

**UNITED FREIGHT BROKERAGE, INC.**  
**TERMS & CONDITIONS**

EFFECTIVE DATE: April 1, 2015

1. **PARTIES.** CUSTOMER is a shipper and/or Consignee of certain goods it desires to have transported. United Freight Brokerage, Inc. is a BROKER operating under MC# 628297. BROKER is not acting, and does not act, as either a motor carrier or a common carrier within the meaning of USC Title 49. CUSTOMER and its agents expressly agree that they will not under any circumstances attempt to hold BROKER liable in the capacity of a motor carrier. CUSTOMER or third party's insertion of BROKER as the carrier of record in any bill of lading, delivery order or other document shall not alter or affect BROKER's status as a freight broker. The carrier(s) actually transporting the freight at issue shall be solely responsible in the capacity of a motor carrier. The term "carrier" shall refer solely to the motor carrier providing the actual transport.

2. **GENERAL.** The terms and conditions contained herein ("Terms") are applicable to the services performed by BROKER undertaken on the CUSTOMER's behalf. These Terms supersede all previous conditions of transportation and other prior statements concerning the rates and conditions of BROKER's services. BROKER reserves the right from time to time to modify, amend or supplement these Terms without notice. Copies of BROKER's most recent Terms may be obtained by contacting BROKER, and will be periodically updated on BROKER's web site. In the event that BROKER and the CUSTOMER have entered into a signed, written contract containing terms and conditions different than those set forth in these Terms, the signed, written contract will control to the extent that such terms conflict with these Terms.

3. **BILL OF LADING.** Each shipment tendered by CUSTOMER shall be evidenced by and subject to the terms, conditions and provisions of a bill of lading or other proof of delivery receipt. In the event of a conflict between the terms, conditions, and provisions of such bill of lading or receipt and these Terms, the terms, conditions, and provisions of these Terms shall govern.

4. **SERVICE.** BROKER will arrange for transportation of CUSTOMER's freight pursuant to these Terms. The relationship between BROKER and CUSTOMER is that of one independent contractor with another, and nothing herein is intended to create a joint venture, partnership, agency, or any employment relationship.

BROKER's responsibility shall be limited to arranging for, but not actually performing, transportation of CUSTOMER's freight. BROKER does not exercise or retain any control or supervision over any carrier, its operations, employees, or contractors. BROKER reserves the right, in its sole discretion, to refuse any shipment at any time.

5. **RATES & FEES.** Quotes are based on information provided by the CUSTOMER. Unless indicated, the price excludes charges for detention time, per diem and additional stops. The quoted rate depends on the weight, dimension and released value of the property described. Any changes to the actual released value, dimension, description or weight of the load may result in revisions to the quoted price. Unless otherwise indicated by CUSTOMER in writing and confirmed by BROKER, all rates are based upon a limited released value of \$2.50 per pound for the actual weight of the damaged or lost portion of the shipment, subject to a maximum liability of \$100,000 per shipment, and CUSTOMER assumes all responsibility for loss or damage in excess of such limit.

In addition, BROKER shall have the right to advance a portion of the freight charges. CUSTOMER, Shipper, Consignee, or owner shall pay advancing charges prior to BROKER performing services.

**PAYMENTS.** BROKER will invoice CUSTOMER for its services in accordance with the rates, charges and provisions negotiated and agreed to between the PARTIES. CUSTOMER agrees to pay BROKER's invoice within 30 days of the invoice date without deduction or setoff. Copies of lost bills will be supplied on request with a minimum charge of \$5.00 for this service. As a convenience to CUSTOMER, all invoices may be processed by Broker's affiliated entity and such administrative support in issuing invoices shall not alter Broker's role in connection with a particular shipment, as the act of invoicing is a purely administrative function performed independent of arranging for transportation services. In the event of a loss, Shipper's claim and any remedies shall be directed to, and the sole responsibility of, the

actual Carrier performing transportation services for the particular shipment at issue, to the extent of any claim for loss, damage or delay.

BROKER will assess one and one-half percent (1½ %) interest per month beginning on the 20<sup>th</sup> day after payment was due or the maximum amount allowed by law, whichever is less. BROKER does not intend to contract for, charge or collect, any amount in the nature of interest or fee due under this contract, which would in any way or event, including but not limited to, demand, prepayment, or acceleration, or in any other manner, cause BROKER to charge or collect more interest than the maximum lawful rate allowed by the applicable state and/or federal law, as it is the intent of all BROKER and all parties operating under any agreement to which these terms and conditions apply. In the event BROKER deems it necessary to retain the services of legal counsel to collect any outstanding indebtedness, CUSTOMER shall pay attorneys' fees, collection service fees and court filing fees in the amount of \$500.00 or thirty-five percent (35%), whichever is greater.

In consideration for transportation services performed by Carrier for the mutual benefit of the CUSTOMER and consignee under the terms and conditions set out herein, the CUSTOMER, Shipper and consignee shall assume joint and several liability for all freight charges accrued with regard to such transportation. In the event that freight bills are not paid by either the CUSTOMER, Shipper or the consignee, payment for such charges may be sought from either party or all parties.

6. **INSPECTION AND NOTICE OF DAMAGE.** Consignee shall inspect the cargo immediately upon delivery and note any discoverable damage on the bill of lading. Consignee shall provide written notice of any patent damage to cargo immediately, and not later than 3 days after delivery. Consignee shall provide written notice of latent damage upon discovery, and, in any event, not later than 15 days after delivery.

7. **LIABILITY FOR LOSS, DAMAGE OR DELAY.** BROKER will assist with processing of claims on behalf of its customers. HOWEVER, BROKER IS NOT LIABLE FOR DELAY TO CARGO OR LOSS OR DAMAGE TO CARGO, UNLESS THE LOSS OR DAMAGE IS CAUSED BY THE SOLE NEGLIGENCE OF BROKER. IN NO EVENT SHALL BROKER BE LIABLE FOR ANY SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING DAMAGES RELATING TO LOSS OF PROFITS OR INCOME, WHETHER OR NOT SUCH DAMAGES WERE REASONABLY FORESEEABLE.

8. **FORCE MAJEURE.** BROKER shall not be liable for failure to perform any of its obligations under these Terms during any time in which such performance is prevented by fire, flood, or other natural disaster, war, embargo, riot, civil disobedience, or the intervention of any government authority, or any other cause outside of the reasonable control of BROKER.

9. **DISCLAIMER OF WARRANTIES.** Except as expressly provided in these Terms, BROKER makes no warranties, express or implied, including without limitation, warranties of merchantability or fitness for a particular purpose, with regard to shipments, warehoused goods, items in transit or deliveries or with regard to the information provided on the website or services related to transactions conducted on the website. BROKER cannot guarantee delivery by any specific time or date.

10. **NOTICE OF CLAIMS.**

A. **Freight Claims:** CUSTOMER must give BROKER notice of any claims for cargo loss or damage with BROKER within 180 days from the date of such loss, shortage or damage, which for purposes of these Terms shall be the delivery date or, in the event of non-delivery, the scheduled delivery date. CUSTOMER must file any civil action against BROKER in a Court of Law not later than 2 years from the date of delivery or, if delivery was not completed, the expected date of delivery.

If payment of claim is made by BROKER to CUSTOMER, CUSTOMER automatically assigns its rights and interest in the claim to BROKER upon receipt of any payment and agrees to execute any documents that may be necessary in connection with such assignment. All damage claims will be handled directly with the Carrier or its insurance

representatives. Notwithstanding the foregoing, this provision shall not be construed to obligate BROKER to pay any claim.

**B. All Other Claims:** CUSTOMER shall notify BROKER of all known material details within 91 days of receiving notice of any claims other than cargo loss or damage claims, and shall update BROKER promptly thereafter as more information becomes available. Civil action, or arbitration, if any, shall be commenced within 2 years from the date of the event giving rise to the claim.

**11. CUSTOMER RESPONSIBILITIES.** CUSTOMER must properly mark, pack and label cargo so it will safely endure ordinary handling in transit. By tendering a shipment to the Carrier(s), Customer certifies that the shipment is sufficiently packaged to withstand the normal rigors of truck transportation. CUSTOMER shall be responsible to BROKER for timely and accurate delivery instructions and description of the cargo, including any high value, special value, special handling or security requirements, for any shipment. Any article susceptible to damage by ordinary handling must be adequately protected and packaged and marked in such a way as to alert the Carrier(s) of the possibility of damage from ordinary handling and must bear appropriate labels. CUSTOMER shall provide the Carrier(s) with access to the facilities necessary to load or unload the tendered shipments. CUSTOMER is solely responsible for maintaining the loading and unloading facilities in a good and safe condition, and in compliance with all applicable laws, codes and regulations. **CUSTOMER HEREBY WAIVES AND RELEASES BROKER FROM ANY LIABILITY FOR ANY LOSS OR DAMAGE TO CUSTOMER'S FACILITIES OR TO CUSTOMER'S PERSONAL PROPERTY LOCATED ON SUCH FACILITIES.**

**12. SHIPMENTS NOT ACCEPTED.** BROKER will not accept shipments for transportation of the following nature:

- Explosives;
- Shipments requiring "protective security service" or "armed guard surveillance service";
- Human remains;
- Precious metals, bullion or currency;
- Original works of arts, collections, antiques or precious stones; or
- Certain bulk commodities of hazardous substances.

**13. HAZARDOUS MATERIALS.** CUSTOMER shall comply with all applicable laws and regulations relating to the transportation of hazardous materials as defined in 49 CFR §172.800, §173, and §397 et seq. to the extent that any shipments constitute hazardous materials. CUSTOMER is obligated to inform BROKER immediately if any such shipments constitute hazardous materials. **CUSTOMER AGREES TO INDEMNIFY, DEFEND AND HOLD HARMLESS BROKER AND ITS OFFICERS, EMPLOYEES, AGENTS AND INSURERS, AGAINST ALL CLAIMS, LIABILITIES, LOSSES, FINES, REASONABLE ATTORNEY FEES AND OTHER EXPENSES ARISING OUT OF OR RELATED TO THE RELEASE OF ANY HAZARDOUS MATERIAL, INCLUDING WITHOUT LIMITATION, FINES OR EXPENSES RELATED TO THE REMOVAL OR TREATMENT OF HAZARDOUS MATERIAL OR OTHER REMEDIAL ACTION PERTAINING TO THE HAZARDOUS MATERIAL UNDER FEDERAL OR STATE LAW, IF CUSTOMER FAILS TO PROVIDE ADVANCED NOTICE PRIOR TO TENDERING HAZARDOUS MATERIAL TO BROKER; THE CONTACT, EXPOSURE OR RELEASE RESULTED FROM THE IMPROPER PACKAGING OR LOADING OR OTHER ACTS OR OMISSIONS OF THE CUSTOMER, ITS EMPLOYEES OR AGENTS; AND THE CONTACT, EXPOSURE OR RELEASE OCCURRED SUBSEQUENT TO THE TRANSPORT OF THE HAZARDOUS MATERIAL BY BROKER OR THE CARRIERS.**

**14. SURETY BOND.** BROKER shall maintain a surety bond or trust fund agreement as required by the Federal Motor Carrier Safety Administration and furnish CUSTOMER with proof upon request.

**15. DEFAULT.** Both parties will discuss any perceived deficiency in performance and will promptly endeavor to resolve all disputes in good faith. Either Party may terminate this Agreement, with or without cause, upon written notice

to the other Party. CUSTOMER shall be responsible to pay BROKER for any services performed prior to the termination of duties and for shipments not yet completed and/or not yet invoiced to CUSTOMER.

16. **ATTORNEY FEES.** In the event of any litigation necessary to enforce these terms, or collect for the services provided under these terms, BROKER shall be entitled to recover all reasonable costs incurred including court costs, attorney fees, and all other related expenses incurred in such litigation.

17. **SEVERABILITY.** If any provisions of these terms are deemed invalid for any reason whatsoever, these Terms shall be void only as to such provision, and these Terms shall remain otherwise binding between the parties. Any provision voided by operation of the foregoing shall be replaced with provisions which shall be as close as the parties' original intent as permitted under applicable law.

18. **NON-WAIVER.** The failure or refusal of either party to insist upon the strict performance of any provision of these Terms, or to exercise any right in any one or more instances or circumstances shall not be construed as a waiver or relinquishment of such provision or right, nor shall such failure or refusal be deemed a customary practice contrary to such provision or right.

19. **LAWS GOVERNING.** The parties agree that these Terms shall be deemed to have been drawn in accordance with the statutes and laws of the State of Texas. In the event of any disagreement or litigation, the law of the State of Texas shall apply and suit must be instigated in the State of Texas and County of Harris, irrespective of the fact that one or more of the parties may be or may become a resident of a different state, or that any aspect of the service may have been performed wholly or in part in another county, unless otherwise agreed to by both parties. The Parties agree that any and all disputes under these Terms shall be filed in the appropriate state and federal courts located within County of Harris, State of Texas.