

AGREEMENT FOR TRANSPORTATION OF TOBACCO PRODUCTS

This Agreement is made and entered into by and between United Parcel Service, Inc. (“UPS”) and _____ (“Shipper”) for services for the transportation of packages containing tobacco and tobacco products, as those terms are variously defined under applicable federal and state law (“Tobacco Product Shipments”).

UPS agrees to transport Tobacco Product Shipments for Shipper on the following terms and conditions:

- 1.** UPS shall provide services for Tobacco Product Shipments only pursuant to the terms and conditions set forth in this Agreement as they may be amended from time to time. All Tobacco Product Shipments also are subject to the UPS Terms and Conditions of Service, the UPS Rate and Service Guide, and the UPS Tariff in effect at the time of shipping.
- 2.** UPS shall provide service for Tobacco Product Shipments only to and from certain states, consistent with all applicable law and regulations. UPS reserves the right to eliminate Tobacco Product Shipments service to any state in UPS’s discretion without prior notice.
- 3.** Shipper shall be responsible for compliance with all laws and regulations that apply to the sale, purchase, shipment, transportation, delivery, receipt, possession, distribution, and importation of Tobacco Products. Such laws and regulations may include, but are not limited to, requirements regarding age verification, disclosures, packaging and labeling, shipping, registration and reporting, payment and collection of taxes or fees, and licensing. Shipper shall be solely responsible for identifying or interpreting any applicable laws or regulations and for complying with them. Shipper acknowledges and agrees that this function is exclusively Shipper’s responsibility and shall not be UPS’s responsibility.
- 4.** Shipper shall develop, implement, and maintain a compliance program (“Shipper Compliance Program”) to ensure that Shipper and its consignees are compliant with all laws and regulations that apply to the sale, purchase, shipment, transportation, delivery, receipt, possession, distribution, and importation of Tobacco Products. The Shipper Compliance Program shall include: (1) training for sales and marketing employees regarding lawful recipients, possessors, and purchasers of Tobacco Products; (2) due diligence regarding customer licensure or authorization to receive, possess, and purchase Tobacco Products under applicable federal, state, provincial, or local law; and (3) self-assessments of the Shipper Compliance Program to guarantee its effectiveness.
- 5.** At the time this Agreement is executed, and annually thereafter for as long as this Agreement is in effect, Shipper shall execute the Annual Certification in Addendum A.
- 6.** Shipper shall not tender to UPS any Tobacco Product Shipment that does not comply with all applicable laws and regulations. Shipper represents and warrants that all Tobacco Product Shipments tendered to UPS for shipment will be in compliance with all applicable laws and regulations.

- 7.** UPS shall have the right to demand from Shipper evidence that Shipper has complied with all applicable laws and regulations. UPS shall also have the right to audit Shipper at any time and for any reason. The scope of UPS's audits of Shipper may include but are not limited to: opening and inspecting Shipper's packages; examination and review of Shipper's books, records, facilities, and/or customer lists; and auditing the Shipper Compliance Program. Shipper acknowledges and agrees that UPS may not return to Shipper any unauthorized shipments it may find through its package audits.
- 8.** Shipper shall only engage UPS to transport Tobacco Product Shipments destined for licensed entities, adult consumers, or other entities, in each case only if the consignee is legally authorized to receive, possess, and purchase Tobacco Product Shipments. Shipper acknowledges that for an additional charge, UPS offers a Delivery Confirmation Service Adult Signature Required service that allows Shipper to request that UPS obtain the signature of an adult 21 years of age or older on delivery of a package.
- 9.** Shipper represents and warrants that, where required by applicable law, it is properly licensed or otherwise authorized to sell, export or import, ship, or cause to be transported and delivered, Tobacco Product Shipments to its consignees.
- 10.** Shipper agrees to indemnify, defend and hold harmless UPS, its parent corporation, United Parcel Service, Inc., and its affiliated companies, their officers, directors, employees, agents, and their successors and assigns, from all claims, demands, expenses (including reasonable attorneys' fees), liabilities, penalties, costs, causes of action, enforcement procedures, and suits of any kind or nature, of which UPS may hereinafter incur as a result of Shipper's breach of this Agreement or Shipper's failure to comply with any applicable laws and regulations, whether such action is brought by a governmental agency or other person or entity.
- 11.** UPS shall have no liability to Shipper for any loss or damage, including any special, incidental or consequential damages, arising from or relating to UPS's compliance with instructions or requests from law enforcement or other governmental authorities, even if such instructions seem to be inconsistent with applicable laws and regulations. UPS's liability to Shipper for the loss of or damage to goods shipped shall be as set forth in the UPS Terms and Conditions of Service, UPS Rate and Service Guide, and the UPS Tariff in effect at the time of shipping.
- 12.** Shipper shall tender Tobacco Product Shipments to UPS at Shipper's daily pick up location only.
- 13.** The term of this Agreement shall be for one year from the date set forth below. This Agreement shall be automatically renewed for successive one-year periods unless terminated in accordance with paragraph 16.
- 14.** If any provision of this Agreement conflicts with any provision of any other agreement between the parties, the provisions of this Agreement shall prevail.
- 15.** UPS shall have the right to unilaterally modify or amend any requirements for Tobacco Product Shipments at any time. Notwithstanding the foregoing, UPS may amend the Agreement at any time upon seven (7) days written notice to Shipper.

16. UPS shall have the right to suspend delivery services for a shipper, or to terminate this Agreement immediately and to cease providing service to Shipper if Shipper fails to comply with any provisions of this Agreement and/or any applicable laws or regulations. Either party may terminate this Agreement at any time upon seven (7) days' written notice to the other party.

IN WITNESS WHEREOF, the parties hereto have executed or caused this Agreement to be duly executed by their duly authorized officers as of this ____ day of _____, _____.

ACCEPTED AND AGREED TO:

SHIPPER

Shipper #: _____

By: _____

Address: _____

Name: _____

Title: _____

UNITED PARCEL SERVICE, INC.

By: _____

Name: _____

Title: _____

ADDENDUM A

ANNUAL CERTIFICATION

As of this ____ day of _____, _____, _____ (“Shipper”) certifies that:

1. Shipper recognizes that federal, state, provincial, and local laws vary with respect to the sale, purchase, shipment, transportation, delivery, receipt, possession, distribution, and importation of Tobacco Products, including but not limited to variation based on the Tobacco Products at issue, the consignee, the shipper, and the jurisdiction being shipped to;
2. Shipper is compliant with all federal, state, provincial, and local laws and regulations that apply to the sale, purchase, shipment, transportation, delivery, receipt, possession, distribution, and importation of Tobacco Products;
3. Shipper holds all federal, state, provincial and local licenses and authorizations required for the sale, purchase, shipment, transportation, delivery, receipt, possession, distribution, and importation of Tobacco Products and has attached copies, or an abstract, of all such licenses and authorizations to this Addendum A;
4. Shipper has ensured its consignees of Tobacco Products are compliant with all federal, state, provincial, and local laws and regulations that apply to the sale, purchase, shipment, transportation, delivery, receipt, possession, distribution, and importation of Tobacco Products;
5. Shipper has ensured that its consignees of Tobacco Products hold all federal, state, provincial and local licenses and authorizations required to receive, possess, and purchase deliveries of Tobacco Products, is maintaining copies, or an abstract, of all applicable consignee licenses and authorizations, and will provide copies or an abstract of consignee licenses and authorizations to UPS upon request; and
6. Shipper has developed, implemented, and is maintaining a Shipper Compliance Program that includes: (1) training for sales and marketing employees regarding lawful recipients, possessors, and purchasers of Tobacco Products; (2) due diligence regarding customer licensure or authorization to receive, possess, and purchase Tobacco Products under applicable federal, state, provincial, or local law; and (3) self-assessments of the Shipper Compliance Program to guarantee its effectiveness.

CERTIFIED:

SHIPPER

Shipper #: _____

Address: _____

By: _____

Name: _____

Title: _____