

First Global Xpress – Terms & Conditions

THESE TERMS AND CONDITIONS OF SERVICE, ALONG WITH THE ATTACHED MSA/SOW (IF APPLICABLE), CONSTITUTE A LEGALLY BINDING CONTRACT BETWEEN THE "COMPANY" AND THE "CLIENT". IN THE EVENT THE COMPANY RENDERS SERVICES AND ISSUES A DOCUMENT CONTAINING TERMS AND CONDITIONS GOVERNING SUCH SERVICES, THE TERMS AND CONDITIONS SET FORTH IN SUCH OTHER DOCUMENT(S) SHALL GOVERN THOSE SERVICES.

DEFINITIONS

a. "Company" shall mean First Global Xpress, LLC located at 7 Industrial Parkway, Unit 10, Livingston, NJ 07039, its subsidiaries, related companies, agents and/or representatives.

b. "Client" shall mean the person for which the Company is rendering service, as well as its agents and/or representatives, including, but not limited to, shippers, importers, exporters, carriers, secured parties, warehousemen, buyers and/or sellers, shipper's agents, insurers and underwriters, break-bulk agents, consignees, etc. It is the responsibility of the Client to provide notice and copy(s) of these terms and conditions of service to all such agents or representatives.

c. "Third parties" shall include, but not be limited to, the following: carriers, truckmen, cartmen, lightermen, forwarders, OTI's, customs brokers, agents, importers, exporters, warehousemen and others to which the goods are entrusted for transportation, cartage, handling and/or delivery and/or storage or otherwise.

CONDITIONS OF CARRIAGE

1. Clients entering into transactions of any kind with the Company expressly warrant that they are either the owner or the authorized agents of the owners of any goods to which the transaction relates and further warrant that they are authorized to accept and are accepting these Conditions not only for themselves but also as agents for and on behalf of all other persons who are or may thereafter become interested in the goods.

2. Unless services are performed by persons or firms engaged pursuant to

express written instructions from the Client, Company shall use reasonable care in its selection of third parties, or in selecting the means, routes and procedures to be followed in the handling, transportation, clearance and delivery of the shipment.

3. Pending forwarding or delivery, goods may be warehoused or otherwise held at any place or places, which meet reasonable security standards that can be reviewed upon request by Client. Storage during transit is not to exceed 45 days without prior written authorization.

4. Except where the Company is instructed in writing to pack the goods the Client warrants that all goods have been properly and sufficiently packed and/or prepared.

5. Quotations as to fees, rates of duty, freight charges, insurance premiums, importer of record fees, exporter of record fees, or other charges given by the Company to the Client are for informational purposes only and are subject to change without notice; no quotation shall be binding upon the Company unless the Company in writing agrees to undertake the handling or transportation of the shipment at a specific rate or amount set forth in the quotation and payment arrangements are agreed to between the Company and the Client.

6. For import transactions, at a reasonable time prior to the entry of goods into the U.S. or foreign country the Client shall furnish to the Company invoices in proper form and other documents necessary or useful in the preparation of the U.S. or foreign country customs entry and such further information as may be sufficient to establish, inter alia, the dutiable value, the classification, the country of origin, the genuineness of the merchandise and any mark or symbol associated with it, the Client's right to import and/or distribute the merchandise, and the merchandise's admissibility, pursuant to U.S. or foreign laws and regulations. If the Client fails to furnish such information or documents in a timely manner, in whole or in part, as may be required to complete the U.S. or foreign

country customs entry or comply with U.S. or foreign laws and regulations, or if the information or documents furnished are inaccurate or incomplete, the Company shall be obligated only to use its best judgment in connection with the shipment and in no instance shall be charged with knowledge by the Client of the true circumstances to which such inaccurate, incomplete, or omitted information or document pertains. Where a bond is required by Customs to be given for the production of any document or the performance of any act, the Client shall be deemed bound by the terms of the bond notwithstanding the fact that the bond has been executed by the Company as principal, it being understood that the Company entered into such undertaking at the instance and on behalf of the Client, and the Client shall indemnify, defend and hold the Company harmless from and against the consequences of any breach of the terms of the bond.

7. For an export transaction, at a reasonable time prior to the exportation of the shipment the Client shall furnish to the Company the Commercial or Proforma invoice in proper form and number, a proper consular declaration, weights, measures, values and other information in the language of and as may be required by the laws and regulations of the U.S. or foreign origin and the country of destination of the goods.

8. The Client shall be deemed to be bound by and to warrant the accuracy of all descriptions, values and other particulars furnished to the Company for Customs, Consular and other purposes, and it undertakes to indemnify, defend and hold the Company harmless from and against all claims, demands, liabilities, losses, damages, costs, expenses and fines whatsoever arising from any inaccuracy or omission, even if such inaccuracy or omission is not due to any negligence.

9. The Client shall further indemnify, defend and hold the Company harmless from and against:

9.a all claims, demands, liabilities, losses, damages, costs, expenses and fines whatsoever (including, without limitation all duties, taxes, imposts, levies, deposits and outlays of whatsoever nature levied by

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any authority in relation to the goods) arising out of the Company acting in accordance with the Client's instructions, or arising from any breach by the Client of any warranty contained in these conditions, or from the negligence of the Client; and

9.b without derogation from sub-clause (a) above, any liability assumed or incurred by the Company when, by reason of carrying out the Client's instructions, the Company has become liable to any other party; and

9.c all claims, demands, liabilities, losses, damages, costs, expenses and fines whatsoever and by whomsoever made, in excess of the liability of the Company under the terms of these conditions, regardless of whether such claims, demands, liabilities, losses, damages, costs, expenses and/or fines arise from, or in connection with, the breach of contract, negligence or breach of duty of the Company, its servants, sub-contractors or agents.

10. When shipping incoterms are not Deliver Duty Paid (DDP) or when goods are accepted or dealt with upon instructions to collect freight, duties, charges or other expenses from the consignee or any other person the Client shall remain responsible for the same if they are not paid by such consignee or other person immediately when due.

11.a. The Company shall only be responsible for any loss of or damage to goods or for any non-delivery or misrouted delivery if it is proved that the loss, damage, non-delivery or misrouted delivery occurred while the goods were in the actual custody of the Company and under its actual control and that such loss, damage, non-delivery or misrouted delivery was due to the willful neglect or willful default of the Company through its own employees.

11.b. The Company shall only be liable for any noncompliance with instructions given to it by the Client if it is proved that the same was caused by the willful neglect or willful default of the Company through its own employees.

11.c. Except as set forth in 11.a. and b., the Company shall be under no liability whatsoever however arising, and whether in respect of or in connection with any

goods or any instructions, business, advice, information or service or otherwise.

11.d. Further and without prejudice to the generality of 11.a., b. and c., the Company shall not in any event, be under any liability whatsoever for any consequential loss or loss of market or fire or consequence of fire or delay or deviation however caused.

12. In no case whatsoever, and except for its willful misconduct or fraud, shall any liability of the Company howsoever arising and notwithstanding any lack of explanation exceed \$100.00 USD per shipment or the cost of replacement whichever is the lesser.

13. In any dispute involving monies owed to the Company by Client, the Company shall be entitled to all costs of collection, including its reasonable attorney's fees and interest at the rate of 2% per month or any part thereof or the highest rate allowed by law, whichever is less, unless a lower amount is agreed to by Company.

14. It is the responsibility of the Client to know and comply with the marking requirements of the United States, the regulations of the U.S. Food and Drug Administration, and all other requirements, including without limitation regulations of Federal, state and/or local agencies pertaining to the merchandise. The Company shall not be responsible for actions taken or fines or penalties assessed by any governmental agency against the shipment because of the failure of the Client to comply with the law or the requirements or regulations of any governmental agency or with a notification issued to the Client by any such agency.

15. Client acknowledges that pursuant to Sections 508 and 509 of the Tariff Act, as amended, (19 USC §1508 and §1509) it has the duty and is solely liable for maintaining all records required under the Customs and/or other laws and regulations of the United States; unless otherwise agreed to in writing, the Company shall only keep such records that it is required to maintain by statute(s) and/or regulation(s), but not act as a "record keeper" or "recordkeeping agent" for Client.

16. When transporting batteries of any kind, Client must inform Company by accurately declaring the battery contents via Company's booking systems. Except under special arrangements previously made in writing the Company will not accept or deal with any noxious, dangerous, hazardous or inflammable or explosive goods or any goods likely to cause damage. Should any Client nevertheless deliver any such goods otherwise than under special arrangements previously made in writing, Client shall be liable for all loss or damage whatsoever caused by or to or in connection with the goods however arising and shall indemnify, defend and hold the Company harmless from and against all losses, penalties, claims, damages, costs and expenses whatsoever arising in connection therewith, and the goods may be destroyed or otherwise dealt with at the sole discretion of the Company or any other person in whose custody they may be at the relevant time.

17. Except under special arrangements previous made in writing the Company will not accept or deal with bullion, coins, precious stones, jewelry, valuables, antiques, pictures, livestock or plants. Should the Client nevertheless deliver any such goods to the Company to handle or deal with otherwise than under special arrangements previous made in writing, the Company shall be under no liability whatsoever for or in connection with the goods however caused.

18. The Client undertakes that no claim shall be made against any owner, officer, director, or employee of the Company which imposes, or attempts to impose, upon them any liability in connection with any services which are the subject of these conditions, and, if any such claim should nevertheless be made, to indemnify, defend and hold any of them harmless from and against all consequences thereof.

19. These terms and conditions of service and the relationship of the parties, as well as all claims and disputes arising hereunder or in connection herewith, shall be governed by and construed according to the laws of the State of New York, without applying its conflicts of law

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principles. Client and Company (a) irrevocably consent to the exclusive jurisdiction of the United States District Court and the State courts of New York located in the Borough of Manhattan, City and State of New York, to resolve any such claims and disputes; (b) irrevocably waive any objection to such exclusive jurisdiction based on improper venue or inconvenient form, to the extent legally permitted; and (c) further agree that any action to enforce a judgment may be instituted in any jurisdiction.

IMPORTER/EXPORTER OF RECORD (IOR/EOR)

1. When utilizing Company's importer or exporter of record service, Company will not, under any circumstances, be able to provide copies of import or export customs documentation. When utilizing an importer of record service provided by Company, import duties and taxes will not be reclaimable, nor will Company be able to provide a customs entry receipt, or breakdown of specific duties & taxes assessed on an import.

2. Unless otherwise expressly agreed in writing, legal ownership of the goods involved in an IOR/EOR transaction, shall at no time pass to Company. Client acknowledges that the relevant transaction in relation to the goods involved in an IOR/EOR transaction shall be effected directly between the Client and its customers and Company shall not be a party thereto.

CARGO INSURANCE

1. Cargo insurance is subject to the review of the Company's insurance carrier and may be denied on a case-by-case basis for any reason in such carrier's sole discretion. No insurance will be effected except upon express instructions given in writing by the Client and all insurance effected by the Company is subject to the usual exceptions and conditions of the policies of the insurance company or underwriters taking the risk. The Company shall not be under any obligation to affect a separate insurance on each consignment but may declare it on any open or general policy. Should the insurers dispute their liability for any reason the insured shall

have recourse against the insurers only, and the Company shall not be under any responsibility or liability whatsoever in relation thereto notwithstanding that the premium upon the policy may not be at the same rate as that charged by the Company or paid to the Company by its Client.

2. Insurance provided by the Company hereunder will exclude coverage for all U.S. and United Nations embargoed countries and other undesirable countries and territories. Please consult the relevant government agencies for a current list or request a list from Company. Any shipments to and from these countries and territories, are subject to the Company's prior written agreement.

3. In no case shall this insurance cover loss, damage, liability, cost or expense directly or indirectly caused by or contributed to by or arising from:

3a. ionizing radiations from or contamination by radioactivity from any nuclear fuel or from any nuclear waste or from the combustion of nuclear fuel;

3b. the radioactive, toxic, explosive or other hazardous or contaminating properties of any nuclear installation, reactor or other nuclear assembly or nuclear component thereof;

3c. any weapon or device employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter;

3d. loss or damage directly or indirectly occasioned by, happening through or in consequence of war, invasion, acts of foreign enemies, terrorism, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, military or usurped power or confiscation or nationalization or requisition or destruction of or damage to property by or under the order of any government or public or local authority; or

3e. any fines or penalties imposed on the Insured by any court or public authority; or

3f. loss, damage or expense attributable to the willful misconduct of the Insured or if such failure has been

caused by or through the negligence of or by a malicious act of an employee of the insured and/or their sub-contractors and/or agents.

3g. Client is referred to Company's insurance policy for all applicable exclusions, limitations and conditions to coverage. The terms of such policy shall prevail if and to the extent inconsistent with these Conditions.

4. If a shipment includes used, refurbished, or re-manufactured goods, the insured must prove to the Underwriters hereon that the said equipment has been maintained and serviced in accordance with the Manufacturers/installers recommendations.

BASIS OF SETTLEMENT UNDER THIS INSURANCE

1. The value on which settlement for total loss shall be as set forth in Company's policy for the particular class and condition of goods being covered. In no event will the Underwriters be liable for more than the insured value declared for the item or shipment.

2. In the event of partial loss of or damage to any item, the amount of loss generally shall be determined by an agreed percentage of depreciation applied to the insured value declared for the item or shipment, but not exceeding the declared value.

SUBROGATION

1. In the event of loss or damage for which the Underwriters have agreed to pay the Client under this insurance, the Underwriters shall be subrogated to all rights of the insured against third parties with respect to such loss.

ANCILLARY COSTS

1. In respect of all claims under this insurance, in case of any imminent or actual loss or misfortune, the insured, its factors, employees and assigns, shall sue, labor and travel for, in and about the defense, safeguard and recovery of the said goods and merchandise, or any part thereof, without prejudice to this insurance; to the charges whereof the insurers will contribute according to the

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rate and quantity of the sum hereby insured; nor shall the acts of the Insured or of the Underwriters in recovering, saving and preserving the Property Insured, in case of disaster, be considered a waiver or an acceptance of abandonment always subject to the Underwriters' total liability not exceeding the sum insured hereunder as determined by the Basis of Settlement above.

INVOICES AND BILLING

1. Company will issue pre-shipment invoices to Client for duties, taxes, importer/exporter of record fees, insurance, or other fees when applicable. Pre-shipment invoices are due immediately and may delay shipments if not received prior to departure. Pre-shipment invoices may be paid on Client's behalf for a 7% financing fee. The pre-shipment invoice amount and the financing fee are due within 45 days from date of invoice.

2. For approved accounts, post-shipment fees are due without setoff within 30 days from date of invoice. Any objection to the rates and charges for services rendered must be submitted in writing within 10 days of receipt of invoice or shall be waived.

3. Accounts that are past due (starting from the date of the first past due notice) will be subject to credit hold. Any current shipments will be held until the account is brought up to date.

4. Accounts that have been sent to credit recovery agencies will be responsible to pay both the original amount owed and any costs or expenses incurred in the recovery of monies owed.

5. Company shall have a general and continuing lien on any and all property of Client coming into Company's actual or constructive possession or control for monies owed to Company with regard to the shipment on which the lien is claimed, a prior shipment(s) and/or both.

6. Company shall provide written notice to Client of its intent to exercise such lien, the exact amount of monies due and owing, as well as any on-going storage or other charges; Client shall notify all

parties having an interest in its shipment(s) of Company's rights and/or the exercise of such lien.

7. Unless, within thirty days of receiving notice of lien, Client posts cash or letter of credit at sight, or, if the amount due is in dispute, an acceptable bond equal to 110% of the value of the total amount due, in favor of Company, guaranteeing payment of the monies owed, plus all storage and related charges accrued or to be accrued, Company shall have the right, to the extent permitted by applicable law, to sell such shipment(s) at public or private sale or auction and any net proceeds remaining thereafter shall be refunded to Client.

INFORMATION SECURITY

1. By agreeing to these terms, the Client agrees to the privacy policy and conditions of acceptable use of the Company's electronic systems including but not limited to the public website, knowledge-base, service portal, live chat, and tracking tool. The transfer of sensitive personally identifiable information ("PII") (see item 2.) should be avoided unless required for the execution of services and specifically requested by the Company. Email is not recognized as a secure medium of communication. For this reason, the Client agrees not to send PII to the Company by email. Some of the information the Client may enter on the Company's Web site may be transmitted securely via the https protocol and stored in an encrypted database. The Client will contact systems@fgx.com if it has any questions or concerns. The Client understands and agrees that the Company will not be liable for damages resulting from the transmittal of PII.

2. Examples of PII include: Social Security Numbers (SSNs) including truncated SSNs that include only the last four digits, place of birth, date of birth, mother's maiden name, biometric information, medical information, except brief references to absences from work, personal financial information, credit card or purchase card account numbers, passport numbers, potentially sensitive employment information, e.g., personnel ratings, disciplinary actions, and result of

background investigations, criminal history, or any information that may stigmatize or adversely affect an individual. This list is not exhaustive, and other data may be sensitive depending on specific circumstances.

MISCELLANEOUS

1. This contract contains the entire agreement and understanding of the parties with respect to the subject matter hereof and supersedes all prior written and oral understandings with respect to such subject matter. This contract will bind and inure to the benefit of the parties and their respective successors and permitted assigns. The failure of either party at any time to require performance of any provision hereof shall not affect such party's right at a later time to enforce the same or any other term of this contract. No waiver of any provision hereof shall be binding unless in writing and signed by the party to be charged. This contract shall not constitute the parties as partners or to create a joint venture, fiduciary or employment relationship between them, or to make either party the agent of the other, except as otherwise expressly set forth herein. This contract may be amended only by a document in writing signed by both parties. In the event of a breach or threatened breach of this contract by either party, the other shall have all applicable equitable as well as legal remedies. No provision of this contract shall be construed or interpreted more strictly against one party because of relative drafting responsibilities, it being agreed that both parties and their respective attorneys (where applicable) participated in the preparation of this contract. If any part of this contract is determined to be illegal, invalid or unenforceable, the remaining parts shall not be effected thereby and the illegal, unenforceable or invalid part shall be deemed not to be part of this contract. The parties further agree to replace any such void or unenforceable provision of this contract with a valid and enforceable provision that will achieve, to the extent possible, the economic, business, or other purposes of the void or unenforceable provision.