

INTERNATIONAL TERMS & CONDITIONS OF CONTRACT

These terms and conditions of service constitute a legally binding contract between the "Company" and the "Customer". 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.

1. Definitions

- (a) "Company" shall mean **Estes Forwarding Worldwide, LLC**, 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 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) "Carrier" shall mean the company named on the face side of the Bill of Lading and on whose behalf the Bill of Lading was issued, whether acting as carrier or bailee;
- (d) "Bill of Lading" shall mean conventional bills of lading, as well as electronic, express and laser bills of lading, sea waybills and all like documents, how so ever generated, covering the Carriage of Goods hereunder, whether or not issued to the Merchant.
- (e) "Merchant" means the shipper, consignee, receiver, holder of the Bill of Lading, owner of the cargo or person entitled to the possession of the cargo and the servants and agents of any of these, all of whom shall be jointly and severally liable to the Carrier for the payment of all Charges, and for the performance of the obligations of any of them under the Bill of Lading;
- (f) "Documentation" shall mean all information received directly from Customer, whether in paper or electronic form;
- (g) "Shipment" shall mean articles of every kind or description, including their packaging, containers, (not supplied by or on behalf of the Company) or other shipping units or materials, tendered to Company for transportation, storage and/or delivery as identified on the face of any shipper's instructions, receipt, truck tag, bill of lading or other document provided to Company;
- (h) "Ocean Transportation Intermediaries" ("OTI") shall include an "ocean freight forwarder" and a "non-vessel operating carrier";
- (i) "Carriage" shall mean the whole of the operations and services undertaken or performed by or on behalf of the Carrier with respect to the Goods;
- (j) "Third parties" shall include, but not be limited to the following: "carriers, truckmen, cartmen, lightermen, forwarders, OTIs, customs brokers, 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 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 documentation on behalf of the Customer and other dealings with Government Agencies; as to all other services, Company acts as an independent contractor.

3. Limitation of Actions.

- (a) 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 fifteen (15) calendar 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.
- (b) All suits against Company must be filed and properly served on Company as follows:
 - (i) For claims arising out of ocean transportation, within one (1) year from the date of the loss;
 - (ii) For claims arising out of air transportation, within one (1) year from the date of this loss;
 - (iii) For claims arising out of the preparation and/or submission of an import entry(s), within seventy five (75) days from the date of liquidation of the entry(s);
 - (iv) For any and all other claims of any type, within one (1) year from the data of the loss or damage.

4. **Restricted Items.** Unless otherwise expressly provided in a separate written agreement, and subject to any conditions or restrictions contained therein, the following articles will not be accepted for carriage: any Shipment prohibited by law (strictly prohibited); original works of art, antiques, bonds, coins of any kind, currency, currency equivalents, plants, animals, furs, fur clothing, gems or stones (cut or uncut), industrial diamonds, jewelry (other than costume jewelry), pearls, precious metals, securities (negotiable), time sensitive written material (e.g., bids, contract proposals, etc.), when the declared value exceeds \$0.50 per pound; household goods and /or personal effects, one-of-a-kind articles or models, prototypes, valuable rugs (i.e., Oriental rugs, Persian rugs) and prints or lithographs



when the total declared value of the Shipment exceeds \$500.00 or when the declared value exceeds \$0.50 per pound, per piece; certain dangerous or hazardous articles, including, without limitation explosives, gases, flammable liquids, or combustible solids, oxidants, poisons, or substances which easily disseminate viruses, radioactive substances, corrosive substances, other harmful materials and such other articles as Company may designate from time to time. Company shall not be liable for any loss, damage, delay, liabilities or penalties resulting from the transportation of any of the foregoing articles, however described or mis-described in the documents or other shipping document(s), and no employee or agent for Company has any authority to accept for transportation such articles or to waive the limitations herein contained.

5. Rates; Re-Weigh/Re-Measurement. Rates, other charges and fees for a Shipment will be based on actual or volumetric weight/measure, whichever is greater. Customer shall provide weight and measurements for Shipments. Shipments are subject to re-weigh and re-measurement by Company. If the weights or measurements of the Shipment as delivered are different from Customer's representations, Company's rates, charges and fees are subject to change.

6. Declaring Higher Value. Standard rates for carriage are subject to the limitations of liability set forth below. If Customer does not declare excess value on a Shipment, Customer is agreeing to the release rate limits of liability referred to in paragraph 13 below. Customer may opt for additional coverage by declaring an excess value on document used to tender shipment to Company clearly marked as DECLARED VALUE or if supplied, entered in the box labeled DECLARED VALUE, up to a maximum of US\$50,000.00. The charge for declared value coverage is \$0.65 per \$100.00 in Goods value; subject to a minimum cost of US\$25.00. NOTE: There may be significant limitations with respect to declared value coverage for certain items. Contact Company for specific details.

7. Right to Reject or Re-Route. Company reserves the right to reject any Shipment for any reason whatsoever, including but not limited to safety or security concerns. It is agreed that no time is fixed for the completion of carriage hereunder and that Company may, without notice, substitute aircraft or alternate carriers, including surface and/or ocean carriers. Company assumes no obligation to forward the goods by any specified carrier or over any particular route or routes or to make connection at any point according to any particular schedule. And Company is hereby authorized to select, or deviate from, the route or routes of shipment, notwithstanding that the same may be stated on the face of the shipping document(s). **CUSTOMER, CONSIGNEE OR OWNER JOINTLY AND SEVERALLY GUARANTEE PAYMENT OF ALL CHARGES AND ADVANCES.**

8. 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 instruction 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 action(s) and/or inactions(s) of such third parties and/or its agent, 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.

9. Quotations/Estimates Not Binding. Quotations or estimates 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 or estimate 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 or estimate and payment arrangements are agreed to between the Company and the Customer.

10. Reliance On Information Furnished.

(a) Customer acknowledges that it is required to review all documents and declarations prepared and/or filed with the Customs Service, other Government Agency and/or third parties, and will immediately advise the Company of any errors, discrepancies, incorrect statements, or omissions on any declaration filed on Customer's behalf;

(b) In preparing and submitting customs entries, export declarations, applications, documentation and/or export data to the United States and/or a third party, 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 corrections 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 or false statement by the Customer 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.

11. 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 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.

12. **Insurance.** 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.

13. **Disclaimers; Limitation of Liability.**

(a) Except as specifically set forth herein, Company makes no express or implied warranties in connection with its services;

(b) If the carriage involves an ultimate destination or stop in a country other than the country of departure, the Warsaw Convention or Montreal Protocol will be applicable and limit the liability of the Carrier in respect to loss of, damage or delay to cargo. Depending on the applicable regime, and unless a higher value is declared in advance and all supplementary charges are paid, liability of the carrier will be limited to 17 Special Drawing Rights per kilogram or 250 French gold francs per kilogram, converted into national currency under applicable law.

(c) (i) Except where the Carriage provided is to or from a port or locality where there is in force a compulsorily applicable ordinance or statute of a nature similar to the International Convention for the Unification of Certain Rules Relating to Bills of Lading, dated at Brussels, August 25, 1924, the provisions of which cannot be departed from, and suit or other proceeding is instituted and litigated in locality, the Bill of Lading shall have effect subject to the Carriage of Goods by Sea Act of the United States ("COGSA"), approved April 16, 1936, and nothing herein contained, unless otherwise stated, shall be deemed a surrender by the Carrier of any of its rights, immunities, exemptions, limitations or exonerations or an increase of any of its responsibilities or liabilities under COGSA or, as the case may be, such compulsorily applicable ordinances or statutes. The provisions of COGSA or such compulsorily applicable ordinances or statutes (except as otherwise specifically provided herein) shall govern before loading on and after discharge from the vessel and throughout the entire time the Goods or Containers or other packages are in the care, custody and/or control of the Carrier, a Participating carrier or independent contractor (inclusive of all subcontractors), their agents and servants, whether engaged by or acting for the Carrier or any other person, as well as during the entire time the Carrier is responsible for Goods. In the absence of compulsorily applicable legislation, COGSA shall apply during the entire time the Carrier remains responsible hereunder.

(ii) The Carrier shall not be liable in any capacity whatsoever for any delay, non-delivery, miss-delivery or other loss or damage to or in connection with the Goods or Containers or other packages occurring at any time contemplated under subdivision a) of this Clause

(iii) The Carrier shall, irrespective of which law is applicable under subdivision a) of this Clause, be entitled to the benefit of the provisions of Sections 4281 to 4287, inclusive of the Revised Statutes of the United States and amendments thereto

(iv) The rights, defenses, exemptions, limitations of and exonerations from liability and immunities of whatsoever nature provided for in this Bill of Lading shall apply in any action or proceeding against the Carrier, its agents and servants and/or any Participating carrier or independent contractor, whether in tort, contract or, otherwise.

(d) Subject to (e) 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;

(e) In connection with all services performed by the Company, Customer may obtain additional liability coverage, up to the actual or declared value of the shipment or transaction, by requesting such coverage and agreeing to make payment therefore, which request must be confirmed in writing by the Company prior to rendering services for the covered transaction(s);

(f) In the absence of additional coverage under (d) above, where the claim arises from activities relating to "Customs business", the Company's liability shall be limited to \$50.00 per entry or the amount of brokerage fees paid to Company for the entry, whichever is less;

(g) 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.

14. **Advancing Money.** All charges must be paid by Customer in advance 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.

15. **Customs Duties and Other Fees.** Company is authorized (but shall be under no obligation) to advance any duties, taxes, or charges and to make any disbursements with respect to a Shipment(s), and Customer, owner and consignee shall be jointly and severally liable for the reimbursement thereof. Company shall be under no obligation to incur any expense or to make any advance in connection with the forwarding or re-forwarding of a Shipment except against repayment by Customer. If it is necessary to make Customs entry of a Shipment at any place, the Shipment

shall be deemed to be consigned at such place to the person named on the face of the shipping document(s) as Customs consignee or, if no such person be named, to such Customs consignee as Company may designate.

16. Indemnification/Hold Harmless. The Customer agrees to indemnify, defend and hold the Company harmless from any claims and/or liability arising from the importation or exportation of customer's merchandise and/or any conduct of the Customer, 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 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.

17. C.O.D. or Cash Collect Shipments. Company shall use reasonable care regarding written instructions relating to "Cash/Collect on Delivery (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 have no liability if the bank or consignee refuses to pay for the shipment.

18. Payment Term. All invoice terms are net 15 days unless specifically stated differently on invoice. Any payment which is past due shall be subject to the additional collection charges referred to in paragraph 19 below.

19. Costs of Collection. 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 18% per annum or the highest rate allowed by law, whichever is less, unless a lower amount is agreed to by Company. Failure to make payment of freight charges for service performed within thirty (30) calendar days of presentation of the freight bill for any reason including insolvency or bankruptcy may result in the forfeiture of all discounts, allowances, incentives or any other reductions to which the debtor may otherwise be entitled.

20. General Lien and Rights 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.

(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 110% 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.

21. No Duty to Maintain Records for Customer. Customer acknowledges that pursuant to Sections 508 and 509 of the Tariff Act, as amended, (19 USC paragraph 1508 and 1509) it has the duty and is solely liable for maintaining all records required under the Customs and/or other Laws and Regulations of the United States; unless otherwise agreed to in writing, the Company shall only keep such records that it is required to maintain by Statute(s) and/or Regulations(s), but not act as a "recordkeeper" or "recordkeeping agent" for Customer.

22. 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.

23. 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.

24. Dangerous Goods ("DG"). All Shipments containing DG must be limited to the materials and quantities authorized for transportation under the International Air Transportation Association ("IATA") dangerous goods regulations and/or IMDG regulations (ocean freight). Customer must comply with these regulations regardless of the routing or the mode by which DG Shipment is transported. All DG Shipment must be properly classified, described, documented, packaged, marked and labeled and in proper condition for transportation according to applicable regulations. Company reserves the right to reject any DG Shipment for any reason.

25. Storage. If for any reason, it is impossible for Company to complete this contract of carriage or if the consignee fails to accept delivery of the Shipment or any part thereof, Company will notify Customer and then may: 1) return the goods to Customer and/or original shipper, at Customer's expense; or 2) store the goods at Company's storage rates or, at its option may store the goods in a public warehouse in which event the storage rates charged by such warehouse shall apply. Goods which remain unclaimed for a period of 30 days from the date of notice to Customer may be sold by Company at a public or private sale and the proceeds of such sale may be applied against any outstanding freight charges, advances or charges of any kind which are due Company. Any balance remaining after payment of such charges will be remitted to Customer, the consignee, or owner. However, CUSTOMER,



CONSIGNEE AND OWNER SHALL REMAIN JOINTLY AND SEVERALLY LIABLE TO COMPANY FOR ANY DEFICIENCY SHOULD THE PROCEEDS OF SUCH SALES BE INSUFFICIENT TO OFFSET ALL CHARGES DUE COMPANY WITH RESPECT TO THE GOODS. **CUSTOMER AGREES TO DEFEND, INDEMNIFY AND HOLD COMPANY HARMLESS AGAINST ALL LOSS AND EXPENSE, INCLUDING ATTORNEY'S FEES, OF WHATEVER NATURE BROUGHT BY ANY OTHER OWNER OR OTHER PERSON HAVING AN INTEREST IN THE GOODS SOLD UNDER THIS PROVISION.**

26. Right of Inspection. Company is authorized to open and inspect the contents of any Shipment. Company shall have the right to refuse any article, the transportation of which is prohibited by applicable law, orders or regulations, or the transportation of which, in Company's judgment, would be unsafe. If such Shipment should be accepted or transported, Company reserves the right to remove it and, if necessary, to abandon it. Where circumstances permit, such Shipment will be stored at Customer's expense pending receipt of disposition instructions from Customer. **By tendering the Shipment To Company for transportation, Customer hereby expressly consents to the inspection of the Shipment as required by 49 C.F.R. 1548.9(b).**

27. Cargo Security Requirements. Shipments are subject to all cargo security requirements imposed by all applicable federal and/or state agencies, including but not limited to the Transportation Security Administration in connection with 49 C.F.R. Part 1548. Customer acknowledges that such regulations may require Company to refuse to offer for transport on a passenger aircraft or ocean vessel any cargo if Customer does not consent to an inspection of the Shipment in accordance with applicable law or, if upon inspection, the Shipment, in Company's judgment, is unsafe to transport. Copies of all relevant shipping documents showing the Shipment's consignee, description, and other relevant data will be retained on file by Company until the Shipment is delivered or as may be required by applicable law or regulation.

28. 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.

29. 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 brokerage, commissions, dividends, or other revenue received by the Company from carriers, insurers and others in connection with the shipment. On ocean exports, upon request, the Company shall provide a detailed breakout of the components of all charges assessed and a true copy of each pertinent document relating to these charges. In any referral for collection or action against the Customer for monies due the Company, upon recovery by the Company, the Customer shall pay the expenses of collection and/or litigation, including a reasonable attorney fee.

30. Severability. In the event any Paragraph(s) and/or portion(s) hereof are found to be invalid and/or unenforceable, then in such event the remainder hereof shall remain in full force and effect.

31. Governing Law; Consent to Jurisdiction and Venue. These terms and conditions of service and the relationship of the parties shall be construed according to the laws of the State of Virginia without giving consideration to principals of conflict of law.
Customer and Company

- (a) irrevocably consent to the jurisdiction of the United States District Court and the State courts of Virginia;
- (b) agree that any action relating to the services performed by Company, shall only be brought in said courts;
- (c) consent to the exercise of in personam jurisdiction by said courts over it, and
- (d) further agree that any action to enforce a judgment may be instituted in the applicable jurisdiction.

32. MEXICAN SHIPMENTS At no time shall Estes Forwarding Worldwide be liable for any loss or damage for a shipment tendered for motor carrier transport within the Country of Mexico. Shipper acknowledges that under Mexican law, cargo liability is substantially limited, unless the parties involved increase the cargo coverage in Mexico by purchasing additional cargo insurance. If more coverage is desired than otherwise provided by Mexican law, it is the responsibility of the payer of the transportation charges to purchase additional cargo insurance. See Section of our Domestic Service Conditions Policy for more.