

PROPERTY BROKER TERMS AND CONDITIONS – CARRIERS

1. **Agreement.** These terms and conditions (“Ts&Cs”) govern every engagement of a motor carrier (“Carrier”) by VCNA Prairie LLC d/b/a Rogers Logistics (“Rogers Logistics”) acting in its capacity as an authorized property broker and, together with any purchase order, rate confirmation, load tender or other documentation (collectively, a “Tender Document”) issued by Rogers Logistics, and any other document specifically referenced herein, form an agreement between Rogers Logistics and Carrier to provide the Transportation Services, as defined below (collectively, the “Agreement”). Any proposal or attempt to vary the terms of this Agreement is expressly rejected by Rogers Logistics, unless signed by an authorized representative. Carrier's signature on any part of the Agreement, acceptance of a Tender Document, commencement of Transportation Services or acceptance of payment, each constitute Carrier's acknowledgement that it accepted and is bound by the Agreement.
2. **Services.** Rogers Logistics, acting solely in its capacity as an authorized property broker, will receive requests from its customers (“Customers”) to arrange for the transportation of shipments. Rogers Logistics will tender shipments of cargo (each, a “Shipment”) to Carrier for transportation on an as-needed as-requested basis pursuant to the terms of this Agreement. Rogers Logistics is not a motor carrier and does not take possession of cargo or otherwise perform the transportation. Carrier will pickup, transport and deliver the cargo from origin to final destination, all as requested by Customers and specified by Rogers Logistics, including all services necessary to effectuate the same (the “Transportation Services”). Rogers Logistics does not undertake any obligations, responsibilities or liabilities commonly associated with those of motor carriers, including but not limited to: hiring, training or otherwise managing of drivers; maintaining or repairing vehicles or related equipment; physically transporting any cargo; loading or unloading cargo; determining the haul routes; complying with regulations applicable to motor carriers; or carrying insurance typical of or required with respect to motor carriers. All such obligations, responsibilities and liabilities shall remain exclusively with Carrier as part of the Transportation Services.
3. **Rates and Payment Terms.** The agreed-upon rate (the “Rate”) for each Shipment, which may be on a lump sum, tonnage, per unit or per mileage basis, shall be as set forth in the Tender Document, or as otherwise agreed in writing by Rogers Logistics’ authorized representative prior to pickup. The Rate includes all charges, surcharges, expenses, materials, labor, storage, equipment, travel, third-party services, fuel, minimum tonnage, waiting time, government levies or any other costs (“Incidental Costs”). No Incidental Costs of any kind may be assessed against Rogers Logistics without prior written consent of its authorized representative. In the event Carrier believes that due to any unforeseeable occurrence it is entitled to any additional charges with respect to any Shipment, Carrier must immediately provide written notice to Rogers Logistics, which must be received prior to delivery of the Shipment, detailing the occurrence and the type and amount of cost involved (“Cost Notice”). Carrier’s failure to timely deliver a proper Cost Notice to Rogers Logistics results in waiver of those costs. Rogers Logistics is not obligated to accept any costs described in any Cost Notice. Carrier's timesheets, which must be received by Rogers Logistics within 30 days of delivery, will accurately detail the Transportation Services performed, include Shipping Documents (including Customer’s or its designated consignee or recipient’s signature on delivery receipts), and specify the applicable Rate. Rogers Logistics will pay undisputed amounts within 45 days of receipt of the required documentation and any other information reasonably requested. Rogers Logistics may withhold or set off claims for loss, damage, delay, overcharge, duplicate payment, or for any other reason Carrier owes a payment obligation to Rogers Logistics, against any monies owed to Carrier.
4. **Shipping Documents.** This Agreement shall control over any contradictory terms in any bills of lading, Carrier rate confirmations, delivery receipts or similar documentation (collectively, “Shipping Documents”). Customer provided information will be utilized for Carrier’s preparation and issuance of the bill of lading. Placement of Rogers Logistics' name on a bill of lading shall not alter Rogers Logistics' status as a broker or impute any shipper, carrier or consignee responsibilities or liabilities to Rogers Logistics. Carrier’s terms and conditions, including in any bill of lading, have no binding effect on Rogers Logistics. Except to the extent prohibited by applicable laws, Carrier expressly waives all of its rights and remedies under Title 49 U.S.C., Subtitle IV, Part B, as applicable, to the extent those conflict or are inconsistent with this Agreement.
5. **Carrier General Responsibilities and Performance Standards.** Carrier shall perform all Transportation Services with reasonable dispatch, in a professional and workmanlike manner, and in full accordance with the terms of this Agreement and all applicable laws and regulations. Carrier shall provide all personnel, vehicles and equipment necessary to timely, suitably, legally and safely perform the Transportation Services. Carrier shall at all times have exclusive control over all such personnel, vehicles and equipment, as well as all in-transit aspects of each Shipment (including, without limitation, route, speed, weight, securement, documentation and hours of operation). Carrier shall obtain receipts for all cargo so transported and delivered, evidencing proper delivery (through consignee signature) in the same condition, order and volume as the cargo was received at the point of origin. Carrier shall meet scheduled pickup and delivery times. In the event Carrier fails to fulfill any of its commitments to Rogers Logistics with respect to a Shipment, Carrier will have 24 hours from notification by Rogers Logistics to remedy its failure or, without limiting Rogers Logistics’ other remedies under this Agreement or available at law or in equity, Carrier will not be entitled to any compensation with respect to the Shipment and will be liable to Rogers Logistics for the additional cost of alternative transportation, as well as any other costs relating to the failure.
6. **Carrier Representations:** Carrier represents and warrants that:
 - a. it is duly authorized and licensed by the Federal Motor Carrier Safety Administration (“FMCSA”) and all other applicable federal, state and local authorities to operate as a motor carrier and to perform the Transportation Services;
 - b. it, all of its drivers, and any Subcontractors and all of their drivers, used in performing Transportation Services will have all legally and regulatorily required qualifications and licenses;
 - c. it will not use an unqualified, unlicensed or disqualified Subcontractor or driver for any Transportation Services;
 - d. it and its Subcontractors and their drivers, employees and agents, will comply with all applicable laws, including without limitation, FMCSA rules and regulations applicable to motor carriers and drivers and environmental laws, at all times;

- e. it and its Subcontractors will maintain a Satisfactory safety rating with FMCSA (or, if unrated, shall meet all safety requirements as if it were rated Satisfactory); and
- f. its and its Subcontractors' drivers and other employees performing the Transportation Services are members of, and employed pursuant to, a collective bargaining agreement with the International Brotherhood of Teamsters or another applicable labor union, and that Carrier and its Subcontractor will maintain such unionized status at all times hereunder.

Upon reasonable request, Carrier will furnish to Rogers Logistics proof of any certification, license or authority required by any applicable law or regulation. Carrier shall not accept any Shipment and instead immediately notify Rogers Logistics of any change in its operating authority, safety rating or insurance status rendering it noncompliant with this Agreement.

- 7. **Subcontracting.** Carrier shall not broker, re-broker, subcontract or assign any Shipment or any portion of the Transportation Services to any other party without the prior written consent of Rogers Logistics' authorized representative. If Rogers Logistics so consents, all third-parties engaged or arranged by Carrier to perform any portion of the Transportation Services (each, a "Subcontractor") shall be reasonably acceptable to Rogers Logistics, properly trained and qualified to perform the required Transportation Services and abide by this Agreement. Brokering, subcontracting or assigning shall not relieve Carrier of any of its obligations under this Agreement, and Carrier shall be fully responsible to Rogers Logistics for all acts and omissions of its Subcontractors and their employees, subcontractors, agents, representatives and any other person for which they are legally responsible. Carrier shall obtain the written agreement of any Subcontractor to comply with the terms and conditions of this Agreement and to look exclusively to Carrier for payment. Rogers Logistics has no obligation to pay anything to any Subcontractor or any persons employed or contracted by them.
- 8. **Insurance Requirements.** At all times during the Term of this Agreement and while performing Transportation Services, Carrier shall maintain, and shall ensure that each Subcontractor maintains, at Carrier's or such Subcontractor's sole cost and expense, insurance coverage with limits no less than: (a) Commercial General Liability Insurance, written on an occurrence form, with limits of not less than \$1,000,000 per occurrence, \$2,000,000 general aggregate, and \$2,000,000 products/completed operations aggregate, including coverage for bodily injury, property damage, personal and advertising injury, and contractual liability covering this Agreement; (b) Workers' Compensation Insurance providing statutory benefits as required by applicable law, together with Employer's Liability Insurance with limits of not less than \$500,000 each accident, \$500,000 disease – each employee, and \$500,000 disease – policy limit; (c) Automobile Liability Insurance covering all owned, non-owned, and hired vehicles, with a combined single limit of not less than \$1,000,000 per accident for bodily injury and property damage; (d) Umbrella or Excess Liability Insurance with limits of not less than \$1,000,000 per occurrence and \$1,000,000 aggregate, excess of the Commercial General Liability and Automobile Liability coverages; and (e) Motor Truck Cargo Legal Liability Insurance with limits of not less than \$10,000 per occurrence. Carrier shall furnish Rogers Logistics with certificates of insurance evidencing the foregoing coverages, naming Rogers Logistics, its affiliates, and their respective officers, employees, and agents as additional insureds on the Commercial General Liability, Automobile Liability, and Umbrella/Excess Liability policies (excluding Workers' Compensation). Carrier shall provide at least 30 days' prior written notice of cancellation or material modification of any required policy. Rogers Logistics may withhold payment due under this Agreement until Carrier provides satisfactory evidence of insurance compliance.
- 9. **Cargo Loss, Damage or Delay.**
 - a. In the event of a loss, damage, shortage, theft or delay to cargo (collectively, "Cargo Loss") while in Carrier's or its Subcontractor's care, custody or control, Carrier shall be liable for Cargo Loss in accordance with the Carmack Amendment, 49 U.S.C. §14706. In the case of a Subcontractor, the Subcontractor shall be jointly and severally liable with Carrier. The claims process will be governed by 49 CFR Part 370. Carrier shall allow all claims to be presented at least up to 9 months from the delivery date or scheduled delivery date (if lost).
 - b. Carrier shall immediately advise Rogers Logistics of all instances of Cargo Loss, and Carrier shall follow all of Rogers Logistics' instructions with respect thereto. Carrier must fully cooperate with Rogers Logistics and provide all information necessary to investigate and resolve any Cargo Loss claims.
 - c. Carrier will be liable for the cargo's actual value, including the freight and other charges, and no limitation of liability will apply with respect to Carrier's liability for Cargo Loss, unless a lower limit is expressly agreed to in writing by Rogers Logistics' authorized representative. Notwithstanding the foregoing, Carrier's liability for Cargo Loss shall, at a minimum, be the greater of (i) the cargo's actual value, including the freight and other charges, or (ii) \$2,500 per Shipment.
 - d. Except to the extent prohibited by applicable laws, Rogers Logistics shall not be liable for any Cargo Loss except and only to the extent caused by Rogers Logistics' gross negligence or willful misconduct, subject to the limitations of liability per Section 10.
- 10. **Limitation of Rogers Logistics' Liability.** EXCEPT TO THE EXTENT PROHIBITED BY APPLICABLE LAWS: (A) ROGERS LOGISTICS SHALL NOT BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT, PUNITIVE, LIQUIDATED, PENAL, CONSEQUENTIAL OR SIMILAR TYPE OF DAMAGES, INCLUDING BUT NOT LIMITED TO, LOSS OF PROFITS, REVENUE, BUSINESS OPPORTUNITY OR GOODWILL, OR BUSINESS INTERRUPTION, REGARDLESS OF WHETHER THE POTENTIAL FOR THE ALLEGED LIABILITY, LOSS OR DAMAGE WAS KNOWN TO ROGERS LOGISTICS OR FORESEEABLE, OR WHETHER THE ALLEGED LIABILITY, LOSS OR DAMAGE ARISES IN CONTRACT, TORT OR OTHER LEGAL THEORY; AND (B) UNDER NO CIRCUMSTANCES SHALL ROGERS LOGISTICS' LIABILITY FOR ANY MATTER ARISING FROM OR RELATING TO THIS AGREEMENT OR THE TRANSPORTATION SERVICES PROVIDED HEREUNDER, REGARDLESS OF THE CAUSE OF ACTION OR LEGAL THEORY, EXCEED THE LESSER OF (i) THE ACTUAL, DIRECT DAMAGE INCURRED BY CARRIER TO THE EXTENT CAUSED BY ROGERS LOGISTICS OR (ii) THE AGREED-UPON RATE FOR THE SPECIFIC SHIPMENT OR TRANSPORTATION SERVICE AT ISSUE. THESE LIMITATIONS SHALL APPLY EVEN IF CARRIER'S REMEDIES HEREUNDER FAIL OF THEIR ESSENTIAL PURPOSE. CARRIER ACKNOWLEDGES THAT ALL

OF THE LIABILITY LIMITATIONS SET FORTH HEREIN ARE NECESSARY FOR ROGERS LOGISTICS TO PROVIDE COMPETITIVE RATES AND THEREFORE, ARE MATERIAL TERMS OF THIS AGREEMENT, WITHOUT WHICH ROGERS LOGISTICS WOULD NOT ENGAGE CARRIER.

- 11. Indemnification by Carrier.** Except to the extent prohibited by applicable law, Carrier shall indemnify, defend and hold harmless Rogers Logistics, its affiliates, and their respective owners, officers, employees, agents, representatives, insurers, successors and assigns, from and against any and all claims, causes of action, liabilities, losses, costs, taxes, penalties, and expenses, including legal fees, to the extent caused by Carrier's (including its Subcontractors, and any of their employees and agents') breach of this Agreement, violation of applicable laws, or negligent acts or omissions or willful misconduct in relation to this Agreement, the Transportation Services or any cargo.
- 12. Hazardous Materials and Prohibited Cargo.** Carrier shall not accept for Transportation Services any hazardous materials, dangerous goods or other cargo prohibited by law or by Rogers Logistics without the prior written consent of Rogers Logistics' authorized representative. If Carrier is authorized to transport hazardous materials, Carrier represents and warrants that it holds all required hazardous materials endorsements and complies with all applicable hazardous materials transportation regulations.
- 13. Force Majeure.** Either Party may delay performance occasioned by events beyond its control when such delay is caused by force majeure events such as (a) acts of God or the public enemy, fire, explosion, perils of the sea, flood, drought, epidemics, pandemics, acts of war or terrorism, labor disputes, strike, lockouts, work stoppages, riot, protest, sabotage, vandalism, civil commotion, accident, breakdown or other casualty; (b) compliance with any order, action, direction or request of any government authority; or (c) any like circumstances that are beyond the reasonable control of the delayed Party; provided that the delayed Party shall use due diligence to remedy the delay and the other Party shall not be liable for any resulting costs.
- 14. Independent Contractor Relationship.** The Parties are and shall at all times remain independent contractors and are not and shall not represent themselves to be the employee, agent, joint venturer or partner of the other. Carrier does not have any authority to bind Rogers Logistics to any agreement, obligation or liability. Under no circumstances shall any employees, independent contractors or agents of Carrier or its Subcontractors be considered or deemed to be employees, independent contractors or agents of Rogers Logistics. Carrier agrees to, at its sole cost, expense and liability, comply with all applicable federal, state and local laws, regulations and other requirements or obligations regarding its employees, independent contractors and agents, including, but not limited to, the payment of wages, taxation of wages, payment and provision of employee benefits, including any union benefits, unemployment compensation, workers' compensation and disability.
- 15. Non-Exclusive / No Minimum.** This Agreement is non-exclusive, meaning Rogers Logistics makes no guarantees regarding the number of Shipments it will tender to Carrier, and Rogers Logistics may use other carriers or transportation providers without restriction.
- 16. Confidentiality.** Carrier shall keep confidential and shall not disclose to any third party any information relating to Rogers Logistics' or its Customers' business, including without limitation, rates, pricing, shipping volumes, Customer identities and business practices, except as required by applicable law or as necessary to perform the Transportation Services.
- 17. Disclaimer of Warranties.** EXCEPT AS PROHIBITED BY APPLICABLE LAWS, ROGERS LOGISTICS MAKES NO REPRESENTATIONS, GUARANTEES OR WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. ALL ACTIONS, DOCUMENTATION OR INFORMATION PROVIDED BY ROGERS LOGISTICS ARE PROVIDED "AS IS" AND ANY RELIANCE THEREON IS AT CARRIER'S RISK.
- 18. Choice of Law and Forum Selection.** This Agreement shall be construed and enforced in accordance with the laws of the State of Illinois, without regard for its choice of law or conflict of law principles. In the event of any claim, dispute or litigation arising out of or relating to this Agreement, those shall be brought exclusively in a state or federal court having jurisdiction over Winnebago County, Illinois or Cook County, Illinois, and the Parties consent to jurisdiction in such fora for the same. THE PARTIES EXPRESSLY WAIVE THEIR RIGHT TO A TRIAL BY JURY.
- 19. Miscellaneous.** Failure by Rogers Logistics to exercise any of its rights hereunder shall not operate as a waiver of such rights. This Agreement, together with the applicable Tender Document, supersedes all other agreements, written or oral, regarding the subject matter of this Agreement, and no prior or subsequent understanding, agreement, term, condition, promise, assurance or trade custom that conflicts with or is supplementary to this Agreement is binding. Any oral statements made by or information or assistance provided by Rogers Logistics is given without warranty or guarantee and accepted at Carrier's risk. This Agreement is not assignable by Carrier. Carrier has read and agrees to abide by Rogers Logistics' Anti-Corruption Commitments for Contractors, Anti-Corruption Policy and Supplier Code of Conduct, each of which is available upon request and may be found at <http://salestermsandconditions.vcnainc.com/>. Rogers Logistics reserves the right to change these Ts&Cs by providing written notice to Carrier or without notice by posting the updated Ts&Cs to its website, which changes shall take effect as to Carrier following 30 days. Any other amendments to this Agreement require the Parties' signed written agreement. Provisions of this Agreement which by their nature should apply beyond their terms, including without limitation, sections 5 through 6, 9 through 11, and 14 through 19, will remain in force after any termination or expiration of this Agreement. In the event any portion of this Agreement is determined by a court of competent jurisdiction to be unlawful, invalid or unenforceable, the Parties agree that such portion shall be severable and the remainder of the Agreement shall continue in full force and effect to the maximum extent permissible so as to effectuate the Parties' intent.