

Xpress Global Systems, LLC
Brokerage Terms and Conditions

1. **APPLICABILITY.** Unless expressly superseded by a written contract signed by an officer of Xpress Global Systems, LLC and the shipper, consignor, consignee, or any other entity claiming an interest in goods ("SHIPPER") for which Xpress Global Systems, LLC and/or its division Xpress Transportation Management Solutions (collectively "BROKER") arranges transportation, these Terms and Conditions shall govern brokerage service provided by BROKER ("Services"), including services provided pursuant to a Rate Confirmation Agreement ("RCA"), regardless of whether a RCA is signed by the parties. Any terms and conditions on any RCA or similar document exchanged between the parties other than these Terms and Conditions, as revised from time to time, shall not apply to any Services and shall not be binding on or applicable to BROKER. SHIPPER understands and agrees that BROKER functions as an independent entity, and not as a carrier, in selling, negotiating, providing and arranging for transportation for compensation, and that the actual transportation of shipments tendered to BROKER shall be performed by third-party motor carriers ("Servicing Motor Carriers"). BROKER and SHIPPER represent and warrant that their relationship is that of independent contractors and that the respective employees are under their respective exclusive management and control. Nothing in these Terms and Conditions shall be deemed to require BROKER to provide Services upon request of SHIPPER and BROKER reserves the right to accept or decline, in its sole discretion, any particular request for Services.

2. **COMPLIANCE WITH LAW.** BROKER represents and warrants that it is duly and legally qualified to operate as a property broker and to provide the Services contemplated herein. BROKER agrees to comply with all applicable federal, state and local laws regarding the provision of such brokerage Services. SHIPPER warrants and represents that it is authorized to tender the cargo in question to BROKER and that all descriptions of the cargo are complete, accurate, and include all information required by applicable law, rules or regulation. Without in any way limiting the foregoing, if SHIPPER tenders for transportation cargo designated as hazardous materials or dangerous goods, SHIPPER shall be solely responsible for complying with any and all applicable laws, rules, regulations, or conventions with respect to classifying, tendering, packaging and labeling such cargo and must provide notice of any such cargo at the time a request for Services is first initiated by SHIPPER to BROKER. When requesting service with respect to any shipment containing food that is subject to regulations of the Food and Drug Administration ("FDA") (hereinafter, "Food"), SHIPPER shall be solely responsible for identifying handling obligations necessary for the safe and sanitary handling of food and, at the time of the initial request for services with respect to the individual shipment, will provide written notice (each a "Food Handling Notice") to BROKER that the consignment contains Food which Food Handling Notice must also include any special instructions or handling requirements to be imposed on the Servicing Motor Carrier. Any such Food Handling Notice shall specifically identify the consignment to which it relates and in no event shall any Food Handling Notice apply to more than one shipment regardless of whether BROKER confirms receipt of a Food Handling Notice purporting to apply to multiple conveyances. In no event will BROKER have any obligation to provide any instructions to the Servicing Motor Carrier with respect to cargo other than those expressly noted by the SHIPPER on the RCA provided by BROKER to SHIPPER and BROKER has no obligation to comply with or pass on to the Servicing Motor Carrier any handling instructions received after the initial request for service. If SHIPPER does not provide a Food Handling Notice, SHIPPER warrants and represents that the cargo is appropriately packaged to ensure safe and sanitary transportation without the need for any specialized handling by the Servicing Motor Carrier.

3. **PAYMENT AND CHARGES.** BROKER will charge and SHIPPER will pay the rates and charges set forth in the RCA or as otherwise agreed for services provided by BROKER without offset. SHIPPER agrees to pay BROKER without offset and within fifteen (15) days of receiving the invoice, with interest accruing monthly at a rate of one percent (1%) per month on any unpaid balance. SHIPPER shall also be liable for any expenses, including attorney fees, BROKER incurs in collecting its rates and charges. SHIPPER shall also be responsible for any additional accessorial charges imposed by the Servicing Motor Carrier, and all other charges including but not limited to duties, customs assessments, governmental penalties, fines and taxes, which were not anticipated by BROKER at the time BROKER arranged for services with Servicing Motor Carrier or which were not otherwise included in the rate set forth in the RCA. If any information provided by SHIPPER is inaccurate or incomplete, SHIPPER acknowledges and agrees that agreed upon rates may, in BROKER's sole discretion, be revised to reflect the goods actually tendered.

4. **INDEMNIFICATION, WARRANTIES AND LIMITATION OF LIABILITY.** IN NO EVENT SHALL EITHER PARTY BE RESPONSIBLE FOR ANY SPECIAL OR CONSEQUENTIAL DAMAGES REGARDLESS OF WHETHER THE PARTY TO BE CHARGED HAD NOTICE OF THE POSSIBILITY OF SUCH DAMAGES. THE TOTAL LIABILITY OF BROKER WITH RESPECT TO ANY CLAIMS OR DAMAGES ARISING FROM OR

RELATED TO SERVICES PROVIDED PURSUANT TO THESE TERMS AND CONDITIONS WILL BE FOR THE AMOUNT CHARGED BY BROKER WITH RESPECT TO THE SERVICES SPECIFICALLY GIVING RISE TO SUCH CLAIMS OR DAMAGES. SHIPPER SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS BROKER FROM AND AGAINST, AND SHALL PAY AND REIMBURSE BROKER FOR, ANY AND ALL CLAIMS, DAMAGES, LIABILITIES, FINES, JUDGMENTS, PENALTIES AND AMOUNTS (INCLUDING REASONABLE ATTORNEY FEES) ARISING FROM OR RELATED TO: (i) BREACH BY SHIPPER OF THESE TERMS AND CONDITIONS; (ii) THE NEGLIGENCE OR OTHER WRONGFUL CONDUCT OF SHIPPER, ITS AGENTS, CONTRACTORS OR EMPLOYEES; (iii) VIOLATION BY SHIPPER, ITS AGENTS, CONTRACTORS OR EMPLOYEES OF ANY APPLICABLE LAWS, RULE OR REGULATION; OR (iv) SHIPPER'S FAILURE TO PROVIDE, OR BROKER'S COMPLIANCE WITH OR RELIANCE ON, INSTRUCTIONS, DIRECTIONS, OR REQUEST OF SHIPPER. THE FOREGOING NOTWITHSTANDING, SHIPPER'S OBLIGATION TO HOLD HARMLESS, DEFEND, INDEMNIFY, PAY AND REIMBURSE SHALL NOT APPLY TO THE EXTENT ANY CLAIM IS CAUSED BY THE NEGLIGENCE OR INTENTIONAL MISCONDUCT OF BROKER. THE SERVICES ARE PROVIDED "AS IS" AND "AS AVAILABLE," WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE. BROKER IS NOT LIABLE FOR THE CONSEQUENCES OF IDENTIFY THEFT OR FRAUDULENT CONDUCT OF THIRD PARTIES, INCLUDING UTILIZING THE SERVICES OF ENTITIES REPRESENTING THEMSELVES TO BE SERVICING MOTOR CARRIERS OR REPRESENTATIVES THEREOF.

5. **CONTRACT CARRIERS.** BROKER's sole responsibility with respect to selection and retention of Servicing Motor carriers is to make reasonable efforts to place SHIPPER's loads with responsible Servicing Motor Carriers: (i) authorized to perform the services required by SHIPPER; (ii) which such carriers do not hold an "unsatisfactory" or unfit safety rating from the U.S. Department of Transportation; and (iii) that possess all insurance coverages required by applicable law. BROKER makes no express or implied warranties or guarantees concerning delivery time or the locating of a Servicing Motor Carrier to provide the transportation services requested by SHIPPER.

6. **BROKER INSURANCE.** BROKER shall comply with all insurance and bonding requirements imposed upon it by law, including its obligation to maintain a surety bond or trust fund agreement.

7. **CARGO LOSS, DAMAGE, OR SHORTAGE.** SHIPPER acknowledges that Servicing Motor Carriers may limit their liability for cargo loss, damage or delay. It will be SHIPPER's responsibility to insure product in-transit and SHIPPER acknowledges that if SHIPPER wishes to declare excess value higher than the Servicing Motor Carrier's limitation, BROKER will have no responsibility to do so and it will be SHIPPER's responsibility to do so directly with the Servicing Motor Carrier. BROKER may facilitate claims filing and processing with the Servicing Motor Carrier if SHIPPER submits to BROKER, within six (6) months of the date of delivery, a written claim, fully supported by all relevant documentation, including but not limited to the signed delivery receipt, listing the nature and cause of the claim for cargo damage. BROKER may, in its sole discretion and without liability to SHIPPER, discontinue pursuit of claims with the Servicing Motor Carrier if such claim is not resolved within sixty (60) days of receipt by BROKER or if SHIPPER, in BROKER's sole discretion, fails to cooperate with BROKER in filing of claims with the Servicing Motor Carrier. SHIPPER acknowledges and agrees that failure or alleged failure by the Servicing Motor Carrier to comply with shipment handling instructions, or a broken trailer seal, shall not, in and of itself, be grounds for rejection of a shipment or filing of a claim for cargo loss and damage without proof of actual loss or damage. BROKER shall have no liability for cargo loss, damage, or shortage except to the extent such claims are caused by BROKER's negligent acts or omissions, in which case, BROKER's liability shall be limited to the charges assessed by BROKER and paid by SHIPPER with respect to the goods at issue. SHIPPER is responsible for filing a claim with BROKER alleging BROKER's liability for cargo loss and damage within six (6) months of the date of delivery of the cargo in question (or, if none, within six (6) months of the date cargo should have been delivered). Failure to do so will result in an absolute bar to any such claim and will relieve BROKER of any and all liability with respect thereto. In no event will BROKER have any liability arising from or related to the Servicing Motor Carrier's refusal to accept full value liability or the Servicing Motor Carrier otherwise limiting its liability for cargo loss and damage. BROKER shall be under no obligation to arrange, and Servicing Motor Carrier shall be under no obligation to provide, service in accordance with any set pick-up or delivery schedule; BROKER's sole obligation is to ensure Servicing Motor Carriers provide services with reasonable dispatch. Any lawsuit arising from such claim must

be commenced within eighteen (18) months of denial of all or any part of such claim. SHIPPER acknowledges and agrees that the sole liability of BROKER with respect to loss, damage or delay to cargo shall be as set forth in this provision and SHIPPER warrants and represents that if it is not the owner of such cargo, SHIPPER holds authority from such owner to bind the owner to the provisions of these Terms and Conditions.

8. **SHIPPING DOCUMENTS.** Shipments tendered hereunder may be accepted by the Servicing Motor Carrier on a bill of lading or similar transportation document setting forth the respective legal rights and obligations of SHIPPER and the Servicing Motor Carrier. In no event shall the terms or conditions of any such bill of lading or other document used by SHIPPER and the Servicing Motor Carrier apply to BROKER's Services or otherwise be binding on BROKER. Upon request of SHIPPER, BROKER shall request that Servicing Motor Carriers obtain a delivery receipt from the consignee, showing the products delivered, the condition of the shipment and the date and time of such delivery. BROKER does not provide customs brokerage services; SHIPPER must secure and pay a customs broker and provide all appropriate customs paperwork to the Servicing Motor Carrier at time of pickup for cross-border shipments.

9. **NOTIFICATION OF ACCIDENTS OR DELAYS.** BROKER agrees to notify SHIPPER of any accident or other event of which BROKER is apprised and which prevents the motor carrier from making a timely or safe delivery.

10. **DISPUTE RESOLUTION.** These Terms and Conditions shall be deemed to have been drawn in accordance with the statutes and laws of the state of Tennessee and in the event of any disagreement or dispute regarding services subject to these Terms and Conditions, to the extent not otherwise governed by federal law, the laws of Tennessee shall apply and suit must be brought in Hamilton County, Tennessee as each party specifically submits to the exclusive personal jurisdiction of such courts for disputes involving these Terms and Conditions.

11. **WAIVER.** If BROKER fails to enforce, or waives the breach of, any term or condition herein, such action or inaction shall not operate as a waiver of any other breach of such term or condition, nor any part of these Terms and Conditions, nor of any other rights, in law or equity, or of claims which BROKER may have arising out of, connected with, or related to the Services or these Terms and Conditions.

12. **SEVERABILITY.** In the event that any one or more of the provisions of these Terms and Conditions shall be held to be invalid, illegal or unenforceable in any respect by a court of competent jurisdiction, the validity, legality, or enforceability of the remaining provisions of these Terms and Conditions and any other application thereof shall not in any way be affected or impaired thereby; provided, however, that to the extent permitted by applicable law, any invalid, illegal or unenforceable provision may be modified by the court to give effect to the original intent as closely as possible so that the transactions contemplated hereby will be consummated as originally contemplated to the greatest extent possible.

13. **FORCE MAJEURE.** BROKER shall not be liable or responsible to SHIPPER, nor be deemed to have defaulted or breached these Terms and Conditions, for any failure or delay in fulfilling or performing any Services when and to the extent such failure or delay is caused by or results from acts or circumstances beyond the reasonable control of BROKER including, without limitation, acts of God, flood, fire, earthquake, explosion, governmental actions, war, invasion or hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest, national emergency, revolution, insurrection, epidemic, lockouts, strikes or other labor disputes (whether or not relating to either Party's workforce), or restraints or delays affecting carriers, or inability or delay in obtaining supplies of adequate or suitable materials, or telecommunication breakdown or power outage.

14. **CAPTIONS.** The captions of any articles, paragraphs or sections of these Terms and Conditions are inserted for convenience purposes only and are in no way intended to and shall not define, limit, control or affect the meaning or construction of any provision hereof and each section of these Terms and Conditions shall be known and interpreted by its plain meaning.