

**AIRFRIGO
TERMS AND CONDITIONS**

The terms and conditions below constitute a legally binding agreement dictating the terms and conditions for shippers wishing to complete business transactions with Airfrigo USA, Inc. henceforth known as Airfrigo. For the purpose of this document the shipper is defined as the party which instructs Airfrigo USA, Inc., referred to henceforth as Airfrigo, to coordinate the transportation of a particular shipment. The shipper is not to be confused with the supplier of goods.

Section 1 - ACCURATE INFORMATION: Shipper will provide Airfrigo with information concerning stored or shipped goods which is accurate, complete and sufficient to allow Airfrigo to comply with all laws and regulations concerning the storage, handling and transporting of the goods in question. Shipper will indemnify and hold Airfrigo harmless from all loss, cost, penalty and expense (including reasonable attorneys' fees) which Airfrigo pays or incurs as a result of a Shipper failing to fully discharge this obligation.

SECTION 2 - QUOTE ISSUANCE & ACCEPTANCE: (a) Quote charges are based off of shipper provided information. All quotes are subject to change based on actual shipment details including actual packed weight, temperature variance, and commodity. (b) In cases where the lowest denomination of weights is not met, minimum charges will be instituted. (c) Airfrigo retains the rights to refuse any shipment that does not conform to previously advised details. (d) Any quotation including accessorial charges endorsed on or attached hereto must be accepted by the shipper in writing before the indicated expiry date. If no expiry date is present, the default validity of any quotation is 30 days from the date of quote issuance.

SECTION 3 CARGO DELIVERY & ACCEPTANCE: (a) All goods for storage shall be delivered at the warehouse of Airfrigo properly marked and packaged for handling. The shipper shall furnish at or prior to such delivery, a manifest showing marks, brands, or sizes to be kept and accounted for separately, and the class of storage and other services desired. (b) The shipper warrants that their shipments are packed adequately to protect their shipments and ensure safe transportation with ordinary care in handling. Any damages incurred in transit to Airfrigo, as evidenced by notations on an incoming BOL or other receipt, remain the liability of the shipper. (c) Shippers are required to pack their shipments to withstand 48 hours in transit for domestic air freight shipments and 72 hours for international air freight shipments. Airfrigo offers our customers several options to help maintain the most optimal temperature while in transit. These options are a deterrent to temperature fluctuations and are in no means a guarantee concerning arrival temperatures.

SECTION 4 - STORAGE PERIOD AND CHARGES: (a) All charges for storage are per package or other agreed unit are assessed on a bimonthly basis. (b) Storage charges become applicable upon the date that Airfrigo accepts care, custody and control of the goods, regardless of unloading date or date of issue of a warehouse receipt. (c) Storage charges are due and payable on the first day of storage for the initial month and thereafter on the first day of every subsequent calendar month. (d) For bonded storage needs a charge, in addition to regular rates, will be made for merchandise in bond.

SECTION 5 - SHIPMENT ARRIVAL: (a) All shipments are CFR unless otherwise indicated. International freight is packed to withstand a minimum of 72 hours of transit. Airfrigo will provide adequate notification for pickup to the consignee and shipper. (b) Due to the inherent nature of the airfreight business, Airfrigo does not guarantee delivery by a stipulated date or a stipulated time, nor shall Airfrigo be liable for the consequences of failure to make timely delivery or pickup. Airfrigo shall not be liable in any event for any special incidental or consequential damages, including but not limited to loss of profits or loss of income, whether or not Airfrigo had knowledge that such damage might be incurred.

SECTION 6 - CLEARANCE & DELIVERY: (a) Airfrigo will provide adequate notification for pickup to the consignee and shipper. International freight is packed to withstand a minimum of 72 hours of transit. It remains the responsibility of the consignee to retrieve and clear through customs the cargo from the airport of destination unless clearance and delivery have been otherwise specified. Airfrigo retains no liability over shipments that are damaged, spoiled, or pilfered after 24 hours at destination. If the consignee neglects to pickup said freight from the point of destination within 24 hours, all damages assessed remain the responsibility of the consignee

SECTION 7 - LIABILITY AND LIMITATION OF DAMAGES: (a) Airfrigo shall not be liable for any losses or damages to goods prior to acceptance. In the event that these circumstances occur, descriptions of the inconsistencies are recorded on the delivery BOL and the shipper notified. (b) Goods are not insured for loss or damage by Airfrigo

unless specifically requested and confirmed. (c) Any claim which is to be filed as a result of Airfrigo handling or negligence must be done so according to Airfrigo stipulated cargo claim procedures. Any claim not filed accordingly may be rejected as a result. (d) Airfrigo shall not be liable for loss, damage, acts of terrorism, of delay caused by Acts of God, public authorities, strikes, labor disputes, weather, mechanical, aircraft failures, acts or omissions of Customs or quarantine officials, or civil commotions. (e) Airfrigo does not assume liability for any claim as a result of an inability or unfulfilled responsibility deemed that of the air or ocean carrier. These responsibilities include and are not limited to sufficient air space to accommodate a specific booking, a delay resulting from enhanced security measures, weather or mechanical failure, lack of appropriate container equipment, failure to board on a designated flight or a re-accommodated routing which differs from the original booking. Further, it is stipulated that once the cargo is tendered to the air or ocean carrier any and all claims which are caused after the time of tender are to be considered Carrier Claims and you should refer to our "Carrier Claim Procedure" section. (f) The Shipper or Consignee must make every reasonable attempt to mitigate the loss on Airfrigo's behalf. At no time does Airfrigo take possession of the goods; the final settlement value is based on Airfrigo's interpretation of the Shipper or Consignee's attempt to salvage. The Shipper of record goods until such time as they are signed for and possession is taken by another party. If no damages are noted at the time of signoff, or within 24 hours of acceptance, the consignee forfeits any and all rights to file claims or damages with Airfrigo.

SECTION 8 - LIABILITY FOR MISSHIPMENT: (a) If shipment is misshipped to the wrong location due to the negligence of Airfrigo, Airfrigo shall pay the reasonable transportation charges incurred to return the misshipped goods to the warehouse or on shipping to its intended destination. (b) If the shipment was misshipped due to negligence on behalf of the shipper, clause is not enforceable.

SECTION 9 - SUBMISSION & PAYMENT OF CLAIMS: (a) All claims (except overcharges) must be received in writing by within 7 days after Airfrigo accepted the shipment. Concealed loss/damage must be reported in writing to Airfrigo within 7 days after delivery, or if perishable, verbally within 24 hours, and with written follow-up either fax or e-mail within 48 hours after delivery. (b) Airfrigo makes every attempt to settle all claims as quickly as possible. The claim process should take no more than 45 days from date of notification. Airfrigo will also file claims with the carriers on the shipper's/consignee's behalf but will not enter into any negotiations that leverage the business, rates, or comradery between Airfrigo and the airline. (c) Legal action to enforce a claim must be brought within one year after the claim has been denied in writing by Airfrigo in whole or in part. (d) All claims are paid based on costs of goods only and loss of profit or replacement of goods covered. Airfrigo's liability in the event of a claim is \$.50 USD per pound but not less than \$50.00 per is higher. Higher liabilities may be acceptable only by written contract, duly signed by the Shipper and Airfrigo USA, Inc.

SECTION 10 - COSTS OF COLLECTION AND JURISDICTION: In any dispute involving monies owed to Airfrigo, Airfrigo shall be entitled to all of collection, including reasonable attorney's fees and a service charge of 18% per annum or the highest rate allowed by law, whichever is less, unless a lower amount is agreed to by Airfrigo, on any unpaid balances. These terms and conditions of service and the relationship of the parties shall be construed according to the laws of the State of New Jersey, without giving consideration to principles of conflict of law. Airfrigo and Shipper (a) Irrevocably consent to the exclusive jurisdiction of the United District Courts and the State Courts of New Jersey, located in the City of Elizabeth, to hear any arising under this Contract; (b) consent to the exercise of *in personam jurisdiction* by said courts over each of them and (c) further agree that any action to enforce a judgment rendered by said courts may be instituted in any jurisdiction.

SECTION 11 - GENERAL LIEN AND RIGHT TO SELL DEPOSITOR'S PROPERTY: (a) Airfrigo shall have a general and continuing lien on any and all goods of a Shipper coming into Airfrigo's actual or constructive possession or control for monies owed to Airfrigo by to shipper in respect of such goods; (b) Airfrigo shall provide written notice to the shipper of its intent to exercise such lien, the exact amount of monies due and owing, as well as any ongoing storage or other charges; (c) The shipper shall notify all parties having an interest in such goods of Airfrigo's rights and/or the exercise of such lien; (d) Unless, within thirty days of receiving notice of lien, Airfrigo 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 Airfrigo, guaranteeing payment of the monies plus all storage charges accrued or to be accrued, Airfrigo shall have the right to sell such goods at public or private sale or auction, and any net proceeds remaining thereafter shall be refunded to the shipper.

SECTION 12 - INVOICES DUE UPON PRESENTATION: Unless Airfrigo otherwise grants the shipper credit in writing, all charges due to Airfrigo are due and payable immediately upon presentation.