

CUSTOMER STANDARD TERMS AND CONDITIONS

These Customer Standard Terms and Conditions (these "**Conditions**") as well as the terms and conditions of any Company-provided rate quote/confirmation (the "**Quote**"), if any, apply to the provision or arrangement, as applicable, of any transportation, warehouse, transloading, storage, customs brokerage or handling services ("**Services**") by one or more of the following distinct corporate entities:

- Bounce Logistics, LLC,
- XPO Global Forwarding, Inc. and XPO GF America, Inc. (each, "**XPOGF**"),
- XPO Logistics Express, LLC,
- XPO Ocean World Lines, Inc. ("**XPOWL**"),
- XPO Stacktrain, LLC ("**Stacktrain**"),
- XPO Intermodal Solutions, Inc. ("**XIM**"),
- XPO Logistics Cartage, LLC,
- XPO Logistics Drayage, LLC,
- XPO Logistics Port Services, LLC,
- XPO Distribution Services, Inc. ("**XDS**"),
- XPO Customs Clearance Solutions, LLC,
- XPO Air Charter, LLC,
- XPO Dedicated, LLC,
- XPO Logistics Canada Inc.,
- XPO Logistics, LLC,
- XPO Logistics NLM, LLC ("**NLM**"),
- Jacobson Logistics Company, L.C.,
- Jacobson Transportation Company, Inc. and
- any other companies owned or affiliated with any of the listed entities (individually and collectively, the "**Company**"). Each Company may operate under the trade name "XPO Logistics."

These Conditions set forth the rights and obligations of the Company and Customer (defined below) except as otherwise set forth herein.

By tendering goods to the Company for Services, Customer expressly accepts these Conditions and warrants that acceptance of these Conditions has been authorized by a representative of Customer as of the date the Services were first provided to Customer by the Company.

The Company may change these Conditions at any time without notice to Customer. The changed Conditions are in effect immediately. The version of these Conditions in effect on the date a shipment is tendered to the Company will apply.

Any motor carrier transportation provided by XPO Logistics Cartage, LLC using vehicles owned by or leased to XPO Logistics Cartage, LLC is subject to and governed by the XPO Logistics Cartage, LLC Rules Tariff, which is available on the XPO website at www.xpo.com/business-terms and by emailing stc@xpo.com.

Any motor carrier transportation provided by XPO Logistics Port Services, LLC using vehicles owned or leased to XPO Logistics Port Services, LLC is subject to and governed by the Rules Tariff for California Port Drayage Services, which is available on the XPO website at www.xpo.com/business-terms and by emailing stc@xpo.com.

Any motor carrier transportation provided by XPO Logistics Drayage, LLC using vehicles owned by or leased to XPO Logistics Drayage, LLC is subject to and governed by the XPO Logistics Drayage, LLC Rules Tariff, which is available on the XPO website at www.xpo.com/business-terms and by emailing stc@xpo.com.

Any motor carrier transportation provided by XPO Logistics Express, LLC using vehicles owned by or leased to XPO Logistics Express, LLC is subject to and governed by the terms and conditions of the XPO Logistics Express, LLC Bill of Lading as well as the XPO Logistics Express, LLC Rules Tariff 102, and Special Service Charges, which is available on the XPO website at www.xpo.com/business-terms and by calling 800-800-5161 or emailing stc@xpo.com.

Any property broker services provided by any Company, regardless of whether the Company also holds separate motor carrier authority, are provided subject to these Conditions.

DEFINITIONS

“Bill of Lading” means a document issued by the Company or a Carrier (or the Carrier Representative), as applicable, that evidences the receipt of Goods for shipment to a specified designation and person. The term may include a waybill as context dictates.

“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 ocean or air carrier (including non-vessel operating common carriers and indirect air carriers), any warehouse operator, or other person or entity that provides transportation, storage, handling or related services to the Goods at the request of the Company.

“Carrier Representatives” mean any employees, contractors, subcontractors, and agents of the Carrier.

“Claims” mean any and all liabilities, claims, losses, suits, actions, costs, fines, penalties, expenses (including 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.

“Company” means whichever of the following companies is providing or arranging Services at the request of Customer: Bounce Logistics, LLC; XPOGF; XPO Logistics Express, LLC; XPOWL; Stacktrain; XIM; XPO Logistics Cartage, LLC; XDS; XPO Customs Clearance Solutions, LLC; XPO Air Charter, LLC; XPO Dedicated, LLC; XPO Logistics Canada Inc.; XPO Logistics, LLC; XPO Logistics NLM, LLC; Jacobson Logistics Company, L.C.; Jacobson Transportation Company, Inc.; and any other companies owned or affiliated with any of the listed entities.

“Conditions” means these Customer Standard Terms and Conditions.

“Customer” means the person or entity at whose request, for whose benefit, or on whose behalf the Company provides any Services, including any third party logistics provider, shipper, consignor, consignee, beneficial cargo owner, or any agent acting on behalf of such person or entity.

“DOT” means the United States Department of Transportation.

“Facility” means a warehouse facility operated by XDS or other warehouse facility contracted by a Company to provide storage, handling, transloading or warehousing services for Customer.

“Goods” means the cargo or goods for which the Company is arranging transportation or providing other Services and includes packaging, pallets, packing materials, containers, and any related equipment.

“Governmental Authority” means any U.S or foreign (including foreign supra-national organizations such as the European Union) federal, state, provincial, regional or local government or any of their agencies, authorities, departments, regulatory bodies, tribunals, services, or other similar entities.

“IMC” means a person or entity that, for compensation, arranges, or offers to arrange, the transportation of Goods by intermodal transportation performed by authorized motor carriers and rail service providers.

“Intermodal Tariff” means the published directory, rules & policies/procedures, tariff, shipping guide or agreement of the applicable rail Carrier for its intermodal transportation services in effect at the time of shipment.

“Parties” means the Company and Customer unless otherwise specified, and **“Party”** means the Company or Customer, as applicable.

“Property Broker” means a person or entity that, for compensation, arranges, or offers to arrange, the transportation of Goods by an authorized motor carrier or rail transportation provider.

“Service Agreement” means a written agreement signed by an authorized representative of Customer and the applicable Company pertaining to the Services provided by such Company.

“Trailer” means a container and chassis or a trailer used for the rail, highway or ocean transportation of Goods.

“Warehouse Services” means storage, handling, transloading or warehousing services provided by XDS or other Company.

1. APPLICATION OF THESE CONDITIONS

Except as otherwise expressly set forth herein, these Conditions apply to all the Company’s activities in arranging or providing Services. These Conditions apply except to the extent expressly superseded or waived in a Service Agreement. The Company and Customer may, in a Service Agreement, agree to additional or amended service terms. In the case of conflict between any of these Conditions and any Service Agreement, the terms of the Service Agreement will govern. Where the specific Service Agreement is silent on any matter and does not expressly disclaim these Conditions, the provisions of these Conditions will apply with respect to such matter. In the event of a conflict between these Conditions and the terms and conditions set forth in any Quote, the terms and conditions of the Quote will govern.

Please see the sections regarding air and ocean transportation Services regarding the application of Bill of Lading terms to such air and ocean transportation Services.

Carrier Services are provided subject to and otherwise governed by, and Customer acknowledges and agrees that its rights against the Carriers are subject to, the Carrier’s Bill of Lading, including tariffs, service guides and similar documentation incorporated therein, as well as by contractual arrangements in place between the Company and the Carrier.

2. SERVICES REQUIRING SPECIAL ARRANGEMENTS

Customer will not request, and the Company will have no responsibility to:

- a. Arrange for Goods to be carried, stored or handled separately from other Goods;
- b. Arrange for Carriers or delivery agents to hold Goods until payment of any amount or until surrender of a document;
- c. Arrange for the transport of any of the following: Goods the replacement value of which exceeds \$100,000; luxury Goods (including, but not limited to, works of art, jewelry; pharmaceuticals; electronics; currency, negotiable instruments or securities of any kind; precious metals or stones; antiques); human remains; livestock or plants; hazardous materials or dangerous goods; fresh produce; waste of any kind; oversize or overweight shipments; coiled or rolled products; commodities requiring protection from heat or cold or temperature controlled equipment; or any other freight with special requirements or restricted or prohibited by Carriers.

Customer will defend, indemnify and hold the Company harmless against any Claims as a consequence of the Company’s failure to make arrangements noted above.

3. COMPANY’S GENERAL RESPONSIBILITIES AND DISCLAIMERS

- a. Nothing in these Conditions or otherwise will be deemed to require or obligate the Company to accept Goods tendered by Customer for Services. If the Company agrees to provide Services, the Company will exercise reasonable care arranging for or providing Services in accordance with these Conditions, and the Company will arrange for transport and related Services within a reasonable time after receiving Customer’s instructions, **BUT THE COMPANY IS NOT RESPONSIBLE FOR COMPLIANCE WITH TRANSIT, PICK-UP OR DELIVERY APPOINTMENT DATES OR TIMES AND WILL NOT BE LIABLE IN ANY WAY FOR TRANSPORTATION DELAYS.** Where the Services include provision or arrangement of transportation, the Company’s obligation will be to provide or arrange such transportation with reasonable dispatch.
- b. Except as otherwise set forth in these Conditions, the Company will take all reasonable steps to inform any Carrier of Customer’s instructions received in writing by the Company unless the Company has informed Customer that it will not agree to provide Services in accordance with any such instructions, in which case, the Company will have no liability arising from or related to failure to comply with such instructions. If after

the Company has agreed to arrange for a transportation of a shipment, events or circumstances make it impossible or impracticable, in the Company's sole discretion, for the Company to fulfill its obligations under these Conditions, the Company may depart from any of Customer's instructions without prior authorization from Customer, and will not incur any additional liability as a consequence of any such departure or deviation.

- c. The Company is not responsible to Customer or others for delay or deterioration of Goods from delay, whether with or without cause. The Company is also not responsible for deterioration of Goods arising from breakdown or malfunction of refrigerated equipment, or changes in temperature, even if the rates quoted are for temperature controlled equipment or for temperature sensitive Goods.
- d. The Company, its agents and the Carriers will remain at all times independent contractor's vis-à-vis Customer. Carriers engaged by the Company will have sole and exclusive control over the manner in which they and their Carrier Representatives perform transportation services, including the operations of all vehicles and equipment used to perform its transportation services hereunder. Under no circumstances will Carriers engaged by the Company or their Carrier Representatives be deemed employees or agents of the Company or involved in any kind of joint venture and/or partnership with the Company. The foregoing notwithstanding, the Company and Carriers may agree that the Company will act as the Carrier's agent for the sole purpose of collecting the agreed-to freight charges related to Services. Except for such specific designation, none of the terms of these Conditions, or any act or omission of either Party will be construed for any purpose to express or imply a joint venture, partnership, principal/agent, fiduciary, employer/employee relationship between Customer, the Company, or the Carriers.
- e. If requested, the Company will provide Customer with proof of acceptance and delivery of Goods shipped in the form of an original or imaged signed Bill of Lading or proof of delivery. Such documentation may be made available for accessing by Customer through a web-based or other system. Additional charges may be applicable.
- f. For shipments moving intermodally or over the road, insertion of the Company's name on the Bill of Lading as the "carrier" by any entity other than the Company will be for Customer's convenience only and will not imply that the Company is actually the Carrier of that shipment or otherwise change the Company's status in handling that shipment.

4. CUSTOMER'S GENERAL RESPONSIBILITIES

- a. Customer must provide all information and instructions that are reasonably necessary for the Company to effectively arrange for the performance of the transportation and related services requested by Customer in accordance with any applicable laws, rules, regulations or conventions. Customer will provide detailed and accurate descriptions of any Goods tendered for transportation and their accurate weights. Customer is responsible to be aware of and comply with applicable customs and import, export and transportation laws, rules, practices and regulations of the governmental authorities of the countries involved in a shipment; to complete and provide all required documentation; and to apply and pay for all licenses, permits or authorities required by governmental authorities to conduct the business and transportation contemplated by Customer.
- b. In no event will Customer tender any Goods that will or would reasonably be expected to contaminate, taint, corrode, or otherwise adversely impact the quality or condition of other Goods being transported, or the Trailer used in transporting the Goods.
- c. Customer warrants that it is either the owner or the authorized agent of the owner of the Goods tendered for Services and that it has the authority to, and does, accept these Conditions 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 Conditions will be binding on such persons or entities.
- d. Except to the extent that the Company has accepted instructions and explicitly accepted responsibility in respect of the preparation, packing, stowage, labeling or marking of the Goods, Customer warrants that (1) all Goods have been properly and sufficiently prepared, packed, stowed, are fully and accurately described, labeled and/or marked, and that the preparation, packing, stowage, labeling and marking are appropriate to

any operations or transactions affecting the Goods and the characteristics of the Goods, (2) the Goods are suitable for transportation in or on the Trailer; and (3) the Trailer is in a suitable condition to carry the Goods loaded therein. Furthermore, if the Goods are being transported through intermodal transportation, Customer warrants that, except to the extent that the Company has accepted instructions and explicitly accepted responsibility with respect to the loading, blocking and bracing of the Goods, (i) the Goods have been packaged, loaded, blocked and braced within the intermodal container in a manner to prevent shifting during intermodal transportation and in accordance with applicable industry standards, including the Intermodal Loading Guide of the Association of American Railroads and the guidelines of the applicable rail Carrier and (ii) the weight of the Goods and the intermodal container/trailer will not exceed applicable weight limitations and will be accurately stated in Customer's shipping instructions. The Company's or the Carrier's acceptance of any shipment will not be a waiver of Customer's obligation to comply with the foregoing.

- e. 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.
- f. Customer agrees to comply with United States, European Union, and United Nations export control and trade sanctions laws and regulations ("Export Control and Trade Sanctions"), to include without limitation the following obligations: (i) Customer warrants that neither it nor its directors, officers, or subsidiaries are designated or sanctioned parties under Export Control and Trade Sanctions; (ii) Customer agrees not to request services in connection with goods, countries, regions, and/or parties subject to Export Control and Trade Sanctions absent government authorization and prior agreement with XPO (regions currently subject to applicable comprehensive embargoes are: Cuba, Iran, Syria, Sudan, North Korea and the Crimea Region of Ukraine); (iii) Customer agrees that Company may refuse to receive, process, or release an order that appears to Company to involve goods, countries, regions, and/or parties subject to Export Control and Trade Sanctions; and (iv) in the case of cross-border transactions for which Company is providing transportation or customs-related services, Customer agrees to provide Company, within a reasonable time before export or entry, with complete and accurate information required by Export Control and Trade Sanctions, including product descriptions, quantities, weights, values, country of origin, harmonized tariff code, export classification, and any required government authorization.

5. QUOTATIONS AND INVOICING

- a. The Company will invoice Customer for its Services (including the services it has arranged with a Carrier) in accordance with the rates, charges, and provisions set forth in any Quote provided to Customer or the Service Agreement with Customer, and the Company will also be entitled to impose charges in accordance with the Company's then current rules and accessorial charges as amended from time to time, which rules and accessorial charges are available on each Company's website, or upon request.
- b. If rates are negotiated between the Parties and not otherwise confirmed in writing, such rates will be considered "written," and will be binding, upon the Company's invoicing to Customer.
- c. Quotes are given on the basis of immediate acceptance and are subject to withdrawal or revision. Customer is solely responsible for additional charges such as waiting time, layover, demurrage etc. unless such charges directly arise from the Company's failure to perform the Services in accordance with Customer instructions and such failure is not excused under these Conditions.
- d. All Quotes and associated charges do not include any state, county or harmonized sales taxes, or other use or value-added taxes, duties or similar charges, and Customer will be liable for such taxes, duties or charges.
- e. Rates quoted by the Company do NOT include any fees, charges or duties related to customs, border crossing, or government taxes, unless otherwise stated. Among other charges, shipments crossing borders will be subject to charges for set-outs of railcars, customs inspections, customs duties, delays for incorrect documentation and governmental fees.

- f. Generally, the Company will invoice Customer prior to billing from Carriers involved in the shipment. Where additional third party charges have been applied, the Company will review the charges and, if the charges relate to Services provided to or received by Customer, may issue an adjusted invoice to Customer unless such third-party charges have been incurred solely as a result of error or omission on the part of the Company.
- g. Customer acknowledges that the Company may invoice Customer a different invoice amount than the amount it pays the Carriers. XPO NLM may charge Customer a management fee and pay the Carrier the amount agreed by Customer for the services provided by XPO NLM.
- h. Customer agrees to pay invoices within the agreed-to credit period without deduction or setoff. If no credit period has otherwise been established, payment is due within thirty (30) days of the date of the Company's invoice. Customer acknowledges and agrees that the Company may, in the Company's sole discretion, establish credit limits applicable to Customer, which limits may be revised from time to time in the Company's sole discretion. The Company will apply payment to the amount due for the specified invoice, regardless of whether there are earlier unpaid invoices. Customer agrees that all overdue invoices will be subject to interest at 2% per month, or 24.0% per annum, on the outstanding balance plus collection costs.
- i. Customer must notify the Company in writing of any dispute regarding a Company invoice within sixty (60) days of the date of the Company invoice. If Customer fails to timely notify the Company of the dispute, the Company's original invoice will be deemed to be final, and Customer will be deemed to have accepted such invoice in full and to have waived any and all Claims or defenses to paying such invoice. As a condition precedent to collecting such a Claim, Customer must initiate an arbitration or lawsuit for overcharges, duplicate payment, overcollection or other invoice-related dispute within eighteen (18) months of delivery or tender of delivery of the shipments involved.

6. COLLECT SHIPMENTS

Where Goods are accepted or handled with instructions to collect freight charges, duties, charges or other expenses from the consignee or any other person, Customer will remain responsible for the same if they are not paid by such consignee or other person immediately when due regardless of any contradictory term on the Bill of Lading and regardless of whether Customer or consignor signed a provision which is the same or similar to Section 7 of the Uniform Bill of Lading. Furthermore, in no event will the Company have any liability arising from or related to acceptance of payment in the wrong form, or inadequacy of payment (including, but not limited to, dishonor of payment for any reason such as insufficient funds) or the Consignee's or other person's refusal to make payment.

7. CHANGED CIRCUMSTANCES/FAILURE TO TAKE DELIVERY

If events or circumstances, including Customer's or its consignee's failure to take delivery, occur that affect performance, the Company will take reasonable steps to obtain Customer's further instructions. If, for whatever reason, the Company does not receive timely instructions, or the Company, in its sole discretion, determines that compliance with such instructions is impracticable, the Company may:

- a. arrange for storage of, or store, the Goods at the sole risk and expense of Customer, or
- b. authorize any Carrier to abandon transportation and make the Goods or any part of them available to Customer at a place that is reasonable under the circumstances.

In the event that any shipment is refused or remains unclaimed at destination or any transshipping point in the course of transit or is returned for any reason, Customer will nevertheless pay the Company for all charges and expenses in connection therewith.

8. DANGEROUS GOODS/HAZARDOUS MATERIALS

Customer will not tender for transportation or storage any dangerous goods or hazardous materials (as defined by applicable international convention or code, or otherwise applicable federal, state or provincial legislation or regulations, including but not limited to those set forth in DOT regulations, 49 C.F.R. Parts 100 to 185, and the Transport Dangerous Goods Regulations/Canada and to any further restrictions found in the Bureau of Explosives' Tariff No. BOE-6000) without first giving full particulars of the Goods to the Company. The Company or the Carriers may refuse to transport such dangerous goods or hazardous materials, or may charge an additional surcharge. Customer and its shipper(s) will comply with all applicable laws and regulations relating to the transportation of dangerous goods or hazardous materials including, but not limited to, descriptions, marking, packing and shipping papers. Customer will be responsible for and will defend, indemnify and hold harmless the Company and the Carriers for any Claims arising out of Customer's failure to comply with the requirements imposed by this section. Goods which, in the opinion of the Company or the Carrier or other person who has custody or possession thereof, are or may become dangerous and present a hazard or become a nuisance (due to leakage, odors, appearance or other reasons) may at any time or place be unloaded, destroyed, stored, disposed of or rendered harmless at the expense of Customer and without liability on the part of the Company. The Company is not responsible for reviewing any shipping instructions provided by Customer for classifying commodities to a hazardous materials class or for verifying whether the commodity is subject to any hazardous materials regulation or is properly classified.

9. APPLICATION OF RAIL CARRIER TERMS AND XIM/STACKTRAIN RULES TO INTERMODAL TRANSPORTATION AND EQUIPMENT

- a. Each rail Carrier imposes certain requirements, limitations, and restrictions on shipments transported on their intermodal networks. All intermodal transportation is subject to the terms, conditions, requirements, limitations, restrictions and procedures of the applicable rail Carrier's Intermodal Tariff. The Intermodal Tariffs establish limitations of liability, cargo claims procedures and provisions, commodity restrictions, loading, blocking and bracing requirements, indemnification obligations, payment terms, arbitration of disputes requirements and other important restrictions. Customer should be familiar and comply with the provisions of the Intermodal Tariffs before becoming involved in any intermodal transportation movement. Customer represents and warrants that it will notify all persons or entities involved in the transportation, including the consignee, beneficial cargo owner, consignor, and other third parties, such as freight forwarders, freight brokers, third-party logistics providers, IMCs and insurers, that these Conditions (or any different terms set forth in a written agreement signed by the Company's authorized representative) and the Intermodal Tariff apply to intermodal transportation arranged by the Company. Also in tendering freight to the Company to arrange for transportation, all such persons and entities will be conclusively presumed to have agreed to the provisions of these Conditions (except to the extent of any different terms and conditions that the Company has agreed to in writing) and the Intermodal Tariff.
- b. Customer will cause all empty intermodal Trailers tendered for loading to be inspected before loading and to reject any unit that is not in apparent suitable condition to protect and preserve the Goods during transportation. Customer will promptly notify the Company of any rejected unit. If Customer requests that the Company arrange for Trailers to be dropped at a location for Customer's convenience and left unattended, Customer will pay for loss or damage to the Trailer occurring during or as a result of such possession or use of the Trailer.
- c. Customer warrants that the Company may rely on Customer's documentation as to the amount of weight associated with a loaded container or trailer tendered for intermodal transportation. In determining the weight, Customer will take into consideration the tare weights of the container and chassis or trailer, the position of the vehicle tandems (if sliding) prior to loading and the weight distribution of the cargo (including any blocking or bracing).
- d. Special rules and requirements apply to shipments crossing borders between the United States and Canada or Mexico. Customer should provide and plan for additional time for the Company and Carriers to process shipping information on cross-border shipments. The Company and the rail Carriers assess additional charges for shipments that do not comply with customs requirements or that must be set-off from the train in transit due to inspection, paperwork or other customs-related issues. By tendering freight to the Company, Customer will be conclusively presumed to agree to cooperate

and to require the beneficial cargo owners, consignors and consignees to cooperate reasonably with each other, the Company and the Carriers in defending against Claims or proceedings by Governmental Authorities alleging violations of customs, import, export, border crossing, transportation or related laws or regulations or breach of customs bond conditions. For intermodal shipments, the Company and the rail Carriers will hold shipments at the origin ramp or at intermediate ramps or may prevent the shipment from entering the terminal gate if customs and other documentation is not provided at the time that the shipment arrives at the origin terminal. Customer will be responsible for all origin storage charges, equipment per diem use charges and other costs until complete and accurate documentation is received. There will also be delays if the customs authority decides to inspect a shipment. Customer is responsible for all drayage, loading and unloading charges; customs brokerage costs; filing costs; and other costs associated with the government inspections or documentation requirements with respect to cross-border shipments.

- e. In addition to the other provisions of these Conditions, any intermodal transportation arranged by XIM will also be subject to and governed by Terms and Conditions for Intermodal Transportation, which are available at www.xpo.com/business-terms or by contacting 1-855-744-7976.
- f. In addition to the other provisions of these Conditions, any intermodal transportation arranged by Stacktrain will also be subject to and governed by the Rules and Procedures Section of the Stacktrain Information Directory, which is available on our website at www.xpo.com/business-terms or by contacting 1-855-744-7976.

10. IMPORT-EXPORT SERVICES

The Company acts as the “agent” of Customer 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 documentation on behalf of Customer, other dealings with Governmental Authorities, and when arranging for transportation, handling and storage with Carriers and other third parties when doing so on behalf and in the name of Customer.

- a. Customer will provide complete and accurate information required for submission of import and export documentation with Governmental Authorities. Customer acknowledges that it is required to review all documents and declarations prepared and/or filed with any customs service, other Governmental Authority and/or Carriers, and will immediately advise the Company of any errors, discrepancies, incorrect statements, or omissions on any declaration filed on Customer’s behalf. Customer is hereby advised that the submission of incomplete or inaccurate information related to an import entry, including without limitation descriptions, quantities, weights, purchase prices, discounts, commissions, changed selling prices at time of exportation, assists, importer security filing data or country of origin, may expose Customer to severe governmental penalties, fines, or sanctions and/or delays in transportation or release of a shipment.
- b. Customer will indemnify, defend and hold the Company harmless from any and all Claims resulting from Customer's failure to disclose information, Customer's provision of inaccurate or incomplete entry, export, or security information or data, shipping details, or documents, or any incorrect or false statement by Customer upon which the Company has relied. CUSTOMER’S INDEMNITY OBLIGATIONS WILL APPLY NOTWITHSTANDING ANY NEGLIGENCE ON THE PART OF THE COMPANY, INCLUDING BUT NOT LIMITED TO ANY FAILURE ON THE PART OF THE COMPANY TO IDENTIFY A CUSTOMER OR THIRD PARTY DOCUMENTATION ERROR.
- c. Where the Company is arranging for importation or exportation on behalf of Customer, Customer will furnish to the Company, within timeframes required by applicable laws or regulations, and in any event, in a reasonable time prior to arrival of the Goods at the initial port of entry or exit, invoices in proper form and other documents necessary or useful in the preparation of the applicable entry and export documentation and also such further information as may be sufficient to establish the dutiable value, the classification and admissibility or exportability. If Customer fails in a timely manner to furnish such information or documents, in whole or in part, as may be required, or if the information or documents furnished are inaccurate or incomplete, the Company will be obligated only to use reasonable judgment in connection with the shipment and may, in its sole discretion, and without liability to Customer, refuse to make any export or import related filing. Where a bond is required to be given for the production of any document or the performance of any act, Customer will be deemed bound by the terms of the bond notwithstanding the fact that the bond has

been executed by the Company as principal, it being understood that the Company entered into such undertaking at the instance and on behalf of Customer, and Customer will indemnify and hold the Company harmless for the consequences of any breach of the terms of the bond. The Company will not in any way be responsible or liable for increased duty, tax, penalty, fine, cost, or expense unless such is caused by the negligence or willful misconduct of the Company, in which event the Company's liability to Customer will be limited as provided under these Conditions. Customer will be bound by and warrant the accuracy of all invoices, documents and information furnished to the Company by Customer or its agent for export, entry or other purposes.

- d. For purposes of this Section 10, "customs services" will have the meaning of "customs business" set forth at 19 C.F.R. § 111.1. Customer acknowledges that the Company is under no obligation to provide customs business-related services until and unless Customer issues the Company a valid power of attorney and agrees to be bound by these Conditions. Customer further acknowledges that customs services are separate and distinct from any ancillary transportation, handling, or storage that Company may arrange or provide, which are covered by other provisions of these Conditions.
- e. It is Customer's responsibility to know and comply with all licensing, classification, valuation, marking and other Governmental Authority requirements, and all laws, regulations, and rules of any Governmental Authority having jurisdiction over the shipment. The Company will not be responsible for action(s) taken, liquidated damages, fines or penalties assessed by any Governmental Authority against the shipment because of Customer's failure to comply with: (i) applicable laws, statutes, regulations, or rules; or (ii) these Conditions or the terms and conditions of any power of attorney. The Company will have no duty or obligation to take any pre- or post-customs release action, including without limitation, obtaining binding rulings, advising of liquidations, or filing of petitions and/or protests.
- f. The Company will be under no obligation to keep or maintain records on behalf of Customer, and the Company will only keep and maintain those records which the Company, itself, is required to keep and maintain under laws or regulations specifically applicable to the Company. Customer acknowledges that pursuant to Sections 508 and 509 of the Tariff Act, as amended, (19 U.S.C. §§ 1508 and 1509), and regulations promulgated thereunder (among others, 19 C.F.R. §§ 141 and 142), it has the duty to maintain and is solely liable for maintaining all required records.
- g. For the benefit of Customer, the Company makes Customer aware of the following notice under 19 C.F.R. § 111.29(b)(1): "If you are the importer of record, payment to the broker will not relieve you of liability for customs charges (duties, taxes, or other debts owed CBP) in the event the charges are not paid by the broker. Therefore, if you pay by check, customs charges may be paid with a separate check payable to the "U.S. Customs and Border Protection" which will be delivered to CBP by the broker."
- h. Customer agrees and understands that the Company's liability will be limited as provided in Section 15, hereof, and that the Company will not be liable for loss, damage, mis-delivery or delay of any shipment caused by or arising from the acts, omissions, negligence or willful misconduct of Carriers, customs brokers, forwarders and agents to whom the Goods may be entrusted.
- i. Customer acknowledges and agrees that at times it may be necessary or beneficial for Company to use third party customs brokers and other documentary agents to provide services in certain locations. Customer hereby authorizes Company to hire such parties. Customer also acknowledges that such third party customs brokers and other documentary agents typically limit their liability and that by authorizing Company to hire such parties on Customer's behalf that Customer is agreeing to be bound by those limitations of liability, whatever they may be. Unless higher liability is obtained in accordance with subsection l of Section 15, the valuation placed on the shipment by Customer will be applicable solely for export or customs purposes, and the shipment will be transported subject to all restrictions and limitations of liability set forth in these Conditions, including those set forth in Section 15, and/or otherwise applicable to the Goods.

11. WAREHOUSE SERVICES

The following additional terms will apply when XDS or other Company is providing Warehouse Services for Customer. In the event of a conflict between these Conditions and the terms and conditions of any warehouse

receipt issued by XDS or any other Company, the terms and conditions of such warehouse receipt will govern.

- a. Customer will assure that all Goods are delivered at the Facility properly marked and packaged for storage and handling. Customer will furnish at or prior to such delivery, a manifest showing marks, brands, or sizes to be kept and accounted for separately, and the class of storage and other services desired. With respect to any Goods that are imported, Customer will be importer of record and will be solely responsible for all duties, taxes and fees with respect to such imported Goods.
- b. Customer will assure that all Goods shipped to any Facility identify Customer on the Bill of Lading or other contract of carriage as the named consignee, in care of the Company, and will not identify the Company as the consignee. If Goods are shipped to the Company as named consignee on the Bill of Lading or other contract of carriage, Customer agrees to immediately notify the Carrier in writing, with a copy of such notice to the Company, that the Company named as consignee is the "in care of party" only and has no beneficial title or interest in the Goods. Furthermore, the Company will have the right to refuse such Goods and will not be liable for any loss, misconsignment, or damage of any nature to, or related to, such Goods. Whether the Company accepts or refuses Goods shipped in violation of this Section, Customer agrees to indemnify and hold the Company harmless from all Claims for transportation, storage, handling and other charges relating to such Goods, including undercharges, rail demurrage, driver, truck or intermodal equipment detention and other charges of any nature whatsoever.
- c. No Goods will be delivered or transferred to the Company for Warehouse Services except upon receipt by the Company of Customer's complete written instructions. Written instructions will include, but are not limited to facsimile, EDI, e-mail or similar communication, provided the Company has no liability when relying on the information contained in the communication as received. Goods may be delivered upon instruction by telephone in accordance with Customer's prior written authorization, but the Company will not be responsible for loss or error occasioned by following or failing to follow telephonic instructions.
- d. When Goods are ordered out of the Facility, a reasonable time will be given to the Company to carry out these instructions, and if it is unable because of force majeure conditions, or because of loss of or damage to Goods for which the Company is not liable, or because of any other excuse provided by law, the Company will not be liable for failure to carry out such instructions, and Goods remaining in storage will continue to be subject to regular storage charges.
- e. Labor provided by the Company that is required for work other than ordinary Warehouse Services will be charged to Customer at the Company's then current standard hourly labor rate or such other charges established in writing by Customer and the Company. Such special services requested by Customer, including compiling of special stock statements; reporting marked weights, serial numbers or other data from packages; physical check of Goods; and handling transit billing will be subject to a charge. Any physical inventory work, including an annual or quarterly physical inventory, will be completed at Customer's request and expense at an hourly labor rate. Such hourly labor rate will be established by mutual agreement. Dunnage, bracing, packing materials or other special supplies may be provided for Customer at a charge in addition to the Company's cost. By prior arrangement, Goods may be received or delivered during other than usual business hours, subject to a charge. A charge in addition to regular rates will be made for merchandise in bond. Where a warehouse receipt covers Goods in U.S. Customs bond, the Company will have no liability for Goods seized or removed by U.S. Customs.
- f. The Company's custody and liability for the Goods and burden of risk will not begin until after both of the following events have occurred: (1) the Trailer delivering the Goods into the Facility has been physically opened by the Company for purposes of transloading the Goods into another Trailer or placing the Goods in the Facility for storage and (2) the Bill of Lading or delivery receipt for such inbound load has been signed by the Company. The Company's custody and liability for the Goods and burden of risk will end after the Goods have been loaded into the outbound Trailer, the Trailer has been sealed and the outbound carrier has been notified that the Goods are available for pick-up.
- g. THE COMPANY WILL NOT BE LIABLE FOR ANY LOSS OR DAMAGE TO GOODS TENDERED, STORED OR HANDLED HOWEVER CAUSED UNLESS SUCH LOSS OR DAMAGE RESULTED FROM THE FAILURE BY THE COMPANY TO EXERCISE SUCH CARE IN REGARD TO THEM AS A REASONABLY CAREFUL PERSON WOULD EXERCISE UNDER LIKE CIRCUMSTANCES AND THE COMPANY IS NOT LIABLE FOR DAMAGES WHICH COULD NOT HAVE BEEN AVOIDED BY THE EXERCISE OF SUCH CARE. GOODS

ARE NOT INSURED BY THE COMPANY AGAINST LOSS OR DAMAGE HOWEVER CAUSED. WHERE LOSS OR DAMAGE OCCURS TO TENDERED, STORED OR HANDLED GOODS FOR WHICH THE COMPANY IS NOT LIABLE, CUSTOMER WILL BE RESPONSIBLE FOR THE COST OF REMOVING AND DISPOSING OF SUCH GOODS AND THE COST OF ANY ENVIRONMENTAL CLEAN UP AND SITE REMEDIATION RESULTING FROM THE LOSS OR DAMAGE TO THE GOODS.

- h. If the Company negligently misships Goods, the Company will pay the reasonable transportation charges incurred to return the misshipped Goods to the Facility. If the consignee fails to return the Goods, the Company's maximum liability for the lost or damaged Goods will be as set forth in Section 15, and the Company will have no liability for damages due to the consignee's acceptance or use of the Goods whether such Goods be those of Customer or another.
- i. If it is determined during a physical inventory that Goods have been lost, stolen, damaged or are missing on a net basis (after netting against Goods gains without regard to commodity groups) in excess of an allowance of $\frac{1}{2}$ of 1% of the annual throughput with the Company over the twelve (12) months immediately preceding the inventory reconciliation (or if less than twelve (12) month's data is available, on an annualized basis using the data available), the Company will compensate Customer for the net loss of Goods based on Customer's landed cost. Customer's landed cost means manufacturer's cost plus transportation costs as shown on the books and records of Customer maintained in the ordinary course of business consistent with past practice and in accordance with US generally accepted accounting principles consistently applied. Annual throughput is the manufacturer's cost of all Goods received at the Facility plus the manufacturer's cost of all Goods shipped from the Facility divided by 2. If the net inventory variance calculated during the physical inventory is an overage and the Company paid for a shortage due to the preceding physical inventory, Customer will pay a refund to the Company based on the overage but only to the extent that it does not exceed the shortage for which the Company has paid. Any presumption of conversion imposed by law will not apply to such loss, and a Claim by Customer of conversion must be established by affirmative evidence that the Company converted the Goods to the Company's own use.
- j. If at any time, discrepancies exist between Customer's records and the physical inventory, the Company and Customer will provide to each other their records of all inventory adjustments from the time of the previous reconciliation to the time of the inventory count in which the discrepancy was found; and the Company's records will be presumed to be correct, absent evidence to the contrary.
- k. The Company reserves the right to move, at its expense, 14 days after notice is provided, any Goods in storage from the Facility in which they may be stored to any other of the Company's facilities. The Company will store the Goods at, and may without notice move the Goods within and between, any one or more of the warehouse buildings controlled by the Company. Furthermore, the Company may, upon written notice of not less than 30 days to Customer, require the removal of any Goods from the Facility. If Goods are not removed before the end of the notice period, the Company may sell them in accordance with applicable law. If the Company in good faith believes that the Goods are about to deteriorate or decline in value to less than the amount of the Company's lien before the end of such 30-day notice period, the Company may specify in the notification any reasonable shorter time for removal of the Goods and if the Goods are not removed, may sell them at public sale held one week after a single advertisement or posting as provided by law.
- l. If as a result of a quality or condition of the Goods of which the Company had no notice at the time of deposit the Goods are a hazard to other property or to the Facility or to persons, the Company may sell the Goods at public or private sale without advertisement on reasonable notification to all persons known to claim an interest in the Goods. If after a reasonable effort the Company is unable to sell the Goods, the Company may dispose of the Goods in any lawful manner and will incur no liability by reason of such disposition. Pending such disposition, sale or return of the Goods, the Company may remove the Goods from the Facility and will incur no liability by reason of such removal.
- m. Upon any termination of the Warehouse Services, Customer will cause all Goods to be removed from the Facility before the termination effective date; provided however, that the Company may require that all outstanding charges be paid before it permits the release of all remaining Goods from the Facility.
- n. In the event of a conflict between this Section 11 and any other provision of these Conditions imposing liability on the Company for loss or damage to Goods with respect to which the Company is providing Warehouse Services, this section will govern to the extent of the conflict.

12. AIR TRANSPORTATION SERVICES

Any air transportation with respect to which the Company issues its own Bill of Lading as the “carrier” (as opposed to, for instance, a Bill of Lading issued by the Company in its capacity as an agent on behalf of the underlying air Carrier or where the underlying air Carrier directly issues its own waybill to Customer) will be subject to and governed by the terms and conditions of the Bill of Lading issued by the Company. In the event of a dispute between any such Company-issued Bill of Lading and these Conditions, the terms and conditions of the Bill of Lading will control. In those instances where the Company is arranging for transportation by air, but does not issue its own air waybill, the rights and obligations as between the Company and Customer will be governed by these Conditions, and Customer acknowledges and agrees that its rights and obligations with respect to the underlying air Carrier will be governed by the waybill issued by the Carrier.

13. INTERNATIONAL OCEAN TRANSPORTATION SERVICES

Any international ocean transportation provided by XPOWL or XPOGF or another Company as a non-vessel operating common carrier as defined by 46 C.F.R. Part 515 will be subject to and governed by the terms and conditions of the Bill of Lading and applicable tariff issued by such Company and will not be subject to these Conditions. Without limiting the foregoing, the XPO OWL Bill of Lading terms are available by contacting 1-855-744-7976 or by sending an email to stc@xpo.com or at www.xpo.com/business-terms. The Company has a policy against payment, solicitation, or receipt of any rebate, directly or indirectly, which would be unlawful under the United States Shipping Act of 1984, as amended. In those instances where the Company is arranging for international transportation by ocean, but does not issue its ocean Bill of Lading, the rights and obligations as between the Company and Customer will be governed by these Conditions, and Customer acknowledges and agrees that its rights and obligations with respect to the underlying ocean Carrier will be governed by the bill of lading issued by the Carrier.

14. INSURANCE

- a. Customer is responsible for maintaining property insurance covering the Goods, both for the Goods and in transit, including loading and unloading.
- b. Customer may consult an insurance broker to arrange insurance appropriate to Customer’s needs. As an alternative, where the Company agrees to do so, the Company may offer, for an additional cost and through its designated insurance broker, to arrange for shipment-specific cargo policies to be issued in Customer’s name. Following the issuance of any such policy through their insurance underwriter, the Company will have no further duty regarding cargo insurance and no liability for loss of, delay of, or damage to the Goods during transport or storage, whether covered by insurance on the Goods or not, and whether such loss, delay or damage has been caused or contributed to by its negligence or breach of these Conditions, or otherwise. Any coverage on the Goods will be subject to the terms and conditions of the specific policy or policies procured. The Company 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 though the premium charged by the insurer may be different from the Company’s charges to Customer. Customer acknowledges and agrees that the Company’s role is limited to facilitating placement of coverage with entities licensed to sell insurance and that the Company is not in the business of selling insurance or insuring risk.

15. LOSS OR DAMAGE CLAIMS AND LIMITATIONS OF LIABILITY

- a. **Except to the extent otherwise expressly set forth herein, the Company is not liable for any claims for loss or damage to Goods whatsoever except to the limited extent that Customer’s direct damages are directly and proximately caused by the Company’s negligence or willful misconduct. The liability of Company, if any, with respect to any such claim shall be limited in accordance with these Conditions.**
- b. In the event of Claims related to loss, damage and/or delay to Goods, the Company’s sole responsibility under these Conditions where the Company has arranged, whether as an air, surface, or ocean freight forwarder or as a property broker, for a Carrier to perform the Services will be to facilitate settlement or assist in the filing of any such Claim hereunder between Customer and/or owner of the Goods shipped, and the applicable Carrier(s). The Carrier’s liability is subject to otherwise applicable convention, law, rule or

regulation, and may be further limited by Carrier terms and conditions of service or otherwise by contractual arrangements in place between the Company and the Carrier. **Customer hereby acknowledges, understands and agrees that the Carrier(s) have limitations of liability in place that restrict Customer's recovery with respect to such claims and that, except as otherwise expressly set forth herein, the Company is under no obligation to ensure that Carriers accept full value liability with respect to Goods.**

- c. As a condition to filing a claim against Company as well as to the Company assisting with submission of any Claims for loss, damage or delay to Goods, Customer on its own behalf and on behalf of the owner of the Goods will provide the Company with any and all information relating to the Claim:
- 1) For Goods moving via all-ground transportation (other than shipment covered by clause 4 below), prior to 30 calendar days from the date of delivery; and
 - 2) For Claims for loss or damage to Goods during Warehouse Services, the earlier of (i) 60 calendar days after delivery of the Goods at the Facility to the outbound carrier for transportation out of the Facility or (ii) 60 days after Customer is notified by the Company that loss or damage to part or all of the Goods has occurred.
 - 3) For Claims arising out of the Company's preparation and/or submission of an import entry(s) or other customs brokerage Services, prior to the earlier of ninety (90) days from the date of liquidation of the entry(s) or the date of the event giving rise to the Claim.
 - 4) Where the Company is providing motor carrier transportation Service using vehicles operating under their respective motor carrier authorities, prior to nine (9) months from the date of delivery or, for lost shipments, nine (9) months from the expected delivery date.
 - 5) For Claims arising out of ocean transportation, the time period in the applicable ocean Bill of Lading or 60 days from the date of delivery, whichever occurs earlier.
 - 6) For Claims arising out of international air transportation, the time period in the applicable Bill of Lading or 7 days from the date of delivery, whichever occurs earlier.
- d. Customer recognizes that Carriers may impose claim-filing limitations and agrees that claims filed after such notice periods will be validly denied by the Carriers.
- e. For shipments where the Company is performing Services as a motor carrier operating vehicles owned by or leased to Company, the Company will assume liability for loss and damage to Goods in accordance with its applicable published tariff for the Company providing such services, up to the maximum liability set forth in such tariff (which generally include per package or per pound limitations and a maximum liability of \$100,000 per trailer, container or other conveyance), unless Customer has followed the procedures for declaring higher limitations of liability set forth in the applicable tariff.
- f. Neither the Company nor the Carrier will be liable for the following: (1) damage to Goods or equipment to the extent due to packaging, loading, unloading, blocking, bracing or securing of the Goods; (2) 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; (3) damage to Goods or equipment to the extent due to force majeure events as described in these Conditions; (4) 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; (5) shipments stopped and held in transit at Customer's request; or (6) 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 will defend, indemnify and hold the Company and the Carriers harmless from any Claim for loss, damage or delay to Goods in excess of the liabilities assumed under, or the limitations contained in, these Conditions or filed other than in accordance with these Conditions.
- g. Neither the Company nor any Carrier will have any liability for loss, damage or delay of Goods or shipments occurring in Mexico. If this geographical liability limitation is judicially or otherwise determined to be ineffective for any reason whatsoever, then the Company's and the Carrier's liability for loss or damage in Mexico will be

limited to the lesser of (1) five U.S. cents per pound (\$0.05/lb.) or (2) the current standard liability limitation under Mexican law for uninsured goods for which no higher valuation has been declared (15 days minimum wage (currently \$70.10 Pesos in 2015) per ton or approximately \$0.033/lb as of 2015), with claims for such Mexican losses to be asserted within the time limits provided under Mexican law.

- h. If a shipment arrives with visible or obvious damage or loss of Goods, Customer must notify the Company promptly. Failure to provide such notice may be construed by the Carriers as a waiver of Customer's loss and damage claim or as creating a presumption that loss or damage occurred subsequent to delivery. Customer will (or will cause its consignee to) preserve and make available to the Company and the Carriers all damaged Goods, the packaging, blocking and bracing, and the Trailer in which the Goods were transported. Any failure by the Company or the Carrier to inspect the damaged shipment will not change the burden of proof or be considered an admission of liability by the Company or any Carrier.
- i. In case of a Claim for loss or damage to Goods, Customer agrees not to withhold or set off outstanding invoices and will pay such invoices in full.
- j. Customer is obligated to mitigate its damages for loss or damage to Goods and is not entitled to abandon the Goods to the Company or the Carrier. If Customer does not elect to salvage the Goods, any Claim for Goods loss or damage will nevertheless be reduced by a reasonable salvage allowance and by reasonable storage or other costs incurred while waiting for disposition instructions.
- k. **Notwithstanding anything contained in these Conditions, the maximum liability, whether the Claim is founded in contract, tort or otherwise, of the Company for loss or damage to Goods in any one occurrence will be limited to the applicable amounts set forth below.**
- **For loss or damage to Goods arising in connection with transportation management services provided by NLM, the lesser of (1) the management fee received by NLM in relation to such shipment of Goods or (2) \$500.**
 - **For loss or damage in connection with Warehouse Services, the Company's maximum liability will be limited to the lesser of (1) \$5,000 per occurrence or (2) Customer's landed cost of the lost or damaged Goods.**
 - **For loss or damage in connection with services where the Company is acting as the agent and on behalf of Customer, including customs brokerage, export filings and arranging for storage, handling or transportation with third parties in the name and on behalf of Customer, the Company's maximum liability will be limited to the lesser of \$50.00 per occurrence or the amount of the fees paid to the Company for the particular service.**
 - **For loss or damage including loss or damage to Goods in-transit or occurring in connection with any other Services provided by the Company, the lesser of (1) the amount of the freight charges imposed with respect to such Goods, (2) Two Thousand (\$2,000.00) Dollars, (3) the liability of the Carrier under the applicable Bill of Lading.**
- l. If Customer would like to arrange for the Carrier to accept liability for amounts higher than the underlying Carrier's limit of liability for loss and damage to Goods, Customer must provide 5 business days advance written notice to the Company (by emailing insurance@xpo.com or calling 1-855-744-7976), obtain a special Quote from the Company, prepay the shipping charges prior to the time of pick-up, and enter into a written agreement expressly stating that full value liability will apply. Failure by Customer to comply with the foregoing will release the Company and the Carriers involved in the transportation from liability in excess of otherwise applicable liability. The Company does not offer to arrange for full value (e.g., Carmack) liability for intermodal or motor carrier shipments that originate outside of the borders of the United States.
- m. Unless otherwise agreed by the Company, Customer is responsible for applying the seal to any Trailer tendered for Services. If the seal originally applied to the Trailer is intact upon delivery, neither the Company nor the Carriers will be liable for shortage or theft unless there is physical evidence of unauthorized entry into the Trailer while it was in the possession of the Carrier and proof of actual damage or loss of Goods. Shortage or theft claims must be supported by seal records and actual loading and unloading records. Such absolution of liability for shortage or theft will also occur if the seal is broken (1) at

the direction and under the supervision of a Governmental Authority and is resealed after inspection by such Governmental Authority or (2) because it becomes reasonably necessary to do so to inspect, reposition, or protect the cargo or the Trailer or to comply with applicable laws or regulations. In both instances, the Company will request the Carrier to document the breaking of the original seal and application of a new seal in such circumstances. In the absence of any other evidence, a missing or broken seal will not create a presumption of loss to or contamination of the Goods. The consignee may not refuse delivery of a shipment, even for food grade loads, due to broken or missing seals unless there is direct physical evidence of product tampering or contamination beyond the broken or missing seal. Contamination Claims must be supported by appropriate quality inspections outlining the full actual loss.

- n. Customer is not entitled to reject a shipment, in whole or in part, due to ants or other bugs on the outside of packaging. In the absence of any other evidence, the presence of ants or other bugs will not create a presumption of loss to or contamination of the Goods.

16. INDEMNITY

- a. Except for Claims for loss or damage to Goods, which are governed by Section 15 of these Conditions, or as otherwise set forth herein, the Company will defend, indemnify and hold Customer, its employees, and agents harmless from and against any and all Claims arising out of the Company's performance under these Conditions to the extent such Claim is directly and proximately caused by (1) the negligence or intentional misconduct of the Company; (2) the Company's or its employees' or agents' violation of applicable laws or regulations; or (3) the Company's or its employees' or agents' failure to comply with these Conditions, except in each case to the extent such Claim represents consequential, punitive or special damages or is the result of the negligence or other wrongful conduct of the Customer or a Carrier.
- b. Except for Claims for loss or damage to Goods, which are governed by Section 15 of these Conditions, Customer will defend, indemnify and hold the Company, its employees, and agents harmless from and against any and all Claims arising out of Customer's acts or omissions where such Claim is caused by (1) the negligence 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 Conditions; (4) Customer's or its employees' or agents' failure to comply with obligations imposed by underlying Carriers; or (5) the Company's compliance with or reliance on Customer's instructions; except in each case to the extent such Claim represents consequential, punitive or special damages or is the result of the negligence or other wrongful conduct of the Company or a Carrier.
- c. If Customer or the Company receives a Claim for which the other party is responsible as an indemnifying party, the party receiving the Claim will promptly notify the other party and provide reasonable assistance and information requested in the defense against such Claim.

17. RIGHT OF DETENTION AND LIEN

- a. All Goods (and documents relating to Goods) will be subject to a particular and general lien and right of detention for monies owing either in respect of such Goods, or for any particular or general balance or other monies owed, whether then due or not, by Customer, consignor, consignee, or owner of the Goods to the Company. In order to protect its lien, the Company reserves the right, but is not required, to require advance payment of all charges prior to shipment of Goods.
- b. If outstanding amounts remain unpaid for 28 days after the Company sends notice of the exercise of its rights to Customer by any means of communication reasonable in the circumstances, the Goods may be sold by private contract or otherwise at the sole discretion of the Company, and the net proceeds applied on account of the monies owing. The Company will not be liable for any deficiencies or reduction in value received on the sale of the Goods nor will Customer be relieved from the liability merely because the Goods have been sold.

18. FORCE MAJEURE

Neither the Company nor any Carrier will be liable to Customer for delay or failure to perform the Services during any time in which such performance is prevented by 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 any other cause outside of the reasonable control of the Company or the Carrier. The Company will provide notice within a reasonable time to Customer of such delay or inability to perform.

19. SEVERABILITY

In the event that any portion of these Conditions results in a violation of any law, or any provision is determined by a court of competent jurisdiction to be invalid or unenforceable, the Parties agree that such portion or provision will be severable and that the remaining provisions of these Conditions will continue in full force and effect. The representations and obligations of the Parties will survive the termination of these Conditions for any reason.

20. NON-WAIVER; REMEDIES

Delay or failure of either Party to insist upon performance of any of these Conditions, or to exercise any right or privilege herein, or the waiver of any breach of any of the Conditions, 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 a Party to any act requiring consent or approval will not be deemed to waive or render unnecessary consent or approval of any subsequent similar act. The Company and Customer hereby waive 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 Conditions. The Company's rights and remedies under these Conditions will be cumulative, and its pursuit of any such right or remedy will not preclude it from pursuing any other available right or remedy.

21. APPLICABLE LAWS AND JURISDICTION

These Conditions will be deemed to have been drawn in accordance with the statutes and laws of the state of North Carolina and in the event of any disagreement or dispute, the laws of North Carolina will apply, without regard to its choice or conflict of law rules, and suit must be brought exclusively in North Carolina as each Party specifically submits to the exclusive personal jurisdiction of such courts for disputes involving these Conditions or the Services.

22. LIMITATION OF ACTIONS

Other than Claims for loss, damage or delay to Goods or invoice disputes, any action against the Company, whether such Claim is founded in contract or tort, is waived unless commenced within two (2) years of the date the conduct giving rise to the Claim occurred.

Any action to recover for loss or damage to Goods is waived unless commenced (1) in the case of loss or damage occurring during over-the-road transportation, within two years of the date that all or any part of the Claim is denied by the Company or the motor Carrier, (2) in the case of loss or damage occurring during rail transportation, within one year of the date that all or any part of the Claim is denied by the Company or the rail Carrier, (3) in the case of loss or damage occurring during air or ocean transportation; within the time limit set forth in the air or ocean Bill of Lading or other terms and conditions governing such transportation, and (4) in the case of loss or damage occurring during Warehouse Services, no later than the earlier of: (i) nine months after date of delivery by the Company of the Goods to the outbound Carrier or (ii) nine months after Customer is notified that loss or damage to part or all of the Goods has occurred and (5) in the case of loss or damage related to any other source, within two years from the date the loss or damage occurred.

With respect to each individual request by Customer for Services, the rights and obligations arising under these Conditions will apply to the particular Company that actually performs the Services requested by Customer. In no event will Customer have any rights against any Company other than the legal entity actually providing such Services. Carrier will seek recourse only against the particular Company that performed the Services for the applicable Goods. Nothing herein will impose any liability or obligation, whether to Customer or to any third party, on the part of any Company other than the particular Company that performs the Services as to which any such liability or obligation relates.

IN NO EVENT WILL THE COMPANY BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, CONSEQUENTIAL OR PUNITIVE DAMAGES, OR DAMAGES FOR LOSS OF PROFITS, USE OR OPPORTUNITY, WHETHER OR NOT SUCH DAMAGES WERE FORESEEN OR UNFORESEEN, AND WHETHER OR NOT THE COMPANY WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

THE SERVICES ARE PROVIDED "AS IS", AND THE COMPANY 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.