

Version: February 4, 2020

## Terms and Conditions

Please note that your use of, and access to, our services are subject to the following Terms and Conditions. These Terms and Conditions are a binding contract between you (“customer” or “you”) and JM Facets, LLC which offers the JM Shipping Solution, referred to in some customer contexts as TransGuardian brand shipping (“JMF”, “we” or “us”). JMF and you are collectively referred to as the “Parties.” If you are using our Services (defined below) on behalf of a company or other entity, then “customer” or “you” means that entity, and you are binding that entity to these Terms and Conditions. You represent and warrant that you have the legal power and authority to agree to these Terms and Conditions, and if the customer is an entity, these Terms and Conditions are entered into by an employee or agent with all necessary authority to bind that entity to these Terms and Conditions. **JMF reserves the right to modify these Terms and Conditions from time to time and without notice.** If you do not agree to all the following, you may not use or access our services or products (“Services”) in any manner.

### Scope of Shipping Services; Access to Services

JMF will permit you to use all or part of our Services, including printing and processing shipping labels and shipping parcels through our Transportation Management Software (“TMS”), enjoying JMF’s negotiated volume discount rates for postage and freight charges and providing for reimbursement for parcel losses under the terms and conditions set forth herein and under any applicable insurance coverage. In our sole discretion, we may limit or terminate your use of any or all of the Services if we determine use access is creating conditions that adversely affect, or have the potential to adversely affect, our business operations.

### Not a Parcel Carrier

JMF is neither a shipping carrier nor an indirect shipping carrier and is not subject to the Warsaw Convention. You may purchase and print labels and/or bills of lading through JMF’s TMS for carriage by FedEx, UPS, USPS, DHL, or other such parcel carriers as JMF may approve and offer in its TMS (“Carriers”). You agree to use the Carriers at your choice and risk. JMF arranges for Carrier service only according to the terms and conditions of this Agreement and of the regulations of each Carrier. **JMF is not responsible for the fulfillment of services offered by each Carrier.**

### Limited License

JMF hereby grants you a limited, non-exclusive, non-transferable license, which will be effective while this Agreement remains in force, to use JMF’s website, software, and computer systems to access and use the Services. No other transfer of intellectual property rights is included or effected under this Agreement. You agree not to (i) make any unauthorized copy of, (ii) attempt to reverse engineer, or (iii) attempt to practice, offer for sale to any third party, or otherwise commercially exploit for your own benefit, any Services or any computer systems, software, proprietary business methods or content of JMF.

### Pricing

You agree to pay JMF for those Services that you actually use and/or purchases at the applicable price(s) then in effect, as published in the TMS or as may be specified in a separate written agreement between the Parties. Your purchase or use of the Services constitutes your agreement with and commitment to pay JMF for the price as so published or communicated, which may include additional charges determined by any Carrier in its reconciliation process after a package

label is used. Reconciliation often reflects discrepancies in the data used to develop the price and the actual package details as observed by the Carrier.

Discounted prices for freight may include the condition that missed service commitments (“MSCs”) are ineligible for the service guarantee refunds normally offered by the Carrier with standard pricing. Additionally, Carriers have “black-out” dates for MSC refunds. JMF does not offer refunds for MSCs by Carriers. If guaranteed refunds for MSCs are important to you, you may use your Carrier account for freight charges in the TMS and pay a per-click or license fee for producing labels.

For parcels picked up at a shipping origin point other than your premises, JMF will charge you any additional fees that the Carrier charges to cover the pick-up.

JMF reserves the right to apply additional fees for labels yielding no freight or other revenue to JMF.

Pricing is subject to change without notice including but not limited to annual or other increases by any Carrier and/or JMF’s insurer.

You agree to pay the agreed price for Services used or purchased even if a credit card company or processor refuses to pay JMF on your account or charges back the fees or funds to deduct them from JMF’s account as a refund to you. If an attempt to obtain payment from you by credit card, electronic check, ACH transaction or the like is not actually completed successfully for any reason, you will pay applicable fees within five (5) business days of receiving demand for payment from JMF. You authorize us to repeat a previously unsuccessful attempt to obtain payment at any time, including by adding incurred fees that remain unpaid. You agree to pay a penalty of 12% per annum on unpaid fees.

### **Communications**

As requested by JMF, you agree to provide in writing any statements, instructions, changes or other information, via email to JMF, through our TMS, or other recordable method of communication authorized by JMF.

### **Fraud and Misrepresentation**

We reserve the right to terminate this Agreement immediately and without notice if in our reasonable determination (i) it was entered into by you through fraud, material misrepresentation, or concealment of material fact or (II) your actions in using the services are indicative of fraud, material misrepresentation, or concealment of material fact.

### **Insurance Coverage**

Upon request, JMF will insure your goods under an insurance policy issued to JMF which is underwritten by an authorized insurance company (“Insurance Policy”). JMF is the only named insured under the Insurance Policy. JMF reserves the right to allow insuring terms, including but not limited to the rate, for its Insurance Policy to be modified in JMF’s sole discretion at any time and without notice to you, provided that coverages will substantially adhere to the summary herein and will absent notice be without interruption. Shipments are insured for physical loss and/or damage in the course of transit under the conditions, limitations and exclusions stated in the Insurance Policy.

- a) Coverage applies exclusively to jewelry, time pieces, precious metal, gemstones, art, currency, firearms or other lawful goods listed in the TMS.

- b) The Declared Value Limit (“DVL”) per parcel to insure your goods should be the selling price if sold prior to shipment or, otherwise, actual cash value/replacement value of the goods. Under no circumstances will JMF or its insurer be responsible for values exceeding the DVL or for administering or paying any claims if you failed to make full payment for coverage. The maximum DVL per parcel is \$250,000 worldwide. The maximum coverage per conveyance involving multiple parcels is \$5,000,000.
- c) Coverage commences from the time shipments are accepted by the Carrier or JMF until delivery to the premises of the recipient. You may drop off shipments at an authorized JMF Business Service Center, or the Carrier’s staffed or manned collection center, or cause the Carrier to pick up shipments at the shipping point of origin. Coverage is void if you use unmanned drop boxes to deliver a shipment to any Carrier. You must obtain written proof of acceptance or a receipt from the Carrier or an authorized JMF representative, and failure to obtain such proof or receipt will void coverage. Claims arising prior to proof of acceptance or after proof of delivery by the Carrier are excluded.
- d) Signature Requirements
- 1) Signature requirements are set by JMF and will depend on the value of the shipment and/or an assessment of current risk factors.
  - 2) When you select “Delivery Confirmation” or no signature confirmation for delivery by any Carrier, the Carrier’s confirmation in accordance with your selection constitutes proof of delivery and coverage for such shipment will terminate upon delivery.
  - 3) In instances where a delivery signature is required by the TMS but the recipient waives the signature (“Signature Release”), coverage for the shipment will be void. If, however, you prove that you instructed the Carrier not to allow Signature Release, and the Carrier nevertheless waived the signature against your instructions, coverage shall remain in force.
- e) Coverage under the Insurance Policy is subject to exclusions, including but not limited to, the following: (1) fraudulent, untruthful, or criminal acts of you, your employees or agents, or persons acting in concert with, or under the direction of, you, or your employees or agents; (2) shipment of contraband or unlawful goods, which includes goods forbidden from carriage by a Carrier’s terms; (3) war, terrorism, cyber-attacks, or nuclear radiation; (4) indirect or consequential damages; (5) loss resulting from the non-performance or loss of a buyer; (6) damages and losses of contents within sealed packages absent objective physical evidence of tampering with the shipping parcel or of penetration or invasion of the shipping container or of damage in transit, (7) damages attributable to insufficient packaging, (8) loss of, damage to or breach of data or other non-tangible content, or (9) non-performance or delay caused by labor disturbances, riots, civil authority, acts of God or means beyond the control of JMF or the Carrier.

### **Shipping Rules and Restrictions (applicable to all packages)**

In order to ship through our TMS and for coverage under the Insurance Policy to apply, you must provide accurate shipping information. Failure to provide accurate shipping information, including, but not limited to, the correct tracking or bill of lading number, cargo or package contents, Carrier, service type, packaging type, shipment origin, shipment destination, and date, all corresponding to the shipment declared, may void coverage. In addition, you must abide by the following packaging and shipping requirements:

#### **a) Contents of parcels**

Coverage applies to parcels that contain only contents that are listed within the TMS. Coverage does not apply to parcels that contain contents that are unlisted or prohibited by the Carrier. Restricted Cargo, dangerous goods and hazardous material are excluded from coverage. "Restricted Cargo" means parcels to which special regulations and/or laws issued by national, state, and/or local governments apply. Restricted Cargo includes, but is not limited to, alcohol, tobacco, ammunition, and prescription medications. If you use JMF to ship any dangerous good, hazardous material or Restricted Cargo, you assume all responsibility to ensure compliance with every applicable national, state and/or local government regulation and/or law; you assume all liability for any type of non-compliance; and you agree to indemnify and hold JMF harmless from any type of non-compliance or liability arising from the shipment; your immediately preceding assumption of liability, as well as indemnification and hold harmless obligation to JMF, also applies with respect to any good you ship that is prohibited by the Carrier.

**b) Approved Packaging,**

Approved packaging under this Agreement is shown in the TMS. Packaging types are based upon DVLS. JMF may require special security packaging (e.g., seals or special security containers) for certain delivery dates based upon assessment of current risk factors. JMF may change the approved packaging type at its sole discretion and without prior notice, in accordance with JMF's ongoing evaluation of risk. If you process a shipment by any means other than those authorized by JMF, insurance coverage may not apply.

**c) Secure and Professional Packaging**

All packages must be properly packed and sealed to withstand the ordinary rigors of shipment. JMF will have no liability for a package that is in a container that is already damaged or is not properly sealed according to the best practices of the trade then prevailing for the type of product shipped.

**d) Adherent Labels**

For insurance coverage to be in force, you must use shipping labels that adhere directly to the packaging. Shipments with labels placed in adhesive pouches that can be removed or replaced may void coverage, unless required by customs.

**e) Forbidden Words, Marks, and Values on Labels**

- 1) Packages may not have any reference to diamond, jewelry, gems, watches, precious or semi-precious metals or any word or description on the external packaging or label to identify the valuable nature of the contents. When shipping you must use a pseudonym or abbreviation (e.g., "P.D.C." in place of "Precious Diamonds Company") on labels and airbills to avoid publicizing valuable contents.
- 2) The airbill and/or shipper's label and/or packaging may not contain or display a logo or trademark or any identifying graphic associated with high-value merchandise unless required in the address portion of the airbill or other shipping label.
- 3) No monetary values may be declared on the airbill or the packaging, except as may be required by Customs for international shipments.

**f) Input of Package Level Detail**

When generating shipping labels through the TMS via any Carrier and using JMF Carrier accounts, you must declare the correct package-level details, including, but not limited to, address, weight, dimensions, residential or out of area/rural location, Customs duty and/or tax liability, etc., of each shipment accurately. Wrong data input may result in corrective billing by the Carrier. You

agree to pay for all fees so charged, including possible penalties. You agree that in no event will JMF be liable to you or any customer for the loss or mis-delivery of any parcel resulting from any error, discrepancy, or misstatement in shipment details input by you.

**g) International Shipments**

- 1) The delay or loss of a parcel in Customs due to inaccurate preparation of documents or noncompliance with regulations does not constitute a loss reimbursable under the insurance Policy, except if Customs loses the parcel within the Customs system.
- 2) The delay of a parcel in Customs due to Customs' decision to hold or examine the package is outside of JMF's control, and JMF will have no liability for any lost sales opportunity or any other consequences.
- 3) Only shipments from or to approved countries are eligible for coverage under the insurance Policy and shipping to or from certain countries may result in higher premiums or fees. Approved countries for this Agreement are shown in the TMS.
- 4) In the space on the airbill reserved for declaring a value for carriage or insurance, as opposed to Customs, you must declare no monetary value. If Customs or statutory regulations or any law applicable to the shipment require declaration of cargo type, including precious cargo, on the airbill for Customs, you may declare a value or contents on the airbill and/or packaging whenever required to do so by the Carrier for Customs purposes (including when the airbill is being filled out by hand and the airbill form requests the entry of the shipment's dollar value for Customs) or whenever such declaration is required by Customs regulations, Customs forms, laws or regulations which are applicable to the parcel or shipment as a result of the shipment originating from, arriving in, or passing through any country. You may declare a value or contents on manifests, packing slips, commercial invoices or other such similar documents that must accompany the shipment, **provided** that you endeavor to conceal the value from external view to the extent possible.

**h) Returns**

In the event a parcel is undeliverable or returned for any reason, you agree to pay for all charges, including but not limited to, freight, declared value charges, duties and taxes. Alternatively, you may instruct JMF in writing to abandon the parcel, for which JMF assumes no liability.

**i) Address Book Upload**

At your request, JMF will assist you with uploading your customer address list database or other electronically stored information into the TMS for your shipping needs; **however**, you have the sole and exclusive responsibility to:

- 1) verify that all customer address data is correct, complete and current prior to the uploading of such data to the TMS
- 2) provide all relevant information to JMF about the software program, electronic format and other attributes of your data necessary for the uploading of the data to the TMS;
- 3) submit any customer address changes to JMF in a timely manner; and
- 4) inspect and confirm the accuracy of the address information included on each shipping label created through the TMS prior to delivery of the parcel to the Carrier for shipment.

You agree that in no event will JMF be liable for the loss or mis-delivery of any parcel resulting from any error or discrepancy in any address uploaded to the TMS, specifically including, but not limited to, any address error or discrepancy resulting from a mis-mapping of, or other technical failure in connection with, the uploading of your address data to the TMS.

## Claims

Subject to the terms, conditions and restrictions in this Agreement and the Insurance Policy, JMF hereby assigns and/or delegates to you any and all insurance payments due to JMF in relation to the shipment, and hereby authorizes any and all insurance carriers to make payment directly to you.

### a) Filing Claims

You must report any claims by logging the claim via the JMF online claim module in the TMS. Claims submitted this way will confirm the date the claim was submitted to JMF.

### b) Time Limit for Filing Claims

In the event of loss or damage, **you must notify JMF:**

- 1) within five (5) days after discovery of any loss or damage; and**
- 2) no more than 30 days from the date of tender of the shipment to the Carrier.**

*Failure by the recipient to report damage, loss or non-receipt to you does not excuse you from complying with these provisions. You agree to waive your claim unless you give notice to JMF within the time limits stated in paragraph b) immediately above.*

### c) Claims Documentation

To process a claim, the claim examiners appointed by JMF's Insurer will require sufficient documentation from JMF to support the means by which the claimed property valuations were calculated. You must cooperate with JMF in the claim presentation to JMF's insurer. You must retain, and possibly surrender to us, the insurer, or applicable authorities, all packaging and items for inspection until such time as the investigation has been completed.

### d) Loss Valuation

Unless otherwise agreed in writing by the Parties, JMF's liability will not exceed:

- 1) The declared value provided to the TMS on the day of shipment;
- 2) The replacement value of the item(s) for delivery to the recipient, as defined on your invoice issued to the shipment recipient prior to the occurrence of any loss;
- 3) The memo amount; or
- 4) The cost to repair or rebuild the property with material of like kind and quality, whichever is less.

### e) Packaging Standards for Claims

If you fail to pack the shipment with sufficient care and rigor according to the standards of the trade based on our reasonable determination, such failure may be grounds sufficient for JMF and/or its insurer to deny a claim.

### f) Cooperation in Claims Process

In the event of a loss, you agree fully to cooperate with JMF or JMF's insurer in the course of any investigation, including, but not limited to the following:

- 1) Submitting to an examination under oath and signing a transcript of such examination attesting to the truthfulness of your sworn testimony.
- 2) Supplying documentation to support the means by which the claimed property valuations were calculated.
- 3) Providing testimony (with JMF or others covering any costs of travel and similar expenses), if an investigation results in prosecution of a Carrier employee or other party, if the testimony is reasonably necessary to a successful prosecution.

### g) Misrepresentation or Fraud

JMF have no liability under this Agreement if you conceal or misrepresent any material fact or circumstance before or after a loss. Any false or fraudulent claims may make you and/or a package recipient liable for prosecution under applicable civil and/or criminal laws or regulations in the country(ies) of origin and destination. The submission of false or fraudulent statements in connection with a claim may result in fine, penalty or imprisonment as provided under the United States Code or corresponding international regulation.

**h) Carrier Refusal of Claim**

A Carrier's refusal to admit that loss, damage or mis-delivery has occurred due to any action on the part of the Carrier and/or refusal to issue the Carrier's standard reimbursement check covering loss, damage or mis-delivery may be grounds sufficient for JMF or its insurer to deny a claim.

**i) Salvage**

YOU MAY NOT DISPOSE OF OR DISCARD ANY ITEM WITHOUT WRITTEN AUTHORIZATION. JMF retains the right to inspect any item prior to its repair or disposal. If JMF and/or its insurer reimburses you for a loss, JMF has the right to obtain all or part of the contents of the shipment if eventually they are recovered. If the contents of the shipment are returned to you, you must notify JMF in writing within seven (7) days of the recovery. Any reimbursement received by you from the Carrier will be deducted from the limit of coverage.

**j) Ex Gratia Claims Payments**

If JMF or its insurer elects to honor a claim for loss that might not strictly conform to all of the Insurance Policy terms and conditions, including because in JMF's judgment determining the underlying facts would be overly expensive, this may not be interpreted to create any precedent or right for reimbursement for any other such non-conforming claims for loss in the future, but shall be treated as a voluntary payment for the purposes of goodwill, marketing, or similar considerations.

**Coverage for Medical & Electronic Equipment**

JMF agrees to offer insurance coverage for Medical and Electronic Equipment, subject to the other terms and conditions in this Section. Medical and Electronic Equipment means electronic equipment, machinery and/or devices, when shipped in new condition from its manufacturer or from the regular wholesaler or reseller of such equipment.

Higher rates may apply to this category, and you must specifically notify JMF that this category is being shipped, receive approval from JMF, and pay the applicable rate.

You may have a DVL of up to \$150,000 per parcel for Medical and Electronic Equipment without any locked container or packaging beyond the packaging that is normal and customary in shipping.

Mechanical, electrical or electronic derangement of the products shipped will not be covered and is excluded from coverage. Any breakage is also excluded from coverage, unless there is objective evidence of damage in transit or of external damage to the professional packaging of the parcel.

You are responsible for determining whether the Medical and Electronic Equipment is suitable for shipping through normal shipping channels, including different modes of travel (e.g. delivery truck, or cargo handling in an airport) and is not unusually sensitive to internal damage to mechanisms from external shocks. You will prepare equipment for transport including securing or "parking" internal mechanisms that could be damaged during transport from abrupt motion or shocks.

## **Warranties of Customer**

### **Insurable Interest**

By declaring a parcel or shipment to JMF for insurance coverage, you warrant that you are the owner of the shipped merchandise, the seller of the merchandise to the addressee, returning the merchandise to its owner, or otherwise authorized to transport the merchandise.

### **Compliance with Laws and Regulations**

By declaring a parcel or shipment to JMF for insurance coverage, you warrant that the shipment is in compliance with all foreign, federal, state, and local laws, including export regulations and Customs regulations, and that no controlled substances or illicit contraband is being shipped. Losses are not reimbursable under this Agreement from the seizure or loss of illicit contraband or other controlled substance, violations of Customs regulations or Carrier rules, or items shipped to restricted persons under export control regulations.

### **Compliance with Anti-Money Laundering Regulations**

You are responsible for compliance with any export control regulations or laws concerning money-laundering or terrorist financing, which may restrict shipment to denied persons or companies.

### **Confidential Information**

You acknowledge that, in order to obtain or utilize the Services, you may be required to disclose confidential, non-public information concerning you and/or your business to JMF (“Confidential Information”). JMF will restrict access to Confidential Information in the same way that JMF treats its own Confidential Information, but with no less than a reasonable degree of care. JMF will not disclose or share any Confidential Information with any third party except to the extent necessary to fulfill the Services selected by you. You acknowledge and agree that Carriers or JMF may use subcontractors and vendors to implement or deliver Services on your behalf, and you consent to JMF sharing Confidential Information with them as required for that purpose.

### **United States Postal Service**

As part of JMF providing services of the U.S. Postal Service (USPS), JMF may collect certain information about you on behalf of the USPS. The USPS may send us tracking data from their scans of your mail and packages in the mailstream. Our uses for the data include informing you about the status of your mail and packages through options like USPS Tracking, fraud detection and aggregating the data to help the USPS and us provide you better service.

In addition, the USPS requires you to agree to the USPS Privacy Act Statement and to provide information about yourself that will be maintained in the Privacy Act Systems of Records by the Postal Service. Your information may be used in order to provide you with requested USPS products, services, or information. Collection of your information is authorized by 39 U.S.C. 401, 403, and 404. Providing this information is voluntary, but if not provided, your transaction may not be processed. USPS does not disclose your information to third parties without your consent, except to facilitate your transactions, to act on your behalf or request, or as legally required. This includes the following limited circumstances: to a congressional office on your behalf; to financial entities regarding financial transaction issues; to a USPS auditor; to entities, including law enforcement, as required by law or in legal proceedings; and to contractors and other entities aiding USPS to fulfill the service (service providers). For more information regarding USPS privacy policies, visit [www.usps.com/privacypolicy](http://www.usps.com/privacypolicy).