

This Master Agreement (the "Agreement") is effective as of the first day of May 2016 by and between Pitney Bowes Inc., a corporation with offices located at 3001 Summer Street, Stamford, CT 06926 (herein after referenced as the "Supplier"), and Educational and Institutional Cooperative Service, Inc. a New York not for Profit Corporation with offices located at 2 Jericho Plaza, Suite 309, Jericho, NY 11753 (hereinafter referenced as "E&I").

This Agreement has been established based on the RFP# 683275 for Postage Meters and Related Mailing Equipment, Software, Services, Accessories and Supplies. All terms, conditions and priority order of all addenda, clarifications, Best and Final Offer ("BAFO"), negotiations and supplier response are part of this Agreement.

#### **I. Scope**

This Agreement shall apply to all E&I Member Institutions nationally. In addition, if E&I elects to participate in the Agreement, it shall be considered a Member Institution.

This Agreement does not constitute a purchase order or a commitment to purchase products and/or services by E&I or its Member Institutions. Any purchases made under this Agreement shall be made by the individual participating Member Institutions (hereinafter "Member" or "Members") and any resulting agreement shall be between the Member and the Supplier.

#### **II. Term of Agreement**

The Agreement term will be for five (5) years, effective May 1, 2016 through April 30, 2021, with the ability to extend the contract annually for five (5), one (1) year extensions based on written mutual agreement between the parties.

#### **III. Pricing**

The documents setting forth the percentage discounts, line item pricing and rates for the products and services are listed on Schedule 1 to this Agreement ("Pricing Schedules") and shall be applicable to all purchases, leases, rentals, software, services, accessories and supplies made or provided under this Agreement.

#### **IV. Report of Sales**

The Supplier will be required to file with E&I a monthly report of sales (in U.S. Dollars) to all Members (the "Report of Sales"). The Report of Sales shall include, but not be limited to, date of sale, Member name, city, state, amount of sale and Contract Administrative Fee or Alternate Administrative Fee to be paid to E&I. The report from the Supplier shall include all net equipment and software sales and Presort services performed for which the Supplier Invoice has been created for the Member. Some Member sales activity may fall in the month following the actual sale due to this method of invoicing. The Report of Sales with either the Contract Administrative Fee or Alternate Administrative Fee is due no later than thirty (30) business days following the end of the month. Failure to report monthly sales may be grounds for termination of contract. All reports shall be sent to E&I in Microsoft Excel format by the due date to the following email address [vrf@eandi.org](mailto:vrf@eandi.org).

A sample report of sales shall be provided to E&I to assure that the Supplier can meet the reporting requirement of E&I. The E&I Accounting Department will determine if the report submitted meets the E&I requirement and if so the Supplier shall report sales according to this Agreement. If the sample report is deficient, the E&I Accounting Department will notify the Supplier of the deficiencies and the Supplier shall remedy the deficiencies within ten (10) working days or until the report is acceptable to E&I Accounting.

#### **V. Contract Administrative Fee (CAF)**

Supplier will provide E&I a Contract Administrative and Marketing Fee (CAF) which is equivalent to 1% of the total invoice amounts on all net equipment and software orders installed during the preceding month pursuant to this Agreement in each month during the term of the Agreement. Meter Rentals, Service Level and Software Maintenance Agreements, Maintenance and Data Use Fees for PB Software, Consumable Supplies and Presort Services will not be subject to the CAF.

The CAF should be transmitted via EFT to E&I on a monthly basis no later than thirty (30) days following the end of the month. If Supplier fails to submit the CAF and Report of Sales when due, upon ten (10) days written notice to Supplier and Supplier's continued failure to submit the CAF or Report of Sales, E&I may, in its sole discretion, suspend or terminate this Agreement. Supplier shall be liable for all CAF owing up to and including the time the Agreement has been terminated by E&I or expires.

**PB PRESORT SERVICES**

**Presort Services Administrative Fee**

Supplier will provide a Presort Services Administrative Fee structure for mail presorting services ("PSAF") based on a per piece flat fee (one for letters and one for flats) as well as an incentive target.

| Letters  |  |   |
|--|--|---|
| Volume-Tiered Pricing                          | Base Rate PSAF (Volume up to Incentive Target) | Incentive rate for volume over 8 million letters per month. (Base Rate + \$ |
| Lower volume tier(1 to 25,000 pieces per week) |  |   |
| Higher volume tier(>25,000 pieces per week)    |  |   |
| Flats  |  |   |
| Volume-Tiered Pricing                          | Base Rate PSAF (Volume up to Incentive Target) | Incentive rate for volume over 250,000 pieces of flat mail per month.       |
| Lower volume tier(1 to 1,000 pieces per week)  |  |   |
| Higher volume tier(>1,000 pieces per week)     |  |   |

The PSAF should be transmitted via EFT to E&I on a monthly basis no later than thirty (30) days following the end of the month. If Supplier fails to submit the PSAF and Report of Sales when due, upon ten (10) days written notice to Supplier and Supplier's continued failure to submit the PSAF or Report of Sales, E&I may, in its sole discretion, suspend or terminate this Agreement. Supplier shall be liable for all PSAF owing up to and including the time the Agreement has been terminated by E&I or expires.

**VI. Agreement Audit**

E&I may, at any time during the Term of the Agreement and for a period of three (3) years after the receipt of the last Report of Sales and payment of CAF covering the period through the date of termination, audit the Supplier's records pertaining to its compliance with the terms of this Agreement. An audit may be scheduled or announced by providing the Supplier a minimum of ten (10) business days advance written notice. Every effort will be made to arrange a mutually convenient time for the audit but in no event shall an audit be delayed more than twenty (20) business days from the date of notice, unless agreed to by E&I in its sole discretion. The audit will be conducted during the Supplier's normal business hours by E&I and/or a certified public accountant reasonably acceptable to Supplier to examine Supplier's books and records solely for the purpose of determining product compliance, Member pricing, order processing, order fulfillment, delivery terms and conditions, invoicing, rebate calculations where applicable, accuracy and timeliness of submitted Reports of Sales and the related CAF and whether any other reports or payments required under the terms of this

Agreement are correct. Supplier will provide, at E&I's cost, access to or copies of records and sufficient workspace to facilitate an audit. Any deficiencies or errors shall be corrected within ten (10) business days of E&I notification to the Supplier. The certified public accountant will be required to sign a confidentiality agreement. Such examination will not take place more than once in any 12 month period. Such accountant will report to E&I only as to the accuracy of Supplier's compliance under this Agreement. E&I shall promptly provide copies of such reports to Supplier. If the aggregate discrepancy is greater than 5% from amounts reported and payment is due E&I, the reasonable cost of the audit shall be paid by the Supplier. In the event that discrepancy relates to Supplier's Presort operations, Supplier will not reimburse E&I for any audit costs but agrees to pay for interest on any additional balance due E&I as a result of such audit at a rate equal to 1½% per month until the CAF is paid in full.

#### **VII. Terms and Conditions**

The terms and conditions of this Agreement ("Terms and Conditions") shall apply to all purchases, leases, rentals, software, services, accessories and supplies made or provided under this Agreement. The Terms and Conditions of this Agreement include the terms and conditions contained in the RFP as modified by Supplier's response but subject to the following documents which are hereby incorporated by reference and made a part of this Agreement:

- The Pricing Schedules listed on the attached Schedule 1.
- The Special Conditions set forth in the RFP part 6 as modified by the Negotiated Changes on the attached Schedule 2
- The E&I General Terms and Conditions (originally Attachment A to the RFP) as modified by the Negotiated Changes, all set forth on the attached Schedule 3.
- The Supplemental Agreements, originally submitted as Attachment G to the RFP, but replaced with the final versions set forth on the attached Schedule 4, including the Exhibits attached thereto.

Any terms and conditions of any Supplier invoice or acknowledgment form which are inconsistent with the terms and conditions of this Agreement shall have no effect.

If Supplier and a Member negotiate and execute an individual agreement which is intended to supersede the Terms and Conditions of this Agreement, such term must state that it overrides this Agreement and shall be applicable only to the agreement between Supplier and that Member.

#### **VIII. Member List**

The Official list of E&I Members will be sent to the Supplier via an electronic file from E&I Member Relations once this Agreement is signed.



Master Agreement

Master Agreement Number CNR01392  
May 1, 2016- Pitney Bowes Inc.

**IX. Signatures**

In witness whereof, the parties have executed this Agreement and do hereby warrant and represent that their respective signatories whose signatures appear below have been and are on the date of this Agreement duly authorized to execute this Agreement.

Pitney Bowes Inc.

Supplier

Signature

Mark Shearer  
Printed Name

EVP & President Global SMB Solutions  
Title

5.10.2016  
Date

E&I Cooperative Service, Inc

Signature

Gary D. Link C.P.M.  
Printed Name

Senior Vice President, Contracts & Consulting Group  
Title

5/23/16  
Date

## Schedule 1

### Pricing Schedules for:

### Postage Meters, Related Mailing Equipment, Software, Services, Accessories and Supplies.

For Postage Meters, related mailing equipment, software, services, accessories and supplies, refer to the following Pricing Schedules applicable to the specified product or service. Additional information affecting pricing and delivery may be found in the applicable Supplemental Agreements (Schedule 4):

- Pricing Schedule 1-1 – Leased & Rented Meters
  - Pricing Schedule 1-2 – DMT Catalog
  - Pricing Schedule 1-3 – SMB Catalog
  - Pricing Schedule 1-4 – Presort Services Pricing (bar coding and commingling)
  - Pricing Schedule 1-5 – PB Software Catalog
- 1) With 30 days written notice, the Supplier has the ability to do the following:
    - a) Remove products from the published catalog for items with End of Life.
    - b) Add products to the published catalog for new items in its product line.
    - c) With agreement from E&I and a descriptive justification, Supplier has the ability to increase any price in the catalog. In the event any price increases are not approved by E&I and the parties cannot come to agreement, Supplier may withdraw the affected product or service from the Agreement.
  - 2) In the event that the United States Postal Service (“USPS”) adopts any new postal regulations, procedures, rates, or incentives that directly affect the cost or performance of the services, then Supplier may reasonably adjust the pricing or performance of affected services on thirty (30) days prior written notice to E&I and affected E&I Member participants.

## Schedule 2

### Negotiated Changes to Special Conditions of the RFP

#### Negotiated Changes to Special Conditions (All non-negotiated Special Conditions are as written in RFP#683275, part 6)

- 6.1 In addition to the terms, conditions and responsibilities below in these Special Conditions, the General Terms and Conditions listed in Attachment A to the RFP (as modified by this Agreement) and the Supplier's Supplemental Agreements as listed in Attachment G to the RFP shall be considered a part of this request for proposal and Supplier's response. See Schedule 4 to this Agreement which supersedes Attachment G.
- 6.2 **Terms and Conditions of Agreement – Intentionally Omitted**
- 6.4 **The subject matter of Special Conditions Sections 6.4.1 and 6.4.2 shall be governed by Sections IV and V of the Agreement.**
- 6.6 **Marketing and Sales Responsibilities – Suppliers**
- 6.6.2 Internet/E-Commerce Site  
To encourage and facilitate high usage of the Agreement, the Supplier shall make available a landing page on its website for E&I and its Members utilizing this Agreement. The landing page shall include catalogs, contact and contract information.
- 6.6.3 Additional Business Services  
Within 30 days from the date of this Agreement, Supplier shall, at its own expense, provide to E&I:
- A comprehensive “go-to-market” plan, detailing the role of the E&I Agreement in Supplier's Education market strategy and how Supplier intends to leverage the E&I Agreement to build and expand Education business.
  - A dedicated Education Agreement Administrator able to act with full authority. The Education Agreement Administrator shall meet with appropriate E&I representatives no less than on a quarterly basis to discuss and measure marketing strategies, performance, Report of Sales, CAF and other Agreement related issues.
  - The Education Agreement Administrator or designee(s) shall coordinate with appropriate E&I representatives as necessary to strategize and discuss market opportunities and join as a strategic partner in E&I presentations to the appropriate university/hospital business administrators to leverage the best available pricing, delivery, and services for our Members.
  - A contact list of dealers, agents, primary local account representatives and service assistants with experience and knowledge of the Agreement. Supplier will provide initial and ongoing training and awareness of the E&I Agreement to all inside and outside sales representatives as well as to its distribution chain, including quarterly meetings at corporate headquarters, call centers, regional offices, etc.
  - Dealers, agents and account representative(s) shall contact and be available via phone to Members as requested by the individual Member or by E&I. Onsite meetings between the Member and the agents and account representatives will be on a case by case basis as mutually agreed upon by the parties.
  - Initial and continuing Member based customer service and order problem resolution.
  - Descriptive product marketing literature, catalogs, and product price schedules, links to Supplier's website, content for “micro-site” on E&I website, e-mail communications, articles for inclusion in

the electronic monthly newsletters, "The Purchasing Link" and "The CPU - Contract Portfolio Update", and E&I website Headline News.

- E&I staff contract rollout training and follow-up training sessions as required, to include training webinars, conference calls and on-site training as appropriate to educate E&I employees of Supplier's Member offerings.

## 6.7 Supplier Commitment

### 6.7.1 Supplier Corporate Commitment

The Supplier commits that its awarded Agreement with E&I:

- Shall be one of the Supplier's primary (go to market) offerings for its Educational institutions.
- Has the support of the Supplier's senior management.
- Shall be promoted to existing Higher Education clients.

### 6.7.2 Supplier Pricing and Product Commitment

The Supplier commits that the awarded Agreement:

- Shall offer E&I and its Members competitive pricing (net to buyer) to Supplier's Education clients.
- Shall provide products and services that meet or exceed the RFP requirements.
- Pricing and financing rates are predicated on the Member's acceptance of the terms and conditions of this Agreement including the terms and conditions applicable to the solution provided within the Supplier's response.

## 6.8 Marketing and Sales Responsibilities – Supplier's and E&I's

Joint Responsibilities - Supplier in collaboration with E&I shall jointly:

- Through their respective account managers develop, approve and implement an annual marketing plan to be reviewed on a quarterly basis.
- Establish and maintain member relations.
- Collaborate to identify leads and opportunities, develop key target lists and leverage existing relationships to build membership and business.
- Make sales calls to members, as appropriate.

## 6.10 New and Discontinued Products

The Supplier shall, at least thirty (30) days prior to its introduction or discontinuance, provide written notice to E&I and the E&I Membership of any new or discontinued products and provide an updated product catalog.

## 6.11 Replacement Parts

Parts are covered under the warranty or the equipment Service Level Agreement ("SLA") service maintenance plan elected. If an SLA is not elected or lapses, then the then-current price for replacement parts and labor is billed according to actual service delivery at time of service.

## 6.13 Education Pricing/Pricing Parity

Supplier shall offer E&I and its Members competitive pricing (net to buyer) to Supplier's Education clients.

## 6.14 Method of Ordering and Electronic Commerce

Members may use various methods to order products or services from Supplier in which case the Supplier is expected to accommodate any such requirements including, hard copy purchase orders, telephone orders, procurement cards, or electronic commerce unless specified otherwise in this Agreement. However, Members must use a single method of ordering to prevent confusion and duplication of orders. Procurement cards may not be used for the purchase of postage or Presort services or PBS Software. When required by Supplier, Members shall provide additional documentation designating which Member employee is authorized to sign on behalf of and contractually bind the Member. Any and all Presort services performed and net equipment and software orders installed under this Agreement, regardless of method, shall be included in the Report of Sales.

**6.15 Orders**

Supplier must specify any minimum order charge or conditions under which the established price will be adjusted. It is preferred there not be a minimum order quantity or charge. Supplier shall provide adequate toll free telephone access for Members to order products and promptly reach customer service.

With each ordering occurrence, it is mutually agreed that Member's order and Supplier's acceptance of such order shall create a binding agreement between the parties thereto containing all terms and conditions of this Agreement including the applicable terms and conditions as provided by the Supplier.

**6.16 Hazardous Materials and OSHA Communication Standards**

The Supplier shall be responsible for providing Safety Data Sheets (SDS) to the appropriate user(s).

The Supplier shall retain title and/or ownership and responsibility for hazardous materials delivered in error. Within three (3) working days of notification, or no later than five (5) days, the Supplier must retrieve hazardous materials that are delivered in error.

The Supplier shall provide the Member with information for the safe and legal disposal of all hazardous materials generated in the performance of the Agreement. Any questions related to the information provided may be directed to [ehs@pb.com](mailto:ehs@pb.com).

The Supplier shall provide E&I and its Members with safety/recall updates for any equipment/products provided. A product recall may be issued to stop critical defects from reaching a Member, which may have been released from a manufacturer or a supplier before the problem was discovered. Critical defects are those defects which: 1) could result in a hazardous or unsafe condition for individuals using or maintaining the product 2) could compromise the security of the postage meter fund and 3) could affect function and reliability of the product to an unacceptable level. Supplier will provide as an attachment and maintain documented guidelines and requirements for stopping production and issuing a stop shipment order.

**6.17 Invoices and Payment**



Invoices shall be directed to the appropriate location(s) specified by the Member on the order. The Member placing the order with the Supplier shall alone be liable or responsible for payment for products and/or services ordered and will be invoiced directly by the Supplier. Neither E&I nor its other Members shall be liable for the indebtedness of any one Member. Supplier's standard invoicing formats and payment terms shall be set forth in the applicable Supplier's terms and conditions for the specific solution, product and/or services ordered under an agreement with a Member resulting from this Agreement. Individual Members may in good faith negotiate unique terms required by State Statute with Supplier.

Failure by an E&I Member to make timely payment may result in an interest charge of 1 ½% per month, or in the case of a Government Member the maximum amount as allowable by law, levied upon Member until paid in full. Supplier's Presort Services terms are thirty (30) days from date of invoice. Presort Services standard billing practice is to invoice weekly. Supplier's Presort operation reserves the right to suspend services if a Member's postage funds are depleted. Specific payment terms are set forth in the Supplemental Agreements provided to each Member for the applicable products and services.

**6.18 Receipt of Product and/or Service**

Deliveries to Members range from, but are not limited to: (1) one central receiving location, (2) multi-campus locations, (3) campus building(s), or (4) department(s). Frequency of delivery may range from: (1) daily, (2) weekly, (3) monthly, or (4) as mutually agreed upon to assure that institutions' needs are met. Delivery and any additional cost may be mutually agreed upon by the Supplier and Member based on storeroom delivery, Just-in-Time agreements, drop shipments, and delivered and installed.

Product deliveries are provided with a 97.3% fill rate. Normal delivery of orders must be accomplished at established times as set within this RFP or as mutually agreed upon by the Member and Supplier. The Supplier(s) shall have the capability of expediting the delivery of orders to assure no shortage of product during installation. Any additional cost of expediting delivery of orders will be mutually agreed upon and charged to the Member.

Risk of loss of the products shall pass to the Member at the F.O.B. destination point and in the sole possession of the Member.

Title of purchased equipment and supplies shall pass to the Member upon payment. However, title for DMT equipment shall pass to the Member upon delivery. The products furnished shall be delivered:

**F.O.B. Destination, Full Freight Allowed (Supplier pays freight)-for ground shipments only.** Expedited shipping methods (overnight or second day) and related costs will be charged to the Member.

Selection of a carrier for shipment will be the Supplier's option.

Supplier will request tracking information from the carrier upon request by the Member.

**6.20 Employee Documentation**

Supplier will provide its standard background check policy upon request.

**6.22 Expropriation**

Suppliers should indicate if, by any existing agreement with any party, its operations, delivery vehicles and or personnel can be in any way expropriated or annexed. If such an agreement exists, supplier should indicate when this agreement or those terms will expire. Supplier indicates that to the best of its knowledge no such agreement exists.

**6.23 Responsibility for Damage Claims (Negotiated)**

The Supplier shall hold harmless E&I and the Member from all suits, actions or claims brought on account of any physical injuries (including death) or damages to tangible physical property (excluding loss of damage to data, software, mail, and other forms of information) as a consequence of any negligence of the Supplier in safeguarding the work by the Supplier; or from claims or amounts arising or recovered under the "Workman's Compensation Law" or any other laws. Supplier shall be responsible for all damage or injury to tangible physical property (other than data, software, mail, and other forms of information) occurring during the performance of the work resulting from any act, omission, neglect, or misconduct on Supplier's part or on the part of any of Supplier's employees, in the manner or method of executing the work properly; until all claims have been settled and suitable evidence to that effect furnished to E&I and the Member.

**6.24 Protection of Property and Liability**

The Supplier shall take care not to damage the premises or the tangible physical property of others, and in case such damage occurs as the result of operations under this Agreement, Supplier shall make appropriate restitution. If the Supplier fails to pay for damage, the damages may be deducted from any remaining balance due to the Supplier or may be processed as a breach of contract to the full extent the law allows. In the case of damage to Member's mail in the presorting process, such restitution shall be limited according to the limitation of liability in the applicable Supplier's Presort terms and conditions contained in Exhibits XXXVIII thru XLII on Schedule 4 to the Agreement. In no event shall such restitution exceed \$100,000.

**6.27 Order Fulfillment, Distribution and Installation Agreements**

Members may have their own order fulfillment/distribution/installation agreements with a third party agent or distributor. The terms and pricing of this Agreement are available to the Member and separate and distinct from any existing distributor terms and conditions, fees or markups resulting from Members' separate fulfillment/distribution/installation agreements. Member and Supplier agree that a Non-Disclosure Agreement would need to be executed between all parties as Software installation can only be performed by Supplier employees or authorized Value Added Reseller ("VAR").

**6.28 Supplemental Agreements (Negotiated)**

Member and Supplier shall enter into separate supplemental agreements to further define their respective obligations and the level of service requirements over and above the minimum defined in this Agreement i.e. invoice requirements, ordering requirements, on campus service, specialized delivery, Software License and Maintenance Agreements, Hosting, Postage Meter Rental Agreements, Statement of Work, etc., all as set forth in Schedule 4 (the "Supplemental Agreements"). Schedule 4 of the Agreement is a restated and updated list submitted as Attachment G to the RFP. The list in Schedule 4 and documents attached thereto supersede Attachment G to the RFP response for purposes of this final Agreement. Any Supplemental Agreement executed between the Member and Supplier is exclusive to the Member and shall take precedence. E&I, its agents, Members and employees not directly connected with the specific Supplemental Agreement shall not be made party to any claim for breach of such Supplemental Agreement.

**6.30 Warranty and Product Condition of Sale**

There shall be a ninety (90) day warranty to include parts, labor and travel. PBI MAKES NO REPRESENTATION OR WARRANTY AS TO ANY THIRD PARTY EQUIPMENT. PBI AGREES TO PASS THROUGH TO MEMBER ALL THIRD PARTY EQUIPMENT WARRANTIES TO THE EXTENT PERMITTED. Length and coverage of warranty will be an evaluation factor. The Supplier may offer a warranty that clearly illustrates an improvement to the manufacturer's standard warranty and benefit to the Member. For Software Products, Supplier shall provide a ninety (90) day warranty that the software conforms to the published specs and in accordance with the terms of the Master License Agreement. PB Presort Services' warranty is to provide the services in a professional and workmanlike manner in accordance with accepted presort mail processing industry standards.

Supplier certifies and warrants for the Supplier's standard warranty period that all products sold to Members shall be:

- New and genuine if not otherwise indicated as Green or Remanufactured Products
- Free from material defects in content and materials.
- Provided as per manufacturer's requirements.
- Sold or manufactured via legal and reputable channels.
- Not misbranded.

Warranties contained in the resulting Agreement will govern even if the warranty is different for a given service or product. **PITNEY BOWES WARRANTY** (a) PBI warrants that the PBI Equipment will be free from defects in material and workmanship and will perform according to the operator guides for a period of ninety (90) days from the date the Equipment or other item is installed at your location. (b) PBI warrants that the Service 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 Equipment or, in the case of defective Service, reperform the Service.** (d) A "defect" does not include the failure of rates within a rate update to conform to published rates. (e) There is no warranty for Equipment requiring repair or replacement because of any Excluded Circumstance. (f) The print engine(s), print engine components, structural components and printed circuit board assemblies supplied with the PBI Equipment may be reclaimed, reconditioned or remanufactured. Any such item is warranted to perform according to the same standards as the equivalent new item. (g) The warranty does not cover Consumable Supplies.

**"Excluded Circumstances"** – your negligence, an accident, usage which exceeds our recommendations, use of equipment in a manner not authorized by this Agreement or any operator guide, use of equipment in an environment with unsuitable humidity and/or line voltage, damage in transit, virus contamination or loss of data, loss or fluctuation of power, fire, flood or other natural causes, external forces beyond our control, sabotage or service by anyone other than us, failure to use applicable software updates, use of equipment with any system for which we have advised you we will no longer provide support or which we have advised you is no longer compatible, or use of third party supplies (such as ink), hardware or software that results in (i) damage to equipment (including damage to printheads), (ii) poor indicia, text or image print quality, (iii) indicia readability failures or (iv) a failure to print indicia, text or images.

### **Warranties.**

The following warranty description applies to the Pitney Bowes DMT product line:

a. **Client Warranties.** Client represents and warrants that: (i) it is financially solvent and is able to pay for the Equipment and Maintenance Services contemplated by this Agreement; and (ii) it is using the Equipment for business and commercial purposes and not for personal, family or household use.

b. **PBI Equipment Warranty.** Except as explained further below, PBI warrants to Client that Equipment will be free from manufacturing defects in material and workmanship ("Manufacturing Defect(s)") and that it will perform according to PBI's specifications for ninety (90) days from the date of delivery or if installed by Pitney Bowes, then ninety (90) days from the date of Installation ("Warranty Period"). For console inserting systems, the Warranty Period will run for ninety (90) days from the date of delivery or if installed by Pitney Bowes, then ninety (90) days from the date of Installation, or until the system reaches PBI's Equipment usage limits, whichever occurs first.

(i) **Warranty Exclusions.** PBI does not assume a warranty obligation for consumable parts or supplies such as print heads and ink or for parts worn out due to extraordinary use of the Equipment or use inconsistent with manufacturer's specifications. This warranty excludes: (a) preventative maintenance, routine service and normal wear and tear; (b) Equipment serviced, repaired or refurbished by persons not certified by PBI to perform such service and repair; (c) damage to the Equipment caused by use of spare parts or supplies not supplied by PBI; (d) damage to Equipment caused by not using the procedures authorized by PBI; or (e) damage caused by integrating Equipment with products or processing equipment of companies other than PBI or its wholly-owned subsidiaries. For this warranty to be valid, Client must operate the Equipment in accordance with PBI's specifications including, without limitation, under suitable temperature,

humidity, line voltage, and any other PBI specified environmental conditions and only if Client uses reasonable care in handling, operating, and maintaining the Equipment and uses the Equipment only for the purpose for which it was designed.

(ii) Services Warranty. PBI warrants that any services provided pursuant to this Agreement will be performed in a professional and workmanlike manner.

(iii) Disclaimer. EXCEPT AS EXPRESSLY SET FORTH HEREIN, PBI DISCLAIMS ALL EXPRESS OR IMPLIED WARRANTIES FOR EQUIPMENT AND SERVICE, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

(iv) Third Party Equipment. PBI makes no warranty of any kind as to the Equipment sold hereunder but manufactured by a third party. PBI agrees to pass through to Client all third party warranties it receives on such Equipment to the extent such warranties are transferable. Further, any Maintenance Services performed by PBI will not include maintaining such Equipment.

Supplier warrants all brand toner products (each a "Branded Toner Product") for a period of one (1) year from the date of purchase, subject to normal storage conditions in a climate-controlled environment as set forth below. Supplier warrants that subject to conditions stated below under normal use, the Branded Toner Product will not cause damage or abnormal wear to any compatible laser printer, ink jet printer, fax or copy machines. If damage occurs to any compatible laser printer or copy machine due to a properly installed but defective Branded Toner Product, Supplier will service and repair the laser printer or copy machine, or at Supplier's option, reimburse Member for the full amount of all service and repair to the machine in question.

This warranty is dependent upon the customer providing Supplier with satisfactory evidence that the machine's damage was due to a defect in a Branded Toner Product, including a statement on the service company's letterhead dated and signed by the company's service representative.

Supplier's total liability shall be limited to the replacement or Supplier's reimbursement as provided above. This warranty is exclusive and in lieu of all other warranties, expressed or implied, including warranties of merchantability and fitness for a particular purpose.

For PBS Licensed Software Products Licensed Software Warranty:

- a) Licensor represents and warrants that it has the right to grant to Licensee the rights granted hereunder.
- b) Licensor represents and warrants that during the Warranty Period the Licensed Products will perform all material functions set out in the Documentation for such Licensed Products and otherwise operate in substantial accordance with such Documentation. If, during the Warranty Period the Licensed Products fail to comply with this warranty, Licensee must notify Licensor in writing of any alleged errors or non-conformities with the Licensed Products. Licensor will have thirty (30) days from receipt of such notice or an additional period of time as reasonably agreed to by the parties to correct such errors or non-conformities in accordance with the Support Guidelines. If Licensor is unable to timely correct such errors or non-conformities, Licensee may elect to terminate the license to such Licensed Products. If Licensee terminates the license to such Licensed Products during the Warranty Period in accordance with this Section, Licensee will, as its remedy, receive a refund of all fees previously paid for such Licensed Products.
- c) LICENSOR DOES NOT WARRANT THAT THE LICENSED PRODUCTS WILL OPERATE ERROR-FREE OR THAT LICENSOR WILL CORRECT ALL PRODUCT ERRORS INCLUDING THOSE DESIGNATED AS MEDIUM OR LOW SEVERITY LEVEL ISSUES. EXCEPT FOR THE EXPRESS WARRANTIES SET FORTH IN THIS AGREEMENT, THE LICENSED PRODUCTS ARE PROVIDED "AS IS" AND LICENSOR AND ITS THIRD PARTY SUPPLIERS DISCLAIM ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE LICENSED PRODUCTS AND SERVICES FURNISHED UNDER THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO, ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, ACCURACY, RELIABILITY COURSE OF DEALING, COURSE OF PERFORMANCE OR USAGE IN TRADE.

d) LICENSOR WILL NOT BE LIABLE FOR ANY CLAIMS OR DAMAGES CAUSED BY THE UNAUTHORIZED USE OF THE LICENSED PRODUCTS OR ACTS OF ABUSE OR MISUSE BY LICENSEE. IN ADDITION, LICENSOR WILL NOT BE LIABLE FOR ANY LOSS OR DAMAGE IN CONNECTION WITH OR ARISING OUT OF THE INTERRUPTION OR LOSS OF USE OF THE LICENSED PRODUCTS OR THE LOSS OR CORRUPTION OF LICENSEE'S DATA OR FILES PROCESSED OR STORED BY THE LICENSED PRODUCTS.

e) THE LICENSED PRODUCTS MAY CONTAIN A DISABLING DEVICE OR DEVICE REQUIRING ENABLEMENT: (i) TO COMPLY WITH REQUIREMENTS OF REGULATORY AUTHORITIES; (ii) TO PREVENT USE OF THE LICENSED PRODUCTS BEYOND THE TERM OF A LICENSE IDENTIFIED IN AN ORDER OR ON A COMPUTER OTHER THAN THE COMPUTER AUTHORIZED IN AN ORDER; AND/OR (iii) TO PREVENT USE OF THE LICENSED PRODUCTS IN EXCESS OF ANY TRANSACTIONS (OR OTHER RESTRICTIONS) OR BY MORE THAN THE NUMBER OF USERS SET OUT IN AN ORDER.

**Warranty for Supplier's Presort Services:**

Supplier shall perform all duties and obligations required of it pursuant to this Agreement in a professional and workmanlike manner and in accordance with accepted presort mail processing industry standards. EXCEPT AS SET FORTH IN THE IMMEDIATELY PRECEDING SENTENCE, SUPPLIER MAKES NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE WITH RESPECT TO THE SERVICES AND ANY SUCH WARRANTIES ARE HEREBY EXPRESSLY DISCLAIMED.

**6.31 Tracking Lost and Damaged Shipments**

If Supplier fails to deliver, or erroneously delivers products, Supplier is required, upon reasonable written notice by Member, to take immediate corrective action to make the correct delivery at no cost to Member.

Should any action on the part of the Supplier or a subcontractor cause visible damage to the facilities during transport, the Supplier is required to immediately contact Member and forward a confirming damage report detailing the damages. Supplier shall be able to track all shipments and provide order status to Members.

**6.32 Returns – Defective and Non-Conforming Goods or Services**

During the Warranty Period and where applicable the Supplier's Customer Satisfaction Guarantee (See Schedule 4 to the Agreement, Exhibits III and IV) if any goods or services furnished under the Agreement are defective or non-conforming, or fail to meet Manufacturer's and Supplier's warranties, specifications or any other provisions of the Agreement the following remedies shall be available to the Member:

- **Repair and Replacement:** Supplier shall promptly repair, replace, or correct non-conforming or defective goods and services at the Supplier's own expense. This is limited to Supplier's agreed to warranty claim. If related to client's use of the product then the foregoing applies only if client elects Supplier's Service Level Agreement/Software Maintenance Agreement Coverage.
- **Cancellation:** If Repair and Replace does not correct non-conforming service warranty then Member may cancel an order or any part thereof for any undelivered portion thereof without incurring any additional liability to Supplier. This provision does not apply to Pitney Bowes' DMT division.
- **Removal:** Supplier shall remove such goods at its own expense and if the Supplier fails to remove such goods; Member may return all or any portion of such goods at the expense of Supplier.
- **Risk of Loss and Storage:** All non-conforming goods shall be held at Supplier's risk and the Supplier shall pay all expenses incurred including storage costs for all defective goods that cannot be repaired.
- **Supplier Liability:** Supplier shall be liable for any and all losses (excluding loss or damage to data, software, mail, and other forms of information, profits or postage savings), claims, expenses, (including reasonable attorney's fees and court costs) that are direct damages resulting from such failure to meet all the requirements of this Agreement and/or a resulting agreement with a Member. Actual damages not to exceed \$100,000 subject to any limitation in this Agreement between E&I and Supplier or any Supplemental Agreement between Member and Supplier.

- Products under warranty: The decision to replace such products or accept warranty repair shall be at the sole discretion of the Member except in the event the Member fails to provide timely notice of product failure to the Supplier.
- After the Warranty Period: Immediately after the warranty period, the Supplier is responsible to make sure that service agreements are available to the Member. The Supplier, the manufacturer or an authorized third party may provide the maintenance.

### 6.33 Reasons for Return or Credit

The Supplier shall accept the following as reasons for return within the warranty period and where applicable the Supplier's Customer Satisfaction Guarantee:

- The product is defective or nonconforming to its published specs and Supplier is unable to cure, repair or replace.
- The product is incorrectly shipped. The product is received as an overage or the order is duplicated and shipped in error and the overage is noted on the shipping document(s).
- The product receipt is late or delayed and because of the late or delayed delivery is deemed in good faith by the Member to be unusable or no longer needed.
- Returns of Ink & Toner supplies for Desktop Printers, Copiers & Fax Machines. Supplier will reimburse the price paid for Original Equipment Manufacturer's (OEM) &/or associated Pitney Bowes Brand Compatible versions of these products received back in resalable condition (unused/unopened) within 30 days of the purchase date. All reimbursements will be applied to the original method of payment for the product. Shipping and handling charges associated with the product (original order and return package) are the responsibility of the customer and will not be reimbursed unless the return is due to damaged/defective product or as a result of an incorrect shipment on Supplier's part.
- Returns of all other supplies including Mailing/Shipping Consumables (meter ink, postage tape, E-Z Seal Solution, shipping labels, etc.) Supplier will reimburse the price paid for products received back in resalable condition (unused/unopened) within ninety (90) days of the purchase date unless the return is due to a defect in the product, in which event Supplier will reimburse the price paid for products received back within six (6) months of the purchase date. In the event of an equipment upgrade, we will reimburse the price paid for unused/unopened supplies received back in resalable condition within six (6) months of the purchase date. All reimbursements will be applied to the original method of payment for the product. Shipping and handling charges associated with the product (original order and return package) are the responsibility of the customer and will not be reimbursed unless the return is due to damaged/defective product or as a result of an incorrect shipment on Supplier's part.

### 6.35 Samples

Supplier can schedule 3<sup>rd</sup> party demonstrations, online demos, but 'samples' of equipment is not possible; Supplier needs to address each request individually.

### **Schedule 3**

#### **E&I General Terms and Conditions**

The E & I General Terms and Conditions as modified by these Negotiated Changes shall govern any agreement entered into between a Member and Supplier as a result of this Agreement. In the event of conflict between terms and conditions of a Supplemental Agreement entered into between a Member and Supplier and the terms and conditions of this Agreement, including these E&I General Terms and Conditions, the terms and conditions of the Supplemental Agreement between Supplier and the Member shall take precedence.

#### **1. Interpretation, Enforcement and Forum of Laws (Negotiated)**

For disputes between the Government Member and Supplier, this Agreement shall be governed by, construed, interpreted, and enforced solely in accordance with the laws of the state in which the Government Member resides and the venue of any action shall lie in such state except for Supplier's Purchase Power optional program. The Supplier's Purchase Power program shall be governed by, construed, interpreted, and enforced solely in accordance with the laws of the State of Utah. For disputes between Supplier and non-Government Member, this Agreement shall be governed by, construed, interpreted, and enforced solely in accordance with the laws of New York.

**For disputes between E&I and Supplier, this Agreement shall be governed by, construed, interpreted and enforced solely in accordance with the laws and within the Courts of the State of New York.**

#### **2. Compliance with Law (Negotiated)**

Supplier warrants and certifies that in the performance of any agreement with a Member resulting from this Agreement, it has complied with or will comply with all statutes, rules, regulations and orders of the United States, and any state or political subdivision thereof, including but not limited to, laws and regulations pertaining to labor, wages, hours and other conditions of employment applicable to Supplier as a provider of the products or services.

#### **3. Funding Provided by Federal Contracts or Grants (Negotiated)**

Where Federal Contracts or Grants provide funding to Members related to the purchases under this Agreement, it is the responsibility of the Supplier and the Member to comply with all FAR (Federal Acquisition Regulations) laws and regulations by completing any certifications and disclosures and any other requirements applicable to Supplier as a provider of the products or services. When Federal Contract or Grant funds are used on participating Member purchases under this Agreement, which exceed \$25,000, certification must be provided in writing that the Supplier is not debarred, suspended, or proposed for debarment by the Federal Government. It is the responsibility of the Member to advise the Supplier that Federal Contracts or Grants will be used to fund the purchase prior to placing an order. Supplier's Presort Services operations reserves the right to not engage in federal contracting and may decline service to any Member if Presort cannot accept any specific flow downs requirements mandated by the federal entity. PB Presort will not enter into an agreement directly with any Member who is a federal entity.

#### **4. Insolvency**

In the event of any proceedings in bankruptcy or insolvency by or against Supplier, or in the event of the appointment (with or without its consent) of an assignee for the benefit of creditors, or a receiver, E&I may cancel this Agreement without prior notice and without incurring any liability whatsoever to Supplier.

#### **5. Assignments (Negotiated)**

Neither party shall assign this Agreement or any of its rights or obligations hereunder without the written consent of the other party. Such consent shall not be unreasonably withheld. Any purported assignment without such consent shall be void, provided however, that Supplier may assign this Agreement to any affiliate or subsidiary of Supplier without such consent.

#### **6. Resale – (Negotiated) Intentionally deleted**

**7. Patent Trademark and Copyright Infringement (Negotiated)**

The Supplier agrees, to indemnify, defend and hold harmless E&I, its officers, agents, servants, employees and Members, from all Claims brought against the Member by a third party alleging the infringement of a copyright, United States trademark, trade dress, trade secret or United States patent, or misappropriation of trade secrets. PB will indemnify and hold harmless such parties against all expenses, liabilities, costs, settlements or judgments, including reasonable attorneys' fees, in connection with any such third party claims or actions.

**8. Use of Name, Logos, etc. in Advertising**

Supplier agrees not to make reference to this Agreement or use the logo of E&I or any of its Members in any advertising material of any kind without the expressed written permission of the party involved. E&I agrees not to make reference to this Agreement or use the logo of Supplier in any advertising and marketing materials of any kind without the expressed written permission of the Supplier.

**9. Transactions between Supplier and E&I Member (Negotiated)**

The purchase of products and/or services by a Member from Supplier is a transaction solely between Member and Supplier. It is understood and agreed that if any litigation arises between Supplier and any E&I Member, Supplier shall not make E&I a party to that litigation. If E&I is made a party to such litigation, Supplier agrees to indemnify E&I against and hold it harmless from all costs associated with such litigation, including reasonable attorney's fees, but litigation shall not constitute a material breach, resulting in termination of this Agreement by E&I.

**10. Indemnification of E&I and Member (Negotiated)**

Supplier agrees to indemnify and hold harmless E&I and its Members from and against all liability, asserted by third parties alleging, to the extent of and in proportion to, losses to tangible physical property (excluding loss or damage to data, software and other forms of information), direct damages, claims, liens, and expenses (including reasonable legal fees) arising out of or connected with the products purchased, work or services performed, or resulting from physical property damage (other than mail) or physical injuries (including death) incurred by or to the Member or its officers, agents, servants and employees by reason of, the Suppliers' negligence or willful misconduct or violation of law in the performance of this Agreement, excepting only such liability as may result solely from the acts of negligence of the Member, E&I or its employees. For any claim eligible for indemnification by Supplier, it shall have the right to undertake to defend any and all suits and to investigate and defend any and all third party claims whether justified or not, if such claim or suit is commenced against Member or E&I, or their respective officers, agents, servants, and employees. Some states do not allow the limitation or exclusion of liability for incidentals or consequential damages, so the above limitation or exclusion may not apply to Government Members.

With regards to all Software related transactions: Supplier ("Licensor") will indemnify, defend and hold Member ("Licensee"), its officers, directors and employees, harmless from all losses, damages, and reasonable costs and expenses to the extent they arise out of a claim by a third party that the Licensed Products, when used in accordance with the Documentation and in compliance with the terms of this Agreement and the applicable Order(s), infringe or misappropriate any copyright, trade secret, trademark or patent registered or valid within the country the Licensed Products are authorized to be installed as set out in the applicable Order. Licensor will have control of the defense and will defend at its own expense, any claim or litigation to which this indemnity relates, including the right to settle any such claim. Licensee must notify Licensor promptly of any such claim and provide reasonable cooperation to Licensor, upon Licensor's request and at Licensor's cost, to defend such claim. Licensor will not agree to any settlement which requires acknowledgment of fault or an incurred liability on the part of an indemnified party not otherwise covered by this indemnification without indemnified party's prior written consent. Licensee may elect to participate in the defense of any claim with counsel of its choosing at its own expense.

If the Licensed Products are subject to a claim of infringement or misappropriation, or if Licensor reasonably believes that the Licensed Products may be subject to such a claim, Licensor reserves the right to: (i) replace the Licensed Products with functionally equivalent Software or Subscription Data; (ii) modify such Licensed Products while retaining substantively equivalent functionality; (iii) procure at no cost to Licensee the right to continue to use



such Licensed Products; or (iv) if the foregoing is not commercially reasonable, direct Licensee to terminate use of such Licensed Products. If Licensor directs Licensee to terminate use of such Licensed Products (or a permanent injunction is issued against such use), Licensee will immediately terminate such use and Licensee's remedies, in addition to the indemnification set out herein, 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 such Licensed Products that are subject to the infringement or misappropriation claim based on: (i) a term of sixty (60) months following execution of the applicable Order for a perpetual license; or (ii) any pre-paid but unused fees for the balance of a limited term license.

Licensor will have no obligation to indemnify Licensee under this Section 10 if the infringement or misappropriation results from Licensee's (i) modification of the Licensed Products; (ii) combination, operation or use of the Licensed Products with non-Licensor software products if such claim of infringement or misappropriation would have been avoided had such combination, operation or use not occurred; (iii) use of the Licensed Products in breach of this Agreement or an Order; or (iv) use of other than the most current release of the Licensed Products if such claim of infringement or misappropriation could have been avoided by Licensee's use of such current release of the Licensed Products, provided Licensor delivered such superseding version to Licensee and notified Licensee of the need to use such version.

#### **11. Insurance**

If fabrication, construction, installation, service or other work is specified to be conducted on Member's premises, Supplier shall maintain in force during the period of such work the following coverage's: (a) worker's compensation, as required by the laws of the State of Member; (b) commercial general liability for bodily injury and/or property damage in an amount of not less than \$1,000,000 single limit, per occurrence; (c) automobile liability for bodily injury and/or property damage in an amount of not less than \$1,000,000 single limit, per occurrence. Supplier shall provide a certificate of insurance naming E&I and Member as additional insured. Supplier shall furnish to E&I satisfactory proof of such insurance coverage included with Supplier's proposal.

Individual Members may require coverage in addition to the above limits. If the need for additional coverage develops, it will be the responsibility of the Member to arrange for such coverage with the Supplier. Supplier shall furnish to Member satisfactory proof of such insurance coverage prior to commencement of the work.

#### **12. Licenses/Permits/Taxes and Tax Exempt Status (Negotiated)**

Supplier shall be responsible for obtaining all permits, licenses and bonding, to comply with the rules and regulations of any state, federal, municipal or county laws or any city government, bureau or department applicable.

E&I and the Members understand that in some states postage meters and related mailing equipment are subject to taxes based on its value, otherwise known as property taxes, and that such taxes are assessed to the owner of the equipment. Since all prices listed do not take into account such taxes with respect to equipment owned by Supplier, Members agree to reimburse Supplier for such taxes when requested to do so.

All prices listed and discounts offered are exclusive of all taxes. Supplier has the duty or is permitted to collect all taxes in connection with the sale, delivery or use of any items, products or services included herein from Member or from E&I, at the taxable rate in effect at the time of invoicing. Supplier shall comply with the state sales tax requirements of each taxing authority. If sales to Member are exempt from such taxes, Member shall furnish to Supplier a certificate of exemption in form and timeliness acceptable to the applicable taxing authority.

#### **13. Americans With Disabilities Act**

Supplier shall comply with all applicable provisions of the Americans with Disabilities Act and applicable federal regulations under the Act.

#### **14. Alcohol, Tobacco & Drug Rules and Regulations**

Employees of the Supplier and its subcontractors shall comply with all instructions, pertaining to conduct and building regulations of the Members. The Member reserves the right to request the removal or replacement of any undesirable employee at any time.

All buildings on the Member's grounds are tobacco-free. Use of tobacco products is not permitted in any area inside Member's buildings. The Supplier is expected to respect this tobacco-free policy and fully comply with it. The Supplier agrees that in the performance of this Agreement, neither the Supplier nor any of its employees shall engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance, including alcohol, in conducting any activity covered by this Agreement. E&I and the Member reserve the right to request a copy of the Drug Free Workplace Policy. The Supplier further agrees to insert a provision similar to this statement in all subcontracts for services required.

**15. Equal Opportunity**

The provisions of Section 202 of Executive Order 11246.41 C.F.R. Sec. 60-1.1 C.F.R. Sec. 60-250.4 and 41 C.F.R. Sec. 60-741.4 are incorporated herein by reference and shall be applicable to this Agreement unless this Agreement is exempted under the rules, regulations, or orders of the U.S. Secretary of Labor.

**16. Non-Discrimination**

The parties agree to comply with applicable state and federal rules governing Equal Employment Opportunity and Non-Discrimination.

**17. Sexual Harassment**

Federal law and the policies of E&I prohibit sexual harassment. Supplier is required to exercise control over its employees so as to prohibit acts of sexual harassment. If a Member in its reasonable judgment determines that any employee of Supplier has committed an act of sexual harassment, Supplier agrees as a term and condition of this Agreement to cause such person to be removed from Member's facility and to take such other action as may be reasonably necessary to cause the sexual harassment to cease.

**18. Compliance with Specifications (Negotiated)**

The Supplier warrants that during the ninety (90) day warranty period, all goods, services, or work supplied under this Agreement shall conform to specifications, drawings, samples, or other descriptions contained or referenced herein and free from material defect. The Supplier also warrants that all goods covered by this Agreement which are the product of the Supplier or are in accordance with its specifications, will be fit and subject to the Member's inspection before acceptance and if rejected by the Member will be held at Supplier's risk and expense for storage and other charges. After sixty (60) days of storage, goods may be disposed of without cost to Member. Neither receipt of goods nor payment therefore shall constitute a waiver of this provision.

**19. Gratuities**

E&I may, by written notice to Supplier, cancel the Agreement if it discovers that gratuities, in the form of entertainment, gifts or the like, were offered or given by Supplier to any officer or employee of E&I or any Member with a view toward securing an agreement or securing favorable treatment with respect to the awarding of this Agreement.

**20. Covenant Against Contingency Fees**

Supplier certifies that it has neither offered nor paid a contingency fee to any individual, agent, employee of E&I, or employee of any Member to secure or influence the decision to award this Agreement to Supplier.

**21. Suspension, Debarment, and Terrorism (Negotiated)**

Supplier certifies that Supplier and its principals are eligible to participate in this transaction and have not been subjected to suspension, debarment, or similar ineligibility determined by any federal, state or local governmental entity and that Vendors are in compliance with all applicable State statutes and rules relating to procurement and that Vendors are not listed on the federal government's terrorism watch list as described in Executive Order 13224.

**22. Conflict of Interest (Negotiated)**

In order to avoid even the appearance of any conflict of interest, neither E&I nor Supplier shall employ any officer or employee of the other party for a period of one (1) year from the date hereof. Notwithstanding the foregoing, this Section shall not preclude either party from hiring any person employed by the other party where such person independently responds to an employment opportunity offered or advertised by the other party to the general public (e.g., via newspaper, magazine, broadcast, Internet, employment agencies etc.)

**23. Strikes or Lockouts (Negotiated)**

In the event Supplier should become involved in a labor dispute, strike or lockout, Supplier will be required to make whatever reasonable arrangements that may be necessary to ensure that the conditions of this Agreement are met in their entirety. Should the Supplier be unable to fulfill its obligations under this Agreement, E&I and/or Member shall have the right to make alternative arrangements to insure the satisfactory performance of the Agreement during the time Supplier is unable to perform the required duties.

**24. Force Majeure**

Neither party shall be held responsible for any losses resulting if the fulfillment of any terms or provisions of this Agreement are delayed or prevented by any cause not within the control of the party whose performance is interfered with, and which by the exercise of reasonable diligence, said party is unable to prevent.

**25. Modification of Terms**

No waiver or modification of any of the provisions hereof shall be binding unless mutually agreed upon by E&I and the Supplier, in writing, with signatures of authorized representatives of all parties authorizing said modification.

**26. Termination for Convenience (Negotiated)**

Either party may terminate this Agreement for any reason or no reason by delivering not less than one hundred eighty (180) days prior written notice thereof to the other party. In the event of such termination, any underlying agreements between the Member and Supplier will remain in full force and effect subject to any cancellation provisions within such agreements.

**27. Termination and Termination for Default (Negotiated)**

The failure of E&I on behalf of its Members to exercise its rights of termination for cause due to Supplier's failure to perform as required in any instance shall not constitute a waiver of termination rights in any other instance. An order by a Member that is a government entity ("Government Member") may be terminated due to non-appropriation of State and Federal funds.

Should either party default in the performance of this Agreement or materially breach any of its provisions, the non-breaching party shall give written notification to the breaching party to cure such breach or default within fourteen (14) days or as stipulated in any notices provided by the non-breaching party. In the event the breach is incurable, the non-breaching party may terminate this Agreement effective immediately on receipt of the notice, or five (5) days from mailing of the notice, whichever occurs first.

In the event of this Agreement is terminated, any underlying agreements between the Member and Supplier will remain in full force and effect subject to any cancellation provisions within such agreements.

**28. Continuation of Performance Through Termination**

Supplier shall continue to perform, in accordance with the requirements of this Agreement, up to the date of termination, as directed in the termination notice.

**29. Open Records**

E&I considers all information, documentation and other materials requested to be submitted in response to this solicitation to be of a non-confidential and/or non-proprietary nature and therefore shall be subject to public disclosure after an agreement is awarded. Suppliers are hereby notified that E&I adheres to all statutes, court decisions and the opinions of the member's states regarding the disclosure of proposal information.

**30. Proprietary/Confidential Information**

Supplier must clearly mark "Confidential" on any portion of your response, which you consider to contain confidential or proprietary information. All information, documentation, and other materials submitted by Supplier in response to this solicitation or under any resulting contract may be subject to public disclosure under the Freedom of Information Act and/or Open Records laws of the members.

**31. Strict Compliance**

The parties may at any time insist upon strict compliance with these terms and conditions, notwithstanding any previous custom, practice or course of dealing to the contrary.

**32. Entire Agreement (Negotiated)**

This Agreement together with the Schedules and Exhibits annexed hereto constitutes the entire agreement between the parties and supersedes all prior agreements whether written or oral between the parties. Documents subject to Freedom of Information Act will only be released after award.

**33. Notices**

Any notice to be given by any party hereunder shall be in writing, mailed by certified mail, return receipt requested, or by delivery to a reputable overnight courier and shall be effective the earlier of (a) actual receipt or (b) five (5) days after mailing or one day after delivery to overnight courier and shall be addressed as follows:

If to E&I: Gary D. Link, CPM  
Sr. Vice President, Contracts & Consulting Group.  
E&I Cooperative Service Inc.  
2 Jericho Plaza, Suite 309  
Jericho, NY 11753

If to Supplier: Eric Schmude  
Pitney Bowes Inc.  
3001 Summer Street  
Stamford, CT 06926  
Phone # - 804-496-6912  
E-mail address: [eric.schmude@pb.com](mailto:eric.schmude@pb.com)

With Copies to: Pitney Bowes  
3001 Summer Street  
Stamford, CT 06926  
Attn: Deputy General Counsel

## Schedule 4 Supplier Supplemental Agreements

Exhibits I through XLII. (Final version of Supplier's list of Exhibits & Supplier's Supplemental Agreements submitted as Schedule G to the RFP).

| Exhibit # | Description  | PBI Company      |
|-----------|--|------------------|
| I.        | Mutual Non-disclosure Agreement  | PBI              |
| II.       | Value Added Services   | PBI              |
| III.      | Pitney Bowes Mailing, North America Customer Satisfaction Guarantee Rev. 3/15  | PBI              |
| IV.       | Pitney Bowes DMT Customer Satisfaction Guarantee Rev. 10/15  | PBI DMT Division |
| V.        | Pitney Bowes Terms Rev 10/15 (Commercial Lease Transaction) <ul style="list-style-type: none"> <li>• General Terms</li> <li>• Lease Terms and Conditions</li> <li>• Service Level Options</li> <li>• Equipment and Postage Meter Rental Terms and Conditions</li> <li>• United States Postal Service Acknowledgment of Deposit Purchase Power Terms and Conditions</li> <li>• pbSmartPostage Terms of Use</li> </ul> | PBI              |
| VI.       | Pitney Bowes Terms Rev. 10/15 (Sale/Equipment Maintenance Transaction) <ul style="list-style-type: none"> <li>• General Terms</li> <li>• Service Level Options</li> <li>• Equipment and Postage Meter Rental Terms and Conditions</li> <li>• United States Postal Service Acknowledgment of Deposit</li> <li>• Purchase Power Terms and Conditions</li> <li>• pbSmartPostage Terms of Use</li> </ul>                 | PBI              |
| VII.      | pbSmartPostage terms   | PBI              |
| VIII.     | Pitney Bowes Lease Agreement<br>State & Local Fair Market Value Lease Rev. 1/14  | PBI              |
| IX.       | BusinessManager_EULA May 2015  | PBI              |
| X.        | Software Maint and Data Subscription-Bus Mgr-Smart Mailer AddrRight PBFFirst-May 2015  | PBI              |
| XI.       | End User Agreement for Pitney Bowes Enhanced Support Services And PC-Support Services Rev. 5/15  | PBI              |
| XII.      | Addendum to Software License and Maintenance Agreement for Hosting by Pitney Bowes of Pitney Bowes Software Rev. 5/15  | PBI              |
| XIII.     | PB Print Management Toner Terms Addendum   | PBI              |
| XIV.      | Inkjet and Toner Cartridge Protection Warranty   | PBI              |
| XV.       | Pitney Bowes Inc. Sales Agreement for the LobbyGuard System Terms and Conditions   | PBI              |
| XVI.      | LobbyGuard State & Local Term Rental Agreement<br>Terms and Conditions   | PBI              |
| XVII.     | Pitney Bowes Supplies Return Policy  | PBI              |
| XVIII.    | Distribution Solutions Software License and Maintenance Agreement Rev.11/15  | PBI              |
| XIX.      | End User License Agreement and Limited Warranty PlanetPress® Suite of Software Products  | PBI              |
| XX.       | DMT 298 Terms – May 2015 – Sales & Maintenance Agreement   | PBI DMT Division |
| XXI.      | IntelliJet 298 May 2015 – IntelliJet Printer Sales & License Agreement   | PBI DMT          |

|          |  | Division               |
|----------|--|------------------------|
| XXII.    | PMSF \$1-Out Lease   | PBI DMT<br>Division    |
| XXIII.   | PMSF FMV 2014 Lease  | PBI DMT<br>Division    |
| XXIV.    | Muni Master (Pitney Bowes) Exempt \$1 out – Non-Escrow Merge Lease   | PBI DMT<br>Division    |
| XXV.     | Muni Short form FMV Lease – PB – Rev. 5.18.2010.   | PBI DMT<br>Division    |
| XXVI.    | DMT Lease Supplement Rev. 11.2013  | PBI DMT<br>Division    |
| XXVII.   | On-Call EMA evergreen Service Agreement – Rev. 021215  | PBI DMT<br>Division    |
| XXVIII.  | IntelliJet Maintenance Agreement 2015 – IntelliJet Service   | PBI DMT<br>Division    |
| XXIX.    | IntelliJet Production Print Supply Agreement 2015  | PBI DMT<br>Division    |
| XXX.     | Direct Connect Software License Exhibit – 4.2.15   | PBI DMT<br>Division    |
| XXXI.    | DMT Master License Agreement – 5.2015  | PBI DMT<br>Division    |
| XXXII.   | Sorter Supplement – Sorter license agreement – 1.7.115   | PBI DMT<br>Division    |
| XXXIII.  | Pitney Reseller Agreement DPV LACS SUITE FINAL 11 11 10 – specialized<br>Sorter software                       | PBI DMT<br>Division    |
| XXXIV.   | Master License Agreement Rev. 2/15   | PB Software            |
| XXXV.    | Professional Service Addendum Rev. 3/15  | PB Software            |
| XXXVI.   | Professional Service Order Form Rev. 3/15  | PB Software            |
| XXXVII.  | Professional Service Agreement Rev. 3/15   | PB Software            |
| XXXVIII. | Certification of By/For Compliance Rev. 3/15   | PB Presort<br>Services |
| XXXIX.   | Certification of Move Update Compliance Rev. 5/15  | PB Presort<br>Services |
| XL.      | Pitney Bowes Presort Services and Client Responsibilities Rev. 6/15  | PB Presort<br>Services |
| XLI.     | USPS 8096 for Postage Refunds on Metered Mail (only if mail is metered)  | PB Presort<br>Services |
| XLII.    | MPE Move Update Processing Acknowledgement Form (only if PBPS provides<br>the Move Update compliance solution) | PB Presort<br>Services |