

## ***HeroEx.com Terms of Use***

THE FOLLOWING TERMS AND CONDITIONS GOVERN YOUR USE OF **HeroEx.com**, INCLUDING **HeroEx** EXPRESS DELIVERY BUTTON ("**HeroEx** Button"), **HeroEx** DELIVERY MANAGER, **HeroEx** HERO MANAGER, **HeroEx** MOBILE, **HeroEx** ONLINE BILLING, **HeroEx** FACEBOOK APPLICATIONS AT FACEBOOK.COM, OTHER APPLICATIONS AND WIDGETS, AND ALL OTHER OFFICIAL REPRESENTATIONS OF THE **HeroEx** BRAND. YOUR VIEWING OR USE OF THIS SITE WILL CONSTITUTE YOUR AGREEMENT, ON BEHALF OF YOURSELF AND THE ENTITY YOU REPRESENT (HEREINAFTER COLLECTIVELY "YOU" OR "YOUR"), TO ALL OF THE TERMS AND CONDITIONS PROVIDED BELOW.

**HeroEx** MAY MAKE FUTURE CHANGES OR MODIFICATIONS TO SUCH TERMS AND CONDITIONS AT ANY TIME WITHOUT NOTICE, AND YOUR SUBSEQUENT VIEWING OR USE OF **HeroEx.com** WILL CONSTITUTE YOUR AGREEMENT TO THE CHANGES AND MODIFICATIONS. THERE MAY BE ADDITIONAL TERMS AND CONDITIONS PROVIDED THROUGHOUT **HeroEx.com** GOVERNING YOUR USE OF PARTICULAR FUNCTIONS, FEATURES, INFORMATION AND APPLICATIONS AVAILABLE THROUGH **HeroEx.com**.

### **Section 1. Definitions**

Content: information, graphics, products, features, functionality, services, and links on **HeroEx.com**, or through **HeroEx.com**, including **HeroEx** Express Delivery Button ("**HeroEx** Button"), **HeroEx** Hero Manager, **HeroEx** Delivery Alert, **HeroEx** Mobile, **HeroEx** Online Billing, and **HeroEx** Facebook applications.

**HeroEx**: **HeroEx.com** and its parent companies

You: Yourself and the entity that you represent

### **Section 2. Use of HeroEx.com**

**HeroEx.com** is provided solely for the use of current and potential **HeroEx** Users to interact with **HeroEx** and may not be used by any other person or entity, or for any other purpose. Specifically, all delivery, tracking, rating, receiving **HeroEx** invoices and remitting payment using payment methods including PayPal, credit card, and electronic funds transfer ("EFT"), delivery location, identifying and preparing business documents, estimating duties and taxes, usage of company applications and widgets on third party websites including Facebook.com, and other information and services may only be used by current and potential **HeroEx** Users for their own delivery orders. Use of **HeroEx.com** to provide information to or prepare deliveries by or for the benefit of third party delivery services, couriers, messengers, shippers, import services, export services, warehouses, and other commerce, merchant, or payment related entities is expressly prohibited.

The use of automated dial-in or inquiry devices, as well as spiders, crawlers, third party cookies, information aggregators, or other monitoring methods and tools to obtain information through **HeroEx.com** is strictly prohibited.

If information about ideas, concepts, or techniques for new services or products are communicated to **HeroEx.com**, or its officers, directors, employees, agents, or representatives, **HeroEx** will be deemed free to use, communicate and exploit such information in any manner it chooses.

### **Section 3. HeroEx.com Login Registration**

You may choose to register on **HeroEx.com** to access interactive features on **HeroEx.com**. **HeroEx.com** Login provides you with access to all online services on **HeroEx.com** as well as applications, widgets, and services that can be accessed on third party websites. The availability of these services varies by city, metropolitan area, country, and continent. In the future, **HeroEx** may add other features that may be accessed through **HeroEx.com** Login. In such event, previously registered users will not be required to re-register.

By registering on **HeroEx.com**, you agree to provide accurate and current information about yourself as prompted by the **HeroEx.com** Login Registration pages and maintain and promptly update your online profile information to keep it accurate and current.

You agree to register only for **HeroEx.com** services offered on the **HeroEx.com** website for the country in which your **HeroEx** account is based.

When you register using **HeroEx.com** Login Registration, you will select a user ID and password. You are responsible for maintaining the confidentiality of the password and user ID, and you are responsible for all activities that occur under your password and user ID. You agree to (a) immediately notify **HeroEx** of any unauthorized use of Your user ID and password, and (b) ensure that you exit from your **HeroEx.com** session at the end of each visit.

### **Section 4. Changes to HeroEx.com**

**HeroEx.com** and its content, may be changed, deleted or updated at any time without notice.

### **Section 5. Termination of Use**

**HeroEx** may discontinue, suspend or modify **HeroEx.com** at any time without notice, and **HeroEx** may block, terminate or suspend your and any user's access to **HeroEx.com** at any time for any reason in its sole discretion, even if access continues to be allowed to others.

### **Section 6. Ownership**

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### **Section 7. Disclaimer of Warranty**

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### **Section 8. Limitation of Liability**

USE OF **HeroEx.com** AND ITS CONTENT IS AT YOUR SOLE RISK. **HeroEx** WILL IN NO EVENT BE LIABLE TO YOU OR ANY PERSON OR ENTITY CLAIMING THROUGH YOU FOR ANY DIRECT, INDIRECT, CONSEQUENTIAL, INCIDENTAL OR OTHER DAMAGES UNDER ANY THEORY OF LAW FOR ANY ERRORS IN OR THE USE OF OR INABILITY TO USE **HeroEx.com** AND ITS CONTENT INCLUDING WITHOUT LIMITATION, DAMAGES FOR LOST PROFITS, BUSINESS, DATA, OR DAMAGE TO ANY COMPUTER SYSTEMS, EVEN IF YOU HAVE ADVISED **HeroEx** OF THE POSSIBILITY OF SUCH DAMAGES.

### **Section 9. Indemnity**

You agree to defend, indemnify and hold harmless **HeroEx**, its parent and affiliate companies and their respective officers, directors, employees, agents and representatives

from any and all claims (i) arising out of your breach of any of these terms and conditions, and any of your activities conducted in connection with this site.

### **Section 10. HeroEx Terms of Use**

The Terms of Use (Terms and Conditions) for using **HeroEx** delivery and related services are available on **HeroEx.com**. The most current version of the **HeroEx** Terms of Use will control in the event of any conflict between any **HeroEx** delivery or related service information on **HeroEx.com** and the delivery or related service information contained in the most current version of the **HeroEx** Terms of Use.

### **Section 11. Links to other Websites**

There are links on the **HeroEx.com** site that allow you to visit the sites of third parties. Neither these sites nor the companies to whom they belong are controlled by **HeroEx**. **HeroEx** makes no representations concerning the information provided or made available on such sites nor the quality or acceptability of the products or services offered by any persons or entities referenced in any such sites.

**HeroEx** has not tested and makes no representations regarding the correctness, performance or quality of any software found at any such sites. You should research and assess the risks which may be involved in accessing and using any software on the Internet before using it.

### **Section 12. Privacy Policy**

The **HeroEx** Privacy Policy governs the use of information acquired from you through **HeroEx.com**, and is available on **HeroEx.com**.

### **Section 13. Export**

You assume all responsibility for compliance with all laws and regulations of the United States and any other country from which you may access **HeroEx.com** regarding access, use, export, re-export and import of any content appearing on or available through **HeroEx.com**.

You acknowledge and agree that you will not export or import any content to any country to which export or import is restricted under United States law, that you are not a national of any such country, you are not a Denied Party listed on the U.S. Denied Persons List, you are not a Special Designated National on the U.S. Treasury Department's list of Specially Designated Nationals, and that the content will not be used in the design, development or production of hazardous weapons including but not limited to: military, nuclear, chemical, or biological weapons.

#### **Section 14. Controlling Law and Severability**

This Agreement and your use of **HeroEx.com** is governed by and construed in accordance with the laws of the United States, and the State of California or Delaware, excluding its conflict of laws provisions. If for any reason a court of competent jurisdiction finds any provision of this Agreement, or a portion thereof, to be unenforceable, that provision shall be enforced to the maximum extent permissible.

Any cause of action with respect to **HeroEx.com** or this Agreement must be instituted within one year after the claim or cause of action has arisen or be barred and must be brought in a court of competent jurisdiction within San Francisco County, California. This Agreement may not be changed or modified without the written consent of **HeroEx**.

#### **Section 15. Terms of Carriage**

(i) User agrees that domestic and international carriage by **HeroEx** of any shipments tendered to **HeroEx** using **HeroEx.com** PRODUCTS, FEATURES, CONTENTS OR APPLICATIONS shall be in accordance with the terms, conditions and limitations of liability set out on the NONNEGOTIABLE "Delivery Documentation" which may include Pick-Up Record, Delivery Record, Online Billing, Express Delivery Button receipts, Email receipts, Text Message confirmations, and any receipts generated by **HeroEx** products, features, contents, or applications, and as appropriate any transportation agreement between User and **HeroEx** covering such delivery and in any applicable tariff, Terms of Use or Statute of Limitations, copies of which are available upon request, and which are incorporated into this Agreement by reference. If there is a conflict between the Delivery Documentation and any such document then in effect or this Agreement, the transportation agreement, tariff, Terms of Use, Standard Conditions of Carriage, or this Agreement will control, in that order of priority. If a delivery originates outside the United States, the contract of carriage is with the **HeroEx** subsidiary, branch, or independent contractor who originally accepts the delivery. Your use of **HeroEx.com** International Products shall not alter your responsibility for the preparation and accuracy of delivery documentation including import/export forms.

(ii) In the event User uses DELIVERY MANAGER to process deliveries tendered to **HeroEx** for delivery to locations outside the United States or country of shipment origin, User will, at User's sole expense, assure that the Terms of Use of international carriage supplied by **HeroEx** from time to time (and which may be amended or modified from time to time at **HeroEx**'s sole discretion) are placed on the Delivery Documentation as may be instructed by **HeroEx**, for all such international deliveries. User will defend, indemnify and hold harmless **HeroEx**, its officers, directors, employees and agents from and against any and all losses, damages, claims and other items of cost and expense arising out of User's failure to apply the international carriage terms to the Delivery Documentation for such international shipments, including without limitation claims from the recipient of any shipment, and User's failure to follow **HeroEx**'s instructions in regard to the placement of the terms on the Delivery Documentation for such international shipments.

(iii) Printed Signature. If User is requested by officers, directors, employees, agents, or representatives of **HeroEx** to sign official documentation or item receipts at the time of

receipt of a delivery, he agrees to comply. The printed signature represents a form of confirmation of a completed delivery but does not constitute or represent a warranty.

#### **Section16. Address Book**

Subject to the terms listed here, addresses will remain in your Address Book as long as you use **HeroEx.com** PRODUCTS, FEATURES, CONTENTS OR APPLICATIONS. You should maintain a back-up copy of Your addresses as **HeroEx** will not be responsible for the loss of addresses contained in the Address Book. **HeroEx** may modify or terminate this feature at any time for any reason.

#### **Section17. Item Cost Quote**

The item cost quote reflected on **HeroEx** PRODUCTS, FEATURES, CONTENTS OR APPLICATIONS may be more or less than the actual cost of the delivery item. It is an estimated cost that may be based on similar items and/or average prices typical for a specified geographic location. **HeroEx.com** is not liable for differences in cost between the item cost quote and the actual cost of the delivery item. It will not provide a reimbursement if the actual cost of the delivery items is less than the original item cost quote. If the delivery item costs more than the item cost quote, **HeroEx.com** does not guarantee the completion of an order and is not responsible for reimbursing the User for the full amount of the delivery. Differences in cost may occur based on actual weight, dimensions, and other factors.

#### **Section18. Limitation of Liability for Brand Representation**

**HeroEx.com** sells items that have been originally manufactured, sold by, or otherwise created by other entities including companies, organizations, manufacturers, and persons. These items may be sold to **HeroEx** directly by a manufacturer or by a retail store. The sale of these items by **HeroEx** does not imply or constitute representation of an entity or brand by **HeroEx** or its officers, directors, employees, agents, or representatives. **HeroEx** is not liable for misrepresentation of any items manufactured, sold by, or otherwise created by and third party entity, brand, or persons. **HeroEx** does not guarantee authenticity of any brand and is not responsible for forgeries

#### **Section19. Liability of Delivery Heroes**

User understands that **HeroEx.com** uses Delivery Heroes who may be full-time employees of HeroEx.com, part-time agents or consultants, or third party couriers, messengers, or delivery agencies. User understands that Delivery Heroes may not be able to deliver items in the specified time slot, although best efforts will be made. Incidents and accidents related to the delivery of items may occur. The maximum liability per delivery order is \$25, and the total amount of this coverage may be made by multiple parties including Delivery Hero, Manufacturer, Retailer, **HeroEx.com**, and other entities.

#### **Section20. Damages, Loss, and Theft**

User accepts that damages, loss, and theft of items may occur during the delivery of the items. **HeroEx.com** may attempt to refund or reconcile damages, loss, or theft but cannot prevent such occurrences from happening. User agrees to not hold **HeroEx** responsible for such occurrences.

### **Section21. Dispute Resolution**

User agrees to follow the dispute resolution process that **HeroEx.com** deems appropriate. A dispute may occur between two or more of the following parties: User, Delivery Hero, Manufacturer, Retailer, **HeroEx.com**, and other entities. In the event of a dispute, **HeroEx** will attempt to contact the representatives of all parties involved, and to resolve the matter in a fair and just manner. **HeroEx.com** is not liable for legal fees that third party plaintiffs or defendants incur as a result of usage of **HeroEx.com**. Disputes against **HeroEx.com** itself will be handled on an as-needed basis, and if disputes are required to be resolved in court, User agrees to resolve the dispute in a court located in San Francisco County, California.

### **Section22. Company Liability**

User agrees that **HeroEx** may only be held responsible for damages, loss, and theft of an item, as well as the result of related incidents, accidents, or injuries, up to the amount of \$25 per delivery order. This includes the cost of sending and returning and item. If the cost of an item plus the delivery fee exceeds \$25, **HeroEx** is not liable for the amount over \$25. There are no exceptions, although **HeroEx** may consider covering amounts higher than \$25.