

NON-DISCLOSURE AGREEMENT

This is an agreement (the "Agreement") by and between the United States Postal Service, an independent establishment of the Executive Branch of the United States Government, (the "Postal Service") and United Parcel Service, Inc. a Delaware corporation and having a place of business at 55 Glenlake Parkway, N.E., Atlanta, Georgia 30328 ("UPS"). The Postal Service and UPS may be referred to individually as a "Party" or "party", and together as the "Parties" or "parties".

WITNESSETH

WHEREAS, in proceedings before the Postal Regulatory Commission, Docket No. RM2016-10, the Postal Service has filed a Periodic Reporting "Proposal Two" for review and approval by the Postal Regulatory Commission. As part of this proceeding, the Postal Service has also filed USPS-RM2016-10/NP1 (the "Confidential Information") on a nonpublic basis, because it contains confidential and commercially sensitive information; and

WHEREAS, UPS has filed a motion with the Postal Regulatory Commission seeking access to USPS-RM2016-10/NP1 for eleven specified individuals, consisting of outside counsel and consultants of UPS. These individuals have signed required certifications which state that, if granted access, they shall review USPS-RM2016-10/NP1 for purposes of analyzing Docket No. RM2016-10 only (the "Intended Purpose"), and subject to protective conditions incorporated into each of the eleven individuals' certifications, which certifications have been filed as attachments to the UPS motion; and

WHEREAS, by Order No. 3560 issued on October 11, 2016, the Postal Regulatory Commission has granted the UPS motion for access to USPS-RM2016-10/NP1 for the above eleven individuals, provided the parties first execute an "agreement regarding inadvertent disclosure within five business days from the date of [the] Order";

NOW, THEREFORE, in order to protect the confidentiality of the identified information during the exchange of information, the Postal Service and UPS agree as follows:

1. The purpose of this Agreement is to facilitate consent to access Confidential Information the Postal Service filed with the Postal Regulatory Commission in the context of providing such Information to certain consultants and outside counsel representing UPS in Docket No. RM2016-10, as provided under the Commission's Rules and Order No. 3560 ("Intended Purpose").
2. For purposes of this agreement, the Disclosing Party is the Postal Service, and UPS is the Receiving Party. The Confidential Information to be disclosed consists of materials filed under seal in Docket No. RM2016-10 – specifically, USPS-RM2016-10/NP1.
3. This Agreement shall terminate upon the date specified by the Postal Regulatory Commission. Separate and apart from this Agreement period, the parties agree that the information obtained shall be held in confidence ten years from the date of this Agreement. For that period, no Confidential Information may be disclosed or used outside of the Intended Purpose unless written consent is obtained from the Disclosing Party. All employees or agents of the Receiving Party who come into contact with the Confidential Information shall be notified of its confidential nature and shall use the same degree of care as they employ with their own proprietary information, but in all events shall use at least a reasonable degree of care.

4. The parties shall provide the same care to avoid disclosure or unauthorized use of the Confidential Information as it would provide to maintain the confidentiality of its own information, but in no event less than reasonable and prudent care, and the Confidential Information shall not be reproduced in any form except as allowed under rules or orders of the Postal Regulatory Commission, or otherwise distributed or sold by the parties in any manner whatsoever. The Receiving Party shall retain all such Confidential Information in a secure place with access limited only to such of its agents who need to know such information for purposes of this Agreement.

5. The Confidential Information shall be deemed the property of the Disclosing Party. The Receiving Party shall promptly return or provide evidence of destruction of all Confidential Information and copies thereof as required by rules or orders of the Postal Regulatory Commission. This Agreement does not confer any right, license, interest or title in, to, or under the Confidential Information to the Receiving Party and title to the Confidential Information shall remain solely in the Disclosing Party.

6. The Receiving Party shall be under no obligation to hold in confidence any Confidential Information which:

- a. is or becomes public through no fault of the Receiving Party;
- b. was known to the Receiving Party prior to the time of the disclosure by the Disclosing Party;
- c. is properly received by the Receiving Party on a non-confidential basis from any third party who is lawfully entitled to make such disclosure;
- d. is required by a judicial or administrative proceeding (including a proceeding to enforce this Agreement), or as otherwise required to be disclosed by law, in any such case after all reasonable legal remedies for maintaining such information in confidence have been exhausted, including, but not limited to, giving the Disclosing Party as much advance notice of the possibility of such disclosure as practical so the Disclosing Party may attempt to stop such disclosure or obtain a protective order concerning such disclosure; or
- e. is independently developed by the Receiving Party without breach of this Agreement.

7. The Receiving Party may release Confidential Information requested by any federal, state, or local governmental body in the proper exercise of its oversight or investigatory jurisdiction.

8. The Receiving Party shall include non-disclosure terms and limitations on use that are at least as restrictive as those provided in this Agreement in each subcontract whereunder there is any possibility of disclosure of the Confidential Information.

9. UPS hereby releases and will defend, hold harmless, and indemnify the Postal Service, each of its affiliates, and the respective directors, officers, personnel, agents, successors and assigns of the Postal Service, from and against any loss, damage, settlement, cost, expense, and any other liability (including reasonable attorneys' fees) arising out of or resulting from any allegation or claim based on or relating to (A) any intentional unauthorized disclosure by UPS or its agents or use by UPS or its agents of Confidential Information to which any protective condition applies, except to the extent such disclosure or use is agreed to by the Parties in writing, or permissible under an order or rule of the Postal Regulatory Commission, or (B) any material breach of this Agreement or negligence, strict liability, or knowing misconduct by UPS in

connection with its handling of Confidential Information to which any protective condition applies, except to the extent such disclosure or use is agreed to by the Parties in writing, or permissible under an order or rule of the Postal Regulatory Commission (collectively the "Claims"). UPS will use counsel reasonably satisfactory to the Postal Service to defend each Claim, and the Postal Service will cooperate with UPS in the defense. UPS will not consent to the entry of any judgment or enter into any settlement that requires the Postal Service to make any payment or acknowledge liability or wrongdoing without the Postal Service's prior written consent, which may not be unreasonably withheld.

10. The Receiving Party acknowledges and understands that no representations or warranties of any kind, including, without limitation, fitness for a particular purpose, merchantability, and non-infringement, are given by the Disclosing Party with respect to the Confidential Information.

11. Nothing in this Agreement shall be deemed to create, either express or implied, the power in either party to bind the other. Neither party shall be bound by the actions of the other, shall be liable for the debts of the other, or shall have a right to share in the profits of the other.

12. This Agreement shall be construed under and governed by the Federal laws of the United States. If UPS violates this Agreement, then the Postal Service shall be entitled, if it so elects, to institute and prosecute proceedings in any court of competent jurisdiction, either at law or in equity, to obtain damages for breach of this Agreement, or to obtain equitable relief to enforce its rights hereunder. The parties agree that money damages would not be a sufficient remedy for breach of the confidentiality and other obligations of this Agreement. Accordingly, each party agrees that in an action for equitable remedies under this Agreement, the disclosing party shall not be required to prove the inadequacy or insufficiency of monetary damages as a remedy. Each party further agrees to waive any requirement for a bond in connection with any such injunctive or other equitable relief.

13. If any provision of this Agreement is determined to be violative of the laws of the place where it is to be performed, then such provision shall be void and the other provisions of this Agreement shall remain in full force and effect.

14. This Agreement expresses the entire agreement and understanding of the parties with respect to the subject matter hereof and supersedes all prior oral or written agreements, commitments and understandings pertaining to the subject matter thereof. This Agreement shall not be modified or changed in any manner except in writing and signed by both parties.

15. 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. The effective date of this Agreement is the later of the two execution dates shown below ("Effective Date").

In WITNESS WHEREOF, the Postal Service and UPS have executed this Agreement as of the Effective Date described in paragraph 15 above.

UNITED STATES POSTAL SERVICE

Signature

Signature

Name

Name

Title

Title

Date

Date

UNITED PARCEL SERVICE, INC.

Signature

Signature

Name

Name

Title

Title

Date

Date