

ORDINANCE C-13-10

AN ORDINANCE TO AUTHORIZE THE CITY ADMINISTRATOR  
TO ENTER INTO A LEASE AGREEMENT WITH PITNEY BOWES

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WHEREAS, the Office of the Clerk of Courts desires to upgrade the postage equipment in the office;  
and

WHEREAS, a Lease Agreement is needed for the use and maintenance of this equipment; and

WHEREAS, the total Lease Agreement is for 60 months, at \$34.00 per month.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF GROVE CITY,  
STATE OF OHIO, THAT:

SECTION 1. The City Administrator is hereby authorized to enter into a Lease Agreement with Pitney Bowes for the equipment and maintenance of a postage machine for the Clerk of Courts.

SECTION 2. This Ordinance shall take effect at the earliest opportunity allowed by law.

  
\_\_\_\_\_  
Ted A. Berry, President of Council

Passed: 04-05-10

  
\_\_\_\_\_  
Richard L. Stage, Mayor

Effective: 05-05-10

Attest:

  
\_\_\_\_\_  
Tami K. Kelly, MMC, Clerk of Council

I Certify that this Ordinance  
is correct as to form.

  
\_\_\_\_\_  
Stephen J. Smith, Director of Law,

I certify that there is money in the treasury,  
or is in the process of collection, to pay the  
within ordinance.

  
\_\_\_\_\_  
Michael A. Turner, Director of Finance



Engineering the flow of communication™

C-13-10

State & Local Fair Market Value Account #10

Account number grid

Your Business Information

Form with fields: CAN #, ORDER #, CITY OF GROVE CITY, Full legal name of renter, DBA name of renter, Tax ID # (FEIN/TIN), 4035 BROADWAY, Billing address, GROVE CITY, City, OH, State, 43123-3001, Zip+4, Billing contact name, Billing contact phone #, Billing CAN #, 3360 PARK ST, Installation address (If different than billing address), GROVE CITY, City, OH, State, 43123-2632, Zip+4, Installation contact name, Installation contact phone #, Installation CAN #, 20205004862, Credit Card #, Name on card, Exp date, Type of card, Tax exempt #, State tax (if applicable), Fiscal period (from - to)

Your Business Needs

Table with 2 columns: Qty, Business Solution Description. Rows include: 1 DM100 Desktop Mailing System, 1 IntelliLink Interface / PSD for DM100, 1 Accounting (10 Dept) Software, 1 2 lb Integrated Weighing, 1 Integrated Weighing Platform, 1 Professional Installation for DM100, 1 IntelliLink Subscription

Check items to be included in customer's payment

- Equipment Maintenance Provides service coverage including certain parts and labor
Software Maintenance Provides revision updates and technical assistance
Soft-Guard® Subscription Provides postal and carrier updates
IntelliLink™ Subscription/Meter Rental / Confirmation Services / Purchase Power Subscription Provides simplified billing and includes ( ) resets per year
EasyPermitPostage® Subscription - Allows you to pay for permit mail.

Your Payment Plan

Table with 2 columns: Number of months, Monthly amount\*. Row: First ( 60 , ) ( \$ 34 )

\*Monthly Billing Only.

- ( ) Required advance check of \$ received
( ) Tax exempt certificate attached
Initial rental term

Your Acknowledgement

This document consists of an Equipment Lease ("Lease") with Pitney Bowes Global Financial Services LLC ("PBGFS"), an Equipment Service Level Agreement with Pitney Bowes Inc., and an Equipment Guide which includes, among other things, the IntelliLink Subscription/ Meter Rental and a US Postal Service Acknowledgment of Deposit and an Equipment Guide.

1. NON-APPROPRIATION. You warrant that you have funds available to pay the Total Payments until the end of your current fiscal period, and shall use your best efforts to obtain funds to pay the Total Payments in each subsequent fiscal period through the end of your Initial Term.

Form with fields: Signature, Date, Print name, Title, Email address, Account rep, District office, PBGFS acceptance



1. **Payments.** You, the customer, agree to lease from us, Pitney Bowes Global Financial Services, LLC (“PBGFS”, “we” or “us”), the Equipment (“Equipment”), which was selected by you and supplied by Pitney Bowes Inc. (“PBI”), listed on the Equipment Schedule. Equipment does not include any referenced IntelliLink™ Control Center or postage meter, which remain the property of PBI. You will be invoiced quarterly for all payments set forth on the Equipment Schedule (“Quarterly Payments”), which will be in arrears and due on the same day of each billing period. All payments shall be payable to “Pitney Bowes Global Financial Services, LLC” at P.O. Box 856460, Louisville, KY 40285-5460, 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 IN SECTIONS 15 AND 16 BELOW, THIS LEASE CANNOT BE CANCELLED OR TERMINATED FOR ANY REASON, WITH ALL PAYMENT OBLIGATIONS BEING UNCONDITIONAL REGARDLESS OF ANY MATTER, INCLUDING EQUIPMENT DAMAGE, DESTRUCTION OR OBSOLESCENCE. PAYMENTS ARE NOT SUBJECT TO SETOFF, ABATEMENT OR REDUCTION.**
2. **Lease Term.** The term of this Lease is the Stated Term. If you enter into a new lease during the Stated Term which incorporates the remaining payments under this Lease and the new lease does not become effective, or is subsequently terminated, we may reinstate this Lease.
3. **Location, Ownership and UCC Filing.** The Equipment may not be moved from the location specified without first obtaining our written consent. The Parties agree that this Lease is a “finance lease” governed by UCC (Uniform Commercial Code) Article 2A. We own the Equipment. You will keep the Equipment free from any liens or encumbrances. We may sign and file a UCC financing statement on your behalf (precautionary only).
4. **Assignment.** YOU MAY NOT ASSIGN, TRANSFER (BY OPERATION OF LAW OR OTHERWISE) OR SUBLET THE EQUIPMENT OR THIS LEASE (COLLECTIVELY “ASSIGNMENT”) WITHOUT OUR PRIOR WRITTEN CONSENT. We may sell, assign or transfer all or any part of this Lease and/or the Equipment. You agree and acknowledge that any assignment by us will not materially change your obligations hereunder.
5. **End Of Lease Options.** Upon 90 days prior written notice, you may, if not in default, elect among the following options with respect to the Equipment, such election to be effective no earlier than the end of the Stated Term: (a) enter into a new lease on mutually agreeable terms, or (b) purchase the Equipment “as is, where is” for fair market value as reasonably determined by us, or (c) return the Equipment in its original condition, reasonable wear and tear excepted. If you elect to return the Equipment, you must de-install the Equipment and make it 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 Equipment as provided above in this section.
6. **Taxes.** You agree to pay and indemnify us (and PBI, if applicable) for all charges and taxes (other than taxes on or measured by our net income) related to this Lease or based on or measured by the lease transaction, payments, Equipment or Equipment location, or Support Services referred to below. You agree to pay the applicable fee to cover our expenses associated with the administration, billing and tracking of such charges and taxes.

7. Liability. NEITHER WE NOR OUR SUPPLIERS ARE RESPONSIBLE FOR ANY LOSSES OR INJURIES TO YOU OR ANY THIRD PARTIES CAUSED BY THE EQUIPMENT OR ITS USE. You agree to reimburse us for, and to defend us against any costs, damages, or liability arising out of use of the Equipment, including reasonable attorneys' fees, but excluding those arising from our gross negligence or willful misconduct. You and we agree that these terms define a mutually agreed-upon allocation of risk and the fees paid for the Equipment reflect that allocation of risk.

8. 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. You also agree to pay interest on any payment delinquent under this Lease from its due date until paid in full at the lesser of 18% per year or the maximum rate allowed by law. For each dishonored or returned payment item, check or draft, you will be assessed the applicable returned item fee.

9. Default. You will be in immediate default without notice under this Lease if: (a) you fail to remit any payment under this Lease when due or if you breach any other obligation under this Lease; (b) you become insolvent, are liquidated, dissolve, stop doing business, or assign your rights or property for the benefit of creditors; (c) a petition is filed by or against you under any bankruptcy or insolvency law; or (d) you are in default under any other present or future agreement between you and us, or you and any of our affiliates ("Other Agreements").

10. Remedies. Upon your default, we may do any or all of the following: (a) cancel this Lease and any Other Agreements; (b) accelerate and require immediate payment, as liquidated damages, of all lease payments and other sums due under this Lease or due under any Other Agreements, whether accrued or due in the future; (c) require return of the Equipment; (d) require immediate payment, as compensation for your failure to return the Equipment and not as a penalty, of an amount equal to the remaining value of the Equipment at the end of the Stated Term, as determined by us in our reasonable discretion, and/or (e) pursue any other remedy we may have at law or in equity. You waive any notice of our repossession or disposition of the Equipment. By repossessing the Equipment, we do not waive our right to collect the balance due on the Lease. You shall 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.

11. Equipment Use Warranty Information. You shall use the Equipment only: (a) for essential government purposes, and (b) in the manner specified in the manuals and instructions covering the Equipment. You shall comply with all laws and regulations relating to the Equipment. You will be given an Equipment Guide by PBI which will include Equipment warranties, meter usage provisions, IntelliLink™ postage evidencing technology provisions (if applicable), and the terms and conditions of Purchase Power, a line of credit for postage, supplies and shipping expenses. You may communicate directly with PBI regarding Equipment warranties and any limitation or disclaimers thereof. WE (ON BEHALF OF OURSELVES AND OUR SUPPLIERS) MAKE NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, REGARDING ANY MATTER WHATSOEVER, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTY OF MERCHANTABILITY OR THE EQUIPMENT'S FITNESS FOR A PARTICULAR PURPOSE, ITS FREEDOM FROM INFRINGEMENT, OR OTHERWISE. WE LEASE THE EQUIPMENT TO YOU "AS IS," "WHERE IS" AND "WITH ALL FAULTS." YOU AGREE THAT WE AND OUR SUPPLIERS SHALL NOT BE LIABLE FOR ANY LOSS, DAMAGE (INCLUDING INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES) OR EXPENSE OF ANY KIND CAUSED DIRECTLY OR INDIRECTLY BY THE EQUIPMENT. WE HEREBY ASSIGN TO YOU AND YOU ARE ENTITLED TO ANY PROMISES AND WARRANTY RIGHTS WE HAVE OBTAINED FROM PBI. The print engine(s) or components within the print engine(s) supplied with this Equipment may be reconditioned or remanufactured. The reconditioned or

remanufactured print engine(s) is warranted to perform according to the same standards as the equivalent new item.

12. Equipment Condition and Repairs. You shall, at your expense, keep the Equipment in good repair, condition and working order (except for ordinary wear and tear). We may inspect the Equipment and any related maintenance records during normal business hours.

13. Embedded Software. The Equipment may contain embedded software. You agree: (i) that we and our licensors own the copyrights and other intellectual property in and to the embedded software; (ii) that you do not acquire any right, title or interest in or to the embedded software; (iii) only to use the embedded software with the Equipment in which the embedded software resides; (iv) that you may not copy the embedded software; (v) that you may neither modify nor create derivative works of the embedded software (vi) that you may neither distribute nor disclose the embedded software (or any portion thereof) to any other person; (vii) that you may not translate, de-compile, disassemble, or otherwise attempt to unbundle, reverse engineer or create derivative works of the embedded software, except as permitted by applicable law; and (viii) that you may not export the embedded software in contravention of applicable export control laws. The embedded software contains third party software. Notwithstanding the above, this section does not modify any terms that may accompany such third party software.

14. Risk of Loss. You are responsible for Equipment loss, damage or destruction from any cause, whether or not insured from the date of shipment by PBI and for the entire term of this Lease. No Loss shall relieve you of any of your obligations under this Lease. You shall immediately notify us in writing of the occurrence of any Loss. You shall, at your expense, keep the Equipment insured against Loss for its full replacement value under a comprehensive policy of insurance or other arrangement satisfactory to us ("Insurance"). You or your agent must call us at 1-800-243-9506 and provide us with such evidence.

15. 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, equipment purchasing and pick-up, support services, lease origination and other lease or equipment related fees and expenses, 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 Equipment purchase, are capitalized and paid by you over the Stated Term. If you so requested, your IntelliLink™ Control Center/Meter Rental, Service and/or Soft-Guard® payments ("PBI Payments") commence simultaneously with the beginning of the Lease Term, and such payments (though not a part of your lease with PBGFS) are included in your Quarterly Payment as an accommodation to you and PBI; other fees, charges and taxes provided for in this Lease are not included in your Quarterly Payment and will be separately itemized on your invoice. We may increase your Quarterly Payment if any PBI Payments increase. Your IntelliLink™ Control Center/Meter Rental is cancelable on 30 days notice as provided in your Equipment Guide. If indicated in the Business Solution Description section of page one, you have agreed to make a payment ("Support Services Payment") to PBI for items such as Equipment installation, training, consulting services, systems integration and data conversion, and other support services ("Support Services"). The Support Services Payment is non-refundable.

16. 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 Stated 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.

17. 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.

18. 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 may be included as a capitalized amount in computing your Quarterly Payment.

19. 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 Equipment to reduce our damages including our realization of the remaining value of the Equipment, 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.

20. Survivability. Your obligations under Section 2 (lease reinstatement), Section 6 (taxes), Section 7 (indemnification) and Section 10 (remedies) survive termination or cancellation of this Lease.

21. 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 Equipment Service Agreement, and that the individuals signing this Lease and Equipment Service Agreement on your behalf have all necessary authority. This Lease and Equipment Service Agreement constitutes the entire agreement between the parties as to the subjects addressed in this Lease and Equipment Service Agreement, and representations or statements, both oral and written, including purchase orders, not included herein or therein are not binding on the parties. By executing page one, 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 page one 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.

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.

### **Equipment Service Level Agreement.**

**Incorporated Terms: Definitions.** All of the information provided when you submit your order is incorporated by reference and made a part of this Service Level Agreement (“SLA”). The terms defined or described on page one shall have the same meanings in this SLA. Pitney Bowes will provide Customer (“you”) with maintenance and emergency repair services for covered Equipment (excluding software) as required, including new (or equivalent to new) parts and assemblies needed due to normal wear.

**The following terms and conditions apply to all equipment service level agreements:**

**1.0 Basic Equipment Maintenance.** To obtain service or emergency repair, you must contact Pitney Bowes for service during its normal working hours (8am – 5pm in the time zone where the equipment is located, Monday through Friday, excluding holidays) (“Normal Working Hours”) or you may place a request for service via its website [www.pb.com](http://www.pb.com). In addition, you have access to remote telephone support through the toll free response center (8 am to 8 pm EST, Monday through Friday, excluding holidays) at 1-800-522-0020. Depending on your Equipment type and at its option, Pitney Bowes reserves the right to service your Equipment by (a) Service by Replacement with new, reconditioned or remanufactured equipment, depending upon the age of the Equipment and the nature of the performance problem, or (b) On-site service, remote diagnostics or off-site service, including new (or equivalent to new) parts and assemblies replacement needed due to normal wear. Parts or assemblies for discontinued equipment (and/or equipment not marketed as new) will be provided only if available. If service is provided for your Equipment by replacement and your problem cannot be resolved over the telephone, Pitney Bowes will, at no cost to you, promptly ship new, reconditioned or remanufactured equipment to replace your Equipment. Within five (5) days of receipt of the replacement equipment, you must pack your defective Equipment in the shipping carton that contained the replacement equipment, place the shipping paid return address label on the carton and return it to Pitney Bowes. You are responsible for the value of, and any damages to, the Equipment until Pitney Bowes receives it. If service is provided for your Equipment by on-site service, remote diagnostics or off-site service, and if deemed necessary by Pitney Bowes, a service engineer in most cases will be dispatched to arrive at your location for on-site service. There will be no hourly charges unless service is performed outside Pitney Bowes’ Normal Working Hours set forth above. Lubricants and other materials needed to service your Equipment are provided without additional charge. Notwithstanding the foregoing, consumable supplies for all levels of service and printheads for meters, Intellilink® equipment and printers for standard service are not covered by this SLA. Professional services other than those set forth herein are not covered by this SLA. Rate program software for electronic scales and weighing systems is excluded from coverage under this SLA.

**2.0 Exclusions.** This SLA excludes services and repairs that are made necessary due to negligence or accident, damage in transit, virus contamination and loss of data, misuse or abuse, external forces, loss of electrical power, power fluctuation, operator error, casualty (such as fire, flood, or other natural causes), sabotage, repair or attempted repair by anyone other than Pitney Bowes or the use of supplies not meeting Pitney Bowes specifications.

**3.0 Term.** THE INITIAL TERM OF THIS AGREEMENT SHALL BE A TWELVE (12) MONTH PERIOD OR SUCH LONGER TERM AS MAY BE PROVIDED IN ANY LEASE AGREEMENT RELATING TO THE EQUIPMENT FOR WHICH MAINTENANCE COVERAGE IS PURCHASED PURSUANT TO THIS SLA AND SHALL BE AUTOMATICALLY RENEWED FOR SUCCESSIVE TWELVE (12) MONTH PERIODS (OR UNTIL EXPIRATION OR TERMINATION OF THE LEASE AGREEMENT), UNLESS

PITNEY BOWES RECEIVES FROM YOU WRITTEN NOTICE OF TERMINATION AT LEAST SIXTY(60) DAYS BEFORE THE END OF THE INITIAL TERM OR THE THEN CURRENT RENEWAL TERM. SUCH NOTICE SHALL BE PROVIDED TO THE FOLLOWING ADDRESS: Pitney Bowes Inc., 2225 American Drive, Neenah, WI 54956. All amounts invoiced under this SLA are due and payable to Pitney Bowes upon your receipt of each invoice.

**4.0 Modification; Termination.** Pitney Bowes may, from time to time, change the services provided under this SLA, modify the terms of this SLA, or terminate such services or this SLA, at Pitney Bowes' discretion, with notice to you. If the equipment covered by this Agreement is moved from its original location, Pitney Bowes may elect, in its sole discretion and upon written notice to you, to revise this agreement to delete the on-site response times set forth in Section 2.0. In the event of such a revision, you will receive a pro-rata refund for the remaining term of your agreement reflecting the cost of that additional on-site guaranteed response time service as compared to the cost of maintenance coverage without such response time obligation. Pitney Bowes will advise you, in such notice, if it believes, in its sole judgment, that any such change in services or modification of terms is material. If you receive notice that any such change in services or modification of terms is material, you may terminate this SLA 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, by certified mail, return receipt requested, at the following address: Pitney Bowes Inc., 2225 American Drive, Neenah, WI 54956. If you breach any applicable term of this or any other agreement with Pitney Bowes or Pitney Bowes Global Financial Services LLC, Pitney Bowes may immediately terminate this SLA. Pitney Bowes may also recover all expenses incurred in enforcing its rights under this SLA, including reasonable attorneys' fees and interest to the maximum extent permitted by law. If Pitney Bowes no longer offer maintenance service for the Equipment or this SLA is terminated by Pitney Bowes or if you have terminated this SLA as provided in this Section 4.0, Pitney Bowes' sole obligation shall be a pro-rata refund of fees paid for the terminated services except if the termination is due to your breach of this SLA.

**5.0 Fees.** Adjustments to SLA rates will be made only at renewal time. If your Equipment is regularly operated more than one eight-hour shift per day, five days per week, a surcharge will be added to your annual rate. Pitney Bowes reserves the right not to renew this SLA at any time and for any reason including, but not limited to, age of the Equipment or excessive cycle count, or your refusal to pay any amounts due under this SLA. If any payment under this SLA is not made in full on or before its due date, you shall pay Pitney Bowes' then applicable administrative fee assessed on delinquent accounts, including interest from its due date until paid in full, at the lesser of 1.5% per month or the maximum rate allowed by law. Your signature is our assurance that you have the authority to enter into this SLA. Pitney Bowes' acceptance is signified when its authorized invoice is issued or by its acceptance of your payment.

**6.0 Liabilities; Warranty.** NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS AGREEMENT, PITNEY BOWES MAKES NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE WITH RESPECT TO THE SERVICES FURNISHED HEREUNDER. OTHER THAN THE LIQUIDATED DAMAGES THAT MAY BE APPLICABLE TO SERVICE LEVEL AGREEMENTS WITH GUARANTEED RESPONSE TIMES UNDER SECTION 11, IN NO EVENT WILL PITNEY BOWES BE LIABLE FOR ANY DAMAGES, INCLUDING ANY LOST PROFITS OR INCIDENTAL, CONSEQUENTIAL, SPECIAL, PUNITIVE OR OTHER DAMAGES, EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. WITHOUT LIMITING THE FOREGOING, PITNEY BOWES' LIABILITY ARISING OUT OF CONTRACT, NEGLIGENCE, STRICT LIABILITY, IN TORT OR WARRANTY, OR OTHERWISE SHALL NOT EXCEED THE AMOUNTS PAID BY YOU FOR EQUIPMENT MAINTENANCE PROVIDED DURING THE 12-MONTH TERM DURING WHICH SUCH LIABILITY AROSE WITH RESPECT TO SUCH SERVICE.

**7.0 General** For your convenience, if you replace the Equipment covered by this SLA, your coverage will remain in effect on the replacement Pitney Bowes equipment (if the equipment qualifies) at Pitney Bowes' then current annual rate for the replacement equipment. If you acquire an attachment to your covered Equipment or add a unit to a covered integrated system, Pitney Bowes will provide coverage for any qualifying attachment or unit and adjust your rate accordingly. If you do not elect to continue coverage on the replacement equipment, you may cancel this SLA within 30 days after the date of your initial invoice, and any further maintenance or repair services provided for your Equipment will be subject to Pitney Bowes' then current chargeable rates for maintenance and emergency repair services. You may have additional remedies available under Pitney Bowes' Customer Satisfaction Guarantee Program as established by Pitney Bowes from time to time. In no event (including under the Customer Satisfaction Guarantee Program) will Pitney Bowes be liable for any damages including any lost profits, or other incidental or consequential damages for nonperformance of any obligations under this SLA. This SLA comprises the entire agreement between us with regard to the subject covered, and supersedes all prior statements, understandings and agreements, oral or written, or other documents if they purport to obligate us in any way beyond the terms of this SLA. Purchase orders or any other document that adds to, varies from, or conflicts with these terms are rejected. The terms of any software license agreement or software maintenance agreement between Pitney Bowes and you relating to the Equipment covered under this SLA shall have priority over the terms of this SLA. Pitney Bowes shall not be held responsible or incur any liability for any delay or failure in performance of any part of this SLA 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, or other similar types of situations.

**The following terms apply to equipment service level agreements with training and equipment service level agreements with guaranteed response time (as elected on the cover page of the lease). They do not apply to basic equipment service level agreements.**

**8.0 Training Services.** You may receive training during the term of this Agreement at a time mutually agreed upon by both parties. Such training will include an overview to the operator(s) on how to use the Pitney Bowes equipment covered by this Agreement. The number of training sessions that are included as part of the annual fees for your service level agreement are as follows:

a. mail finishing products (which includes meters, scales and certain accounting services equipment) receive twenty four (24) training sessions in each twelve month period

b. mail creation products (which includes tabletop folders, tabletop inserters and address printers and the Documatch® mailing system) receive up to four (4) training sessions in each twelve month period.

**9.0 Additional covered items.** Printheads for meters, Intellilink® equipment and printers are provided without additional charge.

**The following terms apply to equipment service level agreements with guaranteed response time (as elected on the cover page of the lease). They do not apply to basic equipment service level agreements and/or equipment service level agreements with training.**

**10.0 Preventive Maintenance. Services.** Pitney Bowes shall perform preventive maintenance on the Equipment which shall include maintenance of all non-expendable parts, cleaning, lubrication, and adjustments. Preventative Maintenance services shall be performed at regular intervals scheduled in advanced at a time convenient for both parties and based on the manufacturers' recommended preventive maintenance schedules.

**11.0 Response time.** If Pitney Bowes determines that on-site service is necessary, Pitney Bowes shall use reasonable commercial efforts to have a service technician on-site within four (4) business hours of our receipt of your call to our toll free number in Section 1.0. Pitney Bowes' business hours are Monday through Friday, 8 am to 5 pm in the time zone where the Equipment is located, excluding holidays. You acknowledge, however, that this response time relates solely to the arrival of a technician at your location, and that response time does not indicate the time to resolve a problem. This is not a guarantee of problem resolution

during such four (4) hour time period, nor does it guarantee that all parts necessary to make a repair will be on-site within these time frames. In your discretion, you may elect to schedule service at a time outside of the four (4) hour response time set forth herein. Products designated as service by replacement, software maintenance, preventive maintenance, operator training or other services not essential to restore equipment to a functional condition will be scheduled in advance and are not part of the response times set forth herein.

**12.0 Liquidated Damages for Failure to Meet Response Time.** Pitney Bowes agrees that if it does not respond to your site within four (4) hours of receipt of the request for service, Pitney Bowes will reimburse you a credit equal to three (3) months of the cost of the premium associated with the cost of the additional on-site guaranteed response time service as compared to the cost of maintenance coverage without such response time obligation ("Premium") upon your completion of refund form. You may request the refund form from your service technician or by calling the toll free number set forth in Section 1.0. Pitney Bowes will then review your request for a refund and shall determine whether a credit shall be issued based upon the information provided by you and a review of its own records. The credits set forth herein are limited to credits for two (2) failures to meet the response time obligations in Section 2.0 in any twelve (12) month period.

#### USPS Acknowledgment of Deposit

By electing to lease or use computerized meter resetting system ("CMRS") meter equipment, you may transfer funds to The Pitney Bowes Bank, Inc. (the "Bank") for deposit into a Postage By Phone® Reserve Account which you maintain at the Bank ("your Reserve Account") or may transfer funds to the United States Postal Service ("USPS") through a lockbox bank ("Lockbox Bank") for the purpose of prepayment of postage on CMRS-equipped meters ("Deposit"). 2. After the effective date of the lease or meter rental agreement between you and PBI, you may, from time to time, make deposits in your Reserve Account or may make Deposits in the Lockbox Bank account identified as: "United States Postal Service CMRS-PB." The USPS may, at its discretion, designate itself or a successor as recipient of Deposits made by you to the Lockbox Bank account described above. 3. Any deposit made by you in your Reserve Account shall be subject to the Postage By Phone® Reserve Account – Agreement and Disclosure Statement governing your Reserve Account. Any Deposit made by you in such Lockbox Bank account shall be credited by the USPS only for the payment of postage for CMRS equipment. Such Deposits will be held within the Postal Service Fund at the U.S. Treasury and may be commingled with Deposits of other customers. You shall not receive or be entitled to any interest or other income earned on such Deposits. 4. The USPS will provide a refund to you for remaining postage balances in CMRS equipment. The Lockbox Bank will provide a refund to you for deposits otherwise held by the USPS. These refunds are provided in accordance with the rules and regulations governing deposit of funds for CMRS, published in the Domestic Mail Manual or its successor. 5. The Lockbox Bank, which shall collect funds on behalf of the USPS, shall provide PBI, on each business day, information as to the amount of each Deposit made to the USPS by you, so PBI can update its records. 6. PBI may deposit funds on your behalf. The USPS will make no advances. Any relationship concerning advances is between you and PBI, PBGFS and/or the Bank. 7. You acknowledge that the terms of this arrangement may be changed, modified, or revoked by the USPS, with appropriate notice. 8. USPS regulations governing the deposit of funds for CMRS are published in the Domestic Mail Manual or its successor. You shall be subject to all applicable rules, regulations, and orders of the USPS, including future changes to such rules, regulations and orders, and such additional terms and conditions as may be determined in accordance with applicable law. The USPS rules, regulations, and orders shall prevail in the event of any conflict with any other terms and conditions applicable to any Deposit. 9. By engaging in any transaction through the Lockbox Bank, which will have the effect of setting postage through CMRS meter equipment, your activities concerning CMRS are subject to this USPS Acknowledgment of Deposit.

## EQUIPMENT GUIDE

DEFINITIONS. “PBI” means Pitney Bowes Inc. “PBGFS” means Pitney Bowes Global Financial Services, LLC. “Bank” means The Pitney Bowes Bank, Inc. “Party” shall mean each of PBI, PBGFS, Bank or you. “You” and “Your” means the customer.

WARRANTY. 1. Warranty. Pitney Bowes Equipment (hereinafter “Equipment”), Rate Software and PROM’s are warranted by PBI to be free from defects in material and workmanship and to perform according to their specifications for 90 days from the date of installation. If a defect in material or workmanship or a failure to perform within specifications occurs within the first 90 days after installation, PBI will repair it or, at its option, replace it at no charge. A “defect” does not include the failure of rates embodied in a Rate Update to conform to published rates as a result of carrier rate changes. The performance of services by PBI shall be done in a professional and workmanlike manner. There is no warranty for services and repairs that are made necessary due to negligence or accident, misuse, usage which exceeds manufacturer’s recommended usage, damage in transit, virus contamination or loss of data, misuse or abuse, external forces, loss of power, power fluctuation, operator error, casualty (such as fire, flood, or other natural causes), sabotage, repair or attempted repair by anyone other than PBI or the use of supplies not meeting PBI specifications. The warranty does not cover consumable parts or supplies such as belts, ink, ink rollers, sealer and moistener brushes, bulbs, felts and sponges or for parts worn out due to extraordinary use of the Equipment. 2. Disclaimer and limitation on liability. EXCEPT AS STATED ABOVE, PBI (ON BEHALF OF ITSELF AND ITS SUPPLIERS) MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. PBI WILL NOT BE LIABLE FOR ANY DAMAGES YOU MAY INCUR BY REASON OF YOUR USE OF THE EQUIPMENT OR THE FAILURE OF THE EQUIPMENT TO OPERATE, INCLUDING INCIDENTAL, CONSEQUENTIAL, SPECIAL OR PUNITIVE DAMAGES, EVEN IF PBI HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

INTELLILINK™ SUBSCRIPTION/METER RENTAL. Pursuant to United States Postal Service (“USPS”) regulations, PBI must own the IntelliLink™ Control Center or Meter, and you may rent and use it solely for the purpose of processing your mail, provided that you have a valid USPS meter license and you comply with (i) these provisions and (ii) all applicable USPS regulations. Your rights of use and rental shall be coterminous with your Lease (“Initial Term”) and may not be cancelled during the Initial Term. You will be billed the subscription or rental fees set forth in your Lease. After the Initial Term, the use and rental provided for herein may be cancelled by either party upon 30 days prior written notice. After termination, you must return the IntelliLink™ Control Center or Meter to PBI in the same condition as you received it, reasonable wear and tear excepted. Your subscription and/or rental fees will not be increased during the Initial Term. After the Initial Term, PBI may increase the subscription and/or rental fees upon 30 days’ prior written notice, provided no notice will be given if such increase is being offset by a corresponding reduction in your lease payment. When you receive notice of an increase, you may terminate this use and rental as of the date the increase becomes effective. Your IntelliLink™ Control Center and/or Meter may require periodic rate information updates that you can obtain under our Soft-Guard® program or you will receive individual rate updates as a separate charge. PBI reserves the right to recover or disable the IntelliLink™ Control Center or Meter and/or terminate this use and rental at any time and for any reason. Tampering with or misusing the IntelliLink™ Control Center or Meter is a violation of federal law. You must use only attachments or printing devices authorized by PBI and only supplies meeting PBI’s specifications. Consumable supplies and postage are your responsibility. From time to time, we may access or download information remotely from your mailing system equipment powered by Intellilink™ technology to provide us with information about your postage usage amounts and patterns. Such information enables us to provide you with the best customer support and information about other

products and services that may be of use to you, and some of the access and/or information may be necessary in order to conduct an inspection as required by USPS regulations. Any individually identifiable information that we obtain about you in this manner will not be shared by us with any third parties. From time to time, we may elect in our sole discretion to share aggregate data about our customers' postage uses with third parties. Please contact us if you have any questions about these data collection and/or sharing practices. You will notify PBI prior to moving the IntelliLink™ Control Center or Meter to a different location. In order to obtain postage, you must contact PBI's POSTAGE BY PHONE® data center. Postage refill fees, if any, will not increase during the Initial Term but thereafter refill fees may be increased upon 30 days prior written notice. If you participate in any PBI, PBGFS and/or Bank postage advance programs, payment will be advanced on your behalf to USPS, subject to repayment by you under the terms and conditions of the applicable postage advance program and billed separately from your Quarterly Lease Payment. Refunds of unused postage, if any, will be made by USPS in accordance with then current USPS regulations. Your download of postage after receipt of these terms shall be deemed your acceptance.

**SOFT-GUARD® SUBSCRIPTION/RATE UPDATES.** If the Lease includes a Soft-Guard® subscription, PBI will provide up to 6 Rate Updates during each 12 month period following the date of installation of the applicable Equipment. (The Soft-Guard® subscription is included with all DM Series™ mailing systems with Intellilink® technology.) PBI will provide each Rate Update only if required due to a postal or carrier change in rate, service, Zip Code or zone change. Your Soft-Guard® subscription does not cover any change in rates due to custom rate changes, new classes of carrier service or a change in Zip Code or zone due to Equipment relocation. If your order does not include a Soft-Guard® subscription or if you have received the maximum number of Rate Updates under your Soft-Guard® subscription, PBI will supply automatically Rate Updates at the then-current list price. There will be no charge for Rate Updates supplied within 90 days after the applicable Equipment is first installed. If you do not accept a Rate Update, you must contact PBI within 30 days of your receipt of the Rate Update.

**PURCHASE POWER® CREDIT LINE. Note: The following provisions apply when you first enroll in the Purchase Power Program (the "Program"). Additionally, you will receive from us a set of more specific provisions within twenty (20) days of the date of this Agreement that will be more specifically tailored to your Purchase Power Account (the "Account") and will apply to your ongoing participation in the Program.**

**1.1 General.** (a) In order to participate in the Program, you must provide the information described in Section 1.8. (b) If you subscribe to the EasyPermitPostage® service, you may use the Purchase Power credit line to pay for permit postage and associated USPS fees. (c) The Purchase Power credit line is a product of The Pitney Bowes Bank, Inc. (the "Bank") and is not available to individuals for personal, family, or household purposes.

**1.2 Account Charges.** (a) Your Account will be charged for the amount of postage, products, and services requested and the related fees, if applicable. (b) Unless prohibited by law, you agree to pay the fees and charges of which the Bank has given you notice, including, without limitation, the fees and charges relating to: (i) transaction fees, if applicable; (ii) your failure to pay in a timely manner; (iii) your exceeding your credit line; and (iv) fees attributable to the return of any checks that you give to the Bank as payment of the Account.

**1.3 Billing, Payments, and Collection.** (a) You will receive a billing statement for each billing cycle in which you have activity on the Account. The Bank reserves the right to deliver any statement electronically to the email address that is then on file for the Company. (b) Payments are due by the due date shown on your billing statement. (c) You may pay the entire balance due or a portion of the balance, provided that you pay at least the minimum payment shown on the statement. In the event of a partial payment, you will be responsible for the unpaid balance. **1.4 Deferred Payment Terms.** (a) By using the Program, you agree that whenever there is an unpaid balance outstanding on the Account which is not paid in full by the due date shown on your billing statement, the Bank will charge you, and you will pay, interest on the unpaid balance of the Account from time to time, for each day from the date the transaction is posted to the Account until the date the unpaid balance is paid in full, at a variable rate equal to the Annual Percentage Rate applicable to the Account from time to time. (b) (i) The Annual Percentage Rate applicable to the Account will be: the greater of (a) 22% and (b) the sum of

the highest "Prime Rate" published in the "Money Rates" section of *The Wall Street Journal* on the last business day of the month and the margin set forth below (the sum of the margin and the Prime Rate is herein called the "Floating Rate"). (ii) The Annual Percentage Rate will be adjusted on a monthly basis based on any fluctuation in the Floating Rate, if applicable. (iii) Any change in the Annual Percentage Rate based on the calculation described in this section will become effective on the first day of your next billing cycle. (iv) The margin which will be added to the Prime Rate to determine the Floating Rate will be 14.75% (using the Prime Rate in effect as of April 30, 2009, the daily periodic rate would be .049315% and the corresponding annual percentage rate would be 18.00%). (v) The Account balance that is subject to a finance charge each day will include (a) outstanding balances, minus any payments and credits received by the Bank on the Account that day, and (b) unpaid interest, fees, and other charges on the Account. (vi) The Bank will charge a minimum finance charge of \$1.00 in any billing cycle if the finance charge as calculated above is less than \$1.00. (vii) Each payment that you make will be applied to reduce the outstanding balance of the Account and replenish your available credit line. (viii) The Bank may refuse to extend further credit if the amount of a requested charge plus your existing balance exceeds your credit.

**1.5 Account Cancellation and Suspension.** (a) The Bank may at any time close or suspend the Account, and may refuse to allow further charges to the Account. (b) Cancellation or suspension will not affect your obligation to pay any amounts you owe.

**1.6 Amendments; Electronic Delivery; Termination.** (a) The Bank can amend any of the provisions and terms related to the Program at any time by written notice to you or by electronic notice via the email address that is then on file for the Company. You are consenting to electronic delivery of any amendments to the Program terms. (b) Each time you use the Program, you are signifying your acceptance of the terms and provisions then in effect. (c) An amendment becomes effective on the date stated in the notice and will apply to any outstanding balance on the Account. (d) The Bank may terminate the Program at any time and will notify you in the event of any termination. (e) Any outstanding obligation will survive termination of the Program.

**1.7 Governing Law.** The Program and any advances are governed by and construed in accordance with the laws of the State of Utah and applicable federal law.

**1.8 USA PATRIOT Act.** (a) Federal law requires financial institutions to obtain, verify and record information that identifies each person who opens an account. (b) The Bank asks that you provide identifying information, including your address and taxpayer identification number. (c) The Bank may also ask for additional identifying information, where appropriate, including asking that your representative who is opening the Account provide his/her name, address, date of birth, driver's license and/or other documents and information that will allow the Bank to identify him/her.

**VALUE BASED SERVICES.**

**1. Fees.** If your lease includes Value Based Services, these services will be made available to you through your IntelliLink™ Subscription, and the fees ("Fees") for these services will be included in your Quarterly Lease Payment. Your Fees will not be increased during the Initial Term. After the end of the Initial Term, we may increase the Fees, but we will give you thirty (30) days' prior written notice. When you receive this notice of an increase, you may terminate these services as of the date the increase becomes effective. If at any time you request a change to your Value Based Services, the Fees will be adjusted.

**2. Limited Warranty.** We warrant that, for a period of ninety (90) days from the date of delivery, the Value Based Services will perform substantially in accordance with their specifications under normal use. This warranty is void if the failure to perform is due to negligence or accident, virus contamination or loss of data, misuse or abuse, external forces, loss of power, power fluctuation, operator error, casualty (such as fire, flood, or other natural causes), sabotage, repair or attempted repair by anyone other than PBI or the use of supplies not meeting PBI specifications. We are only responsible for maintenance of the performance of the Equipment. Equipment performance will be governed by the warranty terms found in the Equipment Guide. **EXCEPT AS HEREIN SPECIFICALLY PROVIDED, THE VALUE BASED SERVICES ARE PROVIDED WITHOUT ANY FURTHER WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.** Some states do not allow the disclaimer of implied warranties. Therefore, the above disclaimer may not apply to you.

**3. LIMITED LIABILITY. WE WILL NOT BE LIABLE FOR ANY**

DAMAGES YOU MAY INCUR BY REASON OF YOUR USE OF THE SERVICES, INCLUDING INCIDENTAL CONSEQUENTIAL, SPECIAL OR PUNITIVE DAMAGES, EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. 4. Termination. We shall have the right to terminate the services if you breach your obligations hereunder and fail to cure such breach within thirty (30) days after you have been notified in writing of such breach. 5. USPS Provided Services. If one or more of the Value Based Services you selected is provided by the USPS, then the description of those services and the applicable terms for usage can be found in the USPS Domestic Mail Manual as it may be amended from time to time by the USPS. Any fees charged by the USPS for any special service you purchase will be payable by you in the same way that you pay for postage. The USPS is solely responsible for acceptance and processing of customer requests for Value Based Services. We are not responsible for the results of any malfunctions of any part of the communication link (i.e., telephone lines connecting the IntelliLink™ Control Center with the USPS data system). If USPS discontinues a service you have selected, we will discontinue such service automatically.

ENTIRE AGREEMENT. This Equipment Guide constitutes the entire agreement between the parties as to the subjects addressed in this Equipment Guide, and representations or statements, both oral and written, not included herein are not binding on the parties.