

InterShip Logistics LLC Terms & Conditions of Service

These terms and conditions of service constitute a legally binding contract between the "Company" and the "Client". In the event the Company renders services and issues a document containing Terms and Conditions governing such services, the Terms and Conditions set forth in such other document(s) shall govern those services.

1. Definitions

- a) "Company" shall mean Company Logistics LLC, its subsidiaries, related companies, agents and/or representatives;
- b) "Client" shall mean the person for which the Company is rendering service, as well as its principals, agents and/or representatives, including, but not limited to, shippers, importers, exporters, carriers, secured parties, warehousemen, buyers and/or sellers, shipper's agents, insurers and underwriters, break-bulk agents, consignees, etc. It is the responsibility of the Client to provide notice and copy(s) of these terms and conditions of service to all such agents or representatives;
- c) "Documentation" shall mean all information received directly or indirectly from Client, whether in paper or electronic form;
- d) "Ocean Transportation Intermediaries" ("OTI") shall include an "ocean freight forwarder" and a "non-vessel operating carrier";
- e) "Third parties" shall include, but not be limited to, the following: "carriers, truckmen, cartmen, lightermen, forwarders, OTIs, customs brokers, agents, warehousemen and others to which the goods are entrusted for transportation, cartage, handling and/or delivery and/or storage or otherwise".

2. Company as Agent

- a) The Company acts as the "agent" of the Client for the purpose of performing duties in connection with the entry and release of goods, post entry services, the securing of export licenses, the filing of export and security documentation on behalf of the Client and other dealings with Government Agencies, or for arranging for transportation services or other logistics services in any capacity other than as a carrier.

3. Limitation of Actions

- a) Unless subject to a specific statute or international convention, all claims against the Company for a potential or actual loss, must be made in writing and received by the Company, within 90 days of the event giving rise to claim; the failure to give the Company timely notice shall be a complete defense to any suit or action commenced by Client.
- b) All suits against Company must be filed and properly served on Company as follows:
 - i. For claims arising out of ocean transportation, within 9 months from the date of the loss
 - ii. For claims arising out of air transportation, within 9 months from the date of the loss
 - iii. For claims arising out of the preparation and/or submission of an import entry(s), within 75 days from the date of liquidation of the entry(s)
 - iv. For any and all other claims of any other type, within 9 months from the date of the loss or damage

4. No Liability for the Selection or Services of Third Parties and/or Routes

- a) Unless services are performed by persons or firms engaged pursuant to express written instructions from the Client, Company shall use reasonable care in its selection of third parties, or in selecting the means, route and procedure to be followed in the handling, transportation, clearance and delivery of the shipment; advice by the Company that a particular person or firm has been selected to render services with respect to the goods, shall not be construed to mean that the Company warrants or represents that such person or firm will render such services nor does Company assume responsibility or liability for any actions(s) and/or inaction(s) of such third parties and/or its agents, and shall not be liable for any delay or loss of any kind, which occurs while a shipment is in the custody or control of a third party or the agent of a third party; all claims in connection with the Act of a third party shall be brought solely against such party and/or its agents; in connection with any such claim, the Company shall reasonably cooperate with the Client, which shall be liable for any charges or costs incurred by the Company.

5. Quotations Not Binding

- a) Quotations as to fees, rates of duty, freight charges, insurance premiums or other charges given by the Company to the Client are for informational purposes only and are subject to change without notice; no quotation shall be binding upon the Company unless the Company in writing agrees to undertake the handling or transportation of the shipment at a specific rate or amount set forth in the quotation and payment arrangements are agreed to between the Company and the Client.

6. Reliance On Information Furnished

- a) Client acknowledges that it is required to review all documents and declarations prepared and/or filed with U.S. Customs & Border Protection, other Government Agency and/or third parties, and will immediately advise the Company of any errors, discrepancies, incorrect statements, or omissions on any declaration or other submission filed on Client's behalf;
- b) In preparing and submitting customs entries, export declarations, applications, security filings, documentation and/or other required data, the Company relies on the correctness of all documentation, whether in written or electronic format, and all information furnished by Client; Client shall use reasonable care to ensure the correctness of all such information and shall indemnify and hold the Company harmless from any and all claims asserted and/or liability or losses suffered by reason of the Client's failure to disclose information or any incorrect, incomplete or false statement by the Client or its agent, representative or contractor upon which the Company reasonably relied. The Client agrees that the Client has an affirmative non-delegable duty to disclose any and all information required to import, export or enter the goods.

7. Declaring Higher Value to Third Parties

- a) Third parties to whom the goods are entrusted may limit liability for loss or damage; the Company will request excess valuation coverage only upon specific written instructions from the Client, which must agree to pay any charges therefore; in the absence of written instructions or the refusal of the third party to agree to a higher declared value, at Company's discretion, the goods may be tendered to the third party, subject to the terms of the third party's limitations of liability and/or terms and conditions of service.

8. Insurance

- a) Unless requested to do so in writing and confirmed to Client in writing, Company is under no obligation to procure insurance on Client's behalf; in all cases, Client shall pay all premiums and costs in connection with procuring requested insurance.

9. Disclaimers; Limitation of Liability

- a) Except as specifically set forth herein, Company makes no express or implied warranties in connection with its services
- b) In connection with all services performed by the Company, Client may obtain additional liability coverage, up to the actual or declared value of the shipment or transaction, by requesting such coverage and agreeing to make payment therefor, which request must be confirmed in writing by the Company prior to rendering services for the covered transaction(s).
- c) In the absence of additional coverage under (b) above, the Company's liability shall be limited to the following:
 - i. Ocean Freight: During any sea and other transportation governed under the terms hereof by the U.S. Carriage of Goods by Sea Act, to \$500 per package, or for cargo not packaged, \$500 per customary freight unit; and during all other transportation, except where otherwise provided by applicable laws, to \$0.50 per pound. These limits may be increased by declaring a higher value per kg, package, customary freight unit or shipment before the shipment is booked.

- ii. Air Freight: If the carriage involves an ultimate destination or stop in a country other than the country of departure, the Warsaw Convention may be applicable and in most cases limits the liability of the Carrier in respect of loss of, damage of delay to cargo. Depending on the applicable regime, and unless a higher value is declared, InterShip's liability is limited to 19 Special Drawing Rights (SDRs) per kilogram under the Warsaw Convention as amended by Montreal Protocol no. 4, or 250 French gold francs per kilogram under the Warsaw Convention (un-amended by Montreal Protocol no. 4), converted into national currency under applicable law, unless a greater amount is specified in the on the AWB.
 - iii. Domestic Ground (Drayage & Air): The Client agrees that Company shall only be liable for its negligent acts that are the direct and proximate cause of injury to the Client, including any loss, damage, expense or delay to the goods. Subject to any applicable law, statute, or regulation, such liability shall be limited as follows: i) If the Client declares a value in advance of the transit and pays applicable additional charges, Company's liability shall be the lesser of the amount to any damage actually sustained or the declared value. ii) If the Client does not declare a value and pay applicable additional charges, the Company's liability shall be the lesser of A.) the amount of any damage actually sustained or; B) \$500 or the weight of the actual piece count lost or damaged in pounds multiplied \$0.50, whichever is greater, plus the amount of the Company's transportation charges applicable to that part of the shipment lost or damaged beyond economical repair.
 - iv. Where the claim arises from activities relating to "Customs business," \$50per entry or the amount of brokerage fees paid to Company for the entry, whichever is less.
- d) In no event shall Company be liable or responsible for consequential, indirect, incidental, statutory or punitive damages, even if it has been put on notice of the possibility of such damages, or for the acts of third parties.

10. Advancing Money

- a) All charges must be paid by Client in advance unless the Company agrees in writing to extend credit to Client; the granting of credit to a Client in connection with a particular transaction shall not be considered a waiver of this provision by the Company.

11. Payments

- a) COMPANY shall invoice CLIENT for its services in accordance with the rates, charges and provisions set forth in Appendix A, attached, and any written supplements or revisions that are mutually agreed to between the PARTIES in writing. If rates are negotiated between the PARTIES and not otherwise confirmed in writing prior to the time of shipment, such rates shall be considered "written," and shall be binding, upon CLIENT's tender for transportation to the entity arranged by COMPANY.
- b) CLIENT agrees to pay COMPANY's invoice within 30 days of invoice date without deduction or setoff. COMPANY shall apply payment to the amount due for the specified invoice or, if no invoice specified, then to the oldest (based on pick-up date) invoiced amount that is outstanding. All charges are payable in the currency (USD\$) as per the rate quotation and are due and payable thirty (30) days from the date of receipt of the invoice(s). Any payment which is past due shall be subject to an additional charge at the rate of 1-1/2% per month of the average outstanding balance due, or the highest rate of interest permitted by applicable law, whichever is less. In the event Company retains an attorney or collection agency for the enforcement of these Terms and Conditions, Client shall also be liable for all attorneys fees incurred, together with related costs and expenses.
- c) The amount of credit, if any, granted to the Client is at the sole discretion of Company. When paying by credit card or electronic funds, the Client agrees they will be responsible for all charges payable, including

any adjustments, on account of such Client's shipment. These charges and adjustments, if any, will be automatically debited to the Client's credit card or bank account.

- d) The Client shall be liable, jointly and severally, for all charges relating to the Client's shipment, including but not limited to transportation, fuel and other applicable accessorial charges, and all duties, customs assessments, governmental penalties and fines, taxes, and Company's attorney fees and legal costs allocable to charges payable on account of such Client Shipment. Unless otherwise agreed, Brokers or other intermediaries arranging shipments for clients shall be liable, jointly and severally, for all charges relating to such Client's shipment. Company reserves the right to amend or adjust the original quoted amount or re-invoice the Client if the original quoted amount was based upon incorrect information provided by Client at the time of the original quote or if additional services by the carrier were required or otherwise authorized by the Client to perform the pick up, transportation and delivery functions therein. Client is permitted thirty (30) business days from the date of the invoice to dispute any invoiced charges. If Company does not receive a dispute in writing within the allowable thirty (30) business days, the Client will be liable for payment of the disputed amount.
- e) Payment of the freight charges to COMPANY shall relieve CLIENT, Consignee or other responsible party of any liability to the carrier for non-payment of its freight charges. COMPANY shall indemnify CLIENT from and against any claim for freight payment brought by carrier against CLIENT when CLIENT has paid COMPANY and COMPANY has failed to pay carrier.

12. Indemnification/Hold Harmless

- a) The Client agrees to indemnify, defend, and hold the Company harmless from any claims and/or liability, fines, penalties and/or attorneys' fees arising from the importation or exportation of Clients merchandise and/or any conduct of the Client, including but not limited to the inaccuracy of entry, export or security data supplied by Client or its agent or representative, which violates any Federal, State and/or other laws, and further agrees to indemnify and hold the Company harmless against any and all liability, loss, damages, costs, claims, penalties, fines and/or expenses, including but not limited to reasonable attorney's fees, which the Company may hereafter incur, suffer or be required to pay by reason of such claims; in the event that any claim, suit or proceeding is brought against the Company, it shall give notice in writing to the Client by mail at its address on file with the Company.

13. C.O.D. or Cash Collect Shipments

- a) Company shall use reasonable care regarding written instructions relating to "Cash/Collect on Deliver (C.O.D.)" shipments, bank drafts, cashier's and/or certified checks, letter(s) of credit and other similar payment documents and/or instructions regarding collection of monies but shall not have liability if the bank or consignee refuses to pay for the shipment.

14. Costs of Collection

- a) In any dispute involving monies owed to Company, the Company shall be entitled to all costs of collection, including reasonable attorney's fees and interest at 18% per annum or the highest rate allowed by law, whichever is less unless a lower amount is agreed to by Company.

15. General Lien and Right to Sell Client's Property

- a) Company shall have a general and continuing lien on any and all property of Client coming into Company's actual or constructive possession or control for monies owed to Company with regard to the shipment on which the lien is claimed, a prior shipment(s) and/or both;
- b) Company shall provide written notice to Client of its intent to exercise such lien, the exact amount of monies due and owing, as well as any on-going storage or other charges; Client shall notify all parties having an interest in its shipment(s) of Company's rights and/or the exercise of such lien.
- c) Unless, within thirty days of receiving notice of lien, Client posts cash or letter of credit at sight, or, if the amount due is in dispute, an acceptable bond equal to 110% of the value of the total amount due, in favor of Company, guaranteeing payment of the monies owed, plus all storage

charges accrued or to be accrued, Company shall have the right to sell such shipment(s) at public or private sale or auction and any net proceeds remaining thereafter shall be refunded to Client.

16. No Duty to Maintain Records For Client

- a) Client acknowledges that pursuant to Sections 508 and 509 of the Tariff Act, as amended, (19 USC §1508 and 1509) it has the duty and is solely liable for maintaining all records required under the Customs and/or other Laws and Regulations of the United States; unless otherwise agreed to in writing, the Company shall only keep such records that it is required to maintain by Statute(s) and/or Regulation(s), but not act as a "recordkeeper" or "recordkeeping agent" for Client.

17. Obtaining Binding Rulings, Filing Protests, etc.

- a) Unless requested by Client in writing and agreed to by Company in writing, Company shall be under no obligation to undertake any pre- or post Customs release action, including, but not limited to, obtaining binding rulings, advising of liquidations, filing of petition(s) and/or protests, etc.

18. Preparation and Issuance of Bills of Lading

- a) Where Company prepares and/or issues a bill of lading, Company shall be under no obligation to specify thereon the number of pieces, packages and/or cartons, etc.; unless specifically requested to do so in writing by Client or its agent and Client agrees to pay for same, Company shall rely upon and use the cargo weight supplied by Client.

19. No Modification or Amendment Unless Written

- a) These terms and conditions of service may only be modified, altered or amended in writing signed by both Client and Company; any attempt to unilaterally modify, alter or amend same shall be null and void.

20. Compensation of Company

- a) The compensation of the 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 the Company to transport and deal with the goods and such compensation shall be exclusive of any brokerage, commissions, dividends, or other revenue received by the Company from carriers, insurers and others in connection with the shipment. On ocean exports, upon request, the Company shall provide a detailed breakout of the components of all charges assessed and a true copy of each pertinent document relating to these charges. In any referral for collection or action against the Client for monies due the Company, upon recovery by the Company, the Client shall pay the expenses of collection and/or litigation, including a reasonable attorney fee.

21. Force Majeure

- a) Company shall not be liable for losses, damages, delays, wrongful or missed deliveries or nonperformance, in whole or in part, of its responsibilities under the Agreement, resulting from circumstances beyond the control of either Company or its sub-contractors, including but not limited to: (i) acts of God, including flood, earthquake, storm, hurricane, power failure or other natural disaster; (ii) war, hijacking, robbery, theft or terrorist activities; (iii) incidents or deteriorations to means of transportation, (iv) embargoes, (v) civil commotions or riots, (vi) defects, nature or inherent vice of the goods; (vii) acts, breaches of contract or omissions by Client, Shipper, Consignee or anyone else who may have an interest in the shipment, (viii) acts by any government or any agency or subdivision thereof, including denial or cancellation of any import/export or other necessary license; or (ix) strikes, lockouts or other labor conflicts.

22. Severability

- a) In the event any Paragraph(s) and/or portion(s) hereof is found to be invalid and/or unenforceable, then in such event the remainder hereof shall remain in Full force and effect. Company's decision to waive any provision herein, either by conduct or otherwise, shall not be deemed to be a further or continuing waiver of such provision or to otherwise waive or

invalidate any other provision herein.

23. Governing Law; Consent to Jurisdiction and Venue

- a) These terms and conditions of service and the relationship of the parties shall be construed according to the laws of the State of New York without giving consideration to principles of conflict of law.
- b) Client and Company
 - i. irrevocably consent to the jurisdiction of the United States District Court and the State courts of New York;
 - ii. agree that any action relating to the services performed by Company, shall only be brought in said courts;
 - iii. consent to the exercise of *in personam* jurisdiction by said courts over it, and
 - iv. further agree that any action to enforce a judgment may be instituted in any jurisdiction.

ENTIRE AGREEMENT

- a) Company Terms and Conditions are in effect on the date the service is provided. The terms and conditions including all Appendices and Addenda, together constitutes the entire agreement intended by and between the PARTIES and supersedes all prior agreements, representations, warranties, statements, promises, information, arrangements, and understandings, whether oral, written, expressed or implied, with respect to the subject matter hereof. The PARTIES further intend that this Agreement constitutes the complete and exclusive statement of its terms and that no extrinsic evidence may be introduced to reform this Agreement in any judicial or arbitration proceeding involving this Agreement.

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