

Service Terms and Conditions

- ↓ [1. Definitions](#)
- ↓ [2. Services](#)
- ↓ [3. Payment for Services](#)
- [Fuel Surcharge](#)
- ↓ [4. Confidentiality](#)
- ↓ [5. Warranties](#)
- ↓ [6. Liability; Limitation of Liability](#)
- ↓ [7. Indemnification](#)
- ↓ [8. Individual Binding Arbitration of Claims; Time Limits and Procedures](#)
- ↓ [9. Force Majeure](#)
- ↓ [10. Entire Agreement](#)
- ↓ [11. Choice of Law; Waiver](#)
- ↓ [12. General](#)
- ↓ [Exhibit A: Prices.](#)

THESE SERVICE TERMS AND CONDITIONS, along with the terms and conditions contained on the Shipment Control Form, contain the general terms and conditions under which UPS Expedited Mail Services, Inc. ("UPS Mail Innovations" or "UPS-MI") provides Services to Client. The terms and conditions set forth in the Shipment Control Form are hereby incorporated by this reference and made part of these Service Terms and Conditions. UPS-MI reserves the right to unilaterally modify these Service Terms and Conditions at any time without prior notice. The current version of these Service Terms and Conditions is available at www.upsmailinnovations.com. The Service Terms and Conditions in effect at the time of shipping, the terms and conditions contained on the Shipment Control Form as well as any writing that has been executed by duly authorized representatives of each of the parties hereto and references and expressly incorporates the Service Terms and Conditions, shall collectively be referred to herein as the "Agreement." The Agreement may not be contradicted or modified by any oral agreement.

↑ [Back to Top](#)

1. Definitions

For purposes of this Agreement, the following terms shall have the following meanings

- **Confidential Information** has the definition so provided in Section 4 of the MI web Terms and Conditions or otherwise provided in an Exhibit to an Agreement.
- **Claimant** means any person asserting any claim in any forum for legal or equitable relief - including, but not limited to, any claim for damages, refunds, credits, injunctive relief, and declaratory relief - arising out of or related to the provision of services by UPS-MI.
- **USPS** shall mean the United States Postal Service.
- **Domestic Mail Manual** shall mean the Domestic Mail Manual published by the USPS providing the USPS's official postal and mailing standards in effect at the time of service.
- **First Class Mail** shall mean "First Class Mail" as defined by the then-current USPS Domestic Mail Manual.
- **Flat Mail** shall mean "Flat Mail" as defined in the then-current USPS Domestic Mail Manual, which class of mail is not subject to USPS First Class Mail postage rates.
- **Parcel** shall mean "Parcel" as defined by the then-current USPS Domestic Mail Manual.
- **Piece** shall mean: (1) a piece of Standard Mail and/or Package Service Mail, which may include Flat Mail, small Parcels under one pound, and Bound Printed Matter; or (2) an item that may be shipped via UPS-MI International Mail and is limited to letters, post cards, small parcels under one pound, bound printed matter, catalogs, brochures, or such other matter as may be approved by UPSMI for service, and that is not otherwise subject to import or export restrictions in the origin or destination country.
- **Postal Authority** shall mean the United States Postal Service or the applicable postal authority in a country outside the United States.
- **Services** shall mean the mail services identified in Section 2 of the web Terms and Conditions or otherwise provided in an Exhibit to an Agreement.
- **Shipment Control Form** shall mean that document entitled Shipment Control Form under which, together with the Service Terms and Conditions, UPS-MI provides Services to Client.
- **Standard Mail** shall mean "Standard Mail" as defined by the then current USPS Domestic Mail Manual.
- **Package Services** shall mean "Package Services" as defined by the then current USPS Domestic Mail Manual.
- **Non Qualifying Mail:** Unless otherwise agreed upon by UPS-MI and Client, through a jointly executed written instrument, "non-qualifying mail" for the purposes of transport and any rebates or incentives shall include Pieces containing or consisting of Hazmat ("Hazardous Materials Pieces"), and the following Piece Classifications: Pieces weighing less than 5 oz., First Class, Media Mail, Parcel Select, BPM Parcels, BPM Flats, Parcel Returns and any mail not qualified for processing by UPS-MI.

- **Hazardous Materials or Hazmat** shall mean those materials regulated under Title 49 of the Code of Federal Regulations (49 C.F.R.), United States Postal Service Publication 52, and/or the IATA Dangerous Goods Regulations, including but not limited to items classified as Limited Quantity/Other Regulated Materials Pieces Other Regulated Materials Pieces ("ORM-D") Ground Pieces, "lightly regulated" or "Section II" lithium batteries, and any material, substance, or good classified as a "hazardous material", "dangerous good," or "restricted matter," under the Domestic Mail Manual.

[↩ Back to Top](#)

2. Services.

2.1 Services. UPS-MI will collect the Pieces from Client's facility or facilities identified on the Shipment Control Form (the "Facility(ies)") for delivery to the USPS according to a schedule agreed upon by the parties ("Services"). It is Client's responsibility to ensure that the Pieces that Client provides to UPS-MI for processing under the Agreement shall qualify as "Standard Mail" under the USPS Domestic Mail Manual then in effect or as international mail. Client shall be responsible for fulfilling, preparing, addressing, and properly describing the contents of the shipment and Pieces to ensure proper transportation with ordinary care in handling.

2.2 Client Responsibilities. Client must comply with all applicable postal standards. Client shall be responsible for fulfilling, preparing, labeling, addressing, and properly describing the contents of shipments so as to ensure proper transportation with ordinary care in handling. Client shall provide UPS-MI accurate and complete shipment information, including correct USPS and international mail classifications and applicable service specifications. If any aspect of the shipment information provided by Client to UPS-MI is incomplete or incorrect as determined by UPS-MI in its sole discretion, UPS-MI may adjust the rates at any time.

2.3 Right of Inspection. UPS-MI reserves the right, but is not required, to open, search, screen and otherwise inspect any Piece tendered to it for transportation. Client agrees to cooperate with, and provide requested information to UPS-MI in connection with UPS-MI's security program and other requirements.

2.4 Right to Audit. UPS-MI reserves the right to audit any Piece, shipment, and/or invoice to verify service, selection, dimensions, or weight, and applicability of any charges. As part of that audit, UPS-MI may weigh and measure any Piece or shipment tendered to UPS-MI using any method UPS-MI deems appropriate. UPS-MI may in its sole discretion increase or adjust charges based on the results of such audit.

2.5 Right to Adjust Rates or Charges. If it is determined by UPSMI in its sole discretion, any aspect of the shipment information provided by Client to UPS-MI is incomplete or incorrect or if Client provides incorrect USPS and/or international mail classifications or applicable service specifications, UPS-MI may adjust Client's rates or charges at any time. UPS-MI's adjustment of rates and charges may apply to all Pieces tendered to UPS-MI under a Shipment Control Form not only to those Pieces determined to be incomplete or incorrect.

2.6 Right to Reject Pieces. UPS-MI reserves the right to refuse to deliver and return to Client any Pieces that UPS-MI determines do not constitute Standard Mail, Package Service Mail or international mail that UPS-MI determines cannot be delivered by the Postal Authority (for lack of delivery address or any other cause), or that is subject to import or export restrictions in any origin or destination country ("Non-Conforming Piece") within a reasonable time upon the discovery of same. Client shall reimburse UPS-MI for the reasonable costs and expenses associated with returning the Non-Conforming Pieces to Client. UPS-MI shall not be responsible for any costs, expenses, or liabilities arising from a loss of, damage to, or delay in delivery of, misdelivery, or failure to deliver, any Non-Conforming Pieces.

[↩ Back to Top](#)

3. Payment for Services.

3.1 Pricing. In consideration of the Services being provided by UPS-MI hereunder, unless otherwise agreed to by the parties in a writing referencing these Service Terms and Conditions executed by duly authorized representatives of each of the parties hereto, Client shall pay UPS-MI the amount per Piece set forth Exhibit A attached hereto and expressly incorporated herein by this reference, for each Piece processed and delivered by UPS-MI to the Postal Authority hereunder.

3.2 Postage Rates. UPS-MI reserves the right to increase its prices in the event of any increase in Postal Authority postage rates, and any such increase will be effective as of the date the Postal Authority postage rate change is placed into effect.

3.3 Service Increases. UPS-MI reserves the right to increase the prices set forth in Exhibit A hereto by providing written notice thirty (30) days in advance of the effective date of such increase. If any economic conditions or regulatory changes beyond the control of UPS-MI change UPS-MI's cost of providing Services to Client, UPS-MI may increase its prices or impose applicable surcharges including but not limited to airline security, fuel, or offshore returns surcharges as defined below. UPS-MI will make reasonable efforts to provide thirty (30) days' notice of any such increases by posting such increase on www.upsmailinnovations.com; however, increases may be effective immediately upon notice thereof.

3.4 Facility (ies) Changes. UPS-MI reserves the right to change its rates or charge additional fees in the event that Client changes the mutually-agreed upon location of the Facility (ies) or identifies additional Facilities for the collection of Pieces by UPS-MI under the Agreement.

3.5 Surcharges.

- **Airline Security Surcharge.** At any time and upon providing thirty (30) days written notice to Customer, UPS-MI reserves the right to institute or modify an "Airline Security Surcharge" to address costs related to TSA and/or Airline security cargo screenings.
- **Fuel Surcharge.** At any time and upon providing thirty (30) days written notice to Customer, UPS-MI reserves the right to modify a Fuel Surcharge and/or institute a Fuel Surcharge to such Services and for such periods as UPS-MI, in its sole discretion, may determine necessary. The current Fuel Surcharge index is located under the Support tab described at www.upsmailinnovations.com.
- **Offshore Returns Surcharge.** At any time and upon providing thirty (30) days written notice to Customer, UPS-MI reserves the right to institute or modify an "Offshore Returns Surcharge" to be added to the return parcel rate for such Services and for such periods as UPS-MI, in its sole discretion, may determine necessary. These charges are based on Offshore Returns Volume for any return parcel originating outside the 48 contiguous states of the United States, including shipments from US Territories, APO's, FPO's and DPO's.
- **Peak Surcharges.** One or more Peak Surcharges will apply to certain Pieces tendered to UPS-MI for shipment during a Peak Period. Details regarding the application of Peak Surcharges and Peak Periods are set forth at www.upsmailinnovations.com. Peak Surcharges apply cumulatively if a Piece meets more than one of the specified criteria. Peak Surcharges apply in addition to any other applicable charges. No waiver, discount, or reduction of any type to the Peak Surcharges shall apply unless UPS-MI agrees in writing to such waiver, discount, or reduction with specific written reference to the Peak Surcharges.

3.6 Payment Terms. UPS-MI payment terms require payment of all applicable fees, charges, surcharges, and expenses ("Charges") within seven (7) days from date of invoice. UPS -MI will invoice Client no more frequently than on a weekly basis, and invoices will reflect any balances due from any previous invoice. All payments by Client to UPS-MI shall be made by check or wire transfer to such address or bank account as set forth on the Shipment Control Form, with no right of set-off, including for any claims based on disputed invoices or claims for loss or damage, and without withholding of any taxes or other assessments or fees. All charges hereunder are exclusive of applicable federal, state, and local sales, use, excise or similar taxes or taxlike charges applicable to the Services ("Taxes"). Client shall be responsible for payment of all Taxes applicable to the Services (excluding taxes based on UPS-MI's income). If Client fails to make any payment when due under the Agreement, Client shall pay to UPS-MI a late payment fee equal to one and one-half percent (1½%) of the total past due balance of Client's invoice or the maximum amount permitted by applicable law, whichever is less. The late payment fee is in addition to any collection costs that may be incurred by UPSMI in the final collection of charges owed by Client. Neither the assessment nor the payment of a late payment fee will (a) affect Client's responsibility to pay all charges owed, or (b) in any manner preclude UPS-MI from exercising any of its rights or remedies hereunder or under applicable law. The mailer identification number ("Mailer ID") assigned to Client by UPS-MI must only be used in connection with Pieces handled by UPS-MI and may not be used in connection with pieces handled by any other carriers. Effective December 1, 2014, if the Mailer ID is used in connection with pieces handled by another carrier besides UPS-MI, Client will be billed the postal charges at Client's contracted UPS-MI rate.

[+ Back to Top](#)

4. Confidentiality

UPS-MI will not give or sell Client confidential information provided to UPS-MI hereunder to any third party not performing Services hereunder, except as required by law or as necessary to provide the Services. Client will not give or sell UPS-MI confidential information provided to Client hereunder to any third party except as required by law. Client confidential information shall not include: (i) information contained on the exterior of a Piece, including information contained in plain text or bar code form on shipping labels, or (ii) Shipment or Piece level detail or smart label information, including but not limited to, consignee's full name, complete delivery address, weight, and labeling that contains Maxicode, postal barcode, current routing code, appropriate service level icon, a tracking number bar code and address details related thereto (collectively, "Shipping Information"). UPS-MI will use Shipping Information only as permitted by the UPS Privacy Policy located at www.ups.com and in effect at the time of shipping or as permitted by law.

[+ Back to Top](#)

5. Warranties.

5.1 Client represents and warrants that all Pieces or other matter tendered to UPS-MI by Client do not violate any national, federal, state, provincial or local laws or regulations applicable to the Pieces or other matter. UPS-MI does not accept for transportation of any item that is prohibited by applicable law or regulation of any national, federal, state, provincial, or local government in the origin or destination country.

5.2 EXCEPT AS EXPRESSLY PROVIDED IN THIS SECTION 5, NEITHER PARTY HERETO MAKES ANY WARRANTIES, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, AND ALL SUCH WARRANTIES, REPRESENTATIONS, CONDITIONS, UNDERTAKINGS AND TERMS ARE HEREBY EXCLUDED TO THE FULLEST EXTENT PERMITTED BY LAW. UPS-MI DOES NOT WARRANT THAT THE SERVICES BEING PROVIDED BY UPS-MI HEREUNDER WILL BE PROVIDED FREE OF OMISSIONS, ERRORS, DELAYS OR INTERRUPTIONS.

[+ Back to Top](#)

6. Liability; Limitation of Liability

6.1 Basic Liability. UPS-MI's liability shall be limited or excluded as follows:

- UPS-MI's liability terminates on delivery of the Pieces to the Postal Authority. Upon delivery to the Postal Authority, the Postal Authority becomes the party responsible for Client's Pieces. UPS-MI shall have no liability of any nature whatsoever arising from the acts or omissions of the Postal Authority, including without limitation, liability for any loss, miscarriage, negligent transmission, damage, delay, or failure of delivery of any Pieces or other matter. UPS-MI shall not be liable or responsible for any losses or damages due to the failure or refusal of USPS to accept Pieces. UPS-MI shall have no responsibility or liability in connection with the loss of or damage to a Piece and/or contents thereof once delivered by UPS-MI to the Postal Authority.
- UPS-MI's entire liability to Client for any and all claims, causes of action, damages, losses, costs, expenses or other liabilities of any nature whatsoever incurred in connection with this Agreement or the Services, including, without limitation, any liabilities arising from any omissions, errors, delays or interruption in the Services and the preparation or delivery of any Pieces provided by UPS-MI, and attorney's fees ("Liabilities") shall, in each instance and without regard to the value of the contents of any Piece(s), be limited to the actual fees and expenses charged by UPS-MI for such Piece, not including postage fees charged to Client for the specific Service performed that gave rise to the Liability. UPS-MI shall not be liable for any misdelivery, failure to deliver, or loss or damage to any Pieces if such misdelivery, failure, or loss or damage is due to Client's error, omission or negligence. Client agrees that the foregoing limits are reasonable based on the characteristics of the Pieces and the parties' respective business interests and rates charged. For purposes of this section, if applicable to the carriage, Client expressly waives pursuant to 49 U.S.C. §14101, any rights and remedies Client may have pursuant to 49 U.S.C. § 14706(a) and (f).
- Where carriage by air involves an ultimate destination or stop outside the country of origin, the rules relating to liability established by the Convention for the Unification of Certain Rules Relating to International Carriage by Air, signed at Warsaw, Poland on October 12, 1929, and any amendments thereto or the Convention for the Unification of Certain Rules for International Carriage by Air, signed at Montreal on May 28, 1999 (collectively "the Convention") may apply. The Convention governs and in most cases limits the liability of carrier in respect of loss, damage or delay to cargo. There are no stopping places which are agreed upon at the time of tender of the shipment, and UPS-MI reserves the right to route the shipment in any way it deems appropriate.

6.2 Exclusions from Liability for Basic Liability. UPS-MI shall have no liability whatsoever under Basic Liability, as follows:

- UPS-MI shall not be liable or responsible for any losses or damages due to the failure or refusal of Postal Authority to accept Pieces.
- UPS-MI shall not be liable for any misdelivery, failure to deliver, or loss or damage to any Pieces if such misdelivery, failure, or loss or damage is due to Client's error, omission or negligence, including but not limited to the failure to provide sufficient packing or cushioning or Client's use of a descriptive label or packaging which describes or otherwise indicates the nature of the contents of any Pieces.
- UPS-MI shall not be liable for loss or damage due to acts of God, natural disasters, war risks, acts of terrorism, nuclear damage, acts of public authorities acting with actual or apparent authority, acts or omissions of customs or similar authorities, authority of law, the application of security regulations imposed by the government or otherwise applicable to any Piece, strikes or other labor disputes, civil unrest, disruptions in national or local air or ground transportation networks, disruption or failure of communication and information systems, or adverse weather conditions.
- UPS-MI shall not be liable for loss or damage resulting from:
 - Insects, moths, vermin, inherent vice, deterioration, dampness of atmosphere, extreme of temperature, ordinary wear and tear, or that which occurred or arose prior to or after the course of transportation by UPS-MI;
 - Improper, inadequate or unsafe packaging or wrapping;
 - Service provided to, or on behalf of, a person or entity that obtains such services, including the delivery of property, by trick, false pretense, or other fraudulent scheme;
 - UPS-MI's inability, failure, or refusal to comply with a request to stop, return, or re-route shipment of a Piece after tender to UPS-MI; or
 - Irretrievability of data stored on any type of media, or of information including without limitation personal, health or financial information.
- UPS-MI shall not be liable for loss of or damage to or arising from:
 - Articles of unusual value, including but not limited to coins, cash, currency, bonds, postage stamps, money orders and negotiable instruments (such as drafts, bills of exchange, or promissory notes, but excluding checks), jewelry, unset precious stones or any precious metal;
 - Articles that Clients are prohibited from shipping, that UPS-MI does not or is not authorized to accept for transportation, that UPS-MI states it will not accept, or that UPS-MI has a right to refuse (including hazardous materials without a contract);
 - Correspondence or other written materials;
 - Perishable commodities, to the extent the loss or damage results from exposure to heat or cold or the perishable nature of the item;
 - Human remains, fetal remains, human body parts, or components thereof;
 - Fluorescent tubes or bulbs; or
 - Any Piece for which UPS-MI has no record reflecting that the Piece was tendered to UPS-MI by the Client.

NOTWITHSTANDING ANYTHING IN THE AGREEMENT TO THE CONTRARY, UNDER NO CIRCUMSTANCES SHALL UPS-MI BE LIABLE TO CLIENT, CLIENT'S CUSTOMERS OR ANY OTHER PARTY FOR ANY LOSS OF USE, REVENUE OR PROFIT, DELAY DAMAGES, BUSINESS INTERRUPTION, OR FOR ANY SPECIAL, CONSEQUENTIAL, EXEMPLARY, PUNITIVE, INDIRECT OR INCIDENTAL DAMAGES, WHETHER ARISING IN CONTRACT, TORT OR OTHERWISE, WHETHER OR NOT UPS-MI HAD KNOWLEDGE SUCH DAMAGES MIGHT BE INCURRED.

[+ Back to Top](#)

7. Indemnification

Client will, at Client's sole cost and expense, indemnify and hold UPS-MI, its affiliates and their respective officers, directors, employees, agents, successors, and assigns, harmless from and against any and all claims, losses, damages, judgments, costs and expenses, including attorney's fees, arising out of or related to any third party claim based on personal injury, damage to tangible property, or otherwise arising from the Services performed, to the extent caused by or resulting from the actions or omissions of Client, its affiliates and/or their respective officers, directors, employees, agents, successors, and assigns.

[+ Back to Top](#)

8. Individual Binding Arbitration of Claims; Time Limits and Procedures

8.1 Agreement for Individual Binding Arbitration of Disputes.

Agreement to Arbitrate Claims

Claimant and UPS-MI agree that, except for disputes that qualify for state courts of limited jurisdiction (such as small claims, justice of the peace, magistrate court, and similar courts with monetary limits on their jurisdictions over civil disputes), any controversy or claim, whether at law or equity, arising out of or related to the provision of services by UPS-MI, regardless of the date of accrual of such dispute, shall be resolved in its entirety by individual (not class-wide nor collective) binding arbitration.

Arbitration is the submission of a dispute to a neutral arbitrator, instead of a judge or jury, for a final and binding decision, known as an "award." Arbitration provides for more limited discovery than in court, and is subject to limited review by courts. Each party has an opportunity to present evidence to the arbitrator in writing or through witnesses. An arbitrator can only award the same damages and relief that a court can award under the law and must honor the terms and conditions in the Terms.

Claimant and UPS-MI agree that their sole relationship is a contractual one governed by the Agreement. Any controversy or claim arising out of or related to the provision of services by UPS-MI shall be resolved solely based on the Agreement.

Institutional Arbitration

The arbitration shall be conducted by the American Arbitration Association (AAA) in accordance with its Commercial Arbitration Rules and the Supplementary Procedures for Consumer-Related Disputes (the "Rules"), and judgment on the award may be entered in any court of competent jurisdiction. The Rules, including instructions for how to initiate arbitration, are available at <http://www.adr.org> or by calling the AAA at 1-800-778-7879. The arbitrator shall decide all issues of the case on the basis of the applicable law, not equity. If you initiate arbitration, you must serve UPS-MI's registered agent for service of process, Corporation Service Company.

Any arbitration under this Agreement will take place on an individual basis; class, mass, consolidated or combined actions or arbitrations or proceeding as a private attorney general are not permitted. Claimant and UPS-MI are each waiving the right to trial by jury. Claimant and UPS-MI are further giving up the ability to participate in a class, mass, consolidated or combined action or arbitration.

Place of Arbitration/Number of Arbitrators/Costs of Arbitration/ Governing Law/Survival

Any arbitration will take place in the county where Claimant resides and will be determined by a single arbitrator. Any filing fee or administrative fee required of Claimant by the AAA Rules shall be paid by Claimant to the extent such fee does not exceed the amount of the fee required to commence a similar action in a court that otherwise would have jurisdiction. For all non-frivolous complaints, UPS-MI will pay the amount of such fee in excess of that amount. The arbitrator will allocate the administrative costs and arbitral fees consistent with the applicable rules of the American Arbitration Association. Reasonable attorney's fees and expenses will be allocated or awarded only to the extent such allocation or award is available under applicable law.

All issues are for the arbitrator to decide, except that issues relating to the scope, application, and enforceability of the arbitration provision are for a court to decide. The Federal Arbitration Act governs the interpretation and enforcement of this provision. This agreement to arbitrate shall survive termination of the Terms.

Severability

Notwithstanding anything to the contrary in the AAA Rules, if any part of this arbitration provision is deemed invalid or ineffective for any reason, this shall not affect the validity or enforceability of the remainder of this arbitration provision, and the arbitrator shall have the authority to amend any provisions deemed invalid or ineffective to make the same valid and enforceable.

Desk Arbitration

For all disputes concerning an amount less than fifteen thousand dollars (\$15,000.00), the parties shall submit their arguments and evidence to the arbitrator in writing and the arbitrator shall make an award based only on the documents; no hearing will be held unless the arbitrator in his or her discretion, and upon request of a party, decides it is a necessity to require an in-person hearing. For a dispute governed by the AAA Consumer-Related Disputes Supplementary Procedures, and concerning an award between fifteen thousand dollars (\$15,000.00) and fifty thousand dollars (\$50,000.00), inclusive, UPS-MI shall pay Claimant's filing fee under the AAA Rules, provided that Claimant agrees that both parties shall submit their arguments and evidence to the arbitrator in writing and that the arbitrator shall make an award based only on the documents, without a hearing being held. Notwithstanding this provision, the parties may agree to proceed with desk arbitration at any time.

Access to Small Claims Courts

All parties shall retain the right to seek adjudication in a state court of limited jurisdiction, such as small claims, justice of the peace, magistrate court, and similar courts with monetary limits on their jurisdiction over civil disputes, for individual disputes within the scope of such court's jurisdiction.

Acknowledgements

Claimant and UPS-MI acknowledge and agree that pursuant to these Terms:

- CLAIMANT AND UPS-MI AGREE THAT WE ARE WAIVING THE RIGHT TO HAVE A TRIAL BY JURY TO RESOLVE ANY DISPUTE ALLEGED AGAINST CLAIMANT, UPS-MI OR RELATED THIRD PARTIES;

- CLAIMANT AND UPS-MI AGREE THAT WE ARE WAIVING THE RIGHT TO HAVE A COURT, OTHER THAN A STATE COURT OF LIMITED JURISDICTION AS DEFINED ABOVE, RESOLVE ANY DISPUTE ALLEGED AGAINST CLAIMANT, UPS-MI OR RELATED THIRD PARTIES;

- CLAIMANT AND UPS-MI AGREE THAT WE ARE WAIVING THE RIGHT TO HAVE A COURT REVIEW ANY DECISION OR AWARD OF AN ARBITRATOR, WHETHER INTERIM OR FINAL, EXCEPT FOR APPEALS BASED ON THOSE GROUNDS FOR VACATUR EXPRESSLY SET FORTH IN SECTION 10 OF THE FEDERAL ARBITRATION ACT.

- CLAIMANT AND UPS-MI AGREE THAT WE ARE WAIVING THE RIGHT TO SERVE AS A REPRESENTATIVE, AS A PRIVATE ATTORNEY GENERAL, OR IN ANY OTHER REPRESENTATIVE CAPACITY, JOIN AS A CLASS MEMBER, AND/OR TO PARTICIPATE AS A MEMBER OF A CLASS OF CLAIMANTS IN ANY CLASS, MASS, CONSOLIDATED OR COMBINED ACTION OR ARBITRATION FILED AGAINST CLAIMANT, UPS-MI AND/ OR RELATED THIRD PARTIES.

Award

The arbitrator may award money or equitable relief in favor of only the individual party seeking relief and only to the extent necessary to provide relief warranted by that party's individual claim. Similarly, an arbitration award and any judgment confirming it apply only to that specific case; it cannot be used in any other case except to enforce the award itself. To reduce the time and expense of the arbitration, the arbitrator will not provide a statement of reasons for his or her award unless a brief explanation of the reasons is requested by one of the parties. Unless both Claimant and UPS-MI agree otherwise, the arbitrator may not consolidate more than one person's claims, and may not otherwise preside over any form of a representative, private attorney general or class proceeding.

Confidentiality of Arbitration

Notwithstanding anything to the contrary in the AAA Rules, UPS-MI and Claimant agree that the filing of arbitration, the arbitration proceeding, any documents exchanged or produced during the arbitration proceeding, any briefs or other documents prepared for the arbitration, and the arbitral award shall all be kept fully confidential and shall not be disclosed to any other party, except to the extent necessary to enforce this arbitration provision, arbitral award or other rights of the parties, or as required by law or court order. This confidentiality provision does not foreclose the American Arbitration Association from reporting certain consumer arbitration case information as required by state law.

8.2 Damage and Loss Claims. Notice of damage to and/or loss of a shipment must be reported to UPSMI in writing within 15 days after delivery of the shipment, with the right of UPS-MI to make inspection of the shipment within 15 days after receipt of such notice, or else any claims is waived. All claims, excluding claims for overcharges which are addressed below, must be made in writing to UPS-MI within sixty (60) days after delivery of the shipment or in the case of non-delivery, within sixty days (60) after a reasonable time for delivery has elapsed. Arbitration shall be instituted within one year after denial of any portion of the claim. Claims under Enhanced Protection must be submitted to UPS-MI c/o UPS Capital at the following e-mail address: UPSCapitalMIClaims@ups.com.

Claims under Basic Protection or Enhanced Protection must: (1) be in writing (or an electronic communication) and must include reference to the Shipment Control Form number and date of shipment; (2) assert the liability of UPS-MI for alleged loss or damage; (3) make claim for payment of a specified or determinable amount of money; and (4) be accompanied by a copy of the original invoice or, if no invoice was issued, other proof, certified to in writing, as to the actual cost or replacement cost of the property, or to the extent of the damage to the property. Any arbitration arising from the Services shall be instituted by the earlier of one year from the denial of any portion of the claim or two years from the date of shipment, or else the right to sue shall be deemed waived. However, arbitration involving claims to which the Convention applies shall be instituted within two (2) years from date of arrival of the shipment at destination, or from the date the shipment should have arrived, or from the date on which carriage stopped. Where claims are not filed or arbitration are not instituted thereon in accordance with the foregoing provisions, such claims shall be deemed waived and will not be paid. A request for proof of delivery does not constitute the filing of a claim. For purposes of this section, pursuant to 49 U.S.C. § 14101, Client expressly waives any right or remedy it may have pursuant to 49 U.S.C. § 14706(d), and (e).

8.3 Claims for Invoice Adjustments. For any claim for an invoice adjustment (including, but not limited to, adjustment of charges based on an incorrect rate, or type of service, overcharge's, refund due to a duplicate payment), Client must notify UPS-MI of the claim within 180 days of receiving the contested invoice, or any billing dispute is waived. A partial payment against an invoice is not considered a request for an invoice adjustment.

[+ Back to Top](#)

9. Force Majeure

To the extent that UPS-MI's performance is precluded or delayed by, or Pieces are lost or damaged as a result of, a "Force Majeure Event," such performance shall be excused for the time necessitated by such Force Majeure Event, and UPS-MI shall not be responsible for damage or loss to Pieces resulting from such Force Majeure Event. "Force Majeure Event" shall mean any event beyond UPS-MI's control, including but not limited to: acts of war, terrorist acts, governmental orders relating to the foregoing, the application of security regulations imposed by a government, embargoes, acts of public authorities acting with actual or apparent authority, insurrections, riots, sabotage, natural disasters (including earthquakes or floods), acts of God, labor disputes (including strikes, lockouts, job actions or boycotts), fires, explosions, failure in electrical power, heat, light, air conditioning or communications equipment, or disruptions in air or ground transportation networks.

[+ Back to Top](#)

10. Entire Agreement

The Agreement, including these Service Terms and Conditions, the attached Exhibit A, and the Shipment Control Form, which are incorporated herein by reference in their entirety, and any other writing referencing and incorporating these Service Terms and Conditions and signed by duly authorized representatives of each of the parties hereto, sets forth the entire understanding and agreement of the parties as to the subject matter of this Agreement.

[+ Back to Top](#)

11. Choice of Law; Waiver

Except where governed by mandatory treaty, national law, or U.S. federal law, the Agreement shall be governed by and construed in accordance with the laws of the State of Georgia, without giving effect to the conflict of law rules thereof. If any part of the Agreement shall be held unenforceable, the remainder of this Agreement will nevertheless remain in full force and effect. Waiver by either party of any breach or failure to comply with any provision of this Agreement or any fuel surcharge schedule by the other party shall not be construed as or

constitute a continuing waiver of such provision, or a waiver of any other breach of or failure to comply with any other provision of this Agreement.

[↩ Back to Top](#)

12. General

12.1 Each party hereto agrees to comply with all applicable laws. The Agreement shall be binding upon the parties hereto, their successors and permitted assigns. Client may not assign (by operation of law or otherwise) the Agreement nor any of its interests, rights or duties hereunder without the express written consent of UPS-MI.

12.2 There shall be no third-party beneficiaries to this Agreement. UPS-MI may engage subcontractors or other third parties to fulfill any of its obligations hereunder, and such subcontractors or third parties shall have the benefit of the terms and conditions set forth in the Agreement. No such subcontractor or third party has authority to waive or vary any of these terms and conditions.

[↩ Back to Top](#)

Exhibit A: Prices.

Expedited Flat Mail Rates

(Non-conforming pieces are billed at USPS First-Class® Rate plus a \$0.50 or the Priority Mail Rate plus 12% surcharge)

Expedited Irregular/Machinable/Package Services Rates

(Non-conforming pieces are billed at USPS First-Class® Rate plus a \$0.50 or the Priority Mail Rate plus 12% surcharge). Additional charges may apply for oversize, balloon or non-machinable Parcels including but not limited to those listed above.

*Prices apply for pieces averaging 250 cubic inches or less. *Any item exceeding 400 cubic inches will have a \$1.00 surcharge applied.

Minimum Service Fee

Beginning April 1st, 2014, for each domestic shipment pickup at each Customer location, the minimum billed charge for Services is \$100 USD. If the charges for Services to be billed for a single domestic pickup do not meet this minimum service requirement, an additional Minimum Service Fee will be assessed for the balance of the minimum billed charge (e.g., if the charges for Services for a single pickup order at a single location amount to only \$75.00 USD, an additional Minimum Service Fee of \$25.00 USD will be applied to the invoice of that order, to satisfy the \$100.00 USD minimum billed charge). This fee structure shall apply regardless of the number of domestic Pieces shipped, the number of international Pieces, if any picked up at the same time, or any Minimum Service Fee applicable to international shipment pickups.

[↩ Back to Top](#)