



MJN

## SHIPPER TERMS & CONDITIONS

MJN Services, Inc.

534 East 800 North, Orem UT 84097

Phone: (801) 705-9030 – Fax: (801) 705-9051

Effective: August 4, 2016

1. **PURPOSE.** MJN Services, Inc. (MJN) is licensed as a Property Broker by the Federal Motor Carrier Safety Administration (FMCSA), under docket number MC375676, and as such, is authorized to arrange for the transportation of both regulated and exempt shipments in interstate commerce. This document (Shipper Terms & Conditions) establishes service terms and conditions applicable to the transportation of freight arranged by MJN for SHIPPER. A copy of this Shipper Terms & Conditions will be furnished by MJN upon request and is published to the public at <http://www.mjnservices.com/stc.pdf>.
2. **DEFINITIONS.** As used in this Shipper Terms & Conditions, the words and phrases underlined below have the meaning set forth thereafter.
  - a) **MJN** means MJN Services, Inc. residing at 534 East 800 North, Orem, UT 84097.
  - b) **SHIPPER** includes (a) each person identified as a shipper in any transit document respecting a shipment subject to this Shipper Terms & Conditions, (b) in the case of any shipment subject to a Transportation Agreement, the party identified as the shipper in such Transportation Agreement, and (c) unless the context clearly otherwise requires, the consignor, consignee and owner of a shipment subject to this Shipper Terms & Conditions.
  - c) **Transportation Agreement** means the written agreement between MJN and another party to a shipment made with respect to the transportation of a Series of Shipments
  - d) **CARRIER** means the actual carrier contracted by MJN to perform the transportation of freight provided by the SHIPPER.
  - e) **Delivery** means the service performed by CARRIER or its agent in transporting freight to a dock, platform, doorway or receiving room directly accessible to highway vehicles of CARRIER at a warehouse, factory, store or place of business.
  - f) **Pickup** means the service performed by CARRIER in calling for and collecting freight from a platform, doorway or shipping room directly accessible to highway vehicles of CARRIER at a warehouse, factory, store or place of business.
3. **EFFECTIVE DATE.** This Shipper Terms & Conditions is effective as of the date first written above and shall remain in effect until modified as hereinafter provided.
4. **SCOPE.** Except as otherwise agreed in a signed written document, the service terms and conditions set forth in this Shipper Terms & Conditions are applicable with respect to all transportation arranged by MJN in interstate commerce, in intrastate commerce, and in foreign commerce, regardless of the commodities shipped or the origins or destinations involved.
5. **BILL OF LADING.** The terms and conditions of the standard truckload bill of lading shall apply to all shipments regardless of the shipping receipt used by the SHIPPER. All shipping documents will show the name of the CARRIER retained by MJN as the party in possession and control of the shipment under contract. SHIPPER'S insertion of MJN'S name on the bill of lading shall be for SHIPPER'S convenience only and shall not change MJN'S status as a property broker.
6. **TRANSPORTATION AGREEMENT.** Notwithstanding any other provision of this Shipper Terms & Conditions, if a MJN Transportation Agreement or Rate Confirmation which incorporates by reference the terms and conditions of this Shipper Terms & Conditions is in effect with respect to a shipment within the scope of such Transportation Agreement or Rate Confirmation on the date such shipment is arranged by MJN for transportation, the provisions of such Transportation Agreement or Rate Confirmation shall govern, control, and take precedence over any conflicting or inconsistent provision of this Shipper Terms & Conditions with respect to such shipment.

7. **SERVICE.** MJN will arrange for transportation of SHIPPER'S freight in compliance in all material respects with federal, state and local laws and regulations relating to the brokerage of the freight. MJN'S responsibility is limited to arranging for, but not actually performing, transportation of SHIPPER'S freight.
8. **FREIGHT CARRIAGE.** MJN has entered into, or will enter into, bilateral contracts with each CARRIER it utilizes in the performance of transporting SHIPPER'S freight.
9. **RECIEPTS AND BILLS OF LADING.** If requested by SHIPPER, MJN will provide SHIPPER with proof of acceptance and delivery of such loads in the form of an imaged copy of a signed bill of lading or proof of delivery.
10. **PAYMENTS.** MJN shall invoice SHIPPER for its services in accordance with the rates, charges and provisions that are mutually agreed to between SHIPPER and MJN. If rates are negotiated between the SHIPPER and MJN and not otherwise confirmed in writing, such rates shall be considered "written," and shall be binding upon MJN'S invoice to SHIPPER and SHIPPER'S payment to MJN. SHIPPER agrees to pay MJN invoices within twenty (20) days of their invoice date without deduction or setoff. MJN shall apply payments to amounts due for specific invoices, regardless of whether there are earlier unpaid invoices. Payment of the freight charges to MJN shall relieve SHIPPER of any liability to the CARRIER for non-payment of its freight charges.
11. **FREIGHT CLAIMS.** All freight claims shall be handled in accordance with the general principles of federal transportation law, the Carmack Amendment (49 U.S.C. '14706) and 49 C.F.R '370). It is understood and agreed that MJN is not a carrier and that MJN shall not be held liable for loss, damage or delay in the transportation of SHIPPER's property. MJN may assist SHIPPER, upon written request, in the filing and/or processing of claims with CARRIER. To the extent SHIPPER makes a written request for MJN to assist in claims filing, then SHIPPER must submit claims for cargo loss or damage with MJN within fourteen (14) days from the date of such loss, shortage or damage, which for purposes herein shall be the delivery date or, in the event of non-delivery, the scheduled delivery date. SHIPPER must file any civil action against MJN's retained motor CARRIER within 2 years and 1 day from the date CARRIER provides written notice to SHIPPER that CARRIER has disallowed any part of the claim in the notice. The CARRIERS' cargo liability for any one shipment shall not exceed \$50,000, unless MJN is notified by SHIPPER of the increased value prior to shipment pickup and with reasonable advance notice to allow MJN and/or CARRIER to procure additional insurance coverage. If payment of a claim is made by MJN to SHIPPER, SHIPPER automatically assigns its rights and interest in the claim to MJN so as to allow MJN to subrogate its loss. In no event shall MJN or CARRIER be liable to SHIPPER for special, incidental, or consequential damages that relate to loss, damage or delay to a shipment, unless otherwise agreed to in writing.
12. **ALL OTHER CLAIMS.** MJN and SHIPPER shall notify each other within fourteen (14) days of learning of any claims other than freight claims, and shall file any such claims within twenty-eight (28) days from the date of notice. Civil action, if any, shall be commenced in a court of law within one hundred eighty (180) days from the date written notice is sent of such a claim.
13. **INSURANCE.** At the request of SHIPPER, MJN will submit to SHIPPER a certificate of insurance which names SHIPPER as "Certificate Holder". MJN will maintain, at minimum, the following insurance coverage:
  - a) Comprehensive General Liability Insurance: \$1,000,000.00.
  - b) Contingent Cargo Insurance: \$100,000.00.
14. **SURETY BOND.** MJN shall maintain a surety bond or trust fund agreement as required by the FMCSA in the amount of \$75,000 and furnish SHIPPER with proof upon request.
15. **LEGAL FEES.** In the event of disagreement or dispute between SHIPPER AND MJN, MJN shall be entitled to recover from SHIPPER all collection costs incurred by MJN, including legal fees, interest from the date of delivery or scheduled delivery of the shipment, and other collection costs.
16. **LIMITATION OF SERVICE.** MJN will use reasonable effort to arrange for the transportation of SHIPPER'S property, but SHIPPER agrees that MJN incurs no liability if MJN fails to do so.

- 17. HAZARDOUS MATERIALS.** SHIPPER and MJN shall comply with all applicable laws and regulations relating to the transportation of hazardous materials as defined in 49 CFR 172.80 and 173 et seq. to the extent that any shipments constitute hazardous materials. SHIPPER shall defend, indemnify and hold MJN harmless from any penalties or liability of any kind, including reasonable attorney fees, arising out of SHIPPER'S failure to comply with applicable hazardous materials laws and regulations.
- 18. FORCE MAJEURE.** Neither MJN or SHIPPER shall be liable to the other for failure to perform any of its obligations during any time in which such performance is prevented by fire, flood, or other natural disaster, war, embargo, riot, civil disobedience, or the intervention of any government authority, or any other cause outside of the reasonable control of MJN or SHIPPER, provided that MJN or SHIPPER uses its best efforts to perform, and provided further that MJN or SHIPPER provided reasonable notice of such inability to perform.
- 19. RULES OF CONSTRUCTION.** As used in this Shipper Terms & Conditions, unless the context clearly requires otherwise, words importing the singular include the plural, and vice versa, and words importing gender include all genders.
- 20. CHOICE OF LAW AND VENUE.** This Shipper Terms & Conditions shall be governed by and construed and enforced in accordance with the laws of the State of Utah, without giving effect to any choice or conflict of law provision or rule that would cause the laws of any other jurisdiction to apply. Any lawsuit to enforce the terms of the Agreement shall be brought in a court of competent jurisdiction in Utah County, Utah.
- 21. SUPERSEDES.** This Shipper Terms & Conditions supersedes all prior documents and other prior statements of service terms and conditions applicable to transportation of freight arranged by MJN. Except as otherwise expressly provided herein, this Shipper Terms & Conditions govern, control, and take precedence over any inconsistent or conflicting provision in any bill of lading, receipt, or other transit document.
- 22. MODIFICATION.** This Shipper Terms & Conditions can be modified only upon the express written consent of an officer of MJN. MJN reserves the right to modify this Shipper Terms & Conditions at any time without prior notice.

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