

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

COMPETITIVE PRODUCT PRICES
GLOBAL RESELLER EXPEDITED PACKAGE CONTRACTS
NEGOTIATED SERVICE AGREEMENTS

Docket No. MC2013-64

COMPETITIVE PRODUCT PRICES
GLOBAL RESELLER EXPEDITED PACKAGE CONTRACTS 3
(MC2013-64)
NEGOTIATED SERVICE AGREEMENT

Docket No. CP2013-84

**REQUEST OF THE UNITED STATES POSTAL SERVICE TO ADD GLOBAL
RESELLER EXPEDITED PACKAGE CONTRACTS 3 TO THE COMPETITIVE
PRODUCTS LIST AND NOTICE OF FILING A GLOBAL RESELLER EXPEDITED
PACKAGE 3 NEGOTIATED SERVICE AGREEMENT**
(September 30, 2013)

In accordance with 39 U.S.C. § 3642 and 39 C.F.R. § 3020.30 *et seq.*, and Order No. 1746,¹ the United States Postal Service (Postal Service) hereby requests that Global Reseller Expedited Package Contracts 3 (GREP Contracts 3), as expressed through a recently signed agreement, be added to the competitive product list within the Mail Classification Schedule (MCS). Prices and classifications not of general applicability for Global Reseller Expedited Package (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

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 A redacted copy of the Governors' Decision was filed on March 29, 2010. See Request of the United States Postal Service to Add Global Reseller Expedited Package Contracts to the Competitive Products

Postal Regulatory Commission (Commission) added Global Reseller Expedited Package Contracts 1 (MC2010-21 and CP2010-36) to the competitive product list,³ and determined that individual GREP contracts may be included as part of the GREP Contracts 1 product if they meet the requirements of 39 U.S.C. § 3633 and if they are functionally equivalent to the previously submitted GREP contract.⁴ The Commission included a number of individual GREP contracts within the Global Reseller Expedited Package Contracts 1 (MC2010-21) product.⁵ The Commission also added Global Reseller Expedited Package Contracts 2 (MC2013-51 and CP2013-64) to the competitive product list.⁶ In Order No. 1746, the Commission designated the agreement that is the subject of Docket No. CP2013-64 as the baseline agreement for the GREP Contracts 2 product.⁷

With this request, the Postal Service seeks to add the Global Reseller Expedited Package Contracts 3 product grouping to the competitive products list with the new baseline agreement filed herein.⁸

List, and Notice of Filing (Under Seal) of Contract and Enabling Governors' Decision, Docket Nos. MC2010-21 and CP2010-36, March 29, 2010, <http://prc.gov/Docs/67/67351/MC2010-21%20Global%20Resellers%20Request.pdf>, Attachment 2.

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

⁴ PRC Order No. 445, at 8.

⁵ PRC Order No. 755, Order Approving Global Reseller Expedited Package Contract Negotiated Service Agreement, PRC Docket No. CP2011-65, June 30, 2011, at 6; PRC Order No. 811; PRC Order No. 1177, Order Approving Additional Global Reseller Expedited Package Contract 1 Negotiated Service Agreement, Docket No. CP2012-14, January 27, 2012; PRC Order No. 1337, Order Approving an Additional Global Reseller Expedited Package Contract Negotiated Service Agreement, Docket No. CP2012-21, May 9, 2012.

⁶ PRC Order No. 1746, at 9.

⁷ *Id.*, at 9.

⁸ The Postal Service is not requesting that Global Reseller Expedited Package Contracts 1 or Global Reseller Expedited Package Contracts 2 be removed from the product list at this time, however, because several Global Reseller Expedited Package Contracts 1 and 2 agreements are currently in effect at this time.

In support of this Request and Notice, the Postal Service is filing the following attachments:

- Attachment 1, an application for non-public treatment of materials filed under seal;
- Attachment 2A, a redacted version of Governors' Decision No. 11-6, which authorizes management to prepare any necessary product description of nonpublished competitive services, including text for inclusion in the MCS, and to present such matter for review by the Commission;⁹
- Attachment 2B, a revised version of MCS 2510.7 Global Reseller Expedited Package contracts, which includes revisions to section 2510.7 of the draft MCS that the Commission posted August 30, 2013 on its website;¹⁰
- Attachment 2C, a redacted version of the certified statement required by 39 C.F.R. § 3015.5(c)(2);
- Attachment 3, a Statement of Supporting Justification of Giselle Valera, Managing Director, Global Business and Vice President, which is similar to the Statement of Supporting Justification used to support the classification of Global Reseller Expedited Package Contracts 1,¹¹ and which is filed pursuant to 39 C.F.R. § 3020.32; and

⁹ 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.

¹⁰ See PRC, (Draft) Mail Classification Schedule, posted April 1, 2013 (with revisions through August 30, 2013), available at <http://prc.gov/prc-pages/library/mail-classification-schedule/default.aspx?view=mail>.

¹¹ 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, PRC Docket Nos. MC2012-21 and CP2010-36, March 29, 2010, Attachment 1.

- Attachment 4, a redacted version of the contract that is the subject of this docket.

Redacted versions of the supporting financial documents for the contract that is the subject of this docket are included with this filing as separate Excel files.

The contract, Governors' Decision No. 11-6, the certified statement required by 39 C.F.R. § 3015.5(c)(2), 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.

I. Background

The first GREP contract was filed on March 29, 2010,¹² and the Commission added Global Reseller Expedited Package Contracts 1 (MC2010-21 and CP2010-36) to the competitive product list in PRC Order No. 445.¹³ Subsequently, the Commission included a number of individual GREP contracts within the Global Reseller Expedited Package Contracts 1 (MC2010-21) product.¹⁴ In Order No. 1746, the Commission added Global Reseller Expedited Package Contracts 2 (MC2013-51 and CP2013-64) to the competitive product list and designated the agreement that is the subject of Docket No. CP2013-64 "as the baseline agreement for the GREP Contracts 2 product."¹⁵

¹² 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.

¹³ PRC Order No. 445, at 9.

¹⁴ PRC Order No. 755, Order Approving Global Reseller Expedited Package Contract Negotiated Service Agreement, PRC Docket No. CP2011-65, June 30, 2011, at 6; PRC Order No. 811; PRC Order No. 1177, Order Approving Additional Global Reseller Expedited Package Contract 1 Negotiated Service Agreement, Docket No. CP2012-14, January 27, 2012; PRC Order No. 1337, Order Approving an Additional Global Reseller Expedited Package Contract Negotiated Service Agreement, Docket No. CP2012-21, May 9, 2012.

¹⁵ *Id.*, at 9.

The Postal Service respectfully requests that the contract that is the subject of this docket be considered as the new "baseline" contract for future functional equivalency analysis concerning the Global Reseller Expedited Package Contracts product. The Postal Service suggests that the Commission list the contract that is the subject of this docket as Global Reseller Expedited Package Contracts 3 on the Competitive Product list.

II. Identification of the Additional GREP 3 Contract

The Postal Service believes that the additional GREP Contracts 3 agreement included with this filing, and its terms, fit within the proposed Mail Classification Schedule (MCS) language set forth in Attachment 2B. This additional GREP Contracts 3 agreement is a contract by which the Postal Service provides a rebate for sales of Global Express Guaranteed, Priority Mail Express International, Priority Mail International, and/or First-Class Package International Service to a Sales Agent, also known as a Reseller. The Reseller is not a mailer, but rather markets Global Express Guaranteed, Priority Mail Express International, Priority Mail International, and First-Class Package International Service to its customers.

The agreement is set to expire one year after its Effective Date, which the Postal Service shall notify the customer of, within 90 days after all necessary approvals and reviews of the agreement have been obtained, unless termination of the agreement occurs sooner.

III. Filing under Part 3020, Subpart B of the Rules of Practice and Procedure

In support of the Postal Service's proposed addition of a product not of general applicability to the competitive products list that appears in the MCS, the Postal Service

is providing a copy of Governors' Decisions No. 11-6, as Attachment 2A, and a revised version of the applicable sections of the MCS for GREP Contracts 3, which the Postal Service is proposing to revise, as authorized by Governors' Decision No. 11-6. (See Attachment 2B.)

In addition, in accordance with 39 C.F.R. § 3020.30, the Postal Service is providing a Statement of Supporting Justification of Giselle Valera, Managing Director, Global Business and Vice President, as Attachment 3. This Statement is a revision of the Statements of Supporting Justification, which were included in the Postal Service's requests to add the Global Reseller Expedited Package Contracts product and GREP Contracts 2 product as competitive products within the MCS,¹⁶ Ms. Valera's statement provides support for the addition of Global Reseller Expedited Package Contracts 3 product to the competitive products list.

Under 39 U.S.C. § 3642(b), the only criteria for such review are whether the product qualifies as market dominant, whether it is excluded from the postal monopoly, and whether the proposed classification reflects certain market considerations. Each of these criteria has been previously addressed in relation to Global Reseller Expedited Package Contracts.¹⁷ Furthermore, in relation to Global Express Guaranteed, which is included in the GREP Contracts 3 agreement that is the subject of this filing, the Postal

¹⁶ See 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, Attachment 1; Request of the United States Postal Service to Add Global Reseller Expedited Package Contracts 2 to the Competitive Products List, and Notice of Filing a Global Reseller Expedited Package 2 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal, Docket Nos. MC2013-51 and CP2013-64, May 24, 2013, Attachment 3.

¹⁷ See 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, at 4; Request of the United States Postal Service to Add Global Reseller Expedited Package Contracts 2 to the Competitive Products List,

Services does not exercise sufficient monopoly market power so that it can effectively set the price of GXG “substantially above costs, raise prices significantly, decrease quality, or decrease output, without risk of losing a significant level of business to other firms offering similar products.”¹⁸ In Order No. 43, the Commission assigned all negotiated service agreement (NSAs) concerning outbound international mail to the competitive category.¹⁹ All GREP Contracts agreements, regardless of whether they may be classified as a single product or individually, are NSAs concerning outbound international mail. Therefore, there is no further need to ponder whether a GREP Contracts 3 agreement, as defined by the proposed MCS language, would be market dominant or covered within the postal monopoly. The additional considerations listed in 39 U.S.C. § 3642(b)(3) are addressed by Ms. Valera’s Statement of Supporting Justification. Because all of section 3642’s criteria for classification have been met, the Postal Service respectfully urges the Commission to act promptly by adding this product to the competitive products list as requested.

IV. Application for Non-Public Treatment

The Postal Service maintains that certain portions of Governors’ Decision No. 11-6, the certified statement required by 39 C.F.R. § 3015.5(c)(2), the GREP Contracts 3 agreement that is the subject of this docket, and the financial workpapers for the contract that is the subject of this docket should remain confidential. As Attachment 1 to this Request and Notice, the Postal Service files its application for nonpublic treatment

and Notice of Filing a Global Reseller Expedited Package 2 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal, Docket Nos. MC2013-51 and CP2013-64, May 24, 2013, at 6-7.,

¹⁸ 39 U.S.C. § 3642(b)(1).

¹⁹ PRC Order No. 43, Order Establishing Ratemaking Regulations for Market Dominant and Competitive Products, Docket No. RM2007-1, App. A, at 9, 11.

of materials filed under seal. The application for non-public treatment attached to this notice addresses the redactions to those materials. A full discussion of the requested elements of the application appears in Attachment 1.

Conclusion

For the reasons discussed, and based on the financial data filed under seal, the Postal Service has established that this GREP Contracts 3 agreement is in compliance with the requirements of 39 U.S.C. § 3633, and fits within the proposed, revised Mail Classification Schedule (MCS) language for GREPS Contracts included in Attachment 2B, as authorized by Governors' Decision No. 11-6. Accordingly, the Postal Service requests that GREP Contracts 3 be added to the competitive product list, that the contract included in this filing be included within the GREP Contracts 3 product, and that the contract included in this filing be considered the baseline agreement for future functional equivalency analyses for the GREP Contracts 3 product.

Respectfully submitted,

UNITED STATES POSTAL SERVICE
By its attorneys:

Anthony F. Alverno
Chief Counsel
Global Business and Service Development
Corporate and Postal Business Law Section

Christopher C. Meyerson
Attorney

475 L'Enfant Plaza, S.W.
Washington, D.C. 20260-1137
(202) 268-7820; Fax -5628
christopher.c.meyerson@usps.gov
September 30, 2013

ATTACHMENT 1

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 a request to add Global Reseller Expedited Package Contracts 3 to the competitive products list and a notice concerning a Global Reseller Expedited Package (GREP) 3 contract. 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 related Governors' Decision (which authorizes management to prepare any necessary product description of nonpublished competitive services, including text for inclusion in the MCS and to present such matter for review by the Commission), a certified statement required by 39 C.F.R. § 3015.5(c)(2) concerning the contract, and the contract are filed with the Notice as Attachments 2A, 2C, and 4, 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

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.

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 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 this GREP Contracts 3 agreement, the Postal Service believes that the third party with a proprietary interest in the materials is the customer with whom the contract is made, as well as Federal Express Corporation (FedEx Express) with respect to data concerning Global Express Guaranteed (GXG).³ The Postal Service believes

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, Mar. 20, 2009, at 11.

³ However, other postal operators can be considered to have a proprietary interest in some rate information in the financial workpapers included with this filing. The Postal Service maintains that such information should be withheld from public disclosure. In view of the practical difficulties, the Postal Service has not undertaken to inform all affected postal operators about the nature and scope of this filing and about the ability to address any confidentiality concerns directly with the Commission as provided in 39 C.F.R. § 3007.20(b). Due to language and cultural differences as well as the sensitive nature of the Postal Service's rate relationship with the affected foreign postal operators, the Postal Service proposes that a designated Postal Service employee serve as the point of contact for any notices to the relevant postal operators. The Postal Service identifies as an appropriate contact person Guadalupe Contreras, EMS Manager, International Postal Relations. Ms. Contreras' phone number is (202) 268-4598, and her email address is guadalupe.n.contreras@usps.gov. The Postal Service acknowledges that 39 C.F.R. § 3007.21 (c)(2) appears to contemplate only situations where a third party's identification is "sensitive" as

that it is possible that Federal Express (FedEx), which is involved in the provision of GXG, may have a proprietary interest in some of the information in this filing.⁴

The Postal Service maintains that customer identifying information should be withheld from public disclosure. Therefore, rather than identifying the customer of the contract under consideration, the Postal Service gives notice that it has already informed the customer, in compliance with 39 C.F.R. § 3007.20(b), of the nature and scope of this filing and its ability to address its confidentiality concerns directly with the Commission. The Postal Service employee responsible for providing notice to the third party with proprietary interest in the materials filed in this docket is Mr. James J. Crawford, Business Development Specialist, Global Business, United States Postal Service, Room 2P020, Washington, DC 20260-0020, whose email address is james.j.crawford@usps.gov, and whose telephone number is 202-268-7714.

The financial documentation also contains data specific to GXG service, which the Postal Service offers in partnership with FedEx Express. The Postal Service identifies James H. Ferguson, Corporate Vice President, Customer and Business Transactions, FedEx Corp. & General Counsel, FedEx Corporate Services, Inc., as the appropriate contact on behalf of FedEx Express. Mr. Ferguson's telephone number is (901) 434-8600, and his email address is jhferguson1@fedex.com

permitting the designation of a Postal Service employee who shall act as an intermediary for notice purposes. To the extent that the Postal Service's filing in the absence of actual notice might be construed as beyond the scope of the Commission's rules, the Postal Service respectfully requests a waiver that would allow it to forgo providing a notice to each postal operator, and to designate a Postal Service employee as the contact person under these circumstances, since it is impractical to communicate with dozens of operators in multiple languages about this matter.

⁴ Although FedEx Express might have a proprietary interest in data reflecting charges between the Postal Service and FedEx Express and possibly data showing volume or weights for GXG, the Postal Service maintains that the Postal Service is the only party with a proprietary interest in revenue data reflecting GXG transactions between the Postal Service and its customers.

(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, Governors' Decision No. 11-6, financial workpapers, and a statement certifying that the agreement should meet the requirements of 39 U.S.C. § 3633(a). 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, 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 24, and the signature block of the contract constitute the name or address of a postal patron whose identifying information 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, 8, 10 and 12 protect information with specific impact on the customer, including the pricing provided to the customer under the agreement, the customer's commitment to the Postal Service, penalties in the event that the customer does not achieve its postage commitment, and the relationship of this agreement to other agreements.

Governors' Decision No. 11-6, which is Attachment 2A of this filing, includes as supporting materials an Attachment A. Redactions appear on page two and in Attachment A of Governors' Decision No. 11-6. These redactions protect sensitive commercial information concerning the applicable cost-coverage.

The redactions applied to the financial workpapers protect commercially sensitive information such as underlying costs and assumptions, pricing formulas, information relevant to the customer's mailing profile, 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.

Should the Commission request that the Postal Service file cost, volume and revenue data associated with the agreement after the expiration of this agreement, 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 at least 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, and the penalty in the event the customer does not achieve the minimum revenue commitment. This information is commercially sensitive, and the Postal Service does not believe that it would be disclosed under good business practice. 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 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 by the Mail Classification Schedule to demonstrate that each negotiated agreement within this group covers its attributable costs. 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 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.

In addition, information in the financial spreadsheets consists of sensitive commercial information related to FedEx Express. Disclosures of information could be used by competitors of FedEx Express to develop alternatives to FedEx Express' products.

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

Identified harm: Revealing customer identifying information would enable competitors to target the customer 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 agreement 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 other negotiated 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, as well as its total estimated volume. 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 would be used by FedEx Express' competitors to its detriment.

Hypothetical: A competing international delivery service obtains a copy of the unredacted version of the financial workpapers and contract from the Postal Regulatory Commission's website. The competitor analyzes the contract and workpapers to assess financial information related to FedEx Express' provision of GXG

service. The competitor uses that information to target its competitive offerings accordingly.

(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 market for 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.

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.

RESTRICTED AND SENSITIVE BUSINESS INFORMATION - DO NOT DISCLOSE

Governors' Decision No. 11-6

Page 2

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] [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 delegate(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.

RESTRICTED AND SENSITIVE BUSINESS INFORMATION - DO NOT DISCLOSE

Governors' Decision No. 11-6

Page 3

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

RESTRICTED AND SENSITIVE BUSINESS INFORMATION - DO NOT DISCLOSE

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]

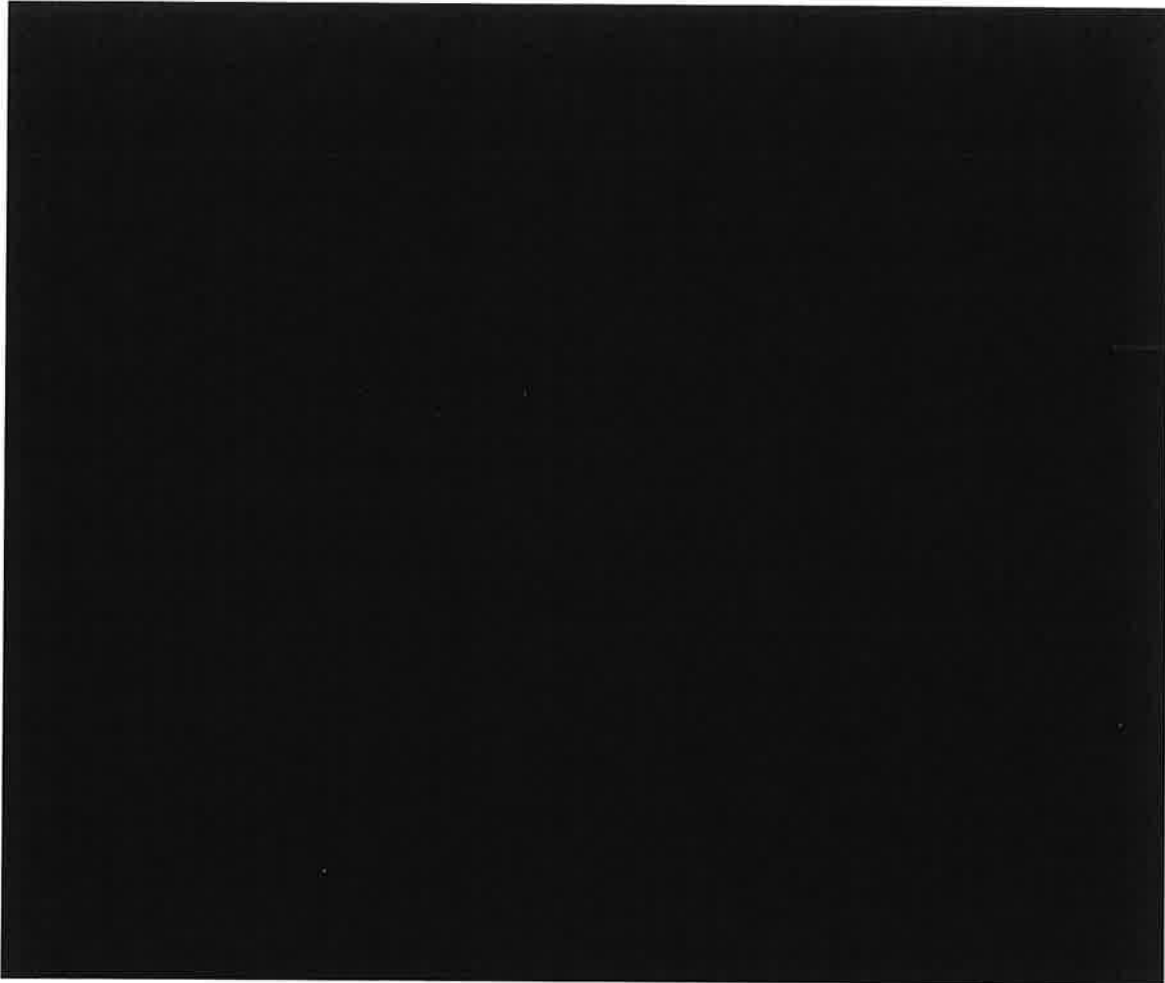
The cost coverage for a product equals [REDACTED]

[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]

RESTRICTED AND SENSITIVE BUSINESS INFORMATION - DO NOT DISCLOSE



[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
Secretary of the Board of Governors

Date: 3/22/2011

2510.7 Global Reseller Expedited Package Contracts

2510.7.1 Description

- a. Global Reseller Expedited Package Contracts provide discounted prices to a reseller for Global Express Guaranteed (GXG), Priority Mail Express International (PMEI), Priority Mail International (PMI), and Outbound Single-Piece First-Class Package International Service (FCPIS) for destinations serviced by GXG, PMEI, PMI, and FCPIS. The reseller offers prices based on its contract to its customer (reseller's customers).
- b. Preparation requirements are the same as for all GXG, PMEI, PMI, and FCPIS shipments with the following exceptions:
 - The reseller's customers are required to use PC Postage from an authorized PC Postage vendor for payment of postage or use an authorized Meter Provider using devices and methods for data entry authorized by USPS.
 - The reseller's customers may be required to prepare specific shipments according to country specific requirements.
 - The reseller's customers may be required to tender shipments through limited acceptance channels.
- c. The reseller must be capable of either tendering at least 5,000 pieces on international mail to the Postal Service, or paying at least \$100,000.00 in international postage to the Postal Service
- d. For a reseller to qualify, the contract must cover its attributable costs.

2510.7.2 Size and Weight Limitations

Global Express Guaranteed¹

	<u>Length</u>	<u>Height</u>	<u>Thickness</u>	<u>Weight</u>
<u>Minimum</u>	<u>Must be able to hold the shipping label with pouch and postage</u>			<u>none</u>
<u>Maximum</u>	<u>46 inches</u>	<u>35 inches</u>	<u>46 inches</u>	<u>70 pounds</u>
	<u>108 inches in combined length and girth</u>			

Priority Mail Express International¹

	<u>Length</u>	<u>Height</u>	<u>Thickness</u>	<u>Weight</u>
<u>Minimum</u>	none	none	none	<u>none</u>
	<u>Large enough to accommodate postage, address, and other required elements on the address side</u>			
<u>Maximum</u>	<u>36 79 inches</u>			<u>70 pounds</u>
	<u>79 108 inches in combined length and girth</u>			

Notes

1. Country-specific restrictions may apply as specified in the International Mail Manual.

Priority Mail International^{1, 2}

	<u>Length</u>	<u>Height</u>	<u>Thickness</u>	<u>Weight</u>
<u>Minimum</u>	<u>5.5 inches</u>	<u>3.5 inch</u>	<u>none</u>	<u>none</u>
<u>Maximum Parcels</u>	<u>42 79 inches</u>			<u>70 pounds</u>
	<u>79 108 inches in combined length and girth</u>			

Notes

1. Weight and other exceptional size limits based on shape and destination country restrictions may apply as specified in the International Mail Manual.
2. Items must be large enough to accommodate postage, address and other required elements on the address side.

Outbound Single-Piece First-Class Package International Service

Packages (Small Packets)

	Length	Height	Thickness	Weight
Minimum	large enough to accommodate postage, address, and other required elements on the address side			none
Maximum	24 inches			4 pounds
	Length plus height plus thickness of 36 inches			

Rolls

	Length	Length plus twice the diameter	Weight
Minimum	4 inches	6.75 inches	none
Maximum	36 inches	42 inches	4 pounds

2510.7.3 Minimum Volume or Revenue Requirements

The reseller must commit to varying minimum volumes or postage of GXG, PMEI, PMI, and/or FCPIS, on a quarterly or annualized basis.

2510.7.4 Price Categories

The incentives are based on the volume or revenue commitment above a specified cost floor.

The following price categories are available for the product specified in this section:

- Global Reseller Expedited Package Contracts – Global Express Guaranteed
- Global Reseller Expedited Package Contracts – Priority Mail Express International
- Global Reseller Expedited Package Contracts – Priority Mail International
- Global Reseller Expedited Package Contracts – Outbound Single-Piece First-Class Package International Service

2510.7.5 Optional Features

The following additional postal services may be available in conjunction with the product specified in this section:

- Pickup On Demand Service: PMEI and PMI only
- International Ancillary Services (2615)
 - International Certificate of Mailing: FCPIS, PMI Flat Rate Envelope, PMI Small Letter Post Flat Rate Boxes, PMI parcels purchased without insurance only (2615.1)
 - International Insurance: GXG, PMEI merchandise, PMI parcels, PMI Large and Medium Flat Rate Boxes only (2615.5)
 - Outbound Competitive International Registered Mail: FCPIS, PMI Flat Rate Envelopes and Small Letter Post Flat Rate Boxes only (2615.2)
 - International Return Receipt: subject to availability in the destination country for registered FCPIS, PMI Flat Rate Envelopes, PMI Small Letter Post Flat Rate Boxes, and insured PMI parcels only (2615.3)

2510.7.6 Products Included in Group (Agreements)


Each product is followed by a list of agreements included within that product.

- Global Reseller Expedited Package Services 1
Baseline Reference
Docket Nos. MC2010-21 and CP2010-36
PRC Order No. 445, April 22, 2010
Included Agreements
CP2011-1, expires November 30, 2013
CP2011-55, expires February 16, 2016
CP2012-14, expires June 30, 2014
CP2013-20, expires January 26, 2014
CP2013-49, expires TBD
- Global Reseller Expedited Package Services 2
Baseline Reference
Docket Nos. MC2013-51 and CP2013-64
PRC Order No. 1746, June 13, 2013
Included Agreements
CP2013-64, expires August 7, 2014
- Global Reseller Expedited Package Services 3
Baseline Reference
Docket Nos. MC2013-64 and CP2013-84
PRC Order No. X, [Date]
Included Agreements
CP2013-84, expires [Date]

**Certification of Prices for the Global Reseller Expedited Package Contracts 3
with [REDACTED]**

I, Virginia Mayes, Cost Attribution, 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.


Virginia Mayes

Statement of Supporting Justification

I, Giselle Valera, Managing Director, Global Business and Vice President, am sponsoring the Request that the Commission add Global Reseller Expedited Package (GREP) Contracts 3 filed in Docket Nos. MC2013-64 and CP2013-84 to the competitive products list for prices not of general applicability. The proposed revised Mail Classification Schedule (MCS) language for GREP Contracts describes the requirements for this type of contract. My statement supports the United States Postal Service's (Postal Service's) Request by providing the information required by each applicable subsection of 39 C.F.R. § 3020.32. I attest to the accuracy of the information contained herein.

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

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

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

Not applicable. The Postal Service is proposing that GREP Contracts 3 be added to the competitive products list. Other functionally equivalent contracts would be added to the list as price categories under the GREP Contracts 3 listing.

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

Governors' Decision No. 11-6 authorized Postal Service management to prepare, for any product within the Outbound International Competitive Agreement grouping, a product description, including text for inclusion in the MCS, and present such product description to the Commission. The product description for GREP Contracts 3 is set forth in Attachment 2B, which establishes the prices and classification for GREP Contracts 3 agreements.

Adding GREP Contracts 3 to the competitive product list will improve the Postal Service's competitive posture, while enabling the Commission to verify that each contract covers its attributable costs and that each contract makes a positive contribution to coverage of institutional costs. This contract, along with each contract that is functionally equivalent to this contract, will increase contribution toward the requisite 5.5 percent of the Postal Service's total institutional costs paid for by competitive products. Accordingly, no issue of subsidization of competitive products by market dominant products arises.

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

GREP Contracts 3 are for U.S.-based entities that seek a channel to offer discounted rates to their customers for Global Express Guaranteed, Priority Mail Express International, Priority Mail International, and/or First-Class Package International Service for destinations served by Global Express Guaranteed,

Priority Mail Express International, Priority Mail International, and/or First-Class Package International Service.

When negotiating GREP Contracts 3 agreements, the Postal Service's bargaining position is constrained by the existence of other providers of similar services. As such, the market precludes the Postal Service from taking unilateral action to increase prices or decrease service. The Postal Service may not decrease quality or output without risking the loss of business to large competitors that offer similar international delivery services. The relevant market also does not allow the Postal Service to raise prices or offer prices substantially above costs; rather, the contracts are premised on prices that provide sufficient incentive for customers to ship with the Postal Service rather than a competitor. If the Postal Service were to raise these prices, it risks losing these customers to a private competitor in the international shipping industry.

(e) *Explain whether or not each product that is the subject of the request is covered by the postal monopoly as reserved to the Postal Service under 18 U.S.C. § 1696, subject to the exceptions set forth in 39 U.S.C. § 601.*

As defined in the proposed revised Mail Classification Schedule language authorized by Governors' Decision No. 11-6, GREP Contracts 3 items consist of Global Express Guaranteed, Priority Mail Express International, Priority Mail International, and First-Class Package International Service items that fall outside the scope of the Private Express Statutes. The shipping of merchandise which is outside of the definition of "letters" using Global Express Guaranteed, Priority Mail Express International and/or Priority Mail International is not subject to the Private Express Statutes. Furthermore, any "letters" as defined by 39

C.F.R. § 310.1(a) that are inserted in such items would likely fall within the suspensions or exceptions to the Private Express Statutes. For instance, the rates at issue here exceed the scope of the reserved area in 39 U.S.C. § 601. In addition, First-Class Package International Service is outside the scope of letter monopoly under existing regulations as the letter monopoly was suspended in 1986 with respect to outbound international letters.¹

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

See part (d) above. Private consolidators, freight forwarders, and integrators also offer international shipping arrangements whereby they provide analogous delivery services under similar conditions.

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

As discussed in part (d) above, the customer for this GREP Contract 3 agreement is a business that markets Global Express Guaranteed, Priority Mail Express International, Priority Mail International, and First-Class Package International Service at discounted prices to its customers, especially small and medium-sized business. The fact that the customer executed the contract for this service indicates that this customer finds this type of product to be preferable to similar products offered by the Postal Service's competitors. This customer is presumably aware that competitive services are provided by other entities.

¹ See Request of the United States Postal Service to Transfer Outbound Single-Piece First-Class Mail International Packages and Rolls to the Competitive Product List, Docket No. MC2012-44, August 10, 2012, Attachment B, at 3.

However, no specific data are available to the Postal Service on GREP customer views regarding the regulatory classification of these contracts.

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

The market for international delivery services comparable to the services offered under a GREP Contracts 3 agreement is highly competitive. Therefore, addition of GREP Contracts 3 will likely have little, if any, impact upon small business concerns. Large shipping companies, consolidators, and freight forwarders serve this market, particularly with respect to the type of customers represented by these GREP contracts; the Postal Service is unaware of any small business concerns that could offer comparable service for these volumes.

By offering GREP contracts, the Postal Service is giving small businesses an additional option for shipping articles internationally, beyond the services offered by competitors. Thus, the net impact on small businesses is positive, because of the absence of negative impact on small business competitors and the positive impact on the small businesses that will have these services available.

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

The customer eligibility criteria contained in the proposed MCS language for GREP contracts are consistent with those proposed for the previously filed customized agreement product classifications. Resellers who are GREP customers meet capability requirements consisting of at least 5,000 pieces of

international mail to the Postal Service or paying at least \$100,000 in international postage to the Postal Service. As with other customized agreements, each GREP contract must cover its attributable costs.

**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."

INTRODUCTION

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;

WHEREAS, the Parties acknowledge and understand that the commencement of performance under this Agreement is subject to the approval of various entities with oversight responsibilities which may include but not be limited to the USPS management's executive committee, the USPS Governors, and/or the Postal Regulatory Commission. Accordingly, the Reseller acknowledges and understands that the ability of the USPS to perform under this Agreement is dependent upon regulatory approval.

WHEREAS, by signing this Agreement the Reseller acknowledges that a duly authorized representative of the Reseller has read and understood each of the following Articles;

WHEREAS, in light of the aforementioned acknowledgements, the Parties desire to be bound by the terms of this Agreement;

NOW, THEREFORE, in consideration of the mutual promises set forth below, the Parties hereby agree as follows:

ARTICLE 1. PURPOSE OF THE AGREEMENT

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

ARTICLE 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. "PMEI™" means Priority Mail Express International® service as set forth in IMM 220.
4. "FCPIS™" means First-Class Package International Service™ as set forth in IMM 250.
5. "GXG®" means Global Express Guaranteed® service, as set forth in IMM 210.
6. "PMI™" means Priority Mail International® service as set forth in IMM 230.
7. "Effective Date" means the first date on which the USPS is willing to accept Qualifying Mail shipments from the Reseller under this Agreement.
8. "Qualifying Mail" means mail that meets the requirements set forth in Article 3 of this Agreement.
9. "Non-Qualifying Mail" means mail that does not meet the requirements set forth in Article 3 of this Agreement.
10. "Reseller's Customers" means any third party to which the Reseller agrees to offer rates under the terms of this Agreement.

ARTICLE 3. QUALIFYING MAIL

Notwithstanding the capabilities of the equipment furnished by USPS to the Reseller, only mail for which postage is paid using a USPS-approved point of sale system at a Reseller's Retail location that meets:

1. The requirements set forth in IMM 210 for Global Express Guaranteed®;
2. The requirements set forth in IMM 220 for Priority Mail Express International®;
3. The requirements set forth in IMM 230 for Priority Mail International®, or
4. The requirements set forth in IMM 250 for First-Class Package International Service™

shall be considered as Qualifying Mail, subject to the limitations set forth in Article 4.

ARTICLE 4. NON-QUALIFYING MAIL

Global Express Guaranteed®, Priority Mail Express International®, Priority Mail International®, and First-Class Package International Service™ for which postage is not paid to the USPS by way of a USPS-approved point-of-sale system at a Reseller's Retail Location shall be considered Non-Qualifying Mail.

ARTICLE 5. OBLIGATIONS OF THE USPS

The USPS hereby agrees:

1. Postage. To provide to the Reseller the published prices that the Reseller shall charge Reseller's Customers for Qualifying Mail paid for and tendered as required by this Agreement.
2. Confidentiality. To seek non-public treatment of information it determines to be eligible for protection from public disclosure under applicable law and practice

CONFIDENTIAL

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.

ARTICLE 6. OBLIGATIONS OF THE RESELLER

The Reseller hereby agrees:

1. **Prices.** To provide Reseller's Customers postage through a USPS-approved point of sale system that offers Reseller's Customers published prices for Qualifying Mail, in accordance with this Agreement. In no case shall the price the Reseller offers the Reseller's Customers be higher than the full, non-discounted, published USPS price for the product.
2. **Payment Method.** To pay postage to the USPS through the intermediary of an authorized Meter Provider using devices authorized by USPS in accordance with DMM 604.4, and capable of both (i) programming rates based on this Agreement, and (ii) complying with USPS reporting requirements related to this Agreement.
3. **Acceptance.** Notwithstanding the capabilities of the equipment furnished by USPS to the Reseller, not to accept any piece bearing a customs form for which information was not transmitted electronically to a USPS data system by Reseller or a Reseller's customer, and not to willfully and/or knowingly accept any piece that does not comply with the Customs and Export Requirements referred to in Paragraph 5(a) of Article 6 of this Agreement.
4. **Software.** For Qualifying Mail items requiring Customs declarations, to require the Reseller's Customers to apply Customs declarations to Qualifying Mail created using USPS-approved software that produces a customs form with customs data that has been electronically generated and transmitted (e.g., using Click-N-Ship service or usps.com).
5. **Notices to Reseller's Customers.** To provide notice to the Reseller's Customers that the Reseller's Customers must comply with all applicable USPS regulations, orders, and demands, and all other applicable laws and regulations.
 - a. **Customs and Export Requirements.** To notify Reseller's Customers of their obligation to comply with any regulation or order promulgated by the USPS, Office of Foreign Assets Control (OFAC), the U.S. Department of the Treasury, the U.S. Census Bureau, Bureau of Industry and Security (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, according to any requirements specified by those authorities. See IMM 5 for additional information. Customs duties and taxes for packages mailed under this Agreement are the responsibility of the addressee.
 - b. **Customs and Export Documentation.** To notify Reseller's Customers that they must 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.

6. 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.
7. Compliance.
 - a. To comply with all applicable USPS regulations, orders, and demands, and all other applicable laws and regulations.
 - b. To pay any expenses, damages, and/or charges (including any applicable duties, taxes, fees, fines and/or penalties 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
 1. 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
 2. 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).
 - c. Aviation and Security Requirements. To comply with aviation mail and hazardous materials operational security procedures provided by the USPS.

ARTICLE 7. PRICES

1. In consideration of the commitment set forth in Article 8 of this Agreement, the USPS shall grant the Reseller access to a USPS-approved point-of-sale system to allow Reseller to generate postage for Reseller's Customers at published retail prices for Qualifying Mail subject to the terms of this Agreement.
2. Published pricing for Qualifying Mail consists of published prices of the USPS. Such published retail prices cannot be negotiated. Published prices are subject to change as provided in USPS Notice 123 (available at pe.usps.gov) and applicable notices published in the *Federal Register*.
3. In consideration of the commitment set forth in Article 8 of this agreement, the Reseller will receive a rebate that is equivalent to

• [REDACTED]
• [REDACTED]
• [REDACTED]
• [REDACTED]

ARTICLE 8. MINIMUM COMMITMENT

1. Beginning on the Effective Date of this Agreement, the Reseller is required to meet an annualized minimum commitment of [REDACTED]
[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]
[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. These reviews shall take place on a quarterly basis and the first review shall take place following the first ninety (90) days after the date which the USPS is willing to accept Qualifying Mail. Nothing in the review process is intended to affect the Reseller's annualized minimum commitment in Paragraph 1 of this Article.

ARTICLE 9. TERM OF THE AGREEMENT

The USPS will notify the Reseller of the Effective Date of this Agreement within ninety (90) days after receiving the approval of the entities that have oversight responsibilities of the USPS. The Agreement will remain in effect for twelve months after the Effective Date. This Agreement may be terminated sooner than twelve months after the Effective Date, in accordance with Article 10 or Article 11.

ARTICLE 10. TERMINATION


1. Either Party to this Agreement, in its sole discretion, may terminate this Agreement for any reason without cost, fault, or penalty, regardless of whether either Party is in default, upon a [REDACTED] day written notification to the other Party in accordance with the terms of Article 24 of this agreement.

2. The Postal Service may terminate this Agreement if a periodic review of the Reseller's progress which is described in Article 8, Paragraph 2, reveals that the postage paid by the Reseller for mail sent under this Agreement falls below the annualized minimum commitment set forth in Article 8 of this Agreement prorated for the period examined.
3. In the event that this Agreement is terminated for any reason, the minimum commitment in Article 8 shall be calculated on a *pro rata* basis to reflect the actual duration of the Agreement.

ARTICLE 11. 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 a notice of termination under the terms of Article 10, 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.

ARTICLE 12. ENTIRE AGREEMENT AND SURVIVAL OF OBLIGATIONS

1. This Agreement, including all Annexes thereto, shall constitute the entire agreement between the Parties regarding GXG®, PMEITM, PMITM, and FCPIS™ Qualifying Mail as defined in Article 3 of this Agreement, during the term of this Agreement.
2. The obligations of the Parties with respect to confidentiality, as provided for in Article 5, Paragraph 2; Article 6, Paragraph 6; and Article 14 will expire ten (10) years from the date of termination or expiration of this Agreement.
3. 
4. Any prior understanding or representation of any kind preceding the date of this Agreement shall not be binding upon either Party regarding GXG®, PMEITM, PMITM, and FCPIS™ Qualifying Mail under this Agreement except to the extent incorporated in this Agreement.

ARTICLE 13. 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.

ARTICLE 14. 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 file information in connection with this Agreement (including revenue, cost, and/or volume data) in other Commission dockets, including the dockets concerning the Annual Compliance Reports (ACR) that the USPS files with the Commission each USPS Fiscal Year for the years that this Agreement is in effect, such as Docket Nos. ACR2013, ACR2014, and ACR2015. The USPS files the ACR report with an application for the Commission to treat customer-specific information as non-public. The Reseller has the right, in accordance with the Commission's rules, to address any confidentiality concerns directly with the Commission. The procedure for making an application to the PRC 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 concerning this Agreement.

ARTICLE 15. 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.

ARTICLE 16. INDEMNITY

The Reseller shall indemnify and hold harmless the USPS and its Governors, officers, directors, agents, and employees ("the indemnified parties") from any and all claims, losses, costs, damages, expenses, and/or liabilities, including but not limited to penalties, fines, liquidated damages, charges, taxes, fees, duties or other money due ("Claims") growing out of or connected in any way, with the discharge by the Reseller or its agents(s) of any undertaking contained in this Agreement. The USPS shall not be liable for any consequential damages suffered by the Reseller. The terms of this paragraph shall survive the termination of this Agreement.

ARTICLE 17. GOVERNING LAW

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

ARTICLE 18. SUSPENSIONS OF MAIL SERVICE

In the event that a suspension of either Global Express Guaranteed®, Priority Mail Express International®, or Priority Mail International® service, or First-Class Package International Service™ from the United States to a country would prevent delivery of Qualifying Mail to addressees in that country, provided USPS issues notification of such a suspension, the Reseller shall notify the Reseller's Customers not to tender Global Express Guaranteed®, Priority Mail Express International®, Priority Mail International®, First-Class Package International Service™ as appropriate, to the USPS until service is restored.

ARTICLE 19. ASSIGNMENT

The rights of each Party under this Agreement 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.

ARTICLE 20. 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.

ARTICLE 21. MAILABILITY, EXPORTABILITY AND IMPORTABILITY

All items mailed under this Agreement must conform to the mailability requirements of the USPS as detailed in the IMM 130; all applicable United States laws and regulations, including export control and customs laws and regulations; and all applicable importation restrictions of the destination countries. The Reseller is solely responsible for notifying the Reseller's Customers of their responsibility for determining export and import requirements, obtaining any required licenses and permits, ensuring that the recipient of the item is authorized by the laws of the United States and 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.

ARTICLE 22. SUPERSEDING TERMS AND CONDITIONS

1. The Parties acknowledge and understand that all obligations of the USPS under this Agreement, including the rebate set forth in paragraph 3 of Article 7, 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 USPS provides written notice to the Reseller 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 as set forth in Article 10 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.

ARTICLE 23. 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®, and 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. Subsequent 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.

ARTICLE 24. NOTICES

A notice of termination under the terms of Article 10 or demand to a Party required by this Agreement shall be sufficient if delivered personally or mailed, by Priority Mail Express, to the following individuals:

To the USPS:

Managing Director, Global Business and Vice President
United States Postal Service
475 L'Enfant Plaza SW Room 1P830
Washington, DC 20260-4016

To the Reseller:



Other notices concerning this agreement may be sent via e-mail:

To the United States Postal Service at: icmusps@usps.gov

To the Reseller at: [REDACTED]

ARTICLE 25. 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.

ARTICLE 26. 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.

ARTICLE 27. 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.

ARTICLE 28. USPS SALES

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

ARTICLE 29. INTELLECTUAL PROPERTY, CO-BRANDING AND LICENSING

The Reseller is allowed the use of the following trademarks: Global Express Guaranteed®, Priority Mail Express International®, Priority Mail International® and First-Class Package International Service™ and the acronyms GXG®, 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.

ARTICLE 30. EFFECTIVE DATE

The USPS shall inform the Reseller of the Effective Date of this Agreement by means of an e-mail to the Reseller-provided e-mail address above.

CONFIDENTIAL

USPS / [REDACTED] 08/2013

R - Agreement Page 10 of 12

ARTICLE 31. LIMITATION OF LIABILITY

1. PMEI™, PMI™, and FCPIS™ shipments mailed under this Agreement are not guaranteed against delay in delivery.
2. Global Express Guaranteed® Qualifying Mail mailed under this Agreement is insured against delay in delivery in accordance with USPS Publication 141 *Global Express Guaranteed Service Guide*.
3. The USPS shall not be liable for any loss or expense, including but not limited to fines and penalties, for Reseller's, Reseller's employees or agents, 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 a person not employed or contracted by the USPS, including any act or omission of the Reseller, Reseller's employees or agents, 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 taken by Customs authorities.
6. The USPS is not liable for any of the Reseller's actions, the Reseller's employees' or agents' actions, or the Reseller's Customers' actions and bears no liability in the event of termination with or without cause.

ARTICLE 32. 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 Reseller is not listed on the BIS's Entity List or OFAC's Specially Designated Nationals List.

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 THE UNITED STATES POSTAL SERVICE:

Signature: *Frank A. Cebello*
Name: Frank A. Cebello
Title: Vice President
Executive Director, Global Business Management
Date: 9/27/2013

ON BEHALF OF 

Signature: 
Name: 
Title:
Date: 9/4/13



