



FP Mailing Solutions

Terms and Conditions

These terms and conditions (these "Terms") are applicable to, and incorporated by reference into, any order form for, or customer agreement concerning, the rental or sale of any products supplied by Francotyp-Postalia, Inc., d/b/a FP Mailing Solutions, Inc. ("FP") to any customer ("Customer") as described on such order form or customer agreement (the "Equipment") and any services of FP relating thereto. The complete agreement between FP and Customer (the "Agreement") consists of these Terms and the terms set forth on any order form or customer agreement that references and incorporates these Terms. In the event of any conflict between these Terms and a separate order form or customer agreement, these Terms will control. No other terms, including any set forth on any Customer generated forms, acknowledgments or acceptance documents will be applicable unless agreed upon in a writing signed by both FP and Customer.

1. EXPLANATION OF PRODUCTS

- a. Meter – A device that manages the financial transactions of a mailing machine. This can be a standalone unit or a device, known as a Postal Security Device (PSD), which is inserted and housed in the mail handling equipment.
- b. Rental Equipment – Any Equipment outside of the meter that is rented from FP. Examples include mailing machine base, accessories, scales, etc. Such Equipment may require service, which will be invoiced separately to the Customer.
- c. Rental Services – Non-tangible product services that are provided by FP. Examples include RateGuard, resets, etc.

2. FP WILL:

- a. Rent to Customer and facilitate installation of the specified Meter, rented Equipment, and/or services at Customer's installation address, in good working order and ready to use, at rates set forth on the order form or customer agreement or as otherwise agreed upon in writing by FP and Customer.
- b. Maintain the Meter in proper operating condition by repair or replacement of non-consumable parts at FP's then-current applicable rates or such rates as otherwise agreed upon in writing by FP and Customer.

3. CUSTOMER WILL:

- a. Pay FP using one of our acceptable payment methods including: mailing to the lockbox address stated on the invoice or paying online at fp-usa.com. Failure to pay on-time can result in any of the following: locking of the meter device, being unable to perform resets, and FP recovery of the meter. Customer will be billed an NSF fee equal to lesser of \$50 or maximum allowed by law if check or electronic payment is returned due to non-sufficient funds.
- b. Make all required payments net to FP, and pay all sales, use, property, or excise taxes; fees or charges imposed on the shipment, transportation, delivery, ownership, leasing, rent, sale, purchase, possession, or use of the Equipment (except Federal or State net income or franchise taxes imposed on FP). Customer shall reimburse FP upon demand for any taxes paid by or advanced by FP.
- c. Customer will be invoiced in advance of payment due dates and shall make all payments to the address indicated on FP invoice within thirty (30) days of the date of FP invoice. A late fee will be charged if the payment is not made within such period and an additional late fee will be charged for each subsequent thirty (30) days that the invoice remains unpaid. Customer agrees to pay FP the then-current fee charged by FP's financial institution for checks returned unpaid and for ACH direct debit transactions which are rejected.
- d. Use reasonable care in the handling and operation of Equipment and be responsible for any loss or damage to Equipment, including provision for proper insurance coverage. FP shall be named as an "additional insured" and an updated certificate of insurance must be delivered to FP to be kept on file at FP at all times. Use of non-FP consumables (ink, rate chips, etc.) could result in a malfunction to Equipment. The Customer is responsible for repair due to damage done by non-FP products. In the event Equipment is damaged the Customer is responsible for the lesser of repair or replacement costs. These costs are available in the "my account" section of the FP website.

- e. Not use special attachments, printing plates, or other devices, including electronic scales or supplies, with the provided Equipment unless FP supplies them or agrees to their use in a signed writing.
- f. Use postage meters only for postage imprinting and recording purposes. (Tampering with or misuse of the postage meter(s) is punishable under Postal Laws and Regulations.)
- g. Make immediately available for examination and audit by FP or the United States Postal Service® (“USPS®”) any postage evidencing system or PSD in their possession.
- h. Notify FP of any change in location of the Equipment, and reimburse FP for any reasonable cost incurred by FP as a result of the change. Reporting of the change of Meter location is required by the USPS®.
- i. Upon the termination of the Agreement, unless directed otherwise by FP, return the rented Equipment to FP per the Return Instructions, at Customer’s expense, to a location designated by FP, in good condition; normal wear and tear accepted. Billing will continue until all rented Equipment is received into inventory by FP. Customer also agrees to reimburse FP for any cost FP incurs to return the rented Equipment to good condition. In addition, Customer also agrees to pay FP the then applicable return processing fee.
- j. Be responsible for paying for rate updating software if RateGuard coverage is not selected.
- k. Be responsible for the shipping and handling fees when an exchange is done not related to a contract change or warranty claim. See the “my account” section of the FP website for the current fees.
- l. Make available the proper connectivity requirements necessary for resetting the postage meter. For models MyMail, T-1000, OptiMail, OptiMail 30, UltiMail, or CentorMail: Customer agrees to make available an analog telephone line (not digital) at installation site so that the analog telephone line can be connected to the meter and used for postage resets. For models MyMail MAX or PostBase Series: Customer agrees to make available a High-Speed Internet connection at installation site so that the high-speed internet connection can be connected to the meter and used for postage resets.

4. ADDITIONAL TERMS FOR TELETSET METER RENTALS:

- a. A bank designated by the USPS® will act as a depository for Customer’s advance postage payments.
- b. Before resetting its Teleset meter, Customer must have at least the amount of the reset increment in Customer’s account at the designated bank.
- c. In the event Customer requires an emergency advance for postage, FP, at our sole discretion, may advance the Customer money to reset the Postage Meter. If FP provides temporary advance funds to Customer’s account to cover the resets, Customer agrees to repay FP’s advance within five (5) business days and to pay FP’s then-current service fee and/or interest.
- d. FP will invoice Customer quarterly in arrears for the then current reset fee (if applicable) on each completed reset transaction.
- e. If Customer discontinues its Teleset Meter rental account, FP will use its commercially reasonable efforts to have the USPS® return the funds (must be over \$25.00) in Customer’s account within 90 days after Customer’s written request, per USPS® CFR Volume 73, Number 210, pages 61255-61356 and Domestic Mail Manual 604.9.2.8 regulations (or any applicable successor regulations); but FP does not guarantee that those funds will be returned by any specific date.
- f. Teleset downloads must be performed on compatible line as specified above.

5. RATEGUARD:

- a. FP RateGuard is a service that provides automatic rate upgrades to FP Customers when USPS® rate changes occur. When signed up for RateGuard, the Customer pays a monthly charge to be billed on the same billing cycle as their FP postage meter or FP postage scale. The Customer will receive updated rates (rate chip, rate card, software download, or other necessary products) – free of charge from FP, per their RateGuard Program agreement.
- b. FP will provide eligible Customers the opportunity to receive the necessary updated rates (rate chip, rate card, software download, or other necessary products). The Customer’s account must remain current and be in good standing at the time of each rate change to remain eligible for the benefits of the RateGuard program.
- c. The RateGuard Program must remain in effect on the Customer’s account for a minimum of the Initial Term. Once the Initial Term is ended, RateGuard will remain in effect until the end of the Term.
- d. RateGuard does not cover carrier rate changes occurring fewer than 60 days from the date that RateGuard is added to the Customer’s existing Agreement. This restriction does not apply to new Customers who have signed an Agreement fewer than 60 days before a carrier rate change.

6. GENERAL PROVISIONS:

- a. Customer acknowledges FP's exclusive ownership of the meter(s), products or other Equipment rented to Customer pursuant to the Agreement, and that Customer has no rights except for use for the Term of the Agreement, and agrees to indemnify and defend FP from any claims, legal actions, and costs (including attorney's fees) resulting from Customer's use and operation of such meters, products or other Equipment, and will take reasonable action, to protect FP's ownership.
- b. UNDER NO CIRCUMSTANCES WILL FP'S LIABILITY TO CUSTOMER EXCEED THE AMOUNT OF FEES PAID BY CUSTOMER TO FP DURING THE PRIOR SIX MONTH PERIOD. IN NO EVENT SHALL FP BE LIABLE TO CUSTOMER FOR INCIDENTAL, INDIRECT, SPECIAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES OF ANY KIND ARISING OUT OF, OR IN CONNECTION WITH, THIS AGREEMENT, WHETHER OR NOT SUCH PARTY WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGE.
- c. EXCEPT AS EXPRESSLY STATED HEREIN, FP MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, REGARDING ANY MATTER WHATSOEVER, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF SUITABILITY, MERCHANTABILITY, AND FITNESS FOR A PARTICULAR PURPOSE.
- d. THIS AGREEMENT IS THE ENTIRE AGREEMENT BETWEEN CUSTOMER AND FP, SUPERSEDES ANY PRIOR UNDERSTANDINGS OR WRITINGS, AND IS SUBJECT TO WRITTEN FINAL ACCEPTANCE BY FP'S MAIN OFFICE.
- e. Notices must be in writing and are given, when received by mail, to Customer's or FP's main office or to another address of which Customer or FP later give notice.
- f. When distribution to Customer is selected, the Equipment must be set up with the Customer within 5 days as rental billing will begin at that time. Any billing issues, as a result of delayed installation, will be the responsibility of the Customer.
- g. FP reserves the right to replace Equipment with products with similar or enhanced features in the event Equipment is not replaceable or has been decertified by the USPS.
- h. Customer authorizes FP, from time to time, to access and download information from the Postage Meter to provide FP with information about Customer postage usage and FP may disclose that information TO the USPS® or other governmental agency. FP will not share with any third parties (except USPS® or other governmental entity) individually identifiable information that we obtain about you in this manner unless required by a court of law. FP may share aggregate data about Customers' postage usage with third parties.
- i. In the event Customer fails to perform in accordance with the terms set forth in this Agreement, or any other Agreement with FP or any FP affiliate, then FP may, without notice: repossess any Equipment; disable Equipment; immediately terminate this Agreement; and pursue any remedies available to FP at law or in equity.

7. IF CLAIMS OR DISPUTES BETWEEN CUSTOMER AND FP SHOULD ARISE:

- a. If Customer fails to pay rent or other amounts due FP on the date due in accordance with this Agreement, or if any legal action commences which may result in another's taking of the equipment: FP can terminate this Agreement, without notice or legal action, and Customer will allow FP to enter the location of the Equipment and repossess it; and Customer will pay FP accrued rent up to the repossession date or the current term expiration date, whichever comes later, and a delinquency charge of 1.5% per month (but not in excess of the lawful maximum) on any unpaid amounts until paid. Customer further agrees that, should it become necessary to place the account with a collection agency or attorney, Customer will pay all collection costs and attorney fees incurred by FP in addition to other amounts due.
- b. This Agreement, its interpretation and any disputes hereunder will be governed by the laws of the State of Illinois, without giving effect to any conflicts of law provisions thereof. In the event of any litigation between Customer and FP, Customer and FP hereby agree that any and all disputes, claims, actions, or controversies arising between the parties of whatever nature (including, but not limited to, any and all contractual, statutory, equitable, or tort claims) shall be brought only in either the United States District Court for the Northern District of Illinois or in the Circuit Court of the 18th Judicial District, DuPage County, Illinois; and both Customer and FP hereby consent to both venue and personal jurisdiction in those courts to the exclusion of all others. Each party also waives any right to a trial by jury.
- c. In the event any provision of this Agreement shall be deemed to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby. The parties agree to replace any invalid provision with a valid provision, which most closely approximates the intent and economic effect of the invalid provision.

8. ACKNOWLEDGMENT OF DEPOSIT REQUIREMENT:

- a. Customer hereby acknowledges that it must transfer funds to the USPS®, through a lockbox bank ("lockbox bank") for the purpose of prepayment of postage on Computerized Meter Resetting System (CMRS)-equipped meters ("Deposit").
- b. Customer may make Deposits in the lockbox bank account, Identified as United States Postal Service-CMRS-FP. The USPS® may, at its discretion, designate itself or a successor as recipient of Deposits by Customer.
- c. Any Deposit made by Customer shall be credited by the USPS® only for the payment of postage through CMRS-equipped meters. Customer shall not receive or be entitled to any interest or other income earned on such Deposits.
- d. The USPS® will provide a refund in accordance with the rules and regulations governing deposit of funds for CMRS, published in the Domestic Mail Manual or its successor.
- e. FP may deposit funds on behalf of Customer. The USPS® will make no such advances. Any relationship concerning advances is between Customer and the Meter Manufacturer.
- f. Customer acknowledges that the terms of this Acknowledgment of Deposit may be changed, modified, or revoked by the USPS®, with appropriate notice.
- g. Postal regulations governing the deposit of funds for CMRS are published in the Domestic Mail Manual or its successor. Customer acknowledges that it shall be subject to all applicable rules, regulations, and orders of the USPS®.
- h. By signing the Agreement, you the customer represent that you have read the Acknowledgement of Deposit Requirement section above and are familiar with its terms. You agree that, upon execution of the Agreement with FP, you will also be bound by all terms and conditions of the Acknowledgement of Deposit Requirement, as it may be amended from time to time.

9. ASSIGNMENTS:

- a. No right or interest in this Agreement may be assigned by the Customer, without the prior written consent of FP.

10. TERM AND TERMINATION:

- a. This Agreement shall be NON-CANCELLABLE during the Initial Term and any Renewal Term, as set forth in Section 10(b) below. The Initial Term and any Renewal Terms are collectively referred to as the "Term" of the Agreement.
- b. This Agreement shall be for the Initial Term set forth on the applicable order form or customer agreement or as otherwise agreed in writing by the parties, commencing on the earlier of the date that Equipment is installed or five (5) days after shipment of Equipment by FP, and shall automatically, without any action by either party, renew for a period of one year (a "Renewal Term") at the end of such Initial Term. At the end of such Renewal Term, this Agreement, again, automatically renews for an additional Renewal Term, unless terminated in accordance with the terms of Section 10. FP will not notify the Customer that the Initial Term or any Renewal Term is ending.
- c. FP can change the monthly rate and fees after the Initial Term upon notice to Customer.
- d. Either party to this Agreement may provide notice to the other party of its intent not to renew this Agreement pursuant to paragraph (b) above. Such notice must be in writing and must be delivered to the other party with thirty (30) days notice.

11. USPS® ACKNOWLEDGMENT:

- a. To the extent that the USPS® is obliged to perform particular functions with respect to the Equipment, those functions will be governed by the Domestic Mail Manual, as may be amended from time to time, or its successor, in effect at the time of the obligation. Specifically, to the extent that the USPS® provides refunds to Customers using postage evidencing devices, the policy and procedure governing the payment of refunds will be conducted in accordance with the Domestic Mail Manual, as amended, in effect at that time.
- b. If the Equipment is used in any fraudulent or unlawful scheme or enterprise, or is not used for any consecutive 12 month period, or if the Customer takes the Equipment or allows the Equipment to be taken outside the United States without proper written permission of the USPS®, Washington, DC 20260-6807, or if the Customer otherwise fails to abide by applicable postal regulations and this Agreement regarding care and use of Equipment, then this Agreement and any related Equipment rental may be revoked. Customer further acknowledges that any use of Equipment that fraudulently deprives the USPS® of revenue can cause Customer to be subject to civil and criminal penalties applicable to fraud and/or false claims against the United States. The submission of a false,

fictitious or fraudulent statement can result in imprisonment of up to five (5) years and fines of up to \$10,000 (18 U.S.C. 1001). In addition, a civil penalty of up to \$5,000 and an additional assessment of twice the amount falsely claimed may be imposed (3 U.S.C. 3802). A false statement in this application or the mailing of matter bearing a fraudulent postage meter imprints are examples of violations of these statutes.

c. The Customer is responsible for immediately reporting (within twenty-four hours) the theft or loss of Equipment that is the subject of this Agreement to FP. Failure to comply with this notification provision in a timely manner may result in the denial or refund of any funds remaining on the Equipment at the time of loss or theft.

d. The Customer understands that the rules and regulations regarding the use of the Equipment as documented in the Domestic Mail Manual may be updated from time to time by the USPS®, and it is Customer's obligation to comply with any current and future rules and regulations regarding its use.

e. By signing this Lease, Rental or Use agreement with your Provider, the undersigned acknowledges they are also entering into an Agreement with the United States Postal Service (USPS) in accordance with the Domestic Mail Manual (DMM) 604.4, Postage Payment Methods, Postage Meters and PC Postage Products (Postage-Evidencing Systems) and accepts responsibility for control and use of the PES contained therein.

The undersigned also acknowledges they have read the Domestic Mail Manual 604.4, Postage Payment Methods, Postage Meters and PC Postage Products (Postage Evidencing Systems) and agrees to abide by all rules and regulations governing its use. Failure to comply with the rules and regulations contained in the DMM or use of the PES in any fraudulent or unlawful scheme or enterprise may result in the revocation of this Lease, Rental or Use Agreement.

The undersigned further acknowledge that any use of this PES that fraudulently deprives the USPS of revenue can cause me to be subject to civil and criminal penalties applicable to fraud and/or false claims against the United States. The submission of a false, fictitious or fraudulent statement can result in imprisonment of up to five (5) years and fines of up to \$10,000 (18 U.S.C. 1001). In addition, a civil penalty of up to \$5,000 and an additional assessment of twice the amount falsely claimed may be imposed (3 U.S.C. 3802).

The undersigned further understands that the rules and regulations regarding the use of this PES as documented in the DMM may be updated from time to time by the USPS and it is the undersigned obligation to comply with any current and future rules and regulations regarding its use.

THESE TERMS AND CONDITIONS APPLY ONLY TO THE EQUIPMENT AND/OR SERVICES SPECIFIED BY THIS AGREEMENT AND DO NOT APPLY TO ANY OTHER FP EQUIPMENT. Any person accepting the Agreement on behalf of an organization further represents and warrants that such individual is a duly authorized representative, having the power and authority to bind such entity to the Agreement.