



# Terms of Service

Latest Version Posted: September 17, 2020

PLEASE READ THESE TERMS OF SERVICE CAREFULLY BEFORE USING THIS WEBSITE AND THE SERVICES.

IF YOU DO NOT AGREE TO THESE TERMS, DO NOT USE THIS WEBSITE AND DO NOT SIGN UP FOR A PROVIDER ACCOUNT.

This website, including all content made available through the website, ("Site") is owned and operated by Auctane LLC and its affiliates, including its parent company Stamps.com Inc. (collectively, "Provider") and the services and products ("Services") provided to you, including any services provided under the ShipPenguin product, are subject to the following notices, terms, and conditions. Unless otherwise agreed in writing with Provider, your agreement with Provider will always include, at a minimum, the terms and conditions set out in this document and our [Privacy Policy](#). These terms and the Privacy Policy form a legally binding agreement between you and Provider in relation to your use of Provider's Services. It is important that you take the time to read them carefully. Provider is firmly committed to protecting the privacy of your personal information and the personal information of your customers. By using the Services, you acknowledge and agree that Provider's collection, usage and disclosure of this personal information is governed by our Privacy Policy.

Collectively, this legal agreement is referred to below as the "Terms." Provider may, from time to time, modify, amend, or supplement these Terms, and post those changes on the Terms of Service page. If you maintain an account balance with Provider, under its Carrier Services product ("Carrier Services"), you hereby agree to and consent to the terms provided in Appendix A which immediately follows these Terms, and shall become a part of these Terms. Modifications, amendments or supplements to these Terms shall automatically be effective seven (7) days after Provider has posted the modifications. If you do not agree to be bound by (or cannot comply with) these Terms, including the Terms as modified, you agree that your sole remedy is to cease using the Services by canceling your account. Your continued use of the Services constitutes your agreement to be bound by the Terms, including the amended Terms.

Both you and the Provider agree, with the limited exceptions noted below and as further provided below, to resolve all disputes between you and the Provider through BINDING

ARBITRATION. ARBITRATION MEANS THAT YOU AND THE PROVIDER ARE EACH WAIVING THE RIGHT TO A JURY TRIAL AND TO PARTICIPATE IN A CLASS ACTION.

#### SERVICE PRICING

Provider offers multiple types of service plans – including, without limitation, monthly service plans. Your monthly service fee, if any, will be calculated based on the service plan presented to you and agreed to by you during service registration. In addition, you are responsible for all variable and transactional costs of using the Service (including but not limited to: postage, fees for private carriers, package insurance, items purchased in the online store, if any, fees for additional users, or other special services selected) in addition to your applicable service fee, if any. Your recurring service fee, if any, will be calculated and billed based on the date you register and the terms of your offer. If you have registered for a monthly billing plan, the monthly billing cycle ends each month after you register. For example, if you register on March 8, and you are provided a free trial offer, the first billing cycle will begin April 8, and the second billing cycle will begin on May 8. Provider bills in advance (i.e., at the beginning of the applicable billing cycle), if you cancel in the middle of a billing cycle you will not be refunded for your service fees and your account will remain available for usage for the full month of cancellation. If you register for a free offer, but wish to avoid incurring the monthly service fee, make sure to cancel your account before the free period ends. To cancel, call Provider customer support at 1-512-485-4282, Monday - Friday, 8 am - 8pm (CST), or do so online.

#### ACCOUNT DURATION

While Provider reserves the right to cancel your account for lack of use, lack of payment, or breach of these Terms, as a general matter, all Provider user accounts are maintained perpetually unless and until cancelled by the user. Following any account cancellation, Provider may maintain certain account settings and information for a period of time in the event of account re-activation. The period of time Provider maintains account information shall be in the sole discretion of Provider.

#### ACCOUNT CANCELLATION/TERMINATION

You may terminate or close your account at any time. However, depending on the service plan you selected, certain restrictions or fees may apply, as detailed below. To cancel, you may do so by 1) accessing your online account or 2) calling Provider customer support at 1-512-485-4282, Monday - Friday, during business hours, other than major holidays. You will be asked to verify your account information and confirm your intent to cancel your account.

Monthly Service Plan. You are free to end your monthly service plan at any time.

If you terminate your monthly service plan during the free trial period you will not be charged any service fee.

If you terminate your monthly service plan within the first ninety (90) days from signing up, you will receive a full refund of any monthly service fees paid (you will not be refunded postage or insurance fees).

If you terminate your monthly service plan after the first ninety (90) days, your account will be handled as follows at the discretion of Provider: (i) either a pro-rated/partial refund of that month's service fee will apply and your account will be closed immediately; or (ii) your account will remain open and accessible until the end of that month's billing cycle, no refund will be given and the account will be closed and no longer accessible.

#### FREE TRIAL OFFER TERMS

If you select to sign up for Provider's "free trial", then you will not be charged a service fee for the period of the free trial offer; i.e., even if you fail to cancel following the trial period, you will not incur a service fee for the trial time period. At the conclusion of the free trial, if you wish to continue service you must choose a service plan and accept the terms.

#### METHOD OF PAYMENT

Provider currently accepts Visa, MasterCard, American Express, and Discover. Certain users will be approved to set up an automated debit from your bank savings or checking account. Acceptable payment methods are subject to change at any time. You must include correct information (e.g., the address and phone number the payment credit card issuer has on file for you) when enrolling. Incorrect information may cause delays in establishing service. All information received from you, including credit card and/or bank account information, will be treated in accordance with Provider's Privacy Policy. Please note that Provider may receive updated information regarding your payment card account, debit card account or bank account from your financial institution and by accepting these Terms you hereby consent to such updating. For example, Provider may receive updated card expiration date or account number information. During account registration, Provider may verify that your payment card is valid for the service fees associated with your service plan.

**DEBIT NOTICE WAIVER:** If you elect to pay Provider via a debit card, you hereby waive your rights under 12 C.F.R. 205.10(d) to receive ten days' advance notice of the amount and date of all varying electronic fund transfers, so long as the transfer falls inside the range of \$0.01 and the sum of any amounts you authorize for insurance, hidden postage labels, reset fees or other non-recurring charges.

**BILLING FOR FEES:** Provider's service fee and any other applicable fees due, including fees for postage or shipping (if applicable), will be automatically charged to account holder's credit card, debited from the account holder's debit card or collected via direct account withdrawal from the account holder's bank account at the end of each billing cycle (as directed by the user), in the case of service and other fees alone. Account holders who use Provider Carrier Services will be automatically charged their monthly service fee as well as a preset amount at the beginning of each billing cycle. Carrier Services users will also be charged such preset amount each time the balance available in the Carrier Services is not sufficient to print a label requested by such a user. The minimum preset amount is \$10 and the maximum is \$500. Higher auto pre-funding amounts may be set within the Provider Site. Please [click here](#) for an article that explains the process.

The billing entity for part or all of the services provided by Provider may be that of a subsidiary, affiliate or partner organization of Provider and you hereby consent to any such billing, including changes to the billing entity from time to time.

#### API TERMS

Provider may make an API (Application Program Interface) available to certain customers in Provider's sole discretion. Customers may access their Provider account data via an API. Any use of the API, including use of the API through a third-party product that accesses Provider Services, is bound by the Terms plus the Terms of Service.

#### GLOBALPOST TRANSACTIONS

**Third Party Partners:** Certain shipping transactions may be offered through our affiliate's GlobalPost service and related services (hereafter, "GlobalPost"). If you ship eligible items to a destination through GlobalPost, you may first be required to ship the item through a third party parcel processing facility which will then route the item to the destination address. You acknowledge and understand that one or more third-party global shipping provider(s) may oversee the processing, customs clearance, and shipment of the item so long as it meets the terms and conditions of this program and any other applicable third party requirements. Eligible shipment items and quantities are generally governed by the origin and destination country's postal regulations, import and export laws, rules and requirements. Ineligible items that are shipped may be returned, seized or destroyed pursuant to such laws, rules and requirements. Please contact us for additional information about eligible items and quantities. You acknowledge and agree that GlobalPost and our third party partners have the absolute discretion to disable the GlobalPost service from your account.

**Interchangeability of Services Used:** Provider may substitute services in its sole discretion, but Provider generally offers substitute services that are similar to the originally selected service. In the event that another service is used, commercially reasonable efforts will be made to maintain a similar service standard.

**Fees and Adjustments:** The fees for GlobalPost are included in the shipping rates provided to you and the rate charged will be based on the rates that are available for your account. For parcels where you provide incorrect shipping details about the parcel (such as weight, address, dimensions, service type or package type), GlobalPost reserves the right, at its sole discretion, to either (i) deliver the parcel(s) at an increased rate that will be automatically charged to you, (ii) return the parcel(s) to you with the cost of the return and processing of the return charged to you, or (iii) destroy the parcel(s). In the event that the assessed rate cannot be calculated using the GlobalPost rates (for example, in the event that the actual weight of the shipment exceeds the maximum weight supported by the program), you will be charged for the replacement service, which may include a domestic label, if applicable. For example, you might be automatically charged for a domestic Priority Mail Retail Package (rated based on transportation from your facility to the third-party shipping facility, and any balloon/oversized surcharges as required per USPS rates and requirements) plus the cost of a Priority Mail International Retail

Package (rated based on transportation from the third-party shipping facility to your intended international recipient, plus any balloon/oversized surcharges as required per USPS rates and requirements). Note that in the event that Provider does not supply a domestic label, domestic Priority Retail Package rates will not be included in any adjustments.

**Duties and Taxes:** Some GlobalPost services offer expedited customs clearance which require full payment of duties and taxes. GlobalPost provides various ways to pay duties and taxes, including and not limited to: (i) duties and taxes are deducted from your account balance; or (ii) duties and taxes are collected by GlobalPost from the recipient before their parcel leaves a GlobalPost processing facility. Improper classification of items in your parcel could result in adjustments to your account balance, an increase in the amount collected from the recipient, delay, disposal, or return. Note that due to international currency changes, the amounts may vary based on currency conversion at the time of your transaction. An additional administration fee related to the collection of duties and taxes may also apply. If your transaction requires the payment of duties and taxes by the recipient and your recipient refuses to pay for those amounts, you may be required to pay for the goods to be returned/destroyed or for other amounts imposed.

**Refunds:** No refunds shall be applicable for a GlobalPost shipment that has been provided to any carrier. In addition, no rate credits shall be applied in the event your shipment could have qualified for a less expensive rate but you did not select that rate.

**Undeliverable Parcels:** A parcel is considered undeliverable if (i) the recipient's address is incomplete, illegible, incorrect or cannot be located, (ii) delivery cannot be made because of the unavailability or refusal of an appropriate person to accept delivery or sign for delivery of the shipment on the initial delivery attempt or reattempts, (iii) the parcel is unable to clear customs, (iv) the recipient refused to pay for duties and taxes as required by that method of delivery, (v) the shipment of the parcel would likely cause damage or delay to other shipments or goods, or cause injury, (vi) the parcel contains restricted, illegal, or otherwise prohibited items, or (vii) the parcel's contents or packaging are damaged to the extent that re-wrapping is not possible. If the parcel is undeliverable for any reason, we may attempt to notify you and to arrange for the return of the parcel, subject to any local regulatory restrictions. Additionally, we may, in our sole discretion, return the parcel to you or dispose of the parcel. You will be liable for any and all costs, charges and fees incurred in returning or disposing of an undeliverable parcel.

**Parcel Coverage:** In the event your parcel is lost and/or damaged prior to delivery, the GlobalPost service offers a limited Parcel Coverage program pursuant to the following terms. Note, Parcel Coverage through GlobalPost is not package insurance. Actual package insurance must be added as a separate transaction.

Parcel Coverage may only be requested for parcels that receive one or more GlobalPost tracking events, beyond the initial acceptance event and are either never received by the recipient and/or are damaged.

Parcel Coverage will be limited to the sum of the value of the contents as specified on the customs form at the time of shipment less any salvage value (the total amount not to exceed \$100 unless indicated otherwise) PLUS the amount the shipper paid for shipping fees for the respective GlobalPost service.

Requests for Parcel Coverage must be filed between 30 and 90 days from the original ship date using the claim form available on our website and must be signed by you and the addressee, [click here](#) for additional information.

In order for GlobalPost to consider a claim for damage, the contents, original shipping cartons, and all packaging material must be available to us for inspection. Your claim may be denied if the shipment cannot be made available to us or we find the shipment was not adequately prepared according to the GlobalPost Shipment Preparation Guidelines which can be found by [clicking here](#).

Coverage is not applicable to undeliverable and rejected parcels or parcels that contain restricted, illegal, or otherwise prohibited items.

You should review the laws and regulations of the destination country to ensure that your parcels will not be rejected on the basis that it contains restricted, illegal or otherwise prohibited items. In the event that your parcel contains such items, the carrier or customs official reserves the right to dispose of your parcel without any compensation to you.

Appointment of Agent: Pursuant to a routed export transaction under the U.S. Export Administration Regulations and Foreign Trade Regulations, your recipient, as the Foreign Principal Party in Interest, will agree to assume responsibility for the export shipment, with Provider's third party shipping partner(s) acting as your recipient's forwarding agent. You remain liable for the accuracy of information you provide about shipments, and you agree to provide timely responses to requests for additional information.

Right of Inspection: You agree that we, our shipping partners, or any governmental authority including customs and security may open and inspect your shipment at any time. You acknowledge and agree that GlobalPost, our shipping partners, or any governmental authority may, at its sole discretion, decide to dispose of a parcel in the event a determination is made that such destruction is required (for example, prohibited items are shipped through GlobalPost or there is suspected fraud associated with the transaction).

Sharing of Information: Notwithstanding anything in the Provider Privacy Policy to the contrary, you consent to the disclosure of certain personally identifiable information, as well as shipping item information, by Provider and its partners to any third party shipping partner utilized as part of the GlobalPost service, and, in addition to other third parties (such as customs and revenue authorities, as well as other government agencies), in connection with the processing, export and customs clearance, and international transportation of any shipment. Provider cannot control the privacy policies of its third party partners their service providers and you hereby

waive any claim related to the disclosure of personally identifiable or shipment information as part of GlobalPost.

**Transit Times:** Some GlobalPost transactions may include a quoted transit time, which represents an estimate by Provider for the respective service; actual transit times may vary. Weekend days, public holidays, bank holidays, delays caused by customs, delays attributable to compliance with mandatory local security requirements or other events beyond our control are not included when we quote door to door delivery times in our published literature. The route and the method by which we transport your shipment shall be at our sole discretion.

**Countries Served:** A list of countries approved to ship to under this agreement can be found by [clicking here](#). We reserve the right to add or remove countries from this list at any time.

**Additional GlobalPost Info:** Additional information about GlobalPost, including policies governing eligibility, service delivery times, weight and size restrictions, handling of lost, damaged, and undeliverable items, rates, shipment insurance, returns, and refunds can be found by clicking on the GlobalPost webpage.

#### CONTENT COPYRIGHT

You acknowledge that (i) content on the Site and content available through the Services is protected by copyrights, trademarks and other intellectual and proprietary rights (“Rights”); (ii) these Rights are valid and protected in all media and technologies existing now or later developed; and (iii) except as explicitly provided otherwise, the Terms and applicable copyright, trademark and other laws govern your use of such content. Any other use, including but not limited to the reproduction, modification, distribution, transmission, republication, display, or performance, of the content on this Site is strictly prohibited.

#### PATENTS

Covered by and/or for use with U.S. Patents 7,216,110; 7,236,956; 7,359,887; 7,421,400; 7,458,612; 7,490,065; 7,774,285; 7,818,267; 7,831,524; 7,844,553; 8,027,926; 8,041,644; 8,103,647; 8,240,579; 8,255,337; 8,374,970; 8,392,391; 8,626,673; 8,626,674; 8,762,290; 8,768,857; and 8,954,355.

#### TRADEMARKS

Provider, ShipPenguin and associated brand names and domain names are trademarks of Provider in the United States and/or other countries. Provider trademarks and trade dress may not be used in connection with any product or service that is likely to cause confusion among your customers, or in any manner can be interpreted as business disparagement. All marks not owned by Provider are the property of their respective owners. You may not use, and nothing contained on the Site or in these Terms grants, by implication, waiver, estoppel or otherwise, any right to use, any trademark displayed on the Site without the written permission of Provider or the respective owner of such trademark, service mark or logo.

#### USE OF SITE

This Site, any portion of this Site, and any materials made available by Provider through the Site, may not be reproduced, duplicated, copied, sold, resold, or otherwise exploited for any commercial purpose that is not expressly permitted by Provider. Provider reserves the right to refuse service, terminate accounts, and/or cancel orders in its discretion, including, without limitation, if Provider believes that a user's conduct violates applicable law or is harmful to the interests of Provider. Any use of content or descriptions; any derivative use of this Site or its contents; and any use of data mining, robots, or similar data gathering and extraction tools are strictly prohibited. In no event shall the user frame any portion of the Site or any content contained therein. By using this Site, you agree that you will comply with all applicable laws and regulations, including U.S. export and re-export control laws and regulations.

#### COPYRIGHT INFRINGEMENT

Provider respects the intellectual property of others. Copyright infringement will not be tolerated. If you believe that your work has been copied in a way that constitutes copyright infringement, please alert us at [support@ShipPenguin.com](mailto:support@ShipPenguin.com).

#### SOFTWARE AVAILABLE ON THE SITE

Software that is made available from the Site ("Software") is the copyrighted work of Provider and/or its suppliers. Your use of the Software is governed by the Terms. You may not use any Software or the Site unless you first agree to the Terms, after which Provider hereby grants to you, the user, a personal, nontransferable license to access the Software for viewing and otherwise using the Site in accordance with these Terms, and for no other purpose, provided that you keep intact all copyright and other proprietary notices contained in the Software. All Software is owned by Provider and/or its suppliers and is protected by copyright laws and international treaty provisions. Any reproduction or redistribution of the Software is expressly prohibited by law, and may result in severe civil and criminal penalties. Violators will be prosecuted to the maximum extent possible. WITHOUT LIMITING THE FOREGOING, COPYING OR REPRODUCTION OF THE SOFTWARE TO ANY SERVER OR OTHER LOCATION FOR REPRODUCTION OR REDISTRIBUTION IS EXPRESSLY PROHIBITED. You acknowledge that the Software, and any accompanying documentation and/or technical information, is subject to applicable export control laws and regulations of the U.S. You agree not to export or re-export the Software, directly or indirectly, to any countries that are subject to U.S. export restrictions.

Software usage is subject to compliance with the Terms and is provided for no additional consideration on a non-transferable, limited, revocable, royalty-free basis.

#### LIMITATION OF LIABILITY

IN THE EVENT PROVIDER IS FOUND TO BE RESPONSIBLE TO YOU FOR DAMAGES IN ANY WAY RELATING TO THIS SITE, THE SERVICES, OR THE SOFTWARE, YOU AGREE THAT PROVIDER'S LIABILITY TO YOU WILL NOT EXCEED YOUR PREVIOUS MONTH'S PLAN COSTS, WHEN APPLICABLE (AND IF NOT APPLICABLE, SERVICE FEES PAID TO PROVIDER IN THE PREVIOUS MONTH THAT RELATE TO THE SERVICES FOR WHICH DAMAGES ARE SOUGHT), FOR SERVICES DURING THE PERIOD IN WHICH YOU INCUR



SUCH DAMAGES AND NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY REMEDY. PROVIDER IS NOT LIABLE FOR ANY INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES (SUCH AS LOST PROFITS OR LOST BUSINESS OPPORTUNITIES), PUNITIVE OR EXEMPLARY DAMAGES, THE COST OF ALTERNATIVE SERVICES, OR ATTORNEYS' FEES AND NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY REMEDY.

You should note that, in some circumstances, the liability of a carrier is limited under the Convention of the Unification of Certain Rules Relating to International Carriage by Air (Warsaw, 12 October 1929), Convention of the Unification of Certain Rules Relating to International Carriage by Air (Montreal, 28 May 1999) and the Convention on the Contract for International Carriage of Goods by Road (Geneva, 19 May 1956) or similar international conventions.

#### DISCLAIMER

THIS SITE, SERVICES, AND SOFTWARE ARE PROVIDED BY PROVIDER ON AN "AS IS" BASIS. PROVIDER MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, AS TO THE OPERATION OF THE SITE OR SOFTWARE, OR THE INFORMATION, CONTENT, MATERIALS, OR PRODUCTS INCLUDED ON THIS SITE AND THE SOFTWARE. TO THE FULLEST EXTENT PERMISSIBLE BY APPLICABLE LAW, PROVIDER DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF INFRINGEMENT, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. PROVIDER WILL NOT BE LIABLE FOR ANY DAMAGES OF ANY KIND ARISING FROM THE USE OF THIS SITE, THE SERVICES, OR THE SOFTWARE, INCLUDING, BUT NOT LIMITED TO DIRECT, INDIRECT, INCIDENTAL, PUNITIVE, AND CONSEQUENTIAL DAMAGES. PROVIDER DOES NOT PROMISE OR GUARANTY UNINTERRUPTED OR ERROR-FREE SERVICE.

#### LINKS TO THIRD PARTY WEBSITES

The Provider and affiliated websites may contain links to third party websites ("Linked Websites"). The Linked Websites are not under the control of Provider and Provider is not responsible for the contents of any Linked Website, including without limitation any link contained in a Linked Website, or any changes or updates to a Linked Website. You should contact the site administrator or webmaster for those Linked Websites if you have any concerns regarding such links or the content located on such Linked Websites. You are responsible for following the terms and conditions of all Linked Websites, including carriers and other third party providers of services.

#### DISPUTE RESOLUTION; AGREEMENT TO ARBITRATION; AND CLASS WAIVER

You and Provider agree that, except as provided below regarding small claims court proceedings, any dispute, claim or controversy arising out of or relating in any way to the Provider services, Site, your account(s), offers, user interfaces, our Privacy Policy or our privacy practices generally, these Provider Terms, and this "Agreement to Arbitrate," shall be determined by binding arbitration. Arbitration is more informal than a lawsuit in court. Arbitration uses a neutral arbitrator instead of a judge or jury, allows for more limited discovery than in

court, and is subject to very limited review by courts. YOU AGREE THAT, BY AGREEING TO THESE TERMS, THE U.S. FEDERAL ARBITRATION ACT GOVERNS THE INTERPRETATION AND ENFORCEMENT OF THIS PROVISION, AND THAT YOU AND PROVIDER ARE EACH WAIVING THE RIGHT TO A TRIAL BY JURY OR TO PARTICIPATE IN A CLASS ACTION. This arbitration provision shall survive termination of these Terms and the termination of your Provider account(s).

**PRE-FILING MEDIATION.** In the event of a dispute, prior to initiating arbitration, the party asserting the claim must first send to the other, by certified mail with return receipt requested (or any successor service), a written Notice of claim (“Notice”). If you are the claimant, the Notice to Provider must be addressed to: Auctane LLC / Dispute Resolution, 3800 North Lamar Blvd, Suite 220, Austin, Texas 78756, with a cc to Legal Department - Dispute Resolution, Auctane LLC, 1990 E Grand Ave., El Segundo, CA 90245. If Provider is the claimant, the Notice must be addressed to the address used for your account. The Notice must (a) describe the nature and basis of the claim or dispute; and (b) set forth the specific relief sought. Following receipt of the Notice, each party agrees to negotiate with the other in good faith about the claim. If the claim is not resolved to the satisfaction of the claimant within sixty (60) days after Notice is provided, the claimant may pursue the claim in arbitration or file a claim in small claims court.

#### ADDITIONAL ARBITRATION PROVISIONS:

**Settlement Offers:** During the arbitration, the amount of any settlement offer made by Provider or you shall not be disclosed to the arbitrator.

**Initiating A Claim:** The form required to initiate an arbitration can be printed or downloaded from [www.adr.org](http://www.adr.org). Alternatively, you can contact the arbitration administrator by calling 800-778-7879.

**Fees for Initiating Arbitration:** If you are required to pay a filing fee to initiate arbitration, after Provider receives notice of the initiation of arbitration, it will promptly reimburse you for your payment of the filing fee at the address we have for you on file (or the address provided in the Notice), unless your claim is for greater than US \$10,000.

**Applicable Rules; Administrator:** The arbitration will be governed by the Commercial Arbitration Rules and the Supplementary Procedures for Consumer Related Disputes (collectively, “AAA Rules”) of the American Arbitration Association (“AAA”), as modified by these Terms, and will be administered by the AAA. The AAA Rules and Forms are available online at [www.adr.org](http://www.adr.org), or by calling the AAA at 1-800-778-7879. The arbitrator is bound by the requirements of this section of the Terms. All issues are for the arbitrator to decide, including issues relating to the scope and enforceability of this Agreement to Arbitrate.

**Location of Hearing:** Unless Provider and you agree otherwise, any arbitration hearings will take place in the county (or parish) of your billing address. (If you reside outside of the United States, any arbitration hearings will take place in your country of residence at a location reasonably

convenient to you, but will remain subject to the AAA Rules including the AAA rules regarding the selection of an arbitrator). If your claim is for US \$10,000 or less, we agree that you may choose whether the arbitration will be conducted solely on the basis of documents submitted to the arbitrator, through a telephonic hearing, or by an in-person hearing as established by the AAA Rules. If your claim exceeds US \$10,000, the right to a hearing will be determined by the AAA Rules. Regardless of the manner in which the arbitration is conducted, the arbitrator shall issue a written decision sufficient to explain the essential findings and conclusions on which the award is based.

**Award Enhancement:** If the arbitrator issues you an award that is greater than the value of Provider's last written settlement offer made before an arbitrator was selected (or if Provider did not make a settlement offer before an arbitrator was selected), then Provider will pay you the amount of the award or US \$1,000, whichever is greater. Except as expressly set forth herein, the payment of all filing, administration and arbitrator fees will be governed by the AAA Rules.

**Class Waiver:** YOU AND PROVIDER AGREE THAT EACH MAY BRING CLAIMS AGAINST THE OTHER ONLY IN AN INDIVIDUAL CAPACITY AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING. Further, unless both you and Provider agree otherwise, the arbitrator may not consolidate the claims of more than one party, and may not otherwise preside over any form of a representative or class proceeding. If this specific provision is found to be unenforceable as applied to any claim asserted by you, then the entirety of the arbitration provision set forth in this section shall be null and void.

**Injunctive Relief Limitation:** The arbitrator may award declaratory or injunctive relief only in favor of the individual party seeking relief and only to the extent necessary to provide relief warranted by that party's individual claim.

**Small Claims Procedure Alternative:** Notwithstanding the foregoing binding arbitration procedure, either party may bring an individual action in small claims court (provided the claim otherwise qualifies for such program) as an alternative to proceeding with arbitration.

#### **NO UNLAWFUL OR PROHIBITED USE**

As a condition of your use of this Site, you warrant to Provider that you will not use the Site for any purpose that is unlawful or prohibited by these Terms, or the laws and regulations of the jurisdiction in which you are located or to which your envelope or parcel was sent. You may not use the Site in any manner that could damage, disable, overburden, or impair the Site. You may not obtain or attempt to obtain any materials or information through any means not intentionally made available or provided through the Site. Provider reserves the right at all times to disclose any information as necessary to satisfy any applicable law, regulation, legal process or governmental request, or to edit, refuse to post or to remove any information or materials, in whole or in part, at Provider's sole discretion.

#### **INDEMNIFICATION**

You agree to defend, indemnify and hold harmless Provider, its officers, directors, employees and agents, from and against any and all claims, damages, obligations, losses, liabilities, costs or debt, and expenses (including but not limited to attorney's fees) arising from: (i) your use of and access to the Site, Services, and Software; (ii) your violation of any term of these Terms; (iii) your violation of any third party right, including without limitation any copyright, property, or privacy right; or (iv) any claim that one of your submissions caused damage to a third party. This defense and indemnification obligation will survive these Terms and your use of the Site.

#### MATERIALS PROVIDED TO THE SITE

Users of the Site may post comments, reviews, and other content and submit suggestions, ideas, or other information, provided the content does not contain any unlawful, harmful, threatening, abusive, harassing, defamatory, vulgar, obscene, or hateful content or content which is racially, ethnically or otherwise objectionable, or content which infringes upon the rights of any third party. You agree not to impersonate any person and/or other entity or communicate under a false name or a name that you are not entitled or authorized to use. Provider has the right (but not the obligation) to remove, prohibit, edit or discontinue any content on the Site, including content that has been posted by users.

Provider does not claim ownership of the materials you provide to Provider (including feedback and suggestions) or post, upload, input or submit to Provider or its associated services (collectively "Submissions"). However, by posting, uploading, inputting, providing or submitting your Submission you are granting Provider, its affiliated companies and necessary sublicensees a non-exclusive, worldwide, perpetual, irrevocable, royalty-free, sublicenseable (through multiple tiers) right to use your Submission in connection with the operation of their businesses including, without limitation, the rights to: copy, distribute, transmit, publicly display, publicly perform, reproduce, edit, translate, reformat, prepare derivative works of, and otherwise exploit your Submission; and to publish your name in connection with your Submission. No compensation will be paid with respect to the use of your Submission, as provided herein. Provider is under no obligation to post or use any Submission you may provide and may remove any Submission at any time at Provider's sole discretion. By posting, uploading, inputting, providing or submitting your Submission, you warrant and represent that you own or otherwise control all of the rights to your Submission as described in this section including, without limitation, all the rights necessary for you to provide, post, upload, input or submit the Submissions and that your Submission is not based on, or derived from, the proprietary information or items of a third party.

#### GOVERNING LAW

The Services under these Terms are provided by Provider's offices in the State of Texas. The Services and Software can be accessed from any of the 50 states in the United States and from other countries of the world. The laws of the State of Texas (or U.S. federal law, if applicable), without regard to conflicts of law provisions, will apply to all matters arising out of or in connection with the Site, the Services and the Software. By using the Site, Services and Software, you submit to the exclusive jurisdiction of Texas courts and further agree that any cause of action arising out of or in connection with these Terms and/or your use of the Site

and/or Services and/or Software shall be brought only in the federal or state courts in Travis County, Texas.

#### U.S. GOVERNMENT USERS RESTRICTED RIGHTS

Use, duplication, or disclosure by the Government is subject to restrictions as set forth in applicable laws and regulations. Use of the Site, Services and/or Software by the Government constitutes acknowledgment of Provider's proprietary rights in them. The Site and Software may contain other proprietary notices and copyright information which should be observed.

#### PROHIBITED ACTIVITIES

You shall not transmit to Provider or upload to this Site or the Software any Harmful Code or use or misappropriate the data on this Site for your own commercial gain. "Harmful Code" shall mean any software (sometimes referred to as "viruses," "worms," "trojan horses," "time bombs," "time locks," "drop dead devices," "traps," "access codes," "cancelbots" or "trap door devices") that: (a) is intentionally designed to damage, disrupt, disable, harm, impair, interfere with, intercept, expropriate or otherwise impede in any manner, any data, storage media, program, system, equipment or communication, based on any event, including for example but not limited to (i) exceeding a number of copies, (ii) exceeding a number of users, (iii) passage of a period of time, (iv) advancement to a particular date or other numeral, or (v) use of a certain feature; or (b) would enable an unauthorized person to cause such result; or (c) would enable an unauthorized person to access another person's information without such other person's knowledge and permission.

You may not use your password or API keys for any unauthorized purpose. You may not use the Site, Services, or Software for activities that:

1) violate any law, statute, ordinance or regulation relate to sales of (a) narcotics, steroids, certain controlled substances or other products that present a risk to consumer safety, (b) drug paraphernalia, (c) items that encourage, promote, facilitate or instruct others to engage in illegal activity, (d) items that promote hate, violence, racial intolerance, or the financial exploitation of a crime, (e) items that are considered obscene, (f) items that infringe or violate any copyright, trademark, right of publicity or privacy or any other proprietary right under the laws of any jurisdiction, (g) certain sexually oriented materials or services, or (h) ammunition, firearms, or certain firearm parts or accessories, or (i) certain weapons or knives regulated under applicable law;

2) relate to transactions that (a) show the personal information of third parties in violation of applicable law, (b) support pyramid or ponzi schemes, matrix programs, other "get rich quick" schemes or certain multi-level marketing programs, (c) are associated with purchases of real property, annuities or lottery contracts, lay-away systems, off-shore banking or transactions to finance or refinance debts funded by a credit card, (d) are for the sale of certain items before the seller has control or possession of the item, (e) are by payment processors to collect payments on behalf of merchants, (f), are associated with the following Money Service Business activities:

the sale of traveler's checks or money orders, currency exchanges or check cashing, or (g) provide certain credit repair or debt settlement services;

3) involve the sales of products or services identified by government agencies to have a high likelihood of being fraudulent;

4) violate applicable laws or industry regulations regarding the sale of (a) tobacco products, or (b) prescription drugs and devices;

5) involve gambling, gaming and/or any other activity with an entry fee and a prize, including, but not limited to casino games, sports betting, horse or greyhound racing, lottery tickets, other ventures that facilitate gambling, games of skill (whether or not it is legally defined as a lottery) and sweepstakes unless the operator has obtained prior approval and the operator and its customers are located exclusively in jurisdictions where such activities are permitted by law.

#### TERMS REGARDING 3RD PARTY SHIPPING INSURANCE

Provider provides shipping insurance through a third party company. You agree that Provider is in no way responsible for any loss, liability, claim, or demand that relates to insurance.

You are solely responsible for ensuring that listings you add insurance to are covered under the applicable coverage, terms, conditions, and exclusions.

All rules, terms and policies related to shipping insurance offered through the Site shall be governed by the Insurance terms and conditions found by clicking [here](#).

#### TERMS RELATED TO EUROPEAN UNION DATA SUBJECTS

Additionally, if: (a) you are established in the European Union ("EU"); (b) you provide goods or services to customers in the EU; or (c) you are otherwise subject to the requirements of the EU General Data Protection Regulation ("GDPR"), Provider's collection, use and storage of the Personal Data of any EU Data Subject is also subject to the following rules. All defined terms, not otherwise defined herewith shall be interpreted in accordance with the GDPR.

Before you provide Personal Data of your customers or that of other individuals to Provider in order for Provider to provide services, you must be in compliance with the GDPR.

You consent to Provider Processing, and/or as a joint Data Controller, with you, of controlling the Personal Data of you and your customers, for the purpose of it providing the services. Provider may share the Personal Data with its agents or subcontractors or affiliates or other third party service providers for the sole purpose of providing or improving the services.

In relation to any Personal Data provided by you to Provider:

(i) You warrant, undertake and confirm that it has grounds for sharing the Personal Data with Provider as envisaged;

(ii) You process and control the Personal Data in compliance with all applicable laws;

(iii) You consent to its use and you have obtained any necessary consents from the receiver of the goods (your customer) as required under the GDPR to pass to Provider the details required to complete the services requested, including but not limited to name, address, email address, mobile telephone number, and contents of package;

(iv) You have made your customers aware that such details may be used by Provider to enhance the delivery process for your customers and it may use notifications and geodata for that purpose. This may involve Provider sharing such details with limited third parties' data processors, for the purpose of completing the requested services; and

(v) You have told your customers that you use the Provider's services, and given them a link to our Privacy Policy.

Personal Data of EU Data Subjects that originates in the EU will be stored in the EU. As part of providing the services, this Personal Data may be transferred to other regions, including the United States, subject to the EU-US Privacy Shield.

#### Processing Personal Data of EU Data Subjects

Provider may act as a joint Data Controller with you as well as a Data Processor for the Personal Data of EU Data Subjects in the course of providing services to you, Provider will:

Process the Personal Data as a Data Processor, only for the purpose of providing the services in accordance with documented instructions from you (provided that such instructions are commensurate with the functionalities of the services), and as may subsequently be agreed to by you. If Provider is required by law to Process the Personal Data for any other purpose, Provider will provide you with prior notice of this requirement, unless Provider is prohibited by law from providing such notice;

Notify you if, in Provider's opinion, your instruction for the processing of Personal Data infringes the GDPR;

Notify you promptly, to the extent permitted by law, upon receiving an inquiry or complaint from a Data Subject or Supervisory Authority relating to Provider's Processing of the Personal Data;

Implement and maintain appropriate technical and organizational measures to protect the Personal Data against unauthorized or unlawful processing and against accidental loss, destruction, damage, theft, alteration or disclosure. These measures shall be appropriate to the harm which might result from any unauthorized or unlawful processing, accidental loss, destruction, damage or theft of Personal Data and appropriate to the nature of the Personal Data which is to be protected;

Notify you promptly upon becoming aware of and confirming any accidental, unauthorized, or unlawful processing of, disclosure of, or access to the Personal Data; and

Ensure that its personnel who access the Personal Data are subject to confidentiality obligations that restrict their ability to disclose Personal Data.

In the course of providing the services, you acknowledge and agree that Provider may use subprocessors to Process the Personal Data. Provider's use of any specific subprocessor to process the Personal Data must be in compliance with the GDPR and must be governed by a contract between Provider and subprocessor.

You agree to fully indemnify Provider, for any costs, fees, fines, and professional fees incurred due to a breach by you of the provisions of this Section.

#### MISCELLANEOUS

The following miscellaneous terms are fully applicable and important. Please read them with the same degree of care you read the preceding provisions.

**ACCOUNT ACCESS:** All transactions originating from your account are your responsibility. Please be mindful of whom is given access to the account, as the account holder is responsible for all charges incurred.

**ACCOUNT DELINQUENCY:** If you fail to pay your monthly service fee for three months or longer or you maintain a negative account balance, Provider may elect, in its sole and absolute discretion, to terminate your account. In this event, in addition to all other fees due and owing, Provider may charge a \$25.00 processing fee.

**AUTHORITY:** By completing the registration process, you agree to pay all fees incurred on your account in accordance with the terms of the service plan selected by you. If you change service plans or your account is automatically converted pursuant to this section of Terms, you agree to be bound by the payment terms of the new plan. If a Provider account is established for a business or other entity, the person establishing the account represents that he or she has all necessary authority to establish an account with Provider on behalf of the business or other entity who is the responsible account holder.

**COLLECTION:** Each party agrees that if timely payment by the other of any amounts due is not made, the aggrieved party may pursue the claim directly or assign such claim for collection, and the collection agency may pursue the collection of the past due amounts and any interest or cost of collection permitted by law.

**CREDIT VERIFICATION:** Provider reserves the right to verify the credit of all persons or companies applying for services.

**NO SUBLICENSE OR THIRD PARTY USE:** You may use your Provider account for transactions for your own direct use. Provider does not grant the right to sublicense, resell, offer, or utilize any Provider products or services such that Provider products or services are stored, loaded, installed, combined, integrated or displayed as part of a product or software offering (including as part of an application programming interface) of yours to other third party products



and services. Provider does not allow you to sublicense, resell, offer, or utilize Provider products or services to third parties (including customers of yours). If Provider determines, in its sole and absolute discretion, that you have violated the foregoing limitations, Provider reserves the right to immediately suspend or terminate your service/account (without notice).

**ORDER ACCEPTANCE/REJECTION:** Provider reserves the right at any time after receipt of an order for products or services to accept or decline the order for any reason.

**RELOCATION:** You agree to provide updated address information to Provider in the event of relocation.

**RISK OF LOSS:** The risk of loss and title for non-postage products purchased from Provider passes to you upon our delivery of the purchase to our common carrier for delivery to you.

**SALES AND VALUE ADDED TAXES:** Tax is not collectable on the purchase of postage. If required by applicable law, sales / value added tax (VAT) is charged/collected on non-postage purchases. You are responsible for the payment of all sales, use, VAT, or other taxes owed on products or taxable items utilized regardless of whether such taxes are collected by Provider at the time of purchase.

**SEVERABILITY:** If any provision of these Terms is held to be invalid or unenforceable, such provision will be deemed to be restated to reflect as nearly as possible the original intention in accordance with applicable law, and the remainder of the Terms will remain in full force and effect. These Terms constitute the entire agreement between the parties with respect to the subject matter hereof and supersedes and replaces all prior or contemporaneous understandings or agreements, written or oral, regarding such subject matter. Any waiver of any provision of the Terms will be effective only if in writing and signed by Provider. The failure to enforce any right under these Terms shall not be a waiver of the provision or the right to enforce it at a later time.

**THIRD PARTY TERMS AND CONDITIONS:** You are responsible for following the terms and conditions of all carriers and partners accessed through the Site. Please visit each individual website to obtain and review their terms and conditions. Use of carrier services via the Provider platform is at your own risk. Provider is not responsible for your use of carrier services. Your use of carrier services is as a direct customer of the specific carrier of your choosing and you agree to be bound by the terms and conditions of that carrier for use of services, including the payment of any fees associated and a carrier's right to open, inspect and assess your package before and after collection.

**SITE MISTAKES:** Although we make reasonable efforts to provide accurate pricing information and product descriptions, pricing mistakes, typographical errors or mistakes regarding product availability may occur. We reserve the right to correct such mistakes and errors.

VIOLATIONS OF LAW: Provider services may not be used in violation of any law or in any way that interferes unreasonably with others' use of the services.

## APPENDIX A

(Additional Terms Related to ShipPenguin Carrier Services) Effective May 16, 2018

This Appendix A to the ShipPenguin Terms of Service ("Terms") is applicable for all ShipPenguin Carrier Services users. If there is a conflict between the Terms and Appendix A, the terms of Appendix A shall control. All defined terms not herein defined are defined in Terms. Please for an article describing what services are offered under ShipPenguin Carrier Services.

ShipPenguin Carrier Services will allow you to maintain an account balance with Provider, such that payment for various carriers and services can be by Provider on your behalf, using rates provided to Provider by the carriers or partners of Provider. You hereby authorize Provider to maintain a carrier account for you that will only be valid on the ShipPenguin Carrier Services platform and will not be portable or transferable outside ShipPenguin Carrier Services, unless allowed by Provider and the individual carrier, at their sole discretion. Prior to accessing each carrier through ShipPenguin Carrier Services, you must accept any terms and conditions required by such carrier for their services. You are not required to accept accounts from each carrier offered by ShipPenguin Carrier Services, as you will be able to opt out of any carriers that you do not intend to use, or for which you have a pre-existing relationship. You may not use your own account number, not created through a relationship with Provider, within ShipPenguin Carrier Services and instead must use the standard Provider platform. Notwithstanding anything in this Appendix A to the contrary, all applicable carrier rules and terms shall be applicable for the services provided and Provider accepts no liability or responsibility for the failure of delivery or failure of the services of any carrier.

## PROVIDER ACCOUNTS

You must pay for any variable transactional fees including for, among other things, mailing, shipping, duties and fees, and package insurance purchased in addition to Provider's service fee. In order to use Provider accounts for any mailing and shipping services, you must pre-fund your Provider account in an amount equal to or greater than the mailing or shipping service to be purchased. All purchases, debits and adjustments will be reflected in your Provider account balance. Please note that your Provider account is managed by Provider, through its parent company, and although our records will account for the amounts that you have posted, the funds are maintained in a pooled account. In the event of any losses, failure or other insolvency of the bank used, Provider may be afforded FDIC insurance on the account, (individual account holders are not entitled to such insurance) and Provider may then allocate any insurance proceeds for all account holders; however, you may not be entitled to receive a refund of all amounts posted with Provider. In the event of any failure or insolvency of Provider, because the amounts held in your Provider account are not insured, they may not be fully refunded.

Provider accounts will be used to fund purchases by users of ShipPenguin Carrier Services including postage from the USPS as well as shipping charges from other carriers. A portion of

Provider user account balances are linked to virtual postage meters authorized by the U.S. Postal Service ("USPS"), through our relationship with our parent company, Stamps.com Inc.

Virtual postage meters permit the printing of PC postage; absent such meters, Provider could not provide the services it offers. In certain instances, a virtual postage meter may be set up on your behalf and exclusively used to hold your account funds and purchase postage on your behalf (a "personal virtual postage meter"). In other instances, multiple Provider account holders will be aggregated in a group of virtual postage meters, which may be opened and owned in the name of Provider or one of its business partners (an "aggregate virtual postage meter"). When you pre-fund your account to conduct mailing and shipping transactions, the funds you provide will be processed by Provider and either (i) deposited in its general account and reflected in your account balance or (ii) funded directly to the USPS and reflected in your account balance. Your account balance may be utilized for any service provided by ShipPenguin Carrier Services, including shipping with multiple carriers, insurance and your monthly service fee. Purchases made through the Provider store for supplies may be billed to your main user account or a new account specifically for Store purchases may be required, at Provider's discretion.

Provider, or business partners of Provider, will separately deposit funds to the virtual postage meter which is related to your Provider user account balance, as needed based on your mailing and shipping requests and the requests of other accounts assigned to that same aggregate virtual postage meter. As long as you have deposited sufficient funds into the account, Provider or its business partner will ensure that sufficient funds are deposited, with the aggregate virtual postage meter in order for you to print all of the postage and other transactions that you may request based on your Provider account balance. Please note that Provider may also apply your payment for increases to your Provider account balance directly to the applicable virtual postage meter (personal or aggregate) or into Provider's general account. Such application of funds will not convert the aggregate virtual postage meter to which you are assigned into a personal virtual postage meter. Provider shall have complete and absolute discretion in deciding whether to assign you to a personal or aggregated virtual postage meter, whether to open a new virtual postage meter or use an existing one, whether to open the virtual postage meter in your name or to assign you to an existing aggregate virtual postage meter, and under whose name the virtual postage meter will be activated or maintained. Provider, moreover, may move your account from one virtual postage meter to another (whether personal or aggregate), with these variables, from time to time or at any time.

You acknowledge and agree that all mailing and shipping transaction pricing through a Provider user account is controlled by Provider. Provider business partners, including mailing and shipping carriers, consolidators, resellers, wholesalers, among others, provide certain rates that may be made available through ShipPenguin Carrier Services by Provider in its sole and absolute discretion.

We do not always provide the lowest rates that may be available for your transaction, as rates are dependent on the service you choose and a variety of factors driven by your actions in using our software and by decisions from ShipPenguin and other business partners of ShipPenguin.

You agree to the rate provided and displayed at the time of the transaction, as that amount may fluctuate. No refunds shall be applicable to transactions that could have been obtained at a less expensive rate, unless the transaction qualifies for a refund as provided for elsewhere in our terms.

#### ACCOUNT FUNDING

In order to use your account for mailing and shipping transactions and other extra services, you must pre-fund your Provider user account in an amount equal to or greater than the funds needed for your monthly service fee and the mailing or shipping transaction to be purchased. All purchases and debits will be reflected in your Provider user account once the transaction clears. Clearance times vary by financial institution. You are allowed to print or create labels up to the amount of pre-funding in your account, as long as all service fees have been paid. As a ShipPenguin Carrier Services user, you will also be charged a preset amount each time the balance available in the ShipPenguin Carrier Services is not sufficient to pay for the transaction you request. The minimum preset amount is \$10 and the maximum is \$500. Higher auto pre-funding amounts may be set within the Provider Site. Please [click here](#) for an article that explains the process.

If any service fee payment cannot be completed successfully, your account will be suspended until payment is made. You will be notified that your service has been temporarily suspended until all past balances have been paid. You may re-load your account as often as you like so long as you do not exceed the maximum balance on your account. Auto-funding of your account may also be permitted. The minimum purchase (to fund your account) and the maximum purchase, if any, varies by service program.

If your account balance becomes negative, you authorize Provider to automatically charge your payment method or seek reimbursement so that the account balance is no longer a negative number (to cover previously selected mailing and shipping transactions or other requested purchases with Provider). This charge may apply whether you are a current, active, Provider customer, or whether you have already canceled your account.

#### COST ADJUSTMENT TRANSACTIONS

If you conduct a transaction with ShipPenguin Carrier Services that is paid only when the label is used or if it is determined by Provider or a carrier partner of Provider that a mailing or shipping transaction did not contain sufficient funds (for example, not enough postage to cover a USPS shipment due to an underreporting of weight at time of print), Provider may automatically deduct the amount for the unpaid or short-paid transaction from your account balance. Provider also has the right, in its sole discretion, to make adjustments for surcharges, duties and fees determined by the carriers or the country shipped to. You will be able to review these adjustments in your account history and reports. If one or more of these payments cannot be collected from your account due to a lack of available funds, in our complete discretion, we may either, (i) charge the method of payment on file for the shortfall or (ii) your account may be suspended until you fund your account to cover all outstanding payments.

## USER REFUNDS FOR UNUSED OR MISPRINTED TRANSACTIONS; DESTRUCTION OF UNUSED OR MISPRINTED TRANSACTIONS

You may request a refund for mailing and shipping unused transactions through ShipPenguin Carrier Services, subject to the following rules and limitations, for any unused or misprinted items:

**AUTHORIZED USER REQUEST:** You acknowledge and agree that Provider and/or its authorized partners, to the extent necessary by any carrier service, is appointed to act on your behalf to request and obtain refunds. In addition to Provider's refund requirements set forth in this agreement, refund requests are further subject to the rules and requirements of Provider's third party carrier services, including the USPS. Provider makes no guarantee that a refund will be made.

**UNUSED OR MISPRINTED USPS POSTAGE:** Unused and/or misprinted USPS mailing and shipping labels or "postage" shall be defined as an envelope, label, plain paper, label stock containing carrier-compliant labels, or electronic image files, with full, intact indicium which is scan-able and unused. Postage handled and/or returned to sender shall not be considered valid unused and/or misprinted postage.

**UNUSED OR MISPRINTED CARRIER LABELS:** Unused and/or misprinted pre-paid carrier shipping labels shall be defined as an envelope, label, plain paper containing carrier-compliant labels, or electronic image files, with full, intact indicium which is scan-able and unused. Labels handled and/or returned to sender shall not be considered a valid unused and/or misprinted label.

**TIME LIMIT:** You must complete the refund request within the time limit required by each carrier. Please see each carrier's terms and conditions on their website for additional information. If you have any questions, please email [support@ShipPenguin.com](mailto:support@ShipPenguin.com) or see [www.ShipPenguin.com](http://www.ShipPenguin.com) for additional information.

>For USPS and DHL Pre-paid labels, you must complete the refund request within thirty (30) days of generating the mailing or shipping label.

**ACTIVE ACCOUNT REQUIRED:** Your account must be active and in good standing to request a refund and at the time the refund is to be credited to your account, in order for the refund to be processed and your account to be credited.

**REFUND PROCESS:** Please visit our refund page to learn how to submit your refund request. You must follow all of the steps listed and provide all of the required information to initiate and complete your refund request, including the return or destruction, if required, of the printed or misprinted but unused mailing and shipping labels. Incomplete requests will not be processed.

**REFUND REJECTIONS:** You take the risk of the carrier partner improperly rejecting a refund request. Provider will not refund the transaction unless the relevant carrier partner approves the refund.

**REIMBURSEMENT OF PROVIDER ACCOUNT:** If a refund request is properly initiated by you within the timeframe required pursuant to Provider and carrier requirements, your account is active and in good standing, and the relevant carrier approves the refund, Provider will credit your account for the full value of the transaction to be refunded, as approved by the carrier. Refund processing times may vary. If you have an outstanding balance in any amount (including but not limited to for unpaid service fees or unpaid termination fees) you may not receive any reimbursement credit until your account is brought current. In addition, Provider may, in its sole and absolute discretion, deduct such unpaid fees from any refund otherwise due.

**AUTOMATED REFUND REQUESTS:** If your account is eligible and approved for automated refund request processing, Provider will identify labels that may be potentially eligible for refunds, submit refund requests on your behalf, and update your account balance once processed refunds are received. Provider shall charge a fee for all processed automated refunds that may be deducted directly from the total refunded amount. If you wish to avoid this fee, you must initiate the refund request directly within the time limits set by Provider and the relevant carrier or service provider.

Potentially eligible labels will be limited to labels that include any form of shipping label tracking codes or other identifying characteristics that are scanned and generated by Provider, subject to modification at any time at Provider's sole discretion. You hereby authorize Provider as your agent in fact to submit automated refund requests on your behalf to carriers for any and all labels identified as being potentially eligible for refunds without further instruction from you and agree to cooperate in submitting the refund request and to take all steps necessary to perfect the refund request that may be reasonably requested of you. You hereby release Provider from any responsibility, any liability, or any causes of action arising out of or related to improper refund requests submitted by Provider on your behalf, including but not limited to refund eligible labels that were not identified or refund requests that were denied upon submission. It remains your sole responsibility to identify any labels that have not been automatically identified and submitted on your behalf by Provider. For instance, it may not be possible for Provider to determine if a label is eligible for refund due to missing the appropriate service level. Provider will use reasonable efforts to assist in each refund process, at the direction of the user.

**DESTRUCTION OF UNUSED OR MISPRINTED USPS POSTAGE:** All transactions printed through Provider with a designated mailing date expiry after that date, will be eligible for participation in the auto-refund program (for instance USPS transactions expire pursuant to the Code of Federal Regulations). USPS misprinted or unused labels must be destroyed or returned to the USPS, as provided in the Domestic Mail Manual (see Section 11), regardless of whether a refund is requested.

**PAY-ON-USE SHIPPING LABELS:**

Provider's Pay-on-Use shipping label feature, hereafter referred to as "Pay-on-Use" is a program offered to qualified Provider users. This program enables such qualified Provider users to print service shipping labels (either outbound or returns) for which shipping charges are paid

when the label is scanned by the carrier in the mail stream (known as Pay-on-Use), rather than at the time the label is printed (known as pre-paid).

**Payments:** Provider will automatically debit the applicable account balance for shipping charges and any applicable transaction fees for any Pay-On-Use label that is scanned by the carrier in the mail stream. Because rates can vary over time, you hereby agree that the shipping charges debited from your account balance may be calculated based on the customer rate at the time the label is scanned by the carrier in the mail stream, not at the time the label is printed. In addition to shipping charges and other applicable account fees, Provider reserves the right to charge additional fees for participation in the Pay-On-Use Program. You are responsible for paying for any Pay-On-Use label that is scanned before the applicable label's expiration date (expiration dates vary by carrier).

**Restrictions:** Pay-on-Use labels designated as return labels shall not be used as original outbound shipping labels. Pay-On-Use labels are not eligible for refunds. If you participate in the Pay-On-Use program, you may be required to maintain balance sufficient to cover the cost of the Pay-On-Use labels. Your access to the Pay-On-Use program may be disabled immediately if Provider determines, in its sole discretion, that your account is delinquent or that you are misusing the Pay-On-Use program.

**Termination:** Even after your account is terminated (by you or Provider), you must still pay for any Pay-On-Use labels that are scanned before the labels' expiration dates.

## POSTAL POSTAGE ACCOUNT REQUIREMENTS

As noted elsewhere in these Terms, your ability to print USPS postage in ShipPenguin Carrier Services is facilitated by Provider's parent company, Stamps.com, an authorized PC Postage provider. Therefore, as a result of accepting these Terms, you are also entering into an Agreement with the United States Postal Service (USPS) in accordance with the Domestic Mail Manual (DMM) 604.4, Postage Payment Methods, Postage Meters and PC Postage Products (Postage Evidencing Systems or "PES"). You accept responsibility for control and use of your account and the PES printed therefrom.

You acknowledge that you have read the Domestic Mail Manual 604.4, Postage Payment Methods, Postage Meters and PC Postage Products (Postage Evidencing Systems) and agree to abide by all rules and regulations governing its use.

Failure to comply with the rules and regulations contained in the DMM or use of the PES in any fraudulent or unlawful scheme or enterprise may result in the revocation of this agreement.

You further acknowledge that any use of this PES that fraudulently deprives the USPS of revenue can cause you to be subject to civil and criminal penalties applicable to fraud and/or false claims against the United States. The submission of a false, fictitious or fraudulent statement can result in imprisonment of up to five (5) years and fines of up to \$10,000 (18

U.S.C. 1001). In addition, a civil penalty of up to \$5,000 and an additional assessment of twice the amount falsely claimed may be imposed (3 U.S.C. 3802).

You further understand that the rules and regulations regarding the use of this PES as documented in the DMM may be updated from time to time by the USPS and it is your obligation to remain up to date on the rules and regulations and to comply with any current and future rules and regulations regarding its use.

#### CARRIER TERMS

You agree to be bound by the terms and conditions of each carrier and partner accessed through the Provider platform, and must accept such terms and conditions prior to using such carrier's services. Please note that each carrier may change their terms and condition within their sole discretion, and we strongly suggest that you visit each carrier's website regularly, to familiarize yourself with each company's individual terms and conditions, as well as any potential changes, prior to using each service.