

## **PARTNERSHIP TERMS AND CONDITIONS**

PartnerShip LLC (hereinafter referred to as "COMPANY") is a leading marketing and freight management company. The COMPANY is not a freight carrier or an agent for a freight carrier. The COMPANY is licensed by the Department of Transportation (DOT), Federal Motor Carrier Safety Administration (FMCSA) and/or other government agencies as required by law (Document Number MC-247841), or by appropriate State agencies, and as a licensed broker, arranges for the transportation of freight transportation. COMPANY agrees to arrange for the transportation of CUSTOMER's freight, subject to the availability and limitations of equipment, pursuant to these TERMS AND CONDITIONS and in compliance, in all material respects, with all federal, state and local laws and regulations relating to the brokerage of the freight covered by these TERMS AND CONDITIONS. COMPANY's responsibility under these TERMS AND CONDITIONS shall be limited to arranging for, but not actually performing, transportation of CUSTOMER's freight. CUSTOMER shall be responsible to COMPANY for timely and accurate delivery instructions and description of the cargo, including any special handling requirements, for any shipment.

CUSTOMER, by accepting these TERMS AND CONDITIONS, authorizes COMPANY to act as the bill-to-party for shipments handled by COMPANY's preferred carriers.

The [www.PartnerShip.com](https://www.PartnerShip.com) website provides a comparison of numerous freight carriers or shipping companies and allows automated processing of shipments. The enrolled Customer, Shipper and/or Consignee (hereinafter referred to as "CUSTOMER") agrees to the TERMS AND CONDITIONS set forth below, which no agent or employee of the parties may alter. These TERMS AND CONDITIONS shall apply to all shipments scheduled by CUSTOMER, unless and until these TERMS AND CONDITIONS are altered or amended by the COMPANY'S issuance of new TERMS AND CONDITIONS which will be found at [https://www.PartnerShip.com/Home/terms\\_and\\_conditions](https://www.PartnerShip.com/Home/terms_and_conditions).

The COMPANY reserves the right, in its sole discretion, to refuse any shipment at any time. In the event of a conflict between the TERMS AND CONDITIONS contained herein and the terms and conditions set forth by the individual selected Carrier's General Rules Tariff, the COMPANY's TERMS AND CONDITIONS shall control in all circumstances. In the event the COMPANY'S TERMS AND CONDITIONS are silent on a particular subject, the General Rules Tariffs, established by the Carriers with which the COMPANY contracts, will be applicable to CUSTOMER and the transportation of CUSTOMER's freight.

**(1) RATES**—The following information applies to business-to-business shipments when billed to PartnerShip LLC. "Less-than-Truckload" (LTL) Services (ground shipments up to 20,000 lbs) rates are based on the freight class as determined by the NMFC (National Motor Freight Classification), which are based on the actual description, size, and weight of the shipment. Additional fees may apply for other charges including fuel, appointment delivery, reweighs and reclassifications, lift gate services, inside delivery, residential delivery, or various other accessorial services. Truckload (TL) or special equipment rates are based on dock door pickup/dock door delivery and shipper load/consignee unload and are state to state and mileage based. Additional fees may apply for charges including but not limited to, truck order not used, tractor detention, trailer detention, and driver assistance. Full truckload shipments include two hours of detention time at pickup and delivery. Flatbed rates are based on equipment type, state-to-state/mileage, and weight. If a flatbed shipment contains oversized freight as determined by the state(s) it will transport through, additional charges and transit days may apply. Shipments originating at an interline point do not qualify for discounts. Air freight rates are based on a per-pound basis, along with distance and service level requested. Dimensional weight may apply. The billable weight will be the greater of the dimensional weight compared to the actual weight of the shipment. If an air freight shipment contains oversize freight, additional charges and transit days may apply. Minimum charges may apply. Shipments which are both (a) larger than 750 cubic feet and (b) less than 6 pounds per cubic feet may be subject to the density minimum charge (DMC). All displayed transit times are estimates only and do not include day of pickup. Pickup dates are not guaranteed.

**(2) PAYMENTS**—COMPANY shall invoice CUSTOMER in accordance with the provisions set forth in these TERMS AND CONDITIONS. All CUSTOMERS are subject to credit approval and must complete Credit Application at the time of enrollment. The amount of credit, if any, granted to the CUSTOMER is at the sole discretion of the COMPANY. All charges invoiced by COMPANY are payable in US Dollars and are due upon agreed-upon terms ("Cash Account" or "Credit Account") between the COMPANY and CUSTOMER. Payment is due twenty (20) days from invoice date on Credit Account by check, credit card, wire transfer or ach and without setoff or deduction, unless authorized by COMPANY. Payment on Cash Account is by credit card immediately upon invoicing, and CUSTOMER authorizes COMPANY to automatically charge CUSTOMER's credit card for all charges payable, including adjustments, on account of such CUSTOMER's shipment. The COMPANY reserves the right to amend or adjust the original quoted amount or re-invoice the CUSTOMER if the original quoted amount was based upon incorrect information received at the time of the original quote; if additional services by the Carrier were required; or as otherwise necessary to perform the pickup, transportation and delivery functions therein. If rates are negotiated between the PARTIES and not otherwise confirmed in writing, such rates shall be considered "written," and shall be binding, upon COMPANY's invoice to CUSTOMER and CUSTOMER's payment to COMPANY. The COMPANY shall have a lien on the shipment for all sums due relating to this shipment or any other amounts owed by CUSTOMER. CUSTOMER is permitted twenty (20) business days from the date of the invoice to dispute any invoiced charges. If the COMPANY does not receive a dispute within the allowable twenty (20) business days, the disputed item will be denied by the COMPANY.

COMPANY shall review the rates, discounts, commodity classifications and any special service charges on COMPANY's invoice to CUSTOMER to confirm that, to COMPANY's knowledge, the rates, discounts, commodity classifications and any special service charges are accurate. Payment of the freight charges to COMPANY shall relieve CUSTOMER, consignee or other responsible party of any liability to the Carrier for non-payment of its freight charges; and COMPANY hereby covenants and agrees to indemnify CUSTOMER, consignee or other responsible party against such liability.

**(3) FREIGHT CARRIAGE**—COMPANY warrants that it has entered into, or will enter into, bilateral contracts with each Carrier it utilizes in the performance of these TERMS AND CONDITIONS. COMPANY further warrants that those contracts comply with all applicable federal and state regulations and shall include the following provisions:

- A. Carrier shall agree that its liability for the actual loss of or damage to CUSTOMER'S freight shall be no less than that of a common carrier as provided for in 49 USC 14706 (the Carmack Amendment), subject to the limitations of liability set forth in Section 5 below unless an exception to such limitations is agreed to in writing between and among CUSTOMER, COMPANY, and Carrier for a particular shipment. The term "actual loss" shall mean the full invoice price charged by CUSTOMER to its customers for the kind and quantity of the product loss, damage or destroyed, plus freight charges (unless included in the invoice price), less salvage value, if any.
- B. Carrier shall agree to maintain insurance coverage at all times during the term of the contract. COMPANY shall verify that each Carrier it utilizes in the performance of these TERMS AND CONDITIONS has insurance coverage as defined above.
- C. Carrier shall agree that the provisions contained in 49 CFR 370.1 et seq. shall govern the processing of claims for loss, damage, injury or delay to property and the processing of salvage.
- D. Carrier shall authorize COMPANY to invoice CUSTOMER for services provided by the Carrier. Carrier shall further agree that COMPANY is the sole party responsible for payment of its invoices and that, under no circumstance, will Carrier seek payment from the shipper, consignee or COMPANY'S CUSTOMER. However, if COMPANY becomes insolvent, files for bankruptcy, or has any unpaid invoices to Carrier greater than one hundred eighty (180) days outstanding, Carrier shall hold shipper and consignee jointly and severally liable and shall exert any and all remedies against said parties.
- E. Carrier shall agree that, at no time during the term of its contract with COMPANY, shall it have an "Unsatisfactory" safety rating as determined by the FMCSA. If Carrier receives an unsatisfactory safety rating, it shall immediately notify COMPANY. COMPANY shall not knowingly utilize any Carrier with an unsatisfactory safety rating in the performance of these TERMS AND CONDITIONS.
- F. Carrier shall expressly waive all rights and remedies under Title 49 U.S.C., Subtitle IV, Part B to the extent they conflict with the contract.
- G. COMPANY further warrants it will require proof of insurance and operating authority from each Carrier and, should COMPANY utilize the services of any Carrier or other company on CUSTOMER'S behalf, which Carrier and/or COMPANY does not have proof of insurance and/or operating authority, COMPANY agrees to indemnify and hold harmless CUSTOMER from all legitimate claims not paid by Carrier, including but not limited to cargo loss and damage claims.

**(4) RECEIPTS AND BILLS OF LADING**—If requested by CUSTOMER, COMPANY agrees to provide CUSTOMER with proof of acceptance and delivery of such loads in the form of a signed Bill of Lading or Proof of Delivery, as specified by CUSTOMER. CUSTOMER'S insertion of COMPANY'S name on the bill of lading shall be for CUSTOMER convenience only and shall not change COMPANY'S status as a property broker. The TERMS AND CONDITIONS of any freight documentation used by COMPANY or Carrier selected by COMPANY shall not supplement, alter, or modify these TERMS AND CONDITIONS. All Bills of Lading are NONNEGOTIABLE and have been prepared by the CUSTOMER or by COMPANY as CUSTOMER'S agent on behalf of the CUSTOMER and shall be deemed, conclusively, to have been prepared by the CUSTOMER and to bind CUSTOMER. Any unauthorized alteration or use of Bills of Lading or tendering of shipments to any Carrier other than that designated by the COMPANY, or the use of any Bill of Lading not authorized or issued by the COMPANY shall VOID the COMPANY'S obligations to make any payments relating to this shipment and VOID all rate quotes.

**(5) CLAIMS AND LIMITATIONS OF LIABILITY**—The cargo liability of any Carrier contracted by COMPANY to transport CUSTOMER'S freight shall be limited as follows:

- A. The individual LTL carrier's governing General Rules Tariff will apply when determining carrier liability for LTL shipments. Those Tariffs can be viewed at the COMPANY'S corporate offices. Cargo liability on LTL shipments may vary by carrier, but in no case will the maximum liability be greater than \$25 per pound, or for used or resold goods be greater than \$0.50 per pound. If the shipment contains freight with a predetermined exception value, as determined by the selected carrier, the maximum exception liability will override the otherwise standard liability coverage.
- B. Up to a maximum of \$100,000.00 per TL shipment;
- C. \$100.00 per package for shipments tendered to a parcel carrier (UPS, FedEx) unless a higher value is declared at the time of tender and a greater charge paid as provided in the parcel carriers general rules tariff. The maximum declared value per package is \$50,000.00 though some

shipments are limited to a maximum liability less than \$50,000.00. COMPANY, shall upon request, provide a list of items with the maximum declared value less than \$50,000.00.

The limitation of liability set forth in Subsections 5(A)-(C) shall be applicable unless COMPANY and Carrier are notified by CUSTOMER of the increased value prior to the shipment pick-up and with reasonable advance notice to allow COMPANY and/or Carrier to procure additional insurance coverage.

COMPANY will not be responsible in any way for claims arising out of CUSTOMER negligence, Carrier negligence, or the negligence of any third party. It is understood and agreed that COMPANY is not a Carrier and that COMPANY shall not be held liable for loss, damage or delay in the transportation of CUSTOMER's freight unless caused by COMPANY's negligent acts or omissions in the performance of these TERMS AND CONDITIONS. COMPANY shall assist CUSTOMER in the filing and/or processing of claims with the Carrier but has no responsibility or liability related to any claim. All freight cargo claims should be submitted immediately to COMPANY to help ensure timely resolution. If payment of claim is made by COMPANY to CUSTOMER, CUSTOMER automatically assigns its rights and interest in the claim to COMPANY so as to allow COMPANY to subrogate its loss. In no event shall COMPANY or COMPANY's Carrier be liable to CUSTOMER or anyone else for special, incidental, or consequential damages that relate to loss, damage or delay to a shipment. The COMPANY's liability for loss, delay or damage to shipper's goods extends only to the insurance coverage provided by its contingent cargo insurance which is accessible only in the event Carrier's cargo insurer denies the claim in a manner consistent with the terms of the underlying insurance policy. CUSTOMER may not offset freight or other charges owed to COMPANY against claims for any loss, damage, misdelivery or non-delivery. The COMPANY has a lien on funds recovered through the processing of damage claims and reserves the right to apply recovery amounts to open past due invoices on account. If the loss or damage is apparent, the consignee must note such loss or damage information on the bill of lading/delivery receipt. If the loss or damage is not apparent (concealed), the Customer must contact COMPANY within three days after taking delivery. The filing of a claim does not relieve the responsible party for payment of freight charges. Freight payment is necessary in order for a Carrier to process a claim.

**(6) INSURANCE**—COMPANY agrees to procure and maintain at its own expense, at all times as a requirement to these TERMS AND CONDITIONS, the following insurance coverage:

- A. Comprehensive general liability insurance covering bodily injury and property damage
- B. Contingent Cargo Insurance
- C. Errors and Omissions Insurance COMPANY shall, upon request, submit to CUSTOMER a certificate of insurance as evidence of such coverage.

**(7) SURETY BOND**—COMPANY shall maintain a surety bond or trust fund agreement as required by the Federal Motor Carrier Safety Administration in the amount of \$75,000 and furnish CUSTOMER with proof upon request.

**(8) HAZARDOUS MATERIALS**—CUSTOMER and COMPANY shall comply with all applicable laws and regulations relating to the transportation of hazardous materials as defined in 49 CFR § 172.800 and §173 et seq. to the extent that any shipments constitute hazardous materials. CUSTOMER is obligated to inform COMPANY immediately if any such shipments do constitute hazardous materials. CUSTOMER shall defend, indemnify and hold COMPANY harmless from any penalties or liability of any kind, including reasonable attorney fees, arising out of CUSTOMER's failure to comply with applicable hazardous materials laws and regulations.

**(9) GUARANTEED SERVICES**—Guaranteed Services are inclusive of transit times only as noted by the Carrier selected. Guaranteed Service transit times do not include holiday and/or no service days as defined by the individual Carrier. Shipments not delivered within date/time specified on the bill of lading may not be considered a service failure when the reason for the delivery delay is deemed as no fault of the Carrier. These reasons could include, but are not limited to, the following conditions: acts of God; the existence of violence, riots, military action or such possible disturbance as creating reasonable apprehension of danger; acts or omissions by: shipper, consignee, owner of goods or public authority; delays due to customs clearance or documentation required for movement of shipment; closure of federal, state, city or local roads, streets, or highways resulting in travel delays by Carrier; shipments not accepted by the consignee when offered for delivery. This service is not a guarantee for pickup. Pickup Day is not included in the qualification and calculation of transit time. The CUSTOMER is liable for all charges related to the shipment. In the event of Carrier failure to comply with the guaranteed service requested, the CUSTOMER is permitted ten (10) business days from the actual delivery date of shipment to file a claim request in writing with the COMPANY. If the COMPANY does not receive a claim request or receives the request after the allowable ten (10) business days, the service provided by the Carrier will be deemed to have met all guaranteed service standards and the claim request will automatically be considered invalid and denied. In the event of Carrier failure to comply with the guaranteed service requested and after the Carrier has agreed to liability, the COMPANY will credit the account of the CUSTOMER for freight charges only. In no event shall the COMPANY be liable nor will any account be credited if the CUSTOMER does not use the COMPANY's bill of lading.

**(10) INDEMNIFICATION**—Subject to the limitations described below, COMPANY and CUSTOMER shall defend,

indemnify and hold each other harmless against any claims, actions or damages, including, but not limited to, cargo loss, damage, or delay, and payment of rates and/or accessorial charges to Carriers, arising out of their respective performances under these TERMS AND CONDITIONS, provided, however, the indemnified party shall not offer settlement in any such claim without the agreement of the indemnifying party which agreement shall not be unreasonably withheld. If the indemnified party offers or agrees to a settlement for such a claim without the written agreement of the indemnifying party, the indemnifying party shall be relieved of its indemnification obligation. Neither party shall be liable to the other party for any claims, actions or damages due to the negligence of the other party. The obligation to defend shall include all costs of defense as they accrue. In no event, however, shall either party's indemnification obligation exceed an amount equal to the greater of (i) \$25 per pound shipped or (ii) the actual cost of the shipment.

**(11) INDEPENDENT CONTRACTOR**—It is understood between COMPANY and CUSTOMER that COMPANY is not an agent for the Carrier or CUSTOMER and shall remain at all times an independent contractor. CUSTOMER does not exercise or retain any control or supervision over COMPANY, its operations, employees, or carriers.

**(12) NONWAIVER**—Failure of either COMPANY or CUSTOMER to insist upon performance of any of the terms, conditions or provisions of these TERMS AND CONDITIONS, or to exercise any right or privilege herein, or the waiver of any breach of any of the terms, conditions or provisions of these TERMS AND CONDITIONS, shall not be construed as thereafter waiving any such terms, conditions, provisions, rights or privileges, but the same shall continue and remain in full force and effect as if no forbearance or waiver had occurred.

**(13) FORCE MAJEURE**—Neither COMPANY nor CUSTOMER shall be liable to the other for failure to perform any of its obligations under these TERMS AND CONDITIONS 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 the CUSTOMER or COMPANY, provided that either party so prevented uses its best efforts to perform under these TERMS AND CONDITIONS and provided further, that either party provide reasonable notice to the other party of such inability to perform.

**(14) CHOICE OF LAW AND VENUE**—All questions concerning the construction, interpretation, validity and enforceability of these TERMS AND CONDITIONS, whether in a court of law or in arbitration, shall be governed by and construed and enforced in accordance with the laws of the State of Ohio without giving effect to any choice or conflict of law provision or rule that would cause the laws of any other jurisdiction to apply.

**(15) WEBSITE**—CUSTOMER agrees that all usernames, passwords, and information viewed on the website shall be kept in strict confidence by all persons receiving access, and CUSTOMER warrants that no person shall in any way attempt to view information other than that permitted by the limited access granted, or attempt to modify any aspect of the website. CUSTOMER also agrees that it shall not knowingly populate the website with data that is inaccurate, or in any way corrupted so as to cause damage to the website or any of the other data situated on the website. CUSTOMER further agrees to indemnify and hold COMPANY harmless from any and all damages, costs, actions, causes of action, regardless of nature, including but not limited to court costs and attorney's fees, which may arise from, out of or in connection with any act or omission of any person (whether or not an employee of agent of CUSTOMER) who gains access to, alters, or adds any data or information on the website as a direct or indirect result of the access granted by COMPANY. CUSTOMER acknowledges that COMPANY reserves the right to terminate any and all access to the website granted to any person pursuant to this or any other application, which termination of access may occur at any time, with or without notice, and for any reason or for no reason, in COMPANY's unfettered discretion.

**(16) MISCELLANEOUS**—THE COMPANY MAKES NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, WITH REGARD TO DELIVERIES, OR WITH REGARD TO THIS WEBSITE, INFORMATION PROVIDED ON THIS WEBSITE OR SERVICES RELATED TO TRANSACTIONS CONDUCTED ON THIS WEBSITE. THE COMPANY CANNOT GUARANTEE DELIVERY BY ANY SPECIFIC TIME OR DATE. IN ANY EVENT, THE COMPANY SHALL NOT BE LIABLE FOR DAMAGES, INCLUDING BUT NOT LIMITED TO ANY SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING BUT NOT LIMITED TO LOSS OF PROFITS OR INCOME, WHETHER OR NOT THE COMPANY HAD KNOWLEDGE THAT SUCH DAMAGES MIGHT BE INCURRED.

**[IF APPLICABLE]**

**(17) FEDEX TERMS AND CONDITIONS**—To take advantage of certain shipping discounts under the transportation agreement PartnerShip LLC has with FedEx (for the services of FedEx Express®, FedEx Ground®, FedEx Home Delivery®, and FedEx OfficeSM [if applicable]), you authorize the release of credit information from credit bureaus/references provided and certify that all information provided is correct. Customer agrees to pay all charges for services within credit approval. The enrollment form shall operate to cancel any and all prior agreements and pricing arrangements customer might otherwise have had with any of the above named carriers. Members acknowledge that they have read and agree to be bound by the terms and conditions that follow.

- A. The prices and other terms and conditions provided to you as a member are for your exclusive use and benefit and are to be treated as confidential information. The prices (or any portion thereof) may not be extended to any other party. You may not under any circumstances sell, assign or otherwise transfer (including, but not limited to, third-party billing) the benefit of this pricing to any non-member of the Association. Failure to abide by this provision may result in immediate termination of your participation in the Program. With the exception of custom freight pricing agreements between FedEx and member, this Agreement supersedes all Pricing Agreements and Addenda, if any, for FedEx Express and FedEx Ground between FedEx and Customer for the designated U.S. Payer account numbers relating to the services and package types covered by this Agreement.
- B. Association and/or its agent may receive compensation for the promotion of FedEx services. In addition, you specifically acknowledge and agree to the release of your shipping information and data to Association and/or its agent.
- C. Member's rates are expressed as a percentage discount off standard list rates for transportation or retail business services prices in effect at the time services are rendered. Standard list rates and eligible services and discounts are subject to change without notice. You agree that eligibility for discounts is subject to FedEx credit approval. You acknowledge that the Program is not available to package consolidators and agree that you are not a package consolidator.
- D. Accessorial charges, special handling charges, minimums, premiums and surcharges shall be in accordance with the applicable FedEx Service Guide or FFX 100 Series Rules Tariff in effect on the date of shipment for the service selected and shall not be subject to any discounts.
- E. You must complete the enrollment form to participate in the Program.
- F. Each shipment made under this Agreement is subject to the terms and conditions of the then current FedEx Service Guide or the FFX 100 Series Rules Tariff, as applicable, in effect at the time of shipment and which terms are incorporated into this Agreement by reference. FedEx reserves the right to modify the FedEx Service Guide and the FFX 100 Series Rules Tariff at any time without notice. Additional terms and conditions may apply to the FedEx Office retail services. See store for details at the time of purchase.
- G. Participation in the Program is conditional upon obtaining FedEx Credit approval. FedEx reserves the right to deny credit, and FedEx does not extend consumer credit privileges.
- H. Payment on your account is due fifteen (15) days from the invoice date. Duties and taxes are payable on receipt. Failure to comply with FedEx payment terms may result in denial of credit and removal of discounts.
- I. This program will be effective for so long as the pricing agreement between FedEx and the Association remains in effect unless earlier terminated as provided herein.
- J. Members are prohibited from using any FedEx name or logo without the prior written consent of FedEx.
- K. A federal excise tax when required by the Internal Revenue Code on the air transportation portion of any FedEx service, if any, is paid by FedEx.
- L. FedEx Office discount, if applicable, applies to color and black & white copies and printing, signs, graphics, and finishing services. Discount does not apply to outsourced products or services, office supplies, shipping services, inkjet cartridges, videoconferencing services, equipment rental, conference room rental, Sony® PictureStation™, gift certificates, custom calendars, holiday promotion greeting cards or postage. This discount cannot be used in combination with volume pricing, custom-bid orders, sale items, coupons, or other discount offers. Discounts and availability are subject to change. Not valid for services provided at FedEx Office and Print Center locations in hotels, convention centers and other non-retail locations. © 2012 FedEx Office and Print Services, Inc. All rights reserved. Products, services and hours vary by location.
- M. Participants must provide a valid credit card number for a card issued in their name to open a new account. FedEx does not extend customer credit and FedEx's standard credit policies as determined by FedEx from time to time shall apply.