

## Privacy Policy Terms and Conditions of Service Terms and Conditions of Use

### **A - Bill OF LADING**

#### **1. DEFINITIONS**

“Carriage” means the whole or any part of the operations and services of whatsoever nature undertaken by or performed by or on behalf of the Carrier in relation to the Goods covered by this bill of lading including but not limited to the loading, transport, unloading, storage, warehousing and handling of the goods.

“Carrier” means ICON LOGISTICS SERVICES on whose behalf this bill of lading has been signed.

“Charges” includes freight, demurrage and all expenses and monetary obligations, including but not limited to duties, taxes and dues, incurred by the Carrier and payable by the Merchant.

“COGSA” means the Carriage of Goods by Sea Act of the United States of America approved on 16th April 1936.

“Combined Transport” arises where an address (and not just the name of a Port) is indicated as the Place of Receipt and/or the Place of Delivery on the face of this bill of lading in the relevant spaces.

“Consignee” means the party named as Consignee on the face of this bill of lading in the relevant space.

“Consolidation” includes stuffing, packing, loading or securing of Goods on or within Containers and Consolidate shall be construed accordingly.

“Container” includes any container (including but not limited to open top containers), trailer, transportable tank, platform, lift van, flat, pallet or any similar article of transport used to consolidate goods and any ancillary equipment.

“Goods” means the whole or any part of the cargo received by the Carrier from the Shipper and includes any packing and any equipment or Container not supplied by or on behalf of the Carrier (but excludes any Container supplied by or on behalf of the Carrier).

“Hague Rules” means the provisions of the International Convention for Unification of certain Rules relating to bills of lading signed at Brussels on 25th August 1924.

“Hague-Visby Rules” means The Hague Rules as amended by the Protocol signed at Brussels on 23rd February 1968. (It is expressly provided that nothing in this bill of lading shall be construed as contractually applying the Hague-Visby Rules).

“Holder” means any Person for the time being in lawful possession of or lawfully entitled to possession of, this bill of lading to or in whom rights of suit and/or liability under this bill of lading have been lawfully transferred or vested.

“Indemnify” includes defend, indemnify and hold harmless, including in respect of legal fees and costs, whether or not the obligation to indemnify arises out of negligent or non-negligent acts or omissions of the Carrier, his servants, agents or Sub-Contractors. “Merchant” includes the Shipper, the Consignee, the receiver of the Goods, the Holder of this bill of lading, any Person owning or lawfully entitled to the possession of the Goods or this bill of lading, any Person acting on behalf of any of the above mentioned Persons.

“Package” where a Container is loaded with more than one package or unit, the packages or other shipping units enumerated on the face of this bill of lading as packed in such Container and entered in the box on the face hereof entitled “Total number of Containers or Packages received by the Carrier” is each deemed a Package.

“Person” includes an individual, corporation or other legal entity.

“Port to Port Shipment” arises if the Carriage is not Combined Transport.

“Sub-Contractor” includes, but is not limited to, owners, charterers and operators of Vessels (other than the Carrier), stevedores, terminal and/or groupage operators, road, rail and air transport operators,

warehousemen, longshoremen, customs inspection stations, port authorities, pilots and any independent contractor employed by the Carrier in performance of the Carriage and any direct or indirect sub-contractors, servants or agents thereof, whether in direct contractual privity with the Carrier or not.

“Terminal Operators” mean any persons who provide port storage or handling services.

“Terms and Conditions” means all terms, rights, defenses, provisions, conditions, exceptions, limitations and liberties herein

“Vessel” means any waterborne craft used in the Carriage under this bill of lading including but not limited to a feeder vessel or ocean vessel.

## **2. CARRIER’S TARIFF**

The provisions of the Carrier’s applicable tariff, if any, are incorporated herein. Particular attention is drawn to the provisions therein, if any, relating to free storage time and to container and vehicle demurrage. Copies of such provisions are obtainable from the Carrier or his agents upon request or, where applicable, from a government body with whom the tariff has been filed. In the case of inconsistency between this bill of lading and the applicable tariff, this bill of lading shall prevail.

## **3. WARRANTY**

The Merchant warrants that in agreeing to the Terms and Conditions hereof he is or is the agent of and has the authority of the Person owning or entitled to the possession of the Goods and this bill of lading or any Person who has a present or future interest in the Goods and this bill of lading.

## **4. NEGOTIABILITY AND TITLE TO THE GOODS**

(1) This bill of lading shall be non-negotiable unless made out “to order” in which event it shall be negotiable and shall constitute title to the Goods and the Holder shall be entitled to receive or to transfer the Goods herein described.

(2) This bill of lading shall be prima facie evidence of the taking in charge by the Carrier of the Goods as herein described. However proof to the contrary shall not be admissible when this bill of lading has been negotiated or transferred for valuable consideration to a third party acting in good faith.

## **5. CERTAIN RIGHTS AND IMMUNITIES FOR THE CARRIER AND OTHER PERSONS**

(1) The Carrier shall be entitled to sub-contract on any terms whatsoever the whole or any part of the Carriage.

(2) The Merchant undertakes that no claim or allegation shall be made against any Person or Vessel whatsoever, other than the Carrier, including, but not limited to, the Carrier’s servants or agents any independent contractor and his servants or agents, and all others by whom the whole or any part of the Carriage, whether directly or indirectly, is procured, performed or undertaken, which imposes or attempts to impose upon any such Person or Vessel any liability whatsoever in connection with the Goods or the Carriage of the Goods, whether or not arising in contract, bailment, tort, negligence, breach of express or implied warranty or otherwise; and if any claim or allegation should nevertheless be made to Indemnify the Carrier against all consequences thereof. Without prejudice to the foregoing every such Person and Vessel shall have the benefit of all provisions herein benefiting the Carrier including clause 20 hereof, the jurisdiction and law clause, as if such Terms and Conditions (including Clause 20 hereof) were expressly for his benefit and in entering into this contract the Carrier, to the extent of these provisions, does so not only on his own behalf but also as agent or trustee for such Persons and Vessels and such Persons and Vessels shall to this extent be or be deemed to be parties to this contract. Without prejudice to the generality of the foregoing, if the Carriage is Port to Port, Terminal Operators shall have the benefit of all provisions herein benefiting the Carrier, including the exceptions

and limitations set out in clause 6(1) and 6(3) hereof, in relation to any port storage or handling services provided whether before loading or after discharge and regardless of whether the Carrier's responsibility for the Goods has yet to commence or has ceased.

(3) The Merchant shall Indemnify the Carrier against any claim or liability (and any expense arising therefrom) arising from the Carriage of the Goods insofar as such claim or liability exceeds the Carrier's liability under this bill of lading.

(4) The defenses and limits of liability provided for in this bill of lading shall apply in any action against the Carrier whether the action be found in contract, bailment, tort, breach of express or implied warranty or otherwise.

## **6. CARRIER'S RESPONSIBILITY**

### **(1) PORT TO PORT SHIPMENT**

(A) Where the Carriage is Port to Port, then the liability (if any) of the Carrier for loss or damage to the Goods occurring between the time of loading at the Port of Loading and the time of discharge at the Port of Delivery shall be determined in accordance with any national law making the Hague Rules, Hague-Visby Rules, COGSA or any other rules compulsorily applicable to this bill of lading or in any other case in accordance with the Hague Rules Article 1-8 inclusive (excluding Article 3 rule 8) only.

(B) The Carrier shall be under no liability whatsoever for loss or damage to the Goods while in its actual or constructive possession before loading or after discharge, howsoever caused. Notwithstanding the foregoing, in case and to the extent that any applicable compulsory law provides to the contrary, the Carrier shall have the benefit of every right, defense, limitation and liberty in the Hague Rules, Hague-Visby Rules, COGSA or any other rules as applied by Clause 6(1)(A) during such additional compulsory period of responsibility, notwithstanding that the loss or damage did not occur at sea.

(C) If COGSA applies then the provisions stated in COGSA shall govern the Carrier's liability throughout the Carriage by sea and the entire time that the Goods are in the actual custody of the Carrier or his Sub-Contractor at the container yard, freight station or area immediately adjacent to the sea terminal before loading onto the vessel or after discharge therefrom as the case may be. Where the Merchant requests the Carrier to procure Carriage by an inland Carrier in the United States of America, such carriage shall be procured by the Carrier as agent only to the Merchant and such carriage shall be subject to the inland Carrier's contract tariff. If, for any reason, the Carrier is denied the right to act as agent only at these times, his liability for loss, damage or delay to the Goods shall be determined in accordance with Clause 6(2) hereof.

(D) If the Goods are discharged at a Port other than the Port of Discharge or (save in the United States of America) at a Place of Delivery instead of the Port of Discharge, and the Carrier in its absolute discretion agrees to a request to such effect, such further Carriage will be undertaken on the basis that the Terms and Conditions are to apply to such Carriage as if the ultimate destination agreed with the Merchant had been entered on the reverse side of this bill of lading as the Port of Discharge or Place of Delivery.

### **(2) COMBINED TRANSPORT**

Save as is otherwise provided in this bill of lading, the Carrier shall be liable for loss or damage to the Goods occurring from the time when he receives the Goods into his charge until the time of delivery to the extent set out below:

(A) Where the stage of Carriage where the loss or damage occurred cannot be proved by the Merchant:

(1) The Carrier shall be relieved from liability where such loss or damage was caused by:

(a) an act or omission of the Merchant or Person acting on behalf of the Merchant other than the Carrier, his servant, agent or Sub-Contractor;

(b) Compliance with the instructions of a Person entitled to give them; (c) The lack or insufficiency of or defective condition of packing in the case of Goods which, by their nature are liable to wastage or to be damaged when not packed or when not properly packed; (d) Handling, loading, stowage or unloading of

the Goods by or on behalf of the Merchant; (e) Inherent vice of the Goods; (f) Strikes or lock outs or stoppages or restraints of labor from whatsoever causes whether partial or general; (g) Fire, unless caused by the actual fault or privity of the Carrier; for which the Merchant shall have the burden of proof, (h) A nuclear incident; (i) Any cause or event which the Carrier could not avoid as a consequence whereof he could not prevent by the exercise of reasonable diligence.

(2) The burden of proof that the loss or damage was due to one or more of the causes or events specified in this Clause 6(2)(A) will rest upon the Carrier. Save that if the Carrier establishes that, in the circumstances of the case, the loss or damage could be attributed to one or more of the causes or events specified in Clause 6(2)(A)(1)(c), (d) or (e), it shall be presumed that it was so caused. The Merchant shall, however, be entitled to prove that the loss or damage was not, in fact, caused either wholly or partly by one or more of these causes or events.

(B) Where the stage of Carriage where the loss or damage occurred can be proved by the Merchant:

(1) The liability of the Carrier shall be determined by the provisions contained in any international convention or national law of the country, which provisions:

(a) Cannot be departed from by private contract to the detriment of the Merchant, and (b) Would have applied if the Merchant had made a separate and direct contract with the Carrier in respect of the particular stage of Carriage where the loss or damage occurred and had received as evidence thereof any particular document which must be issued in order to make such international convention or national law applicable.

(2) Where 6(2)(b)(1) above does not apply, any liability of the Carrier shall be determined by 6(1) if the loss or damage occurred during a sea leg or by 6(2)(A) in all other cases.

(3) GENERAL PROVISIONS

(A) Compensation.

Subject to the Carrier's right to limit liability as provided for within this bill of lading, the Carrier's liability shall be calculated by reference to the FOB/FCA invoice value plus freight and insurance if paid. If there is no such invoice value, the value of the Goods shall be determined according to the value of the Goods at the place and time of delivery to the Merchant or at the place and time when they should have been so delivered.

(B) Package or Shipping Unit Limitation

(i) Where the Hague Rules, Hague-Visby rules, COGSA or any other rules apply

under this Bill of Lading by national law or pursuant to Clause 6(2) (B) (1) the Carrier's liability shall in no event exceed the amounts provided in the applicable national law or in the law thereby made applicable.

(ii) If only the Hague Rules Articles 1-8 (excluding Article 3, Rule 8) apply pursuant to Clause 6 (1) (A), Clause 6 (1) (B) or Clause 6 (2) (B) (2) then the Carrier's maximum liability shall in no event exceed US\$500 per package or unit.

(iii) Where Carriage includes Carriage to, from or through a port in the United States of America and COGSA applies pursuant to Clause 6 (1) (A) or 6(2) (B) (1) neither the Carrier nor the Vessel shall in any event be liable for any loss or damage to or in connection with the Carriage of the Goods in an amount exceeding US\$500 per Package or customary freight unit.

(iv) In all other cases compensation shall not exceed the limitation of liability of US\$2.00 per kilo of gross weight of the Goods lost, damaged or in respect of which the claim arises.

(C) Ad Valorem: Declared Value of Package or Shipping Unit

The Carrier's liability may be increased to a higher value by a declaration in writing of the value of the Goods by the shipper upon delivery to the Carrier of the Goods for shipment, such higher value being inserted on the front of this bill of lading in the space provided and, if required by the Carrier, extra freight paid. In such case, if the actual value of the Goods shall exceed such declared value, the value

shall nevertheless be deemed to be the declared value and the Carrier's liability, if any, shall not exceed the declared value and any partial loss or damage shall be adjusted pro rata on the basis of such declared value.

(D) Delay, Consequential Loss Save as otherwise provided herein, the Carrier shall in no circumstances be liable for direct, indirect or consequential loss or damage caused by delay or any other cause whatsoever and howsoever caused. Without prejudice to the foregoing, if the Carrier is found liable for delay, liability shall be limited to the freight applicable to the relevant stage of the transport.

(E) Notice of Loss or Damage. The Carrier shall be deemed prima facie to have delivered the Goods as described in this bill of lading unless notice of loss of, or damage to, the Goods, indicating the general nature of such loss or damage, shall have been given in writing to the Carrier or to his representative at the place of delivery before or at the time of removal of the Goods into the custody of the person entitled to delivery thereof under this bill of lading or, if the loss or damage is not apparent, within three consecutive days thereafter.

(F) Time-bar. The Carrier shall be discharged of all liability whatsoever in respect of the Goods unless suit is brought in the proper forum and written notice thereof received by the Carrier: (i) within nine months in respect of Combined Transport or (ii) within 12 months in respect of Port-to-Port Shipment after delivery of the Goods or the date when the Goods should have been delivered. In the event that such time period shall be found contrary to any convention or law compulsorily applicable, the period prescribed by such convention or law shall then apply but in that circumstance only.

## **7. MERCHANTS RESPONSIBILITY**

(1) The description and particulars of the Goods set out on the face hereof are furnished by the Merchant and the Merchant warrants to the Carrier that the description and particulars including, but not limited to, weight, content, measure, quantity, quality, condition, marks, numbers and value are correct.

(2) The Merchant shall comply with all applicable laws, regulations and requirements (including but not limited to any imposed at any time before or during the Carriage relating to anti-terrorism measures) of customs, port and other authorities and shall bear and pay all duties, taxes, fines, imposts, expenses and losses (including without prejudice to the generality of the foregoing, freight for any additional Carriage undertaken) incurred or suffered by reason thereof or by reason of any illegal, incorrect or insufficient marking, numbering or addressing of the Goods.

(3) The Merchant undertakes that the Goods are packed in a manner adequate to withstand the ordinary risks of Carriage having regard to their nature and in compliance with all laws, regulations and requirements which may be applicable.

(4) No Goods which are or may become dangerous (whether or not so listed in codes), inflammable, damaging, injurious (including radioactive materials), noxious or which are or may become liable to damage any property or Person whatsoever shall be tendered to the Carrier for Carriage without: (a) The Carrier's express consent in writing; and (b) The Container and/or other covering in which the Goods are to be transported and/or the Goods themselves being distinctly marked on the outside so as to indicate the nature and character of any such Goods and so as to comply with all applicable laws, regulations and/or requirements. If any such Goods are delivered to the Carrier without such written consent and/or marking or if in the opinion of the Carrier the Goods are or are liable to become of a dangerous, inflammable and/or damaging nature, the same may at any time be unloaded, destroyed, disposed of, abandoned, or rendered harmless without compensation to the Merchant and without prejudice to the Carrier's right to Charges.

(5) The Merchant shall be liable for the loss, damage, contamination, soiling, detention or demurrage before, during and after the Carriage of property (including, but not limited to, Containers) of the Carrier or any person or Vessel (other than the Merchant) referred to in Clause 5(2) above caused by the

Merchant or any person acting on his behalf or for which the Merchant is otherwise responsible.

(6) The Merchant shall indemnify the Carrier against any loss, damage, claim, liability or expense whatsoever arising from any breach of the provisions of this clause 7 or from any cause in connection with the Goods for which the Carrier is not responsible.

## **8. CONTAINERS**

(1) Goods may be consolidated by the Carrier in or on Containers and Goods may be consolidated with other Goods.

(2) The terms of this bill of lading shall govern the responsibility of the Carrier in, connection with or arising out of the supply of a Container to the Merchant whether supplied before or after the Goods are received by the Carrier or delivered to the Merchant.

(3) If a container has been consolidated by or on behalf of the Merchant:

(A) The Carrier shall not be liable for loss of or damage to the Goods:

(i) Caused by the manner in which the Container has been stuffed; (ii) Caused by the unsuitability of the Goods for carriage in Container actually used; (iii) caused by the unsuitability or defective condition of the Container actually used provided that where the Container has been supplied by or on behalf of the Carrier, this paragraph (iii) shall only apply if the unsuitability or defective condition would have been apparent upon reasonable inspection by the Merchant at or prior to the time when the Container was stuffed; (iv) If the Container is not sealed at the commencement of the Carriage except where the Carrier has agreed to seal the Container.

(B) The Merchant shall indemnify the Carrier against any loss, damage, claim, liability or expense whatsoever arising from one or more of the matters covered by Clause 8(3) (A) above.

(4) Where the Carrier is instructed to provide a Container, in the absence of a written request to the contrary accepted by the Carrier, the Carrier is not under an obligation to provide a Container of any particular type or quality.

## **9. TEMPERATURE CONTROLLED CARGO**

(1) The Merchant undertakes not to tender for Carriage any Goods which require temperature control without previously giving written notice (and filling in the box on the front of this bill of lading if this bill of lading has been prepared by the Merchant or a person acting on his behalf) of their nature and particular temperature range to be maintained and in the case of a temperature controlled Container Consolidated by or on behalf of the Merchant further undertakes that the Container has been properly pre-cooled, that the Goods have been properly Consolidated in the Container and that its thermostatic controls have been properly set by the Merchant before receipt of the Goods by the Carrier.

(2) If the above requirements are not complied with the Carrier shall not be liable for any loss of or damage to the Goods caused by such non-compliance.

(3) The Carrier shall not be liable for any loss of or damage to the Goods arising from defects, derangement, breakdown, stoppage of: the temperature controlling machinery, plant, insulation or any apparatus of the Container, provided that the Carrier shall before or at the beginning of the Carriage exercise due diligence to maintain the refrigerated Container in an efficient state.

## **10. INSPECTION OF GOODS**

The Carrier or any Person authorized by the Carrier shall be entitled, but under no obligation, to open and/or scan any Container or package at any time and to inspect the contents. If it appears at any time that the Goods cannot safely or properly be carried, or carried further, either at all or without incurring any additional expense or taking measures in relation to the Container or Goods, the Carrier may without notice to the Merchant (but as his agent only) take any measures and/or incur any reasonable additional expense to carry or continue the Carriage thereof, and/or to sell or dispose of the Goods

and/or to abandon the Carriage and/or to store the Goods ashore them afloat, under cover or in the open, at any place, whichever the Carrier in his absolute discretion considers most appropriate, which sale, disposal, abandonment or storage shall be deemed to constitute due delivery under this bill of lading. The Merchant shall indemnify the Carrier against any reasonable additional expense so incurred. The Carrier in exercising the liberties contained in this clause shall not be under any obligation to take any particular measures and shall not be liable for any loss, delay or damage howsoever arising from any action or lack of action under this clause.

## **11. METHODS AND ROUTE OF TRANSPORTATION**

(1) The Carrier may at any time and without notice to the Merchant:

(a) Use any means of transport or storage whatsoever; (b) Load or carry the Goods on any Vessel whether named on the front hereof or not; (c) transfer the Goods from one conveyance to another including transshipping or carrying the same on a Vessel other than the Vessel named on the front hereof or by any other means of transport whatsoever and even though transshipment or forwarding of the Goods may not have been contemplated or provided for herein; (d) At any place unpack and remove Goods which have been stuffed in or on a Container and forward the same in any manner whatsoever; (e) Proceed at any speed and by any route in his discretion (whether or not the nearest or most direct or customary or advertised route) and proceed to or stay at any place whatsoever once or more often and in any order; (f) load or unload the Goods from any conveyance at any place (whether or not the place is a port named on the front hereof as the intended Port of Loading or intended Port of Discharge); (g) Comply with any orders or recommendations given by any government or authority or any Person or body acting or purporting to act as or on behalf of such government or authority or having under the terms of the insurance on the conveyance employed by the Carrier the right to give orders or directions; (h) Permit the Vessel to proceed with or without pilots, to tow or be towed or to be dry-docked; (i) Permit the Vessel to carry livestock, Goods of all kinds, dangerous or otherwise, contraband, explosives, munitions or warlike stores and sail armed or unarmed.

(2) The liberties set out in Clause 11(1) above may be invoked by the Carrier for any purposes whatsoever whether or not connected with the Carriage of the Goods, including but not limited to loading or unloading the goods, bunkering, undergoing repairs, adjusting instruments, picking up or landing any Persons, including but not limited to Persons involved with the operation or maintenance of the Vessel and assisting Vessels in all situations. Anything done in accordance with Clause 11(1) above or any delay arising therefrom shall be deemed to be within the contractual Carriage and shall not be a deviation of whatsoever nature or degree.

## **12. DECK CARGO AND LIVESTOCK**

(1) Goods of any description whether containerized or not may be stowed on or under deck without notice to the Merchant unless on the front of this bill of lading it is specifically stipulated the Containers or Goods will be carried under deck and such stowage shall not be a deviation of whatsoever nature or degree. If carried on deck, the Carrier shall not be required to note, mark or stamp the bill of lading carried on deck, the Carrier shall not be required to note, mark or stamp on the bill of lading any statement of such on deck carriage Subject to Clause 13(2) below, such Goods whether carried on deck or under deck shall participate in General Average and such Goods (other than livestock) shall be deemed to be within the definition of Goods for the purposes of the Hague Rules or any legislation making such rules COGSA or the Hague-Visby Rules compulsorily applicable to this bill of lading.

(2) Goods (not being Goods stuffed in or on Containers other than open flats or pallets) which are stated on the front of this bill of lading to be carried on deck and which are so carried (and livestock, whether or not carried on deck) are carried without responsibility on the part of the Carrier for loss or damage of whatsoever nature arising during carriage by sea or inland waterway whether caused by un

seaworthiness or negligence or any other cause whatsoever. The Merchant shall Indemnify the Carrier against all and any extra cost incurred for any reason whatsoever in connection with carriage of livestock.

### **13. DELIVERY OF THE GOODS**

(1) If at any time the Carriage is or is likely to be affected by any hindrance, risk, delay, difficulty or disadvantage of any kind (including the condition of the Goods), whomsoever and howsoever arising (whether or not the Carriage has commenced) the Carrier may:

(A) without notice to the Merchant abandon the Carriage of the Goods and where reasonably possible place the Goods or any part of them at the Merchant's disposal at any place which the Carrier may deem safe and convenient, whereupon delivery shall be deemed to have been made and the responsibility of the Carrier in respect of such Goods shall cease;

(B) Without prejudice to the Carrier's right subsequently to abandon the Carriage under Clause 13(1)(A) above, continue the Carriage. In any event the Carrier shall be entitled to full Charges on Goods received for Carriage and the Merchant shall pay any additional costs resulting from the above mentioned circumstances.

(2) The liability of the Carrier in respect of the Goods shall cease on the delivery or other disposition of the Goods in accordance with the orders or recommendations given by any government or authority or any Person acting or purporting to act as or on behalf of such government or authority. This shall amount to due delivery to the Merchant.

(3) Any mention herein of parties to be notified of the arrival of the Goods is solely for information of the Carrier, and failure to give such notification shall not involve the Carrier in any liability nor relieve the Merchant of any obligation thereunder.

(4) If delivery of the Goods or any part thereof is not taken by the Merchant at the time and place when and where the Carrier is entitled to call upon the Merchant to take delivery thereof, the Carrier shall be entitled and without prejudice to any other rights that he may have against the Merchant without notice to remove from a Container the Goods or that part thereof if Consolidated in or on a Container and to store the Goods or that part thereof ashore, afloat, in the open or under cover at the sole risk and expense of the Merchant and the costs of such storage (if paid or payable by the Carrier or any agent or Sub-Contractor of the Carrier) shall forthwith upon demand be paid by the Merchant to the Carrier. Such storage shall constitute due delivery hereunder, and thereupon the liability of the Carrier in respect of the Goods or that part thereof shall cease.

### **14. BOTH-TO-BLAME COLLISION**

If the Vessel on which the Goods are carried (the carrying Vessel) comes into collision with any other Vessel or object (the non-carrying Vessel or object) as a result of the negligence of the non-carrying Vessel or object or the owner of, charterer of or Person responsible for the non-carrying Vessel or object, the Merchant undertakes to Indemnify the Carrier against all claims by or liability to (and any expense arising therefrom) any Vessel or Person in respect of any loss of, or damage to, or any claim whatsoever of the Merchant paid or payable to the Merchant by the non-carrying Vessel or object or the owner of, charterer of or Person responsible for the non-carrying vessel or object and set-off, recouped or recovered by such Vessel, object or Person(s) against the Carrier, the carrying Vessel or her owners or charterers.

### **15. GENERAL AVERAGE**

(1) The Carrier may declare General Average which shall be adjustable according to the York/Antwerp Rules of 1974 at any place at the option of the Carrier and the Amended Jason Clause as approved by BIMCO is to be considered as incorporated herein and the Merchant shall provide such security as may be required by the Carrier in this connection.



(2) Notwithstanding (1) above, the Merchant shall Indemnify the Carrier in respect of any claim (and any expense arising therefrom) of a General Average nature which may be made on the Carrier and shall provide such security as may be required by the Carrier in this connection.

(3) The Carrier shall be under no obligation to take any steps whatsoever to collect security for General Average contributions due to the Merchant.

#### **16. CHARGES**

(1) Charges shall be deemed fully earned on receipt of the Goods by the Carrier and shall be paid and non-returnable in any event.

(2) The Charges have been calculated on the basis of particulars furnished by or on behalf of the Merchant. The Carrier shall be entitled to production of the commercial invoice for the Goods or true copy thereof and to inspect, re-weigh, re-measure and re-value the Goods and if the particulars are found by the Carrier to be incorrect the Merchant shall pay the Carrier the correct Charges (credit being given for the Charges charged) and the costs incurred by the Carrier in establishing the correct particulars.

(3) All Charges shall be paid without any set-off, counter-claim, deduction or stay of execution.

(4) Despite the acceptance by the Carrier of instructions to collect freight, charges or other expenses from any other person in respect of the transport under this bill of lading, the Merchant shall remain responsible for such monies on receipt of evidence of demand and the absence of payment for whatever reason.

#### **17. LIEN**

The Carrier shall have a lien on Goods and any documents relating thereto for all sums whatsoever due at any time to the Carrier under this contract and for General Average contributions to whomsoever due. The Carrier shall also have a lien against the Merchant on the Goods and any documents relating thereto for all sums due from the Merchant to the Carrier under any other contract. The Carrier may exercise his lien at any time and at any place in his sole discretion, whether the contractual Carriage is completed or not. In any event any lien shall (a) survive the delivery of the Goods and (b) extend to cover the cost of recovering any sums due and for that purpose the Carrier shall have the right to sell the Goods and documents by public auction or private treaty, without notice to the Merchant and at the Merchant's expense and without any liability towards the Merchant.

#### **18. VARIATION OF THE CONTRACT**

No servant or agent of the Carrier shall have power to waive or vary any of the terms hereof unless such waiver or variation is in writing and is specifically authorized or ratified in writing by a director or officer of the Carrier who has the actual authority of the Carrier to waive or vary.

#### **19. PARTIAL INVALIDITY**

If any provision in this bill of lading is held to be invalid or unenforceable by any Court or regulatory or self-regulatory agency or body, such invalidity or unenforceability shall attach only to such provision. The validity of the remaining provisions shall not be affected thereby and this bill of lading contract shall be carried out as if such invalid or unenforceable provision were not contained herein.

#### **20. JURISDICTION**

Nothing in this Bill of Loading shall operate to limit or deprive Carrier of any statutory protection or exemption from, limitation of per liability contained in the laws of the United States, or in the laws of any other Country which may be applicable.

## **B- ICON LOGISTICS SERVICES- General Terms & Conditions of Service**

**ICON LOGISTICS SERVICES**(hereinafter "Company") is a licensed property broker as defined by 49 U.S.C. § 13102 (12) operating under FMCSA MC No. 028627NF Company only undertakes to arrange for the transportation of shipments on behalf of its customers (hereinafter "Customer") from various origins and destinations throughout the United States. The transportation is provided by carriers selected by Company. The Terms and Conditions of Service set forth herein are applicable to the transportation of any shipment for which Company is retained to arrange transportation and related services on Customer's behalf.

These terms and conditions of service constitute a legally binding contract between the "Company" and the "Customer". At booking time, customer automatically enters into an agreement with Company. The Customer agrees to be bound by these Terms & Conditions as well as the terms of the bill of lading. Company act as agents only, with regards to all work undertaken on behalf of the customer. Company reserve the right to use 3rd parties and outsource parts of the booking. In the event the Company renders services and issues a document containing Terms and Conditions governing such services, the Terms and Conditions set forth in such other document(s) shall govern those services.

Company reserves the right to modify, amend or supplement its Terms and Conditions of Service without notice. Copies of Company's most recent Terms and Conditions of Service may be obtained by contacting Company and are available on Company's web site.

The **Terms and Conditions of Service** constitute all of the articles hereunder:

- A. The Bill of Lading
- B. ICON LOGISTICS SERVICES General Terms and Conditions of Service
- C. ICON LOGISTICS SERVICES U.S. Domestic Truck Broker Terms and Conditions
- D. ICON LOGISTICS SERVICES Warehouse Receipt Terms and Conditions

### **1. Definitions.**

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

**2. Company as independent contractor and agent.** The Company acts as the "agent" of the 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 and security documentation on behalf of the Customer and other dealings with Government Agencies, or for arranging for transportation services or

other logistics services in any capacity other than as a carrier. Company is not acting as either a Motor Carrier, or a Common Carrier within the meaning of USC Title 49. Company contracts with various freight carriers ("Carriers") on behalf of the Customer for the purpose of obtaining discounted rates for transportation. Company reserves the right, in its sole discretion, to refuse any shipment at any time. Company and the Customer may be collectively referred to as the "Parties" or individually either may be referred to as "Party" in this Agreement.

**3. Limitation of Actions.** Unless subject to a specific statute or international convention, all claims against the Company for a potential or actual loss, must be made in writing and received by the Company, within ninety (90) days of the event giving rise to claim; the failure to give the Company timely notice shall be a complete defense to any suit or action commenced by Customer. All suits against Company must be filed and properly served on Company within two (2) years from the date of the loss or damage.

**4. No Liability for The Selection or Services of Third Parties and/or Routes.** Unless services are performed by persons or firms engaged pursuant to express written instructions from the Customer, Company shall use reasonable care in its selection of third parties, or in selecting the means, route and procedure to be followed in the handling, transportation, clearance and delivery of the shipment; advice by the Company that a particular person or firm has been selected to render services with respect to the goods, shall not be construed to mean that the Company warrants or represents that such person or firm will render such services nor does Company assume responsibility or liability for any actions(s) and/or inaction(s) of such third parties and/or its agents, and shall not be liable for any delay or loss of any kind, which occurs while a shipment is in the custody or control of a third party or the agent of a third party; all claims in connection with the Act of a third party shall be brought solely against such party and/or its agents; in connection with any such claim, the Company shall reasonably cooperate with the Customer, which shall be liable for any charges or costs incurred by the Company. All deliveries are conditional.

**5. Claims and Limitations of Liability.** Company makes no express or implied warranties in connection with its services; Company is not liable for any loss, damage, miss-delivery or non-delivery caused by: (i) the act, default or omission of a Carrier, the Customer or any other party who claims interest in the shipment, or (ii) the nature of the shipment or any defect therein, or (iii) a violation by the Customer of any provision of this Agreement, the BOL, the carrier's Tariff, including, improper or insufficient packing, securing, marking or addressing, or (iv) failure to observe any of the rules relating to shipments not acceptable for transportation or shipments acceptable only under certain conditions, or (v) acts of God, perils of the air, public enemies, public authorities, acts or omissions of Customs or quarantine officials, war, riots, strikes, labor disputes, shortages, weather conditions or mechanical delay or failure of vehicles, aircraft or other equipment, or (vi) the acts or omissions of any person other than employees of Company; or (vii) the selection of carrier for a particular shipment. Customer acknowledges that in order to provide competitive rates for the services, that the parties have agreed as a material term of this Agreement that the burden of any loss or damage incurred as a result of Company's alleged liability has been shifted to the Customer, and that in any event the maximum amount of Company's liability is limited to the fees that Company has earned with respect to the subject shipment. Customer specifically acknowledges that Company shall have no liability for negligent acts or omissions of its employees except to the extent such actions or omissions constituted gross negligence. The Company's liability therefore shall be limited to the fees that the Company has earned with respect to the subject shipment. The filing of a claim does not relieve the responsible party for payment of freight charges. Freight payment is necessary in order for a carrier to process a claim. All freight cargo claims should be submitted immediately to the Company to help ensure timely resolution. The Company will attempt to

assist in the resolution of freight claims, but has no responsibility or liability therefore. No claim will be reviewed until all shipping and related charges have been paid to Company. Where Company files damage claim with carrier on behalf of Customer and receives recovery funds, The Company has a lien on such recovery amounts and reserves the right to apply recovery amounts to open past due invoices on account. This includes recovery amounts received from carrier for freight charges and/or product damage claim amounts.

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

**7. Customer Representations and Warranties to Company.** The Customer represents and warrants that at all times during the term of this Agreement, it will be in compliance with all applicable laws, rules, and regulations ("Laws") including applicable Laws relating to customs, import and export required by country to, from, through or over which the shipment may be carried. The Customer agrees to furnish such information and complete and attach to the BOL such documents as are necessary to comply with such Laws. Any individual or entity acting on behalf of the Customer in scheduling shipments or undertaking any other performance hereunder warrants and represents that he, she or it has the right to act on behalf of and legally bind the Customer. Company assumes no liability for any loss or expense due to the failure of the Customer to comply with this paragraph and Customer shall indemnify and hold ROROL Leaders harmless for any claims or damages resulting from violation of this paragraph, including attorney's fees and costs.

**8. Reliance On Information Furnished.** (a) Customer acknowledges that it is required to review all documents and declarations prepared and/or filed with U.S. Customs & Border Protection, other Government Agency and/or third parties, and will immediately advise the Company of any errors, discrepancies, incorrect statements, or omissions on any declaration or other submission filed on Customers behalf; (b) In preparing and submitting customs entries, export declarations, applications, security filings, documentation and/or other required data, the Company relies on the correctness of all documentation, whether in written or electronic format, and all information furnished by Customer; Customer shall use reasonable care to ensure the correctness of all such information and shall indemnify and hold the Company harmless from any and all claims asserted and/or liability or losses suffered by reason of the Customer's failure to disclose information or any incorrect, incomplete or false statement by the Customer or its agent, representative or contractor upon which the Company reasonably relied. The Customer agrees that the Customer has an affirmative non-delegable duty to disclose any and all information required to import, export or enter the goods. (c) Customer acknowledges that it is required to provide verified weights obtained on calibrated, certified equipment of all cargo that is to be tendered to carrier lines and represents that Company is entitled to rely on the accuracy of such weights and to counter-sign or endorse it as agent of Customer in order to provide the certified weights to the carrier lines. The Customer agrees that it shall indemnify and hold the Company harmless from any and all claims, losses, penalties or other costs resulting from any incorrect or questionable statements of the

weight provided by the Customer or its agent or contractor on which the Company relies.

**9. Necessary Documentation.** The Customer is required to use the Company's system generated Bill of Lading. If the Customer does not complete all the documents required for carriage, or if the documents which they submit are not appropriate for the services, pick up or destination requested, the Customer hereby instructs the Company, where permitted by law, to complete, correct or replace the documents for them at the expense of the Customer. However, the Company is not obligated to do so. If a substitute form of Bill of Lading is needed to complete delivery of this shipment and the Company completes that document, the terms of this Bill of Lading will govern. The Company is not liable to the Customer or to any other person for any actions taken on behalf of the Customer under this provision.

**10. Obligations of Customer.** Customer represents and warrants to Company as follows: (a) all items to be shipped will be completely and accurately marked to enable identification of the contents without opening any shipping or storage containers; (b) Customer will make every effort to accurately measure the dimensions and weights of all items and understands that the Company rate depends upon the accuracy of this information (c) Customer's authorized representative(s) shall be identified to Company's agent or coordinator and shall be available at all times at the point of origination to sign, and shall sign, all documents evidencing pick-up of the items to be shipped by Company; and Customer is the legally documented owner of all property received by Company, and/or is authorized to cause such property to be stored and otherwise controlled by Company as provided in the applicable Bill of Lading.

**11. Hazardous Materials or Dangerous Goods.** Customer warrants and represents that it shall not tender or cause to be tendered to Company any Hazardous Materials or Dangerous Goods ("DG") without notifying Company in writing of the existence of such DG and calling to Company's attention the hazardous nature of any such commodity prior to such tender. Company shall have no obligation to accept such DG for handling and shall have the right, in its sole discretion, to refuse to perform any services with respect to such DG. In the event that Company, in its sole discretion, should decide to handle such DG, customer acknowledges that additional charges may apply.

**12. Determination of Charges.** The Customer shall be liable, jointly and severally, for all charges payable on account of such Customer's shipment. Such charges may include transportation, fuel, security, insurance(s) and other applicable accessorial charges, all adjustments issued by the carrier(s) after the shipment, and all duties, customs assessments, governmental penalties, fines, taxes and Company's attorney fees and legal costs allocable to this shipment and/or all disputes related thereto. Company reserves the right to amend or adjust charges and to re-invoice the Customer in the following events: (i) if the original quoted amount was based upon incorrect information provided by the Customer, or (ii) if additional services by the carrier were required, or (iii) if the Customer authorized the carrier to perform the pick up, transportation and delivery functions other than contemplated by the BOL. Any disputes by customer of any invoice issued by Company shall be made in writing, specifically indicating the nature of the dispute and received by Company at their offices within 30 days from the date of the invoice. In the event Company does not receive timely written notice of the dispute, the charges will be conclusively presumed to be valid. Customer authorizes Company to advise third parties of asserted liens and to hold possession of any shipment against which a lien is asserted.

**13. Booking Terms.** For vehicles a copy of the V5 must be provided for each vehicle, along with the make/model/chassis and engine number alongside a value. Please note if there are any issues with any of these requirements please let us know ASAP. Once all is received we will put forward and if any additional information is required or any items need clarity we will inform you. Please note this is a

crucial stage of the shipment and your quick co-ordination will be required. Please ensure that you minimize the risk of delays/problems by providing all information in a timely fashion as well as being available and checking communication with us. Any delays may cause the goods to incur charges and not be shipped on the planned vessel/and or dates. Any charges for this will be for your account.(Need to add for MAFI... and other categories what are the requirements in terms of documents and other prerequisites)

**14. Quotations Not Binding.** Quotations as to fees, rates of duty, freight charges, insurance premiums or other charges given by the Company to the Customer are for informational purposes only and are subject to change without notice; no quotation shall be binding upon the Company unless the Company in writing agrees to undertake the handling or transportation of the shipment at a specific rate or amount set forth in the quotation and payment arrangements are agreed to between the Company and the Customer.

**15. Transit Times.** All transit times provided are estimates only and are not guaranteed. Estimates are based on underlying carrier schedules when available and assume timely customs clearance. Transit times are subject to change without notice.

**16. Tariffs.** In the event of a conflict in the terms of this Agreement and an applicable Tariff ("Tariff") then in effect with a selected carrier, in every instance the Tariff shall take precedence and control in the interpretation of the rights and obligations of the Parties. If no conflict exists with respect to the Carrier's Tariff, this Agreement shall control. Customer is responsible for requesting and reviewing Tariffs in effect with a designated Carrier. Company is not obligated to provide copies of Tariffs, or any information contained therein, to Customer.

**17. Cancellation.** Any cancellation will be viewed as breach of contract. As such, we will seek to recover any costs we may incur as a result of your cancellation. Unfortunately, Company cannot be held liable for delays or costs that may arise due to factors out of our control e.g. vessel changes, weather, customs clearance delays, Customs/police inspections, Vessel delays, congestion, strikes, third party delays etc. All collection/delivery dates are estimates and are by no way legally binding. Any course of events the company cannot avoid by course of reasonable diligence. All cancellation must be made by 12pm, one working day before loading date. Any jobs cancelled after this deadline will be subject to cancellation charges. Different cancellation deadline may apply for different shipping methods so best to give as much notice as possible to avoid any cancellation charges. For Loading/deliveries taking place on a Monday, cancellations must be put to us in writing by 11:59 am Friday, or charges will apply.

**18. Bills of Lading.** All Bills of Lading are NON-NEGOTIABLE and have been prepared by the enrolled Customer or by Company as Customer's agent on behalf of the Customer and shall be deemed, conclusively, to have been prepared by the Customer and to bind Customer. Any unauthorized alteration or use of Bills of Lading or tendering of shipments to any carrier other than that designated by the Company, or the use of any Bill of Lading not authorized or issued by the Company shall VOID the Company's obligations to make any payments relating to this shipment and VOID all rate quotes. The Customer is required to provide the BOL to the Carrier designated by Company. Any failure to provide the proper BOL to the designated Carrier shall render the entire transaction void. Company shall have no obligation to make any payments or honor any rate quotes in any of the following instances: (i) the unauthorized alteration or use of bill of lading, or (ii) tendering of shipments to any carrier other than that designated by Company, or (iii) the use of any bill of lading not authorized or issued by Company. The Customer shall cause to be completed all the appropriate documents required for carriage, in light of

the services being sought, and the pick up or destination requested. In the event the Customer fails to timely and properly complete the appropriate documents, the Customer hereby instructs Company, where permitted by law, and Company may at its option, but without obligation, complete, correct or replace the documents for them at the expense of the Customer. If a substitute form of BOL is needed to complete delivery of this shipment for any reason and Company completes that document, the terms of the completed BOL will govern and Company will be exonerated from all liability for undertaking such actions on behalf of the Customer including specifically liability for, in whole or in part, negligence by Company.

**19. Payment Terms.** All charges must be paid by Customer in advance in US Dollars unless the Company agrees in writing to extend credit to customer; the granting of credit to a Customer in connection with a particular transaction shall not be considered a waiver of this provision by the Company. Payment by Cash, Credit Card, or Wire Transfer requires detailed Bank account information and can be obtained by calling or emailing us at your convenience. Contact us for more details. The company intends to perform a credit check based on the information provided at the time of enrollment by the Customer. The amount of credit, if any, granted to the Customer is at the sole discretion of the company. When paying by credit card or electronic funds, the Customer agrees they will be responsible for all charges payable, including any adjustments, on account of such Customer's shipment. These charges and adjustments, if any, will be automatically debited to the Customer's credit card or bank account.

**20. Credit Approval.** Payment terms and credit limits are subject to credit approval, which shall be determined from time to time, in the sole and absolute discretion of Company. The Customer grants Company the right to perform such credit and background searches as Company deems necessary. When paying by credit card or electronic funds, the Customer agrees it will be responsible for all charges due and owing, including any adjustments, on account of such Customer's shipment. The Customer authorizes Company to charge the Customer's credit card or bank account for any charges.

Please note that credit card payments are subject to a processing fee. Details for this service fee are as follows:

- For transactions under \$1,000: 4%
- For transactions exceeding \$1,000: 3%

**Additional Information**

- We must receive the credit verification from the bank before any orders are processed and delivered.
- If payment does not reach us in time or the credit does not get approved, Company cannot be held responsible for any extra storage or incidental charges.
- Exceptions in delayed payment can be made after authorization from your sales representative.
- Any bounced checks or returned payments are subject to a fee of \$25.
- If you have an established credit with Company, your invoices should be cleared on or before the due date specified.
- In case of late payments, an interest at the rate of 18% will be applicable.

All further charges are payable in US Dollars and are due and payable fourteen (14) days from the date of billing, and any payment which is past due shall be subject to an additional charge at the rate of 1-1/2% per month of the average outstanding balance due, or the highest rate of interest permitted by applicable law, whichever is less. All funds received by the Company will be applied to the oldest (based on pick-up date) invoiced Bill of Lading that is outstanding. Overpayments do not accrue interest and are subject to the Law of the state of Florida.

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

**22. Costs of Collection.** In the event this agreement is placed by Company in the hands of an attorney or collection agency to collect unpaid charges or in any dispute involving monies owed to Company or for the enforcement of these TERMS AND CONDITIONS, Customer agrees to pay, in addition to the account balance a late payment penalty of 33% and all collection costs including reasonable attorney's fees including such fees and costs incurred in the successful defense of any cross claim or counterclaim brought against Company.

**23. General Lien and Right To Sell Customer's Property.**

(a) Company shall have a general and continuing lien on any and all property of Customer coming into Company's actual or constructive possession or control for monies owed to Company with regard to the shipment on which the lien is claimed, a prior shipment(s) and/or both;

(b) Company shall provide written notice to Customer of its intent to exercise such lien, the exact amount of monies due and owing, as well as any on-going storage or other charges; Customer shall notify all parties having an interest in its shipment(s) of Company's rights and/or the exercise of such lien. Company's general lien shall survive discharge or delivery of the goods.

(c) Unless, within thirty days of receiving notice of lien, Customer posts cash or letter of credit at sight, or, if the amount due is in dispute, an acceptable bond equal to 118% of the value of the total amount due, in favor of Company, guaranteeing payment of the monies owed, plus all storage charges accrued or to be accrued, Company shall have the right to sell such shipment(s) at public or private sale or auction and any net proceeds remaining thereafter shall be refunded to Customer.

**24. Guaranteed Services.**

(THIS IS OPTIONAL IF Company will provide Guaranteed services for additional charge)

Company will provide LTL Guaranteed Services for additional charge, if requested by the Customer. LTL delivery times generally do not begin to run until the day after the pickup of the shipment, except as otherwise noted by the carrier selected. Guaranteed Service transit times do not include holiday and/or "no service" days as defined by the individual carrier. The Customer is liable for all charges related to the shipment. In the event of a carrier's failure to comply with the guaranteed service requested, the Customer shall have fourteen (14) days from the actual delivery date of shipment to deliver a written claim request to Company. If Company does not timely receive a claim request within said fourteen (14) days, the service provided by the LTL carrier will be deemed to have met all guaranteed service standards and the claim request will automatically be considered invalid and denied. In the event of the carrier's failure to comply with the guaranteed service requested and after the carrier has agreed to liability and has paid the amount awarded to Customer to Company, Company will credit the account of the said Customer with such amount awarded and paid by the carrier. In no event shall Company be liable nor will any account be credited if the Customer does not use Company's BOL.

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



**26. Insurance.** Goods are shipped at consignee's own risk and Company do not take responsibility for any loss or damage. We therefore advise that you buy appropriate marine cover. As mentioned previously we are able to point you in the right direction. Cargo inside vehicle is uninsured and therefore shipped at your own risk. We can however assist you in finding suitable cover for your goods but this must be made to us in writing/by email and accepted to us in writing/by email. While sourcing insurance for the customer, the company will act as agent only and shall not be liable for any claims. These will need to be made directly with the insurance company/underwriters. Unless requested to do so in writing and confirmed to Customer in writing, Company is under no obligation to procure insurance on Customer's behalf; in all cases, Customer shall pay all premiums and costs in connection with procuring requested insurance. The Customer will look solely to insurance provided by the carrier for damage to goods in transit. Each carrier's governing Tariff will determine the standard liability cargo insurance coverage offered on any shipment, subject to any exception value. If the shipment contains freight with a predetermined exception value, as determined by the selected carrier, the maximum exception liability will override the liability coverage otherwise provided by the Tariff. The Customer acknowledges a claim for damages does not relieve it for payment under the terms of this Agreement. Timely payment is a condition precedent to the processing of a damage or insurance claim. All freight cargo claims should be submitted immediately to Company to help ensure timely resolution. Company will attempt to assist in the resolution of freight claims, but has no responsibility or liability therefore. Where a damage claim is submitted with carrier on behalf of Customer, Company has a lien on any amounts recovered to the extent of open past due invoices on the Customer's account. Company may have optional Shippers Interest Contingent Cargo Liability Insurance ("Third Party Insurance") available for purchase by the Customer. Company has no responsibility or liability with respect to the issuance or denial of Third Party Insurance, or in the payment or denial of claims.

**27. Attorneys' Fees.** Should any proceeding (including arbitration) or litigation be commenced between the Parties hereto concerning the terms of this Agreement, or the rights and duties of the Parties hereto, the prevailing party in such proceeding or litigation shall be entitled, in addition to such other relief as may be granted, to a reasonable sum as and for the prevailing party's attorneys' fees.

**28. Binding Nature of Agreement; Assignment.** This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, personal representatives, successors and assigns, except that no party may assign, delegate or transfer any of its obligations under this Agreement without the prior written consent of the other parties hereto, which consent shall not be unreasonably withheld.

**29. Headings.** The headings used in this Agreement are used for administrative purposes only and do not constitute substantive matter to be considered in construing the terms of this Agreement.

**30. Execution.** This Agreement shall become binding upon written acceptance by Company of Customer's acknowledgement of its intent to be bound thereby, as evidenced by its designation of acceptance on Company' web page or by its execution of the BOL, or by acknowledgement by the Customer.

**31. No Other Parties to Benefit.** This Agreement is made for the sole benefit of the Parties hereto and their successors and permitted assigns. Except as expressly provided herein, no other person or entity is intended to or shall have any rights or benefits hereunder, whether as third-party beneficiaries or otherwise.

**32. Remedies.** In the event of a breach of this Agreement or any term hereof by any party, the other Party, shall have all rights and remedies available at law, in equity, or under the terms of this Agreement, except as otherwise limited herein.

**33. Construction.** This Agreement is intended to express the mutual intent of the Parties hereto, and irrespective of the identity of the Party or counsel who prepared this document, no rule of strict construction shall be applied against any Party.

**34. Modification and Waiver.** No provision of this Agreement shall be amended, waived or modified except by an instrument in writing signed by the Parties hereto.

**35. Materiality.** All covenants, agreements, representations and warranties made herein shall be deemed to be material and to have been relied on by the Parties in entering into this Agreement and shall survive the acceptance of this Agreement.

**36. Indulgence Not Waiver.** Neither the failure nor any delay on the part of any Party to exercise any right, remedy, power or privilege under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any right, remedy, power or privilege preclude any other or further exercise of the same or of any other right, remedy, power or privilege, nor shall any waiver of any right, remedy, power or privilege with respect to any occurrence be construed as a waiver of such right, remedy, power or privilege with respect to any other occurrence.

**37. Additional Instruments and Acts.** The Parties to this Agreement shall execute (with acknowledgment or in affidavit form, if required) any further or additional instruments, and shall perform any acts, which are or may become reasonably necessary to effectuate and carry out the purposes of this Agreement, without the necessity of incurring any additional expense.

**38. Interpretation.** In this Agreement the singular includes the plural, and the plural the singular; words importing any gender include the other genders; references to "writing" include printing, typing, lithography and other means of reproducing words in a tangible visible form; the words "including," "includes" and "include" shall be deemed to be followed by the words "without limitation."

**39. Authority.** By execution of this Agreement, the signatories hereto represent and warrant their authority to act in the capacity stated. By execution of this Agreement each Party represents and warrants its right, power and authority to enter into and to perform its obligation under this Agreement.

**40. Right to Reject Requests for Shipping Services.** Company reserves the right to reject any request for shipping in its sole discretion. Without limitation, any shipment containing any item that is considered a restricted article or hazardous material by the Department of Transportation (DOT), to U.S. Federal Maritime Commission (FMC) Regulations replace this with Ocean freight association FMC check bill of lading, will not be shipped by Company. Shipments containing items that cannot be transported legally or safely, include, but are not limited to: Animals, plants, chemicals, perishables, currency, precious metals, explosives, precious stones, liquor, negotiable items in bearer Form. For further information concerning items that cannot be shipped by Company, please contact us. Restricted Goods requiring pre-authorization before acceptance but is not limited to: Scrap cargo, Tires, Any hazardous goods (these includes cars in containers which need to have batteries disconnected and fuel completely drained), any used electrical goods must be tested and in certified as being in working condition (New goods must have invoice/receipt), car Parts: Please note that car parts are only accepted on the basis that they are

clean and have been drained of any oil. Please note that should there be leakage found before/after/during shipping, it is then likely that the floor of the container will to be replaced at very considerable cost to yourself, as all charges will be for your account. We also advise that you check at destination regarding any specific cargo requirements or restrictions e.g. pre-shipment inspections, ECTN requirement, PAT testing etc.

**41. Printed Signature.** You acknowledge that if you process shipments to locations outside the country where your shipment originates, you must enter, to print in lieu of a manual signature on the BOL, the name of the person completing the BOL for all such shipments tendered using Company. You further acknowledge that such printed name shall be sufficient to constitute signature of the BOL on your behalf for purpose of the Warsaw Convention and for all other purposes, and your acceptance of the Carrier's terms and conditions of carriage contained in the applicable Carrier's Service Guide, Standard Conditions, Tariff BOL or transportation agreement under which the shipment is accepted by the Carrier, Company, or its independent contractor

**42. Refused Delivery.** Refusal of the consignee or Customer to take delivery of the Goods notwithstanding their having received notice of the Goods' availability shall constitute an irrevocable waiver of all claims arising out of or in any way relating to the Goods or the Carriage. Customer shall be liable for any losses, damages, expenses, and liabilities it incurs arising out of such a refusal, including the return of the Goods to their place of receipt.

**43. No Duty To Maintain Records For Customer.** Customer acknowledges that the Company shall only keep such records that it is required to maintain by Statute(s) and/or Regulation(s), but not act as a "record keeper" or "record keeping agent" for Customer.

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

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

**46. Compensation of Company.** The compensation of the Company for its services shall be included with and is in addition to the rates and charges of all carriers and other agencies selected by the Company to transport and deal with the goods and such compensation shall be exclusive of any Company age, commissions, dividends, or other revenue received by the Company from carriers, insurers and others in connection with the shipment.

**47. Force Majeure.** Company shall not be liable for losses, damages, delays, wrongful or missed deliveries or nonperformance, in whole or in part, of its responsibilities under the Agreement, resulting from circumstances beyond the control of either Company or its sub-contractors, including but not limited to: (i) acts of God, including flood, earthquake, storm, hurricane, power failure or other natural disaster; (ii) war, sabotage, fire, explosions hijacking, robbery, theft or terrorist activities; (iii) incidents or deteriorations to means of transportation, (iv) embargoes, changes in laws, regulations, or ordinances (v) civil commotions or rebellions or riots, (vi) defects, nature or inherent vice of the goods; (vii) acts,

breaches of contract or omissions by Customer, Shipper, Consignee or anyone else who may have an interest in the shipment, (viii) acts by any government or any agency or subdivision thereof, including denial or cancellation of any import/export or other necessary license; or (ix) strikes, lockouts or other labor conflicts.

**48. Severability, Integration.** In the event any Paragraph(s) and/or portion(s) hereof is found to be invalid, inapplicable and/or unenforceable, then in such event the remainder hereof shall remain in Full force and effect. This Agreement and the documents incorporated into this Agreement by reference, constitutes and embodies the full and complete understanding and agreement of the Parties hereto and supersedes all prior understandings, whether oral or written. No representation, promise, inducement or statement of intention has been made by any Party hereto which is not contemplated by or embodied in this Agreement, and no Party hereto shall be bound by or liable for any alleged misrepresentation, promise, inducement or statement of intention not so set forth. Company's decision to waive any provision herein, either by conduct or otherwise, shall not be deemed to be a further or continuing waiver of such provision or to otherwise waive or invalidate any other provision herein.

**49. Disclaimer of Warranties.** Company MAKES NO REPRESENTATIONS ABOUT THE RESULTS TO BE OBTAINED FROM USING THE WEB SITE, THE Company SYSTEMS, THE SERVICES, THE INFORMATION OR THE CONTENT. THE WEBSITE, THE Company SYSTEMS, THE INFORMATION, THE SERVICES AND THE CONTENT ARE PROVIDED ON AN "AS IS" BASIS. Company, ITS LICENSORS, AND ITS SUPPLIERS, TO THE FULLEST EXTENT PERMITTED BY LAW, DISCLAIM ALL WARRANTIES, EITHER EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT OF THIRD PARTIES' RIGHTS, AND FITNESS FOR A PARTICULAR PURPOSE, WITH REGARD TO SHIPMENTS, WAREHOUSED GOODS, ITEMS IN TRANSIT, INFORMATION PROVIDED ON THIS WEBSITE OR SERVICES RELATED TO TRANSACTIONS CONDUCTED ON THIS WEBSITE. Company AND ITS AFFILIATES, LICENSORS AND SUPPLIERS MAKE NO REPRESENTATIONS OR WARRANTIES ABOUT THE ACCURACY, COMPLETENESS, SECURITY OR TIMELINESS OF THE CONTENT, INFORMATION OR SERVICES PROVIDED ON OR THROUGH THE USE OF THE WEBSITE OR THE Company SYSTEMS. NO INFORMATION OBTAINED BY YOU FROM THE WEB SITE SHALL CREATE ANY WARRANTY NOT EXPRESSLY STATED BY Company IN THESE TERMS OF USE. IN ANY EVENT, THE COMPANY SHALL NOT BE LIABLE FOR ANY SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING BUT NOT LIMITED TO LOSS OF PROFITS OR INCOME, WHETHER OR NOT THE COMPANY HAD KNOWLEDGE THAT SUCH DAMAGES MIGHT BE INCURRED. THE USE OF SAME IS AT YOUR OWN RISK. SOME JURISDICTIONS DO NOT ALLOW LIMITATIONS ON IMPLIED WARRANTY, SO THE LIMITATIONS AND EXCLUSIONS IN THIS SECTION MAY NOT APPLY TO YOU. IF YOU ARE DEALING AS A CONSUMER, YOUR STATUTORY RIGHTS THAT CANNOT BE WAIVED, IF ANY, ARE NOT AFFECTED BY THESE PROVISIONS. YOU AGREE AND ACKNOWLEDGE THAT THE LIMITATIONS AND EXCLUSIONS OF LIABILITY AND WARRANTY PROVIDED IN THESE TERMS OF USE ARE FAIR AND REASONABLE.

**50. Governing Law; Forum; Venue and Jurisdiction.** To the fullest extent permitted by law, these Terms of Use are governed by the laws of the state of Florida. To the fullest extent permitted by law, you hereby expressly agree that any proceeding arising out of or relating to your use of the web site, the Company systems, information, services and content shall be instituted in a state or federal court located in the county of Erie and the state of Florida and you expressly waive any objection that you may have now or hereafter to the laying of the venue or to the jurisdiction of any such proceeding. You agree that any claim or cause of action arising out of or related to your use of the web site, the Company systems, information, services and/or content must be filed within one (1) year after such claim or cause of action arose.

## END OF ICON LOGISTICS SERVICES General Terms & Conditions of Service

### C- ICON LOGISTICS SERVICES U.S. Domestic Truck Broker Terms and Conditions

**1. Company as Independent Contractor.** The Company is authorized to act on behalf of the Customer in order to select Third Parties as set forth in paragraph 3. Third Parties may limit their liability and may operate under terms and conditions further defining the rights, obligations, and defenses of those Third Parties. The Company is authorized to agree to those terms on behalf of the Customer. As to all other services, the Company acts as an Independent Contractor.

**2. Limitation of Actions.** (ref. General Terms and Conditions of Service)

**3. No Liability for the Selection or Services of Third Parties and/or Route.** It is expressly understood that, in the performance of its duties, Company shall retain, select and/or subcontract the transportation and related services required by Customer to motor carriers that are duly authorized to transport such shipments pursuant to all applicable regulatory authority. It is understood and agreed that the selected motor carriers are independent contractors with the exclusive control over their respective drivers and employees, and are not agents, employees or authorized representatives of Company, its agents or affiliated entities. Unless services are performed by persons or firms engaged pursuant to express written instructions from the Customer, Company shall use reasonable care in its selection of third parties, or in selecting the means, route and procedure to be followed in the handling, transportation, and delivery of the shipment; advice by the Company that a particular person or firm has been selected to render services with respect to the goods shall not be construed to mean that the Company warrants or represents that such person or firm will render such services nor does Company assume responsibility or liability for any actions(s) and/or inaction(s) of such third parties and/or its agents, and Company shall not be liable for any delay or loss of any kind, which occurs while a shipment is in the custody or control of a Third Party or the agent of a Third Party; all claims in connection with the act of a Third Party shall be brought solely against such party and/or its agents; in connection with any such claim, the Company shall reasonably cooperate with the Customer, which shall be liable for any charges or costs incurred by the Company.

**4. Declaring Higher Value to Third Parties.** Third Parties to whom the goods are entrusted may limit liability for loss or damage. Company will request excess valuation coverage only upon specific written instructions from the Customer, for which Customer must agree to pay. Customer expressly acknowledges that there is a distinction between excess valuation coverage, which increases the legal liability amount of the subject service provider beyond a released value rate, and a request for insurance (insurance is covered in paragraph 5 below). In the absence of written instructions from the Customer, and/or in instances in which the Third Party does not agree to a higher declared value, at the Company's discretion the goods may be tendered to the Third Party subject to the terms of the Third Party's limitations of liability and/or terms and conditions of service.

**5. Insurance.** Unless specifically requested not to do so in writing and confirmed to Customer in writing, Company will procure insurance on Customer's behalf; in all cases, Customer shall pay all premiums and costs in connection with procuring insurance. Unless otherwise agreed in writing, the third-party motor carriers selected by Company to perform the transportation and related services shall maintain insurance covering loss or damage to cargo in the amount of \$100,000. In no event, however, shall Company be responsible for any motor carrier's failure to maintain such insurance or for the accuracy of any documentation furnished by such motor carrier to Company or Customer evidencing said insurance

coverage.

**6. Disclaimers; Limitation of Liability.** Except as specifically set forth herein, Company makes no express or implied warranties in connection with its services and any and all warranties, whether statutory, express or implied are hereby deemed waived and specifically disclaimed; subject to the terms below, Customer agrees that in connection with any and all services performed by the Company, the Company shall only be liable for its negligent acts, which are the direct and proximate cause of any injury to Customer, including loss or damage to Customer's goods, and the Company shall in no event be liable for the acts of Third Parties. In any event, Company's liability for any loss or damage shall be limited to \$50.00 per shipment or transaction. In no event shall Company be liable or responsible for consequential, indirect, incidental, statutory or punitive damages even if it has been put on notice of the possibility of such damages, including any and all loss or damages arising from delay of services. The Company shall have no liability if it is prevented from or delayed in performing its obligations or from carrying on its business by acts, events, omissions or accidents beyond its control, including strikes, lock-outs or other industrial disputes (whether involving the workforce of the Company or any other party), failure of a utility service or transport network including reduction in bandwidth, act of God, war, riot, civil commotion, malicious damage, compliance with any law or government order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or sub-contractors or any other force majeure event. In any event, however, the Company's liability (if any) is limited in accordance with this paragraph 6. The Customer agrees that the Company shall in no event be liable for any loss, damage or expense incurred by the Customer, whether or not arising out of delay or physical damage to the goods, or other damage to goods or property belonging to Third Parties, or any other damages including but not limited to documentary error(s), mis-delivery, loss of property, tender to unauthorized parties, or any other act or omission or other cause resulting from the negligence or other fault of the Company for any amount in excess the limitations of liability set forth in this paragraph 6.

**7. Opting out of the Carmack Amendment (49 U.S.C. § 14706).** Where the Carmack Amendment might otherwise be applicable, Customer; or any other intended beneficiary of the services provided by the Company, hereby specifically and expressly agree to opt out of the application of the Carmack Amendment. Customs specifically and expressly agree to waive any and all rights and remedies under the Carmack Amendment which would otherwise be subject to the Carmack Amendment. Specifically the Customer hereby agree that the provisions of the Carmack Amendment which pertain to notice of claim requirements, time for suit provisions, and limitations of liability provisions are without application. All services relating to the transportation of goods, or other services provided hereunder will be subject to the liability limiting provisions of Paragraph 6 herein, as well as the other terms and conditions contained herein.

**8. Packing and Marking.** All shipments tendered by Customer must be prepared and packaged to ensure safe ground transportation. By tendering a shipment to the motor carrier, Customer certifies that the shipment is sufficiently packaged to withstand the normal rigors of truck transportation. Each package must be legibly marked, prior to the shipment being tendered for transportation. Any article susceptible to damage by ordinary handling must be adequately protected and packaged and marked in such a way as to alert Company or the carriers of the possibility of damage from ordinary handling and must bear appropriate labels. Customer shall notify company of any danger inherent in the shipment, including, but not limited to, whether the shipment is flammable, explosive, corrosive or hazardous in any manner. Customer agrees to indemnify and hold Company harmless for any loss, injury, death or damage, including all expenses and attorney's fees, occurring as a result of such condition of the shipment, regardless of whether Customer had notified Company prior to the shipment.

**9. Charges and Costs of Collection.** The Customer agrees to pay Company for all services rendered by Third Parties at the rates communicated by Company from time to time, including, but not limited to,

accessorial charges for services performed by Third Parties per Company's Standard Trucking Accessorial Rate Sheet, available upon request. In any dispute involving monies owed to Company, the Company shall be entitled to all costs of collection, including reasonable attorney's fees and interest at 15% per annum or the highest rate allowed by law, whichever is less unless a lower amount is agreed to by Company.

**10. Overcharge, Duplicate Payment and Over-Collection Claims.** any overcharge, duplicate payment or over-collection claim made by Customer must be filed, in writing, with Company within one hundred eighty (180) days from the date of Company's invoice.

**11. No Modification or Amendment Unless Written.** These Terms and Conditions of Service may only be modified, altered or amended in writing signed by both Customer and Company; any attempt to unilaterally modify, alter or amend same shall be null and void.

**12. Severability.** (ref. General Terms and Conditions of Service)

**13. Governing Law.** (ref. General Terms and Conditions of Service)

## **END OF ICON LOGISTICS SERVICESU.S. Domestic Truck Broker Terms and Conditions**

### **D- ICON LOGISTICS SERVICESWarehouse Receipt Terms and Conditions**

**1. Definitions.** "Warehouse" means ICON LOGISTICS SERVICESits subsidiaries, related companies, agents, or representatives (collectively, "Warehouse"). "Depositor" means the shipper, consignee, owner of the Goods or its agents, including, without limitation, motor carriers, drayage companies, forwarders, brokers, and/or any entity that places or maintains a chassis/trailer pool at any of the Warehouse's facilities. "Equipment" means any chassis, container, trailer, or tractor. "Goods" means the merchandise, cargo, or freight that the Depositor tenders for storage, set forth on the front page of this Warehouse receipt. "Yard Storage" means the placement of containers or trailers, with or without tractors, empty or loaded, secured or unsecured, in the yard of the Warehouse for the benefit of the Depositor and/or the Depositor's Goods. "Contract" means this Warehouse Receipt Terms and Conditions of Contract.

**2. Acceptance.** (a) This Contract, including accessorial charges that may be attached hereto, must be accepted within 30 days from the proposal date by signature of Depositor. In the absence of written acceptance, the act of tendering Goods described herein for storage or other services by Warehouse within 30 days from the proposal date shall constitute acceptance by Depositor. Depositor has had the opportunity to review and inspect the warehouse facility ("Facility"). (b) In the event that Goods tendered for storage or other services do not conform to the description contained herein, or conforming Goods are tendered after 30 days from the proposal date without prior written acceptance by Depositor as provided in paragraph (a) of this section, Warehouse may refuse to accept such Goods. If Warehouse accepts such Goods, Depositor agrees to rates and charges as may be assigned and invoiced by Warehouse and to all terms of this Contract. (c) Any Goods accepted by Warehouse shall constitute Goods under this Contract. (d) This Contract may be canceled by either party upon 30 days written notice and is canceled if no storage or other services are performed under this Contract for a period of 180 days.

**3. Shipping.** The Depositor shall not designate the Warehouse to be the consignee for any Goods under any bill of lading, waybill, air waybill, or any other transportation contract, receipt, or delivery document. If, in violation of the terms of this Warehouse receipt, Goods arrive at the Warehouse and it is the named

consignee, the Depositor agrees to notify the carrier in writing prior to such shipment, with copy of such notice to the Warehouse, that the Warehouse is in fact a Warehouse that has no beneficial title or interest in such Goods and the Depositor further agrees to indemnify and hold harmless the Warehouse from any and all claims for unpaid transportation charges, including, without limitation, undercharges, demurrage, detention, or charges of any nature, that arise out of or are in any way connected to the Goods. The Depositor further agrees that if it fails to notify the carrier as the preceding sentence requires, the Warehouse shall have the right to refuse such Goods and it shall not be liable or responsible for any loss, injury, or damage that arises out of or is in any way connected to such Goods.

**4. Tender for Storage.** All Goods shall be delivered at the Facility properly marked and packaged for storage and handling. The Depositor shall 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.

**5. Storage Period and Charges.** (a) Unless otherwise agreed in writing, all charges for storage are per package or other agreed unit per month. (b) The storage month begins on the date that Warehouse accepts care, custody and control of the Goods, regardless of unloading date or date of issue of warehouse receipt. (c) Except as provided in paragraph (d) of this section, a full month's storage charge will apply on all Goods received between the first and the 15th, inclusive, of a calendar month; one-half month's storage charge will apply on all Goods received between the 16th and the last day, inclusive, of a calendar month, and a full month's storage charge will apply to all Goods in storage on the first day of the next and succeeding calendar months. All storage charges are due and payable on the first day of storage for the initial month and thereafter on the first day of the calendar month. (d) When mutually agreed in writing by the Warehouse and the Depositor, a storage month shall extend from a date in one calendar month to, but not including, the same date of the next and all succeeding months. All storage charges are due and payable on the first day of the storage month.

**6. Transfer, Termination of Storage, Removal of Goods.** (a) Instructions to transfer Goods on the books of the Warehouse are not effective until delivered to and accepted by Warehouse, and all charges up to the time transfer is made are chargeable to the Depositor. If a transfer involves rehandling the Goods, such will be subject to a charge. When Goods in storage are transferred from one party to another through issuance of a new warehouse receipt, a new storage date is established on the date of transfer. (b) The Warehouse reserves the right to move, at its expense, 14 days after notice is sent by certified mail or overnight delivery to the Depositor, any Goods in storage from the Facility in which they may be stored to any other of Warehouse's Facilities. Warehouse will store the Goods at, and may without notice move the Goods within and between, any one or more of the warehouse buildings which comprise the Facility identified on the front of this Contract. (c) The Warehouse may, upon written notice of not less than 30 days to the Depositor and any other person known by the Warehouse to claim an interest in the Goods, require the removal of any Goods. Such notice shall be given to the last known place of business of the person to be notified. If Goods are not removed before the end of the notice period, the Warehouse may sell them in accordance with applicable law. (d) If Warehouse in good faith believes that the Goods are about to deteriorate or decline in value to less than the amount of Warehouse's lien before the end of the 30-day notice period referred to in Section 5(c), the Warehouse 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. (e) If as a result of a quality or condition of the Goods of which the Warehouse had no notice at the time of deposit the Goods are a hazard to other property or to the Facility or to persons, the Warehouse 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 the Warehouse after a reasonable effort is unable to sell the Goods it may dispose of them in any lawful manner and shall incur no liability by reason of such disposition. Pending such disposition, sale or return of the Goods, the Warehouse may remove the Goods from the Facility and shall incur no liability by reason of such removal.

**7. Handling.** (a) The handling charge covers the ordinary labor involved in receiving Goods at warehouse door, placing Goods in storage, and returning Goods to warehouse door. Handling charges are due and payable on receipt of Goods. (b) Unless otherwise agreed in writing, labor for unloading and loading Goods will be subject to a charge. Additional expenses incurred by the Warehouse in receiving and handling damaged Goods, and additional expense in unloading from or loading into cars or other vehicles not at warehouse door will be charged to the Depositor. (c) Labor and materials used in loading rail cars or other vehicles are chargeable to the Depositor. (d) When Goods are ordered out in quantities less than in which received, the Warehouse may make an additional charge for each order or each item of an order. (e) The Warehouse shall not be liable for any demurrage or detention, any delays in unloading inbound cars, trailers or other containers, or any delays in obtaining and loading cars, trailers or other containers for outbound shipment unless Warehouse has failed to exercise reasonable care.

**8. Delivery Requirements.** (a) No Goods shall be delivered or transferred except upon receipt by the Warehouse of Depositor's complete written instructions. Written instructions shall include, but are not limited to, FAX, EDI, E-Mail or similar communication, provided Warehouse 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 Depositor's prior written authorization, but the Warehouse shall not be responsible for loss or error occasioned thereby. (b) When Goods are ordered out a reasonable time shall be given the Warehouse to carry out instructions, and if it is unable because of acts of God, war, public enemies, seizure under legal process, strikes, lockouts, riots or civil commotions, or any reason beyond the Warehouse's control, or because of loss of or damage to Goods for which Warehouse is not liable, or because of any other excuse provided by law, the Warehouse shall not be liable for failure to carry out such instructions and Goods remaining in storage will continue to be subject to regular storage charges.

**9. Fulfillment Services.** (a) Fulfillment Services shall be defined as receiving, processing, and delivering orders to Depositor's end customers on behalf of Depositor and in consideration for additional payment. (b) Prior to any Fulfillment Services being undertaken by Warehouse, Warehouse and Depositor shall execute a Fulfillment Agreement, as shown in Appendix X. (c) Warehouse shall incur no liability for lost or damaged goods beyond what is provided for in sections 12, 14, 15, and 16 of these terms as a result of providing fulfillment services. Warehouse's liability for lost or damaged goods shall terminate as soon as the goods are recorded as being in the possession of a third party parcel service as instructed by Depositor. (d) Warehouse shall invoice Depositor separately for Fulfillment Services and Warehouse Services.

**10. Extra Services.** (a) Warehouse labor required for services other than ordinary handling and storage will be charged to the Depositor. (b) Special services requested by Depositor including but not limited to 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. (c) Dunnage, bracing, packing materials or other special supplies, may be provided for the Depositor at a charge in addition to the Warehouse's cost. (d) By prior arrangement, Goods may be received or delivered during other than usual business hours, subject to a charge. (e) Communication expense including postage, overnight delivery, or telephone may be charged to the Depositor if such concern more than normal

inventory reporting or if, at the request of the Depositor, communications are made by other than regular United States Mail.

**11. Bonded Storage.** (a) A charge in addition to regular rates will be made for merchandise in bond. (b) Where a warehouse receipt covers Goods in U.S. Customs and Border Protection bond, Warehouse shall have no liability for Goods seized or removed by U.S. Customs and Border Protection.

**12. Minimum Charges.** (a) A minimum handling charge per lot and a minimum storage charge per lot per month will be made. When a warehouse receipt covers more than one lot or when a lot is in assortment, a minimum charge per mark, brand, or variety will be made. (b) A minimum monthly charge to one account for storage and/or handling will be made. This charge will apply also to each account when one customer has several accounts, each requiring separate records and billing.

**13. Liability and Limitation of Damages.** (a) Warehouse shall 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 Warehouse to exercise such care in regard to them as a reasonably careful person would exercise under like circumstances and Warehouse is not liable for damages which could not have been avoided by the exercise of such care. (b) Goods are not insured by Warehouse against loss or damage however caused. (c) The Depositor declares that damages are limited to \$0.50 per pound, provided, however, that such liability may at the time of acceptance of this contract as provided in Section 1 be increased upon Depositor's written request on part or all of the Goods hereunder in which event an additional monthly charge will be made based upon such increased valuation. (d) Where loss or damage occurs to tendered, stored or handled Goods, for which Warehouse is not liable, the Depositor shall be responsible for the cost of removing and disposing of such Goods and the cost of any environmental cleanup and site remediation resulting from the loss or damage to the Goods.

**14. Notice of Claim and Filing of Suit.** (a) Claims by the Depositor and all other persons must be presented in writing to the Warehouse within a reasonable time, and in no event any later than the earlier of: (i) 60 days after delivery of the Goods by the Warehouse or (ii) 60 days after Depositor is notified by the Warehouse that loss or damage to part or all of the Goods has occurred. (b) No lawsuit or other action may be maintained by the Depositor or others against the Warehouse for loss or damage to the Goods unless timely written claim has been given as provided in paragraph (a) of this section and unless such lawsuit or other action is commenced by no later than the earlier of: (i) nine months after date of delivery by Warehouse or (ii) nine months after Depositor is notified that loss or damage to part or all of the Goods has occurred. (c) When Goods have not been delivered, notice may be given of known loss or damage to the Goods by mailing of a letter via certified mail or overnight delivery to the Depositor. Time limitations for presentation of claim in writing and maintaining of action after notice begin on the date of mailing of such notice by Warehouse.

**15. No Liability for Consequential Damages.** Warehouse shall not be liable for any loss of profit or for any special, indirect, or consequential damages of any kind whatsoever.

**16. Liability for Mis-Shipment.** If Warehouse negligently misships Goods, the Warehouse shall pay the reasonable transportation charges incurred to return the misshipped Goods to the Facility. If the consignee fails to return the Goods, Warehouse's maximum liability shall be for the lost or damaged Goods as specified in Section 12 above, and Warehouse shall have no liability for damages due to the consignee's acceptance or use of the Goods whether such Goods be those of the Depositor or another.

**17. Mysterious Disappearance.** Warehouse shall be liable for loss of Goods due to inventory shortage or unexplained or mysterious disappearance of Goods only if Depositor establishes such loss occurred because of Warehouse's failure to exercise the care required of Warehouse under Section 12 above. Any presumption of conversion imposed by law shall not apply to such loss and a claim by Depositor of conversion must be established by affirmative evidence that the Warehouse converted the Goods to the Warehouse's own use.

**18. Right to Store Goods.** Depositor represents and warrants that Depositor is lawfully possessed of the Goods and has the right and authority to store them with Warehouse. Depositor agrees to indemnify and hold harmless the Warehouse from all loss, cost and expense (including reasonable attorneys' fees) which Warehouse pays or incurs as a result of any dispute or litigation, whether instituted by Warehouse or others, respecting Depositor's right, title or interest in the Goods. Such amounts shall be charges in relation to the Goods and subject to Warehouse's lien.

**19. Accurate Information.** Depositor will provide Warehouse with information concerning the Goods, which is accurate, complete and sufficient to allow Warehouse to comply with all laws and regulations concerning the storage, handling and transporting of the Goods. Depositor will indemnify and hold Warehouse harmless from all loss, cost, penalty and expense (including reasonable attorneys' fees) which Warehouse pays or incurs as a result of Depositor failing to fully discharge this obligation.

**20. Severability and Waiver.** (a) If any provision of this Contract or any application thereof, should be construed or held to be void, invalid or unenforceable, by order, decree or judgment of a court of competent jurisdiction, the remaining provisions of this Contract shall not be affected thereby but shall remain in full force and effect. (b) Warehouse's failure to require strict compliance with any provision of this Contract shall not constitute a waiver or estoppel to later demand strict compliance with that or any other provision(s) of this Contract. (c) The provisions of this Contract shall be binding upon the heirs, executors, successors and assigns of both Depositor and Warehouse; contain the sole agreement governing Goods tendered to the Warehouse; and, cannot be modified except by a writing signed by Warehouse and Depositor.

**21. General and Specific Lien.** The Warehouse claims a general and specific lien for all lawful charges for storage and preservation of the Goods and/or Equipment, and also, for money the Warehouse has advanced, interest, insurance, transportation, labor, weighing, cooperating, and other charges and expenses in relation to such Goods, and for the balance on any other accounts that may be due. Warehouse further claims a general warehouse lien for all such charges, advances and expenses with respect to any other Goods stored by the Depositor in any other facility owned or operated by Warehouse. In order to protect its lien, Warehouse reserves the right to require advance payment of all charges prior to shipment of Goods. The Warehouse reserves the right to exercise its lien rights under the terms of any applicable law and/or agreement between the Depositor and the Warehouse. Depositor agrees that Warehouse's general lien shall survive delivery.

**22. Yard Storage.** The liability of the Warehouse for any Yard Storage of containers or trailers, whether loaded or empty, secured or unsecured, shall be subject to this Contract.

**23. Governing Law.** (ref. General Terms and Conditions of Service)

**END OF ICON LOGISTICS SERVICES Warehouse Receipt Terms and Conditions**