

**TERMS & CONDITIONS OF SERVICE**  
(Please Read Carefully)



All Shipments (defined below) to or from the signatory to this Agreement (hereinafter the "Customer", which term shall include the exporter, importer, sender, receiver, owner, consignee, consignee, transferor, or transferee of the Shipment(s)) will be handled by Hellmann Worldwide Logistics, Inc., Hellmann International Forwarders, Inc., Hellmann Perishable Logistics, Hellmann Beverage Logistics, and/or Hellmann Transport Services, Inc., their affiliates and subsidiaries (singularly or collectively, as applicable, hereinafter called the "Company"), on the following terms and conditions. The term "Shipment" or "Shipments" as used herein shall be included but not limited to the following activities provided by Hellmann: receipt and warehousing, distribution, customs clearance, trucking, forwarding, carriage, air transport, ocean transport, and any and all other services provided by Hellmann on behalf of its customers which term is to be liberally and broadly construed in favor of Hellmann.

**1. Services by Third Parties.** Unless the Company carries, stores, or otherwise physically handles the Goods, and loss, damage, expense, or delay occurs during such activity, the Customer agrees that the Company shall not be liable or responsible for any loss, damage, expense, or delay to the Goods except subject to the limitations of paragraphs 8 through 10 below. The Company undertakes only to use reasonable care in the selection of carriers, truckmen, forwarders, customs brokers, agents, warehousemen, and others to whom the Company may entrust the Goods for transportation, cartage, handling, delivery, and/or storage or otherwise.

**2. Liability Limitations of Third Parties.** The Company is authorized to select and engage carriers, truckmen, 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 agents, subject to all limitations of liability of paragraphs 8 through 10 below. The Customer agrees that the Company shall under no circumstances be liable for any loss, damage, expense, or delay to the Goods for any reason whatsoever when said Goods are in the custody, possession, or control of third parties selected by the Company with reasonable care to forward, enter and clear, transport, or render any other services with respect to the Goods.

**3. Choosing Routes or Agents.** Unless express written instructions are received from the Customer, the Company has complete freedom in choosing the means, route, and procedure to be followed in the handling, transportation, and delivery of the Goods. Notification by the Company to the Customer that a particular person or firm has been selected to render services with respect to the Goods shall not be construed to mean that the Company warrants or represents that such person or firm will render such services and the Company shall not be liable for any loss, damage, expense, or delay to the Goods for any reason whatsoever in the event a different person or firm provides such services.

**4. Quotations Not Binding.** Quotations as to fees, rates of duty, freight charges, insurance premiums, or other charges given by the Company to the Customer are for informational purposes only and are subject to change without notice and shall not under any circumstances be binding upon the Company unless the Company in writing specifically undertakes the handling or transportation of the Shipment at a specific rate.

**5. Duty to Furnish Information.** (a) With respect to an import of Goods into the United States, at a reasonable time prior to entry of the Goods for U.S. Customs, the Customer shall furnish the Company with invoices in proper form and other documents necessary or useful in the preparation of the U.S. Customs entry. In addition, the Customer shall furnish such further information as may be required to establish, *inter alia*, the dutiable value, the classification, the country of origin, the genuineness of the Goods and any mark or symbol associated with the Goods, the Customer's right to import and/or distribute the Goods, and the admissibility of the Goods, pursuant to U.S. law or regulation. If the Customer fails to timely furnish such information or documents, in whole or in part, as may be required to complete U.S. Customs entry or comply with U.S. laws or regulations, or if the information or documents furnished are inaccurate or incomplete, the Company shall be obligated only to use the Company's reasonable judgment in connection with the Shipment and in no instance shall the Company be charged with knowledge by the Customer of the true circumstances to which such inaccurate, incomplete, or omitted information or document pertains. The Customer hereby appoints the Company to be the attorney in fact for the Customer in connection with the execution of any bond that may be required by U.S. Customs for the production of any document or the performance of any act. Where a bond is required by U.S. Customs, the Customer shall be deemed bound by the terms of the bond even in the event that the bond is executed by the Company as principal, with the understanding that the Company entered into such undertaking at the instance and on behalf of the Customer, and the Customer shall indemnify and hold the Company harmless from and against all damages, costs, and/or losses that may result in connection with any breach of the terms of the bond. (b) With respect to an export of Goods from the United States, at a reasonable time prior to the export of the Shipment, the Customer shall furnish to the Company the commercial invoice for the Goods, in proper form and number, a proper consular declaration, and weights, measures, values, and other information in the language of and as may be required by the laws and regulations of the United States and the country of destination of the Goods. (c) With respect to an export or an import of Goods, the Company shall not in any way be responsible or liable for increased duty, penalty, fine, or expense unless same is caused by the negligence or gross misconduct of the Company. The Company's liability to the Customer under this paragraph 5(c) shall be specifically governed and limited by the provisions of paragraphs 8 through 10 below. The Customer shall be bound by and hereby warrants the accuracy of all invoices, documents, and information furnished to the Company by the Customer or the Customer's agent for export, entry, or other purposes and the Customer agrees to indemnify and hold harmless the Company from and against any increased duty, penalty, fine, expense (including attorneys' fees), loss, and/or damages resulting from any inaccuracy, incomplete statement, omission, or failure to make timely presentation, even if not due to any negligence or misconduct of the Customer.

**6. Declaring Higher Valuation.** The Customer acknowledges that truckers, carriers, warehousemen, and others to whom the Goods are entrusted (hereinafter "Entrustees") generally establish limits on their liability for loss or damage to the Goods unless a higher value is declared, the Entrustee accepts such higher value, and an additional charge is paid to the Entrustee in consideration for its acceptance of increased liability with respect to the Goods. The Customer agrees that the Company is not responsible for requesting or obtaining such increased limit of liability from any Entrustee until and unless (i) the Company receives specific written instructions from the Customer to pay such higher charge based on the valuation of the Goods and (ii) the Entrustee accepts such higher declared value. If either one or both of items (i) and (ii) of the immediately preceding sentence does not occur, the valuation placed by the Customer on the Goods shall be considered solely for export or customs purposes and the Goods will be delivered to the Entrustees subject to the limitations of liability set forth in paragraphs 8 through 10 below with respect to any claim against the Company and subject to the provisions of paragraph 2 above.

**7. Insurance.** The Company will make reasonable efforts to effect marine, fire, theft, and other insurance for the Goods only after receipt by the Company of the Customer's specific written instructions in sufficient time prior to shipment from point of origin. Such written instructions to the Company shall specifically designate the kind and amount of insurance to be placed. The Company does not undertake or warrant that such insurance can or will be placed. Unless the Customer has the Customer's own open marine policy and timely instructs the Company to effect insurance under such policy, insurance is to be effected with one or more insurance companies or other underwriters to be selected by the Company in its sole discretion. Any insurance placed shall be governed by the certificate or policy issued and will be effective only if and when accepted by such insurance company or underwriter. Should an insurer dispute liability for any reason, the Customer shall have recourse against the insurer only and the Company shall not be under any responsibility or liability in relation thereto, notwithstanding the fact that the premium upon the policy may be less than the rate charged by the Company to the Customer or that the Shipment was insured under a policy in the name of the Company. Premiums for insurance and any and all fees charged by the Company for arranging said insurance shall be paid by the Customer. If for any reason the Goods are held in a warehouse or elsewhere, the same will not be covered by any insurance unless the Company receives specific written instructions from the Customer to obtain insurance for the Goods. Unless specifically agreed in writing, the Company assumes no responsibility to effect insurance on any export or import shipment.

**8. LIMITATION OF LIABILITY.** The Customer agrees that the Company shall in no event, specifically including, but not limited to, the Company acting as a bailee in the event of a bailment, be liable for any loss, damage, expense, or delay to the Goods resulting from the negligence or gross misconduct of the company for any amount in excess of \$50 per shipment. Any partial loss or damage for which the Company may be liable shall be adjusted pro rata on the basis of such valuation. The Customer hereby agrees that the limitation of liability as set forth herein has been negotiated by the Customer with the Company and that such limitation is reasonable under the circumstances surrounding this Agreement. The Customer has the option of paying a special compensation to increase the liability of the Company in excess of \$50 per Shipment in case of any loss, damage, expense, or delay from causes which would make the Company liable, but such option may be exercised only by specific written agreement made with the Company prior to shipment which agreement shall indicate the limit of the Company's liability and the special compensation for the added liability to be assumed by the Company. The Company shall in no event be liable for any loss, damage, expense, or delay due to any strike, lockout, civil commotion, war-like operation, invasion, rebellion, hostilities, military or usurped power, sabotage, governmental regulations or controls, the inherent vice or nature of the Goods, act of god, or other cause beyond the reasonable control of the Company. The Company warrants, regarding perishable cargo, to exercise due diligence to maintain the air temperature to the cargo within a range of plus or minus 5 degrees Fahrenheit of the temperature requested in writing by the Customer.

**9. PRESENTING CLAIMS.** Subject to the provisions of paragraph 8, the following limitations shall apply to the presentation of claims. Unless otherwise provided by Florida or federal law, the Company shall not be liable for any act, omission, or default by the Company in connection with a Shipment unless a claim therefor shall be presented to such the Company at the Company's office within thirty (30) days, and in the case of perishable cargo, two (2) days from delivery date. Notwithstanding anything in the previous sentence, if the Shipment is covered by a airway bill or bill of lading, the terms and conditions of the airway bill or bill of lading shall apply, specifically including, but not limited to, the time periods set forth therein for presenting written claims for damage, loss, or non-delivery or any other act, omission, or default by the Company in connection with a Shipment. All claims presented to the Company must include a written statement to which sworn proof of claim shall be attached. Notwithstanding the foregoing, no suit to recover for any claim or demand hereunder shall in any event be maintained against the Company unless instituted within six (6) months after presentation of a claim or within the time period specified in the terms and conditions of the airway bill or bill of lading governing the shipment, whichever is longer. No agent or employee of the Company shall have authority to alter or waive any of the provisions of this clause.

**10. LIABILITY OF COMPANY.** Subject to the provisions of paragraph 8 above, the Customer agrees that (i) any claim or demand for loss, damage, expense, or delay shall be only against the carriers, truckmen, lightermen, forwarders, customs brokers, agents, warehousemen, or others in whose actual custody or control the Goods may be at the time of such loss, damage, expense, or delay, and (ii) that the Company shall not be liable or responsible for any claim or demand from any cause whatsoever, unless in each case the Goods were in the actual custody or control of the Company and the damages alleged to have been suffered be proven to have been caused by the negligence or gross misconduct of the Company, its officers, or its employees, in which event the limitations of liability set forth in paragraph 8 and the requirements of paragraph 9 shall apply. Notwithstanding paragraph 8 above, the Company shall not in any circumstances be liable for incidental, consequential, or punitive damages or damages arising from loss of profit.

**11. Advancing Money.** The Company shall not be obliged to incur any expense, guarantee any payment, or advance any money in connection with the importing, forwarding, transporting, insuring, storing, or cooperating of the Goods, except to the extent that the Customer specifically requests such services pursuant to the terms of this Agreement and to the extent the funds have been previously provided to the Company by the Customer on demand. The Company shall be under no obligation to advance freight charges, customs duties, or taxes on any Shipment. Notwithstanding the foregoing, in the event the Company elects, at its sole option and discretion, to advance money on behalf of the Customer, the Customer shall reimburse the Company for such advance in full promptly upon demand. No advance by the Company of the charges described in this paragraph shall be deemed or construed as a waiver of the provisions of this paragraph.

**12. Indemnification.** In the event that a carrier, other person, legal entity, or governmental agency makes a claim or institutes legal action against the Company for ocean or other freight duties, fines, penalties, liquidated damages, or other money due arising from a Shipment, the Customer agrees to indemnify and hold harmless the Company for any amount the Company may be required to pay such carrier, other person, or governmental agency together with reasonable expenses, including attorneys' fees, incurred by the Company in connection with defending such claim or legal action and obtaining reimbursement from the Customer. The confiscation or detention of the any part or all of the Shipment by any governmental authority shall not affect or diminish the liability of the Customer to the Company to pay all charges or other money due pursuant to this Agreement. Such charges or other money due must be paid by the Customer promptly on demand.

**13. C.O.D. Shipments.** Goods received with the Customer's or another person's instructions to "Collect on Delivery" (C.O.D.) by drafts or otherwise or to collect on any specified terms by time drafts or otherwise are accepted by the Company only upon the express understanding that the Company will exercise reasonable care in the selection of a bank, correspondent, carrier, or agent to whom the Company will send such item for collection, and the Company will not be responsible for any act, omission, default, suspension, insolvency, want of care, negligence, or fault of such bank, correspondent, carrier, or agent; for any delay in remittance lost in exchange; for loss during transmission; or, for loss while in the course of collection.

**14. Lien Rights.** The Company shall have a general lien on any and all property (and documents relating thereto) of the Customer in the Company's possession, custody or control, or en route, for all claims for charges, expenses, or advances incurred by the Company in connection with any shipments of the Customer. If such claim remains unsatisfied for thirty (30) days after demand for payment of the claim is made, the Company may sell at public auction or private sale, upon ten (10) days written notice by registered mail (R.R.R.) to the Customer, the Goods and other property of the Customer in the Company's possession, custody, control, or en route, or so much thereof as may be necessary to satisfy such lien, and apply the net proceeds of such sale to the payment of the amount due to the Company. Any surplus from such sale shall be transmitted to the Customer, and the Customer shall be liable for any deficiency in the sale. Additionally, the Company may exercise any and all remedies that may be available to it under federal law and/or the laws of the State of Florida.

**15. Compensation of Company.** The compensation paid to the Company for the Company's services shall be included with and is in addition to the rates and charges of all carriers and other agencies selected by the Company to transport and deal with the Goods and such compensation shall be exclusive of any brokerage, commission, dividend, or other revenue that may be received by the Company from carriers, insurers, and others in connection with the Shipment. On ocean exports, upon request, the Company shall provide a detailed statement of the components of all charges assessed and a true copy of each pertinent document relating to these charges. In any referral for collection or action by or against the Customer based upon this Agreement, the prevailing Party shall be entitled to receive the expenses of collection and/or litigation, including reasonable attorneys' fees at trial and appellate levels. All sums payable to the Company are due when incurred and shall be paid without offset or deduction of any kind including claims whether then pending or not.

**16. No Responsibility for Governmental Requirements.** It is the responsibility of the Customer to know and comply with the marking requirements of the U.S. Customs Service, the regulations of the U.S. Food and Drug Administration, and all other requirements pertaining to the Goods, including, but not limited to, requirements pursuant to any treaty or pursuant to laws and regulations of any international organization, federal, state, or local entity, or agency of any port of origin or delivery, within or without the United States, at which port the Customer's Goods are handled by the Company. The Company shall not be responsible for action taken or fines or penalties assessed by any governmental entity against the Shipment and/or the Customer due to the Customer's failure to comply with the laws, requirements, or regulations of any governmental entity or a notification issued to the Customer by any such entity. The Company is authorized to surrender the Shipment or any part thereof to any such governmental entity upon request by such governmental entity for alleged violations of such laws, requirements, or regulations, without liability therefor.

**17. Indemnity against Liability Arising from the Import or Export of Goods.** The Customer agrees to indemnify and hold the Company harmless from any claims and/or liability arising from the import or export of a Shipment of Goods which violates any treaty or the laws or regulations of any international organization, federal, state, and/or local entity and/or agency of any port of origin or delivery, within or without the United States, and further agrees to indemnify and hold the Company harmless against any and all liability, loss, damage, cost, claim, and/or expense, including but not limited to attorneys' fees, that the Company may hereafter incur, suffer, or be required to pay by reason of any claim by any governmental entity or private party. In the event that any action, suit, or proceeding is brought against the Company by any governmental entity or any private party, the Company shall give notice in writing to the Customer by mail at the Customer's address on file with the Company. The Customer agrees that it must keep its address with the Company current. Upon receipt of such notice, the Customer at the Customer's own expense shall defend against such action and take all steps as may be necessary or proper to prevent the obtaining of a judgment and/or order against the Company.

**18. Payments to the Company.** Any and all payments made by the Customer to the Company are made in the regular course of the Customer's business. Further, the Customer acknowledges that in connection with payments made by the Customer to the Company for any third parties, e.g., independent carriers, truckmen, lightermen, forwarders, customs brokers, agents, warehousemen, and others, the Company is acting solely as a conduit to facilitate the transfer of the payments from the Customer to such third parties.

**19. Independent Contractor.** Except for Customs entries and duties in which circumstances the Company is an agent of the Customer, the Company is an independent contractor.

**20. Customer's Duty to Correct Inaccurate Information.** The submission of incomplete or inaccurate information related to an import entry, including descriptions, quantities, weights, purchase prices, discounts, commissions, changed selling prices at time of exportation, assists, country of origin, etc., may subject the party submitting such incomplete or inaccurate information to severe governmental penalties or sanctions. Accordingly, to avoid any such violation, the Customer shall immediately notify the Company, in writing, if the information forwarded to the Company or that accompanied the Shipment does not accurately reflect the entire transaction. If, in the Customer's opinion, written notification would be untimely to enable the Company to take corrective action, then the Customer must notify the Company orally and in writing. Upon such notification, the Company will use reasonable efforts to take corrective action. In any event, the Customer shall be liable and solely responsible for any governmental penalties or sanctions resulting from such incomplete or inaccurate information. The Customer agrees to indemnify the Company and hold the Company harmless as a result of any such submission of incomplete or inaccurate information.

**21. Severability of Terms.** If any term, covenant, or condition of this Agreement, or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term, covenant, or condition to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby, and each term, covenant, or condition of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

**22. Construction of Terms and Venue.** The foregoing terms and conditions shall be construed according to the laws of the State of Florida. The Customer accepts and confirms that this Agreement is a contract made in the State of Florida. The Customer expressly agrees that exclusive jurisdiction for any claim or dispute with respect to this Agreement resides in the Miami courts of the State of Florida. The Customer further agrees and expressly consents to the exercise of personal jurisdiction by the Miami courts of Florida over the Customer in the State of Florida in connection with any dispute or claim involving the Company. Unless otherwise consented to in writing by the Company, no legal proceeding against the Company may be instituted or maintained by the Customer, its assigns, or its subrogees except in the City of Miami, Dade County, Florida.

**23. Customer Bound.** This Agreement shall apply to and bind the heirs, executors, administrators, successors, and permitted assigns of the parties. Changes, terminations, modifications, or amendments hereto shall only be effective if in writing and executed by Customer and Company.

**24. No Waiver.** The failure or delay of the Company at any time to require performance by the Customer of any provision of this Agreement shall not affect the right of the Company to require performance of that provision or to exercise any right, power, or remedy hereunder. Any waiver by any party of breach of any provision of this Agreement shall not be construed as a waiver of any continuing or succeeding breach of such provisions, a waiver of the provision itself, or a waiver of any right, power, or remedy under this Agreement. No notice to or demand on the Customer in any case shall entitle the Customer to any other or further notice or demand in similar or other circumstances.