

## Welke Global Logistics - Carrier Engagement Terms and Conditions

1. These Carrier Engagement Terms and Conditions ("Terms and Conditions") apply when Welke Global Logistics ("WGL") hires a motor truck carrier ("Carrier") to carry goods ("Goods") for a WGL customer as confirmed by a WGL Carrier Confirmation. These Terms and Conditions supersede any past agreements as may have been entered into between WGL and Carrier.

2. By accepting Goods for carriage pursuant to a WGL Carrier Confirmation, Carrier acknowledges the application of, and agrees to be bound by these Terms and Conditions as well as any other instructions as may be contained in a WGL Carrier Confirmation. These Terms and Conditions will govern over any Carrier tariff, bill of lading, any terms of carriage deemed to apply under applicable law and/or that Carrier may usually trade under.

3. Carrier represents and warrants that it:

**a)** is authorized to provide the transportation services requested of it as listed in a WGL Carrier Confirmation;

**b)** will transport the Goods under its own Operating Authority subject to these Terms and Conditions;

**c)** will not re-broker, assign or interline any shipment of Goods without the prior written consent of WGL. If Carrier breaches this provision, Carrier will forfeit any right to compensation or payment and WGL shall have the right of paying the monies it owes Carrier directly to the delivering carrier, in lieu of payment to Carrier. Upon WGL's payment to delivering carrier, Carrier shall not be released from any liability to WGL under these Terms and Conditions;

**d)** is in, and shall maintain compliance during the term of these Terms and Conditions, with all applicable federal, provincial, state) and local laws relating to carriage of Goods and the provision of its services including, but not limited to: transportation of dangerous goods (or hazardous materials), (including the licensing and training of drivers), to the extent that any shipments hereunder constitute dangerous goods (or hazardous materials); security regulations; customs regulations; owner/operator lease regulations; loading and securement of freight regulations; implementation and maintenance of driver safety regulations including, but not limited to, hiring, controlled substances, and hours of service regulations; sanitation, temperature, and contamination requirements for transporting food, perishable, and other products, qualification and licensing and training of drivers; implementation and maintenance of equipment safety regulations; maintenance and control of the means and method of transportation including, but not limited to, performance of its drivers;

**e)** will notify WGL immediately if any Operating Authority is revoked, suspended or rendered inactive for any reason, and

**f)** does not have an "Unsatisfactory" safety rating issued by the Federal Motor Carrier Safety Administration (FMCSA), U.S. Department of Transportation, or anything less than "Satisfactory" as issued by any provincial regulatory authority, and will notify WGL in writing immediately if its safety rating is changed so as to fall below any such rating(s).

4. Carrier agrees to provide the necessary equipment and qualified personnel for the carriage of Goods and the completion of the transportation services required for WGL and/or its customers. Carrier will not supply equipment that has been used to transport hazardous wastes, solid or liquid. Carrier agrees that all shipments of Goods will be transported and delivered with reasonable dispatch, or as otherwise agreed in writing with WGL.

**5.** Absent consent in writing from WGL, Carrier's motor vehicle equipment shall be exclusively dedicated and only utilized for the carriage of Goods tendered by WGL by a WGL Carrier Confirmation.

**6.** Carrier shall maintain, in effect for all times material to the provision of its services, insurance policies a) providing thirty (30) days advance written notice of cancellation or termination, and b) unless otherwise agreed with WGL in writing, coverage for the following minimum limits: Public liability \$1,000,000; motor vehicle (including hired and non-owned vehicles), property damage, and personal injury liability \$1,000,000 (\$2,000,000 if transporting hazardous materials and/or dangerous goods including environmental damages due to release or discharge of hazardous substances); cargo damage/loss \$150,000; workers' compensation with limits required by law. Except for the higher coverage limits which may be specified above, the insurance policies shall comply with minimum requirements of the Federal Motor Carrier Safety Administration and any other applicable federal, state or provincial regulatory agency and/or laws. Nothing in these Terms and Conditions shall be construed to avoid Carrier's liability due to any exclusion or deductible in any insurance policy. Carrier shall furnish WGL with Certificate(s) of Insurance upon request for same by WGL.

**7.** Carrier shall issue a Bill of Lading for the Goods in compliance with applicable laws. Unless otherwise agreed in writing, Carrier shall become fully responsible/liable for the goods when it takes/receives possession of Goods, regardless of whether a bill of lading has been issued, and/or signed, and which responsibility/liability shall continue until delivery of the Goods to the consignee and the consignee signs the bill of lading or delivery receipt. In the event of any inconsistency between the terms of a bill of lading (including but not limited to any contract of carriage terms as may be deemed applicable at law) and these Terms and Conditions a) the latter shall prevail to the extent of any such inconsistency and b) such bill of lading will function only as a receipt for the goods.

**8.** Carrier must contact WGL should any problem arise concerning Goods and/or Carrier's ability to safely and efficiently complete its carriage mandate, including, without limitation, any overages, shortages, damages, and/or delay.

**9.** Carrier shall not break a seal on any conveyance tendered to it for carriage without written consent by WGL.

**10.** Any detention must be reported to WGL no later than Sixty (60) minutes after arrival at a destination prescribed on a WGL Carrier Confirmation, failing which (only to the extent the same be otherwise payable) detention costs will not be payable by WGL.

**11.** Carrier is required to provide updates as to the status of and performance of its mandate listed in a WGL Carrier Confirmation to WGL at a minimum of once a day and in any event before 10:00am and within 30 minutes of any pick up or delivery of Goods.

**12.** Further to paragraph 7 above, WGL and Carrier agree that Carrier liability for any damage, loss and/or theft to Goods originating in the United States from any cause shall be determined under the *Carmack Amendment* 49 USC 14706. WGL and Carrier agree that in respect of shipments originating in Canada, Carrier liability for damage, loss and/or theft of Goods from any cause shall subject to this paragraph be determined i) in accordance with the uniform bill of lading/statutorily deemed conditions of carriage in effect in the province where Carrier issues a bill of lading, or ii) where there is no uniform bill of lading/statutorily deemed conditions of carriage in effect in the province of origin, then in accordance with applicable common law. WGL and Carrier further agree that a) in respect of shipments from Ontario, that the Carrier acknowledges that these Terms and Conditions shall constitute a contract of carriage in which the full value of the Goods has been declared for the purposes of the uniform bill of lading / statutorily deemed conditions in effect in Ontario, and b) in respect of any other Canadian province where a uniform bill of lading / statutorily deemed conditions are in effect that a full value for the Goods is deemed to have been declared on the bill or lading or similar transport document issued by Carrier for the purposes of the said uniform bill of lading / statutorily deemed conditions. For greater certainty and the avoidance of doubt, in accordance with this paragraph Carrier will not avail itself of any limitation of liability defence in the

event that it be liable for loss, damage and/or theft of Goods. Exclusions in Carrier's insurance coverage shall not exonerate carrier from this liability.

**13.** Without prejudice to paragraph 12 above, WGL may insert a declared value for Goods on a WGL Carrier Confirmation which if done is for information purposes for Carrier only. Whether a value be declared on a WGL Carrier Confirmation or not shall not affect or alter the provisions of paragraph 12 above.

**14.** Carrier shall defend, indemnify and hold WGL and its shipper customer harmless from any claims, actions or damages, (whether brought by a shipper, consignee, or other person asserting an interest in the goods carried or by a third party claiming property loss, injury or damage and/or for personal injury or death) arising out of its performance of its services. Carrier shall not be liable for any claims, actions or damages due to the negligence of WGL or it's shipper customer. The obligation to defend shall include all costs of defense as they accrue.

**15.** WGL agrees to conduct all billing services to shippers. Carrier shall invoice WGL for carrier's charges, as indicated in the WGL Carrier Confirmation. Carrier shall not invoice WGL for any extra or other charges not listed on a WGL Carrier Confirmation document unless they have been approved in advance and in writing by WGL in the form of a revised WGL Carrier Confirmation. Carrier's paperwork for payment must include signed Proof of Delivery, with sufficient paperwork meeting the satisfaction of WGL for payment.

**16.** Subject to these Terms and Conditions Carrier invoices will be paid by WGL in 45 days from upload of paperwork onto the WGL invoice web portal and within 60 days for email invoice submissions. Carrier documents shall be uploaded or e mailed to WGL within twenty-four (24) hours of delivery.

**17.** WGL is the sole party responsible for payment Carrier's charges. Carrier waives any right under any applicable statute, regulation and/or at common law to seek any payment from the shipper, consignee or any third party in respect of the goods. Carrier hereby waives the requirement under any applicable statute or regulation for WGL to maintain a trust account or be subject to any trust obligations in respect of moneys owed to Carrier hereunder. WGL agrees to pay Carrier's invoice within thirty (45) days of receipt of the bill of lading or proof of delivery, provided Carrier is not in default under these Terms and Conditions.

**18.** Except as provided in this paragraph neither WGL nor Carrier shall be liable to the other for consequential damages or indirect damages including but not limited to claims for loss or market. WGL and Carrier however agree that Carrier is responsible for timely delivery where there is a "Must deliver as booked" (or words to similar effect) instruction on a WGL Carrier Confirmation and i) Carrier may be liable for consequential and/or indirect damages for delay in not meeting a delivery deadline as and when so instructed by way of a WGL Carrier Confirmation and ii) Carrier may in any event be liable for consequential and/or indirect damages or delay for any shipment of Goods where it has not employed due dispatch in the performance of its carriage mandate.

**19.** It is understood and agreed that the relationship between WGL and Carrier is that of independent contractor and that no employer/employee relationship exists, or is intended. WGL has no control of any kind over Carrier, including but not limited to routing of freight, and nothing contained herein shall be construed to be inconsistent with this provision.

**20.** WGL will deduct 10% from Carrier Invoice(s) that cannot supply WGL with a WSIB Clearance Certificate or an Independent Operator Ruling, WGL has a liability to pay for insurance premiums owing in connection with the work or service being performed. WGL will report the insurable earnings of Carrier that was not able to provide a Clearance Certificate or Independent Operator Ruling letter under their current classification.

**21.** WGL and Carrier agree that any dispute arising concerning the interpretation, application and/or enforcement of these Terms and Conditions shall be subject to the laws of Ontario. WGL and Carrier also agree that the courts of Ontario shall have exclusive jurisdiction in respect of any such dispute.

**22.** For a period of one (1) year following the execution of the transport movement, Carrier undertakes not to solicit for transportation, arrange for, or accept, directly or indirectly, loads from WGL customers, the shipper and/or the consignee named in a WGL Carrier Confirmation.

**23.** In the event any of the terms of these Terms and Conditions are determined to be invalid or unenforceable, no other terms shall be affected and the unaffected terms shall remain valid and enforceable as written. The representations, rights and obligations of the parties hereunder shall survive termination of these Terms and Conditions for any reason.