

WhoisEDI Terms of Use

Date last modified: July 01, 2011

Your use of WhoisEDI is subject at all times to these Terms of Use (the "Terms of Use"), as well as the Privacy and Security Policy (the "Privacy Policy"), which together constitute an agreement (the "Agreement") between you and WhoisEDI Enterprises, Inc., dba WhoisEDI, ("WhoisEDI") regarding your use of the EDI participant registry application offered by WhoisEDI.

1. Description of the WhoisEDI Application.

WhoisEDI provides its web-based EDI participant registry application (the "WhoisEDI Application") as a service, through its website found at www.whoisedi.com. We may update, improve, or extend the WhoisEDI Application from time to time, and it may include online training or e-learning modules, user manuals, guides or other written informational material, which we also make available to you from time to time through our website. The term "we" means WhoisEDI, Inc., which owns and provides the WhoisEDI Application.

2. Accepting the Terms of Use and Establishing an Account.

You accept these Terms of Use and agree to be bound by this Agreement (i) by clicking on the "I accept, create my account" button at the time you create a WhoisEDI username and password; (ii) by browsing the information available on our website; or (iii) by beginning to use the WhoisEDI Application, whichever occurs first. The terms "your" and "you" (and related words) mean any person or business entity who accesses the WhoisEDI website or who seeks to use the WhoisEDI Application through our website. If you wish to use the WhoisEDI Application, you must create a unique user account on the sign-up page on our website, which you can find from a link on our home page at www.whoisedi.com. If you create an account on behalf of a company or entity, you represent that you are authorized to act on behalf of that company or entity.

3. WhoisEDI Accounts and Payments for Services.

3.1 Establishing a WhoisEDI Account. To create an account, you will provide username (an email address of which you are the legitimate owner) and password that will be used to access the WhoisEDI Application. WhoisEDI will validate the email address.

3.2 Identifier Registration Payments. When you register an EDI identifier, WhoisEDI will assess a fee for its registration. Fees are billed on an annual cycle. We will bill you in advance each year; beginning on the date you register the identifier, for the subsequent yearlong period. No additional services will be authorized or accessible until the account owner has submitted valid credit card information. All invoices are due and payable within 30 days of receipt, except the original identifier registration invoice which is due and payable immediately. We may change the fees charged for identifier registration, or usage of other services, by posting the new fees on the home page. Any such changes will be applicable to your account as of the next invoice date, in connection with the yearlong period following such invoice date.

4. Access to the WhoisEDI Application.

4.1 Access to WhoisEDI Application through URL. We will make the WhoisEDI Application accessible from the URL <https://www.whoisedi.com> (the "Application URL"). You agree not to access or attempt to access the WhoisEDI Application by any means other than through the Application URL.

4.2 Interruptions of Service. The WhoisEDI Application may be unavailable when we may make periodic upgrades or perform scheduled maintenance. We will use reasonable efforts to alert you to scheduled upgrade or maintenance interruptions, but we make no warranties or guarantees of continuous or uninterrupted service.

4.3 Control of Access. You agree to keep confidential and not disclose to any third parties any passwords and account information associated with the WhoisEDI Application. You shall promptly notify us if you

learn of a security breach related to your account, or if the password associated with your account is compromised in any way.

4.4 No Interference. You will not attempt to gain access to any portion of our systems or networks in any way that is not necessary for you to use the WhoisEDI Application. Thus, by way of example but without limitation:

- (a) You may not access, attempt to access, or use the account or data of any WhoisEDI account (or any portion of that account or data) if you are not an authorized user with respect to that account.
- (b) You may not access or use the WhoisEDI Application from any unauthorized software or network, or attempt to modify or reroute the WhoisEDI Application or combine it with any other software, product, service, or system.
- (c) You may not provide any of WhoisEDI' competitors with access of any kind to the WhoisEDI Application.
- (d) You may not copy, modify, distribute, or publicly display any portion of the WhoisEDI Application or its underlying software.
- (e) You may not license, rent, lease, sell, transfer, assign, distribute, display, host, outsource, or otherwise commercially exploit or make available the WhoisEDI Application, including on a time-share, service-bureau, or similar basis, to any third party other than an authorized user.
- (f) You may not create Internet links to the WhoisEDI Application which include log-in information (including but not limited to usernames, passwords, and secure cookies), or "mirror" or "frame" any part of the WhoisEDI Application without our consent.
- (g) You may not make any efforts to reverse engineer or reverse compile the WhoisEDI Application or underlying software or otherwise attempt to derive any source code, algorithms, program structure, or other trade-secret information there from, or allow any third party to do so, except to the extent such a restriction is expressly prohibited under applicable local law.
- (h) You may not use any robot, spider, scraper, deep link or similar automated data gathering algorithm, tools, methodology or system to access, copy, monitor, the WhoisEDI Application or the WhoisEDI website without our express written consent.
- (i) You may not use any engine, software, tool, mechanism, algorithm, agent or device, including but not limited to robots, spiders, intelligent agents, to search or access the WhoisEDI.com website except for a generally available third-party web browser application such as Internet Explorer 7 and up and Firefox.
- (j) You may not post or transmit to any WhoisEDI.com website any files containing viruses, worms, or other contaminating or destructive elements or otherwise seek to interfere with the operation of the WhoisEDI Application.

5. Permitted Use and Restrictions on Use.

5.1 Permitted Use. You, as an authorized user, may use the WhoisEDI Application only for the purpose of EDI identifier registration and EDI trading partner management activities related to your own business, in accordance with all the terms and conditions of this Agreement. You agree that as an authorized user you are abide by all restrictions on use set forth in this Section 5 and all other terms and conditions of this Agreement. You may begin using the WhoisEDI Application as soon as we have validate the email address provided as username and the password, and you may continue using it as long as the WhoisEDI Application may be made available to authorized users, subject to the restrictions on use set and all additional terms and conditions of this Agreement.

5.2 No Wrongful Use. You agree to use the WhoisEDI Application only for authorized, legal and ethical purposes, consistent with all applicable laws, regulations, and the rights of others, and only for the permitted use described above. You may not use the WhoisEDI Application in any manner that harms, or is likely to harm, WhoisEDI, Inc., or any of our subscribers, suppliers, affiliates, resellers, or other business partners. Without limiting the foregoing, you are specifically prohibited from using the WhoisEDI Application:

- (a) To damage, disable, overburden or impair our service (or the networks connected to our service) or to interfere with anyone's authorized use of the WhoisEDI Application;

- (b) To engage in or further any fraudulent, deceptive, or otherwise unlawful practices, including but not limited to registering an EDI identifier that you not legitimately own or the conduct of any business for which you have not obtained all necessary licenses, permits and other approvals;
- (c) To engage in any activities that violates or infringe upon the rights of any third party (including but not limited to intellectual property rights, publicity rights and privacy rights);
- (d) To promote or support violent or threatening actions; illegal or harmful activities, substances, goods or services; or discrimination based on race, gender, religion, nationality, disability, sexual orientation, or age;
- (e) To transmit any bulk unsolicited commercial communications;
- (f) To engage in communications with any obscene, offensive, defamatory, slanderous, libelous or hateful material or themes.
- (g) In circumstances where system unavailability, errors, or other anomalies could result in property damage, bodily injury or death.

6. Disclaimers of Warranties; Limitation of Liabilities.

6.1 Disclaimers of Warranties. THE WHOISEDI APPLICATION IS PROVIDED ON AN "AS IS" "AS AVAILABLE" BASIS. TO THE FULLEST EXTENT PERMISSIBLE PURSUANT TO APPLICABLE LAW, WHOISEDI EXPRESSLY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. WHOISEDI EXPRESSLY DISCLAIMS ANY WARRANTY THAT THE WHOISEDI APPLICATION WILL BE FREE FROM ERRORS, DELAYS OR INTERRUPTIONS, THAT ALL ERRORS WILL BE CORRECTED, OR THAT THE WHOISEDI APPLICATION WILL MEET YOUR REQUIREMENTS. WE MAY UPDATE, IMPROVE, OR OTHERWISE MODIFY THE WHOISEDI APPLICATION (OR ANY OF ITS INDIVIDUAL FEATURES OR FUNCTIONALITIES) AT ANY TIME AS WE SEE FIT IN OUR SOLE DISCRETION. WHOISEDI IS NOT RESPONSIBLE FOR DELAYS CAUSED BY ACCIDENT, WAR, ACT OF GOD, EMBARGO, COMPUTER SYSTEM FAILURE, OR ANY OTHER CIRCUMSTANCE BEYOND ITS CONTROL WHATSOEVER.

6.2 Disclaimer of Warranties or Representation Regarding Legal or Accounting Compliance and Similar Matters. WHOISEDI AND ITS SUPPLIERS ARE NOT ENGAGED IN RENDERING LEGAL, OR OTHER EDI PROFESSIONAL SERVICES. IF LEGAL OR OTHER EDI EXPERT ASSISTANCE IS REQUIRED, YOU SHOULD SEEK THE SERVICES OF A COMPETENT PROFESSIONAL. WE EXPRESSLY DISCLAIM ANY REPRESENTATIONS OR WARRANTIES THAT YOUR USE OF THE WHOISEDI APPLICATION WILL SATISFY ANY STATUTORY OR REGULATORY OBLIGATIONS OR WILL OTHERWISE ENSURE COMPLIANCE WITH ANY APPLICABLE LOCAL, STATE, FEDERAL, NATIONAL OR INTERNATIONAL LAWS OR REGULATIONS (COLLECTIVELY, "APPLICABLE LAWS"). YOU ARE SOLELY RESPONSIBLE FOR ENSURING THAT YOUR USE OF THE WHOISEDI APPLICATION IS IN ACCORDANCE WITH APPLICABLE LAWS. IT IS YOUR RESPONSIBILITY TO BE AND REMAIN INFORMED REGARDING ALL APPLICABLE LAWS AND OTHER EDI PRACTICES THAT AFFECT YOUR BUSINESS.

6.3 Disclaimer of Warranty of Continuous Operation. You acknowledge that the WhoisEDI Application may be inaccessible, unavailable or inoperable from time to time for any reason whatsoever, including but not limited to: (i) equipment malfunctions; (ii) periodic maintenance procedures or repairs that WhoisEDI may undertake from time to time; or (iii) causes beyond the control of WhoisEDI or that are not reasonably foreseeable by WhoisEDI, including without limitation, interruption or failure of telecommunication or digital transmission links, hostile network attacks, the unavailability, operation or inaccessibility of websites or interfaces, network congestion, or other failures. You further acknowledge and agree that (i) We have no control over the availability of the WhoisEDI Application on a continuous or uninterrupted basis; (ii) We are not responsible for the functionality of any third-party website, interface, or link; (iii) The terms of this Agreement are subject to the limitations of our hardware, software and bandwidth; and (iv) Our failure to make the WhoisEDI Application available because of technical difficulties or for any reason out of our control does not amount to a failure to meet the obligations or result in a breach by WhoisEDI of this Agreement, and you expressly waive all right to dispute such failure.

6.4 No Responsibility for User Communications. We have no obligation to monitor or police communications or data transmitted through the WhoisEDI Application and we will not be responsible for the content of any such communications or transmissions. You are responsible for the content of any communications and data that you transmit, upload or post through the WhoisEDI Application.

6.5 Limitation on Disclaimer of Warranties. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES IN CERTAIN CIRCUMSTANCES. ACCORDINGLY, SOME OF THE LIMITATIONS SET FORTH ABOVE MAY NOT APPLY TO YOU

6.6 Limitation of Liability. UNDER NO CIRCUMSTANCES SHALL WHOISED I BE LIABLE TO YOU FOR ANY PUNITIVE, INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, OR EXEMPLARY DAMAGES OR LOSSES, COSTS OR EXPENSES INCLUDING BUT NOT LIMITED TO LOSS OF PROFITS OR INTERRUPTION OF BUSINESS (EVEN IF WHOISED I HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES), ARISING FROM ANY ASPECT OF THE RELATIONSHIP PROVIDED HEREIN. IN NO EVENT SHALL THE TOTAL OBLIGATIONS OR LIABILITY OF WHOISED I HEREUNDER EXCEED \$500. REGARDLESS OF ANY LAW TO THE CONTRARY, NO ACTION, SUIT OR PROCEEDING SHALL BE BROUGHT AGAINST WHOISED I MORE THAN ONE YEAR AFTER THE DATE UPON WHICH THE CLAIM AROSE.

7. Additional Authorized User Responsibilities.

7.1 Internet Connectivity. In order to use the WhoisEDI Application you will need Internet connectivity and a web browser. The WhoisEDI Application currently is configured for use on either the Internet Explorer 7 and up or Firefox web browsers. You will be solely responsible for acquiring and maintaining all telecommunications and Internet services and other hardware and software required to access and use the WhoisEDI Application, including, without limitation, any and all costs, fees, expenses and taxes of any kind relating to the foregoing.

7.2 Accuracy of EDI Identifier(s) Registration Data, Cooperation, Assistance. You understand that our ability to provide the WhoisEDI Application depends in part on the information and cooperation that we receive from you. Accordingly, you agree promptly to update EDI Identifier(s) Registration Data as necessary to keep it accurate, current and complete at all times.

7.3 Username and Password Control; Notification. Our ability to provide the WhoisEDI Application to you depends on the integrity and your proper use of your account. Accordingly, you agree that: (i) you will not allow access to or use of the WhoisEDI Application (or any portion thereof) by anyone or for any purpose prohibited under this Agreement; (ii) you will comply with the terms and conditions of this Agreement; and (iii) you will be responsible for any violation of this Agreement by you, and for any unauthorized use of the usernames, passwords, or other security credentials associated with your account. You further agree to notify us promptly if you become aware of any loss or theft or unauthorized use of any of your password and/or username, or of any other suspected or alleged violation of this Agreement, and you will cooperate with us in any investigation or enforcement efforts. In addition, you agree to maintain current and accurate information regarding your identity (and your corresponding username and password), and you agree to make that information available to us upon request for purposes of enabling us to provide the WhoisEDI Application and to enforce the terms of this Agreement. Without limiting any of our other rights and remedies, we may suspend or terminate your access to the WhoisEDI Application upon notice to you in the event we determine that you violated the terms of this Agreement. We will communicate with you by email to the email address you provide. It is your responsibility to update or modify that email address as may be needed so that communications may be sent to you.

8. Ownership Rights.

8.1 Your User Data. When you use the WhoisEDI Application, you will be providing us with information, data, and other information and materials pertaining to your business (referred to here as your "User Data"). We acknowledge that your User Data belongs to you. When you submit any User Data to WhoisEDI, you represent that you have all necessary rights in and to that User Data and you hereby grant us a license to use your User Data, solely for the purpose of making the WhoisEDI Application available to you.

8.2 WhoisEDI Ownership and Intellectual Property Rights.

(a) The WhoisEDI Application, the software and other resources used to provide the WhoisEDI Application (and all copies of such software or other resources), and all associated intellectual property rights belong exclusively to WhoisEDI, Inc. and its licensors (the "WhoisEDI Property"). Nothing in this Agreement gives you any rights with respect to the WhoisEDI Property except for the access and usage rights expressly granted above.

(b) Except as permitted by this Agreement, neither the WhoisEDI Property nor any materials, assistance, instructions, or information that we provide in relation to any WhoisEDI Property (whether provided verbally, in writing, electronically or otherwise), may be copied, reproduced, modified, distributed, republished, displayed, posted, or transmitted in any form or by any means, in whole or in part, nor may you make any efforts to derive any source code, algorithms, program structure, or other trade-secret information there from, or allow any third party to do so, except to the extent such a restriction is expressly prohibited under applicable law.

(c) Nothing in this Agreement limits any rights that we may have under any trade secret, copyright, patent or other laws. Without limiting the foregoing, we will have the right to specific performance with respect to your obligations under this Section 7.

9. License to Use Feedback-related Content.

We may provide you with a mechanism to provide feedback, suggestions, and ideas about our products and services ("Feedback"). You agree that we may, in our sole discretion, use the Feedback you provide us in any way, including in future modifications of the WhoisEDI Application and in any multimedia works and/or advertising and promotional materials relating thereto. When you submit any Feedback to WhoisEDI you may not post or transmit any message that is defamatory or libelous, or which discloses private or confidential information of any third party. You may not post or transmit any message or information that is obscene, pornographic, harassing, hateful, threatening, abusive, racially or ethnically offensive, or that encourages conduct that would be a criminal offense or other confidential or proprietary information of third parties that you do not have authorization to post or transmit. You hereby grant us a perpetual worldwide fully transferable non-revocable royalty-free license to use, reproduce, modify, create derivative works from, distribute, display and commercialize any materials, information and ideas you provide to us in the Feedback. We agree not to disclose your identity as the source of the Feedback other than to our employees, consultants, and advisors who are bound by confidentiality obligations, unless we have your permission to disclose it.

10. Privacy and security.

Please review the WhoisEDI Privacy and Security Policy, which can be found at <https://www.whoisedi.com/privacy-policy.jsp> and which is incorporated into this Agreement by this reference. We will respect the privacy and confidentiality of your User Data, as described in our Privacy and Security Policy. We also understand the importance of protecting the security of your User Data and agree to the practices set forth in the Privacy and Security Policy regarding data security. Our Privacy and Security Policy may be amended from time to time and posted in its amended form to our website. You will be deemed to agree to and accept the terms and conditions of this policy as last amended and you acknowledge that it is your responsibility to stay informed of changes to, our Privacy Policy and Security Policy.

11. Indemnification.

You will defend, indemnify and hold harmless WhoisEDI, its officers, directors and employees, from and against any liabilities, losses, damages and expenses, including court costs and reasonable attorneys' fees, arising out of or in connection with (a) any breach by you of this Agreement or (b) any third-party claim that (i) a third party has suffered injury, damage or loss resulting from your use of the WhoisEDI Application; or (ii) you have used the WhoisEDI Application (or have allowed any other person to use the WhoisEDI Application) in a manner that violates any term or condition of this Agreement. We will provide you with prompt written notice of any such claim, and we will cooperate with you and provide you with all reasonably available information and assistance, at your expense, in the defense and settlement of such claim.

12. Termination.

12.1 Termination by You. You agree to be bound by these terms and conditions until you close your account with WhoisEDI or until we terminate your account. You may cancel your account at any time, by asking us to terminate your account using the "Contact Us" from the WhoisEDI home page. Once your WhoisEDI account has been canceled, we will delete all of your User Data unless other arrangements have been made for storing the User Data for you, as described under "terminating your account".

12.2 Termination by WhoisEDI. We may terminate your account if any invoice remains unpaid for more than 30 days on written notice to you. We may terminate your account at any time without notice if: (a) you have breached any provision of this Agreement, except that breach resulting simply from nonpayment or, (b) if we believe in our sole discretion that we are required by law to terminate your account. We may terminate your account at any time in our own discretion on 30 days' written notice to you.

13. Modifications.

We may modify these Terms of Use from time to time. We will notify you of all changes to these Terms of Use through a notice posted to the WhoisEDI.com website. We will also post on these Terms of Use the date on which they were last modified. You will be deemed to have agreed to the Terms of Use as last modified and to be bound by them when you use the WhoisEDI Application after those modifications were posted.

14. Miscellaneous.

14.1 Governing Law, Jurisdiction and Venue. This Agreement will be construed in accordance with and governed by the laws of the Province of Quebec, Canada, without regard to its choice of law or conflicts of law provisions. The exclusive forum for any actions related to this Agreement will be in the provincial courts, and, to the extent that federal courts have exclusive jurisdiction, in the federal courts, in the City and County of Montreal, Quebec, Canada, except that, if WhoisEDI is seeking injunctive relief with respect to preventing imminent harm WhoisEDI may do so in any court with jurisdiction over the parties. The parties agree to such venue and jurisdiction.

14.2 Entire Agreement; Modification. This Agreement contains the entire understanding and agreement of the parties hereto and supersedes any agreements, either oral or written. WhoisEDI shall have the right to change, modify or amend any or all of the terms and conditions contained in this Agreement, in whole or in part, at any time, on written notice to of such changes or modification, which notice may be provided by posting the modifications to the WhoisEDI website and sending you an email alerting you that there has been a change.

14.3 Notice. All notices, demands and other communications provided for or permitted under this Agreement shall be made by email to WhoisEDI, and by email to you at the email address you designated when you created your WhoisEDI account or at such other email address as you may designate by subsequent email notice to us.

14.4 Assignment. You may not assign any rights or obligations under this Agreement without the prior written consent of WhoisEDI. Any assignment, transfer or attempted assignment or transfer in violation of this Section shall be void and of no force and effect. WhoisEDI and any of its subsequent assignees or successors may assign this Agreement, in whole or in part, or any of its rights or delegate any of its duties under this Agreement, to any party.

14.5 Force Majeure. Neither party shall be liable by reason of any failure or delay in the performance of its obligations hereunder for any cause beyond the reasonable control of such party, including but not limited to electrical outages, failure of Internet service providers, default due to Internet disruption (including without limitation denial of service attacks), riots, insurrection, acts of terrorism, war (or similar), fires, flood, earthquakes, explosions, and other acts of God.

14.6 Survival; Severability. All covenants, representations, warranties and agreements made in these Terms of Use shall survive and remain in effect after the termination of this Agreement. In the event that any

provision of this Agreement becomes or is declared by a court of competent jurisdiction to be illegal, unenforceable or void, this Agreement will continue in full force and effect without said provision; provided that no such severability will be effective if it materially changes the economic benefit of this Agreement to either party.