

**PITNEY BOWES COMPLETE DELIVERY™ TERMS AND CONDITIONS (VER. 2018.09.01)  
FOR PARCEL PARTNERS NSA MERCHANTS ONLY HOLIDAY SPECIAL**

Pitney Bowes Inc. (PBI) offers Pitney Bowes Complete Delivery™, a labeling service (the “**Service**”) with guaranteed delivery for parcel shipment and processing within the United States originating from facilities agreed upon and identified by PBI to participating merchants (the “**Facilities**”). If you (or “**You**” or “**Client**”) are a merchant who participates in, makes use of or accesses Pitney Bowes Complete Delivery™, you are subject to the following set of terms and conditions. If you do not wish to participate, you can opt out of Pitney Bowes Complete Delivery™ by sending an email to [PBDClaims@pb.com](mailto:PBDClaims@pb.com) at any time. **UNLESS PBI RECEIVES AN OPT-OUT EMAIL FROM YOU, YOU ARE PARTICIPATING IN THE SERVICE AND ARE SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS.**

**SECTION 1. SCOPE OF SERVICES**

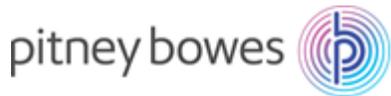
- 1.1 Each individual package tendered by Client for shipment (“**Parcel(s)**”) will originate from one of Client’s Facilities and will be shipped via United States Postal Service (USPS or “**Service Provider**”), which has been subcontracted by PBI to deliver the Parcel to a destination set forth in a PBI compliant shipping label by USPS Priority Mail (the “**Transportation Method**”). A Parcel is deemed tendered to the Service Provider after Client has placed a PBI compliant shipping label on the Parcel and the Service Provider has taken physical custody of the Parcel as demonstrated by the scanning of the said label following handover of the Parcel from Client (“**Tender**”).
- 1.2 PBI APIs. Client will access PBI Shipping APIs which can be downloaded from <http://developer.pitneybowes.com/en/shipping.html> (“PB APIs”) to print shipping labels for the Parcels based on Rates set forth in Section 2 below. Your use of the PBI Shipping APIs is governed and subject to any Shipping APIs Fee Agreement You may have with PBI, including its amendments, any and all terms of use for PBI Shipping APIs, and Acceptable Use Policy, including those located at <https://www.pitneybowes.com/us/license-terms-of-use/shipping-and-mailing-api.html> and <https://www.pitneybowes.com/us/license-terms-of-use/shipping-api-merchant-terms-of-use.html>, and as may be updated from time to time by PBI with reasonable notice to You (collectively, the “API Agreement”). For provisions directly relating to parcel delivery guarantees, any conflict between this Agreement and the API Agreement will be settled in favor of this Agreement. Any other conflict will be settled in favor of the API Agreement.

**SECTION 2. RATES AND REQUIREMENTS**

- 2.1 **Domestic Rates.** PBI will process Parcels based on the Rates you are required to pay for Parcels shipped USPS Priority Mail as made available to you through PBI Shipping APIs. You acknowledge that Rates may be updated by PBI from time to time with reasonable notice to You (email or other electronic notification means being sufficient). Rates are exclusive of fuel or other surcharges, and any surcharges levied against PBI by a Service Provider shall be passed through to Client as applicable. Rates are also dependent upon charges provided to PBI by the Service Provider, and PBI may adjust the Rates upon thirty (30) business days’ written notice to Client in the event that a given Service Provider adjusts its charges to PBI. Client may not resell, sublicense or otherwise reuse the Rates, or allow the Rates to be used by another party or from any destination other than a Facility.
- 2.2 **Maximum Size and Weight Limits.** Client will ensure that Parcels shipped hereunder are properly packaged and meet the acceptance requirements of the Service Provider as applicable for a given Transportation Method.
- 2.3 **Emergency Situations.** PBI may assess temporary surcharges to recover costs associated with emergency situations that could not be reasonably anticipated at the time of execution of this Agreement. Temporary surcharges will be in addition to the Rates paid by Client. PBI will provide five (5) days written notice (either via email or other electronic notification means) of any emergency situations requiring a surcharge.

**SECTION 3. DELAYED SHIPMENTS AND GUARANTEED DELIVERY**

- 3.1 **Delivery Date.** For Parcels Tendered to the Service Provider by a daily cut-off time published by the Service Provider in the time zone of the relevant Facility (“**Guaranteed Parcels**”), and based on transaction data associated with shipment of each Parcel provided to PBI by Client, PBI will use commercially reasonable efforts to cause the Service Provider to deliver said Parcels within three business days after a Guaranteed Parcel is Tendered to the Service Provider (“**Delivery Date**”).
- 3.2 **Delivery Guarantee.** PBI will, upon Client’s request and subject to the restrictions below, provide a refund of the Rate paid for Guaranteed Parcels that do not arrive at a consignee’s address by the Delivery Date (“**Guarantee**”) subject to the following conditions.



- (1) The Guarantee only applies to Guaranteed Parcels that Client Tenders to a Service Provider with a label generated through PBI Shipping APIs for the Transportation Method and sent to destinations within the Scope of Services set forth in Section 1.
- (2) In the case of multiple Guaranteed Parcels shipped in a single shipment, each said Parcel may have its own applicable Guarantee. If a late delivery occurs for a number of Parcels fewer than that of the entire shipment, the refund will only be applicable to the Guaranteed Parcel(s) with late delivery as opposed to the entire shipment.
- (3) The Guarantee is exclusive of all other items, including, without limitation, fines, taxes or other charges or amounts (such as any fuel surcharge component), and transportation charges resulting from returned shipments.
- (4) Client must notify PBI of any claim for late or failed delivery in writing to [PBDClaims@pb.com](mailto:PBDClaims@pb.com) within fourteen (14) days of the Tender date and provide PBI with the shipment identification number, the date of shipment, and complete consignee information. Within sixty (60) days after Client so notifies PBI, PBI shall either:
  - (a) Provide Client with a refund, via for example, a credit in a postage account;
  - (b) Provide Client with information explaining the reason that the Parcel is not eligible for the Guarantee under the applicable limitations or exclusions; or
  - (c) Provide Client with evidence of timely delivery.
- (5) The Guarantee will not apply where late delivery or failure to deliver is due to circumstances beyond PBI's or a Service Provider's control including, but not limited to, inaccurate or incomplete shipment information, delivery instructions or information.
- (6) The Guarantee does not apply to any Parcel that contains Unacceptable Goods or any Parcel that does not meet restrictions on, e.g., size, weight, commodity or value identified by PBI or Service Provider.
- (7) PBI reserves the right to refuse any claim for a refund if the claim is made by, or based on information obtained by, a party other than the Client.
- (8) Delivery Guarantees are not available to parcel shipments to and from Alaska, Hawaii, Puerto Rico, and API or FPO zip codes.
- (9) Peak Period Guarantee. For Parcels Tended during the period of December 12<sup>th</sup>, 2018 to December 20<sup>th</sup>, 2018, PBI will provide a refund only if a Guaranteed Parcel does not arrive at a consignee's address within one business day following the Delivery Date.

#### **SECTION 4. PAYMENT AND FINANCING OPTIONS**

- 4.1 Client may finance payments of postage Rates, by using a credit card or financing options offered by Pitney Bowes Bank Inc., including for example, Reserve Account, Purchase Power, or any other line of credit financing products, subject to applicable terms and conditions thereof.
- 4.2 Client is subject to supplemental billing or credit for data entry errors on PBI waybills.

#### **SECTION 5. TERM**

The term of this Agreement begins September 1, 2018 and ends December 31, 2018. Either party may terminate this Agreement at any time for any reasons with reasonable notice (electronic notice from PBI to client, or termination notice from Client to PBI at [PBDClaims@pb.com](mailto:PBDClaims@pb.com) being sufficient).

**Parties are additionally subject to Standard Provisions, which are made a part of and incorporated herein to the Agreement in their entirety.**

#### **STANDARD PROVISIONS**

##### **A. DELIVERIES AND UNDELIVERABLES**

- (1) Delivery Address. Parcels will be delivered to the consignee address provided by Client but not necessarily to the consignee personally. Shipments to addresses with a central receiving area will be delivered to that area. Client authorizes shipments to be left without signature where Service Provider deems safe, or alternatively with the consignee's neighbor, in either case at the discretion of Service Provider, and delivery will be deemed to have been satisfied.
- (2) Unacceptable Goods. Client will ensure that the Parcels to be shipped do not contain any goods or samples of goods (i) not legally allowed to be sold throughout the United States, (ii) made from any type of endangered wild plant or animal



that is in the list of species protected by the Convention on International Trade in Endangered Species, (iii) that fall into one or more of the nine United Nations hazard classes, (iv) that are perishable, or (v) that are prohibited or restricted by the Service Provider (collectively, “**Unacceptable Goods**”).

- (3) Undeliverables. If the Parcel is deemed to contain Unacceptable Goods, the consignee cannot be reasonably identified or located, or consignee refuses delivery (collectively, “**Undeliverables**”), PBI shall use reasonable efforts to cause the Service Provider to return the Parcel to the Facility from which the Parcel originated at Client’s cost.
- (4) Undertaking as to Contents. Client shall not include Unacceptable Goods in Parcels processed to Service Provider in a manner that violates any U.S. statute, law, rule, or regulation applicable to air or ground carriage. Client’s Parcels are subject to aviation security controls and applicable U.S. government regulations.

#### **B. LIMITATION OF LIABILITY**

- (1) PBI’s liability is strictly limited to the postage Rate paid for the shipment of a Guaranteed Parcel that is being claimed for late or non-delivery, and PBI disclaims any other liability, whether direct or indirect, related to the Client’s use of the services set forth herein.
- (2) Claims are limited to one claim per Guaranteed Parcel settlement of which will be full and final settlement for delivery claims related to the Guarantee.

- C. TERMINATION**. Either Party (the “Terminating Party”) may terminate this Agreement immediately in the event: (i) the other Party becomes insolvent or unable to pay debts as they mature, or ceases to so pay, or makes an assignment for the benefit of creditors, (ii) the other Party is dissolved or liquidated, (iii) the other Party breaches a material term of the Agreement, and such breach is not cured within ninety (90) days of the Terminating Party providing written notice of said material breach to the breaching Party, (iv) there is a change in any applicable law, or an interpretation by any regulatory authority regarding the laws and/or operating requirements applicable to a Party’s business, and either of which has a material adverse effect on the operation of said Party’s business (but only if so terminating by said Party will alleviate said effect), (v) that a regulatory, governmental, legal or other similar enforcement authority so requires or instructs a Party to terminate or suspend services to the other Party, or (vi) upon the mutual written agreement of both Parties.

#### **D. CONFIDENTIALITY**

- (1) Confidential Information. “**Confidential Information**” as used in this Agreement will mean all confidential and/or proprietary knowledge or information owned or possessed by either Party (“**Disclosing Party**”) that is disclosed to the other Party (“**Receiving Party**”) or to which the Receiving Party gains access in connection with this Agreement (“Confidential Information”), including, without limitation, each Party’s and its Affiliates’ (as defined below): (i) customer and prospect lists; (ii) pricing proposals, financial and other business information; (iii) research and development information, technology (including the PB APIs), specifications, product requirements, processes, analytical methods and procedures, techniques and hardware design; (iv) business practices, know-how, marketing or business plans; (v) the terms and conditions of this Agreement; and (vi) any other information identified in writing as confidential. The Receiving Party will hold in confidence all Confidential Information that is disclosed to the Receiving Party by the Disclosing Party, whether such Confidential Information is specifically identified as confidential, until one of the conditions in Section D(4) (i)-(iv) has occurred.
- (2) Non-use and Non-disclosure; Maintenance of Confidentiality. All Confidential Information furnished to the Receiving Party is the sole and exclusive property of the Disclosing Party. Each Party agrees that it will (i) except to the extent expressly allowed in this Agreement, not use any Confidential Information of the Disclosing Party; (ii) take all reasonable measures to maintain the confidentiality of all Confidential Information of the other in its possession or control, but no less than the measures it uses to maintain the confidentiality of its own information of similar importance; and (iii) not disclose any Confidential Information of the Disclosing Party to any third party.
- (3) Notwithstanding the foregoing, a Receiving Party may disclose Confidential Information of the Disclosing Party to the extent such disclosure is legally compelled by any governmental or judicial entity pursuant to proceedings over which such entity has jurisdiction, or is required under any applicable law, provided that, to the extent permissible, the Receiving Party first gives the Disclosing Party reasonable notice of such requirement,

provides reasonable cooperation to the Disclosing Party, at the sole cost and expense of the Disclosing Party, in its efforts to lawfully limit disclosure.

- (4) The obligations set forth in this Section will not apply to information that: (i) was known to the Receiving Party free of any confidentiality obligation prior to disclosure by the Disclosing Party; (ii) is or becomes generally known to the public or is obtainable from public sources other than as a result of an act or omission of the Receiving Party; (iii) is independently developed by or on behalf of the Receiving Party without use of or reference to the Disclosing Party's Confidential Information; or (iv) has been supplied to the Receiving Party after the time of receipt without restriction by a third party who, to the knowledge of the Receiving Party, is under no obligation to the Disclosing Party to maintain such information in confidence. If either Party should breach or threaten to breach any of the provisions of this Section, the non-breaching Party, in addition to any other remedies it may have at law or in equity, will be entitled to seek a restraining order, injunction, or other similar remedy in order to specifically enforce such provisions.

#### **E. REPRESENTATIONS, WARRANTIES AND INDEMNITY**

- (1) Representations and Warranties. Client represents and warrants that:
- (a) It is a corporation duly organized, validly existing and in good standing under the laws of jurisdiction of its incorporation, and that it shall obtain and maintain all necessary approvals, licenses, consents, permits or authorizations of any person or entity, or any notice to any person or entity, the granting of which is required by law applicable to their respective businesses for the consummation of the transactions contemplated by this Agreement.
  - (b) In the performance of its obligations under this Agreement, it will comply with all applicable laws, rules, and regulations of governmental authorities in connection therewith.
  - (c) All shipments will be prepared in secure premises by Client's employees, and all Parcels in such shipments will be protected against unauthorized interference during their preparation and storage.
  - (d) All information Client or its representatives provide shall be complete and accurate, all Parcels will be properly marked, addressed, and packed to ensure safe transportation with ordinary care in handling.
- (2) Indemnification. Client shall indemnify and hold PBI harmless from and against claims, suits, actions, damages, losses, demands, costs and expenses (including reasonable attorney's fees) asserted by a consignee, or anyone with an interest in a Parcel relating to any delay or non-delivery of a Parcel. In addition, Client, on behalf of itself and its successors and assigns, also agrees to indemnify and hold harmless PBI, its directors, officers and employees from all losses, claims of losses, damages and expenses (including without limitation court costs and reasonable attorneys' fees) asserted by third parties, resulting from or arising out of: (a) Client's breach of this Agreement; (b) bodily injury or death caused by Client or Client's subcontractors; (c) the grossly negligent acts or omissions or willful misconduct of Client or its subcontractors; or (d) violation of law or other applicable regulation by Client or Client's subcontractors.

#### **F. MISCELLANEOUS**

- (1) Nonwaiver; Severability. The Parties agree that a waiver of any right under this Agreement by either Party on any occasion will not in any way constitute a waiver of such right or any other right on any subsequent occasion. The Party's further agree that, in the event any provision of this Agreement is determined to be invalid, such invalidity will not affect the validity of the remaining portions of this Agreement, and further agree to substitute for the invalid provision a provision that most closely approximates the intent and economic effect of the invalid provision.
- (2) Counterparts. This Agreement may be executed in counterparts, all of which taken together constitute one single agreement between the Parties.
- (3) Relationship of Parties. The relationship between PBI and Client shall be strictly that of independent contractors, and neither PBI nor Client shall be, or be deemed to be agents, parties to a joint venture, or partners of one another.
- (4) Third Party Beneficiaries. This Agreement is entered into solely between, and may be enforced only by, PBI and Client, and this Agreement shall not be deemed to create any rights in third parties, including without limitation suppliers, consignees, and customers of that Party, or to create any obligations of a Party to any such third party.

- (5) Entire Agreement. This Agreement sets forth the entire business understanding between PBI and Client with respect to the subject matter of this Agreement, and supersedes and replaces all previous discussions, negotiations, and agreements, whether oral or written.
- (6) Notices. Except as explicitly stated otherwise, any notice to either Party shall be given via registered mail, expedited courier or hand delivery to General Counsel at the Addresses set forth in the opening paragraph of this Agreement.
- (7) Assignment. Client may not assign this Agreement (by operation of law or otherwise) without the prior written consent of PBI. Any attempted assignment will be null and void. This Agreement will be binding upon and inure to the benefit of the Parties and their respective permitted successors and assigns. Notwithstanding the foregoing, each Party is permitted to assign its rights and obligations hereunder to any of its Affiliates without the prior consent of the other. “**Affiliate**” means an entity that controls, is controlled by, or is under common control with, Client. For purposes of this definition, “control” means the ownership of fifty percent or greater of the voting securities or assets of an entity.
- (8) Force Majeure. If PBI is delayed or interrupted in or prevented from the performance of its obligations hereunder by reason of any act of God, fire, flood, war, public commotion, disaster, traffic, strikes or labor difficulties, mechanical breakdowns, governmental enactment, regulation or order, or any other cause beyond its reasonable control, PBI will not be liable to the other therefor; and the time for performance of its obligations shall be extended for a period equal to the duration of the contingency that occasioned the delay, interruption, or prevention.
- (9) Survival. The following sections will survive the termination or expiration of this Agreement: Section 4 (Payment and Financing Options), Section B (Limitation of Liability), Section D (Confidentiality), and Section E (Representations, Warranties and Indemnity), and any other section that, by its nature, would continue beyond the termination or expiration of this Agreement.
- (10) Governing Law. The laws of Connecticut, excluding its conflicts-of-law rules, shall govern this Agreement. The Parties hereby agree and consent to the exclusive jurisdiction and venue of the state and/or federal courts situated in the State of Connecticut in any action arising out of or relating to this Agreement, and hereby submit to the personal jurisdiction of such courts.