

## **NOTE FOR INFOTRAC CUSTOMERS**

If you have an annual subscription with Infotrac you will be covered under that subscription until the expiration date. Once your subscription has expired you could choose one of the following options to continue to ship using our service.

**OPTION 1:** Purchase an unlimited use annual subscription from Hazmat Software, LLC. which will allow you to ship UPS Domestic Gound, Domestic Air and International.

**OPTION 2:** Purchase an unlimited use annual subscription from Hazmat Software, LLC. which will allow you to ship UPS Domestic Gound, Domestic Air and International, FedEx Ground, FedEx Express and LTL.

**OPTION 3:** Purchase **PAY PER USE** (Pay Per Transaction Service ) credits from Hazmat Software, LLC. which will allow you to ship UPS Domestic Gound, Domestic Air and International, FedEx Ground, FedEx Express and LTL. You will only pay for the packages you prepare at ShipHazmatOnLine.

### **This is Your PAY PER USE (Pay Per Transaction) Service Agreement**

**1. Description of Service.** This Terms of Service Agreement will strongly establish and explain the terms and conditions on which shipHazmatOnLine provides Pay Per Transaction (a Transaction is defined as a single proper shipping name or an ID processed via shipHazmatOnLine) service to Client. It is important that this document be thoroughly reviewed if Client agrees to these terms and conditions, and is willing to be bound by them.

**1.1** This Agreement explains the important terms and conditions under which shipHazmatOnLine.com shall operate and provide Pay Per Transaction service.

**1.2** This Agreement also declares your consequent obligations as our Client in relation to the Pay Per Transaction service you purchased.

**1.3** Any attempt to amend terms and conditions enclosed in this Agreement and question the said points after the effective date through conflicts or misrepresentation in any other document shall be of no force and void the effects.

**1.4** By availing of the Pay Per Transaction service of shipHazmatOnLine.com, and by agreeing to this agreement, you as our Client, acknowledge that you have read, understood, and agree to be bound by all terms and conditions mentioned in this Agreement, as well as any additional rules or policies that may be established by shipHazmatOnLine.com from time to time. This Agreement, and those that may from time to time be added or modified herein, constitutes the exclusive agreement between the Client and shipHazmatOnLine.com concerning your use of the Pay Per Transaction service and shall supersede and govern all prior proposals or agreements

made by any of our representatives.

**1.5** In order to use the Services, you must obtain access to the Internet / World Wide Web, either directly or through devices that access Web-based content, and pay any service fees associated with such access. In addition, you must provide all equipment necessary to make such connection to the Internet / World Wide Web, including a computer and modem or other access device.

**1.6** You must open an account with shipHazmatOnLine in order to use the Pay-Per-Transaction service.

## **2. Your Obligations**

**2.1** If you provide any information that is untrue, inaccurate, incomplete or not current, or we have reasonable grounds to suspect that such information is untrue, inaccurate, incomplete or not current, shipHazmatOnLine has the right to suspend or terminate your account and refuse any and all current or future use of the Services (or any portion thereof).

**2.2** Under no circumstances will shipHazmatOnLine or Hazmat Software LLC be liable in any way for any Content, including, but not limited to, for any errors or omissions in any Content, or for any loss or damage of any kind incurred as a result of the use of any Content posted, emailed or otherwise transmitted via the Pay Per Transaction Service.

**2.3** Restrictions. The Client is expected to recognize the practice of good and ethical Internet practices. The Client shall comply with the rules appropriate to any of the product or service provided by shipHazmatOnLine.

### **2.4 Privacy and Intellectual Property Rights**

**2.4.1** Client acknowledges (i) given the global nature of the Internet, that there is no necessity to modify the product and service provided by shipHazmatOnLine (ii) that such actions will likely impair the performance standards of Pay Per Transaction by shipHazmatOnLine.

**2.4.2** Client shall not update, alter, modify, or tamper with the web pages. The client hereby acknowledges that such inappropriate actions may void the guarantee offered by shipHazmatOnLine.

**2.4.3** Client shall have no right to copy, in whole or in part, the Pay Per Transaction web pages. Client, however, can only make one archival copy of the optimized pages solely for archival and disaster recovery purposes only. Client shall have no right to upload the

pages or redirect the previous optimized website to other domain. Client acknowledges that such action may also void the guarantee aforementioned.

**2.4.4** Client hereby understands and agrees that the optimized pages shall be the exclusive property of shipHazmatOnLine and Hazmat Software LLC.

### **3. Access to the Service**

**3.1** Once you register with shipHazmatOnLine or Hazmat Software LLC touse the Pay Per Transaction service you will be given instructions on accessing the service.

### **4. Fees, Payments, Guarantees and Terms**

**4.1** For the latest Pay Per Transaction fees please visit <http://shipHazmatOnLine.com/rates>.

**4.2** Late Payments. Should Client fail to pay any fees on the date due shipHazmatOnLine shall have the right to make use of any or all of the following:

- a.) Assess and collect charges for the delay in an amount constituting five percent (5%) per month of which amount shall not exceed the ceiling provided by law, when available
- b.) Suspend or terminate any access to any or all of the services of shipHazmatOnLine,
- c.) Terminate the herein Agreement without incurring any liability whatsoever arising from the discontinuance of services due to late payments.

**4.3** Continuous Payment. The suspension or termination of shipHazmatOnLine services, or of the Agreement, shall not absolve the client from paying any outstanding fees, interests and penalties. Client shall be responsible for any costs for the collection of such fees. Costs herein contemplated shall include, among other expenses rightfully due to shipHazmatOnLine, attorney's fees, expenses of litigation, and payment of damages.

**4.4** Refunds and guarantees. All payments made to shipHazmatOnLine for the use of the Pay Per Transaction service are non-refundable.

### **5. Suspension and / or Termination**

**5.1** Termination by shipHazmatOnLine. shipHazmatOnLine shall have the right, upon

written notice to Client, to terminate this Agreement, sue and / or make Client liable for breach, if:

- a) Client fails to comply with its payment obligations under this Agreement;
- b) Client materially breaches any term or condition this Agreement;
- c) Client terminates or suspends its business activities, becomes insolvent, or becomes subject to any bankruptcy or insolvency proceeding, or assigns the project to creditors, or becomes subject to direct control of a trustee, receiver or similar authority;

## **6. Warranties.**

### **6.1 Customer Warranty**

Client represents and warrants to shipHazmatOnLine that:

- a) Client has the legal personality or authority, as the case may be, to enter into an Agreement with shipHazmatOnLine and perform its obligations under this Agreement;
- b) Client shall use shipHazmatOnLine services and products for lawful purposes;
- c) Client shall not violate any existing law, rules or regulations of any country where the shipHazmatOnLine web service is used. Neither shall Client violate the intellectual property rights of any person, corporation or legal entity;

### **6.2 shipHazmatOnLine Warranty**

shipHazmatOnLine warrants that:

- a) shipHazmatOnLine has the legal personality and authority to enter into this Agreement and perform its obligations under this Agreement; and,
- b) shipHazmatOnLine will perform the services required under this Agreement.

## **7. Confidential Information**

**7.1** "Confidential Information", as contemplated in this Agreement, shall include the terms of this Agreement, any services provided by shipHazmatOnLine, the prices and fees charged under this Agreement, any other materials marked confidential by Client or shipHazmatOnLine and any other information conveyed under this Agreement that is identified in writing as confidential at the time of its conveyance.

**7.2** Each party acknowledges and agrees that:

- a) The Confidential Information constitutes valuable trade secrets of the party owning such Confidential Information;
- b) It will use Confidential Information solely in accordance with the provisions of this Agreement; and;
- c) It will not disclose, or permit to be disclosed, the Confidential Information of the other party to any third party without the disclosing party's prior written consent. Each party will take all reasonable precautions necessary to safeguard the confidentiality of the other party's Confidential Information including, at a minimum, those precautions

taken by a party to protect its own Confidential Information, which will in no event be less than a reasonable degree of care.

**7.3 Confidential Information will not include information that is:**

- a) Publicly available;
- b) Already in the other party's possession and not subject to a confidentiality obligation;
- c) Obtained by the other party from any source without any obligation of confidentiality;
- d) Independently developed by the other party without reference to the disclosing party's Confidential Information; or
- e) Required to be disclosed by order of a court or other governmental entity; provided no less than ten (10) days written notice is given to the party owning such Confidential Information so that such party may obtain a protective order or other equitable relief.

**7.4 Non-Exclusivity.** The parties acknowledge and agree that shipHazmatOnLine is providing access to and use of its non-exclusive and non-transferable.

**7.5 Support.** shipHazmatOnLine agrees to provide live technical support during normal business hours (Monday-Friday, 9:00AM-6:00PM Eastern Time).

**7.5 Severability.** If any provision of this Agreement is held to be unenforceable, in whole or in part, the parts deemed unenforceable shall not affect the validity of the others, unless shipHazmatOnLine, in good faith, deems the unenforceable provision to be essential, in which case shipHazmatOnLine will have the right to terminate this Agreement.

**7.6 Notices.** Any written notice required or permitted to be delivered pursuant to this Agreement will be in writing and will be deemed delivered: a) upon delivery if delivered in person; b) three (3) business days after deposit in the United States mail, registered or certified mail, return receipt requested, postage prepaid; c) upon transmission if sent via telecopier, with a confirmation copy sent via overnight mail; d) one (1) business day after deposit with a national overnight courier; e) upon transmission if sent via e-mail with a telecopy sent the same day, in each case addressed, in the case of Client, the address listed in shipHazmatOnLine's records, or in the case of shipHazmatOnLine, at 1800 Pembroke Dr Suite 300 Orlando Florida 32810.

**7.7 Assignment.** This agreement is non-transferable

**7.8 Force Majeure.** Neither party shall have any liability to the other or to third parties for any failure or delay in performing any obligation under this Agreement due to circumstances beyond its reasonable control including, without limitation, to acts of God or nature, actions of the government, fires, floods, strikes, civil disturbances or terrorism, or power, communications, satellite or network failures.

**7.9 Waiver.** Any waiver or modification of this Agreement will not be effective unless executed in writing and signed by an authorized representative of shipHazmatOnLine. The parties expressly disclaim the right to claim the enforceability or effectiveness of a) any amendments to this Agreement that are not executed by an authorized representative of shipHazmatOnLine and Client; b) any oral modifications to this Agreement; and c) any other amendments that are based on course of dealing, waiver, reliance or similar legal theory. The parties expressly disclaim the right to enforce any rule of law that is contrary to the terms of this Section. The failure of either party to enforce, or the delay by either party in enforcing, any of its rights under this Agreement will not be deemed to be a waiver or modification by such party of any of its rights under this Agreement.

**7.10 Governing Law & Dispute Resolution with Third Party Licensors.** This Agreement shall be interpreted and construed in accordance with the laws of the State of Florida without regard to conflict of law principles. The parties agree that all disputes arising out of this Agreement shall be brought only in the district and federal courts located in or for Orlando, Florida.

**7.11 Modification of Terms.** shipHazmatOnLine reserves the right to modify this Agreement at any time and without advance notice, effective upon making the modified provisions available on the shipHazmatOnLine website. You are responsible for regularly reviewing these documents. Continued use of Services after any such changes shall constitute your consent to such changes. shipHazmatOnLine does not and will not assume any obligation to notify you of any changes to this Service Agreement.

## **8. DISCLAIMER**

DISCLAIMER EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, THE SHIPHAZMATONLINE SERVICE PROVIDED IS PROVIDED ON AN "AS IS", "AS AVAILABLE" BASIS WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT. SHIPHAZMATONLINE EXPRESSLY DISCLAIMS ANY REPRESENTATION OR WARRANTY THAT THE SHIPHAZMATONLINE SERVICE WILL BE ERROR-FREE, TIMELY, SECURE OR UNINTERRUPTED. NO ORAL ADVICE OR WRITTEN INFORMATION GIVEN BY SHIPHAZMATONLINE, ITS EMPLOYEES, LICENSORS OR AGENTS WILL CREATE A WARRANTY; NOR MAY YOU RELY ON ANY SUCH INFORMATION OR ADVICE. UNDER NO CIRCUMSTANCES, INCLUDING NEGLIGENCE, WILL SHIPHAZMATONLINE, OR ITS AFFILIATES BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES THAT RESULT FROM THE USE OF OR INABILITY TO USE THE SHIPHAZMATONLINE SERVICE, INCLUDING BUT NOT LIMITED TO RELIANCE ON ANY INFORMATION OBTAINED ON THE SHIPHAZMATONLINE SERVICE; OR THAT RESULT FROM MISTAKES, OMISSIONS, INTERRUPTIONS, DELETION OF FILES OR

E-MAIL, LOSS OF OR DAMAGE TO DATA, ERRORS, DEFECTS, VIRUSES, DELAYS IN OPERATION, OR TRANSMISSION, OR ANY FAILURE OF PERFORMANCE, WHETHER OR NOT LIMITED TO ACTS OF GOD, COMMUNICATION FAILURE, THEFT, DESTRUCTION OR UNAUTHORIZED ACCESS TO SHIPHAZMATONLINE RECORDS, PROGRAMS OR SERVICES. YOU HEREBY ACKNOWLEDGE THAT THIS PROVISION WILL APPLY WHETHER OR NOT SHIPHAZMATONLINE IS GIVEN NOTICE OF THE POSSIBILITY OF SUCH DAMAGES AND THAT THIS PROVISION WILL APPLY TO ALL SERVICES AVAILABLE FROM SHIPHAZMATONLINE AND ITS AFFILIATES. UNDER NO CIRCUMSTANCES, UNDER THE TERMS OF THIS AGREEMENT, SHALL DAMAGES INCLUDE LOSS OF BUSINESS, OR LOSS OF PROFITS WHETHER BASED ON BREACH OF AGREEMENT, BREACH OF WARRANTY, TORT, PRODUCT LIABILITY OR OTHERWISE, NOR SHALL SHIPHAZMATONLINE 'S LIABILITY TO YOU EXCEED THE AMOUNT PAID BY YOU TO SHIPHAZMATONLINE DURING THE THREE (3) MONTH PERIOD PRIOR TO WHEN THE ACTION AROSE. THE TERMS OF THIS SECTION SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT

## **9. Indemnification.**

**9.1** Client agrees to defend, indemnify and hold harmless SHIPHAZMATONLINE against any and all claims, losses, penalties, causes of action, damages, liability, costs, expenses (including but not limited to reasonable attorneys' fees) or claims caused by or resulting indirectly from your use of the Service, without limitation or exception, including your violation of any third-party's rights, (including, without limitation, infringement of any copyright trademark, service mark, trade secrets, right of privacy or publicity or any other third party right). The terms of this section shall survive the termination of your relationship with SHIPHAZMATONLINE.

**9.2** By completing our online sign up form, or confirming an order by phone, and giving us your credit card information, it indicates that you have read and understood the SHIPHAZMATONLINE Service Agreement and thus is bound by the terms and conditions stated herein. All transactions entered to us using your credit card are binding. The undersigned agrees to the terms and conditions contained in this Service Agreement. The undersigned also states that he or she is empowered to enter into this agreement on behalf of the organization or business.

**10. Limitations of Liability.** SHIPHAZMATONLINE'S SERVICES LIABILITY UNDER THIS AGREEMENT FOR ANY DIRECT DAMAGES OF ANY KIND WILL NOT EXCEED AN AMOUNT EQUAL TO THE AMOUNT PAID BY CLIENT TO SHIPHAZMATONLINE THROUGH THE DATE SHIPHAZMATONLINE'S SERVICES LIABILITY TO CLIENT ACCRUES. IN NO EVENT SHALL SHIPHAZMATONLINE BE LIABLE FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES OR LOST PROFITS.