a nonexclusive license to enter onto the Property for the purpose of performing the Work.
3. **Termination.** Both Property Agent and USPS shall have the right to terminate this Access License at any time with sixty (60) days prior written notice to the other. Upon Property Agent's termination of this Access License, USPS shall be relieved of its responsibilities to perform maintenance, repair, replacement, or removal upon or to the Delivery Equipment.
4. **License Area.** The License Area is that area of the Property which will be more particularly delineated by the USPS and Property Agent on or prior to the Date of Installation, as explained in the Delivery Agreement. USPS shall have a right to perform the Work within the agreed-upon License Area and to access and use on a temporary basis any portion of the Property that is reasonably necessary to perform the Work.
5. **USPS's Right of Access.** The Property Agent shall, for the duration of this Access License, provide USPS, its employees, agents, consultants, and contractors with continual and uninterrupted access to the Property for purposes of performing the Work. USPS shall not use the Access License in a manner that unreasonably interferes with Property Agent's use of the Property.
6. **Repairs, Maintenance, Inspection.** USPS shall maintain, inspect, and repair the Delivery Equipment at no cost to Property Agent, such repairs and maintenance to be limited to those repairs and maintenance deemed necessary by USPS to ensure the functionality of the Delivery Equipment. Property Agent agrees to ensure that the Property, Delivery Equipment, and License Area are easily accessible for such purposes by USPS, in accordance with Section 5 of this Access License above. Without limiting the foregoing, USPS claims no rights to the Property and no responsibility for maintenance of the License Area, including the maintenance of any concrete pad to which the Delivery Equipment is attached. Property Agent shall be responsible for maintenance and repair of the Property, including, without limitation, the License Area, which maintenance and repair obligations shall include, without limitation, maintenance and repair (and replacement if deemed necessary by the USPS) of any concrete pad to which the Delivery Equipment is attached, as well as snow, ice, and trash removal.

7. **Maintenance of Private Property.** USPS shall be under no obligation to maintain any private property under or around the Delivery Equipment or the area where the Delivery Equipment is located. Upon installation of any concrete pad to which the Delivery Equipment is attached, the concrete pad automatically becomes the property of, and the responsibility of the Property Agent.

8. **Removal.** The Property Agent grants to USPS permission to remove the Delivery Equipment, at any time during this Access License, if the installation, use or maintenance thereof violates any laws, rules, regulations or ordinances applicable to the USPS. Upon completion of any removal, this Access License shall terminate. USPS shall not have any obligation to restore the Property to its condition it was in prior to the installation of the Delivery Equipment. Property Agent acknowledges and agrees that such removal may interfere with Property Agent's use and operation of the Property for a period of time, such period not to exceed ten (10) days, subject to delays for causes beyond the reasonable control of the USPS.

9. **Assumption of Work Associated Costs.** USPS expressly agrees that the Work conducted under this Access License shall be performed at the USPS' sole cost and expense.

10. **Insurance.** Property Agent acknowledges that Property Agent has been informed that as an independent establishment of the executive branch of the United States Government, the USPS does not routinely purchase commercial insurance or maintain a separate account for potential claims, as is required to technically be considered "self-insured." Rather, liability claims against the USPS are governed by the Federal Tort Claims Act, 39 U.S.C. §409(c). Property Agent understands that Property Agent is responsible for obtaining any liability and property damage insurance for the Property to protect Property Agent's interests.

11. **Indemnification.** Property Agent agrees to defend, indemnify and hold harmless the USPS and its officers, employees, agents, successors and assigns ("USPS Indemnitees") with counsel acceptable to the USPS in its sole discretion, from and against any and all claims, demands, actions, liability, causes of action, losses or damages, including, without limitation, claims for damages or loss to property, injuries, or death, asserted against USPS and/or the USPS Indemnitees by an person or entity whomsoever arising out of the exercise by the USPS of its rights under this Access License or a negligent or wrongful act or omission by the Property Agent, its employees or agents or a breach by any of them of their obligations hereunder.

12. **Release.** Property Agent hereby generally and completely releases USPS from any and all claims, liabilities and obligations, both known and unknown, that arise out of or are in any way related to events, acts, conduct, or omissions occurring prior to, on the date of, or during the duration of this Access License with respect to the exercise by USPS of its rights hereunder. This Release does not release any claims for wrongful acts or omissions by a USPS employee while acting in the scope of his or her employment, any rights or claims that cannot be waived as a matter of law, or any claims for breach of this Access License.

Initials: _____
Property Agent

Initials: _____
USPS