Postal Regulatory Commission
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BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268–0001

COMPETITIVE PRODUCT PRICES GLOBAL PLUS 1D (CP2016-193) NEGOTIATED SERVICE AGREEMENT	Docket No. CP2017-237

NOTICE OF THE UNITED STATES POSTAL SERVICE OF FILING MODIFICATION TWO TO A GLOBAL PLUS 1D NEGOTIATED SERVICE AGREEMENT
(August 10, 2018)

In Order No. 4046, the Postal Regulatory Commission (Commission) included the agreement in the docket number listed above (Agreement) within the Global Plus 1D (CP2016-193) product.[1] Attached to this notice is a Modification Two to the Agreement. The modification amends the Agreement by making some revisions to certain articles, adding a few annexes, and extending the Agreement to August 31, 2019.

The effective date of Modification Two is intended to be September 1, 2018.

Redacted copies of Modification Two and of the certified statement required by 39 C.F.R. § 3015.5(c)(2) are filed as Attachments 1 and 2 respectively.[2] With respect to the non-public version of Modification Two, the certified statement, and the revised financial workpapers that are filed under seal, the Postal Service includes an Application for Non-Public Treatment as Attachment 3. The application protects from disclosure the

[1] PRC Order No. 4046, Order Approving Additional Global Plus 1D Negotiated Service Agreements and Conditionally Approving Modifications, Docket No. CP2017-237, August 16, 2017, at 9, 14.
[2] The Postal Service incorporates by reference Governors' Decision No. 11-6, which was included as Attachment 3 in the Postal Service's initial filing in this docket. *See* 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, Docket No. CP2017-237, August 1, 2017.

information that has been redacted from the materials that the Postal Service is filing publicly today with this notice.

In addition, the Postal Service is filing in separate Excel files redacted versions of the revised supporting financial documents for the contract that is the subject of this docket.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

By its attorneys:

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August 10, 2018

MODIFICATION TWO TO THE GLOBAL PLUS 1 SERVICE AGREEMENT BETWEEN THE UNITED STATES POSTAL SERVICE AND [redacted]

This Modification amends the Global Customized Mail Agreement ("Agreement") 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, signed by the Mailer on July 12, 2017, and by the USPS on July 13, 2017, as amended by Modification One, signed by the Mailer on September 25, 2017, and by the USPS on September 27, 2017. The Mailer and the USPS may be referred to individually as a "Party" and together as the "Parties."

The purpose of this Modification is to make the following changes to the Agreement.

First, the following paragraph (16) is added to Article 2:

(16) "Modification Two Effective Date" means the first date on which the USPS is willing to accept Qualifying Mail in accordance with Modification Two to this Agreement.

Second, Article 3(3) and (4) are replaced with the following:

(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]

Third, Article 7(1) is replaced by the following:

(1) Tender Amount. To tender to the USPS mail intended for delivery outside the United States [redacted]

Fourth, the following paragraph (4) is added to Article 8:

(4) From Modification Two Effective Date, (a) For PMEI/PMI, the Mailer will continue to pay postage according to Annex 1 until 11:59 p.m. on January 19, 2019. From January 20, 2019 until the expiration of this Agreement, the Mailer will pay postage according to Annex 4, attached hereto; (b) For CeP, the Mailer will pay postage according to Annex 5 until the expiration of this Agreement, attached hereto; (c) For IPA and ISAL, the Mailer will pay postage according to Annex 6 until 11:59 p.m. on January 19, 2019. From January 20, 2019 until the expiration of this Agreement, the Mailer will pay postage according to Annex 7, attached hereto.

Fifth, Article 11(1) is replaced with the following:

(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. In addition, the USPS will notify the Mailer of the Modification Two Effective Date within thirty (30) days after receiving the approval of the entities that have oversight responsibilities for the USPS. The Agreement shall remain in effect until August 31, 2019.

Sixth, the following Article (3A) is added after Article 13(3):

(3A) After the Modification Two Effective Date, the USPS will give the Mailer thirty-five (35) days' notice of changes in the prices in the Annexes to this Agreement, and any revisions to the prices in the Annexes to this Agreement shall not be retroactive.

Seventh, the following paragraph (7) is added to Article 16:

(7) The USPS as well as its agents, suppliers, vendors, shall not be liable for any damages of any type, including but not limited to, any lost profits (both actual and anticipated) or other incidental or consequential damages arising out of any action by the USPS. The USPS is further not liable for any

loss due to the use of, programming related to, or inability to use the USPS or other vendors' or suppliers' software.

Eighth, Article 21 is replaced by the following:

21. Assignment. Neither Party may, or shall have the power to, assign its rights under this Agreement or, delegate its obligations hereunder, without the prior consent of the other; such consent is not to be unreasonably withheld. In addition, in the event that the Mailer is merged with or into or acquires another firm, corporation, or entity, pricing under this Agreement following such merger or acquisition shall apply only to mail sent by the entity existing prior to the merger or acquisition. Following any such merger or acquisition, the parties may negotiate in good faith to extend, modify or enter into a new Agreement applicable to the merged or acquired entity. Assignment by the Mailer to a subsidiary of the Mailer for which the Mailer is the majority owner shall be allowed.

Ninth, the following paragraph (5) is added to Article 24:

(5) The USPS shall have no obligation to notify the Mailer of the status of the approval process or of potential fulfillment of the approval process.

Tenth, the following sentence is added after Article 28(1):

The Parties acknowledge and understand that all obligations of the USPS under this Agreement, including the prices in effect from Modification Two Effective Date set forth in Article 8(4) shall be contingent on the USPS receiving approvals from one or more internal and external bodies that have oversight responsibilities ("Conditions Precedent").

Eleventh, Article 29 is replaced by the following:

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 Commission for non-public treatment of materials believed to be protected from disclosure is found in part 3007 of the regulations concerning the Commission in Title 39 of the Code of Federal Regulations.

Twelfth, Article 32 is replaced by the following:

32. Intellectual Property, Co-Branding and Licensing The Mailer is allowed the factual use of the following trademarks to identify the appropriate USPS service: Priority Mail Express International®, Priority Mail International®, International Priority Airmail®, International Surface Air Lift®, Commercial ePacket®, M-Bag®, and the acronyms PMEI™, PMI™, CeP®, IPA®, and ISAL®. 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 cobranding 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 factually identify the trademark owner or the trademark owner's services until such time that a license for marketing use has been executed by the Parties. Mailer agrees to cooperate and execute any necessary filings required to perfect such license's effectiveness in the applicable jurisdictions, including, but not limited to the recording of such licenses.

Thirteenth, Article 33 is replaced by the following:

33. Warranties, Representations and Covenants The Mailer warrants, represents, and covenants to the Postal Service as follows: (1) that the execution, delivery, and performance by the Mailer of its obligations under this Agreement (a) are within the Mailer's power and authority; (b) have been duly authorized; and (c) do not and will not contravene (i) any law or regulation binding on or affecting the Mailer, (ii) any contractual restriction binding on the Mailer, (iii) any order, judgment or decree of any

court or other governmental or public body or authority, or subdivision thereof, binding on the Mailer, or (iv) the organizational documents of the Mailer; (2) 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; (3) that the Mailer is not aware of any pending investigations that would be subject to the notice obligation under Article 7, Paragraph 11(c); (4) 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; (5) that each permit that the Mailer requests to use, or uses, for Qualifying Mail under this Agreement is owned by (a) the Mailer or (b) a subsidiary of the Mailer for which the Mailer is the majority owner; (6) that the individual signing the Agreement on behalf of the Mailer is a duly authorized officer of the Mailer with the power and authority to enter into the Agreement on behalf of Mailer; and (7) that the Mailer shall comply with all applicable federal, state and local laws, rules and regulations.

Fourteenth, Article 34 is replaced by the following:

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 executive authority, 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 executive authority, branch, agency or independent establishment of the United States Government 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 executive authority, 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 26 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, except as set forth in Article 12, Paragraph 3. 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 26 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.

Fifteenth, the following Article 35 is added:

35. Record Keeping and Audit. Mailer shall prepare and maintain complete and accurate records, in accordance with good industry practice, to verify and document compliance with its obligations under this Agreement and substantiate any and all postage and penalties, and any related fees and expenses, payable by Mailer hereunder, in furtherance of the audit requirement under § 3654(c) of Title 39, United States Code, as well as compliance with export control laws. Mailer will retain all such records in the ordinary course of its business for a period of at least five (5) years after expiration or termination of this Agreement. Mailer shall respond to the USPS' or its designated auditor's quarterly and/or yearly transaction confirmations related to Postal Service transactions; and such other assistance as required by the Postal Service or its designated auditors in connection with Mailer's performance under this Agreement.

Sixteenth, the following Article 36 is added:

36. Expiration of Agreement Rates. The rates offered to the Mailer under this Agreement expire unless the Mailer signs this Agreement within the month, or the month subsequent to, the creation of this Agreement as indicated by the month number in the footer of this Agreement.

Seventeenth, Annexes 4 through 7 attached to this Modification are added to the Agreement.

All other terms and conditions of the Agreement shall remain in force.

The Parties acknowledge and understand that all obligations of the USPS under this Modification 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 this Modification may not be approved by such individuals or bodies. Until such time that all Conditions Precedent are fulfilled that are necessary to allow the USPS 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. 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 this Modification. 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 any costs incurred by either Party attributable to such non-approval such as attorney's fees.

The Mailer acknowledges that this Modification and supporting documentation will be filed with the Postal Regulatory Commission ("Commission") in a docketed proceeding (CP2017-237). The Mailer authorizes the USPS to determine the scope of information that must be made publicly available in any Commission docketed proceeding in which information related to this Modification must be filed. The Mailer further understands that any unredacted portion of the Modification or supporting information will be available on the Commission's public website, http://www.prc.gov. In addition, the USPS may be required to file information in connection with this instrument (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 Commission for non-public treatment of materials believed to be protected from disclosure is found in part 3007 of the regulations concerning the Commission in Title 39 of the Code of Federal Regulations.

The Parties may execute this Modification 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 document. All counterpart signed documents shall be deemed an original and one instrument.

In witness whereof, this Modification 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 8-8-2018

ON BEHALF OF [redacted]

Signature: [redacted]

Name: [redacted]

Title: [redacted]

Date: 8-7-18

ANNEX 4 PRICES FOR PRIORITY MAIL EXPRESS INTERNATIONAL AND PRIORITY MAIL INTERNATIONAL TENDERED AT A USPS INTERNATIONAL SERVICE CENTER

ANNEX 5 PRICES FOR COMMERCIAL EPACKET SERVICE

ANNEX 6 PRICES FOR INTERNATIONAL PRIORITY AIRMAIL SERVICE AND INTERNATIONAL SURFACE AIR LIFT SERVICE

ANNEX 7 PRICES FOR INTERNATIONAL PRIORITY AIRMAIL SERVICE AND INTERNATIONAL SURFACE AIR LIFT SERVICE

Annex Number	Title of Annex	Dates in Effect		
		From August 20, 2017 to 11:59 p.m. on the day prior to the Modification Two Effective Date	From the Modification Two Effective Date to 11:59 p.m. on January 19, 2019	From January 20, 2019 to August 31, 2019
Annex 1	Prices for PMEI and PMI Tendered at a USPS International Service Center	X	X	
Annex 2	Prices for Commercial ePacket Service	X		
Annex 3	Percentage Discounts for IPA and ISAL	X		
Annex 4	Prices for PMEI and PMI Tendered at a USPS International Service Center			X
Annex 5	Prices for Commercial ePacket Service		X	X
Annex 6	Prices for IPA and ISAL		X	
Annex 7	Prices for IPA and ISAL			X

ANNEX 4A
PRICES IN UNITED STATES DOLLARS FOR
PRIORITY MAIL EXPRESS INTERNATIONAL PRESORT DROPSHIPMENT AND
PRIORITY MAIL INTERNATIONAL PRESORT DROPSHIPMENT
TENDERED AT A USPS INTERNATIONAL SERVICE CENTER

The postage prices for Priority Mail Express International (PMEI) Qualifying Mail and Priority Mail International (PMI) Qualifying Mail set forth in this Annex 4A are only available for PMEI Qualifying Mail and PMI Qualifying Mail that is presorted and 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 4A;
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 4A 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

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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ANNEX 4A 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

	[redacted]
Weight Not Over (LBS)	
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ANNEX 4A 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

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 4B
PRICES IN UNITED STATES DOLLARS FOR PRIORITY MAIL EXPRESS INTERNATIONAL AND PRIORITY MAIL INTERNATIONAL TENDERED AT A USPS INTERNATIONAL SERVICE CENTER (ISC)

Postage prices for Priority Mail Express International Qualifying Mail and Priority Mail International Qualifying Mail, which are not presorted and prepared in accordance with Annex 4A requirements, shall be in accordance with the price charts in this Annex 4B 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 4B 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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ANNEX 4B 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 4B 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 5
PRICES IN UNITED STATES DOLLARS FOR COMMERCIAL EPACKET SERVICE

[redacted]

ANNEX 6 – CHART 1
PRICES IN UNITED STATES DOLLARS FOR
INTERNATIONAL PRIORITY AIRMAIL SERVICE AND INTERNATIONAL SURFACE AIR LIFT SERVICE

[redacted]

ANNEX 6 – CHART 2
PRICES IN UNITED STATES DOLLARS FOR
INTERNATIONAL PRIORITY AIRMAIL SERVICE AND INTERNATIONAL SURFACE AIR LIFT SERVICE- M-BAGS

[redacted]

ANNEX 7 – CHART 1
PRICES IN UNITED STATES DOLLARS FOR
INTERNATIONAL PRIORITY AIRMAIL SERVICE AND INTERNATIONAL SURFACE AIR LIFT SERVICE

[redacted]

ANNEX 7 – CHART 2
PRICES IN UNITED STATES DOLLARS FOR
INTERNATIONAL PRIORITY AIRMAIL SERVICE AND INTERNATIONAL SURFACE AIR LIFT SERVICE – M-BAGS

[redacted]

[redacted]

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

I, John P. Kelley, Manager of Cost Attribution 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.

John P. Kelley

Digitally signed by John P. Kelley
DN: cn John P. Kelley, o United States Postal Service, ou Cost Attribution, email john.p.kelley@usps.gov, c US
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John P. Kelley

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

In accordance with 39 C.F.R. Part 3007, the United States Postal Service (Postal Service) hereby applies for non-public treatment of certain materials filed with the Commission in this docket concerning a modification to a Global Plus 1D contract.

The modification 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 modification and a redacted version of the certified statement required by 39 C.F.R. § 3015.5(c)(2) are filed as Attachments 1 and 2, 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. § 3007.201(b) below.

(1) The rationale for claiming that the materials are non-public, including the specific statutory provision(s) supporting the claim, and an explanation justifying application of the provision(s) to the materials.

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 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).[1] 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) A statement of whether the submitter, any person other than the submitter, or both have a proprietary interest in the information contained within the non-public materials, and the identification(s) specificied in paragraphs (b)(2)(i) through (iii) of this section (whichever is applicable). For purposes of this paragraph, identification means the name, phone number, and email address of an individual.[2]

Concerning this Global Plus 1D contract, the Postal Service believes that persons other than the Postal Service with a proprietary interest contained within the materials are the customer with whom the contract is made, and foreign postal operators.

As for the customer with whom the contract is made, the Postal Service maintains that customer identifying information is sensitive and should be withheld from public disclosure. Therefore, rather than identifying the customer for this contract, the

[1] 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.

[2] Section 3007.201(b)(2) further states the following:

(i) If the submitter has a proprietary interest in the information contained within the materials, identification of an individual designated by the submitter to accept actual notice of a motion related to the non-public materials or notice of the pendency of a subpoena or order requiring production of the materials.

(ii) If any person other than the submitter has a proprietary interest in the information contained within the materials, identification of each person who is known to have a proprietary interest in the information. If such an identification is sensitive or impracticable, an explanation shall be provided along with the identification of an individual designated by the submitter to provide notice to each affected person.

(iii) If both the submitter and any person other than the submitter have a proprietary interest in the information contained within the non-public materials, identification in accordance with both paragraphs (b)(2)(i) and (ii) of this section shall be provided. The submitter may designate the same individual to fulfill the requirements of paragraphs (b)(2)(i) and (ii) of this section.

Postal Service gives notice that it has already informed the customer, in compliance with 39 C.F.R. § 3007.200(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, 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 provided notice to all foreign postal operators within the Universal Postal Union network through an International Bureau Circular issued on December 18, 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.[3] In addition, contact information for all UPU Designated Operators who could accept actual notice of a motion related to the non-public materials or notice of the pendency of a subpoena or order requiring production of the materials 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.

[3] To the extent required, the Postal Service seeks a waiver from having to provide pursuant to 39 C.F.R. § 3007.200(b) 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.

(3) A description of the information contained within the materials claimed to be non-public in a manner that, without revealing the materials at issue, would allow the Commission to thoroughly evaluate the basis for the claim that the information contained within the materials are non-public.

In connection with its Notice filed in this docket, the Postal Service included a modification to a contract, as well as financial workpapers, and 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). 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.

With regard to the modification filed in this docket, the redactions on page 1 and to the footers of each page, 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 modification includes certain negotiated contract terms, such as the minimum volume and/or revenue commitment agreed to by the customer.

The redactions made in the Annexes of the modification, 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.

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 the harm alleged and the likelihood of each harm alleged to result from disclosure.

If the portions of the modification 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 modification (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. 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. 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.

Potential customers could also deduce from the rates provided in the contract, from the information in the workpapers, or from any cost, volume, and revenue data concerning the contract filed after the agreement's expiration, 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 modification and financial spreadsheets, and any cost, volume and revenue data concerning the contract filed after the agreement's expiration date 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 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. The competing delivery service analyzes the workpapers to determine what the Postal Service would have to charge its customers in order to meet the Postal Service's minimum statutory obligations for cost coverage and contribution to institutional costs. The competing delivery service 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 the Postal Service believes will still satisfy total cost coverage for the agreement. Then, the Customer uses different 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.

Identified harm: Public disclosure of any cost, volume and revenue data filed after the contract's expiration would give competitors a marketing advantage.

Hypothetical: A competitor could use any cost, volume and revenue data associated with this agreement filed after this agreement's expiration, to "qualify" potential customers. The competitor might focus its marketing efforts only on customers that have a certain mailing profile, and use information filed after the contract's expiration to determine whether a customer met that profile.

(6) The extent of the protection from public disclosure alleged 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 for which non-public treatment is alleged to be necessary with justification thereof.

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 otherwise provided by the Commission. 39 C.F.R. § 3007.401(a). However, because Postal Service relationships with customers may continue for years or decades, the Postal Service requests that the non-public materials filed in this docket be subject to protection for an indefinite duration.

(8) Any other relevant factors or reasons 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.