

Excargo Services, Inc. Terms and Conditions

Excargo Services, Inc. is a licensed motor carrier and performs services by transporting cargo on equipment owned or leased to Excargo Services, Inc. under **MC-173420**. The Motor Carrier Terms & Conditions herein shall apply when Excargo Services, Inc. provides services under its motor carrier authority. Excargo Services, Inc. d/b/a Excargo Logistics arranges for transportation of freight without performing the transportation. When cargo is transported by an unaffiliated motor carrier, broker services are provided by Excargo Services, Inc. d/b/a Excargo Logistics under **MC-384516**. The Terms and Conditions of Brokerage shall apply when Excargo Services, Inc. d/b/a Excargo Logistics provides services under its broker authority.

Shipper and its agents expressly agree that they will not attempt to hold Excargo Services, Inc. d/b/a Excargo Logistics liable in the capacity of a motor carrier. Shipper's insertion of Excargo Services, Inc. d/b/a Excargo Logistics (for a brokered load) as the carrier on a bill of lading or other document shall be for Shipper's convenience only and shall not affect the status of the actual motor carrier transporting the property or brokerage entity arranging for transportation.

When Excargo Services, Inc. provides services under its broker authority, Excargo Services, Inc. shall not be liable as a motor carrier, and Excargo Services, Inc. shall not be liable for the conduct of the motor carrier actually transporting the cargo.

MOTOR CARRIER TERMS & CONDITIONS

The term "Shipper" means the person(s) or entity(ies) desiring to have the goods transported, sending the goods, or otherwise liable as a shipper under law. This definition includes the exporter, importer, sender, receiver, owner, consignor, consignee, forwarder, broker, transferor, or transferee of the shipments, or any other agents or representatives of Shipper. It is the responsibility of all such parties to provide notice and copies of these Terms and Conditions to each other. The term "Consignee" shall mean the person or party to whom the freight is to be delivered. The term "Consignee" shall mean the person or party to whom the freight is to be delivered hereunder.

The term "Company" refers to Excargo Services, Inc. of Harris County, TX, **MC-173420**.

Company reserves the right to modify, amend, and supplement these Terms and Conditions (also known and referred to as Rules Tariff, Rules Circular, Rules, Tariff, governing classification, bill of lading terms and conditions, bill of lading tariff, bill of lading classification, and similar references; references in bills of lading to filed tariffs and classifications shall mean these Terms and Conditions, regardless of whether they are filed with any government entity) from time to time without notice.

A. General Terms

1. Application. Each provision of these terms and conditions shall apply to each transportation agreement entered into between Company and Company's customers and Shipper, regardless of the origin or destination, including interstate or intrastate shipments, unless expressly waived in a signed, written agreement. The terms and conditions herein shall apply to shipments exempt from economic regulation as well as shipments subject to the jurisdiction of the FMCSA. **IN NO EVENT SHALL COMPANY'S LIABILITY FOR CARGO LOSS OR DAMAGE EXCEED THE LESSER OF THOSE SET OUT IN THESE TERMS AND CONDITIONS OR THE MAXIMUM SET FORTH IN ANY THROUGH BILL OF LADING OR OTHERWISE AGREED TO BETWEEN THE SHIPPER AND THE PARTY WHICH RETAINS COMPANY'S SERVICES.** If there is any discrepancy or conflict between these terms and conditions and any terms contained in the bill of lading (including those executed by Company's personnel and contractors), Shipper's terms and conditions, or any other document, the terms and conditions herein shall control, unless changes have been made by obtaining written approval by an officer of Company prior to Company performing the transportation.
2. Bills of Lading. Company's Terms and Conditions in effect on the date the shipment is transported will apply notwithstanding the use by Shipper of any other bill of lading or shipping document. **DRIVERS ARE NOT AUTHORIZED TO BIND COMPANY TO NON-CONFORMING BILLS OF LADING AND EXECUTE BILLS OF LADING WITH ALTERNATIVE TERMS AND CONDITIONS AS RECEIPTS FOR THE SHIPMENT ONLY.** Consignee's receipt and/or signature of the Bill of Lading without notation of damages shall be dispositive evidence that the cargo was delivered in good condition.

B. Shipments

3. Compliance with Laws and Regulations. Shipper shall ensure that Company has all the information and documentation necessary to comply with the laws and regulations of any country in, through, or which the shipment will be transported.
4. Special Permits. When permits are required for the transportation of over-size and/or overweight loads, the Shipper of the freight shall procure and furnish such permits, or shall request, in writing, Company to secure them and costs will be billed to Shipper.
5. Steamship Line and Third-Party Equipment. Use of steamship line or third-party equipment (chassis, container, flat racks, ISO tanks, etc.) will be subject to the steamship line or third party's equipment interchange agreement, including allowances for free

time, per diem charges, chassis splits, maintenance and repair, and all other charges incurred. Shipper will be billed for all charges plus an additional administrative charge. Shipper shall pay all valid charges without delay.

6. Chassis Splits. When container chassis is not located at the same location as the container to be transported, chassis split charges may be assessed.
7. Shipper Load and Count. All shipments will be loaded by the consignor and unloaded by Consignee. Where the driver was either not present or was not allowed to observe the loading or unloading, omission of shipper load and count (or "SLC" notation) on the bills of lading shall not result in a presumption of Company's liability for shortage or damage.
8. Packing and Packaging - Shortage. Company will not be responsible for shortage on shipments which are banded, strapped, netted, shrink-wrapped or otherwise secured to bins, pallets, platforms or skids. Company will only be responsible for the number of bins, pallets, platforms or skids on such shipments to the extent that such units can be reasonably counted. Company will not be liable for damaged goods not clearly marked fragile or glass. Company shall not be liable for shortage or damage to sealed shipments.
9. Shipments Subject to re-weight/re-measurement. Shipper shall provide weight and measurement for all shipments. Advance written notification of overweight shipments overdimensional shipments is required. If the weight or measurements of the goods as delivered are different from Shipper's representations, or if pick-up or delivery time or location is changed by Shipper, Company will not be responsible for fines, permit fees, or penalties assessed by any agency. Any fines or expenses resulting from overweight shipments arising from Shipper's failure to provide accurate weight and measurements, in addition to any permit fees, will be included in the invoice and charges to be paid for the shipment. Additionally, Company's rates, charges, and fees are subject to change and will be included in the invoice and charges to be paid to Company. Shipper shall at all times have sole responsibility to ensure shipments comply with the terms of the International Convention for the Safety of Life at Sea ("SOLAS"), as applicable.
10. Loading/Unloading. Shipper and Consignee shall be responsible for loading and unloading all shipments at Shipper's and Consignee's facilities. Rates do not include loading or unloading by Company personnel.
11. Attempted Pickup and Delivery. When Company is requested to dispatch a vehicle to a point designated by the Shipper, and the vehicle is furnished but not used, an attempted pickup charge and fuel surcharge will be assessed. If a shipment is rejected in whole or in part by Consignee, Shipper will be responsible for all freight charges as though the shipment had been accepted by Consignee. In addition, the rejected shipment may be returned to the point of origin or other location designated by Shipper, and Shipper will be responsible for freight charges for return transportation, in addition to any resulting storage charges or other expenses arising out of such rejection.
12. Reconsignment or Diversion. Shipments re-consigned or diverted while in transit may be subject to additional charges in accordance with Company's rates.
13. Stop-Offs. Stop-off charges may be assessed when Company is required to pick up from multiple origins or deliver to multiple destination locations.
14. Loss and Damage - Salvage. If goods are rejected, including overage, Company will have the right to sell or dispose such goods. This also applies to property transported by Company which is damaged or alleged to be damaged and is, as a consequence, not delivered or is rejected or refused upon tender to the owner, Consignee, or person entitled to receive such property. In any event, salvage value of the cargo shall be deducted from claims for loss or damage to cargo.
15. Disposition of Overage. Consignee shall accept overages in fulfillment of its duty to mitigate damages. Overages will be returned to Consignee or Shipper by Company upon request in return for payment of Company's applicable freight charges. In the event Shipper, consignor and Consignee decline to accept overages and mitigate damages, Company will treat any overage as salvage and after notice will sell same in accordance with the bill of lading contract and the terms herein. Company will not be liable for any difference between the sales price of overage and the destination market value where the Shipper and Consignee decline to mitigate damages.
16. Hazardous Materials. Shipper will comply with all U.S. Department of Transportation requirements governing hazardous materials. Shipper must provide Shipper's certificate with proper Hazmat information on the Bill of Lading and affix any required placards before the shipment is tendered. Failure to comply with these requirements will relieve Company of any and all liability for loss or damage directly or indirectly caused to or by the hazardous materials. Shipper shall be liable for all costs and expense, including but not limited to clean-up, storage, and hourly rates of Company staff, for incidents arising from leakage, release, or exposure from hazardous materials. Shipments of hazardous materials will be subject to an additional charge.
17. Substituted Service. Company reserves the right to refer shipments to, and Shipper consents to the use of, Company's affiliated brokerage entity and affiliated motor carrier entity to provide all or part of given movements. Shipper will not hold Company liable

for the actions of the separate freight brokerage entity nor for the actions of any affiliated or third party motor carrier. In the event of any claim or loss, Shipper must look solely to the independent motor carrier and its insurance providers. Services provided by Company's affiliates are subject to their Terms & Conditions, which are available upon request.

18. Limitation of Liability of Third Party Service. Company will in no event be held liable for any claim, loss, damage, expense, or delay to the goods for any reason whatsoever when such goods are in custody, possession, or control of third parties selected by Company to forward, enter and clear, transport, or render other services with respect to the goods.
19. Packing and Sealed Shipments. Company will not be responsible for shortage on shipments which are banded, strapped, netted, shrink-wrapped or otherwise secured to bins, pallets, platforms or skids. Company will only be responsible for the number of bins, pallets, platforms or skids on such shipments to the extent that such units can be reasonably counted. Company will not be liable for damaged goods not clearly marked fragile or glass. Company shall not be liable for shortage or damage to sealed shipments. Shipper and the third-party performing the packing, sealing, crating, and securement in the crate or other packaging shall comply, at a minimum, with industry standards applicable to same. Company will not be responsible for packing, sealing, crating, or securing the goods within the crate or other packaging. Company will not be liable for damages of any kind arising from or related to improper packing, sealing, crating, or securement of the goods within a crate or other packaging by Shipper or another third-party. **SHIPPER SHALL INDEMNIFY, DEFEND, AND HOLD COMPANY HARMLESS AGAINST ANY AND ALL LOSSES, LIABILITIES, CLAIMS, DEMANDS, OR CAUSES OF ACTION WHATSOEVER (INCLUDING, BUT NOT LIMITED TO, ALL COSTS, EXPENSES, AND ATTORNEYS' FEES) ARISING OUT OF OR IN ANY WAY RELATED TO THE IMPROPER PACKING, SEALING, CRATING OR SECUREMENT OF THE GOODS WITHIN A CRATE OR OTHER PACKAGING BY THE SHIPPER OR A THIRD-PARTY. THIS INDEMNIFICATION, DEFENSE, AND HOLD HARMLESS OBLIGATION SHALL APPLY WHETHER DUE TO THE SOLE OR CONCURRENT FAULT OF SHIPPER OR A THIRD-PARTY.**
20. Sale of Perishable Goods. Perishable goods or live animals to be exported, imported, or which are cleared through customs for which no instructions of disposition are furnished by Shipper may be sold or otherwise disposed of without notice to Shipper, owner or Consignee of the goods, and payment or tender of the net proceeds of any sale after deduction of charges will be equivalent to delivery. In the event that any shipment is refused or remains unclaimed at destination or any trans-shipping point in the course of transit or is returned for any reason Shipper must pay Company for all charges and expenses in connection therewith. No provision herein obligates Company to forward, enter or clear the goods, or arrange for their disposal.
21. Shipper's Duty to Furnish Information.
 - a. On an import, at a reasonable time prior to entry of the goods to U.S. Customs, Shipper shall furnish to Company invoices in proper form together with other documents necessary or useful in the preparation of the U.S. Customs entry, and such further information as may be sufficient to establish the dutiable value, classification and admissibility of the goods pursuant to U.S. law, or regulation or ruling. If Shipper fails to timely furnish all of such information or documents, as may be required to complete U.S. Customs entry. Where a bond is required by U.S. Customs to be given for the production of any document or the performance of any act, Shipper shall be deemed bound by the terms of the bond notwithstanding the fact that the bond has been executed by Company as Principal, it being understood that Company entered into such undertaking at the request and on behalf of Shipper and Shipper shall INDEMNIFY and DEFEND Company for the consequences of any breach of the terms of the bond.
 - b. On an export, at a reasonable time prior to the exportation of the shipment, Shipper shall furnish to Company the commercial invoice in proper form and number, a proper consular declaration, weights, measures, values and other information in the language of and as may be required by the laws and regulations of the U.S. and the country of destination of the goods.
 - c. On an export or import, Company will not in any way be liable for increased duty, penalty, fine, or expense unless caused by the gross negligence or other fault of Company, in which event its liability to Shipper will be limited in accordance with, and as further described in Company's Terms and Conditions in effect on the date of service. Shipper shall be bound by and warrant the accuracy of all invoices, documents and information furnished to Company by Shipper or its agent for export, entry or other purposes and shipper agrees to INDEMNIFY and DEFEND Company against any increased duty, penalty, liquidated damage, fine or expense, including attorney's fees, resulting from any act, inaccuracy or omission or any failure to make timely presentation, even if not due to any negligence or fault of shipper.
 - d. The following notice is required to be given pursuant to 19 CFR part 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 Customs) 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 "U.S. Customs Service" which shall be delivered to Customs by the broker.

All customs penalties, storage charges, or related expenses incurred as a result of an action by a governmental agency, or failure by the Shipper, Consignee or consignor to provide proper documentation or to obtain a required license or permit will be borne by Shipper and Shipper shall DEFEND and INDEMNIFY Company for such penalties, storage charges, and related expenses.

C. Limitation of Liability

22. Limitation of Liability per Shipment. Company's rates are based on a limited liability for loss or damage to cargo. All shipments are released to a maximum value and maximum liability of \$250,000 per shipment. In no event shall liability be greater than the actual value of lost or damaged articles less salvage. Company's liability for cargo loss or damage will not exceed \$250,000 per shipment unless Shipper requests an increase in legal liability by a.) Submitting a written request for a higher Release Value, b.) Paying an additional charge based on the increased Release Value, and c.) Obtaining written confirmation of the higher Release Value from an Officer of Company. DRIVERS ARE NOT AUTHORIZED TO AGREE TO HIGHER RELEASED VALUE.
23. Inadvertence Clause. If a Shipper declares or fails to declare a value exceeding \$250,000 per truckload, without obtaining written approval from Company, the shipment will not be accepted, but if the shipment is inadvertently accepted, it will be considered as being released to a maximum value of \$250,000 per shipment, and the shipment will move subject to such limitation of liability. DRIVERS ARE NOT AUTHORIZED TO AGREE TO A HIGHER RELEASE VALUE.
24. No Liability for Special or Consequential Damages. COMPANY WILL NOT BE LIABLE FOR SPECIAL, INCIDENTAL, INDIRECT, OR CONSEQUENTIAL DAMAGES (INCLUDING WITHOUT LIMITATION, LOST PROFITS, OR BUSINESS OPPORTUNITY, ATTORNEY FEES OR PUNITIVE AND EXEMPLARY DAMAGES) INCURRED OR SUFFERED BY THE SHIPPER AS A RESULT OF SHORTAGE, DAMAGE OR DELAY, EVEN IF COMPANY IS NOTIFIED IN ADVANCE OF THE POSSIBILITY OF SUCH DAMAGES OCCURRING. COMPANY WILL NOT BE LIABLE FOR PENALTIES OR CHARGES CLAIMED BY SHIPPER, SHIPPER'S CUSTOMER, OTHER PARTIES SHIPPER HAS CONTRACTED WITH, OR THIRD PARTIES.
25. Liability of Company. COMPANY WILL NOT BE LIABLE TO THE OWNER OF PROPERTY FOR LOSS, DAMAGE, OR DELAY CAUSED BY (1) an act of default of the Shipper, owner or Consignee; (2) any act of any third party motor carrier; (3) any act of any affiliated or unaffiliated freight broker; and (4) freezing or spoiling of any perishable goods or property or for natural shrinkage.
26. Concealed Damage. COMPANY IS NOT RESPONSIBLE FOR HIDDEN OR CONCEALED DAMAGE.
27. Commodity Limitations. Company does not hold out to transport copper, money, jewelry, manufactured tobacco products, ammunition, objects d'art, currency, documents, items of unusual value, or rare metals.
28. Reasonable Dispatch. Notwithstanding the fact that an estimated delivery date may be provided or that a specific delivery date and time may be requested, Company is not bound to transport a shipment by a particular schedule or in time for a particular market, but is responsible to transport a shipment with reasonable dispatch.
29. Force Majeure. Company will not be liable for failure to perform any obligation resulting from circumstances beyond its control, including but not limited to any mechanical breakdown, act of God, riot, war, terrorist act, civil disturbance, fire, explosion, flood, strike, lock-out, labor disturbance, or any other cause outside of the reasonable control of Company.
30. Liability for Equipment and Cargo after delivery. Shipper shall ensure that any containers, chassis, or other equipment tendered to Shipper, consignor, Consignee or delivery point and remaining at the Shipper's facility, consignor's facility, Consignee's facility, or delivery point after delivery (for unloading or loading) shall be secured and handled in a manner to prevent theft, loss, or other damage. Company will not be responsible for stolen, lost, or damaged goods, containers, chassis, or other equipment after such items have been delivered and are not in the physical possession of Company; Shipper will be fully liable for theft, loss and damage to all goods, containers, chassis, and other equipment after such items have been delivered. Shipper will reimburse Company for any costs Company pays or incurs with regard to theft, loss, or other damage to goods, containers, chassis, or other equipment occurring after Company delivers the shipment, including, but not limited to property loss or damage and per diem.
31. No liability for SOLAS. In no event shall Company be liable for fines, penalties, costs, expenses or other damages resulting from Shipper's failure to comply with the terms of SOLAS.
32. Liability for replacement services and other costs. With respect to any damages arising from delayed or defective transportation of the shipment (other than liability for loss or damage to cargo, which is set forth herein) including, but not limited to, the cost of replacement services, Company's liability shall be limited to Company's freight charges for the shipment at issue.
33. Cargo Drop Liability. Shipper shall ensure that any cargo, containers, chassis, or other equipment tendered to Shipper or the delivery point and remaining at the Shipper's facilities or the delivery point after delivery (for unloading or loading) shall be secured and handled in a manner to prevent theft, loss, or other damage. Company will not be responsible for stolen, lost, or damaged cargo, containers, chassis, or other equipment after such items have been delivered and are not in the physical possession of Company; Shipper will be fully liable for theft, loss and damage to all cargo, containers, chassis, and other equipment after such items have

been delivered. Shipper will reimburse Company for any costs Company pays or incurs with regard to theft, loss, or other damage to cargo, containers, chassis, or other equipment occurring after Company delivers the shipment, including, but not limited to property loss or damage and per diem.

D. Additional Terms

34. Cargo Claims. Claims for loss, damage, or delay to cargo shall be filed according to 49 C.F.R. § 370 and Company's Bill of Lading. All cargo claims filed with Company are waived if not filed in writing within 9 months from the date of delivery or a reasonable time at which delivery should have been accomplished. Written notice of any patent damage to cargo shall be provided to Company immediately, and not later than 3 days after delivery. Written notice of latent damage shall be provided to Company upon discovery, and, in any event, not later than 15 days after delivery. All cargo claims are waived if a civil suit is not filed within 2 years from the date the Company gives a person written notice that Company has denied any part of the claim specified in the notice. All other claims must be brought within 2 years from the date the claim accrues. ALL CLAIMS FOR WHICH PROPER AND TIMELY NOTICE IS NOT GIVEN ARE DEEMED AUTOMATICALLY WAIVED.
35. Disposition of Contested Cargo Claims. Unless the parties agree to voluntary alternative dispute resolution, disputed claims will be subject to 49 U.S.C. §14706 (the Carmack Amendment) subject to any applicable released evaluation. Claimant waives any right to set-off or offset of contested and unliquidated cargo claims against freight charges otherwise due to Company as a precondition of service. Claimants agree to forfeiture of any contested claim asserted by it as a set-off after notice and demand for freight charges.
36. No Responsibility for Governmental Requirements. It is Shipper's responsibility to know and comply with all the classification, valuation, marking and other Custom's requirements, laws, regulations and ruling enforced by the U.S. and any country having jurisdiction over a shipment, the laws and regulations of any applicable governmental agency, including but not limited to the U.S. Food and Drug Administration, and all other requirements, laws and regulations of any applicable country or governmental agency. Company will not be responsible for action taken or fines, liquidated damages or penalties assessed by any governmental agency against the shipment because of the failure of Shipper to comply with any such laws, rulings, requirements or regulations of any country or governmental agency or with notification issued to Shipper by any such agency.
37. Advancing Charges. Company may advance for collection from Shipper, owner, or Consignee any lawful charges that may be associated with the transportation of the freight. Charges paid by Company will be billed to the Shipper or Consignee at actual cost plus a handling fee.
38. Payment of Charges and Collection. Payment will be due within 30 days of invoice. If charges are to be paid by a third party other than the Shipper or Consignee and such third party fails to pay the charges within 30 days of invoice, the Shipper and Consignee shall be liable for the charges. Nonrecourse provisions, prepaid designations, collect designations, and related terms on bills of lading shall not be given effect; Company shall be entitled, at all times, to seek payment from the Shipper, Consignee, and customer. Amounts not received within 30 days of invoice date are subject to 1.5% interest per month or the maximum amount allowed by law, whichever is less, beginning on the 31st day after payment was due. In the event Company finds it necessary to retain the services of legal counsel to collect any outstanding indebtedness, Shipper or Consignee shall pay all attorney fees, collection service fees, court filing fees and related expenses to collect such outstanding debt.
39. Payment without offset. Shipper, consignor and/or Consignee must pay all freight charges when due without offset for any cause. All claims for loss or damage shall be governed by these terms and conditions and neither Shipper, consignor nor Consignee shall deprive Company of proper cargo insurance adjustment by unilateral deduction of claims from payment of freight charges due. In the event that Shipper or its agents "short pay" freight charges or deduct charges from freight bills without Company's authorization to do so in writing, prior to the deduction, Shipper and its agents waive their right to any contested cargo claim that is set-off against freight charges.
40. Third Party Billing & Freight Charge Liability. Company does not employ property brokers or other intermediaries as its agents for the collection of freight charges. A shipment in which charges are to be paid by a party other than the Shipper, consignor or Consignee will be accepted provided recourse to the Shipper, consignor, and consignee is preserved, regardless of any other representation on the Bill of Lading or other shipping document (including, but not limited to, Section 7 and/or prepaid designations). The Shipper, consignor and Consignee guarantee to pay the charges if the third party fails to do so in the time allotted under the applicable credit regulations.
41. Mexican Shipments. Company assumes no liability for cargo loss, shortage, or damage to shipments while in the United Mexican States ("Mexico"). Shippers are advised that liability for cargo loss in Mexico differs from U.S. law (49 U.S.C. 14706) and the special arrangements with the Mexican carrier participating in any trans-border movement is not the Company's responsibility. Clear bills of lading showing safe and damage-free delivery between the U.S./Mexican borders at the pickup or delivery points in the U.S. will be evidence of Company's proper discharge of its cargo responsibility. In the event it is determined that Company is

liable for loss, damage or delay occurring in Mexico, Company's maximum liability will be the rate affixed under the laws of Mexico for domestic shipments within that country.

42. Lien on Goods. Shipper hereby grants Company a lien on the goods tendered to Company by Shipper or consignor (including proceeds of such goods tendered to the Company), which shall survive delivery, to secure payment of all charges owed by Shipper to Company, including, but not limited to, freight, demurrage, detention, damages, loss, charges, expenses, collection costs, and any other sums (including costs, customs fees, attorney fees, and other fees for recovery of the sums) chargeable to Company or Shipper in connection with such goods or the transportation of such goods, regardless of whether the charges relate to goods that are presently in the possession of Company or goods that are not presently in the possession of Company, including both prior and subsequent shipments. Company shall have the right to sell the goods by public auction or private sale in order to enforce the lien, upon giving the notice required by the Texas UCC then in effect at the time. If on sale of the goods, the proceeds are insufficient to cover the amount owed, Company shall be entitled to recover the balance from Shipper. Shipper hereby grants Company authorization to file a financing statement covering the collateral described herein with the appropriate filing office. Shipper further agrees to execute any other document necessary for Company to perfect its security interest.
43. Venue and Jurisdiction. This agreement shall be construed to have been entered in Harris County, Texas and performable in Harris County, Texas. All parties consent to the jurisdiction of Texas and to venue in Harris County, Texas. It is expressly acknowledged and agreed that any suit related to Company's services or these terms and conditions shall be filed in the appropriate state or federal court in Harris County, Texas.
44. Entire Agreement. These terms and conditions and Company's Bill of Lading constitute the entire contract between Company and Shipper and only an officer of Company has authority to alter, modify or waive any provision herein, excepting that the rate stated may be modified by Company to conform to the services Company provides.
45. Waiver. To the extent that terms and conditions herein are inconsistent with the Carmack Amendment, 49 U.S.C. 14706 or Part (b), Subtitle IV, of Title 49 U.S.C. (ICC Termination Act of 1995), the parties expressly waive such rights and remedies that they may have under such laws.

**Excargo Services, Inc. d/b/a Excargo Logistics
Terms and Conditions of Brokerage**

1. Parties. The term "Customer" means the person or entity desiring to have the goods transported, sending the goods, or otherwise liable as a shipper under law. This definition includes the exporter, importer, sender, receiver, owner, consignor, consignee, transferor, transferee, forwarder, broker and/or any other agents or representatives of Customer (not to include Broker). It is the responsibility of all such parties to provide notice and copies of these Terms and Conditions of Brokerage ("Terms and Conditions") to each other. The term "Broker" means Excargo Services, Inc. d/b/a Excargo Logistics operating under MC-384516, Broker is not acting, and does not act, as either a motor carrier or a common carrier within the meaning of USC Title 49. Customer and its agents expressly agree that they will not under any circumstances attempt to hold Broker liable in the capacity of a motor carrier. Customer or third party's insertion of Broker as the carrier of record in any bill of lading, delivery order, or other document will not alter or affect Broker's status as a freight Broker. The carrier(s) actually transporting the freight at issue shall be solely responsible in the capacity of a motor carrier. The term "Carrier" shall refer solely to the motor carrier providing the actual transport.
2. General. These Terms and Conditions are applicable to the services performed by Broker undertaken on the Customer's behalf. These Terms and Conditions supersede all previous conditions of transportation and other prior statements concerning the rates and conditions of Broker's services. These Terms and Conditions control in the event of any discrepancy or conflict between these Terms and Conditions and those of any Customer, unless changes have been made by obtaining prior written approval by an Officer of Broker. Broker reserves the right from time to time to modify, amend or supplement these Terms and Conditions without notice. Copies of Broker's most recent terms and conditions are available upon request. Broker's terms and conditions in effect on the date of shipment shall apply. In the event that Broker and the Customer have entered into a signed, written contract containing terms and conditions different than those set forth in these Terms and Conditions, the signed, written contract will control to the extent that such terms conflict with these Terms and Conditions. These Terms and Conditions apply to Broker, not the Carrier actually providing the transportation services. In the event one of the Broker's affiliates actually transports a load, such transportation shall be subject to the affiliate's terms and conditions, which are available upon request.
3. Service. Broker will arrange for transportation of Customer's freight pursuant to these Terms and Conditions. Broker's responsibility will be limited to arranging for, but not actually performing, transportation of Customer's freight. Broker does not exercise or retain any control or supervision over any carrier, its operations, employees, or contractors. Broker reserves the right, in its sole discretion, to refuse any shipment at any time. The relationship between Broker and Customer is that of one independent contractor with another, and nothing herein is intended to create a joint venture, partnership, agency, or any employment relationship. Broker reserves the right to refer shipments to, and Customer approves such use of, Broker's affiliates to provide transportation services for any shipment.

4. Rates and Fees. Quotes are based on information provided by the Customer. Unless indicated, the price excludes charges for detention time, per diem and additional stops. Customer will be liable for all additional charges incurred relating to the transportation of Customer's freight. The quoted rate depends on the weight, dimension and released value of the property described. Any changes to the actual released value, dimension, description or weight of the load may result in revisions to the quoted price. Unless otherwise indicated by Customer in writing and confirmed by an Officer of Broker, Broker's rates are based on a limited released value of \$250,000 and Broker will not be responsible for loss or damage in excess of \$250,000
5. Payments. Broker or Broker's affiliate will invoice Customer for Broker's services in accordance with the rates, charges and provisions negotiated and agreed to between Customer and Broker. Customer agrees to pay Broker's invoice within 30 days of the invoice date without deduction or setoff. As a convenience to Customer, invoices may be processed by Broker's affiliated entity and such administrative support in issuing invoices will not alter Broker's role in connection with a particular shipment, as the act of invoicing is a purely administrative function performed independent of arranging for transportation services. In the event of a loss, Customer's claim and any remedies will be directed to, and the sole responsibility of, the actual Carrier performing transportation services for the particular shipment at issue, to the extent of any claim for loss, damage or delay.
6. Liability for Loss, Damage, or Delay. Broker will assist with processing of claims on behalf of its Customers. However, BROKER IS NOT LIABLE FOR DELAY TO CARGO OR LOSS OR DAMAGE TO CARGO, UNLESS THE LOSS OR DAMAGE IS CAUSED BY THE SOLE NEGLIGENCE OR FAULT OF BROKER. THIS RELEASE SHALL INCLUDE SITUATIONS WHERE BROKER IS CONCURRENTLY NEGLIGENT OR AT FAULT. IN NO EVENT WILL BROKER BE LIABLE FOR ANY SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING DAMAGES RELATING TO LOSS OF PROFITS, WHETHER OR NOT SUCH DAMAGES WERE REASONABLY FORESEEABLE. THE MOTOR CARRIER ACTUALLY PERFORMING THE TRANSPORTATION IS RESPONSIBLE FOR THEIR OWN CONDUCT. Broker shall have the option (at Broker's sole discretion) to claim the benefit of any limitations of liability, rights, and protections available to the carrier, including, but not limited to the terms in the bill of lading, terms and conditions, rules tariff, and other documents; if Broker claims the benefit of such right(s), such right(s) available to the carrier shall also protect Broker and be enforceable to the benefit of Broker (references to such rights being available to a motor carrier shall not prevent Broker from being able to invoke such rights, even though Broker is not and does not act as a motor carrier). Broker will not be liable for personal injury or death or property damage caused by the motor carrier.
7. Force Majeure. Broker will not be liable for failure to perform any of its obligations under these Terms and Conditions during any time in which such performance is prevented by fire, flood, or other natural disaster, war, embargo, riot, civil disobedience, or the intervention of any government authority, or any other cause outside of the reasonable control of Broker.
8. Disclaimer of Warranties. Except as expressly provided in these Terms and Conditions, Broker makes no warranties, express or implied, including without limitation, warranties of merchantability or fitness for a particular purpose, with regard to shipments, warehoused goods, items in transit or deliveries or with regard to the information provided on the website or services related to transactions conducted on the website. Broker cannot guarantee delivery by any specific time or date.
9. Notice of Claims.
 - a. Freight Claims. Customer must give Broker notice of any claims for cargo loss or damage with Broker within 180 days from the date of such loss, shortage or damage, which for purposes of these Terms and Conditions will be the delivery date or, in the event of non-delivery, the scheduled delivery date. Customer must file any civil action against Broker in a Court of Law not later than 2 years from the date of delivery or, if delivery was not completed, the expected date of delivery.
 - b. Payment of Claims by Broker. If payment of claim is made by Broker to Customer, Customer automatically assigns its rights and interest in the claim to Broker and agrees to execute any documents that may be necessary in connection with such assignment. All damage claims will be handled directly with the Carrier or its insurance representatives. Notwithstanding the foregoing, this provision does not obligate Broker to pay any claim.
 - c. All Other Claims. Customer shall notify Broker of all known material details within 91 days of receiving notice of any facts giving rise to a claim other than cargo loss or damage claims, or else such claims are waived. Customer shall update Broker promptly thereafter as more information becomes available. Civil action, or arbitration, if any, must be commenced within 2 years from the date of the event giving rise to the claim.
10. Customer Responsibilities. Customer must properly mark, pack and label cargo so it will safely endure ordinary handling in transit. By tendering a shipment to the Carrier(s), Customer certifies that the shipment is sufficiently packaged to withstand the normal hazards of truck transportation. Customer shall be responsible to Broker for timely and accurate delivery instructions and description of the cargo, including any high value, special value, special handling or security requirements, for any shipment. Any article susceptible to damage by ordinary handling must be adequately protected and packaged and marked in such a way as to alert the Carrier(s) of the possibility of damage from ordinary handling and must bear appropriate labels. Customer shall provide the

Carrier(s) with access to the facilities necessary to load or unload the tendered shipments. Customer is solely responsible for maintaining the loading and unloading facilities in a good and safe condition, and in compliance with all applicable laws, codes and regulations. Customer hereby waives and releases BROKER from any liability for any loss or damage to Customer's facilities or to Customer's personal property located on such facilities. Broker will not be responsible for stolen, lost, or damaged goods, containers, chassis, or other equipment after such items have been delivered. Customer will reimburse Broker for any costs Broker pays or incurs with regard to theft, loss, or other damage to goods, containers, chassis, or other equipment occurring after delivery of the shipment.

11. **Shipments not accepted.** Broker will not accept shipments for transportation of explosives, shipments requiring “protective security service or armed guard surveillance,” human remains, precious metals, currency, object d’art, collection, antiques or precious stones, jewelry, manufactured tobacco products, ammunition, or any items of unusual value.
12. **HAZARDOUS MATERIALS.** Customer shall comply with all applicable laws and regulations relating to the transportation of hazardous materials as defined in 49 CFR §172.800, §173, and §397 et seq. to the extent that any shipments constitute hazardous materials. Customer is obligated to inform Broker immediately if any such shipments constitute hazardous materials. Customer agrees to indemnify and defend BROKER and its officers, employees, agents and insurers, against all claims, liabilities, losses, fines, reasonable attorney fees and other expenses arising out of or related to the release of any hazardous material, including without limitation, Fines or expenses related to the removal or treatment of hazardous material or other remedial ACTION PERTAINING to the hazardous material under federal or state law, if Customer fails to provide advanced notice prior to tendering hazardous material to BROKER; the contact, exposure or release resulted from the improper packaging or loading or other acts or omissions of the Customer, its employees or agents; AND the contact, exposure or release occurred subsequent to the transport of the hazardous material by BROKER or the Carriers.
13. **Surety Bond.** Broker will maintain a surety bond or trust fund agreement as required by the Federal Motor Carrier Safety Administration and furnish Customer with proof upon request.
14. **Default.** Both Broker and Customer will discuss any perceived deficiency in performance and will promptly endeavor to resolve all disputes. However, if either Party materially fails to perform its duties under these Terms and Conditions, the party claiming default may terminate its duties upon written notice to the other Party. Customer shall be responsible to pay Broker for any services performed prior to the termination of duties and for shipments not yet completed and/or not yet invoiced to Customer.
15. **Litigation and Attorney Fees.** In the event any litigation arises from breach of these Terms and Conditions or to collect for the services provided under these Terms and Conditions, Broker will be entitled to recover all reasonable costs incurred including court costs, attorney fees, and all other related expenses incurred in such litigation.
16. **Severability.** If any provision of these Terms and Conditions is invalid for any reason whatsoever, these Terms and Conditions will be void only as to such provision, and the remaining terms and conditions will remain binding between the parties. Any provision voided will be replaced with provisions which are as close to Broker and Customer’s original intent as permitted under applicable law.
17. **Non-Wavier.** The failure or refusal of either party to insist upon the strict performance of any provision of these Terms and Conditions or to exercise any right in any one or more instances or circumstances will not be construed as a waiver or relinquishment of such provision or right, nor will such failure or refusal be deemed a customary practice contrary to such provision or right.
18. **Venue and Jurisdiction.** These Terms and Conditions have been drawn in accordance with the statutes and laws of the State of Texas. In the event of any disagreement or litigation, the laws of the State of Texas shall apply and suit must be instigated in Harris County, Texas irrespective of the fact that one or more of the parties may be or may become a resident of a different state, or that any aspect of the service may have been performed wholly or in part in another county, unless otherwise agreed to by both parties. Customer and Broker agree that any and all disputes under these Terms and Conditions shall be filed in the appropriate state and federal courts located in Harris County, Texas.