



TERMS AND CONDITIONS OF SERVICE

The following terms and conditions shall apply to any service of any kind provided by MOJO COURIER, LLC, hereinafter “MOJO” to or on behalf of any customer. By hiring MOJO, customer certifies that it has read and expressly agreed to the application of each and every condition hereunder.

1. DEFINITIONS

- 1.1 The following definitions are applicable to all terms as used herein and in any shipping documents or paperwork issued by MOJO:
 - 1.1.1 Carrier – shall refer to MOJO or any other entity to which MOJO outsources carriage services, and who performs such carriage services under its own authority.
 - 1.1.2 Consignor or Shipper – the entity or individual who tenders cargo to MOJO for transportation.
 - 1.1.3 Consignee – the entity or individual to whom the Shipper has directed MOJO to deliver the cargo or the entity listed on the bill of lading as consignee.
 - 1.1.4 "Carrier", "consignor" or "consignee" include the authorized representatives or agents of such "carrier", "consignor" or "consignee".
 - 1.1.5 Shipment – a unit of cargo tendered to MOJO for transportation by the Shipper under a single receipt, bill of lading or shipping document, or any item or group of items being transported together from the same origin to the same destination.
 - 1.1.6 Limitation of Liability or Release Value – the maximum liability of Carrier for any Shipment, either measured in a “per pound” or “per shipment” basis. The standard limitation of liability applicable to any shipment hereunder, absent a separate written and signed agreement for greater liability, shall be the lesser of \$100 per shipment or \$1.00 per pound, per article damaged.
 - 1.1.7 Claim – a written document provided to MOJO identifying the Shipment at issue, asserting liability upon MOJO for loss or damage thereto, and specifying a monetary value of the alleged damage or loss, providing supporting documentation therefore.
 - 1.1.8 Concealed Damage – concealed damage is any damage not noted on the delivery receipt by the consignee at the time of delivery. MOJO is NOT liable for concealed damage under any circumstances.
 - 1.1.9 MOJO does not provide warehousing or storage services. Disposition must be provided for any on-hand shipment within forty-eight (48) hours, or such shipment will be placed into public storage in customer’s name and account. Service charges may apply.

- 1.1.10 Service Levels – Each of the service levels listed below is subject to an accessorial fee based upon the service requested. Fees will provided in an individual quote, or alternatively in a rate agreement between the shipper and MOJO.
 - 1.1.10.1 STAT – immediate request for pickup with a pickup and delivery location within the Orlando Metro Area. MOJO will endeavor to pick up within two hour and delivery within two additional hours.
 - 1.1.10.2 After Hours – requests for pickup or delivery between 5pm and 8am and on weekends at any time. Delivery windows will be provided in a shipment basis.
 - 1.1.10.3 HotShot – requests for immediate pickup or delivery where either the pickup or delivery location are outside of the Orland Metro Area.
 - 1.1.10.4 Refrigerated Service – any request for control of temperature within any specific range. Any shipment that is not Refrigerated Service may be subject to any temperature ranging from ten degrees Fahrenheit to 150 degrees Fahrenheit.
- 1.1.11 Accessorial Services – any service other than pickup at a door and deliver to a door. Accessorial services such as interior delivery, stairs, long-carry, overweight items, oversize items, delivery teams, security, white glove service, equipment requirements, storage, crossdocking, and any service other than crosstown delivery by passenger vehicle, are subject to additional charges.
- 1.1.12 Undisclosed Accessorial Services – any Accessorial Service not disclosed at the time of an estimate, and which MOJO is requested during the course of transportation or delivery shall be considered an Undisclosed Accessorial Service, which is subject to 120% of the standard Accessorial Service charge.

2. RATES AND PAYMENT OF FREIGHT CHARGES

- 2.1 All rates and/or freight charges for services provided by MOJO shall be as described in these Terms and Conditions and any Rate Addendum agreed to in writing with customer.
- 2.2 Rates shall be charged as agreed upon in the Rate Addendum executed between the parties separately, but incorporated herein. Any service or Rate not specified in the Rate Addendum shall be treated as a spot quote, and shipper/consignee agree to such spot quote rates by tendering goods subject to a spot quote or for which no specified Service and Rate from the addenda apply.
- 2.3 Freight charges pursuant to these terms and conditions are due within fifteen (15) business days of delivery of said shipment unless a credit agreement is in place between MOJO and Shipper. In the event of customer’s failure to pay freight charges in full within fifteen (15) days of delivery, customer hereby agrees to pay liquidated damages in the amount of thirty percent (30%) of the original freight charges, in addition to the original freight charges, plus interest at the maximum allowable by law, reasonable attorney’s fees, and all costs of collection whether or not suit is commenced.
- 2.4 No shipper or consignee shall be entitled to set off any claims for loss, damage or delay against freight charges owed to MOJO, and any pending or denied claims shall not serve to toll or void the MOJO’s collection efforts, loss of discount, or MOJO’s entitlement to fees.
- 2.5 Nothing herein shall limit the right of the MOJO to require prepayment or guarantee of the charges at the time of shipment or prior to delivery.
- 2.6 If the description of articles or other information on this bill of lading is found to be incorrect or incomplete, the freight charges must be paid based upon the articles, weights, and counts actually shipped.

- 2.7 Any and every party, whether principal or agent, shipper or consignee, who ships explosives, illegal goods, contraband, or dangerous goods, shall be liable for and indemnify MOJO against all loss or damage caused by such goods. Such goods may be warehoused at owner's risk and expense or destroyed without compensation.
- 2.8 If the consignee refuses the shipment tendered for delivery by MOJO or if carrier is unable to deliver the shipment, because of fault or mistake of the consignor or consignee or for any reason not directly attributable to carrier, MOJO's liability shall terminate in forty-eight hours, if no disposition is provided by the customer.
- 2.9 For any shipment in which MOJO is unable to deliver the cargo, regardless of cause, MOJO will provide notice to the shipper within 24 hours seeking disposition.
- 2.10 If MOJO does not receive disposition instructions within 48 hours of the time of MOJO's first attempted notification, MOJO will attempt to issue a second and final confirmed notification. Such notice shall advise, and customer hereby agrees, that when carrier does not receive disposition instructions within 48 hours of that first attempted notification, MOJO may place the cargo into public storage, or any storage location chosen at its sole convenience, under the name of the customer, and with all warehousing charges and liability resting solely with customer. MOJO has no liability for goods for which customer provides not disposition for any period of forty-eight (48) hours after request for disposition.

3. SCOPE

- 3.1 MOJO and/or the carrier in possession of any property moving under these Terms and Conditions shall be liable for loss, damage, or delay only as hereinafter provided.
- 3.2 MOJO shall have no liability for any loss or damage to a shipment or for any delay caused by an Act of God, public enemy, public authority, inherent vice or defect in the cargo, or act or default of the shipper. MOJO or the carrier in possession shall not be liable for loss, damage or delay which results: when the property is stopped and held in transit upon request of the shipper, owner or party entitled to make such request.
- 3.3 Unless arranged or agreed upon, in writing, prior to shipment, carrier is not bound to transport a shipment by a particular schedule or in time for a particular market, but is responsible to transport with reasonable dispatch. MOJO may forward a shipment via another carrier. The maximum recovery for any delay claim shall be the amount of freight charges paid for that shipment.
- 3.4 MOJO shall never, under any circumstance, be liable for consequential, special, or economic damages.
- 3.5 MOJO provides its transportation services by utilizing independent contractors who own and operate their own equipment independently of MOJO's operation. These contractors will provide professional services meeting the expectations of MOJO's customers. Should any customer of MOJO be dissatisfied with a particular contractor, customer can request that said contractor no longer be utilized on its account.

4. CLAIM FILING, CONCEALED DAMAGE, AND CONDITIONS PRECEDENT TO RECOVERY

- 4.1 As a condition precedent to recovery, any claim for loss, damage, or delay must be submitted in writing to MOJO within 30 days of delivery or such date as delivery was anticipated in the case of loss. Such written claim must include an identification of the shipment in question by BOL or load number, a specification as to the precise damage to each item included within the shipment, an assertion of liability on the part of the MOJO,

and a demand for a specified amount of monetary damages, with supporting documentation for such a demand including all relevant invoices or repair estimates.

- 4.2 As a further condition precedent to recovery, any damage or shortage must be noted on the delivery receipt. Failure to note shortage or damage on the delivery receipt shall be considered concealed damage. Concealed damage must be reported to MOJO within twenty-four hours of delivery. MOJO will not have any liability for concealed damage not reported within twenty-four hours of delivery. MOJO's maximum liability in all cases of concealed damage shall not be more than the freight charge for that singular shipment.
- 4.3 Suits for loss, damage, injury or delay shall be instituted against MOJO not later than two years and one day from the day when written notice is given by the MOJO to the claimant that MOJO has disallowed the claim or any part or parts of the claim specified in the notice. Where claims are not filed or suits are not instituted thereon in accordance with the foregoing provisions, MOJO shall have no liability, and such claims will not be paid.

5. LIMITATIONS OF LIABILITY

- 5.1 MOJO shall not under any circumstances be held liable for special or consequential damages arising from or related in any way to transportation services to which these terms apply. Special and Consequential damages include any type of damages, monetary or equitable other than physical damage to the cargo being transported.
- 5.2 MOJO shall have no liability for any loss or damage to a shipment or for any delay caused by an Act of God, public enemy, public authority, a climatological event, inherent vice of defect in the cargo, or any act, omission, or default of the shipper. MOJO or party in possession shall not be liable for loss, damage or delay which results: when the property is stopped and held in transit upon request of the shipper, owner or party entitled to make such request; or from faulty or impassible highway, or by lack of capacity of a highway, bridge or ferry.
- 5.3 MOJO shall have no liability for delay claims. As provided in section 3.3, absent a separate written, signed agreement, MOJO has no duty to deliver cargo by a date or time specific, and instead shall proceed with reasonable dispatch. In any event where MOJO is found liable for a claim of delay, MOJO's liability shall be limited to the total freight charge paid by the shipper for the transportation of that particular delayed shipment.
- 5.4 MOJO if found liable for loss or damage to any property tendered to it shall have the full benefit of any insurance that may have been affected, upon or on account of said property, so far as this shall not void the policies or the contracts of insurance.
- 5.5 In any and all matters not prohibited by law, where the shipper fails, refuses, or simply does not declare a value in writing to MOJO prior to tendering the subject shipment, which declaration is received by MOJO, and commensurate rate increase is agreed upon and paid by shipper, the value of any shipment of cargo tendered to MOJO shall be the lesser of \$100 per shipment or \$1.00 per pound per article or the actual repair or actual cash value of the cargo. Undamaged portions of a set will not be compensated, and only actually damaged or lost items may be claimed.
- 5.6 Where shipper does wish to purchase a higher released value, shipper shall request that from MOJO in writing and pay an additional fee of \$2.50 per \$100 in increase valuation.
- 5.7 The limitation of liability provided for in this section shall be enforceable regardless of cause of loss, damage or delay, including gross negligence, recklessness or willful and wanton conduct. Nothing short of conversion to MOJO's own use, for the direct benefit of the corporation itself, shall vitiate this limitation of liability.

- 5.8 MOJO will not carry a shipment declared to have a value in excess of \$2,000.00 under these terms and any standard bill of lading. Any shipment with a value in excess of \$2,000.00 must be represented by a separate written agreement whereby the commodity is described in detail and MOJO expressly agrees to such greater value. Such separate written agreement must be executed by duly authorized representatives of each party at least twenty-four hours prior to transportation.
- 5.9 Under no circumstances will any shipment containing particularly high valued items such as cash, furs, jewelry, coins, negotiable instruments, or items of similar value to weight ratios be accepted pursuant to this bill of lading. Any such shipments must be covered by a separate written agreement executed by both parties. If such a shipment is inadvertently accepted by carrier, or mislabeled by shipper for any reason, MOJO's liability shall be limited as provided in section 5.4.
- 5.10 No employee or representative of MOJO is authorized to alter, vary or contradict these terms regarding MOJO's liability.
- 5.11 Should any claim in any amount even if in excess of such limits of MOJO's liability be asserted against MOJO by any third party for any loss or damage to any shipments carried hereunder, shipper agrees to indemnify MOJO and hold it harmless against any damages, expenses, or cost including attorney's fees, arising out of any such claim regardless of the cause.

6. INDEMNIFICATION

- 6.1 It is the sole and non-delegable duty of shipper to provide appropriate packaging, containerization, sealing, palletizing, boxing, or crating of product tendered to MOJO.
- 6.2 All cargo must be packaged and prepared in a manner so as to withstand the normal rigors of motor carriage and handling.
- 6.3 Acceptance by MOJO of any package or cargo does not serve as acquiescence or agreement to the fitness of the packaging or packing of said cargo.
- 6.4 In the event that a failure, flaw, omission, mistake, or negligence of any kind of degree in the packaging of the product tendered by shipper to MOJO, shipper hereby agrees to indemnify and hold harmless MOJO from any and all damage resulting from said insufficient, improper, failing, or negligent packaging, including damage to other commodities transported or stored by MOJO and damage to MOJO's property or that of any other entity or individual.
- 6.5 It is shipper's further duty to ensure that all product is accurately and properly marked, classified, and tendered in accordance with these rules and the normal standards of interstate and intrastate shipping.
- 6.6 Shipper shall defend, indemnify, and hold harmless, MOJO from any damage, loss, liability, or claims of any kind resulting from the improper or negligent packing, marking, description or classification of any product.

7. BROKERAGE

- 7.1 MOJO, at its sole discretion, may act as a broker in completing the transportation and delivery services of any customer hereunder.
- 7.2 MOJO may, at its sole discretion, utilize independent contractors or agents to perform any part of portion of the services contemplated hereunder.
- 7.3 When acting as a broker, or otherwise substituting carriage, transportation, or related services, MOJO's liability shall not vary from these terms as in section 5. Any carrier or delivery company providing substitute service hereunder shall have no liability greater than that contemplated by these terms.

8. INDEPENDENCE OF PARTIES

8.1 This Agreement does not constitute a hiring by either party. It is the parties' intention that MOJO shall have an independent contractor status and not be an employee for any purposes, including, but not limited to, the application of the Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, the Workers' Compensation Insurance Code, and/or other benefit payments and third party liability claims. MOJO shall retain sole and absolute discretion in the manner and means of carrying out his or her activities and responsibilities under this Agreement. This Agreement shall not be considered or construed to be a partnership or joint venture, and shipper shall not be liable for any obligations incurred by MOJO unless specifically authorized in writing. MOJO shall not act as an agent of the shipper, ostensibly or otherwise, nor bind the shipper in any manner, unless specifically authorized to do so in writing.

9. FORCE MAJEURE

9.1 Neither Party shall be liable to the other for failure to perform any of its obligations under this Agreement during any time in which such performance is prevented by fire, flood, or other natural disaster, war, embargo, riot, civil disobedience, or the intervention of any government authority, or any other cause outside of the reasonable control of the Parties provided that the Party so prevented uses its best efforts to perform under this Agreement and provided further, that such Party provide reasonable notice to the other Party of such inability to perform.

10. CARMACK LIABILITY

10.1 Unless it is determined otherwise by a court of competent jurisdiction, the liability of MOJO for loss, damage and delay shall be determined in all respects in accordance with 49 U.S.C. §14706, regardless of the interstate or solely intrastate nature of the shipment.

10.2 The filing, processing and disposition of all cargo claims shall be governed by 49 C.F.R. §370 et seq. to the extent not modified herein.

11. NO THIRD-PARTY BENEFICIARY:

11.1 Shipper, Consignee, any beneficial owner, and MOJO are the parties to these Terms and Conditions, and the Parties do not intend for any third party to specifically benefit from these Terms and Conditions.

12. NONWAIVER

12.1 Failure of either party to insist upon performance of any of the terms, conditions or provisions of this Agreement, or to exercise any right or privilege herein, or the waiver of any breach of any of the terms, conditions or provisions of this Agreement, shall not be construed as thereafter waiving any such terms, conditions, provisions, rights or privileges, but the same shall continue and remain in full force and effect as if no forbearance or waiver had occurred.

13. ASSIGNMENT

13.1 These Terms and Conditions shall not be assignable by either party, in whole or in part, without the written consent of the other party, which consent shall not be unreasonably withheld.

14. GOVERNING LAW/ ATTORNEY'S FEES/ ARBITRATION/ WAIVERS

- 14.1 Without regard to the principles of conflicts of law, these terms shall be construed in accordance with, and any and all disputes arising under or out of transportation services performed by MOJO, shall be governed by federal law where applicable, or otherwise Florida law.
- 14.2 In the event of a dispute arising out of these Terms and Conditions, including but not limited to Federal or State statutory claims, where the damages sought or alleged are in excess of \$10,000, customer's sole recourse shall be to, and customer expressly agrees to binding arbitration and wholly waives its right to trial. Proceedings shall be conducted under the rules of the (select one): Transportation Arbitration and Mediation PLLC (TAM), American Arbitration Association (AAA), or Transportation ADR Council, Inc. (ADR), upon mutual agreement of the Parties, or if no agreement, then at MOJO's sole discretion. Arbitration proceedings shall be started within eighteen (18) months from the date of delivery or scheduled date of delivery of the freight, whichever is later. Upon agreement of the Parties, arbitration proceedings may be conducted outside of the administrative control of the TAM, AAA, or ADR, The decision of the arbitrators shall be binding and final and the award of the arbitrator may be entered as judgment in any court of competent jurisdiction. The rationale and reasoning of the decision of arbitrator(s) shall be fully explained in a written opinion. The prevailing party shall be entitled to recovery of costs, expenses and reasonable attorney fees as well as those incurred in any action for injunctive relief, or in the event further legal action is taken to enforce the award of arbitrators. Arbitration proceedings shall be conducted at the office of the AAA, ADR, DRC or TAM nearest Broward County, FL or such other place as mutually agreed upon in writing, or by conference call or video conferencing upon agreement of the Parties, or as directed by the acting arbitration association. Provided, however, either Party may apply to a court of competent jurisdiction for injunctive relief. Unless preempted or controlled by federal transportation law and regulations, the laws of the State of Florida shall be controlling notwithstanding applicable conflicts of laws rules. The arbitration provisions of this paragraph shall not apply to enforcement of the award of arbitration.
- 14.3 For all suits with damages sought under \$10,000.00, venue shall be in Broward County, Florida.
- 14.4 By using the services of MOJO, shipper asserts that it is and does conduct business in Broward County, Florida and is subject to the jurisdiction of Broward County Courts.
- 14.5 Shipper waives any challenge to personal jurisdiction or venue in court's located within Broward County, Florida.
- 14.6 In any trial between any of the parties hereto, customer agrees to waive their rights to a jury trial and instead have such action tried by a judge.
- 14.7 Customer agrees that any claim Interested Party may have against MOJO, including past and present employees; directors; and agents, shall be brought individually and Interested Party shall not join such claim with claims of any other person or entity or bring, join or participate in a class action against Company.
- 14.8 In any lawsuit, dispute or claim between or against any of the parties hereto, including present and former employees, directors, and agents of MOJO, customer agrees to waive their rights, if any, to seek or recover punitive damages.

15. SEPARABILITY/SEVERABILITY

- 15.1 If any provision of these terms and conditions is held to be illegal, invalid or unenforceable under the present or future laws effected, such provision shall be fully severable from the remaining provisions, and it shall not affect the validity of the remaining provisions, which provisions shall be given full force and effect as if the illegal, unenforceable, or invalid provision had not been included. In lieu of an illegal, unenforceable, or invalid provision, there shall be substituted a provision as similar in terms to the illegal, invalid, or unenforceable provision as may be possible and still be legal, valid and enforceable.

16. MERGER AND SUPREMACY CLAUSES

- 16.1 These Terms and Conditions along with the delivery instructions included on a bill of lading or receipt embody the entire understanding between shipper, consignee, and MOJO covering the services to be performed hereunder, and there are no other agreements, understandings, conditions, warranties, or representations, oral or implied with reference to the subject matter hereof.
- 16.2 In the event of any conflict between these Terms and Conditions and any term or provision in any other document related to or used in the process of arranging or transporting of goods by MOJO, these terms and conditions shall be superior and shall govern to the extent of the conflict.