

Ascent Global Logistics

FREIGHT BROKERAGE SERVICES TERMS AND CONDITIONS

By tendering freight to and utilizing the services of the Broker, and in the absence of a separate, written brokerage agreement with Customer, Customer acknowledges and agrees that Customer is deemed to be acting as a shipper and all transactions will be governed by these Terms and Conditions. Any terms and conditions proposed by Customer which are additional to or inconsistent with these Terms and Conditions shall be void, unless specifically agreed to by Broker in writing and signed by Broker's duly authorized representative. In the event of a conflict between these Terms and Conditions and a signed contract, the signed contract shall control.

Customer and Broker enter into these Terms and Conditions in accordance with 49 U.S.C. § 14101(b)(1) and expressly waive any and all rights and remedies that each may have under Title 49 that conflict with these Terms and Conditions.

Definitions

"Broker" means Ascent Global Logistics, LLC, a limited liability company in the business of arranging the transportation of property by Third Parties. Broker holds authority from the Federal Motor Carrier Safety Administration to engage in operations as a transportation broker of general commodities in interstate or foreign commerce. For the avoidance of doubt, Broker is not a motor carrier; Broker arranges for the transportation of freight by Third-Party motor carriers; and Broker intends to engage and contract with one or more Carriers for purposes of satisfying the obligations given to it under these Terms and Conditions.

"Carrier" means a Third Party motor carrier contracted by Broker to transport Customer's Shipments.

"Customer" means the customer, shipper, or consignee, and the Customer's principals, agents and/or representatives, for whom the Broker is rendering service.

"Reefer" means a refrigerated trailer or container for transporting temperature-sensitive or perishable items.

"Third Party" or **"Third Parties"** shall include, but not be limited to, motor carriers, truck men, cart men, lighter men, forwarders, customs brokers, agents, warehousemen and others to which the goods are entrusted for transportation, cartage, handling, delivery, storage or otherwise.

"U.S." means the United State of America.

The terms **"freight"** and **"cargo"** may be used interchangeably herein.

1. **SERVICE.** Broker, in compliance with all federal, state and local laws and regulations, agrees to arrange for transportation of Customer's freight ("**Shipments**") via a Carrier. Broker's responsibility is limited to arranging for, but not actually performing, transportation of Shipments.
2. **NO EXCLUSIVITY.** Customer is not restricted from tendering freight to other brokers, freight forwarders, Third-Party logistics providers, or directly to motor carriers. Broker is not restricted from arranging transportation of freight for other parties.
3. **CUSTOMER RESPONSIBILITIES.**
 - A. **Compliance with Food Safety Laws.** If applicable, Customer must comply, and Broker will contractually require the Carrier to comply, with all applicable laws and regulations governing the

safe and secure transportation of food products that will be ultimately consumed by humans or animals including those required by local, provincial, state and federal laws, regulations, ordinances, and rules including, but not limited to, the Food Safety Modernization Act; the Federal Food, Drug and Cosmetic Act; the Sanitary Food Transportation Act; the U.S. Food and Drug Administration's Final Rule on the Sanitary Transportation of Human and Animal Food; and all applicable U.S. Department of Agriculture and Food Safety and Inspection Service regulations.

B. Customer Written Instructions.

- i. The Customer must provide in writing, complete, accurate and timely shipping instructions and properly identify the kind, quantity, and condition of the Shipments in the bill of lading ("**BOL**") or other shipping instructions. The Customer will not tender any restricted commodities including, but not limited to, hazardous materials and waste, oversize or overweight Shipments, coiled or rolled products, or commodities requiring protection from heat or cold without properly identifying such Shipments and making the necessary prior arrangements for transportation including, but not limited to, securing a quote for a higher transportation charge for the additional service(s) requested.
- ii. At the time of booking but prior to the loading of the Shipments, Customer must further specify, in writing, in the booking request and on the face of the BOL all instructions which must be followed by the Carrier to maintain the safety and integrity of the Shipments including, without limitation: (a) all temperature control requirements and temperature control documentation requirements; (b) the required operating temperature for the transportation and when necessary, the pre-cooling phase and mode of operation; (c) all sanitation requirements and sanitation documentation requirements for the Shipments, including those for the Carrier's vehicle and transportation equipment; and (d) any design specifications and cleaning procedures (all together, the "Written Instructions"). Broker will assist Customer in providing any Written Instructions to the Carrier transporting Customer's Shipments.

C. Cargo Loading and Securement.

- i. Customer is solely responsible for ensuring that Shipments are (i) properly and safely packaged and loaded for the type of transportation requested (i.e., LTL, TL, flatbed, refrigerated van, intermodal, etc.), regardless of if such Shipments are actually loaded by the Customer or the Customer's agent, supplier or subcontractor; and (ii) supported, blocked, braced, and secured prior to transport. Customer must inspect the equipment provided by the Carrier to ensure it meets the requirements specified in the Written Instructions and is in an appropriate sanitary condition for transporting the Shipments.
- ii. For temperature-specific loads, Customer is solely responsible to ensure the Reefer is pre-cooled (if applicable), set to the required temperature, and set to the proper mode of control (either cycle sentry mode or continuous). In the event there is a discrepancy in temperature readings between the Reefer and another temperature measuring device, the temperature reading provided by the Reefer will govern.
- iii. Customer must reject any equipment that is not in appropriate condition to protect and preserve the Shipments during transportation or it shall be deemed appropriate when loaded and not rejected. Customer's failure to fulfill the obligations under this section will

be considered an act or default of the Shipper and a defense to any cargo claim resulting from the condition of the trailer.

- D. Mitigating Damages. None of the provisions in these Terms and Conditions in any way limits Customer's obligation to mitigate damages, including by salvaging all portions of a Shipment for which there is a secondary market.
- E. Warranties. Customer represents and warrants, where applicable, that (i) Customer is the legally documented owner of all Shipments tendered to Broker, and/or is authorized to cause such Shipments to be stored and otherwise controlled by Broker as provided in the applicable transportation document; (ii) Customer will comply with all applicable laws, rules, and regulations including, but not limited to, customs laws, import and export laws, dangerous or hazardous materials laws/rules/regulations, and governmental regulation of any country to, from, through or over which the Shipments may be carried; (iii) Customer will provide complete, accurate and timely information regarding each Shipments; (iv) Customer will furnish such information and complete and attach to the applicable transportation document as such documents as are necessary to legally complete the Shipment; (v) all items to be shipped will be completely and accurately marked to enable identification of the contents without opening any shipping or storage containers; and (vi) Customer will make every effort to accurately measure the dimensions and weights of all items and understands that Broker's rate depends upon the accuracy of this information.

Broker assumes no liability to Customer or to any other person for any loss or expense due to the failure of the Customer to comply with this provision. Customer understands and agrees that, unless otherwise expressly agreed to by Broker in writing, Broker shall not acquire title to or assume risk of loss for any Shipments on behalf of Customer, and shall not, in the course of providing the services in accordance with these Terms and Conditions, acquire title to or assume risk of loss for, or be deemed to have acquired title to or assumed risk of loss for, the Customer's Shipments. Customer indemnifies, defends, and holds Broker harmless against any liability, loss, damage, cost, expense, including attorneys' fees, claim, or penalty whatsoever arising from Broker acting in accordance with Customer's instructions, from any breach by Customer of any warranty contained in this Agreement, or from the negligence, gross negligence, or willful misconduct of Customer or its employees or agents.

4. BROKER'S RESPONSIBILITIES

- A. Except as otherwise set forth in Addendum A, Broker will select Carriers by:
 - i. Verifying the Carrier's operating authority (state or federal, as necessary).
 - ii. Verifying the Carrier's insurance coverage, as evidenced by a certificate of insurance showing coverage of at least:
 - 1. \$1,000,000 per occurrence for Auto Liability;
 - 2. \$100,000 per occurrence for Motor Truck Cargo Liability;
 - 3. Statutory limits for Workers Compensation.
- B. Broker will require by written contract, that each Carrier providing transportation services agrees that it is duly and legally licensed under applicable state, provincial and federal law to provide transportation services, that it does not have an unsatisfactory safety rating issued by the United

States Department of Transportation, or any state or provincial authority with jurisdiction over its operations, and that it will comply with all applicable federal, state, provincial and local laws.

5. **RECEIPTS AND BILLS OF LADING.** If requested by Customer, Broker agrees to provide Customer with proof of acceptance and delivery of Shipments in the form of a signed BOL or proof of delivery via US Mail, courier, or electronically by fax or email. Customer's insertion of Broker's name on the BOL will be for Customer's convenience only and will not change Broker's status as a property broker. The terms and conditions of any freight documentation used by Customer or Carrier will not supplement, alter, or modify these Terms and Conditions. Failure to provide proof of delivery shall not be grounds for non-payment where there is no dispute that a Shipment was successfully delivered.
6. **PAYMENTS.** Broker will invoice Customer for its services in accordance with the rates, charges and provisions as mutually agreed between the parties in writing. Rates negotiated between the parties shall be confirmed in writing by the parties prior to the movement of a Shipment. Customer agrees to pay Broker's invoice in U.S. dollars within 30 days of invoice date without deduction or setoff. If any payment remains unpaid by Customer for a period of thirty (30) days following the due date, Broker reserves the right to charge Customer a late payment fee on the unpaid balance of one and one half percent (1.5%) per month or the highest amount permitted by law, whichever is less.
7. **CLAIMS.** Except as otherwise set forth in Addendum A:
 - A. **Cargo Claims.** Broker is a broker, not a motor carrier or freight forwarder, and has no liability for loss of or damage to Shipments. Broker shall require Carrier to assume the liability of a motor carrier (with associated liability as assigned in the Carmack Amendment) for loss of or damage to the Shipments while in transit and may contractually agree to limit Carrier liability to the destination invoice value of the freight up to a maximum of \$100,000 per Shipment or other amount as may be agreed to between Broker and Carrier in writing. 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. Customer must file claims for cargo loss or damage with Broker or Carrier within nine (9) months of the delivery date or, in the event of non-delivery, the anticipated delivery date. Customer must file any civil action against Carrier in a court of law within two (2) years from the date Carrier or Broker provides written notice to Customer that any part of the claim is disallowed. Upon request, Broker will assist Customer in the filing and/or processing of claims with Carrier. Claims may be sent to the Broker at domesticclaims@ascentlogistics.com. If Broker makes payment of a claim to Customer, Customer automatically assigns its rights and interest in the claim to Broker. In no event will Broker or Carrier be liable to Customer or any other party for special, incidental, or consequential damages for any reason whatsoever.
 - B. **All Other Claims.** The parties shall notify each other of all known material details of any claims within sixty (60) days of receiving notice of any claims, other than cargo loss or damage claims, and shall update each other promptly thereafter as more information becomes available. Civil actions must be commenced within two (2) years from the date either party provides written notice to the other party of such a claim.
8. **INSURANCE.** Broker agrees to procure and maintain at its own expense, at all times during the term of these Terms and Conditions, the following insurance coverage amounts:
 - A. General Liability: \$1,000,000;
 - B. Contingent Cargo Legal Liability Insurance: \$100,000;

C. Workers Compensation: Statutory Limits.

9. **SURETY BOND.** Broker shall maintain a surety bond or trust fund agreement as required by the FMCSA, in the amount of at least \$75,000, or as otherwise required by the FMCSA, and will furnish Customer with proof of its bond or trust fund agreement upon request.
10. **HAZARDOUS MATERIALS.** Customer must comply with all applicable laws and regulations relating to the transportation of hazardous materials as defined in 49 CFR §172.800, §173, and § 397 et seq. to the extent that any Shipments constitute hazardous materials. Customer is obligated to inform Broker immediately if any such Shipments constitute hazardous materials. Customer shall defend, indemnify, and hold Broker harmless, including reasonable attorney fees, from any penalties or liability of any kind, arising directly or indirectly out of Customer's failure to comply with applicable hazardous materials laws and regulations.
11. **INDEMNIFICATION.** Customer must defend, indemnify, and hold Broker, Broker's employees, officers, agents, and Carriers harmless against any and all liabilities, claims, losses, actions, causes of action, costs, expenses and reasonable attorney's fees, caused by or resulting from (i) Customer or Customer's employees or agents negligence or intentional misconduct; (ii) Customer's breach of these Terms and Conditions; (iii) Customer or Customer's employees or agents violation of applicable laws or regulations; or (iv) any attempts by Customer's insurance provider or any other party to recover from Broker. The obligation to defend includes payment of all reasonable costs of defense, together with all reasonable attorney fees, as they accrue.
12. **LESS THAN TRUCKLOAD (LTL) FREIGHT.** Where Broker provides LTL services, the terms and conditions provided in Addendum A shall apply, supersede and control over any conflicting provisions of these Terms and Conditions.
13. **SEVERABILITY/SURVIVABILITY.** In the event that any paragraphs or portions of these Terms and Conditions are found to be invalid or unenforceable, the parties agree that such portion or provision shall be severable and that the remaining provisions of these Terms and Conditions shall continue in full force and effect. The representations and obligations of the parties shall survive the termination of the business relationship for any reason.
14. **INDEPENDENT CONTRACTOR.** It is understood between Broker and Customer that Broker is not an agent for Carrier or Customer and shall remain at all times an independent contractor. Customer does not exercise or retain any control or supervision over Broker, its operations, employees, or Carrier. Broker does not exercise or retain any control or supervision over Carrier, its operations, employees or Customer.
15. **NONWAIVER.** Failure of either party to insist upon performance of any of the terms, conditions or provisions of these Terms and Conditions, or to exercise any right or privilege herein, or the waiver of any breach of any of the terms, conditions or provisions of these Terms and Conditions, shall not be construed as thereafter waiving or invalidating any such terms, conditions, provisions, rights or privileges, but the same shall continue and remain in full force and effect as if no forbearance or waiver had occurred.
16. **NOTICES.** Any and all notices required or permitted to be given under these Terms and Conditions shall be made in writing to Broker at contracts@ascentgl.com with confirmed receipt and shall be effective when so delivered.
17. **FORCE MAJEURE.** Broker shall not be liable for any failure or delay in performing its obligations hereunder to the extent that such failure or delay is caused by or results from circumstances beyond its

reasonable control, without its fault or negligence, including but not limited to (i) acts of God such as fire, flood, earthquake, tornado, storm, hurricane, power failure, epidemic or other severe health crisis, or other natural disaster; (ii) war, hijacking, robbery, theft or terrorist activities; (iii) incidents or deteriorations to means of transportation such as closing of the public highways, the intervention of any government authority, or the acts or omissions of customs officials (whether or not valid); (iv) embargos; (v) riots or civil disobedience; (vi) or any other cause outside of the reasonable control of Broker, provided that Broker uses its best efforts to mitigate the failure or delay and provided further that Broker provides reasonable notice to Customer of such inability to perform.

18. CHOICE OF LAW AND VENUE. All questions concerning the construction, interpretation, validity and enforceability of these Terms and Conditions, whether in a court of law or in arbitration, shall be governed by and construed and enforced in accordance with the federal laws regarding transportation, where applicable, and otherwise by the laws of the State of Delaware, without giving effect to any choice or conflict of law provision or rule that would cause the laws of any other jurisdiction to apply. The parties agree to jurisdiction and venue in a United States Federal District Court in Delaware, or if federal jurisdiction is not available, then in a State Court located in Delaware.

19. CONFIDENTIALITY. Other than as required to comply with the law or legal process requiring disclosure, the parties agree to the following:

- A. Each party shall maintain the confidentiality of the other party's confidential information in at least the same manner in which it protects its own confidential information, but in no event shall either party take less than reasonable precautions to prevent unauthorized disclosure. Each party shall be and remain fully liable and responsible for its employees,' agents,' or contractors' unauthorized disclosure or use of the other party's confidential information.
- B. In addition to Confidential Information protected by law, statutory or otherwise, the parties agree that all of their financial information and that of their customers, including but not limited to freight and brokerage rates, amounts received for brokerage services, amounts of freight charges collected, freight volume requirements, as well as personal customer information, customer shipping or other logistics requirements shared or learned between the parties and their customers, shall be treated as confidential and shall not be disclosed or used for any reason without prior written consent, except in furtherance of performing the Services pursuant to these Terms & Conditions. Customer specifically waives any rights Customer may have under 49 CFR Section 371.3.

20. CHANGES IN TERMS AND CONDITIONS. Broker shall have the right at any time to change or modify these Terms and Conditions. Such changes, modifications, additions or deletions shall be effective on any Shipment not already in process. The most current version of this document may be found at <https://ascentlogistics.com/terms-and-conditions/>.

ADDENDUM A - LTL Shipments

The following terms and conditions specifically relating to LTL Shipments supersede and control over any conflicting provisions of these Terms and Conditions. All capitalized terms have the meanings assigned to them in the Terms & Conditions unless otherwise defined herein.

Section 4(A) is replaced as follows:

4. BROKER'S RESPONSIBILITIES

A. Broker will select Carriers by:

- i. Verifying the Carrier's operating authority (state or federal, as necessary).
- ii. Verifying the Carrier's insurance coverage, as evidenced by a certificate of insurance showing coverage of at least:
 1. \$1,000,000 per occurrence for Auto Liability;
 2. \$50,000 per occurrence for Motor Truck Cargo Liability;
 3. Statutory limits for Workers Compensation.

Excess declared value or other additional insurance can be purchased by the Customer upon request if required.

Section 7 is replaced in its entirety as follows:

7. CLAIMS.

- A. Cargo Claims. Broker is a broker, not a motor carrier or freight forwarder, and has no liability for loss of or damage to Shipments. Broker shall require Carrier to assume the liability of a motor carrier (with associated liability as assigned in the Carmack Amendment) for loss of or damage to the Shipments while in transit, and may contractually agree to limit Carrier liability to (i) a maximum of \$50,000 per Shipment; (ii) \$1 per pound times the weight of the Shipment lost or damaged; (iii) the sum set forth in any Carrier tariff; (iv) the lowest liability provided in the National Motor Freight Classification; (v) \$0.10 per pound times the weight of the Shipment for freight identified as used or refurbished items; or (vi) other amount as may be agreed to between the Broker and Carrier in writing. 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. Customer must file claims for cargo loss or damage with the Carrier within nine (9) months of the delivery date or, in the event of non-delivery, the anticipated delivery date. Customer must file any civil action against Carrier in a court of law within two (2) years from the date Carrier or Broker provides written notice to Customer that any part of the claim is disallowed. Upon request, Broker will assist Customer in the filing and/or processing of claims with Carrier. If Broker makes payment of a claim to Customer, Customer automatically assigns its rights and interest in the claim to Broker. In no event will Broker or Carrier be liable to Customer or any other party for special, incidental, or consequential damages for any reason whatsoever.
- B. All Other Claims. The parties shall notify each other of all known material details of any claims within sixty (60) days of receiving notice of any claims, other than cargo loss or damage claims, and shall update each other promptly thereafter as more information becomes available. Civil

actions must be commenced within two (2) years from the date either party provides written notice to the other party of such a claim.

- C. Tariff Applicability. Customer acknowledges and agrees that LTL Shipments will be subject to those Carrier tariff terms applicable based upon the nature of services requested and the Shipments tendered including, without limitation, those tariff provisions required to rate Shipments or adjudicate Carrier liability for the same.