



## ICAT LOGISTICS, INC. TERMS AND CONDITIONS OF CONTRACT

### Conditions of Contract

These terms and conditions of service constitute a legally binding contract between the "Forwarder" (Carrier) and the "Customer". In the event the Forwarder 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) "Forwarder" shall mean ICAT Logistics, Inc. its subsidiaries, related companies, agents and/or representatives;
- (b) "Customer" shall mean the person for which the Forwarder 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) "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. Forwarder as agent.** The Forwarder 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 filing of export and security documentation on behalf of the Customer and other dealings with Government Agencies: as to all other services, Forwarder acts as an independent contractor.

**3. Carriage.** Carriage is subject to the rates, rules, and classification set forth in the most recent ICAT Rules and Regulations Tariff, which is available for inspection and incorporated into this contract by reference.

**4. Shipping Document.** In the event that shipment is tendered to Forwarder on a straight bill of lading or any other shipping document, Forwarder's rules and regulations will supersede any rules and regulations contained on the shipping document on which the freight was tendered.

**5. 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, Forwarder shall not be liable for damage/loss unless mishandling and/or loss is evident and is so 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 ordinary care in handling.

**6. 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. **NOTE:** Such notations as "subject to inspection" and "subject to recount" are not exceptions. **NOTE:** A shipment in which delivery is made in exchange for a clear delivery receipt shall be prima facie evidence of having received ordinary care in handling. **NOTE: Under no circumstances shall Forwarder be liable for loss and/or damage to external shipping containers of any kind.**

**7. Customer Liability.** The customer bears the responsibility for complying with all laws, rules, and regulations, including, but not limited to, import, export, customs, to, through, or from any country where a shipment may be transported. The customer is required to provide verified weights obtained on calibrated, certified equipment of all cargo that is to be tendered to steamship lines and represents that Forwarder is entitled to rely on the accuracy of such weights and to counter-sign or endorse it as agent of Customer in order to provide the certified weight to the steamship lines. The Forwarder shall not be liable to the shipper or any other party for any loss incurred due to any failure on the customer's part. The shipper, the consignee and the third party, if applicable, shall be liable, jointly and severally, (i) for all unpaid charges payable on account of a shipment pursuant to this contract, including the costs of collection, and (ii) to pay or indemnify Forwarder for all claims, fines, penalties, damages, costs or other sums which may be incurred by Forwarder by reason of any violation of the shipping contract or any other default, including 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 Forwarder relies.

**8. Advancing Money.** All charges must be paid by Customer in advance unless the Forwarder 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 Forwarder.

**9. C.O.D. or Cash Collect Shipments.** The amount of the COD must be inserted in the COD portion of the ICAT bill of lading. Forwarder shall use reasonable care regarding written instructions relating to "Cash/Collect on Deliver (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. Forwarder will, under no circumstances, be responsible for the form of payment by consignee unless specifically requested otherwise, in writing by shipper. Forwarder will not be liable for any fraudulent certified or cashier's checks. Applicable charges for handling a COD shipment will be billed.

**10. Quotations Not Binding.** Quotations as to fees, rates of duty, freight charges, insurance premiums or other charges given by the Forwarder to the Customer are for informational purposes only and are subject to change without notice; no quotation shall be binding upon the Forwarder unless the Forwarder 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 Forwarder and the Customer.

**11. Shipments Subject to Inspection.** Forwarder reserves the right to open and inspect all shipments. All shipments moving via air within or from the United States of America are subject to inspection by the Transportation Security Administration (TSA), U.S. Department of Homeland Security.

**12. Compensation of Forwarder.** The compensation of the Forwarder 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 Forwarder to transport and deal with the goods and such compensation shall be exclusive of any brokerage, commissions, dividends, or other revenue received by the Forwarder from carriers, insurers and others in connection with the shipment. The shipper, the consignee, and the third party, if applicable, shall be liable, jointly and severally, (i) for all unpaid charges payable on account of a shipment pursuant to this contract, including the costs of collection, and (ii) to pay or indemnify Forwarder for all claims, fines, penalties, damages, costs or other sums which may be incurred by Forwarder by reason of any violation of this contract or any other default. On ocean exports, upon request, the Forwarder 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 Forwarder, upon recovery by the Forwarder, the Customer shall pay the expenses of collection and/or litigation, including a reasonable attorney fee.

## Carrier's Liability

### 1. Limitation of Actions.

(a) Unless subject to a specific statute or international convention, all claims against the Forwarder for a potential or actual loss, must be made in writing and received by the Forwarder at its corporate headquarters located at 6805 Douglas Legum Dr., Elkridge, MD, 21075, within 270 days of the event giving rise to claim; the failure to give the Forwarder timely notice shall be a complete defense to any suit or action commenced by Customer. Claims for overcharges or duplicate billings must be filed in writing to the Forwarder at its corporate headquarters within 180 days after the date of acceptance of the shipment by the consignee. Claims for concealed damage must be reported to Forwarder within 7 days after delivery to the consignee with privilege to inspect the container(s) and contents within 15 days after receipt of such notice. Merchandise must be retained in original container/box. No claim for loss or damage will be entertained until all transportation charges have been paid.

(b) All suits against Forwarder must be filed and properly served on Forwarder as follows:

(i) For claims arising out of ocean transportation, within 2 years from the date of the loss;

(ii) For claims arising out of air and ground transportation, within two years from the date of the loss;

(iii) For claims arising out of the preparation and/or submission of an import entry(s), within 90 days from the date of liquidation of the entry(s);

(iv) For any and all other claims of any other type, within two years from the date of the loss or damage.

**2. 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, Forwarder shall use reasonable care in its selection 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 Forwarder 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 Forwarder warrants or represents that such person or firm will render such services nor does Forwarder assume responsibility or liability for any actions(s) and/or inaction(s) of such third parties and/or its 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 Forwarder shall reasonably cooperate with the Customer, which shall be liable for any charges or costs incurred by the Forwarder. The Forwarder also reserves the right to consolidate customer's shipment(s) with shipment(s) from other customers while en route to destination.

### 3. 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 Forwarder of any errors, discrepancies, incorrect statements, or omissions on any declaration or other submission filed on Customer's behalf;

(b) In preparing and submitting customs entries, export declarations, applications, security filings, documentation and/or other required data, the Forwarder 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 Forwarder 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, incomplete or false statement by the Customer or its agent, representative or contractor upon which the Forwarder 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.

**4. Declaring Higher Value to Third Parties.** Third parties to whom the goods are entrusted may limit liability for loss or damage; the Forwarder 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 Forwarder'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.

**5. Insurance.** Unless requested to do so in writing and confirmed to Customer in writing, Forwarder 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.

### 6. Disclaimers; Limitation of Liability.

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

(b) In connection with all services performed by the Forwarder, 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 Forwarder prior to rendering services for the covered transaction(s). The Forwarder's maximum liability shall be limited to the declared value in case of loss or damage of the entire shipment (but not less than \$50 per shipment) and in the event of the loss or damage on part of the shipment, the average declared value per pound of the shipment, multiplied by the number of pounds of that part of the shipment lost or damaged (but not less than \$50 per shipment).

(c) Unless otherwise expressly provided in Forwarder's tariffs and subject to any conditions or restrictions therein, the following articles will not be accepted for carriage: any shipment prohibited by law; original works of art; antiques; bonds; coins of any kind; currency; currency equivalents; furs; fur clothing; gems or stones (other than costume jewelry); articles containing glass or mirrors; pearls; precious metals; securities (negotiable); time sensitive written material (e.g. bids, contract proposals, etc). Forwarder 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 this shipping document and no employee or agent of Forwarder has any authority to accept for transportation such articles or to waive the limitations herein contained.

(d) In the absence of additional coverage under (b) above, the Forwarder's liability shall be limited to the lesser of (i) The amount of any damages sustained or (ii) Where the claim arises from activities other than those relating to customs business, \$0.50 per pound (where no value declared) multiplied by the number of pounds of that part of the shipment lost or damaged, but not less than \$50.00 per shipment, or (iii) where a value has been Declared on the face of the bill of lading, Forwarder's liability shall be the average declared value of the entire shipment which will be calculated by dividing the total value of the shipment by the total weight of the shipment, and multiplying that average value per pound by the number of pounds lost /or damaged, but in no circumstance will Forwarder's liability exceed the actual invoice value of the portion of the shipment lost or damaged or (iv) where the claim arises from activities relating to "Customs business," \$50.00 per entry or the amount of brokerage fees paid to Forwarder for the entry, whichever is less or (v) International air carriage, if not governed by the Warsaw Convention, the Warsaw Convention as amended by the Hague Rules, the Warsaw Convention as amended by the Montreal Protocol 4, the Montreal Convention, or any other international treaties, laws, other government statutes, or regulations, orders or requirements, Carrier's maximum liability for loss, damage, shortage, mis-delivery or non-delivery shall be 19 SDR's per kilo or the actual value of the loss, whichever is less, unless a higher value for carriage is declared on the face hereof and an additional charge is paid for such declaration. In the event the Montreal Convention does not apply, Forwarder's liability is limited to 19 SDR's per kilo or the actual value of the

loss, whichever is less, unless a higher value for carriage is declared on the face hereof and an additional charge is paid for such declaration or (vi) if all or any part of a shipment is carried by water over any part of said route, such water carriage shall be performed subject to the terms and provisions and limitations of liability specified by the "Carriage of Goods By Sea Act" and any other pertinent laws applicable to water carriers. Forwarder's limit of liability shall be established at \$500.00 per package as per the COGSA agreement, unless a higher value for carriage is declared and an additional charge paid for such declaration.

**(e) In no event shall Forwarder be liable or responsible for consequential, indirect, incidental, statutory or punitive damages, including, but not limited to, monetary, loss of income, loss of property, other than merchandise listed on the bill of lading, even if it has been put on notice of the possibility of such damages, or for the acts of third parties, or events caused by: Compliance or non-compliance with delivery or special instructions; Acts of God; public authorities acting with actual or apparent authority; strikes; labor disputes; weather; mechanical failures; aircraft failures; civil commotions; acts or omissions of customs or quarantine officials; the nature of the freight or any defects thereof; public enemies; hazards incident to a state of war; acts of terrorism; and by acts, defaults or omissions of the shipper or consignee for failure to observe the terms and conditions of the contract of carriage contained in this shipping document, including, but not limited to, improper packaging, marking, incomplete/inaccurate shipping instructions and the rules relating to freight not acceptable for transportation of freight acceptable only under certain conditions outlined below.**

**(f)** In the event of the failure or inability of the consignee to take delivery of the shipment, Forwarder will notify shipper in writing at the address shown on the shipping document and request disposition instructions. If the shipper fails to provide disposition instructions within 30 days after the date of the Forwarder's notice, the Forwarder will return the shipment to the shipper at the shipper's expense. If the shipper fails to accept delivery of a shipment thus returned, the Forwarder may, upon 30 days written notice to the shipper, dispose of the shipment at public or private sale and pay itself out of the proceeds to satisfy the transportation charges owing on the shipment. Any sums collected by Forwarder in excess of such transportation charges will be paid to the shipper. No sale or disposal pursuant to this rule will discharge any liability or lien to any greater extent than the proceeds thereof. The shipper and the consignee shall remain liable, jointly and severally, for any deficiency.

**7. Indemnification/Hold Harmless.** The Customer agrees to indemnify, defend, and hold the Forwarder harmless from any claims and/or liability, fines, penalties, costs, and/or attorneys' fees arising from the importation or exportation of customers merchandise, from any incorrect or questionable statements of the weight provided by the Customer or its agent or contractor on which the Forwarder relies, 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 Forwarder 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 Forwarder 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 Forwarder, it shall give notice in writing to the Customer by mail at its address on file with the Forwarder.

**8. Costs of Collection.** In any dispute involving monies owed to Forwarder, the shipper and/or the consignee shall be liable for and the Forwarder shall be entitled to all costs of collection, including reasonable attorney's fees and interest at 1 1/2% per month or the highest rate allowed by law, whichever is less unless a lower amount is agreed to by Forwarder.

**9. General Lien and Right to Sell Customer's Property.**

**(a)** Forwarder shall have a general and continuing lien on any and all property of Customer coming into Forwarder's actual or constructive possession or control for monies owed to Forwarder with regard to the shipment on which the lien is claimed, a prior shipment(s) and/or both;

**(b)** Forwarder shall provide written notice to Customer at address shown on waybill 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 Forwarder'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 Forwarder, guaranteeing payment of the monies owed, plus all storage charges accrued or to be accrued, Forwarder 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.

**10. No Duty to Maintain Records for Customer.** 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 Forwarder shall only keep such records that it is required to maintain by Statute(s) and/or Regulation(s), but not act as a "record keeper" or "recordkeeping agent" for Customer.

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

**12. Preparation and Issuance of Bills of Lading.** Where Forwarder prepares and/or issues a bill of lading, Forwarder 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, Forwarder shall rely upon and use the cargo weight supplied by Customer.

**13. 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 Forwarder; any attempt to unilaterally modify, alter or amend same shall be null and void.

**14. 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. Forwarder'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.

**15. 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 Maryland without giving consideration to principals of conflict of law.  
Customer and Forwarder

**(a)** irrevocably consent to the jurisdiction of the United States District Court and the State courts of Maryland.

**(b)** agree that any action relating to the services performed by Forwarder, 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 any jurisdiction.

\*\*\*Terms and conditions are subject to change without notice. For the most current version, go to [www.icatlogistics.com](http://www.icatlogistics.com)

### **ICAT Acting as a Property Broker under Motor Carrier Authority**

ICAT may, at ICAT's discretion, and operating in the customer's best interest, choose to operate as a Property Broker, under MC authority 468137-B. Acting as a property broker, ICAT assumes no cargo liability, operating only in the capacity of a truck broker. In those instances when operating as a property broker, no bill of lading will be issued. ICAT will secure a carrier on behalf of the shipper. Cargo liability will be assumed by the carrier and, in the event of a claim, the shipper will deal directly with the carrier for any claim or subsequent settlement.