

**GENERAL TERMS AND CONDITIONS OF SERVICE**  
**(Please Read Carefully)**

All deliveries to or from carrier (which term includes the shipper, sender, receiver, owner, consignee, transferor or transferee of the deliveries or the agent thereof) will be handled by the carrier and/or third party or assigning agent handling this delivery, whose name appears as the assigned party, (the “Company”) on the following terms and conditions. No agent or employee of either party may alter or waive any of the following terms or conditions:

**1. Choosing Routes and Agents.** Company shall have complete freedom in choosing the means, route and procedure to be followed in the handling, transportation and delivery of the goods. If Customer requests a certain mode of carrier service or if Company decides that Customer’s delivery should be transported by a specific type of motor carriage, Company shall arrange with authorized motor carrier(s) to perform such transportation, which shall be done either as exempt carriage as defined by 49 U.S.C. § 13506(a)(8), or, if not exempt, as “contract carriage” within the meaning of 49 U.S.C. §13102(4)(B) under these terms and conditions. Customer expressly waives all rights and remedies it may have as to Company and its appointed motor carriers under 49 U.S.C. Subtitle IV, Part B (excluding §§ 13703, 13706, 14101 and 14103) to the full extent permitted by 49 U.S.C. § 14101(b)(1), each as amended from time to time. Advice by Company to Customer that a particular person or firm has been selected to render services as to the goods shall not be construed to mean that Company warrants or represents that such person or firm will render such services.

**2. Services by Third Parties.** Unless Company carries, stores or otherwise physically handles the shipment, and the loss, damage, expense or delay occurs during such activity, Company assumes no liability as a carrier and shall not be held liable for any loss, damage, expense or delay to the product shipped hereunder, except as provided in and subject to the limitations of select sections herein. Company undertakes only to use reasonable care in the selection of carriers, motor carriers, forwarders, third party agents, warehousemen and others to whom it may entrust the product for transportation, cartage, handling, delivery and/or storage or otherwise. When Company carries, stores or otherwise physically handles the shipment, including in the performance of transferring product or carrying out of delivery services, it does so subject to the limitation of liability set forth in select sections herein unless a separate bill of lading, similar document or other contract is issued by Company, in which event the terms thereof shall govern.

**3. Acknowledgement of the Role and Limitations of Third Parties.** Company is authorized to select and engage carriers, motor carriers, forwarders, third party agents, warehousemen and others as may be required, to transport, store, deal with and deliver the product, all of whom shall be considered as agents of Customer. The product may be entrusted to such parties subject to all conditions as to limitations of liability for loss, damage, expense or delay and to all rules, regulations, requirements and conditions, whether printed, written or stamped, appearing in bills of lading, receipts or orders issued by such carriers, motor carriers, forwarders, third party agents, warehousemen and others. Company shall in no event be liable for any loss, damage, expense or delay to the goods for any reason whatsoever when such product (or delivery) are in the custody, possession or control of third parties selected by Company to forward, enter, transport, transfer, dispense, or render other services with respect to such product, goods or service provided.

**4. Deliveries Subject to Re-Measurement.** Customer shall provide the appropriate quantity and requested delivered volume for its shipments. Shipments are subject to re-measurement by Company. If the weight or measurements of the product or goods as delivered are different from Customer’s representations, or if pick-up or delivery time or location is changed by Customer, Company’s rates, charges and fees are subject to change.

**5. Carrier’s Duty to Furnish Information.** Company shall not in any way be liable for increased fees, duties, penalties, fines or expenses unless caused by the gross negligence or other fault of Company, in which event its liability to Customer shall be governed by the provisions of selection sections herein. Customer shall be bound by and warrant the accuracy of all orders placed to the Company, documents and information furnished to Company by Customer or its third party agents, entry or other purposes and Customer agrees to indemnify and hold harmless the Company against any increased duty, penalty, liquidated damages, fine or expense, including attorney fees, resulting from any inaccuracy or omission or any failure to make timely presentation, even if not due to any negligence or fault of Customer. The submission of incomplete or inaccurate information related to an order, including descriptions quantities, weights, purchase prices, discounts, commissions, charged selling prices at time of delivery, etc. makes Customer liable to any governing body penalties or sanctions. In the event the information is forwarded to the



Company from the Customer does not accurately reflect the entire transaction, Customer shall immediately notify us so that Company can take corrective action.

**6. Declaring Higher Valuation.** Customer acknowledges and agrees that motor carriers, third party agents, warehousemen and others to whom the product or goods are entrusted usually limit their liability for loss or damage unless a higher value is declared and a charge based on such higher value is agreed to by said carriers, etc. Company must receive specific instructions from Customer to pay such higher charges based on valuation and the carrier, etc., must accept such higher declared value; otherwise the valuation placed by Customer on the goods shall be considered subject to the limitations of liability set forth select sections herein.

**7. Insurance.** Company will not arrange to insure the product or goods unless specific written instructions from Customer providing the kind and amount of insurance have been received and acknowledged by Company in sufficient time prior to shipment from point of origin. Company does not undertake or warrant that such insurance can or will be placed. Any insurance placed shall be governed by the certificate or policy issued and will only be effective when accepted by such insurance companies and underwriters. Insurance cover provided by Company will be assessed at a rate negotiated between the parties separate from any freight charges. Insured value is not to exceed the actual value of the product or goods. Shipments must be transported in such a condition to withstand the normal hazards of transportation for any claim to be valid. In the event Customer does not elect to insure all or part of a shipment, Company's liability for any losses, damages or delays to such shipment shall be limited in accordance with the provisions of selection sections herein. Should an insurer dispute its liability for any reason, the insured shall have recourse against the insurer only and Company shall not be under any responsibility or liability in relation thereto, notwithstanding that the premium upon the policy may not be at the same rates as that charged or paid to Company by Customer, or that the shipment was insured under a policy in the name of Company. Insurance premiums and the charge of Company for arranging the same shall be at Customer's expense. If for any reason the product or goods are held in warehouse, tank storage, or elsewhere, the same will not be covered by any insurance, unless Company receives written instructions from Customer and same is provided in accordance with this paragraph. Unless specifically agreed in writing by Company, Company assumes no responsibility to effect insurance on any transportation or transfer shipment which it does not handle.

**8. Limitation of Liability Per Shipment.** In connection with shipments within the United States its Territories, and insular possessions, as well as in any instance involving and international shipment in which the terms of an international carriage of goods convention do not apply, Customer agrees that Company shall in no event be liable for any loss, damage, expense or delay to the goods for any reason, including as a result of the gross negligence or other fault of Company, for any amount in excess \$100 per shipment, or the stated invoice value, whichever is less, and any partial loss or damage for which Company may be liable shall be adjusted pro rata on the basis of such valuation. As to any shipments under this agreement, Customer has the option of paying special compensation to increase the liability for the shipment in excess of the above stated amounts in case of any loss, damage, expense or delay, but such options can be exercised only by specific written agreement made with Company prior to shipment which agreement shall indicate the declared agreed value and the additional compensation for the added liability to be assumed. COMPANY SHALL NOT IN ANY CIRCUMSTANCES BE LIABLE FOR PUNITIVE OR EXEMPLARY DAMAGES OR CONSEQUENTIAL OR INDIRECT DAMAGES, INCLUDING WITHOUT LIMITATION, DAMAGES ARISING FROM LOSS OF PROFIT.

**9. Liability of Company.** It is agreed that any claim or demand for loss, damage, expense or delay shall be only against the carriers, motor carriers, third party agents, warehousemen or others in whose actual custody or control the product or goods may be at the time of such loss, damage, expense or delay, and that Company shall not be liable or responsible for any claim or demand from any cause whatsoever, unless in each case the product or goods were in the actual custody or control of Company and the damages alleged to have been suffered be proven to be caused by the negligence or willful misconduct of Company, its officers or employees, in which event the limitation of liability set forth in select sections herein shall apply.

**10. Presenting Claims.** To preserve a claim, the following must be adhered to: As to all shipments within the United States its Territories, or insular possession, claims for lost or damaged shipments must be made within two hundred seventy (270) days of the shipping date. Initial notification of visible impairment or damage to the shipment must be made in writing on the bill-of-lading by Customer or the consignee at the time of delivery, and a signed receipt to be



presented to the Company. Absence of such notation shall be proof of apparent good order and condition at delivery. Notification of impairment or damage must be made to Company within 24 hours of receipt of delivery of the shipment. Samples of original shipped product must be retained for inspection. Claims for overcharges must be presented to Company within 60 days of the shipping date.

**11. Advancing Money.** Company shall not be obliged to incur any expense, guarantee payment or advance any money in connection with the transferring, transporting, or storing of the goods, unless the same is previously provided to Company by Customer on demand. Company shall be under no obligation to advance freight charges, duties, fees or taxes on any delivery, nor shall any advance by Company be construed as a waiver of the provisions hereof.

**12. Indemnification for Freight, Duties.** In the event that a carrier, other person or any governmental agency makes a claim or institutes legal action against Company for freight, duties, fees, penalties, liquidated damages or other money due arising from a shipment or delivery of product or goods of Customer, Customer agrees to indemnify and hold harmless Company for any amount Company may be required to pay such carrier, other person or governmental agency together with reasonable expenses, including attorney fees, incurred by Company in connection with defending such claim or legal action and obtaining reimbursement from Customer. The confiscation or detention of the product or goods by any governmental authority shall not affect or diminish the liability of Customer to Company to pay all charges or other money due promptly on demand.

**13. C.O.D. Shipments.** Orders received with instructions to “Collect on Delivery” (C.O.D.) by drafts or otherwise, or to collect on any specified terms by time drafts or otherwise, are accepted by Company only upon the express understanding that Company will exercise reasonable care in the selection of a bank, correspondent, carrier or agent to whom it will send such item for collection, and Company will not be responsible for any acts, omission, default, suspension, insolvency or want of care, loss, negligence, or fault of such bank, correspondent, carrier or agent, nor for any delay in remittance lost in exchange, or loss during transmission, or while in the course of collection. Customer must enter the amount of any Customer’s C.O.D. which shall be collected subject to the fee and rules of the delivering carrier. Unless caused by Company’s willful or intentional misconduct, under no other circumstances shall Company’s liability relating in any way to Customer’s C.O.D. exceed the limits of liability as set forth in select sections herein.

**14. Customer Liable for Fees.** Notwithstanding any payment instructions given to Company, Customer shall be responsible for all fees, costs, and charges of any kind hereunder if Company is unable to collect such charges, which shall include special handling fees, duties or taxes which have been advanced, from consignee or other third party within 30 days of delivery.

**15. General Lien on Any Property.** Company shall have a general lien on any and all property (and documents relating thereto) of Customer, in its actual or constructive possession, custody or control or en route, for all claims for charges, expenses or advances incurred by Company in connection with any shipments of Customer or storage of product or goods on behalf of Customer or Consignee, even if previously delivered by Company, and if such claim remains unsatisfied for thirty (30) days after demand for its payment is made, Company may sell at public auction or private sale, upon ten (10) days written notice, sent certified or registered mail with return receipt requested from Customer, the goods, wares and/or merchandise, or so much thereof as may be necessary to satisfy such lien, and apply the net proceeds of such sale to the payment of the amount due to Company. Any surplus from such sale shall be transmitted to Customer, and Customer shall be liable for any deficiency in the sale.

**16. Compensation of Company.** Payment terms are net due on receipt. Contract or special rates may be considered void and the shipment re-rated at full charges if invoice is not paid in 30 days. Contract or special rates apply only to prepaid shipments unless specifically stated in a contract rate proposal. Invoicing hereunder while a shipment remains in transit shall not close out this agreement. The compensation of Company for its services shall be included with and is in addition to the rates and charges of all carriers and other agencies selected by Company to transport and deal with the product and goods and such compensation shall be exclusive of any brokerage, commission, dividends or other revenue received by Company from carriers, insurers and others in connection with the delivery. If Customer’s account is past due, Company is not obligated to refund any overcharges or pay any other obligation to Customer and Company in its sole discretion, may apply any overcharge amounts or other payments Company agrees it owes Customer, against the oldest outstanding invoices. In any referral for collection or action against Customer for monies due to Company, upon recovery by Company, Customer shall pay all expenses of collection and/or litigation, including reasonable



attorneys' fees, collection agency fees, and court costs. Any invoiced amounts not paid within thirty (30) days of the date of invoice shall accrue interest at the highest rate allowable by applicable law. All billing or invoice inquiries or disputes must be presented to Company within one hundred and eighty (180) days of receipt of invoice. All payment inquiries or disputes must be presented to the other party within one hundred and eighty (180) days of receipt of payment. Any inquiries or disputes not presented within the time frames set forth herein shall be deemed waived. Notwithstanding the foregoing, Company may at any time offset any amounts owed or paid by the Customer to Company against any amounts owed by Company to the Customer, including, without limitation, unidentified payments and credits in the Customer's favor, duplicate payments by the Customer, and accounts payable to the Customer.

**17. Picking Up Product or Samples.** Company shall not itself be obligated to pick up a new or used product or goods from a Customer with explicit consign from a designated officer of the Company. Should Company render such a service for and on behalf of Customer, Company shall not be responsible for loss or damage to the shipment unless it is in the actual custody and control of Company and the loss or damage is caused by the gross negligence or other fault of Company, in which event the limitation of liability set forth in select sections herein shall apply.

**18. No Responsibility For Governmental Requirements.** It is Customer's responsibility to know and comply with all licensing, classification, valuation, marking and other Customs' requirements, laws, regulations, and rulings enforced by the U.S. and any country having jurisdiction over a shipment, the laws and regulations of any applicable governmental agency, and all other requirements, laws and regulations of any applicable country or governmental agency. Company shall not be responsible for action taken, liquidated damages, or fines or penalties assessed by any governmental agency against the shipment because of the failure of Customer to comply with the laws, requirements or regulations of any country or governmental agency or with a notification issued to Customer by any such agency.

**19. Loss, Damage or Expense Due To Delay.** Unless the services to be performed by Company hereunder are delayed by reason of the gross negligence or willful misconduct of Company, Company shall not be responsible for any loss, damage or expense incurred by Customer because of such delay. In the event Company is at fault as above described, its liability is limited in accordance with the provisions of selection sections herein.

**20. Construction of Terms and Venue.** The terms and conditions hereof shall be construed according to the laws of the State of Texas. CUSTOMER AND COMPANY AGREE THAT ANY CLAIM OR DISPUTE ARISING BETWEEN THEM, WHETHER UNDER FEDERAL, STATE, LOCAL, OR FOREIGN STATUTES, REGULATIONS, OR COMMON LAW, SHALL BE BROUGHT EXCLUSIVELY IN THE STATE OR FEDERAL COURTS SERVING DALLAS COUNTY, TEXAS. CUSTOMER AND COMPANY HEREBY CONSENT TO THE JURISDICTION OF SUCH COURTS.

**21. Proof of Delivery.** Customer agrees that digitized signature or computer record of delivery receipt is acceptable as proof of delivery of any shipment hereunder.

**22. Hazardous Materials and Dangerous Goods.** All deliveries containing hazardous materials/dangerous goods shall be limited to the materials and quantities authorized for transportation under the U.S. Department of Transportation hazardous materials transportation regulations (49 C.F.R. Parts 171, 172, and 173) ("Regulations"). Customer and its assigned agents shall comply with the Regulations regardless of the routing or the mode by which delivery is transported. If a shipment contains hazardous materials/dangerous goods, the contents shall be – and Customer hereby certifies they are – fully and accurately described on shipping documents by proper name, classification (if applicable), package type, marked and labeled, and in proper condition for motor carriage (or, if tendered for other mode of transportation, then for carriage by such other mode) according to the Regulations and any other applicable national governmental regulations. Customer hereby declares that all of the applicable requirements have been met.

**23. Quotations and Product Pricing not Binding.** Quotations as to service fees, product pricing, rates of duty, freight charges, insurance premiums or other charges given by the Company to the Customer are for informational purposes only and are subject to change and shall not under any circumstances be binding upon the Company unless the Company in writing specifically undertakes the handling or transportation of the shipment at a specific rate.



**24. Independent Service Provider.** Except for certain duties and services performed pursuant to a power of attorney, Company shall operate as an independent transportation service provider in performing services for Customer.

**25. Indemnity Against Liability Arising From the Transportation of Merchandise.** The customer agrees to indemnify and hold the Company harmless from any claims and/or liability arising from the handling of product or goods which violates any federal, state and/or other laws or regulations and further agrees to indemnify and hold the Company harmless against any and all liability, loss, damages, costs, claims and/or expenses, including but not limited to attorney's fees, which the Company may hereafter incur, suffer or be required to pay by reason of claims by any government agency or private party. In the event that any actions, suit or proceeding is brought against the Company by any government agency or any private party, the Company shall give notice in writing to the Customer by mail at its address on file with the Company. Upon receipt of such notice, the Customer at its own expense shall defend against such action and take all steps as may be necessary or proper to prevent the obtaining of a judgment and/or order against the Company.

**26. Guaranteed Delivery.** In the event Customer has elected guaranteed delivery for a particular shipment, this Section 31 shall apply. If the Company has failed to deliver the particular product in the amount of time guaranteed, Customer has up to fifteen (15) days from the date of the delivery to seek refund or credit of the applicable freight charges paid by Customer for the particular delivery; provided however, Company will not be obligated to refund or credit Customer's freight charges if the failure to deliver timely resulted from any of the following circumstances:

- a. The Customer's failure to accept delivery from Company within one hour (60) minutes of the delivery requirement posted in the order confirmation process;
- b. The unavailability or refusal of an appropriate or eligible representative to accept delivery or sign for the delivery;
- c. The Customer's failure to provide complete and accurate delivery address information;
- d. The Customer's failure to provide complete and accurate information relating to the quantity of the delivery;
- e. Security or other site specific delays;
- f. Perils of the air, public enemies, criminal acts of any person(s) or entities, including, but not limited to, acts of terrorism, public authorities acting with actual or apparent authority, authority of law, local disputes, civil commotion, hazards incident to a state of war, local or national weather conditions, national or local disruptions in air or ground transportation networks (as determined solely by Company), strikes or anticipated strikes (of any entity, including, but not limited to, other carriers, vendors or suppliers), natural disasters (earthquakes, floods and hurricanes are examples of natural disasters), conditions that present a danger to Company personnel, and disruption or failure of communication and information systems (including, but not limited to, Company's systems);
- g. The shipment was undeliverable or returned without reason