



CUSTOMER TERMS AND CONDITIONS

Please read these Customer Terms and Conditions (these “Terms”) carefully. By accessing this site, Customer agrees to be bound by the terms and conditions below. Freight Arrangers, maintain this site (the “Site”) to provide Customer with information about the transportation products/services and permits Customer to engage in transactions for Customer’s account with Freight Arrangers. Freight Arrangers requires that all those accessing the Site agree to and comply with the following terms and conditions. Please read these Terms carefully. By accessing the Site in any capacity, Customer acknowledges and accepts these Terms. No provision shall be amended, waived, or modified except by an instrument in writing signed by both parties.

These Terms as well as the terms and conditions of any Freight Arrangers provided rate confirmation/quotation and Contract Terms, if any, apply to the provision or arrangement, as applicable, of any transportation brokerage services (“Services”) herein. These Terms set forth the rights and obligations of Freight Arrangers and Customer (as defined below) except as otherwise set forth herein. By utilizing Freight Arrangers for Services, Customer expressly accepts these Terms and warrants that acceptance of these Terms has been authorized by a representative of Customer as of the date the Services were first provided to Customer by Freight Arrangers. Freight Arrangers may change these Terms at any time without notice to Customer. The changed Terms are in effect immediately.

1) DEFINING PARTIES

- A. **Freight Arrangers (as defined above):** Freight Arrangers is a Broker and will be referenced as a Broker when any determination of relationship is needed between Freight Arrangers and Customer. Freight Arrangers is not a motor carrier as defined by 49 U.S.C. § 13102(14) and is making no representations hereunder that it is a motor carrier. Freight Arrangers is non-asset based and will provide consultation on transportation, freight quoting, financial settlement, auditing, tracking, customer service, and issue resolution.
- B. **Customer:** “Customer” means the person or entity at whose request, for whose benefit, or on whose behalf Freight Arrangers provides any Services, including any third-party logistics provider, shipper, consignor, consignee, beneficial cargo owner, or any other party or its agent acting on behalf of such person or entity with interest in the shipment.

2) DEFINITIONS

- A. **Broker:** “Broker” means a person or entity, other than a motor carrier or an employee or agent of a motor carrier, that as a principal or agent sells, offers for sale, negotiates for, or holds itself out by solicitation, advertisement, or otherwise as selling, providing, or arranging for, transportation by motor carrier for compensation. “Broker” shall be used interchangeably with “Freight Arrangers” throughout these Terms herein.
- B. **Carrier:** “Carrier” means any motor carrier, including its drivers and independent owner operators, any rail carrier or rail transportation service provider, any intermodal equipment provider, any warehouse operator, or other person or entity that provides transportation, storage, handling, or related services to the Goods at the request of Freight Arrangers.
- C. **Claims:** “Claims” mean any and all liabilities, claims, losses, suits, actions, costs, fines, penalties, expenses (including reasonable attorney’s, paralegal’s and expert witness’ fees, and other costs of defense, investigation and settlement), judgments, or demands on account or damage of any kind whatsoever, including but not limited to personal injury, property damage, cargo damage, environmental damage, or any combination thereof, suffered or claimed to have been suffered by any person or entity as well as the costs of enforcing indemnification obligations and costs of containment, cleanup and remediation of spills, releases or other environmental contamination.

3) BILLS OF LADING

- A. Customer may prepare the bill of lading ("BOL") or other shipping documents required for carriage, considering the services being sought, and the pickup or destination requested. The BOL or other shipping document is non-negotiable, and Customer certifies and represents that the information inserted on the face of the BOL or other shipping document is complete and accurate.
- B. In the event the Customer fails to timely and properly complete the appropriate documents the Customer hereby instructs Freight Arrangers, where permitted by law, and Freight Arrangers may at its option, but without obligation, complete, correct or replace the documents for them at the expense of the Customer. If a substitute form of BOL or shipping document is needed to complete delivery of a shipment for any reason and Freight Arrangers completes that document, the terms of the completed document will govern and Freight Arrangers will be exonerated from all liability for undertaking such actions on behalf of the Customer, specifically including liability for, in whole or in part, negligence by Freight Arrangers. All BOLs or other shipping document(s) are non-negotiable and have been prepared by the Customer or by Freight Arrangers on behalf of the Customer in accordance with the Customer's instructions and approved by the Customer, and shall be deemed, conclusively, to have been prepared by the Customer. The Customer is required to provide the BOL to the Carrier designated by Freight Arrangers. Failure to provide the proper BOL or other shipping document to the designated Carrier shall relieve Freight Arrangers of all responsibility and/or liability for such shipment. Freight Arrangers shall have no obligation to make any payments or honor any rate quotes in any of the following instances: (i) the unauthorized alteration or use of the BOL, or (ii) tendering of shipments to any carrier other than that designated by Freight Arrangers, or (iii) the use of any BOL not authorized or issued by Freight Arrangers.
- C. These Terms will supersede any conflicting provision contained on the BOL or other shipping document in regard to Freight Arrangers.

4) CREDIT, BILLING AND PAYMENT TERMS

- A. **Credit Application.** All Customers must obtain credit approval from Freight Arrangers before Freight Arrangers will arrange for transportation. The following information must be submitted to our Credit Department:
 - i. A completed Credit Application signed by an owner or an authorized officer of the prospective Customer.
 - ii. "Billing Information", including the Customer's physical address, or billing address (if different), the primary accounts payable and/or accounting department's phone number, e-mail address(es), and the contact's name of the person(s) Freight Arrangers is to contact for payment status and general billing issues.
 - iii. The Customer's valid Federal Tax ID, DUNS number, business type, date business started, and the owner's and/or President's name.
 - iv. NET Terms are subject to approval by Freight Arrangers. Unless otherwise agreed, it shall be understood that the payment terms default to NET 15.
 - v. Invoice method is via email to the designated accounts payable email address provided on the Credit Application.
- B. **Third Party Billing.** IN THE EVENT CUSTOMER USES THIRD PARTY PAYMENT SERVICES THE CUSTOMER'S CREDIT REPUTATION IS IN THE HANDS OF OTHER PARTIES AND ULTIMATELY REMAINS RESPONSIBLE FOR TIMELY PAYMENT OF INVOICES REGARDLESS OF ANY AGREEMENTS CUSTOMER MAKES WITH THE THIRD PARTY. PAYMENT MUST BE MADE IN ACCORDANCE WITH THESE TERMS. NON-PAYMENT OF INVOICES MAY BE CAUSE FOR SUSPENSION OF CREDIT AND OTHER PENALTIES.
- C. **Updating Credit Information.** Freight Arrangers may update Customer's credit information from time to time using available public information or sourced credit information provided by one of the many independent credit reporting agencies. In addition to public data, Freight Arrangers may request that Customer provides additional financial data to demonstrate the Customer's creditworthiness. If Customer appoints Freight Arrangers to arrange for the transportation of Goods, Customer will be deemed to have consented to Freight Arrangers use of financial data about Customer to verify its creditworthiness.

- D. **Credit Hold.** Freight Arrangers will place Customer's account on credit hold automatically if any invoice goes past due. If Customer has not made timely arrangements to pay its past due balance to the satisfaction of Freight Arranger, in its discretion Freight Arrangers may elect to cancel any pending shipments until such time that payment for an outstanding balance has been received by Freight Arrangers.
- E. **Credit Limit.** Freight Arrangers does not guarantee a line of credit will be extended to Customer. Freight Arrangers, in its sole and absolute discretion, reserves the right to refuse, increase, or decrease a line of credit to Customer at any time and for any reason. Customer agrees Freight Arranger has no requirement to disclose the reasoning behind a refusal or reduction of credit and Customer accepts all conditions of prepayment, if required, as described in this subsection 4(K).
- F. **Involuntary Revocation of Credit.** Freight Arrangers, at its sole discretion, reserves the right to revoke credit or reduce a Customer's credit limit without notice and withdraw any previously extended credit limit if information should arise where the Customer's credit worthiness has changed, its payment history begins trending negatively, or any other discretionary reason. Should Freight Arrangers exercise this right all shipments not already invoiced with a due date shall become immediately due and Freight Arrangers may elect to place the Customer's account on a credit hold until such time that Customer's account is current with no sum outstanding.
- G. **Rates.** In some cases, Freight Arrangers may have submitted an initial rate offer or quotation to Customer prior to shipment. The initial rate offers, and subsequent shipping, billing and other documents specifically incorporate by reference these Terms. Finance charges may apply and will come due at the time of assessment. Customer will be responsible for any additional charges assessed by Freight Arrangers due to deviation from the agreed credit terms including, but not limited to, weight, pallet count, product commodity, appointment date and times, consignment, and other accessorial charges. In the event that Freight Arrangers accepts and provides Services to Customer before reaching an agreement with Customer on pricing, Customer agrees to pay Freight Arrangers the last pricing quoted by Freight Arrangers to Customer for that load or, in the event that no pricing has been provided by Freight Arrangers, Customer agrees to pay for Freight Arrangers Services based on Freight Arrangers current market rates. All rates and quotes are subject to change at any time based upon transportation cost, fuel, and other applicable accessorial charges. Customer shall be liable for all charges payable on account of such Customer's shipment. Freight Arrangers invoices will be accepted via email with invoice and POD in exchange for payment. Any special requirements pertaining to a shipment must be addressed by Customer in writing to Freight Arrangers prior to shipment. Freight Arrangers must be notified at the time Customer's receipt of the invoice of any discrepancies that may result in short pays. Freight Arrangers reserves the right to bill any other party that has a vested interest in the Goods if the bills remain unpaid. Customer is responsible for all costs, including without limitation, forklift service or storage in regards to the Goods Customer has requested Freight Arrangers to arrange for transport. Customer is responsible for providing all border crossing documentation prior to crossing. Freight Arrangers is not responsible for any delays related to border or customs agents, etcetera. Delays relating to such will result in accessorial charges. Unless arranged or agreed upon, in writing, prior to shipment, Freight Arrangers is not bound to arrange transport of a shipment by a particular schedule or in time for a particular market. However, Carrier is responsible to transport with reasonable dispatch. Lumper Receipts: All lumpers require reimbursement with a provided receipt.
- H. **Dispute of Invoice(s).** Customer must notify Freight Arrangers in writing of any dispute regarding an invoice, whether regarding linehaul rates, accessorial charges, fuel surcharge or other amounts, within five (5) business days of the date of the invoice. If the Customer fails to timely notify Freight Arrangers of the dispute, Freight Arrangers original invoice will be deemed to be final, and Customer shall be deemed to have accepted such invoice in full and to have waived any and all claims or defenses to paying such invoice. Disputes must be accompanied by reasonably detailed supporting documentation to facilitate efficient resolution. Freight Arrangers will work with Customer to resolve invoice disputes promptly but does not guarantee resolution in favor of the Customer. Freight Arrangers reserves the right to deny any dispute if Freight Arrangers feels there is insufficient cause or supporting documentation provided by Customer. Customer shall accept any determination by Freight Arrangers to be final and shall promptly pay the full sum of the invoice should the dispute be denied.
- I. **Detention:** Only the first one hour at the shipper or receiver are free. Any additional hours will require a detention payment of \$75.00/hour. Freight Arrangers reserves the right to amend or adjust charges and re-invoice the Customer as a result of, but not limited to, the follow circumstances:
- i. If the original quoted amount was based upon the incorrect information provided by the Customer.
 - ii. If additional services by the Carrier were required; or

- iii. If the Customer authorized Carrier to perform the pickup, transportation, and delivery functions other than contemplated by the Bill of Lading ("BOL").
- J. **Payment.** Payment terms and credit limits are subject to credit approval, which shall be determined at the sole discretion of Freight Arrangers. All payments must specify an exact U.S. Dollar amount to be legally sufficient. All invoices shall be paid to Freight Arrangers by the due date stated on the invoice and Customer further agrees to pay a service charge of 1½% per month on all overdue balances. Customer is responsible for any court costs or reasonable attorney's fees incurred by Freight Arrangers in the collection of invoices billed to Customer. Customer guarantees payment for all Services rendered by Freight Arrangers on Customer's behalf. Customer and consignee, holder, or assignee on any BOL shall be jointly and severally liable for all unpaid fees for Services provided under these Terms. When Freight Arrangers is instructed to collect charges from any person or entity other than Customer, Customer shall remain liable for the charges and interest if Freight Arrangers is not paid.
- K. **Prepayment.** Customers that choose to pay in advance of their shipments are required to pay in advance because (1) Freight Arrangers has not had the opportunity to review their credit information for the establishment of open credit terms or (2) have not established credit privileges due to credit worthiness issues. Such Customers must submit their payment via QB online payment submission, approved credit card, or wire transfer. The amount quoted for a prepaid shipment may not include all of the accessorial necessary for transportation of the load. In the event of additional charges being incurred, Customer shall immediately pay the difference outstanding, or shall authorize Freight Arrangers to charge Customer for the difference, via whatever payment method may be stored or available for Freight Arrangers to charge the additional fees. If Customer elects to prepay via credit card, Customer assumes all liability for any service and/or processing fees that may be associated with that form of payment. Customer further agrees that Freight Arrangers is authorized to use the credit card provided to Freight Arrangers and that Customer will not dispute, for any reason, any sum charged to the credit card. If Customer elects to pay with a debit card, Customer agrees to be solely responsible for any overdraft or other financial institution charges that may result due to insufficient funds or chargeback.

5) INSURANCE COVERAGE

- A. Freight Arrangers requires all Carriers to demonstrate \$100,000.00 in cargo coverage subject to terms and conditions therein. Any additional insurance must be agreed in writing and approved by Freight Arrangers on a per load basis for an additional cost prior to dispatch. Freight Arrangers is not liable if Customer, for any reason whatsoever, fails to recover a loss in whole or in part from the insurer under any applicable policy, even in the event the premium charged by the insurer may be different from Freight Arrangers charge to the Customer. Any coverage on the Goods will be subject to the terms and conditions of the specific policy or policies procured. Customer acknowledges and agrees that Freight Arrangers role is limited to facilitating placement of coverage with entities licensed to sell insurance and that Freight Arrangers is not in the business of selling insurance or insuring risk.
- B. **Freight Arrangers requires all Carriers to demonstrate:**
 - i. Automotive or Fleet Liability Insurance in amounts not less than: Bodily Injury/Property Damage \$1,000,000.00 per person; \$1,000,000.00 per occurrence.
 - ii. Motor Truck Cargo Insurance in an amount not less than \$100,000.00 per truckload in order to compensate shipper, consignee or the beneficial owner of the shipment for any loss or damage thereto.
- C. **Duty of Care.** Freight Arrangers is in the business of arranging for transportation by motor carrier and or transportation intermediaries and is neither trained, licensed nor otherwise qualified to assess, analyze, or predict the likelihood of a motor carrier's safe operations. Freight Arrangers reasonably relies upon the Federal and State Governments to only allow safe motor carriers to operate on the public roads and is under no duty to investigate individual motor carriers' operations. It is Freight Arrangers practice to obtain a Certificate of Insurance for each motor carrier. It is Freight Arrangers practice to only retain motor carriers demonstrating a minimum of \$750,000.00 public liability insurance and \$100,000.00 cargo insurance. However, Freight Arrangers has no duty to obtain, review or read motor carriers' insurance policies. Nor does it have any duty to discover policy limitation, exclusions or endorsements not specified on the Certificate of Insurance. Freight Arrangers has no duty to discover the value of Customers' Goods or

arrange for Carriers with "adequate insurance coverage" unless specifically requested in writing to do so by Customer prior to shipment and on a shipment by shipment basis.

6) CONTROL

Freight Arrangers shall arrange for the handling and transportation of Customer's goods by Service Provider, however all Service Providers are separately licensed and insured independent contractors and Freight Arrangers exercises no control over Service Providers' equipment, facilities, personnel, subcontractors or agents, nor over the route, schedule or manner in which Service Provider performs. Likewise, Freight Arrangers does not physically accept, supervise, or control the Goods, or the manner in which they are packaged, loaded or transported.

7) CLAIMS FOR DAMAGE OR LOSS

- A. **Cargo Claims.** Freight Arrangers is not responsible for Claims for loss or damage to the Goods. Customer understands Freight Arrangers Claim Department only facilitates Cargo Claims for loads that have shipped via appointed Carrier.
- B. In order for Freight Arrangers to facilitate the filing of a Customer Cargo Claim, Customer must adhere to the following:
 - 1) Any Notice of Loss directed to Freight Arrangers will be rejected. All Notices of Loss must be directed to the Carrier.
 - 2) Freight Arrangers must be advised and notified within five (5) working days of delivery of the Goods, except Claims for failure to make delivery must be filed within five (5) days after the scheduled delivery date.
 - 3) Once notification of Cargo Claim is received, all paperwork must be submitted to Freight Arrangers within thirty (30) days or facilitation of the Cargo Claim will be closed.
 - a) Any oral Notice of Loss must be followed by written Notice of Loss and submission of all necessary supporting documents.
 - b) Where Cargo Claims are not filed within thirty (30) days or suits are not instituted thereon in accordance with the foregoing provisions, Freight Arrangers shall not be liable, and such claims will not be facilitated through Freight Arrangers.
 - c) After thirty (30) days from delivery, Freight Arrangers will no longer be responsible for facilitating the claims process. At this time Customer must move forward and file directly with the Carrier and their insurance company should Customer intend to file a claim.
 - d) Customer agrees that any suit brought against Freight Arrangers must be commenced within one (1) year from the date after completion of the Services performed. In the event of delay or non-delivery, the scheduled delivery date shall be deemed as the day on which services were completed for purposes of computing the one-year time limit.
 - 4) A claim filed within the appropriate time limits must:
 - a) Contain facts sufficient to identify the shipment(s) of property;
 - b) Assert liability for alleged loss, damage, or delay;
 - c) Make a claim for the payment of a specified or determinable amount of money;
 - d) Complete Freight Arrangers standard Claims Presentation Form, and
 - e) If applicable, inspection reports, photos, affidavits, etc.
 - 5) All claims must specify an exact U.S. Dollar amount to be legally sufficient.
 - a) Failure to include a claim amount invalidates the claim.

- b) Claims must reflect the actual cost of the specified Goods damaged or lost; not retail value.
- C. **No Right to Offset.** Customer shall have no right to and agrees not to withhold payment from Freight Arrangers for transportation of Goods based on any pending Cargo Claims or perceived deficiency in the Services. Customer agrees that Freight Arrangers has no obligation to consider Cargo Claims or to assist Customer in the filing of such Cargo Claims against Carriers or warehousemen on behalf of Customer if Customer has not paid Freight Arrangers invoices in full for the shipments in which the Claim arose. When Customer is filing for partial shipment damage, loss, or rejection, freight charges for services rendered are still due to Freight Arrangers within terms. All other loads Freight Arrangers has arranged for Customer are considered unrelated and must be processed under regular pay terms. Freight Arrangers reserves the right to bill any other party that has a vested interest in the Goods if the bills are not paid. Once payment for resolution is accepted, Customer agrees to release Freight Arrangers from any further Claim and will effectively foreclose any later attempts to recover additional damage or loss from Freight Arrangers. Customer's recourse for loss or damage claims to its Goods is solely against the Carrier that handled the shipment and Carrier's liability is subject to Applicable Laws and may be further limited by the Carrier Rules.
- D. **Damage.** Damage of a visible or obvious nature must be documented on delivery. The absence of any notation of damage, broken shrink wrap or lack of seals on the BOL, or other shipping document creates a presumption that the shipment was delivered in good condition and the burden of proof will be on the Customer to prove otherwise. Whenever damage is discovered, it is important to have an immediate inspection made at that point and the nature and extent of the alleged damage thoroughly documented. If a shipment or a portion thereof is discovered to be in damaged condition at the time of delivery, the consignee must make a notation of the damage on the delivery receipt before accepting delivery. Failure to make a notation on the delivery receipt is prima facie evidence of the shipment's good condition at the time of delivery, which can only be overcome by clear and strong evidence to the contrary. All claimed and damaged Goods must be available for inspection for Freight Arrangers to facilitate the claims process.
 - 1) **Consequential Damages.** Consequential damages resulting from storage fees or delay such as interruption of an assembly line, cost of an extra unloading crew, air freight for a replacement shipment, loss of future sales or profits, per diem, demurrage, storage, etc. are usually considered "special damages" and are not recoverable against the Carrier or Freight Arrangers unless given notice at the time of shipment that a failure to make timely delivery will result in specified damages.
 - 2) **Duty to Mitigate.** According to generally accepted claims practices, Customer is obligated to mitigate its damages for loss or damage to Goods and is not entitled to abandon the Goods to Freight Arrangers or the Carrier. If Customer does not elect to salvage the Goods, any Claim for Goods loss or damage shall be reduced by a reasonable salvage allowance and by reasonable storage or other costs incurred while waiting for disposition instructions.
- E. **Concealed Damage or Loss.** Notwithstanding the provision of Section 7(B), Customer must provide proof that shipment was in good order and condition at the time of delivery to the originating Carrier and it was in damaged condition at the time of tender by the delivering Carrier to the consignee. For shipment claims of loss or damage to contents of shipment that could not have been noted at the time of delivery, must be reported within forty-eight (48) hours of delivery. There will be a presumption that the Goods were not damaged in transit whenever a consignee fails to report concealed damage within fifteen (15) days of delivery without exception.
- F. **Miscellaneous.** Customer agrees that Freight Arrangers shall have a lien in the amount of any unpaid invoices on any insurance proceeds issuing as a result of loss, damage, or delay to Customer's Goods. Freight Arrangers shall have no liability in the event of loss or damage to the materially mis-declared or mis-described Goods regardless of Freight Arrangers actual negligence.

8) CUSTOMER REPRESENTATIONS & WARRANTIES

Customer authorizes Freight Arrangers to request quotes or offers of service and arrange for motor carriers, brokers, shipping agents, warehousemen and others ("Service Providers") as required to receive, transport, store, assemble, consolidate, break-bulk and deliver the Goods. Freight Arrangers may utilize any available Service Provider. Customer warrants the accuracy of shipment descriptions, weights, dimensions, invoices, documents and other information furnished to Freight Arrangers by the Customer or its agent for export, entry or other purposes and the Customer agrees to indemnify and hold harmless Freight Arrangers against any increased rates, charges, duty,

penalty, fine or expense including attorneys' fees, resulting from inaccurate, incomplete statements, omissions or any failure to make timely presentation, even if not due to any negligence of the Customer.

9) INJURY TO PERSONS OR PROPERTY

Freight Arrangers shall not be liable to Customer or any other entity for injury to persons or property unless such injury is solely attributable to Freight Arrangers negligent acts or omissions. To the extent that Customer causes or contributes to such injury it shall defend, indemnify, and hold Freight Arrangers harmless from any claims, suits, causes of action, including reasonable attorney's fees and costs. Additionally, Freight Arrangers shall be entitled to reasonable attorney's fees and costs for enforcement of these terms.

10) TRANSPORTATION STIPULATIONS

- A. **Authority of Law.** Broker will be excused in cases where there is an intervention of lawful authority on the shipment. Broker will not be held responsible in cases where the Department of Transportation or other governmental authority has delayed shipment or broken a seal for inspection.
- B. **Force Majeure.** Freight Arrangers and the Carrier shall not be liable for delay or failure to perform any obligation resulting from circumstances beyond their control, including but not limited to any fire, explosion, act of God (including floods, hurricanes, tornadoes, earthquakes, severe weather conditions and natural disasters), strike, lockout or labor shortage or disturbance, war, terrorism, embargo, quarantine, riot, civil disobedience, hijacking or robbery, congestion, derailment or service issues affecting the Carriers; closing or disruptions affecting highways, rail networks, ports, air traffic or other transportation systems; the acts of any Government Authority or customs inspection requirements, acts or omissions of Customer, or inherent vice or any other cause outside of the reasonable control of Freight Arrangers or the Carrier. In the event that a party intends to invoke this provision, that party shall provide prompt notice to the other party as soon as possible after the occurrence of the event giving rise to the Claim.
- C. **Loading, Packing, and Securing.** It is the Customer's responsibility to block and brace their loads to prevent shifting while in transit. Neither Freight Arrangers nor the Carrier will be liable for the following: 1) Damage to Goods or equipment due to packaging, loading, unloading, blocking, bracing, or securing of the Goods. 2) Customer will provide all tie-down devices, dunnage, and special tools required to secure the load. 3) Customer certifies that the shipment is sufficiently packaged to withstand normal rigors of truck transportation. 4) Any article susceptible to damage by ordinary handling must be adequately protected, packaged, and marked in such a way as to alert the Carrier of the possibility of damage from ordinary handling. 5) Damage to Goods or equipment to the extent due to inherent vice or defect in the Goods transported, including rusting of metals, swelling of wood caused by humidity, moisture or condensation, deterioration of perishable products, or damages caused by heat or cold. 6) Damage to Goods or equipment due to force majeure events as described in these Terms. 7) Damage to Goods or equipment to the extent due to an act, omission, or default of Customer, including the consignor, the consignee, the beneficial owner of the Goods or other third-party logistics provider. 8) Shipments stopped and held in transit at Customer's request. 9) Loss or damage of Goods that violate any applicable law or regulation, have not been accurately described, or that have been loaded in a trailer so that the combined weight exceeds applicable weight limits. Customer is solely responsible for properly identifying and credentialing the commercial vehicle and the Carrier upon its arrival to the loading site. Customer and/or its shipper is responsible to ensure that all Carrier information including, but not limited to commercial driver's license(s), VIN number(s), and license plate information will be thoroughly checked, documented, and verified as the Freight Arrangers appointed Carrier. Customer will indemnify and hold Freight Arrangers harmless from any fine, Claim or cause of action arising from breach of this warranty. Customer will defend, indemnify, and hold Freight Arrangers harmless from any Claim for loss, damage, or delay to Goods.
- D. **Shipper Load and Count.** Shipper provided and applied Cargo Security Seals may be used at time of loading of Full Truck Load shipments only. When Cargo Security Seals are applied by Shipper, "Shipper Load and Count" will control all claims or issues. Less-Than-Truckload ("LTL") shipments are not required to have a Security Seal or Continuous Security Seal Record due to the inherent nature of LTL shipments. Where shipments are sealed by the shipper before tendering to the Carrier, the Carrier has no obligation in regards to improper loading or shipper negligence. Customers will load, count, and seal the Goods to ensure their integrity throughout the trip. The Carrier is not liable for shortages or damage caused by the Customer's improper loading. Inadvertent omission of shipper load and count type notation shall not result in a presumption of Carrier liability for shortage or damage where the driver was either not present or not allowed to observe the loading or unloading. Where the Customer loads the cargo, Freight Arrangers and

the Carrier are not responsible for damages caused by non-receipt by the Carrier of any part of the Goods by the date shown on the BOL. Failure of the Goods to correspond with the description contained in the BOL/Proof of Delivery, or for damages caused by improper loading provided that a "shipper load and count" notation is contained on the BOL, or an intact seal is notated on the BOL at the time of delivery. These conditions shall apply to, but not be limited to, all over the road, LTL and intermodal pickups.

- E. Consequences for Failure to Accept Goods.** If for any reason whatsoever, the Consignee refuses the Goods or Customer refuses to give timely direction about the disposal of Goods rejected by the Consignee, Freight Arrangers may, without further notice or demand, place the Goods in storage at the risk and expense of the Customer. Such stored Goods will be subject to a lien in favor of Freight Arrangers for any charges. By appointing Freight Arrangers to arrange for transportation of Goods, Customer will be conclusively presumed to have granted such a lien to Freight Arrangers. Freight Arrangers may exercise the foregoing rights at any time after forty-eight (48) hours have elapsed since notification of the arrival and availability of the Goods at destination or of the Consignee's rejection of the freight. Alternatively, Freight Arrangers or the underlying Carrier may sell the Goods to the highest bidder in a public or private sale. Before such a sale of nonperishable Goods is made, Freight Arrangers will first give written notice to Customer that the Goods have been refused or unclaimed and that it will be subject to sale if disposition is not arranged for within three (3) business days. Further failure or refusal to claim or dispose of the Goods within this time period will constitute a waiver by Customer of all right, title and interest in and to the Goods and all rights, claims, notices and defenses with respect to the Goods to the maximum extent permitted by applicable law. If the receiver of perishable Goods fails or refuses to accept it promptly, Freight Arrangers or the underlying Carrier may, in a public or private sale, sell the freight to the best advantage to prevent deterioration. Where the procedures provided for in the two preceding paragraphs are not possible, Freight Arrangers may sell the Goods as authorized by law. Freight Arrangers will be entitled to recover from Customer, and/or from the proceeds of a sale or disposal of the Goods, all costs incurred as a result of Customer's or the Consignee's failure to accept delivery of the Goods or to provide direction about disposal of rejected Goods, including all storage fees, equipment use charges and costs of disposal.
- F. Obligation to Salvage Goods.** Customer is required to use all reasonable and good faith efforts to mitigate its damages from any loss or damage. These efforts will include salvaging the Goods in a commercially reasonable manner, including repackaging and relabeling. If Customer prevents or refuses to sell or allow the sale of damaged Goods, Freight Arrangers may deduct a reasonable estimate of the salvage value of the damaged Goods from the amount of the Claim. In that case, Customer will be bound by the reasonable salvage deduction determined by Freight Arrangers. Freight Arrangers may recover from Customer and/or from the proceeds of a sale of the Goods (or deduct from the Claim) all costs incurred as a result of Customer's or the Consignee's rejection and Customer's failure to provide direction or to sell or permit the sale of the Goods, including all storage fees and costs of disposal. Notwithstanding the foregoing, if the Goods are offered to Freight Arrangers for salvage, Freight Arrangers is entitled to, but is not required, to undertake salvage efforts. If Freight Arrangers, in its sole discretion, determines it will not undertake salvage efforts, Freight Arrangers in no way waives its right to assert its Claim that Customer failed to mitigate damages by Customer's failure to take efforts to salvage the Goods.
- G. Less-Than-Truckload (LTL).**
- 1) **Parties.** Customer is a party responsible for Goods it wishes to have transported. Freight Arrangers is a freight broker only. Freight Arrangers is not, and does not, act as a motor carrier. Freight Arrangers arranges with Carriers on behalf of Customer for the purpose of transporting Customer's Goods.
 - 2) **LTL Quoted Rate:** All shipments are rated, quoted, and booked based on information provided by the Customer. Factors in this calculation include, but are not limited to:
 - a) The gross weight of the shipment including all packaging materials and pallets.
 - b) The commodity being shipped resulting in an NMFC code and freight class.
 - c) The dimensions per shipping unit and volume of space needed.
 - d) The number of shipping units.
 - e) **Assessorial Services:** assessorial services are services provided by the Carrier in addition to the basic transportation of the Goods. Freight is quoted from dock to dock therefore any assessorial services are extra charges. This includes, but is not limited to: lift gates, commercial, residential, or inside deliveries, appointments, temperature control, location updates and other services outside of normal shipping of Goods.

3) LTL Billing:

- a) **Initial Billing:** The estimated/initial cost for each shipment is billed and charged to Customer's open account at the time of dispatch. Customer understands that this initial billing is based on the information provided by the Customer and that this billing is done in good faith by Freight Arrangers with the assumption that the Customer provided true and accurate information reflecting the actual description of the Goods and services to be provided.
- b) **Adjustments:** The Carrier reserves the right to verify a shipment's weight, dimensions, class, and any accessorial services provided. When a Carrier discovers these items are incorrectly described on the freight receipt, a freight inspector will document the differences and a "Billing Adjustment" will be issued. Should this occur, Customer agrees to pay for all adjustments (if any).
- c) **Detention:** Only the first one hour at the shipper or receiver are free. Any additional hours will require a detention payment of \$75.00/hour.

- H. **Intermodal.** Intermodal services provided by Freight Arrangers are subject to the Rail Carrier's Circulars, Rules, Tariffs and other terms and conditions, including but not limited to limitations of liability and filing procedures for cargo claims, indemnification, packaging and securing. Customer acknowledges and agrees that the Consignor is primarily responsible for proper loading and securing of all intermodal shipments in accordance with the Intermodal Loading Guide as issued by the Association of American Railroads (AAR), and that Customer shall indemnify Freight Arrangers and all other parties to the bill of lading contracts for any and all claims arising from and including, but not limited to, failure to properly classify, load, secure, and/or identify shipments.
- I. **Miscellaneous.** For all shipments moving intermodally or over the road, any designation or identification of Freight Arrangers as "Carrier" in any bill of lading or other documentation will not change or alter Freight Arrangers relationship with Customer, Freight Arrangers obligations to Customer or the nature or character of Freight Arrangers role in arranging for motor carrier services as a Broker. Customer warrants that it is either the owner or the authorized agent of the owner of the Goods for which Services are requested and that it has the authority to, and does, accept these Terms for itself and where applicable, as agent for and on behalf of the owner and any other person involved in the transportation, including but not limited to any consignor or consignee, logistics providers, freight forwarders, or insurers, and these Terms will be binding on such persons or entities. Customer will obtain all necessary permits and authorizations necessary to ship the Goods, including but not necessarily limited to, export and import licenses and permits, and agrees to comply with all applicable laws, including, but not necessarily limited to, any prohibitions on selling to any person on a U.S. or Canadian export control list. If rates are negotiated between Freight Arrangers and the Customer and not otherwise confirmed in writing, such rates will be considered "written," and will be binding upon Freight Arrangers invoicing to Customer. Nothing shall require the Carrier to pick-up or deliver Goods at any point at which, on account of conditions of alleys, streets, roads, driveways, or local ordinances, it is impracticable or unsafe to operate motor vehicles.
- J. FREIGHT ARRANGER SHALL HAVE A LIEN ON ANY GOODS SHIPPED UNDER THESE TERMS FOR FAILURE TO PAY FEES ON CURRENT AND PRIOR SHIPMENTS, REGARDLESS OF CREDIT ARRANGEMENTS, OWED BY THE CUSTOMER, CONSIGNEE, HOLDER, OR ASSIGNEE ON ANY BOL. CUSTOMER AGREES THAT FREIGHT ARRANGERS LIEN CONTINUES IN EFFECT AFTER THE GOODS ARE DELIVERED AND UNTIL ALL CHARGES ARE PAID. Customer agrees to sign any notice of a security interest whether in the form of a UCC-1 or other form requested by Freight Arrangers. Customer appoints Freight Arrangers as its attorney-in-fact to sign any such notice on Customer's behalf in the event Customer fails to sign it immediately upon Freight Arrangers request.

11) INDEMNIFICATION

- A. Except for Claims for loss or damage to Goods, which are governed by these Terms, Customer will defend, indemnify and hold Freight Arrangers and its employees harmless from and against any and all Claims caused by and/or arising from: (1) the acts, omissions or intentional misconduct of Customer; (2) Customer's or its employees' or agents' violation of applicable laws or regulations; (3) Customer's or its employees' or agents' failure to comply with these Terms; (4) Customer's or its employees' or agents' failure to comply with obligations imposed by the underlying Carrier; or (5) Freight Arrangers compliance with or reliance on Customer's instructions.

- B. Customer shall hold Freight Arrangers harmless from and shall defend and indemnify Freight Arrangers against any loss, damage, claim, or suit arising from any breach of the Customer's warranties as set forth herein. Customer agrees and understands that Freight Arrangers liability will be limited as provided herein, and that Freight Arrangers will not be liable for loss, damage, missed-delivery or delay of any shipment caused by or arising from the acts, omissions, negligence or willful misconduct of Carriers, customs brokers, forwarders and their agents to whom the Goods may be entrusted.

12) CONFIDENTIALITY & BACK SOLICITATION

Customer acknowledges and agrees that the names, routes and pricing of the Carriers and other service providers utilized by Broker are confidential information and are in the nature of a trade secret. Customer shall not directly contact or solicit rates, bids or service from any underlying Carrier or service provider where a) the availability of Carrier or service provider to perform such services first became known to Customer as a result of Broker's efforts, or b) where Customer's traffic was first tendered to the underlying Carrier or service provider by Broker. If Customer breaches this provision and "back-solicits" Broker's underlying Carriers and/or service providers, and/or tenders traffic to such Carriers or service providers, Broker is then entitled, for a period of eighteen (18) months after the involved traffic first begins to move, to payment from Customer of 15% of the gross transportation charges for all such traffic, as liquidated damages. Termination of the relationship between Broker and Customer shall not affect the enforceability and applicability of the foregoing provisions of this clause for a period of two (2) years after termination.

13) TERM OF AGREEMENT AND TERMINATION

- A. This Agreement shall remain in effect until canceled by either party upon thirty (30) days written notice to the other party. If Customer terminates this Agreement, Customer agrees to pay Freight Arrangers fees for all Services and expenses incurred up to the point of termination forthwith upon issuance of Freight Arrangers invoice. Freight Arrangers has the right to immediately terminate this Agreement upon breach of the Agreement by Customer for failure to pay Freight Arrangers fees.
- B. Customer understands that these Terms are subject to change. Customer is bound by the most current Terms which are posted on Freight Arrangers website at www.freightarrangers.com. Customer agrees that the posted Terms on Freight Arrangers website on the date of a shipment will apply to that shipment and govern the parties' obligations.
- C. This Agreement supersedes all prior agreements and understandings between the parties and may not be changed or terminated orally, and no attempted change, termination, or waiver of any of the provisions hereof shall be binding unless in writing and signed by the parties hereto.

14) SEVERABILITY

If any term, provision, covenant or condition of these Terms, or any application thereof, should be held by a Court of competent jurisdiction to be invalid, void or unenforceable, Customer agrees that such portion or provision shall be deemed severable and all provisions, covenants, and conditions of these Terms, and all applications thereof not held invalid, void or unenforceable, shall continue in full force and effect and shall in no way be affected, impaired or invalidated thereby. The representations and obligations of the Customer will survive termination of these Terms for any reason.

15) LIMITATION OF ACTIONS

- A. Any action, other than those governed by Section 7(B)(3)(c) herein, against Freight Arrangers whether founded in contract or tort, is waived unless commenced within two (2) years of the date of the conduct giving rise to the Claim occurred.
- B. IN NO EVENT, UNDER ANY CIRCUMSTANCES, WILL FREIGHT ARRANGES BE LIABLE TO ANY CUSTOMER, SUPPLIER, CONSIGNOR, CONSIGNEE, BENEFICIAL OWNER, THIRD PARTY LOGISTICS PROVIDER OR ANY OTHER PARTY FOR ANY INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, CONSEQUENTIAL OR PUNITIVE DAMAGES INCLUDING ATTORNEY'S FEES, OR

DAMAGES FOR LOSS OF PROFITS, LOST SAVINGS, LOSSES DUE TO FLUCTUATIONS IN THE GOODS'S MARKET VALUE, USE OR OPPORTUNITY, WHETHER OR NOT SUCH DAMAGES WERE FORESEEN OR UNFORESEEN, AND WHETHER OR NOT FREIGHT ARRANGERS WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

- C. THE SERVICES ARE PROVIDED "AS IS", AND FREIGHT ARRANGERS DISCLAIMS ALL REPRESENTATIONS, WARRANTIES AND CONDITIONS RELATING TO THE SERVICES, WHETHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY EXPRESS OR IMPLIED REPRESENTATIONS, WARRANTIES OR CONDITIONS OF FITNESS FOR A PARTICULAR PURPOSE OR ANY OTHER WARRANTY OR CONDITION ARISING BY STATUTE, CUSTOM OR USAGE OF TRADE RELATED TO THE SERVICES PROVIDED HEREUNDER.

16) NON-WAIVER; REMEDIES

Delay or failure of Freight Arrangers to insist upon performance of any of these Terms, or to exercise any right or privilege herein, or the waiver of any breach of any of these Terms, will not be construed as waiving any such terms, conditions, provisions, rights, or privileges, but the same will continue and remain in full force and effect as if no forbearance or waiver or delay had occurred. Consent or approval by Freight Arrangers to any act requiring consent or approval will not be deemed to waive or render unnecessary consent or approval of any subsequent similar act. Customer hereby waives any and all rights and remedies provided for by Part B of Subtitle IV to Title 49 of the U.S. Code to the extent such rights and remedies conflict with the provisions of these Terms. Freight Arrangers rights and remedies under these Terms will be cumulative, and its pursuit of any such right or remedy will not preclude it from pursuing any other available right or remedy.

17) NO WARRANTIES OR PERFORMANCE GUARANTEES.

In no event shall Freight Arrangers be liable for any special, incidental, consequential, or punitive damages, including without limitation, damages due to delay, loss of profits, rental or income, travel, labor or expense, interest, costs, or attorney fees, whether or not Freight Arrangers, the Carrier had knowledge that such damages might be incurred. Freight Arrangers shall attempt to secure on-time, scheduled performance from Carriers in regard to the movement of Customer's Goods, however Freight Arrangers makes no warranties, express or implied, and expressly disclaims any and all warranties. Freight Arrangers is not bound to transport property in any particular vehicle, stack train, or for any particular market or markets, other than according to reasonable dispatch. Reasonable dispatch shall be dictated, among other things, by the nature of the transportation, safe and legal transportation operating requirements, and multiple shipper, receiver and Customer requirements and parameters. Further, Freight Arrangers does not warrant that shipments in transit will remain in continuous transit. Customer understands and acknowledges that, from time to time, shipments may be delayed while in transit. Freight Arrangers shall not be liable for suspension of service or operations or cargo loss or damage that result from the Shipper/Customer's Acts, Improper Packaging, Inherent Vice, Acts of Public Authority, Acts of God, Acts of War, terrorism, insurrection, strikes, derailment, any Force Majeure, or any other cause beyond its control. The service standards for Carriers are not guaranteed, nor shall they be construed as such by any Freight Arrangers Customer, Consignor, or Consignee. Freight Arrangers will not be responsible for any charges levied by anyone for failure to perform any service as to the timeliness of pick-up or delivery, whether implied by an effort to accommodate the Customer, Consignor and Consignee or not. Such fees may include, but are not limited to, a failure to make or meet appointment times or a failure to notify of a change in schedule.

18) DISCLAIMERS

CUSTOMER USES THIS WEBSITE AND THE FREIGHT ARRANGER WEBSITE AT ITS OWN RISK. ALL INFORMATION AND CONTENT ON THIS WEBSITE AND THE FREIGHT ARRANGERS WEBSITE IS PROVIDED "AS IS" WITHOUT ANY EXPRESS OR IMPLIED WARRANTY OR REPRESENTATION OF ANY KIND INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, OR NON-INFRINGEMENT.

IN NO EVENT WILL FREIGHT ARRANGER, ITS SUBSIDIARIES, AFFILIATED COMPANIES, JOINT PARTNERS, LICENSORS, OR LICENSEES BE LIABLE TO ANY PARTY FOR ANY INDIRECT, SPECIAL OR OTHER CONSEQUENTIAL DAMAGES FOR ANY USE OF THIS WEBSITE, OR ANY OTHER HYPERLINKED SITE INCLUDING, WITHOUT LIMITATION, ANY LOST REVENUES, LOST PROFITS, LOSS OF PROSPECTIVE ECONOMIC ADVANTAGE, BUSINESS INTERRUPTION, LOSS OF PROGRAMS OR OTHER DATA ON YOUR HANDLING SYSTEM OR OTHERWISE ARISING OUT OF THE USE, MISUSE OF OR INABILITY TO USE THIS

WEBSITE, THE FREIGHT ARRANGERS WEBSITE OR THE INFORMATION, SOFTWARE, SERVICES OR CONTENT THEREOF, EVEN IF FREIGHT ARRANGES, ITS SUBSIDIARIES, AFFILIATED COMPANIES, JOINT PARTNERS, LICENSORS, OR LICENSEES ARE ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR FOR ANY CLAIM BY A THIRD PARTY. CUSTOMER'S SOLE AND EXCLUSIVE REMEDY IS TO DISCONTINUE USING THIS WEBSITE AND THE FREIGHT ARRANGERS WEB PORTAL. IN NO EVENT WILL THE MAXIMUM AGGREGATE LIABILITY OF FREIGHT ARRANGES, ITS SUBSIDIARIES, AFFILIATED COMPANIES, JOINT PARTNERS, LICENSORS, OR LICENSEES, ARISING OUT OF OR RELATING TO THESE TERMS AND CONDITIONS, OR ANY USE OF THE WEBSITE, THE NTG VISION WEB PORTAL OR ANY OTHER HYPERLINKED SITE, EXCEED FIFTY U.S. DOLLARS (\$50)

19) GOVERNING LAW AND FORUM

These Terms will be deemed to have been drawn in accordance with the statutes and laws of the state of California and in the event of any disagreement or dispute, the laws of California will apply, without regard to its choice or conflict of law rules, and suit must be brought exclusively in California as each Party specifically submits to the exclusive personal jurisdiction of such courts for disputes involving these Terms or the Services. Customer and Freight Arrangers hereby submit to the sole and exclusive jurisdiction and venue of the state courts located in Fresno County, California with respect to any and all matters arising from or related to this Agreement and Services rendered. Customer does waive all objections to venue and jurisdiction, including forum non conveniens. BY DOING BUSINESS WITH FREIGHT ARRANGERS, CUSTOMER IS SUBJECT TO FREIGHT ARRANGERS TERMS CONTAINED HEREIN.