



## LOCKERS LEASE TERMS AND CONDITIONS

This is a lease with Pitney Bowes Global Financial Services LLC (PBGFS), Pitney Bowes' leasing company. PBGFS provides leasing options to our customers. PBGFS does not warrant, service or otherwise support the Lockers. Those services are provided by Pitney Bowes Inc. (PBI) as stated in herein.

### 1. Definitions

**"Acceptance"** shall be deemed to have occurred when Customer has indicated its acceptance of the Lockers or when the Lockers have been installed and conform to all substantial operational functions. Customer shall not unreasonably withhold or delay its acceptance.

**"Agreement"** - the Order, any applicable terms and conditions referred to in the Order and any attached exhibits.

**"Confidential Information"** - information of a party hereto which is furnished to the other party. The terms of this Lease are considered Confidential Information. Your identity is not considered Confidential and PBI has the right to advertise your use of the Lockers

**"End-user"** - the person using the Lockers for self-service parcel fulfillment.

**"Key Operator"** - the on-site key operator that Customer shall identify, assign and maintain who shall be Pitney Bowes' primary contact at the site for information concerning the Lockers.

**"Lease"** - the Order and the Lease Terms and Conditions.

**"Normal Working Hours"** - 8 a.m. - 5 p.m., Monday - Friday, excluding PBI-observed holidays, in the time zone where the Lockers are located.

**"Order"** - page one of this agreement which has been executed between the applicable Pitney Bowes company and you for the Lockers.

**"PBGFS"** - Pitney Bowes Global Financial Services LLC.

**"PBI"** - Pitney Bowes Inc.

**"Pitney Bowes"** - PBI, PBGFS and their respective subsidiaries.

**"Pitney Bowes On The Go™ Package Pickup"** - one or more lockers ("Lockers") as listed on the Order.

**"Placement Location(s)"** - the location(s) where each of such Lockers shall be placed, as specified in the Order.

**"Quarterly Payment"** - has the meaning assigned to such term in Section 3.

**"Software"** - has the meaning assigned to such term in Section 15.

**"Stated Term"** - the period that begins upon Acceptance and continues for the number of months specified in the Order.

**"Support Services"** - has the meaning assigned to such term in Section 18.

**"Support Services Payments"** - has the meaning assigned to such term in Section 18.

**"Third Party Content"** - any third party software and other documentation that may have been incorporated into the Lockers by Pitney Bowes under permission from Pitney Bowes licensors and suppliers.

**"Third Party Software"** - software developed by a party other than us.

**"Warranty"** - the warranty provided pursuant to Section 5 of the Locker Warranty and Maintenance Schedule set forth below.

**"We," "Our," or "Us"** - the Pitney Bowes company with whom you've entered into the Order.

**"You," "Your," or "Customer"** - the entity identified on the Order.

### 2. Agreement

You, the Customer, agree to lease from us, PBGFS, one or more Lockers as listed on the Order. The Order sets forth: (a) the number of Lockers that are leased by you hereunder; (b) the Placement Location where each of such Lockers shall be placed and kept; (c) the applicable period of the Stated Term; and (d) the lease fees and additional payment terms.

**3. Payments.** PBGFS will invoice you in arrears each quarter for all payments on the Order (each, a "Quarterly Payment"). All payments shall be payable to "Pitney Bowes Global Financial Services LLC" at P.O. Box371887, Pittsburgh, PA 15250-7887, unless we direct you otherwise in writing. You agree to receive facsimile communications from PBGFS and affiliates relating to your account and/or products and services. UNLESS OTHERWISE EXPRESSLY PROVIDED HEREIN, THE CUSTOMER CANNOT CANCEL OR TERMINATE THIS LEASE FOR ANY REASON, WITH ALL PAYMENT OBLIGATIONS BEING UNCONDITIONAL REGARDLESS OF ANY MATTER, INCLUDING DAMAGE, DESTRUCTION OR OBSOLESCENCE TO THE LOCKERS. PAYMENTS ARE NOT SUBJECT TO SETOFF, ABATEMENT OR REDUCTION.

**4. Lease Term.** The term of this Lease is the Stated Term. If you enter into a new lease during the Stated Term that incorporates the remaining payments under this Lease, and the new lease does not become effective or is subsequently terminated, we may reinstate this Lease. Pitney Bowes may terminate this Lease in its sole discretion at any time and retake the Lockers. If such termination is not based on a breach by you of this Lease,

Pitney Bowes will attempt to provide you with thirty (30) days notice of such termination, unless applicable law or other requirements necessitate shorter notice to you, and we shall credit you for any prepaid but unused lease payments.

**5. Title to and Use of Your Lockers.** You authorize us to file a Uniform Commercial Code financing statement naming you as debtor/lessee with respect to the Lockers. All Lockers are and shall remain, the property of Pitney Bowes and the Customer shall have no right, title or interest therein except as set forth herein, and such Lockers shall remain personal property even though installed in or attached to real property. Title to the original or any replacement Lockers will at all times remain with us. You shall use the Lockers only: (a) for business or commercial purposes, and (b) in the manner specified in the manuals and instructions covering the Lockers. You will keep the Lockers free from any liens or encumbrances. You may use the Lockers only to offer self-service parcel fulfillment pursuant to this Lease. Tampering with or misusing the Lockers violates this Lease and may be punishable under Federal law, and, in the case of any such tampering or misuse, we may terminate this Lease by notifying you in writing if we so terminate. All Lockers are subject to examination by Pitney Bowes Inc. at any time. The Lockers may be previously used or refurbished.

**6. Assignment.** YOU MAY NOT ASSIGN OR SUBLET THE LOCKERS OR THIS LEASE WITHOUT OUR PRIOR WRITTEN CONSENT, WHICH CONSENT WILL NOT BE UNREASONABLY WITHHELD. We may sell, assign, or transfer all or any part of this Lease and/or the Lockers. Any sale, assignment, or transfer will not affect your rights or obligations under this Agreement.

**7. End of Lease Options.** During the 90 days prior to the end of your Lease, you may, if not in default, select one of the following options: (a) enter into a new lease with us or (b) purchase the Lockers "as is, where is" for fair market value or (c) return the Lockers in their original condition, reasonable wear and tear excepted. If you elect to return the Lockers, you will pay our applicable packing and pick-up fee and make the Lockers available for our retrieval. If you have not elected one of the above options, you shall be deemed to have entered into successive month-to-month extensions of the Stated Term. During any such extension, you may elect (effective upon 90 days prior written notice) to return, purchase or lease the Lockers as provided above in this Section. If You select option (b) above, You will be responsible for obtaining connectivity for the Lockers.

**8. Environmental Conditions and Handling of Lockers.** The Customer agrees to keep the Lockers at the Placement Location(s) therefor and shall not move the Lockers without Pitney Bowes' prior written consent. In the event You move the Lockers without Pitney Bowes' prior written consent, you hereby waive the Warranty. The Customer shall be responsible for supplying electrical power supply and Internet connectivity in accordance with Pitney Bowes specifications designed to allow Software updates to the Lockers, including, without limitation: a) bug fixes, b) new features and c) remote monitoring of the Lockers for, among other things, maximizing uptime. The Customer must handle Lockers with reasonable and proper care and ensure that they are run employing no unauthorized attachments or other devices, using only supplies that meet Pitney Bowes specifications and protecting them against physical damage or mistreatment. Failure to take proper care of the Lockers in accordance with our specifications may result in your being invoiced for repair or replacement costs. If repair or replacement is needed, you must notify your local Pitney Bowes representative promptly. The Customer shall clean and dust all areas of the Lockers and the adjacent areas. If a Placement Location is not located indoors, then Customer shall provide sufficient protection from the elements. In preparation for the installation of the Lockers, Customer shall be responsible for obtaining all necessary permits and shall provide Pitney Bowes with a location that shall support the Lockers in compliance with all local ordinances, seismic codes and regulations. Additionally, Customer shall be responsible for mounting the Lockers to the floor and wall or tethering to the walls in accordance with all applicable laws.

**9. Maintenance and Inspection.** We will perform maintenance on the Lockers in accordance with the Lockers Warranty and Maintenance Schedule hereunder.

**10. Taxes.** You agree to pay Pitney Bowes for all charges and taxes (other than taxes on or measured by net income), calculated as set forth below, related to the Lease or based on or measured by the lease transaction, payments under the Lease, the Lockers or the location(s) of the Lockers, or the services provided in connection with the lease transaction, including but not limited to sales/use and property type taxes. Pitney Bowes will determine the value of the Lockers, and the amount of such taxes to be charged to you. Such determinations will reflect a reasonable value of the Lockers or the actual taxes and depreciation thereon. The taxes and depreciation to be charged on the Lockers may reflect certain average tax rates, different depreciation schedules or some other calculation. You agree to pay a processing, billing and tracking fee and administrative charge to be determined by Pitney Bowes which may not bear a relationship to the tax charged or services performed, but such fee and charge shall in no event exceed in the aggregate \$35 for each year for each Lease schedule.

**11. LIMITATION OF LIABILITY.** NEITHER PBI NOR ITS SUPPLIERS IS LIABLE FOR ANY LOSSES OR INJURIES TO YOU OR ANY THIRD PARTIES CAUSED BY THE LOCKERS OR ITS USE OR ANY LOSS OR DAMAGE OF PARCEL(S) IN CONNECTION WITH THE LOCKERS. YOU AGREE TO REIMBURSE US FOR, AND TO DEFEND US AGAINST, ANY COSTS, DAMAGES OR LIABILITY ARISING OUT OF THE USE OF THE LOCKERS, INCLUDING REASONABLE ATTORNEY'S FEES, BUT EXCLUDING THOSE ARISING FROM OUR GROSS NEGLIGENCE OR WILLFUL MISCONDUCT. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS LEASE, WE (PBGFS) LEASE THE LOCKERS TO YOU "AS IS," "WHERE IS" AND "WITH ALL FAULTS." WE (PBGFS) MAKE NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR FREEDOM FROM INTERFERENCE OR INFRINGEMENT WITH RESPECT TO THE LOCKERS OR SERVICES FURNISHED HEREUNDER. PITNEY BOWES' TOTAL LIABILITY (INCLUDING ANY LIABILITY OF ITS SUPPLIERS) IS LIMITED TO THE FEES PAID BY YOU TO PBI FOR THE APPLICABLE LOCKERS OR SERVICES PROVIDED HEREUNDER IN THE 12 MONTHS BEFORE THE EVENT THAT GIVES RISE TO THE CLAIM. NEITHER PITNEY BOWES NOR ITS SUPPLIERS IS LIABLE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES OF ANY NATURE WHATSOEVER, INCLUDING COMMERCIAL LOSS, OR LOST PROFITS, DATA, OR GOODWILL, FOR ANY MATTER RELATING TO THIS AGREEMENT.

**12. Late Payments/Returned Items.** If any payment under this Lease is not paid in full on or before its due date, you will be charged the applicable administrative fee assessed on delinquent accounts. For each dishonored or returned payment item, check or draft, you will be assessed the applicable returned item fee.

**13. Default.** You are in immediate default if you do not make any payment when due, you breach any other obligation under this Agreement, you become insolvent or file for bankruptcy, or are in default under any agreement with PBI or PBGFS.

**14. Remedies.** Upon your default, we may: (a) cancel this Agreement and any other agreements PBGFS or PBI has with you; (b) require immediate payment of all amounts payable under a Lease(s) or other agreements, whether accrued or due in the future; (c) remotely disable the Lockers; (d) require you to return the Lockers; (e) if you do not return the Lockers, we will require you to make immediate payment of an amount equal to what will be the remaining value of the Lockers at the end of the Stated Term, as determined by us; (f) charge you a late charge for each month that your payment is late; (g) charge you interest on any late payment from its due date until paid in full at the lesser of 18% per year or the maximum rate allowed by law; (h) charge you a check return fee for payments made by you with insufficient funds; (i) reasonably attempt to mitigate our damages and costs in the event of your default, although you acknowledge that we are not obligated to do so; and (j) pursue any other remedy, including repossessing the Lockers without notice to you. By repossessing the Lockers, we are not waiving our right to collect the balance due. You will pay all our costs, including attorneys' fees, in enforcing our rights against you. We reserve all of our rights against you even if we do not enforce them at the time you

default. All of our rights and remedies are cumulative and are not conditioned upon your default continuing.

**15. Software License.** Software provided hereunder (including without limitation software that may be embedded in the Lockers) (the "Software") is provided under this limited use software license. The Customer acknowledges and agrees that with respect to the "Software": i) the Customer may use the Software solely in connection with the Lockers; ii) the Customer is prohibited from transferring or distributing the Software; iii) the Customer is prohibited from reverse assembly, reverse compilation and other translation of the Software or any portion thereof (to the extent not otherwise forbidden by law without the possibility of waiver); iv) the Software, including all parts thereof, provided under this agreement are copyrighted and licensed (not sold), and that Pitney Bowes does not transfer title to the Software or any parts thereof to the Customer; and v) the Software, including all parts thereof, may contain or be derived from portions of materials provided by a third party under separate license, and that such third parties disclaim all warranties, express or implied, with respect to the use of such materials including, without limitation, the implied warranties of merchantability and fitness for a particular purpose; and vi) the limitation of liabilities section also applies to any third-party supplier of materials supplied to the Customer; that such limitations of liabilities applicable to Pitney Bowes and Pitney Bowes' third-party suppliers are not cumulative, and that such third party suppliers are intended beneficiaries of such section. Various third party software and other documentation ("Third Party Content") may have been incorporated into the Lockers by Pitney Bowes under permission from Pitney Bowes licensors and suppliers. Special terms and conditions applicable to the Third Party Content are included in Third Party Software License Provisions Schedule to this Lease, and the Customer agrees to be bound by and to comply with such terms and conditions. Any terms and conditions in such schedule that are inconsistent with, or in addition to, the terms and conditions of the rest of this Lease shall control with respect to the Third Party Content.

**16. Lockers Condition and Repairs.** You will keep the Lockers free from liens and encumbrances and in good repair, condition, and working order. We may inspect the Lockers and any related maintenance records during Normal Working Hours. You may not move the Lockers from the Placement Location(s) without our prior written consent.

**17. Risk of Loss and Insurance.** You bear the entire risk of loss to the Lockers from the date of shipment by PBI until the end of the Stated Term (including any extensions), regardless of cause, ordinary wear and tear excepted ("Loss"). No Loss will relieve you of any of your obligations under this Lease. You must immediately notify us in writing of the occurrence of any Loss. You will keep the Lockers insured against Loss for its full replacement value under a comprehensive policy of insurance or other arrangement with an insurer of your choice, provided that it is reasonably satisfactory to us ("Insurance"). YOU MUST CALL US AT 1-800-732-7222 AND PROVIDE US WITH EVIDENCE OF INSURANCE WITHIN TEN (10) DAYS OF INSTALLATION.

**18. Computation of Payment; Invoices.** You acknowledge that the amount of each lease payment has been agreed upon in an arms-length negotiation between the parties and that the underlying components of our lease pricing are proprietary to us. By your execution of this Lease, you disclaim any interest in the components of our lease pricing, which components may include, by illustration, but not be limited to, fees associated with shipping and handling, the purchasing and pick-up of the Lockers, support services, lease origination and other lease or fees and expenses related to the Lockers, and may also include amounts carried over from or associated with a previous un-expired lease with us or a third party. The amounts we use to compute your Quarterly Payment, and taxes paid by us upon the purchase of the Lockers, are capitalized and paid by you over the Stated Term. We may increase your Quarterly Payment if any Pitney Bowes Payments increase. If indicated on the Order, you have agreed to make a payment ("Support Services Payment") to Pitney Bowes for items such as Locker installation, training, consulting services, systems integration and data conversion, and other support services ("Support Services"). The Support Services may be provided by an authorized subcontractor. The Support Services Payment is non-refundable.

**19. Origination Fee.** Unless paid by you separately, a one-time fee to cover the origination, documentation, processing and certain other initial costs associated with this Lease is included as a capitalized amount in computing your Quarterly Payment.

**20. Initial Lease Payment.** At our discretion, you shall pay your first Quarterly Payment upon your execution of this Lease. This payment shall be deemed to have been earned when we receive it and shall be applied immediately to your obligation to make your first Quarterly Payment.

**21. Customer Waivers.** To the extent permitted by law, you waive any rights you now or later may have under any statute or otherwise which require us to sell, lease or otherwise use any Lockers to reduce our damages including our realization of the remaining value of the Lockers, or which may otherwise limit or modify any of our rights or remedies. You agree that the rights and remedies under UCC Article 2A (Sections 508-522) do not apply to this Lease. ANY LEGAL ACTION YOU FILE AGAINST US MUST BE STARTED WITHIN ONE (1) YEAR AFTER THE EVENT GIVING RISE TO YOUR CLAIM. YOU AND WE HEREBY WAIVE ANY RIGHT TO TRIAL BY JURY IN ANY ACTION RELATED TO OR ARISING OUT OF THIS LEASE.

**22. Survivability.** Your obligations under Section 4 regarding lease reinstatement (lease term), Section 10 (taxes), Section 11 (limitation of liability) and Section 14 (remedies) survive termination or cancellation of this Lease.

**23. Entire Agreement and Severability.** This is the entire agreement between Pitney Bowes and the Customer and is intended by the parties as an agreement to lease the Lockers covered hereunder. No prior statements or understandings, even if reduced to writing, or other prior documents are effective if they are inconsistent with this Lease, or if they obligate Pitney Bowes in any way beyond what is written here. Any terms of any other document which add to, vary from, or conflict with these terms are hereby objected to and are not binding on Pitney Bowes. If any provision of this Lease is determined to be invalid under any applicable statute or rule of law, it is to that extent to be deemed omitted, and the balance of this Lease shall remain enforceable. Failure to enforce any rights hereunder or under law, irrespective of the length of time for which said failure continues, shall not constitute a waiver of those or any other rights.

**24. Force Majeure.** Pitney Bowes shall not be held responsible or incur any liability for any delay or failure in performance hereunder to the extent that such delay or failure results from causes beyond its control, including but not limited to fire, flood, explosion, war, terrorism, labor dispute, embargo, government requirement, civil or military authority, natural disasters, epidemic or other similar types of situations.

**25. Confidentiality.** All Confidential Information shall be maintained in confidence and remain the sole property of the disclosing party and shall be protected by the receiving party in the same manner and with the same degree of care (but in no event less than a reasonable degree of care) as that party uses in protecting its own information of a confidential nature. Each party agrees that it shall not disclose, use, modify, copy, reproduce or otherwise divulge such Confidential Information other than to fulfill its obligations under this Lease. Confidential Information does not include information (a) already lawfully known to or independently developed by the receiving party without use of or access to the other party's Confidential Information, (b) disclosed in published materials that are made generally available, (c) generally known to the public without a violation of this Lease, or (d) lawfully obtained from any third party without an obligation to keep such information confidential. Neither party shall disclose to third parties, other than its agents and representatives on a need-to-know basis, Confidential Information without the prior written consent of the other party, except the receiving party may disclose such information to the extent required by law or regulation so long as the receiving party gives the disclosing party advance written notice of the pending disclosure and the chance to limit the disclosure or obtain a protective order. Upon the request of the disclosing party, the receiving party will return or destroy all Confidential Information of the disclosing party that is in its possession.

**26. Acceptance and Choice Of Law.** This Lease is subject to final acceptance by Pitney Bowes, at its offices in Stamford, CT. This Agreement shall be governed and construed in accordance with the laws of the State of Delaware without regard to its conflicts of laws principles.

**27. Relationship of the Parties.** In fulfilling its obligations under this Lease, each party hereto will be acting as an independent contractor. This Lease does not make either party the employee, agent, or legal representative of the other. Nothing herein will be deemed to establish a partnership, joint venture, association or employment relationship between the parties.

**28. Non-Appropriation.** You warrant that you have funds available to pay all payments until the end of your current fiscal period, and shall use your best efforts to obtain funds to pay all payments in each subsequent fiscal period through the end of your Lease Term. If your appropriation request to your legislative body, or funding authority ("Governing Body") for funds to pay the payments is denied, you may terminate this Lease on the last day of the fiscal period for which funds have been appropriated, upon (i) submission of documentation reasonably satisfactory to us evidencing the Governing Body's denial of an appropriation sufficient to continue this Lease for the next succeeding fiscal period, and (ii) satisfaction of all charges and obligations under this Lease incurred through the end of the fiscal period for which funds have been appropriated, including the return of the Equipment at your expense.

**29. Early Termination.** You further warrant that you intend to enter into this Lease for the entire Stated Term and you acknowledge that we have relied upon such represented intention when determining the applicable pricing plan. If you cancel or terminate this Lease prior to expiration of the Stated Term (other than for non-appropriations), you shall pay a termination charge equal to the net present value of the monthly payments remaining through the completion of the term, discounted to present value at a rate of 6% per year.

**30. Miscellaneous.** If more than one Lessee is named in this Lease, liability will be joint and several. You represent that you may lawfully enter into, and perform, this Lease and the Lockers Warranty and Maintenance Schedule, and that the individuals signing this Lease and the Lockers Warranty and Maintenance Schedule on your behalf have all necessary authority. By executing the Order, you agree to furnish financial information which we may request now and in the future, including your tax identification number and you authorize us to obtain credit reports on you now and in the future. In addition, any principal, owner, officer or guarantor signing on the Order or on any documents executed in connection herewith agrees to furnish financial and other information we may request now and in the future including his or her social security number, and authorizes us to obtain one or more consumer credit reports on him or her in connection herewith and any credit extended as a result hereof.

The Customer shall identify, assign and maintain an on-site Key Operator and shall give prompt notice to Pitney Bowes of any change in the identity of the Key Operator. The Key Operator shall be Pitney Bowes' primary contact at the site for information concerning the Lockers.

YOU AGREE THAT AN EXECUTED COPY OF THIS LEASE BEARING OUR STAMPED SIGNATURE AND YOUR SIGNATURE (AN ORIGINAL MANUAL SIGNATURE OR SUCH SIGNATURE REPRODUCED BY MEANS OF A RELIABLE ELECTRONIC FORM, SUCH AS PHOTOCOPY, FACSIMILE OR ELECTRONIC SIGNATURE) MAY BE MARKED "ORIGINAL" BY US AND SHALL CONSTITUTE THE ONLY ORIGINAL DOCUMENT FOR ALL EFFECTIVE PURPOSES. ALL OTHER COPIES SHALL BE DUPLICATES. TO THE EXTENT THIS LEASE CONSTITUTES CHATTEL PAPER (AS DEFINED IN THE UCC), NO SECURITY INTEREST IN THIS LEASE MAY BE CREATED EXCEPT BY THE POSSESSION OR TRANSFER OF THE COPY MARKED "ORIGINAL" BY US. THIS LEASE MAY NOT BE AMENDED OR SUPPLEMENTED EXCEPT IN A WRITTEN AGREEMENT SIGNED BY THE PARTIES AND NO PROVISIONS CAN BE WAIVED EXCEPT BY OUR WRITTEN CONSENT. Our acceptance of any payment or check offered by you as a settlement, or an accord and satisfaction, shall not constitute a waiver of our rights, or an accord and satisfaction, unless accompanied by a separate agreement executed by both parties.

#### **LOCKERS WARRANTY AND MAINTENANCE SCHEDULE**

The following provisions describe the Lockers Warranty and Maintenance Schedule that PBI offers on Lockers (excluding Third Party Software). The Third Party Software License Provisions Schedule is covered below.

### **1. How To Contact Us.**

To obtain maintenance or emergency repair service, please call PBI's toll-free response center (the "Customer Care Center") at 1-855-213-0681 during Normal Working Hours.

**2. Locker Maintenance Service.** The parties acknowledge and agree that the Lease includes Lockers Maintenance in the lease payments and Pitney Bowes agrees to provide you, at no additional cost beyond the amount thereof included in the applicable lease payments, with maintenance and emergency repair service on the relevant Lockers as required due to normal wear and tear. Repair service may include the use of new, reconditioned or remanufactured parts and assemblies. If we deem it necessary, we will dispatch a service technician to arrive at your location for on-site service. You will not incur hourly charges unless service is performed outside Pitney Bowes' Normal Working Hours, which will be done only with your consent. We may, in our sole discretion, service the Lockers by replacing them with new or equivalent to new Lockers that have the same performance capabilities as the Lockers or with Lockers that have greater performance capabilities and similar quality as your leased Lockers. In the event that we elect to service the Lockers by replacement, you must pack the defective Lockers in the shipping carton that contained the replacement Lockers, place the pre-paid return address label on the carton, and return it to Pitney Bowes within five (5) days of receiving the replacement Lockers, and you will be responsible for the returned Lockers until we receive the same. Maintenance or repairs made necessary due to negligence, accident, casualty, operator error, damage in transit, virus contamination, loss of data, misuse (including use in an environment with unsuitable humidity and/or line voltage), external forces, loss of electrical power, power fluctuation, loss of connectivity, non-Pitney Bowes service or the use of supplies not meeting our specifications are not covered. You are also responsible for cleaning the external area and area immediately adjacent to the Lockers. Lubricants and other materials needed to service the Lockers (except consumable supplies) will be provided without additional charge.

**3. Software Maintenance.** The Lease includes Software maintenance in the lease payments, Pitney Bowes will provide you, at no additional cost beyond the amount thereof included in the applicable rental fee, with updated versions (i.e., fixes and minor enhancements (including postal or carrier rate changes, Zip or zone changes, and changes in service provided by carriers)), of any software programs included in the relevant Lockers and licensed to you by Pitney Bowes. Pitney Bowes may alter or change the

services provided under this paragraph, or terminate such services, at its discretion. If you terminate any software license agreement associated with Lockers included in a Lockers Schedule to which this Service Agreement is subject or, if you breach any such software license associated with Lockers included in a Lockers Schedule to which this Service Agreement is subject and fail to cure said breach within 30 days of receiving notice thereof, Pitney Bowes shall terminate its performance and disable the Lockers.

**4. Waiver of Rights.** IN NO EVENT WILL WE BE LIABLE FOR ANY INDIRECT, CONSEQUENTIAL, SPECIAL, EXEMPLARY, OR INCIDENTAL DAMAGES OF ANY KIND WHATSOEVER AND HOWEVER CAUSED, OR FOR ANY LOST PROFITS, SAVINGS, OR REVENUES OF ANY KIND, OR FOR LOST DATA OR DOWNTIME, EVEN IF WE KNEW OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES.

### **5. Warranty**

5.1 (a) PBI warrants that the Lockers will be free from defects in material and workmanship and will perform according to the equipment user guide for a period of ninety (90) days from the date of installation.

(b) PBI warrants that maintenance provided will be performed in a professional and workmanlike manner.

(c) As your sole remedy in the event of a warranty claim, we will either repair or replace the Lockers or, in the case of defective maintenance, reperform the maintenance.

(e) There is no warranty for Lockers requiring repair or replacement because of your negligence, usage which exceeds PBI's recommendations, damage in transit, virus contamination or loss of data, misuse, external forces, loss or fluctuation of power, fire, flood, or other natural causes, or service by anyone other than PBI.

**5.2. EXCEPT AS EXPRESSLY STATED IN THIS AGREEMENT, WE (ON BEHALF OF OURSELF AND OUR SUPPLIERS) MAKE NO OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE WITH RESPECT TO THE LOCKERS OR SERVICES PROVIDED.**

5.3. PBI MAKES NO REPRESENTATION OR WARRANTY AS TO ANY THIRD PARTY SOFTWARE. PBI AGREES TO PASS THROUGH TO YOU ALL THIRD PARTY SOFTWARE WARRANTIES TO THE EXTENT SUCH WARRANTIES ARE TRANSFERABLE.

## **THIRD PARTY SOFTWARE LICENSE PROVISIONS SCHEDULE**

**1. Grant of License Rights.** The Lockers have embedded or bundled within it certain Software, which may include Third Party Content, related technology and documentation owned by third parties. At all times subject to the terms and conditions of this Agreement and the PBI Agreement and the payment of the applicable license fees, Pitney Bowes grants to the Customer in connection with the Lockers only, the non-exclusive, non-transferable, non-assignable license rights to use and operate the Software. The term "use" shall mean the right to perform all functions associated with the operation of Software in a processing system, and all such uses shall be in conjunction with the Lockers only.

**2. Restrictions and Conditions.** If the Customer has purchased a license for the Software and Third Party Content through the lease of the Lockers, the Customer shall only permit those employees, consultants or agents of the Customer who shall be bound to the confidentiality defined in this Agreement and are bound to duties of non-disclosure and restrictions on use of confidential information (each, an "Authorized Recipient") to exercise the license rights granted to the Customer and shall be responsible for the acts and omissions of each such Authorized Recipient. The Customer shall not have any right to make (and is hereby expressly prohibited from undertaking) the establishment, authorization or appointment of any third party to act as a sub-dealer, sub-distributor, sub-reseller, sub-agent or sublicensor of the Customer hereunder or to otherwise enter into any type of relationship or

confer any right whereby a third party acts for or on behalf of the Customer in the exercise of the Customer's license rights hereunder. The Customer shall not modify, translate, reverse engineer, disassemble, decompile or create derivative works based on the Software, and shall not reproduce, except as otherwise permitted herein, the Software. All applicable rights to any intellectual property in the Software or any modifications or derivative works are and shall remain in Pitney Bowes or, in the case of Software consisting of Third Party Content, the third party. The Customer shall not obscure or conceal, and shall at all times use and display, all proprietary and intellectual property rights notices of the owner(s) of such intellectual property rights as they appear on or in any materials provided to the Customer.

**3. Proprietary Information.** The Customer agrees that the Software may contain proprietary information, including trade secrets, know-how and confidential information, that is the exclusive property of the owner(s) of such intellectual property rights. The Customer and its employees and agents shall maintain such proprietary information in the strictest of confidence and shall not distribute, disclose or otherwise make available such proprietary information, including, but not limited to, any flow charts, logic diagrams, user manuals and screens, to any third party nor use such proprietary information except as authorized by this Agreement. Such restrictions and obligations shall not apply to any information that is or becomes generally available to the public through no fault of the Customer.