



FIFTH WHEEL FREIGHT
 COMPLETE LOGISTICS SOLUTIONS
 FWF.COM

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 KENTWOOD, MI 49512
 PHONE: (616) 965-7277
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Contract Provisions

INSURANCE

All loads valued over \$100,000.00 will not be covered over the minimum cargo insurance of \$100,000.00 that Fifth Wheel Freight requires carriers to have in coverage unless Fifth Wheel Freight has been notified in writing prior to the shipment. Depending on the class of the commodity, and/or the carriers liability provisions, LTL freight liability insurance can range anywhere from ten cents (\$0.10) to twenty dollars (\$20.00) per pound. Truckload freight is covered up to \$100,000.00 in liability insurance. Additional cargo insurance must be approved by Fifth Wheel Freight upon a written request from the customer.

LESS THAN TRUCK LOAD (LTL)

The customer is required to use the Bill of Lading (BOL) supplied and issued by Fifth Wheel Freight. Delivery delays on freight and additional charges due to loss of discounts and reprocessing fees may be the result from the Customer failing to use the BOL supplied and issued by Fifth Wheel Freight. The rates of Less than Truck Load shipments provided by Fifth Wheel Freight are based on multiple factors including: commodity freight class (per the shipments density and/or the National Motor Freight classification depending on pricing terms from the particular carrier), origin and destination zip codes, distance, and gross shipping weight. Included in gross shipping weight would be all packaging materials, pallets and/or crating on a cost per pound basis as well as the volume of space required for transit.

INTERMODAL AND DRAYAGE

Company must ensure cargo is properly and safely loaded, supported, blocked, braced, and secured in accordance with the publications and standards of the Association of American Railroads ("AAR") for all intermodal shipments. Commodities must be listed clearly and concisely on shipping documents. Insurance premiums, rates of duty, fees, freight charges or other charges given by Fifth Wheel Freight are subject to change without notice and are strictly for informational purposes. Customer will be renting space subject to charges for the period of time in which container is used. Fifth Wheel Freight may agree in writing to extend credit to Customer to pay for all charges. If Fifth Wheel Freight does not extend credit, Customer must pay all charges in advance. Detention, Per Diem, and storage charges will be invoiced by Fifth Wheel Freight upon receipt from Freight Forwarder, airline and/or steamship. Customer may be invoiced separately for Detention, Per Diem and Demurrage and is due upon receipt of invoice by Customer. After shipment is completed, Fifth Wheel Freight reserves up to six (6) months to invoice for detention, per diem, and/or demurrage. Processing fees from carriers may apply. Penalty charges may apply if invoices are not paid within seven (7) days of receipt. Payment on invoices for any additional charges incurred from Freight Forwarder, airline and/or steamship is responsible by Customer.

ADJUSTMENTS

If a Carrier ever discovers that a shipment's weight, freight class, dimensions and any accessorial services provided (pertaining to services other than basic delivery) are incorrectly described on the BOL, a freight inspector will document the differences and will issue a "Billing Adjustment" (the Carrier reserves the right to

verify said items described on the BOL). Should this occur, the Customer's open account with Fifth Wheel Freight will be automatically charged to pay for all adjustments (if any). A reprocessing and rebilling fee may also be incurred in the Billing Adjustment.

DISPUTES

If the situation occurs where rates are adjusted by the Carrier, Fifth Wheel Freight has five (5) business days to dispute and appeal the adjustments. Fifth Wheel Freight then has the opportunity to provide proof to reverse these adjustments. Customer agrees to provide Fifth Wheel Freight with a written notice, within five (5) business days, of any and all disputes regarding any bill and understands all proper documentation to support the reduction must be sent to Fifth Wheel Freight within seven (7) business days.

INITIAL BILLING

The Customer's open account is charged the estimated/initial cost for each shipment at the time of dispatch. The Customer understands that initial billing is done ethically and in "good faith" by Fifth Wheel Freight and is based on information provided by the Customer. Fifth Wheel Freight is under the assumption that the Customer provides true and accurate information reflecting the actual description of their shipment and services to be provided.

THIRD PARTY PAYMENT PROCESSORS

In the event you use third party payment services, you are placing your company's credit reputation in the hands of other parties and ultimately remain responsible for timely payment of invoices regardless of any agreements you make with the third party. Payment must be made in accordance with the terms and conditions of Fifth Wheel Freight. Non-payment of invoices may be cause for suspension of credit and other penalties.

TERMS OF CREDIT, PURCHASE, AND SHIPMENT

If this Application is accepted, Company will be permitted to make purchases on an open account, subject to the following terms: Payment at the cash price, in full, will be due and payable by the date stated in Fifth Wheel Freight's invoice or within 30 days of presentation of the invoice if no due date is stated therein, and Company may demand payment in full at any time thereafter. If the cash price is not timely paid, the amount due Fifth Wheel Freight will accrue a time-price differential charge (which may be referred to as a "service charge") of 1.5% per month (18% per annum). If Company fails to make payment on account as demanded by Fifth Wheel Freight, Company may be required to pay C.O.D. Company will furnish Fifth Wheel Freight written notice of all changes in address, changes in authorized purchasers, and, upon request, an updated financial statement.

For all orders for brokerage services by Company to Fifth Wheel Freight, the specifications and rates for each shipment tendered by Company to Fifth Wheel Freight shall be stated as in Fifth Wheel Freight's written response to the order, in Customer Rate Confirmation or Rate Confirmation (collectively "Confirmation") issued for the shipment. Each Confirmation shall be effective only when received by Fifth Wheel Freight and these terms are incorporated by reference into each Confirmation.

Fifth Wheel Freight is a property broker of motor carrier transportation services licensed by the United States Department of Transportation. Broker's responsibilities are limited to arranging for, but not actually performing, the transportation of Company's goods. Broker agrees to arrange for the transportation of Company's property, as set forth in a Confirmation, through the selection of a duly authorized motor

contract carrier. Broker agrees to enter into contracts with motor carriers pursuant to 49 U.S.C. 10702 (c). Broker shall invoice and collect freight charges from Company, which hereby agrees to make a full payment of the rates and charges set forth in the Confirmation. In the event Company cancels a scheduled load before movement, Company shall pay Broker for expenses as billed by carrier for actual costs incurred (if applicable) plus a broker administrative fee equal to 7% of the load rate quoted in the order or Confirmation. Company, co-shippers, consignors and consignees, are jointly and severally liable for the freight charges owed to Broker, and Broker holds a warehouseman's general lien on all tangible personal property for any outstanding balances owed to Broker. All goods shipped or identified for shipment and documents relating to said goods will be subject to a particular and general lien and right of detention for amounts owed either in respect of such goods, or for any particular or general balance or other amounts owed, whether then due or not, by Company, consignor, consignee, or owner of the goods to broker. In order to protect its lien, Broker reserves the right, but is not required, to require advance payment of all charges prior to shipment of goods. If outstanding amounts remain unpaid for 30 days after Broker sends notice of the exercise of its right to Company by any means of communication reasonable in the circumstances, the goods may be sold by private contract or otherwise at the sole discretion of Broker, with the net proceeds to be applied to the amount outstanding. Broker will not be liable for any deficiencies or reduction in value received on the sale of the goods nor will Company be relieved from the liability merely because the goods have been sold.

Broker shall not be liable to Company for claims, including, but not limited to: cargo loss, damage or delay claims; or bodily injury or property damage claims asserted by third parties against the carrier and/or Company. Neither party shall be liable to the other for failure to perform pursuant to the terms of any order in the event such failure is caused by strike, riot, fire, natural disaster or act of God, or any other factors beyond the reasonable control of the failing party. Broker's liability to Company under each order or any claim arising from or relating to it shall be limited to the lesser of the amount of Company's actual damages or their revenue derived by Broker from the single bill of lading accompanying the shipment giving rise to the claim. Company agrees it shall not have any right to set off compensation due to Broker under any order or Confirmation against any amount in dispute with carrier or Broker concerning claims of any kind. **BROKER MAKES NO WARRANTIES, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. BROKER CANNOT GUARANTEE DELIVERY BY ANY SPECIFIC TIME OR DATE. IN ANY EVENT, BROKER SHALL NOT BE LIABLE FOR DAMAGES, INCLUDING BUT NOT LIMITED TO ANY SPECIAL INCIDENTAL OR CONSEQUENTIAL DAMAGES INCLUDING BUT NOT LIMITED TO LOSS OF PROFITS OR INCOME WHETHER OR NOT BROKER HAD KNOWLEDGE THAT SUCH DAMAGES MIGHT BE INCURRED.**

Company agrees to indemnify and hold harmless Broker, and its agents or employees, from and against all claims, proceedings, settlements, costs, expenses or arbitrator/attorney's fees arising out of or relating to any order if caused in whole or part by the negligent act or omission of Company, its agents, employees, subcontractors, or anyone for whose acts they may be liable, EVEN IF caused in part by person(s) indemnified hereunder.

These terms shall bind the parties, their representatives and assigns, and shall not: be modified by any custom; be modified except as stated in writing signed by both parties; or be waived by any officer, employee or agent of the parties, none of whom has the power, right or authority to waive any of these terms. These terms and accompanying Confirmation set forth the entire agreement between Company and Broker. There are no other representations, warranties, agreements or contracts, oral or written, which are expressly set forth or provided for herein. The terms and conditions of any freight documentation used by Company shall not supplement, alter or modify these terms or the Confirmation. If there is any inconsistency between these terms and any freight documentation (including any Master Service Agreement, invoice, billing statement, confirmation, bill of lading or other similar document) these terms shall govern.

The terms of these Contract Provisions may be amended or supplemented by Broker from time to time. Company agrees and acknowledges that the Contract Provisions as posted on Broker's Website (www.fwf.com) at the time of the applicable Confirmation shall be the governing Contract Provisions for the transactions contemplated by that Confirmation.

Any claim or dispute relating to any term state above, any shipment scheduled or tendered hereunder, or to any other dispute between Broker and Company and/or consignee shall be filed in Kent County, Michigan and shall be determined by Michigan law, and Company hereby irrevocably consents and submit consignor or to the personal jurisdiction of the courts located in said county. If Company's account is placed for collection, Company shall pay all attorney fees and costs incurred by FWF, whether or not suit is filed.

COMMODITY EXCLUSIONS

Bulk shipments, cash & financial instruments, live animals, luxury goods, bullion or precious metal objects, precious stones or precious jewelry, valuable works of art and/or antiques, tobacco products, computer chips and components, mobile telephones, fur garments, pharmaceuticals, petroleum products, explosives and flammable gases, & personal effects.

NON-RECRUIT

Company agrees that Broker's employees are a vital and scarce resource. During the Term of this Agreement and for one (1) year thereafter Company will solicit or otherwise induce Broker's employees for hire or employment ("Solicitation") without Broker's express written consent. Company will not cooperate in any such Solicitation on behalf of any end customer, and any such Solicitation during the Term of the Agreement shall be a material breach of this agreement. Company agrees that damages for solicitation would be difficult to determine. As such, if Company is found to have engaged in Solicitation, Company will pay Broker the following liquidated damages: the greater of two hundred thousand dollars (\$200,000) or four (4) times the annual compensation offered or provided by Company to such solicited employees (the "Liquidated Damages"). These Liquidated Damages are payable within thirty (30) days of the solicited employee's hiring by Company.

ENTIRE AGREEMENT; AMENDMENTS

This Agreement may not be released, discharged, abandoned, amended, or modified in any manner except by an instrument in writing signed by or on behalf of both Broker and Company.