

## SALES TERMS AND CONDITIONS

All sales made by FedStore Corporation ("FedStore") to its customers with FedStore accounts ("Purchaser") are subject to these terms and conditions. Purchaser's acceptance of these terms and conditions shall be made by either (1) Purchaser providing a purchase order number to FedStore or (2) Purchaser's acceptance on any product from FedStore, whichever occurs first. These terms and conditions shall apply to sales of all products described in FedStore's product listings except as noted below ("Product"). The term "Special Order Product" as used herein shall mean products that are not listed in FedStore's product listings or have been configured to Purchaser's specifications. Electronic Software Distribution (ESD) product sales are subject to additional terms.

### 1. ORDERING

Prior to placing an order, Purchaser must have an active FedStore sales account number and Purchaser's account must be current and in good standing. Purchaser must provide FedStore with complete Product order information as required by FedStore. The Product order information will include without limitation (1) Product description, (2) unit quantity, (3) Vendor part number, (4) current unit price as provided by FedStore and (5) correct shipping address. For government or educational orders, Purchaser will provide the above Product order information as well as (1) end user name and zip code and (2) government or educational contract number, if applicable. Purchaser personnel will identify, for each Product order, the ship-to destination as either Purchaser, Purchaser's customer, or to some other specified third party. FedStore reserves the right to require additional information based on the requirements of the manufacturer or publisher of the product. Purchaser shall not disclose any confidential information when ordering from FedStore. Purchaser may place orders over telephone, via facsimile, and via FedStore-approved electronic ordering methods only through persons who identify themselves as Purchaser personnel and provide their FedStore customer number prior to placing the order. FedStore will have no obligation to confirm the validity of any order placed or the authority of the person placing an order in this manner. Purchaser will disclose its FedStore customer number only to its personnel with a need to know. FedStore's acceptance of any order from Purchaser is limited to these terms and conditions in their entirety without addition, modification, or exception. Any additional or different terms in Purchaser's purchase order or submitted by Purchaser in any form are hereby deemed to be material alterations hereto and notice of objection to them is hereby given. FedStore will have no obligation to hold Product for future sale to Purchaser if Purchaser's order is incomplete, on hold, or if Purchaser does not confirm it within 48 hours of notification from FedStore that backordered Product is available for shipment.

All Product pricing, description and availability information ("Information") provided by FedStore, in any form, is the property of FedStore. FedStore hereby grants Purchaser a limited, non-exclusive, non-transferable license to use the information for Purchaser's internal use only for purchases of Products sold by FedStore. If FedStore provides Information to Purchaser electronically, Purchaser agrees to update such Information regularly to ensure its accuracy. Purchaser agrees to hold in confidence and not to directly or indirectly use, reveal, report, publish, disclose, or transfer to any other person or entity any of the Information or utilize the Information for any purpose except as permitted herein. FEDSTORE MAKES NO WARRANTY, EITHER EXPRESS OR IMPLIED ON THE INFORMATION. ALL

INFORMATION IS PROVIDED TO PURCHASER "AS IS". FEDSTORE HEREBY DISCLAIMS ANY AND ALL WARRANTIES, EXPRESS AND IMPLIED, RELATING TO INFORMATION INCLUDING BUT NOT LIMITED TO, THE IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE.

## **2. PRICE**

All prices are subject to change without notice and will be established at time of order acceptance by FedStore. Order acceptance and sale by FedStore occurs at time of shipment. Prices for backordered Products are not guaranteed.

## **3. SHIPMENT AND DELIVERY**

U.S. Shipments – All Product shipments will be made FBO origin. For Products owned by FedStore, title and risk of loss will transfer to Purchaser upon FedStore tendering the Product for delivery to the carrier. For U.S. shipments totaling \$700.00 or more, excluding shipments to Alaska, Hawaii and U.S. Territories, FedStore will ship Products using FedStore's carrier of choice via standard ground freight service at no charge. If Purchaser requests FedStore prepay and bill Purchaser for freight charges, Purchaser agrees that FedStore retains the right to choose the carrier.

Notwithstanding anything to the contrary herein, additional charges may apply for unusually heavy or large items or for shipment of materials designated as hazardous in accordance with Federal and/or International Air Transportation regulations. COD and additional fees may also apply. Purchaser shall examine all Products upon receipt and shall notify FedStore, as specified herein, of all discrepancies and refusal to accept delivery of purchased Product. Such notice shall be reasonably detailed and explain the discrepancy or why the purchased Product was refused. If Purchaser does not give FedStore such notice as stated herein, Purchaser agrees that such Products have been accepted by Purchaser as of the date of shipment.

## **4. CREDIT AND PAYMENT TERMS**

Purchaser shall furnish to FedStore all financial information reasonably requested by FedStore from time to time for the purpose of establishing or continuing Purchaser's credit limit. Purchaser agrees that FedStore shall have the right to decline to extend credit to Purchaser and to require that the applicable purchase price be paid prior to shipment. Purchaser shall promptly notify FedStore of all changes to Purchaser's name, address, or of the sale of substantially all of its assets. FedStore shall have the right from time to time, without notice, to change or revoke Purchaser's credit limit on the basis of changes in FedStore's credit policies or Purchaser's financial condition and/or payment record. Purchaser shall not deduct any amounts owing from any FedStore invoice without FedStore's express written approval, which approval shall be contingent upon Purchaser providing all supporting documentation for such deduction as required by FedStore. A service charge of the lesser of one and one-half percent (1 ½%) per month or the maximum amount allowed by law will be charged on all past due balances commencing on the date payment is due. Credit cards (MasterCard and VISA) will only be accepted at the time of order. No cash payments will be accepted. Payment by money orders or travelers check will be allowed only if the money order or travelers check is made out in the exact amount of the invoice; payment of one invoice through multiple money orders or travelers checks will not be permitted. Additional restrictions regarding third-party payments apply to Purchasers located in Columbia, Panama, or Venezuela. FedStore retains (and Purchaser grants to FedStore by submitting a purchase order) a security

interest in the Products to secure payment in full, and Purchaser agrees to execute any additional documents necessary to perfect such security interest. If Purchaser fails to make timely payment of any amount invoiced hereunder, FedStore shall have the right, in addition to any and all other rights and remedies available to FedStore at law or in equity, to immediately revoke any or all credit extended, to delay or cancel future deliveries and/or to reduce or cancel any or all quantity discounts extended to Purchaser. Purchaser shall pay all costs of collection including reasonable attorneys' fees. Any obligation of FedStore under these terms and conditions to deliver Products on credit terms shall terminate without notice if Purchaser files a voluntary petition under bankruptcy statute, or makes an assignment for the benefit of creditors, or if an involuntary petition under bankruptcy statute is filed against Purchaser, or if a receiver or trustee is appointed to take possession of the assets of Purchaser.

## **5. TAXES**

Purchaser shall bear applicable federal, state, municipal, and other government taxes (such as sales, use, etc.). Unless otherwise specified, prices do not include such taxes. Exemption certificates, valid in the place of delivery, must be presented to FedStore prior to shipment if they are to be honored.

## **6. WARRANTY**

Product warranties, if any, are provided by the manufacturer or publisher of the Products. FedStore makes no warranties whatsoever. FedStore's sole obligation (and Purchaser's sole remedy) in the event of breach of any warranty shall be the repair or replacement of defective Products. IN NO EVENT SHALL FEDSTORE BE LIABLE FOR ANY CONSEQUENTIAL DAMAGES OR DAMAGES OF ANY KIND OR NATURE ALLEGED TO HAVE RESULTED FROM ANY BREACH OF WARRANTY. FEDSTORE DOES NOT WARRANT THE FITNESS OF THE PRODUCTS FOR ANY PARTICULAR PURPOSE. FEDSTORE MAKES NO WARRANTY, EXPRESS OR IMPLIED, OTHER THAN THOSE SPECIFICALLY SET FORTH HEREIN.

## **7. PRODUCT RETURNS**

**A. Requirements** – Purchaser must obtain a valid Return Material Authorization ("RMA") number from FedStore for all returns. RMAs will be issued, at FedStore's sole discretion, in accordance with these terms and conditions. Purchaser must provide its account number and all other information as required by FedStore for all returns. RMAs are valid for twenty (20) calendar days from the date of issuance. Purchaser must allow for in-transit time for Products to be returned to FedStore, as FedStore must physically receive Products within the twenty (20) calendar days. RMAs will be issues for authorized returns under one of the following categories: (1) defective products, (2) billing or shipping discrepancies, or (3) damaged Product. Purchaser is responsible for ensuring that the RMA number is clearly visible on the address label of the Product packaging when it is returned to FedStore. FedStore will refuse delivery of any boxes without a valid, clearly visible RMA number as noted above. Overgoods are unauthorized returns. Any Products received by FedStore (1) without a valid RMA number, including Product shipments refused by Purchaser except those damaged in transit from FedStore, (2) later than twenty (20) calendar days from the RMA date, or (3) in a condition unsuitable for resale (excluding defective Products), will be considered Overgoods. FedStore will return Overgoods to Purchaser and will charge Purchaser a \$50 processing fee per shipment plus related

freight charges. If Purchaser refuses the shipment of Overgoods from FedStore or returns the Overgoods to FedStore a second time without FedStore's prior authorization, Purchaser agrees to relinquish all right and title to and waives all claims against FedStore for credit related to such Products. Notwithstanding anything to the contrary, FedStore reserves the right not to authorize the return of Products that are no longer in production or are being published by a manufacturer or publisher that (1) is insolvent, (2) has declared bankruptcy, or (3) will not accept returns from FedStore.

**B. Defective Product Returns** – Defective returns are only for Products purchased from FedStore that are inoperable or do not function in accordance with the specifications published by the manufacturer or publisher and are covered under the manufacturer's or publisher's warranty. All defective returns are subject to more restrictive manufacturer or publisher policies. In most cases, manufacturers and publishers will require Purchaser to perform specific diagnostic/ confirmation testing with assistance/ telephone participation of manufacturer's or publisher's support department prior to issuance of a defective product RMA. Purchaser may request an RMA for the return of defective Products, excluding Special Order Products, within thirty (30) calendar days of invoice date. Purchaser's defective returns will be limited to a maximum of 15% of the value of the Purchaser's Product purchases within the same vendor code as the defective Product during the thirty (30) calendar days prior to the RMA date, less any prior defective returns during that period. Upon receipt of the defective Product for which the RMA was issued, FedStore may test the products and may return to the Purchaser, at Purchaser's expense, any Products found not to be defective. Upon verification that the returned Product is defective, FedStore may, at FedStore's sole discretion, either (1) repair the defective Product, (2) ship Purchaser a replacement Product, or (3) provide Purchaser a credit equal to the lesser of the Product's invoice price or current replacement value less any applicable charges or fees. FedStore reserves the right to require Purchaser to return defective Products directly to the manufacturer or publisher for replacement according to its defective Products return policy. FedStore shall not be obligated to repair, replace, or issue credit to Purchaser for Products rendered defective, in whole or in part, by causes external to the Products, including, but not limited to, catastrophe, power failure, or transients, overvoltage on interface, environment extremes, improper use, maintenance or application of the Products or use of unauthorized parts. Purchaser shall bear all risks of loss when returning defective products.

**C. Damaged Product Returns** – Damaged Product returns are only for Products purchased from FedStore and shipped via FedStore's carrier of choice that are damaged in transit from FedStore to the Purchaser. Purchaser shall refuse any Product delivered in damaged condition. If the Product is received in damaged condition, Purchaser shall notify FedStore and request an RMA within three (3) business days of receipt of such Product. Failure to notify FedStore and request an RMA within such time shall be deemed an acceptance of the Product as of the date of shipment.

## **8. BILLING AND SHIPPING DISCREPANCIES**

Billing and shipping discrepancies are for Products purchased from FedStore that were invoiced or shipped incorrectly. These include lost shipments, short shipments, wrong sales, wrong shipments, and pricing/invoice errors. Purchaser may request an RMA for verified billing and shipping discrepancies within thirty (30) calendar days of invoice date. In addition, Purchaser must notify FedStore of any billing discrepancies

related to Purchaser's authorized returns within ninety (90) calendar days of RMA date. Such notice shall be reasonably detailed and shall specify the discrepancy. Failure to give such notice within the time specified herein shall be deemed a waiver of Purchaser's rights to claim such discrepancy.

## **9. PATENT AND TRADEMARK INDEMNITY**

FEDSTORE SHALL HAVE NO DUTY TO DEFEND, INDEMNIFY, OR HOLD HARMLESS PURCHASER FROM AND AGAINST ANY OR ALL DAMAGES AND COST INCURRED BY PURCHASER ARISING FROM THE INFRINGEMENT OF PATENTS OR TRADEMARKS OR THE VIOLATION OF COPYRIGHTS BY PRODUCTS.

## **10. LIMITATION OF LIABILITY**

FEDSTORE SHALL NOT BE LIABLE TO PURCHASER, PURCHASER'S CUSTOMERS, OR ANY OTHER PARTY FOR ANY LOSS, DAMAGE, OR INJURY THAT RESULTS FROM THE USE OR APPLICATION BY PURCHASER, PURCHASER'S CUSTOMER, OR ANY OTHER PARTY, OF PRODUCTS DELIVERED TO PURCHASER, UNLESS THE LOSS OR DAMAGE RESULTS DIRECTLY FROM THE INTENTIONALLY TORTIOUS OR FRAUDULENT ACTS OR OMISSIONS OF FEDSTORE. IN NO EVENT SHALL FEDSTORE BE LIABLE TO PURCHASER OR ANY OTHER PARTY FOR LOSS, DAMAGE OR INJURY OF ANY KIND OR NATURE ARISING OUT OF OR IN CONNECTION WITH THESE TERMS AND CONDITIONS, OR ANY AGREEMENT INTO WHICH THEY ARE INCORPORATED, OR ANY PERFORMANCE OR NONPERFORMANCE UNDER THESE TERMS AND CONDITIONS BY FEDSTORE, ITS EMPLOYEES, AGENTS OR SUBCONTRACTORS, IN EXCESS OF THE NET PURCHASE PRICE OF THE PRODUCTS OR SERVICES ACTUALLY DELIVERED TO AND PAID FOR BY PURCHASER HEREUNDER. IN NO EVENT SHALL FEDSTORE BE LIABLE TO PURCHASER OR ANY OTHER PARTY FOR INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES, INCLUDING, BUT NOT LIMITED TO LOSS OF GOOD WILL, LOSS OF ANTICIPATED PROFITS, OR OTHER ECONOMIC LOSS ARISING OUT OF OR IN CONNECTION WITH FEDSTORE'S BREACH OF, OR FAILURE TO PERFORM IN ACCORDANCE WITH ANY OF THESE TERMS AND CONDITIONS, OR THE FURNISHING, INSTALLATION, SERVICING, USE OR PERFORMANCE OF ANY PRODUCTS OR INFORMATION FEDSTORE SHALL PROVIDE HEREUNDER, EVEN IF NOTIFICATION HAS BEEN GIVEN AS TO THE POSSIBILITY OF SUCH DAMAGES. PURCHASER HEREBY EXPRESSLY WAIVES ANY AND ALL CLAIMS FOR SUCH DAMAGES. IN NO EVENT SHALL FEDSTORE HAVE ANY LIABILITY FOR ANY PRODUCTS USED FOR AVIATION, MEDICAL, LIFESAVING, LIFE-SUSTAINING OR NUCLEAR APPLICATIONS.

## **11. COMPLIANCE WITH U.S. EXPORT LAWS**

If Purchaser delivers Products to its customer who may use the Products outside the United States, Purchaser acknowledges and shall advise its customer that the Products are controlled for export by the U.S. Department of Commerce and that Products may require authorization prior to export from the United States or re-export. Purchaser agrees that it will not export, re-export, or otherwise distribute Products, or direct products thereof, in violation of any export control laws or regulations of the United States. Purchaser warrants that it will not export or re-export any Products with knowledge that they will be used in the design, development, production, or use of chemical, biological, nuclear or ballistic weapons, or in a facility engaged in such activities, unless Purchaser has obtained prior approval from the Department of Commerce. Purchaser further warrants that it will

not export or re-export, directly or indirectly, and Products to embargoed countries or sell Products to companies or individuals listed on the Denied Persons List published by the Department of Commerce.

## **12. RELATIONSHIP OF THE PARTIES**

Purchaser's relationship with FedStore will be that of an independent contractor. Purchaser will not have, and will not represent that it has, any power, right or authority to bind FedStore, or to assume or create any obligation or responsibility, express, implied or by appearances, on behalf of FedStore or in FedStore's name, except as herein expressly provided. Nothing stated in these terms and conditions will be construed as constituting Purchaser and FedStore as partners or as creating the relationships of employer/employee, franchisor/franchisee, or principal/agent between the parties. Purchaser will make no warranty, guarantee or misrepresentation, whether written or oral, on FedStore's behalf.

## **13. MANUFACTURER, PUBLISHER AND SUPPLIER RESTRICTIONS**

All Products delivered to Purchaser hereunder may have additional restrictions on their use required by the manufacturer or publisher. Purchaser is solely responsible for ensuring its adherence to any and all such restrictions and requirements. If any supplier prohibits FedStore from selling specific Products to Purchaser, then FedStore reserves the right not to sell such Products to Purchaser.

## **14. CHOICE OF LAW/ CHOICE OF FORUM**

These terms and conditions (and any agreement into which they are incorporated) shall be construed, interpreted and enforced under and in accordance with the internal laws of the State of Maryland, excluding its conflicts or choice of law rule or principles which might refer to the law of another jurisdiction. Purchaser agrees to exercise any right or remedy in connection with these terms and conditions exclusively in, and hereby submits to the jurisdiction of the State of Maryland, Courts of Montgomery County, Maryland, or the United States District Court for Montgomery County, Maryland, Fourth Circuit. The state and federal courts situated in the state of Maryland will have non-exclusive jurisdiction and venue over any dispute or controversy that arises out of these terms and conditions. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to these terms and conditions.

## **15. NOTICES**

All notices, requests, demands, and other communications that either party may desire to give the other party must be in writing and may be given by (1) personal delivery to an officer of the party, (2) mailing the same by registered or certified mail, return receipt requested, or via nationally recognized courier services to the party at the address of such party as set forth herein, at the official corporate address of such party, or such other address as the parties may hereinafter designate, or (3) facsimile subsequently to be confirmed in writing pursuant to item (2) above. Notices to FedStore shall be sent to: FedStore Corporation, 13111 Wonderland Way, Suite 3, Germantown, Maryland, 20874, ATTN: Legal Department

## **16. BINDING EFFECT/ ASSIGNMENT**

These terms and conditions shall be binding upon and shall inure to the benefit of the parties hereto and their respective representatives, successors and permitted assigns. Neither party may assign its rights and/or duties under these terms and conditions without prior written consent of the other party given at the other party's sole option. Any such attempted assignment shall be void. Notwithstanding the foregoing, FedStore may assign any purchase order received from Purchaser to a subsidiary or affiliate upon notice to Purchaser.

#### **17. PARTIAL INVALIDITY**

If any provision of these terms and conditions shall be held to be invalid, illegal or unenforceable, such provision shall be enforced to the fullest extent permitted by applicable law and the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

#### **18. NO WAIVER**

Failure or delay of FedStore to exercise a right or power under these terms and conditions shall not operate as a waiver thereof, nor shall any single or partial exercise of a right or power preclude any other future exercise thereof.

#### **19. CAPTIONS**

The captions used herein are for reference purposes only and shall have no effect upon the construction or interpretation of any provisions herein.

#### **20. GENERAL**

These terms and conditions, as published on FedStore's web site located at <http://www.fedstore.com/legal.html> at the time of sale, are the official terms and conditions of sale between FedStore and Purchaser and may be amended from time to time without notice at FedStore's sole discretion.