

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

COMPETITIVE PRODUCT PRICES
PRIORITY MAIL CONTRACT GROUP (MC2009-25)
PRIORITY MAIL CONTRACT 11
NEGOTIATED SERVICE AGREEMENT

Docket No. CP2009-37

**NOTICE OF ESTABLISHMENT OF RATES AND CLASS
NOT OF GENERAL APPLICABILITY (PRIORITY MAIL CONTRACT 11)**
(June 11, 2009)

In accordance with 39 U.S.C. § 3632(b)(3) and 39 C.F.R. § 3015.5, the Postal Service hereby gives notice of the establishment of rates not of general applicability for Priority Mail Contract 11 within the Priority Mail Contract Group that the Postal Service has requested the Commission to add to the competitive product list within the Mail Classification Schedule in Docket No. MC2005-25.¹ A redacted version of the contract is provided in Attachment A and the unredacted contract is being filed under seal. The contract provides that it will become effective the day that the Commission issues all necessary regulatory approval.² The Governors' Decision, including the explanation and justification for the change and the record of proceedings, was filed in Docket No. MC2009-25.³ The required revenue and cost data are being filed under seal.⁴

¹ The Postal Service acknowledges the pendency of the Commission's determination in Docket No. MC2009-25. In the event that the Commission's determination in that docket will not accommodate the addition of this contract, the Postal Service will file any additional needed documents at that time. In the meantime, the revenue and cost information being filed herewith under seal is relevant under whatever scenario ensues and is available at this time to enable the Commission to begin its review.

² 39 C.F.R. § 3015.5(a).

³ *Id.* § 3015.5(b).

⁴ *Id.* § 3015.5(c)(1).

Attachment B provides the certification of compliance with 39 U.S.C. § 3633(a)(1) and (3).⁵

This contract differs from the contract filed as Priority Mail Contract 6 only in regards to negotiated prices and a difference in termination provisions.

The Postal Service maintains that the contract, the customer's name, and the related financial information should remain confidential. The contract contains pricing and other information related to the customer and its processes as well as to Postal Service processes and procedures for handling the mail tendered under the contract. Related financial information contains cost and pricing information showing how prices are developed. Prices and other contract terms relating to the parties' processes and procedures are highly confidential in the business world and the Postal Service protects them in accordance with industry standards. The ability of the Postal Service to negotiate such contracts would be severely compromised if prices and other information pertaining to these types of agreements were publicly disclosed. Also, public disclosure would compromise the ability of the customer to negotiate favorable shipping services contracts in the future. The name of the customer should remain confidential due to the substantial likelihood that the Postal Service's competitors would use such information to target their efforts and undercut the Postal Service's prices. The Postal Service is

⁵ *Id.* § 3015.5(c)(2).

aware of no competitor or private company of comparable size and scope that releases similar information to the public.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

By its attorneys:

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June 11, 2009

ATTACHMENT A
REDACTED CONTRACT

**SHIPPING SERVICES CONTRACT
BETWEEN
THE UNITED STATES POSTAL SERVICE
AND
[REDACTED]
REGARDING PRIORITY MAIL SERVICE**

This contract for shipping services (the "Contract") is made by and between [REDACTED] a corporation organized and existing under the laws of [REDACTED], with its principal office at [REDACTED], and each of its affiliates, defined as any entity that it controls, is controlled by, or is under common control with, that ships with the Postal Service (collectively, "Customer"), and the United States Postal Service ("the Postal Service"), an independent establishment of the Executive Branch of the United States Government established by the Postal Reorganization Act, Public Law 91-375, with its principal office at 475 L'Enfant Plaza, SW, Washington, DC 20260. The Postal Service and Customer are referred to herein collectively as the "Parties" and each as a "Party."

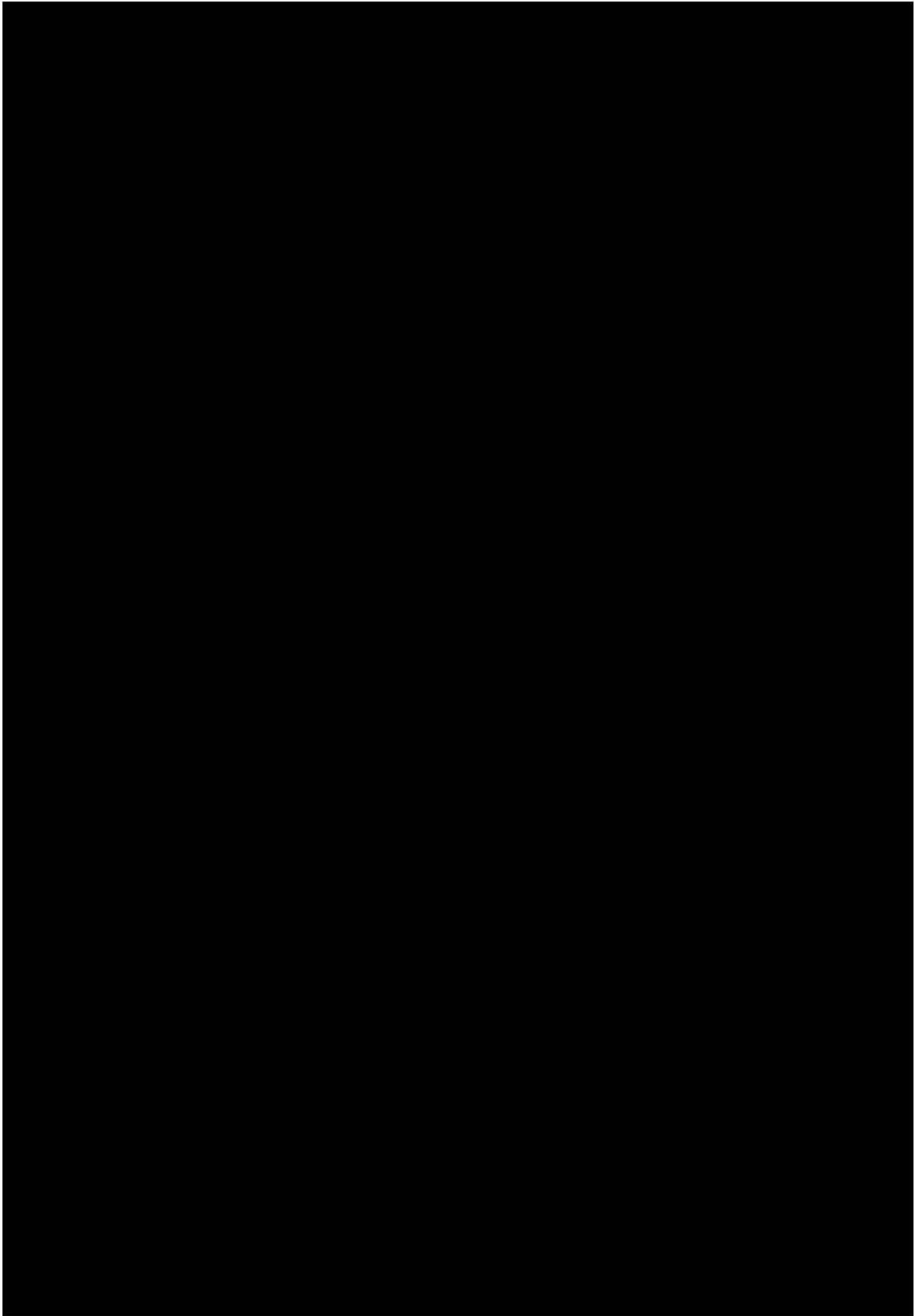
WHEREAS, it is the intention of the Parties to enter into a shipping services contract that will benefit the Postal Service, the postal system as a whole, and Customer, and that will comply with the requirements of Title 39 United States Code, as amended by the Postal Accountability and Enhancement Act of 2006,

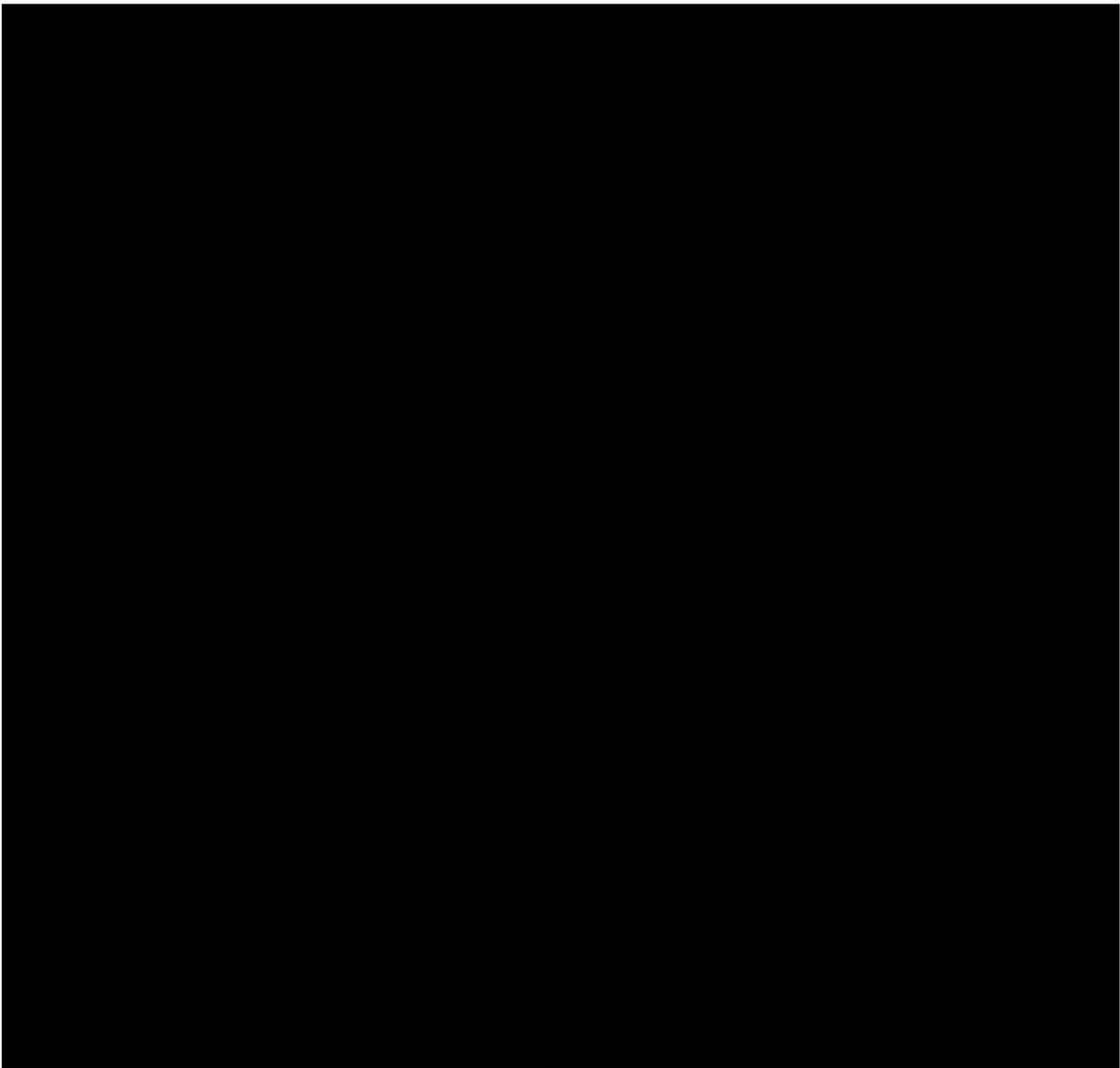
NOW, THEREFORE, the Parties agree as follows:

I. Terms

The following terms apply as of the implementation date, as defined below:

- A. Except to the extent different terms or prices are specified in this Contract, applicable provisions of the Domestic Mail Manual (as may be regularly updated by the Postal Service and posted at http://pe.usps.com/text/dmm300/dmm300_landing.htm) and of other postal laws and standards apply to mail tendered under this Contract.
- B. Customer will manifest pieces eligible for customized pricing under this Contract as specified by the Postal Service, using a separate permit number to ship such pieces, and will begin using the Electronic Verification System (eVS) for shipments of such pieces no later than a mutually agreed-upon date.
- C. Customized Priority Mail Prices
 1. For the first year of this Contract, beginning on its effective date, the Priority Mail prices shown in the tables below are available for packages tendered by Customer as Priority Mail.





D. Annual Adjustment

1. For the second year of the Contract, beginning on the first anniversary of the Contract's effective date, the first year's prices shown above will be increased by [REDACTED]
2. For the third year of the Contract, beginning on the second anniversary of the Contract's effective date, the second year's prices will be increased by [REDACTED]
3. Prices for the second and third years will be calculated by the Postal Service and rounded up to the nearest whole cent.

4. The Postal Service shall provide written notice of annual price adjustments to Customer.
5. Nothing in this Contract shall require Customer to pay prices greater than published prices for shipping Priority Mail packages. Published prices remain available to Customer for shipping outside the purview of this Contract and in lieu of Contract prices at any time, at Customer's discretion.

II. Regulatory Review and Effective Date

This Contract is subject to approval by the Postal Service Governors and the Postal Regulatory Commission ("the Commission"). In accordance with Title 39 and the Commission's Rules of Practice and Procedure, and upon approval of the Postal Service Governors, the Postal Service will make required filings with the Commission. The effective date of this Contract shall be the day on which the Commission issues all necessary regulatory approval.

III. Expiration Date and Termination

This Contract shall expire three years from the effective date, unless (1) renewed by mutual agreement in writing, (2) superseded by a subsequent contract between the Parties, (3) ordered by the Commission or a court, or (4) required to comply with subsequently enacted legislation. Furthermore, each party reserves the right to terminate this contract without penalty, with 30 days written notice to the other party, except that the Postal Service may not terminate this Contract without cause with an effective date during the period October 1 through January 15; accordingly, in order for termination by the Postal Service to become effective before January 16 of any year, the Postal Service must exercise its the termination right before August 1 of the preceding year).

IV. Appeals

Customer may appeal a Postal Service decision regarding the calculation of prices, the amount of postage paid, or other implementation or operational issues under this Contract by submitting a written appeal within 90 days of receipt of notification of the determination giving rise to the appeal to: Manager, Pricing and Classification Service Center, 90 Church St. Ste. 3100, New York, NY 10007-2951 ((212) 330-5300 / Fax: (212) 330-5320). The decision of the PCSC Manager will be administratively final. Any decision that is not appealed as prescribed becomes the final Postal Service decision.

V. Confidentiality

Neither Party shall make public the terms of this Contract, except to the extent required by law. The Postal Service will request that the Commission, in executing its functions under the Act, not disclose Customer's identity, the terms of this Contract, or supporting data, in accordance with the Commission's rules and practices.

VI. Amendments

This Contract shall not be amended except expressly, in writing, by authorized representatives of the Parties.

VII. Assignment

Neither Party may, or shall have the power to, assign its rights under the Contract or, delegate its obligations hereunder, without the prior consent of the other; such consent is not to be unreasonably withheld, except that Customer may, with 30 days' advance notice to the Postal Service, assign this Contract (or any of its rights and obligations under this Contract) (1) to any Customer affiliate or (2) in connection with any merger, consolidation, reorganization, sale of all or substantially all of its assets or any similar transaction.

VIII. Waiver

Any waiver by a party shall not constitute a waiver for any future occurrence. No waiver shall be valid unless set forth in a writing executed by the party waiving such provision.

IN WITNESS WHEREOF, the Parties hereto have caused this contract to be duly executed as of the later date below:

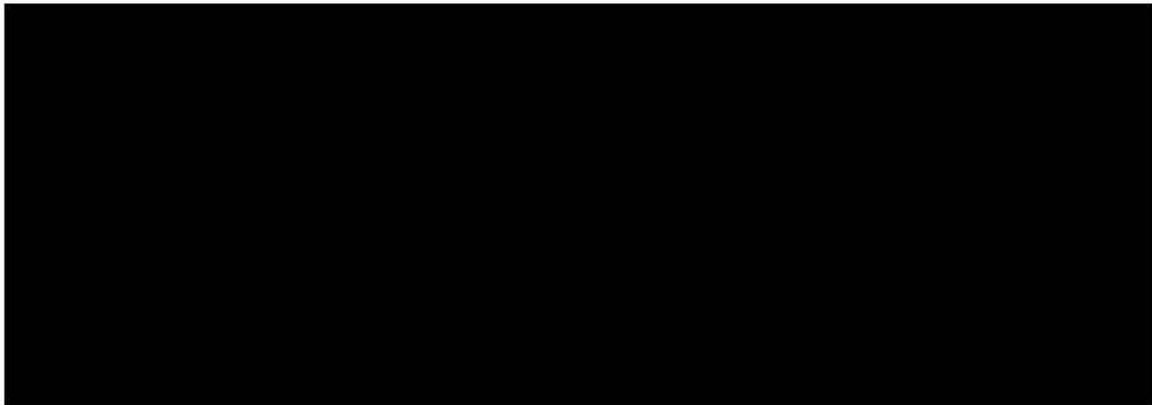
UNITED STATES POSTAL SERVICE

Signed by: *Gay Leblin*

Printed Name: Gay Leblin

Title: Vice President, Executive

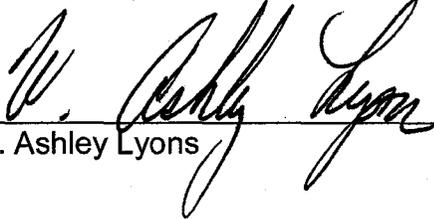
Date: 6/10/2009



Certification of Prices for Priority Mail Contract 11

I, W. Ashley Lyons, Manager, Regulatory Reporting and Cost Analysis, Finance Department, am familiar with the prices and terms for Priority Mail Contract 11. The prices and terms are consistent with the formulas established by the Decision of the Governors of the United States Postal Service on Establishment of Rate and Class Not of General Applicability for Priority Mail Contract Group, dated April 27, 2009 (Governors' Decision No. 09-6).

I hereby certify, based on in the financial analysis provided herewith, that the prices are in compliance with 39 U.S.C § 3633 (a)(1), (2), and (3). They are expected to cover attributable costs. There should therefore be no subsidization of competitive products by market dominant products. The contract should not impair the ability of competitive products on the whole to cover an appropriate share of institutional costs.



W. Ashley Lyons