



STERLING
TRANSPORTATION

Terms and Conditions of Contract

1. DEFINITIONS

"Forwarder" means Sterling Transportation, Inc.

"Bill of Lading" means the Forwarder's Non-Negotiable Bill of Lading, front and reverse pages.

"Customer" includes the consignor, shipper, consignee, owner of the Goods, and any person lawfully acting on behalf of any of the aforementioned persons, including, without limitation, brokers of property.

"Goods" means articles of every kind and description, including their packaging, containers, or other shipping units or materials, that Customer has tendered to the Forwarder for transportation from the Place of Receipt to the Place of Delivery (the "Carriage"), all of the above as set forth on the front page of this Bill of Lading.

"Charges" includes, without limitation, freight, all expenses, costs, detention, demurrage, and any other money obligations incurred and payable by the Customer, and all collection costs for freight and other amounts due from the Customer, including, without limitation, attorneys' fees and court costs.

2. AGREEMENT TO TERMS AND CONDITIONS OF BILL OF LADING

By the Customer's tender of the Goods for Carriage, the Customer agrees to these Bill of Lading Contract Terms, which no agent or employee of the parties may alter. This Bill of Lading is non-negotiable. The Customer has prepared this Bill of Lading, or the Forwarder or its authorized agents have done so on the Customer's behalf. The Customer agrees that the Carriage is subject to these Bill of Lading Contract Terms and those set forth on the front page of this Bill of Lading, the applicable tariff(s), which is/are available for inspection upon request, and which is/are expressly incorporated herein by reference. The defenses and limits of liability set forth in this Bill of Lading shall apply in any action against the Forwarder under any legal theory whatsoever, whether the action is in contract, tort, bailment, indemnity, contribution, or otherwise.

3. FORWARDER'S UNDERTAKING

The Customer understands that the Forwarder is a non-vehicle-operating domestic freight forwarder. The Forwarder is a Title 49 freight forwarder, licensed by the Federal Motor Forwarder Safety Administration—docket number FFO02469. The Forwarder contracts with service providers including, without limitation, motor carriers, drayage companies, brokers, freight forwarders, rail carriers, warehousemen, and/or other transportation and transportation-related service providers (collectively, the "Service Providers") to transport and/or handle the Goods.

4. FORWARDER ACTING AS AGENT FOR NON-CARRIAGE UNDERTAKINGS

Whenever the Forwarder undertakes to accomplish any act, operation, or service outside of the Carriage undertaking or one not initially agreed or mentioned on this Bill of Lading, the Forwarder shall act as the Customer's agent and shall be under no liability whatsoever for any loss or damage to the Goods or any direct, indirect, or consequential loss arising out of or resulting from such act, operation, or service.

5. NOTICE OF CLAIM AND TIME-BAR

(a) As a condition precedent to the Forwarder's processing of a cargo claim, all freight charges must have been paid in full.

(b) Any cargo claims must be filed against the Forwarder within nine months after the delivery of the Goods, or in the case of export traffic, within nine months after delivery at the port of export, except that claims for failure to make delivery must be filed within nine months after a reasonable time for delivery has elapsed. The failure to file a claim within the aforementioned nine-month period shall result in the claim's being time-barred and the Forwarder's discharge from any liability, whether in contract, tort, or otherwise. The Forwarder shall not pay any time-barred claims. A timely notice of claim is a condition precedent to the right to institute a timely lawsuit against the Forwarder, as set forth below in sub-paragraph (c).

(c) Any lawsuits for cargo claims shall be filed in court against the Forwarder no later than two years and one day from the day on which the Forwarder has given written notice to the claimant that the Forwarder has disallowed the claim or any part or parts of the claim specified in the timely notice of claim. Assuming a timely notice of claim, the failure to file a timely lawsuit within the aforementioned two-year-and-one-day period shall result in the claim's being time-barred and the Forwarder's discharge from any liability, whether in contract, tort, or otherwise. The Forwarder shall not pay any time-barred claims.

6. SPECIAL SECURITY/PROTECTIVE SERVICES

The Forwarder's failure to arrange any agreed-to special security services or requirements, including, without limitation, team drivers, shall not negate the Forwarder's limitation of liability, which is set forth below in paragraph 8.

7. HIJACKING/ASSAULTING THIEVES DISCLAIMER

The Forwarder shall have no liability whatsoever arising out of or in connection with the acts of any person who unlawfully, by use of force or threats of any kind, damages, seizes, or exercises control over the Goods, over any Service Provider, or over any means of transportation or storage of the Goods. The Customer understands and agrees that it accepts and assumes the risk of loss for the foregoing acts.

8. LIMITATION OF LIABILITY; CHOICE AS TO LIMITATION AND OPPORTUNITY TO AVOID LIMITATION

(a) The Forwarder has established and has offered the Customer alternative levels of liability for the Carriage. The Customer acknowledges that it has had a reasonable opportunity to choose between two or more levels of the Forwarder's liability and has made its choice as to the Forwarder's liability limit as follows: The Customer has had the choice to ship the Goods and to pay (A) the Forwarder's regular/lowest rates for goods with limited value and a corresponding limited liability for the Forwarder or (B) ad valorem rates for goods not so limited in value and a corresponding increased level of liability for the Forwarder, the basis for which rates is the Forwarder's regular/lowest rates plus a declared valuation charge of \$.75 per \$100 of declared value for the Goods, the sum of which equals an "Increased Liability Freight Rate" for the Carriage.

(b) Unless the Customer declares the nature and value of the Goods prior to the Carriage, sets forth the same on the front page of this Bill of Lading, and pays the corresponding Increased Liability Freight Rate, the Customer knowingly and willingly elects to ship under the Forwarder's regular/lowest rates, the consequence of which is that in no event shall the Forwarder or its servants or agents be or become liable for any loss of or damage to or in connection with the Carriage of the Goods in an amount exceeding \$5.00 per pound or \$50, whichever is greater. Forwarder's Declared values for cargoes in excess of \$50 per pound shall be subject to an excess valuation charge. The maximum declared value that Forwarder will accept for any Carriage is \$25,000. If the Shipper wishes to declare a value over \$10,000, then the Customer must make such declaration at the time of the booking.

9. CARRIAGE METHODS/ROUTES, SUBSTITUTION OF MODE/EQUIPMENT

The Customer understands and agrees that the Forwarder or Service Providers performing the Carriage of the Goods may at any time, and without notice to the Customer:

(a) Use any means of transport or storage whatsoever;

(b) Transfer the Goods from one conveyance to another, including transshipment or carrying on a truck or trailer other than those that may be set forth on the front page of this Bill of Lading, or any other means of transport whatsoever; or

(c) Proceed by any route in the Forwarder's or any Service Provider's sole discretion—irrespective of whether such route is the nearest, most direct, customary, or advertised route.

The Customer agrees that anything done or not done in accordance with the above sub-paragraphs or any delay arising therefrom shall be within the scope of the Carriage and not a deviation.

10. MATTERS AFFECTING PERFORMANCE

If at any time and for any reason the performance of the contract for the Carriage of the Goods evidenced by this Bill of Lading is or is likely to be affected by any hindrance, risk, delay, difficulty, or disadvantage of any kind, other than the inability of the Goods to be safely or properly carried or carried further, and howsoever arising (even though the circumstances giving rise to such matters as stated above existed at the time this contract was entered into or the Goods were received for shipment), the Forwarder, at its sole discretion, without prior notice to the Customer and irrespective of whether the Carriage has commenced, may treat the performance of the contract of transportation as terminated and place the Goods at the Customer's disposal at any place that the Forwarder, at its sole discretion, deems to be safe and convenient, whereupon the responsibility of the Forwarder in respect of such Goods shall cease. The Forwarder shall nevertheless be entitled to full freight for the Carriage of the Goods, and the Customer shall pay any additional costs of transportation to and delivery and storage at such place.

11. REFUSED DELIVERY

Refusal of the consignee or Customer to take delivery of the Goods notwithstanding their having received notice of the Goods' availability shall constitute an irrevocable waiver of all claims arising out of or in any way relating to the Goods or the Carriage. The Customer shall be liable to the Forwarder for any losses, damages, expenses, and liabilities it incurs arising out of such a refusal, including, without limitation, the return of the Goods to their Place of Receipt.

12. FREIGHT AND CHARGES

(a) All freight shall be deemed fully, finally, and unconditionally earned on the Forwarder's receipt of the Goods and shall be paid and non-returnable in any event whatsoever.

(b) All freight and Charges shall be paid without any set-off, counter-claim, deduction, or stay of execution before delivery of the Goods.

(c) If the Customer's description of the Goods in this Bill of Lading or in any documents the Forwarder receives from or on behalf of the Customer is inaccurate, incorrect, or misleading in any respect, the Customer shall pay for any actual damage that the Forwarder suffers as a result.

(d) Payment of freight and Charges to any carrier, broker, or freight forwarder, or anyone other than the Forwarder or its authorized agent shall not be considered payment to the Forwarder and shall be made at the Customer's sole risk.

(e) The class of persons that make up the definition of "Customer" shall, where applicable, be jointly and severally liable to the Forwarder for payment of all freight, demurrage, detention, and Charges including, without limitation, court costs, expenses and attorneys' fees the Forwarder incurs in collecting any sums due, failing which shall be considered a default by the Customer in the payment of freight and Charges.

13. FORWARDER'S SPECIFIC AND GENERAL LIENS AS TO THE GOODS AND ANY PROPERTY OF THE CUSTOMER

(a) In addition to a specific cargo lien under law, including but not limited to, California Civil Code §3051.5, the Forwarder shall have a general and continuing lien on the Goods and on any property of the Customer coming into the Forwarder's actual or constructive possession or control as to any unpaid Charges including, without limitation, for monies owed to the Forwarder with regard to the shipment on which the Forwarder is claiming the lien, a prior shipment, or both, including, without limitation, freightage, dead freight, demurrage, detention, and for any expenses that the Forwarder incurs for storage, security, repacking, remarking, fumigation, or required disposal of Goods, for fines, dues, tolls, or commissions that the Forwarder has paid or advanced on behalf of the Goods, for any sums, including, without limitation, for legal expenses the Forwarder has incurred because of any attachment or other legal proceedings brought against the Goods by governmental authorities or any person claiming an interest in the Goods. The failure to pay any Charges may result in a lien on a future shipment(s), including the cost of storage and appropriate security for the subsequent shipment(s) that the Carrier may hold under this section. The Forwarder's lien(s) shall survive discharge or delivery of the Goods.

(b) The Forwarder shall provide written notice to the Customer of the Forwarder's intent to exercise its lien rights, which notice shall set forth the exact amount of monies due. The Customer shall notify all parties having an interest in the shipment(s) of the Forwarder's lien rights and

the potential exercise of such rights in the absence of the payment of the monies due.

(c) Unless, within thirty 30 days of receiving notice of lien, the Customer posts cash or letter of credit at sight, or if the amount due is in dispute, an acceptable bond equal to 110 percent of the value of the total amount due, in favor of Forwarder, guaranteeing payment of all monies due, plus all ongoing and accruing Charges, the Forwarder shall have the right to sell the Goods or other property of the Customer at public or private sale or auction and the Forwarder shall refund to the Customer any net proceeds remaining after such sale.

14. DESCRIPTION OF GOODS AND NOTIFICATION

(a) The Customer's description of the Goods stuffed in a sealed trailer, shipping container, or package by the Customer or on its behalf shall not be binding on the Forwarder, and the description declared by the Customer on the front page of this Bill of Lading is information provided by the Customer solely for its own use. The Customer understands that the Forwarder has not verified the contents, weight, or measurement of a sealed trailer, shipping container, or package, or the weight or measurement, or the value, quantity, quality, description, condition, marks, or numbers of the contents thereof. The Forwarder is under no responsibility whatsoever in respect of such description of particulars, and the Customer shall indemnify and hold harmless the Forwarder against any loss, damage, liability, and expense, including, without limitation, attorneys' fees that the Forwarder has incurred, arising out of or in any way connected with or caused by, in whole or in part, such description of particulars.

(b) The Forwarder, its agents, and servants shall not in any circumstances whatsoever be under any liability for insufficient packing or inaccuracies, obliteration or absence of marks, numbers, addresses or description, or for misdelivery due to marks or countermarks or numbers, or for failure to notify the consignee of the arrival of the Goods, notwithstanding any custom of the Place of Delivery to the contrary.

15. HAZARDOUS GOODS

(a) Prior to tendering hazardous goods, as defined under applicable federal and state law and regulations, the Customer shall, in compliance with the laws and regulations governing the transportation of such goods, have the same properly packed, distinctly marked, and labeled, and notify the Forwarder in writing of their proper description, nature, and the necessary precautions.

(b) Goods that are hazardous goods or are otherwise of an inflammable, explosive or dangerous nature to the shipment whereof the Forwarder or Service Provider has not consented with knowledge of their nature and character, may at any time before discharge be landed at any place and destroyed or rendered innocuous by the Forwarder or a Service Provider without compensation, and the Customer shall be liable for all damages and expenses directly or indirectly arising out of or resulting from such shipment. If any such goods shipped with such knowledge and consent shall become a danger to the transporting conveyance or to any cargo thereon, they may in like manner be landed in any place, or destroyed and rendered innocuous by the Forwarder without liability on the part of the Forwarder.

(c) The Customer shall indemnify and hold the Forwarder harmless from and against any loss, damage, liability, and expense, including, without limitation, attorneys' fees that the Forwarder has incurred, arising out of or in any way connected with or caused by, in whole or in part, omission of full disclosure required by this clause or by applicable treaties, conventions, laws, codes, or regulations.

16. PERISHABLE GOODS

(a) Goods of a perishable nature shall be carried in ordinary trailers without special protection, services, or other measures unless there is noted on the front page of this Bill of Lading that the Goods will be carried in a refrigerated, heated, electrically ventilated, or otherwise specially-equipped trailer or shipping container, or that the Goods are to receive special attention in any way. In case of refrigerated trailers or shipping containers packed for or on behalf of the Customer, it undertakes not to tender for Carriage any Goods that require refrigeration without giving written notice to the Forwarder of their nature and the required temperature setting of the thermostatic controls before the Forwarder's receipt of the Goods. The Customer undertakes that the Goods have been properly stowed in the trailer or shipping container and that the thermostatic controls have been adequately set before the Forwarder's receipt of the Goods and, if necessary, that the Goods have been pre-cooled before their stuffing into the trailer or shipping container. The Customer's attention is drawn to the fact that refrigerated trailers and shipping containers are not designed to freeze down Goods that have not been presented for stuffing at or below their designated carrying temperature, and the Forwarder shall not be responsible for the consequences of Goods tendered to it at a higher temperature than that required for the Carriage. If the Customer fails to comply with the foregoing requirements, the Forwarder shall not be liable for any loss of or damage to the Goods, howsoever arising.

(b) The term "apparent good order and condition" when used in this Bill of Lading with reference to Goods that require refrigeration does not mean that the Goods upon the Forwarder's receipt of the same, were verified by the Forwarder as being at the designated carrying temperature.

(c) The Forwarder shall in no event be held liable for damage to Goods due to condensation.

17. GOODS UNACCEPTABLE FOR CARRIAGE

(a) Unless the Forwarder otherwise agrees in writing, Forwarder shall not accept for Carriage any of the following: accounts, bills, deeds, evidences of debt, notes, securities, currency, money, coins or stamps, jewelry, precious stones, fine arts, bullion, specie, or other precious metals, furs, garments trimmed with furs, weapons, ammunition, explosives, live animals and plants, Christmas trees, batteries, used household goods and personal effects, used machinery and used automobiles, used aircraft/used boats, temperature controlled commodities, cigarettes and tobacco products, hazardous materials, human remains, antiques, plants, live animals, pharmaceuticals, lewd, obscene or pornographic materials, D.O.T.-restricted articles, including dangerous goods and hazardous or combustible materials, any material prohibited from transport by any law, regulation, or statute of any country in which the shipment may be carried.

(b) If the Customer tenders any of the foregoing without previous full written disclosure of the same to the Forwarder and its written agreement to transport the same, the Customer shall indemnify and hold the Forwarder harmless from and against any loss, damage, liability, and expense, including, without limitation, attorneys' fees that the Forwarder has incurred, arising out of or in any way connected with or caused by, in whole or in part, such goods.

18. INSPECTION OF GOODS

The Forwarder or any Service Provider shall be entitled, but shall be under no obligation, to open any trailer, package, carton, or other shipping unit at any time and to inspect the Goods.

19. CUSTOMER-PACKED GOODS, CUSTOMER-STUFFED TRAILERS AND CONTAINERS

(a) If Goods have not been packaged, and if a trailer or shipping container has not been stuffed by or on behalf of the Forwarder, the Forwarder shall not be liable for the loss of or damage to the Goods, and the Customer shall indemnify and hold the Forwarder harmless from and against any loss, damage, liability, and expense, including, without limitation, attorneys' fees that the Forwarder has incurred if such loss, damage, liability, or expense arises out of or is in any way connected with or is caused by, in whole or in part:

(1) The manner in which the Goods, trailer, or shipping container was stuffed, filled, packed, or loaded; or

(2) The unsuitability of the Goods for Carriage in their packaging or in a trailer or shipping container; or

(3) The unsuitability or defective condition of the trailer or shipping container, provided that, if the trailer or shipping container had been supplied by or on behalf of the Forwarder, that unsuitability or defective condition could have been apparent upon inspection by the Customer at or prior to the time when the trailer or shipping container was stuffed, filled, packed, or loaded.

(b) The Customer shall inspect trailers or shipping containers before stuffing them and the Customer's use of a trailer or shipping container shall be prima facie evidence of its being suitable and without defect.

20. CARRIAGE AFFECTED BY THE CONDITION OF THE GOODS

If it appears at any time that the Goods cannot safely or properly be carried or carried further, either at all or without incurring any additional expense or taking any measure(s) in relation to the Goods or the trailer or shipping container, the Forwarder may, without notice to the Customer, but as its agent only, take any measure(s) or incur any additional expense(s) to carry or to continue the Carriage, or sell or dispose of the Goods, or abandon the Carriage or store Goods, or any combination of the foregoing, under cover or in the open, at any place that the Forwarder, in its sole discretion, considers most appropriate, which abandonment, storage, sale, or disposal shall be deemed to constitute delivery under this Bill of Lading. The Customer shall indemnify the Forwarder against any additional expenses it has so incurred.

21. CUSTOMER'S RESPONSIBILITY

The Customer shall comply with all regulations or requirements of customs, port, and other authorities, and shall bear and pay all duties, taxes, fines, imposts, expenses, or losses, including the full return-freight for the Goods returned, or if on-carried, the full freight from the Place of Delivery to another place of delivery, incurred or sustained by reason of any failure to so comply or by reason of any illegal, incorrect, or insufficient marking, numbering, or addressing of the Goods, and shall indemnify the Forwarder in respect of such expenses.

22. DELAY, CONSEQUENTIAL LOSS, ETC.

(a) The Forwarder does not undertake that the Goods will be transported from the Place of Receipt, or will arrive at the Place of Delivery, or will be shipped on board any particular truck or other conveyance at any particular date or time or to meet any particular market or in time for any particular use. The scheduled or advertised departure and arrival times are only expected times and may be advanced or delayed and the Forwarder shall in no circumstances whatsoever and howsoever arising be liable for direct, indirect, or consequential loss or damage caused by delay.

(b) Save as otherwise provided herein, the Forwarder shall in no circumstances be liable for direct or indirect consequential loss or damage arising from any other cause.

23. VARIATION OF THE CONTRACT

No person, including, without limitation, a Service Provider or an employee, servant, or agent of the Forwarder has the power to waive or vary any of the Bill of Lading Contract Terms unless an officer of the Forwarder, in writing, has specifically agreed to such a waiver or variation.

24. PARTIAL INVALIDITY

If any provision of this Bill of Lading shall for any reason be held to be invalid or unenforceable by any court or regulatory body, then the remainder of this Bill of Lading shall be unaffected thereby, and remain in full force and effect.

25. MANDATORY LAW, VENUE, AND JURISDICTION

(a) MANDATORY CHOICE OF LAW. The Customer agrees that all claims or disputes arising out of or in any way connected to this Bill of Lading or the Carriage shall be determined under the federal law of the United States of America, without regard to its conflict of laws rules, or in the absence of such federal law, then under the laws of the State of California, without regard to its conflict of laws rules.

(b) MANDATORY VENUE. In the absence of any compulsorily applicable law to the contrary, the exclusive and mandatory venue for all of the aforementioned claims or disputes shall be the United States District Court for the Central District of California in Los Angeles, California, to the exclusion of all other courts. After a filing in the aforementioned federal court it were to rule that it lacks subject matter jurisdiction, then the exclusive and mandatory venue for all of the aforementioned claims or disputes would become the Los Angeles Superior Court in Los Angeles, California, to the exclusion of all other courts.

(c) MANDATORY CONSENT AND WAIVER. The Forwarder and Customer agree to irrevocably submit to the personal jurisdiction of the above courts, and thereby waive any jurisdictional, venue, or inconvenient forum objections to such courts.