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

COMPETITIVE PRODUCT PRICES
GLOBAL RESELLER EXPEDITED PACKAGE CONTRACTS 2
(MC2013-51)
NEGOTIATED SERVICE AGREEMENT

Docket No.
CP2016-166

NOTICE OF UNITED STATES POSTAL SERVICE OF FILING A FUNCTIONALLY EQUIVALENT GLOBAL RESELLER EXPEDITED PACKAGE 2 NEGOTIATED SERVICE AGREEMENT
(May 12, 2016)

In accordance with 39 C.F.R. § 3015.5 and Order No. 1746,[1] the United States Postal Service (Postal Service) hereby gives notice that it is entering into a Global Reseller Expedited Package 2 (GREP 2) contract.

Prices and classifications not of general applicability for GREP contracts were previously established by the Decision of the Governors of the United States Postal Service on the Establishment of Prices and Classifications for Global Reseller Expedited Package Contracts, issued March 24, 2010 (Governors' Decision No. 10-1).[2] Subsequently, the Postal Regulatory Commission (Commission) added Global Reseller Expedited Package Contracts 1 (MC2010-21 and CP2010-36) to the competitive

[1] PRC Order No. 1746, Order Adding Global Reseller Expedited Package Contracts 2 to the Competitive Product List Negotiated Service Agreement, Docket Nos. MC2013-51 and CP2013-64, June 13, 2013.
[2] Governors' Decision No. 10-1 was filed under seal on March 29, 2010, and a redacted copy of Governors' Decision No. 10-1 was included as Attachment 2 to Request of the United States Postal Service to Add Global Reseller Expedited Package Contracts to the Competitive Products List, and Notice of Filing (Under Seal) of Contract and Enabling Governors' Decision, Docket Nos. MC2010-21 and CP2010-36, March 29, 2010, available at http://prc.gov/Docs/67/67351/MC2010-21%20Global%20Resellers%20Request.pdf.

product list.[3] Thereafter, the Commission included a number of individual GREP contracts within the Global Reseller Expedited Package Contracts 1 (MC2010-21) product.[4]

In Order No. 1746, the Commission granted the Postal Service's request to add a new product identified as GREP 2 to the competitive product list.[5] The Commission determined that individual contracts may be included as part of the GREP 2 product if they meet the requirements of 39 U.S.C. § 3633 and if they are functionally equivalent to the baseline agreement under the GREP 2 product grouping, which is the contract filed in Docket Nos. MC2013-51 and CP2013-64.[6] Thereafter, the Commission included a number of individual GREP contracts within the Global Reseller Expedited Package Contracts 2 (MC2013-51) product.[7]

[3] PRC Order No. 445, Order Concerning Global Reseller Expedited Package Contracts Negotiated Service Agreement, Docket Nos. MC2010-21 and CP2010-36, April 22, 2010.
[4] *See, for example,* PRC Order No. 755, Order Approving Additional Global Reseller Expedited Package Contract Negotiated Service Agreement, PRC Docket No. CP2011-65, June 30, 2011, at 6; PRC Order No. 811, Order Approving Additional Global Reseller Expedited Package Contracts 1 Negotiated Service Agreement, Docket No. CP2011-67, August 18, 2011, at 5; PRC Order No. 1177, Order Approving Additional Global Reseller Expedited Package Contract 1 Negotiated Service Agreement, Docket No. CP2012-14, January 27, 2012, at 7; PRC Order No. 1337, Order Approving an Additional Global Reseller Expedited Package Contract Negotiated Service Agreement, Docket No. CP2012-21, May 9, 2012, at 5; PRC Order No. 1571, Order Approving an Additional Global Reseller Expedited Package Contracts 1 Negotiated Service Agreement, Docket No. CP2013-20, December 10, 2012, at 4; PRC Order No. 2301, Order Approving Additional Global Reseller Expedited Package Contracts 1 Negotiated Service Agreement, Docket No. CP2015-22, December 22, 2014, at 6.
[5] PRC Order No. 1746, at 9.
[6] *Id.*, at 8.
[7] *See, for example,* PRC Order No. 2087, Order Approving Additional Global Reseller Expedited Package Contracts 2 Negotiated Service Agreement, Docket No. CP2014-51, June 4, 2014; PRC Order No. 2169, Order Approving Additional Global Reseller Expedited Package Contracts 2 Negotiated Service Agreement, Docket No. CP2014-71, August 26, 2014; PRC Order No. 2626, Order Approving Additional Global Reseller Expedited Package Contracts 2 Negotiated Service Agreement, Docket No. CP2015-106, July 30, 2015; PRC Order No. 2682, Order Approving Additional Global Reseller Expedited Package Contracts 2 Negotiated Service Agreement, Docket No. CP2015-127, August 25, 2015; PRC Order No. 2924, Order Approving Additional Global Reseller Expedited Package Contracts 2 Negotiated Service Agreement, Docket No. CP2016-44, December 23, 2015; PRC Order No. 3008, Order Approving Additional Global Reseller Expedited Package Services 2 Negotiated Service Agreement, Docket No. CP2016-89, January 8, 2016; PRC Order No. 3022, Order Approving Additional Global Reseller Expedited Package Services 2 Negotiated Service Agreement, Docket No. CP2016-92, January 12,

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

I. Background

The first GREP contract was filed on March 29, 2010.[8] In Order No. 1746, the Commission designated the agreement that is the subject of Docket Nos. MC2013-51 and CP2013-64 as the baseline agreement for the GREP 2 product.[9] The Postal Service demonstrates below that the agreement that is included with this filing is functionally equivalent to the first GREP 2 contract that was the subject of Docket Nos. MC2013-51 and CP2013-64. Accordingly, the contract that is the subject of this docket should be included within the GREP 2 product.

II. Identification of the Additional GREP 2 Contract

2016; PRC Order No. 3053, Order Approving Additional Global Reseller Expedited Package Services 2 Negotiated Service Agreement, Docket No. CP2016-97, January 28, 2016.

[8] Request of the United States Postal Service to Add Global Reseller Expedited Package Contracts to the Competitive Products List, and Notice of Filing (Under Seal) of Contract and Enabling Governors' Decision, Docket Nos. MC2010-21 and CP2010-36, March 29, 2010.

[9] PRC Order No. 1746, at 8.

The Postal Service submits that this additional GREP 2 contract fits within the Mail Classification Schedule (MCS) language that concerns the GREP 2 product grouping.[10]

This additional GREP 2 contract is intended to become effective on June 1, 2016. The agreement is with same customer as the GREP 1 contract filed in CP2015-59, which is scheduled to expire on May 31, 2016.[11] The agreement is to remain in effect for one calendar year from the effective date, in accordance with the terms of Article 11.

III. Functional Equivalency of GREP 2 Contracts

This GREP 2 contract is substantially similar to the contract filed in Docket Nos. MC2013-51 and CP2013-64. The contract shares similar cost and market characteristics with that contract. In Governors' Decision No. 11-6, the Governors established a pricing formula and classification that ensure that each outbound international competitive agreement (including GREP 2 agreements) meets the criteria of 39 U.S.C. § 3633 and the regulations promulgated thereunder. In addition, the GREP language in the MCS requires that each GREP contract must cover its attributable costs. The contract at issue here meets the Governors' criteria and thus exhibits similar cost and market characteristics to the contract filed in Docket Nos. MC2013-51 and CP2013-64.

The functional terms of the contract at issue are the same as those of the contract that is the subject of Docket Nos. MC2013-51 and CP2013-64, which serves as

[10] *See* PRC, (Draft) Mail Classification Schedule, posted January 15, 2016 (with revisions through April 10, 2016), available at http://www.prc.gov/mail-classification-schedule at 486-491.
[11] PRC Order No. 3242, Order Approving Modification One to a Global Reseller Expedited Package Services 1 Negotiated Service Agreement, Docket No. CP2015-59, April 15, 2016.

the baseline agreement for the GREP 2 product grouping. The benefits of the contract to the Postal Service are comparable as well. Therefore, the Postal Service submits that the contract is functionally equivalent to the contract that is the subject of Docket Nos. MC2013-51 and CP2013-64, and should be added to the competitive product list as a GREP 2 contract.

In a concrete sense as well, this GREP contract shares the same cost and market characteristics as the contract filed in Docket Nos. MC2013-51 and CP2013-64. Customers for GREP 2 contracts are resellers that market Priority Mail Express International and Priority Mail International, and/or First-Class Package International Service at discounted prices to their customers, especially small- or medium-sized businesses. Prices offered under the contracts may differ depending on the postage commitments made by the customers. Prices also may differ depending upon when the agreement is signed, due to the incorporation of updated costing information. These differences, however, do not alter the contracts' functional equivalency. Because the agreement incorporates the same cost attributes and methodology, the relevant characteristics of this GREP contract are similar, if not the same, as the relevant characteristics of the contract filed in Docket Nos. MC2013-51 and CP2013-64.

Like the contract that is the subject of Docket Nos. MC2013-51 and CP2013-64, this contract also fits within the parameters outlined by the Governors' Decision establishing the rates for GREP agreements. There are, however, differences between this contract and the contract that is the subject of Docket Nos. MC2013-51 and CP2013-64, which include:

- The name and address of the customer in the title and first paragraph of the agreement;
- The deletion of the Introduction section and two of the Whereas clauses in the Introduction section;
- In Article 1 and subsequent articles, “Express Mail International” has been replaced with “Priority Mail Express International”;
- A minor revision to the definition of “Effective Date” in Article 2, paragraph (4);
- In Article 2, paragraph (7), a definition for “Reseller’s Designated Customers” has been replaced with a definition for “Reseller’s Customers” and the term “Reseller’s Customers” is used throughout the agreement;
- The definition of “USPS Price List” has been added to Article 2, paragraph (8)
- A revised definition of Qualifying Mail in Article 3, which excludes Priority Mail Express International Flat-Rate items and Priority Mail International Flat-Rate items, as well as items destined to certain countries, addressed to certain persons, or tendered on behalf of certain third parties or entities;
- A revised Article 4 concerning Non-Qualifying Mail;
- In Article 5, paragraph (2) and some subsequent articles, the option of postage payment through the Electronic Verification System (eVS) is mentioned;
- A slightly revised summary of the Postal Service’s obligations to seek non-public treatment of certain information, in Article 5, paragraph (3);

- A revised Article 6, paragraph (1) concerning the prices Reseller is to pay to USPS, and an additional Article 6, paragraph (2) concerning prices Reseller is to offer Reseller's Customers, which results in the renumbering of subsequent paragraphs of Article 6;
- A revised Article 6, paragraph (3) concerning payment method;
- A revised Article 6, paragraph (4) concerning advance notification that Reseller is to provide the Postal Service;
- A revised Article 6, paragraph (5) concerning tender;
- Revisions to Article 6, paragraph (6);
- Minor revisions to Article 6, paragraph (7);
- A revised Article 6, paragraph (8) concerning software;
- A slightly revised Article 6, paragraph (11) concerning confidentiality, and the deletion of two subsequent paragraphs in Article 6;
- A revised Article 6, paragraph (13) concerning penalties;
- Revisions to Article 7 concerning postage updates;
- The negotiated minimum revenue commitment included in Article 8, paragraph (1);
- The penalty in Article 8, paragraph (2);
- A revision to Article 8, paragraph (3), concerning the periodic review of the Reseller's progress toward achieving the annualized minimum commitment set forth in Article 8, paragraph (1);
- A revised Article 11 concerning the term of the agreement;

- A revised Article 14, which concerns entire agreement and the survival of obligations;
- A revision to the reference in Article 16, to Commission docket numbers concerning the Annual Compliance Report, in which the Postal Service may file confidential information related to this agreement;
- The renumbering of Article 24 of the MC2013-51 and CP2013-64 agreement as Article 23;
- The renumbering of Article 23 of the MC2013-51 and CP2013-64 agreement as Article 24, and revision of that article;
- Minor revisions to Article 25 concerning paragraph headings and reference citations;
- The renumbering of Article 28 of the MC2013-51 and CP2013-64 agreement as Article 27;
- The renumbering of Article 27 of the MC2013-51 and CP2013-64 agreement as Article 28, and the identification of the customer's representative to receive notices under the agreement;
- A revised Article 31 concerning the Postal Service soliciting sales;
- A revised Article 33 concerning limitation of liability;
- Revisions to Article 34 concerning warranties and representations;
- The identity of the signatory to the agreement; and
- Revised Annexes to the agreement.

The Postal Service does not consider that the specified differences affect either the fundamental service the Postal Service is offering or the fundamental structure of

the contract. Nothing detracts from the conclusion that this agreement is "functionally equivalent in all pertinent respects"[12] to the contract that is the subject of Docket Nos. MC2013-51 and CP2013-64.

Conclusion

For the reasons discussed, and as demonstrated by the financial data filed under seal, the Postal Service has established that this GREP 2 contract is in compliance with the requirements of 39 U.S.C. § 3633. In addition, this GREP 2 contract is functionally equivalent to the baseline GREP 2 contract that is the subject of Docket Nos. MC2013-51 and CP2013-64. Accordingly, this contract should be added to the GREP 2 product grouping.

Respectfully submitted,

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[12] PRC Order No. 85, Order Concerning Global Plus Negotiated Service Agreements, Docket Nos. CP2008-8, CP2008-9, and CP2008-10, June 27, 2008, at 8.

GLOBAL CUSTOMIZED MAIL AGREEMENT BETWEEN THE UNITED STATES POSTAL SERVICE AND [redacted]

This Agreement ("Agreement") is between [redacted] ("Reseller"), with offices at [redacted] and the United States Postal Service ("USPS"), an independent establishment of the Executive Branch of the United States Government, with offices at 475 L'Enfant Plaza SW, Washington, DC 20260-9998. The Reseller and the USPS may be referred to individually as a "Party" and together as the "Parties." WHEREAS, the Parties desire to enter into a non-exclusive relationship whereby the USPS will provide certain products and/or services to the Reseller pursuant to the terms and conditions contained herein. NOW, THEREFORE, in consideration of the mutual promises set forth below, the Parties hereby agree as follows:

1. Purpose of the Agreement. This Agreement shall govern the use the Reseller may make of discounted prices for Priority Mail Express International, Priority Mail International, and First-Class Package International Service.

2. Definitions. As used in this Agreement: **(1)** "IMM" means the *International Mail Manual* as found on the USPS website pe.usps.com on the date of mailing. **(2)** "DMM" means the *Domestic Mail Manual* as found on the USPS website pe.usps.com on the date of mailing. **(3)** "Effective Date" means the first date on which the USPS is willing to accept Qualifying Mail shipments from the Reseller under this Agreement. **(4)** "PC Postage Provider" means any one of the USPS-authorized providers of software-based solutions for managing postage accounts listed in DMM 604.4.1.4. **(5)** "Qualifying Mail" means mail that meets the requirements set forth in Article 3 of this Agreement. **(6)** "Non-Qualifying Mail" means mail that meets the requirements set forth in Article 4 of this Agreement. **(7)** "Reseller's Customers" means any third party to which the Reseller agrees to offer rates under the terms of this contract. **(8)** "USPS Price List" means the *Price List (Notice 123)* as found on the USPS website pe.usps.com on the date of the mailing.

3. Qualifying Mail. With the exception of:

- **(1)** Any item destined for any country included in Country Groups E-1 and E-2 under Supplement No. 1 to Title 15, Code of Federal Regulations, Part 740;
- **(2)** any item addressed to persons or entities identified on the Office of Foreign Assets Control's (OFAC's) Specially Designated Nationals List, OFAC's Foreign Sanctions Evaders List, the Bureau of Industry and Security's (BIS's) Denied Persons List, or BIS's Entity List, or subject to active sanctions by the U.S. Department of State pursuant to Executive Order No. 13382; and
- **(3)** any item tendered on behalf of third parties or entities identified on OFAC's Specially Designated Nationals List, OFAC's Foreign Sanctions Evaders List, BIS's Denied Persons List, or BIS's Entity List, or subject to active sanctions by the U.S. Department of State pursuant to Executive Order No. 13382;

"Qualifying Mail" means mail that: **(a)** meets the requirements set forth in IMM 220 for Priority Mail Express International, excluding all Flat Rate items; **(b)** meets the requirements set forth in IMM 230 for Priority Mail International, excluding all Flat Rate items and Priority Mail International Regional Rate Boxes; and **(c)** meets the requirements set forth in IMM 250 for First-Class Package International Service; except as those requirements conflict with the applicable specific preparation requirements set forth in Article 6.

4. Non-Qualifying Mail. "Non-Qualifying Mail" means any mail that does not meet the requirements set forth in Article 3 of this Agreement. The USPS, at its option and without forfeiting any of its rights under this Agreement, either may refuse to accept Non-Qualifying Mail or may accept Non-Qualifying Mail at the applicable published prices.

5. Obligations of the USPS. The USPS hereby agrees: **(1)** Postage. To provide discounted prices for Qualifying Mail paid for and tendered as required by this Agreement. **(2)** Notice of Postage Due. To provide the Reseller with a statement to support the calculation of postage due to the USPS as a result of discrepancies between the PC postage or the postage paid through the Electronic Verification System (eVS®) administered by USPS (as described in Article 6, Paragraph 2) that was applied by Reseller's Customers sending Qualifying Mail, and the actual postage due to the USPS under this Agreement. **(3)** Confidentiality. To seek non-public treatment of information it determines to be eligible for protection from public disclosure under applicable law and practice when it files the Agreement with the Postal Regulatory Commission, or when it files information (including data) in connection with the Agreement in accordance with other regulatory requirements.

6. Obligations of the Reseller. The Reseller hereby agrees: **(1)** Prices that Reseller is to Pay USPS: To pay postage to the USPS for Qualifying Mail in accordance with the Annexes to this Agreement. **(2)** Prices Offered by Reseller to Reseller's Customers. Subject to the conditions of this Agreement, the Reseller has the right to offer the Reseller's Customers discounts for Qualifying Mail [redacted] **(3)** Payment Method. (a) To pay postage to the USPS through the intermediary of one or more PC Postage Providers of the Reseller's choosing provided that the PC Postage Provider(s) is listed as approved in DMM 604.4.1.4, and capable of both (i) programming rates based on this Agreement, and (ii) complying with USPS reporting requirements related to this Agreement; and/or (b) Only after notification from USPS to the Reseller that postage payment through the Electronic Verification System (eVS®) is acceptable, to pay postage through eVS®, using a permit imprint subject to the conditions stated in DMM 604.5 and IMM 152.6, following standards as published in USPS Publication 205 *Electronic Verification System (eVS®) Business and Technical Guide*, USPS Publication 199 *Intelligent Mail Package Barcode - (IMpb)*

Implementation Guide for: Confirmation Services and Electronic Verification System (eVS) Mailers, and other related documents. Reseller may pay postage through eVS® only after USPS provides notification to the Reseller that postage payment through the eVS® system under this Agreement is permissible. **(4)** Advance Notification. To provide, using a method as stated in Article 28: (a) The Manager, Customized Mail, USPS, with notification of the USPS-approved PC Postage Provider(s) the Reseller intends to use at least fifteen (15) days in advance of the first use of that PC Postage Provider(s) in connection with this Agreement; (b) the Manager, Customized Mail, USPS, with notification of the Reseller's intent to add an additional PC Postage Provider(s), or to cease using a particular PC Postage Provider(s), at least fifteen (15) days in advance of the date of the intended change; and (c) the Manager, Customized Mail, USPS, with any and all relevant information required to identify a particular sender tendering Qualifying Mail to the USPS under the pricing terms of this Agreement, as quickly as possible after the relevant information has been determined. **(5)** Tender. To require that the Reseller's Customers present the mailings to the USPS using any means of tender the USPS authorizes for items paid for by use of PC Postage or eVS®, with the exception of the following means of tender: when using PC Postage can't tender to the USPS at a Bulk Mail Entry Unit or a USPS retail window and when using eVS can't tender to a USPS retail window. **(6)** Customs, Export, and Other Documentation. To provide and require that Reseller's Customers provide any necessary documentation, including data provided in electronic format, in connection with each mailing, in the form and at the time specified by the USPS, Customs & Border Protection, Transportation Security Administration, the U.S. Census Bureau, a destination country foreign government, or other authority. The Reseller further understands and agrees to notify the Reseller's Customers that the failure to provide any such required documentation may result in refusal at acceptance, delay in processing, involuntary seizure by customs authorities, and/or return of mail to the sender. **(7)** Customs, Export, and Other Requirements. To comply with and require the Reseller's Customers to comply with any regulation or order promulgated by the USPS, OFAC, the U.S. Department of the Treasury, the U.S. Census Bureau, BIS, the U.S. Department of Commerce, the U.S. Department of State, the U.S. Customs & Border Protection, the U.S. Fish and Wildlife Service, the Transportation Security Administration, a destination country foreign government, or other governmental unit, in accordance with any requirements specified by those authorities. See IMM 5 for additional information. The Reseller further understands and agrees to notify the Reseller's Customers that any non-compliance may lead to fines, denial of mailing privileges, and/or other penalties, including, but not limited to, the payment of any fines, penalties, expenses, damages, and/or other charges assessed to the Postal Service and resulting from the Reseller's Customers' failure to comply with applicable laws and regulations of the origin country, destination country, or any country through which a mailing tendered under this Agreement passes. **(8)** Software. (a) If postage payment is through a PC Postage Provider, to require the Reseller's Customers to apply address labels and Customs declarations to Qualifying Mail using the software provided by the approved PC Postage Provider which the Reseller has identified as its chosen postage payment intermediary. (b) If postage payment is through eVS® to create address labels for PMEI, PMI, and FCPIS Qualifying Mail using eVS® and to send the required Customs information for each Qualifying Mail item to USPS through USPS PTR Shipping Services file 1.7 or 2.0, in accordance with the most recent versions of USPS Export Compliance Customs Data Requirements and USPS Guidelines for Privately Printed customs Declarations Forms. (The most recent versions of these two documents, as of July 6, 2015, were available at https://ribbs.usps.gov/intcustomsforms/documents/tech_guides/ExportComplianceCustomsDataRequirements.pdf and https://ribbs.usps.gov/intcustomsforms/documents/tech_guides/GuidelinesforPrivatelyPrintedCustomsDeclarationForms.pdf). **(9)** Notices to Reseller's Customers. To provide notice to the Reseller's Customers of the terms and conditions identified in this Agreement as requiring such notice. **(10)** Postage Due. To pay postage due to the USPS as a result of discrepancies between the PC postage or postage paid through eVS® applied by the Reseller's Customers, and the actual postage due to the USPS under this Agreement. **(11)** Confidentiality. To treat as confidential and not disclose to third parties, absent express written consent by the USPS, any information related to this Agreement that is treated as non-public by the Postal Regulatory Commission. **(12)** Compliance. To comply with all applicable USPS regulations and orders, and in good faith, to seek to comply with all other applicable laws and regulations. **(13)** Penalties. To pay any fines or penalties, as well as any other expenses, damages, and/or charges (including any applicable duties, taxes, and/or fees vis-a-vis any federal agency other than the USPS), to the extent such are due and owing, and are no longer eligible to be contested by the Reseller (a) that result from an action of any governmental entity that regulates exports and/or imports in relation to any item tendered under this Agreement, or (b) that result from the Reseller's and/or Reseller's Customer's failure to comply with applicable laws and regulations of the origin country, destination country or any country through which a mailing tendered under this Agreement passes (including failure to provide necessary documentation and/or failure to obtain any required license or permit).

7. Postage Updates. (1) In the event that the USPS incurs an increase in costs [redacted], the USPS shall notify the Reseller and modify the prices established under this Agreement. [redacted] **(2)** The USPS will give the Reseller thirty (30) days' notice of changes to the prices in the Annexes. **(3)** Any revision of prices in the Annexes shall not be retroactive. (4) No price shall increase beyond the non-discounted published price for the affected service.

8. Minimum Commitment. (1) The Reseller is required to meet an annualized minimum commitment of [redacted] **(2)** In the event that the Reseller does not achieve the postage commitment in Paragraph 1 of this

Article, the Reseller agrees to pay to the USPS [redacted]. **(3)** The USPS shall perform a periodic review of the Reseller's progress toward achieving the annualized minimum commitment in Paragraph 1 of this Article. [redacted] Nothing in the review process is intended to affect the Reseller's annualized minimum commitment in Paragraph 1 of this Article.

9. No Service Guarantee. Nothing in this Agreement shall be construed as a representation or guarantee by the USPS that Qualifying Mail will be delivered to the appropriate addresses within any particular time. The Reseller shall notify the Reseller's Customers that there is no service guarantee for mail tendered to the USPS at the discounted prices provided through this Agreement.

10. Customs Duties and Taxes. Customs duties and taxes for packages mailed under this Agreement are the responsibility of the addressee. The Reseller shall notify the Reseller's Customers that Customs duties and taxes for packages mailed under this Agreement are the responsibility of the addressee.

11. Term of the Agreement. (1) The USPS will notify the Reseller of the Effective Date of the Agreement within thirty (30) days after receiving the approval of the entities that have oversight responsibilities for the USPS. If the Effective Date of this Agreement is the first of the month, the Agreement shall remain in effect for one calendar year from the Effective Date (for example, if the Effective Date of the Agreement is April 1, the Agreement will expire on March 31 of the subsequent year), unless terminated sooner pursuant to Article 12 or Article 13. If the Effective Date of this Agreement is not the first of the month, the Agreement shall remain in effect until the last day of the month in which the Effective Date falls in the year subsequent to the Effective Date (for example, if the Effective Date of the Agreement is April 2 or a later day in April, the Agreement will expire on April 30 in the subsequent year), unless terminated sooner pursuant to Article 12 or Article 13. **(2)** The USPS shall have no obligation to notify the Reseller of the status of the approval process or of potential fulfillment of the approval process. **(3)** If the Reseller has met its annualized minimum commitment under Article 8, the USPS may, prior to the expiration of this Agreement, provide notice to the Reseller in accordance with Article 28 that this Agreement has been extended for an additional month.

12. Termination of the Agreement. (1) Either Party to this Agreement, in its sole discretion, may terminate the Agreement for any reason, without cost, fault, or penalty, regardless of whether either Party is in default, upon a thirty (30) day written notification, unless a time frame longer than thirty (30) days that falls within the term of the Agreement is indicated by the terminating Party. **(2)** In the event that this Agreement is terminated for any reason before the termination date provided for in Article 11, the minimum commitment in Article 8 shall be calculated on a pro rata basis to reflect the actual duration of the Agreement. **(3)** In the event of early termination under this Article, the Reseller shall notify its PC Postage Provider(s) and the Resellers' Customers of the date the discounted prices will no longer be available to them through this Agreement.

13. Modification of the Agreement. (1) Any modification of this Agreement or additional obligation assumed by either Party in connection with this Agreement, with the exception of changes to prices under the terms of Article 7 and with the exception of a notice of termination under the terms of Article 12, shall be binding only if placed in writing and signed by each Party. **(2)** Modifications may be contingent upon any and all necessary approvals by USPS management's executive committee, the Board of Governors of the USPS, the Governors of the USPS, the Postal Regulatory Commission, and/or any other governmental body with oversight responsibility for the USPS. **(3)** If such approvals are required, the modifications will not become effective until such time as all necessary approvals are obtained. **(4)** The USPS will notify the Reseller of the date the modification becomes effective within thirty (30) days after receiving the approval of the entities that have oversight responsibility for the USPS. **(5)** The USPS shall have no obligation to notify the Reseller of the status of the approval process or of potential fulfillment of the approval process.

14. Entire Agreement and Survival of Obligations. (1) This Agreement, including all Annexes thereto, shall constitute the entire agreement between the Parties regarding Priority Mail Express International Qualifying Mail, Priority Mail International Qualifying Mail, and First-Class Package International Service Qualifying Mail as defined in Article 3 of this Agreement. **(2)** The obligations of the Parties with respect to confidentiality, as provided for in Article 5, Paragraph 3; Article 6, Paragraph 11; and Article 16 will expire ten (10) years from the date of termination or expiration of this Agreement. **(3)** The obligations of the Parties with respect to notice and payment of postage due, as provided for in Article 5, Paragraph 2, and Article 6, Paragraph 10, will expire ninety (90) days from the date of termination or expiration of this agreement. **(4)** The Reseller is responsible for any remaining obligations under any Reseller agreement between the Reseller and USPS. **(5)** With the exception of the Agreement mentioned in Article 14, Paragraph 4 above, any prior understanding or representation of any kind preceding the date of this Agreement regarding Priority Mail Express International, Priority Mail International, and First-Class Package International Service shall not be binding upon either Party except to the extent incorporated in this Agreement.

15. Force Majeure. Neither Party shall be liable for its failure to perform under the terms of this Agreement due to any contingency beyond its reasonable control, including acts of God, fires, floods, wars, sabotage, accidents, labor disputes or

shortages; governmental laws, ordinances, rules and regulations, whether valid or invalid; court orders whether valid or invalid; inability to obtain material, equipment or transportation; and any other similar or different contingency.

16. Confidentiality. The Reseller 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 Reseller authorizes the USPS to determine the scope of information that must be made publicly available in any Commission docketed proceeding. The Reseller further understands that any unredacted portion of the Agreement or supporting information will be available on the Commission's public website, www.prc.gov. In addition, the USPS may be required to file information in connection with this Agreement (including revenue, cost, or volume data) in other Commission dockets, including the Commission docket number for the Annual Compliance Report (ACR) for the USPS fiscal year(s) in which this Agreement is in effect. Each ACR docket has a distinct docket number, such as ACR201#, in which "201#" signifies the USPS fiscal year to which the ACR pertains. The Reseller 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 Reseller, the USPS will notify the Reseller of the docket number of the Commission proceeding to establish the prices in this agreement once assigned.

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

18. Indemnity. The Reseller shall indemnify and save harmless the USPS and its officers, directors, agents, and employees from any and all claims, losses, costs, damages, or expenses ("Claims") growing out of or connected in any other way with the discharge by the Reseller or its agent(s) of any undertaking contained in this Agreement, except for Claims arising out of the negligence or willful misconduct of the USPS or of its officers, agents, or employees. Notwithstanding its obligation to indemnify the USPS, the Reseller shall not be liable for any consequential damages suffered by the USPS.

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

20. Suspensions of Mail Service. In the event that USPS announces a suspension of Priority Mail Express International, Priority Mail International, or First-Class Package International Service from the United States to a country, which would prevent delivery of Qualifying Mail to addressees in that country, the Reseller shall notify the Reseller's Customers not to tender Priority Mail Express International, Priority Mail International, or First-Class Package International Service, as appropriate, to the USPS until service is restored.

21. Assignment. The rights of each Party under this Agreement, with the exception of the Reseller's right to provide the Reseller's Customers with access to a portion or all of its discount from the applicable published postage prices, are personal to that Party and may not be assigned or transferred to any other person, firm, corporation, or other entity without the prior written consent of the other Party. Such consent shall not be unreasonably withheld.

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

23. Superseding Terms and Conditions. (1) The Parties acknowledge and understand that all obligations of the USPS under this Agreement, including the prices listed in the Annexes thereto, shall be contingent upon the USPS 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 USPS management officials, the USPS Board of Governors, the USPS Governors, the Postal Regulatory Commission, and/or any other governmental body with oversight responsibility for the USPS. The Parties acknowledge that the Agreement may not be approved by such 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 and no benefit shall inure to either Party. **(2)** In the event that the Conditions Precedent are not fulfilled, the USPS shall have no liability, which shall include no obligation to pay costs associated with any action taken by the Reseller prior to the Effective Date of the Agreement. Further, in the event of termination of the Agreement or the failure of any Condition Precedent, the USPS shall not be held liable for any damages including, without limitation, actual; special; indirect; incidental; punitive; consequential, or any other damages, which shall include but not be limited to damages for loss of business profits; business interruption; any other loss; and/or for costs incurred by either Party attributable to such non-approval, such as attorney's fees. **(3)** The prices listed in the Annexes to this Agreement are contingent upon any and all necessary approvals for corresponding USPS prices by the USPS Governors, the USPS Board of Governors, and/or the United States Postal Regulatory Commission.

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

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

26. Fraud. The Reseller shall notify the Reseller's Customers that providing false information to access discounted rates or pay less than the applicable postage due through the use of a PC Postage provider or through eVS® may subject the Reseller's Customers to criminal and/or civil penalties, including fines and imprisonment.

27. Disclaimer. The Reseller is not an agent of the USPS and must act in its own capacity in securing business from the Reseller's Customer.

28. Notices. All notices or demands to the Parties required by this Agreement shall be sufficient if delivered personally or mailed, by Priority Mail Express, to the USPS at Managing Director, Global Business and Vice President, United States Postal Service, 475 L'Enfant Plaza SW Room 5012, Washington, DC 20260-4016; or to the Reseller at [redacted] Or via e-mail to the USPS at icmusps@usps.gov; or to the Reseller at [redacted]

29. Notice. The Reseller acknowledges and understands that the USPS may review its product offerings during the term of this Agreement and that the USPS may modify existing product offerings during the term of this Agreement in a manner that could affect the Reseller's ability to achieve the volume commitment in Article 8.

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

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

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

33. Limitation of Liability. **(1)** Priority Mail Express International, Priority Mail International, and First-Class Package International Service shipments mailed under this Agreement are not insured against delay in delivery. **(2)** Unless otherwise specified by notice published in a future issue of the *Postal Bulletin* that a date-certain, postage-refund guarantee will be offered for this particular type of Global Customized Mail Agreement, Priority Mail Express International With Money-Back Guarantee Service Qualifying Mail mailed this agreement is not guaranteed against delay in delivery, and neither indemnity payments nor postage refunds will be made in the event of delay. **(3)** The USPS shall not be liable for any loss or expense, including but not limited to fines and penalties, for the Reseller's, the Reseller's Customers, or any other person's failure to comply with any export laws, rules, or regulations. **(4)** The USPS shall not be liable for any act or omission by any person not employed or contracted by the USPS including any act or omission of the Reseller, the Reseller's Customers, or

recipient of an item tendered under this Agreement. (5) The USPS bears no responsibility for the refund of postage in connection with actions by Customs authorities. (6) The USPS is not liable for any of the Reseller's actions or the Reseller's Customers' actions and bears no liability in the event of termination with or without cause.

34. Warranties and Representations. The Reseller warrants and represents that the Reseller is not subject to, and is not related to, an entity that is subject to a temporary or other denial of export privileges by BIS and that the Reseller is not listed on OFAC's Specially Designated Nationals List, OFAC's Foreign Sanctions Evaders List, BIS's Denied Persons List, or BIS's Entity List, or subject to active sanctions by the U.S. Department of State pursuant to Executive Order No. 13382.

In witness whereof, each Party to this Agreement has caused it to be executed on the latter of the two dates accompanying the Parties' signatures.

ON BEHALF OF USPS:

Signature: Frank A. Cebello

Name: Frank A. Cebello

Title: Director, International Sales

Date: 4/22/16

ON BEHALF OF [redacted]

Signatu[redacted]

Name: [redacted]

Title: [redacted]

Date: April 19 2016

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

ANNEX 2 PRICES FOR FIRST-CLASS PACKAGE INTERNATIONAL SERVICE

ANNEX 1 – PRICE CHART A
PRICES IN UNITED STATES DOLLARS FOR PRIORITY MAIL EXPRESS INTERNATIONAL RATES FOR COUNTRY GROUPS 1-17

Weight Not Over (LBS)	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17
0.5	[redacted]																
1																	
2																	
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nw (c) / 04-16

ANNEX 1 – PRICE CHART B
PRICES IN UNITED STATES DOLLARS FOR PRIORITY MAIL INTERNATIONAL RATES FOR COUNTRY GROUP 1

	NATIONWIDE RATES
Weight Not Over (LBS)	[redacted]
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nw (c) / 04 16

ANNEX 1 – PRICE CHART C
PRICES IN UNITED STATES DOLLARS FOR PRIORITY MAIL INTERNATIONAL
RATES FOR COUNTRY GROUPS 2-17

Weight Not Over (LBS)	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17
1	[redacted]															
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ANNEX 2
PRICES IN UNITED STATES DOLLARS FOR FIRST-CLASS PACKAGE INTERNATIONAL SERVICE FOR COUNTRY GROUPS 1-9

Weight Not Over (Oz)	Price Group 1	Price Group 2	Price Group 3	Price Group 4	Price Group 5	Price Group 6	Price Group 7	Price Group 8	Price Group 9
1	[redacted]								
2									
3									
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fcpis (c) 7 04 16

Certification of Prices for the Global Reseller Expedited Package Contracts 2 with [redacted]

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

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

Steven Phelps

RESTRICTED AND SENSITIVE BUSINESS INFORMATION - DO NOT DISCLOSE

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

March 22, 2011

STATEMENT OF EXPLANATION AND JUSTIFICATION

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

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

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

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

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

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

ORDER

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

By The Governors:

Louis J. Giuliano
Chairman

Attachment A

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

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

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

[redacted]

The cost coverage for a product equals [redacted]

[redacted]

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

[redacted]

[redacted]

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

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

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

Julie S. Moore

Date: 3/22/2011

Julie S. Moore
Secretary of the Board of Governors

ATTACHMENT 4

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

In accordance with 39 C.F.R. § 3007.21, the United States Postal Service (Postal Service) hereby applies for non-public treatment of certain materials filed with the Commission in these dockets. The materials pertain to an additional Global Reseller Expedited Package (GREP) contract that the Postal Service believes is functionally equivalent to the GREP contract filed in Docket Nos. MC2013-51 and CP2013-64. The contract and supporting documents establishing compliance with 39 U.S.C. § 3633 and 39 C.F.R. § 3015.5 are being filed separately under seal with the Commission. Redacted copies of the contract, a certified statement required by 39 C.F.R. § 3015.5(c)(2) concerning the contract, and Governors' Decision No. 11-6 are filed with the Notice as Attachments 1, 2, and 3, respectively.[1]

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

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

Information of a commercial nature, which under good business practice would not be publicly disclosed, as well as third party business information, is not required to be disclosed to the public. 39 U.S.C. § 410(c)(2); 5 U.S.C. § 552(b)(3) and (4). The Commission may determine the appropriate level of confidentiality to be afforded to such information after weighing the nature and extent of the likely commercial injury to

[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 each 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

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).[2] Because the portions of materials filed non-publicly in this docket fall within the scope of information not required to be publicly disclosed, the Postal Service asks the Commission to support its determination that these materials are exempt from public disclosure and grant its application for their non-public treatment.

(2) Identification, including name, phone number, and e-mail 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 GREPS contracts, the Postal Service believes that the third parties with a proprietary interest in the materials are the customer with whom the contract is made, the PC Postage Provider(s) if the customer intends to use a PC Postage Provider, and foreign postal operators.

The Postal Service maintains that customer identifying information should be withheld from public disclosure. Therefore, rather than identifying the customer for the contract that is the subject of this docket, the Postal Service gives notice that it has already informed the customer, and the PC Postage Provider (if applicable), that have a proprietary interest in the materials for the contract that is the subject of this docket of the nature and scope of this filing and their ability to address their confidentiality concerns directly with the Commission.[3] The Postal Service employee responsible for providing notice to the third parties with proprietary interest in the materials filed in these dockets is Ms. Kathy L. Lynch, Sales Support Specialist, Global Business, United States Postal Service, 475 L'Enfant Plaza, SW, Room 5425, Washington, DC 20260-4017, whose

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

[3] The Postal Service has provided a blanket notice to PC Postage Providers in light of the fact that these filings are fairly routine. To the extent required, the Postal Service seeks a waiver from having to provide each PC Postage Provider notice of this docket.

email address is kathy.l.lynch@usps.gov, and whose telephone number is 202-268-6662.

As for foreign postal operators, the Postal Service recently provided notice to all foreign postal operators within the Universal Postal Union network through an International Bureau Circular issued on January 18, 2016, that the Postal Service will be regularly submitting certain business information to the Commission. Some UPU-designated foreign postal operators may have a proprietary interest in such information. The circular includes information on how third parties may address any confidentiality concerns with the Commission. In addition, contact information for all UPU Designated Operators is available at the following link, which is incorporated by reference into the instant application:

http://pls.upu.int/pls/ap/addr_public.display_addr?p_language=AN.[4]

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

In connection with the Notice filed by the Postal Service in this docket, the Postal Service included a GREP contract, financial workpapers, a statement certifying that the agreement should meet the requirements of 39 U.S.C. § 3633(a), and a copy of Governors' Decision No. 11-6. These materials were filed under seal, with redacted copies filed publicly, after notice to the customer. The Postal Service maintains that the redacted portions of the GREP contract, certification, Governors Decision No. 11-6, related financial information, and identifying information concerning a GREP competitive contract customer should remain confidential.

With regard to the GREP competitive contract filed in this docket, the redactions on page 1, and to the footers of each page, Article 28, and the signature block of the contract constitute the name or address of postal patrons whose identifying information

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

may be withheld from mandatory public disclosure by virtue of 39 U.S.C. § 504(g)(1) and 39 U.S.C. § 410(c)(2).

The redactions to Articles 7 and 8 protect information with specific impact on the customer, including the customer's commitment to the Postal Service, penalties in the event that the customer does not achieve its postage commitment, the timing and manner in which the Postal Service might change prices under the contract..

The redactions applied to the Governors' Decision and financial workpapers protect commercially sensitive information such as underlying costs and assumptions, pricing formulas, information relevant to the customer's mailing profile, business information of the PC Postage Provider that the customer intends to use, and cost coverage projections. To the extent practicable, the Postal Service has limited its redactions in the workpapers to the actual information it has determined to be exempt from disclosure under 5 U.S.C. § 552(b). However, in a limited number of cases, narrative passages, such as words or numbers in text, were replaced with general terms describing the redacted material.

The Postal Service anticipates that the Commission will request the Postal Service to file cost, volume and revenue data associated with the agreement after the expiration of this agreement. When the Postal Service files the data that will show the actual revenue and cost coverage of the customer's completed contract, the Postal Service will redact in its public filing all of the values included that are commercially sensitive information and will also protect any customer identifying information from disclosure.

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

If the portions of the contract that the Postal Service determined to be protected from disclosure due to their commercially sensitive nature were to be disclosed publicly, the Postal Service considers that it is quite likely that it would suffer commercial harm. First, revealing customer identifying information would enable competitors to focus marketing efforts on current postal customers which have been cultivated through the efforts and resources of the Postal Service. The Postal Service considers that it is highly probable that if this information were made public, its competitors would take immediate advantage of it. The GREP competitive contracts include a provision allowing the Reseller to terminate its contract without cause by providing a certain number of days' notice. Therefore, there is a substantial likelihood of the Postal Service losing customers to a competitor that targets customers of the Postal Service with lower pricing.

Other redacted information in each contract includes negotiated contract terms, such as the minimum revenue commitment agreed to by the customer, the penalty in the event the customer does not achieve the minimum revenue commitment, and the percentage of cost increase that may trigger a consequential price increase. This information is commercially sensitive, and the Postal Service does not believe that it would be disclosed under good business practices. Competitors could use the information to assess the offers made by the Postal Service to its customers for any possible comparative vulnerabilities and could focus sales and marketing efforts on those areas, to the detriment of the Postal Service. Additionally, other potential customers could use the information to their advantage in negotiating the terms of their

own agreements with the Postal Service. The Postal Service considers these to be highly probable outcomes that would result from public disclosure of the redacted material.

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

Potential customers could also deduce from the rates provided in the contract, from the information in the workpapers, or from the cost, volume and revenue data that the Commission may require the Postal Service to file after the agreement's expiration, whether additional margin for net profit exists between the contract and the contribution that GREP competitive contracts must make. From this information, each customer could attempt to negotiate ever-increasing incentives, such that the Postal Service's ability to negotiate competitive yet financially sound rates would be compromised. Even customers involved in GREP competitive contracts could use the information in the workpapers, or the cost, volume and revenue data associated with the expired agreement, in an attempt to renegotiate their own rates, threatening to terminate their current agreements, although the Postal Service considers this to be less likely than the risks previously identified.

Price information in the contract, the Governors' Decision, the financial spreadsheets, and any cost, volume and revenue data concerning the contract filed after the agreement's expiration consists of sensitive commercial information of the customer. Disclosure of such information could be used by competitors of the customer to assess the customer's underlying costs, and thereby develop a benchmark for the development of a competitive alternative.

Information in the financial spreadsheets and any cost, volume and revenue data concerning this agreement filed after the expiration of this contract also consists of sensitive commercial information related to agreements between the Postal Service and the PC Postage Provider selected by the customer. Such information would be extremely valuable to competitors of both the Postal Service and the PC Postage

Provider. Using detailed information about such agreements, competitors would be able to better understand the costs of the postage programs used, and identify areas where they could adapt their own operations to be more competitive. In addition, competitors of the PC Postage Provider could use such information to their advantage in negotiating the terms of their own agreements with the Postal Service.

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

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

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

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

Hypothetical: Customer A signs a GREP competitive contract that is filed with the Postal Regulatory Commission. At the same time, Customer B is considering signing a GREP competitive contract and has no real concern about the penalty provision, which calls for Customer B to pay up to $10,000 in penalties if it fails to meet its minimum volume commitment before termination of the agreement. The information about

Customer A's penalty provision is made public. Customer A's agreement calls for a $5,000 maximum payment as penalty. Customer B sees the information. Customer B then insists that it will not agree to be obligated to pay any more than Customer A was obligated to pay, diminishing the Postal Service's bargaining leverage. The same rationale applies to commitment levels and price adjustment terms.

Identified harm: Public disclosure of the pricing included in the agreement would provide potential customers extraordinary negotiating power to extract lower rates.

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

Alternatively, Customer B attempts to extract lower rates only for those destinations for which Customer B believes that the Postal Service is the low-cost provider among all service providers. The Postal Service may agree to this demand in order to keep the customer's business overall, which the Postal Service believes will still satisfy total cost coverage for the agreement. Then, the customer uses other providers for destinations that are different than those for which the customer extracted lower

rates. This impacts the Postal Service's overall projected cost coverage for the agreement, such that the Postal Service no longer meets its cost coverage requirement. Although the Postal Service could terminate the contract when the Postal Service first recognizes that the customer'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 the GREP competitive contract product overall.

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

Hypothetical: A competing delivery service obtains a copy of the unredacted version of the financial workpapers from the Postal Regulatory Commission's website. The competing delivery service analyzes the workpapers to determine what the Postal Service would have to charge its customers in order to meet the Postal Service's minimum statutory obligations for cost coverage and contribution to institutional costs. The competing delivery service then sets its own rates for products similar to what the Postal Service offers its GREP competitive contract customers under that threshold and markets its ability to guarantee to beat the Postal Service on price. By sustaining this below-market strategy for a relatively short period of time, the competitor, or all of the Postal Service's competitors acting in a likewise fashion, would freeze the Postal Service out of the business-to-business and customer-to-business services markets for which the GREP competitive contract product is designed.

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

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

Identified harm: Public disclosure of information in the contract and financial workpapers would be used by the competitors of the PC Postage Provider to the Postal Service and/or each PC Postage Provider's detriment.

Hypothetical: A firm competing with the customer's selected PC Postage Provider obtains a copy of the unredacted version of the contract and financial workpapers from the Commission's website. The firm uses the information to assess the PC Postage Provider's revenue sources and growth opportunities, and thereby develop benchmarks for competitive alternatives. In addition, disclosure of such information could provide leverage to other PC Postage Providers in their negotiations with the Postal Service concerning financial arrangements that PC Postage Providers make with the Postal Service in the future.

Identified harm: Public disclosure of any cost, volume and revenue data concerning this agreement that the Commission may require the Postal Service to file after the contract's expiration would give competitors a marketing advantage.

Hypothetical: A competitor could use any cost, volume and revenue data associated with this agreement, which the Commission may require the Postal Service to file in this docket after this agreement's expiration, to "qualify" potential customers. The competitor might focus its marketing efforts only on customers that have a certain mailing profile, and use information in the performance report to determine whether a customer met that profile.

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

The Postal Service maintains that the redacted portions of the materials filed non-publicly should be withheld from persons involved in competitive decision-making in the relevant markets, including parcel and expedited services, as well as their consultants and attorneys. Additionally, the Postal Service believes that actual or potential customers of the Postal Service for this or similar products should not be provided access to the non-public materials.

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

The Commission's regulations provide that non-public materials shall lose non-public status ten years after the date of filing with the Commission, unless the

Commission or its authorized representative enters an order extending the duration of that status. 39 C.F.R. § 3007.30.

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

None.

Conclusion

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