

**GENERAL TERMS AND CONDITIONS**  
**UPPSIGTC03-0619**

The provision of all consulting and professional services and products by UPS Professional Services, Inc. (“UPS-PSI”) is governed by the Client Agreement entered between UPS-PSI and the customer identified thereon (“Client”), which includes without limitation these General Terms and Conditions (the “General Terms”), any Applicable Terms and Conditions, all Order Forms entered between UPS-PSI and Client, the Jurisdiction-Specific Terms Appendix as applicable, and all schedules, exhibits, and addenda to any of the foregoing (all of the foregoing, collectively, the “Client Agreement”). These General Terms are hereby incorporated into and made subject to the Client Agreement entered between UPS-PSI and Client. Capitalized terms used herein but not defined have the meaning ascribed to such terms in the Client Agreement.

**1. Definitions.**

“Affiliate” means an entity or entities directly or indirectly controlling, controlled by, or under common control with a party to the Client Agreement. The term “control” as used in the immediately preceding sentence means the right to exercise, directly or indirectly, more than fifty percent (50%) of the voting rights attributable to the shares, partnership interests, membership shares, or similar evidences of ownership of such controlled entity.

“Applicable Law” means any applicable law (including those arising under common law), statute, regulation, rule, or any ruling of a court or other body of competent jurisdiction, reporting or licensing requirement, ordinance and other pronouncement having the effect of law of the United States, any foreign country, or any domestic or foreign state, county, city, or other political subdivision, including that promulgated, interpreted, or enforced by any governmental or regulatory authority.

“Deliverables” means all work produced or otherwise provided by UPS-PSI under the terms of the Client Agreement, whether preliminary or final, whether identified on an Order Form or not, and on whatever media rendered, including, without limitation, all inventions, custom software (including any object or source code related thereto), works of authorship, any accompanying documentation, user manuals, instructions or specifications provided by UPS-PSI in connection therewith, releases, creations, updates, expressions, improvements, enhancements, modifications, formulas, product development plans, solutions, research, patterns, devices, methods, drawings, schematics, processes, versions, specifications, objects, tools, operating instructions, and documentation, whether patentable or unpatentable, which are first conceived or made or first actually or constructively reduced to practice pursuant to the Client Agreement. For clarity, Deliverables shall not include any commercially available software of UPS-PSI, its Affiliates or any third party, or any improvements, modifications, or documentation related thereto.

“Documentation” means any written or electronic descriptions, instructions, or other documentation describing the operation or functionality of the Products and Services that UPS PSI makes available to Client.

**2. Services Terms**

a. Scope of Services. The scope of services (the “Services”) to be performed by UPS-PSI will be mutually agreed to and set forth on an Order Form signed by both parties. Client agrees to purchase and UPS-PSI agrees to provide the Services described in the Order Form, subject to Client’s payment of the required fees. In the event Client desires to modify the scope of the Services after the parties have executed the Order Form and UPS-PSI determines that such modifications would require services materially in excess of the Services or in addition to its obligations under these General Terms or an Order Form, or extend the time needed to complete the Services, UPS-PSI will be under no obligation to perform such modified services unless both parties execute an amended Order Form.

b. Time Limitation. UPS-PSI reserves the right to withdraw any proposed Order Form and redefine the description of Services and fees set forth thereupon if such Order Form has not been executed by Client within thirty (30) days after the date the applicable Order Form is first delivered to Client. Client agrees that fees or costs identified in an Order Form as estimates are provided as a convenience only and will not be binding.

c. Rates and Expenses. Client agrees to pay UPS-PSI for all time incurred by UPS-PSI in connection with the performance of Services pursuant to these General Terms on a time and materials basis at UPS-PSI’s hourly billing rates in effect as of the date the applicable Order Form is executed by UPS-PSI, or as otherwise agreed in an executed Order Form. Client further agrees to reimburse UPS-PSI for all reasonable expenses incurred by UPS-PSI in connection with the performance of Services pursuant to these General Terms, including, without limitation, all travel expenses (including transportation, meals, lodging, relocation, and all other travel-related expenses), technical support expenses, telephone and facsimile expenses, computer usage, and document preparation and reporting expenses.

d. Cooperation. Client agrees to cooperate with UPS-PSI’s performance of the Services. Client further agrees to take any and all actions necessary to enable UPS-PSI to perform the Services in an effective and efficient manner.

e. Place of Performance. The Services may be rendered at Client's facilities, UPS-PSI's facilities, or at other suitable locations mutually agreed by UPS-PSI and Client.

f. Ownership of Deliverables and License. All Deliverables developed or otherwise provided by UPS-PSI under any Order Form will be the sole property of UPS-PSI or its third party licensors. Except as provided in Section 6 below, UPS-PSI grants a perpetual, nonexclusive, nontransferable, royalty free license to Client to use (but not modify) the Deliverables for Client's internal business purposes. Client agrees that it has no right, title, or interest to the Deliverables other than the license rights described in this Section 2(f). In consideration of the mutual promises contained in these General Terms, and to the extent that Client is determined to have any interest in a Deliverable (other than the rights granted to Client in this Section 2(f) by operation of law or otherwise, Client hereby irrevocably transfers and assigns and agrees to transfer and assign to UPS-PSI as UPS-PSI's exclusive property, all worldwide right, title, and interest in and to the patent rights, copyrights, trade secrets, and other proprietary rights (including, without limitation, applications for registration thereof, and all priority rights therein under applicable international conventions for the protection of such rights) in, and ownership of such Deliverables that Client may have, as and when such rights arise. Client will cooperate fully in (a) vesting in UPS-PSI the ownership of the proprietary rights to the Deliverables, and (b) assisting UPS-PSI in obtaining patent, copyright, or any other intellectual property rights in the Deliverables and in maintaining and protecting UPS-PSI's proprietary rights, including, without limitation, executing any documents which UPS-PSI reasonably deems necessary for such purpose. In the event that any right, title, or interest in such Deliverables cannot be transferred or assigned to UPS-PSI under Applicable Law, Client (i) waives and will not assert such rights and (ii) will ensure that its employees and contractors similarly waive and will not assert such rights. Client will keep the Deliverables free from any liens, claims, or encumbrances, attachments, rights of others and legal processes of Client's creditors or any other third party.

g. Required Consents. Client will promptly obtain all Required Consents necessary for UPS-PSI to provide the Services, and provide evidence of the same to UPS-PSI where reasonable or necessary. Client will indemnify, defend, and hold UPS-PSI, its Affiliates, and subcontractors, harmless from and against any and all claims, losses, liabilities, and damages (including reasonable attorneys' fees and costs) arising from or in connection with any claims (including patent, copyright, or any other intellectual property infringement) made against UPS-PSI, alleged to have occurred as a result of Client's failure to provide any Required Consents. UPS-PSI will be relieved of the performance of any obligations to the extent such obligations would reasonably be expected to be affected, or are affected, by Client's failure to promptly obtain and provide any Required Consents to UPS-PSI. The term "Required Consents" means any third party or governmental consents, approvals, permits, or other authorizations required to give UPS-PSI the right or license to the extent necessary for the performance of Services to access and use the premises, hardware, software, firmware, and other products that Client uses, as well as any data or information associated therewith, without infringing any contractual obligations, confidentiality terms, ownership, license, patent rights, copyrights, trademarks, trade secrets, and other intellectual property or proprietary rights of the providers or owners of the foregoing.

**3. Fees and Payment; Taxes.** UPS-PSI's invoices for fees and expenses will be due and payable in full upon receipt by Client. All such fees will be fully earned when due and nonrefundable when paid. Invoices not paid within thirty (30) days from the invoice date will bear interest from the invoice date until paid at a rate of one and one-half percent (1.5%) per month or the maximum rate permitted by Applicable Law, whichever is less. All payments by Client to UPS-PSI hereunder for fees and expenses will be net of any sales or services tax, VAT, or any other tax of any kind whatsoever imposed by a governmental authority with respect to the services rendered, products provided, or expenses incurred under the Client Agreement (other than a tax imposed upon the income or profits of UPS-PSI), and Client agrees to pay any such tax whenever such tax is imposed by a governmental authority and to reimburse UPS-PSI for any future payments of such tax made by UPS-PSI to a governmental authority. Time is of the essence for all payments under this Client Agreement, and in the event any payment due UPS-PSI is collected at law or through an attorney-at-law, or under advice therefrom, or through a collection agency, Client agrees to pay all costs of collection, including, without limitation, all court costs and reasonable attorneys' fees.

**4. Term and Termination.** This Client Agreement will remain in effect until all Applicable Terms and Conditions, and all applicable Order Forms, have expired or have been terminated in accordance with the General Terms. Any Order Form may be terminated individually in accordance with the Applicable Terms and Conditions applicable to the identified UPS-PSI Solution. Either party may, at its election, upon thirty (30) days prior written notice, terminate the Client Agreement; provided, however, that the termination of the Client Agreement will not affect in any way any right or claim of any party hereto incurred or accruing prior to the date of termination, including without limitation, any right or claim of UPS-PSI for compensation payable for Services rendered or reimbursable expenses incurred prior to such termination date.

**5. Confidentiality.** Each party (the "Receiving Party") agrees to treat as confidential and not disclose to others (except as permitted in this Section 5) any information, data, or know-how (including, but not limited to, that which relates to software, computer codes or instructions, developments, inventions, processes, designs, drawings, engineering, hardware configurations, research, statistics, business plans, product plans, products, services, customers or prospective customers, contractors, licensors, suppliers, markets, marketing, finances, and any other systems or materials that have not been made available to the general

public) that is revealed, either orally or in writing, to the Receiving Party by the other party or its Affiliates (the “Disclosing Party”) or the Disclosing Party’s designated subcontractor that (a) is marked as “Confidential”, “Proprietary”, or “Restricted” or other similar term, (b) if disclosed orally, has been confirmed in writing as confidential within ten (10) days of disclosure, or (c) the nature of the information is such that a reasonable person would consider the information to be confidential or proprietary (collectively, “Confidential Information”). Without limiting the generality of the foregoing sentence, UPS-PSI’s Confidential Information includes, without limitation, information containing, based upon, or related to the Deliverables, Hardware, Local Software, Hosted Services, trade secrets, know-how, work product, processes, analysis, techniques, ideas, concepts and any information that has been disclosed to UPS-PSI or its Affiliates by a third party that UPS-PSI (or its Affiliates) is obligated to treat as confidential or secret. The Receiving Party will not use any Confidential Information of the Disclosing Party for any purpose of its own, other than in its performance under the Client Agreement, and will not commercialize any of the Disclosing Party’s Confidential Information. The Receiving Party will restrict access to the Disclosing Party’s Confidential Information to its (i) employees who are required to have access to such Confidential Information, and (ii) agents, consultants, and contractors who are required to have access to such Confidential Information who have executed, in advance of any such disclosure, a confidentiality or non-disclosure agreement with obligations of confidentiality no less restrictive than the requirements of the Client Agreement. The Receiving Party will use at least the same degree of care in safeguarding the Disclosing Party’s Confidential Information as it uses in safeguarding its own Confidential Information, but in no event will a party use less than reasonable diligence and care, to protect the Disclosing Party’s Confidential Information against disclosures or uses prohibited by this Agreement.

The restrictions contained in this Section 5 will not apply to any information that (A) is in package manifest information or package level detail, including an addressee’s full name, complete delivery address, email address and phone number, and a package’s weight and measurements, whether such information appears or may appear on, or be derived from, the exterior of packages, including information contained in plain text or bar code form on shipping labels affixed to packages (B) is at the time of disclosure, or subsequently becomes part of, the public domain through no improper or negligent act of the Receiving Party, (C) is in the possession of the Receiving Party prior to its receipt of such information from the Disclosing Party, as evidenced by the Receiving Party’s written records prior to the time of disclosure, (D) has been independently developed by the Receiving Party without the benefit or use, directly or indirectly, of the Disclosing Party’s Confidential Information, as evidenced by the Receiving Party’s written records; (E) is rightfully received by the Receiving Party from a third party without restriction and without breach of the Client Agreement or any other agreement; (F) is approved for release by written authorization of the Disclosing Party; or (G) is required to be disclosed by operation of law, provided, however, the Receiving Party must (1) first notify the Disclosing Party in writing of such requirement, unless such notice is prohibited by statute, rule or court order; (2) attempt to obtain the Disclosing Party’s consent to such disclosure; and (3) in the event consent is not given, take reasonable steps to cooperate with the Disclosing Party in seeking to protect the confidentiality of the Confidential Information required to be disclosed, use reasonable efforts to obtain a protective order requiring that the Confidential Information so disclosed be used only for the purposes for which disclosure is required, and disclose only that part of the Confidential Information which, in the opinion of its legal counsel, the Receiving Party is required to disclose. Nothing herein will require either party to fail to honor a subpoena, court or administrative order or requirement on a timely basis. Each party will cooperate with the other in an effort to limit the nature and scope of any required disclosure of Confidential Information.

The covenants of confidentiality set forth in this Section 5 will apply after the date of the Client Agreement to all Confidential Information disclosed to the Receiving Party after the date of the Client Agreement; and will continue and must be maintained from the date of the Client Agreement through the termination of the relationship between Client and UPS-PSI and: (aa) with respect to Confidential Information, for an additional three-year period; and (bb) with respect to Confidential Information that rises to the level of a “trade secret”, as defined under Applicable Law, for the greater of such three-year period or the period of time such information retains its status as a “trade secret” as determined under Applicable Law.

Notwithstanding anything in the Client Agreement to the contrary, UPS-PSI will be free to use for any purpose the residuals resulting from access to or work with Client’s Confidential Information, provided that UPS-PSI maintains the confidentiality of the Confidential Information as provided herein. The term “residuals” means information in non-tangible form, which may be retained in the memories of persons who have had access to the Confidential Information, including ideas, concepts, know-how, or techniques contained therein. UPS-PSI will not have any obligation to limit or restrict the assignment of such persons or to pay royalties for any work resulting from the use of residuals.

**6. Commercial Software.** If, during the course of the relationship between the parties, Client requests commercial software from UPS-PSI, the parties acknowledge and agree that such software will be subject to the terms and conditions of a separate software license agreement. The parties acknowledge and agree that nothing in these General Terms will be deemed to grant Client access or use of any commercial software.

**7. Enticement of Employees.** From the Effective Date and during the term of any and all Order Forms, and for a period of one (1) year thereafter, Client will not, directly or indirectly, solicit, induce, or cause any employee of UPS-PSI who has

rendered services to Client pursuant to these General Terms to leave the present employment of UPS-PSI or become employed by Client. In furtherance of the foregoing, if Client breaches any portion of the foregoing sentence, Client will pay to UPS-PSI, as liquidated damages, an amount equal to two (2) times the total annual compensation (including management incentive bonuses, and the value of any stock or stock options) of the UPS-PSI employee retained by Client. The parties recognize the difficulty of ascertaining damages to UPS-PSI resulting from Client's breach of this Section 7 and have provided for liquidated damages, which liquidated damages represent the parties' best estimate as to the damages arising from the circumstances in which they are provided and are not intended as a penalty. The parties further agree that in the event of any actual or threatened breach of any of the provisions of this Section 7, UPS-PSI will be entitled (in addition to any and all other rights and remedies at law or in equity for damages or otherwise, which rights and remedies are cumulative) to seek specific performance, a temporary restraining order or an injunction to prevent such breach or contemplated breach.

**8. Use of Name and Publicity.** Neither party will, without prior written consent of the other party in each instance, use in advertising, publicity, or otherwise (a) the name of the other party or any of its Affiliates, or any partner or employee of such party or its Affiliates, or (b) any trade name, trademark, trade device, or simulation thereof owned by any of the foregoing.

**9. Disclaimer of Warranty.**

a. DISCLAIMER. EXCEPT AS EXPRESSLY SET FORTH IN THIS CLIENT AGREEMENT OR IN THE APPLICABLE TERMS AND CONDITIONS, ANY DELIVERABLE, PRODUCT, (E.G., HARDWARE, HOSTED SERVICES AND LOCAL SOFTWARE) AND ANY OTHER ITEMS PROVIDED UNDER THIS CLIENT AGREEMENT ARE PROVIDED "AS IS" AND ANY HOSTED SERVICE PROVIDED UNDER THIS CLIENT AGREEMENT IS PROVIDED "AS AVAILABLE." EXCEPT AS OTHERWISE EXPRESSLY SET FORTH IN THIS CLIENT AGREEMENT, UPS-PSI AND ITS THIRD PARTY LICENSORS MAKE NO WARRANTY, REPRESENTATION, GUARANTEE, CONDITION, UNDERTAKING, OR TERM, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, AS TO THE CONDITION, QUALITY, DURABILITY, PERFORMANCE, TITLE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS, MERCHANTABILITY, QUIET ENJOYMENT, FITNESS FOR A PARTICULAR PURPOSE, ACCURACY, COMPLETENESS, OR USE OF THE DELIVERABLES, SERVICES, PRODUCTS (E.G., HARDWARE, HOSTED SERVICES AND LOCAL SOFTWARE) AND ANY OTHER ITEMS PROVIDED UNDER THIS CLIENT AGREEMENT OR AS TO THE CONTINUOUS, UNINTERRUPTED, OR SECURE ACCESS TO ANY HOSTED SERVICE, AND ALL SUCH WARRANTIES, REPRESENTATIONS, CONDITIONS, UNDERTAKINGS AND TERMS ARE HEREBY EXCLUDED TO THE FULLEST EXTENT PERMITTED BY LAW, AS ARE ANY WARRANTIES ARISING FROM COURSE OF DEALING OR USAGE. THE HOSTED SERVICES PROVIDE FUNCTIONALITY THAT UTILIZES THE INTERNET WHICH IS NOT UNDER THE CONTROL OF UPS-PSI OR ITS THIRD PARTY LICENSORS OR AFFILIATES. ACCORDINGLY, UPS-PSI AND ITS THIRD PARTY LICENSORS WILL NOT BE HELD RESPONSIBLE OR LIABLE, DIRECTLY OR INDIRECTLY, FOR ANY LOSS OR DAMAGE CAUSED OR ALLEGED TO HAVE BEEN CAUSED BY CLIENT'S INABILITY TO ACCESS THE INTERNET. EXCEPT AS OTHERWISE EXPRESSLY SET FORTH IN THIS CLIENT AGREEMENT, NO WARRANTY IS MADE BY UPS-PSI AND ITS THIRD PARTY LICENSORS THAT DEFECTS IN ANY OF THE DELIVERABLES, SERVICES, PRODUCTS (E.G., HARDWARE, HOSTED SERVICES AND LOCAL SOFTWARE) AND ANY OTHER ITEMS PROVIDED UNDER THIS CLIENT AGREEMENT WILL BE CORRECTED. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY UPS-PSI OR ANY UPS-PSI REPRESENTATIVE WILL CREATE A WARRANTY. UPS-PSI IS NOT RESPONSIBLE FOR CLIENT MISUSE OR ABUSE OF ANY DELIVERABLES, SERVICES OR PRODUCTS OR THE COMBINATION OF DELIVERABLES, SERVICES OR PRODUCTS WITH ANY PRODUCTS OR SERVICES NOT APPROVED IN WRITING BY UPS-PSI. In the event that any Hardware, Local Software, Hosted Service or any component thereof fails to perform materially in accordance with the applicable Documentation, the failure is promptly reported to UPS-PSI, and UPS-PSI can reproduce the failure, UPS-PSI will use reasonable efforts to correct such failure without additional charge to Client, in accordance with the maintenance obligations of the applicable Documentation. UPS-PSI may request certain information (data, screen shots, etc.) to properly validate and reproduce the error or malfunction. The foregoing will be Client's sole and exclusive remedy for any such failure.

B. APPLICABILITY. SOME JURISDICTIONS DO NOT ALLOW LIMITATIONS ON IMPLIED WARRANTIES, SO THE LIMITATIONS AND EXCLUSIONS IN THIS SECTION 9 MAY NOT APPLY TO CLIENT. THIS AGREEMENT GIVES CLIENT SPECIFIC LEGAL RIGHTS. CLIENT MAY ALSO HAVE OTHER RIGHTS, WHICH VARY FROM JURISDICTION TO JURISDICTION. CLIENT AGREES THAT THE LIMITATIONS AND EXCLUSIONS OF LIABILITY PROVIDED IN THIS AGREEMENT ARE FAIR AND REASONABLE.

**10. Limitation of Liability.** TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, UPS-PSI, ITS AFFILIATES AND ITS THIRD PARTY LICENSORS WILL NOT BE LIABLE TO CLIENT OR ANY THIRD PARTY FOR ANY INDIRECT, CONSEQUENTIAL, EXEMPLARY, PUNITIVE, MULTIPLE, INCIDENTAL, OR SPECIAL DAMAGES, LOST PROFITS, LOSS OF DATA OR DATA USE, LOST SAVINGS, OR COSTS OF PROCURING SUBSTITUTE GOODS OR SERVICES ARISING OUT OF THIS AGREEMENT DUE TO BREACH OF CONTRACT,

TORT (INCLUDING NEGLIGENCE), USE OF OR INABILITY TO USE THE DELIVERABLES, SERVICES, PRODUCTS (E.G., HARDWARE, HOSTED SERVICES AND LOCAL SOFTWARE) OR OTHERWISE, EVEN IF UPS-PSI OR ITS THIRD PARTY LICENSOR HAS BEEN ADVISED OF THE LIKELIHOOD OF SUCH DAMAGES OCCURRING. OTHER THAN AS DESCRIBED IN SECTION 11, IN NO EVENT WILL UPS-PSI, ITS AFFILIATE'S OR ANY THIRD PARTY LICENSOR'S LIABILITY UNDER THIS AGREEMENT EXCEED FIFTY THOUSAND U.S. DOLLARS (US\$50,000). ANY CLAIMS NOT MADE BY CLIENT WITHIN SIX (6) MONTHS AFTER THE FIRST EVENT GIVING RISE TO A CLAIM WILL BE DEEMED IRREVOCABLY WAIVED. THE LIMITATION OF LIABILITY PROVIDED UNDER THIS SECTION 10 WILL BE APPLICABLE ONLY TO THE EXTENT PERMITTED BY APPLICABLE LAW IN THE EVENT OF THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF UPS-PSI OR IN THE EVENT OF PERSONAL INJURY OR DEATH.

#### **11. Intellectual Property Claim.**

a. Covered Claims. UPS-PSI will defend Client from and against any third party claims that the Deliverables, as provided by UPS-PSI infringe any third party's United States patent, copyrights, or trademarks issued as of the Effective Date (collectively, "Claims"). UPS-PSI will further pay all amounts payable to third parties in connection with any settlement or compromise of a Claim approved by UPS-PSI, and pay all damages awarded to third parties relating to a Claim, including court costs and reasonable attorneys' fees awarded. UPS-PSI's obligations under this Section 11 will not apply to the extent (i) Client has modified or altered the Deliverables, if the alleged infringement would not have arisen but for such modification or alteration; (ii) use of the Deliverables in an application or environment for which the Deliverables were not designed or contemplated under the Client Agreement; or (iii) such Claim arises from UPS-PSI's compliance with any of Client's specifications or requests, if the alleged infringement would not have arisen but for such compliance. If as a result of any Claim under this Section 11, Client's right to use the Deliverables is enjoined, or if UPS-PSI believes that the any Deliverables are likely to become the subject of a Claim, UPS-PSI may at its expense (A) procure for Client the right to continue to use such Deliverables, or (B) modify such Deliverables to become non-infringing in a manner that does not materially diminish the quality or performance of such Deliverables, or (C) if UPS-PSI is unable to accomplish either item (A) or (B), UPS-PSI may refund any the pro-rata portion of monies paid by Client to UPS-PSI for such Deliverables. The foregoing states the entire liability of UPS-PSI with respect to any Claim that the Deliverables infringe any third party's intellectual property rights.

b. Prerequisites. The obligations of UPS-PSI under this Section 11 are contingent upon Client (i) providing prompt written notice to UPS-PSI of any Claim; (ii) permitting UPS-PSI to exclusively to defend, compromise, settle, or appeal any Claim, provided that Client may participate in any such defense at its own cost and expense; and (iii) assisting and cooperating with UPS-PSI, as reasonably requested by UPS-PSI to enable UPS-PSI to defend, compromise, settle, or appeal any Claim. UPS-PSI may not agree to any settlement that requires the admission of liability or payment of any monies by Client, without Client's written consent in each instance.

c. Limitation. NOTWITHSTANDING ANYTHING IN THE CLIENT AGREEMENT TO THE CONTRARY, INCLUDING, WITHOUT LIMITATION, SECTION 10 OF THESE GENERAL TERMS (LIMITATION OF LIABILITY), UPS-PSI'S CUMULATIVE AGGREGATE LIABILITY WITH RESPECT TO THIS SECTION 11, INCLUDING DEFENSE COSTS, WILL NOT EXCEED ONE HUNDRED THOUSAND DOLLARS (\$100,000).

**12. Notices.** All notices, requests, demands, or other communications required or permitted to be given or made under the Client Agreement must be in writing and will be given by personal service, UPS Next Day Air, facsimile, or by United States certified mail, return receipt requested, postage prepaid to the addresses set forth on the Client Agreement, or such other address as either party may provide by written notice to the other party.

**13. No Assignment.** Neither party may assign any of its rights or delegate any of its duties pursuant to the Client Agreement without the prior written consent of the other party, and any attempted assignment without such consent will be void. Notwithstanding the foregoing, UPS-PSI has the right to subcontract with third parties (including its Affiliates) to perform any of its obligations under the Client Agreement, and to assign or delegate any of its rights and obligations to an Affiliate without Client's consent. **In particular, pursuant to where the Jurisdiction-Specific Terms Appendix attached hereto specifies an entity other than UPS Professional Services, Inc. as "UPS-PSI" for purposes of performance under this Agreement, UPS-PSI has the right to assign its rights or obligations under this Agreement or subcontract without limitation to UPS Professional Services, Inc., an entity established under the laws of the United States. Any Affiliate to which UPS-PSI has subcontracted or assigned rights or obligations will be a third party beneficiary of Client's obligations under this Agreement with respect to all applicable rights and obligations, and entitled to enforce the terms of this Agreement.** The parties acknowledge and agree that a change of control will constitute an assignment under this Section 13. A "change of control" means a transaction or series of transactions (a) pursuant to which control of a party hereto is acquired by persons or entities other than those who control such party on the date of the Client Agreement, where "control" means ownership or control, direct or indirect, of more than fifty percent (50%) of the stock or other equity interest entitled to vote for the election of directors or equivalent governing body, or (b) resulting in the sale of all or substantially all of a party's assets.

**14. Governmental Authorizations; Export Controls.** Neither UPS-PSI nor any of its employees or Affiliates will act as Client's agent or representative in governmental matters. Client agrees to use the Deliverables, Services and Products (e.g., Hardware, Hosted Services and Local Software) and any other systems or materials only in strict compliance with Applicable Laws and in a fashion that does not, in the sole judgment of UPS-PSI, negatively reflect on the goodwill or reputation of UPS-PSI or its Affiliates. Client is solely responsible for obtaining any licenses or other governmental authorizations related to Client's use of the Deliverables, Services and Products (e.g., Hardware, Hosted Services and Local Software) that may be required by Applicable Law. Client agrees to comply with (a) all United States export laws and regulations governing the export or re-export of the Deliverables, Services and Products (e.g., Hardware, Hosted Services and Local Software) or other systems or materials, including, without limitation, the U.S. Export Administration Regulations (and the prohibitions on activities with entries on the Denied Persons and Entity Lists contained therein), the International Traffic in Arms Regulations and any regulations administered by the Department of the Treasury's Office of Foreign Assets Control ("OFAC"), and (b) all Applicable Laws and regulations of countries other than the United States that govern the importation, use, export or re-export of the Deliverables, Services and Products (e.g., Hardware, Hosted Services and Local Software) or other systems or materials. Client agrees to comply with any conditions that are contained in any export licenses pertaining to the foregoing items. Without limiting the generality of the foregoing, Client will not export or re-export, directly or indirectly, any of the Deliverables, Services and Products (e.g., Hardware, Hosted Services and Local Software), or other systems or materials to any person or entity located in any country subject to embargo or sanctions by OFAC or to any individual or entity listed on OFAC's Specially Designated Nationals List without appropriate governmental approval in each instance. For purposes of convenience only, OFAC's Specially Designated Nationals List can be found at <http://www.treasury.gov/resource-center/sanctions/Programs/Pages/Programs.aspx>.

**15. Data Use and Protection.** Client warrants that (i) in regards to the data Client provides to UPS-PSI (if any) with respect to performance under this Client Agreement (the "Data"), Client has collected the Data lawfully and has the right to provide such data to UPS-PSI for processing consistent with the terms of this Agreement, (ii) Client's provision of the Data to UPS-PSI will not be in breach of Applicable Law, (iii) the Data does not and will not violate, infringe upon, or misappropriate the intellectual property rights or other personal or proprietary rights of any person or entity or violate the terms of any agreement of Client with any third party, (iv) as required by Applicable Law, Client has provided all required notices to and secured all required consents from the subject(s) of such Data prior to provision of such Data to or use of the Data by UPS-PSI. For purposes of the warranties set forth in this Section 15, the term "Data" includes any information that identifies or that can be used to identify a natural person, directly or indirectly ("**Personal Data**"). Client acknowledges that all Personal Data that Client provides to UPS-PSI will be stored, processed, disclosed, and managed by UPS-PSI and its Affiliates consistent with the UPS Privacy Notice published at [www.ups.com](http://www.ups.com) then in effect.

**16. Governing Law; Venue; Arbitration.**

a. Applicable Law. The Client Agreement will be governed by and construed and enforced in accordance with the laws of the State of Georgia, United States, excluding its principles of conflicts of law. The parties hereby submit to the exclusive jurisdiction of the state and federal courts situated in the County of Fulton, State of Georgia over the parties and any dispute that may arise under this Agreement.

b. Disputes – United States. If Client's jurisdiction of establishment is the United States, the parties hereby irrevocably submit to the exclusive jurisdiction of a federal or state court in Atlanta, Georgia, United States for the purpose of hearing and determining any suit, action or proceedings, and to settle any disputes arising out of or in connection with this Agreement or its formation or validity, and the parties hereby consent to such exclusive jurisdiction and irrevocably waive and agree not to assert any defenses based on lack of in personam jurisdiction, improper venue or inconvenient forum. Notwithstanding anything herein to the contrary, UPS-PSI will be entitled to seek interim relief or provisional remedies, and both parties are entitled to enforce judgments or awards, before any court having jurisdiction.

c. Disputes – Other. If Client's jurisdiction of establishment is any jurisdiction outside the United States, then except for the right of either party to apply to a court of competent jurisdiction for an injunction or other equitable relief available under Applicable Law to preserve the status quo or prevent irreparable harm pending the selection and confirmation of a panel of arbitrators, and for the right of UPS-PSI to bring suit for outstanding fees or payments due UPS-PSI hereunder, any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be settled by arbitration in accordance with the United Nations Commission on International Trade Law Arbitration Rules in effect on the date of this Agreement (the "Rules"), and judgment upon the award rendered by the arbitrators may be entered in any court having jurisdiction thereof. Arbitration will be administered by the American Arbitration Association in accordance with its "Procedures for Cases under the UNCITRAL Arbitration Rules", applying the substantive laws of the State of New York and the United States. The award will be rendered in the English language, and the arbitration will be held in (A) Miami, Florida, United States of America if Client is established in Central or South America, (B) London, England if Client is established in Europe, (C) Singapore, if Client is established in the Asia-Pacific region, or (D) Atlanta, Georgia, United States of America, if Client is established in any other jurisdiction. There will be three arbitrators who must be fluent in English and each must be

either a retired judge or practicing attorney having at least ten (10) years litigation experience and be reasonably familiar with the technology matters relative to the dispute. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction to enforce such award. The award of the arbitrators shall be final and binding, will be the sole and exclusive remedy between the parties regarding such dispute, and the parties explicitly waive request for review under Article V Section 1 of the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards. The arbitration agreement set forth in this section 16(c) will be binding upon the parties, their successors and permitted assignees, and the rights and obligations of the parties shall remain in full force and effect pending the enforcement of any award in any arbitration proceeding hereunder, notwithstanding termination, for any reason, of this Agreement.

**17. Force Majeure.** UPS-PSI will not be liable or responsible for any delay or failure in performance resulting from any event, circumstance or condition that is beyond its reasonable control, including, without limitation, acts of God, hurricane, tornado, rain, flood, sinkhole, wind, hail, lightning, earthquake, snow or ice, extreme high or low temperatures, water or gas main break, cable cut, fire, explosion, riot, terrorist act, military action, any other act or failure to act on the part of a governmental authority or third party, strike, lockout, or other labor problem, transportation delay, unavailability of fuel, supplies or materials, or change in or in the interpretation of any law or regulation (each a "Force Majeure Event").

**18. Modifications; No Waiver.** The terms and conditions of the Client Agreement may not be amended, waived, or modified, except in writing signed by the party to be charged therewith. No failure or delay of either party to exercise any rights or remedies under the Client Agreement or any component thereof will operate as a waiver such rights or remedies, nor will any single or partial exercise of any rights or remedies preclude any further or other exercise of the same or any other rights or remedies, nor will any waiver of any rights or remedies with respect to any circumstances be construed as a waiver thereof with respect to any other circumstances. Any proposal for additional or different terms, or any effort by Client to vary the terms of this Client Agreement, is hereby objected to and rejected.

**19. Headings.** The headings of sections of the Client Agreement are for convenience of reference only and will not affect the meaning or interpretation of the Client Agreement in any way.

**20. Survival.** Notwithstanding anything herein or in the Client Agreement to the contrary, the provisions of Sections 1, 2(c), (f) and (g), 3 - 7 and 9 - 12 and 16 - 20 of these General Terms will survive the termination or expiration of the Client Agreement.

*[End of General Terms and Conditions]*

## JURISDICTION-SPECIFIC TERMS APPENDIX

### BELGIUM

“UPS-PSI” means United Parcel Service Belgium NV.

1. **Section 4. Termination.** *The following sentence is hereby added at the end of Section 4:*

“For clarity, UPS-PSI’s termination rights under Section 4 do not require the prior intervention of any court.”

### BRAZIL

“UPS-PSI” means UPS do Brazil Remessas Expressas Ltda.

1. **Section 3. Fees and Payment; Taxes.** *The fourth sentence of Section 3 is hereby deleted and replaced with the following:*

“All payments by Client to UPS-PSI hereunder for fees and expenses will be net of any sales or services tax, VAT, withholding tax (including withholding income tax) or any other tax of any kind whatsoever imposed by a governmental authority with respect to the Services rendered or expenses incurred hereunder (other than a tax imposed upon the income or profits of UPS-PSI levied by the government of the United States or any of its states), and Client agrees to pay any such tax whenever such tax will be imposed by a governmental authority and to reimburse UPS-PSI for any future payments of such tax made by UPS-PSI to a governmental authority.”

### BULGARIA

“UPS-PSI” means UPS Europe SPRL.

### CANADA

“UPS-PSI” means United Parcel Service Canada Ltd.

1. **Section 3. Fees and Payment; Taxes.** *The third and fourth sentences of Section 3 are hereby deleted and replaced with the following:*

“Invoices not paid within thirty (30) calendar days from the invoice date will bear interest from the invoice date until paid at a rate of one and one-half percent (1.5%) per month calculated daily, compounded monthly (nineteen point five six percent (19.56%) per annum) or the maximum rate permitted by Applicable Law, whichever is less. All prices and fees provided on a Work Order or otherwise payable to UPS-PSI hereunder are exclusive of sales, use, services, value added tax, harmonized sales tax, goods and services tax, provincial sales tax or any other tax or charge of any kind whatsoever imposed by a governmental authority with respect to the permissions granted, services rendered or expenses incurred hereunder (other than a tax imposed upon the income or profits of UPS-PSI), and Client agrees to pay any such tax or charge whenever such tax or charge shall be imposed by a governmental authority and to reimburse UPS-PSI for any future payments of such tax or charge made by UPS-PSI to a governmental authority.”

2. **Section 2(f). Ownership of Deliverables.** *The last sentence of Section 2(f) is hereby deleted and replaced with the following:*

“In the event that any right, title or interest in such Deliverables cannot be transferred or assigned to UPS-PSI under Applicable Law, Client (i) waives and will not assert such rights and (ii) will ensure that its employees and contractors similarly waive and will not assert such rights, including without limitation any moral rights under Canada’s *Copyright Act*, any other applicable legislation and under common law.”

3. **Section 9(a). Disclaimer.** *In the second sentence of Section 9(a), the words “ARISING FROM COURSE OF DEALING OR USAGE” are hereby deleted and replaced with the following:*

“ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING, OR USAGE OF TRADE, REGARDING MEETING CLIENT’S NEEDS, OR OF BEING ERROR-FREE”.

4. **Section 15. Data Use and Protection.** *Section 15 is hereby deleted and replaced with the following:*

“For the purposes of this Section, “**Personal Information**” means any information, including any information identifiable to an individual, that is protected under applicable Privacy Legislation; and “**Privacy Legislation**” means the *Personal Information and Protection of Electronic Documents Act* (Canada) and any other Canadian, federal or provincial, or other governmental authority personal information protection legislation, as from time to time enacted or amended.

UPS-PSI may access Personal Information for the purposes set forth in the UPS Privacy Notice available at www.ups.com then in effect. Client acknowledges that Personal Information provided to UPS-PSI and UPS may be transferred and stored by UPS-PSI in the United States or to other jurisdictions that may not have the same level of data protection as the country of origin of the individuals to whom the personal information relates. Client represents and warrants to UPS-PSI, and acknowledges that UPS-PSI is relying on these representations and warranties, that: (i) Client has provided all notices and obtained all consents as required by the Privacy Legislation to provide the Personal information to UPS-PSI, and shall maintain such records evidencing that it obtained, which consent covers the uses by UPS-PSI as set out in UPS-PSI privacy policy, and to perform the terms of this Agreement, including the transfer and storage of same in foreign jurisdictions, and for any further processing consistent with the terms of this Agreement; and (ii) has complied with all applicable Privacy Legislation in the collection and disclosure to UPS-PSI of such Personal Information. If requested by UPS-PSI, Client shall provide copies of the consents obtained by Client. Client shall not do, cause or permit to be done anything which may cause or otherwise result in a breach by UPS-PSI of applicable Privacy Legislation. Client will be solely responsible for compliance with Applicable Law (including the Privacy Legislation) regarding the use, processing, or transfer of any data (including Personal Information) made available to UPS-PSI under this Agreement.

UPS-PSI will not collect, handle, use, copy, sell, disclose, dispose of or destroy any Personal Information except as set out in UPS-PSI privacy policy and to perform its obligations under this Agreement; and is responsible for taking reasonable steps to protect the Personal Information from loss, theft, or unauthorized use, access, disclosure, copying, alteration or destruction.”

5. **Section 21. English Language.** *The following is hereby added as a new Section 21:*

“**English Language.** The parties declare that they have required that this Agreement and all documents related hereto either present or future, be drawn up in the English language only. *Les parties déclarent par les présentes qu’elles exigent que cette entente et tous les documents y afférents soit pour le présent ou le futur, soient rédigés en langue anglaise seulement.*”

## CHINA

“UPS-PSI” means UPS Parcel Delivery (Guangdong) Co Ltd.

1. **Section 3. Fees and Payment; Taxes.** *The following text is hereby added to the end of Section 3:*

“Client shall promptly make all such registrations and filings with any PRC government authority as may be necessary or desirable to enable the fees to be remitted offshore in accordance with Applicable Law (including, where applicable, registration of this Agreement as a technology import contract with the local counterpart of the PRC Ministry of Commerce under the PRC Regulations on the Administration of the Import and Export of Technologies).”

## COLOMBIA

“UPS-PSI” means UPS Servicios Expresos SAS.

1. **Section 2(e). Place of Performance.** *Section 2(e) is hereby deleted in its entirety and replaced with the following:*

“The Services will be rendered outside Colombia. If any Services will be performed on-site at Client’s facilities, UPS-PSI may render such Services either directly or through any local third party.”

2. **Section 2(f). Ownership of Deliverables and License.** *The third sentence of Section 2(f) is hereby deleted and replaced with the following:*

“In consideration of the mutual promises contained in this Agreement, and to the extent that Client is determined to have any interest in a Deliverable (other than the rights granted to Client in this Section 2(f)), including but not limited to a work made for hire, by operation of law or otherwise, Client hereby irrevocably transfers and assigns and agrees to transfer and assign to UPS-PSI as UPS-PSI’s exclusive property, all worldwide right, title, and interest in and to the patent rights, copyrights, trademarks, trade secrets, and other intellectual property or proprietary rights (including, without limitation, applications for registration thereof, and all priority rights therein under applicable international conventions for the protection of such rights) in, and ownership of such Deliverables that Client may have, as and when such rights arise.”

## COSTA RICA

“UPS-PSI” means UPS de San Jose, SA.

1. **Section 3. Fees and Payment; Taxes.** *The following is added to the end of the first sentence of Section 3:*  
“, except to the extent prohibited by Applicable Law.”
2. **Section 7. Enticement of Employees.** *The following sentence is hereby deleted in its entirety from Section 7:*  
“The parties recognize the difficulty of ascertaining damages to UPS-PSI resulting from Client’s breach of this Section 7 and have provided for liquidated damages, which liquidated damages represent the parties’ best estimate as to the damages arising from the circumstances in which they are provided and are not intended as a penalty.”

### **DOMINICAN REPUBLIC**

“UPS-PSI” means United Parcel Service Dominicana, SA.

1. **Section 7. Enticement of Employees.** *The first sentence of Section 7 is hereby deleted and replaced with the following:*

“From the Effective Date of this Agreement and during the period UPS-PSI provides Services, directly or indirectly, and for a period of one (1) year thereafter, Client will not, directly or indirectly, solicit, induce, or cause any employee of UPS-PSI who has rendered services to Client pursuant to this Agreement to leave the present employment of UPS-PSI or become employed by Client.”

### **GERMANY**

“UPS-PSI” means United Parcel Service Deutschland Inc & Co OHG.

### **HONG KONG**

“UPS-PSI” means UPS Parcel Delivery Service Limited.

1. **Section 15. Data Use and Protection.** *The following text is hereby added at the end of Section 15:*  
“As used in the paragraphs relating to Hong Kong below, “personal data” has the same meaning ascribed to it in Section 2 of the Personal Data (Privacy) Ordinance (Cap 486) (“**PDPO**”).  
Client further warrants that in respect of any personal data of any individual transferred to UPS-PSI and the Supported Carriers through the ShipExec Solution: (i) the consent of such individual has been obtained for the collection, use and disclosure of his/her personal data by UPS-PSI and Supported Carriers in accordance with the terms of this Agreement and the provisions of the the PDPO; and (ii) the transfer of such personal data shall not be in breach of any laws or regulations relating to data privacy and protection in Hong Kong, including but not limited to the provisions of the PDPO.”  
Where UPS Carrier Information is comprised of personal data, Client further undertakes that it shall comply with the provisions of the PDPO in respect of the collection, use, and disclosure of such personal data.”

### **INDIA**

1. “**UPS-PSI**” means United Parcel Service Singapore Pte Ltd., an entity established under the laws of Singapore.
2. **Section 2(f). Ownership of Deliverables and License.** *The following is hereby added before the last sentence in Section 2(f):*  
“The Client acknowledges and agrees that all assignments of rights and interest in the Deliverables made by the Client to UPS-PSI shall not lapse or revert or be deemed to lapse or revert to the Client if not exercised by UPS-PSI at any point in time or for any duration of time. The Client further confirms having obtained waivers from its officers and employees, in favour of UPS-PSI, in respect of all of the moral rights in such Deliverables, and agrees to execute, or obtain the execution of, any additional documents in respect of these waivers.”

### **ITALY**

1. “UPS-PSI” means United Parcel Service Italia SRL.
2. **Section 21. Approval of Clauses Pursuant to Articles 1341 and 1342 of the Italian Civil Code.** *The following is hereby added as a new Section 21:*

**21. Approval of Clauses Pursuant to Articles 1341 and 1342 of the Italian Civil Code.** Pursuant to and to the purposes of articles 1341 and 1342 of the Italian Civil Code, Client declares to specifically approve the following clauses: Sections 2(b), 2(g), 3, 7, 9, 10, 11, 15, 16 and 20.

#### **JAPAN**

“UPS-PSI” means UPS Japan Co., Ltd.

#### **MALAYSIA**

“UPS-PSI” means United Parcel Service (M) Sdn Bhd., an entity established under the laws of Malaysia.

#### **MEXICO**

1. “UPS-PSI” means United Parcel Service de Mexico SA de CV.

2. **Section 4. Termination.** *The following sentence is added after the first sentence of Section 4:*

“In the event of a material breach by either party, the non-breaching party will have the right to terminate this Agreement immediately by providing written notice to the other party, without the requirement of any court order or ruling.”

3. **Section 2(f). Ownership of Deliverables and License.** *The first two sentence of Section 2(f) is hereby deleted and replaced with the following:*

“All Deliverables developed or otherwise provided by UPS-PSI under any Order Form will be the sole property of UPS-PSI or its third party licensors. Except as provided in Section 6 below, UPS-PSI grants a limited, indefinite, revocable, nonexclusive, nontransferable, royalty free license to Client to use (but not modify) the Deliverables for Client’s internal business purposes. Client acknowledges and agrees that each of the Deliverables is not a work made for hire.”

#### **PUERTO RICO**

“UPS-PSI” means United Parcel Service, Inc. (OH) – Puerto Rico Branch.

#### **SINGAPORE**

1. “UPS-PSI” means United Parcel Service Singapore Pte Ltd.

2. **Section 15. Data Use and Protection.** *The following text is hereby added at the end of Section 15:*

“As used in Section 15, the term “Data Protection Legislation” includes the Personal Data Protection Act 2012 (No. 26 of 2012) of the Statutes of the Republic of Singapore (“**PDPA**”). As used in the paragraphs relating to Singapore below, the term “personal data” has the same meaning ascribed to it in Section 2(1) of the PDPA.

Client further warrants that in respect of any personal data of any individual transferred to UPS-PSI and the Supported Carriers through the ShipExec Solution: (i) the consent of such individual has been obtained for the collection, use and disclosure of his/her personal data by UPS-PSI and Supported Carriers in accordance with the terms of this Agreement and the provisions of the PDPA; and (ii) the transfer of such personal data shall not be in breach of any laws or regulations relating to data privacy and protection in Singapore, including but not limited to the provisions of the PDPA.

Where UPS Carrier Information is comprised of personal data, Client further undertakes that it shall comply with the provisions of the PDPA in respect of the collection, use, and disclosure of such personal data.”

#### **SOUTH KOREA**

“UPS-PSI” means United Parcel Service Korea Co. Ltd.

**SPAIN**

“UPS-PSI” means United Parcel Service Espana Ltd Y Compania SRC.

**SWITZERLAND**

“UPS-PSI” means UPS United Parcel Service (Schweiz) AG.

**TAIWAN**

“UPS-PSI” means UPS International, Inc. (Taiwan Branch), an entity established under the laws of Taiwan.

**UNITED KINGDOM**

“UPS-PSI” means UPS Limited.

*[End of Jurisdiction-Specific Terms Appendix]*