

Terms of Service Agreement

1. Acceptance of Terms.

1. PROMO POWER, LLC, dba. Shipmate Fulfillment, LLC. (“Shipmate Fulfillment”, “we” or “our”) provides its Service (as defined below) to you (“you”, “your” or “Vendor”) subject to this Terms of Service Agreement (“TOS”). By accepting this TOS or by accessing or using the Service, you acknowledge that you have read, understood, and agree to be bound by this TOS. If you are entering into this TOS on behalf of a company, business or other legal entity, you represent that you have the authority to bind such entity and its affiliates to this TOS, in which case the terms “you” or “your” shall refer to such entity and its affiliates. If you do not have such authority, or if you do not agree with this TOS, you must not accept this TOS and may not use the Service.
2. Shipmate Fulfillment may change this TOS from time to time by providing thirty (30) days prior notice either by emailing the email address associated with your account or by posting a notice on the its website at www.ShipmateFulfillment.com or on the Shipmate Fulfillment Platform (as defined below). You can review the most current version of this TOS at any time at <http://ShipmateFulfillment.com/terms/>. The revised terms and conditions will become effective thirty (30) days after we post or send you notice of such changes, and if you use the Service after that date, your use will constitute acceptance of the revised terms and conditions. If any change to this TOS is not acceptable to you, your only remedy is stop using the Service and send a cancellation email to support@ShipmateFulfillment.com.
3. As part of the registration process, you will identify an administrative user name and password for your account (“Account”). You may use the administrative user name and password to create standard users (each with a user password).

2. Description of Service.

The “Service” include, without limitation, (a) the receipt, storage, packaging, and shipment of physical goods sold by Vendor (the “Goods”) pursuant to orders provided by Vendor (the “Orders”), (b) Shipmate Fulfillment’s platform and associated technology, in object code format only, which is made available by Shipmate Fulfillment to you and, when technically feasible and when implemented by you and Shipmate

Fulfillment, is intended to permit you to, among other things, to receive Orders for Goods and fulfill such Orders via Shipmate Fulfillment's fulfillment centers, and (the "Shipmate Fulfillment Platform"), and (c) all data, reports, text, images, sounds, video, and content, including any offline reports, pricing matrices, or other content, made available through any of the foregoing (collectively referred to as the "Content"). The Shipmate Fulfillment Platform is powered by ShipHero, LLC and are subject to ShipHero's TOS. By agreeing to this TOS of Use or continuing to operate as a User on the Service, you agree to be bound by the ShipHero Agreement, as the same may be modified by ShipHero from time to time. Any new features added to or augmenting the Service are also subject to this TOS. Shipmate Fulfillment shall make commercially reasonable efforts to furnish all personnel, materials, equipment, supplies, and other ancillary accessories necessary to perform the Service.

3. General Conditions/Access and Use of the Service.

1. Subject to the terms and conditions of this TOS, you may access and use the Service only for lawful purposes. All rights, title and interest in and to the Service and its components will remain with and belong exclusively to Shipmate Fulfillment. You shall not (a) sublicense, resell, rent, lease, transfer, assign, time share or otherwise commercially exploit or make the Service available to any third party; (b) use the Service in any unlawful manner (including without limitation in violation of any data, privacy or export control laws) or in any manner that interferes with or disrupts the integrity or performance of the Service or its components, or (c) modify, adapt or hack the Service to, or otherwise attempt to gain unauthorized access to the Service or its related systems or networks. You shall comply with any codes of conduct, policies or other notices Shipmate Fulfillment provides you or publishes in connection with the Service, and you shall promptly notify Shipmate Fulfillment if you learn of a security breach related to the Service.
2. Any software that may be made available by Shipmate Fulfillment in connection with the Service ("Software"), including but not limited to the Shipmate Fulfillment Platform, contains proprietary and confidential information that is protected by applicable intellectual property and other laws. Subject to the terms and conditions of this TOS, Shipmate Fulfillment hereby grants you a non-transferable, non-sublicensable and non-exclusive right and license to use the object code of any Software on a single device solely in connection with the Service, provided that you shall not (and shall not allow any third party to) copy, modify, create a derivative work of, reverse

engineer, reverse assemble or otherwise attempt to discover any source code or sell, assign, sublicense or otherwise transfer any right in any Software. You agree not to access the Service by any means other than through the interface that is provided by Shipmate Fulfillment for use in accessing the Service. Any rights not expressly granted herein are reserved and no license or right to use any trademark of Shipmate Fulfillment or any third party is granted to you in connection with the Service.

3. You are solely responsible for all data, information, feedback, suggestions, text, content and other materials that you upload, post, deliver, provide or otherwise transmit or store (hereafter “Post(ing)”) in connection with or relating to the Service (“Your Content”). For every email sent outside of your organization via the Service, you acknowledge and agree that Shipmate Fulfillment shall have the right to automatically add an identifying footer in accordance with our standard policies then in effect. You agree to cooperate with and provide reasonable assistance to Shipmate Fulfillment in promoting and advertising the Service.
4. You are responsible for maintaining the confidentiality of your login, password and account and for all activities that occur under your login or account. Shipmate Fulfillment reserves the right to access your account in order to respond to your requests for technical support. By posting Your Content on or through the Service, you hereby do and shall grant Shipmate Fulfillment a worldwide, non-exclusive, perpetual, irrevocable, royalty-free, fully paid, sublicensable and transferable license to use, modify, reproduce, distribute, display, publish and perform Your Content in connection with the Service. Shipmate Fulfillment has the right, but not the obligation, to monitor the Service, Content, or Your Content. You further agree that Shipmate Fulfillment may remove or disable any Content at any time for any reason (including, but not limited to, upon receipt of claims or allegations from third parties or authorities relating to such Content), or for no reason at all.
5. You understand that the operation of the Service, including Your Content, may be unencrypted and involve (a) transmissions over various networks; (b) changes to conform and adapt to technical requirements of connecting networks or devices and (c) transmission to Shipmate Fulfillment’s third party vendors and hosting partners to provide the necessary hardware, software, networking, storage, and related technology required to operate and maintain the Service. Accordingly, you acknowledge that you bear sole responsibility for adequate security, protection and backup of Your Content. Shipmate Fulfillment will have no liability to you for

- any unauthorized access or use of any of Your Content, or any corruption, deletion, destruction or loss of any of Your Content.
6. You shall be responsible for obtaining and maintaining any equipment and ancillary services needed to connect to, access or otherwise use the Service, including, without limitation, modems, hardware, server, software, operating system, networking, web servers, long distance and local telephone service (collectively, "Equipment"). You shall be responsible for ensuring that such Equipment is compatible with the Service (and, to the extent applicable, the Software) and complies with all configurations and specifications set forth in Shipmate Fulfillment's published policies then in effect. You shall also be responsible for maintaining the security of the Equipment, your Account, passwords (including but not limited to administrative and user passwords) and files, and for all uses of your Account or the Equipment with or without your knowledge or consent.
 7. Under no circumstances, and at no time, during the Term or after, are you permitted to enter Shipmate Fulfillment's facilities, fulfillment centers, or premises without prior express notice. As your Goods may be commingled with the Goods of other vendors in Shipmate Fulfillment's facilities, under no circumstances, during the Term or after, may you access the Goods while the Goods are stored in Shipmate Fulfillment's facilities, without prior express consent of Shipmate Fulfillment.
 8. The failure of Shipmate Fulfillment to exercise or enforce any right or provision of this TOS shall not be a waiver of that right. You acknowledge that this TOS is a contract between you and Shipmate Fulfillment, even though it is electronic and is not physically signed by you and Shipmate Fulfillment, and it governs your use of the Service.
 9. Shipmate Fulfillment reserves the right to use your name and/or company name as a reference for marketing or promotional purposes on Shipmate Fulfillment's website and in other communication with existing or potential Shipmate Fulfillment customers. To decline Shipmate Fulfillment this right you need to email support@ShipmateFulfillment.com stating that you do not wish to be used as a reference.
 10. Subject to the terms hereof, Shipmate Fulfillment may (but has no obligation to) provide technical support services, through email in accordance with our standard practice.

4. Service Fees.

1. “Service Fees” are the fees for any Service and any third-party fees (including, but not limited to carrier fees, shipping fees, rates of duty, international brokerage charges, freight charges, insurance premiums, or other charges given during Vendor’s use of the Service).
2. Vendor shall pay the following Service Fees, including those described in Exhibit A:
 1. A \$35.00 initial receiving fee to inventory and store the Goods, but if receipt of the Goods takes more than one hour, then Vendor shall pay \$35.00 per additional hour for the remainder of the time required to inventory and store the Goods;
 2. A \$20.00 monthly pallet fee, or a \$12.00 monthly ½ pallet fee, or a \$5 monthly shelf fee, or a \$3 monthly large bin fee, or a \$2 monthly medium bin fee, or a \$1 monthly small bin fee, whichever is applicable, that shall be due for any whole or partial month, beginning on the date that inventory is delivered to Shipmate Fulfillment; and
 3. Fulfillment charges, which shall be calculated based on the final destination, dimensions of the final packaged shipment, and speed of shipment selected due weekly.
 4. Fragile & Large Products, including but not limited to furniture and large appliances, will carry an additional handling and packaging fee of \$5 per unit.
3. Based upon the dimensions and final destination of the final packaged shipment, Shipmate Fulfillment shall use its software to browse through the following carriers: United Parcel Service, Inc. (“UPS”), United States Postal Service (“USPS”), Federal Express (“FEDEX”), and DHL Express (“DHL”) (each, individually, a “Carrier,” and collectively, the “Carriers”), to find the lowest shipping rate for the most reliable shipping option for the desired speed.
4. Quotations for the Service and Service Fees are for informational purposes only, are subject to change without notice, and shall not under any circumstances be binding upon Shipmate Fulfillment. Quotations accepted through the Service’s online interface are estimates based on the information available at the time made. The final rates and Service Fees may vary based upon the shipment actually tendered, the work actually performed, or a number of factors such as carrier shipping prices, the actual characteristics of your product, the delivery address, and service requested during the normal course of delivery. Shipmate Fulfillment reserves the right to bill the Service Fees based on actual charges at any time after the Service is rendered. Shipmate Fulfillment specifically disclaims

liability for any shipping rate errors due to inaccurate or incomplete information, such as dimensions and weights.

5. Shipmate Fulfillment reserves the right to adjust its pricing in response to currency fluctuations, including but not limited to, currency conversation rate changes, conversion fee changes, and/or discount rate changes.
6. Vendor acknowledges that it is responsible for, and agrees to reimburse Shipmate Fulfillment for, all reversals, charge-backs, claims, fees, fines, penalties and other liability incurred by Shipmate Fulfillment (including costs and related expenses) that are caused by or arising out of payments that Vendor authorizes or accepts.
7. Vendor acknowledges and agrees that all fees, charges, and any other rates or amounts charged by Shipmate Fulfillment to you hereunder are exclusive of applicable value added, sales/use or inventory and service taxes (“Transaction Taxes”) which may be levied in connection with the supply by Shipmate Fulfillment of the Service to you. Where applicable, you shall pay all Transaction Taxes arising in respect of the Service Fees or other amounts charged to Shipmate Fulfillment by you.
8. All dollar amounts stated in this TOS and the website will be in US dollars unless otherwise specified.

5. Payment.

1. Payment processing Service for Users on the Service are provided by Intuit QuickBooks Payments and are subject to the Intuit QuickBooks Payments Agreement, which includes the Intuit QuickBooks Payments Terms of Service (collectively, the “Intuit QuickBooks Payments Agreement”). By agreeing to this TOS of Use or continuing to operate as a User on the Service, you agree to be bound by the Intuit QuickBooks Payments Agreement, as the same may be modified by Intuit QuickBooks from time to time. As a condition of the Shipmate Fulfillment enabling payment processing Service through Intuit QuickBooks Payments, you agree to provide Shipmate Fulfillment accurate and complete information about you and your business, and you authorize Shipmate Fulfillment to share it and transaction information related to your use of the payment processing Service provided by Intuit QuickBooks Payments.
2. As a general rule, Intuit QuickBooks will collect payment from a Vendor for Service Fees due on a daily, weekly or monthly basis depending on the account set-up; if necessary, payment may instead be collected at a later point. Please note that Shipmate Fulfillment cannot control any fees that may be charged to a Vendor

by his or her bank related to Intuit QuickBooks Payments' collection or disbursement of such payment, and Shipmate Fulfillment disclaims all liability in this regard.

3. When you use the Service, all charges for the Service and any additional fees payable to Shipmate Fulfillment will be withdrawn via ACH transfer from the bank account associated with your account during onboarding setup. You agree to pay Shipmate Fulfillment the amount that is specified in accordance with this TOS. If you dispute any charges you must let Shipmate Fulfillment know within thirty (30) days after the date that Shipmate Fulfillment invoices you.
4. Vendor agrees and acknowledges that Shipmate Fulfillment shall maintain a warehouseman's lien under the UCC for all Goods in Shipmate Fulfillment's possession, regardless of whether a specific receipt is issued by Shipmate Fulfillment, to cover all charges set forth in this Agreement. In the event Shipmate Fulfillment is required to exercise its lien, Vendor shall be responsible for all necessary and reasonable costs incurred by Shipmate Fulfillment including, but not limited to, reasonable attorney fees.

6. Insurance.

1. Vendor acknowledges that the Goods stored or warehoused by Shipmate Fulfillment are not insured against loss or damage by Shipmate Fulfillment, and Vendor shall be solely responsible for obtaining insurance coverage for the Goods. Vendor acknowledges that Shipmate Fulfillment has highly recommended that Vendor purchase business property insurance from a reputable insurance provider notwithstanding the value of the Goods, and Vendor represents and warrants that it has secured such insurance.
2. Vendor agrees that Shipmate Fulfillment's liability for any damage caused to the Goods shall be limited to the actual product value of the Goods, which shall be measured by the original purchase invoice from the manufacturer/supplier. Shipmate Fulfillment shall not be liable for any loss or damage to the Goods unless the loss or damage was directly caused by Shipmate Fulfillment's gross negligence or willful misconduct.
3. In the event of a lost or damaged order, Shipmate Fulfillment will file a claim with USPS, UPS or FedEx, if Vendor is shipping on Shipmate Fulfillment's account, for Goods valued at less than or equal to \$100.00. Shipmate Fulfillment MAY NOT file claims for Mail Innovation, DHL Global Mail, SurePost, SmartPost, USPS Media Mail, or USPS First Class Shipments, unless additional shipping insurance

is purchased. A credit will be applied on the next invoice for the amount the Carrier paid to Shipmate Fulfillment. If the Carrier denies the claim, Vendor agrees that under no circumstances will Shipmate Fulfillment be liable for more than \$100.00 per shipment.

7. Inbound Shipments.

1. Vendor represents and warrants to Shipmate Fulfillment that (a) it is the legal owner and/or has lawful possession of the Goods and has the sole legal right to store and thereafter direct the release and/or delivery of the Goods, (b) there are no potential health, safety or environmental hazards associated with the warehousing or fulfillment of the Goods tendered to Shipmate Fulfillment under this Agreement, and (c) the Goods do not contain any material that violates any federal, state and local law (collectively, "Laws"). If the Goods do not meet these standards, Vendor may incur additional fees from Shipmate Fulfillment, or Shipmate Fulfillment may reject the Goods. This may result in a delay and Vendor agrees that Shipmate Fulfillment shall not be liable for any loss or damage as a result of such delay.
2. Vendor shall provide Shipmate Fulfillment, in a digital format through the Shipmate Fulfillment dashboard, with bills of lading for the inventory of all inbound shipments of Goods prior to the shipment arriving to Shipmate Fulfillment's facility. All inbound shipments shall be properly labeled and clearly identify the units and quantities of carton, case, or master case. Vendor represents and warrants that the information set forth on any shipment or delivery document, including, without limitation, information as to count, weight, description and condition of the Goods, is accurate and complete and may be relied upon by Shipmate Fulfillment. If any inbound shipment is not labeled in accordance with this Agreement, a \$35.00 per hour fee will be charged to Vendor for the actual time spent by Shipmate Fulfillment counting the Goods. If the items in such shipment cannot be identified by Shipmate Fulfillment, they may be discarded and Shipmate Fulfillment assumes no responsibility for any associated losses. The warehouse receiving order shall be attached to the side of the box and the product name shall be clearly and conspicuously written on the outside of box.

8. Onboarding.

1. All inbound shipments must be received and inventoried before the Goods shall be shipped.
2. Upon receipt, Shipmate Fulfillment may, at its sole discretion, verify the quantity of the Goods and inspect for any visible structural damage. Vendor acknowledges and agrees that Shipmate Fulfillment has no obligation to verify the quantity, content, condition or quality of the Goods delivered to Shipmate Fulfillment for storage and/or delivery. Shipmate Fulfillment may, at its sole discretion, reject to store and/or deliver any Goods that it deems, in its sole discretion, to be improperly labeled or packaged or any Goods that contain any hazardous or illegal material.
3. If there are any outstanding or pending Orders that need to be fulfilled first, Vendor shall notify Shipmate Fulfillment of the number of Orders to be sent initially and the expected timeline of processing such Orders.
4. Upon actual receipt of the Goods, Vendor can expect a minimum of two business days for products to be inventoried at Shipmate Fulfillment's warehouse. After two business days, Vendor's Orders will begin to be processed and labeled, beginning with outstanding and pending Orders. Shipmate Fulfillment will plan to fulfill the number of orders which was communicated during onboarding every day. Additional time may be required for special kitting, picking or any alterations in regular process.
5. Shipmate Fulfillment shall thereafter process, package, and ship all Orders within one business day of actual receipt of the Order from Vendor provided that proper inventory amounts exist and there are no issues with the Order reported to Vendor. This provision shall not apply to Orders that are altered, Orders with low inventory items (less than 10 items in stock), held Orders and bulk Orders.
6. Vendor shall provide Shipmate Fulfillment with an expectation of the date to begin shipping products, which shall conform to the terms of this Agreement.
7. Vendor shall be solely responsible for the accuracy of any information provided to Shipmate Fulfillment and/or inputted onto Shipmate Fulfillment's website. Vendor agrees that Shipmate Fulfillment shall not be liable for any delay, loss, damage or costs as a result of any inaccurate information provided by Vendor to Shipmate Fulfillment or any information inputted incorrectly by Vendor onto Shipmate Fulfillment's website.

9. Kitting Services/Special Projects

1. Shipmate Fulfillment desires to accommodate your requests for Kitting Services or Special Projects. To this end, Shipmate

Fulfillment shall generally be available to perform Kitting Services or Special Projects where requested in writing by you. Shipmate Fulfillment may, at its sole discretion, decline to provide requested Kitting Services or Special Projects. The Kitting/Special Projects Fee (Per Unit) of \$0.35 shall apply where you request services under this section.

10. Shippable Addresses.

1. Vendor is solely responsible for the accuracy and deliverability of Order shipping addresses. Shipmate Fulfillment may, at its sole discretion, verify Order shipping addresses, but this is not a replacement for merchant address diligence and verification. Vendor agrees and acknowledges that Shipmate Fulfillment has no obligation to verify any shipping addresses by Vendor.
2. If Shipmate Fulfillment provides an Order shipping estimate on the basis of an address later discovered to be inaccurate or incomplete, Vendor is solely responsible for any applicable address correction fees, any difference in shipping cost or for any other costs or fees due to the incomplete or inaccurate address. Examples of discrepancies for which Vendor may be responsible include, but are not limited to, incomplete addresses, commercial/residential address status, and rural address status.

11. International Shipping.

Vendor agrees that Shipmate Fulfillment shall not be liable for any delay, loss or damage as a result of any Goods shipped internationally. Shipmate Fulfillment shall not provide any refunds for or guarantee any international shipments. Shipmate Fulfillment recommends that Vendor track and insure all international shipments. IT IS VENDOR'S SOLE RESPONSIBILITY TO PROTECT ITSELF FROM INTERNATIONAL FRAUD. IT IS VENDOR'S SOLE RESPONSIBILITY TO PAY ALL FEES RELATED TO ORDERS WHETHER THE ORDER IS FRAUDULENT OR THE PRODUCT IS DELIVERED OR NOT.

12. International Returns.

Shipments that are not delivered are often returned by the Carrier and assessed return shipping, brokerage, and returns processing carrier fees. These fees assessed by the Carriers are billed through to merchants, often

without notice. Shipmate Fulfillment strives to work with Vendors to circumvent International returns or abandoned inventory at the Vendor's request; however, this is done on a best efforts basis and Shipmate Fulfillment reserves the right to access fees to the value of the original shipping cost.

13. International CDT.

Customs, Duties and Taxes ("CDT") on any international shipment charged by the Carrier are the responsibility of the Vendor and will be charged back to the Vendor regardless of whether they were or were not in the initial shipping estimate, or whether the order was or was not delivered.

14. Returns.

All returned units will be assessed a return processing fee of \$2.50 (Per Unit.) Such processing shall include opening each Return, taking a digital picture of the contents, sending said digital picture to you, and checking Goods back into inventory where requested by you. Returned shipments will be returned to Shipmate Fulfillment, unless otherwise specified. If the returned shipment is requested to be shipped to a new location, the shipment will be treated as a new shipment and will incur standard shipping charges. Vendor shall be solely responsible for any fees assessed by any Carrier as a result of any shipments of Goods that are returned to Shipmate Fulfillment by the Carrier for any reason whatsoever.

15. Required Removals.

Shipmate Fulfillment may, at its sole discretion, require that Vendor remove unsuitable or unsellable Goods from its distribution centers. Shipmate Fulfillment will notify Vendor if it has any inventory that requires removal. If Vendor does not remove the inventory within 30 days of receiving a required removal notice, Shipmate Fulfillment may dispose of the inventory listed in the required removal notice. Vendor is responsible for any related fees. Unsellable inventory is not in sellable condition.

16. Abandoned Account.

If Vendor's Service Fees remain unpaid for a period greater than 30 days, then Shipmate Fulfillment reserves the right, at its sole discretion, to

reclassify Vendor's Account as an "Abandoned Account." Additionally, any Account that remains unpaid for greater than 60 days will automatically be deemed an Abandoned Account. Upon an Account becoming an Abandoned Account, all rights to ownership of the Account Balance and Inventory would then immediately be forfeited by Vendor. Inventory will become immediately and irrevocably unavailable to Vendor, and liquidation proceedings would begin. Vendor agrees the inventory would be free and clear of liability, and that Vendor would assume any liability therefore. Vendor would have no rights to the liquidation proceeds. Vendor would also remain liable for any pending Service Fees above and beyond the liquidation proceeds.

17. Vendor Data.

1. Vendor retains all right, title and interest in and to the Vendor Data, other than the limited rights expressly granted in this Section 13. For purposes of this Agreement, "Vendor Data" means any and all information collected and/or stored by or on behalf of Shipmate Fulfillment in connection with Vendor's use of the Services, excluding data and information relating to the operation and/or performance of the Shipmate Fulfillment Platform.
2. Nothing shall be construed to restrict, impair, encumber, alter, deprive or adversely affect the Vendor Data, or any of Vendor's rights or interests therein. Vendor hereby grants Shipmate Fulfillment the non-exclusive right and license to (a) copy, use, modify, distribute, display and disclose Vendor Data solely to the extent necessary to provide the Service to Vendor pursuant to the TOS, (b) copy, modify and use Vendor Data in connection with internal operations and functions, including, but not limited to, operational analytics and reporting, internal financial reporting and analysis, audit functions and archival purposes and (c) copy, use, modify, distribute, display and disclose Vendor Data on an aggregate and anonymized basis for marketing purposes.

18. Force Majeure.

Shipmate Fulfillment shall not be liable for any delays or inability to perform the Shipmate Fulfillment Service caused by forces beyond Shipmate Fulfillment's control including, without limitation, acts of God or act of third-party service providers including but not limited to carriers and postage systems. When Inventory is ordered out, in the case of acts of God, war, terrorism, public enemies, seizure under legal process, strikes,

lockouts, riots and civil commotions, or any reason beyond Shipmate Fulfillment's control, or because of loss or destruction of Inventory for which Shipmate Fulfillment is not liable, or because of any other excuse provided by law, Shipmate Fulfillment shall not be liable for failure to carry out such instructions and Inventory remaining in storage will continue to be subject to regular storage charges. If Shipmate Fulfillment has exercised reasonable care and is unable, due to causes beyond its control, to affect delivery before expiration of the current storage period, the Inventory will be subject to storage charges for each succeeding storage period.

19. Representations and Warranties.

You represent and warrant to Shipmate Fulfillment that (i) you have full power and authority to enter into this TOS; (ii) you own all Your Content or have obtained all permissions, releases, rights or licenses required to engage in your posting and other activities (and allow Shipmate Fulfillment to perform its obligations) in connection with the Service without obtaining any further releases or consents; (iii) Your Content and other activities in connection with the Service, and Shipmate Fulfillment's exercise of all rights and license granted by you herein, do not and will not violate, infringe, or misappropriate any third party's copyright, trademark, right of privacy or publicity, or other personal or proprietary right, nor does Your Content contain any matter that is defamatory, obscene, unlawful, threatening, abusive, tortious, offensive or harassing; and (iv) you are eighteen (18) years of age or older.

20. Termination.

You have the right to terminate your account at any time, provided you do not have a balance on your account (other than any amounts subject to a good faith dispute) by sending a cancellation request to support@ShipmateFulfillment.com. Subject to earlier termination as provided below, Shipmate Fulfillment may terminate your Account and this TOS at any time by providing thirty (30) days prior notice to the administrative email address associated with your Account. In addition to any other remedies we may have, Shipmate Fulfillment may also terminate this TOS upon thirty (30) days' notice (or ten (10) days in the case of nonpayment), if you breach any of the terms or conditions of this TOS. Shipmate Fulfillment reserves the right to modify or discontinue, temporarily or permanently, the Service (or any part thereof). All of Your Content on the Service (if any) may be permanently deleted by Shipmate Fulfillment upon any termination of your account in its sole discretion.

However, all accrued rights to payment and the terms of Section 4-13 shall survive termination of this TOS.

Upon termination of this TOS as described above, Shipmate Fulfillment shall, within five (5) Normal Business Days of such termination, provide you with a final invoice for all amounts owing under this TOS plus the amount Shipmate Fulfillment estimates will be charged to place any remaining Goods on Pallets and to ship the same to you; you shall pay such final invoice within three (3) Normal Business Days of receiving the same. Within three (3) Normal Business Days of receiving full payment for the final invoice, Shipmate Fulfillment shall commence preparing up to twenty (20) pallets of Goods per Normal Business Day for shipment to you. You shall then arrange for a freight trucking company to retrieve such Goods within three (3) days of such time the Goods are made available for shipment.

21. DISCLAIMER OF WARRANTIES.

The Service may be temporarily unavailable for scheduled maintenance or for unscheduled emergency maintenance, either by Shipmate Fulfillment or by third-party providers, or because of other causes beyond our reasonable control, but Shipmate Fulfillment shall use reasonable efforts to provide advance notice in writing or by email of any scheduled service disruption. HOWEVER, THE SERVICE, INCLUDING THE SHIPMATE FULFILLMENT PLATFORM AND CONTENT, AND ALL SERVER AND NETWORK COMPONENTS ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS WITHOUT ANY WARRANTIES OF ANY KIND, AND COMPANY EXPRESSLY DISCLAIMS ANY AND ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. YOU ACKNOWLEDGE THAT COMPANY DOES NOT WARRANT THAT THE SERVICE WILL BE UNINTERRUPTED, TIMELY, SECURE, ERROR-FREE OR VIRUS-FREE, NOR DOES IT MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE SERVICE, AND NO INFORMATION, ADVICE OR SERVICE OBTAINED BY YOU FROM COMPANY OR THROUGH THE SERVICE SHALL CREATE ANY WARRANTY NOT EXPRESSLY STATED IN THIS TOS.

1. Shipmate Fulfillment is not the importer of record for Inventory stored at Shipmate Fulfillment. Shipmate Fulfillment shall not be held liable for complying with your instructions through the Shipmate Fulfillment Service. You understand that Shipmate

Fulfillment does not inspect your Inventory nor does Shipmate Fulfillment take responsibility for the business decisions that you make and implement through the Shipmate Fulfillment Service. For example, Shipmate Fulfillment cannot control or ensure that a buyer or seller with whom you do business will remit payment for Inventory in accordance with your agreement with them. For purposes of clarity, Shipmate Fulfillment is not the Merchant of Record for any of your Inventory. Shipmate Fulfillment is not responsible for items damaged during the pick and pack process or for breakage of items during transit that have been picked and packed by Shipmate Fulfillment.

22. LIMITATION OF LIABILITY.

1. UNDER NO CIRCUMSTANCES AND UNDER NO LEGAL THEORY (WHETHER IN CONTRACT, TORT, OR OTHERWISE) SHALL COMPANY BE LIABLE TO YOU OR ANY THIRD PARTY FOR (A) ANY INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, CONSEQUENTIAL OR PUNITIVE DAMAGES, INCLUDING LOST PROFITS, LOST SALES OR BUSINESS, LOST DATA, OR (B) FOR ANY DIRECT DAMAGES, COSTS, LOSSES OR LIABILITIES IN EXCESS OF THE FEES ACTUALLY PAID BY YOU IN THE SIX (6) MONTHS PRECEDING THE EVENT GIVING RISE TO YOUR CLAIM OR, IF NO FEES APPLY, ONE HUNDRED (\$100) U.S. DOLLARS. THE PROVISIONS OF THIS SECTION ALLOCATE THE RISKS UNDER THIS TOS BETWEEN THE PARTIES, AND THE PARTIES HAVE RELIED ON THESE LIMITATIONS IN DETERMINING WHETHER TO ENTER INTO THIS TOS.
2. Some states do not allow the exclusion of implied warranties or limitation of liability for incidental or consequential damages, which means that some of the above limitations may not apply to you. IN THESE STATES, COMPANY'S LIABILITY WILL BE LIMITED TO THE GREATEST EXTENT PERMITTED BY LAW. [Form, § 8.2]
3. Damage or Loss of Inventory. INVENTORY INSURANCE IS AVAILABLE. IN THE EVENT OF LOSS, DAMAGE OR DESTRUCTION OF INVENTORY ("INVENTORY LOSS") FOR WHICH SHIPMATE FULFILLMENT IS LEGALLY LIABLE, YOU DECLARE THAT SHIPMATE FULFILLMENT'S LIABILITY SHALL BE LIMITED \$50 PER POUND FOR SAID LOST, DAMAGED, AND/OR DESTROYED INVENTORY. PROVIDED, HOWEVER THAT WITHIN A REASONABLE TIME AFTER INVENTORY IS RECEIVED, YOU MUST ADD INVENTORY INSURANCE ON PART OR ALL OF THE INVENTORY IN WHICH CASE AN INCREASED CHARGE WILL BE MADE BASED UPON SUCH INCREASED COVERAGE; FURTHER PROVIDED THAT NO SUCH

COVERAGE SHALL BE VALID UNLESS PAID FOR BEFORE LOSS, DAMAGE OR DESTRUCTION TO ANY PORTION OF THE INVENTORY HAS OCCURRED. IN NO EVENT SHALL SHIPMATE FULFILLMENT BE LIABLE FOR ANY LOST SALES REVENUE FROM INVENTORY LOSS. SHIPMATE FULFILLMENT'S MAXIMUM LIABILITY FOR INVENTORY LOSS WILL BE CAPPED AT 5% OF THE TOTAL PRODUCT VALUE OR ONE MONTH OF THE AVERAGE BILLABLE STORAGE, WHICHEVER IS LOWER ("INVENTORY DAMAGES CAP"). FOR GREATER COVERAGE, YOU MUST ADD INVENTORY INSURANCE IN YOUR ACCOUNT SETTINGS ON THE INVENTORY THAT YOU WISH COVERED BY INSURANCE, IN WHICH CASE AN INCREASED CHARGE WILL BE MADE BASED UPON SUCH INCREASED COVERAGE; FURTHER PROVIDED THAT NO SUCH COVERAGE SHALL BE VALID UNLESS PAID FOR BEFORE LOSS, DAMAGE OR DESTRUCTION TO ANY PORTION OF THE INVENTORY HAS OCCURRED.

4. Inventory Count Inaccuracies. IN THE EVENT OF INVENTORY LOSS DUE TO INVENTORY COUNT INACCURACIES, INACCURATE INVENTORY COUNTS DURING RECEIVING OR INVENTORY COUNT INACCURACIES AT ANY TIME THAT SHIPMATE FULFILLMENT IS IN POSSESSION OF INVENTORY FOR WHICH THE CLAUSES ABOVE ARE DETERMINED TO BE INAPPLICABLE AND SHIPMATE FULFILLMENT IS HELD LEGALLY LIABLE, YOU AGREE THAT IT WILL BE CONSIDERED AN "INVENTORY LOSS" AND SHIPMATE FULFILLMENT'S LIABILITY SHALL BE LIMITED AS STATED IN 21.3. ABOVE. IN NO EVENT SHALL SHIPMATE FULFILLMENT BE LIABLE FOR ANY LOST SALES REVENUE FROM THE INVENTORY LOSS DUE TO INVENTORY COUNT INACCURACIES.
5. Exclusive Remedy. SHIPMATE FULFILLMENT'S LIABILITY REFERRED TO IN THIS SECTION SHALL BE YOUR EXCLUSIVE REMEDY AGAINST SHIPMATE FULFILLMENT FOR ANY CLAIM OR CAUSE OF ACTION WHATSOEVER RELATING TO LOSS, DAMAGE AND/OR DESTRUCTION OF INVENTORY AND SHALL APPLY TO ALL CLAIMS INCLUDING INVENTORY SHORTAGE AND MYSTERIOUS DISAPPEARANCE CLAIMS UNLESS YOU PROVE BY AFFIRMATIVE EVIDENCE THAT SHIPWIRE CONVERTED THE INVENTORY TO ITS OWN USE. YOU WAIVE ANY RIGHTS TO RELY UPON ANY PRESUMPTION OF CONVERSION IMPOSED BY LAW.

23. Indemnification.

You shall defend, indemnify, and hold harmless Shipmate Fulfillment from and against any claims, actions or demands, including without limitation reasonable legal and accounting fees, arising or resulting from your breach of this TOS, any of Your Content, or your other access, contribution to, use or misuse of the Service. Shipmate Fulfillment shall provide notice to you of any such claim, suit or demand. Shipmate Fulfillment reserves the right to assume the exclusive defense and control of any matter which is subject to indemnification under this section. In such case, you agree to cooperate with any reasonable requests assisting Shipmate Fulfillment's defense of such matter.

24. U.S. Government Matters.

You may not remove or export from the United States or allow the export or re-export of the Service or anything related thereto, or any direct product thereof in violation of any restrictions, laws or regulations of the United States Department of Commerce, the United States Department of Treasury Office of Foreign Assets Control, or any other United States or foreign agency or authority. As defined in FAR section 2.101, the software and documentation installed by Shipmate Fulfillment on your Equipment (if applicable) are "commercial items" and according to DFAR section 252.227 7014(a)(1) and (5) are deemed to be "commercial computer software" and "commercial computer software documentation." Consistent with DFAR section 227.7202 and FAR section 12.212, any use modification, reproduction, release, performance, display, or disclosure of such commercial software or commercial software documentation by the U.S. Government will be governed solely by the terms of this TOS and will be prohibited except to the extent expressly permitted by the terms of this TOS.

25. Assignment.

You may not assign this TOS without the prior written consent of Shipmate Fulfillment, but Shipmate Fulfillment may assign or transfer this TOS, in whole or in part, without restriction.

26. Miscellaneous.

If any provision of this TOS is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary

so that this TOS will otherwise remain in full force and effect and enforceable. Both parties agree that this TOS, together with any attachments, addendums or service orders, is the complete and exclusive statement of the mutual understanding of the parties and supersedes and cancels all previous written and oral agreements, communications and other understandings relating to the subject matter of this TOS, and that all waivers and modifications must be in a writing signed by both parties, except as otherwise provided herein. No agency, partnership, joint venture, or employment is created as a result of this TOS and you do not have any authority of any kind to bind Shipmate Fulfillment in any respect whatsoever. In any action or proceeding to enforce rights under this TOS, the prevailing party will be entitled to recover costs and attorneys' fees. All notices under this TOS will be in writing and will be deemed to have been duly given when received, if personally delivered; when receipt is electronically confirmed, if transmitted by facsimile or email; the day after it is sent, if sent for next day delivery by recognized overnight delivery service; and upon receipt, if sent by certified or registered mail, return receipt requested.

27. Governing Law.

This TOS shall be governed by the laws of the State of Pennsylvania without regard to the principles of conflicts of law. Unless otherwise elected by Shipmate Fulfillment in a particular instance, you hereby expressly agree to submit to the exclusive personal jurisdiction of the courts of the State of Pennsylvania and of the United States of America located in Philadelphia, Pennsylvania for the purpose of resolving any dispute relating to your access to or use of the Service.

Acceptable Products and Use Policy

The following is the policy of Shipmate Fulfillment ("we", "us" or "our") regarding products for which we will provide fulfillment services ("Product Policy"). We reserve the right to change the Product Policy at any time. The current version of this Product Policy will be on our website <http://shipmatefulfillment.com/terms/> and any revised Product Policy will be effective as of the date posted. By continuing to use the Services after a revised version of the Product Policy has been posted, you agree to comply with the latest version of the Product Policy. This Product Policy forms part of our Terms and Conditions ("TOS").

You agree to use our fulfillment services ("Services") according to this Product Policy and in compliance with all applicable laws and regulations.

The following products are prohibited:

Child exploitation: Products that exploit or abuse children, including, but not limited to, images or depictions of child abuse or sexual abuse, or that present children in a sexual manner.

Hateful content: Products that promote violence against people based on race, ethnicity, color, national origin, religion, age, gender, sexual orientation, disability, medical condition or veteran status.

Illegal activities: Products that contravene or that facilitate or promote activities that contravene, the laws or regulations of the jurisdictions in which you operate or do business or to which your product is to be shipped.

Intellectual property: Products that infringe on the patent, copyright, trademark, or other intellectual property right of others.

Malware: Products which contain or which are intended to transmit viruses or other malware or which are designed or intended to illegally or in an unauthorized manner gain entry to, harm or disrupt the data or operation of our or a third party's computing devices, networks, systems, infrastructure, or the like.

Requiring Enhanced Security: Products that require enhanced security such as jewelry, watches, precious metals and stones.

Personal information: Products that contain personally identifiable information, or confidential information, such as, but not limited to, credit card numbers, confidential national ID numbers, account passwords, medical records, employment records, or the like, unless you have prior written consent from the person to whom the information belongs or who is otherwise authorized to provide such consent.

Restricted items: Products that are, or appear to be, restricted by law or regulation.

Self-harm: Products that promote self-harm.

Terrorist organizations: Products that imply or promote support or funding of, or membership in, a terrorist organization.

Dangerous, Hazardous, and Other Restricted Goods: Products that are dangerous to store, handle, and/or ship. We reserve the right to restrict Goods including but not limited to:

1. Alcoholic beverages (e.g., beer, wine, spirits).
2. Collectible and/or irreplaceable items (any item worth more than its original purchase price or that is not commonly available), including but not limited to antiques, fine art, or collectible coins and stamps.
3. Bullion.
4. Human corpses, human organs or body parts, human and animal embryos, or cremated or disinterred human remains.
5. Explosives and incendiary devices.
6. Firearms, weaponry, and their parts or ammunition.
7. Perishable foodstuffs and foods/beverages requiring refrigeration or other environmental control.
8. Live animals, eggs, larva, live insects, live spiders.

9. Ivory and endangered animals.
10. Plants and plant material, including cut flowers.
11. Cigarettes (including roll-your-own tobacco) and smokeless tobacco products, as defined by applicable Postal Service regulations for domestic or international mail.
12. Lottery tickets and gambling devices where prohibited by local, state, provincial, or national law.
13. Money (coins, cash, currency, paper money and negotiable instruments equivalent to cash such as endorsed stocks, bonds and cash letters).
14. Pornographic and/or obscene material.
15. Shipments being processed under:
 - a. Duty drawback claims.
 - b. Temporary Import Bonds.
 - c. U.S. State Department licenses.
 - d. Carnets.
 - e. U.S. Drug Enforcement Administration export permit.
 - f. Shipments destined to or being withdrawn from a Foreign Trade Zone.
 - g. Letters of Credit.
 - h. Certificate of Registration shipments (CF4455).
 - i. Shipments moving into or out of Foreign Trade Zones or bonded warehouses.
16. Shipments requiring filing of Electronic Export Information, or EEI (formerly known as Shipper's Export Declaration, or SED), or any such filing of export data.
17. Hazardous waste, including, but not limited to, used hypodermic needles or syringes or other medical waste.
18. Shipments that may cause damage to, or delay of, equipment, personnel, or other shipments.
19. Shipments that require us to obtain any special license or permit for transportation, importation or exportation.
20. Shipments or commodities whose carriage, importation or exportation is prohibited by any law, statute or regulation.
21. Shipments with a declared value for customs in excess of that permitted for a specific destination.
22. Dangerous goods, hazardous goods or combustible materials as defined by International Air Transport Association, by applicable sea or road transport regulation, or by applicable Postal Service regulations for domestic or international mail, including but not limited to:
 - a. Asbestos.
 - b. Category A infectious substances.
 - c. Compressed gases, including those that are flammable or those that are nonflammable with an absolute pressure exceeding 40 psi at 70° F or 104 psi at 130° F.
 - d. Corrosives (liquid or solid).
 - e. Dry ice (carbon dioxide solid).
 - f. Flammable materials, including pyrophoric, flammable, or combustible liquids with a closed cup flash point below 200° F; or flammable solids, including matches.
 - g. Magnetized material with a magnetic field strength of .002 gauss or more at a distance of 7 feet.
 - h. Poisons, irritants, or controlled substances.
 - i. Oxidizers.
 - j. Lithium Batteries
23. Processed or unprocessed dead animals, including insects and pets.
24. Drugs/narcotics (illegal) or drug paraphernalia.
25. Packages that are wet, leaking, or emit an odor of any kind.
26. Wildlife products that require U.S. Fish and Wildlife Service export clearance prior to exportation from the U.S.

We may, at any time and without notice, remove any products, and suspend or terminate your account or your access to the Services if you engage in activities that violate the letter or spirit of this Product Policy, including activities outside of your use of the Services.



We have the right, but not the obligation, to monitor or investigate any products and your use of our Services at any time for compliance with this Product Policy and our Terms of Service Agreement, or any other agreement between you and us governing your use of the Services. Our determination of whether a violation of this Product Policy has occurred will be final and binding, and any action taken with respect to enforcing this Product Policy, including taking no action at all, will be at our sole discretion.

If you become aware of any product for which we provide our Services that violates this Product Policy, please contact us at support@ShipmateFulfillment.com so that we can review the product, though we are not obliged to take any action on a given product.