



## ON-PREMISE SOFTWARE LICENSE AGREEMENT

(Last modified August 1, 2019)

Thank you for choosing our on-premise software product(s) (the “Licensed Products”) listed in your order form (“Order”).

We’ll start with the basics, including a few definitions that should help you understand this agreement. This is an agreement between the entity identified on the Order (“you” or “your”) and Pitney Bowes Inc. (“we”, “us” or “our”). During the Term (defined in Section 1(a)), we will provide the Licensed Products listed in the Order, and which may be further defined in a Statement of Work referencing these terms (“SOW”). The Order, these terms and the SOW(s) are referred to collectively as this “Agreement”. In the event of a conflict between the Order, these terms and the SOW(s), these terms will control, followed by the Order then the SOW. This Agreement affects your rights and contains warranty disclaimer and binding arbitration provisions.

### 1. License

a) The Licensed Products and all related materials are proprietary to us and our licensors and suppliers. As long as you comply with the terms of this Agreement, we will grant a limited, non-exclusive, non-transferable, license to access and use the Licensed Products during the Term. The “Term” is: (i) perpetual in the case of a Purchase Agreement Order; or (ii) the term of the lease subject to a Lease Agreement Order. We are not selling the Licensed Products to you and, other than the license we are granting, we reserve all rights to the Licensed Products not expressly granted in this Agreement.

b) You are authorized to install and use the Licensed Products on a Computer, or hardware provided by us, in each case with User access as defined in the Documentation (defined in Section 2(d)) or applicable SOW. “Computer” means the server or server configuration or load balanced application servers, terminal or computer identified in an Order or SOW on which the Licensed Products are authorized to be installed and used. “User” means an individual authorized by you to use the Licensed Products under an Order or SOW regardless of whether the individual is actively using the Licensed Products at any given time.

### 2. Use of Licensed Products

a) You agree that you will use the Licensed Products and any data generated from the Licensed Products only for business purposes and not for personal, family or household purposes. The Licensed Products include any enhancements, updates, upgrades, modifications, new releases and corrective programming to the Licensed Products or Documentation that are provided as part of software maintenance (“Enhancements”). The Licensed Products will be installed and used only at the location described in an Order or any other location as to which we have consented to the transfer of the Licensed Products in accordance with Section 2(c) (“Installation Site”) and only on the hardware provided by us or the Computer described in an Order or SOW. Remote access to the Licensed Products directly or indirectly through a server, the Internet, independent software application or

otherwise to your computer from locations other than your Installation Site, and use of the Licensed Products to perform services for any third parties, including your affiliates, are prohibited. Additional terms of authorized use will be described in your Order or SOW and may include, among other things, limitations on: (i) the number of Users; and (ii) the number of transactions processed or individual data records accessed using the Licensed Products. Licensed Products licensed for desktop use by a specific number of Users may be installed on the number of devices equal to the number of licenses purchased, or may be installed on multiple devices so long as the number of Users do not exceed the number of User licenses purchased.

b) Additional product-specific license terms applicable to certain of the Licensed Products (“Product Terms”) can be found in Exhibit A and are incorporated into this Agreement. If there is a conflict between the Product Terms and any other provision of this Agreement, the Product Terms will control.

c) If the Licensed Product is for a designated Computer, you do not need our consent to transfer the Licensed Product from one computer system to another at the Installation Site. However, you need our consent if you wish to transfer the Licensed Product to another location. After obtaining our consent to a transfer to another location, you will certify to us in writing that all copies of the Licensed Product at the prior location were either transferred to the new location or destroyed.

d) You may make a reasonable number of copies of the Licensed Products and Documentation solely for back-up or disaster recovery purposes. “Documentation” means the current technical and user documentation for the Licensed Products. The Documentation may be modified from time-to-time to incorporate Enhancements. You must reproduce all copyright, trademark, trade secret and other proprietary notices in your copies. The back-up or disaster recovery copies can only be used to perform disaster recovery testing or if the Computer where the Licensed Products are installed becomes inoperative, those copies cannot be used for recovery production or testing concurrently with the production or testing copies of the Licensed Products. If the Computer becomes inoperative, the Licensed Products can only be used on a back-up computer utilizing the same operating system.

e) Upon prior written notice to us, you may permit a third party contractor to access and use the Licensed Products solely for your benefit, so long as: (i) the contractor agrees to comply fully with all terms and conditions of this Agreement; (ii) you remain responsible for the contractor's compliance with this Agreement and any breach; (iii) any User limitation includes User licenses allocated to contractors; and (iv) the contractor is not a competitor of ours. All rights granted to any contractor under this Agreement terminate immediately upon termination or expiry of this Agreement. Upon termination of such rights, the contractor must immediately cease all use, un-install and destroy all copies of the Licensed Products and Documentation, and must certify in writing its compliance with this Section upon our request.

### **3. General Use Restrictions**

a) For the Licensed Products, you will not: (i) make derivative works; (ii) sublicense, sell, rent, lease, lend, time-share, disclose, transfer or host the Licensed Products, Documentation or confidential or proprietary information to or for any other parties; (iii) use the Licensed Products to modify or reproduce third party material unless you have the legal right to do so; (iv) attempt to unlock or bypass any initialization system, encryption methods or copy protection device in the Licensed Products; (v)

alter, remove or obscure any patent, copyright or trademark notice in the Licensed Products or Documentation; (vi) reverse engineer, decompile or disassemble or remove functions of the Licensed Products or any portion of them; (vii) make copies of the Licensed Products or Documentation, except as authorized in Section 2(d); (viii) modify, alter or change the Licensed Products; (ix) use components of a Licensed Product independent of the Licensed Products they comprise; or (x) extract any data from the Licensed Product and use such data for any purpose other than for your use of the Licensed Product.

b) You will not use the Licensed Products in the operation of a time-sharing or service bureau arrangement or as an application service provider. You will not allow access to the Licensed Products through any other means than those indicated in the Order or in any SOW.

#### **4. Fees; Payment Terms**

a) You will pay the fees for the Licensed Products, maintenance, training and any other fees described in an Order (which may include financing provisions). All fees and any applicable taxes are due and payable within 30 days from the date of our invoice. You will pay a late charge of 1.5% per month or the highest amount permitted by law, whichever is less, on any fees not paid by the due date. Unless otherwise identified in an Order, all fees are stated in and will be paid in United States currency.

b) The fees do not include any amount for taxes. You will pay all sales, use, property, excise and other taxes imposed with respect to the products and/or services. If any sales, use, excise or other taxes (except for taxes based on our net income) are required to be collected, we will itemize them on invoices issued in connection with an Order.

c) If the number of locations or the number of Users or Computer systems exceeds what is permitted by and/or paid for under an Order, we may charge you for the appropriate license and software maintenance fees based on the excess and at the applicable rates then in effect.

#### **5. Indemnity and Procedures**

a) Subject to Section 5(c), we will indemnify and hold you harmless from all losses, damages, and reasonable costs and expenses arising out of a claim by a third party that the Licensed Products infringe or misappropriate any copyright, trade secret, trademark or patent. We will have no obligation to indemnify, defend and hold you harmless for any claim or suit that is based on Third Party Content (defined in Section 10) except to the extent that our licensor's or suppliers of such Third Party Content have indemnified us.

b) If the Licensed Products are subject to a claim of infringement or misappropriation, or if we reasonably believe that the Licensed Products may be subject to a claim, we will at our option either: (i) replace the Licensed Products with functionally equivalent software; (ii) modify the Licensed Products while retaining substantively equivalent functionality; (iii) procure at no cost to you the right to continue to use the Licensed Products; or (iv) if (i), (ii) or (iii) are not commercially reasonable, we will notify you to terminate use of the Licensed Products. If we direct you to terminate use (or a permanent injunction is issued against such use), you will immediately do so and your remedies, in addition to this indemnity, will be limited to a pro rata refund of the current maintenance fees unused at the time of termination plus license fees previously paid for the Licensed Products that are subject to the infringement or misappropriation claim based on: (1) a term of 60 months following execution of

the applicable Order for a perpetual license; or (2) any pre-paid but unused fees for the balance of a term license. If your Order is a lease and we direct you to terminate use of the Licensed Products, after the effective date of termination we will release you from your payment obligations with respect to the license and software maintenance fees for the Licensed Products included in your payments under the lease due after the effective date of termination.

c) We will have no obligation to indemnify you if the infringement or misappropriation results from your: (i) modification of the Licensed Products; (ii) combination, operation or use of the Licensed Products with software products which are not ours; (iii) use of the Licensed Products in breach of this Agreement; or (iv) use of other than the most current release of the Licensed Products if a claim of infringement or misappropriation could have been avoided by your use of the current release of the Licensed Products, provided we delivered the superseding version to you and notified you of the need to use it.

d) You will indemnify, defend and hold us harmless from all claims and suits (including reasonable attorneys fees) against us by a third party based on: (i) any event described in Section 7(c) Warranty/Disclaimers that would cause the warranty in this Agreement to be inapplicable; or (ii) use of a release of the Licensed Products that is not the most current release made available to you to the extent that a claim or suit could have been avoided or mitigated by your use of the most current release.

e) You or we (the "Indemnified Party") will give the other (the "Indemnifying Party") prompt written notice of any matter with respect to which the Indemnified Party intends to seek indemnification under this Agreement (a "Claim"), provided, that the failure or delay in providing notice will not relieve the Indemnifying Party from any obligation to indemnify the Indemnified Party except to the extent that the failure or delay prejudices the defense of any Claim. The Indemnifying Party may, at its election, conduct and control the defense of the Claim with counsel selected by it, subject to the Indemnified Party's consent, not to be unreasonably withheld or delayed. The Indemnified Party agrees to cooperate with the Indemnifying Party and its counsel in investigating and/or contesting any Claim. No compromise or settlement of the Claim may be effected by the Indemnifying Party without the Indemnified Party's prior written consent, which will not be unreasonably withheld or delayed.

## **6. Software Maintenance; Training**

a) We will provide software maintenance in accordance with the terms you will find at <http://www.pitneybowes.com/us/license-terms-of-use/shipping-and-mailing-maintenance-services-terms.html>.

b) We will provide product training as specified in an Order or SOW.

## **7. Warranty; Disclaimers**

a) We represent and warrant that during the Warranty Period the Licensed Products will conform to all substantial operational functions of the Licensed Products described in the Documentation or in the applicable SOW. Except as set out in any Product Terms, the "Warranty Period" is 90 days from the date the Licensed Product is delivered to you. If the Licensed Products do not conform during the Warranty Period, we will, at our option: (i) repair or replace the Licensed Product; or (ii) refund the

license and software maintenance fee for the non-conforming Licensed Product. If the Licensed Product is subject to a lease, we will refund payments made for the license and software maintenance fee and secure a release from future payments of the license and software maintenance fee under the lease. In the case of clause (ii), this Agreement will be terminated as it applies to the relevant Licensed Product.

(b) If we supply carrier rate information ("Rate Information") to you in connection with this Agreement, the media upon which the Rate Information is supplied are warranted to be free from defects for a period of 90 days after installation. Your sole remedy for breach of this warranty will be replacement of the Rate Information media. We do not warrant that the Rate Information itself is accurate. We will have no liability for any damages you may incur as a result of your use of the Rate Information.

(c) There is no warranty if the Licensed Products failed to perform because of your use of the Licensed Products in a manner not authorized by this Agreement or for a purpose other than the ordinary purpose for which it is designed. The warranty does not apply if the Licensed Products have been altered, modified, converted or repaired by anyone other than us.

(d) EXCEPT AS EXPRESSED IN THIS AGREEMENT, TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE LICENSED PRODUCTS, DOCUMENTATION, SOFTWARE MAINTENANCE AND OTHER SERVICES ARE PROVIDED BY US "AS IS" WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, ACCURACY, RESULTS, RELIABILITY, PERFORMANCE AND NON-INFRINGEMENT OR ANY INFORMATION GENERATED BY YOUR USE OF THE LICENSED PRODUCTS OR DOCUMENTATION. WE MAKE NO WARRANTY THAT THE LICENSED PRODUCTS WILL MEET YOUR OR ANY THIRD PARTY'S REQUIREMENTS, WILL OPERATE ERROR-FREE OR UNINTERRUPTED OR FREE FROM OTHER DEFECT OR FAILURE, OR WILL BE COMPATIBLE WITH OR OPERATE IN COMBINATION WITH ANY OTHER SOFTWARE OR HARDWARE SELECTED OR USED BY YOU OR ANY THIRD PARTY, OR THAT ANY DEFECT IS CORRECTABLE.

## **8. Limitation of Liability**

A) TO THE MAXIMUM EXTENT PERMITTED BY LAW, YOU ASSUME FULL RESPONSIBILITY FOR ANY LOSS THAT RESULTS FROM YOUR USE OF OR INABILITY TO USE THE LICENSED PRODUCTS AND WE WILL NOT BE LIABLE FOR ANY SUCH LOSS. IF THE WAIVER OF LIABILITY IN THE PREVIOUS SENTENCE IS NOT PERMITTED BY LAW, OUR TOTAL LIABILITY FOR ALL CLAIMS MADE RELATING TO YOUR USE OF OR INABILITY TO USE THE LICENSED PRODUCTS IN ANY BILLING PERIOD WILL BE NO MORE THAN WHAT YOU PAID US FOR THE LICENSED PRODUCTS FOR THE PREVIOUS BILLING PERIOD.

B) WE WILL NOT BE LIABLE FOR ANY INDIRECT, PUNITIVE, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, INCLUDING LOSS OF PROFIT OR REVENUE, LOST POSTAGE, LOST BUSINESS OPPORTUNITIES, BUSINESS INTERRUPTION OR LOST DATA YOU MAY SUFFER UNDER ANY CIRCUMSTANCES, EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF THOSE DAMAGES, OR FOR ANY CLAIM BY ANY OTHER PARTY.

## **9. Term; Termination**

- a) The Term of this Agreement begins on the date you sign an Order and will remain in effect for the Term of the Licensed Products.
- b) A party may terminate this Agreement if the other party commits a material breach of this Agreement and fails to cure the breach within 30 days after receipt of written notice of the breach, or if either party becomes insolvent or files for bankruptcy.
- c) We may terminate this Agreement under Section 5(b).
- d) We can terminate immediately by giving notice to you, without opportunity to cure, if you breach Sections 3 General Use Restrictions, 14(e) export terms, or the Carrier Agreements.
- e) Upon termination or expiry of this Agreement, you will stop using the Licensed Products and you will irretrievably delete and/or remove them from your Computer systems and, if not deleted and/or removed, return the Licensed Products and Documentation together with all copies to us; and you will certify compliance with this Section in writing.
- f) You acknowledge that any breach of your obligations under this Agreement with respect to our or a third party's proprietary rights or confidential information will cause us and/or the third party irreparable injury for which there exists no adequate remedies at law, and therefore we will be entitled to injunctive relief, without posting any bond, in addition to all other remedies provided in this Agreement or available at law.
- g) Any provision of this Agreement which expressly or by implication is intended to come into or continue in force on or after termination of this Agreement, including Sections 1(a) proprietary rights, 3, 5, 7, 8, 9(f) and (g), and 14, shall remain in full force and effect.

#### **10. Third Party Content; Regulated Functionality**

- a) Various third party software and other documentation ("Third Party Content") may have been incorporated into the Licensed Products by us under permission from our licensors and suppliers. The United States Postal Service ("USPS") or other governmental bodies may regulate certain functionality of the Licensed Products. Special terms and conditions applicable to the Third Party Content are included in separate carrier agreements available to you as click through agreements ("Carrier Agreements"), and you agree to comply with such terms and conditions. Any terms and conditions in the Carrier Agreements that are inconsistent with, or in addition to this Agreement will control with respect to the Third Party Content or its functionality. If, from time to time, the Carrier Agreements are amended, we will provide you the revised portions to reflect, (a) changes in our arrangements with our licensors or suppliers for Third-Party Content, or (b) regulatory requirements. License terms applicable to use of the USPS data found at <http://www.pb.com/license-terms-of-use/usps-terms.shtml> are incorporated in this Agreement by reference.
- b) If our license to any Third Party Content terminates, you agree: (i) that this Agreement and all other agreements with us or any of our affiliates and you (e.g., equipment) will remain in full force and effect in accordance with their terms; (ii) upon our written request, to discontinue use of, and/or return the terminated Third Party Content; and (iii) in the event of such request for discontinuance, we will have no further obligation to you with respect to the Third Party Content.

c) You will be solely responsible for: (i) entering into your own arrangements with third parties, including carriers, for software functionality not provided by us as part of the Licensed Products; and (ii) payment of all fees for third-party software not expressly included in the License fee paid under the Order, including fees associated with your operating environment.

#### 11. **Force Majeure**

Except for a party's payment obligations, neither party will be liable for any delays or failure in performance from any cause beyond their control.

#### 12. **Assignment**

You may not assign any of your rights under this Agreement to anyone else. We may assign or subcontract our rights to any other individual or entity at our discretion.

#### 13. **Use of Information; Data; Publicity**

a) We may collect and use information you provide to us or we obtain or which is derived from your use of the Licensed Products (including shipping information) or software maintenance and other services for the Licensed Products; provided that such information will be used for our internal purposes related to systems analysis and research, customer segmentation and/or the manner or method in which we conduct business with our customers.

b) You grant to us (and our affiliates and vendors, if applicable) the right to use the data you provide to us as necessary to provide the services through the Licensed Products and as provided in our Privacy Statement at <https://www.pitneybowes.com/us/legal/privacy-statement.html>.

c) You assign to us all right, title, and interest (including all rights in copyright and resulting patents) in any data, information, feedback, suggestions, and written materials provided to us related to your use of the Licensed Products.

d) You will ensure that you have the appropriate rights to (including the right to provide to us) all data, files, materials or other information that you provide to us in connection with our provision of the Licensed Products.

e) You agree that we can use your name in our client list and identify you as a client when communicating with prospective clients, in each case along with our product or service that you are using. You agree that we can use your name and logo in marketing content, including in an advertising campaign, with your prior consent.

#### 14. **General**

a) If you or we do not immediately take action on a violation of this Agreement, we are not giving up any rights under this Agreement, and we may still take action at a later point.

b) Notices under this Agreement will be effective: (i) in the case of a notice to you, when we send it to the last email or physical address you gave us or any address you may later provide; (ii) in the case of a notice to us alleging a breach of this Agreement, when delivered to us by email to [legalnotices@pb.com](mailto:legalnotices@pb.com) or by overnight courier or delivered in person to Pitney Bowes Inc., 3001 Summer Street, Stamford, CT 06926 along with a copy to our legal counsel: Attn. Chief Legal Officer and Corporate Secretary, or any addresses we may later provide; and (iii) in the case of any other notice when delivered to us by physical mail to Pitney Bowes Inc., SVP & GM, Global SMB Products & Strategy, 3001 Summer Street, Stamford, CT 06926 or when you create a case at [www.pitneybowes.com/us/contact-us.html](http://www.pitneybowes.com/us/contact-us.html) (follow the instructions under “how to create a case”).

c) If any provision of this Agreement is declared by a court of competent jurisdiction to be invalid, illegal or unenforceable, such provision will be severed from this Agreement and the other provisions will remain in full force and effect.

d) If physical delivery of the Licensed Products is required, delivery will be FOB point of origin. We may, to the extent available, deliver the Licensed Products, Enhancements or key codes electronically via the Internet or permit you to download the Licensed Products, Enhancements or key codes from our website.

e) You agree: (i) to comply with all U.S. export control laws and regulations; (ii) not to export, re-export, or provide the Licensed Products to any destination or to any person if prohibited by any U.S. law or regulation; and (iii) to immediately notify us in writing if you or one of your affiliates is or becomes listed in any Denied Parties List or if you or any of your affiliates export privileges are denied, suspended or revoked by any U.S. Government entity.

f) Nothing contained in this Agreement will be construed to constitute either party as a partner, joint venturer, co-owner, employee or agent of the other party and neither party will hold itself out as such.

#### 15. **Choice of Law; Arbitration; WAIVER OF JURY TRIAL**

a) This Agreement is governed by the laws of the State of Delaware.

b) If we file an action against you claiming you breached this Agreement and we prevail, we will be entitled to recover reasonable attorneys’ fees.

c) **ANY CLAIM OR CAUSE OF ACTION UNDER THIS AGREEMENT THAT YOU DON’T PRESENT WITHIN 1 YEAR FROM THE DISCOVERY OF THE CLAIM OR CAUSE OF ACTION WILL BE DEEMED WAIVED. ANY DISPUTE BETWEEN THE PARTIES WILL BE RESOLVED EXCLUSIVELY BY INDIVIDUAL BINDING ARBITRATION GOVERNED BY THE FEDERAL ARBITRATION ACT AND YOU AGREE TO GIVE UP THE RIGHT TO LITIGATE DISPUTES IN COURT.** Neither party will seek to have any dispute heard as a class action, private attorney general action, or in any other proceeding in which either party acts or proposes to act in a representative capacity. Any arbitration will be conducted by the American Arbitration Association (the “AAA”) under its Commercial Arbitration Rules. In the case of: (i) any dispute involving \$75,000 or less, we will reimburse your filing fees and pay the AAA’s and arbitrator’s fees and expenses; and (ii) any dispute involving more than \$75,000, the AAA rules will govern payment of filing fees and the AAA’s and arbitrator’s fees and expenses.



d) This Section 15 will survive any termination of this Agreement or an Order indefinitely.

**16. Verification**

With 10 days' written notice to you, we or our designated third party may verify your compliance with this Agreement at all locations and for all environments in which you use the Licensed Products. The verification will take place no more than one time per twelve-month period during normal business hours in a manner that minimizes disruption to your work environment. We may use an independent third party under obligations of confidentiality to provide assistance. We will notify you in writing if any such verification indicates that you have used the Licensed Products in excess of the use authorized by this Agreement. You agree to enter into an additional Order and pay all associated fees directly to us for the charges that we specify, including: (i) any excess use; (ii) maintenance and/or subscription fees for the excess use for the duration of such excess; and (iii) any additional charges determined as a result of the verification.

**17. U.S. Government Restricted Rights**

If you are an agency of the United States Government, use of the Licensed Products by the Government constitutes acknowledgment of our proprietary rights in the Licensed Products and such Licensed Products will be: (i) deemed "commercial computer software" or "commercial computer software documentation" and the Government's rights with respect to such Licensed Products and documentation are limited by this Agreement, pursuant to FAR § 12.212(a) and/or DFARS § 227.7202-1(a), as applicable, or their successors; and (ii) subject to "RESTRICTED RIGHTS", as described in FAR52.227-14 and/or DFAR252.227-7013 *et seq.*, as applicable. Use, duplication, or disclosure by the Government is subject to restrictions as set forth in these regulations.

**18. Entire Agreement**

This Agreement is the entire agreement between us and supersedes all prior written or verbal agreements, proposals, understandings and discussions. We will not be subject to pre-printed or standard terms contained on any purchase order or other purchasing document, and we specifically disclaim such terms. This Agreement cannot be modified unless agreed to by both you and us in writing.

**Exhibit A**  
**Product Terms**

If you have ordered the following products, your use of that product will be subject to the Product Terms below. Capitalized terms not defined below will have the same meanings set out in this Agreement.

**SendSuite® Live and SendPro® Enterprise (On-Premise)**

**Warranty**

Due to its installation procedures, the Warranty Period for the SendSuite Live and SendPro Enterprise (On-Premise) shipping software for multiple sites ("Multi-Site Software") is 90 days from the date of Acceptance of the Multi-Site Software at the initial site. "Acceptance" will be deemed to have occurred on the earlier of: (i) when you have indicated acceptance of the Licensed Products; (ii) after 30 days from delivery of the Licensed Products (the "Acceptance Period") unless you provided a notice of rejection during such period; or (iii) when the Licensed Products have been installed and conform to all substantial operational functions described in the user manual. You will not unreasonably withhold or delay Acceptance.

**Pitney Bowes Delivery Guarantee**

If your Order for SendSuite Live or SendPro Enterprise (On-Premise) contains Pitney Bowes Delivery Guarantee, these additional terms apply <https://www.pitneybowes.com/us/smb-terms/on-premise-product-terms-pbd.html>.