

# TERMS AND CONDITIONS OF SERVICE

(PLEASE READ CAREFULLY)

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 Air Freight Plus, Inc dba AFP Global Logistics, 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, warehouseman, buyers and/or sellers, shipper's agents, insurers and underwriters, breakbulk 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, 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 and security documentation on behalf of the Customer and other dealings with Government Agencies: or for arranging transportation services or other logistics services in any capacity, other than as a carrier, and to all other services Company acts as an independent contractor.

**3. Limitation of Actions.** Unless subject to 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 at its corporate headquarters 611 N Hammonds Ferry Road, Suite L-N, Linthicum, MD 21090, within 10 days of the event giving rise to claim; the failure to give the Company timely notice shall be complete defense to any suit or action commenced by the Customer.

**4. No Liability for the Selection of 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 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 inaction(s) of such third parties and/or 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.

**5. 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 information 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 Customer.

**6. 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 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 for 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 that 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 the steamship line or airline. 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.

**7. 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 additional declared value 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 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.

**8. 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, to include any insurance policy deductible which is subject to change at policy renewal.

**9. Packing.** In tendering the shipment for carriage, the shipper warrants that each shipment is packaged to protect the enclosed goods and to ensure safe transportation with ordinary care in handling, and that each package is appropriately labeled, and is in good order for carriage as specified. Customer also warrants that the commodity description is explicit and accurate. For articles shipped in unenclosed containers, Company shall not be liable for damage/loss unless mishandling and/or loss is evident and is noted on the delivery receipt at the time of delivery. Note. A shipment in which delivery is made in exchange for a clear delivery receipt shall be prima facie evidence of having received in good condition.

**10. Delivery Notations.** At the time of delivery, the consignee must note on the delivery receipt any exceptions to the shipping containers that would indicate a discrepancy (shortage in the shipment or damage to the containers). The consignee may not inspect the contents of the shipping containers until the consignee signs for the shipment on the delivery receipt. Such notations as "subject to inspection" and "subject to recount" are not exceptions. A shipment in which delivery is made in exchange for a clear delivery receipt shall be prima facie evidence of having received shipment in good condition. Under no circumstances shall Company be liable for loss and/or damage to external shipping containers of any kind.

**11. Disclaimers; Limitation of Liability.** (a) Except as specifically set forth herein in these terms and conditions, Company makes no express or implied warranties in connection with its services; (b) Customer may obtain insurance coverage for cargo loss or damage, up to the actual or declared value of the shipment or transaction by requesting such coverage and agreeing to make payment therefor, which request must be confirmed in writing by the Company prior to rendering services for the covered transaction(s). (c) In all events, the Company liability shall be limited to \$50 per shipment or transaction. (d) 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, or for the acts of third parties. (e) With respect to domestic transportation, Company shall not be liable for a motor carrier's failure to maintain insurance or the accuracy of any documentation furnished by a motor carrier to Company or Customer evidencing said coverage.

**12. 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 the provision by the Company.

**13. Indemnification/Hold Harmless.** The customer agrees to indemnify, defend, and hold the Company harmless for 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.

**14. 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 not have liability if the bank or consignee refuses to pay for the shipment. Company will not, under any circumstances, be responsible for the form of payment by consignee unless specifically requested, in writing by shipper. Company will not be liable for any fraudulent certified or cashier's checks.

**15. Costs of Collection.** In any dispute involving monies owed to the Company, the shipper and/or consignee shall be liable for and the Company shall be entitled to all costs of collection, including reasonable attorney's fees and interest at 3% per month or the highest rate allowed by law, whichever is less unless a lower amount is agreed by the Company.

**16. General Lien and Right to Sell Customer's Property.** (a) Company shall have a continuing lien on any and all property and documents relating thereto of Customer coming into Company's actual or constructive possession, custody or control of in route, which lien shall survive delivery for all charges, expenses or advances owed to Company with regard to the shipment on which the lien is claimed, a prior shipment or both. Customs duties, transportation charges, and related payments advanced by the Company shall be deemed paid in trust on behalf of the Customer and treated as pass through payments made on behalf of the Customer for which the Company is acting as a mere conduit. (b) Company shall provide written notice to Customer of the intent to exercise such lien, the exact amount of monies due and owing, as well as any ongoing 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 returned to Customer.

**17. No Duty to Maintain Records.** Customer acknowledges that pursuant to Sections 508 and 509 of the Tariff Act, as amended, (19 USC §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 is required to maintain by statute(s) and/or regulations, but not act as "record keeper" or "record keeping agent" for Customer.

**18. Obtaining Binding Rulings, Filing Protests, etc.** Unless requested by Customer in writing and agreed 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.

**19. No duty to Provide Licensing Authority.** Unless requested by Customer in writing and agreed to by Company in writing, Company shall not be responsible for determining licensing authority or obtaining any license or other authority pertaining to the export from or import into the United States.

**20. 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.

**21. Shipments Subject to Inspection.** Company reserves the right to open and inspect all shipments. Company reserves the right to route Customer's freight by commercial or all cargo aircraft. In accordance with TSA security regulations and Company's Independent Air Carrier Standard Security Program (IACSSP) Section 2.2.G., Company is required to receive consent to screen cargo for any cargo that may be tendered to an aircraft carrier. By agreeing to these Terms and Conditions of Service, Customer to allow Customer's cargo to be screened to comply with State and/or Federal regulations. Evidence of consent to screen will remain on record with Company for at least 30 days after the termination of business relationship with Customer.

**22. Sensitive Security Information.** Any TSA (Transportation Safety Administration) related information sent to Customer by Company is considered Sensitive Security Information (SSI) that is controlled under 49 CFR Parts 165 and 1520. No part of this information may be disclosed to persons without a "need to know" as defined in 49 CFR Parts 15 and 1520, except with written permission of the Administration of the Transportation Security Administration or the Secretary of Transportation. Unauthorized release of SSI may result in civil penalties or other action. For U.S. Government Agencies, public disclosure is governed by U.S.C. 552 and 49 CFR Parts 15 and 1520.

**23. Other Agents.** Any agent employed by the importer or exporter in connection with a shipment acts solely for the importer or exporter, and payment of freight, duties or other charges to such agent and/or third party intermediary, even in exchange for bills of lading, invoice, or other receipt shall not discharge the Customer from any obligation to the Company or the carrier thereof.

**24. No Modification or Amendment Unless Written.** These terms and conditions of service may only be modified, altered, or amended in writing signed by the both the Customer and Company. Any attempt to unilaterally modify, alter or amend same shall be null and void.

**25. 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 to the Company, upon recovery by the Company, the Customer shall pay the expenses of collection and/or litigation, including a reasonable attorney fee.

**26. 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 subcontractors, including but not limited to: (i) acts of God, including flood, earthquake, storm, hurricane, power failure or other natural disaster; (ii) war, hijacking, robbery, theft, or terrorist activities; (iii) incidents or deteriorations to means of transportation; (iv) embargoes; (v) civil commotions 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 export/import or other necessary license; or (ix) strikes, lockouts or other labor conflicts.

**27. 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. 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.

**28. Governing Law; Consent to Jurisdiction and Venue.** The terms and conditions of service and the relationship of the parties shall be constructed according to the laws of the State of Maryland without giving consideration to principles of conflict of law. (a) Customer and Company i) Irrevocably consent to the jurisdiction of the United States District Court and the State courts of Maryland; ii) agree that any action relating to the service performed by Company, shall only be brought in said courts; iii) consent to the exercise of in *persona* jurisdiction by said courts over it; and iv) further agree that any action to enforce any judgment may be instituted in any jurisdiction.