

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

MARKET TEST OF EXPERIMENTAL PRODUCT
GLOBAL ECOMMERCE MARKETPLACE (GEM)
NON-PUBLISHED RATES

Docket No. MT2016-1

**RESPONSE OF THE UNITED STATES POSTAL SERVICE TO
COMMISSION INFORMATION REQUEST NO. 1**
(May 9, 2016)

The United States Postal Service (Postal Service) hereby provides its responses to Commission Information Request No. 1, issued on April 29, 2016. Each question is stated verbatim and followed by the response. Some of the responses contain commercially-sensitive material and are filed under seal. The Postal Service hereby incorporates by reference the application for non-public treatment that was filed in conjunction with the Postal Service's March 16, 2016, notice in this docket.¹ The application protects from disclosure the responses that the Postal Service is filing today with the Commission under seal in this docket.

¹ Notice of the United States Postal Service of Market Test of Experimental Product- Global Ecommerce Marketplace (GeM) Merchant Solution and Notice of Filing Gem Merchant Model Contract and Application For Non-Public Treatment of Materials Filed Under Seal, PRC Docket MT2016-1, March 16, 2016.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

By its attorneys:

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Global Business and Service Development

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May 9, 2016

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1. The Postal Service provides information concerning its evaluation of the current market for end-to-end services similar to GeM Merchant. Notice at 5-6. The Postal Service also identified four companies presently offering end-to-end services that are similar to GeM Merchant as Pitney Bowes Borderfree, FedEx Crossborder (formerly FedEx Bongo), UPS i-Parcel, and DHL iCart.² Please provide the following:
 - a. All market analysis performed by the Postal Service concerning the market for end-to-end services similar to GeM Merchant;
 - b. All Postal Service estimates of annual revenues of the competing products;
 - c. All Postal Service estimates of annual volumes of the competing products; and
 - d. All research or other information the Postal Service has concerning this market for end-to-end services.

RESPONSE:

- a. Filed under seal.
- b. Filed under seal.
- c. Filed under seal.
- d. Filed under seal.

² Response of the United States Postal Service to Chairman's Information Request No. 1, April 6, 2016, question 1a (Responses to CHIR No. 1).

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2. Please identify the estimated number of merchants that the Postal Service expects to participate in each year of the proposed market test.

RESPONSE:

Filed under seal.

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3. The Postal Service provides estimated annual revenues for the proposed GeM Merchant market test. Notice, Attachment 4. Please provide the basis, including the financial model, underlying these annual revenue estimates.

RESPONSE:

Filed under seal.

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4. The Postal Service states that it conducted an operations test of the GeM model. Notice at 2 n.2. The Postal Service explains that “[t]hrough this operations test, the Postal Service gained relevant information concerning what factors to consider when choosing a vendor and for negotiating supplier agreements for this product.” Responses to CHIR No. 1, question 3a. The Postal Service identifies that “international service was arranged by Shopex LLC” during the operations test. *Id.* question 3b. Please provide the following:
- a. The total volume, revenue, and cost of the operations test;
 - b. The customer-specific price charts from the operations test that breakdown prices by country group and by weight;
 - c. A detailed explanation of Shopex LLC’s role in the operations test; and
 - d. A detailed explanation of how the proposed market test is expected to differ from the operations test, including Shopex LLC’s expected role and any operational changes made as a result of lessons learned from the operations test.

RESPONSE:

- a. Filed under seal.
- b. Filed under seal.
- c. Shopex LLC’s role in the operational test was that of a Supplier and included:
 - i. Supply digital platform required to integrate with Merchant online stores and provide digital services to furnish localized landed cost estimation and international payment processing services
 - ii. Provide operational infrastructure and capabilities to receive international orders at a domestic processing location, conduct export compliance processing, and prepare international order for international transportation, customs clearance and delivery.
 - iii. Provide international transportation, customs clearance and delivery services through either owned or contracted resources.
 - iv. Provide customer service services for merchants and end consumers

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- d. The planned Market Test will enable The Postal Service to test GeM as its own experimental product based on its own cost and pricing model and test this experimental product within an expanded, statistically relevant scope concerning volumes, commodity and merchant target segments. In addition, The Postal Service will utilize the expanded scope of the Market Test over the operational test to evaluate additional suppliers and supplier models.

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5. The Postal Service states it may use a supplier to “prepare the item for international shipment to the address of the overseas buyer and arrange for delivery to the addressee.” Notice at 2.
- a. Please explain in detail the role of the supplier in the proposed GeM Merchant market test.
 - b. Has the Postal Service selected any suppliers for the proposed GeM Merchant market test?
 - i. If yes, please identify all suppliers selected.
 - ii. If not, please identify the entities the Postal Service is considering for this role and when the Postal Service expects the selection process to be complete.
 - c. Please explain in detail how the Postal Service expects the selection of a supplier to affect revenue earned from the proposed GeM Merchant market test.
 - d. Will the Postal Service track costs based upon whether the Postal Service or a supplier provides the underlying services?
 - i. If yes, please confirm that the Postal Service will also track costs based upon which particular supplier provided the underlying services.
 - ii. If not, please explain why not and identify any obstacles to tracking these costs.

RESPONSE:

- a. Filed under seal.
- b. Filed under seal.
- c. Filed under seal.
- d. Yes, the Postal Service will track cost by USPS versus Supplier-provided services and will separate the latter by particular Supplier, if more than one supplier is contracted under the Market Test.

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6. Question filed under seal

RESPONSE:

Filed under seal.

**RESPONSE OF THE UNITED STATES POSTAL SERVICE TO COMMISSION
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7. Question filed under seal

RESPONSE:

Filed under seal.

**RESPONSE OF THE UNITED STATES POSTAL SERVICE TO COMMISSION
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8. Question filed under seal

RESPONSE:

- a. Filed under seal.
- b. Filed under seal.
- c. Filed under seal.
- d. The Postal Service acknowledges the precedent cited and agrees to remove the redaction to Paragraph 7.2. An updated redacted model agreement is filed as an attachment to this response.
- e. The Postal Service acknowledges the precedent cited and agrees to remove the redaction to Paragraph 16. An updated redacted model agreement is filed as an attachment to this response.

**MARKET TEST OF SERVICES
BETWEEN THE UNITED STATES POSTAL SERVICE
AND [CUSTOMER'S LEGAL NAME]**

This Agreement ("Agreement"), is between [Customer's Legal Name], a corporation, with offices located at [Customer's corporate address], and/or its affiliates ("the Customer"), and the United States Postal Service, an independent establishment of the Executive Branch of the United States government, with its principal offices at 475 L'Enfant Plaza, SW, Washington, DC 20260 ("Postal Service"). The Customer and the Postal Service may be referred to individually as a "Party" and together as the "Parties." This Agreement is being made in order to conduct a market test with the Customer for cross-border delivery services, including export and import services (referred to by the Postal Service as Global e-Commerce Marketplace Merchant product ("GeM Merchant"), to be offered by the Postal Service. The market test will validate the potential market for end-to-end cross-border delivery services offered by the Postal Service, under the terms and conditions set forth below.

RECITALS

1. The cross-border delivery services being tested under this Agreement involve the provision of proprietary software, acceptance of Items by the Postal Service, delivery to a GeM facility, security screening, export processing, transportation to the Destination Country of the Items, customs clearance in the Destination Country, and delivery to the Consignee in the Destination Country.
2. To complete such arrangement, the Parties are entering into this Agreement;

NOW, THEREFORE, in consideration of the foregoing and of the mutual covenants and agreements hereinafter set forth, the Postal Service and the Customer agree as follows:

1. **Definitions and Postage Payment.**

1.1. Definitions:

1.1.1. Conditions Precedent. Operational and technological means necessary for each Party to perform its obligations under this Agreement, without which one Party or both of the Parties would find it impossible to perform in good faith. Including, for example,

[REDACTED]

1.1.2. Consignee. Person to whom the Items are to be delivered in the Destination Country.

1.1.3. Consignor. Individual purchasing Items from the Customer for delivery to the Consignee in the Destination Country. The Consignor and the Consignee may be the same individual.

1.1.4. Customer. [Customer's Legal Name]

1.1.5.

[REDACTED]

[REDACTED]

1.1.6.

[REDACTED]

1.1.7. Destination Country. The country or countries to which the Items are sent under this Agreement. Items sent under this Agreement may not be addressed to a destination country included in Country Groups E-1 or E-2 under Supplement No. 1 to Title 15, Code of Federal Regulations.

1.1.8. Digital Service

[REDACTED]

1.1.9. Effective Date. The later of the two dates on which the Agreement is signed by the Parties, or the date on which it is signed, if both Parties sign on the same date.

1.1.10. Implementation Date. The start of the one year term of the contract as determined by the later of the date agreed upon by the Parties after which all Conditions Precedent have been satisfied and the Effective Date.

1.1.11. Item or Items.

[REDACTED]

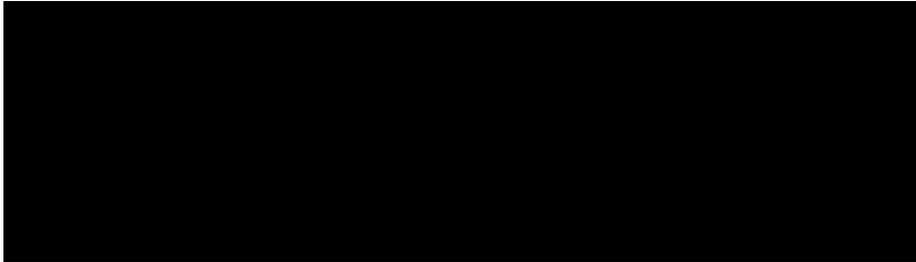
1.2 Postage Payment:

1.2.1

[REDACTED]

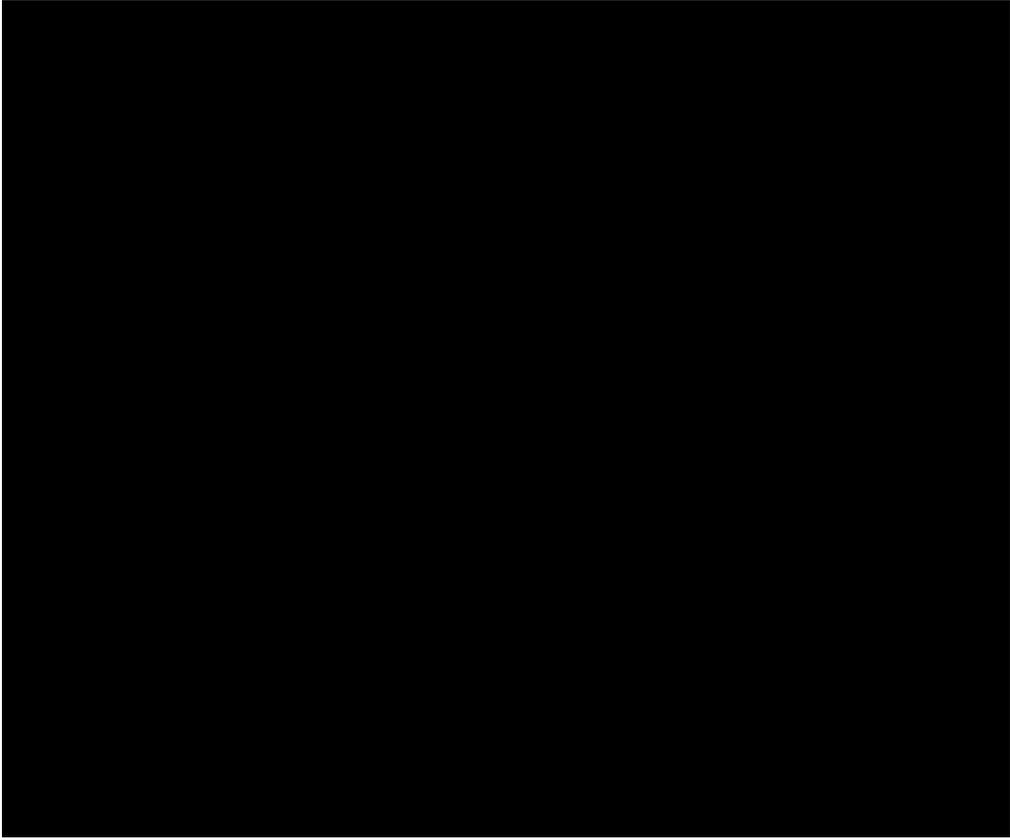
1.2.2 Shipping Items from the GeM Facility to the Consignee. All rates for processing, transportation, and delivery of items from the GeM facility to the Consignee are included in Appendix B of this Agreement.

1.2.3



2. **Customer Responsibilities**

2.1



2.2

2.3

2.4

2.5 Authorize, by execution of this Agreement, the Postal Service to open and inspect all Items sent to the GeM facility for processing.

2.6 Assign to the Postal Service the exclusive right to determine compliance with Postal Service mailing rules and regulations, and to determine the compliance of any items mailed to the GeM facility.

2.7 To treat as confidential and not disclose to third parties, absent express written consent by the Postal Service, any information related to this Agreement that is treated as non-public by the Postal Regulatory Commission.

3. **Postal Service Responsibilities**

3.1. [REDACTED]

3.1.1. [REDACTED]

3.1.2. May open and inspect Items at GeM facility; verify content and proper packaging; perform customs compliance activities; prepare proper documentation for international transportation and Destination Country import processing; assign to international transportation provider for carriage.

3.1.3. Return to the Customer any merchandise not eligible to be sent under the terms of this Agreement. Any such determination is exclusively provided to the Postal Service.

3.1.4. [REDACTED]

3.1.5. [REDACTED]

3.1.5.1. [REDACTED]

3.1.5.2. [REDACTED]



4. **Items as Mail and Related Matters.**

4.1

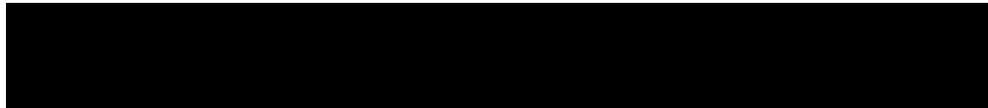


4.2 The Items will be processed for delivery in a secure manner by a contracted service provider procured by the Postal Service to complete any of its obligations set forth under section 3 above.

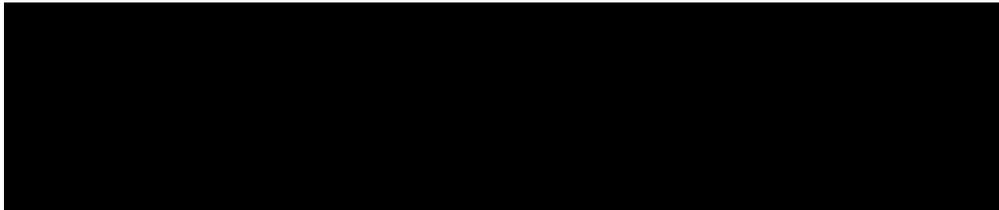
4.3



4.4



4.5



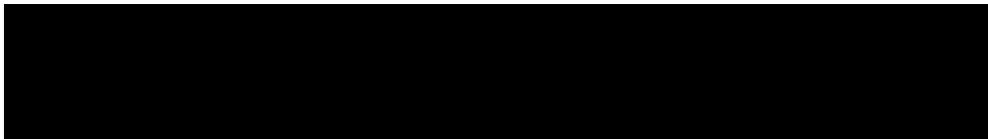
5. **Adjustments and/or Amendments.**

5.1 Any changes or supplements to this Agreement must be in writing and signed by authorized representatives of both Parties.

6.



6.1



7. **Term, Termination and Sovereign Acts.**

7.1 Term. The term of the Agreement shall begin when all Conditions Precedent have been met on a date mutually agreed by the Parties, but not before the

Effective Date of the Agreement. The terms of this Agreement shall expire one year from the Implementation Date.

- 7.2 Termination. Either Party may terminate this Agreement, without fault or liability, at any time upon 60 calendar days' written notice during the duration of the Agreement, unless earlier termination is required by law, valid order or regulation. A material breach, notified and not cured within 10 days of receipt of such notice, shall cause immediate termination of the Agreement's obligations with respect to any transactions after the late date of the period to cure. Such termination shall not affect the survival of certain terms and conditions as set forth in Article 15.6, nor shall it affect the Parties' obligations to complete performance of their responsibilities related to all pre-termination transactions under this Agreement.
- 7.3 Modification of the Agreement.
- 7.3.1 Any modification of this Agreement or additional obligation assumed by either Party in connection with this Agreement shall be binding only if placed in writing and signed by each Party.
- 7.3.2 Modifications may be contingent upon any and all necessary approvals by the Postal Service management's executive committee, the Board of Governors of the Postal Service, the Governors of the Postal Service, the Postal Regulatory Commission, and/or any other governmental body with oversight responsibility for the Postal Service.
- 7.3.3 If such approvals are required, the modifications will not become effective until such time as all necessary approvals are obtained.
- 7.3.4 The Postal Service will notify the Mailer of the date the modification becomes effective within thirty (30) days after receiving the approval of the entities that have oversight responsibility for the Postal Service.
- 7.3.5 The Postal Service shall have no obligation to notify the Mailer of the status of the approval process or of potential fulfillment of the approval process.
- 7.4 Sovereign Acts. The Postal Service and the Customer acknowledge and agree that this Agreement is subject to any legislation that might be enacted by the Congress of the United States or any orders or regulations that might be promulgated by any agency, branch, or independent establishment of the United States Government; this includes the orders or regulations of the Postal Regulatory Commission ("PRC"). The Parties agree that in the event that this Agreement is terminated as set forth in the preceding sentence, or in the event that either Party is enjoined from proceeding with this Agreement by any court or oversight body of competent jurisdiction, such Party shall not be subject to any liability by reason of such termination or injunction.
- 7.5 Conditions Precedent.
- 7.5.1 The Parties acknowledge and understand that all obligations of the Postal Service under this Agreement, including the prices listed in Appendix B, shall be contingent on the Postal Service receiving approvals hereinafter ("Conditions Precedent") from one or more internal and external bodies that have oversight responsibilities. Conditions Precedent may include, but are not limited to: approvals or, if applicable,

non-objection, from responsible Postal Service management officials, the Postal Service Board of Governors, the Postal Service Governors, the Postal Regulatory Commission, and/or any other governmental body with oversight responsibility for the Postal Service. The Parties acknowledge that the Agreement may not be approved by such individuals or bodies. Until such time that all Conditions Precedent are fulfilled that are necessary to allow the Postal Service to provide the products or services contemplated under the Agreement, no obligation shall exist for the Postal Service and no benefit shall inure to either Party.

- 7.5.2 In the event that the Conditions Precedent are not fulfilled, the Postal Service shall have no liability, which shall include no obligation to pay costs associated with any action taken by the Mailer prior to the Effective Date of the Agreement. Further, in the event of termination of the Agreement or the failure of any Condition Precedent, the Postal Service shall not be held liable for any damages including, without limitation, actual; special; indirect; incidental; punitive; consequential; or any other damages, which shall include but not be limited to damages for loss of business profits; business interruption; any other loss; and/or for costs incurred by either Party attributable to such non-approval such as attorney's fees.

8. **Market Test Review.**

- 8.1 **Data Sharing.** To evaluate the results of the market test, the Customer and the Postal Service agree to collect and share data regarding indicators relevant to their individual or joint evaluation of the test's success. The specific data to be shared shall be determined by the Parties in a separately documented plan ("the Data Collection Plan"), which may be modified to achieve the goals of both Parties throughout the market test period. During the Term of the market test, the use of this data is limited to those individuals involved in designing, executing, or evaluating the market test. The information shared in the Data Collection Plan shall be presumed to be Confidential Information as that term is used in the non-disclosure agreement referenced in paragraph 11 and subject to the terms of that agreement. During the market test, the Postal Service may disclose or use any information shared under the Data Collection Plan for the purpose of its regulatory filing requirements with the Postal Regulatory Commission.

9. **Indemnification.**

- 9.1 The Customer will indemnify and hold the Postal Service harmless from any claims by third-Parties concerning the market test for damages, costs and expenses in relation it. The Customer shall indemnify the Postal Service for, and hold it harmless from, any losses, claims, damages or liabilities suffered by the Postal Service arising out of any claims asserted against the Postal Service by any third party that arise out of or relate to (i) the failure by the indemnifying party to perform its obligations under this Agreement or breach by the indemnifying party of its representations or warranties under this Agreement, including without limitation the representations and warranties found in paragraph 13, below; (ii) the infringement by the Customer of any third party's intellectual property, tangible and/or intangible, or proprietary rights by property appearing on or in any material related to the operations test, and (iii) any violation of a third party's rights by the indemnifying Party arising out of this Agreement. The Customer shall reimburse the Postal Service for all reasonable expenses (including, without limitation, attorneys' fees) incurred in conjunction with the investigation or

defense of such claims, whether or not the Postal Service is named in such proceeding, provided that the Postal Service notifies the Customer promptly in writing of a claim. The Postal Service shall reasonably cooperate (at the Customer's expense) in the collection of information necessary to defend or settle any such claim. The Postal Service shall not effect any settlement of, or make any admission of liability in connection with, any pending or threatened claim or proceeding as to which indemnification is sought under this Section without the written consent of the Customer, which written consent shall not be unreasonably withheld. Nothing herein shall affect the authority of the Attorney General or the U.S. Department of Justice.

- 9.2 The Postal Service will defend, indemnify and hold the Customer harmless from any claims by third-parties for damages, costs and expenses from the infringement of any US patent related to the market test. The Postal Service shall reimburse the Customer for all reasonable expenses (including, without limitation, attorneys' fees) incurred in conjunction with the investigation or defense of such claims (including but not limited to administrative, regulatory or judicial proceedings), provided that the Customer notifies the Postal Service promptly in writing of a claim. The Customer shall reasonably cooperate (at the Customer's expense) in the collection of information necessary to defend or settle any such claim. The Customer shall not affect any settlement of, or make any admission of liability in connection with, any pending or threatened claim or proceeding as to which indemnification is sought under this Section without the written consent of the Postal Service, which written consent shall not be unreasonably withheld. Nothing herein shall affect the authority of the Attorney General or the U.S. Department of Justice.

10. **Limitation of Liability.**

- 10.1 Under no circumstances, will either Party be liable to the other for special or consequential damages that result from the Customer's participation in this Agreement or from any matter arising out of this market test. Nor shall either Party be liable to the other for any expenses incurred to satisfy the Conditions Precedent, even if the market test fails to proceed. The Postal Service shall not be liable for fines and penalties for the Customer's or Consignor's failure to comply with any export laws, rules, or regulations, and the Postal Service shall not be liable for any act or omission by any person not employed or contracted by the Postal Service, including the Customer, the Consignor or the Consignee.

11. **Power of Attorney**

- 11.1 At its option, the Postal Service may submit customs and other shipment related documentation in the name of the Customer to domestic or foreign customs, postal, or aviation authorities and/or Postal Service agents or suppliers on behalf of the Customer. The Customer hereby authorizes Postal Service to act for and on its behalf as a true and lawful agent and attorney of the Customer for and in the name, place, and stead of the Customer to:

(1)

(2)

(3)

(4) 

11.2 This power of attorney remains in full force and effect throughout the duration of the Customer Agreement. The Customer hereby accepts responsibility for all representations made on its behalf by the Postal Service or its agents or suppliers in any connection with any of the Customer's shipments to domestic or foreign customs, postal, or aviation authorities and/or Postal Service agents or suppliers made on behalf of the Customer. The Customer hereby certifies that all statements and information contained in any documentation provided to the Postal Service relating to any of its shipments are complete, comprehensive, and correct. Furthermore, the Customer understands that civil and criminal penalties may be imposed for making false or fraudulent statements or for the violation of any United States laws or regulations on exportation.

12. **Confidential Information.**

12.1 The Customer acknowledges that as part of securing approval of this Agreement, and in other subsequent regulatory filings, the Agreement and supporting documentation will be filed with the Postal Regulatory Commission ("Commission") in a docketed proceeding. The Customer authorizes the Postal Service to determine the scope of information that must be made publicly available in any Commission docketed proceeding. The Customer further understands that any unredacted portion of the Agreement or supporting information will be available on the Commission's public website, www.prc.gov. In addition, the Postal Service may be required to file information in connection with this Agreement (including revenue, cost, or volume data) in other Commission dockets, including the Commission docket number for the Annual Compliance Report (ACR) for the Postal Service fiscal year(s) in which this Agreement is in effect. Each ACR docket has a distinct docket number, such as ACR201#, in which "201#" signifies the Postal Service fiscal year to which the ACR pertains. The Customer has the right, in accordance with the Commission's rules, to address its confidentiality concerns directly with the Commission. The procedure for making an application to the Commission for non-public treatment of materials believed to be protected from disclosure is found at Title 39, Code of Federal Regulations, Section 3007.22 found on the Commission's website: www.prc.gov/docs/63/63467/order225.pdf. At the request of the Customer, the Postal Service will notify the Customer of the docket number of the Commission proceeding to establish the prices in this agreement once assigned.

12.2 The Customer's participation in this market test is considered to be confidential information and as such shall not be disclosed outside the Customer's business to any third parties without the express written consent of the Postal Service.

13. **Notices.**

13.1 All notices shall be in writing and shall be deemed to be delivered when received by the respective Party at the address set forth below. All notices shall be delivered electronically via email and via Priority Mail Express delivery to the Parties.

For the Postal Service:

Franca Davis,
Exec Director, International Strategy & Business Development

475 L'Enfant Plaza SW
Washington, DC 20260

Email: franca.s.davis@usps.gov

For the Customer:

[REDACTED]

Email: [REDACTED]

14. **Warranties.**

14.1 Customer: The Customer represents and warrants all of the following:

14.1.1 The Customer is 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 the Customer.

14.1.2 The Customer shall comply with and act in accordance with: (A) any and all applicable laws and other legal obligations applicable to this Agreement; (B) conventions and treaties to which the United States or any legal subdivision thereof is a party (individually and collectively "Law" or "Laws"); and (C) the requirements of this Agreement.

14.1.3 The making of this Agreement by the Customer does not violate any agreement, right or obligation between the Customer and any other person, entity, firm or corporation; and neither the Customer's execution and delivery of this Agreement nor the Customer'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 the Customer is a party or violate any Law applicable to the Customer.

14.1.4 Unless otherwise approved by the Postal Service (such approval not to be unreasonably withheld), the Customer shall not disclaim any warranty whether contained herein or arising by operation of law, and any attempted disclaimer shall be deemed null and void.

14.1.5 To the best of the Customer'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 the Customer's ability to fully perform its obligations herein.

14.1.6 The Customer shall not misuse or take any action or conduct its operations in such manner as to bring public ridicule, contempt, censure or disparagement upon the Postal Service.

14.1.7 None of the representations or warranties made by the Customer in this Agreement as of the Effective Date contains any untrue statement of a

material fact or omits any material fact necessary to make such statements accurate in light of the circumstances under which they were made.

- 14.2 The Postal Service: The Postal Service represents and warrants all of the following:
- 14.2.1 It owns or controls the rights granted herein and possess full power and authority to execute and deliver this Agreement and to perform its obligations.
 - 14.2.2 It is an independent establishment of the executive branch of the United States government duly organized, 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 above. The execution, delivery and performance of this Agreement have been duly authorized by all necessary actions of the Postal Service.
 - 14.2.3 The making of this Agreement by the Postal Service does not violate any agreement to which the Postal Service is a party, or violate any Law applicable to the Postal Service.
 - 14.2.4 The Postal Service does not make any warranties or representations as to the popularity, success or continuing exploitation of or marketing and advertising budget with respect to the operations test and makes no warranty or representation as to the net sales or profits the Customer shall derive under this Agreement.
 - 14.2.5 To the best of the Postal Service's knowledge, there is no pending or threatened litigation, which may affect the legality, validity or enforceability of this Agreement or the Postal Service's ability to fully perform its obligations herein.

15. **General.**

- 15.1 Independent Contractors. The Parties and their respective personnel are and shall be independent contractors and are not partners, joint venturers or agents of one another.
- 15.2 Assignment. This Agreement shall be binding upon the Parties' respective successors and permitted assigns. No Party may assign its rights, duties or obligations under this Agreement to any person or entity, in whole or in part, without the prior written permission of the other Party.
- 15.3 Waiver. No waiver of any provision hereof or of any right or remedy hereunder shall be effective unless in writing and signed by the Parties against whom such waiver is sought to be enforced. 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.
- 15.4 Severability. If any provision of this Agreement is determined to be invalid under any applicable statute or rule of law, it is to that extent to be deemed omitted, and the balance of the Agreement shall remain enforceable.
- 15.5 Governing Law. This Agreement shall be governed in all respects by the federal laws of the United States.

- 15.6 Survival. The definitions of this Agreement and the respective rights and obligations of the Parties relating to confidentiality, non-disclosure, limitation of liability, indemnification, governing law and contractual construction shall survive any termination or expiration of this Agreement. Moreover, the obligations of the Parties with respect to confidentiality will expire ten (10) years from the date of termination or expiration of this Agreement.
- 15.7 Force Majeure. If the performance of any part of this Agreement by any Party is prevented, hindered, delayed or otherwise made impracticable by reason of any flood, riot, fire, terrorism, war, disruption of the postal system, labor dispute, judicial or governmental action, natural disaster or any other substantially similar causes beyond the control of the Party, that Party shall be excused from such; provided that the Party gives the other Party written notice thereof within five (5) business days of any such event or occurrence and exercises its best efforts to resume performance or cure as soon as possible.
- 15.8 Breach. The failure of either Party to perform its material obligations under this Agreement constitutes a basis for Termination under Section 7.2 of this Agreement. Failure of either Party or both of them to fulfill the Conditions Precedent shall not constitute a breach of the Agreement and shall not result in any liability.
- 15.9 Counterparts. This Agreement may be executed in counterparts, each of which so executed will be deemed to be an original, and such counterparts together will constitute one and the same agreement.
- 15.10 Headings. The Section and 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. Inadvertent errors in numerical references to the paragraph numbers shall be corrected according to their clear meaning.
- 15.11 Third Party Beneficiary. Each party intends that this Agreement shall not benefit, or create any right or cause of action in or on behalf of, any person or entity other than the Postal Service and the Customer.
- 15.12 Entire Agreement. This Agreement, including the appendixes, represents the entire agreement between the Postal Service and the Customer regarding the operational test and may be amended only by mutual consent of the Parties' authorized representatives in writing.
16. **Dispute Resolution Mechanism.**
- 16.1 In the event of a dispute between the Customer and the Postal Service, which does not rise to the level of a material breach of the agreement, involving any matter with respect to this Agreement 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 promptly in good faith and with all due diligence negotiate to resolve the dispute within thirty (30) 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 thirty (30) 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 to the chief executive officer for the Customer and the Chief Marketing and Sales Officer for the Postal Service. Termination under the terms of paragraph 7.2 shall not extinguish a dispute

raised prior to the date of the notice of termination or the obligation to participate in the resolution of the dispute, if it is not entirely mooted by the termination.

17. **Consent to Jurisdiction.**

17.1 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 the Customer 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.

18. **Execution.**

18.1 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.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date this agreement is signed.

[CUSTOMER'S] REAL NAME

UNITED STATES POSTAL SERVICE

By: _____

By: _____

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Appendix A
Return Policy

