1. These Freight Services Terms and Conditions (hereafter “Terms and Conditions”) govern the provision of all services by Commerce Express Inc.

2. By tendering freight to Commerce Express Inc, You (“You” or “Shipper”) agree to be bound by these Terms and Conditions.

3. Commerce Express Inc, is in the business of arranging transportation of property by third-party motor carriers and holds authority from the Federal Motor Carrier Safety Administration under Permit Number MC #130816, to engage in operations as a transportation broker of general commodities (except Household Goods) in interstate or foreign commerce.

4. Commerce Express Inc is a Broker. You understand and acknowledge that (1) Commerce Express Inc is not a motor carrier, (2) Commerce Express Inc is a broker which arranges for the transportation of freight by third-party motor carriers and (3) Commerce Express Inc intends to engage and contract with one or more Carriers (as defined below) for purposes of satisfying obligations under these Terms and Condition

5. Commerce Express Inc Arranges for Transportation. Commerce Express Inc agrees to arrange for transportation of your freight (“Goods”) by third-party motor carriers (“Carrier(s)”) in compliance with all federal, state, provincial and local laws and regulations. Commerce Express Inc’s responsibility is limited to arranging for, but not actually performing, transportation of Goods.

6. No Exclusivity. You are not restricted from tendering freight to other brokers, freight forwarders, third-party logistics providers, or directly to motor carriers. Commerce Express Inc is not restricted from arranging transportation of freight for other parties.

Your Responsibilities

7. Compliance with Food Safety Laws. If applicable, You must comply and Commerce Express Inc will contractually require the Carrier to comply, with all applicable laws and regulations governing the safe and secure transportation of food products that will be ultimately consumed by humans or animals, including those required by local, provincial, state and federal laws, regulations, ordinances and rules including, but not limited to, the Food Safety Modernization Act (21 U.S.C. § 2201, et. seq.), the Federal Food, Drug and Cosmetic Act (21 U.S.C. § 341, et seq.), the Sanitary Food Transportation Act (49 U.S.C. 5701, et seq.), the U.S. Food and Drug Administration’s Final Rule on the Sanitary Transportation of Human and Animal Food (21 C.F.R. § 1.900, et seq.), all applicable U.S. Department of Agriculture and Food Safety and Inspection Service regulations, the Safe Food for Canadians Act SC 2012, c 24 and application regulation(s), the Products and Services Sanitary Control Regulations (Reglamento de Control Sanitario de Productos y Servicios) of Mexico and all applicable Mexican regulations and official standards (Normas Oficiales Mexicanas).

8. Shipper Written Instructions.

A. You must provide necessary shipping instructions and properly identify all Goods in the bill of lading or other shipping instructions. You will not tender any restricted commodities including, but not limited to, hazardous materials and waste, oversize or overweight shipments, coiled or rolled products, or commodities requiring protection from heat or cold, without properly identifying such shipments and making necessary prior arrangements for transportation.

B. At the time of booking, and prior to loading the Goods, You must further specify in the booking request and on the face of the bill of lading all instructions to be followed by the Carrier to maintain the safety of the Goods, including, without limitation, all temperature control requirements and temperature control documentation requirements, including an operating temperature for the transportation and, when necessary, the pre-cooling phase, all sanitation requirements and sanitation documentation requirements for the Goods, including those for the Carrier’s vehicle and transportation equipment, any design specifications and cleaning procedures (“Written Instructions”). Commerce Express Inc will assist You in providing any Written Instructions to the Carrier transporting your Goods.

9. Cargo Loading and Securement.

A. You are responsible for ensuring that Goods are properly and safely packaged and loaded. If Carrier is not allowed on the dock during loading, You are responsible for ensuring that Goods are supported, blocked, braced, and secured. If You are loading the Goods into the motor vehicles, You must inspect the vehicle or other transportation equipment provided by the Carrier, to ensure it meets the requirements specified in the Written Instructions and is in an appropriate sanitary condition for transporting the Goods.

B. You must reject any equipment that is not in apparent suitable condition to protect and preserve the Goods during transportation. Vehicles and other transportation equipment used to transport the Goods will be deemed acceptable to You upon loading. Your failure to fulfill the obligations under this section will be considered an act or default of the Shipper, and a defense to any cargo claim resulting from the condition of the trailer.

10. Mitigating Damages. None of the provisions in these Terms and Conditions in any way limits your obligation to mitigate damages, including by salvaging all portions of a shipment for which there is a secondary market.

Commerce Express Inc’s Responsibilities

11. Carrier Contractual Requirements. The Commerce Express Inc company to whom Goods are tendered by You will require by written contract, that each Carrier providing transportation services agree:

A. That it is duly and legally licensed under applicable local, state, provincial and federal law to provide transportation services, that it does not have an unsatisfactory safety rating issued by the United States Department of Transportation or any state authority, or an unsatisfactory or conditional safety rating issued by any provincial authority with jurisdiction over its operations (provided that you understand and agree that reliable and mandatory safety ratings verification mechanisms are not available in all circumstances), and that it will comply with all applicable federal, state, provincial and local laws.

B. That it is performing services pursuant to contract, and

C. That it will obtain a receipt showing the kind and quantity of product delivered to the consignee of each shipment at the destination.

D. that is has valid operating authority as required by local, state, provincial and/or federal laws.

E. that with respect of carriage to be performed in the United States or Canada, it shall prove insurance coverage not less than:

1. $1,000,000 per occurrence for Auto Liability.

2. $100,000 per occurrence for Motor Truck Cargo Liability.

3. Statutory limits for Workers Compensation

12. Receipts And Bills Of Lading. If requested by You, the applicable Commerce Express Inc company agrees to provide You with proof of acceptance and delivery of shipments in the form of a signed bill of lading or proof of delivery via mail, courier, or electronically by fax or email. Your insertion of the name of one of Commerce Express Inc U.S., Commerce Express Inc MX or Commerce Express Inc Canada on the bill of lading will be for your convenience only and will not change its or their status as a property broker. The terms and conditions of any freight documentation used by You or Carrier (including as may be imposed by applicable laws in effect at the place of shipment origin) will not supplement, alter, or modify these Terms and Conditions. With respect to services to, from and within Mexico, You acknowledge and agree that to the extent required by Mexican law, carriers may be required to issue a supplemental bill of lading carta de porte con complemento or other similar documentation (the “Supplemental Bill of Lading”). Commerce Express Inc will make its best efforts to facilitate the proper issuance of the Supplemental Bill of Lading but shall not be responsible for such issuance or the lack thereof, or its accuracy or contents, all of which shall remain the responsibility of carrier and the verification of which proper and timely issuance shall be Your responsibility.

13. Payments. The Commerce Express Inc company to whom you have tendered Goods to for carriage will invoice You for its services in accordance with the rates, charges and provisions set forth herein, and any written supplements or revisions that are mutually agreed to between the Parties in writing. If rates are negotiated between the Parties and not otherwise confirmed in writing, such rates will be considered “written,” and will be binding, upon Commerce Express Inc’s invoice to You and your payment to the applicable Commerce Express Inc company. You agree to pay Commerce Express Inc’s invoice within 30 days of invoice date without deduction or setoff. Payment of the freight charges to Commerce Express Inc will relieve You, the shipper, consignee or other responsible party of any liability to Carrier for non-payment of its freight charges. Commerce Express Inc will indemnify You from and against any claim for freight payment brought by Carrier against You if You have paid the applicable Commerce Express Inc company and Commerce Express Inc has failed to pay Carrier.**oods Shipped from a United States Origin Point.**

14. General Cargo Loss or Damage – U.S. Commerce Express Inc is a broker, not a motor carrier or freight forwarder, and has no liability for loss of or damage to Goods. Subject to Paragraphs 17, 18 and 19, and 21 below, Commerce Express Inc shall require Carrier to assume the liability of a motor carrier (i.e. Carmack Amendment liability) for loss of or damage to the Goods while in transit, subject to a maximum liability of $100,000 per shipment unless otherwise agreed to in writing between the Parties. You must file claims for cargo loss or damage with Commerce Express Inc or Carrier within nine (9) months from the delivery date or, in the event of non-delivery, the scheduled delivery date. You must file any civil action against Carrier in a court of law within 2 years from the date Carrier or Commerce Express Inc provides written notice to You that any part of the claim is disallowed. Upon request, Commerce Express Inc will assist You in the filing and/or processing of claims with Carrier (contact claims@Commerce Express Inclogistics.com). If payment of a claim is made by Commerce Express Inc to You, You automatically assign your right and interest in the claim to Commerce Express Inc. In no event will Commerce Express Inc or Carrier be liable to You or any other party for special, incidental, or consequential damages for any reason whatsoever.

15. Less than Truckload Freight (LTL).

A. Where Commerce Express Inc provides LTL services, the following additional terms and conditions apply and supersede and control over any conflicting provisions of these Terms and Conditions.

B. Tariff Applicability. You acknowledge and agree that LTL shipments will be subject to those Carrier tariff terms applicable based upon the nature of services requested and the Goods tendered including, without limitation, those tariff provisions required to rate shipments or adjudicate Carrier liability for the same.

C. Cargo Claims. If less than a full truckload of Goods is being transported, Carrier liability for loss or damage to Goods shall be subject to the lowest of $100,000 per shipment, $10 per pound times the weight of the Goods lost or damaged, or the lowest liability provided in the National Motor Freight Classification.

**Goods Shipped from a Canadian Origin Point**

16. General Cargo Loss or Damage – Canada. Commerce Express Inc is a broker, not a motor carrier or freight forwarder, and has no liability for loss of or damage to Goods. Subject to Paragraph 19 below, Commerce Express Inc shall require Carrier to assume the liability of a motor carrier in accordance with the prescribed uniform bill of lading or similar deemed terms and conditions in effect in the province of origin, or where be no such legislation, in accordance with applicable common law. Liability for loss of or damage to the Goods while in transit, subject to a maximum liability of $2 per pound. You must file claims for cargo loss or damage with Commerce Express Inc or Carrier within 45 days from the delivery date or, in the event of non-delivery, the scheduled delivery date. You must file any civil action against Carrier in a court of law within 2 years from the date of the shipment of the Goods from the point of origin. Upon written request, Commerce Express Inc will assist You in the filing and/or processing of claims with Carrier (contact claims@CommerceExpress Inc.com). If payment of a claim is made by Commerce Express Inc to You, You automatically assign your right and interest in the claim to Commerce Express Inc. In no event will Commerce Express Inc or Carrier be liable to You or any other party for special, incidental, or consequential damages for any reason whatsoever.
Where Any Portion of Routing for a Shipment is in Mexico

17. General Cargo Loss or Damage – Mexico. Commerce Express Inc is a broker, not a motor carrier or freight forwarder, and has no liability for loss of or damage to Goods. Carrier’s liability for cargo loss and damage is limited to loss or damage occurring within the United States and Canada and Carrier shall not be liable for cargo, loss, damage or delay occurring in Mexico. Loss or damage to Goods being shipped to or from Mexico shall be presumed to have occurred in Mexico absent clear evidence to the contrary. Transportation or billing arrangements made by Commerce Express Inc or Carrier regarding freight transportation within Mexico (including but not limited to arranging for Mexican carriers, quoting through rates, billing and remitting to Mexican carriers, and or issuing through bills of lading (including Supplemental Bills of Lading) for transportation into or out of Mexico) are provided solely as a convenience for You and shall not create or impose any liability upon Broker or Carrier for any loss or damage to cargo in Mexico beyond the sole liability of Carrier (which shall not extend to Broker) under article 66 of the Federal Roads, Bridges and Federal Carrier Act (Ley de Caminos, Puentes y Autotransporte Federal) of Mexico. You and Commerce Express Inc waive any conflicting remedy under 49 USC 14706, but such waiver shall only apply to the extent of any express conflict with the limitation of liability under this paragraph. Further you agree that Your cargo is not insured and You accept that You alone shall be responsible for securing any first party cargo insurance at Your sole cost and expense to protect against loss or damage occurring on movements to or from Mexico. In no event will Commerce Express Inc or Carrier be liable to You or any other party for special, incidental, or consequential damages for any reason whatsoever.

18. CFDI and Complement Bill of Lading. With respect to any shipments travelling in Mexico, You are responsible for the classification of the Goods according to the parameters published by the Mexican Tax Authority. If any change in the classification of the Goods is made or You need to classify additional Goods, You must inform Commerce Express Inc at least 3 days prior to the shipment of those Goods. You acknowledge that any change of route, destination, type of class of Goods, as well as their quantity and/or weight, operator and/or vehicle will require a new Complement Bill of Lading. You must provide the new information to Commerce Express Inc sufficiently in advance of shipment and You shall bear the cost of reissuing any Bill of Lading or Supplemental Bill of Lading. You acknowledge that the Supplemental Bill of Lading and CFDIs will be issued by Carriers based on the information provided by You, and Commerce Express Inc shall not be responsible for the accuracy of such information. Commerce Express Inc will also not be responsible for any delay or any fine, cost, claim, damage or other liability (“Losses”) attributable to You providing incomplete, erroneous or inaccurate information or Your failure to provide such information in a timely manner. You will indemnify, defend, and hold Commerce Express Inc and Carrier harmless from any Losses arising from any failures, delay, error, omission or inaccuracy related to the information provided by You.

19. Intermodal Services.

A. Where Commerce Express Inc provides intermodal services (“Intermodal”), the following additional terms and conditions apply and supersede and control over any conflicting provisions of these Terms and Conditions.

B. Rail Circular Applicability. You acknowledge and agree that: (1) Intermodal Carriers provide transportation services subject to the provisions, restrictions and limitations in their rail circulars, including but not limited to circulars, tariffs, directories, agreements, rules, or other policies governing intermodal transportation or required to rate shipments or adjudicate Carrier liability for the same (“Rail Circular”), (2) the Rail Circulars address, among other matters, standards for loading, weight limits on gross axels, blocking an bracing standards, prohibitions and restrictions on certain types of commodities, limitations of liability, requirements for shipping hazardous materials, procedures and limitations on cargo claims, and requirement or proper descriptions of commodities, (3) applicable provisions of an Intermodal Carrier’s Rail Circular in effect on the date of shipment will apply to any shipments transported by that Intermodal Carrier, (4) the Rail Circulars are generally available through the Intermodal Carrier’s website, and (5) persons and entities that use Intermodal transportation provided by the Intermodal Carrier should be familiar with and comply with the provisions, restrictions, and limitations of the Rail Circular. You acknowledge and agree that many Carriers do not waive their lien and salvage rights for Intermodal shipments.

C. Cargo Claims. If Goods are being transported via Intermodal Services, the Intermodal Carrier’s liability for loss or damage of Goods, unless otherwise agreed in writing shall be governed by the applicable Rail Circulars. If You wish for Commerce Express Inc to provide assistance in recovering cargo loss or damage from the Carrier on Your behalf, You must submit the claim to Commerce Express Inc for damage or loss of cargo occurring during Intermodal transportation at least sixty (60) days before expiration of the time limit established under the applicable Rail Circular for filing of cargo claims.

**General Cargo or other Claims Provisions**

20. General. Subject to the foregoing provisions You and Commerce Express Inc shall notify each other of all known material details of any claims within 60 days of receiving notice of any claims other than cargo loss or damage claims, and shall update each other promptly thereafter as more information becomes available. Civil actions must be commenced within two (2) years from the date either party provides written notice to the other party of such a claim.

21. Insurance. Commerce Express Inc U.S. and Commerce Express Inc Canada agree to procure and maintain at its own expense, at all times during the term of these Terms and Conditions, the following insurance coverage amounts:

A. General Liability: $1,000,000

B. Cargo Insurance: $100,000

C. Workers Compensation: Statutory Limits

22. Surety Bond. Commerce Express Inc U.S. shall maintain a surety bond or trust fund agreement as required by the FMCSA in the amount of at least $75,000 or as otherwise required by the FMCSA and furnish You with proof upon request.

23. Hazardous Materials / Dangerous Goods. You must comply with all applicable laws and regulations relating to the transportation of hazardous materials as defined in 49 CFR §172.800, §173, and § 397 et seq., of dangerous goods as defined in the Canadian Transportation of Dangerous Goods Act, SC 1992, c 34 (and regulation(s)), and the Mexican General Law for the Prevention and Integral Handling of Hazardous Residues (Ley General para la Prevención y Gestion Integral de Residuos Peligrosos) and other applicable Mexican laws and standard regulations, to the extent that any shipments constitute hazardous materials, dangerous goods or hazardous residues, as applicable. You are obligated to inform Commerce Express Inc immediately if any such shipments constitute hazardous materials, dangerous goods or hazardous residues. You shall defend, indemnify and hold Commerce Express Inc harmless from any penalties or liability of any kind, including reasonable attorney fees, arising directly out of your failure to comply with applicable hazardous materials, dangerous goods or hazardous residues laws and regulations.

24. Indemnification. You must defend, indemnify and hold Commerce Express Inc, any of the Commerce Express Inc companies listed above, their employees and agents and Carriers (collectively, for this paragraph, “Indemnified Parties”) harmless against any losses caused by or resulting from (i) your or your employees’ or agents’ negligence or intentional misconduct, (ii) your breach of these Terms and Conditions, or (iii) your or your employees’ or agents’ violation of applicable laws or regulations. You must also indemnify the Indemnified Parties from any attempts to recover from them by your insurance carrier or any other party. The obligation to defend includes payment of all reasonable costs of defense, including attorney fees, as they accrue.

**General**

25. Assignment / Modifications of Agreement. Neither You nor Commerce Express Inc may assign or transfer these Terms and Conditions, in whole or in part, without the prior written consent of the other party.

26. Severability / Survivability. In the event that the operation of any portion of these Terms and Conditions results in a violation of any law, or any provision is determined by a court of competent jurisdiction to be invalid or unenforceable, You and Commerce Express Inc agree that such portion or provision shall be severable and that the remaining provisions of the Agreement shall continue in full force and effect. The representations and obligations of You and Commerce Express Inc shall survive the termination of these Terms and Conditions for any reason.

27. Independent Contractor. It is understood between Commerce Express Inc and You that Commerce Express Inc is not an agent for Carrier or You and shall remain at all times an independent contractor. You do not exercise or retain any control or supervision over Commerce Express Inc, its operations, employees, or Carrier. Commerce Express Inc does not exercise or retain any control or supervision over Carrier, its operations, employees or you.

28. Non-Waiver. Failure of either You or Commerce Express Inc to insist upon performance of any of the terms, conditions or provisions of these Terms and Conditions, or to exercise any right or privilege herein, or the waiver of any breach of any of the terms, conditions or provisions of these Terms and Conditions, shall not be construed as thereafter waiving any such terms, conditions, provisions, rights or privileges, but the same shall continue and remain in full force and effect as if no forbearance or waiver had occurred.

29. Notices. Unless You or Commerce Express Inc notify each other in writing of a change of address, any and all notices required or permitted to be given under these Terms and Conditions shall be made in writing and shall be delivered via fax with machine imprint on paper acknowledging successful transmission or email with confirmed receipt), and shall be effective when so delivered.

30. Force Majeure. Neither You nor Commerce Express Inc shall be liable to the other for failure to perform any of its obligations under these Terms and Conditions during any time in which such performance is prevented by fire, flood, or other natural disaster, war, pandemic, embargo, riot, civil disobedience, or the intervention of any government authority, or any other cause outside of the reasonable control of You or Commerce Express Inc, provided that the party so prevented uses its best efforts to perform under these Terms and Conditions and provided further, that it provides reasonable notice to the other party of such inability to perform. Performance requirements are extended by the amount of the delay except for payment obligations.

31. Choice of Law and Venue. All questions concerning the construction, interpretation, validity and enforceability of these Terms and Conditions, whether in a court of law or in arbitration, shall be governed by and construed and enforced in accordance with the federal laws regarding transportation, where applicable, and otherwise by the laws of the State of Minnesota, without giving effect to any choice or conflict of law provision or rule that would cause the laws of any other jurisdiction to apply. The Parties agree to jurisdiction and venue in a United States Federal District Court in Minnesota, or if federal jurisdiction is not available, then in a State Court located in Minnesota. You agree to the use of electronic means in the performance of commercial transactions and the agreements between You and Commerce Express Inc for all legal purposes, including without limitation, the binding nature thereof in accordance with the Commercial Code (Código de Comercio) of Mexico and other applicable provisions.

32. Confidentiality. Other than as required to comply with the law or legal process requiring disclosure, the Parties agree to the following:

A. In addition to Confidential Information protected by law, statutory or otherwise, You and Commerce Express Inc agree that all of their financial information and that of their customers, including but not limited to freight and brokerage rates, amounts received for brokerage services, amounts of freight charges collected, freight volume requirements, as well as personal customer information, customer shipping or other logistics requirements shared or learned between the Parties and their customers, shall be treated as confidential, and shall not be disclosed or used for any reason without prior written consent. You specifically waive any rights You may have under 49 CFR Section 371.3.

B. In the event of a violation of this Confidentiality paragraph, You and Commerce Express Inc the agree that the remedy at law, including monetary damages, may be inadequate and that the affected party shall be entitled, in addition to any other remedy they may have, to an injunction restraining the other party from further violation of these Terms and Conditions in which case the non-prevailing party shall be liable for all costs and expenses incurred, including but not limited to reasonable attorney’s fees.

33. Entire Agreement. This Agreement constitutes the entire agreement intended by and between the parties and supersedes all prior agreements, representations, warranties, statements, promises, information, arrangements, and understandings, whether oral, written, expressed or implied, with respect to the subject matter hereof.