CARRIER TERMS & CONDITIONS

Effective March 1, 2024

This CARRIER Terms & Conditions Terms and Conditions (the “Terms and Conditions”) is made governs the relationship between Premier Logistics LLC (“Broker”) and motor carriers (“Carrier”) for motor carriage services that Carrier provides to Premier Logistics LLC.

1. Applicability. These Terms and Conditions shall apply except to the extent expressly superseded or waived in a transportation contract signed by authorized representatives of both the Carrier and Broker. Carrier and Broker may, in a transportation contract signed by authorized representatives of both parties, agree to additional or amended service terms. In the case of conflict between any of these Terms and Conditions and such a signed transportation contract, the terms of the signed transportation contract will govern. By accepting tender of goods from Broker, Carrier expressly accepts these Terms and Conditions and agrees that these Terms and Conditions have been accepted by and will be binding on Carrier. Broker may revise these Terms and Conditions at any time. Broker will post revised versions of these Terms and Conditions on Broker’s website and the revised version will take effect at 12:01 A.M. Central Time as of the Effective Date shown on the revised Terms and Conditions. Broker has no duty to provide notice of any revisions to these Terms and Conditions to Carrier other than by posting the updated Terms and Conditions on its website.
2. Description of Services. Broker will tender to Carrier on a non-exclusive basis, and Carrier agrees to accept from Broker, shipment(s) consisting of certain goods for transport between points within United States. Carrier will, using due care, pick-up, as and when requested, transport in a timely manner, and deliver in good order and condition, the shipments which are tendered by Broker to Carrier, in accordance with the terms set forth in these Terms and Conditions (“Services”).

Every shipment tendered to Carrier by Broker on or after the date of these Terms and Conditions will be deemed to be a tender to Carrier as a motor contract carrier and will be subject to the terms of this Terms and Conditions.

1. Carrier’s Operating Authority. Carrier represents and warrants that it is fully authorized to lawfully provide the Services covered by these Terms and Conditions in all the jurisdictions, as a contract carrier of general commodities freight for interstate and intrastate transport in the United States. Carrier will obtain and keep in good standing during the term of this Terms and Conditions all local, state, and federal permits, licenses and registration requirements and pay any governmental charges necessary to allow the Carrier to provide the Services set forth this Terms and Conditions.
2. Carrier’s Legal and Regulatory Compliance. Carrier represents and warrants that it has complied, and will comply, with all federal, state, and local laws, codes, regulations, rules and orders applicable to the performance of the Services hereunder. The parties acknowledge that in the event the failure of Carrier to comply with or conform to provisions or orders of regulatory agencies having jurisdiction over this Terms and Conditions or the Services, results in different or additional charges for the Services, Carrier will be responsible for indemnifying Broker from such charges by paying Broker liquidated damages equal to any additional charges required to be paid, and any costs or attorneys’ fees incurred by Broker in connection therewith.
3. Carrier’s Operating Responsibilities. Carrier will be responsible for the procuring and operation of the vehicles it uses and the employment, training, supervision and control of the drivers and any helpers. Carrier will be responsible for safe and lawful operation of the vehicles used in the performance of the Services and will assume all costs, expenses, and liabilities incident to or arising out of furnishing, maintaining, repairing, or operating motor vehicles and other equipment, labor, fuel, supplies, and insurance. Carrier will notify Broker promptly by telephone of any accident, theft or other occurrence that impairs the safety of or delays the delivery of Broker’s customer’s goods.

Carrier will at all times during the term of this Terms and Conditions, maintain the highest safety rating established by any country, and if applicable, state, province or territory through which Broker’s cargo will be transported, which, for purposes of this Terms and Conditions, shall mean the safety rating system established by the Federal Motor Carrier Safety Administration (“FMCSA”), further warrants that it holds and shall maintain during the term of this Terms and Conditions, at minimum, a “satisfactory” or “Unrated” safety rating, or a substantively equivalent rating under the Carrier Safety Management System, implemented under the FMCSA Compliance, Safety, Accountability (“CSA”) program, with respect to Carrier’s operations in the United States Carrier agrees to notify Broker immediately if the safety ratings changes, or if it is found by any governing authority to have violated any law or regulation related to safety or insurance coverage.

To the extent that any shipments subject to this Terms and Conditions are transported within the State of California on refrigerated equipment, Carrier, on behalf of shipper, consignee and Broker interests, warrants that it shall only utilize equipment which is in full compliance with the California Air Resources Board (ARB) TRU ACTM in-use regulations. Carrier shall be liable to Broker for any penalties, or any other liability, imposed on, or assumed by Broker due to penalties imposed on Broker’s customer because of Carrier’s use of non-compliant equipment.

Carrier will perform the Services as an independent contractor and neither its employees nor agents will be deemed to be employees or agents of Broker. No authority has been conferred upon Carrier, by Broker, to hire any persons on behalf of Broker and Carrier will assume full responsibility for selecting, engaging and discharging its employees, agents, servants or helpers and for otherwise directing and controlling their services. Carrier will assume full responsibility for complying with all applicable laws and regulations for the benefit of its employees and under no circumstances will Broker be liable for the debts or obligations of Carrier for the wages, salaries, or benefits of Carrier’s employees.

1. Receipts. Each shipment will be evidenced by a written form initiated by the consignor at the point of origin of the shipment in a form acceptable to Broker, and will be legibly signed by the Carrier showing the kind and quantity of the commodity received at the loading point(s) specified. Such form will be evidence of receipt of such commodities by Carrier in apparent good order and condition or as may be otherwise noted on the face of such form. In the event that a bill of lading is issued for any shipment its purpose shall be only to evidence the receipt of the cargo. Shipper will not be bound by the terms and conditions on such bill of lading reciting the rate, classification, rules or practices which limit Carrier’s liability. Any unauthorized alteration or use of bills of lading or other shipping documents or use of any bill of lading not acceptable to Broker shall void the Broker’s and its customers’ obligation to make any payments to Carrier relating to the shipment and void all rate quotes.

In the event that the Broker’s name is inserted in a bill of lading or any other shipping documentation, such insertion shall not change Broker’s status as a property broker or Carrier’s status as a motor carrier.

Upon acceptance of the shipment, Carrier shall assume liability for the cargo until proper delivery is made to the consignee. Carrier will obtain a delivery receipt signed by the consignee at the time of delivery showing the kind, quantity and condition of the commodity delivered at the specified destination and the time of delivery. Absence or loss of any such documents will not relieve the Carrier of responsibility for freight accepted by it. In the event any term or provision contained in such documents conflict in any way with any tem1 or provision of this Terms and Conditions, the terms and provisions of this Terms and Conditions will take precedence and control.

1. No Substituted Services and Diversion/Reconsignment. Effective upon acceptance of a shipment from Broker for the Broker’s customer’s account, Carrier shall perform the transportation services itself and shall not re-broker, co-broker, assign, interline, subcontract or transfer the transportation of the shipment to another entity (collectively, “Substituted Services”). If Substituted Services of any type are used once Carrier has accepted the tender of the shipment from the Broker, any provision in this Terms and Conditions related to a limitation of liability for cargo damage, shortage/loss or delay shall be void and Carrier (i) will be liable to Broker’s customer for any loss, damage or delay to Broker’s customer’s goods incurred duting transportation services based on the “actual loss” as defined in Section 10 below and (ii) shall indemnify Broker as to any such loss, damage, or delay on the same basis. Carrier shall not have any right to, in any way, negate, eliminate, circumvent or alleviate Carrier’s liability to Broker or Broker’s customer which may be inconsistent with the provisions of this Terms and Conditions. Carrier will not allow the diversion or reconsignment of any shipment except upon written instructions by Broker or Broker’s customer. Carrier will not accept instructions for diversion or reconsignment of any consignee or third party without the written consent of Broker or Broker’s customer.
2. Rates. Carrier agrees to transport shipments tendered by Broker at the rates and charges as set forth in Broker’s “Load and Rate Confirmation,” which shall be signed by Carrier and transmitted by Carrier to Broker by facsimile (or other electronic means), for each shipment accepted by Carrier under this Terms and Conditions. Carrier and Broker agree that any tariff rates, accessorial charges, rules and regulations established and/or published by Carrier shall not apply to any shipment tendered under this Terms and Conditions unless specifically agreed to by Carrier and Broker, in writing. Any change in rates, charges, or rules and regulations shall be mutually agreed to and confirmed in writing, signed by both parties.

Rate Confirmation Sheets shall be deemed to be accepted amendments to these Terms and Conditions.

1. Payment. Carrier authorizes Broker to invoice Broker’s customers for services provided by Carrier. Carrier agrees to invoice Broker, and only Broker, and acknowledges that Broker is the sole party responsible for payment of its invoices and assigns Broker all its rights to collect freight charges from Broker’s customer or any responsible third party upon receipt of payment of its freight charges from Broker. Under no circumstance, shall Carrier seek payment from Broker’s customers, the consignor, any consignee, or any entity other than Broker. Payment of the freight charges by Broker to Carrier shall relieve shipper, receiver, consignor, or consignee of any liability to the Carrier for non-payment of charges.

Broker agrees to pay Carrier for the transportation of shipments under this Terms and Conditions in accordance with the rates described herein, within thirty (30) days of receipt of Carrier’s invoice and signed delivery document covering such transportation; provided, however in the event a shipment is the subject of cargo shortage/loss, damage or delay Broker reserves the right to withhold payment to Carrier for the shipment in question until the cargo shortage/loss, damage, or delay issue is resolved with Broker’s customer. Broker reserves the right to deduct an amount equal to the shortage/loss, damage/spoilage, or delay claim resulting from the negligence or alleged negligence on the part of the Carrier, its agents, servants, or employees. Broker shall furnish to Carrier a written explanation and itemization of all deductions computed at the time deductions are made. Further, compensation paid under this Terms and Conditions may be withheld, in whole or in part, by Broker to satisfy any obligation paid by Broker which is the financial responsibility of Carrier.

1. Cargo Loss. Damage, and Delay.
   1. Carrier shall be liable to Broker and Broker’s customers, for the actual loss of, damage to, or delay of Broker’s customers’ freight, while under the Carrier’s care, custody, or control according to the provisions of 49 U.S.C. Section 14706. The term “actual loss” shall mean the full invoice price charged by Broker’s customer to its customers for the kind and quantity of product lost, damaged or destroyed, plus freight charges (unless included in the invoice price), less salvage value, if any, subject to a limitation of liability set forth in Appendix 1, unless otherwise agreed upon between Broker and Carrier in writing.

The liability of Carrier for delay in delivering a shipment shall be the greater of either the full actual value of the cargo or those damages that are reasonably foreseeable. No limitation of liability will apply as to delay. Carrier will have no lien or will accordingly waive its right to any lien upon any shipment of Shipper’s cargo or portion thereof.

* 1. Except as set forth below in this Subsection (b), Carrier agrees that the provisions contained in 49 CFR Part 370, shall govern the processing of claims for loss, damage, or delay to property and the processing of salvage.
     1. Carrier shall immediately notify Broker of any cargo damage, shortage/loss, or delay. Failure to comply with this notice provision shall void any limitation of liability and cause Carrier to be responsible for full liability of any damages or shortages of a shipment based on the “actual loss” as defined in Section 9(a) above without regard to Broker’s customer’s ability to mitigate damages.
     2. The determination regarding the acceptability and/or salvageability of any food product intended for human consumption transported by Carrier shall be within the sole discretion of Broker’s customer and shall be binding on Carrier;
     3. The determination regarding the salvageability of any damaged cargo (other than food products) shall be determined by Broker’s customer and Carrier shall be liable for all costs and expenses associated with Broker’s customer’s mitigation of damages including any inspection; storage; preparation of the cargo for reshipping· and the reshipping, if applicable.
     4. Claims based on concealed loss/damage reported to Carrier by Broker within five (5) business days of the date of delivery will be treated as though an exception notation had been made on the delivery receipt at the time of delivery.
     5. It is the obligation of Carrier to properly inspect cargo upon the discovery of damage. In the event Carrier fails to inspect the cargo within five (5) business days of the date Carrier becomes aware of the damage, or upon receipt of the goods to be returned to the consignor because of the damage, whichever is earlier, Carrier waives its rights to inspect the goods and agrees to be bound by the fact presented by claimant.
     6. Carrier shall not sell, or attempt to sell, Broker’s customer’s freight for salvage or otherwise without Broker’s customer’s prior written authorization. For any damaged product which Broker’s customer permits Carrier to resell, Broker’s customer will have the right to remove all identifying marks and labels on such product.
     7. If the cargo is able to be repaired and restored to good marketable condition, Carrier will be liable for the costs of repairs including the costs of all labor and other necessary expenses, not to exceed the actual value of the kind and quality of product damage.
     8. Failure of Carrier to pay, decline or offer settlement within thirty (30) days of receipt of the claim shall be deemed an admission by Carrier of full liability of the amount claimed and a material breach of this Terms and Conditions.

1. Insurance. Carrier shall procure and maintain at all times during the term of this Terms and Conditions, at its sole cost and expense, with reputable and financially responsible insurance carriers the following insurance coverages in not less than the amount specified below. Such amounts merely suggest minimum coverages and are not intended to establish any limitations of Carrier’s liability for its acts or omissions. Additionally, the exclusions that may be contained in any of Carrier’s insurance policies shall not exonerate Carrier from liability.
   1. Commercial Auto Liability Insurance insuring against liability for injury to persons, including injuries resulting in death, environmental restoration and loss or destruction of or physical damage to property, including any vehicle or other equipment furnished by the shipper for and in connection with the transportation services the Carrier renders, in a combined single limit of not less than $1,000,000.00 per occurrence;
   2. Cargo Insurance insuring Carrier against liability for loss or damage to commodities while in the custody, possession or control of Carrier in an amount not less than $100,000.00 per shipment which policy shall not contain any exclusions for negligent acts, infidelity, fraud, dishonesty, or criminal acts of Carrier’s employees, agents, contractors, officers or directors; and
   3. Workers’ compensation insurance for Carrier’s employees in accordance with statutory requirements for all applicable jurisdictions.

Such Insurance coverages shall include a waiver of subrogation for Broker and Broker’s customary If Carrier’s insurance is threatened to be, or is, terminated, cancelled, suspended, reduced, or revoked, Carrier must immediately notify Broker. Carrier shall provide Broker certificates or other evidence of the foregoing insurance coverages upon request by Broker.

1. Indemnification. Carrier shall defend, indemnify and hold harmless Broker and Broker’s customers, their respective officers, directors, employees, agents, representatives, vendors and customers against any and all claims, demands, actions, causes of action and/or liabilities (actual, potential, threatened or pending) judgments, fines, penalties, orders, decrees, awards, costs, expenses, including attorneys’ fees, settlements and claims on account of:
   1. Loss or damage to property or personal (bodily or mental) injury, including death, which may be sustained by the parties, their employees or third parties, arising out of or in connection with Carrier’s performance of the services set forth herein;
   2. Loss, damage or delay in transit as to all goods which Carrier receives through Broker for transport according to Rate Confirmation Sheet, until Carrier delivers such goods and the same are signed for by the consignee;
   3. Carrier’s breach of any of its representations, warranties and/or covenants in this Terms and Conditions;
   4. Carrier’s violation of any applicable laws, rules and regulations;
   5. Carrier’s failure to comply with workers’ compensation requirements or any claim for workers1 compensation asserted against Broker or its customer by Carrier’s employees, or their personal representatives.

This provision will not be construed in any circumstance to constitute an indemnification contrary to any government law that prohibits indemnification against loss, liability, cost or expenses incident thereto, caused by the negligence of such indemnity. Exclusions in Carrier’s insurance coverage(s) shall not exonerate Carrier from this liability.

1. Confidentiality. As part of the business relationship between Broker and Carrier, either party may be in or come into possession of information or data which constitutes trade secrets, know-how, confidential information, marketing plans, pricing, or anything else otherwise considered proprietary or secret by the other (“Confidential Information”). In consideration of the receipt of such Confidential Information and potential business, each party agrees to protect and maintain such Confidential Information in the utmost confidence, to use such Confidential Information solely in connection with their business relationship, and to take all measures reasonably necessary to protect the Confidential Information.

Carrier agrees that Broker’s charges to its customers are confidential and need not be disclosed to Carrier. Carrier specifically waives any rights it may have under 49 CFR § 371.3. Except as may be required by law, the terms and conditions of the Terms and Conditions and information pertaining to any Services will not be disclosed by either party to any other persons or entities, except to the directors, officers, employees, authorized contractors, attorneys, and accountants of each party. This mutual obligation of confidentiality will remain in effect during the terms of the Terms and Conditions and for a period of two years following any termination.

1. Non-Solicitation. Carrier agrees that during the term of this Terms and Conditions and for a period of one (1) year from the date of termination of this Terms and Conditions, that neither Carrier nor any employee, officer, director, agent or other wise of Carrier, shall directly or indirectly solicit traffic from any Broker, consignor, consignee, or customer of the Broker where (a) the availability of such shipments first became known to Carrier as a result of Broker’s efforts; or (b) the shipments of the consignor, consignee, or customer of the Broker was first tendered to the Carrier by the Broker.

In the event Carrier violates the terms of this Section 15 and back-solicits Broker’s customers and obtains traffic from such customers, Broker is then entitled, for a period of twelve (12) months after the traffic first begins to move, to a commission from the Carrier of fifteen percent (15%) of the transportation or revenue received on the movement of traffic. Carrier understands and agrees that the provisions of the aforementioned covenant not to compete are reasonable as to scope, duration, and geographic area, in light of the mutual promises and other valuable consideration the parties have agreed to in this Terms and Conditions. Further, Carrier agrees that any violation of the covenant not to compete will cause irreparable injury to Broker, and that Broker will be entitled to a restraining order and an injunction to stop the back-solicitation of traffic.

1. Force Majeure. The obligation of Carrier to furnish and of Broker to use the Services provided for in this Terms and Conditions will be suspended temporarily during the period in which either party is prevented from performing due to fire, flood, strikes, lockout, epidemic, accident, regulatory action or other causes beyond its reasonable control. The party experiencing force majeure will notify the other party promptly and take all reasonable steps to eliminate the interruption and resume normal operations as soon as possible.
2. Waiver/Enforceability. The waiver of a breach of any term or condition of this Terms and Conditions will not constitute the waiver of any other breach of the same or any other term. To be enforceable, a waiver must be in writing signed by a duly authorized representative of the waiving Party. The unenforceability of a provision of these Terms and Conditions or portion thereof will not affect the enforceability of any other provision of this Terms and Conditions or portion thereof.
3. Entire Agreement. These Terms and Conditions, together with any Appendices hereto, constitutes the entire Terms and Conditions between the parties with respect to the subject matter hereof, and supersedes all prior oral or written representations and agreements, unless superseded by a signed transportation contract between the parties.
4. Governing Law. This Terms and Conditions is to be construed according to federal law governing transportation and the laws of the State of Wisconsin and the parties hereby stipulate the exclusive jurisdiction of the courts situated in Brown County, Wisconsin, or the Federal Court for the Eastern District of Wisconsin, Green Bay Division. If any part of these Terms and Conditions is determined to be contrary to law, such determination shall not affect the validity of any other terms or conditions. Carrier shall pay all costs, expenses and attorney fees which may be expended or incurred by Broker or Broker’s customer in successfully enforcing this Terms and Conditions or any provision thereof, or in exercising any right or remedy of Broker or its customers against Carrier, or in any arbitration or litigation incurred by Broker because of any act or omission of Carrier under this Terms and Conditions.