**Postal Regulatory Commission**
**Submitted 8/2/2017 4:07:09 PM**
**Filing ID: 100978**
**Accepted 8/2/2017**

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

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| COMPETITIVE PRODUCT PRICES<br>GLOBAL PLUS 1D CONTRACTS (MC2012-6)<br>NEGOTIATED SERVICE AGREEMENTS | Docket No.<br>CP2017-247 |

**NOTICE OF THE UNITED STATES POSTAL SERVICE OF FILING A FUNCTIONALLY EQUIVALENT GLOBAL PLUS 1D NEGOTIATED SERVICE AGREEMENT AND APPLICATION FOR NON-PUBLIC TREATMENT OF MATERIALS FILED UNDER SEAL**
(August 2, 2017)

In accordance with 39 C.F.R. § 3015.5 and Order No. 3395,[1] the United States Postal Service (Postal Service) hereby gives notice that it is entering into a Global Plus 1D contract. Prices and classifications not of general applicability for Global Plus 1 Contracts were previously established by the Decision of the Governors of the United States Postal Service on the Establishment of Prices and Classifications for Global Plus Contracts, issued on May 28, 2008 (Governors' Decision No. 08-8).[2] Subsequently, the Postal Regulatory Commission (Commission) determined that the Global Plus 1 contracts filed in Docket Nos. CP2008-9 and CP2008-10,[3] and the Global Plus 1 contracts filed in Docket Nos. CP2009-46 and CP2009-47,[4] were functionally equivalent

[1] PRC Order No. 3395, Order Adding Global Plus 1D to the Competitive Product List and Approval of Designation as Baseline Agreement, Docket No. CP2016-193, June 29, 2016.
[2] A redacted copy of this decision was filed as an attachment to the United States Postal Service Notice of Filing Redacted Copy of Governors' Decision No. 08-8, Docket Nos. CP2008-8, CP2008-9, and CP2008-10, June 16, 2008. An unredacted copy of the decision, as well as a record of proceedings, was filed under seal with the Notice of United States Postal Service of Governors' Decision Establishing Prices and Classifications for Global Plus Contracts, Docket No. CP2008-8, June 2, 2008.
[3] PRC Order No. 85 at 8, 11.
[4] PRC Order No. 265, Order concerning Filing a Functionally Equivalent Global Plus 1 Contract Negotiated Service Agreement, Docket No. CP2009-46, July 31, 2009, at 7; PRC Order No. 266, Order

to each other and included them within the Global Plus 1 product on the competitive products list. In addition, the Commission added the contracts filed in Docket Nos. CP2010-67 and CP2010-68 to the competitive product list as a new product, Global Plus 1A[5]; the contracts filed in Docket Nos. CP2011-39 and CP2011-40 to the competitive product list as a new product, Global Plus 1B[6]; the contracts filed in Docket Nos. CP2012-12 and CP2012-13 to the competitive product list as a new product, Global Plus 1C[7]; and the contract filed in Docket No. CP2016-193 as a new product, Global Plus 1D.[8] The Commission determined that individual Global Plus 1D contracts may be included as part of the Global Plus 1D product if they meet the requirements of 39 U.S.C. § 3633 and if they are functionally equivalent to the Global Plus 1D baseline agreement.[9]

The contract and supporting documents establishing compliance with 39 U.S.C. § 3633 and 39 C.F.R. § 3015.5 are being filed separately under seal with the Commission. A redacted copy of the contract, a redacted version of the certified statement required by 39 C.F.R. § 3015.5(c)(2) for the contract, and a redacted version of Governors' Decision No. 11-6 are filed as Attachments 1, 2, and 3, respectively. Attachment 4 to this Notice is the Postal Service's Application for Non-public Treatment

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concerning Filing a Functionally Equivalent Global Plus 1 Contract Negotiated Service Agreement, Docket No. CP2009-47, July 31, 2009, at 6.

[5] PRC Order No. 504, Order Approving Functionally Equivalent Global Plus 1A Contracts Negotiated Service Agreements, Docket Nos. MC2010-26, CP2010-67 and CP2010-68, at 8.

[6] PRC Order No. 622, Order Adding Global Plus 1B to the Competitive Product List and Approving Functionally Equivalent Global Plus 1B Contracts, Docket Nos. MC2011-7, CP2011-39 and CP2011-40, December 23, 2010, at 8.

[7] PRC Order No. 1151, Order Adding Global Plus 1C to the Competitive Product List and Approving Related Global Plus 1C Agreements, Docket Nos. MC2012-6, CP2012-12, and CP2012-13, January 19, 2012, at 7-8.

[8] PRC Order No. 3395, Order Adding Global Plus 1D to the Competitive Product List and Approval of Designation as Baseline Agreement, Docket No. CP2016-193, June 29, 2016.

[9] *Id*. at 5-6.

of materials filed under seal in this docket. A full discussion of the required elements of the application appears in Attachment 4. Redacted versions of the supporting financial documents for the contract are included with this filing as separate Excel files.

## *I. Background*

The first Global Plus 1D contract was filed on June 7, 2016.[10] The Postal Service demonstrates below that the agreement that is included with this filing is functionally equivalent to the contract that is the subject of Docket No. CP2016-193. Accordingly, this contract should be included within the Global Plus 1D product.

## *II. Identification of the Additional Global Plus 1D Contract*

The Postal Service believes that this additional Global Plus 1 contract fits within the Mail Classification Schedule (MCS) language for Global Plus 1D.[11] The intended effective date of this agreement is August 20, 2017. If the effective date of the agreement is the first of the month, the agreement that is the subject of this docket is set to expire one year after its effective date. If the effective date of the agreement is not the first of the month, the agreement is set to expire on the last day of the month in which the effective date falls in the year subsequent to the effective date. Thus, if the agreement is approved with the intended effective date of August 20, 2017, the agreement would be set to expire August 31, 2018, unless terminated sooner.

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[10] Notice of the United States Postal Service of Filing a Functionally Equivalent Global Plus 1C Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal, Docket No. CP2016-193, June 7, 2016.

[11] *See* Postal Regulatory Commission, Mail Classification Schedule, posted January 22, 2017 (with revisions through June 23, 2017), available at http://www.prc.gov/mail-classification-schedule, at 2510.6 Global Plus Contracts.

### *III. Functional Equivalence of Global Plus 1D Contracts*

The Global Plus 1D contract under consideration is substantially similar to the Global Plus 1D baseline contract filed in Docket No. CP2016-193. The contracts share similar cost and market characteristics. The pricing formula relied on for these Global Plus 1D contracts is in Governors' Decision No. 11-6, which is included as Attachment 3 to this filing. Therefore, the costs of each Global Plus 1D contract conform to a common description. In addition, the Global Plus 1D language in the MCS requires that each Global Plus 1D contract must cover its attributable costs. The contract at issue here meets the Governors' criteria and thus exhibits similar cost and market characteristics to the previous Global Plus 1D contracts.

The functional terms of the contract that is the subject of this filing are very similar to those of the contract that is the subject of Docket No. CP2016-193, which serves as the baseline agreement for the Global Plus 1D product grouping. The benefits of the contract to the Postal Service are comparable as well. Therefore, the Postal Service submits that the contract is functionally equivalent to the contract that is the subject of Docket No. CP2016-193, and should be added to the Global Plus 1D product grouping.

In a concrete sense as well, this Global Plus 1D contract shares the same cost and market characteristics as the previous Global Plus 1D contracts. Customers for Global Plus 1D contracts are Postal Qualified Wholesalers (PQWs) and other large businesses that offer mailing services to end users for shipping articles via International Priority Airmail, International Surface Air Lift, Priority Mail Express International, Priority

Mail International, and/or Commercial ePacket service. Prices offered under the contracts may differ depending on the volume or postage commitments made by the customers. Prices also may differ depending upon when the agreement is signed, because of the incorporation of updated costing information. These differences, however, do not alter the contracts' functional equivalency. Because the agreement incorporates the same cost attributes and methodology, the relevant characteristics of this Global Plus 1D agreement are similar, if not the same, as the relevant characteristics of the Global Plus 1D baseline contract.

Like the contract that is the subject of Docket No. CP2016-193, this contract also fits within the parameters outlined by the Governors' Decisions establishing and authorizing the rates for Global Plus 1D agreements. There are, however, differences between this contract and the contract that is the subject of Docket Nos. CP2016-193, which include:

- The name and address of the customer in the title and first paragraph of the agreement, the customer's representative to receive notices under the agreement in Article 26, and the name of the customer on the signatory page as well as in the footers on each page of the text of the agreement;
- In Article 3, revisions to paragraphs 3 and 4;
- In Article 4, revisions to paragraphs 3 and 6;
- In Article 4, removal of paragraphs 7, 8, 9, 10, and 11 regarding certain product mailing specifications;
- In Article 7, revisions to paragraph 1 the negotiated minimum revenue commitment, revisions to paragraph 2 concerning tender, revisions to

paragraph 3 concerning tender locations, revisions to paragraph 5 regarding payment of postage and applicable conditions, the removal of paragraph 9 (causing the renumbering of subsequent articles), as well as revisions to what are now numbered paragraphs 10 and 11 concerning customs and export documentation and requirements;

- A revised Article 8 regarding postage prices;
- The removal of Article 9 concerning approval of prices, which caused the renumbering of subsequent articles;
- The removal of Article 13 regarding penalty and reimbursement, which also caused renumbering of subsequent articles;
- A revision to what is now numbered Article 28 paragraph 1 concerning Conditions Precedent;
- The addition of paragraphs 2 and 3 to what is now numbered Article 33 concerning Warranties and Representations;
- The addition of new numbered Article 34 regarding Sovereign Acts;
- Revised Annexes 1 and 2; and
- The addition of Annex 3 concerning International Priority Airmail Service and International Surface Air Lift Service.

The Postal Service does not consider that the specified differences affect either the fundamental service the Postal Service is offering or the fundamental structure of the contract. Nothing detracts from the conclusion that this agreement is “functionally

equivalent in all pertinent aspects"[12] to the contract that is the subject of Docket No. CP2016-193.

## *IV. Conclusion*

For the reasons discussed, and on the basis of the financial data filed under seal, the Postal Service has established that this Global Plus 1D contract is in compliance with the requirements of 39 U.S.C. § 3633. In addition, the contract is functionally equivalent to the baseline Global Plus 1D contract that is the subject of Docket No. CP2016-193. Accordingly, the contract should be added to the Global Plus 1D product grouping.

Respectfully submitted,

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August 2, 2017

[12] PRC Order No. 85, Order Concerning Global Plus Negotiated Service Agreements, Docket No. CP2008-8, June 27, 2008, at 8.

***GLOBAL PLUS 1 SERVICE AGREEMENT BETWEEN THE UNITED STATES POSTAL SERVICE AND*** [redacted]

This Agreement ("Agreement") is between [redacted] ("Mailer"), with offices at [redacted] and the United States Postal Service ("USPS"), an independent establishment of the Executive Branch of the United States Government, with offices at 475 L'Enfant Plaza SW, Washington, DC 20260-9998. The Mailer and the USPS may be referred to individually as a "Party" and together as the "Parties."

**Introduction** WHEREAS, the Parties desire to enter into a non-exclusive relationship whereby the USPS will provide certain products and/or services to the Mailer pursuant to the terms and conditions contained herein; WHEREAS, the Parties acknowledge and understand that the commencement of performance under this Agreement is subject to the approval of various entities with oversight responsibilities, which may include but not be limited to the USPS management's Executive Committee, the USPS Governors, and/or the Postal Regulatory Commission. Accordingly, the Mailer acknowledges and understands that the ability of the USPS to perform under this Agreement may not occur; WHEREAS, in light of the aforementioned acknowledgements, the Parties desire to be bound by the terms of this Agreement: NOW, THEREFORE, in consideration of the mutual promises set forth below, the Parties hereby agree as follows:

**1. Purpose of the Agreement** This Agreement shall govern the use the Mailer may make of customized mail service for International Priority Airmail service (IPA), International Surface Air Lift service (ISAL), Priority Mail Express International (PMEI) service, Priority Mail International (PMI) service, and Commercial ePacket (CeP) service.

**2. Definitions** As used in this Agreement: (1) "IMM" means the *International Mail Manual* as found on the USPS website pe.usps.com on the date of mailing. (2) "DMM" means the *Domestic Mail Manual* as found on the USPS website pe.usps.com on the date of mailing. (3) "IPA" means International Priority Airmail service. (4) "ISAL" means International Surface Air Lift service. (5) "PMEI" means Priority Mail Express International service. (6) "PMI" means Priority Mail International service. (7) "M-bags" means special sacks for printed matter directed to a single addressee at a single address in another country. (8) "CeP" means Commercial ePacket service. Commercial ePacket service is a service available for International Priority Airmail (IPA) items. Each piece must have a label, applied by the Mailer, bearing a unique barcode allowing for delivery confirmation information to be transmitted when the barcode is scanned in the receiving country. (9)"United States" means the United States of America, its territories and possessions. (10) "Qualifying Mail" means any mail that meets the requirements set forth in Article 3 of this Agreement. (11) "Non-Qualifying Mail" means any mail that does not meet the requirements set forth in Article 3 of this Agreement. (12) "Effective Date" means the first date on which the USPS is willing to accept Qualifying Mail. (13) "Mailer's Permit" means [redacted] (14) [redacted] (15) [redacted]

**3. Qualifying Mail** Only mail tendered by the Mailer, which is paid for by the Mailer using the Mailer's Permit that meets the following requirements shall be considered as Qualifying Mail, except as those requirements conflict with the applicable specific preparation requirements set forth in Article 4:

(1) IPA. Every item must comply with the preparation requirements set forth in IMM 292 for International Priority Airmail service.

(2) ISAL. Every item must comply with the preparation requirements set forth in IMM 293 for International Surface Air Lift service.

(3) PMEI. Every item must comply with the preparation requirements set forth in IMM 220 for Priority Mail Express International. Priority Mail Express International Flat Rate items are not Qualifying Mail under this Agreement. [redacted]

(4) PMI. Every item must comply with the preparation requirements set forth in IMM 230 for Priority Mail International. Priority Mail International Flat Rate items are not Qualifying Mail under this Agreement [redacted]

(5) IPA and ISAL M-bags. Every item must comply with the preparation requirements set forth in IMM 260, 292, and 293 for direct sacks of printed matter to a single addressee at a single address.

(6) CeP. Every item must comply with the preparation requirements and payment requirements that the USPS shall provide the Mailer ("*CeP Mailer Preparation Requirements Document*");

with the exception of: (a) Any Flat Rate item; (b) Any item destined for any country included in Country Group E-1 under Supplement No. 1 to Title 15, Code of Federal Regulations, Part 740; (c) Any item addressed to persons or entities identified on the Office of Foreign Assets Control's (OFAC's) Specially Designated Nationals List, OFAC's Foreign Sanctions Evaders List, the Bureau of Industry and Security's (BIS's) Denied Persons List, or BIS's Entity List, or subject to active sanctions by the U.S. Department of State pursuant to Executive Order No. 13382; and (d) Any item tendered on behalf of third parties or entities identified on OFAC's Specially Designated Nationals List, OFAC's Foreign Sanctions Evaders List, BIS's Denied Persons List, or BIS's Entity List, or subject to active sanctions by the U.S. Department of State pursuant to Executive Order No. 13382.

**4. Specific Preparation Requirements** (1) Mailings of Qualifying Mail must be kept separate from any other type of mail the Mailer tenders. (2) International mailings must be separated from domestic mailings. (3) For Qualifying Mail under this Agreement, the Mailer must prepare the mailings in accordance with Article 3 of this Agreement and IMM 152.6 shall apply. (4) Mailings of PMEI and PMI must be prepared in accordance with the Annexes to this Agreement and be accompanied by a postage manifest and postage statement. (5) Mailings of IPA, ISAL, and CeP may be tendered to the USPS without a country name in the delivery address provided the items are contained in properly labeled direct country receptacles. (6) Mailer may apply to the USPS in writing in the event the Mailer wishes an exception(s) to the requirements set forth in IMM 220, IMM 230, IMM 260, IMM 292, IMM 293, or the USPS mailer preparation requirement documents.

**5. Non-Qualifying Mail** The USPS, at its option and without forfeiting any of its rights under this Agreement, may either refuse to accept Non-Qualifying Mail or accept Non-Qualifying Mail at the applicable published rates.

**6. Obligations of the USPS** The USPS hereby agrees: (1) Supplies. To furnish the Mailer or its agent(s) with the postal equipment and postal supplies required for the use of Qualifying Mail. (2) Training. To provide the Mailer or its agent(s) with the preparation requirements for Qualifying Mail and training to prepare mail in conformity with the requirements for Qualifying Mail. (3) Reporting. To provide the Mailer with a report regarding postage paid by the Mailer to the USPS, by month, for Qualifying IPA, ISAL, PMEI, PMI, and CeP. The USPS will provide this report on a quarterly basis and shall include the: (a) Customer name and permit number; (b) Date of the mailing statement; (c) Service / product; and (d) Postage paid. (4) Transportation. To arrange with carriers to transport Qualifying Mail to international destinations for delivery by the appropriate authority. (5) Undeliverable Items. To return: (a) IPA, ISAL, and CeP items refused by an addressee or that are undeliverable to the Mailer [redacted] (b) PMEI items refused by an addressee or that are undeliverable to the Mailer via Priority Mail Express [redacted] (c) PMI items refused by an addressee or that are undeliverable to the Mailer according to the provisions of IMM 771. (6) Confidentiality. To seek non-public treatment of information it determines to be eligible for protection from public disclosure under applicable law and practice when it files the Agreement with the Postal Regulatory Commission, or when it files information (including data) in connection with the Agreement in accordance with other regulatory requirements. (7) Commercial ePacket Notices. To provide the Mailer, on a periodic basis to be determined by the USPS, with a list of the countries to which Commercial ePacket service is available.

**7. Obligations of the Mailer** The Mailer hereby agrees: (1) Tender Amount. To tender to the USPS mail intended for delivery outside the United States [redacted] (2) Tender Not to tender or attempt to tender: (a) any item under this Agreement that is destined for any country included in Country Group E-1 under Supplement No. 1 to Title 15, Code of Federal Regulations, Part 740; (b) any item addressed to persons or entities identified on OFAC's Specially Designated Nationals List, OFAC's Foreign Sanctions Evaders List, BIS's Denied Persons List, or BIS's Entity List, or subject to active sanctions by the U.S. Department of State pursuant to Executive Order No. 13382; (c) any item on behalf of third parties or entities identified on OFAC's Specially Designated Nationals List, OFAC's Foreign Sanctions Evaders List, BIS's Denied Persons List, or BIS's Entity List, or subject to active sanctions by the U.S. Department of State pursuant to Executive Order No. 13382. (3) Tender Locations. To tender: (a) IPA Qualifying Mail including IPA M-bags in drop shipments to the appropriate locations specified in IMM 292.532. Mailings tendered at these locations are subject to Drop Ship prices. (b) IPA Qualifying Mail including IPA M-bags at USPS Business Mail Entry Units (BMEUs) approved by the USPS to receive Qualifying Mail. Mailings tendered at these locations are subject to Full Service prices. (c) ISAL Qualifying Mail including ISAL M-bags in drop shipments to the appropriate locations specified in IMM 293.532. Mailings tendered at these locations are subject to Drop Ship prices. (d) ISAL Qualifying Mail including ISAL M-bags at USPS Business Mail Entry Units (BMEUs) approved by the USPS to receive Qualifying Mail. Mailings tendered at these locations are subject to Full Service prices. (e) One hundred percent (100%) of PMEI Qualifying Mail in drop shipments at any USPS International Service Center location. (f) One hundred percent (100%) of PMI Qualifying Mail in drop shipments at any USPS International Service Center location. (g) CeP

Qualifying Mail to locations specified in the *CeP Mailer Preparation Requirements Document.* (4) Advance Notification. To provide: (a) The Manager, Customized Mail, via e-mail to icmusps@usps.gov, with notification of Mailer's intent to drop ship mail at a specific location two weeks before the initial shipment to that location. (b) The Manager, Customized Mail, via e-mail to icmusps@usps.gov, with notification of new Mailer's Permit numbers used for Qualifying Mail, ten (10) days in advance of using the new numbers. The message should include the Mailer's Permit number, the city, state, and ZIP Code where the Mailer's Permit is held, and the name of the permit owner. [redacted] The message should also include a requested effective date. (c) The appropriate USPS acceptance sites with notification if the intended volume of mail to be presented varies more than [redacted] higher or lower than normal daily volumes. The Mailer shall make every effort to inform the appropriate USPS acceptance sites at least forty-eight (48) hours in advance of presenting the mail. (d) The Manager, Customized Mail, USPS, via e-mail to icmusps@usps.gov with notification of the Mailer's intent to tender Qualifying Mail under this Agreement that requires a license from OFAC, BIS, or the U.S. Department of State not less than ten (10) days prior to tender of such items. (5) Payment of Postage. To pay postage to the USPS directly for all Qualifying Mail by use of the Mailer's Permit Imprint subject to the conditions stated in IMM 152.6, DMM 604.5, and DMM 705.4, with the exception that DMM 604.5.1.1 shall not apply. (6) Monthly Reporting. To provide the USPS with a report, at a frequency to be mutually determined, in a format to be specified by the USPS that states for IPA, ISAL, IPA and ISAL M-bags, PMEI, PMI, and CeP, the total revenue, pieces, and weights for each product mailed in the preceding month separated by point of tender to the USPS, destination country, and country price group for each Mailer's Permit used by the Mailer under this Agreement; (b) This report requirement shall include the final month of the Agreement. (7) Receptacle Barcoding. To place on each receptacle containing IPA, ISAL, or CeP mailings, a barcode prepared in accordance with the specifications the USPS shall provide. (8) Information Link. To establish a secure data connection with the USPS in order to ensure that the USPS can receive the necessary information for Customs clearance as well as the data needed to monitor the proper prices and country destination of the Mailer's packages. The Mailer is responsible for all aspects of service quality of the information link, interconnectivity, and interoperability of network services of such data connection, which shall be available under commercially reasonable standards but shall be capable of ensuring that the data for all Qualifying Mail under this Agreement are available to USPS. (9) Confidentiality. To treat as confidential and not disclose to third parties, absent express written consent by the USPS, any information related to this Agreement that is treated as non-public by the Postal Regulatory Commission. (10) Customs and Export Documentation. (a) To comply with all USPS customs documentation guidelines found at: http://postalpro.usps.com/shipping/customs-forms. This Paragraph does not apply to or impact the payment method required for Qualifying Mail under Article 7 Paragraph 5 of this Agreement. (b) To provide any necessary documentation, including data provided in electronic format, in connection with each mailing, in the form and at the time specified by the USPS, Customs & Border Protection, Transportation Security Administration, the U.S. Census Bureau, a destination country foreign government, or other authority. The Mailer further understands that the failure to provide any such required documentation may result in refusal at acceptance, delay in processing, involuntary seizure by customs authorities, and/or return of mail to sender. (11) Customs and Export Requirements. (a) To comply with any regulation or order promulgated by the USPS, OFAC, the U.S. Department of the Treasury, the U.S. Census Bureau, BIS, the U.S. Department of Commerce, the U.S. Department of State, the U.S. Customs & Border Protection, the U.S. Fish and Wildlife Service, the Transportation Security Administration, a destination country foreign government, or other government unit, according to any requirements specified by those authorities. See IMM 5 for additional information. (b) For all items destined for Cuba, the Mailer shall comply with and take all necessary measures to ensure that Mailer's Customers comply with all applicable BIS and OFAC provisions, and to ensure that electronic export information about shipments under this Agreement destined to Cuba are properly filed, if necessary, under regulations of the U.S. Census Bureau. (c) To notify USPS, via e-mail to globaltradecompliance@usps.gov and internationalmailsecurity@uspis.gov, of all criminal, civil, or administrative investigations, prosecutions, or proceedings relating to violations or potential violations of export control, customs, fraud, data, or mailability laws concerning transactions involving the Mailer, brought against the Mailer, any of its subsidiaries or affiliates, or any of its directors, officers, employees, or agents, in no case more than 5 business days after discovery. (12) Responsibility. The Mailer, having provided the USPS with Mailer's Permit number and notification of intent to mail under the terms of Article 7 Paragraph 4 of this Agreement, must follow the terms and conditions set forth in this Agreement as they pertain to the preparation of, tender of, and payment for mailings. [redacted] (13) CeP Labeling. To create and place on each piece of CeP Qualifying Mail a unique label allowing for delivery confirmation when scanned in the receiving country in accordance with the specifications provided in the CeP Preparation Requirements Document. (14) Penalties To pay any fines or penalties as well as any other expenses, damages, and/or charges, including any applicable duties, taxes, and/or fees that result from an action of any other

governmental entity that regulates exports and/or imports in relation to any item tendered under this agreement, or that results from the Mailer's failure to comply with applicable laws and regulations of the origin country, destination country, or any country through which a mailing tendered under this Agreement passes (including failure to provide necessary documentation and/or failure to obtain any required license or permit).

**8. Postage Prices** In consideration of Article 7 Paragraph 1: (1) For PMEI and PMI, the Mailer will pay postage according to the price charts in Annex 1. (2) For CeP, the Mailer will pay postage according to the price charts in Annex 2. (3) For IPA and ISAL, the Mailer will receive, in accordance with the discount chart in Annex 3, a percentage discount off of the non-discounted published IPA and ISAL prices in effect on the date of mailing.

**9. Suspensions of Mail Service** In the event that a suspension of mail service from the United States to a given country would prevent delivery of Qualifying Mail to addressees in that country, the Mailer shall not tender Qualifying Mail to the USPS until service is restored. The minimum commitment for Qualifying Mail as set forth in Article 7 of this Agreement shall be recalculated pro rata to reflect the reduction in available service time.

**10. Governing Law** This Agreement shall be governed by, construed under, and enforced in accordance with United States federal law.

**11. Term of the Agreement** (1) The USPS will notify the Mailer of the Effective Date of the Agreement within thirty (30) days after receiving the approval of the entities that have oversight responsibilities for the USPS. If the Effective Date of this Agreement is the first of the month, the Agreement shall remain in effect for one calendar year from the Effective Date (for example, if the Effective Date of the Agreement is April 1, the Agreement will expire on March 31 of the subsequent year), unless terminated sooner pursuant to Article 12 or Article 24. If the Effective Date of this Agreement is not the first of the month, the Agreement shall remain in effect until the last day of the month in which the Effective Date falls in the year subsequent to the Effective Date (for example, if the Effective Date of the Agreement is April 2 or a later day in April, the Agreement will expire on April 30 in the subsequent year), unless terminated sooner pursuant to Article 12 or Article 24. (2) The Mailer acknowledges that this Agreement is subject to regulatory oversight and such oversight might affect the Effective Date. (3) If the Mailer has met its annualized minimum commitment under Article 7 Paragraph 1, the USPS may, prior to the expiration of this Agreement, provide notice to the Mailer in accordance with Article 26 that this Agreement has been extended for up to an additional three (3) months, and the USPS reserves the right to adjust the duration of such extension, depending on the effective date, if any, of a successor agreement with the Mailer.

**12. Termination of the Agreement** (1) Either Party to this Agreement, in its sole discretion, may terminate this Agreement for any reason, by giving the other Party a thirty (30) day written notification, unless a time frame longer than thirty (30) days that falls within the term of the Agreement is indicated by the terminating Party. (2) If the Mailer is not in compliance with this Agreement, including if the USPS discovers that the Mailer has used a Non-Mailer Permit to pay for shipments under this Agreement, the USPS will have the right to immediately terminate or suspend performance under this Agreement. (3) In the event that this Agreement is terminated for any reason before the anticipated termination date in Article 11, the Mailer remains bound by the terms of Article 7 Paragraph 6 and Paragraph 14, except that the Mailer's obligation, if any, under Article 7 shall be calculated on a pro rata basis to reflect the actual duration of the agreement. (4) The USPS is under no obligation to remind the Mailer of the termination of this Agreement. In addition, the USPS is under no obligation to enter into a subsequent agreement with the Mailer.

**13. Postage Updates** (1) In the event that the USPS incurs an increase in costs [redacted] the USPS shall notify the Mailer and modify the prices established under this Agreement. [redacted] (2) The USPS will give the mailer thirty-five (35) days' notice of changes in the prices in Annex 1 for PMEI and PMI, the prices in Annex 2 for CEP, or the discounts in Annex 3 applied to IPA or ISAL. (3) Any revision to the prices in Annex 1, Annex 2 or the discount applied to IPA or ISAL in Annex 3 shall not be retroactive. (4) No price shall increase beyond the non-discounted published prices for the affected service. (5) All price changes under the provisions of this article will be subject to review and oversight by the USPS Governors, the USPS Board of Governors, and/or the United States Postal Regulatory Commission.

**14. Customs Duties and Taxes** Customs duties and taxes for packages mailed under this Agreement are the responsibility of the addressee.

**15. Indemnity** The Mailer shall indemnify and save harmless the USPS and its officers, directors, agents, and employees from any and all claims, losses, costs, damages, or expenses or liabilities, including but not limited to penalties, fines, liquidated damages, charges, taxes, fees, duties, or other money due ("Claims") growing out of or connected in any other way with the discharge by the Mailer or its agent(s) of any undertaking contained

in this Agreement, including Claims that result from the noncompliance of the Mailer with the laws of the United States and other countries.

**16. Limitation of Liability** (1) The liability of the USPS under this Agreement shall be limited to the refund of postage for Qualifying Mail that is lost or destroyed in bulk after being tendered to the USPS and prior to being received by the delivery authority outside of the United States. The USPS shall not be liable for any actual or consequential damages suffered by the Mailer as a result of late delivery or non-delivery of any Qualifying Mail. (2) IPA, ISAL, CeP, PMEI, and PMI Qualifying Mail mailed under this Agreement are not guaranteed against delay in delivery. Neither indemnity payments nor postage refunds will be made in the event of delay. (3) The USPS bears no responsibility for the refund of postage for Qualifying Mail in connection with actions taken by Customs authorities. (4) The USPS shall not be liable for any loss or expense, including but not limited to fines and penalties, for the Mailer's or any other person's failure to comply with any export laws, rules, or regulations. (5) The USPS shall not be liable for any act or omission by any person not employed or contracted by the USPS, including any act or omission of the Mailer, the Mailer's customer, or the recipient of an item tendered under this Agreement. (6) Unless otherwise specified by notice published in a future issue of the *Postal Bulletin* that a date-certain, postage-refund guarantee will be offered for this particular type of Global Customized Mail Agreement, Priority Mail Express International With Money-Back Guarantee Service Qualifying Mail mailed under this agreement is not guaranteed against delay in delivery, and neither indemnity payments nor postage refunds will be made in the event of delay.

**17. Force Majeure** Neither Party shall be liable for its failure to perform under the terms of this Agreement due to any contingency beyond its reasonable control, including acts of God, fires, floods, wars, sabotage, accidents, and labor disputes or shortages; governmental laws, ordinances, rules and regulations, whether valid or invalid; court orders, whether valid or invalid; inability to obtain material, equipment, or transportation; and any other similar or different contingency.

**18. No Waiver** The failure of either Party to this Agreement to insist upon the performance of any of the terms and conditions of this Agreement, or the waiver of any breach of the terms and conditions of this Agreement, shall not be construed as thereafter waiving any such terms and conditions, but these shall continue and remain in full force and effect as if such forbearance or waiver had not occurred.

**19. Number and Gender** The use of any particular gender, or the plural or singular, in this Agreement is intended to include the other gender, or the plural or singular, as the text may require.

**20. Effect of Partial Invalidity** The invalidity of any portion of this Agreement will not and shall not be deemed to affect the validity of any other provision. In the event that any provision of this Agreement is held to be invalid, the Parties agree that the remaining provisions shall be deemed to be in full force and effect.

**21. Assignment** The rights of each Party under this Agreement are personal to that Party and may not be assigned or transferred to any other person, firm, corporation, or other entity without the prior, express, and written consent of the other Party. Granting such consent shall not be unreasonably withheld and shall be allowed for assignment to a subsidiary of the Mailer for which the Mailer is the majority owner.

**22. Paragraph Headings and Reference Citations** The titles to the paragraphs of this Agreement are solely for the convenience of the Parties and shall not be used to explain, modify, simplify, or aid in the interpretation of the provisions of this Agreement. All citations to provisions in the DMM, IMM, and Code of Federal Regulations within this Agreement are intended to refer to the substantive information found within the cited section(s) at the time this Agreement was drafted. Changes to the citations or the relevant substantive information due to published revisions of the DMM, IMM, or Code of Federal Regulations shall be applicable to this Agreement upon the effective date of such revisions.

**23. Entire Agreement and Survival** (1) This Agreement, including all Annexes thereto shall constitute the entire agreement between the Parties as it pertains to Qualifying International Priority Airmail service (IPA), International Surface Air Lift service (ISAL), Priority Mail Express International service (PMEI), Priority Mail International service (PMI), and Commercial ePacket (CeP), intended for delivery outside the United States. (2) Any prior understanding or representation of any kind regarding the use of IPA service, ISAL service, PMEI service, PMI service, or IPA and ISAL M-Bags service shall not be binding upon either Party except to the extent incorporated in this Agreement. (3) The provisions of Article 6, Paragraph 6; Article 7, Paragraph 9; and Article 29 shall expire ten (10) years from the date of termination or expiration of this Agreement.

**24. Modification** (1) Any modification of this Agreement or additional obligation assumed by either Party in connection with this Agreement, with the exception of changes to prices under the terms of Article 13, and with the exception of notice of termination under the terms of Article 12, shall be binding only if placed in writing and signed by each Party. (2) Modifications may be contingent upon any and all necessary approvals by USPS management's executive committee, the Board of Governors of the USPS, the Governors of the USPS, the Postal Regulatory Commission, and/or any other governmental body with oversight responsibility for the USPS.

(3) If such approvals are required, the modifications will not become effective until such time as all necessary approvals are obtained. (4) The USPS will notify the Mailer of the date the modification becomes effective within thirty (30) days after receiving the approval of the entities that have oversight responsibility for the USPS.

**25. Mailability, Exportability, and Importability** (1) All items mailed under this Agreement must conform to the mailability requirements of the USPS as detailed in the IMM 130 and USPS Publication 52; all applicable United States laws and regulations, including export control and customs laws and regulations; and all applicable importation restrictions of the destination countries. For each item mailed under this Agreement, the Mailer is responsible for notifying the Mailer's Customers of their responsibility for determining export and import requirements, obtaining any required licenses and permits, and ensuring that the recipient of the item is authorized by the laws of the United States as well as destination countries to receive the item, and for the exportation and importation status of the products mailed under this Agreement as detailed in IMM 112. (2) The Mailer is responsible for ensuring that no item mailed under this Agreement includes non-mailable dangerous goods. Internationally mailable dangerous goods include only certain biological substances, certain radioactive materials, and small lithium batteries packaged in the devices they are meant to operate, as described in greater detail in IMM 135. Hazardous materials listed within the Department of Transportation's regulations, including at 49 C.F.R. § 172.101, are known as dangerous goods that are prohibited from all international mail, as set forth in Exhibit 331 of USPS Publication 52. These substances and items are in addition to any prohibitions or restrictions on imports that may be found in the Individual Country Listings in the IMM. Penalties for knowingly mailing dangerous goods may include civil penalties pursuant to 39 U.S.C. § 3018 and criminal charges pursuant to 18 U.S.C. § 1716.

**26. Notices** (1) All notices or demands required by this Agreement shall be sufficient if delivered personally or mailed via Priority Mail Express to the following individuals: To the United States Postal Service: Managing Director, Global Business, United States Postal Service, 475 L'Enfant Plaza, SW Room 5012, Washington, DC 20260-4016; To the Mailer: [redacted] or via e-mail: to the United States Postal Service at: icmusps@usps.gov and to the Mailer at: [redacted] (2) The Mailer hereby agrees to provide the USPS with updates to the contact information in Paragraph 1 of this Article.

**27. Preservation after Termination** Termination of this Agreement shall be without prejudice to any rights, obligations, and liabilities of the Mailer accrued up to and including the effective date of such termination. In the event of termination of the Agreement, the Mailer shall be liable to make final settlement of all amounts owing as of the effective date of termination within three (3) months of written notice by the USPS of any deficiency or liability under this Agreement.

**28. Conditions Precedent** (1) The Parties acknowledge and understand that all obligations of the USPS under this Agreement, including the prices for PMEI and PMI in Annex 1, the prices for CeP in Annex 2, and the discounts for IPA and ISAL in Annex 3, shall be contingent on the USPS receiving approvals from one or more internal and external bodies that have oversight responsibilities ("Conditions Precedent"). Conditions Precedent may include, but are not limited to: approvals or, if applicable, non-objection, from responsible USPS management officials, the USPS Board of Governors, the USPS Governors, the Postal Regulatory Commission, and/or any other governmental body with oversight responsibility for the USPS. The Parties acknowledge that the Agreement might not be approved by such individuals or bodies. Until such time that all Conditions Precedent are fulfilled that are necessary to allow the Postal Service to provide the products or services contemplated under the Agreement, no obligation shall exist for the USPS and no benefit shall inure to either Party. (2) In the event that the Conditions Precedent are not fulfilled, the USPS shall have no liability, which shall include no obligation to pay costs associated with any action taken by the Mailer prior to the Effective Date of the Agreement. Further, in the event of termination of the Agreement or the failure of any Condition Precedent, the USPS shall not be held liable for any damages including, without limitation, actual; special; indirect; incidental; punitive; consequential; or any other damages, which shall include but not be limited to damages for loss of business profits; business interruption; any other loss; and/or for costs incurred by either Party attributable to such non-approval such as attorney's fees.

**29. Confidentiality** The Mailer acknowledges that as part of securing approval of this Agreement, and in other subsequent regulatory filings, the Agreement and supporting documentation will be filed with the Postal Regulatory Commission ("Commission") in a docketed proceeding. The Mailer authorizes the USPS to determine the scope of information that must be made publicly available in any Commission docketed proceeding. The Mailer further understands that any unredacted portion of the Agreement or supporting information will be available on the Commission's public website, www.prc.gov. In addition, the USPS may be required to file information in connection with this Agreement (including revenue, cost, or volume data) in other Commission dockets including the Commission docket number for the Annual Compliance Report (ACR) for the USPS fiscal year(s) in which this Agreement is in effect. Each ACR docket has a distinct docket number,

such as ACR201#, in which "201#" signifies the USPS fiscal year to which the ACR pertains. The Mailer has the right, in accordance with the Commission's rules, to address its confidentiality concerns directly with the Commission. The procedure for making an application to the PRC for non-public treatment of materials believed to be protected from disclosure is found at Title 39, Code of Federal Regulations, Section 3007.22 found on the Commission's website www.prc.gov/Docs/63/63467/Order225.pdf. At the request of the Mailer, the USPS will notify the Mailer of the docket number of the Commission proceeding to establish the prices in this instrument once assigned.

**30. Counterparts** The Parties may execute this Agreement in one or more counterparts (including by facsimile or by electronic means such as .pdf format), not all Parties need be signatories to the same documents, and all counterpart-signed documents shall be deemed an original and one instrument.

**31. USPS Sales** Nothing in this Agreement prohibits the USPS from soliciting sales from the Mailer's customers.

**32. Intellectual Property, Co-Branding and Licensing** The Mailer is allowed the use of the following trademarks: Priority Mail Express International®, Priority Mail International®, International Priority Airmail®, International Surface Air Lift®, Commercial ePacket®, M-Bag®, and the acronyms PMEI™, PMI™, IPA®, and ISAL® to indicate the USPS service offered. The Parties acknowledge that in the service of marketing the products under this Agreement that such product marketing may be enhanced through the use of co-branding or the use of each Party's trademarks, logos or intellectual property. In such instances, the Parties acknowledge and agree that any use shall be subject to separate written agreements. The Parties acknowledge and agree that neither Party shall use the other Party's trademarks, logos or intellectual property other than to refer to the trademark owner or the trademark owner's services until such time that a license for such use has been executed by the Parties and all laws and regulations required for such license's effectiveness have been perfected, which shall include but not be limited to any recordation requirements.

**33. Warranties and Representations** (1) The Mailer warrants and represents that the Mailer is not subject to, and is not related to an entity that is subject to, a temporary or other denial of export privileges by BIS and that the Mailer is not listed on OFAC's Specially Designated Nationals List, OFAC's Foreign Sanctions Evaders List, BIS's Denied Persons List, or BIS's Entity List, or subject to active sanctions by the U.S. Department of State pursuant to Executive Order No. 13382, and that the Mailer is not in arrears for any amount due to the USPS. (2) The Mailer warrants and represents that the Mailer is not aware of any pending investigations that would be subject to the notice obligation under Article 7, Paragraph 11. (3) The Mailer warrants and represents that there has been no criminal, civil, or administration enforcement action in the past 5 years against the Mailer, any of its subsidiaries or affiliates, or any of its directors, officers, employees, or agents. (4) [redacted]

**34. Sovereign Acts** The USPS and the Mailer acknowledge and agree that this Agreement is subject to any legislation that might be enacted by the Congress of the United States or any orders or regulations that might be promulgated by any agency, branch, or independent establishment of the United States Government. The USPS and the Mailer further acknowledge and agree that this Agreement in no way waives the USPS's authority to act in its sovereign capacity and that, pursuant to the sovereign acts doctrine, the USPS shall not be held liable for any acts performed in its sovereign capacity, or for any acts performed by any branch, agency or independent establishment of the United States in their sovereign capacities that may directly or indirectly affect the terms of this Agreement. In the event that either Party is required by legislation enacted by the Congress of the United States or any orders or regulations that might be promulgated by any branch, agency or independent establishment of the United States Government to terminate, or otherwise as a result of such action is unable to perform its obligations under this Agreement, either Party may give notice of termination pursuant to Article 12 of this Agreement, which termination shall be effective immediately or on the effective date of such requirement, whichever is later. The Parties agree that in the event that this Agreement is terminated as set forth in the preceding two sentences, or in the event that either Party is enjoined from proceeding with this Agreement by any court of competent jurisdiction, such Party shall not be subject to any liability by reason of such termination or injunction. Further, the USPS will evaluate the impact on the Agreement of amendments to statutes affecting its ability to perform under this Agreement and may give notice of termination pursuant to Article 12 of this Agreement based upon such amendments, which termination shall be effective immediately or as determined by the USPS. To the extent of termination on this basis, the USPS shall not be subject to any liability by reason of such termination.

In witness whereof, this Agreement is deemed executed on the latter of the two dates accompanying the Parties' signatures.

**ON BEHALF OF THE UNITED STATES POSTAL SERVICE:**

Signature: Donald W. Ross

Name: Donald W Ross

Title: Director International Sales

Date: 7-11-2017

**ON BEHALF OF** [redacted]

Signature: [redacted]

Name:

Title:

Date: 7/11/17

ANNEX 1 PRICES FOR PRIORITY MAIL EXPRESS INTERNATIONAL AND PRIORITY MAIL INTERNATIONAL

ANNEX 2 PRICES FOR COMMERCIAL EPACKET SERVICE

ANNEX 3 PERCENTAGE DISCOUNTS FOR INTERNATIONAL PRIORITY AIRMAIL SERVICE AND INTERNATIONAL SURFACE AIR LIFT SERVICE

**ANNEX 1A**
**PRICES IN UNITED STATES DOLLARS FOR**
**PRIORITY MAIL EXPRESS INTERNATIONAL AND**
**PRIORITY MAIL INTERNATIONAL**
**PRESORTED AND TENDERED AT A USPS INTERNATIONAL SERVICE CENTER (ISC)**

The postage prices for Priority Mail Express International (PMEI) Qualifying Mail and Priority Mail International (PMI) Qualifying Mail set forth in this Annex 1A are only available for PMEI Qualifying Mail and PMI Qualifying Mail that is:

1. paid for through a separate permit imprint using USPS-provided Global Shipping Software (GSS) that is not used for any other type of mail than Qualifying Mail that meets the requirements set forth in this Agreement and Annex 1A;
2. [redacted]
3. tendered to the USPS at any of the following USPS International Service Center locations:
   - JOHN F KENNEDY AIRPORT MAIL CENTER
     US POSTAL SERVICE
     JOHN F KENNEDY INTERNATIONAL AIRPORT BLDG 250
     JAMAICA NY 11430-9998
   - JT WEEKER INTERNATIONAL SERVICE CENTER
     US POSTAL SERVICE
     11600 WEST IRVING PARK ROAD
     CHICAGO IL 60666-9998
   - LOS ANGELES INTERNATIONAL SERVICE CENTER
     US POSTAL SERVICE
     5800 WEST CENTURY BLVD
     LOS ANGELES CA 90009-9998
   - SAN FRANCISCO INTERNATIONAL SERVICE CENTER
     US POSTAL SERVICE
     660 WEST FIELD ROAD
     SAN FRANCISCO CA 94128-3161
   - MIAMI INTERNATIONAL SERVICE CENTER
     US POSTAL SERVICE
     11698 NW 25TH ST
     MIAMI FL 33112-9997
   - MIAMI PROCESSING AND DISTRIBUTION CTR
     U.S. POSTAL SERVICE
     2200 NW 72ND AVE
     MIAMI FL 33152-9997

[redacted]

## ANNEX 1A CHART 1

## PRICES IN UNITED STATES DOLLARS FOR PRIORITY MAIL EXPRESS INTERNATIONAL PRESORT DROPSHIPMENT TENDERED AT A USPS INTERNATIONAL SERVICE CENTER (ISC) FOR COUNTRY GROUPS 1 – 17

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ANNEX 1A CHART 2
PRICES IN UNITED STATES DOLLARS FOR PRIORITY MAIL INTERNATIONAL
PRESORT DROPSHIPMENT TENDERED AT A USPS INTERNATIONAL SERVICE CENTER (ISC)
FOR COUNTRY GROUP 1

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## ANNEX 1A CHART 3
## PRICES IN UNITED STATES DOLLARS FOR PRIORITY MAIL INTERNATIONAL PRESORT DROPSHIPMENT TENDERED AT A USPS INTERNATIONAL SERVICE CENTER (ISC) FOR COUNTRY GROUPS 2-17

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# ANNEX 1B
# PRICES IN UNITED STATES DOLLARS FOR PRIORITY MAIL EXPRESS INTERNATIONAL AND PRIORITY MAIL INTERNATIONAL TENDERED AT A USPS INTERNATIONAL SERVICE CENTER (ISC)

[redacted] shall be in accordance with the price charts in this Annex 1B if tendered to the USPS at any of the following USPS International Service Center locations:

JOHN F KENNEDY AIRPORT MAIL CENTER
US POSTAL SERVICE
JOHN F KENNEDY INTERNATIONAL AIRPORT BLDG 250
JAMAICA NY 11430-9998

JT WEEKER INTERNATIONAL SERVICE CENTER
US POSTAL SERVICE
11600 WEST IRVING PARK ROAD
CHICAGO IL 60666-9998

LOS ANGELES INTERNATIONAL SERVICE CENTER
US POSTAL SERVICE
5800 WEST CENTURY BLVD
LOS ANGELES CA 90009-9998

SAN FRANCISCO INTERNATIONAL SERVICE CENTER
US POSTAL SERVICE
660 WEST FIELD ROAD
SAN FRANCISCO CA 94128-3161

MIAMI INTERNATIONAL SERVICE CENTER
US POSTAL SERVICE
11698 NW 25TH ST
MIAMI FL 33112-9997

MIAMI PROCESSING AND DISTRIBUTION CTR
U.S. POSTAL SERVICE
2200 NW 72ND AVE
MIAMI FL 33152-9997

[redacted]

# ANNEX 1B CHART 1
## PRICES IN UNITED STATES DOLLARS FOR PRIORITY MAIL EXPRESS INTERNATIONAL TENDERED AT A USPS INTERNATIONAL SERVICE CENTER (ISC) FOR COUNTRY GROUPS 1-17

| Weight Not Over (LBS) | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 |
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| 0.5 | [redacted] | | | | | | | | | | | | | | | | |
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# ANNEX 1B CHART 2
## PRICES IN UNITED STATES DOLLARS FOR PRIORITY MAIL INTERNATIONAL TENDERED AT A USPS INTERNATIONAL SERVICE CENTER (ISC) FOR COUNTRY GROUP 1

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# ANNEX 1B CHART 3
## PRICES IN UNITED STATES DOLLARS FOR PRIORITY MAIL INTERNATIONAL TENDERED AT A USPS INTERNATIONAL SERVICE CENTER (ISC) FOR COUNTRY GROUPS 2-17

| Weight Not Over (LBS) | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 |
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**ANNEX 2**
**PRICES IN UNITED STATES DOLLARS FOR**
**COMMERCIAL EPACKET SERVICE**

[redacted]

# ANNEX 3
# PERCENTAGE DISCOUNTS OFF OF THE PUBLISHED PRICES IN EFFECT ON THE DATE OF THE MAILING FOR INTERNATIONAL PRIORITY AIRMAIL SERVICE AND INTERNATIONAL SURFACE AIR LIFT SERVICE

[redacted]

**Certification of Prices for the Global Plus Contract with [redacted].**

I, Steven Phelps, Manager, Regulatory Reporting and Cost Analysis, Finance Department, United States Postal Service, am familiar with the prices for the Global Plus Contract with [redacted]. The prices contained in this contract were established by the Decision of the Governors of the United States Postal Service on the Establishment of Prices and Classifications for Domestic Competitive Agreements, Outbound International Competitive Agreements, Inbound International Competitive Agreements, and Other Non-Published Competitive Rates, issued on March 22, 2011 (Governors' Decision No. 11-6), which established prices by means of price floor formulas.

I hereby certify that the numerical cost values underlying the prices in the [redacted] Contract are the appropriate costs to use in the formulas and represent the best available information. The prices, resulting in a cost coverage in excess of the minimum required by the Governors' Decision, are in compliance with 39 U.S.C § 3633 (a)(1), (2), and (3). The prices demonstrate that the Contract should cover its attributable costs and preclude the subsidization of competitive products by market dominant products. International competitive mail accounts for a relatively small percentage of the total contribution by all competitive products. Contribution from Global Plus Contracts should be even smaller. The Agreement with [redacted] should not impair the ability of competitive products on the whole to cover an appropriate share of institutional costs.

Steven Phelps

Digitally signed by Steven Phelps
DN: cn=Steven Phelps, o, ou, email=steven.r.phelps@usps.gov, c=US
Date: 2017.08.02 08:39:07 -04'00'

Steven Phelps

RESTRICTED AND SENSITIVE BUSINESS INFORMATION - DO NOT DISCLOSE

# DECISION OF THE GOVERNORS OF THE UNITED STATES POSTAL SERVICE ON THE ESTABLISHMENT OF PRICES AND CLASSIFICATIONS FOR DOMESTIC COMPETITIVE AGREEMENTS, OUTBOUND INTERNATIONAL COMPETITIVE AGREEMENTS, INBOUND INTERNATIONAL COMPETITIVE AGREEMENTS, AND OTHER NON-PUBLISHED COMPETITIVE RATES (GOVERNORS' DECISION NO. 11-6)

March 22, 2011

## STATEMENT OF EXPLANATION AND JUSTIFICATION

Pursuant to our authority under section 3632 of title 39, as amended by the Postal Accountability and Enhancement Act of 2006 ("PAEA"), we establish new prices not of general applicability for certain of the Postal Service's competitive service offerings, and such changes in classification as are necessary to implement the new prices.

This decision establishes prices for Domestic Competitive Agreements, Outbound International Competitive Agreements, Inbound International Competitive Agreements, and Other Non-Published Competitive Rates. Domestic Competitive Agreements consist of negotiated service agreements with Postal Service customers for domestic services that are categorized as competitive in accordance with 39 U.S.C. § 3642(b)(1)-(2). Outbound International Competitive Agreements consist of negotiated service agreements with Postal Service customers for outbound international services that are categorized as competitive in accordance with 39 U.S.C. § 3642(b)(1)-(2). Inbound International Competitive Agreements consist of negotiated service agreements with foreign postal operators or other entities for inbound international services that are categorized as competitive in accordance with 39 U.S.C. § 3642(b)(1)-(2). Other Non-Published Competitive Rates consist of rates not of general applicability that are not embodied in contractual instruments, but nonetheless arise from other sources, such as the Universal Postal Convention.

With respect to any product within the above categories, management is hereby authorized to prepare any necessary product description, including text for inclusion in the Mail Classification Schedule, and to present such product description to the Postal Regulatory Commission.

The Postal Accountability and Enhancement Act (PAEA) requires that prices for competitive products must cover each product's attributable costs, not result in subsidization by market dominant products, and enable all competitive products to contribute an appropriate share to the Postal Service's institutional costs. For agreements subject to this Decision, there are hereby established all prices that will cover [redacted] costs for the relevant product and that conform in all other respects to 39 U.S.C. §§ 3632-3633 and 39 C.F.R. §§ 3015.5 and 3015.7. As discussed in the accompanying management analysis, the Chief Financial Officer (or his delegee(s)) shall certify that all cost inputs have been correctly identified for prices subject to this Decision and that all prices subject to this Decision conform to this Decision and to the requirements of the PAEA.

No agreement, grouping of functionally equivalent agreements, or other classification authorized pursuant to this Decision may go into effect unless it is submitted to the Postal Regulatory Commission with a notice that complies with 39 U.S.C. § 3632(b)(3). On a quarterly basis, management shall furnish the Governors with a report on all non-published rate and classification initiatives. Not less than once each year, the Governors shall review the basis for this Decision and make such further determination as they may deem necessary. This Decision does not affect postal management's obligation to furnish to the Board of Governors information regarding any significant, new program, policy, major modification, or initiative, or any other matter under 39 C.F.R. § 3.7(d), including where such a matter also falls within the scope of this Decision.

This Decision does not supersede or otherwise modify Governors' Decision Nos. 08-5, 08-6, 08-7, 08-8, 08-10, 08-20, 08-24, 09-5, 09-6, 09-7, 09-14, 09-15, 09-16, 10-1, 10-2, 10-3, 10-6, and 10-7, nor does it affect the validity of prices and classifications established under those Decisions. Management may also continue to present to the Postal Regulatory Commission for its review, as appropriate, rate and classification changes to succeed the minimum and maximum non-published rates in Decision Nos. 10-2 and 10-6.

## ORDER

In accordance with the foregoing Decision of the Governors, the prices set forth herein for Domestic Competitive Agreements, Outbound International Competitive Agreements, Inbound International Competitive Agreements, and Other Non-Published Competitive Rates and the changes in classification necessary to implement those prices, are hereby approved and ordered into effect. An agreement is authorized under this Decision only if the prices fall within this Decision and the certification process specified herein is followed. Prices and classification changes established pursuant to this Decision will take effect after filing with and completion of review by the Postal Regulatory Commission.

By The Governors:

Louis J. Giuliano
Chairman

## Attachment A

### Management Analysis of Domestic Competitive Agreements, Outbound International Competitive Agreements, Inbound International Competitive Agreements, and Other Non-Published Competitive Rates

This analysis concerns the inbound competitive prices and classifications in the Domestic Competitive Agreements, Outbound International Competitive Agreements, Inbound International Competitive Agreements, and Other Non-Published Competitive Rates (collectively, "competitive instruments"). Competitive instruments are often negotiated with customers and foreign postal operators for better cost coverage, higher overall contribution, and improved service with respect to postal services classified as competitive. They may also arise from other sources, such as the Universal Postal Convention.

The cost coverage for each competitive agreement or grouping of functionally equivalent instruments (collectively, each "product") will be [redacted]

The cost coverage for a product equals [redacted]

Each competitive instrument may have multiple price categories and negotiated components. Examples of such categories or components would be Priority Mail, Express Mail, Parcel Return Service, Priority Mail International, Express Mail International, International Priority Airmail, International Surface Air Lift, Inbound Air Parcel Post, Inbound Surface Parcel Post, Inbound Direct Entry, and Inbound International Expedited Services. These or other categories may include other services that the relevant customer or foreign postal operator offers to its customers under differing terms, but that nevertheless are processed and delivered in the same manner within the United States Postal Service's network. Such instruments may also establish negotiated rates for services ancillary to such items and for customized competitive services developed for application solely in the context of the agreement.

[redacted]

RESTRICTED AND SENSITIVE BUSINESS INFORMATION - DO NOT DISCLOSE

[redacted]

[redacted] Prices established by these formulas should not interfere with competitive products' ability as a whole to comply with 39 U.S.C.§ 3633(a)(3), which, as implemented by (39 C.F.R.§ 3015.7(c)) requires competitive products to contribute a minimum of 5.5 percent to the Postal Service's total institutional costs. Accordingly, no issue of subsidization of competitive products by market dominant products should arise (39 U.S.C.§ 3633(a)(1)).

**CERTIFICATION OF GOVERNORS' VOTE
IN THE
GOVERNORS' DECISION NO. 11-6**

I hereby certify that the Governors voted on adopting Governors' Decision No. 11-6, and that, consistent with 39 USC 3632(a), a majority of the Governors then holding office concurred in the Decision.

Julie S Moore

Date: 3/22/2011

Julie S. Moore
Secretary of the Board of Governors

## APPLICATION OF THE UNITED STATES POSTAL SERVICE FOR NON-PUBLIC TREATMENT OF MATERIALS

In accordance with 39 C.F.R. § 3007.21 and Order No. 225,[1] the United States Postal Service (Postal Service) hereby applies for non-public treatment of certain materials filed with the Commission in this docket. The materials pertain to a Global Plus 1D contract that the Postal Service believes is functionally equivalent to previously filed Global Plus 1D contracts.[2] The contract that is the subject of this docket and supporting documents establishing compliance with 39 U.S.C. § 3633 and 39 C.F.R. § 3015.5 are being filed separately in this docket under seal with the Commission. A redacted copy of the contract, a redacted version of the certified statement required by 39 C.F.R. § 3015.5(c)(2) for the contract, and a redacted version of Governors' Decision No. 11-6 are filed as Attachments 1, 2, and 3, respectively. Redacted versions of other financial documentation are filed publicly in separate Microsoft Excel documents.

The Postal Service hereby furnishes the justification required for this application by 39 C.F.R. § 3007.21(c) below.

**(1) The rationale for claiming that the materials are non-public, including the specific statutory basis for the claim, and a statement justifying application of the provision(s);**

Information of a commercial nature, which under good business practice would not be publicly disclosed, as well as third party business information, is not required to be disclosed to the public. 39 U.S.C. § 410(c)(2); 5 U.S.C. § 552(b)(4). The Commission may determine the appropriate level of confidentiality to be afforded to

[1] PRC Order No. 225, Final Rules Establishing Appropriate Confidentiality Procedures, Docket No. RM2008-1, June 19, 2009.
[2] *See* PRC Order No. 3395, Order Adding Global Plus 1D to the Competitive Product List and Approval of Designation as Baseline Agreement, Docket No. CP2016-193, June 29, 2016.

such information after weighing the nature and extent of the likely commercial injury to the Postal Service against the public interest in maintaining the financial transparency of a government establishment competing in commercial markets. 39 U.S.C. § 504(g)(3)(A).[3] Because the portions of materials filed non-publicly in this docket fall within the scope of information not required to be publicly disclosed, the Postal Service asks the Commission to support its determination that these materials are exempt from public disclosure and grant its application for their non-public treatment.

**(2) Identification, including name, phone number, and email address for any third-party who is known to have a proprietary interest in the materials, or if such an identification is sensitive, contact information for a Postal Service employee who shall provide notice to that third party;**

Concerning this Global Plus 1D contract, the Postal Service believes that the third parties with a proprietary interest in the materials are the customer with whom the contract is made, and foreign postal operators.

The Postal Service maintains that customer identifying information should be withheld from public disclosure. Therefore, rather than identifying the customer for these contracts, the Postal Service gives notice that it has already informed the customer, in compliance with 39 C.F.R. § 3007.20(b), of the nature and scope of this filing and its ability to address its confidentiality concerns directly with the Commission. The Postal Service employee responsible for providing notice to the customer with proprietary interest in the materials filed in this docket is Ms. Amy E. Douvlos, Marketing Specialist, Global Business, United States Postal Service, 475 L'Enfant Plaza, SW,

[3] The Commission has indicated that "likely commercial injury" should be construed broadly to encompass other types of injury, such as harms to privacy, deliberative process, or law enforcement interests. PRC Order No. 194, Second Notice of Proposed Rulemaking to Establish a Procedure for According Appropriate Confidentiality, Docket No. RM2008-1, March 20, 2009, at 11.

Room 5427, Washington, DC 20260-4017, whose email address is Amy.E.Douvlos@usps.gov, and whose telephone number is 202-268-3777.

As for foreign postal operators, the Postal Service recently provided notice to all foreign postal operators within the Universal Postal Union network through an International Bureau Circular issued on January 23, 2017, that the Postal Service will be regularly submitting certain business information to the Commission. Some UPU-designated foreign postal operators may have a proprietary interest in such information. The circular includes information on how third parties may address any confidentiality concerns with the Commission. In addition, contact information for all UPU Designated Operators is available at the following link, which is incorporated by reference into the instant application: http://pls.upu.int/pls/ap/addr_public.display_addr?p_language=AN.[4]

**(3) A description of the materials claimed to be non-public in a manner that, without revealing the materials at issue, would allow a person to thoroughly evaluate the basis for the claim that they are non-public;**

In connection with its Notice filed in this docket, the Postal Service included a contract, as well as financial workpapers, the certified statement required for the contract by 39 C.F.R. § 3015.5(c)(2), certifying that the agreement should meet the requirements of 39 U.S.C. § 3633(a)(1), (2), and (3), as well as the applicable Governors' Decision No. 11-6. These materials were filed under seal, with redacted copies filed publicly, after notice to the customer. The Postal Service maintains that the redacted portions of these materials should remain confidential.

[4] To the extent required, the Postal Service seeks a waiver from having to provide each foreign postal operator notice of this docket. It is impractical to communicate with dozens of operators in multiple languages about this matter. Moreover, the volume of contracts would overwhelm both the Postal Service and the applicable foreign postal operators with boilerplate notices.

With regard to the contract filed in this docket, the redactions on page 1 and to the footers of each page, the article concerning notices, and the signature block constitute the name or address of a postal patron whose identifying information may be withheld from mandatory public disclosure by virtue of 39 U.S.C. § 504(g)(1) and 39 U.S.C. § 410(c)(2). The redacted portions of the footers of the Annexes also protect the customer's identifying information from disclosure.

Other redacted information in the agreement includes certain definitions, as well as negotiated contract terms, such as the minimum volume and/or revenue commitment agreed to by the customer, and the percentage of cost increases that may trigger a consequential price increase.

The redactions made in the Annexes of the contract, other than those involving the customer's name, withhold the actual prices that are being offered to the customer in exchange for commitments and performance of its obligations under the terms of the agreement.

Governors' Decision No. 11-6 is reproduced as Attachment 3 and includes as supporting materials an Attachment A. Redactions appear on page two and in Attachment A of Governors' Decision No. 11-6. These redactions protect sensitive commercial information concerning the applicable cost-coverage.

The redactions applied to the financial workpapers protect commercially sensitive information such as underlying costs and assumptions, pricing formulas, information relevant to the mailing profile of the customer, and cost coverage projections. To the extent practicable, the Postal Service has limited its redactions in the workpapers to the actual information it has determined to be exempt from disclosure under 5 U.S.C. §

552(b). However, in a limited number of cases, narrative passages, such as words or numbers in text, were replaced with general terms describing the redacted material. For example, where the mailer's name appears in the spreadsheet within a cell, it has been replaced by the word "Mailer."

Any performance reports that might be filed in this docket will typically show the actual revenue and cost coverage of the customer's completed contract. The Postal Service will redact all of the values represented in such performance reports as commercially sensitive business information and will also protect any customer identifying information from disclosure.

**(4) Particular identification of the nature and extent of commercial harm alleged and the likelihood of such harm;**

If the portions of the contract that the Postal Service determined to be protected from disclosure due to their commercially sensitive nature were to be disclosed publicly, the Postal Service considers that it is quite likely that it would suffer commercial harm. Revealing customer-identifying information would enable competitors to focus marketing efforts on current postal customers, undermining the effort and resources that the Postal Service has invested in cultivating business relationships with those customers

Other redacted information in the Agreement (which is included as Attachment 1 to this notice) includes negotiated contract terms, such as the minimum volume and/or revenue commitment agreed to by the customer, various penalties and the percentage of cost increase which may trigger a consequential price increase. This information is commercially sensitive, and the Postal Service does not believe that it would be disclosed under good business practices. Competitors could use the information to assess the offers made by the Postal Service to its customers for any possible

comparative vulnerabilities and focus sales and marketing efforts on those areas, to the detriment of the Postal Service. Additionally, other potential customers could use the information to their advantage in negotiating the terms of their own agreements with the Postal Service. The Postal Service considers these to be highly probable outcomes that would result from public disclosure of the redacted material.

The financial workpapers include specific information such as costs, assumptions used in pricing formulas, the formulas themselves, mailer profile information, projections of variables, contingency rates included to account for market fluctuations and the exchange risks. All of this information is highly confidential in the business world. If this information were made public, the Postal Service's competitors would have the advantage of being able to determine the absolute floor for Postal Service pricing. Unlike its competitors, the Postal Service is required by the Mail Classification Schedule to demonstrate that each negotiated agreement within this group covers its attributable costs. Furthermore, the Postal Service's Governors have required that each contract be submitted to the Commission with a notice that complies with 39 C.F.R. § 3015.5.[5] Thus, competitors would be able to take advantage of the information to offer lower pricing to the Global Plus 1D customers, while subsidizing any losses with profits from other customers. Eventually, this could freeze the Postal Service out of the relevant delivery services markets. Given that these spreadsheets are filed in their native format, the Postal Service's assessment is that the likelihood that the information would be used in this way is great.

[5] Decision of the Governors of the United States Postal Service on the Establishment of Prices and Classifications for Global Plus Contracts (Governors' Decision No. 08-8), May 28, 2008, at 2-3 and Attachment A; Decision of the Governors of the United States Postal Service on the Establishment of Prices and Classifications for Global Direct, Global Bulk Economy, and Global Plus Contracts (Governors' Decision No. 08-10), July 16, 2008, at 2-3 and Attachment A.

Potential customers could also deduce from the rates provided in the contract or from the information in the workpapers whether additional margin for net profit exists between the contract being filed and the contribution that Global Plus 1D contracts must make. From this information, each customer could attempt to negotiate ever-increasing incentives, such that the Postal Service's ability to negotiate competitive yet financially sound rates would be compromised. Even a customer involved in this filing could use the information in the workpapers in an attempt to renegotiate its own rates by threatening to terminate its current agreement, although the Postal Service considers this risk to be lower in comparison to those previously identified.

Price information in the contract and financial spreadsheets also consists of sensitive commercial information of the customer. Disclosure of such information could be used by competitors of the customer to assess its underlying costs, and thereby develop a benchmark for the development of a competitive alternative.

**(5) At least one specific hypothetical, illustrative example of each alleged harm;**

Identified harm: Revealing customer identifying information would enable competitors to target the customers for sales and marketing purposes.

Hypothetical: The identity of the customer in this contract is revealed to the public. Another delivery service has an employee monitoring the filing of Global Plus 1D contracts and passing along the information to its sales function. The competitor's sales representatives can then quickly contact the Postal Service's customer and offer the customer lower rates or other incentives to terminate its contract with the USPS in favor of using the competitor's services.

Identified harm: Public disclosure of negotiated terms of the agreement could be used by competitors and potential customers to the Postal Service's detriment.

Hypothetical: Customer A signs a Global Plus 1D contract that is filed with the Postal Regulatory Commission. At the same time, Customer B is considering signing a similar Global Plus 1D contract and has no real concern about the penalty provision, which calls for Customer B to pay up to $10,000 in penalty if it fails to meet its minimum volume commitment before termination of the agreement. The information about Customer A's penalty is made public. Customer A's agreement calls for a $5,000 maximum payment as penalty. Customer B sees the information. Customer B now insists that it will not agree to be obligated to pay any more than Customer A was obligated to pay, diminishing the Postal Service's bargaining leverage.

Identified harm: Public disclosure of information in the financial workpapers would be used by competitors and customers to the detriment of the Postal Service.

Hypothetical: A competing delivery service obtains a copy of the unredacted version of the financial workpapers from the Postal Regulatory Commission's website. It analyzes the workpapers to determine what the Postal Service would have to charge its customers in order to meet its minimum statutory obligations for cost coverage and contribution to institutional costs. It then sets its own rates for products similar to what the Postal Service offers its Global Plus 1D customers under that threshold and markets its ability to guarantee to beat the Postal Service on price for international delivery services. By sustaining this below-market strategy for a relatively short period of time,

the competitor, or all of the Postal Service's competitors acting in a likewise fashion, would freeze the Postal Service out of the business-to-business and business-to-customer delivery services markets for which the Global Plus 1D product is designed.

Identified harm: Public disclosure of the rate charts in the Annexes would provide potential customers extraordinary negotiating power to extract lower rates.

Hypothetical: Customer A's negotiated rates are disclosed publicly on the Postal Regulatory Commission's website. Customer B sees the rates and determines that there may be some additional profit margin between the rates provided to Customer A and the statutory cost coverage that the Postal Service must produce in order for the agreement to be added to the competitive products list. Customer B, which was offered rates identical to those published in Customer A's agreement, then uses the publicly available rate information to insist that it must receive lower rates than those the Postal Service has offered it, or it will not use the Postal Service for its international delivery needs.

Alternatively, Customer B attempts to extract lower rates only for those destinations for which it believes the Postal Service is the low-cost provider among all service providers. The Postal Service may agree to this demand in order to keep the customer's business overall, which it believes will still satisfy total cost coverage for the agreement. Then, the Customer uses other providers for destinations other than those for which it extracted lower rates. This impacts the Postal Service's overall projected cost coverage for the agreement, such that it no longer meets its cost coverage requirement. Although the Postal Service could terminate the contract when it first

recognized that the mailer's practice and projected profile were at variance, the costs associated with establishing the contract, including filing it with the Postal Regulatory Commission, would be sunk costs that would have a negative impact on the Global Plus 1D product overall.

Identified harm: Public disclosure of information in the financial workpapers would be used by the customer's competitors to its detriment.

Hypothetical: A firm competing with the customer obtains a copy of the unredacted version of one of the contracts and financial workpapers from the Postal Regulatory Commission's website. The competitor analyzes the prices and the workpapers to assess the customer's underlying costs, volumes, and volume distribution for the corresponding delivery products. The competitor uses that information to (i) conduct market intelligence on the customer's business practices, and (ii) develop lower-cost alternatives using the customer's mailing costs as a baseline.

**(6) The extent of protection from public disclosure deemed to be necessary;**

The Postal Service maintains that the redacted portions of the materials filed non-publicly should be withheld from persons involved in competitive decision-making in the relevant delivery services markets, as well as their consultants and attorneys. Additionally, the Postal Service believes that actual or potential customers of the Postal Service for this or similar products should not be provided access to the non-public materials. This includes all competitors of the relevant customer, whether or not they are currently actual Postal Service customers.

**(7) The length of time deemed necessary for the non-public materials to be protected from public disclosure with justification thereof; and**

The Commission's regulations provide that non-public materials shall lose non-public status ten years after the date of filing with the Commission, unless the Commission or its authorized representative enters an order extending the duration of that status. 39 C.F.R. § 3007.30.

**(8) Any other factors or reasons relevant to support the application.**

None.

***Conclusion***

For the reasons discussed, the Postal Service asks that the Commission grant its application for non-public treatment of the identified materials.