

ARK LOGISTICS, LLC

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CUSTOMER TERMS & CONDITIONS ADDENDUM TO SHIPMENT ACCEPTANCE (REVISED 01/16/2016)

1. **APPLICABILITY:** The following Terms & Conditions and all agreed pricing documents apply to all transportation services (the "Services") provided by ARK to Customer (the "Customer") and its shipping and/or receiving locations. These Terms & Conditions constitute an agreement between the parties and no other document, tariff, or provision shall apply to the Services provided to Customer save for any agreement subsequent to this publication such as Customer Rate Confirmations and/or agreed pricing subsequent to this agreement. Performance of any services by ARK for Customer shall constitute acceptance by Customer of these Terms & Conditions. ARK may, at its discretion, object to any terms proposed in Customer's acknowledgement or other form of acceptance of ARK's offer to perform services which add to, vary from, or conflict with, these Terms & Conditions. Any such terms proposed by Customer may be considered void and these Terms & Conditions shall constitute the complete and exclusive statement of the terms and conditions between Customer and ARK, save for any subsequent agreements such as Customer Rate confirmations and/or agreed pricing. These Terms & Conditions may be modified and republished from time-to-time by ARK without notice.

2. **PAYMENT FOR SERVICES:** Applicant agrees to notify ARK within five days of any change of ownership, address, or other pertinent facts of like nature. Payments for services rendered by or on behalf of ARK are due in full no more than 15 days from the invoice date. Any account not paid in full on or before the due date is deemed past due and subject to a 2% finance charge per month for all outstanding balances. In the event that the account is referred for collection, Customer agrees to pay reasonable court and collection costs, attorney fees, or related charges associated with collecting on the delinquent debt. All payments shall be made and payable in US Dollars to ARK Logistics, LLC.
 - A. **RATES & CHARGES:** Customer shall pay ARK for the Services provided by ARK under these Terms & Conditions at the rates and charges as agreed between the parties. ARK shall invoice by the load supplying Customer all required documentation to substantiate payment from Customer to ARK.

 - B. **OVER/UNDER CHARGES:** Except as may be later disclosed in a records review or audit, each party shall have one year from the date of shipment to file a claim with the other party for overcharges or undercharges relating to any shipment.

 - C. **VENUE:** Except as otherwise provided in these Terms & Conditions, either party must bring a civil action to recover damages or amounts claimed under these Terms & Conditions within one (1) year from the date of shipment or the date when shipment would have ordinarily been made. Any matters not filed within the above stated period shall be barred. Customer agrees to submit itself to the exclusive jurisdiction of the courts of the State of Ohio in the event any dispute arises out of any transaction conducted with ARK and further agrees that it will not attempt to deny or defeat such jurisdiction by motion or other request for leave from such court or in any way claim that it is not subject to the jurisdiction of the above-named courts, that its property is exempt or immune from attachment or execution, that the suit, action or proceeding is brought in an inconvenient forum, that the venue of the suit, action or proceeding is improper or that the transactions conducted between ARK and Customer should not be enforced in or by such court.

 - D. **REPRESENTATIONS:** Customer, as an inducement for ARK to extend credit to Customer, hereby certifies that all information included in Customer's application for credit is factually accurate and complete. Customer authorizes ARK to contact its bank and trade references and consents to the use of consumer or business credit reports by ARK from time-to-time. Customer represents that it is financially solvent and able to pay its obligations as they become due. Customer understands and agrees that it is repeating these representations for each credit transaction and has an obligation to timely provide information to ARK that would change the

accuracy of these representations.

E. INVOICING: Customer agrees and acknowledges that each invoice submitted is an individual transaction and each invoice is not a comingled credit extension as a whole. Therefore, Customer agrees that it shall not offset or withhold payment of invoices in lieu of claims for loss and/or damage.

F. IMAGES: Customer agrees to accept imaged documents in lieu of originals. Such images may include emailed or faxed documents and ARK shall certify such images as "Certified Copies."

3. ACCESSORIAL CHARGES: The following schedule shall indicate, in part, standard charges issued by ARK for typical accessorial items. This schedule in no way represents a complete list of all charges which may be applicable to any shipment. The following schedule of accessorial charges is considered an Addendum to Shipment Acceptance:

A. COD - Service is not offered.

B. Declared Value: All shipments handled by ARK must have a declared value of \$100,000 (one-hundred thousand dollars) or less. ARK will not be liable for shipments wherein the cargo value exceeds this limit. ARK may provide excess value coverage on shipments wherein Customer has notified ARK, at least 48 hours prior to shipping, of values exceeding this limit. Such excess value coverage shall be at the sole discretion of ARK who may decline any shipment with cargo values exceeding this limit.

C. Driver Assist: Provided with written permission and subject to negotiation.

D. Detention: Customer shall have two (2) hours free to load and unload. Beyond that time, ARK shall charge and be paid by Customer a quarter hour rate disclosed to customer upon account approval. If any shipper or receiver is a first-come-first-serve location then the detention charges shall commence after the allowance of the two (2) free hours following the driver's arrival providing the driver arrives during regular shipping and receiving hours. The possibility of detention charges will be communicated with Customer at least one hour before charges begin.

E. Freight Claims: Claims for loss or damage will be processed in accordance with applicable federal regulations regarding such. ARK will not honor or be held liable for any "special, incidental or consequential" damage claims, unless expressly written and disclosed upon each load tender sheet and bill of lading.

F. Hazardous Materials: Negotiated on a per-customer basis.

G. Lumper Load/Unload: To be invoiced at actual cost including processing fees with legible receipt(s). H.

Pallet Exchange: Not Provided.

I. Reconsignment: Due to varied costs associated with certain geographical regions, reconsignment charges to be negotiated between the parties upon occurrence.

J. Layover: Any shipment that requires a layover will be billed an additional fee that shall be disclosed to Customer upon account acceptance. Shipments detained for greater than 24 hours are subject to additional charges that may include a daily minimum charge until disposition of the freight or its unloading occurs. Layover is described as a shipment that delivers the next calendar day, or more, after scheduled or agreed delivery.

K. Equipment Ordered Not Used: Invoiced as a standard charge plus any applicable, additional charges for equipment already dispatched.

M. Fuel Surcharge: ARK shall supply Customer with ARK's Fuel Surcharge matrix (Form 129) and all shipments are subject to such charges. ARK may negotiate with Customer to utilize Customer's Fuel Surcharge Matrix if one exists.

4. CLAIMS: ARK shall agree to process all claims in excess of \$250.00 for loss and/or damage to cargo on behalf of Customer but, unless contractually agreed to the contrary, shall in no event accept liability for any loss or damage claim.

5. INDEMNIFICATION: ARK shall indemnify, defend and hold Customer harmless against any claim or loss arising from ARK's negligence. Customer shall indemnify, defend and hold ARK harmless against any claim or loss arising from Customer's negligence.
6. NONEXCLUSIVE TERMS & CONDITIONS: It is understood and agreed between the parties hereto that either party shall be free to commence business with other parties of similar nature and that neither is bound unto the other under any exclusive agreement, term or condition. ARK may perform its Services to other Customers and Customer may contract with others for its transportation needs.
7. SEVERABILITY AND WAIVER: If any phrase, clause, sentence, or other provision contained herein violates any applicable statute, ordinance, rule or law, such phrase, clause, sentence or provision shall be ineffective to the extent of such violations without invalidating any other provision of these Terms & Conditions. The waiver by either party of any breach or default hereunder, or the failure of either party to enforce any of the terms and conditions herein, shall not affect, limit or waive the right of either party thereafter to enforce and compel strict compliance with these Terms & Conditions.
8. FORCE MAJEURE: ARK shall not be held liable for any delay caused by inclement weather, road closures or detours, civil disturbance, strikes or lockouts, acts of God or war or any other events out of ARK's immediate control. ARK shall be held harmless from any mechanical breakdowns or equipment failures.
9. LIMITATION OF LIABILITY: Except as otherwise expressly provided herein, in no event will either party be liable unto the other for any lost revenues, lost profits, incidental, indirect, consequential, special or punitive damages.