



# WINDSOR

## WA & DT, LLC Terms of Trading

The following Terms of Trading shall be incorporated into and made a part of every Bill of Lading or contract for freight services between WA & DT, Customer and all Concerned Parties. Where the context of the terms and conditions permit, the singular shall include plural and vice-versa; the masculine shall include the feminine and visa versa and all shall include neuter.

1. Definitions and Abbreviations. The following terms and abbreviations used herein, whether capitalized or not, shall have the following meanings:

"WS," the "Carrier" or "WA&DT, LLC" shall mean Windsor Art and Design Transportation and/or its authorized employees.

"BOL" or "Bill of Lading" shall mean a contract for an order for WS to perform transportation, packing and/or related services such as warehousing for its Customer.

"COD" or "Certified check or cash on delivery" shall mean an agreement by a Customer to pay WS on delivery for services performed prior to the time of delivery.

"Concerned Parties" shall mean Parties whom WS identifies as connected to a Shipment.

"Consignee" or "consignee" shall mean Persons or Parties who receive Freight from WS.

"COPU" shall mean certified check or cash on pick up prior to performing services.

"Customer" or "customer" shall mean the Parties, persons or organizations who hire and employ WS to collect and deliver freight and perform transportation and warehouse related services and are liable to remit payment to WS for charges incurred.

"Exclusions" shall mean the conditions and occurrences as set forth hereafter that protect and relieve WS from all liability and responsibility for loss and damage related to freight including, but not limited to, the matters described in Section 4 below.

"Freight," "freight," "goods" or "Goods" shall mean items in whole or in part (in packed or unpacked state) that are tendered to WS for transportation and warehousing related services, and subject to the terms and conditions, rules and limitations set forth herein or otherwise provided in writing to Concerned Parties.

“Insurance” or “insurance” shall mean a premium that is charged to a Customer that is based on the value of freight declared by that Customer (the “declared value”) and subject to all the limitations and exclusions set forth hereafter.

“NVD” or “no value declared” shall mean when a Shipper consigns freight for carriage by WS and does not declare a value on the freight thus limiting WS liability to its minimum liability set forth in Section 3.

“on File” shall mean a statement on the face of a BOL that refers to information being kept in WS written records specifically listed on the face of BOL.

“PBS/PBO” shall mean packed by Shipper and packed by Owner, the contents and conditions of which are unknown to WS.

“Reasonable” or “reasonable” shall mean accepted as rational, normal and common when compared to standard practices and procedures in the shipping industry.

“Shipper” or “shipper” shall mean the persons or parties who consign freight to WS for transportation, packing, warehouse services and related services.

“Terms of Trading” or “Term” shall mean terms and conditions set forth herein or in any written document provided by WS and made a part of the contractual relationship between WS and a Customer or Shipper.

## 2. Customer Obligations

- A. Customers and their agents must read and understand the Terms and the BOL. WS are not responsible for explaining all Terms verbally.
- B. All Terms are binding once Shipper, its employee or an agent working on their behalf, sign on the front of these Terms or the BOL. In the event that the Shipper and/or its employees are acting as agents for the Customer, it is the Shipper’s responsibility to notify the Customer all terms as set forth in the Terms or BOL.
- C. If WS is to receive freight that is PBS/PBO, it is the Shipper’s responsibility to adequately pack and protect the goods to ensure safe transportation. The Shipper is also obligated to properly label each item in order to prevent delay or errant dispatch.
- D. Shipper and Customer are obliged to provide accurate Consignee information and documentation in order to prevent delay or errant dispatch. Furthermore, Shipper and Customer are jointly and severally responsible to notify Consignee of impending arrival of freight and secure the approval for the carrier’s delivery.

- E. Shipper or Customer shall be liable to WS for failure to meet the foregoing obligations, which may include, but not be limited to, additional charges set forth in Section 9.

3. Limits of Liability

- A. The maximum liability of WS for loss or damage by any cause, including wrongful act or omission, is limited to 35 cents per pound as determined by the actual weight of the unwrapped goods. In shipments of multiple items, the 35 cents per pound maximum liability shall apply to each item separately. To determine WS maximum liability on shipments released on 35 cents per pound for items being made subject to a claim when WS is not in physical possession of the freight, the dimensional weight shall apply as determined with a cubic factor 194 cubic inches per one pound. Should any claim in amount in excess of the foregoing limits of liability be asserted against WS by a third party for loss or damage to freight handled by WS, each of the Shipper, the Consignee and Customer agrees to jointly and severally indemnify and hold WS harmless in whole (without diminution by reason of WS contribution thereto) from and against any claim. This provision shall be in full force irrespective of the cause of damage, including WS negligence or wrongful act.
- B. WS shall not be liable for loss or damage due to lack of or insufficient detailed and specific Customer or Shipper instructions in handling and/or placement of goods. The provisions of these Terms or the BOL shall also extend to items damaged inside a Customer's, the Shipper's or Consignee's premises or place of business.
- C. WS shall not be responsible for and shall be exempt from liability for physical damage to freight or loss of any kind, direct or indirect, incidental, consequential, exemplary or special, caused by delay or failure of delivery, when conditions beyond WS control are encountered during transportation and performance of services (collectively referred to herein as "Force Majeure"). Some Force Majeure conditions, among others, are listed below;
- Extreme Weather conditions (including fire, flood, earthquake, storm, hurricane or other natural disaster) / changes in temperature and acts of god.
  - Breakdown or mechanical defect of vehicles and/or equipment.
  - Faulty or impassable highway; lack of capacity of road structures – highway obstruction or closure due to official action, natural disaster or any other cause outside the control of WS.
  - Civil disobedience, riots, illegal or unlawful actions.
  - War, invasion, act of foreign enemies, hostilities (regardless of whether war is declared), civil war, rebellion, revolution, insurrection, military or

usurped power or confiscation, terrorist activities, nationalization, government sanction, blockage, or embargo.

- Labor dispute, strike or lockout.
- Performance failures of parties outside the control of WS including, but not limited to, disruptions in electrical, telephone or internet service, or common carriers.

Loss caused by delay as stated above is hereby understood to also define, include and apply to loss of revenue, interest, market and/or utility. In the event of a Force Majeure, WS is not bound to transport goods by any particular means, schedule, vehicle, or otherwise other than by reasonable dispatch.

- D. WS will not be responsible for any loss or damage and is released from all liability for Freight when directed to accept and load or deliver and unload at locations where and when the Shipper, Consignee, Customer or their agents are not physically present.
- E. WS is only required to effect inside delivery; WS is not required to or be responsible for unwrapping or unpacking freight unless such actions are specified and ordered in advance and in writing. The term “inside delivery” is hereby defined as delivery taking place inside Consignee’s or Customer’s location or structure at or near a common point of entry and within a reasonably accessible area.
- F. Claims regarding loss or damage of any kind must be made in writing and within seven (7) days of the delivery date of the shipment. WS reserves the right to inspect all items and wrapping materials that are being made subject to a claim. As a condition precedent for a claim, the Consignee or Customer must retain the goods in the original container(s) and/or materials and to makes such goods and materials available for WS or WS’s insurance company for inspection upon WS or WS’s insurance company’s demand. Claims not reported within seven (7) days of the delivery date shall be conclusively deemed waived or abandoned. Claims are also subject to Section 9 herein.

#### 4. Exclusions

- A. WS Shall not be liable to Shippers, Customers or Consignees, and Shippers, Customers and Consignees hereby release WS from all and any liability and responsibility for physical damage, loss or loss due to delay for items of Freight listed below;
- Items improperly or inadequately packed or mislabeled from the Shipper.
  - Items containing internal damage or concealed breakage. Glass and ceramic items with existing cracks or other damage. Items of inherent vice or weakness due to poor craftsmanship in fabrication, wear or tear. Items containing internal mechanisms or instrumentation.
  - Items with waxen, resinous, or viscous surface area (whether they are in wet, semi-dry or hardened state), Uncured and/or not thoroughly dry

paintings and/or unset varnish to furniture. Items with directional orientation to which the Shipper does not affix descriptive arrow markers and directional guidance in advance. Items shipped unwrapped at the stated request of the Shipper. Damaged or excessively worn Antique items in disrepair, items exhibiting prior repair or breakage, in relation to subjective terms as used above (“improperly,” “inadequately packed” “mislabeled,” “inherent vice,” “weakness” or “excessively worn,” etc.) it is understood and agreed that WS shall have the sole and exclusive right to define and interpret such terms provided such definitions are reasonable and commonly acceptable in WS’s industry and as applied to against common and previous occurrences in the normal course of packing and shipping.

- Any claim for damage where such damage recurred in a place where prior damage existed, or where such prior damage was previously repaired or restored.
- Any claim for damage as a result of spoilage, contamination, freezing, rusting, extremes of temperature or air pressure, shrinkage, evaporation, changes in appearance or texture.
- Any damage caused by hazardous material or “dangerous goods” defined below.

- B. WS will not transport currency, specie, precious stones, jewelry, or negotiable documents at any time. In the event that WS shall transport such items without WS knowledge and consent. WS shall have no liability whatsoever for or in connection with such goods.
- C. WS will not transport any perishable, medical, biological, genetic, pathogenic or infectious substance; any diagnostic specimens or cultures; any plants, plant pests, insects, live animals; dry ice, alcohol, or environmental pollutants; or any goods requiring a permit from the US Food and Drug Administration, the US Department of Agriculture, or the Centers for Disease Control and Prevention.
- D. The following types of freight will not be transported by WS under any circumstances and are collectively referred to as “dangerous goods”
- Contraband or illegal substances; firearms or ammunition.
  - Explosive, chemical, noxious or dangerous goods
  - Livestock, plants, biological or hazardous goods.

The act of consigning items of these types to WS which are disguised by the Shipper, acting with or without knowledge of the Customer, shall entitle WS to recover any and all costs and expenses for fines, penalties, legal fees or other damage to WS, its equipment and/or personal injury and compensation to WS employee’s. The Customer also shall be liable for and indemnify and hold harmless WS from and against all loss or damage to other property or persons caused by said dangerous goods. WS is at liberty and is authorized to stop

shipment upon discovery that a shipment contains, in whole or part, any good that violate WS's shipping policies, and to dispose of such goods and any items consigned with or associated with said goods at any time and place deemed appropriate by WS with disposal charges billable to the Customer, who shall promptly pay the same.

5. Insurance

- A. WS does not automatically provide carriage insurance. Insurance may be purchased at a premium on the value of the goods in transit or in store and added to the cost of WS services. There is a \$1,000.00 deductible chargeable to the claimant on all insured shipments. Values must appear on the face of the applicable BOL and may only be entered by authorized employees of WS. Declared values may not be altered once freight has been received for transport unless WS issues written consent for such alterations.
- B. WS reserves the right to inspect all air freight under consideration for insured transit and determine in WS's sole and absolute discretion whether additional wrapping and packing may be necessary or desirable. WS employees shall be at liberty and have the right to effect additional wrapping and packing on such items, even in the event that such services were not originally requested. Additional charges incurred for or associated with such additional wrapping and packing will be the responsibility of and paid for by the Customer. Notwithstanding the foregoing, WS shall not be required to inspect, determine the need for, or be obligated to provide additional wrapping or packing and shall have no liability for failure to do so. All the limitations of liability in Section 3 and the exclusions in Section 4 of the Terms or any other limitations set forth in the Terms or the BOL shall apply and remain in force.
- C. Insurance only covers freight and does not cover value of packing containers or shipping charges. WS shall not be responsible for substantiating the values of goods in transit nor is WS responsible to provide proof of origin or authenticate in any such ways goods in transit regardless of the description listed on the face of the applicable BOL. Insurance coverage will be voided if Customers over value the goods or otherwise insure goods in transit or store in excess of their fair market values. The responsibility for providing documented proof of value in a claim shall rest with the customer. By failing to provide such proof, the Customer hereby releases WS's insurance company to adjust claims to fair market value as determined by WS's insurance company in its sole and absolute discretion.
- D. Groups or multiple items of freight consigned for insured transport to which the Customer assigns only one total insurance value for all items shall be insured by WS for total loss of the entire lot only. Loss to any individual items will not be covered under this type of insurance and will be at the sole risk of the Customer. This limitation shall apply whether or not WS effects any packing to the freight.

- E. WS reserves the right to decline to provide insurance coverage based on WS inspection of freight for any reason that WS, in its sole and absolute discretion, shall determine. Any item that is deemed not to be covered by WS's Insurance Policy will not be extended coverage. WS may in its sole and absolute discretion deny coverage to items made subject to all risks insurance claims in the event Customer declines or refuses to have such items unwrapped at time of carrier's delivery.
- F. All Risks Insurance is only provided after written request has been received by WS and confirmed by WS in writing in return prior to all work commencing.

6. Bill of Lading

- A. Only WS authorized employees may alter the face of WS BOLs. In the event that any Shipper or Consignee alters a WS BOL by making written additions or omissions, without the written permission of WS, such written additional or omissions shall not have legal force and effect and WS shall be released and discharged from providing or completing services related to those additions or omissions. All permissions, terms and conditions contained in the Terms and the BOL are binding and cannot be modified, altered or waived by any person including WS employees, other than an executive officer of WS.
- B. WS retains the right to prepare other BOLs and addenda as necessary to sufficiently describe freight in transit or store. Should the Customer by request or actions, cause WS to exchange an issued BOL for another BOL, the Shipper shall transfer all conditions, instructions and/or values from the original BOL onto any subsequent BOL bearing the same reference number.
- C. If in the sole judgment or opinion of WS it becomes necessary or desirable at any stage to depart from Customer's instructions in relation to freight transit, then WS shall be at liberty to do so without liability therefore. WS is also at liberty, but is not obligated, to execute, any new BOL information or instructions as WS, in its sole and absolute discretion, shall deem necessary in the interest of safe handling of the freight. Customer shall be responsible for any reasonable additional shipping charges incurred if WS executes new BOL information or instructions, as WS deems necessary, in its sole and absolute discretion, for the safe handling of the freight.

7. Use of Other Carriers

- A. In the event that freight cannot be delivered to its destination, WS may engage other carriers at WS sole and absolute discretion. Should another carrier become Consignee, the liability of WS to all Concerned Parties hereunder shall terminate effective as of the time of the Consignee's receipt and signature. It is understood that WS receipt of other carrier's BOL or receipt ticket constitutes an agreement between WS and its Customer to release to release freight to that other carrier and

for said freight to be then governed by said other carriers terms and conditions as set forth on other carrier's BOL or receipt ticket. WS shall not be liable to review other carrier's terms and conditions in full and WS, its agents, servants and employee's shall be released and discharged from all liability to Customer, Shipper, Consignee or any third parties (including the other carrier) under the Terms and the applicable BOL.

- B. Customers who order WS services in advance that are pre-arranged to invoice WS plus other carriers understand that they are also bound by the terms of Section 7A of the Terms.

8. Incomplete Bills of Lading

- A. In the event that freight remains unclaimed or undelivered after 90 days due to failure or refusal of Consignee to receive, or due to inability of WS to contact Concerned Parties after reasonable efforts, then said freight will be placed at the disposal of WS for Lien or sale in order to recoup transit and warehouse related charges, and normal and reasonable storage fees and costs of disposal or sale. Prior to such disposal or sale WS will notify all Concerned Parties in the shipment by US mail, sent to Consignee's last known address and will enclose a complete inventory and written terms of said disposal or sale.
- B. Should a Customer or Concerned Party to a shipment re-direct freight outside of WS route area in mid transit or otherwise render freight undeliverable, WS shall retain the right to create new BOLs direct freight via WS or outside carriers as set forth above. WS retains the right to deliver freight to a warehouse selected by WS at the destination city or at an intermediate point, with charges for such warehousing payable by the Customer. All additional charges incurred by such actions shall be the responsibility of the Customer unless WS receives and approves written instructions prior to delivery.
- C. Shippers and Consignees agree to be available to WS for pick up and delivery during regular business hours or to arrange other reasonable appointment times with WS directly. WS reserves the right to assess additional charges pertaining to BOLs in which parties fail to arrange adequately complete shipment by means of delay, impediment, omission of information and/or unwillingness to schedule.

9. Rate Application and Payment Terms

- A. Estimates and quotations are issued on the basis of immediate acceptance. WS maintains and reserves the right to withdraw and revise any estimate or quotation at any time without prior notice, whether issued verbally or in writing should any change occur with regard to the rate of freight, insurance premium, or any other charges that are applicable to the goods. Any estimate or quotation given by WS shall be deemed null and void if superseded by a revised estimate or quotation, or if WS determines that the facts upon which such estimate or quotation was based

were not true and correct at the time of shipment. Rate adjustments may be based on any factor affecting the shipment including, but not limited to, the following:

- Additional volume in the form of larger or heavier freight or more items than disclosed at time of estimate.
- Increased distance of shipment.
- Additional pick ups, deliveries, packing or unpacking services and materials.
- Delays due to lack of preparation, waiting time, poor access and/or non availability of freight.
- Delays due to errors or omissions made by the Customer or Concerned Parties.
- Any other fact or circumstance, not previously disclosed to WS, that may affect WS's shipping services.

- B. Payment terms are net receipt upon presentation of invoice unless otherwise noted on the face of the applicable BOL. Invoices that are past due more than 30 days are subject to a 1.5% per month service charge, not to exceed the highest rate allowed by law. WS reserves for collection procedures on delinquent accounts including, but not limited to, costs for administration, communication, legal procedures including reasonable attorneys fees, and as well as statutory interest on unpaid amounts. It is further understood that Customer, Shipper, Consignee and Owner of freight shall remain jointly and severally liable for such charges until payment in full has been made to WS. No claims for loss and or damage will be entertained until all of WS charges have been paid in full. The amount of the claim may not be deducted from the total due and payable charges.
- C. Storage accounts are payable only by credit card, acceptable to WS, or by direct deposit arranged to be credited to WS accounts in cleared funds not later than the 5<sup>th</sup> of every month.
- D. If the Customer has submitted a credit card, acceptable by WS, to secure credit facilities with WS, in acceptance of the terms by of service by WS on behalf of Customer or Consignee, Customer agrees that WS can debit the credit card to receive and recoup charges for unpaid bills in excess of 90 days. Failure to recoup payment and expenses via credit card will result in actions by WS described in Section 9F below, including all other legal rights and remedies that may be asserted by WS in its sole and absolute discretion.
- E. Storage accounts are billed on a month by month basis one month in advance. WS requires 90 days written notice prior to releasing/delivering storage items and all accounts must be paid to date including any future services rendered related to the storage account. All payments must be in cleared funds prior to releasing/delivering stored freight.
- F. WS is hereby granted a security interest and lien upon all freight for any unpaid charges. Unpaid bills, including storage bills, older than 90 days will result in WS

having the right to lien and/or sell the subject freight in order to recoup payment of all amounts owed. Prior to such disposal or sale WS will notify all Concerned Parties in the shipment by US mail, sent to Consignee's last known address and will enclose a complete inventory and written terms of said disposal or sale. The sale of freight for payment of overdue amounts shall not relieve Customer of any deficiency if such sale does not result in sufficient proceeds, net of the sales costs, to fully pay all amounts owed WS. Nothing herein shall be deemed a limitation on the legal and equitable rights and remedies that may be asserted by WS.

10. Governing Law. Notwithstanding anything to the contrary set forth in a Bill of Lading or other contract for freight services, the Terms of Trading, Bill of Lading or other contract for freight services between WS, Customer and all Concerned Parties (collectively, the "Term of Trading Parties") shall be governed by and construed in accordance with the laws of the State of New Jersey.
11. Jurisdiction. The Terms of Trading Parties each hereby irrevocably submit to the jurisdiction of any New Jersey State or United States Federal Court sitting in New Jersey over any action or proceeding arising out of or relating to the Terms of Trading, Bill of Lading or other contract for freight services, and the Terms of Trading Parties each hereby irrevocably agree that all claims in respect of any such action or proceeding may be heard and determined in such New Jersey State or Federal Court. The Terms of Trading Parties each irrevocably consent to the service of any and all process in any such action or proceeding by the mailing of copies of such process to the address specified in the Bill of Lading or other contract for freight services. The Terms of Trading Parties each agree that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. The Terms of Trading Parties each further waive any objection to venue in such state and any objection to an action or proceeding in such state on the basis of forum non conveniens.