

Terms and Conditions

MERCURY BUSINESS SERVICES, INC. TERMS AND CONDITIONS OF SERVICE

These terms and conditions are effective immediately and are subject to change without notice; see www.shipmercury.com for a current copy. These Terms and Conditions supersede and replace all previous Terms and Conditions published by Mercury Business Services, Inc.

The following TERMS AND CONDITIONS OF SERVICE shall apply to all services performed by MERCURY BUSINESS SERVICES, INC. and shall be binding on all customers, shippers, exporters, importers, senders, receivers, owners, consignors, consignees, transferors, transferees and third parties to or for whom MERCURY BUSINESS SERVICES, INC. provides services, as specified further below.

GENERAL TERMS AND CONDITIONS OF SERVICE

Application and Scope

These Terms and Conditions of Service apply to all transportation and related services provided in interstate and intrastate commerce to, from or within the United States (and its territories), Canada, and Mexico and/or other foreign or international commerce by Mercury Business Services, Inc. in accordance with their respective capacities set forth below:

- Mercury Business Services, Inc. ("Mercury"), is a domestic (U.S.) and international air freight forwarder providing services as a duly certified Indirect Air Carrier, NE0807003, including the issuance of house air waybills for individual shipments, assembly, consolidation and arrangement of transportation of goods via direct air carriers, pursuant to exemptions at 49 U.S.C. §§ 13531 and 13506(8).
- Mercury is authorized as a surface freight forwarder by the Federal Motor Carrier Safety Administration under Docket No. FF-10639-P to provide interstate ground transportation and related forwarding services.
- Mercury is authorized to operate as a property broker by the Federal Motor Carrier Safety Administration, arranging the transportation of shippers' goods in interstate transport by over the road motor carriers selected by Mercury.
- Notwithstanding anything else contained in these Terms and Conditions, or elsewhere, Mercury is neither a licensed customs house broker, ocean freight forwarder nor non-vessel operating common carrier, nor does it engage in providing such services on behalf of Customers. Rather, as part of its services which are subject to these Terms and Conditions, Mercury may arrange with licensed customs house brokers, ocean freight forwarders and non-vessel operating common carriers to provide their respective services on behalf of Customers, to the extent permitted by applicable law and regulation.
- Notwithstanding anything else contained in these Terms and Conditions, or elsewhere, when acting as a property broker Mercury assumes no liability for loss, damage or delay of shipments it arranges to be transported by interstate motor carriers on behalf of shippers. Any claim arising out of or relating to such shipments, whether filed by Mercury on behalf of the shipper or directly by the shipper with the carrier that transported a shipper's goods, are subject to the carrier's standard terms and conditions and/or bill of lading terms and or tariffs rule in effect at the time of the shipment.

Definitions

Unless otherwise provided for herein, the following terms are defined as follows:

"Mercury", **"MBS"**, **"we"**, **"our"**, **"Carrier"** and **"us"** refer to **MERCURY BUSINESS SERVICES, INC.**, and their respective employees, agents, successors, assigns, divisions, affiliates and any subcontractors hired by Mercury.

"Customer" means the person, firm or company on whose behalf Mercury has been hired to perform services, as well as the customer's agents and/or representatives and any principal on whose behalf it is acting, or has an interest in the goods being shipped. 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; also referred to as the "Billed to Party".

"Shipper" or **"consignor"** means the person tendering goods to Mercury for transport or storage and/or the person for whose account goods are being transported or stored, and any and all agents and/or representatives of the Shipper, including, but not limited to, secured parties, warehousemen, buyers and/or sellers, shipper's agents, including, without limitation, freight forwarders, customs brokers or property brokers insurers and underwriters, break-bulk agents, and consignees.

"Consignee" or **"receiver"** means the person named as the "consignee" on any shipper's instructions, receipt, truck tag, waybill, bill of lading or other document, the owner of the Goods, and all other persons lawfully entitled to possession of the Goods upon delivery.

"Ocean Transportation Intermediaries" ("OTI") shall include an "ocean freight forwarder" and a "non-vessel operating carrier" ("NVOCC).

"Third Parties" shall include, but not be limited to, the following: "carriers, truckmen, cartmen, lightermen, forwarders, OTIs, customs brokers, agents, warehousemen, air carriers and others to which the goods are entrusted for transportation, cartage, handling and/or delivery and/or storage or otherwise".

"Documentation" shall mean all information received directly or indirectly from Customer or Third Parties, whether in paper or electronic form.

"You" and **"yours"** shall refer to our customer, the shipper/consignor, the receiver/consignee, their employees and agents and to all others with interest in the shipment.

"Waybill" means a non-Negotiable Waybill, Bill of Lading, Delivery Receipt or similar shipping document used to identify shipments tendered to Mercury for transportation.

"Goods", **"cargo"**, **"items"**, **"pieces"**, **"products"**, **"commodities"**, **"property"** and **"shipment"** refers to articles of every kind or description, including their packaging, containers or other shipping units tendered to an accepted by Mercury for transportation, storage and/or delivery as described or identified on the face of the Waybill.

"Prepaid" or **"PPD"** is a freight payment term meaning that the charges for transportation and other services rendered at the request of the shipper, or requested by the consignee for the shipper, are to be paid for by the shipper or its designated agent. Notwithstanding the shipper's primary responsibility for payment on a prepaid shipment, both the shipper and consignee are jointly liable for the payment of charges for transportation or other services because both the shipper and consignee receive the benefit of the services.

"Terms and Conditions" refers to these Terms and Conditions of Service a copy of which is available upon request and is published and maintained on Mercury's website and may be viewed at <http://www.shipmercury.com/Home/Terms>.

"Conditions of Contract" refers to the Conditions of Contract delineated below.

Contractual Agreement

These Terms and Conditions shall constitute a binding contract on all customers, shippers, consignees to or for whom Mercury provides services. These Terms and Conditions supersede and negate any claimed, alleged or asserted oral contract, promise, representation or understanding among the parties with respect to services to be performed by Mercury.

These Terms and Conditions shall apply to all services provided by Mercury, except to the extent contrary to applicable federal or state law, rule or regulation, and/or except to the extent Mercury otherwise specifically agrees, in writing.

It is mutually agreed that these Terms and Conditions shall, except as otherwise provided in the Terms and Conditions, exclusively govern the rights and duties of Mercury and Customer and/or the Shipper, except as modified by these Terms and Conditions, when acting in its capacity as a freight forwarder of property in interstate commerce the rights and duties of Mercury and the Customer shall be governed by the provisions of the Carmack Amendment to the Interstate Commerce Act, 49 U.S.C. § 14706.

By accepting a quote and/or tendering a shipment for transportation, Customer, for itself and all other parties at any time having an interest in the goods, agrees to these Terms and Conditions, which no agent or employee of the parties may alter. No employee or agent of Mercury is authorized to change, modify or waive any of these Terms and Conditions without the written consent of an authorized executive of Mercury.

Customer warrants that:

- It is either the owner or authorized agent of the owner of the goods and that it is accepting these Conditions of this Contract not only for itself, but also as agent for and on behalf of the owner.
- The description and particulars of any goods furnished by or on behalf of Customer are complete and accurate.
- All goods will be properly and sufficiently prepared and packed suitable to the mode of transport to protect the goods from loss or damage, and properly labeled and/or marked appropriate for the mode of transport.
- The goods do not comprise or contain any explosive, incendiary or other device, hazardous substance or weapon which may endanger life or the safety of any transport conveyance or which may cause or is likely to cause loss, damage, injury to or death of any person or property.
- The goods do not contain any undeclared dangerous or hazardous materials within the meaning of current IATA Dangerous Goods Regulations ("Regulations") and Customer will not tender such goods to Mercury without obtaining Mercury's prior consent. Where such consent is granted, Customer warrants that all such goods are packed, marked, and labeled and otherwise meet all documentation requirements and provisions of the Regulations and it has complied with all statutes, rules and regulations of any and all governments and governmental agencies governing its activities.
- Customer warrants and agrees that it will, in writing, provide any special handling instructions in connection with any cargo it requests be handled by Mercury. Failure of the Customer to provide such written instructions shall be presumptively a waiver of any special handling the cargo may require, whether or not Mercury otherwise knew, or should have known, that the cargo might require special handling.
- To the fullest extent possible. Customer shall obtain and provide any and all documents necessary and required for the transportation, export or import of its cargo, or as may be required for the importation of the cargo into the commerce of the country of destination when being exported from the U.S., including, without limitation, any export or import licenses. Under no circumstances shall Mercury be responsible for any delay, seizure, return, fine penalty, forfeiture, storage or return shipment charges, or any other consequence due to the failure of the Customer to provide any and all documents required to ensure the shipment can be delivered to the intended recipient.
- To the extent not otherwise specified herein, Customer shall comply with all applicable laws and other government regulations of any jurisdiction to, from or through which the shipment may be carried, including those relating to the packaging, carriage or delivery of the shipment, and shall furnish such information in writing and attach such documents as may be necessary to comply with such laws and regulations. **Mercury shall not be obligated to inquire into the correctness or sufficiency of such**

information or documents. Mercury shall not be liable to Customer for damage, delay, loss or expense due to the Customer's failure to comply with this provision.

Mercury:

- Undertakes to complete the carriage of a shipment tendered to it with reasonable dispatch.
- May substitute alternate carriers or aircraft and may without notice and with due regard to the interests of the Customer substitute other means of transportation.
- Is authorized by Customer to select the routing and all intermediate stopping places it deems appropriate or to change or deviate from any routing instructions shown on the face hereof.
- For international air shipments, Mercury reserves the option to act as an agent of the airline instead of as a Carrier, in which event the direct airline's tariffs shall apply.
- Is authorized, unless express instructions in writing are received from the Customer, to select and engage carriers, truck men, lightermen, forwarders, customs brokers, agents, warehousemen and others, as required, to transport, store, deal with and deliver the goods, all of whom shall be considered as the agents of the Customer, and the goods may be entrusted to such agencies subject to all conditions as to limitation 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, truck men, lightermen, forwarders, customs brokers, agents, warehousemen and others.

If there is any conflict or inconsistency between these Terms and Conditions and, without limitation, any shipper's instructions, shipper's bill of lading or other shipper's transportation documents, or communications relating to a shipment, label, or any other bill of lading issued in connection with services provided by Mercury, the Terms and Conditions contained herein shall control and govern.

These Terms and Conditions are subject to amendment by Mercury without notice. Any amendment to these Terms and Conditions shall be published on Mercury's website at <http://www.shipmercury.com/Home/Terms>. Your continued use of Mercury's services after publication of the amended Terms and Conditions on our website shall constitute acceptance of the amended Terms and Conditions.

Advancement of Charges

Upon Customer's request, Mercury may, in its sole discretion, advance on the Customer's behalf, to the customs clearance agent nominated to arrange the customs entry of the Customer's goods, customs duties and related charges. For each such advancement of charges, a service fee of 2.5% of the advanced amount will be assessed, subject to a minimum advancement fee of \$15.00.

Mercury reserves the right to require the amount of any advancement of customs and duties and related charges to be deposited with Mercury in cash prior to advancing the charges.

Application of Charges

- Except as otherwise provided for herein or in a separate written contract, transportation charges for a shipment will be assessed on the gross weight of the shipment based on the greater of:
 - The actual weight, or
 - The cubic dimensional weight determined in accordance with the Dimensional Weight Charge explanation below.
- Charges will be assessed on the basis of the service shown on the Waybill at the rates in effect on the day of acceptance of the shipment.
- In computing charges, fractions will be rounded to the next higher cent.
- Fractions of pounds will be assessed at the charge for the next higher pound. Fractions of kilograms will be rounded up to the next higher kilogram.
- Shipments may be subject to a Dimensional Weight Charge (or "DIM" Factor) depending upon the weight, density and/or measurement of the shipment. To obtain a quote or for more details about the applicability of Mercury's Dimensional Weight Charge, please contact Mercury Customer Service.

- In case of loss or damage, the weight to determine Mercury's limit of liability shall be the chargeable weight of the shipment OR a pro rata share in the case of a partial shipment loss or damage.

Charges – Prepaid or Collect

Shipments will be accepted with freight payment terms stated as prepaid (by the shipper). When requested by the shipper or the consignee and subject to approval by Mercury shipments may be accepted with collect (from the consignee) payment terms. In that case, if the consignee should refuse or fail to make payment for any reason, liability for payment shall revert to the shipper.

Invoicing and Payment of Charges

Invoices for transportation and related charges, advancements or disbursements shall be due and payable in accord with the terms agreed to by the Customer or at Mercury's discretion on a "cash" or "collect" basis. Mercury's standard terms for the payment of invoices for transportation and related charges applicable to all customers that have established credit with Mercury shall be fifteen (15) calendar days from the date of Mercury's invoice and subject to the terms and conditions of Mercury's credit application, except as otherwise provided for herein or agreed upon in writing.

All invoices are due and payable upon receipt unless otherwise agreed upon in writing. Regardless of whether a shipment is billed prepaid or collect, the customer, shipper, and consignee shall be jointly and severally liable for all transportation or related charges, plus any duties, taxes or other charges advanced by Mercury, including any costs or expenses incurred in returning your shipment or storing your shipment.

In the event payment of invoices is not received within fifteen (15) calendar days, or such other agreed upon credit period, such invoices will be considered past due and any payments made thereafter shall be considered a late payment. Past due invoices and late payments shall be subject to an interest charge of 5% per month, or the highest percentage permitted by law, added to all outstanding amounts and such other late charges as may be applicable under the terms of our credit application. In the event it becomes necessary to commence a lawsuit to recover past due invoices or late payments, we will be entitled to recover reasonable attorneys' fees and costs incurred in the collection of these invoices.

All charges must be paid by Customer in accordance with the terms agreed to by the Customer unless Mercury 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 Mercury. Mercury shall be under no obligation to advance transportation charges, customs duties or taxes on any shipment, nor shall any advance by Mercury be construed as a waiver of the provisions hereof.

Nothing herein shall limit the right of Mercury to require prepayment or a guarantee of the transportation or other charges at the time of shipment or prior to delivery.

Dangerous Goods/Hazardous Materials

Prior to shipment, Shipper must provide Mercury in writing the details of any type of hazardous material or dangerous goods ("Hazmat") it proposes to ship with Mercury, together with all documents necessary and proper for the booking and transport of such cargo, consistent with the authorities listed below, or elsewhere in this Agreement. Mercury retains the right not to undertake handling of any Hazmat shipment until and if it is satisfied it has all the information and documentation needed to properly book and transport the Hazmat. Shipper waives any claim of delay, or any other claim which may result, due to Mercury ensuring it has received from the shipper all that is necessary to properly transport a Hazmat Shipment. Moreover, notwithstanding anything else contained in this provision or this Agreement, Mercury retains the right to refuse any shipment, whether or not Hazmat, for any reason

Hazmat means those commodities, which are transported in accordance with the provisions set forth in the rules and regulations in:

- Title 49 of the U.S. Code of Federal Regulations ("CFR"), revisions thereto or reissues thereof.

- The "Dangerous Goods Regulations" published by the International Air Transport Association ("IATA"), revisions thereto or reissues thereof.
- The International Civil Aviation Organization ("ICAO") "Technical Instructions for the Safe Transport of Dangerous Goods by Air" published by ICAO, revisions thereto or reissues thereof.
- The "International Maritime Dangerous Goods (IMDG) Code" published by the International Maritime Organization, revisions thereto or reissues thereof.

If Mercury accepts for transport the shipment, then the shipper must comply with all of the rules and regulations set forth in:

- Title 49 of the U.S. Code of Federal Regulations ("CFR"), revisions thereto and reissues thereof.
- The "Dangerous Goods Regulations" published by the International Air Transport Association ("IATA"), revisions thereto and reissues thereof.
- The International Civil Aviation Organization ("ICAO") "Technical instructions for the Safe Transport of Dangerous Goods by Air" published by ICAO, revisions thereto or reissues thereof.
- The "International Maritime Dangerous Goods (IMDG) Code" published by the International Maritime Organization, revisions thereto or reissues thereof.

If the shipment contains Dangerous Goods/Hazardous Material, the shipper shall have the responsibility to so state on the Waybill and shall also submit a signed Shipper's Declaration for Dangerous Goods/Hazardous Materials.

All shipments of Dangerous Goods/Hazardous Materials between points in the United States will be assessed a minimum service charge of \$30.00 per shipment for handling and transportation of such goods in addition to all other applicable charges.

All shipments of Dangerous Goods/Hazardous Materials to, from or between points outside the United States may be subject to additional service charges for handling and transportation of dangerous goods. Mercury shall determine the amount of such charges, which may vary depending upon, among other things, the nature of the goods, the origin, the destination and the mode of transportation.

Shipper agrees to be in compliance with all State and Federal statutory requirements with respect to shipping Dangerous Goods and/or Hazardous Materials.

Mercury reserves the right to reject any goods of a dangerous or damaging nature, any security classified cargo, and any goods subject to the Arms Export Control Act. If such goods are accepted and then in the opinion of Mercury it decides that such goods constitute a risk to other shipments, property, life or health, Mercury reserves the right at the expense of Customer to remove or otherwise deal with the goods. Customer will be responsible for the suitable reception, handling, and storage of such cargo in accordance with the Regulations and all other international, federal, state and local ordinances, regulations and instruments.

Document Retention/TSA Regulations

All cargo tendered for air transportation is subject to security regulations of the Department of Homeland Security/Transportation Security Administration ("TSA"), and as appropriate the regulations of other government agencies. Copies of all relevant shipping documents showing the cargo's consignee, consignor, description and other relevant data will be retained on file for at least thirty (30) days, or as required by the regulations of cognizant government agencies, including, without limitation, TSA, the U.S. Department of Commerce Export Administration, U.S. Customs and Border Protection and the U.S. Department of Transportation.

In particular, TSA, which has authority over the security and safety of the transportation systems within and connecting to the U.S., has instituted regulations and amendments that govern the movement of cargo. All shippers must comply with all applicable TSA regulations, as well as Mercury's policies and procedures. In the event you fail to comply with any applicable regulations, policies or procedures, we cannot ensure requested service levels or that your shipment will be transported via aircraft, and we reserve the right to use alternate means to deliver your shipments. If you have any questions about transporting shipments by

air or applicable regulations, policies or procedures, please call Mercury to speak with a customer service representative.

Inspection of Shipments

General – All Shipments Mercury may, but shall not be obligated to, inspect or weigh any shipment. No liability shall attach to Mercury if Mercury refuses to carry a shipment based on a good faith determination of what it understands to be the applicable law, regulation, demand, order or requirement. Additionally, all shipments may be subject to inspection by:

- The carrier[s] or their agent[s]
- Government officials
- Personnel authorized by the government to inspect shipments.

Inspection of Air Shipments In accordance with TSA regulations all shipments transported on aircraft are subject to inspection or being searched by Mercury, its agents, government officials or other authorized personnel to ensure the security and safety of any aircraft and its passengers. If you do not consent to the search or inspection of your cargo it cannot be offered for transport or be transported on any aircraft.

Liabilities Not Assumed

Except as may otherwise be prohibited by law, this Agreement, or as agreed to by Mercury or carriers that Mercury selects for transport of a shipment, Mercury shall not be liable to the shipper or to any other person for any miss-delivery, missed pickup, non-delivery, delay, damage or loss of whatever nature or kind, arising out of or in connection with the shipment or other services performed by Mercury, unless it is proven to have been caused by the gross negligence or willful misconduct of Mercury and there has been no contributory negligence on the part of the shipper, consignee or other claimant.

Without limiting the generality of the foregoing, neither Mercury nor the carriers it selects to transport a shipment shall be liable for any loss, damage, miss-delivery, non-delivery, or other result caused by:

- The act, default or omission of the shipper, consignee or any other party claiming an interest in the shipment including, but not limited to, incorrect declaration of cargo, improper or insufficient packing, securing, marking or addressing of your shipment, or for the acts or omissions of the recipient.
- The nature of the shipment or any defect, characteristics or inherent fault thereof.
- Failure of the shipper or consignee to observe any of the rules contained in these Terms and Conditions.
- Acts of God, weather conditions, mechanical delay of aircraft or other equipment failures, perils of the air, public enemies, public authorities acting with actual or apparent authority, acts or omission of custom officials, authority of law, quarantine, war, threat of or acts of terrorism, riots, strikes or civil commotion.
- Acts or omissions of any person other than Mercury, including delivery instructions from the shipper or consignee with which Mercury complies.
- Any special, exemplary, punitive or consequential damages, including, without limitation, any loss of revenue profits or business opportunity, whether or not Mercury knew beforehand such damages might be incurred. Except as otherwise provided for in this Agreement or Mercury's bill of lading, or other transportation document issued by Mercury or any carrier it selects to transport a shipment, Mercury's liability shall be limited to a refund of the shipping charges in the event of any miss-delivery, missed pickup, non-delivery, delay, damage or loss of whatever nature.
- Erasure of data from or the loss or irretrievability of data stored on magnetic tapes, files or other storage media, or erasure or damage of photographic images or soundtracks from exposed film.
- The loss of any personal or financial information including, but not limited to, social security numbers, dates of birth, driver's license numbers, credit card numbers and financial account information.
- Shipments released without obtaining a signature at residential addresses, and at nonresidential addresses if a signature release is on file.
- Unavailability of equipment or space therein.

- Compliance with delivery instructions from the Customer or consignee or non-compliance with special instructions from the Customer or consignee not authorized by Mercury's rules.
- Shortage of articles loaded and sealed in containers by the Customer provided the seal is unbroken at the time of delivery and the container retains its basic integrity.
- Failure of Mercury, or any carrier that Mercury selects, to pick-up, transport or deliver shipment by a stipulated date or time, unless any of those are guaranteed in writing by Mercury.

Mercury's liability shall in no event exceed that set forth in the limitations of liability provisions contained herein.

Unless Mercury carries, stores or otherwise physically handles the shipment, and loss, damage, expense or delay occurs during such activity, Mercury assumes no liability as a carrier and is not to be held responsible for any loss, damage, expense or delay to the goods to be forwarded or imported except as provided below, but undertakes only to use reasonable care in the selection of carriers, truckmen, lightermen, forwarders, customs brokers, agents, warehousemen and others to whom it may entrust the goods for transportation, cartage, handling and/or delivery and/or storage or otherwise. When Mercury carries stores or otherwise physically handles the shipment, it does so subject to the limitation of liability set forth herein.

Unless services are performed by persons or firms engaged pursuant to express written instructions from the Customer, Mercury 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 Mercury that a particular person or firm has been selected to render services with respect to the goods, shall not be construed to mean that Mercury warrants or represents that such person or firm will render such services nor does Mercury 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 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 selected by Mercury to forward, enter and clear, transport or render other services with respect to such goods;

Mercury disclaims any duty to accept or to lodge any claim on behalf of the Customer with third-parties. All claims in connection with the acts or omissions of a third party shall be submitted directly to such party and/or its agents by the Customer. However, Mercury may, in its sole discretion, and at the request of the Customer, file a claim. In the event Mercury does file a claim at the Customer's request, it is strictly understood it is done solely as an accommodation and Mercury does not undertake any duty or liability for the adjustment of the claim by the party with which the claim was filed or following up on such adjustment. In all events, the Customer shall be solely responsible for pursuing the claim directly with the third-party. Notwithstanding the foregoing Mercury shall reasonably cooperate with the Customer in connection with the Customer's pursuit of the claim, which shall be liable for any charges or costs incurred by Mercury.

Due to the nature of the transportation business, Mercury cannot guarantee pick up, transportation or delivery by a stipulated date or a stipulated time, nor shall Mercury be liable for the consequences of failure to do so. Mercury specifically does not guarantee delivery by a stipulated date or a stipulated time of any item shipped via the United States Postal Service.

Liability for Charges and Indemnification

The customer, shipper, consignee owner and current possessor of goods shall be liable, jointly, and severally, for all unpaid charges payable on account of a shipment including, but not limited to, sums advanced or disbursed by Mercury on account of such shipment.

The customer, shipper, consignee owner and current possessor of goods shall be liable, jointly and severally, to pay or indemnify and hold us harmless for all liabilities, losses, costs, claims, fines, penalties, damages, costs or other sums which may be incurred, suffered or disbursed by us, together with reasonable expenses, including attorneys' fees, incurred by Mercury in connection with defending such claim or legal action and obtaining reimbursement from the Customer, arising out of or related to:

- Customer's or its agents' breach of, or failure to observe or perform any of, the warranties contained herein;

- the negligence of Customer or its agents or the violation of any applicable laws or regulations by Customer or its agents; or
- any and all duties, taxes, levies, fines, penalties and other outlays imposed by any authority in relation to the goods arising out of Mercury acting in accordance with Customer's instructions or in a manner customarily expected of a carrier under the circumstances.

In the event that any claim, suit or proceeding is brought against Mercury it shall give notice in writing to the Customer by mail, at Customer's address on file with Mercury, tendering the defense of the claim, suit or proceeding to the Customer, and Customer agrees to accept such tender.

Liens on Shipments

We shall have a lien on the shipment for all sums due and payable to us including past due charges. In the event of non-payment of any sum payable to us, the shipment may be held by us and be subject to storage and/or disposed of at public or private sale paying us out of the proceeds of such sale all sums due and payable to us including storage charges and costs of sale. Mercury shall provide written notice to Customer of its intent to exercise such lien, the exact amount of monies due and owed, as well as any on-going storage or other charges; Customer shall notify all parties having an interest in its shipment(s) of Mercury's rights and/or the exercise of such lien. The shipper and/or consignee shall continue to be liable for the balance of any unpaid charges payable on account of the shipment. All charges are payable to the corporate office of Mercury in US Dollars.

Costs of Collection

In any dispute involving monies owed to Mercury, Mercury shall be entitled to all costs of collection, including reasonable attorney's fees and interest at 15% per annum or the highest rate allowed by law, whichever is less, unless a lower amount is agreed to by Mercury.

Limitations of Liability

Air and Ground Shipments Our liability for loss or damage claims for air and ground shipments shall be as follows:

- **Air and Ground Shipments.** For air or ground shipments not having a declared or insured value at the time of shipment, Mercury's liability for loss or damage to any air and/or ground shipment in the US, Canada or Mexico is limited to \$0.50 per pound multiplied by the number of pounds of each piece(s) of the shipment which may have been lost or damaged (but not less than \$50.00 per shipment), or the actual value of such piece(s), whichever is less. If you declare a higher value and pay an additional charge (see Declared Value sub-section below), our liability will be the lesser of your declared value or the invoice value of the shipment, or in the case of used goods the replacement value for the same or substantially similar goods, or in the case of damaged goods the repair cost, or if not capable of being repaired, replacement cost of the goods. Determination of our limit of liability on any shipment shall be based on the weight of the package or packages lost or damaged. **Declared value is not insurance and is not a guarantee that the full amount of the declared value is recoverable Any demand for satisfaction of a claim based on a declaration of value must be documented to support the amount being claimed.**
- **Canadian Ground Shipments.** For ground shipments not having a declared or insured value at the time of shipment, and shipping intra-provincial or inter-provincial in Canada and/or any interstate ground shipment to the U.S. or Mexico originating from Canada where the loss or damage occurs within Canada our liability is limited to \$2.00 (CDN) per pound or \$4.41 (CDN) per kilogram multiplied by the weight of each piece(s) of the shipment which may have been lost or damaged, or the actual value of such piece(s), whichever is less. If you declare a higher value and pay an additional charge (see Declared Value sub-section below), our liability will be the lesser of your declared value or the actual value of your shipment. Determination of our limit of liability on any shipment shall be based on the weight of the package or packages lost or damaged. To the extent it cannot be determined that the loss or damage occurred within Canada on an interstate shipment originating from Canada, then such loss or damage will be deemed to have occurred within the United States and be subject to the limits of liability set forth in Air and Ground Shipments section above.

International Air Shipments The international carriage of shipments by air will be deemed to be subject to the Montreal Convention of 1999 ("Montreal Convention"). For international air shipments not having a declared or insured value declared at time of shipment, Mercury's liability for loss or damage to international air shipments shall be limited in accordance with the provisions of the Montreal Convention as follows:

- Liability for loss, damage or delay of a shipment shall be limited to 19 Special Drawing Rights (SDRs) per kilogram, or the then current adjusted rate limit as may be periodically reassessed under the provisions of the Montreal Convention unless you declare a higher value for carriage and pay an additional charge for such excess liability. The value of 1 SDR is as determined by the International Monetary Fund at the date of judgment as converted into national currency in round figures under applicable law.
- In the case of loss of, damage or delay to part of the cargo, the weight to be taken into account in determining Mercury's limit of liability shall be only the weight of the package or packages concerned.
- In the case of loss of, damage or delay to a shipment, the weight to be used in determining Mercury's limit of liability shall be the weight that is used to determine the charge for carriage of such shipment.
- In the case of loss of, damage or delay to a part of a shipment, the shipment weight in section above shall be prorated to the packages covered by the same air waybill whose value is affected by the loss, damage or delay. The weight applicable in the case of loss or damage to one or more articles in a package shall be the weight of the entire package. In the event the Montreal Convention does not govern a loss, damage or delay claim, for any reason, all the foregoing shall nonetheless be the basis for adjustment of a claim as a matter of contract.

Ocean Shipments The shipper or his agent hereby authorizes Mercury, in his name and on his behalf, to engage the services of a licensed ocean freight forwarder or non-vessel operating carrier ("NVOCC"), as is deemed suitable for purposes of the shipment, to undertake booking and handling of the shipment. Such water carriage shall be performed subject to the terms and provisions and limitations of liability specified in the bill of lading issued by the carrier of the shipment and/or any rules tariffs or terms and conditions maintained by the carrier of the shipment.

If all or any part of the shipment tendered to Mercury is carried by water the sole responsibility of Mercury hereunder is to use reasonable care in the selection of carriers, forwarders, agents and others to whom it may entrust the shipment.

International Air and Ocean Freight Forwarding When as an international air or ocean freight forwarder, Mercury's liability for arranging with a carrier to transport a shipment and related services, is limited to the lesser of \$.50 per pound or \$50.00, whichever is less.

Declaring Higher Value to Third Parties Mercury and third parties to whom goods are entrusted may limit liability for loss or damage. In order to increase the potential for recovery of a higher or full value for loss or damage to a shipment the shipper must declare a higher value for carriage with the actual carrier transporting the shipment.

In the event the shipper makes a declaration of value for carriage it will be required to pay an additional freight charge to cover the increased liability assumed by Mercury or third parties. The election of accepting the applicable limitation of liability or paying an additional freight charge for increased liability is known as a choice of liability or choice of rates.

When not acting as the carrier of a shipment and issuing its own bill of lading, Mercury will make a declaration of value in an amount specified by the Shipper in writing with third parties that maintain limitations of liability, provided the shipper agrees to pay the supplemental freight charge in consideration of the acceptance of the declaration by the third party. In the absence of written instructions or the refusal of the third party to agree to a higher declared value, at Mercury'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 terms and conditions of service.

For shipments of extraordinary or high value, or for used general merchandise, with the exception of negotiable or non-negotiable instruments, for which Mercury acts as the carrier and issues its own air waybill or bill of lading, the maximum declared value Mercury will accept on any shipment is \$50,000.00 per shipment. For shipments having a declared value on the SLI/Waybill/Label prior to acceptance by Mercury, the total liability of Mercury shall in no event exceed the declared value of the shipment/piece or the actual value, the repair cost or the replacement cost, of the shipment/piece, whichever is less, plus the amount of any transportation charges for which Customer may be liable.

A declared value of more than \$50,000 is only available on shipments of extraordinary or high value goods, or for used general merchandise, with the exception of negotiable or non-negotiable instruments, and only when Customer receives prior written authorization from a senior Mercury manager or corporate officer (see Extraordinary or High Value Goods section below).

Notwithstanding the foregoing, where the shipper issues the bill of lading, the shipper must make such declaration on the face of the bill of lading and Mercury accepts no responsibility for tendering the shipper's bill of lading to third parties for carriage with no declared value.

Declared Value Claims Any claims for loss/damage for a declared value for carriage greater than \$5000 are subject to a deductible of \$1000.

Insurance For domestic (United States and U.S. territories) air and ground shipments, Canadian ground shipments, international air shipments and ocean shipments, the shipper may request that new goods be insured. Unless requested to do so in writing and confirmed to Customer in writing, Mercury is under no obligation to procure insurance on Customer's behalf; in all cases, Customer shall pay all premiums, deductibles and costs in connection with procuring requested insurance. When requesting insurance, the shipper must:

- Confirm that the goods are new, in original manufacturer packaging
- Make a request for insurance.
- Pay the appropriate premium.
- Record the amount of the insurance in the space designated on the Shipper's Letter of Instruction or Mercury Waybill/Label.

If the foregoing conditions are met, the goods identified on our Waybill/Label will be insured under an open policy. When such insurance is in place, our liability shall in no event exceed the insured value or the actual amount of loss or damage, whichever is lower, plus the amount of any freight charges relating to such shipment. An additional charge will apply for shipments having an insured value. The insurance is subject to the terms, conditions, deductibles, exclusions and coverage (for which certain risks are excluded) of the open policy, a copy of which is available upon request. The maximum insured value Mercury will agree to on any shipment is \$50,000.00, unless you receive prior written authorization from a senior Mercury manager or corporate officer.

New merchandise (not consisting of excluded or restricted items) that has been properly packed for export/transport and is not unusually susceptible to loss will be insured "All Risk" with exclusions. When insured under these terms, coverage is extended to include loss due to "physical loss or damage from any external cause." **However, despite the term "All Risk", not every risk is covered.** The following outlines the most common exclusions of "All Risk" terms (specific exclusions for a shipment are available on request):

- Improper or inadequate packing; Packing should be sufficient to:
 - Withstand frequent handling, jarring and jostling
 - Withstand extremes of weather and temperature
 - Discourage or complicate pilferage and tampering
- Abandonment of cargo
- Rejection by Customs or other governmental authorities
- Failure to pay or collect
- Inherent vice

- Infestation, failure of product to perform intended functions and latent defects
- Loss caused by delay or loss of use and/or market
- Seasonal merchandise such as calendars and holiday cards
- Nuclear attack
- Radioactive contamination, chemical, biological, bio-chemical and electromagnetic weapons
- Cyber attack
- Losses when goods are not in the ordinary course of transit
- Losses in South America more than 60 days after discharge
- Losses due to Strikes, Riots & Civil Commotions (generally covered by a SR&CC Endorsement)
- Acts of War (certain limited Acts of War may be covered separately by endorsement or by a stand-alone war policy)

Notwithstanding any other provisions herein, used Merchandise and non-containerized ocean freight are only subject to recovery for an amount not exceeding their declared value or used market value, whichever is less.

The value of any used equipment will be based on sale price if sold or replacement value if not. Mercury will not be responsible for mechanical derangement unless resulting from a peril covered under Mercury's open policy.

Notwithstanding any other provisions herein, insurance is unavailable for goods that are excluded from coverage under the open insurance policy, including, but not necessarily limited to, the following, when the insured value would exceed \$0.50 per pound:

- Any shipment prohibited by law or with country restrictions/limitations
- Bulk products
- Cigarettes and other tobacco products
- Bulk shipments of computer chips and similar memory devices
- Cotton
- Knitting and textile machines
- Mobile/Cellular telephones
- Alcohol, beer, wine
- Fresh foods
- Eggs
- Live animals
- Species
- Fishmeal
- Flowers
- Plants
- Cotton
- Bagged goods
- Cement
- Fertilizer
- Human remains of any kind
- Nuclear fuels
- Confectionary
- Chocolates
- Ceramics
- Pottery
- Porcelain
- Marble
- Granite
- China
- Fluorescent tubes
- Neon lighting or signs
- X-ray tubes

- Windows
- Bulk products
- Plasma screen monitors
- Mobile phones
- Antiques bonds
- Coins of any kind
- Currency
- Currency equivalents
- Furs
- Fur clothing
- Gems or stones (cut or uncut)
- Industrial diamonds
- Gold or silver
- Coined concentrates
- Pearls
- Precious metals
- Securities (negotiable)
- Time sensitive written material (e.g. Bids contract proposals etc.)

Notwithstanding any other provisions herein, insurance is unavailable for goods that are excluded from coverage under the open insurance policy, including, but not necessarily limited to, the following, when the total declared value of the shipment exceeds \$500.00 or when the declared value exceeds \$0.50 per pound, per piece

- Household goods and/or personal effects
- One-of-a-kind articles or models
- Prototypes
- Valuable rugs (i.e., oriental rugs, Persian rugs)
- Prints or lithographs

Notwithstanding any other provisions herein, insurance is limited, restricted, subject to conditions, or subject to high deductibles with respect certain shipments, including, but not necessarily limited to, the following:

- Artwork
- Automobiles and motorcycles
- Computer equipment
- Glass, glassware, mirrors and glass tubes
- Lasers and laser equipment
- Televisions and other electronic equipment
- Truck shipments to or from Mexico
- Used goods, machinery or equipment
- Jewelry (other than costume jewelry)

No employee or agent of Mercury has any authority to accept such articles for transportation or to waive the limitations contained herein.

Mercury's maximum liability for any ENVELOPE or LETTER is \$25.00.

Extraordinary or High Value Goods Notwithstanding any other provisions herein, shipments of goods with a value of more than \$50,000 will be considered extraordinary or high value goods and will not be accepted by Mercury unless you receive prior written authorization from a senior Mercury manager or corporate officer. In the event shipments of extraordinary value goods are accepted by Mercury, with or without prior authorization, or such shipments are inadvertently accepted by Mercury, Mercury's liability shall be limited in accordance with the above sections (as applicable), subject to a maximum liability for such shipments of \$50,000 unless you receive prior written authorization from a senior Mercury manager or corporate officer to declare a higher value for carriage and pay an additional charge for excess liability.

Any declared value in excess of the maximum allowed hereunder for which Mercury has not issued prior written authorization is null and void and the acceptance by us for carriage of any shipment with a declared value in excess of the maximum allowed hereunder does not constitute a waiver of the maximum declared value provisions.

Insured Value Claims Any claims for loss/damage for an insured value greater than \$5000 are subject to a \$1000 deductible; in the case of computers and computer-related equipment, the deductible will be the greater of 10% of the total insured value of the shipment or \$1000.

“Customs Business” For the service in arranging for customs brokerage services on behalf of the Customer, Mercury’s liability shall be limited to \$50.00 per entry. Mercury disclaims any responsibility for any acts or omissions of the customs broker in the performance of its services on behalf of the shipper.

Special Damages In no event and under no circumstances shall Mercury be liable for any special, exemplary, punitive, incidental or consequential damages, including but not limited to loss of profits or income or business opportunity, whether or not Mercury had notice or knowledge that such damages might be incurred.

Any exclusion or limitation of liability applicable to Mercury shall apply to and be for the benefit of Mercury's agents, servants and representatives and any person whose equipment is used by Mercury for carriage and its agents and representatives. For purposes of this provision, Mercury acts herein as agent for all such persons.

Delivery

On arrival of the goods at the place of destination, subject to the acceptance of other instructions from the Customer prior to arrival, delivery will be tendered to consignee. If the consignee declines to accept the tender of goods, or cannot be communicated with, disposition will be made in accordance with instructions of the Customer. Customer shall be liable for all costs in either returning the shipment or warehousing the shipment pending its disposition or both. When no delivery signature is required, Customer releases Mercury from all liability from any loss or damage claim for the shipment.

Notice and Disposition of Property

When shipments arrive at destination, we will promptly notify the consignee and/or his designated agent or broker if we are not delivering to the consignee.

If, at the expiration of the free storage time provided herein, a shipment containing nonperishable property is unclaimed or delivery cannot be effected, we will so notify the shipper and consignee, by telephone, email, facsimile or mail (at the addresses shown on the Waybill). In such event the cost of continued storage, if paid for or payable by Mercury or any agent of Mercury, shall be paid by Customer to Mercury upon demand. Upon written instructions from the shipper, we will arrange to return the shipment to the shipper, forward or re-consign it, or otherwise dispose of it, all at the shipper's expense.

If no such instructions are received within thirty (30) days after the date of notice is given, we will arrange disposal of the shipment at public or private sale.

Un-cleared Import Shipments held at government warehouses will be recovered only when all costs have been paid in advance.

Packing and Marking Requirements

Shipments must be prepared or packed to ensure safe transportation with ordinary care in handling and in accordance with the requirements of any carrier or other agent that Mercury selects for the shipment.

Any article susceptible to damage by ordinary handling must be adequately protected by proper packing and must be marked or bear appropriate labels.

Any article susceptible to damage as a result of any condition which may be encountered in transportation, such as high vibration or high or low temperature variations, high or low atmospheric pressure variations, must be adequately protected by proper packing and any other necessary measures.

Each piece must be legibly and durably marked with the name and address of the shipper and consignee. When a container is used repetitively, all old labels, tags markings, etc. must be removed.

Mercury can arrange for packaging of shipment at Customer expense.

Rates

Any rates or charges for services set forth in a rate quote, rate sheet, contract or other document are subject to change without notice. Additionally, the shipments may be assessed accessorial charges and/or surcharges for additional services not covered in the Rate Quote and/or Rate Sheet. Under no circumstances will rates or charges be considered guaranteed for a particular period unless specifically agreed to in writing.

Quotations as to fees, rates of duty, transportation charges, insurance premiums or other charges given by Mercury to the Customer are for informational purposes; no quotation shall be binding upon Mercury unless Mercury 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 Mercury and the Customer.

All rates and fees are subject to change without notice.

Routing and Re-routing

Unless Customer gives specific written instructions, Mercury has complete freedom in choosing the means, route and procedure to be followed in handling, transportation and delivery, unless express instructions in writing are received from the customer.

Shipments Acceptable

Shipments of general commodities will generally be considered acceptable for transportation only when the rules and provisions shown herein and all laws, ordinances, and other governmental rules and regulations governing the transportation thereof have been complied with by the shipper and/or consignee.

Shipments not Acceptable for Transportation

Shipments of the following commodities or nature will not be accepted by Mercury for transportation unless authorized by a Mercury Corporate Officer

- Antiques
- Architectural Models
- Corpses, cremated or Disinterred remains
- Firearms
- Fresh Food Products
- Fur and Fur trimmed articles
- Gems
- Hazardous Waste Materials
- Live animals
- Marble
- Money, currency, bonds, Bills of Exchange, Deeds, Promissory Notes, Negotiable Securities and Stock Certificates
- Nursery stock and plants
- Original manuscripts or electronic media
- Wearing apparel designs of which no other copy exists

- Packages that are wet, leaking, or emit an odor of any kind
- Personal effects
- Postage, trading or revenue stamps, stamp collections and coin collections.
- Precious metal, including but not limited to, gold, silver or platinum in the form of bullion, jewelry or any other form.
- Used furniture or household goods uncrated or unwrapped (unless in relation to arranging packaging with a Mercury agent).
- Shipments as classified in 49 CFR Parts 171-177 Hazardous Material Regulations of the US, with the following hazard class or divisions:
 - Explosives of class 1 with the following divisions: 1.1, 1.2, 1.3, 1.4, 1.5, 1.6, or known by class name prior to Jan. 1, 1991 as class A, B, C and blasting agents respectively. Division 1.6 had no applicable hazard class prior to Jan 1, 1991.
 - Shipment of class 2 with the following division: 2.3 poison gas or ICAO/IATA toxic gas
 - Shipments of class 4 with the following divisions: 4.1 flammable solid, 4.2 spontaneously combustible material and 4.3, dangerous when wet material
 - Shipments of class 5 with the following divisions: 5.1, oxidizer and 5.2, organic peroxide
 - Shipments of class 6 with the following divisions: 6.1 poisonous material or ICAO/IATA toxic substance and 6.2 infectious substance
 - Shipments of class 7 (radioactive) material
- Shipments of an inherent nature or defect, which indicates to us that such transportation, could not be furnished by us without loss of or damage to the shipment.
- Shipments prohibited by U.S. Federal or State, or foreign countries governing laws, rules and regulations either at origin or destination.
- Shipments from unknown shippers for movement on passenger aircraft.
- Shipments which require that we obtain a federal, state or local license for their transportation if we have elected not to comply with such license requirements.
- Shipments containing alcohol, beer, wine, and/or tobacco.
- Shipments not expressly covered by these rules, or which would be likely to cause damage to other shipments, equipment, crew or passengers, the carriage of which is prohibited by law.

To the extent any of the foregoing shipments are accepted by Mercury, with or without prior authorization, or in the event any of the foregoing shipments are inadvertently accepted by Mercury, such shipments shall be deemed and considered extraordinary value items and our liability for loss or damage to such shipments shall be limited in accordance with the provisions governing extraordinary value items under Limitations of Liability provision above.

Shipments Subject to Advance Arrangements

The following will be accepted for carriage only upon advance arrangements and only when such advance arrangements have been satisfactorily completed.

- Any shipments having a declared or insured value exceeding \$50,000.
- Shipments containing oversized pieces.
- Shipments requiring pickup or delivery of pieces which cannot be handled by one individual. Excessive weight or size shipments.
- Shipments requiring special devices for safe handling.
- Dangerous Goods as described in Dangerous Goods/Hazardous Materials provision.

Shipments Subject to Delay

The following conditions may delay delivery of the shipment to the consignee and Mercury shall have no liability for any damages asserted as a result of such delay:

- If the dimensions of the shipment are too large for available equipment.
- If the length of the shipment exceeds 108".
- Shipments that are improperly packaged or lack proper documentation.
- Shipments on which the shipper has omitted or provided an incorrect consignee address on the Waybill.

- Shipments requiring special licenses or consularization filing prior to export.
- Shipments difficult to handle, oversized or unwieldy, single pieces in excess of 150 pounds.
- Shipments containing Dangerous Goods/Hazardous Materials.
- Shipments not complying with US Department of Transportation, US Department of Homeland Security – Transportation Security Administration (TSA) regulations.
- Shipments subject to inspection, seizure or detention by any legally authorized authority.
- Shipments delayed because of national Holidays, weather-related conditions, natural disasters, or acts of God.
- Shipments delayed because of other conditions or circumstances beyond the reasonable control of Mercury.

Shipments Subject to Special Conditions

- Shipments requiring special devices for safe handling will be accepted only when such special devices are provided and operated by and at the expense of the shipper or consignee.
- Furs, Dangerous Goods, and items of extraordinary value must not be included in the same shipment with any other article.

Storage and Charges

- At Customer expense, both Domestic and International shipments may be subject to carrier storage fees beyond an initial free grace period.
- Shipments held beyond a carrier's maximum storage period are subject to disposition per the carrier's policy. Mercury will notify Customer of maximum storage that their shipment's carrier allows.
- The lien provisions of the Liens on Shipments provision above shall apply to all shipments which are stored pursuant to this provision.

The Waybill/Bill of Lading

- Except as otherwise provided or agreed to by Mercury, all ground and air carriage arranged by Mercury shall be subject, as applicable, to these Terms and Conditions and tariffs and contracts of carriage as Mercury may maintain from time to time, as well as governing statutes and regulations. For all ground and air shipments where a bill of lading or waybill is issued by the shipper other than the one provided by Mercury, or the nominated carrier of the shipment, will serve solely as an acknowledge receipt of the freight only. Such non-authorized bills of lading or waybills are not a contract of carriage and neither Mercury nor the nominated carrier will be subject to its terms and conditions. Continued use of unauthorized bills of lading by shipper will not, and does not, constitute an implied acceptance or ratification by Mercury or the nominated carrier.
- Except as otherwise provided or agreed to by Mercury, all ocean carriage arranged by Mercury shall be subject to Mercury's these Terms and Conditions and those of the ocean carrier selected to transport the cargo. For all ocean shipments where a bill of lading issued by the shipper other than the ocean carrier's, it will serve solely as acknowledgment of receipt of the freight only. Such non-authorized bills of lading are not a contract of carriage and neither Mercury nor the ocean carrier selected to transport the shipment will not be subject to its terms and conditions. Continued use of unauthorized bills of lading by shipper will not, and does not, constitute an implied acceptance or ratification by Mercury.
- The contents of all shipments must be indicated by accurate description on the Waybill or Bill of Lading.
- The number of pieces included in a shipment must be specified on the Waybill or Bill of Lading.
- The dimensions and weight of the shipment will be entered on the Waybill or Bill of Lading per shipper's instructions. Shipments may be re-weighed at origin or destination.
- Any special handling, including, but not limited to, on or below deck carriage, collect or COD charges, special handling or temperature limitations, must be endorsed on the Waybill or Bill of lading.
- All the terms and conditions of contract or otherwise referred to above shall be binding, whether or not a waybill or bill of lading is issued, regardless of the mode of transport.

Applicable Law and Forum

To the extent not governed by International Treaty, Convention or United States Federal Law, all disputes, claims or actions arising hereunder shall be governed by, construed and interpreted in accordance with the laws of the State of Massachusetts, without regard to its conflict of laws principles. All actions, suits or proceedings arising hereunder shall be brought in the United States District Court for the District of Massachusetts, located in the City of Boston, Massachusetts, or, in the absence of federal jurisdiction, the State courts of Massachusetts, located in the city of Boston, Massachusetts, and Customer consents to the jurisdiction and venue of such courts for all purposes, including the taking of depositions.

ADDITIONAL REQUIREMENTS FOR INTERNATIONAL SHIPMENTS

Letter of Instruction In addition to the Mercury Shipper's Letter of Instruction, Mercury accepts the Mercuryship/MyShipNow domestic and international labels as the Shipper's Letter of Instruction and will prepare any required export documentation from the information shown thereon. For some shipments Mercury may act as an agent for the airline, in which case, the airline's tariff applies. If you do not complete all the documents required for carriage, you hereby instruct us, where permitted by law, to complete the documents for you, at our option and at your expense, and to attach them to the Waybill, but we are not obligated to do so. We assume no liability to you or any other person for any loss or expense due to your failure to comply with this provision. You further agree to hold us harmless from and against all claims, damages, liabilities, actions, losses, costs and expenses of any nature whatsoever arising out of your providing to us incomplete, inaccurate or false documentation or your failure to provide required information.

No Responsibility for Governmental Requirements It is the responsibility of the Customer to know and comply with the marking requirements of US ICE or foreign destinations, the regulations of Other Government Agencies, both US and foreign, and all other requirements, including regulations of Federal, state and/or local agencies pertaining to the merchandise or property. Mercury 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 or with a notification issued to the Customer by any such agency.

Road Transport Notice

Shipments transported partly or solely by road, be there an explicit agreement to do so or not, into or from a country that is a party to the Convention on the Contract for International Carriage of Goods by Road (the "CMR") are subject to the terms and conditions of the CMR, notwithstanding any other provisions referred to or in these Terms and Conditions to the contrary, except that the higher limitations of liability as set forth in these conditions shall remain applicable as opposed to those set forth in the CMR.

Power of Attorney The Shipper or his Authorized Agent hereby authorizes Mercury, in Shipper's name and on its behalf, as its Attorney-in-Fact to prepare any import/export documents, to sign and accept any documents relating to Shipper's shipments and to engage third parties to transport Shipper's shipments in accordance with the bills of lading, conditions of carriage and tariffs of the carriers employed.

Further, Shipper hereby appoints Mercury as its Attorney-in-Fact solely for the purpose of designating a customs broker to perform customs clearance (unless Shipper designates a customs broker). In furtherance of the foregoing, Shipper shall be responsible for executing a Power of Attorney, in form acceptable to U.S. Customs and Border Protection, authorizing the customs broker to engage in customs business on behalf of the shipper.

Notwithstanding anything else contained in this term or the Terms and Conditions, the sole responsibility of Mercury in arranging for the foregoing services is to use reasonable care in the selection of carriers,

forwarders, customs brokers, agents and others to whom it may entrust Shipper's shipments or provide import or export services.

Compliance With Import/Export Law and Regulation It is Shipper's responsibility to provide proper and accurate documentation in connection with all shipping, import or export transactions. Shipper acknowledges that it is required to review all documents and declarations prepared and/or filed and will immediately advise Mercury, or in the case of imports the customs broker, of any errors, discrepancies, incorrect statements, or omissions on any declaration filed on its behalf. Mercury relies on the correctness of all documentation, whether in written or electronic format, and all information that shipper furnishes. Shipper agrees that it has an affirmative, non-delegable duty to disclose any and all information required to import, export or enter the goods and shall indemnify and hold Mercury harmless from any and all claims asserted and/or liability or losses suffered by reason of your failure to disclose information or any incorrect or false statement you make upon which Mercury reasonably relied.

Shipper is responsible for and warrants its compliance with all applicable laws, rules and regulations, including but not limited to customs laws; import, export and re-export laws; and governmental regulations of any country to, from, through, or over which your shipment may be carried. You agree to furnish such information and complete and attach any such documents necessary to comply with such laws, rules and regulations. We assume no liability to you or any other persons for any losses or expenses due to your failure to comply with this provision.

Shipper is also responsible for all charges; including transportation charges and all duties, customs assessments, governmental penalties and fines, taxes and our lawyers' fees and legal costs, related to this shipment.

Export Control Shipper authorizes Mercury to act as its air forwarding agent including compliance with all export control laws and regulations, except as otherwise provided in these Terms and Conditions, and excluding determining whether or not Customers goods require an export license and obtaining such license. In furtherance of the foregoing, Customer hereby certifies that all statements and information it provides, whether written or oral, and any accompanying commercial or other documents it prepares relating to the goods and their export shipment is true and accurate.

No Duty to Maintain Records for Customer Customer acknowledges that pursuant to the Customs Regulations, Export Administration Regulations and the Transportation Security Administration Regulations it has the duty, and is solely liable for maintaining all records required by the various regulations for specific periods of time; unless otherwise agreed to in writing, Mercury shall only keep such records that it is required to maintain by statute(s) and/or regulation(s), but not act as a "recordkeeper" or "recordkeeping agent" for Customer.

FILING CLAIMS

Loss or Damage Claims Procedure and Time Limits

Claims for loss, damage, or delay of a shipment must be filed in writing, within the time limits set forth herein, to **Mercury Business Services, Inc., 61 Batterymarch St, Boston, MA 02110**. In the event you fail to file a written claim within the time limits set forth herein, Mercury shall have no liability for such claim and no further action may be brought against Mercury.

Air Shipments (Domestic and International) Claims relating to domestic and international air shipments must be made:

- For damage or shortage, immediately after discovery of the damage or shortage, but in no event later than 14 days from the date of delivery.
- For delay of the shipment, within 21 days from the date of delivery.
- For non-delivery of the shipment, within 120 days from the date the shipment was accepted by Mercury.

Ground Shipments Except for shipments that are exempt pursuant to 49 USC Secs. 13531 and 13506(a)(8) and which shall be considered air shipments, claims relating to ground shipments, must be made within 9 months from the date of delivery of the shipment or, in the case of non-delivery, within 9 months after a reasonable time for delivery has elapsed (not to exceed 15 days beyond the estimated delivery date).

Ocean Shipments Written notice of loss or damage must be provided to the carrier or carrier's agent at the port of discharge. If the loss or damage can be readily seen, the written notice must be provided before or at the time of removal of the goods into the custody of the person entitled to delivery. If the loss or damage is not apparent, written notice must be given to the carrier or carrier's agent within three (3) days of delivery. Failure to provide such notice is not fatal to a claim, but it does create a presumption that the goods were delivered in good order and condition. On failing to give timely notice, a claimant must then overcome the burden of the presumption by demonstrating that the damage occurred before delivery.

Time Limits for Suits Relating to Loss or Damage Claims

Air Shipments (Domestic and International) Suits for loss, damage or delay against Mercury relating to an air shipment (domestic or international) shall be commenced no later than two years from the date of delivery, or from the date on which the shipment ought to have been delivered, or from the date on which the carriage is stopped. Any rights to damages shall be extinguished unless suit is commenced within the time limits set forth herein.

Ground Shipments Suits for loss, damage or delay against Mercury relating to any ground shipment shall be commenced no later than two years and one day from the date when Mercury gives you written notice that the claim (or any part or parts of the claim) has been disallowed. Any rights to damages shall be extinguished unless suit is commenced within the time limits set forth herein.

Ocean Shipments Suits for loss, damage or delay against Mercury relating to any ocean shipment shall be commenced no later than one year from the date of delivery or in the case of non-delivery when delivery should have been delivered. Any rights to damages shall be extinguished unless suit is commenced within the time limits set forth herein.

Proof of Value and Supporting Documents

All claims are subject to proof of value, both for the amount claimed and the value of the entire shipment. After filing a claim or notice of intent, all documents required to support the claim must be in Mercury's possession within thirty (30) days from the date of Mercury's acknowledgment letter unless waived or extended by Mercury. Failure to submit all supporting documents within this time limitation will result in denial of the claim.

Overcharge Claims

- Claims for overcharges, refunds or duplicate payments (collectively "overcharge claims") must be made in writing within 90 days from the date of delivery of the shipment that is the subject of the claim, otherwise such claims shall be deemed waived by you. All overcharge claims, along with any and all supporting documentation, shall be filed in writing to: **Mercury Business Services, Inc. Accounts Receivable Manager, 61 Batterymarch St, Boston, MA 02110.**
- Suits to recover overcharge claims must be filed within eighteen (18) months from the date of delivery the shipment that is the subject of the claim. Any rights to damages shall be extinguished unless suit is commenced within the time limits set forth herein.

No Right to Offset

You shall not have any right to offset or deduct unpaid transportation or other charges due and owing to Mercury against unpaid claims for loss or damages, claims for overcharges, or any other claims asserted against mercury. Mercury is not obligated to act on any claim until all transportation charges are paid in full.

No Obligation to Adjust Claim

Notwithstanding anything else contained in this agreement, under no circumstances shall Mercury be obliged to undertake adjustment of any claim until all outstanding sums due and owing Mercury in connection with the shipment(s) which is the subject of the claim, as well as all sums due and owing for all other current and prior services rendered, have been fully satisfied. Further Mercury has no obligation to undertake adjustment of any claim unless the goods and the packing they were received in are held at Mercury's disposal for inspection.

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

Severability

These terms and conditions shall be severable and if any part or term hereof shall be held invalid, such holding shall not affect the validity or enforceability of any other part or term hereof and the remainder hereof shall remain in full force and effect.

Receipt Acknowledged by (officer of the company or authorized representative):

Signature

Date

Printed Name and Title