

# Terms and Conditions

## Standard Terms and Conditions of Service

These terms and conditions of service constitute a legally binding contract between the NTG Air & Ocean USA, Inc. and the “Customer.” In the event NTG Air & Ocean USA, Inc. 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 to the extent inconsistent with the terms and conditions set forth herein.

“NTG” shall mean NTG Air & Ocean USA, Inc., its subsidiaries, related companies, agents, and/or representatives;

“Customer” shall mean the person for which NTG is rendering service, as well as its principals, 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, manufacturers, distributors, senders, consignors, transferors, transferees of the shipment, 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.

## 1. NTG as agent

- NTG 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, or for arranging for transportation services or other logistics services in any capacity other than as a carrier.

## 2. Limitation of Actions

- a. Unless subject to a specific statute or international convention, all claims against NTG for a potential or actual loss, must be made in writing and received by NTG within 30 days of the event giving rise to claim; the failure to give NTG timely notice shall be a complete defense to any suit or action commenced by Customer.
- b. All suits against NTG must be filed and properly served on NTG as follows: (i) For claims arising out of ocean transportation, within 6 months from the date of the loss; (ii) For claims arising out of air transportation, within 6 months from the date of the loss; (iii) For claims arising out of the preparation and/or submission of an import



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entry(s), within 75 days from the date of liquidation of the entry(s); (iv) For any and all other claims of any other type, within 6 months from the date of the loss or damage.

- c. Any claims against NTG arising from NTG's administrative services, including any billing disputes, must be filed and properly served upon NTG within six (6) months from the date of any billing disputed. It is NTG's goal to promptly resolve any disputes with its customers, and prompt notification is necessary to facilitate a resolution of any such dispute

### 3. No Liability for the Selection or Services of Third Parties and/or Routes

- NTG is authorized to select and engage carriers, truckmen, lightermen, forwarders, customs brokers, agents warehousemen and others, as required, to transport shipment, deal with and deliver the goods, all of whom shall be considered the agents of the Customer, and the goods may be entrusted to such agencies 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 or tariffs issued by such carriers, truckmen, lightermen, forwarders, customs brokers, agents, warehousemen, and others. Unless services are performed by persons or firms engaged pursuant to express written instructions from the Customer, NTG 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 NTG that a particular person or firm has been selected to render services with respect to the goods, shall not be construed to mean that NTG warrants or represents that such person or firm will render such services nor does NTG assume responsibility or liability for any action(s) and/or inaction(s) of such third parties and/or its agents, and shall not be liable for any damage, expense, 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, NTG shall reasonably cooperate with the Customer, which shall be liable for any charges or costs incurred by NTG.

### 4. Quotations Not Binding

- Quotations as to fees, rates of duty, freight charges, insurance premiums or other charges given by NTG to the Customer are for informational purposes only and are subject to change without notice; no quotation shall be binding upon NTG unless



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NTG 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 NTG and the Customer.

## 5. Duty to Furnish Information; Reliance on Information Furnished

- a. Customer acknowledges that it has a duty to timely furnish to NTG any and all necessary and/or relevant information needed by NTG so that NTG can accurately complete any quoted services or offer transportation guidance to Customer. Customer further 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 NTG of any errors, discrepancies, incorrect statements, or omissions on any declaration or other submission filed on Customers behalf;
- b. In preparing and submitting customs entries, export declarations, applications, security filings, documentation and/or other required data, NTG relies on the correctness of all documentation and information, whether in written or electronic format, furnished by Customer; Customer shall use reasonable care to ensure the correctness of all such information and shall indemnify and hold NTG 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 NTG 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.
- c. Customer acknowledges that it is required to provide verified weights obtained on calibrated, certified equipment of all cargo that is to be tendered to steamship lines and represents that NTG 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 Customer agrees that it shall indemnify and hold NTG harmless from any and all claims, losses, penalties or other costs resulting from any incorrect or questionable statements of the weight provided by the Customer or its agent or contractor on which NTG relies.



## 6. Declaring Higher Value to Third Parties

- Third parties to whom the goods are entrusted may limit liability for loss or damage; NTG 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, the valuation placed by the Customer on the goods shall be considered solely for export or customs purposes and, at NTG'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 these terms and conditions of service.

## 7. Insurance

- NTG will make reasonable efforts to effect marine, theft and other insurance upon the goods only after specific written instructions have been received by NTG in sufficient time prior to the shipment from the point of origin, and at the same time states specifically the kind and amount of insurance to be placed. NTG does not undertake or warrant that such insurance can or will be placed. Unless the Customer has its own open marine policy and instructs NTG to effect insurance under such policy, insurance is to be effected with one or more insurance companies or other underwriters to be selected by NTG. Any insurance placed shall be governed by the certificate or policy issued and will only be effective when accepted by such insurance companies or other underwriters. Should an insurer dispute its liability for any reason, the insured shall have recourse against the insurer only and NTG shall not be under any responsibility of liability in relation thereto, notwithstanding that the premium upon the policy may not be at the same rates as that charged or paid to NTG by the Customer, or that the shipment was insured under a policy in the name of NTG. Insurance premiums and the charge of NTG for arranging the same shall be at the Customer's expense. If for any reason the goods are held in warehouse, or elsewhere, the same will not be covered under any insurance, unless NTG receives written instructions from the Customer. Unless specifically agreed in writing, NTG assumes no responsibility to effect insurance on any export or import shipment which it does not handle.

## 8. Disclaimers; Limitations of Liability

- a. Except as specifically set forth herein, NTG makes no express or implied warranties in connection with its services;
- b. In connection with all services performed by NTG, Customer may obtain additional



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liability coverage, up to the actual or declared value of the shipment or transaction, by requesting such coverage and agreeing to make payment therefor, which request must be confirmed in writing by NTG prior to rendering services for the covered transaction(s).

- c. In the absence of additional coverage under (b) above, NTG shall only be liable for any loss, damage, expense, or delay to the goods resulting from the negligence or other fault of NTG, and such liability shall be limited to an amount equal to the lesser of fifty dollars (\$50.00) per entry or shipment or the fee(s) charged for the services, whichever is less.
- d. In no event shall NTG be liable or responsible for consequential, indirect, incidental, statutory, special, or punitive damages, even if it has been put on notice of the possibility of such damages, or for the acts of third parties.
- e. Unless the service to be performed by NTG on behalf of the Customer or delayed by reason of negligence or other fault of NTG, NTG shall not be responsible for any loss, damage, or expense incurred by the Customer because of such delay. In the event NTG is at fault, its liability is limited in accordance with the provisions of paragraphs 4 and 9(c), herein.

## 9. Advancing Money

- All charges must be paid by Customer in advance unless NTG 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 NTG. NTG shall be under no obligation to advance freight charges, customs duties, or taxes on any shipment, nor shall advance by NTG be construed as a waiver of this provision.

## 10. Indemnification / Hold Harmless.

- The Customer agrees to indemnify, defend, and hold NTG harmless from any claims and/or liability, fines, penalties and/or attorneys' fees arising from the importation of merchandise which violates any Federal, state, and/or other laws or regulations, the importation or exportation of Customer's merchandise, and/or any conduct of the Customer, including but not limited to the inaccuracy of entry, export or security data supplied by Customer or its agent or representative, which violates any Federal, State and/or other laws, and further agrees to indemnify and hold NTG 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 NTG 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 NTG, it shall give notice in



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writing to the Customer by email or mail at its address on file with NTG. Upon receipt of such notice, the Customer, at its own expense, shall defend such action and take all steps as may be necessary or proper to prevent the obtaining of a judgement and/or order against NTG. The confiscation or detention of the goods by any governmental authority shall not affect or diminish the liability of the Customer to NTG to pay all charges or other money due promptly on demand.

### 11. C.O.D. or Cash Collect Shipments

- NTG shall use reasonable care regarding written instructions relating to “Cash/Collect on Delivery (C.O.D.)” shipments, bank drafts, cashier’s and/or certified checks, letter(s) of credit and other similar payment documents and/or instructions regarding collection of monies but shall not have liability if the bank, correspondent, carrier, agent, or consignee refuses to pay for the shipment or for any act, omission, default, suspension, insolvency or want of care, negligence, or fault of such bank, correspondent, carrier, agent, or consignee, nor for any delay in remittance lost in exchange, or loss during transmission, or while in the course of collection.

### 12. Costs of Collection

- In any dispute involving monies owed to NTG, NTG shall be entitled to all costs of collection, including reasonable attorneys’ fees and interest at 1.5% per month or the highest rate allowed by law, whichever is less unless a lower amount is agreed to by NTG.

### 13. General Lien and Right to Sell Customer’s Property

- a. NTG shall have a continuing lien or any and all property and documents relating thereto of Customer coming into NTG’s actual or constructive possession, custody or control or enroute, which lien shall survive delivery, for all charges, expenses or advances owed to NTG with regard to the shipment on which the lien is claimed, a prior shipment(s) and/or both. Customs duties, transportation charges, and related payments advanced by NTG shall be deemed paid in trust on behalf of the Customer and treated as pass through payments made on behalf of the Customer for which NTG is acting as a mere conduit.
- b. NTG shall provide written notice to Customer 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 NTG’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 NTG, guaranteeing payment of the monies owed, plus all storage charges accrued or to be accrued, NTG 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.

#### 14. 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, NTG shall only keep such records that it is required to maintain by Statue(s) and/or Regulation(s), but not as a “recordkeeper” or “recordkeeping agent” for Customer.

#### 15. Obtaining Binding Rulings, Filing Protests, etc.

- Unless requested by Customer in writing and agreed to by NTG in writing, NTG 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 protects, etc.

#### 16. No Duty to Provide Licensing Authority

- NTG shall not be responsible for determining licensing authority or obtaining any license or other authority pertaining to the export from or import into the United States.

#### 17. Preparation and Issuance of Bills of Lading and Air Waybills

- Where NTG prepares and/or issues a bill of lading or air waybill, NTG 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, NTG shall rely upon and use the cargo weight supplied by Customer.

#### 18. No Responsibility for Governmental Requirements

- It is the responsibility of the Customer to know and comply with the requirements of the U.S. Customs and Border Protection and all other Government agencies, including adhering to any and all regulations and directives of Federal, state and/or local agencies pertaining to the merchandise and/or shipment or transportation. NTG shall not be responsible for action taken or fines or penalties assessed by any governmental agency against the shipment because of the failure of the Customer to



comply with the law or the requirements or regulations of any governmental agency.

### 19. 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 NTG; any attempt to unilaterally modify, alter or amend same shall be null and void.

### 20. Compensation of NTG

- The compensation of NTG for its services shall be included with and is in addition to the rates and charges of all carriers and other agencies selected by NTG to transport and deal with the goods and such compensation shall be exclusive of any brokerage, commissions, dividends, or other revenue received by NTG from carriers, insurers and others in connection with the shipment. On ocean exports, upon request, NTG 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 NTG, upon recovery by NTG, the Customer shall pay the expenses of collection and/or litigation, including a reasonable attorney fee.

### 21. Force Majeure

- NTG shall not be liable for any damages, missed or wrongful deliveries, or other losses due to forces beyond its control including, without limitation, strikes, work stoppages, accidents, acts of war or terrorism, civil or military disturbances, nuclear or natural catastrophes, or other acts of God.

### 22. Severability

- In the event any Paragraph(s) and/or portion(s) hereof is found to be invalid and/or unenforceable, then in such event the remainder hereof shall remain in full force and effect. NTG'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.

### 23. 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 Georgia without giving consideration to principles of conflict of law. Customer and NTG:
  - a. irrevocably consent to the jurisdiction of the United States District Court and the State courts of Georgia;



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- b. agree that any action relating to the services performed by NTG, shall only be brought in said courts;
- c. consent to the exercise of in personam jurisdiction by said courts over it, and further agree that any action to enforce a judgment may be instituted in any jurisdiction.



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