

FedEx End User License Agreement

THIS FEDEX END USER LICENSE AGREEMENT (“EULA”) GIVES EACH OF US CERTAIN RIGHTS AND RESPONSIBILITIES. THIS EULA INCORPORATES, BY REFERENCE, OTHER TERMS AND CONDITIONS, POLICIES AND NOTICES TO FORM THE AGREEMENT (AS DEFINED BELOW).

YOU WILL BE LIMITING YOUR REMEDIES BY AGREEING TO THE AGREEMENT.

YOU WILL BE ASSUMING FULL AND SOLE RESPONSIBILITY FOR ALL ACCESS AND USE OF THE FEDEX TECHNOLOGY AND CONFIDENTIAL INFORMATION (EACH OF THOSE TERMS ARE DEFINED BELOW).

ALL ACCESS TO AND USE OF FEDEX TECHNOLOGY IS AT YOUR OWN AND SOLE COST, EXPENSE AND RISK.

PLEASE READ THE AGREEMENT CAREFULLY.

THE AGREEMENT GOVERNS THE USE OF FEDEX TECHNOLOGY AVAILABLE THROUGH THE APPLICATION (AS DEFINED BELOW). IN ORDER TO ACCESS AND USE THE FEDEX TECHNOLOGY, YOU MUST AGREE TO AND ABIDE BY THE AGREEMENT.

THE CONSENT TO BE BOUND BY THE AGREEMENT (AND ANY MODIFICATION TO THE AGREEMENT) IS ACKNOWLEDGED BY CLICKING THE “I ACCEPT” OR “ADD ACCOUNT” BUTTON SET FORTH BELOW. IF YOU ARE ENTERING INTO THE AGREEMENT ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, YOU REPRESENT THAT YOU HAVE THE LEGAL AUTHORITY TO BIND SUCH LEGAL ENTITY AND, IF APPLICABLE, ITS AFFILIATES, TO THE AGREEMENT.

ONCE ACKNOWLEDGED, THIS DOCUMENT WILL CONSTITUTE A LEGAL AGREEMENT BETWEEN FEDEX (AS DEFINED BELOW) AND YOU (AS DEFINED BELOW) GOVERNING ACCESS TO AND USE OF FEDEX TECHNOLOGY MADE AVAILABLE OR ACCESSED VIA THE APPLICATION.

IF YOU DO NOT HAVE SUCH AUTHORITY, OR IF YOU DO NOT AGREE WITH THE TERMS AND CONDITIONS OF THE AGREEMENT, YOU MUST SELECT THE “I DECLINE” OR “BACK” BUTTON AND YOU MAY NOT ACCESS OR USE THE FEDEX TECHNOLOGY MADE AVAILABLE VIA THE APPLICATION AND WILL NOT BE AUTHORIZED TO ACCESS OR USE THE FEDEX TECHNOLOGY OR THE FEDEX SERVICES (AS DEFINED BELOW) AVAILABLE THROUGH THE APPLICATION.

PLEASE NOTE THAT ACCESS TO SOME ELEMENTS OF THE FEDEX TECHNOLOGY OR FEDEX SERVICES MAY REQUIRE FURTHER REGISTRATION PROCESS(ES). ADDITIONAL ACCESS AND USAGE PERMISSIONS WILL BE PROVIDED, BY FEDEX IN ITS SOLE DISCRETION, ONLY UPON COMPLETION OF ADDITIONAL REGISTRATION PROCESS(ES), AS APPLICABLE.

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

For good and valuable consideration of the mutual promises and obligations set out below, the sufficiency of which the Parties hereby acknowledge and confirm, FedEx and You acknowledge and agree as follows:

Key Definitions.

- (a) “**Agreement**” will mean the then current version of: (1) the terms and conditions set forth in the EULA (2) all other terms and conditions applicable to FedEx APIs (as defined below) including, those terms and conditions contained in or presented in connection with all manuals, policies, procedures or other materials provided by FedEx which are applicable to APIs); (3) the terms and conditions at www.fedex.com and www.fedexoffice.com; and, (4) applicable

FedEx privacy policy and/or privacy notice, a copy of which is available by request or by download in Your country or territory of choice at www.fedex.com, which is supplementary to, and shall be read together with, the FedEx Global Privacy Policy and Privacy Notice, available at www.fedex.com/en-us/trust-center/privacy.html. Any and all of the foregoing may be updated, revised, replaced, supplemented or otherwise modified by FedEx or its affiliates in its sole discretion at any time and such modification will be effective when FedEx posts a revised version at the URL address of the prior terms and conditions (or, such other URL address as FedEx may indicate at the URL address of the prior terms and conditions).

- (b) **"Application"** means software program(s) created or licensed by You that utilize FedEx Technology in order for You to request FedEx Services.
- (c) **"Application Provider"** means You or the licensor or provider of the Application to You.
- (d) **"Beta Materials"** means products and services that (i) otherwise qualify as FedEx APIs and/or Materials but have not been released by FedEx for general, commercial use in relation to FedEx Services; and, (ii) are considered, by FedEx, to be under development but which FedEx is releasing, in a limited manner, for testing and evaluation purposes in order to receive Feedback.
- (e) **"Feedback"** means any comments, suggestions, know-how, ideas, improvements, or other feedback regarding FedEx Technology or FedEx Services.
- (f) **"FedEx"** means (i) FedEx Corporate Services, Inc., if You are located, and access and use the Application, within the United States of America ("**USA**") when You initially execute this EULA; and, (ii) Federal Express Corporation if You are located, or access or use the Application, outside of the USA.
- (g) **"FedEx APIs"** or "**APIs**" means those application programming interfaces made available by FedEx which, via an Application, facilitate the request of FedEx Services by You.
- (h) **"FedEx Competitor(s)"** means carriers, couriers or other entities involved in the pickup, consolidation, transportation, delivery or logistical movement of documents, packages or freight aside from FedEx and its affiliates.
- (i) **"FedEx Services"** means shipping or print services (or services relating to shipping or print services) offered, from time to time, by FedEx or its affiliates as such services are described in the applicable Service Offering.
- (j) **"FedEx Systems"** means those internal FedEx technology resources (e.g., computers, servers, networks, etc) which accept, process and transmit, via FedEx APIs, information and data regarding Your requests for FedEx Services.
- (k) **"FedEx Technology"** means each of the following (both individually and collectively): the FedEx APIs, FedEx Systems, Materials, and Beta Materials.
- (l) **"Materials"** means text, tools, graphics, content, manuals, software (including, sample code), specifications, instructions, technical resources or other materials, data or information distributed or made available by FedEx in connection with FedEx APIs or FedEx Systems.
- (m) **"Service Offering"** means (1) the terms and conditions at www.fedex.com or www.fedexoffice.com, as applicable; (2) the then current FedEx Service Guide (the "**Service Guide**"), a copy of which is available by request or by download in Your country or territory of choice at www.fedex.com; (3) the current FedEx Freight 100 Series Tariff ("**FXF 100 Series Tariff**"), a copy of which is available by download in Your country or territory of choice at www.fedex.com; (4) applicable FedEx privacy policy and/or privacy notice, a copy of which is available by request or by download in Your country or territory of choice at www.fedex.com, which is supplementary to, and shall be read together with, the FedEx Global Privacy Policy and Privacy Notice, available at www.fedex.com/en-us/trust-center/privacy.html.; and (5) the terms and conditions set forth on any FedEx airway bill, bill of lading or shipping label. Any and all of the foregoing may be updated, revised, replaced, supplemented or otherwise modified by FedEx or its affiliates in its sole discretion at any time and such modification will be effective when FedEx posts a revised version at the URL address of the prior terms and conditions (or, such other URL address as FedEx may indicate at the URL address of the prior terms and conditions) or makes the updated airway bill, bill of lading or shipping label available.
- (n) **"You"** means (i) the person executing this EULA, if done in a personal capacity; and, (ii) if done in Your professional capacity, any company or other legal entity (e.g., sole proprietorship, partnership, corporation, limited liability company, etc), all as indicated in the account and registration information that You provide when registering for your FedEx account number. In no event does "You" include a FedEx Competitor even if such FedEx Competitor otherwise qualifies as "You" under this definition. "Your" is the possessive of "You."

With respect to the definitions of Beta Materials, FedEx APIs (or APIs), FedEx Systems, and Materials, each of those definitions also include any updates, upgrades, improvements, enhancements, replacements or other modifications to such items as, when, and if any such modification to an item is made available by FedEx. To the extent updates, upgrades, enhancements, bug-fixes or other modifications improvements, enhancements, replacements or other modifications to such items (both, individually and collectively, "**Modifications**") are made available to you, such Modifications shall be considered a part of FedEx Technology and provided subject to the terms and conditions of the Agreement.

Section 1. License Grant and Restrictions

- (a) Subject to the terms and conditions of the Agreement, FedEx grants You a non-exclusive, royalty-free, non-assignable, non-transferable, limited, revocable license, without the right to grant sublicenses, solely to (i) access and use those Materials integrated into and made accessible to You as a part of the Application (and solely as such Materials are integrated into the Application) solely to access FedEx APIs and request available FedEx Services (which may include, as the case may be, functionality enabling You to label, rate, route, record, track and invoice shipments tendered to FedEx or its affiliates for carriage on behalf of You); (ii) allow Your retail customers to remotely access and use those Materials integrated into and made accessible to You as a part of the Application (and solely as such Materials are integrated into the Application) for the sole purpose of conducting e-commerce transactions with You that utilize FedEx Services but solely FedEx Services occurring under Your FedEx account number(s); and, (iii) access and use those Beta Materials integrated into and made accessible to You as a part of an Application (and solely as such Beta Materials are integrated into the Application) solely to access FedEx APIs for test and development purposes. FedEx Technology is not licensed for any other purpose(s), express or implied, whatsoever. For the avoidance of doubt, access and use by retail customers does not extend to third party shippers or resellers or consolidators of shipping or shipping related services. Except as may be expressly permitted by a separate written agreement between FedEx and You, use of FedEx Technology to perform or order FedEx Services by or for the benefit of such parties is prohibited.
- (b) Restrictions.
- (i) The license does not permit, and You will not (and will not permit any employee or other third party to):
1. reverse engineer, decompile, disassemble, or translate FedEx Technology;
 2. apply any procedure or process to FedEx Technology in order to ascertain, derive, and/or appropriate for any reason or purpose, the source code or source listings for FedEx Technology or any trade secret or confidential information or process contained in FedEx Technology;
 3. remove any product identification, trademark, confidentiality, proprietary, copyright or other legends or notices from FedEx Technology or Confidential Information;
 4. transfer FedEx Technology or the license, in whole or in part, or grant any rights in FedEx Technology or the license, in whole or in part by sublicense or otherwise;
 5. except as expressly authorized in, and in accordance with, Section 1(a) of this EULA, provide, lease, lend, or otherwise use or allow others to use or have access to FedEx Technology or any portion thereof;
 6. disseminate or disclose performance information or analysis (including, benchmarks) relating to FedEx Technology or FedEx Service without the prior written consent of FedEx;
 7. except as expressly authorized in, and in accordance with, Section 1(a) of this EULA, use or display (including, doing either on a stand-alone basis (i.e., not as integrated with the Application)) any FedEx Technology;
 8. reproduce or distribute FedEx Technology;
 9. except as expressly authorized in, and in accordance with, Section 1(a) of this EULA use FedEx Technology for the benefit of any other party, absent a written agreement with FedEx permitting such use;
 10. access or use FedEx APIs except through the Materials contained in the Application;
 11. access or use FedEx Systems except through FedEx APIs; or,
 12. modify or create derivative works of FedEx Technology.
- (ii) You shall promptly notify FedEx in writing upon discovery of any unauthorized use of FedEx Technology. FedEx may prevent access to or use of FedEx Technology if FedEx has reason to believe that (a) You or

a third party using FedEx Technology licensed to You may be involved in potential unauthorized use of or other infringement of FedEx's proprietary rights or (b) You or Your use of FedEx Technology is in violation of the Agreement.

(c) As between You and FedEx, all worldwide rights, title and interests, including, intellectual property and other proprietary rights, in and to any FedEx Technology (including, any derivative works thereof), are owned solely and exclusively by FedEx. FedEx is not selling or otherwise transferring title in any FedEx Technology to You. You will not take any action inconsistent with FedEx's interest in any FedEx Technology. Except for the express licenses granted in this EULA, FedEx reserves all right, title and interest, including all intellectual property and other proprietary rights, in and to FedEx Technology (including, any derivative works thereof).

(d) In relation to any data provided by You or through You, in connection with any FedEx Technology (including, any derivative works thereof), FedEx Services and/or otherwise, You warrant, represent, and undertake that You have complied with all applicable privacy and data protection laws including obtaining all necessary consent or legal ground for the usage, processing or provision of such data, and providing the relevant data subject with all necessary information in connection with the collection, transfer and processing of such data, and agrees that the use of any FedEx Technology (including, any derivative works thereof), and/or FedEx Services, including in relation to the collection, storage and use of personal information, shipping data and related information, is subject to the applicable FedEx privacy policy and/or privacy notice in the applicable country or territory, which is supplementary to, and shall be read together with, the FedEx Global Privacy Policy and Privacy Notice, available at www.fedex.com/en-us/trust-center/privacy.html. You shall indemnify FedEx, its agents, contractors, employees and affiliates in respect of all costs, claims, damages and expenses suffered or incurred by the same, arising out of or in connection with Your failure to comply with the foregoing.

Section 2. Use and Support of FedEx Technology.

- (a) You will follow FedEx's instructions, including those provided in FedEx Technology and/or documentation, provided from time to time, for access and use of FedEx Technology. You are solely responsible for providing and maintaining all hardware necessary to access and use the Application, including FedEx Technology. Access to the internet is required to utilize FedEx Technology. You are solely responsible for obtaining access to the internet. You shall provide FedEx with on-demand remote access to the Application so that FedEx may access the Application, from time to time, in order to configure the Materials, upload, install and configure Modifications, recover FedEx Services and related data, and/or download rating and routing information and/or disable the Materials and/or access to or use of other FedEx Technology in the event Your license is terminated. FedEx may, make Modifications at any time for any reason. You hereby consent to all such Modifications. In the event FedEx is unable to establish communication with Your systems for reasons not attributable to FedEx, You will assist FedEx within a commercially reasonable time to initiate such communication. If the FedEx Services available to You through the Application include shipping transaction functionality, You will complete an End of Day Close Process as required by FedEx to ensure FedEx shipping transactions are uploaded to FedEx at the close of each business day.
- (d) FedEx, in its sole discretion, may repair, modify, replace or remove the Materials, or other FedEx Technology, in the event of any issues with the Application ("**Limited Support Services**"). Except for such Limited Support Services, FedEx does not commit to provide any maintenance or support regarding FedEx Technology. Questions, issues or concerns regarding FedEx Technology should be registered at: developer.fedex.com (or such other URL as FedEx may designate, from time to time).
- (e) The Application and services (e.g., maintenance, support, hosting, etc) related to the Application are not provided by FedEx or its affiliates. It is Your sole responsibility to arrange with the Application Provider for any and all warranties, maintenance, support, and any other requirements and remedies arising out of Your access and use of the Application. Therefore, You waive any and all claims against FedEx and its affiliates arising from or relating to Your access to or use of (or inability to access or use) the Application or the other services provided by the Application Provider.
- (f) In the event You elect to communicate to FedEx any Feedback, FedEx will own, exclusively and solely, all right, title, and interest (including, all intellectual property and other proprietary rights) in and to the same, even if You have designated the Feedback as confidential. FedEx will be entitled to use the Feedback without restriction or further compensation to You. You hereby irrevocably assign all right, title and interest (including, all intellectual property and other proprietary rights) in and to the Feedback to FedEx and will provide such assistance as FedEx may require in order to document, perfect, and maintain its rights in and to the Feedback.

Section 3. Termination. This EULA, and the Agreement, is effective until terminated by either party. The Agreement will terminate independently without notice to You if You fail to comply with any provision of the Agreement or any instructions regarding FedEx Technology. Without limiting the generality of the foregoing, Your failure to implement Modifications (or allow FedEx to implement Modifications), is a failure to comply with the Agreement which will result in independent termination of the Agreement. As an accommodation to You, FedEx may elect to suspend Your access to and use of FedEx Technology unless and until You remedy any failure to comply with the Agreement. In such event, FedEx is not waiving its right to terminate the Agreement for such compliance failure; and, for the avoidance of doubt, FedEx may terminate the Agreement for such compliance failure even if you are able to remedy the failure. FedEx reserves the right to unilaterally terminate the Agreement and access to and use of FedEx Technology and any services offered through FedEx Technology, at any time and for any or no reason, upon notice to You. Such termination will not be a breach of the Agreement. FedEx will have no liability for termination of the Agreement pursuant to this provision. You may terminate the Agreement at any time and for any or no reason upon thirty (30) days written notice to FedEx. Such termination by You will not be a breach of the Agreement. Upon termination, all licenses granted by the Agreement will terminate immediately. Upon termination, You must: (i) cease all access to and use of any FedEx Technology and other Confidential Information and destroy all copies thereof made by You in connection with Your use of the Application; and, (ii) upon instruction of FedEx, in its sole discretion, remove any and all Materials from Your Application.

Section 4. Terms and Conditions of Carriage. To the extent applicable to the FedEx Services available to You through the Application:

- (a) You agree that domestic and international carriage by FedEx of any shipments tendered to FedEx using the Application shall be in accordance with the terms, conditions and limitations of liability set out on the NONNEGOTIABLE Air Waybill, Label, Manifest, or Pick-Up Record (collectively “**Shipping Documentation**”) and as appropriate any transportation agreement between You and FedEx covering such shipment and in any applicable tariff, Service Offerings or Standard Conditions of Carriage, copies of which are available upon request, and which are incorporated into this EULA by reference. If there is a conflict between the Shipping Documentation and any such document then in effect or the Agreement, the transportation agreement, tariff, Service Guide, Standard Conditions of Carriage, or the Agreement will control, in that order of priority. If a shipment originates outside the United States, the contract of carriage is with the FedEx subsidiary, branch, or independent contractor who originally accepts the shipment. Your use of Global Trade Manager shall not alter Your responsibility for the preparation and accuracy of shipping documentation including import/export forms
- (b) In the event You use the Application 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 (and which may be amended or modified from time to time at FedEx's sole discretion) are placed on the Shipping Documentation, as instructed by FedEx, for all such international shipments. YOU SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS FEDEX AND ITS REPRESENTATIVES (AS DEFINED IN SECTION 8 BELOW) FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, SUITS, DAMAGES, COSTS, EXPENSES, LOSSES, FINES AND JUDGMENTS, INCLUDING REASONABLE ATTORNEY'S FEES, ARISING OUT OF YOUR FAILURE TO APPLY THE INTERNATIONAL CARRIAGE TERMS TO THE SHIPPING DOCUMENTATION 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 SHIPPING DOCUMENTATION FOR SUCH INTERNATIONAL SHIPMENTS.
- (c) You acknowledge that if the Application is used to process shipments to locations outside the United States or other country or territory of shipment origin, You must enter the name of the person completing the Shipping Documentation to print in lieu of such person's manual or script signature on the Shipping Documentation, as applicable, for all shipments tendered by You to FedEx using the Application. You further acknowledge that such printed name shall be sufficient to constitute the Your signature, and acceptance of FedEx's terms and conditions of carriage contained in the applicable transportation agreement, tariff, Service Guide, Standard Conditions, or Shipping Documentation, or other Service Offering under which the shipment is accepted by FedEx, or its independent contractor.
- (d) 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.

- (e) You are responsible for, and warrant your compliance with, Export Control Laws provisions in the Service Guide.
- (f)
- (g) Unless otherwise indicated, the shipper's address indicated on the face of any Shipping Documentation is the place of execution and the place of departure and the recipient's address listed on the face of the Shipping Documentation is the place of destination. Unless otherwise indicated on the face of the Shipping Documentation the first carrier of all shipments is FedEx Express, P.O. Box 727, Memphis, TN 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, PA 15230.
- (h) 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. 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 with respect to any FedEx Freight service, the applicable FXF 100 Series Tariff will control.

Section 5. 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 6. Payment. To the extent applicable to the FedEx Services available to You through the Application, You agree to remit payment, in accordance with the terms and conditions contained in the applicable Service Offering, or as otherwise instructed by FedEx, for all invoices generated as a result of using FedEx Technology and to reference the invoice number when payment is remitted. You are responsible for payment of all charges generated through use of the Application under Your account number and registration number.

Section 7. Billing and Refunds. To the extent applicable to the FedEx Services available to You through the Application, You may bill shipping charges for transactions conducted through FedEx Technology only to valid account numbers (i.e., bill sender, bill recipient or bill third party). To the extent applicable to the FedEx Services available to You through the Application, shipments tendered to FedEx with incorrect routing, labeling, commitment date, service designation or other errors through no fault of FedEx will not be eligible for refunds under FedEx's money-back guarantees. Refunds requested by You with respect to any shipment must be made in accordance with the applicable Service Offerings. 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 of FedEx Technology. FedEx, in its sole discretion, may suspend its money-back guarantees in the event FedEx Technology or the Application fails or is inoperable for any reason.

Section 8. Downtime and Service Suspensions.

- (a) From time to time, access to and use of FedEx Technology may not be available. FedEx does not make any service level or uptime commitments regarding FedEx Technology. FedEx will be entitled, without any liability to You, to suspend access to any portion or all of FedEx Technology at any time: (a) for scheduled downtime to permit FedEx to conduct maintenance or make modifications to any portion of the FedEx Technology; (b) in the event of a denial of service attack or other attack on any FedEx Technology; (c) in the event that FedEx determines that any portion of FedEx Technology is prohibited by law or FedEx otherwise determines that it is necessary or prudent to do so for legal or regulatory reasons; (d) any unanticipated or unscheduled downtime or unavailability for any reason, including as a result of power outages, system failures or other interruptions; or, (e) or any other event that FedEx determines, in its sole discretion, may create a risk to any FedEx Technology, to You or to any other FedEx customer(s) if access to FedEx Technology is not suspended (each and all of the foregoing, "**Service Suspension(s)**"). FedEx will 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, updates regarding planned scheduled Service Suspensions may be posted at www.fedex.com but FedEx will have no liability for the manner in which FedEx may do so or if FedEx fail to do so.
- (b) FedEx may make changes to FedEx Technology or discontinue FedEx Technology or portion or feature(s) of FedEx Technology from time to time. Such changes may impact Your ability to access or use the FedEx Technology (e.g., changes are not backwards compatible). You may need to modify, at Your own expense, the Application and other of Your systems (hardware, software, networks, etc) in order to continue using FedEx Technology. FedEx will announce a material change or discontinuance of FedEx Technology that You are using. FedEx will use commercially reasonable efforts to continue to provide the FedEx Technology in accordance with the FedEx API Versioning and Throttling Guide posted at <https://developer.fedex.com/en-us/guides/versioning.html>, or such successor guide or URL that FedEx may publish, unless FedEx determines in its reasonable judgment that: (a) FedEx cannot do so by law or by contract (including if there is a change in applicable law or contract) or (b) continuing to provide the impacted FedEx Technology could create a (i) security risk or (ii) a substantial economic or technical burden. FedEx will 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 change, discontinuation or deprecation of FedEx Technology, even if such changes, discontinuation or deprecation is not in accordance with the FedEx API Versioning and Throttling Guide.
- (c) From time to time, FedEx may limit, restrict or otherwise throttle Your access to and use of FedEx Technology (collectively, "**Throttling**"). FedEx will 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 Throttling, even if Throttling is not in accordance with the FedEx API Versioning and Throttling Guide.

Section 9. Disclaimer of Warranty. YOU EXPRESSLY ACKNOWLEDGE AND AGREE FEDEX IS NEITHER PROVIDING THE APPLICATION NOR CHARGING YOU A FEE FOR ACCESS TO OR USE OF FEDEX TECHNOLOGY. FEDEX TECHNOLOGY IS PROVIDED "AS-IS" AND WITHOUT WARRANTY OF ANY KIND. YOU EXPRESSLY ACKNOWLEDGE AND AGREE THAT FEDEX TECHNOLOGY, INCLUDING ANY SERVICES OFFERED THROUGH FEDEX TECHNOLOGY, ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS WITHOUT WARRANTIES OF

ANY KIND. TO THE EXTENT PERMITTED BY APPLICABLE LAW, FEDEX AND ITS REPRESENTATIVES, DISCLAIM AND EXCLUDE ALL WARRANTIES, CONDITIONS OR REPRESENTATIONS WHETHER, EXPRESS, STATUTORY, OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, AND THE WARRANTIES OF NON-INFRINGEMENT OR QUIET ENJOYMENT. FEDEX DOES NOT WARRANT THAT (A) FEDEX TECHNOLOGY WILL MEET ANY OR ALL OF YOUR REQUIREMENTS; (B) OPERATIONS WILL BE UNINTERRUPTED OR ERROR FREE; (C) ANY DEFECT WITHIN FEDEX TECHNOLOGY OR ANY SERVICES OFFERED THROUGH FEDEX TECHNOLOGY WILL BE CORRECTED; OR (D) FEDEX TECHNOLOGY WILL NEVER BE INFILTRATED BY HACKERS OR OTHER UNAUTHORIZED USERS. FEDEX DOES NOT WARRANT OR MAKE ANY REPRESENTATION REGARDING THE RESULTS OF YOUR USE OF FEDEX TECHNOLOGY IN TERMS OF CAPABILITY, CORRECTNESS, ACCURACY, RELIABILITY OR OTHERWISE. FEDEX MAKES NO REPRESENTATION OR WARRANTY THAT FEDEX TECHNOLOGY OR ANY RELATED SERVICES OR CONTENT IS FREE FROM BUGS, VIRUSES, ERRORS OR OTHER PROGRAM LIMITATIONS. FEDEX DOES NOT WARRANT ACCESS TO THE INTERNET OR TO ANY OTHER SERVICE OR CONTENT THROUGH FEDEX TECHNOLOGY. NO ORAL OR WRITTEN INFORMATION, REPRESENTATION OR ADVICE GIVEN BY FEDEX OR AN AUTHORIZED REPRESENTATIVE SHALL CREATE ANY WARRANTY. SOME STATES/COUNTRIES DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES, SO THE ABOVE EXCLUSIONS MAY NOT APPLY TO YOU. IN THAT EVENT, ANY IMPLIED WARRANTIES ARE LIMITED IN DURATION TO SIXTY (60) DAYS FROM THE DATE OF ORIGINAL PURCHASE OF THE APPLICATION CONTAINING MATERIALS OR OTHER FEDEX TECHNOLOGY. HOWEVER, SOME STATES/COUNTRIES DO NOT ALLOW LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY LASTS, SO THE ABOVE LIMITATION MAY NOT APPLY TO YOU. THIS WARRANTY GIVES YOU SPECIFIC LEGAL RIGHTS AND YOU MAY HAVE OTHER RIGHTS AS WELL WHICH VARY FROM STATE TO STATE/COUNTRY TO COUNTRY/TERRITORY TO TERRITORY.

Section 10. Remedies. YOUR SOLE REMEDY FOR ANY DISSATISFACTION WITH ANY FEDEX TECHNOLOGY IS TO STOP USING THE APPLICATION AND/OR SUCH FEDEX TECHNOLOGY. You agree to look to the Application Provider for any and all remedies for damages of any nature arising out of Your access, use or inability to access or use the Application and/or FedEx Technology. You waive any and all claims against FedEx and its affiliates arising from or relating to Your access to or use of (or inability to access or use) the Application or the other services provided by the Application Provider. You agree that the remedy set forth in this Section is Your exclusive remedy under the Agreement for any dissatisfaction with Your access to or use of (or inability to do either) the Application or FedEx Technology.

Section 11. Limitation Of Liability. YOU EXPRESSLY ACKNOWLEDGE AND AGREE THAT FEDEX IS NOT CHARGING YOU A FEE FOR ACCESS TO OR USE OF FEDEX TECHNOLOGY. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, FEDEX AND ITS PARENT COMPANY AND SUBSIDIARIES AND AFFILIATES, DIRECT AND INDIRECT, OF ITS PARENT COMPANY, LICENSORS, SUPPLIER, OR ANY OF THE FOREGOING'S RESPECTIVE EMPLOYEES, OFFICERS, DIRECTORS AND/OR AGENTS (COLLECTIVELY, "REPRESENTATIVES") ARE NOT AND SHALL NOT BE LIABLE FOR ANY SPECIAL, INCIDENTAL, EXEMPLARY, PUNITIVE, CONSEQUENTIAL OR OTHER INDIRECT DAMAGES (INCLUDING: DAMAGES FOR LOSS OF BUSINESS, LOSS OF DATA, LOSS OF PROFITS, DAMAGES TO YOUR COMPUTER SYSTEMS OR THE LIKE), WHETHER BASED ON BREACH OF CONTRACT, BREACH OF WARRANTY, TORT (INCLUDING, NEGLIGENCE), PRODUCT LIABILITY, STATUTORY OR STRICT LIABILITY OR OTHERWISE EVEN IF FEDEX OR ITS REPRESENTATIVES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND EVEN IF A REMEDY SET FORTH HEREIN IS FOUND TO HAVE FAILED OF ITS ESSENTIAL PURPOSE.

FOR THE AVOIDANCE OF DOUBT, SUCH DISCLAIMER APPLIES TO ANY DAMAGES WHETHER ARISING FROM, RELATING TO OR OTHERWISE RESULTING FROM (A) ACCESS TO OR USE OF FEDEX TECHNOLOGY; (B) DEVELOPMENT, DISTRIBUTION, USE, INSTALLATION OR REMOVAL OF AN APPLICATION; (C) INSTALLATION OR REMOVAL OF FEDEX TECHNOLOGY; (D) YOUR INABILITY TO ACCESS OR USE FEDEX TECHNOLOGY FOR ANY REASON; OR, (E) THE AGREEMENT, INCLUDING BREACH THEREOF BY FEDEX.

IN ANY EVENT, THE AGGREGATE LIABILITY OF FEDEX UNDER THE AGREEMENT SHALL BE LIMITED TO THE AMOUNT ACTUALLY PAID BY YOU HEREUNDER. THE FOREGOING LIMITATIONS AND EXCLUSIONS WILL APPLY EVEN IF FEDEX, OR AN AUTHORIZED REPRESENTATIVE OF FEDEX, HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR A REMEDY SET FORTH IN THE AGREEMENT FAILS OF ITS ESSENTIAL PURPOSE.

SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES OR THE LIMITATION OR EXCLUSION OF LIABILITY FOR SOME DAMAGES (E.G., INCIDENTAL OR CONSEQUENTIAL). ACCORDINGLY, SOME OR ALL OF THE ABOVE EXCLUSIONS OR LIMITATIONS MAY NOT APPLY TO YOU, AND YOU MAY HAVE

ADDITIONAL RIGHTS. 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).

THE LIMITATIONS OF DAMAGES SET FORTH ABOVE ARE FUNDAMENTAL ELEMENTS OF THE BASIS OF THE BARGAIN BETWEEN FEDEX AND YOU. FEDEX WOULD NOT BE ABLE TO PROVIDE ACCESS TO OR USE OF FEDEX TECHNOLOGY OR MARKS WITHOUT SUCH LIMITATIONS.

Section 12. INDEMNITY. YOU SHALL, AT YOUR SOLE COST AND EXPENSE, DEFEND, INDEMNIFY AND HOLD HARMLESS FEDEX AND ITS REPRESENTATIVES FROM ANY AND ALL CLAIMS, DEMANDS, SUITS, DAMAGES, COSTS, EXPENSES, FINES AND JUDGMENTS, INCLUDING REASONABLE ATTORNEY'S FEES, (HEREINAFTER, COLLECTIVELY, "**CLAIMS**") ARISING OUT OF OR RELATING TO YOUR INSTALLATION, USE AND/OR REMOVAL OF THE APPLICATION, FEDEX TECHNOLOGY OR ANY OTHER MATERIALS PROVIDED TO YOU BY OR ON BEHALF OF FEDEX OR ITS REPRESENTATIVES. FEDEX MAY INTERVENE AND ASSUME ITS DEFENSE IN ANY SUCH CLAIMS, AT ITS EXPENSE AND IN ITS SOLE DISCRETION. YOU WILL NOT SETTLE ANY CLAIMS INVOLVING FEDEX, FEDEX SERVICE OR FEDEX TECHNOLOGY, WITHOUT THE PRIOR WRITTEN CONSENT OF FEDEX.

Section 13. Notices.

- (a) Any notice required or permitted to be given to FedEx relating to this EULA or the functioning of FedEx Technology or Limited Support Services will be given in writing as addressed below by U.S. Postal Service first class mail or via FedEx Express Overnight Letter delivery service to: Digital Channel Enablement, FedEx Corporate Services, Inc. 60 FedEx Parkway, Collierville, Tennessee 38017 USA. Any such notice will be effective when received by FedEx.
- (b) Any notice required or permitted to be given to You relating breach, termination or suspension of the Agreement will be given either by sending (i) via U.S. Postal Service or FedEx delivery service to the name and address listed in FedEx's records for Your FedEx account number; or, (ii) via electronic mail (or its equivalent) to the name and address listed in FedEx's records for Your FedEx account number. Such notice will be effective and deemed received when sent to You.
- (c) Any notice required or permitted to be given to You relating to the Agreement, FedEx Technology, FedEx Services, or may be given by general posting to the various FedEx web sites. Any such notice will be effective and deemed received when posted. In addition, FedEx may elect to provide you notice via one of the methods set out in subsection 13(b); and, notice provided via such method will be effective when sent in accordance with subsection 13(b).

Section 14. Relationship of Parties. You and FedEx are independent contractors acting for their own account, and neither party or its employees or agents are authorized to make any representations or commitments on the other party's behalf unless previously authorized by such party in writing. FedEx reserves the right to enter into relationships or agreements with other third parties regarding the subject matter of this EULA.

Section 15. Waiver. If FedEx fails to give notice or enforce any right under the Agreement, such failure will not constitute a waiver of the same, unless reduced to writing and signed by FedEx. The waiver of any provision will not constitute a waiver of the same or any other provision in the future.

Section 16. Severability. If, for any reason, a court of competent jurisdiction finds any provision of the Agreement, or a portion thereof, to be unenforceable, that provision will be enforced to the maximum extent permissible so as to effectuate the intent of the parties and the remainder of the Agreement will remain in full force and effect.

Section 17. Assignment. FedEx retains the right to assign all or any part of the Agreement to any third party at any time without notice to You. You may not assign, transfer or sublicense the Agreement to any third party without the prior written permission of FedEx. In addition, except for the parent company, subsidiaries and affiliates of FedEx, there are no third party beneficiaries to the Agreement.

Section 20. Export. FedEx Technology (a) is subject to United States export restrictions and controls imposed by various statutes and regulations, including the Export Administration Act and the Export Administration Regulations and (b) may be subject to import and/or export restrictions and controls of the country or territory in which You or the Application are located. By agreeing to this EULA, and accessing or using FedEx Technology, You represent, warrant and covenant that: (i) You are in compliance with, and will comply with, all laws and regulations of the United States and the country or territory in which You access or use FedEx Technology regarding export, re-export and import of FedEx Technology (including, any

related or underlying information, technology, process, product or service); (ii) You will not use, export or re-export FedEx Technology (including, any related or underlying information, technology, process, product or service in violation of such laws and regulations; (iii) 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 or territory of download; and, (iv) no FedEx Technology will be used in the design or development of nuclear, chemical, biological, weapons or missile technology.

Section 21. Restricted Rights. Pursuant to 48 C.F.R. 12.212 or 48 C.F.R. 227.7202, as applicable, FedEx Technology and manuals, technical specifications, technical data, documentation and other similar materials (such materials, "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 EULA. Manufacturer is FedEx Corporate Services, Inc. 30 FedEx Parkway, Collierville, TN 38017.

Section 22. 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 will 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 23. Controlling Law. This EULA will be governed by and construed in accordance with the laws of the United States of America and the State of Tennessee, excluding its conflict of laws provision. Any cause of action with respect to the Agreement, FedEx Technology or other services available through FedEx Technology must be instituted by You within one (1) year after the claim or cause of action has arisen or be barred. Any cause of action brought relating to or arising from the Agreement, FedEx Technology or other services available through FedEx Technology must be brought in a court of competent jurisdiction within Shelby County, Tennessee (USA) and You agree to submit to the jurisdiction of such courts. FedEx will also have the right to bring claims against You in the courts of Your jurisdiction, where applicable. THE UNITED NATIONS CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS DOES NOT APPLY TO THE AGREEMENT AND IS HEREBY DISCLAIMED BY BOTH PARTIES.

Section 24. Confidentiality. This Agreement, FedEx Technology and all data, materials and other information concerning FedEx Technology or available through the Portal are or contain the confidential and proprietary information of FedEx or its licensors ("**Confidential Information**"). Confidential Information does not include any data, materials or other information made publicly available by FedEx or its affiliates without restriction on use or disclosure. You will not (a) distribute or disclose any Confidential Information to a third party without the written consent or instruction of FedEx except as expressly authorized in Section 2 of this EULA; and (b) use Confidential Information for any purposes other than those expressly set forth Sections 2 and 3 of this EULA. You will make no public announcements regarding the Agreement or the inclusion of any FedEx Technology into an Application without the prior written consent of FedEx. You will take all reasonable steps to secure and protect the Confidential Information from any unauthorized use, access or disclosure. You will take appropriate technical and organizational measures to ensure a level of security appropriate to the risk of the processing of any Confidential Information or other data (including personal information) received from FedEx, taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons.

Section 25. Complete Agreement. The Agreement constitutes the entire agreement between You and FedEx with respect to FedEx Technology accessed or utilized by or integrated with the Application, and supersedes any prior or contemporaneous understandings, representations, statements or agreements, written or oral, regarding FedEx Technology. No amendment to or modification of the Agreement will be binding on FedEx without FedEx's written consent. In addition, except for FedEx Representatives, there are no third party beneficiaries to this Agreement. The provisions of Sections 1 **(b), 4, 5, 6, 7, 8, 9, 10 11, and 12** and Key Definitions of this EULA survive the termination of the Agreement. The headings are provided for convenience only and are not intended to affect the construction or interpretation of the Agreement. All words used in the Agreement are to be construed to be of such gender or number as the circumstances require. In this EULA, the words "including," "includes" or "include" are to be read as listing non-exclusive examples of the matters referred to, whether or not words such as "without limitation" or "but not limited to" are used in each instance. Where the Agreement states that a party "will", "shall" or "must" perform in some manner or otherwise act or omit to act, it means that the party is legally obligated to do so in accordance with the Agreement. The words "date hereof" refer to the date of this EULA. The word "extent" in the phrase "to the extent" means the degree to which a subject or other thing extends, and such phrase will not mean simply "if." The term "or" will not be deemed to be exclusive. All terms defined in the Agreement will have the defined meanings when used in any certificate or other document made or delivered pursuant hereto unless

otherwise defined therein. Any reference to a statute is deemed also to refer to any amendments or successor legislation as in effect at the relevant time. Any reference to a contract or other document as of a given date means the contract or other document as amended, supplemented and modified from time to time through such date.