

# FEDEX WEB SERVICES END USER LICENSE AGREEMENT

Version 7 – July 2015

BELOW ARE THE TERMS AND CONDITIONS UNDER WHICH YOU, AS A FEDEX CUSTOMER AND/OR FEDEX ACCOUNT HOLDER, ARE PERMITTED TO USE COMPUTER APPLICATION INTERFACES (each, an "Application") THAT INTERFACE WITH FEDEX WEB SERVICES.

TO USE FEDEX WEB SERVICES, YOU MUST AGREE TO BE BOUND BY THESE TERMS AND CONDITIONS, INCLUDING THOSE THAT ARE INCORPORATED HEREIN BY REFERENCE, WITHOUT MODIFICATION, LIMITATION OR QUALIFICATION. ONCE YOU ACKNOWLEDGE YOUR AGREEMENT BY CLICKING THE "ACCEPT" BUTTON BELOW, THIS DOCUMENT WILL CONSTITUTE A LEGAL AGREEMENT BETWEEN FEDEX CORPORATE SERVICES, INC. ("FedEx") AND YOU OR THE FEDEX CUSTOMER OR ACCOUNT HOLDER BY WHOM YOU ARE EMPLOYED OR WHOM YOU REPRESENT AND, IF APPLICABLE, ANY OF YOUR OR ITS AFFILIATES (collectively referred hereinafter as "You" or "Your") AND WILL GOVERN ALL USE OF FEDEX WEB SERVICES.

YOU WARRANT AND REPRESENT THAT: (A) YOU HAVE THE LEGAL AUTHORITY TO CONSENT TO THIS AGREEMENT; (B) THAT YOUR ACKNOWLEDGMENT OF THIS AGREEMENT EVIDENCES YOUR INTENTION TO LEGALLY BIND YOU; AND (C) THAT SUCH ACKNOWLEDGMENT IS INTENDED AS A SYMBOL OF YOUR SIGNATURE. IF YOU DO NOT HAVE SUCH AUTHORITY, YOU MUST CLICK THE "DECLINE" BUTTON. IF YOU DECLINE, YOU WILL NOT BE AUTHORIZED TO USE FEDEX WEB SERVICES AND/OR THE SHIPPING AND SHIPPING RELATED SERVICES AVAILABLE THROUGH FEDEX WEB SERVICES.

**A COPY OF THIS AGREEMENT SHOULD BE PRINTED AND RETAINED FOR FUTURE REFERENCE**

## **Section 1. Key Definitions.**

- (a) "Agreement" shall mean: (1) the terms and conditions set forth herein; (2) all other terms and conditions applicable to FedEx Web Services (as defined below) including, without limitation, all manuals, policies, procedures or other materials provided by FedEx which are applicable to FedEx Web Services); (3) the terms and conditions at [www.fedex.com](http://www.fedex.com); (4) the current FedEx Service Guide (the "Service Guide"), a copy of which is available by request or by download in Your country of choice at [www.fedex.com](http://www.fedex.com); (5) the current FedEx Freight 100 Series Tariff ("FXF 100 Series Tariff"), a copy of which is available by download in Your country of choice at [www.fedex.com](http://www.fedex.com); (6) the FedEx Privacy Policy, a copy of which is available by request or by download in Your country of choice at [www.fedex.com](http://www.fedex.com); and (7) the terms and conditions set forth on any FedEx airway bill, bill of lading or shipping label, all of which may be updated, supplemented or otherwise modified by FedEx or its affiliates in its sole discretion at any time by posting a revised version of the Agreement at [www.fedex.com](http://www.fedex.com).
- (b) "FedEx Web Services" or "Web Services" shall mean the set of services that can be used or accessed via an Application that allows for the performance of various functions relating to FedEx shipping services as described in the Service Guide. The term includes any text, tools, graphics, content, manuals, software, Applications, instructions or other materials distributed or made available by FedEx in connection with its Web Services, including all updates and modifications thereto by FedEx (collectively, the "Materials"). The term also includes any beta version of the Materials which may include additional features or functionality currently under development by FedEx for inclusion in the Materials but which are not currently supported by FedEx (collectively, the "Beta Materials"). The term does not include the FedEx shipping services accessed and used by You using FedEx Web Services.

**Section 2. Acknowledgment.** You acknowledge that for the purposes of this Agreement, "FedEx" shall mean and include FedEx Corporate Services, Inc. and any and all of its affiliate companies including Federal Express Corporation, FedEx Freight Corporation and FedEx Ground Package System, Inc. You further acknowledge that this Agreement is between You and FedEx Corporate Services, Inc. For shipments made by You using Your Application and originating in the United States, You further acknowledge that the contract of carriage is between You and the FedEx company to which You tender the package within the United States, its principals, subsidiaries, branches, and affiliates, and their respective agents and independent contractors. For shipments made by You using Your Application and originating in Canada, You further acknowledge that the contract of

carriage is with Federal Express Canada Ltd., its principals, subsidiaries, branches, and affiliates, and their respective agents and independent contractors. You further acknowledge that for those shipments processed by You using Your Application and the Web Services and originating outside of the United States, the contract of carriage for Your shipment (and not the terms governing use of Materials and participation in testing) is with the FedEx branch, affiliate, subsidiary or independent contractor who originally accepts the shipment from You. You further acknowledge that it is Your obligation and responsibility to periodically review the terms and conditions of the Agreement at [www.fedex.com](http://www.fedex.com) for any updates and revisions thereto.

### **Section 3. Grant.**

- (a) FedEx grants You a personal, non-exclusive, non-transferable, royalty-free license to use and refer to Materials only in those countries and locations designated by FedEx ("Territory"), solely to prepare and use Applications and screens on Your internal computer systems and/or those of your End Users solely to access FedEx servers via its Web Services to use those shipping and shipping related services offered from time to time by FedEx which may include functionality enabling End Users to label, rate, route, record, track and invoice shipments and for no other purpose. For purposes of this Agreement, the term "End User" means an entity, other than a competitor of FedEx or its Affiliates, which (a) is located within the Territory and (b) enters into an end user license agreement ("EULA") which may be required by FedEx for such entity to use the Application for its internal business purposes and not for any resale, distribution or sublicensing, except as authorized by FedEx in writing.
  - (i) In the event Your Application contains functionality that allows for shipments through carriers other than FedEx, then You agree to look solely to such third party carriers for the terms under which You may tender shipments to and have shipments carried by such third party carriers and that, as between FedEx and Licensee, Licensee is solely responsible for its compliance with such third party carriers' terms of shipping and will look solely to such third party carriers for all remedies attributable to claims arising out of the third party carriers' carriage of Licensee's shipments.
  - (ii) As You and FedEx, You will be solely responsible for Your compliance with such third party carriers' terms of shipping and will look solely to such third party carriers for all remedies attributable to claims arising out of any claims related to shipments placed with such third party carriers.
- (b) FedEx makes no assurance that its computer servers and systems will continue to be operated or configured in such a way that allows an Application created by You to continue to be able to connect to FedEx using the methods described in the Materials. FedEx reserves the right to make changes in its computer servers and systems, in whole or in part, for any reason and without limitation, including the right to terminate Your use of the Application or any services offered in connection therewith. In addition, FedEx may upgrade or modify the Materials and/or FedEx Web Services and such upgrades or modifications may necessitate that You make changes to Your internal hardware and software systems at Your expense in order to continue using Your Application to connect to FedEx. You acknowledge that Your failure to make any such change or upgrade pursuant to the instructions provided by FedEx may result in You being unable to continue using or distributing an Application to or on behalf of an End User.
- (c) You shall comply with all applicable laws or regulations of any applicable jurisdiction. You agree not to use FedEx Web Services or any Application created by or for You to interface therewith in any manner that: (i) infringes, violates or misappropriates the intellectual property rights of any third party; (ii) violates any anti-spamming laws and regulations; or (iii) involves or promotes any harmful or illegal activities, including without limitation, any activity that may be considered libelous or defamatory or otherwise malicious or harmful to any person or entity, or discriminatory based on race, sex, religion, nationality, disability, sexual orientation, age or any other basis forbidden by applicable laws.
- (d) During the term of this Agreement, You agree not to interfere or attempt to interfere in any manner with the functionality or proper working of FedEx Web Services. If any Application developed by You to interface with FedEx Web Services is suspected or determined by FedEx, in its sole discretion, to create such interference or to otherwise be unsuitable or incompatible, FedEx may, without any notice to You, suspend or terminate Your access to FedEx Web Services, in whole or in part.

#### **Section 4. Beta Terms and Conditions.**

- (a) From time to time, FedEx may grant to You a temporary, royalty-free, nontransferable, nonexclusive license for experimental use to test and evaluate certain Beta Materials solely for your own private use and/or internal business operations. You acknowledge and agree: (i) that any Beta Materials furnished to You are provided solely as a convenience; (ii) that this temporary license shall not be construed as marketing or offering to sell a license to the Beta Materials; (iii) that FedEx retains the exclusive right to choose not to release a commercial version of the Beta Materials in any form; and (iv) that FedEx may, in its sole discretion and without any notice to You, suspend or terminate Your access to the Beta Materials, in whole or in part. You covenant to treat all Beta Materials as Materials, including, but not limited to, the restrictions on use set forth in this Agreement, including this Section 4.
- (b) If FedEx authorizes You to use the Beta Materials, You agree to evaluate and test the Beta Materials according to the criteria established by FedEx and to contact FedEx periodically during Your use of the Beta Materials to discuss any malfunctions or suggested improvements, all of which shall constitute Feedback (as that term is defined in Section 9 below). Upon completion of Your evaluation and testing, You will send to FedEx a written evaluation of the Beta Materials, including a listing of any strengths, weaknesses and recommended improvements. All written evaluations and all inventions, product improvements, modifications or developments conceived or made by FedEx based wholly or partially on Your feedback, will be the exclusive property of FedEx. The provisions of this sub-section 4(b) shall survive termination of this Agreement.
- (c) IN THE EVENT THAT YOU ARE AUTHORIZED BY FEDEX TO USE ANY BETA MATERIALS, YOU FURTHER ACKNOWLEDGE THAT SUCH BETA MATERIALS ARE PROVIDED TO YOU "AS IS" AND CONSTITUTE A PRE-PRODUCTION VERSION OF THE MATERIALS WHICH HAVE NOT BEEN COMPLETELY TESTED IN ALL SITUATIONS AND THAT ANY USE OF THE BETA MATERIALS IS DONE ENTIRELY AT YOUR OWN RISK. FEDEX WILL NOT PROVIDE ANY TECHNICAL SUPPORT AND DISCLAIMS ANY WARRANTY, REMEDIES OR LIABILITY OBLIGATIONS FOR THE BETA MATERIALS INCLUDING THAT USE OF THE BETA MATERIALS WILL BE UNINTERRUPTED, OR ERROR-FREE, THAT DEFECTS WILL BE CORRECTED, OR THAT THE BETA MATERIALS ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. WHERE LEGAL LIABILITY CANNOT BE EXCLUDED, BUT MAY BE LIMITED, YOU AGREE THAT THE LIABILITY OF FEDEX SHALL BE LIMITED TO THE MAXIMUM AMOUNT OF FIFTY DOLLARS (\$50.00).
- (d) You acknowledge and understand that the Beta Materials are unannounced and not available to the public and that FedEx considers the Beta Materials and any other related materials supplied to You to be the confidential and proprietary information of FedEx (collectively, the "Confidential Information"). You agree not to share any such Confidential Information with any other third party or to permit access to the Confidential Information by any third party access to the Confidential Information but instead will take all reasonable steps to secure and protect the Confidential Information from any disclosure or third party access.
- (e) Upon receipt of a later unreleased version of the Beta Materials or release by FedEx of a publicly released version, You agree to cease all use of the earlier Beta Materials received from FedEx and, if applicable, to abide by the terms and conditions of this Agreement governing any such publicly released version.
- (f) In the event of a conflict between this Section 4 and any other provision of the Agreement, this Section 4 shall supersede such other term(s) and condition(s) with respect to the Beta Materials, but only to the extent necessary to resolve the conflict.

#### **Section 5. Intellectual Property Rights.**

- (a) You acknowledge that FedEx holds and retains, other than as provided in this Agreement, all worldwide rights, title and interests, including without limitation, copyright and patent rights, in and to the Materials and FedEx Web Services including, but not limited to, any derivative works thereof. You acknowledge that FedEx is not selling or otherwise transferring title in Materials to You and that You agree not to take any action inconsistent with FedEx's interest.

- (b) You may not copy, modify, adapt or reproduce the Materials other than to create Your Application solely in the form and in the manner permitted by this Agreement.
- (c) FedEx grants You a limited, personal, nonexclusive, royalty-free, non-transferable license to use and display the word "FedEx" and its logos, trademarks and service marks (hereinafter collectively the "Marks") as provided by FedEx in the Materials solely in connection with Your Application as authorized under Section 6 below, provided that You comply with all provisions of this Agreement regarding the manner in which the Marks may be used. You may not use the Marks for any other purpose. You may not alter in any way any Mark, including without limitation, distorting, animating or changing the color, font or proportions of any Mark, or combining it with any other name, mark or logo.
- (d) You may not transfer or transmit, in whole or in part, the Materials or any of Your Applications which contain information about FedEx or its Marks, to any third party except as expressly allowed under this Agreement.
- (e) You acknowledge that FedEx holds and retains all worldwide rights, title and interest in and to the Marks, and that all use of the Marks by You shall inure to the benefit of FedEx. You further acknowledge and agree that You will not claim, whether in whole or in part, any rights in the Marks, and will do nothing to impair, in any way, the Marks or FedEx's rights in the Marks. You may not use the Marks in any manner that is likely to cause confusion, mistake, or deception regarding whether FedEx sponsors or endorses Your Application or whether Your Applications are affiliated, associated, or connected with FedEx. You may not use the Marks to advertise, sell, market or otherwise distribute any products or services.
- (f) FedEx retains the right to require You to submit to FedEx, or its designee, for review and approval, screen shots of all screens in any Application created by or for You using the Materials, the Marks or any information about FedEx, and any functional aspects thereof. You agree to make any changes in the Application or Marks as required by FedEx. You agree to use only those screens and Applications which FedEx may have approved pursuant to this provision.
- (g) All Applications created by or for You based on, or otherwise created with reference to, the Materials shall include only accurate references to FedEx and FedEx Web Services. The Applications may not be created and the Marks may not be used in such a way that, in FedEx's judgment, damage FedEx's goodwill. In the event FedEx, in its sole judgment, believes that any of Your Applications violate this provision, FedEx reserves the right to terminate this Agreement, Your use of and access to FedEx Web Services and Your ability to connect to FedEx using such Application, or to notify You and You agree to cause the Application to comply with this provision.

**Section 6. Use Restrictions.**

- (a) You agree and warrant that: (i) the Application you develop using the Materials, Marks and any other information provided by FedEx will only be used by You and/or Your End Users to access and use FedEx shipping and shipping related services for its internal business purposes and will not marketed, sold, licensed or otherwise made available for use by any unauthorized third party; and (ii) that the name, address and account information that You provide when You register for FedEx Web Services is correct and You agree immediately to notify FedEx of any changes in the name, address and/or account information details.
- (b) You will create a password and account designation upon completing the registration process for FedEx Web Services. You are responsible for maintaining the confidentiality of the password and account, and are fully responsible for all activities that occur under Your password or account FedEx reserves the right to change access credentials without prior notice if FedEx deems that it presents a security issue. You agree to immediately notify FedEx of any unauthorized use of Your password or account or any other breach of security.
- (c) You agree to follow the instructions provided from time to time with or in any Materials governing the use of Materials, the Marks, and/or FedEx Web Services. Use of the Materials to prepare shipments by or for the benefit of third party shippers is expressly prohibited.

- (d) You acknowledge and agree that You will not use any Applications (including interfaces made by or for You) in a manner that adversely affect the functionality of FedEx Web Services or FedEx's computer servers or systems.
- (e) For the purpose of verifying Your compliance with this Agreement, You agree to provide to FedEx, if requested, any information or materials relating to Your Application and to allow FedEx to track and monitor any Application created by or for You to communicate with FedEx Web Services. You agree not to block or interfere with such tracking or monitoring. In the event You fail to comply with this requirement, You agree that FedEx shall have the right to use any available technical means to overcome such blocking or interference.
- (f) Without the prior written consent of FedEx, You agree not to store or retain any component of FedEx Web Services or the Materials in a database, server network or other similar repository, either with or without a central location, in a manner that allows others to share or access the Materials or FedEx Web Services.

#### **Section 7. Termination.**

- (a) This Agreement is effective until terminated by either You or FedEx. This Agreement will terminate independently without notice if You fail to comply with any provision of this Agreement or any instructions regarding FedEx Web Services, the Materials, or the Marks.
- (b) Upon termination for any reason, You must cease all use of Web Services, the Materials and the Marks and return to FedEx all documentation and Materials provided to You and any copies thereof.
- (c) FedEx reserves the right to unilaterally terminate this Agreement and the use of its Web Services, the Materials and the Marks at any time and for any reason.

**Section 8. Downtime and Service Suspensions.** In addition to the right of FedEx to terminate this Agreement as described in Section 7 above, You acknowledge that: (i) Your access to and use of the Web Services may be suspended for the duration of any unanticipated or unscheduled downtime or unavailability of any portion or all of the Web Services for any reason, including as a result of power outages, system failures or other interruptions; and (ii) FedEx shall also be entitled, without any liability to You, to suspend access to any portion or all of the Web Services at any time, on a Web Service-wide basis: (a) for scheduled downtime to permit FedEx to conduct maintenance or make modifications to any Web Service; (b) in the event of a denial of service attack or other attack on the Web Service or other event that FedEx determines, in its sole discretion, may create a risk to the applicable Web Service, to You or to any of its other customers if the Web Service was not suspended; or (c) in the event that FedEx determines that any Web Service is prohibited by law or FedEx otherwise determines that it is necessary or prudent to do so for legal or regulatory reasons (collectively, "Service Suspensions"). FedEx shall have no liability whatsoever for any damage, liabilities, losses (including any loss of data or profits) or any other consequences that You may incur as a result of any Service Suspension. To the extent FedEx is able, FedEx will endeavor to provide You email notice of any Service Suspension in accordance with the notice provisions set forth in Section 17 below and to post updates on [www.fedex.com](http://www.fedex.com) regarding resumption of Web Services following any such suspension, but shall have no liability for the manner in which FedEx may do so or if FedEx fails to do so.

**Section 9. Feedback.** In the event You elect, in connection with any of the Web Services, to communicate to FedEx any data, comments, suggestions or other information relating to improvements to FedEx Web Services, the Materials or the Marks (collectively, "Feedback"), FedEx shall own all right, title, and interest in and to the same, even if You have designated the Feedback as confidential, and FedEx shall be entitled to use the Feedback without restriction or further compensation to You. You hereby irrevocably assign all right, title and interest in and to the Feedback to FedEx and agree to provide such assistance as FedEx may require to document, perfect, and maintain its rights to the Feedback.

**Section 10. Payment.** You agree to remit payment for all invoices generated through the use of Web Services in accordance with the terms and conditions contained in this Agreement, the applicable Service Guide, tariff, or contract of carriage under which the shipment is accepted by FedEx or branch, affiliate, subsidiary or independent contractor, and to reference the invoice number when payment is remitted. You are responsible

for payment of all charges generated through the use of Web Services under Your account number and registration number. Notwithstanding the foregoing, for shipments with FedEx Freight, the responsibility for the payment of all charges generated through the use of FedEx Web Services will be determined by reference to either your Master Transportation Agreement with FedEx Freight or the FXF 100 Series Tariff.

**Section 11. Invoice Adjustments and Refunds.**

- (a) If the use of Web Services in any way results in the generation of an inaccurate invoice for any shipping transaction, FedEx will bill You for, and You agree to pay to FedEx within fifteen (15) days of the invoice date, any additional amount applicable to the transaction or as otherwise provided in this Agreement, the applicable Service Guide, tariff, or contract of carriage under which the shipment is accepted by FedEx or its branch, affiliate, subsidiary or independent contractor.
- (b) You may bill shipping charges only to valid FedEx account numbers, and either "bill sender," "bill recipient" or "bill third party."
- (c) Shipments tendered with incorrect routing, labeling, commitment date, service designation or other errors through no fault of FedEx will not be eligible for any applicable refunds under FedEx's money-back guarantee policies. Refunds requested by You with respect to any shipment must be made in accordance with this Agreement, the applicable Service Guide, tariff, or contract of carriage under which the shipment is accepted by FedEx or its subsidiary, affiliate, branch or independent contractor. You will not be entitled to any refund or credit under FedEx's money-back guarantees if FedEx determines that the claim resulted from improper use or installation of FedEx Web Services, or any modifications or upgrades thereof, or is due to the use of the Internet. FedEx, in its sole discretion, may suspend or terminate its money-back guarantees for any reason.

**Section 12. Disclaimer of Warranty.** YOU EXPRESSLY ACKNOWLEDGE AND AGREE THAT FEDEX WEB SERVICES ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS WITHOUT WARRANTIES OF ANY KIND AND THAT ANY USE OF FEDEX WEB SERVICES AND THE MATERIALS BY YOU AND, IF APPLICABLE, YOUR AFFILIATES, IS AT YOUR SOLE RISK. FEDEX EXPRESSLY DISCLAIMS AND EXCLUDES ALL REPRESENTATIONS, WARRANTIES OR CONDITIONS COMMENCING ON THE DAY YOU ARE ALLOWED TO ACCESS WEB SERVICES OR THE MATERIALS AND FOR ALL OTHER TIMES, WHETHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, ANY IMPLIED CONDITIONS, ANY IMPLIED REPRESENTATIONS OR ANY IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, QUIET ENJOYMENT AND FITNESS FOR A PARTICULAR PURPOSE. FEDEX DOES NOT WARRANT THAT FEDEX WEB SERVICES OR THE MATERIALS (A) WILL MEET ALL OR ANY OF YOUR REQUIREMENTS; (B) THAT THEIR OPERATIONS WILL BE UNINTERRUPTED OR ERROR FREE; (C) THAT ANY DEFECT WITHIN FEDEX WEB SERVICES OR THE MATERIALS WILL BE CORRECTED; OR (D) THAT ITS SYSTEMS WILL NEVER BE INFILTRATED BY HACKERS OR OTHER UNAUTHORIZED USERS. FURTHERMORE, FEDEX DOES NOT WARRANT NOR MAKE ANY REPRESENTATION REGARDING THE RESULTS OF YOUR USE OF WEB SERVICES OR THE MATERIALS IN TERMS OF CAPABILITY, CORRECTNESS, ACCURACY, RELIABILITY OR OTHERWISE. NO ORAL OR WRITTEN INFORMATION, REPRESENTATION OR ADVICE GIVEN BY FEDEX OR AN AUTHORIZED REPRESENTATIVE OF FEDEX SHALL CREATE A WARRANTY.

**Section 13. Limitation of Liability.** YOU EXPRESSLY ACKNOWLEDGE THAT FEDEX IS PROVIDING THE WEB SERVICES AND MATERIALS TO YOU FREE OF CHARGE. UNDER NO CIRCUMSTANCES, INCLUDING BUT NOT LIMITED TO NEGLIGENCE, SHALL FEDEX OR ITS PARENT CORPORATION, ANY OF ITS SUBSIDIARIES, AFFILIATES OR BRANCHES, OR ANY OF THEIR RESPECTIVE EMPLOYEES, OFFICERS, DIRECTORS, AGENTS, REPRESENTATIVES, SUCCESSORS OR ASSIGNS BE LIABLE FOR ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, EXEMPLARY, CONSEQUENTIAL OR OTHER DAMAGES IN TORT (INCLUDING, BUT NOT LIMITED TO, NEGLIGENCE), CONTRACT, PRODUCT LIABILITY OR UNDER ANY OTHER THEORY OF LAW RESULTING FROM THE INSTALLATION OR REMOVAL OF FEDEX WEB SERVICES OR THE MATERIALS, OR YOUR USE, OR INABILITY TO USE, FEDEX WEB SERVICES OR THE MATERIALS, INCLUDING, WITHOUT LIMITATION, DAMAGES RESULTING FROM LOSS OF USE, PROFITS, DATA, OR BUSINESS, AND DAMAGE TO YOUR INTERNAL COMPUTER SYSTEMS EVEN IF FEDEX, OR AN AUTHORIZED REPRESENTATIVE OF FEDEX, HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. WHERE LEGAL LIABILITY CANNOT BE EXCLUDED, BUT MAY BE LIMITED, YOU AGREE THAT THE LIABILITY OF FEDEX SHALL BE LIMITED TO THE MAXIMUM AMOUNT OF FIFTY DOLLARS (\$50.00).

**Section 14. Indemnification.** YOU WILL, AT YOUR SOLE COST AND EXPENSE, DEFEND, INDEMNIFY AND HOLD HARMLESS, FEDEX, ITS PARENT CORPORATION, SUBSIDIARIES, AFFILIATES, BRANCHES AND LICENSORS AND THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, REPRESENTATIVES, SUCCESSORS AND ASSIGNS FROM ALL FINES, COSTS, SUITS, CLAIMS, LOSSES, DAMAGES, DEMANDS, EXPENSES, AND JUDGMENTS, INCLUDING REASONABLE ATTORNEYS FEES (COLLECTIVELY, "CLAIMS"), ARISING OUT OF: (1) YOUR INSTALLATION, USE AND REMOVAL OF WEB SERVICES, THE MATERIALS, THE MARKS AND ALL APPLICATIONS CREATED BY OR FOR YOU; OR (2) YOUR USE OF THE APPLICATION AND/OR FEDEX WEB SERVICES TO PROCESS SHIPMENTS TENDERED TO ANY THIRD PARTY CARRIER. FEDEX MAY INTERVENE AND ASSUME ITS DEFENSE IN ANY SUCH CLAIMS, AT ITS EXPENSE AND IN ITS SOLE DISCRETION. YOU WILL NOT SETTLE ANY SUCH ACTION INVOLVING FEDEX OR FEDEX WEB SERVICES WITHOUT THE PRIOR WRITTEN CONSENT OF FEDEX.

**Section 15. Confidentiality.** The Materials provided to You under this Agreement are confidential and proprietary to FedEx. You will hold all such confidential information in strict confidence, not use such confidential information other than in connection with the use of FedEx Web Services and Your performance of this Agreement, and cause Your affiliates, employees, contractors and agents to be bound by the same obligations of confidentiality to which You are bound. You may not transfer or transmit, in whole or in part, the Materials or FedEx Marks to any third party without FedEx's written approval.

**Section 16. Service Guide.** The terms and conditions of carriage governing FedEx shipping and related services are contained in the Conditions of Contract on the Air Waybill and the most current version of the Service Guide, which is available by request or by download in Your country of choice at [www.fedex.com](http://www.fedex.com). In the event of any conflict between the Conditions of Contract on the Air Waybill and any FedEx delivery or related service information at [www.fedex.com](http://www.fedex.com) and the delivery or related service information contained in the most current version of the applicable Service Guide, the most current version of the applicable Service Guide for Your country of choice will control in addition to the following provisions:

- (a) In the event You use the Materials to process Shipments tendered to FedEx for delivery to locations outside the United States or country of Shipment origin, You will, at Your sole expense, assure that the terms and conditions of international carriage supplied by FedEx from time to time (which may be amended or modified from time to time at FedEx's sole discretion) are placed on the Air Waybill or Label for all such international Shipments in a manner acceptable to FedEx. You will defend, indemnify and hold harmless FedEx, its officers, directors, employees and agents from and against any and all losses, damages, claims and other items of cost and expense arising out of Your failure to apply the international carriage terms to the Air Waybill for such international Shipments, including without limitation claims from the recipient of any Shipment, and Your failure to follow FedEx's instructions in regard to the placement of the terms on the Air Waybills for such international Shipments.
- (b) You acknowledge that if the Materials is used to process Shipments to locations outside the United States or country of Shipment origin, You must and will enter, to print in lieu of a manual signature on the international Air Waybills, Pick-up Records, Labels or Manifests, as applicable, the name of the person completing the Air Waybills, Labels, Manifests or Pick-Up Records for all Shipments tendered by You to FedEx using the Materials. You further acknowledge that such printed name shall be sufficient to constitute Your signature, and Your acceptance of FedEx's terms and conditions of carriage contained in the applicable transportation agreement, Service Guide, Standard Conditions, tariff, Air Waybill, or transportation agreement under which the Shipment is accepted by FedEx, or its independent contractor.
- (c) You authorize FedEx, and its independent contractors, as applicable, to act as forwarding agent for You for export and customs purposes. You hereby certify that all statements and information contained on all Air Waybills, SEDs and accompanying documentation relating to exportation are true and correct. You further certify that all Commercial Invoice information submitted via the Materials is true and correct. You expressly authorize FedEx and its independent contractors, as applicable, to forward all information of any nature regarding Shipments to any and all governmental or regulatory agencies which request or require such information. Furthermore, You understand that civil and criminal penalties, including forfeiture and sale, may be imposed for making false or fraudulent statements or for the violation of any country laws on exportation, including but not limited to, for Shipments originating in the U.S., 13 U.S.C. §305; 22 U.S.C. §401; 18 U.S.C. §1001; and 50 U.S.C. App. 2410, and for Shipments originating in Canada, the Export and Import Permits Act, R.S.C. E-17. Consult the laws in the country of origin for similar



restrictions. You acknowledge that no Shipments tendered by You from the United States using the Materials will be sent to any entity listed on the Department of Commerce's Denied Parties List 15 C.F.R. Part 764, Supp. 2, or the list of Special Designated Nationals as published by the Office of Foreign Assets Control of the U.S. Department of the Treasury and that You are neither a denied party or a specially designated national. Consult the laws of the origin country of Your Shipment for similar provisions.

- (d) From the U.S., a completed hard copy of a Shipper's Export Declaration (SED) or an electronic transmission of SED data or an SED exemption legend (including AES legend) is required if a shipment meets any of the following criteria: (1) a single commodity with a Customs value over USD \$2,500.00 with the exception of shipments going to Canada (unless shipped on a Commerce Export License); (2) Shipments between the United States and Puerto Rico, and from the United States and Puerto Rico to the U.S. Virgin Islands and to foreign countries with a Customs value over USD \$2,500.00; (3) all shipments (regardless of value) to the following proscribed countries: Cuba, Iran, Iraq, Libya, North Korea, Sudan and Syria with the exception of personal, inter-office or business correspondence; and, (5) all shipments from U.S. Possessions to foreign countries with a Customs value over USD \$2,500.00 with the exception of shipments going to Canada (unless shipped on a Commerce Export License). Note: SEDs are not required for shipments from or to the following U.S. possessions: American Samoa, Baker Island, Guam, Howland Island, Jarvis Island, Johnston Atoll, Kingman Reef, Midway Islands, Navassa Island, Northern Mariana Islands, Palmyra Atoll or Wake Island. At this time, FedEx does not service the following countries: Cuba, Iran, Iraq, North Korea, Libya and Sudan. Consult the laws in the country of origin of Your shipment for SED or similar requirements.
- (e) Unless otherwise indicated, the shipper's address indicated on the face of the Air Waybill is the place of execution and the place of departure and the recipient's address listed on the face of the Air Waybill is the place of destination. Unless otherwise indicated on the face of the Air Waybill, Label, Manifest, or Pick-up Record, the first carrier of all Shipments is FedEx Express (i.e., Federal Express Corporation), P.O. Box 727, Memphis, Tennessee 38194. In the event another carrier is listed on any such document, that carrier is the first carrier of the Shipment. The address for FedEx Ground is P.O. Box 108, Coraopolis, Pennsylvania 15230.
- (f) The terms and conditions of carriage governing shipping and related services with FedEx Freight (i.e., FedEx Freight Corporation) are contained in the FXF 100 Series Tariff, which is available by download in Your country of choice at [www.fedex.com](http://www.fedex.com). In the event of any conflict between the current version of the FXF 100 Series Tariff and any other FedEx delivery or related service information at [www.fedex.com](http://www.fedex.com) with respect to any FedEx Freight service, the applicable FXF 100 Series Tariff will control.

#### **Section 17. Electronic Trade Documents.**

- (a) By utilizing FedEx® Electronic Trade Documents, You represent, warrant and covenant that:
  - (1) You will provide FedEx with all information necessary to ship Your international packages, including but not limited to package level detail information, Your company letterhead and a signature image for You or an authorized representative of the FedEx customer or account holder by whom You are employed or represent and that any such information provided by You to FedEx will be true, accurate and complete;
  - (2) The letterhead provided by You to FedEx for use in executing electronic trade documents on Your behalf shall be a valid letterhead and that You possess the necessary right, title and interest in the letterhead to authorize FedEx to use the letterhead to execute electronic trade documents on Your behalf or on behalf of the FedEx customer or account holder by whom you are employed or represent;
  - (3) Any signature image provided by You to FedEx for use in executing electronic trade documents shall be of a valid signature by a person authorized by You or the FedEx customer or account holder by whom You are employed or represent to ship with FedEx and any required shipping-related documents, and shall be sufficient to constitute such signature; and



- (4) Applicable customs laws, rules and regulations may require additional documentation for certain commodities, values or quantities and/or require that original hardcopy commercial invoices, licenses, permits, declarations, forms, certificates or other documentation accompany the shipment and that it is Your responsibility to include all required documentation (including, without limitation, original hardcopy documentation) with any shipment You send using FedEx® Electronic Trade Documents.

(b) By utilizing FedEx® Electronic Trade Documents, You authorize FedEx:

- (1) To ship Your international shipments using electronic documents instead of printed documents, including but not limited to the applicable commercial invoice, pro forma invoice, and export certificate of origin; and
- (2) To use the information provided by You to ship Your international packages, including but not limited to package level detail information, Your company letterhead and Your signature image or a signature image of an authorized representative of Your company.

#### **Section 18. Notices.**

- (a) Any notice required or permitted to be given relating to this Agreement or the functioning of FedEx Web Services shall be given in writing as addressed below by mail, electronic mail, facsimile, or via FedEx delivery service.

If to FedEx:      Web Integration Solutions Department  
FedEx Corporate Services, Inc.  
30 FedEx Parkway – 2nd Floor / Horizontal  
Collierville, Tennessee 38017

If to Licensee: By general posting at [www.fedex.com](http://www.fedex.com) or to the name and address listed in the registration process.

- (b) FedEx may provide notice by general posting to the various FedEx web sites. Any such notice shall be effective and deemed received when posted.
- (c) As part of the registration process for FedEx Web Services, You will be required to provide an electronic mail address. You agree to maintain an electronic mail address throughout the Term of the Agreement and further agree not to unsubscribe or otherwise interfere with Your receipt of electronic communications from FedEx including, but not limited to, any notices relating to FedEx Web Services.

**Section 19. Waiver.** If FedEx fails to give notice or enforce any right under this Agreement, such failure shall not constitute a waiver of the same, unless reduced to writing and signed by FedEx. The waiver of any provision shall not constitute a waiver of the same or any other provision in the future.

**Section 20. Severability.** If for any reason a court of competent jurisdiction finds any provision of this Agreement, or a portion thereof, to be unenforceable, that provision shall be enforced to the maximum extent permissible so as to effectuate the intent of the parties and the remainder of this Agreement shall remain in full force and effect.

**Section 21. Export.** By agreeing to this Agreement, and accessing or downloading any component of the Web Services, You acknowledge and agree that You (i) assume all responsibility for compliance with, and are in compliance with all laws and regulations of the United States or the country in which You received the Materials regarding export, re-export and import of the Materials and any related or underlying information, technology, process, product or service and (ii) will not export or re-export the Materials. You further acknowledge that You are not a national of Cuba, Iran, Iraq, Libya, North Korea, Sudan or Syria or a Denied Party listed on the U.S. Denied Persons List or a Special Designated National on the U. S. Treasury Department's list of Specially Designated Nationals or equivalent legislation in the country of download. You further

acknowledge that the Materials will not be used in the design or development of nuclear, chemical, biological, weapons or missile technology.

**Section 22. Restricted Rights.** Pursuant to 48 C.F.R. 12.212 or 48 C.F.R. 227.7202, as applicable, the Materials and any related documentation are Commercial Items as defined 48 C.F.R. 2.101 and are licensed to U. S Government end users only as Commercial Items and only with the rights granted to all other end users as provided in this Agreement.

**Section 23. Governing Language.** The parties hereby confirm that they have agreed that this Agreement and all written documents between them be prepared in the English language only and such language shall be the governing language. Les parties aux presentes confirment qu'elles ont agreeé que la présente convention et tous les documents entre eux par écrit soit redigé dans la langue anglaise seulement, et telle langue sera la langue de contrôle.

**Section 24. Controlling Law.** This Agreement shall be governed by and construed in accordance with the laws of the United States and the State of Tennessee, excluding its conflict of laws provision. Any cause of action with respect to the Materials provided under this Agreement must be instituted within one (1) year after the claim or cause of action has risen or be barred and must be brought in a court of competent jurisdiction within Western Tennessee.

**Section 25. Complete Agreement.** This Agreement constitutes the entire agreement between You and FedEx with respect to its Web Services, the Marks and all Materials provided to You by FedEx and supersedes any prior or contemporaneous understandings, representations, statements or agreements, written or oral, regarding the Web Services offered under this Agreement. The terms governing Your shipments are contained in this Agreement, the applicable Service Guide, tariff or contract of carriage under which the shipment is accepted by FedEx or its subsidiary, affiliate, branch or independent contractor. No amendment to or modification of this Agreement will be binding on FedEx without FedEx's written consent. The provisions of Sections 4-5, 7 and 9-25 will survive the termination of this Agreement.

I acknowledge my agreement to the foregoing terms and conditions as set out above on behalf of myself and/or the entity, if any, with whom I am employed or represent.

**COMPANY NAME:** \_\_\_\_\_

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_