

# DOMESTIC FREIGHT TERMS AND CONDITIONS

## **Definitions**

"Forwarder" refers to 5 Logistics, its employees, and agents. "Shipper" on this contract means the party from whom the shipment is received, the party who requested the shipment be transported by Forwarder, and party having an interest in the shipment, and any party who acts as an agent for any of the above.

## **Agreement to Terms**

In tendering this shipment, the shipper agrees to these Terms and Conditions, which no agent or employee of the parties may alter and that the shipping document is non-negotiable and has been prepared by the shipper. The shipper certifies and represents to Forwarder that the information provided is complete and accurate. It is agreed among the parties involved that the conditions of contract of carriage for this shipment are governed by Forwarder's service guide, available for inspection at Forwarder's office, and which is hereby incorporated into this contract, and a copy of which will be supplied upon request. Except to the extent of any written contract between shipper and Forwarder, this shipping document supersedes and negates any claimed, alleged or asserted oral or written contract, promise, representation or understanding between the parties with respect to this shipment.

## **Packaging**

Shipper warrants that each package in this shipment is properly and completely described on this shipping document, is properly marked and addressed, is packaged adequately to protect the enclosed goods to ensure safe transportation with ordinary care in handling, and except as noted, is in good order and condition.

## **Shortages/Damages**

At time of delivery, the consignee must note on the delivery receipt any exceptions to the shipment that would indicate a discrepancy (shortage in the shipment or damage to the containers). The consignee may not inspect the contents of the containers until the consignee signs for the shipment on the delivery receipt.

*NOTE: Such notations as "subject to inspection" and "subject to recount" are not exceptions.*

*NOTE: A shipment in which delivery is made in exchange for a clear delivery receipt shall be prima facie evidence of having received the shipment in apparent good condition.*

*NOTE: Under no circumstances shall Forwarder be liable for loss and/or damage to external shipping container of any kind.*

## **Filing a Claim**

A. All claims on air shipments (except concealed loss/damage) must be received in writing by Forwarder within 90 days after Forwarder accepted the shipment. Notice of concealed loss/damage must be received in writing by Forwarder within fourteen (14) days after delivery. Legal action to enforce a claim must be brought within one (1) year after the claim has been denied in writing by the Forwarder, in whole or in part. The parties hereto waive all rights and remedies under 49 U.S.C 14706 (e).

B. Notification of potential claims on ground shipments (except concealed loss/damage) must be received by Forwarder within fifteen (15) days of the date of delivery or, in the event of total loss of the shipment, the date the shipment should have been delivered. Notice of concealed loss/damage must be received in writing by Forwarder within seven (7) days after delivery. All claims must be received in writing by Forwarder within nine (9) months of the date the shipment did or should have delivered. Any civil action on a claim must be brought within two (2) years after the claim has been denied in writing by the Forwarder, in whole or in part.

*NOTE: The expiration of these time periods shall be complete and absolute defense to any such action or proceeding, without regard to any mitigating or extenuating circumstance or excuse.*

No claim for loss/damage to any shipment shall be honored until all carriage charges for such shipment have been paid. The amount claimed may not be deducted from carriage charges.

## **Concealed Damage/Loss**

If the consignee accepts the shipment without noting any damage on the delivery record, this will be prima facie evidence that the shipment was delivered in good condition. For the claim to be processed, the shipment, together with the shipping cartons and packaging, must be available for inspection.

## **Limits of Liability and Limitations Not Assumed**

The parties hereto waive all rights and remedies under 49 U.S.C 14706 (a) (1). Forwarder shall not be liable in any event for any special, incidental or consequential damages, including but not limited to loss of profits, income, interest, utility or loss of market, whether or not Forwarder had knowledge that such damages might be incurred. Forwarder's liability, in absence of a higher declared value for carriage, is limited to \$50.00 per shipment or \$0.50 per pound, per piece, of cargo lost, damaged, misdelivered or otherwise adversely affected, whichever amount is greater, but in no event shall amount exceed the actual invoice value of the goods or damages sustained by shipper. This limitation is further subject to provisions as published in Forwarder's service guides if and as applicable in effect at the time of this shipment. Declared values for carriage in excess of \$0.50 per pound, per piece, shall be subject to an excess valuation charge. The charge for each additional \$100 of declared value is \$0.85. Declared value does not constitute cargo insurance.

Unless each piece of the shipment has a declared value stated and is specifically identified on the Forwarder's shipping document at the time of the shipment and is so identified on the delivery receipt as being lost, damaged, destroyed, or otherwise adversely affected at time of delivery, Forwarder shall be liable for the "average declared value" of the shipment. The "average declared value" of the shipment shall be determined by first dividing the total declared value of the shipment by the total weight of the shipment. This figure, multiplied by the packaged weight of the piece(s) adversely affected, shall then establish the amount of Forwarder's liability. The total declared value amount must be inserted in the Declared Value box on the face of this shipping document. Forwarder's liability shall in no event exceed the actual invoice value of the goods adversely affected.

Forwarder shall not be liable for loss, damage, delay or monetary loss of any type caused by: Acts of Gods; public authorities acting with actual or apparent authority; strikes; labor disputes; weather; mechanical failures; aircraft failures; civil commotions; acts or omissions of customs or quarantine officials; the nature of the freight or any defects thereof; public enemies; hazards incident to a state of war; acts of terrorism; and by acts, defaults or omissions of the shipper or consignee for failure to observe the terms and conditions of the contract of carriage contained in this shipping document, including but not limited to improper packaging, marking, incomplete/inaccurate shipping instructions and the rules relating to freight not acceptable for transportation or freight acceptable only under certain conditions outlined below.

## **Restricted/Unapproved Commodities**

Unless otherwise expressly provided in Forwarder's service guide and subject to any conditions or restrictions contained therein, the following articles will not be accepted for carriage: any shipment prohibited by law; original works of art, antiques, bonds, coins of any kind, currency, currency equivalents, furs, fur clothing, gems or stones (cut or uncut), industrial diamonds, gold or silver, coined concentrates, jewelry (other than costume jewelry), pearls, precious metals, securities (negotiable), time sensitive written material (e.g., bids, contract proposals, etc), when the declared value exceeds \$0.50 per pound; household goods and/or personal effects, one-of-a-kind articles or models, prototypes, valuable rugs (i.e., Oriental rugs, Persian rugs) and prints or lithographs when the total declared value of the shipment exceeds \$500.00 or when the declared value exceeds \$0.50 per pound, per piece; and such other articles provided in Forwarder's governing service guide. Forwarder shall not be liable for any loss, damage, delay, liabilities or penalties resulting from the transportation of any of the foregoing articles, however described or misdescribed in this shipping document, and no employee of agent or Forwarder has any authority to accept for transportation such articles or to waive the limitations herein contained.

## **Relationship of the Parties**

Forwarder is and will remain an independent contractor with respect to Customer and the services being provided. Nothing herein shall be construed to create an agency, joint venture, partnership, employment or trust between the parties.

## **Law and Forum**

This Contract shall be governed by the laws of the State of Colorado. Any litigation arising out of the Contract shall be filed in Denver, Colorado, with the substantially prevailing party in such litigation entitled to recover its reasonable legal fees and costs.

## **Binding Acceptance**

Acceptance of Forwarder's Terms and Conditions is redundantly required in the course of booking each shipment. This occurs by the Customer's use of Forwarder when securing a quote, when registering as a Customer, and/or when tendering a shipment. Additionally, the use of Forwarder's BOL requires the acceptance of these Terms and Conditions.