

BROKERAGE TERMS AND CONDITIONS

CenturyPointe Logistics LLC (“CPL”) holds authority from the U.S. Federal Motor Carrier Safety Administration (“FMCSA”), as a licensed broker and is hereinafter referred to as “Broker”. Broker’s services for its customers (“Shipper(s)”) include, but are not limited to, arranging for freight transportation shipments for its Shippers by contracted motor carriers (“Carrier(s)”).

Broker and Shipper agree that their relationship, with respect to shipments tendered to Broker by Shipper (their “Agreement”), whether it is paper or electronic agreement, shall be governed by the following terms and conditions. The Brokerage Terms and Conditions apply to the entire Agreement and will govern in the event of any conflict between these terms and conditions and any provision contained in any subsequent documentation or otherwise, the terms of which, whether conflicting, supplemental or otherwise, are hereby expressly rejected.

- 1. BROKER’S COMPLIANCE WITH LAW.** BROKER represents and warrants that it is duly and legally qualified to operate as a property broker and to provide the transportation services contemplated herein. BROKER agrees to comply with all federal, state and local laws regarding the provision of such brokerage services. The Parties understand and agree that BROKER functions as an independent entity, and not as a carrier, in selling, negotiating, providing and arranging for transportation for compensation, and that the actual transportation of shipments tendered to BROKER shall be performed by third-party motor carriers (“Servicing Motor Carriers”). Except as otherwise set forth in this Terms and Conditions, BROKER assumes no liability for the acts or omissions of the Service Motor Carriers or their employees, agents, contractors or drivers.
- 2. BROKER INSURANCE.** BROKER shall comply with all insurance and bonding requirements imposed upon it by law, including its obligation to maintain a surety bond to benefit the SHIPPER.
- 3. PAYMENT.** SHIPPER agrees to pay BROKER within fifteen (15) days of receiving the invoice, with interest accruing monthly at a rate of one percent (1%). SHIPPER shall also be liable for any expenses, including attorney fees, BROKER incurs in collecting its rates and charges.
- 4. INDEPENDENT CONTRACTOR.** BROKER represents and warrants that it is an independent contractor under this Terms and Conditions and that its employees are under BROKER’s exclusive management and control, and that SHIPPER neither exercises nor retains any control over BROKER, its operations or employees in any manner whatsoever.
- 5. CONTRACT CARRIERS.** BROKER shall make reasonable efforts to place SHIPPER’s loads with responsible Servicing Motor Carriers authorized to perform the services required by SHIPPER for the purposes of transporting the loads with reasonable dispatch under the direction of SHIPPER. In no event will BROKER tender any goods of SHIPPER to a Servicing Motor Carrier holding an “unsatisfactory” safety rating. BROKER also agrees to utilize only Servicing Motor Carriers that possess all insurance coverages required by applicable law. However, the Parties understand and agree that BROKER, by signing this Terms and Conditions, makes no express or implied warranties or guarantees concerning delivery time or the locating of a Servicing Motor Carrier to provide the transportation services requested by SHIPPER. Moreover, SHIPPER acknowledges and agrees that such Servicing Motor Carriers might limit SHIPPER’s recovery for claims for cargo loss, damage or delay.
- 6. CARGO LOSS, DAMAGE, OR SHORTAGE.** In the event of a cargo loss, damage or shortage claim, BROKER may facilitate claims filing and processing with the Servicing Motor Carrier if SHIPPER submits to BROKER, within six (6) months of the date of delivery, a written claim, fully supported by all relevant documentation, including but not limited to the signed delivery receipt, listing the nature and cause of the claim for cargo damage. SHIPPER understands and agrees that the underlying Servicing Motor Carrier may have a limitation of liability in place that limits SHIPPER’s recovery with respect to such claims. BROKER may, in its sole discretion and without liability to SHIPPER, discontinue pursuit of claims with the

Servicing Motor Carrier if such claim is not resolved within sixty (60) days of receipt by BROKER. BROKER shall have no liability for cargo loss, damage, or shortage except to the extent such claims are caused by BROKER's negligent acts or omissions, in which event, BROKER's liability shall be limited to the amount owed to BROKER by SHIPPER with respect to the services provided by BROKER that relate to the commodities at issue. With respect to the standard for BROKER negligence with respect to Servicing Motor Carrier's insurance, BROKER shall be deemed to be negligent only if the Servicing Motor Carrier fails to maintain insurance as required by law.

7. INDEMNIFICATION.

- a. BROKER shall indemnify, defend and save SHIPPER, its employees, and agents harmless from and against any and all liability, claims, loss, costs, fines, penalties, expenses (including attorney's fees), judgments, or demands on account or damage of any kind whatsoever, including but not limited to personal injury, property damage, cargo damage, or any combination thereof, suffered or claimed to have been suffered by any person or persons, arising out of BROKER's services provided in connection with this Terms and Conditions to the extent such claim is caused by 1) the negligence or intentional misconduct of BROKER; 2) BROKER's or its employees' violation of applicable laws or regulations; or 3) BROKER's or its employees' or agents' breach of this Terms and Conditions. The foregoing notwithstanding, BROKER shall have no liability to SHIPPER under this provision, or otherwise owe any obligation to SHIPPER under this provision, to the extent such liabilities or obligations represent consequential or special damages or are the result of or arise from the negligence or other wrongful conduct of SHIPPER.
 - b. SHIPPER shall indemnify, defend and save BROKER, its employees, and agents harmless from and against any and all liability, claims, loss, costs, fines, penalties, expenses (including attorney's fees), judgments, or demands on account or damage of any kind whatsoever, including but not limited to personal injury, property damage, cargo damage, or any combination thereof, suffered or claimed to have been suffered by any person or persons, arising out of SHIPPER's performance under this Terms and Conditions to the extent such claim is caused by 1) the negligence or intentional misconduct of SHIPPER; 2) SHIPPER's or its employees' or agents' violation of applicable laws or regulations; or 3) SHIPPER's or its employees' or agents' breach of this Terms and Conditions, except to the extent such liability, claims or loss represent consequential or special damages, or are the result of the negligence or other wrongful conduct of BROKER.
 - c. In the event that such claims, liabilities, losses, damages, fines, penalties, payments, costs and expenses (including without limitation, reasonable attorney fees) are caused by the joint and concurrent negligence or other fault of the Parties, or the Parties and a third party, the indemnity obligations for such claims, liabilities, losses, damages, fines, penalties, payments, costs, and expenses shall be borne by each Party in proportion to its degree of negligence or other fault.
 - d. Any indemnified Party shall promptly tender the defense of any claim to the indemnifying Party.
 - e. In no event shall either Party be responsible for any special or consequential damages under this Terms and Conditions.
8. **SHIPPING DOCUMENTS.** Unless otherwise agreed in writing, all shipments tendered shall be accepted on a bill of lading which shall function as a receipt of the goods only; the terms and conditions of such bill of lading will not apply to transportation provided pursuant to this Terms and Conditions. Upon request of SHIPPER, BROKER shall instruct Servicing Motor Carriers to obtain a delivery receipt from the consignee, showing the products delivered, condition of the shipment and the date and time of such delivery.

9. **NOTIFICATION OF ACCIDENTS OR DELAYS.** BROKER agrees to notify SHIPPER of any accident or other event of which BROKER is apprised and which prevents the motor carrier from making a timely or safe delivery.
10. **ASSIGNMENT/MODIFICATION/BENEFIT OF AGREEMENT.** This Terms and Conditions may not be assigned or transferred in whole or in part. This Terms and Conditions shall be binding upon and inure to the benefit of the Parties hereto.
11. **SEVERABILITY.** In the event that the operation of any portion of this Terms and Conditions results in a violation of any law, the Parties agree that such portion shall be severable and that the remaining provisions of this Terms and Conditions shall continue in full force and effect.
12. **DISPUTE RESOLUTION.** This Terms and Conditions shall be deemed to have been drawn in accordance with the statutes and laws of the state of Indiana and in the event of any disagreement or dispute, the laws of Indiana shall apply and suit must be brought in Indiana as each party specifically submits to the exclusive personal jurisdiction of such courts for disputes involving this Terms and Conditions.
13. **COMPLETE AGREEMENT.** This Terms and Conditions constitutes the entire agreement of the Parties with reference to the subject matters herein, and may not be changed, waived, or modified except in writing signed by both Parties.