

# Pitney Bowes Business Manager Software License Agreement

PLEASE READ THIS SOFTWARE LICENSE AGREEMENT CAREFULLY BEFORE INSTALLING THE SOFTWARE. THIS SOFTWARE LICENSE AGREEMENT STATES THE TERMS AND CONDITIONS UPON WHICH PITNEY BOWES INC. ("PITNEY BOWES" OR "LICENSOR") OFFERS TO LICENSE THE SOFTWARE. BY INSTALLING, OR OTHERWISE USING THE SOFTWARE, YOU ("LICENSEE") ACKNOWLEDGE THAT YOU HAVE READ THIS SOFTWARE LICENSE AGREEMENT, AND THAT YOU AGREE TO BE BOUND BY ITS TERMS AND CONDITIONS. YOU ALSO REPRESENT THAT YOU HAVE THE LEGAL CAPACITY TO ENTER INTO A BINDING CONTRACT AND ARE AUTHORIZED TO BIND THE USER OF THE SOFTWARE. IF YOU DO NOT AGREE TO ALL OF THE TERMS AND CONDITIONS OF THIS SOFTWARE LICENSE AGREEMENT, YOU MAY NOT INSTALL THE SOFTWARE NOR USE IT AND IT IS YOUR RESPONSIBILITY TO EXIT THE INSTALLATION PROGRAM WITHOUT INSTALLING THE SOFTWARE, AND, IF INSTALLED, TO DELETE THE SOFTWARE FROM YOUR COMPUTER.

This license covers all software programs and user documentation supplied by Pitney Bowes. This includes Pitney Bowes' proprietary programs and databases as well as programs and databases developed by third parties and distributed under license by Pitney Bowes.

## GENERAL PROVISIONS

### 1.0 DEFINITIONS.

**1.1 Licensed Software.** For purposes of this Agreement, "LICENSED SOFTWARE" shall mean LICENSOR's Business Manager Software and any related licensed materials such as data base files, operating instructions and user manuals. LICENSED SOFTWARE shall also include any updates and revisions to the LICENSOR's Business Manager Software that are provided to LICENSEE under the terms and conditions of the SALES/LEASE AGREEMENT or the Software Maintenance Agreement.

**1.2 Sales/Lease Agreement.** For purposes of this Agreement, "SALES/LEASE AGREEMENT" shall mean the sales or lease agreement between LICENSOR and LICENSEE for the LICENSED SOFTWARE and any accompanying equipment.

**1.3 Term.** For a sale of a Pitney Bowes Business Manger Software license to LICENSEE, "TERM" shall be co-terminus with LICENSOR's Software Maintenance and Data Subscription Agreement (described below). For a lease of a Pitney Bowes Business Manger Software license to LICENSEE, "TERM" shall mean the term of the lease.

**1.4 License Fee:** For a sale of a Pitney Bowes Business Manger Software license to LICENSEE, "LICENSE FEE" shall mean the fee paid by LICENSEE for the Licensed Software only. LICENSEE FEE shall not include any fees paid by LICENSEE for any professional services, mailing equipment or peripherals. For a lease of a Pitney Bowes Business Manger Software license to LICENSEE, "LICENSE FEE" shall mean the portion of LICENSEE's lease payment that is allocated for payment of the Licensed Software only. LICENSE FEE shall not include any portion of LICENSEE's lease payment that is allocated for payment of any professional services, mailing equipment or peripherals.

### 2.0 LICENSE TERMS AND RESTRICTIONS.

**2.1** Subject to payment of all applicable fees stated in the SALES/LEASE AGREEMENT for the LICENSED SOFTWARE, LICENSOR grants to Licensee and Licensee accepts, for the TERM, a non-exclusive, non-transferable license to: (i) use the LICENSED SOFTWARE only with LICENSOR's mailing machines or other hardware that is identified in the SALES/LEASE AGREEMENT or an applicable Statement of Work between LICENSOR and LICENSEE; (ii) use the LICENSED SOFTWARE only at the location that is identified in the SALES/LEASE AGREEMENT or an applicable Statement of Work between LICENSOR and LICENSEE; (iii) process LICENSEE's own accounting data; and (iv) utilize operating instructions and user manuals in support of the use of the LICENSED SOFTWARE. Except as authorized in the SALES/LEASE AGREEMENT or an applicable Statement of Work between LICENSOR and LICENSEE, LICENSEE shall not use the LICENSED SOFTWARE in the operation of a time-sharing or service bureau arrangement or as an application service provider. Because this license is limited to designated hardware at a designated location, prior written authorization is required from LICENSOR to transfer the LICENSED SOFTWARE to another location. Such consent shall not be unreasonably withheld.

**2.2** LICENSED SOFTWARE may not be copied, except for user manuals and operating instructions ("Documentation"). Documentation in printed or electronic form may be copied solely for use in support of the LICENSED SOFTWARE.

**2.3** This Agreement does not include the right to sublicense, transfer or assign the LICENSED SOFTWARE without the prior written consent of LICENSOR, and any such attempted sublicense, transfer, or assignment shall be void.

**2.4** LICENSEE is authorized to use the LICENSED SOFTWARE on a single mailing machine or other hardware as defined in SALES/LEASE AGREEMENT or an applicable Statement of Work between LICENSOR and LICENSEE only upon payment of the applicable LICENSE FEE. If LICENSEE wishes to add additional mailing machines or other hardware, then LICENSEE shall so notify LICENSOR, which shall then authorize such use upon payment of any applicable additional fees.

### 3.0 LICENSEE RIGHTS AND OBLIGATIONS.

**3.1 Installation and Acceptance.** Installation of the LICENSED SOFTWARE shall be done in accordance with the applicable invoice for such LICENSED SOFTWARE. Each copy of the LICENSED SOFTWARE shall be deemed accepted upon installation of such copy, but in no event later than forty-five (45) days after the date of the SALES/LEASE AGREEMENT.

**3.2 Confidentiality.** LICENSEE acknowledges that the LICENSED SOFTWARE and Documentation contain proprietary and confidential information of LICENSOR. LICENSEE will not disclose or show the LICENSED SOFTWARE or Documentation, or any part thereof, to anyone for any purpose other than in order to enable LICENSEE to use the LICENSED SOFTWARE in accordance with the terms of this Agreement. Upon termination of this Agreement, LICENSEE shall return all copies of the LICENSED SOFTWARE and Documentation. This Agreement is confidential information of LICENSOR and shall not be disclosed by LICENSEE.

**3.3 Software Maintenance Agreement.** Upon payment of the appropriate maintenance support fees, maintenance support for the LICENSED SOFTWARE ("Maintenance Support") shall be provided in accordance with the terms of LICENSOR's Software Maintenance and Data Subscription Agreement attached hereto as Exhibit A. By execution of this Agreement, LICENSEE hereby agrees to and accepts the terms and conditions of LICENSOR's Software Maintenance and Data Subscription Agreement. Software maintenance for modifications to the LICENSED SOFTWARE that were requested by LICENSEE shall not be included within Maintenance Support and, if such support is provided, it shall be subject to additional charges at LICENSOR's then prevailing rates.

**3.4 Third Party Software.** LICENSEE shall be solely responsible for: (a) entering into its own arrangements with third parties for software functionality not provided by LICENSOR as part of the LICENSED SOFTWARE; and (b) payment of all fees for third-party software not expressly included in the LICENSE FEE paid under the SALES/LEASE AGREEMENT, including, without limitation, fees associated with LICENSEE's operating environment and databases, including, without limitation, Microsoft SQL. LICENSOR DOES NOT MAKE ANY REPRESENTATION, WARRANTY OR CONDITION, EXPRESS, IMPLIED, STATUTORY OR COLLATERAL REGARDING ANY THIRD PARTY SOFTWARE, INCLUDING WITHOUT LIMITATION ANY WARRANTY OF RESULTS, PERFORMANCE, MERCHANTABILITY, MERCHANTABILITY, NON-INFRINGEMENT OR FITNESS FOR A PARTICULAR USE OR PURPOSE.

#### **4.0 PROPRIETARY RIGHTS.**

**4.1** The LICENSED SOFTWARE and all copies thereof are proprietary to LICENSOR or third parties under whose license LICENSOR provides the LICENSED SOFTWARE ("Third Party Licensors") and title thereto remains in LICENSOR or such Third Party Licensors. All applicable rights in and title to any intellectual property in the LICENSED SOFTWARE or any modifications, adaptations or derivative works are and shall remain in LICENSOR or such Third Party Licensors. Any third party software provided by LICENSOR remains proprietary to such Third Party Licensors. LICENSEE shall not sell, transfer, publish, disclose, display or otherwise make available the LICENSED SOFTWARE or any part thereof to anyone for any purpose other than in order to enable LICENSEE to use the LICENSED SOFTWARE as authorized by this Agreement. LICENSEE agrees to secure and protect each module, software product, documentation and copies thereof in a manner consistent with the maintenance of LICENSOR's and Third Party Licensors' rights therein and to take appropriate action by instruction or agreement with its employees or consultants who are permitted access to each program, software or documentation product to satisfy its obligations hereunder. All copies made by the LICENSEE of the LICENSED SOFTWARE, including translations, compilations, partial copies with modifications and updated works, are the property of LICENSOR. Violation of any provision of this paragraph shall be the basis for immediate termination of this Agreement. LICENSEE, in recognition of the fact that the LICENSED SOFTWARE contains highly confidential and proprietary LICENSOR information and that LICENSOR will be irreparably damaged if the security of the LICENSED SOFTWARE is breached, agrees that LICENSOR is entitled to injunctive relief, without the posting of any bond, and damages as may be determined by a court of competent jurisdiction.

**4.2 Termination.** LICENSOR shall have the right to terminate this Agreement if LICENSEE materially breaches its obligations under this Agreement and fails to cure such breach within thirty (30) days after it has been notified in writing of such breach.

**4.3 No Decompiling:** LICENSEE shall not reverse-engineer, decompile, modify or create adaptations or derivative works from the LICENSED SOFTWARE or the Documentation. LICENSEE shall not generate any source code or object code listing from the LICENSED SOFTWARE. LICENSEE further agrees not to allow or assist others to do any of the foregoing. Any rights in derivative works created by LICENSEE will be deemed to be the property of and owned by LICENSOR.

**4.4 Survival Beyond Termination.** The terms and provisions contained in this **Section 4.0** shall survive the termination of this Agreement or any license hereunder. Upon any termination of a license hereunder, LICENSEE shall return the LICENSED SOFTWARE and Documentation and delete all copies thereof from its libraries. At LICENSOR's request, LICENSEE shall certify in writing, in a form acceptable to LICENSOR, that it has complied with its obligations under this **Section 4.0**.

**4.5 Security.** LICENSEE agrees to: (a) secure and protect the LICENSED SOFTWARE and Documentation and copies thereof in a manner consistent with the maintenance of LICENSOR's rights therein; and (b) take appropriate action by instruction or agreement with its employees who are permitted access to the LICENSED SOFTWARE and Documentation to: (i) prevent the LICENSED SOFTWARE and Documentation or copies thereof from being acquired by unauthorized persons or put to unauthorized use, (ii) prevent unauthorized copies of the LICENSED SOFTWARE and Documentation, and (iii) otherwise satisfy its obligations hereunder. LICENSEE shall be responsible for any such unauthorized acquisition, use or copying or other breach of its obligations under this Agreement.

#### **5.0 LIMITED WARRANTY AND LIABILITY.**

##### **5.1 Limited Warranty.**

**5.1.1** LICENSOR warrants that for a period of ninety (90) days from acceptance of the LICENSED SOFTWARE as provided in Section 3.1 hereof, such LICENSED SOFTWARE, when properly installed, will conform to all substantial operational functions as described in the Documentation if used in the operating environment specified therein. Notwithstanding the foregoing, as enhanced versions of the LICENSED SOFTWARE are released, LICENSOR's obligation to correct problems in the LICENSED SOFTWARE shall only apply to the most recent version of the LICENSED SOFTWARE.

**5.1.2** LICENSOR further warrants its rights to enter into this Agreement and/or the right to grant this license and agrees to defend or settle, at its expense, any action at law against LICENSEE arising from a claim that the LICENSED SOFTWARE infringes any intellectual property right, or at LICENSOR's option, it may terminate this Agreement and refund the license fee paid, pro rata, based upon a thirty-six (36) month useful life of the LICENSED SOFTWARE subject to LICENSEE's obligations under **Section 4.0** hereof.

**5.1.3** LICENSOR MAKES NO FURTHER WARRANTY OR CONDITION AND DISCLAIMS ANY AND ALL OTHER WARRANTIES OR CONDITIONS OF ANY KIND OR NATURE WHETHER WRITTEN OR VERBAL, IMPLIED, COLLATERAL OR STATUTORY, INCLUDING WITHOUT LIMITATION ANY WARRANTY OF RESULTS, PERFORMANCE, MERCHANTABILITY, MERCHANTABILITY, MERCHANTABILITY, NON-INFRINGEMENT OR FITNESS FOR A PARTICULAR USE OR PURPOSE.

**5.2 Limited Liability.** LICENSOR's entire liability and LICENSEE's exclusive remedy shall be as follows:

**5.2.1** In situations involving performance or nonperformance of the LICENSED SOFTWARE furnished hereunder, LICENSEE's sole remedy is replacement or correction of the LICENSED SOFTWARE by LICENSOR so that it will substantially perform the functions as

described in the Documentation. In the event LICENSOR is unable to correct the deficiency within a reasonable period of time, LICENSOR's liability shall be limited to a refund of the license fee paid by LICENSEE to LICENSOR for the LICENSED SOFTWARE, provided the claim of nonperformance is made by LICENSEE in writing and received by LICENSOR within the thirty (90) day warranty period as set forth in **Section 5.1.1** hereof. For a lease of a Pitney Bowes Business Manger Software license to LICENSEE, LICENSOR's liability shall be limited to a refund of payments already made for the LICENSE FEE and a release from future payments with respect to the LICENSE FEE under the SALES/LEASE AGREEMENT.

**5.2.2** IN NO EVENT SHALL LICENSOR BE LIABLE FOR ANY LOST PROFITS OR SPECIAL, CONSEQUENTIAL, INCIDENTAL, INDIRECT OR PUNITIVE DAMAGES, EVEN IF LICENSOR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, OR FOR ANY CLAIM AGAINST LICENSEE BY ANY OTHER PARTY.

**5.2.3** In no event will LICENSOR be liable for the corruption of any data of the LICENSEE when the use of the LICENSED SOFTWARE is not within the contemplation of this Agreement.

**5.2.4** Subject to the foregoing exclusions, in no event shall LICENSOR's liability under this Agreement or with respect to the LICENSED SOFTWARE, whether to LICENSEE or to third-parties exceed the amount of the license fee actually paid to LICENSOR for the LICENSED SOFTWARE.

**5.3 Modification to Software.** In the event LICENSEE changes or modifies the LICENSED SOFTWARE in any manner, all warranties given hereunder are canceled and same shall release LICENSOR of any further obligation or liability.

## **6.0 DEFAULT.**

In the event LICENSEE fails to make any payment within fifteen (15) days of the due date or breaches any other covenant contained in this Agreement, the license granted hereunder shall immediately terminate and LICENSEE shall return the LICENSED SOFTWARE and Documentation and delete all copies thereof from its libraries. In addition, LICENSEE agrees to pay all costs, including reasonable attorneys fees, incurred by LICENSOR as a result of any such default, including costs of collection.

## **7.0 INDEMNIFICATION.**

LICENSEE shall indemnify and save LICENSOR and its affiliates harmless (and, if requested, defend LICENSOR) from all losses, liabilities, expenses, costs and damages (including reasonable attorneys fees) associated with any claim or suit by a third party arising out of or related to use of the LICENSED SOFTWARE by LICENSEE or any other person in a manner not authorized by this Agreement or in any manner for which the LICENSED SOFTWARE was not designed or where the LICENSED SOFTWARE has been modified by LICENSEE or for the LICENSEE by a third party.

## **8.0 MISCELLANEOUS.**

**8.1 Assignment.** This Agreement shall be binding upon and inure to the benefit of LICENSOR's successors and assigns. Neither this Agreement nor any rights or obligations hereunder shall be assigned or otherwise transferred by LICENSEE without the prior written consent of LICENSOR.

**8.2 Statement of Agreement.** LICENSEE agrees that this Agreement is the complete and exclusive statement of the agreement between the parties which supersedes all proposals, concurrent or prior agreements, oral or written, and all other communications between the parties relating to the subject matter of this Agreement. All amendments to this Agreement shall be in writing and signed by both parties. Except as may be otherwise provided in this Agreement, no terms contained in any related Statement of Work, purchase order, or invoice shall be made a part of this Agreement.

**8.3 Captions and Headings.** All captions, headings and titles contained in this Agreement are for convenience and reference purposes only and shall not be deemed a part of this Agreement.

**8.4 Partial Invalidity.** If any part of this Agreement, or the application thereof, is for any reason held or otherwise found to be unenforceable, it shall be deemed severable and the validity of the remainder of this Agreement or the application of such provisions to other circumstances shall not be affected thereby.

**8.5 Governing Law and Jurisdiction.** This Agreement shall be interpreted in accordance with the laws in force in the Province of Ontario, but without recourse to any conflict of laws provisions or other law that would lead to a different governing law. The application of the United Nations Convention of Contracts for the International Sale of Goods is expressly excluded. Any action brought in relation to this Agreement shall be brought exclusively in the courts of Ontario or in the Federal Court of Canada sitting in Toronto, Ontario, as may be appropriate.

**8.6 Export Laws.** LICENSEE hereby represents and warrants that, unless it has obtained all required authorizations and taken all other actions necessary to comply with applicable laws in the United States and Canada, it will not export or otherwise disclose, directly or indirectly, any technology or software received from LICENSOR nor allow the direct product thereof to be shipped or to be disclosed, either directly or indirectly, to any destination or person prohibited by applicable laws in the United States or Canada. Without limiting the foregoing, the LICENSEE also represents and warrants that it will not export or otherwise disclose, directly or indirectly, any technology or software received from LICENSOR nor allow any product incorporating or otherwise derived from the technology or software to any location outside Canada without first obtaining appropriate approval from the Canadian Department of Foreign Affairs and International Trade, the Canadian Border Services Agency and any other appropriate authority.

**8.7 Notices.** Any notice required or permitted to be given under this Agreement shall be in writing and shall be deemed sufficiently given if delivered by hand to the intended recipient or mailed by certified mail, return receipt requested, to: in the case of LICENSEE, to its address first set forth in this Agreement or the address to which LICENSOR sends invoices to LICENSEE; and in the case of LICENSOR, to Pitney Bowes Canada, 5500 Explorer Drive, Mississauga, ON, L4W 5C7, Attention: Vice President Marketing & Global Credit Services, with a copy to Pitney Bowes Inc., 35 Waterview Drive (MSC 26-22), Shelton, CT 06848-8000, Attn: Deputy General Counsel—Intellectual Property & Technology Law. Any such notice shall be deemed delivered on the day hand delivered at the specified address or on the date shown on the return receipt.

**8.8 Non-waiver.** A waiver of any breach or default under this Agreement shall not constitute a waiver of any other or subsequent breach or default. Failure or delay by either party to enforce compliance with any term or condition of this Agreement shall not constitute a waiver of such term or condition.

**8.9 Taxes.** LICENSEE shall, in addition to the other amounts payable under this Agreement, pay all sales and other taxes, federal, state, provincial or otherwise, however designated, which are levied or imposed by reason of the transactions contemplated by this Agreement. Without limiting the foregoing, LICENSEE shall promptly pay to LICENSOR an amount equal to any such items actually paid, or required to be collected or paid by LICENSOR.

**8.10 Use of English Language.** The parties hereto confirm that it is their wish that this Agreement, as well as any other written documents related hereto, be drawn up in the English language only. Les parties aux présentes confirment leur volonté que cette convention, de même que tous les documents y compris tout avis qui s'y rattachent, soient rédigés en langue anglaise seulement.

## **Exhibit A: Software Maintenance and Data Subscription Agreement**

### **1.0 Definitions**

**PLEASE NOTE: Capitalized terms used in this Software Maintenance and Data Subscription Agreement are defined in this Software Maintenance and Data Subscription Agreement and shall not have the meaning ascribed to such terms in the Pitney Bowes Business Manager Software License Agreement. Furthermore, section references refer to Software Maintenance and Data Subscription Agreement and not the Pitney Bowes Business Manager Software License Agreement.**

“Agreement” means this Software Maintenance and Data Subscription Agreement. The terms “you”, “your” and “Customer” refer to the customer listed on page 1 of the Pitney Bowes Business Manager Software License Agreement. The terms “we”, “us”, “our” and “Pitney Bowes” refer to Pitney Bowes Inc. or one of its affiliates. “Software” means the Pitney Bowes proprietary software and any third-party proprietary software specifically listed in the Sale Agreement for which you have purchased maintenance from Pitney Bowes. “Database” means the Pitney Bowes proprietary database(s) and any third-party proprietary database(s) specifically listed in the Sales Agreement for which you have purchased data subscription from Pitney Bowes. “Software” and “Database” do not include, and no services or materials are provided under this Agreement with respect to, any other third-party software or database even if provided to you by Pitney Bowes. “Sale Agreement” means the agreement between Customer and Pitney Bowes relating to and pursuant to which Customer has agreed to pay for the Pitney Bowes and/or third-party proprietary software and/or database. “Software License Agreement” means the software license agreement between you and Pitney Bowes relating to the Software.

### **2.0 Scope of Services – Software Maintenance**

Pitney Bowes will provide you with software maintenance services for the Software as described at [www.pitneybowes.com/us/license-terms-of-use/shipping-and-mailing-maintenance-services-terms.html](http://www.pitneybowes.com/us/license-terms-of-use/shipping-and-mailing-maintenance-services-terms.html).

#### **2.1 Data Subscription**

Pitney Bowes will distribute to you Database updates to the Databases, such as carrier rating structure files. Updates will be distributed as such updates are made available by Pitney Bowes from time to time. Data subscription services and Database updates or carrier services do not apply to software that is carrier rate specific and which Pitney Bowes maintains. Database updates are installable by you. If installation is required by Pitney Bowes, Pitney Bowes will install such Database updates at its then current rates. You are entitled to only one (1) copy of each update. Replacement updates may be provided by Pitney Bowes, in its sole discretion; if such a replacement update is provided, you will pay Pitney Bowes' then applicable service charge for such update. Pitney Bowes cannot and does not warrant the availability, accuracy or timely dissemination of non-Pitney Bowes originated source data incorporated in the Databases.

### **3.0 Exclusions**

Software maintenance is provided only if you: (a) use the Software and its related hardware in a manner authorized by this Agreement, for the ordinary purpose for which it is designed, and in accordance with Pitney Bowes' instructions; (b) use reasonable care in handling, operating and maintaining the Software and such hardware; and (c) operate the Software and such hardware under suitable temperature, humidity, line voltage and environmental conditions. Software maintenance excludes services and repairs that are necessary due to negligence, accident, misuse or abuse; use of the Software with any hardware, software, or databases other than those supplied by Pitney Bowes; use of the Software on any equipment or with any system other than that provided by Pitney Bowes or which Pitney Bowes has otherwise indicated in writing is acceptable for use with the Software; use of the Software with any system with respect to which Pitney Bowes has indicated it will no longer provide support; failure to use the most current Update available from Pitney Bowes or most current data specified in the User Manual; damage in transit; virus contamination; loss of data; external forces; loss of electrical power or power fluctuation; operator error; casualty (such as fire, flood or other natural causes) or sabotage; or alterations, modifications, conversions, repair or attempted repair by any one other than Pitney Bowes.

### **4.0 Term**

THE INITIAL TERM OF THIS AGREEMENT SHALL BE A TWELVE (12) MONTH PERIOD OR SUCH LONGER TERM AS MAY BE PROVIDED IN THE SALE AGREEMENT AND SHALL BE AUTOMATICALLY RENEWED FOR SUCCESSIVE TWELVE (12) MONTH PERIODS, UNLESS PITNEY BOWES RECEIVES FROM CUSTOMER NOTICE OF TERMINATION AT LEAST SIXTY (60) DAYS BEFORE THE END OF THE INITIAL TERM OR THE THEN CURRENT RENEWAL TERM. Such notice must include your Customer account number and, if applicable, your lease number and be sent to Pitney Bowes, by certified mail, return receipt requested, at the following address: Pitney Bowes Canada, 5500 Explorer Drive, Mississauga, ON, L4W 5C7, Canada, Attention: Vice President Marketing & Global Credit Services Pitney Bowes shall invoice Customer for each additional twelve (12) month period sixty (60) days before the termination of the then current term, at Pitney Bowes' rate then in effect, which amount shall be deemed due and payable to Pitney Bowes upon receipt of such invoice by Customer. Pitney Bowes reserves the right not to renew this Agreement for any reason.

### **5.0 Modification; Termination**

The termination by Pitney Bowes of the Software License Agreement shall automatically result in the termination of this Agreement. Pitney Bowes may, from time to time, change the services provided under this Agreement, modify the terms of this Agreement, or terminate such services or this Agreement, at Pitney Bowes' discretion, with notice to Customer. Pitney Bowes will advise you, in such notice, if it believes, in its sole judgment, that any such change or modification is material. If you receive notice that any such change or modification is material, you may terminate this Agreement by delivering to Pitney Bowes written notice of your desire to terminate within thirty (30) days after your receipt of such notice from Pitney Bowes. Any such termination by you shall be effective ten (10)

business days after Pitney Bowes' receipt of your notice of termination. Your notice must include your Customer account number and, if applicable, your lease number and be sent to Pitney Bowes in the manner and to the address set forth in Section 4.0 above.

If Customer breaches this Agreement, the Sale Agreement or any other agreement with Pitney Bowes or one of its affiliates, Pitney Bowes may immediately terminate the services or this Agreement. If the services or this Agreement are terminated by Pitney Bowes or if Customer has terminated this Agreement as provided in this Section 5.0, Pitney Bowes' sole obligation shall be a pro rata refund of Customer's fee for the terminated services except if the termination is due to breach by Customer of the Software License Agreement. Except as provided in this Section 5.0, under no circumstances may you cancel or terminate this Agreement during the term; and you may only terminate for the successive period by providing timely notice of non-renewal as provided above.

## 6.0 Fees

Software maintenance rate adjustments will be made only at renewal time. We reserve the right to cancel a renewal of this Agreement at any time and for any reason including, but not limited to, your refusal to pay any newly adjusted rates.

If any payment under this Agreement is not paid in full on or before its due date, you shall pay to us our then applicable administrative fee assessed on delinquent accounts and interest from its due date until paid in full, at the lesser of 1.5% per month or the maximum rate allowed by law. If we must take steps beyond invoicing to collect payment due from you, we can hold you responsible for costs of collection and reasonable attorneys fees.

## 7.0 Warranty Disclaimer and Liability

THE SERVICES, UPDATES, DATABASE UPDATES AND OTHER MATERIALS PROVIDED HEREUNDER ARE PROVIDED "AS IS"; AND PITNEY BOWES SPECIFICALLY DISCLAIMS ANY AND ALL OTHER WARRANTIES OR CONDITIONS OF ANY KIND OR NATURE WHETHER WRITTEN OR VERBAL, IMPLIED, COLLATERAL OR STATUTORY, INCLUDING WITHOUT LIMITATION ANY WARRANTY OF RESULTS, PERFORMANCE, MERCHANTABILITY, MERCHANTABLE QUALITY, NON-INFRINGEMENT OR FITNESS FOR A PARTICULAR USE OR PURPOSE. Your sole remedy under this Agreement or with respect to such services, Updates, Database updates or other materials is, at Pitney Bowes' option, refund of amounts paid by you for software maintenance or data subscription, as may be applicable, during the current 12-month term of this Agreement, replacement of any defective media, or provision again by Pitney Bowes of such services, Updates, Database updates and other materials by Pitney Bowes.

IN NO EVENT WILL PITNEY BOWES BE LIABLE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL OR PUNITIVE DAMAGES, INCLUDING WITHOUT LIMITATION ANY LOST PROFITS, EVEN IF PITNEY BOWES HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. WITHOUT LIMITING THE FOREGOING, PITNEY BOWES' MAXIMUM AGGREGATE LIABILITY ARISING OUT OF CONTRACT, NEGLIGENCE, STRICT LIABILITY, TORT, WARRANTY, OR OTHERWISE SHALL BE LIMITED TO THE AMOUNTS PAID BY CUSTOMER FOR THE SOFTWARE MAINTENANCE AND DATA SUBSCRIPTION PROVIDED UNDER THIS AGREEMENT DURING THE 12-MONTH TERM OF THIS AGREEMENT DURING WHICH SUCH LIABILITY AROSE.

CARRIER RATE INFORMATION SUPPLIED TO YOU IS OBTAINED FROM CARRIERS OR OTHER SOURCES BELIEVED TO BE REASONABLY RELIABLE. HOWEVER, WITHOUT LIMITING ANYTHING ELSE IN THIS AGREEMENT, SUCH INFORMATION IS NOT WARRANTED TO BE ACCURATE, COMPLETE OR CORRECT; AND PITNEY BOWES SHALL HAVE NO LIABILITY FOR ANY DAMAGES YOU MAY INCUR AS A RESULT OF YOUR USE OR RELIANCE ON SUCH RATE INFORMATION.

## 8.0 General

**Transfer.** For your convenience, if you upgrade to a new release – i.e., major enhancements and/or new functionality of the Software - the software maintenance and data subscription provided hereunder will remain in effect for the new release (if it qualifies) at the then current fee for the new release less credit for fees previously paid hereunder for the period of time after such transfer.

**Assignment.** You may not assign this Agreement or any of your rights hereunder without our prior written consent.

**Governing Law.** This Agreement shall be interpreted in accordance with the laws in force in the Province of Ontario, but without recourse to any conflict of laws provisions or other law that would lead to a different governing law. The application of the United Nations Convention of Contracts for the International Sale of Goods is expressly excluded. If any provisions of this Agreement are invalid under any applicable statute, law or regulation or shall be declared invalid, illegal or unenforceable by a court of competent jurisdiction, such provision shall be severed from this Agreement and the other provisions shall remain in full force and effect. Any action brought in relation to this Agreement shall be brought exclusively in the courts of Ontario or in the Federal Court of Canada sitting in Toronto, Ontario, as may be appropriate.

**Force Majeure.** You and we shall be excused from any obligation under this Agreement to the extent and for so long as non-fulfillment of such obligation is due to fire, flood, storm, earthquake, epidemic, strike, civil war, riot, explosion or compliance with any law, order or decree of any court or government agency; provided that neither of you nor we shall be relieved of any obligation to make any payment provided in this Agreement at the time such payment is due.

**Authority.** Your signature is our assurance that you have the authority to enter into this Agreement. Our acceptance is signified when our authorized invoice is issued or by our acceptance of your payment.

**Entire Agreement.** This Agreement, the Sale Agreement and the Software License Agreement comprise the entire agreement between us with regard to the subject of this Agreement. No statements or prior understandings even if reduced to writing or other documents are effective if they are inconsistent with, or if they obligate us in any way beyond, what is written here. Any terms of any

other document that add to, vary from, or conflict with these terms are hereby objected to. This Agreement may not be modified or amended in any way except in writing signed by duly authorized representatives of each of us or as otherwise provided herein.

**Use of English Language.** The parties hereto confirm that it is their wish that this Agreement, as well as any other written documents related hereto, be drawn up in the English language only. Les parties aux présentes confirment leur volonté que cette convention, de même que tous les documents y compris tout avis qui s'y rattachent, soient rédigés en langue anglaise seulement.