

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

COMPETITIVE PRODUCT PRICES
PARCEL SELECT
PARCEL SELECT CONTRACT 1

Docket No. MC2011-16

COMPETITIVE PRODUCT PRICES
PARCEL SELECT CONTRACT 1 (MC2011-16)
NEGOTIATED SERVICE AGREEMENT

Docket No. CP2011-53

**REQUEST OF THE UNITED STATES POSTAL SERVICE
TO ADD PARCEL SELECT CONTRACT 1
TO COMPETITIVE PRODUCT LIST
AND NOTICE OF FILING (UNDER SEAL)
OF CONTRACT AND SUPPORTING DATA
(December 23, 2010)**

In accordance with 39 U.S.C. § 3642 and 39 C.F.R. § 3020.30 et seq., the United States Postal Service hereby requests that Parcel Select Contract 1 with StartSampling, Inc. be added to the competitive product list within the Mail Classification Schedule.¹ The product is for the licensing and distribution of the “Sample Showcase” co-op box, which is a follow-up to the Samples Co-op Market Test, Docket No. MT2010-1, approved on May 5, 2010, in Commission Order No. 452. This is a competitive product not of general applicability within the meaning of 39 U.S.C. § 3632(b)(3).² A redacted version of the Governors’ Decision establishing the prices and classification and a certification of the Governors’ vote is provided in Attachment A.³ A redacted version of the contract is provided in Attachment B. Attachment C shows the requested changes

¹ 39 C.F.R. § 3020.31(a), (c).

² *Id.* § 3020.31(d).

³ *Id.* § 3020.31(b).

in the Mail Classification product list with the addition underlined.⁴ Attachment D provides a statement of supporting justification for this request, as specified in 39 C.F.R. § 3020.32.⁵ Attachment E provides the certification of compliance with 39 U.S.C. § 3633(a)(1) and (3).⁶ Attachment F provides the Application for Nonpublic Treatment of the materials filed under seal.⁷ Those materials are the unredacted contract and the required cost and revenue data.⁸

As explained in the supporting justification, the Postal Service believes that it is appropriate to add this contract to the list of competitive products. The Commission should therefore approve this request as set forth in its rules. As required by 39 U.S.C. § 3642(d)(1), this Request is being published in the Federal Register.

Respectfully submitted,

UNITED STATES POSTAL SERVICE
By its attorneys:

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December 23, 2010

⁴ *Id.* § 3020.31(f).

⁵ *Id.* § 3020.31(e).

⁶ *Id.* § 3015.5(c)(2).

⁷ *Id.* § 3007.21.

⁸ *Id.* § 3015.5(c)(1).

**ATTACHMENT A TO REQUEST
REDACTED GOVERNORS' DECISION**

**DECISION OF THE GOVERNORS OF THE UNITED STATES POSTAL SERVICE ON
ESTABLISHMENT OF RATE AND CLASS NOT OF GENERAL APPLICABILITY
FOR PARCEL SELECT SERVICE (GOVERNORS' DECISION NO. 10-8)**

December 16, 2010

STATEMENT OF EXPLANATION AND JUSTIFICATION

The Postal Service and StartSampling, Inc. have entered into a shipping services contract and licensing agreement that [REDACTED]

[REDACTED] The contract is for three years. Pursuant to our authority under section 3632 of title 39 of the United States Code, as amended by the Postal Accountability and Enhancement Act of 2006 ("PAEA"), we establish prices not of general applicability, and such changes in classifications as are necessary to implement the prices.

Under the contract, StartSampling will be able to [REDACTED]

[REDACTED] The per-box flat postage fee, and the threshold at which the licensing revenue share begins, will escalate for contract years two and three, as specified in the contract. The contribution level of this contract is estimated to be [REDACTED] at a minimum, with the potential for significantly higher revenue and contribution. The volume will be new volume to the Postal Service, and should serve to increase the attractiveness of the mail as a means of sending product samples.

We have reviewed management's analysis of the contract, which is attached. We have evaluated the new price and proposed classification changes in accordance with 39 U.S.C. §§ 3632-3633 and 39 C.F.R. §§ 3015.5 and 3015.7. We approve the changes and find that they are appropriate and consistent with the regulatory criteria, as indicated by management.

ORDER

We direct management to file with the Postal Regulatory Commission appropriate notice of these classification and rate changes and to request any needed addition to the competitive product list. The changes in price and classification set forth herein shall be effective one day after the Commission approves any required addition to the product list under 39 C.F.R. § 3020 Subpart B.

By The Governors:

A handwritten signature in black ink, appearing to read "Lou Giuliano", written over a horizontal line.

Louis J. Giuliano
Chairman

ANALYSIS OF THE PARCEL SELECT SERVICE CONTRACT AND LICENSING AGREEMENT WITH STARTSAMPLING

Introduction

The Postal Service and StartSampling Inc would like to enter a Negotiated Service Agreement and Licensing Agreement for the distribution of the Sample Showcase co-op box for a three year term. The Sample Showcase co-op box would include a free selection of samples from different brands delivered directly to the doors or mail receptacles of consumers who signed up online or were selected via a targeted consumer list at no charge to the consumer. In May 2010, the Postal Service conducted a market test mailing targeting 200,000 consumers to evaluate the demand for the Sample Showcase co-op boxes. The market test generated positive results with key brands because cost sharing with other brands is significantly lower than the cost of mailing samples individually.

Under the contract, StartSampling will be able to mail a co-op box provided by the Postal Service, with USPS-controlled design and branding, [REDACTED] under Parcel Select pricing. For each Sample Showcase mailing, StartSampling will provide us with payment that affords [REDACTED] cost coverage at a minimum with significant upside revenue and contribution potential. Payment will consist of a flat rate postage fee, as well as a licensing revenue share equal to [REDACTED] of revenue generated by the fulfillment partner in excess of a defined threshold. In 2010, the box postage fee will range [REDACTED] for each Sample Showcase box mailed, depending upon box dimensions, while the licensing revenue threshold will be [REDACTED] per box.

[REDACTED]

Risk

With a negotiated service agreement, the Postal Service can not provide exclusivity to StartSampling. Another similarly situated vendor could request that the Postal Service grant it permission to use the Sample Showcase product under the same pricing terms. The precise effect of a multi-vendor model is unknown. There is the possibility that use of the Sample Showcase product by multiple qualified vendors could prevent any vendor from achieving a critical mass. It is also possible that different vendors would serve different markets and have different capabilities, therefore making the product even more successful than just using one vendor. The Postal Service will take these and all other relevant considerations into account when reviewing a request by another vendor to utilize the box.

Financial Impact

Summary of USPS Costs

Analysis of the costs for Sample Showcase rests, in part, on the following assumptions:

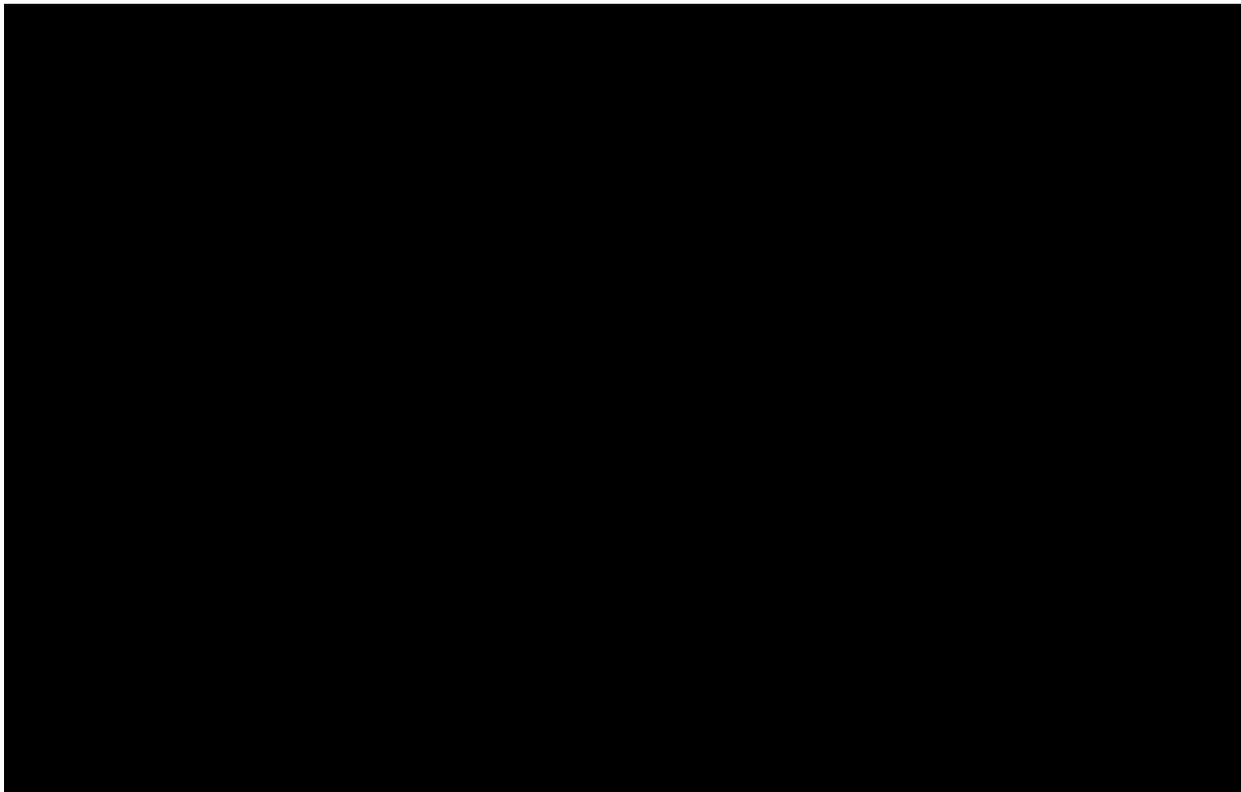
[REDACTED]

[REDACTED]

[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]						
[REDACTED]						
[REDACTED]						
[REDACTED]						
[REDACTED]						
[REDACTED]						

Based on the estimated increase in contribution, in light of anticipated costs and volumes, attributable costs will be covered (39 U.S.C. §3633(a)(2)) and competitive products as a whole will 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 arises (39 U.S.C. §3633(a)(1)).

Appendix A: Financial Estimates*





**ATTACHMENT B TO REQUEST
REDACTED SHIPPING SERVICES CONTRACT**

**LICENSING AND SHIPPING SERVICES AGREEMENT
BETWEEN THE UNITED STATES POSTAL SERVICE
AND STARTSAMPLING REGARDING SAMPLE SHOWCASE**

This Agreement (“Agreement”) is made by and between the United States Postal Service, an independent establishment of the Executive Branch of the United States Government (“Postal Service” or “USPS”), with its principal office at 475 L’Enfant Plaza S.W., Washington, D.C. 20260, and StartSampling, Inc. (“StartSampling”), a Delaware corporation with its principal place of business at 195 East Elk Trail, Carol Stream, Illinois 60188 (collectively, the “Parties”). The effective date of this Agreement is the later of the two execution dates shown below, or the date of any final regulatory approvals, whichever is later (the “Effective Date”).

Background

To increase the attractiveness of the mail as a channel for product sample distribution, the Postal Service has developed the Sample Showcase™ box, a USPS-branded parcel box designed to contain an assortment of product samples and other advertising material from multiple parties, such as consumer packaged goods companies, who wish to advertise their goods and services (“Accounts”). To protect the integrity of its brand, the Postal Service desires to license the use of that box and its associated trademarks to qualified providers of sample-related services who have their principal place of business within the United States, and who have, and at all times maintain, the following capabilities: 1) a dedicated sales force and the relationships to influence decision-making at potential Accounts; 2) the ability to manage customer lists; 3) the capability to assemble the boxes, and tender the boxes to the Postal Service for delivery; 4) the ability to meet the volume minimums specified herein; 5) internal market researchers that are able to provide data analytics and research; 6) the ability to perform its activities in-house, and within the United States, and 7) data management capabilities that meet all applicable laws and regulations.

StartSampling, a provider of sample-related services, has these capabilities, and seeks to utilize the Sample Showcase™ box and its associated trademarks so as to market the box, assemble the box, and tender the box for delivery by the Postal Service.

The Parties desire under this agreement to establish the general terms and conditions that will govern the use by StartSampling of the Sample Showcase™ box and trademarks, including the shipping of the box under Parcel Select Service. It is also the intention of the Parties to comply with the requirements of title 39 of the United States Code, as amended by the Postal Accountability and Enhancement Act of 2006. The entire Agreement between the Parties consists of the terms and conditions specified in this Agreement and in the Exhibits listed below and attached hereto:

Exhibit A: Advertising Guidelines

Exhibit B: USPS License Terms

Exhibit C: StartSampling License Terms

Exhibit D: Per-Piece Charge Schedule

each of which is incorporated herein by reference (collectively the “Agreement”). In a circumstance in which it is impossible to simultaneously comply with the terms and conditions of an Exhibit and the terms and conditions specified in “Terms and Conditions” immediately following this paragraph, the terms and conditions specified in “Terms and Conditions” shall control.

Terms and Conditions

1. **Postal Service Responsibilities.** Subject to the terms of this Agreement, the Postal Service shall have the following responsibilities:

(A) Provision of the box: The Postal Service shall procure the Sample Showcase™ box from a vendor. The initial box and any changes to the box shall be approved in writing by StartSampling. StartSampling shall keep the Postal Service and the vendor informed of the number of boxes it needs in order to ensure an adequate supply at all times to meet its mailing needs (the “Forecast”).

The Parties agree that in order to ensure that StartSampling always has a sufficient number of boxes to meet its mailing needs, StartSampling should have [REDACTED] boxes on hand (or some mutually agreeable number of boxes). Upon notice from StartSampling of the need for additional boxes in order to maintain [REDACTED] boxes on hand, the Postal Service shall promptly act to procure such boxes from the vendor. StartSampling agrees to provide such notice so as to allow the Postal Service a reasonable amount of time to procure the required boxes.

StartSampling also agrees that it shall compensate the Postal Service for the costs of procuring boxes that are not mailed due to loss, damage, or spoliation while in the possession of StartSampling. The cost of procuring a box is [REDACTED]; this figure is subject to change upon the Postal Service providing notice to StartSampling of new costs, and explaining the new costs. Compensation shall be payable for all such boxes that exceed [REDACTED] of the number of boxes that are procured for StartSampling in a given year. On a yearly basis as of the anniversary of the Effective Date, StartSampling shall provide the Postal Service with a report that provides the Postal Service with sufficient detail to determine the number of boxes

that have been procured but are not available to be mailed for these reasons. Compensation is due 15 days following the submission of this report, and is payable to the USPS account specified in Paragraph 10.3.

The dimensions of the box shall not exceed 14 inches x 5 inches x 1.5 inches (length x width x height), unless the Postal Service in its sole discretion agrees to provide a box that exceeds these dimensions.

(B) Delivery of the box to addressee(s): The Postal Service shall deliver the box to addressees following receipt and full payment from StartSampling. The sole and exclusive remedy for the Postal Service's failure to deliver a box to addressee(s) shall be a refund of the applicable per-piece charge as stated in Exhibit D for that box(es) pursuant to the terms of the Domestic Mail Manual. The Postal Service does not guarantee delivery of the box on a particular date, or within a particular timeframe. The Postal Service is not responsible for any boxes that are undeliverable due to incorrect addresses.

2. StartSampling Responsibilities. Subject to the terms of this Agreement, StartSampling shall fund and manage all aspects of providing the Sample Showcase™ box, including:

- (A) Solicitation and Account Generation: StartSampling shall promote the Sample Showcase™ box to potential Accounts as an attractive and effective means of marketing their products.
- (B) Prices and Contents of Box: StartSampling shall develop prices and other standards for inclusion of a product sample or other advertising material in the Sample Showcase™ box, in accordance with the terms of this Agreement.
- (C) Consumer List Procurement: StartSampling shall leverage internal assets (e.g., consumer databases), or purchase consumer lists, to develop target address lists for Sample Showcase™ mailings based on markets and demographic requirements.
- (D) Fulfillment: A condition of this Agreement is that StartSampling agrees to a Committed Volume, defined as mailing a minimum volume of [REDACTED] Sample Showcase™ boxes in the first year of the Agreement following the date in which the first box mailing is tendered for delivery to the Postal Service after the Effective Date of this Agreement (the "First Mailing Date") (the volume in this first mailing shall be included in determining whether this minimum has been met).

Each mailing shall have a minimum quantity of [REDACTED] boxes unless USPS grants an exception to Start Sampling for specialty boxes or

test boxes for which a smaller quantity mailing is appropriate. There is no maximum quantity of boxes for any mailing.

If StartSampling fails to meet the Committed Volume, it agrees to pay the Postal Service a penalty of [REDACTED] as its sole and exclusive penalty (except that the Postal Service retains all rights to terminate this Agreement pursuant to the terms of Paragraph 16). This payment is immediately due on the anniversary of the First Mailing Date.

If StartSampling terminates the agreement pursuant to Section 16.2 prior to reaching the Committed Volume, it is subject to this penalty. If StartSampling terminates the agreement pursuant to Section 16.5, the provisions of this Section (D) shall be null and void.

- (E) Campaign Analytics: StartSampling shall collect and analyze information to evaluate the performance of Sample Showcase™ mailings, while ensuring consumer data privacy and conducting test and control procedures when appropriate.

3. USPS Properties.

3.1 Box. Subject to the terms and conditions of this Agreement, the Postal Service hereby grants to StartSampling a non-transferable authorization to use and distribute the Sample Showcase™ box, bearing the Sample Showcase trademark and other USPS trademarks, as specified herein. StartSampling acknowledges and agrees that it may only utilize the boxes provided by the Postal Service in the performance of its obligations under this Agreement, unless it receives the prior written consent of the Postal Service.

3.2 Intellectual Property. Subject to the terms and conditions of this Agreement, including Exhibit B, the Postal Service hereby grants to StartSampling a non-transferable, non-exclusive license to use the Sample Showcase trademark and other USPS trademarks, as specified herein, in materials promoting the Sample Showcase™ box.

3.3 Website. The Parties acknowledge and agree that the Postal Service owns all rights in and to the domain name “mysampleshowcase.com” (“Sample Showcase™ Website”), and that the Postal Service shall have exclusive control of that Website. StartSampling hereby relinquishes any and all control over that website. The Parties also acknowledge and agree that the Postal Service will develop on the Sample Showcase™ Website a general description of the Sample Showcase™ box, with links to the websites promoting the box that are maintained by StartSampling and any other licensed providers of the box. The contents of the “mysampleshowcase.com” Website, or any other website owned or controlled by the Postal Service that provides information regarding the Sample Showcase™ box, will be in the sole discretion of the Postal Service,

except that StartSampling will retain its rights under Paragraph 5.2 and Exhibit C regarding any use of its intellectual property on such site(s).

Prior to the Postal Service finalizing the “mysampleshowcase.com” Website, persons who attempt to access that Website will be redirected to a website owned and controlled by StartSampling whose purpose is to promote the Sample Showcase™ box provided by StartSampling. This redirection shall terminate within 30 days following notice by the Postal Service.

StartSampling shall at all times ensure that any website that it owns or controls which is used to promote the Sample Showcase™ box provided by StartSampling clearly indicates that the box is being provided by StartSampling as a licensee of the Postal Service, and not by the Postal Service directly. Compliance with this requirement will be one aspect of the review process set forth in Exhibit B.

4. Non-exclusivity of box. StartSampling acknowledges and agrees that the authorization to utilize and distribute the Samples Showcase™ box is nonexclusive as regards third parties, to the extent that the Postal Service, in its sole discretion (but subject to direction by the Postal Regulatory Commission, a court of competent jurisdiction, or the Congress), determines that another party is functionally equivalent to StartSampling. Considerations in determining whether another party is functionally equivalent to StartSampling shall include, but not necessarily be limited to, whether the party has the capabilities set forth in the Background section of this Agreement. The Postal Service expressly retains the right to enter into agreements with other parties deemed to be functionally equivalent allowing such parties’ use of the Sample Showcase™ box. The Postal Service also expressly reserves the right to provide the Sample Showcase™ box itself, or to take any other action for purposes it deems appropriate, whether or not such purposes are in competition with the activities, licenses and products and services referenced in and contemplated by this Agreement.

5. USPS Promotion and Advertising.

5.1 USPS Authority. Notwithstanding anything else herein to the contrary, the Postal Service may, in its sole discretion, solicit potential advertisers by providing information regarding the Sample Showcase™ box, which may include indicating that StartSampling is an authorized vendor of the box. If the Postal Service authorizes another party to use the Sample Showcase™ box, or if it provides the Sample Showcase™ box itself, the Postal Service in its sole discretion will determine the manner in which it will advertise the role of StartSampling in providing the box.

5.2. License. Subject to the terms and conditions of this Agreement, including Exhibit C, StartSampling hereby grants to the Postal Service a non-exclusive,

non-transferable, worldwide license to use and display StartSampling's name, logos, trademarks, and trade dress in any sales, marketing, or other promotional material for the Sample Showcase™ box in any media now known or hereafter devised.

6. Communication and Staffing

6.1. Communication and Postal Service Review. In order for the Postal Service to assure that the production, appearance, and quality of the Sample Showcase™ box are consistent with USPS's reputation for high quality, and with the goodwill associated with USPS's reputation and with its trademarks, StartSampling shall submit each sample or other advertising material that will be in a Sample Showcase™ mailing for review by the Postal Service. The Postal Service shall review each sample or other material solely for compliance with the guidelines set forth in Exhibit A (except section (d) of that Exhibit), pursuant to the following process:

StartSampling shall initiate the review process by sending an email to samples@usps.com and lisa.n.bobb-semple@usps.gov, read receipt requested, that describes the sample and also contains an image of the sample; this image shall clearly show all markings on the sample. The Postal Service may upon notice to StartSampling substitute a different email address for those specified herein. In addition to this email submission, StartSampling shall also send a physical sample, identical in all respects to the sample that will be included in the mailing, to the Postal Service address set forth in Paragraph 32. The physical sample shall be sent by First-Class Mail or a delivery service of equivalent or greater speed, and shall be postmarked no later than █ day following the date of the email submission.

The Postal Service will issue a written response solely regarding the compliance of each sample and other material with the guidelines of Exhibit A (except for section (d) of Exhibit A). That response will be issued within █ calendar days of the receipt of the email submission, as determined by when the read receipt is sent, unless the Postal Service provides a written notice that compliance or noncompliance cannot be determined based on the existing submission, and requires additional information. If StartSampling does not receive a response or notice within █ calendar days, it shall make a second email submission to the Postal Service, read receipt requested. If after █ of the second submission no response or notice is received, the sample or other material shall be deemed approved.

If the Postal Service provides a notice that it requires additional information, StartSampling shall provide such information, and the Postal Service shall issue a written response within █ business days of its receipt of the additional information. If StartSampling does not receive a response within █ business days, it shall send an email requesting such a response to the email address

specified above. If after [REDACTED] of this email no response is received, the sample or other material shall be deemed approved.

Any sample or other material shall not be included in the box unless a written approval is received from the Postal Service, or if the sample or other material is deemed approved following adherence to the process specified above. A decision by the Postal Service that a sample or other material is inconsistent with Exhibit A is within its sole discretion, and will not result in any liability on the part of the Postal Service. The Postal Service maintains the right to take all actions that it deems necessary to ensure that the Sample Showcase™ boxes that are mailed are consistent with the high quality and reputation of the Postal Service's trademarks and to fully review any advertising materials that bear any of its trademarks.

6.2 Staffing. The Parties agree that they will maintain open communications on matters relating to the Sample Showcase™ box. StartSampling shall designate one of its employees as a Project Manager who will monitor project success and serve as the primary point of contact for the Postal Service. The Postal Service shall designate a Project Manager who will serve as the primary point of contact for StartSampling.

6.3 Mailing to Postal Service. For the purpose of quality control and review, upon request by the Postal Service, StartSampling shall, at its own expense, provide [REDACTED] sample copies of each Sample Showcase™ box that is mailed to target consumers to the Postal Service addresses specified in the Notice Paragraph below. The box shall be exactly as it was mailed.

7. Customer Data. StartSampling shall provide the Postal Service with access and the right to publish aggregate customer data collected through the provision of the Sample Showcase™ box, including data generated on the Sample Showcase™ Website. For purposes of this Agreement, aggregate customer data includes aggregate data relating to both the target consumers of the Sample Showcase™ box (including, but not limited to, survey data filled out by those consumers), and the Accounts who advertise in the box. If this Agreement expires or is terminated, the Postal Service shall retain this right for a period of [REDACTED].

8. Non-competition. StartSampling shall not adopt, use, or register, or apply for registration of, whether as a corporate name, trademark, service mark or other indication of origin, any word or mark confusingly similar to Sample Showcase™ in any jurisdiction.

9. Box Contents

9.1 The Sample Showcase™ box shall be used explicitly for marketing purposes and specifically for sending product samples. Product samples are defined as a

limited quantity of a product available for sale to consumers, identical in name, condition, and composition in which offered for sale, which allows recipients to experience the intended use of the product. Coupons or other advertising material may be included in the box if accompanying a product sample. If not accompanying the product sample, then no more than [REDACTED] stand-alone “high value” coupons or other advertising material should be included in each Sample Showcase™ mailing (in addition to any USPS advertising that may be included pursuant to the terms of Paragraph 9.5).

9.2 Exclusion Guidelines. StartSampling shall comply with the provisions set forth in Exhibit A.

9.3 Standards. StartSampling shall determine Account involvement in the Sample Showcase™ box (including determining the advertising categories to be included in a particular box mailing, and the specific product sample(s) from each category to be included in the mailing) in a fair and consistent way. These practices shall be commercially reasonable and non-discriminatory.

9.4 USPS Non-endorsement. Nothing in this Agreement and in the materials developed in support of this Agreement by StartSampling shall expressly state or be construed as an endorsement by the Postal Service of the advertisers selected by StartSampling. On any StartSampling website whose purpose is to promote the Sample Showcase™ box provided by StartSampling, there shall be an explicit statement of non-endorsement of advertisers by the Postal Service, as well as a statement that the materials are free to the public and produced without the use of either tax or postal revenue. The Postal Service may, in its sole discretion (and notwithstanding any provision of this Agreement to the contrary), require that such statements be placed on or in the Sample Showcase™ box.

9.5 USPS Advertising. The Postal Service shall have the right of first refusal to place, at no charge, at least [REDACTED] piece of USPS advertising, that does not exceed [REDACTED] and is otherwise reasonably practicable to enclose, anywhere within each Sample Showcase™ box that is mailed. If the Postal Service decides to exercise this option for a particular mailing, the Parties acknowledge and agree that the address list for that mailing must be compared to the Postal Service’s opt-out file.

10.0 USPS Licensing Revenue

10.1 Revenue Share. StartSampling agrees to pay the Postal Service a Revenue Share each quarter. The Revenue Share is equal to

(A) for each Sample Showcase™ box that is mailed during such period: [REDACTED] of all revenue exceeding [REDACTED] that is derived from Accounts for the placement of product samples or other advertising material in the box;

plus

(B) [REDACTED] of total revenue during such period that relates in any respect to the provision of the Sample Showcase™ box, with the exception of revenue derived from Accounts for the placement of product samples or other advertising material in each Sample Showcase™ box.

As an illustrative example of Paragraph 10.1(A), if StartSampling mails a box for which it derives [REDACTED] of revenue from Accounts for the placement of product samples or other advertising material in that box, then it shall pay the Postal Service [REDACTED] (in addition to the applicable per-piece charge under Paragraph 11).

Notwithstanding the foregoing, the [REDACTED] Revenue Share baseline may be increased annually by the Postal Service. [REDACTED]

10.2 Transaction Reports. Within [REDACTED] calendar days after the end of each quarter, StartSampling will report to the Postal Service transaction-level data for the quarter that shows total revenue earned during that quarter relating in any respect to the provision of the Sample Showcase™ box, the number of boxes mailed, and the revenue earned per box from the sale of space in that box to Accounts. Reports will be in the form and format prescribed by the Postal Service, which may be revised by the Postal Service as long as such revision is commercially practicable and does not result in a material cost increase to StartSampling. Except as set forth in the preceding sentence, nothing in this Paragraph shall be construed as limiting the Postal Service's right to require the reporting of additional information. Each report shall be certified to be accurate by an authorized officer of StartSampling. Nothing in this Paragraph shall be construed as limiting the rights or obligations of the Parties under Paragraph 19.

10.3 Payment of Revenue Share. StartSampling will pay the Postal Service within [REDACTED] calendar days after the end of each calendar quarter the total Revenue Share owed for the prior calendar quarter. Upon the termination or expiration of this Agreement, final payment of any amount owed shall be made within [REDACTED] calendar days of such termination. StartSampling shall pay all amounts in US Dollars. Any payment not made to the Postal Service within [REDACTED]

business days of its due date may bear interest at the rate of [REDACTED] per month or the highest rate permitted by law, whichever is less. Each payment will be accompanied by a statement prepared by StartSampling showing all calculations for determination of total Revenue Share owed. Payments are to be sent via ACH/EFT to the designated account to be provided by the Postal Service.

The acceptance by the Postal Service of any statements furnished pursuant to this Agreement or of any Revenue Share paid hereunder shall not preclude the Postal Service from questioning the accuracy thereof at any time during the term of this Agreement or within [REDACTED] after the termination or expiration of this Agreement. StartSampling hereby waives all claims to the return of any payments once made.

11.0 Per-Piece charge

11.1 Basis. At the time of mailing, StartSampling shall pay a per-piece charge for each box, which includes postage under the Parcel Select pricing scheme.

11.2 Applicable Regulatory Provisions. Except to the extent different terms for prices are specified in this Agreement, 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 Agreement.

11.3 Parcel Select. The negotiated per-piece charges specified in this Agreement apply only to the Sample Showcase™ boxes provided by the Postal Service and mailed under Parcel Select Service that do not exceed the dimensions and weight limits specified in Exhibit D and Paragraph 12 below.

11.4 Payment. [REDACTED]

11.5 Changes in Facilities. StartSampling must provide the Postal Service with [REDACTED] days notice of any changes in the facilities used by StartSampling.

11.6 Customized Parcel Select Prices. For the term of this Agreement, beginning on the Agreement's Effective Date, StartSampling will pay the applicable per-piece charges shown in the table in Exhibit D, as adjusted pursuant to the terms of that Exhibit, for the mailing of the Sample Showcase™ boxes. The Parties agree to explore the suitability of developing different charges for boxes under [REDACTED] than those specified in Exhibit D.

11.7 Mail Preparation. StartSampling shall [REDACTED] the Sample Showcase™ boxes per the standards outlined in [REDACTED] and [REDACTED] the boxes per the

standards outlined in [REDACTED]. StartSampling shall dropship the pallets at the [REDACTED].

12. Weight of Assembled Box. StartSampling shall ensure that each Sample Showcase™ box that is tendered to the Postal Service for delivery weighs at least [REDACTED].

13. Consumer Addresses. StartSampling and the Postal Service acknowledge and agree that the Postal Service is limited by applicable law in the manner in which it play a role in the generation of address lists for purposes related to the Sample Showcase™ box. The limitations imposed by such law shall be determined by the Postal Service in its sole discretion, and shall result in no liability on the part of the Postal Service.

14. Governors and Postal Regulatory Commission. StartSampling acknowledges and agrees that the Sample Showcase™ box and pricing is subject to approval by Postal Service senior management and/or the Governors of the Postal Service as well as by the Postal Regulatory Commission, prior to it taking effect. If any of these entities requires any changes to the offering of the Sample Showcase™ box that is inconsistent with any term or condition of this Agreement, the Parties agree to conform this Agreement, unless a Party terminates the agreement pursuant to the terms of Paragraph 16.4. In accordance with title 39 of the United States Code and the Commission's Rules of Practice and Procedure, and upon approval of the Postal Service Governors, the Postal Service will make the required filings with the Commission. If the Commission withholds approval or orders termination of the Sample Showcase™ box, this contract shall terminate pursuant to the terms of Paragraph 16.3.

15. Term. The term of this Agreement will commence on the Effective Date and shall continue until the earlier of the [REDACTED] anniversary of the Effective Date or such date that this Agreement is terminated in accordance with the provisions of this Agreement.

16. Termination

16.1. USPS Termination for Cause. Without prejudice to any other rights or remedies, and in addition to any termination rights provided elsewhere in this Agreement, the Postal Service shall have the right to terminate this Agreement upon written notice to StartSampling to the person(s) designated in Paragraph 32 at any time if:

(1) StartSampling fails to make any payment due hereunder or to deliver any of the statements herein referred to, and fails to cure such default within [REDACTED] business days after written notice of such default is sent to StartSampling;

(2) StartSampling fails to perform any other material term or condition of this Agreement and, unless otherwise provided herein, fails to cure

such breach within [REDACTED] business days after written notice of such default is sent to StartSampling; or

(3) to the extent permitted by law, if StartSampling files a petition in bankruptcy, is adjudicated a bankrupt, a petition in bankruptcy is filed against StartSampling, StartSampling becomes insolvent, StartSampling makes an assignment for the benefit of its creditors or an arrangement pursuant to any bankruptcy law, StartSampling discontinues its business, or a receiver is appointed for StartSampling or its business. In the event this Agreement so terminates, neither StartSampling nor its receivers, representatives, trustees, agents, administrators, successors, and/or assigns shall have any right to provide, distribute, sell, exploit or in any way deal with the Sample Showcase™ box, including the licenses and authorizations granted herein, without the Postal Service's prior written consent.

Termination of this Agreement for cause under the provisions of this paragraph shall be without prejudice to any rights that the Postal Service may otherwise have against StartSampling.

16.2 Termination without Cause. Either Party may, for any reason, unilaterally terminate this Agreement by delivering written notice to the person designated in Paragraph 32, as follows: (i) for the Postal Service to terminate the Agreement, upon [REDACTED] written notice to StartSampling; and (ii) [REDACTED]

Termination under this clause shall not give rise to any action against the terminating Party by the non-terminating Party, and except as otherwise provided herein, the terminating Party shall not be responsible to the non-terminating Party for reimbursement of any costs or damage incurred as a result of such termination.

16.3 USPS Termination by Necessity. Notwithstanding any provision to the contrary, the Parties acknowledge and agree with this Agreement is subject to any legislation that might be enacted by the Congress of the United States or any order or regulations that might be promulgated by any agency, branch, or independent establishment of the United States Government. In the event USPS is required by any other branch, agency or independent establishment of the United States Government or a court of competent jurisdiction to terminate or cease performance of its obligations under this Agreement, the Postal Service may provide notice of termination, which notice shall be effective immediately (or at such other time as specified therein by the Postal Service), notwithstanding Paragraph 16.2. The Postal Service shall not be responsible to StartSampling for reimbursement of any costs or damage incurred as a result of such termination. In the event either Party is enjoined from proceeding with this Agreement by government action or a court of competent jurisdiction, such Party may give notice of termination, which notice shall be effective immediately or at such other time as specified by such injunction (notwithstanding Paragraph 16.2).

Neither Party shall be responsible to the other Party for reimbursement of any costs or damage incurred as a result of such termination.

16.4 Conformance of Contract with Government Order. In the event the USPS is required by the Postal Regulatory Commission (or any other branch, agency, or independent establishment of the United States Government), the Congress, or a court of competent jurisdiction to offer the Sample Showcase™ box in a manner that is inconsistent with any term or condition of this Agreement, the Parties agree to conform this Agreement to such order, unless one Party decides to terminate upon providing written notice to the other Party, which notice shall be effective immediately or on the effective date of the order (notwithstanding Paragraph 16.2), whichever is later. Neither Party shall be responsible to the other Party for reimbursement of any costs or damage incurred as a result of such termination.

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.

16.5 StartSampling Termination for Cause. StartSampling may terminate this agreement if the Postal Service materially fails to perform its responsibilities as specified in this Agreement and, unless otherwise provided herein, fails to cure such breach within [REDACTED] business days after written notice of such default is sent to the Postal Service.

16.6 Effects of termination. Upon termination by either Party, the licenses and authorizations set forth in this Agreement will automatically terminate. Upon the termination or expiration of this Agreement, notwithstanding anything to the contrary herein, all payments owed to the Postal Service shall become immediately due and payable. Notwithstanding any termination or expiration of this Agreement, the Postal Service shall have and hereby reserves all rights and remedies which it has or which are granted to it by operation of law, to enjoin the unlawful or unauthorized use of the Sample Showcase™ box and the licenses and authorizations granted herein. Notwithstanding the foregoing, for all terminations other than terminations pursuant to Paragraphs 16.3 or 16.4, the Parties agree to cooperate with each other and complete all orders (existing at the effective date of the termination) with a targeted delivery date within [REDACTED] days of such date (“Outstanding Orders”).

If the Postal Service terminates pursuant to Paragraph 16.1, or if StartSampling terminates pursuant to Paragraph 16.2, StartSampling shall compensate the Postal Service for the boxes in StartSampling’s possession that will not be used to fulfill Outstanding Orders (“Excess Boxes”). Compensation shall be [REDACTED] for each Excess Box; this figure is subject to change upon the Postal Service providing notice of new costs to StartSampling, and explaining the new costs.

StartSampling shall also destroy the Excess Boxes, at StartSampling's expense, using a certified destruction provider and provide a copy of the certificate of destruction to the Postal Service (except that the Postal Service may, in lieu of such destruction, require StartSampling to return the Excess Boxes to the Postal Service or the Postal Service's box vendor, at StartSampling's expense, in accordance with instructions issued by the Postal Service).

If the Postal Service terminates pursuant to Paragraph 16.2, or if StartSampling terminates pursuant to Paragraph 16.5, StartSampling shall destroy the Excess Boxes at the Postal Service's expense and in accordance with written instructions issued by the Postal Service (except that the Postal Service may, in lieu of such destruction, require StartSampling to return such boxes to the Postal Service or its box vendor, at the Postal Service's expense, in accordance with written instructions issued by the Postal Service).

If the Agreement is terminated pursuant to Paragraphs 16.3 or 16.4, StartSampling shall destroy all boxes in its possession at StartSampling's expense using a certified destruction provider, and provide a copy of the certificate of destruction to the Postal Service.

If the Agreement expires, StartSampling shall compensate the Postal Service for all boxes in its possession, and shall, at StartSampling's expense, destroy such boxes using a certified destruction provider and provide a copy of the certificate of destruction to the Postal Service. Compensation shall be [REDACTED] for each box; this figure is subject to change upon the Postal Service providing notice of new costs to StartSampling, and explaining the new costs.

16.7. Survival after termination. The respective rights and obligations of the Parties relating to Outstanding Orders, access to customer data, confidentiality, non-disclosure, limitation of liability, indemnification, governing law, and recordkeeping shall survive any termination or expiration of this Agreement.

17. Indemnification.

[REDACTED]

[REDACTED]

[REDACTED]

18. Confidentiality. The Parties acknowledge that confidential information might be generated or made available during the course of performance of this Agreement. Any information or documents received or learned by StartSampling in any form related to any postal programs or initiatives not publicly available, shall constitute Confidential Information. Written information deemed confidential by the disclosing party shall be marked with the legend “Confidential” or “Proprietary.” Oral information deemed confidential by the disclosing party shall be deemed confidential if reduced to writing and submitted to the other Party within a reasonable period.

The Parties agree that confidential information shall not be disclosed, unless its release is approved in writing by the other party or if disclosure is required by law (including but not limited to Freedom of Information Act (FOIA) requests and USPS Business Disclosure Regulations such as 39 CFR 265.8), Postal Regulatory Commission request or order, Congressional inquiry, or USPS Office of Inspector General request or inquiry. If disclosure is compelled or requested by any governmental or judicial entity pursuant to proceedings over which such entity has proper jurisdiction, the Party receiving the order or request shall (a) notify the other Party in writing of the order or request to disclose such information, providing, to the extent practicable, at least [REDACTED] business days notice prior to disclosure, (b) if disclosure of this Agreement is requested, redact mutually agreed-upon portions of this Agreement under applicable laws, rules and regulations, and (c) otherwise cooperate with the other Party in protecting against any such disclosure and/or obtaining with a protective order narrowing the scope of the compelled disclosure and protecting its confidentiality. The

Parties agree to assert any privilege allowed by law and to defend vigorously the other Party's rights to confidentiality.

A breach of this confidentiality provision by either Party shall be cause for immediate termination.

Each Party agrees that it will take reasonable steps, at least substantially equivalent to the steps it takes to protect its own proprietary information, during the term the Agreement, and following expiration or termination of the Agreement for any reason, to prevent the duplication or disclosure of Confidential Information of the other Party, other than by or to its employees or agents who must have access to such Confidential Information to perform such Party's obligations hereunder, who have each agreed to confidentiality restrictions no less protective than this Paragraph.

Nothing in this Paragraph will be construed as a representation or agreement to restrict reassignment of either Party's employees, or in any manner to affect or limit either Party's present and future business activities of any nature. Nothing herein shall prohibit the Postal Service from pursuing a transaction similar to the one contemplated herein independently or with any other third party or parties.

19. Recordkeeping. StartSampling agrees to keep accurate books of account and records covering all transactions relating to this Agreement. The Postal Service and its duly authorized representatives, which may include but not be limited to the USPS Office of Inspector General, the USPS Inspection Service, or any independent group or contractors procured by USPS to audit, shall have the right at all reasonable business hours, and upon reasonable advance notice (except that this notice requirement does not bind the USPS Office of Inspector General or the USPS Inspection Service), to examine such books and records in StartSampling's possession or under its control with respect to the subject matter and terms of this Agreement, and shall have free and full access thereto for such purposes and for the purpose of making copies thereof. All such books and records shall be kept available for at least [REDACTED] after the termination or expiration of this Agreement. In the event USPS discovers a discrepancy in favor of USPS of [REDACTED] or more concerning the payment of amounts to the Postal Service, StartSampling shall pay all reasonable costs and expenses related to such inspection, including attorneys' fees if applicable. Any discrepancy in favor of USPS, regardless of amount, shall be paid to the Postal Service within [REDACTED] calendar days of StartSampling being notified of such discrepancy.

20. Warranties

20.1 StartSampling: StartSampling represents and warrants all of the following:

(a) StartSampling is and will remain a company duly organized, validly existing and in good standing under the laws of the state and/or country of its principal office, with full power and authority to execute and deliver this Agreement and to perform its obligations, and maintains its principal executive office at the address set forth herein. The execution, delivery and performance of this Agreement have been duly authorized by all necessary actions of StartSampling and this Agreement constitutes a valid and binding obligation of StartSampling enforceable against StartSampling in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium and other similar laws from time to time in effect affecting the enforcement of creditors' rights generally, and the consent of no other entity or person is required for StartSampling to fully perform all of its obligations or services herein.

(b) StartSampling shall in the performance of its responsibilities under this Agreement comply with and act in accordance with: (A) any and all applicable laws and other legal obligations including, without limitation, local, state and federal directives, rules, assessments, regulations, filing requirements, ordinances, statutes, codes, judgments and civil or common law; (B) conventions and treaties to which the United States or any legal subdivision thereof is a party (the items listed in subsections (A) and (B) may hereinafter be referred to individually as a "Law" and collectively as the "Laws"); and (C) the requirements of this Agreement.

(c) The making of this Agreement by StartSampling does not violate any agreement, right or obligation between StartSampling and any other person, entity, firm or corporation, and the permission and/or agreement of no other person, entity, firm or corporation is required for StartSampling to execute this Agreement or perform the obligations herein; and neither StartSampling's execution and delivery of this Agreement nor StartSampling's performance of any or all of the terms, obligations and services herein shall breach, be in conflict with, or constitute a default under any agreement or commitment to which StartSampling is a party or violate any Law applicable to StartSampling.

(d) The materials used to promote the Sample Showcase™ box, or that are included in the Sample Showcase™ box shall be of high quality in design, material and workmanship. StartSampling agrees that in its agreements with Accounts, it shall require the supplier of the samples or other materials included in the box to represent and warrant that the materials are suitable for their intended purpose, and are in all respects safe to consumers, and that it shall require the supplier of the samples or other materials to indemnify StartSampling against any liability resulting from those materials. StartSampling further agrees that in its agreements with Accounts, it shall require the supplier of the samples or other materials included in the box to represent and warrant that the materials are manufactured and distributed as follows ("Material's Requirements"): (i) without the use of child labor (the term "child" refers to a person younger than the

age for completing compulsory education, but in no case shall a child younger than fourteen (14) years of age be so used); (ii) in an environment providing workers and employees with a suitable workplace in compliance with all applicable Laws; (iii) employing only persons whose employment is voluntary and not using prison labor or corporal punishment (or other forms of mental or physical coercion) as a form of discipline for workers or employees; (iv) complying with all applicable wage and hour Laws, including minimum wage, overtime and maximum hours, and utilizing such other fair employment practices as defined by applicable Laws; (v) not discriminating in its hiring and employment practices on the grounds of race, religion, national origin, political affiliation, sexual orientation, gender or any criteria protected by applicable Law; and (vi) complying with all applicable environmental and animal cruelty Laws.

(e) StartSampling shall undertake a level of customer service at least as favorable as is standard in its industry.

(f) To the best of StartSampling's knowledge, there is no pending or threatened litigation, which may affect the legality, validity or enforceability of this Agreement or any of the transactions contemplated herein or StartSampling's ability to fully perform its obligations herein.

(g) StartSampling shall not intentionally misuse or take any action or conduct its operations in such manner as to bring material: public ridicule, contempt, censure or disparagement upon USPS.

(h) StartSampling shall obtain all necessary licenses, authorizations, or permissions from any third party(ies) that may be required to distribute, advertise, promote, market, display and/or use a product sample or other advertising material within the Sample Showcase™ box. To the extent any third party materials and/or third party intellectual property rights are used by StartSampling in connection with the materials promoting the Sample Showcase™ box, StartSampling represents and warrants that it owns and/or controls or has acquired under license all necessary rights to all such third party materials. StartSampling has paid or will pay any and all re-use and/or license fees to the appropriate person or entity (which fees may include a calculation and payments in satisfaction of pension and welfare obligations) and has obtained or will obtain written and executed authorizations for such use from the person or entity having the right to grant such permissions.

(i) That to the best of StartSampling's knowledge, (1) that its name, logos, trademarks, and trade dress do not infringe upon any statutory or common law copyright, trade dress, trademark, trade name, service mark, or patent; (2) that the materials it produces pursuant to this Agreement (including the content of the Sample Showcase™ Website) do not or will not contain any matter libelous or otherwise in contravention of the rights of any third party.

(j) None of the representations or warranties made by StartSampling in this Agreement contain any untrue statement of a material fact or omit any material fact necessary to make such statements accurate in light of the circumstances under which they were made.

20.2. USPS: USPS represents and warrants all of the following:

(a) It owns or controls the rights granted herein and possess full power and authority (except as provided in Paragraph 14) to execute and deliver this Agreement and to perform its obligations.

(b) It is an independent establishment of the executive branch of the United States government, and maintains its principal executive office at the address set forth hereinabove.

(c) The Postal Service shall in the performance of its responsibilities under this Agreement comply with and act in accordance with: (A) federal law; and (B) the requirements of this Agreement.

(d) The making of this Agreement by USPS does not violate any agreement, right or obligation between USPS and any other person, firm or corporation, and the permission and/or agreement of no other person, entity, firm or corporation is required for USPS to execute this Agreement or perform the obligations herein (except as set forth in Paragraph 14); and neither the Postal Service's execution and delivery of this Agreement nor the Postal Service's performance of any or all of the terms, obligations and services herein shall breach, be in conflict with, or constitute a default under any agreement or commitment to which USPS is a party or, subject to Paragraph 14, violate any Law applicable to USPS, under the Postal Service's interpretation of that Law.

(e) USPS does not make any warranties or representations as to the popularity, success or continuing exploitation of the Sample Showcase™ box and makes no warranty or representation as to the amount of gross sales, net sales or profits StartSampling shall derive under this Agreement from the distribution of the Sample Showcase™ box.

(f) To the best of USPS's knowledge, and subject to Paragraph 14, there is no pending or threatened litigation, which may affect the legality, validity or enforceability of this Agreement or any of the transactions contemplated herein or USPS's ability to fully perform its obligations herein.

(g) USPS shall not intentionally misuse or take any action or conduct its operations in such manner as to bring material: public ridicule, contempt, censure or disparagement upon StartSampling.

(h) That to the best of USPS's knowledge, (1) that its name, logos, trademarks, and trade dress do not infringe upon any statutory or common law copyright, trade dress, trademark, trade name, service mark, or patent; (2) that the materials it produces pursuant to this Agreement do not or will not contain any matter libelous or otherwise in contravention of the rights of any third party.

(i) None of the representations or warranties made by USPS in this Agreement as of the date hereof contain any untrue statement of a material fact or omit any material fact necessary to make such statements accurate in light of the circumstances under which they were made.

(j) The Postal Service shall make best efforts to ensure that the box vendor fulfills its obligations to deliver the boxes to StartSampling in a timely manner in accordance with the Forecasts provided to the Postal Service and vendor and in the correct quantity.

21. Dispute Resolution Mechanism. Should disagreement between StartSampling and the Postal Service or its subcontractors involving any matter with respect to this Agreement (including, without limitation, any dispute regarding fees), the Parties shall first attempt to resolve the disagreement informally. In the event of a dispute which cannot be resolved informally, upon the written request of one party to the other, each party will designate an appropriate representative to undertake the review and resolution of the dispute. The representatives shall as soon as reasonably practicable in good faith and with all due diligence negotiate to resolve the dispute within [REDACTED] calendar days. If either or both of the representatives conclude that they are unable to agree on an appropriate resolution of the dispute within such [REDACTED] day period, they shall escalate the dispute to the next highest level of management for review and resolution. If necessary, this process shall be repeated through at least the senior level of management. Only after such process may the parties avail themselves of the remedies listed in Paragraph 22 below.

22. Consent to Governing Law. With respect to any suit, action or other proceedings relating to the Agreement that are not subject to the Dispute Resolution Mechanism set forth above (collectively "Proceedings"), the Postal Service and StartSampling each irrevocably (i) submit to the exclusive personal jurisdiction of the United States District Court for the District of Columbia and (ii) waive any objection that it may have at any time to the laying of venue of any Proceedings brought in such court, waive any claim that such Proceedings have been brought in an inconvenient forum and further waive the right to object, with respect to such Proceedings, that such court does not have personal jurisdiction over such party.

23. Damages. In no event shall either Party be liable to the other Party or any other person for any indirect, incidental, consequential, exemplary, special, punitive, or similar damages, including loss of profit or goodwill, for any matter

arising out of or relating to this Agreement or this program, whether such liability is asserted on the basis of contract, tort, or otherwise. In no event shall either Party's liability hereunder (under any theory of liability) exceed the aggregate amount that the Party is respectively entitled to receive from this Agreement from the Effective Date through and including the date the claim arises. This Paragraph shall not be construed as in any manner affecting the rights or obligations of the Parties under Paragraph 17.

24. Joint Ventures. Nothing herein contained shall be construed to place the parties in the relationship of partners, joint venturers or agents, and StartSampling shall have no power to obligate or bind USPS in any manner whatsoever.

25. Third Parties. Neither Party shall be bound by any obligations the other Party may undertake pursuant to any other agreement with any third-party.

26. Governing Law. This Agreement shall be governed in all respects by the federal laws of the United States.

27. Severability. Subject to Paragraph 16.4, if any provision of this Agreement is determined to be in violation of applicable laws, then such provision shall be void, and the other provisions of this Agreement shall remain in full force and effect.

28. No Assignment. This Agreement shall be binding upon and inure to the benefit of USPS and its successors and assigns, but may not be assigned, transferred, or delegated by StartSampling in whole or in part with respect to any right or obligation herein without the prior written consent of USPS, which consent shall not be unreasonably withheld. Any attempted assignment or transfer in violation of this Agreement shall be void. A transfer of the legal and/or beneficial ownership, whether by operation of law or otherwise, of more than 33% of the voting equity of StartSampling (other than transfers of voting equity among the present shareholders or owners of StartSampling or their family members or estate planning vehicles for the benefit of any of the foregoing) shall be deemed an assignment or transfer of the license hereunder that shall require the prior written consent of USPS, which consent shall not be unreasonably withheld.

29. Entire Agreement. This Agreement expresses the entire agreement and understanding of the parties with respect to the subject matter hereof and terminates and supersedes all prior oral or written agreements, commitments and understandings pertaining to the subject matter hereof. USPS and StartSampling are not relying upon any statements, warranties, or representations except those contained in this Agreement and the parties acknowledge that they have not relied on any representations, promises, warranties, statements, or undertakings by the other Party, its counsel or its representatives other than those contained in this Agreement.

30. Force Majeure. No Party shall be liable for any delay or failure to perform under this Agreement if such delay or failure is due to any contingency beyond its reasonable control, including but not limited to acts of God, war, acts of domestic or international terrorism, acts disrupting the mails, explosion, fire, flood, earthquakes, epidemics, widespread Internet failure, acts of civil or military authorities, or civil disturbance. In such case, that Party shall be excused from performance to the extent that it is prevented, hindered or delayed by such causes; provided that the Party whose performance or attempts to cure are delayed or prevented gives the other Party written notice thereof within five (5) business days of any such event or occurrence and exercises commercially reasonable efforts to resume performance or cure as soon as possible.

31. Paragraph Headings. The Paragraph headings are provided for the convenience of the parties only and shall not be construed to limit or vary the terms of the Agreement in any way.

32. Notices. Any notice under this Agreement shall be sent by hard copy mailed via U.S. Mail or other messenger service, in either case with delivery confirmation (Delivery Confirmation™ service in the case of the U.S. Mail). Notices shall be sent to USPS at the following addresses:

Lisa Bobb-Semple
475 L'Enfant Plaza S.W.
Room 5126
Washington, D.C. 20260-5126

With a copy to:

Managing Counsel, Corporate Law
United States Postal Service
475 L'Enfant Plaza SW
Washington DC 20260

Notices shall be sent to StartSampling at the following addresses:

StartSampling, Inc.
195 East Elk Trail
Carol Stream, IL 60188
Attention: Contract Administrator

Either Party may change the address(es) specified herein by providing written notice to the other Party.

33. Interpretation. The parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent arises, this Agreement will be construed as if drafted jointly by USPS and StartSampling and no presumption or burden of proof will arise favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

34. Waiver. None of the provisions of this Agreement can be waived or modified except in writing signed by both parties, by individuals who have requisite authority. No delay in exercising, no course of dealing with respect to, or no partial exercise of any right or remedy hereunder shall constitute a waiver of any other right or remedy, or future exercise thereof.

35. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be an original, but all of which together shall constitute one agreement binding on all of the parties hereto notwithstanding that all of the parties hereto are not signatories to the same counterpart. Each of the parties agrees that a photographic or facsimile copy of the signature evidencing a Party's execution of this Agreement shall be effective as an original signature and may be used in lieu of the original for any purpose.

36. Gratuities. No member or delegate of Congress may be admitted to any part of or share of this Agreement, or to any benefit arising from it. StartSampling shall not offer or give a gratuity to an officer or employee of the Postal Service with the intention to obtain a contract or favorable treatment under a contract or this Agreement. Failure to comply with the requirements of this provision constitutes a basis for terminating this Agreement.

37. Execution. Each Party represents that it has caused this Agreement to be executed on its behalf as of the date written below by a representative empowered to bind that Party with respect to the undertakings and obligations contained herein.

[SIGNATURES]

UNITED STATES POSTAL SERVICE,

Signature: _____

Name: Paul Vogel

Title: President and
Service Chief Marketing/Sales Officer

Address: 475 L'Enfant Plaza SW
Washington D.C., 20260-4000

Date: _____

12/29/10

STARTSAMPLING, INC.

Signature: _____

Name: John L. (LARRY) BURNS

Title: President & CEO

Address: 195 East Elk Trail, Carol Stream, IL
60188

Date: _____

12/16/10

EXHIBIT A
United States Postal Service
Commercial Advertising Guidelines

To ensure consistency with its policies and objectives, these guidelines set forth appropriate commercial advertising categories and/or content that may be provided under the Sample Showcase™ program. For purposes of this policy, *commercial advertising* means product samples (including text or images on those samples or its packaging) or other advertising material that promotes nothing other than a product or service available in commerce. Specifically excluded from this definition are product samples or other advertising material that take a position, explicitly or implicitly, on government, public policy, morality, politics, or religion (whether or not it also conveys a commercial message). The purpose of these guidelines is to ensure that the Sample Showcase™ box does not contain any product samples or other advertising material that are likely to bring USPS, its officers, employees, or Board of Governors into public disrepute, scandal or ridicule, or that are derogatory or detrimental to the interests of USPS, or that harm its good will in any manner. Furthermore, these guidelines are intended to, among other things:

- avoid subjecting recipients of the Sample Showcase™ box to material that may cause them embarrassment or discomfort;
- avoid displaying or distributing material that is not suitable for viewing by minors; and
- maintain neutrality on religious, social, political, legal, moral or other public issues.

These guidelines are maintained at the sole discretion of the Postal Service, and are subject to change at any time.

StartSampling shall ensure that the following product sample/advertising categories and/or content are excluded from the Sample Showcase™ box:

- a. Any advertising content or images promoting products or services that compete with Postal Service products or services.
- b. Any advertising content or images promoting alcoholic beverages, tobacco or tobacco-related products or devices, weapons or weapons-related products or devices, or gambling or gambling-related products or devices.
- c. Any advertising content or images depicting illegal activities, illegal substances, or paraphernalia designed for use in connection with illegal activities or substances.
- d. Any advertising containing unlawful or legally actionable content or images (including, without limitation, obscene, defamatory, slanderous or libelous content or images).

- e. Any advertising containing 1) sexually explicit content or images (including, without limitation, nudity or materials directed to sexual stimulation or activity); 2) content designed for use in connection with sexual activity, or products, services, or entertainment directed to sexual stimulation; or 3) content or images related to human reproduction or sexual activity, including but not limited to content or images related to services or counseling with regard to abortion, or other sexual matter.
- f. Any advertising content or images depicting profanity or approximations of profanity.
- g. Any advertising content or images depicting discrimination on the basis of race, religion, nationality, gender, disability, age, or sexual or political orientation.
- h. Any advertising content or images inconsistent with the Postal Service's intent to maintain neutrality on religious, social, moral, legal, political or other public issues.
- i. Any advertising content or images harmful to the public image, reputation, or good will of the Postal Service or otherwise derogatory or detrimental to the interests of the Postal Service, including any product not considered of appropriate quality to be associated with the USPS brand.



EXHIBIT B
Sample Showcase License Agreement Terms

(a) This Agreement is effective upon execution and concerns the following trademarks:



UNITED STATES POSTAL SERVICE
U.S. POSTAL SERVICE
POSTAL SERVICE
SAMPLE SHOWCASE

(“the Marks”) which would be used in promotional materials, and on the Sample Showcase™ Website, and startsampling.com websites (the “Licensed Materials”), for the sole purpose of promoting the Sample Showcase™ box.

(b) In consideration of the mutual promises and obligations contained herein, USPS grants to StartSampling (“Licensee”) a non-exclusive, non-transferable, terminable license to display the Marks on the Licensed Materials, but only as a trademark of USPS and only in reference to USPS and its goods or services, for the term of this Agreement (but subject to termination at will by USPS) with no right to sublicense or assign the whole or any portion of this Agreement, this grant being contingent upon Licensee’s compliance with the terms of this Agreement:

(1) In the Licensed Materials, Licensee shall acknowledge USPS's ownership of the Marks by including the following statement:

“SAMPLE SHOWCASE™, UNITED STATES POSTAL SERVICE® and the Eagle Logo are trademarks of the United States Postal Service and are used with permission. All rights reserved.”.

(2) Licensee agrees to follow all USPS Corporate Signature Graphic Guidelines and such other USPS guidelines and instructions regarding the use of the Marks as may be provided by USPS during the term of this Agreement, including without limitation instructions regarding capitalization and use of trademark symbols (® or ™).

(3) Scope of License:

- a. Any attempt to assign or sublicense this Agreement, in whole or in part, is outside the scope of this Agreement and makes this Agreement void and of no further effect.
- b. The scope of this license does not extend beyond the rights granted above and is limited to use of the identified Marks only and is not for the use of any other USPS trademark, trade name or logo. The Postal Service may in its sole discretion add additional trademarks to the scope of this license, through the execution of an addendum to this Agreement.
- c. The scope of the license does not include the right to display or use any non-USPS trademark with the Marks without USPS's express prior written approval.
- d. The scope of this license does not include any right to use the Marks in a way that suggests an affiliation, connection or sponsorship between Licensee and USPS, except as an approved provider of the Sample Showcase™ box during the term of this Agreement.
- e. Licensee agrees not to take any action, make any use of the Marks, or make any representations, suggestions, or omissions in any manner outside the scope of this Agreement.
- f. The scope of the license does not include the right to register any domain name that includes the Marks or a dominant portion of the Marks.

(4) Quality Control and Approval Rights:

To assure that the production, appearance, and quality of the Marks and Licensee's services under the mark ("the Services") are consistent with USPS's reputation for high quality, and with the goodwill associated with USPS's reputation and the Marks, and to insure the preservation of the Marks and USPS's rights in them, Licensee agrees to the following:

a. Licensee's Services shall comply with all applicable USPS regulations, and all relevant Federal, state, and local laws, regulations, and ordinances.

b. Prior to any use of the Marks, Licensee shall submit a sample of each version of the Licensed Materials to the person(s) designated in Paragraph 32 of the Agreement. Licensee will not use the Marks in any manner, and in particular, will not engage in the proposed use of the Marks with any entity outside its organization until it receives written approval for each such use. The material shall be submitted for approval at least five business days prior to the date on which it is proposed to be used. The material must use Postal Service trademarks and trade names properly as determined solely by the Postal Service including, without limitation, use of capitalization and trademark symbols.

- i. If such written approval is given, Licensee agrees to make no deletions, additions, or changes to any version of the Licensed Materials without USPS's prior written approval.
- ii. Licensee acknowledges that any approvals may be given or withheld in USPS's sole discretion. Failure to respond to an approval request shall be deemed a denial.

c. Licensee shall abide by such other demands, changes, and instructions as issued by USPS to maintain the quality of the Marks.

d. If the required quality standards and/or the intellectual property usage notice requirements are not met by Licensee or, if such quality standards or such notice requirements are not maintained throughout the term of this Agreement by Licensee, USPS may terminate the Agreement immediately. Licensee acknowledges that any violation of this Section (4) shall result in irreparable harm to USPS, and create the right to immediate termination of this Agreement and of the license granted herein by USPS. All rights granted herein shall revert to USPS, and USPS shall be entitled to immediate, preliminary and permanent injunctive relief against the further violation of USPS's exclusive rights in the Marks, in addition to all other remedies available at law or equity.

(5) Licensee acknowledges and agrees that USPS is the sole and exclusive owner of all right, title, and interest in and to the Marks and that

its use of the Marks shall inure to the benefit of USPS. Licensee shall not, at any time, acquire any ownership rights in the Marks by virtue of any use it may make of the Marks. Should Licensee nonetheless change or modify the Marks, USPS shall own all rights in such modified marks or designs, along with the goodwill symbolized thereby and Licensee agrees to and hereby assigns all such rights and good will to USPS and is willing to take such other actions, if any, as are necessary to effectuate or evidence such assignment.

(6) Licensee agrees that it will not use the Marks in a manner that is likely to be viewed as violent, sexually provocative, offensive, obscene, in violation of "hate crime" laws, or otherwise likely to shock or offend the community or in such a way as to bring USPS, its officers, employees, or Board of Governors, or its trademarks, service marks, or logos into public disrepute, scandal or ridicule, or that derogates from the public image or reflects unfavorably or negatively on them.

(7) Licensee shall not be liable for any unauthorized third party use or manipulation of the Marks, including without limitation, such unauthorized use of the Marks from any website authorized pursuant to this Agreement.

EXHIBIT C
StartSampling License Terms

This Agreement is effective upon execution and concerns the following trademarks:

StartSampling
Try Something New™
Frequent Tryer Miles™

("the Marks") which would be used in promotional materials, and on USPS.com (the "Licensed Materials"), for the sole purpose of promoting the Sample Showcase™ box.

(b) In consideration of the mutual promises and obligations contained herein, StartSampling grants to USPS ("Licensee") a non-exclusive, non-transferable, terminable license to display the Marks on the Licensed Materials, but only as a trademark of StartSampling and only in reference to StartSampling and its goods or services, for the term of this Agreement (but subject to termination at will by StartSampling) with no right to sublicense or assign the whole or any portion of this Agreement, this grant being contingent upon Licensee's compliance with the terms of this Agreement:

(1) In the Licensed Materials, Licensee shall acknowledge StartSampling's ownership of the Marks by including the following statement:

"[_____]" are trademarks of the StartSampling, Inc. and are used with permission. All rights reserved."

(2) Licensee agrees to follow all StartSampling Corporate Signature Graphic Guidelines and such other StartSampling guidelines and instructions regarding the use of the Marks as may be provided by StartSampling during the term of this Agreement, including without limitation instructions regarding capitalization and use of trademark symbols (® or ™).

(3) Scope of License:

a. Any attempt to assign or sublicense this Agreement, in whole or in part, is outside the scope of this Agreement and makes this Agreement void and of no further effect.

- b. The scope of this license does not extend beyond the rights granted above and is limited to use of the identified Marks only and is not for the use of any other StartSampling trademark, trade name or logo. StartSampling may in its sole discretion add additional trademarks to the scope of this license, through the execution of an addendum to this Agreement.
- c. The scope of the license does not include the right to display or use any non-StartSampling trademark with the Marks without StartSampling's express prior written approval.
- d. The scope of this license does not include any right to use the Marks in a way that suggests an affiliation, connection or sponsorship between Licensee and StartSampling, except as indicating that StartSampling is a licensed provider of the Sample Showcase™ box during the term of this Agreement.
- e. Licensee agrees not to take any action, make any use of the Marks, or make any representations, suggestions, or omissions in any manner outside the scope of this Agreement.
- f. The scope of the license does not include the right to register any domain name that includes the Marks or a dominant portion of the Marks.

(4) Quality Control and Approval Rights:

To assure that the production, appearance, and quality of the Marks and Licensee's services under the mark ("the Services") are consistent with StartSampling's reputation for high quality, and with the goodwill associated with StartSampling's reputation and the Marks, and to insure the preservation of the Marks and StartSampling's rights in them, Licensee agrees to the following:

- a. Licensee's Services shall comply with all relevant Federal laws, regulations, and ordinances.
- b. Prior to any use of the Marks, Licensee shall submit a sample of each version of the Licensed Materials to the person(s) designated in Paragraph 32 of the Agreement. Licensee will not use the Marks in any manner, and in particular, will not engage in the proposed use of the Marks with any entity outside its organization until it receives written approval for each such use. The material shall be submitted for approval at least five business days prior to the date on which it is proposed to be used. The material must use StartSampling trademarks and trade names properly as determined solely by StartSampling including, without limitation, use of capitalization and trademark symbols.

- i. If such written approval is given, Licensee agrees to make no deletions, additions, or changes to any version of the Licensed Materials without StartSampling's prior written approval.
- ii. Licensee acknowledges that any approvals may be given or withheld in StartSampling's sole discretion. Failure to respond to an approval request shall be deemed a denial.

c. Licensee shall abide by such other demands, changes, and instructions as issued by StartSampling to maintain the quality of the Marks.

d. If the required quality standards and/or the intellectual property usage notice requirements are not met by Licensee or, if such quality standards or such notice requirements are not maintained throughout the term of this Agreement by Licensee, StartSampling may terminate the Agreement immediately. Licensee acknowledges that any violation of this Section (4) shall result in irreparable harm to StartSampling, and create the right to immediate termination of this Agreement and of the license granted herein by StartSampling. All rights granted herein shall revert to StartSampling, and StartSampling shall be entitled to immediate, preliminary and permanent injunctive relief against the further violation of StartSampling's exclusive rights in the Marks, in addition to all other remedies available at law or equity.

(5) Licensee acknowledges and agrees that StartSampling is the sole and exclusive owner of all right, title, and interest in and to the Marks and that its use of the Marks shall inure to the benefit of StartSampling. Licensee shall not, at any time, acquire any ownership rights in the Marks by virtue of any use it may make of the Marks. Should Licensee nonetheless change or modify the Marks, StartSampling shall own all rights in such modified marks or designs, along with the goodwill symbolized thereby and Licensee agrees to and hereby assigns all such rights and good will to StartSampling and is willing to take such other actions, if any, as are necessary to effectuate or evidence such assignment.

(6) Licensee agrees that it will not use the Marks in a manner that is likely to be viewed as violent, sexually provocative, offensive, obscene, in violation of "hate crime" laws, or otherwise likely to shock or offend the community or in such a way as to bring StartSampling, its officers, employees, or directors, or its trademarks, service marks, or logos into public disrepute, scandal or ridicule, or that derogates from the public image or reflects unfavorably or negatively on them.

(7) Licensee shall not be liable for any unauthorized third party use or manipulation of the Marks, including without limitation, such unauthorized use of the Marks from any website authorized pursuant to this Agreement.

EXHIBIT D
Per-Piece Charge Schedule

(a) Schedule

[REDACTED]							
[REDACTED]							
[REDACTED]							
[REDACTED]							

(b) Annual Adjustment

[REDACTED]

[REDACTED]

[REDACTED]

MAIL CLASSIFICATION SCHEDULE

PART B—COMPETITIVE PRODUCTS

2000 COMPETITIVE PRODUCT LIST

NEGOTIATED SERVICE AGREEMENTS

Domestic

Parcel Select Contract 1

Statement of Supporting Justification

I, Marc D. McCrery, Manager, Specialty Shipping, am sponsoring this request that the Commission add Parcel Select Contract 1 to the list of competitive products. This statement supports the Postal Service's request by providing the information required by each applicable subsection of 39 C.F.R. § 3020.32. I attest to the accuracy of the information contained herein.

- (a) *Demonstrate why the change is in accordance with the policies and applicable criteria of the Act.*

As demonstrated below, the change complies with the applicable statutory provisions.

- (b) *Explain why, as to the market dominant products, the change is not inconsistent with each requirement of 39 U.S.C. § 3622(d), and that it advances the objectives of 39 U.S. C. § 3622(b), taking into account the factors of 39 U.S. C. § 3622(c).*

Not applicable. The Postal Service is proposing that this Parcel Select contract be added to the competitive products list.

- (c) *Explain why, as to competitive products, the addition, deletion, or transfer will not result in the violation of any of the standards of 39 U.S.C. 3633.*

The service to be provided under the contract will cover its attributable costs and make a positive contribution to coverage of institutional costs. The contract will increase contribution toward the requisite 5.5 percent of the Postal Service's total institutional costs. Accordingly, no issue of subsidization of competitive products by market dominant products arises (39 U.S.C. § 3633(a)(1)).

- (d) *Verify that the change does not classify as competitive a product over which the Postal Service exercises sufficient market power that it can without risk of losing a significant level of business to other firms offering similar products: (1) set the price of such product substantially above costs, (2) raise prices significantly; (3) decrease quality; or (4) decrease output.*

The contract sets specific terms and conditions for providing Parcel Select service to the customer. Parcel Select is provided in a highly competitive market. The Postal Service is unable to set prices substantially above costs, raise prices significantly, decrease quality, or decrease output, without losing this business to private competitors in the ground shipping market.

In negotiating this contract, the Postal Service's bargaining position was constrained by the existence of other providers of services similar to that of the Postal Service who could ship parcels containing multiple samples, provided the box weighed at least 12.5 ounces, or use other alternatives such as newspapers or in-store displays. Pursuant to Commission Order No. 452, all of these alternatives are means of delivering samples and each competes without a Postal Service-branded container. While Postal Service branding could increase the attractiveness of the parcel, the competition in the market precludes the Postal Service from taking unilateral action to increase prices or decrease service in order to have a competitive advantage.

As with Parcel Select service in general, the Postal Service may not decrease quality or output without risking the loss of business to competitors that offer similar ground delivery services. The market does not allow the Postal Service to raise prices or offer prices substantially above costs; rather, the contract is premised on prices and terms that provide sufficient incentive for the customer to ship with the Postal Service rather than a competitor using their licensed property.

- (e) *Explain whether or not each product that is the subject of the request is covered by the postal monopoly as reserved to the Postal Service under 189 U.S.C. 1696, subject to the exceptions set forth in 39 U.S.C. 601.*

I am advised that merchandise sent by Parcel Select service and this contract are not covered by these provisions as the product will weigh at least 12.5 ounces. See part (d) above.

- (f) *Provide a description of the availability and nature of enterprises in the private sector engaged in the delivery of the product.*

See part (d) above. Ground shipping, including services such as Parcel Select service, is widely available from well-known and successful private firms at both published and contract prices.

- (g) *Provide any available information of the views of those who use the product on the appropriateness of the proposed modification.*

Having entered into this contract with the Postal Service, the customer supports the addition of the contract to the product list so that the contractual terms can be effectuated.

- (h) *Provide a description of the likely impact of the proposed modification on small business concerns.*

The market for ground shipping services is highly competitive and requires a substantial infrastructure to support a national network. Large shipping companies serve this market. The Postal Service is unaware of any small business concerns that could offer comparable service for this customer.

- (i) *Include such other information, data, and such statements of reasons and bases, as are necessary and appropriate to fully inform the Commission of the nature, scope, significance, and impact of the proposed modification.*

Additional details regarding the terms of the contract have been provided to the Commission under seal due to the sensitivity of the contract to both the customer and the Postal Service.

Certification of Prices for Parcel Select Contract 1

**CERTIFICATION OF GOVERNORS' VOTE
IN THE
GOVERNORS' DECISION NO. 10-8**

I hereby certify that the Governors voted on adopting Governors' Decision No. 10-8, and that, consistent with 39 USC 3632(a), a majority of the Governors then holding office concurred in the Decision.



Julie S. Moore.
Secretary of the Board of Governors

Date: 12-16-10

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

In accordance with 39 C.F.R. § 3007.21, the Postal Service hereby applies for non-public treatment of: the unredacted licensing/shipping services contract;¹ and the supporting documents establishing compliance with 39 U.S.C. § 3633 and 39 C.F.R. § 3015.5. The Postal Service hereby furnishes the justification required for this application by each subsection of 39 C.F.R. § 3007.21(c), as enumerated below.

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

(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);

The materials designated as non-public consist of information of a commercial nature, which under good business practice would not be publicly disclosed. In the Postal Service's opinion, this information would be exempt from mandatory disclosure pursuant to 39 U.S.C. § 410(c)(2) and 5 U.S.C. § 552(b)(3), (b)(4).² Because the portions of the materials which the Postal Service is applying to file only under seal 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.

¹ The Postal Service informed the customer prior to filing its notice that it would be seeking non-public treatment of the redacted portions of the contract. The Postal Service also informed the customer that it could file its own application for non-public treatment of these materials in accordance with 39 C.F.R. § 3007.22.

² In appropriate circumstances, 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). 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, Mar. 20, 2009, at 11.

- (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;**

In the case of an agreement, the Postal Service believes that the only party with a proprietary interest in the materials is the party with whom the contract is made.

StartSampling, Inc. has been informed of the nature and scope of this filing and its ability to address its confidentiality concerns directly with the Commission. The contact information for StartSampling, Inc. is as follows:

John L. Burns, President
StartSampling, Inc.
195 East Elk Trail
Carol Stream, IL 60188
(630) 868-2000
Larry_Burns@startsampling.com

- (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;**

The Governors' Decision establishing the negotiated prices and terms, the contract containing the prices, terms and conditions of the contract, and the financial workpapers supporting the contract are being filed under seal in this docket. Redacted copies of the Governors' Decision and the contract are being filed publicly in this docket. The Postal Service maintains that the redacted portions of the Governors' Decision, the contract, and related financial information should remain confidential.

With regard to the contract, the redactions are the negotiated price structure, the terms directly related to implementation of the price structure and the financial information related to the licensing of Postal Service property.

The redacted portions of the Governors' Decision also protect the pricing terms of the contract, and the Postal Service's expected profit from the contract. The redacted portions of the Analysis attached to the Governors' Decision protect the same information, as well as the Postal Service's business reasons underlying the negotiated

pricing structure and details about the relationship between the customer's business model and the provisions of the contract.

The redactions applied to the financial work papers 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 determined to be exempt from disclosure under 5 U.S.C. § 552(b). However, in a limited number of cases, narrative passages or notes were redacted in their entirety due to the practical difficulties of redacting particular words or numbers within the text as presented in a spreadsheet format.

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

If the redacted information were to be disclosed publicly, the Postal Service considers that it is quite likely that it would suffer commercial harm. Redacted information concerning the prices and related terms of the contract is commercially sensitive, and the Postal Service does not believe that it would be disclosed under good business practices. Revealing such information would provide a competitive advantage to competitors of the Postal Service. The Postal Service considers that it is highly probable that if this information were made public, such entities would take immediate advantage of it and there is a substantial risk that the Postal Service would lose business as a result. 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 postal customers could use the information to their advantage in negotiating the terms of their own agreements with the Postal Service and other businesses could use the information to their advantage in negotiating with the customer. The Postal Service considers these to be highly probable outcomes that would result from public disclosure of the redacted material.

The financial work papers include specific information such as costs, negotiated prices and pricing structure, assumptions used in developing costs and prices, mailer

profile information, and projections of variables. All of this information is highly confidential in the business world. If this information were made public, the Postal Service's and the customer's competitors would likely take great advantage of this information. Unlike its competitors, the Postal Service is required to meet the standards of 39 U.S.C. § 3633 with each negotiated service agreement that it asks to have added to the competitive products list. Competitors are not so constrained and could use the redacted information to their advantage in gaining customers. The formulas shown in the spreadsheets in their native format provide additional sensitive information. In addition, revealing the Postal Service's profit margin information could also be used by the customer to attempt to renegotiate its own prices. Finally, public disclosure of the information in the spreadsheets also presents a serious risk of commercial harm to the customer. Disclosure of such information could be used by competitors of the customer to acquire market intelligence about the customer's underlying costs, mailing patterns, and customer base.

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

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

Hypothetical: A competitor obtains a copy of the unredacted version of Customer A's contract and workpapers to the detriment of the Postal Service's customer. Company B discovers proprietary business strategies and changes its business practices to minimize differentiation, identify their key customer base and cause defection of Customer A's customers. Customer A cancels the contract and withdraws their business from the Postal Service. Other companies would then refuse to share critical details of their business or to participate in negotiated prices with the Postal Service, harming the Postal Service's ability to compete in the marketplace for additional volume and revenue.

Hypothetical: The competitor could leverage multiple services to offer deeper discounts than provided by the Postal Service's contract as a loss leader, using profits on other products profits to make up for the temporary loss.

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

Hypothetical: A competing package delivery service or its representative obtains a copy of the unredacted version of the financial work papers. It analyzes the work papers 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 customers under that threshold and markets its ability to guarantee to beat the Postal Service on price for similar delivery services.

Hypothetical: Competitors constantly monitor "cost to serve" scenarios to combine and alter facilities to lower costs. A competitor could add satellite pickup stations closer to the Postal Service's customer in order to underbid the Postal Service's prices.

Identified harm: Public disclosure of the prices and related terms would provide potential customers extraordinary negotiating power.

Hypothetical: Customer B obtains the contract showing Customer A's negotiated prices and the underlying workpapers. Customer B can determine that there is additional profit margin between the prices 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. Although Customer B was offered prices identical to Customer A's, Customer B uses the publicly available information to insist that it unless the Postal Service offers it even lower prices than Customer A's, it will not use the Postal Service but will give its business to a competitor of the Postal Service.

Alternatively, Customer B attempts to negotiate 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, Customer B uses other providers for destinations other than those

for which it negotiated lower rates. This impacts the Postal Service's overall projected cost coverage for the agreement. Although the Postal Service can terminate the contract when it sees that the mailer's practice and projected profile are 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 postal finances.

Harm: Public disclosure of information in the financial work papers would be used by the customer's competitors to its detriment.

Hypothetical: A business in competition with the customer obtains a copy of the unredacted version of the financial work papers. The customer's competitor analyzes the work papers to assess the customer's underlying shipping costs. The customer's competitor uses that information as a baseline to negotiate with shipping companies and other suppliers to develop lower-cost alternatives and thereby to undercut the customer.

(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 market for domestic parcel shipping products, as well as their consultants and attorneys. Additionally, the Postal Service believes that actual or potential customers of the Postal Service for such 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. The Postal Service believes that the ten-year period

of non-public treatment is sufficient to protect its interests with regard to the information it determined should be withheld due to commercial sensitivity.

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

None.