

## TERMS AND CONDITIONS OF SERVICE

Company shall provide ocean freight forwarding, customhouse brokerage, and/or services to customers under the following terms and conditions, which shall form and comprise a binding agreement between Company and customers.

**Definitions** (a) "Company" shall mean TTS Worldwide LLC, TTS Customs Brokers LLC, its subsidiaries, affiliates, agents, and/or representatives, acting in the capacity of an ocean freight forwarder or a customhouse broker. (b) "Customer" shall mean the person for whom Company is rendering services 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, broker-bulk agents, consignors, consignees, etc. it is the responsibility of Customer to provide notice and copy(s) of these terms and conditions of service to all such agents or representatives. (c) "Government Agency" shall mean any U.S. or foreign (including foreign supra-national organizations such as the European Union) government or any of its agencies, authorities, departments, regulatory bodies, tribunals, services, or other similar entities; (d) "Third Parties" shall include, but not be limited to, the following: carriers, truckmen, cartmen, lightermen, freight forwarders, non-vessel operating common carriers ("NVOs"), customs brokers, agents, warehousemen and others to whom the goods are entrusted for transportation, cartage, handling, deliver and/or storage or otherwise.

**1. Services and Liability.** Unless Company carries, stores, or otherwise physically handles the shipment, and loss, damage, expense, or delay occurs during such activity, Company assumes no liability as a carrier and is not to be held responsible for any loss, damage, expense, or delay to the goods to be forwarded or imported. Company undertakes only to use reasonable care in the selection of carriers, truckmen, lightermen, forwarders, customs brokers, agents, warehousemen and others to whom it may entrust the goods for transportation, cartage, handling, delivery, storage, or otherwise. Company shall not be liable for loss, damage, mis-delivery, or delay of any shipment caused by or arising from the acts, omissions, negligence, or willful misconduct of Third Parties to whom the shipment may be entrusted. Customer further agrees and understands that Company's liability shall be limited as provided in the Sections 8-9 hereof. Company shall have liability to Customer, if at all, only for and to the extent of its proven negligence or willful misconduct in (a) selection of Third Parties to whom the shipment may be entrusted for purposes of transportation, cartage, handling, delivery, processing or storage, or (b) providing ocean freight forwarding or customs services. For purposes of the paragraph, "ocean freight forwarding services" shall have the meaning set forth at 46 C.F.R. § 515.2(i); and "customs services" shall have the meaning of "customs business" set forth at 19 C.F.R. § 111.1.

**2. Third-Party Liability Limitations.** Customer authorizes Company to select and engage Third Parties, as required, to transport, store, deal with, process, and deliver the shipment, all of whom shall be considered to be agents of Customer, and the shipment may be entrusted to such Third Parties subject to all conditions as to limitations of liability for loss, damage, expense, or delay and to all rules, regulations, requirements, and conditions, whether printed, written, or stamped, appearing in bills of lading, receipts, tariffs or similar shipping documents issued by such Third Parties. Company shall under no circumstances be liable for any loss, damage, expense, or delay to the shipment for any reason whatsoever when said goods are in the custody, possession, or control of Third Parties selected by Company to forward, enter, clear, transport, or render other services with respect to such shipment.

**3. Choosing Routes or Agents.** Unless express written instructions are received from Customer, Company shall have sole discretion in choosing the means, mode, route, and procedure to be followed in the handling, transportation, clearance, and delivery of the shipment, as the case may be. Advice by Company to Customer that a particular person or firm has been engaged to render services with respect to the shipment shall not be construed as a guarantee or to mean that Company warrants or represents that such person or firm will render such services. There are no agreed stopping places.

**4. Quotations Not Binding.** Quotations as to fees, rates of duty, freight charges, insurance premiums, or other charges provided by Company are for the informational purposes only, are subject to change without notice to Customer, and shall not be binding upon Company under any circumstances unless Company, in writing, specifically undertakes 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 Company and Customer.

**5. Duty to Furnish Information.** (a) On an import shipment at a reasonable time prior to entering of the goods for U.S. Customs, Customer shall furnish to Company invoices in proper form and other documents necessary or useful in the preparation of the U.S. Customs entry and also such further information as may be sufficient to establish the dutiable value, the classification and admissibility pursuant to U.S. law or regulation. If Customer fails in timely manner to furnish such information or documents, in whole or in part, as may be required to complete U.S. Customs entry, or if the information or documents furnished is inaccurate or incomplete, Company shall be obligated only to use reasonable judgment in connection with the shipment. Where a bond is required by U.S. Customs to be given for the production of any document or the performance of any act, Customer shall be deemed bound by the terms of the bond notwithstanding the fact that the bond has been executed by Company as principal, it being understood that company entered into such undertaking at the instance and on behalf of Customer, and Customer shall indemnify and hold Company harmless for the consequences of any breach of the terms of the bond. (b) On an export shipment at a reasonable time prior to the reasonable time prior to the exportation of the shipment, customer shall furnish to Company the commercial invoice in proper form and number, a proper consular declaration, weights, measures, values and other information in the language of and as may be required by the laws and regulations of the U.S. and the country of destination of the goods. (c) On an export or import shipment, Company shall not in any way be responsible or liable for increase duty, penalty, fine or expenses unless caused by the negligence or willful misconduct of the Company, in which event Company's liability to Customer shall be limited as provided under Paragraph 9. Customer shall be bound by and warrant the accuracy of all invoices, documents and information furnished to Company by Customer or its agent for export, entry or other purposes.

**6. Declaring Higher Valuation.** Inasmuch as Third Parties to whom the shipment is entrusted usually limit their liability for loss or damage unless a higher value is declared and a charged based on such higher value is agreed to by said Third Party, Company must receive specific written instructions from Customer to pay such higher charge based on valuation and the Third Parties must accept such higher declared value; otherwise the valuation placed by the Customer on the shipment shall be considered solely for export or customs purposes and the shipment will be delivered to the Third Party subject to the limit of liability set forth herein in Sections 8-9 below with respect to any claim against Company and subject to the provisions of Section 2 above.

**7. Insurance.** Company does not insure Customer's shipment and undertakes no obligation to do so. Upon Customer's advance written request,

which must be received by Company sufficiently in advance of booking, Company shall use reasonable efforts to procure marine, fire, theft, or other insurance upon the shipment. Any such request must state specifically the kind and the amount of insurance to be procured. Company makes no warranty that requested insurance will be obtained. Unless Customer has its own open marine policy and instructs Company to procure insurance under such policy, Company shall obtain insurance with one or more insurance companies or other underwriters selected by Company. Any insurance so obtained shall be of governed by the certificate or policy issued and will only be effective when accepted by such insurance companies or other underwriters. If an insurer disputes liability for any reason, Customer (as the insured) shall have recourse against the insurer only, and Company shall not have any liability in relation thereto, notwithstanding that the premium upon the policy may not be at the same rates as that charged or paid to Company by Customer or that the shipment was insured under a policy in the name of Company. Insurance premiums and the charge of Company for arranging the same shall be at Customer's expense. If for any reason the shipment is held in a warehouse or elsewhere, the same will not be covered by any insurance, unless Company received written instructions from Customer. Unless specifically agreed in writing, Company assumes no responsibility to affect insurance on any export or import shipment, which it does not handle.

**8. Liability of Company and Limitation of Damages.** (a) Customer agrees that Company shall only be liable for any loss, damage expense, or delay to the shipment resulting from the negligence or other fault of Company, and Company's liability under these terms and conditions, if any, shall not under any circumstances exceed fifty dollars (US\$50.00) per shipment or the invoice value of the goods, whichever is less; (b) Customer agrees that any claim, demand, civil action, or lawsuit arising from or related to loss, damage, mis-delivery, or delay to the shipment must be made directly against the Third Party having actual custody and control over the shipment at the time of the loss, damage, mis-deliver, or delay; (c) Company shall have no liability for the acts, omissions, negligence or willful misconduct of any Third Party; and (d) Customer agrees that company shall have no liability for special, consequential, incidental, punitive, or exemplary damages, or any other damages related to lost profits, lost business, loss of good will, or lost business, even if it has been put on notice of the possibility of such damages.

**9. Limitation of Actions.** (a) Unless controlled by a specific statute or international convention, all claims against Company in relation to services provided hereunder must be made by Customer in writing and received by company within ninety (90) days of the event giving rise to the claim. The failure to give Company timely notice shall be a complete defense and absolute bar to any lawsuit or civil action against Company related to the claim; (b) All lawsuits against Company must be billed and properly served on Company as follows; (i) for lawsuits or actions arising out of ocean transportation within one (1) year from the date of loss; (ii) For lawsuits or actions arising out of air transportation within two (2) years from the date of the loss; (iii) For lawsuits or actions arising out of the preparation and/or submission of an import entry(s), within ninety (90) days from the date of liquidation of the entry (s); (iv) For lawsuits or actions of any other type within one (1) year from the date of the circumstances giving rise to the lawsuits or action.

**10. Advancing Money.** Company shall not be obligated to incur any expense, charge, guarantee, or payment or to advance any money in connection with importing, forwarding, transporting, insuring, storing, or cooperating of a shipment, unless the same is previously provided to Company by Customer on demand. Company shall be under no obligation to advance freight charges, customs duties, or taxes on any shipment, nor shall any advance by Company be construed as a waiver of the provisions hereof.

**11. Indemnification.** In the event that a Third Party, other person, or any governmental agency makes a claim or institutes legal action against Company for ocean or other freight, duties, fines, penalties, liquidated damages, or other money due arising from a shipment of the Customer, Customer agrees to indemnify, defend, and hold Company, and its parents, subsidiaries, and affiliates and their respect officers, directors, agents, and representatives harmless from and against any and all claims, actions, lawsuits, losses, increase duties, fines, penalties, liabilities, judgments, costs, and/or expense (including without limitation reasonable attorneys' fees) from (a) Customer's providing inaccurate, incorrect, or incomplete entry, export, or security information or data, shipping details, or documents; (b) Failure to disclose information in a timely manner or at all or any other incorrect or false statement by Customer to Company; (c) Any negligent act or omission or willful misconduct of Customer; (d) Any breach by Company of any duty or obligation under these terms and conditions; (e) any violation by Customer of any regulation, rule, ordinance, or statute of any Government Agency; and/or (f) the services provided to Customer hereunder. In the event that any claim, lawsuit, action, or proceeding is brought against Company, it shall give notice in writing to Customer by mail at its address on file with Company.

**12. Sale of Perishable Goods.** Perishable goods or live animals to be exported or which are cleared through customs for which no disposition instructions are furnished may be sold or otherwise disposed of without notice to Customer, owner, or consignee and payment or tender of the net proceeds of any sale after deductions of charges shall be equivalent to proper delivery.

**13. C.O.D Shipments.** Goods received with Customer's or another person's instruction to "Collect on delivery" (C.O.D) by drafts or otherwise, or to collect on any specified terms by time drafts or otherwise, are accepted by Company only upon the express understanding that it will exercise reasonable care in the selection of a bank correspondent, carrier, or agent to whom it will send such item for collection, and Company will not be responsible for any act, omission, default, suspension, insolvency or want of care, negligence or fault of such bank, correspondent, carrier or agent, nor for any delay in remittance lost in exchange, or loss during transmission, or while in the course of collection.

**14. General Lien on Any Property.** Customer understands and agrees that Company shall have a general lien on any and all property (and documents relating thereto) of Customer in Company's possession, custody, or control or en route for all rates, charges, expenses, fees, costs, balances, debts, or advances owed to or incurred by Company in connection with services provided by Company. If any claim against Customer remains unsatisfied for thirty (30) days after demand for payment is made, then Company may sell the goods, wares and/or merchandise of Customer at public auction or private sale after giving Customer ten (10) days advance written notice by registered mail. Company may sell as much of the goods, wares, or merchandise as necessary to satisfy the lien, and may apply the net proceeds to payment of the amount due to Company. Any surplus shall be remitted to Customer. Customer shall be liable to Company for any deficiency remaining after any public auction or private sale.

**15. Compensation of Company.** The compensation of Company for its services is in addition to the rates, charges, fees, and account of all Third Parties selected by Company to transport, handle, process, and deal with the shipments. Company's compensation shall be exclusive of and shall not be reduced by any

brokerage, commissions, dividends, payments, or other revenue received by Company from other persons in connection with the shipment. In any referral for collection or action against Customer for monies owed, Customer shall be liable for and shall pay the expenses of collection and/or litigation, 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. In the event that any shipment is refused, remains unclaimed at destination or any transhipping point in the course of transit, or is returned for any reason, Customer shall nevertheless pay Company for all charges and expenses in connection therewith.

**16. Picking up Shipments or Samples.** Company shall not be obligated to pick up a shipment from a carrier or a sample from U.S. Customs. Should Company render such a service for and on behalf of the Customer, Company shall not be responsible for loss or damage to the shipment unless it is in the actual custody and control of Company and the loss or damage is caused by Company's negligence or other fault, in which event the limitation of liability set forth in Sections 8-9 herein shall apply.

**17. Refused Delivery.** If the consignee refuses to accept delivery of the shipment or cannot be contacted, then Company shall use reasonable diligence to notify Customer in writing and request disposition instructions. If Company fails to provide disposition instructions within ten (10) days of the date of Company's notice, then Company may in its sole discretion place the shipment in storage at a commercial warehouse, at the cost and expense of Customer, and Customer shall bear all risk of loss arising from such storage. If Customer does not provide disposition instruction within an additional twenty (20) day period after the shipment is warehoused, Company may sell the shipment in accordance with the procedures set forth in Section 14 above.

**18. No Responsibility for Governmental Requirement.** It is Company's responsibility to know and comply with all licensing, classification, valuation, marking and other U.S. Customs' requirements, and all laws, regulations, and rules of any Governmental Agency having jurisdiction over the shipment, including without limitation the U.S. Department of Transportation, and the U.S. Department of Homeland Security and sub-agencies thereof. Company shall not be responsible for actions(s) taken, liquidated damages, fines or penalties assessed by any Governmental Agency against the shipment because of Customer's failure to comply with applicable laws, statutes, regulations, or rules. Unless specifically requested by Customer in writing and agreed to by Company, Company shall have no duty or obligation to take any pre- or post-Customs release action, including without limitation, obtaining binding rulings, advising of liquidations or filing of petitions, and/or protests. Company shall be under no obligation to keep or maintain records on behalf of Customer, and Company shall only keep and maintain those records which Customer, itself is required to keep and maintain under laws or regulations applicable to Company. Customer acknowledges that pursuant to Sections 508 and 509 of the Tariff Act, as amended, (19 U.S.C. §§ 1508 BS 1509), and regulations promulgated thereunder (among others, 19 C.F.R. §§ 141 and 142), it has the duty to maintain and is solely liable for maintaining all required records.

**19. 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. Company's preparation or issuing of a bill of lading shall not confer carrier status on Company.

**20. Construction of Terms and Venue.** The foregoing terms and conditions shall be construed according to the laws of the State of New York without regard to conflicts of laws; provided however that governmental regulations and rules, as incorporated herein, shall be interpreted and applied in accordance with the interpretation of the government Agency having jurisdiction. Any lawsuits, civil action, or other Court proceeding arising from or related to these terms and conditions and/or the services rendered by Company shall be brought and prosecuted in the State or Federal Courts of New York, and Company and Customer consent to the jurisdiction of such courts.

**21. Independent Contractor.** Company acts as the agent of Customer solely for the purpose of performing duties in connection with the entry and release of goods, post entry services, the securing of export licenses, and the filing of export documentation on behalf of Customer. Otherwise, the relationship between Company and Customer shall be that of independent contractor, and these terms and conditions and/or the services rendered shall not create or be deemed to create any partnership, agency, joint-venture, or employer-employee relationship.

**22. Incomplete and Inaccurate Information.** Customer is hereby advised that the submission of incomplete or inaccurate information related to an import entry, including without limitation descriptions, quantities, weights, purchase, prices, discounts, commissions, changed selling process at the time of exportation, assist, import security filing data, or country of origin may expose Customer to severe governmental penalties, fines, sanctions, and/or delays in transportation or release of a shipment. In the event that information provided to Company, or which accompanied the shipment, does not accurately reflect the entire transaction, Customer must immediately notify Company so that corrective action may be taken in a timely fashion.

**23. Unlawful Rebates.** Company has a policy against payment, solicitation, or receipt of any rebate, directly or indirectly, which would be unlawful under the United States Shipping Act of 1984, as amended.

**24. Obligation to Pay Customs Charges.** For the benefit of Customer, Company makes Customer aware of the following notice under 19 C.F.R. § 111.29(b) (1): "if you are the importer of record, payment to the broker will not relieve you of liability for customs charges (duties, taxes or other debts owed CBP) in the event the charges are not paid by the broker. Therefore, if you pay by check, customs charges may be paid with a separate payable to the "U.S. Customs and Border Protection" which shall be delivered to CBP by the broker."

**25. Severability.** If any provision of these terms and conditions is found to be invalid by a tribunal of competent jurisdiction, then such provision shall be severed herefrom to the extent of its invalidity and the remaining provision shall continue in full force and effect.

**26. Modification.** The terms and conditions contained herein may not be modified, altered, amended, or waived except through a separate, written instrument executed by duly-authorized representatives of both Company and Customer. Bills of lading, tariffs, receipts, circulars, and similar shipping documents issued by Third Parties shall not affect, expand, or alter the relationship between Company and Customer as set forth in these terms and conditions. Company's failure to enforce strictly any provision of these terms and conditions shall not be construed as a waiver thereof, or as excusing Company from future performance. Company's consent or approval to or of any act by the Customer of a nature requiring consent or approval shall not be deemed to waive or render unnecessary consent to or approval of any subsequent similar act.