

TERMS OF SERVICE FLASH RACKS LLC

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The website located at www.Flash-Racks.com (the "Site") and the associated mobile application ("Mobile App") are copyrighted works belonging to Flash Racks LLC ("Flash Racks", "us", and "we"). Flash Racks provides a service that connects motor carrier businesses ("Carriers") to entities who need to ship cargo ("Shippers") (collectively, with the Site, Mobile App and all services provided therein or otherwise provided by Flash Racks, the "Service"). The Service may be subject to additional guidelines, terms, or rules, including, but not limited to, the Flash Racks Shipper Accessorial Rates and the Flash Racks Carrier Accessorial Rates provided on the Service (collectively, the "Accessorial Rates"), any Standard Operating Procedure documents ("SOP"s) and/or Work Orders put into place between Flash Racks and Shippers or Carriers, and the Flash Racks Privacy Policy. All such additional guidelines, terms or rules are incorporated by reference into this Agreement.

THESE TERMS OF SERVICE ("AGREEMENT") SET FORTH THE LEGALLY BINDING TERMS FOR YOUR USE OF THE SERVICE. BY ACCESSING OR USING THE SERVICE, YOU ARE ACCEPTING THIS AGREEMENT, ON BEHALF OF YOURSELF OR THE COMPANY, ENTITY OR ORGANIZATION THAT YOU REPRESENT, AND YOU REPRESENT AND WARRANT THAT YOU HAVE THE RIGHT, AUTHORITY, AND CAPACITY TO ENTER INTO THIS AGREEMENT, ON BEHALF OF YOURSELF OR THE COMPANY, ENTITY OR ORGANIZATION THAT YOU REPRESENT. YOU MAY NOT ACCESS OR USE THE SERVICE OR ACCEPT THIS AGREEMENT IF YOU ARE NOT AT LEAST 18 YEARS OLD.

IF YOU DO NOT AGREE WITH ALL OF THE PROVISIONS OF THIS AGREEMENT, DO NOT ACCESS OR USE THE SERVICE.

THIS AGREEMENT REQUIRES THE USE OF ARBITRATION ON AN INDIVIDUAL BASIS TO RESOLVE DISPUTES, RATHER THAN JURY TRIALS OR CLASS ACTIONS, AND ALSO LIMITS THE REMEDIES AVAILABLE TO YOU IN THE EVENT OF A DISPUTE.

1. SERVICE DESCRIPTION

1.1. General. Flash Racks helps to connect Shippers and Carriers for the shipment of energy freight and cargo by providing a platform whereby Shippers can post details of desired shipment requests and Carriers can accept such shipment requests. "User" means any user of the Service, and may be a Carrier or a Shipper. To the extent you are a Carrier, the provisions in this Agreement regarding Carriers apply to you. To the extent you are a Shipper, the provisions in this Agreement regarding Shippers apply to you. To the extent you are a User, the provisions in this Agreement regarding Users apply to you. For the avoidance of doubt, Flash Racks provides the platform for posting and accepting Shipments and the billing service described in Section 5. Please carefully read the disclaimer in Section 11 for more information about your responsibilities.

1.2. Shipment Requests. Shipper may post a request for a shipment ("Shipment") through the Service. Without limitation, Shipper will provide origin and destination addresses, the requested date and pickup time of the Shipment, a description of the items being shipped (including weight) and any other relevant information about the Shipment. Flash Racks is not responsible

for any Shipment terms. Once the Shipment is accepted for posting by Flash Racks, the details of the Shipment are posted to the Service. After a certain period of time, the Shipment will be viewable to all Carriers in the immediate area, though Flash Racks may from time to time, and in order to meet Shippers' specific needs, release shipments to certain carriers before posting it to the Service. Shippers may cancel a Shipment at any time prior to it being accepted by a Carrier. Carriers may view a list of the available Shipments in their immediate area at any time and accept a Shipment through the Service. The first Carrier to accept a Shipment will be assigned the Shipment. Once accepted by a Carrier, Flash Racks will notify Shipper that the Shipment has been accepted. Shipper and Carrier will receive each other's phone number. Each Shipper and Carrier is responsible for providing their own phones for use with the Service. Flash Racks may also, from time to time as the circumstances require, connect Shippers and Carriers outside of the Mobile App. Flash Racks does not guarantee that a Shipment will be accepted by a Carrier. If a Shipment is not accepted by a Carrier, Flash Racks will notify the Shipper that no Carrier is available and that the Shipper should try posting the Shipment again.

1.3. Completing the Shipment. Shipper must issue and provide the Carrier a bill of lading ("Bill of Lading") for each Shipment. The Bill of Lading must contain, at minimum, the names and addresses of the Carrier and the Shipper, the origin and destination addresses, the requested pickup and delivery dates and times, description of the items being shipped (including weight) and other relevant terms and conditions. Once the Shipment has been completed, Carrier will promptly upload to the Service a proof of delivery signed by the authorized recipient ("Proof of Delivery") and send the original to Flash Racks via postal mail. Shipper, not Flash Racks, issues the Bill of Lading. Carrier will direct any questions or concerns regarding the Bill of Lading to the applicable Shipper. Routing instructions are for informational purposes only.

2. CARRIER TERMS, REPRESENTATIONS AND WARRANTIES

2.1. Carrier Minimal Requirements. As a Carrier, you hereby represent, warrant and covenant that you have provided Flash Racks:

- (a) a copy of ICC Authority or relevant state carrier authority;
- (b) a completed W-9 form;
- (c) for federally-licensed Carriers, a U.S. Department of Transportation Safety Rating, evidencing that you do not have Unsatisfactory or Conditional status;
- (d) prior to moving your first Shipment with Flash Racks, certificate(s) of insurance evidencing policy limits in accordance with applicable law, and in no event less than the amounts set forth below:
 - i. Cargo Liability of \$100,000 per incident for dray and tractor-trailers, \$50,000 per incident for straight trucks, and \$25,000 per incident for cargo vans.
 - ii. Automobile Liability of \$1,000,000 per incident for tractor-trailers, \$750,000 per incident for straight trucks and \$500,000 per incident for cargo vans.

2.2. Insurance. You hereby further represent, warrant and covenant that:

- (a) You carry General Liability insurance in a minimum coverage amount of \$1,000,000.

(b) You carry workers compensation insurance or equivalent as required by applicable law, and if you do not carry workers compensation insurance, it is because you are specifically exempted from a legal requirement to carry it.

(c) You have procured insurance from companies maintaining a rating of B+ or higher.

(d) You will list Flash Racks or its designated representative as a certificate holder on your Auto Liability and Cargo Liability insurance policies and, upon request, provide copies of all policies and endorsements.

(e) You will ensure that Flash Racks is provided notice of cancellation or modification of any insurance required under this agreement at least 30 days in advance of any cancellation or modification of the required insurance. Without limitation, you agree to indemnify and defend Flash Racks for any failure to maintain the above mentioned insurance or to properly notify Flash Racks of such failure.

(f) Your Automobile Liability insurance covers all automobiles you will use to perform services under this Agreement.

(g) Your Automobile Liability insurance includes an MCS-90 endorsement if required by your state or specific carrier authority.

(h) Your insurance covers contractual liability assumed under these Terms of Service.

(i) You will not accept shipments for commodities or perform any services which are excluded by your insurance policies.

(K) Buyer shall cause its Carriers who will be accessing the loading terminal in connection with this Agreement to carry and maintain, at its sole expense, with reliable insurance companies acceptable to the loading terminal and authorized to do business in the state or area in which the loading terminal is located, at least the minimum insurance coverage as required by the loading terminal

2.3. Compliance with Laws and Regulations. You hereby represent, warrant and covenant that:

(a) You are duly authorized to provide shipping services as a contract carrier of commodities and desire to provide shipping services for Shipments.

(b) You currently, and shall during all periods you transport shipments through the Service, have all applicable licenses, permits, registrations, approvals and authority under state, local and federal law to provide the shipping services subject to this Agreement, and such authority shall cover the commodities, geographical scope, and special Shipper instructions or requirements related to all transportation services you provide.

(c) You will comply with all applicable local, state and federal laws related to the provision of shipping services, including without limitation those of the U.S. Department of Transportation.

(d) To the extent you handle intermodal shipments, you have executed and are in compliance with a current Uniform Intermodal Interchange Agreement (“UIIA”), and will provide a copy of the UIIA to Flash Racks upon request

2.4. Safety. You hereby represent, warrant and covenant that:

(a) You will not at any time accept shipments if your rating is Unsatisfactory or Conditional with the United States Department of Transportation (“DOT”) or if you receive a negative safety evaluation from any state or provincial authority with jurisdiction over your operations.

(b) You will immediately notify Flash Racks if your safety rating is Unsatisfactory or Conditional, or if you otherwise receive a negative safety evaluation from a state or provincial authority with jurisdiction over your operations.

2.5. Equipment. With respect to the equipment you use to perform shipping services under these Terms of Service, you hereby represent, warrant and covenant that:

(a) You will, at your sole cost and expense, furnish all equipment required for the performance of shipping services under these Terms of Service, and pay all expenses related to the use or operation and maintenance of such equipment (including any fines, penalties or fees).

(b) You will provide equipment that is in compliance with all applicable governmental regulatory standards, testing, requirements, licensing, titling, permits and registration, and sufficient in quality and quantity to meet the transportation needs of each shipment you agree to transport.

(c) All motor vehicle equipment you use for the transportation of food grade products will comply with the requirements of The Sanitary Food Transportation Act.

2.6. Employees and Services. With respect to your employees who carry out shipping services pursuant to these Terms of Service, you hereby represent, warrant and covenant that:

(a) You will employ and be solely responsible for all personnel employed or contracted by you to provide shipping services.

(b) You will pay all your personnel’s wages and insurance where applicable, including, but not limited to, workers’ compensation insurance.

(c) You will ensure all your employees’ hours are in compliance with regulations under applicable law.

(d) You have sole responsibility for any and all acts and omissions of your drivers, and such drivers’ compliance with all applicable laws and regulations.

(e) You are solely responsible for the interviewing, hiring, training, disciplining, and termination of all your drivers and other employees.

(f) You shall utilize only drivers and other operating personnel who are licensed to perform all services for which they are engaged.

(g) You shall not broker out any shipments from the Service to another carrier.

(h) You shall maintain all documented driver validation procedures, recent driver logs and visit records, and proof of identification checks.

(i) You shall ensure that all your drivers conduct documented physical inspections upon receipt and release of cargo, note discrepancies before sign-off, maintain OS&D procedures, and have and implement written container security procedures.

2.7. Shipper Instructions. In the event the Shipper gives specific instructions regarding the proper loading, handling and shipping of freight, such terms shall govern and you shall be obligated to comply therewith.

2.8. Payment and Remedies. You hereby agree that:

(a) You will look solely to Flash Racks for any payment of freight and other charges owing under this Agreement, and agree that your sole recourse in the event of non-payment shall be against Flash Racks, and not under any circumstances against Shipper, Consignee or any of their customers. You waive any and all claims you may have against Flash Racks' customers for payment of charges for services you render hereunder. This undertaking shall survive the termination of this Agreement.

(b) You shall not claim, and hereby waive any right to claim, any lien in any Shipment.

(c) Payment by Flash Racks to Carrier does not denote ownership of any product or employment of carrier personnel, but is simply done to provide the least amount of complexity in ensuring payments between Shippers and Carriers using the Flash Racks platform.

2.9. Non-solicit. You shall not solicit, accept or book shipments with any Shipper, Origin Location, Consignee, or other Carrier, nor pursue any business you first became aware of due to Flash Racks, for twelve (12) months after the termination of your account with Flash Racks. Flash Racks reserves the right to terminate your Account or this Agreement in its sole discretion for a breach or suspected breach of this Section.

2.10. Acceptance of Liability. You hereby represent, warrant and covenant that:

(a) You are solely responsible for any and all liability which results or is alleged as a result of the shipping services you provide under this Agreement, including, but not limited to, property damage, cargo loss, damages or delay, personal injury and death (including, but not limited to, liabilities related to your own property and employees). Your liability in all cases shall be as a motor carrier. Your liability is for the full amount of any such loss, damage, cost or other liabilities, irrespective of your insurance limits.

(b) You agree to defend, indemnify, hold harmless and/or make whole Flash Racks, Shippers and consignees (and their officers, employees, and agents), including costs and attorney's fees, with respect to any and all claims, demands, loss, damage,

expenses, or liability, made by any party due to or arising out of your or your agents': (i) use of the Service; (ii) User Content; (iii) interaction with any other User; (iv) violation of any of the terms of this Agreement; (v) driver salaries, wage, overtime and meal/rest period claims, local, state and federal payroll and other withholding taxes, unemployment insurance, pensions, workers' compensation, social security and related protections, and any expenses related to equipment and fuel (vi) violation of applicable laws or regulations; or (vii) performance of shipping services pursuant to this Agreement. This indemnification applies regardless of any provisions in separate contracts between Flash Racks and third parties. You also hereby waive any claims or demands by you against Flash Racks related to any costs, losses, expenses or liability arising from the above-listed actions by you or your agents.

(c) Without limiting any of the foregoing provisions, you specifically agree to defend, indemnify, hold harmless and/or make whole Flash Racks, Shippers and consignees (and their officers, employees, and agents), including costs and attorney's fees, with respect to any and all claims, demands, loss, damage, expenses, or liability, made by any party or incurred by you due to or arising out of your, or your agents':

i. Failure to use commercially reasonable efforts to pick up accepted Shipments at the designated point of origin within as soon as is practicable, or use commercially reasonable efforts to proceed to the point of destination specified or perform timely, efficient and reliable pick-up and delivery of all shipments.

ii. Failure to obtain from the Shipper a Bill of Lading (containing, at minimum, the names and addresses of you and the Shipper, the origin and destination addresses, the requested pickup and delivery dates and times, description of the items being shipped (including weight), and any special shipping instructions or freight protection requirements), or your failure to confirm that the cargo matches the description and quantities of the cargo in the Bill of Lading, and is in good condition at the time of pick-up. Your acceptance of any shipment, or your receiving signature on the Bill of Lading, shall be conclusive that the number of pieces shown on the Bill of Lading is correct and that lading is in apparent good condition.

iii. Improper or unsafe loading or unloading of any shipment, or, where you are not required to load, failure to determine, to the extent you are able to ascertain through ordinary inspection, that each shipment was properly loaded.

iv. Shipment of any loads in violation of applicable weight, axle, or other applicable laws and regulations, or shipper's specific instructions.

v. Suspension of service at any time after loaded dispatch, or delay of service by stop over for any reason that would leave your equipment and the cargo unattended without adequate security as a prudent Carrier would or as is otherwise required under your insurance policies.

vi. Acceptance of any shipments for which you cannot comply with applicable temperature requirements, and any damage as a result of failure to comply with such requirements.

vii. Use of equipment that has been used for the transportation of any waste of any kind, garbage, hazardous materials, including, but not limited to, crude, refined fuels, CNG, NGLs, LPGs, waste water, frac sand, or any other commodity which results in the contamination of other shipments.

viii. Failure to inspect and/or investigate if a shipment contains hazardous material, acceptance of hazardous material, and violation of any applicable laws and regulations related to the transport of hazardous material.

ix. Disengagement or detachment of your power unit from the trailer, container/chassis, flatbed or other equipment at any time unless emergency or exceptional circumstances require it.

x. Failure to perform the services under this Agreement in a good and workmanlike manner in accordance with standards of the trade.

xi. Failure to promptly upload to the Service the Proof of Delivery and send the original to Flash Racks via postal mail.

xii. Performance of the services under this Agreement with equipment other than that under your own authority, or co-brokering, trip leasing or otherwise subcontracting the transportation or handling of any shipment tendered hereunder to any other motor carrier or any other substitute mode of transportation, and any acts and omissions of any subcontractors as a result thereof.

xiii. To the extent you handle containers, failure to ensure your procedures for container security are in accordance with industry standard.

xiv. Failure to utilize equipment that is in good and safe operating condition, clean, insect and rodent free, odor free, mold free, sealed from water and/or moisture damage, safe, properly maintained and hazard-free.

xv. To the extent you handle intermodal shipments, failure to execute and comply with a current Uniform Intermodal Interchange Agreement ("UIIA").

(d) Flash Racks reserves the right, at your expense, to assume the exclusive defense and control of any matter for which you are required to indemnify us and you agree to cooperate with our defense of these claims. You agree not to settle any matter without the prior written consent of Flash Racks. Flash Racks will use reasonable efforts to notify you of any such claim, action or proceeding upon becoming aware of it.

3. SHIPPER TERMS, REPRESENTATIONS AND WARRANTIES

3.1. Representations and Warranties. Unless otherwise agreed in a separate written agreement between Shipper and Flash Racks, if you are a Shipper, you hereby represent, warrant and covenant that:

(a) You own the shipped items or have the necessary rights to ship such items.

(b) You use the Service to ship items at your own risk through the motor carriers that use the Service and agree that Flash Racks will have no liability for any shipped items or any claims, demands, loss or damages related thereto.

(c) You are solely responsible for obtaining any insurance to cover any anticipated losses.

(d) You are solely responsible for any and all liability, which results or is alleged as a result of such shipped items, including, but not limited to, property damage, personal injury and death.

(e) If you are loading, bracing and securing your goods, you understand that you are liable for any claims, loss, or damage as a result of your doing so improperly or unsafely. You understand that Flash Racks is in no way responsible for the securing, lading, packaging, or compliance with shipping instructions for your shipments.

(f) You understand that Flash Racks is not a motor carrier, and as such, is not liable or responsible to you or the recipient of cargo for any cargo shipped under this Agreement.

(g) If you broker shipments through Flash Racks under this Agreement, you are duly authorized as a property broker with the FMCSA and comply in all respects with MAP-21.

(h) You understand that tracking the locations of your shipments through the Service does not guarantee that such shipments will be delivered to you at the time specified.

(i) You understand and accept responsibility to pursue all remedies from Carrier for any cargo shipped under this agreement

3.2. Non-solicit. You shall not contact any Carrier to solicit, offer, or book shipments with the Carrier for twelve (12) months from the last date of a Shipment between you and the Carrier. Flash Racks reserves the right to terminate your Account or this Agreement in its sole discretion for a breach or suspected breach of this Section 3.2.

3.3. Prohibited Items. Shippers shall not use the Service to ship the below items:

(a) With the exception of crude, refined fuels, CNG, NGLs, LPGs, waste water, and frac sand contraband or items that are illegal, dangerous, hazardous, radioactive, harmful, unsafe, offensive or objectionable; or

(b) Items which require refrigeration.

3.4. Items of Assumed Liability. To the extent Shippers use the Service to ship the below items, and any damage, destruction, loss, or other liability arises during transit, Shippers acknowledge that they bear all risk for any damage, claim or losses thereto to the extent that Carriers' insurance policies and Carriers are unable to do so. This provision in no way limits or affects Shippers', or Flash Racks' or Carriers', liabilities related to other items.

(a) Bullion, precious metals, precious metal objects, gold, silver, platinum, precious or semi-precious stones (including but not limited to diamonds, emeralds, sapphires and rubies), and precious jewelry which includes jewelry made from precious metals and stones;

- (b) Money, securities, accounts, bills, currency, food stamps, lottery tickets, notes, bank notes, coins, bonds, negotiable instruments or evidences of debt, passports, tickets, documents, manuscripts, records, or other valuable papers;
- (c) Tobacco products and processed tobacco;
- (d) Bottled spirits;
- (e) Cellular phones and PDAs;
- (f) Valuable works of art which includes antiques, paintings, sculptures, tapestries, collectibles or other objects for display; or
- (g) Bloodstock and live animals including cattle or poultry.

3.5. Shipper Indemnification. You agree to defend, indemnify, hold harmless and/or make whole Flash Racks (and its officers, employees, and agents) with respect to any and all claims, demands, loss, damage, expenses, or liability, including costs and attorneys' fees, made by any party due to or arising out of your or your agents': (i) use of the Service; (ii) User Content; (iii) interaction with any other User; (iv) violation of this Agreement; (v) violation of applicable laws or regulations; or (vi) your shipment contents. Flash Racks reserves the right, at your expense, to assume the exclusive defense and control of any matter for which you are required to indemnify us and you agree to cooperate with our defense of these claims. You agree not to settle any matter without the prior written consent of Flash Racks. Flash Racks will use reasonable efforts to notify you of any such claim, action or proceeding upon becoming aware of it. This indemnification with respect to Flash Racks applies regardless of any provisions in separate contracts between Flash Racks and third parties. You also hereby waive any claims or demands by you against Flash Racks related to any costs, loss, expenses or liability arising from the above-listed actions by you or your agents.

4. CARGO CLAIMS

4.1. Carrier Liability. Carrier agrees to assume full liability for the prompt, safe transportation of all shipments under this Agreement, and agrees to be responsible for all loss, damage, delay, destruction, theft or liability of whatever nature arising from the transportation services hereunder, or from Carrier's failure to perform the services, whether occurring while the shipment is in the custody or control of the Carrier or in the custody or control of any other party to whom Carrier may entrust the shipment. Carrier's liability to Broker, Shipper and/or any involved consignor or consignee, shall be the invoice value of the goods transported, without limitation.

Bills of lading or receipts issued by Carrier, or signatures thereon, shall not constitute Flash Racks' written acceptance of Carrier's liability limitation or other changes in the terms and conditions. Similarly, Carrier's liability shall not be limited in any way by limitations or exclusions of coverage in its insurance policies. In the event of a conflict with the terms on bills of lading and this Agreement, including specifically any terms related to limitations of liability of Carrier, the terms of this Agreement shall govern. Carrier and Flash Racks agree that pursuant to 49 U.S.C. §14101(b) the Carrier expressly waives all rights and remedies under Title 49 of the U.S. Code that conflict with these Terms of Service.

4.2. Flash Racks Limitation of Liability. Unless a separate written contract with a customer provides otherwise, Flash Racks' liability to its customer, any involved consignor or consignee, and any Customer of such consignor or consignee, shall be no more than \$1.00 per lbs for any loss, damage, or injury to property resulting from Flash Racks' performance of or failure to perform the broker services provided herein. Flash Racks' maximum liability per shipment shall be \$50,000 per shipment.

4.3. Claim Submissions and Settlement. In the event of loss or damage, Consignor or Consignee shall endeavor to submit a claim to Flash Racks within ninety (90) days of the incident, and in no event later than nine (9) months of the incident. Flash Racks shall make every attempt to facilitate the resolution of the claim with the Carrier. Flash Racks does not assume the terms and conditions set forth in Section 14706 of Title 49 of the United States Code as in effect on the date of this Agreement. In addition, unless agreed in a separate written contract, Shipper is not entitled to offset the amount of any claims, which remain unpaid or unresolved against amounts owed by Shipper to Flash Racks.

Carriers shall settle claims within sixty (60) days of Flash Racks' receipt of all necessary claims documentation. Carrier hereby assumes all other terms and conditions set forth in Section 14706 of Title 49 of the United States Code as in effect on the date of this Agreement. In addition, Flash Racks is entitled to offset the amount of any claims, which remain unpaid or unresolved after such 60-day period against amounts owing from Flash Racks to Carrier hereunder. Carrier will be notified in writing prior to taking any action to offset. Carrier shall not dispose of damaged or rejected product without the prior written consent of Flash Racks.

5. PAYMENT TERMS

5.1. Shipper Payment and Charges.

(a) For each Shipment, Shipper is obligated to pay Flash Racks the fees listed to Shipper when the applicable Shipment was accepted for posting on the Service ("Shipment Fee").

(b) Shipper is also obligated to pay:

(i) Any applicable Accessorial Rates, including, but not limited to, potential wait charges in the event the Carrier waits at the pick-up location one (1) or more hours after the agreed-upon pick-up time.

(ii) Any additional charges resulting from the Shipper (which, for purposes of this sub-section, shall include Shipper's agents or third parties with whom Shipper is in a contractual relationship, excluding the Carrier) loading the shipments in violation of, or otherwise violating, applicable laws and regulations.

(iv) Any other additional charges mutually agreed upon in writing by the Shipper and Flash Racks.

(c) If you are a Shipper and you have provided a valid credit card, YOU HEREBY AUTHORIZE FLASH RACKS TO BILL YOUR CREDIT CARD FOR THE SHIPMENT FEE IMMEDIATELY AFTER COMPLETION OF THE SHIPMENT AND YOU AGREE THAT NO ADDITIONAL NOTICE OR CONSENT IS REQUIRED.

(d) If you are a Shipper and you have provided Flash Racks with your bank account information instead of a credit card, YOU HEREBY AUTHORIZE FLASH RACKS TO PROCESS A CHECK FROM YOUR BANK ACCOUNT FOR THE SHIPMENT FEE IMMEDIATELY AFTER COMPLETION OF THE SHIPMENT AND YOU AGREE THAT NO ADDITIONAL NOTICE OR CONSENT IS REQUIRED. To do this, your check is converted into an electronic check and presented immediately via the Automated Clearing House (“ACH”) system. In the event a check is subsequently returned for non-sufficient funds, you agree that we may add a returned check fee of \$25.00 to the amount of the returned check and take any action available to us at law or in equity to collect such full amount. YOU AGREE TO PAY THE RETURNED CHECK FEE, THE INITIAL AMOUNT AND ANY COLLECTION CHARGES INCURRED BY US.

(e) If you wish to dispute a charge by mail or telephone please contact Flash Racks at support@Flash-Racks.com. In the event that Flash Racks charges any convenience fee for making a payment via a credit card or electronic check, these fees will be stated at the time of payment before you finalize your charge. In the event of an unauthorized charge using a credit card or electronic check, please consult your bank’s rules regarding refunds and reversals.

(f) Flash Racks complies with all legal requirements of your state’s applicable laws regarding providing refunds for unauthorized charges. When you make a charge, Flash Racks shall display a completed charge screen. This is your electronic receipt. You should print or save this electronic receipt for your records. YOU REPRESENT AND WARRANT THAT YOU HAVE THE LEGAL RIGHT TO USE ANY CREDIT CARD(S), CHECKS, OR OTHER PAYMENT MEANS USED TO INITIATE ANY TRANSACTION. All information that you provide to our third party payment processor or us must be accurate, current and complete. You agree to immediately notify Flash Racks of any change in your billing address or the credit card or bank account used for payment hereunder.

5.2. Carrier Remittance.

(a) For each Shipment, Flash Racks will pay Carrier the fees listed to Carrier when Carrier accepted the Shipment (“Carrier Fee”).

(b) Carrier shall not be entitled to any additional charges other than the Carrier Fee, except in the case of any additional charges, including but not limited to applicable Accessorial Rates, agreed upon in writing by the Carrier and Flash Racks prior to the Carrier providing the services giving rise to such charges and prior to the inclusion of any such charges on Flash Racks invoices. Carrier shall not be entitled to payment for any additional or accessorial charges not supported by back-up documentation.

(c) Carrier agrees that it is entitled to the Carrier Fee only after completion of the Shipment, which shall be payable to Carrier fifteen (15) days after Flash Racks’ receipt of the Proof of Delivery in accordance with this Agreement. In the case of container shipments, the Carrier Fee shall be payable to Carrier fifteen (15) days after the job has been closed, meaning that the Carrier has submitted Proof of Delivery and an invoice. Flash Racks will remit the Carrier Fees to Carrier on a weekly basis. Notwithstanding the foregoing, if the authorized recipient indicates on the Proof of Delivery or otherwise that the Shipment has shortages, or has been damaged, lost, delayed, not completed or otherwise files a claim regarding the Shipment and Shipper notifies Flash Racks of this

within a reasonable time after the Shipment (but in no case longer than nine (9) months after completion of the Shipment), Flash Racks shall have the right to withhold or offset payment of any Carrier Fee due to the Carrier until such problem with the Shipment or claim has been settled. Likewise, if the Carrier has applied accessorial or other additional charges without complying with the provisions of Section 5.2(b) of this Agreement, Flash Racks shall have the right to withhold payment of such charges or offset such charges against future invoices. Carrier shall not withhold any shipments as a means of obtaining payment for past or current charges to Flash Racks, and Carrier waives any liens on shipments transported through the Service. The only rights that Carrier has to receive any amounts from Flash Racks are set forth in this Section 5.2.

5.3. General Payment Terms.

(a) Fees are inclusive of all fuel costs and charges. Fees are based on standard forty-eight-inch (48") by (x) forty-inch (40") by (x) sixty-inch (60") pallet dimensions and other sizes are subject to additional charges. Flash Racks may change pricing for the Service (from time to time in its sole discretion) by updating the Site and Mobile App and without any additional notice to you.

(b) You agree to use the Service to pay for any Shipments booked through the Service and not to circumvent payments for scheduled or completed Shipments in any way. All payment will be in US dollars. You agree that you are responsible for the collection and/or payment of all Taxes, which you may be liable for in any jurisdiction arising from your use of the Service. Flash Racks is not responsible for collecting, reporting, paying, or remitting to you any such Taxes. "Taxes" means any applicable duties, sales taxes, GST, VAT or other taxes, which may be levied in respect of a transaction contemplated by this Agreement. Any amount that is not paid when due will accrue interest at eighteen percent (18%) per annum or the maximum rate permitted by applicable law, whichever is less, from the due date until paid. In the event that Flash Racks is unable to bill Shippers due to insufficient funds, Shipper shall be liable for all costs and expenses incurred by Flash Racks in connection with collection of the Shipper Fee, including costs and expenses of a third party collection agency. Shipment Fees are non-refundable.

6. LICENSES

6.1. Accounts. In order to use certain features of the Service, you must register for an account with Flash Racks ("Account") and provide certain information as prompted by the registration form. Shippers must provide a valid credit card and billing address or ACH information. Carriers must provide valid license information. You represent and warrant that: (i) all required registration information you submit is truthful and accurate; and (ii) you will maintain the accuracy of such information. You may delete your Account at any time, for any reason, by following the instructions on the Service. You are responsible for maintaining the confidentiality of your Account login credentials and are fully responsible for all activities that occur under your Account. Each Account may only be used to access the Service during one (1) concurrent login session. You agree to immediately notify Flash Racks of any unauthorized use, or suspected unauthorized use of your Account or any other breach of security. Flash Racks cannot and will not be liable for any loss or damage arising from your failure to comply with the above requirements.

6.2. Site. Subject to the terms of this Agreement, Flash Racks grants you a non-transferable, non-exclusive, license to use the Site for your internal business use during the term of this Agreement.

6.3. Mobile App. Subject to the terms of this Agreement, Flash Racks grants you a non-transferable, non-exclusive, license to install and use the Mobile App, in executable object code format only, solely on your own handheld mobile device and for your internal business use during the term of this Agreement.

6.4. Certain Restrictions. The rights granted to you in this Agreement are subject to the following restrictions: (i) you shall not license, sell, rent, lease, transfer, assign, distribute, host, or otherwise commercially exploit the Service; (ii) you shall not modify, make derivative works of, disassemble, reverse compile or reverse engineer any part of the Service; (iii) you shall not access the Service in order to build a similar or competitive service; and (iv) except as expressly stated herein, no part of the Service may be copied, reproduced, distributed, republished, downloaded, displayed, posted or transmitted in any form or by any means. Any future release, update, or other addition to functionality of the Service shall be subject to the terms of this Agreement. All copyright and other proprietary notices on any Service content must be retained on all copies thereof.

6.5. Limited Support. Users may contact Flash Racks' technical support center for any support related issues arising from the use of the Service by following the instructions on the Service.

6.6. App Stores. You acknowledge and agree that the availability of the Mobile App is dependent on the third party from which you received the Mobile App ("App Store"), e.g., the Apple App Store or Google Play. You acknowledge that this Agreement is between you and Flash Racks and not with the App Store. Each App Store may have its own terms and conditions to which you must agree before downloading the Mobile App from it. You agree to comply with, and your license to use the Mobile App is conditioned upon your compliance with, all applicable terms and conditions of the applicable App Store.

7. OWNERSHIP

7.1. Intellectual Property. Excluding your User Content (defined below), you acknowledge that all the intellectual property rights, including copyrights, patents, trademarks, and trade secrets, in the Service are owned by Flash Racks, its successors and assigns, irrespective of any copyright notices or confidentiality legends to the contrary which may have been used or placed upon any product or work associated with the Service and provided on behalf of Flash Racks or associated with the Service, by you, your agents and representatives, or any other person or entity. Flash Racks is the sole and exclusive owner of all right, title, and interest through the world in and to all the results and proceeds of all its Intellectual Property. If by operation of law any such Intellectual Property, related copyrights, or otherwise is not owned entirely by Flash Racks automatically upon creation thereof, then you agree to assign, and hereby assign, to Flash Racks, and its successors and assigns, the ownership of such Intellectual Property. For purposes of this Agreement, Intellectual Property shall mean all ideas, concepts, designs, inventions, discoveries, and improvements that are the direct or indirect result of Flash Rack's labor, the Service, and/or your relationship with Flash Racks. This includes all patents, copyrights, trademarks, trade secrets, and other intellectual property rights, whether made solely or jointly with others; whether or not patentable; and whether or not the conception, discovery, or making involves the use of Flash Rack's time or personnel. . The provision of the Service does not transfer to you or any third party any rights, title or interest in or to such intellectual property rights. Flash Racks and its suppliers reserve all rights not granted in this Agreement.

7.2. Modification. Flash Racks reserves the right, at any time, to modify, suspend, or discontinue the Service or any part thereof with or without notice. You agree that Flash Racks will not be liable to you or to any third party for any modification, suspension, or discontinuance of the Service or any part thereof.

7.3. Feedback. If you provide Flash Racks any feedback, suggestions, bug reports, system errors, and other information or ideas regarding the Service (“Feedback”), you hereby assign to Flash Racks all rights in the Feedback and agree that Flash Racks shall have the right to use such Feedback and related information in any manner it deems appropriate. Without limiting the foregoing, this assignment of rights applies to any testimonials you provide, and you hereby also grant Flash Racks the right to use your name in connection with sharing such testimonials with the public. Flash Racks will treat any Feedback you provide to Flash Racks as non-confidential and non-proprietary. You agree that you will not submit to Flash Racks any information or ideas that you consider to be confidential or proprietary. If you agree to participate in any case studies, you agree that information you provide in connection with the case study is deemed Feedback and that Flash Racks may use your name in connection with such Feedback.

8. USER CONTENT

8.1. User Content. “User Content” means any and all information, data, and other content that a User submits to, or uses with, the Service. User Content includes the information provided in a Shipment request or acceptance. You are solely responsible for your User Content. You assume all risks associated with use of your User Content, including any reliance on its accuracy, completeness or usefulness by others, or any disclosure of your User Content that makes you or any third party personally identifiable. You hereby represent and warrant that your User Content does not violate the Acceptable Use Policy (defined below). For the avoidance of doubt, User Content may include third party content you submit. You agree not to submit third party content unless you have the consent of the applicable third party owner of such content. You may not state or imply that your User Content is in any way provided, sponsored or endorsed by Flash Racks. Because you alone are responsible for your User Content (and not Flash Racks), you may be exposed to liability if, for example, your User Content violates the Acceptable Use Policy. Because we do not control User Content, you acknowledge and agree that we are not responsible for any User Content and we make no guarantees regarding the accuracy, currency, suitability, or quality of any User Content, and we assume no responsibility for any User Content.

8.2. License. You hereby grant, and you represent and warrant that you have the right to grant, to Flash Racks an irrevocable, non-exclusive, royalty-free and fully paid, sub-licensable, worldwide license, to use your User Content, for the purposes of including your User Content in the Service, to create Anonymous Data, and as provide in the Flash Racks Privacy Policy (the “Privacy Policy”). All rights in and to the User Content not expressly granted to Flash Racks in this Agreement or the Privacy Policy are reserved by you.

8.3. Creation of Anonymous Data. We may create anonymous data records (“Anonymous Data”) from your User Content by using commercially reasonable efforts to exclude any and all information (such as company name) that makes the data identifiable to you. We may use and disclose Anonymous Data for any purpose, including improving the Service.

9. ACCEPTABLE USE POLICY

The following sets forth Flash Racks’ “Acceptable Use Policy”:

9.1. You agree not to use the Service to collect, upload, transmit, display, or distribute any User Content (i) that violates any third-party right, including any copyright, trademark, patent, trade secret, moral right, privacy right, right of publicity, or any other intellectual property or proprietary right; (ii) that is unlawful, harassing, abusive, tortious, threatening, harmful, invasive of another's privacy, vulgar, defamatory, false, intentionally misleading, trade libelous, pornographic, obscene, patently offensive (e.g., material that promotes racism, bigotry, hatred, or physical harm of any kind against any group or individual) or otherwise objectionable material of any kind or nature or which is harmful to minors in any way; or (iii) in violation of any law, regulation, or obligations or restrictions imposed by any third party.

9.2. In addition, you agree not to use the Service to: (i) upload, transmit, or distribute any computer viruses, worms, or any software intended to damage or alter a computer system or data; (ii) send unsolicited or unauthorized advertising, promotional materials, junk mail, spam, chain letters, pyramid schemes, or any other form of duplicative or unsolicited messages, whether commercial or otherwise; (iii) harvest, collect, gather or assemble information or data regarding other Users, including e-mail addresses, without their consent; (iv) interfere with, disrupt, or create an undue burden on servers or networks connected to the Service or violate the regulations, policies or procedures of such networks; (v) attempt to gain unauthorized access to the Service, other computer systems or networks connected to or used together with the Service, through password mining or other means; (vi) harass or interfere with another User's use and enjoyment of the Service; or (g) introduce software or automated Agents or scripts to the Service so as to produce multiple accounts, generate automated searches, requests and queries, or to strip, scrape, or mine data from the Service.

We reserve the right (but have no obligation) to review any User Content, investigate, and/or take appropriate action against you in our sole discretion (including removing or modifying your User Content, terminating your Account in accordance with Section 10, and/or reporting you to law enforcement authorities) if you violate the Acceptable Use Policy or any other provision of this Agreement or otherwise create liability for us or any other person.

10. TERM AND TERMINATION

Subject to this Section, this Agreement will remain in full force and effect while you use the Service. Flash Racks may at any time terminate this Agreement with you in its sole discretion if (i) you have breached any provision of this Agreement, the applicable SOP or Work Order (or have acted in a manner that clearly shows you do not intend to, or are unable to, comply with this Agreement); (ii) Flash Racks is required to do so by law (for example, where the provision of the Service to you is, or becomes, unlawful); or (iii) Flash Racks has elected to discontinue the Service as described in Section 7.2. Upon termination of this Agreement, your Account and right to access and use the Service will terminate immediately. Flash Racks will not have any liability whatsoever to you for any termination of the Service, including for termination of your Account or deletion of your User Content. Even after this Agreement is terminated, the following provisions of this Agreement will remain in effect: Sections 6.4, 7-16.

11. DISCLAIMERS AND RELEASE

THE SERVICE IS PROVIDED "AS-IS" AND "AS AVAILABLE" AND WE (AND OUR SUPPLIERS) EXPRESSLY DISCLAIM ANY WARRANTIES AND CONDITIONS OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING THE WARRANTIES OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, QUIET

ENJOYMENT, ACCURACY, OR NONINFRINGEMENT. WE (AND OUR SUPPLIERS) MAKE NO WARRANTY THAT THE SERVICE: (A) WILL MEET YOUR REQUIREMENTS OR EXPECTATIONS; (B) WILL BE AVAILABLE ON AN UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE BASIS; (C) WILL BE ACCURATE, RELIABLE, FREE OF VIRUSES OR OTHER HARMFUL CODE, COMPLETE, LEGAL, OR SAFE; OR (D) RESULT IN ANY REVENUE, PROFITS, OR COST REDUCTION. THE SERVICE MAY BE SUBJECT TO LIMITATIONS, DELAYS, AND OTHER PROBLEMS INHERENT IN THE USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS. WE ARE NOT RESPONSIBLE FOR ANY DELAYS, DELIVERY FAILURES OR OTHER DAMAGES RESULTING FROM SUCH PROBLEMS.

FLASH RACKS OFFERS A PLATFORM TO CONNECT SHIPPERS AND CARRIERS, BUT DOES NOT AND DOES NOT INTEND TO PROVIDE SHIPPING SERVICES OR ACT IN ANY WAY AS A CARRIER, COURIER, OR SHIPPING PROVIDER. IT IS UP TO THE THIRD PARTY CARRIER TO PROVIDE SHIPPING SERVICES, WHICH MAY BE SCHEDULED THROUGH THE USE OF THE SERVICE. FLASH RACKS HAS NO RESPONSIBILITY OR LIABILITY FOR ANY SHIPPING SERVICES PROVIDED TO SHIPPERS BY SUCH THIRD PARTY CARRIERS. FLASH RACKS SHALL NOT BE DEEMED TO BE AN AGENT OR A PARTNER OF CARRIER OR SHIPPER FOR ANY REASON. CARRIERS SHALL NOT BE DEEMED TO BE A SUBCONTRACTOR OR EMPLOYEE OF FLASH RACKS FOR ANY REASON. ANY DISPUTE SHIPPERS HAVE WITH ANY CARRIER OR OTHER THIRD PARTY, INCLUDING WITHOUT LIMITATION ANY OTHER USER OF THE SERVICE, IS DIRECTLY BETWEEN THE SHIPPER ANY SUCH THIRD PARTY.

DRIVING WHILE USING PHONES IS DANGEROUS AND AGAINST THE LAW. DO NOT USE THE MOBILE APP WHILE DRIVING. IF YOU USE THE MOBILE APP WHILE DRIVING, YOU DO SO AT YOUR OWN RISK.

WE MAKE NO WARRANTY REGARDING THE SUITABILITY, LEGALITY, REGULATORY COMPLIANCE, QUALITY OR ABILITY OF ANY CARRIERS, SHIPPERS, SHIPPED ITEMS AND SHIPPING SERVICES SCHEDULED THROUGH THE USE OF THE SERVICE. BY USING THE SERVICE, YOU OR YOUR SHIPMENTS MAY BE EXPOSED TO SITUATIONS THAT ARE POTENTIALLY DANGEROUS, OFFENSIVE, HARMFUL, UNSAFE OR OTHERWISE OBJECTIONABLE. YOU USE THE SERVICE AT YOUR OWN RISK. YOUR INTERACTIONS WITH OTHER USERS AND THIRD PARTIES ARE SOLELY BETWEEN YOU AND SUCH USER OR THIRD PARTY. YOU AGREE THAT FLASH RACKS WILL NOT BE RESPONSIBLE FOR ANY LOSS OR DAMAGE INCURRED AS THE RESULT OF ANY SUCH INTERACTIONS. IF THERE IS A DISPUTE BETWEEN YOU AND ANY USER OR THIRD PARTY, WE ARE UNDER NO OBLIGATION TO BECOME INVOLVED.

YOU HEREBY WAIVE AND RELEASE FLASH RACKS (AND OUR SUPPLIERS, OFFICERS, EMPLOYEES, AGENTS, SUCCESSORS AND ASSIGNS) FROM, AND HEREBY WAIVE AND RELINQUISH, EACH AND EVERY PAST, PRESENT AND FUTURE DISPUTE, CLAIM, CONTROVERSY, DEMAND, RIGHT, OBLIGATION, LIABILITY, ACTION AND CAUSE OF ACTION OF EVERY KIND AND NATURE (INCLUDING PERSONAL INJURIES, DEATH, AND PROPERTY DAMAGE), ARISING FROM YOUR USE OF THE SERVICE, OR IN ANY WAY RELATED TO OTHER USERS OR THIRD PARTIES. IF YOU ARE A TEXAS RESIDENT, YOU HEREBY WAIVE TEXAS CIVIL CODE SECTION 1542 IN CONNECTION WITH THE FOREGOING, WHICH STATES: "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER

FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.”

SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES, SO THE ABOVE EXCLUSION MAY NOT APPLY TO YOU.

12. LIMITATION ON LIABILITY

IN NO EVENT SHALL WE (AND OUR SUPPLIERS) BE LIABLE TO YOU OR ANY THIRD PARTY FOR ANY PERSONAL INJURY OR LOST PROFIT OR ANY INDIRECT, CONSEQUENTIAL, EXEMPLARY, INCIDENTAL, SPECIAL OR PUNITIVE DAMAGES ARISING FROM OR RELATING TO THIS AGREEMENT OR YOUR USE, INCLUDING WITHOUT LIMITATION, USING THE SERVICE IN VIOLATION OF TRAFFIC OR SAFETY LAWS, OR INABILITY TO USE THE SERVICE, EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, EXCEPT AS PROVIDED IN SECTION 4.2, OUR (AND OUR SUPPLIERS’) LIABILITY TO YOU FOR ANY DAMAGES ARISING FROM OR RELATED TO THIS AGREEMENT OR THE SERVICE (FOR ANY CAUSE WHATSOEVER AND REGARDLESS OF THE FORM OF THE ACTION), WILL AT ALL TIMES BE LIMITED TO THE GREATER OF (A) FIFTY US DOLLARS (\$50) OR (B) AMOUNTS YOU HAVE PAID FLASH RACKS IN THE PRIOR 12 MONTHS (IF ANY). THE EXISTENCE OF MORE THAN ONE CLAIM WILL NOT ENLARGE THIS LIMIT.

SOME JURISDICTIONS DO NOT ALLOW THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OF CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY TO YOU AND YOU MAY ALSO HAVE OTHER LEGAL RIGHTS THAT VARY FROM JURISDICTION TO JURISDICTION.

THE INFORMATION PROVIDED BY THE SERVICE IS NOT INTENDED TO REPLACE INFORMATION PRESENTED ON THE ROAD. IN THE EVENT THAT INFORMATION PRESENTED ON THE ROAD, INCLUDING WITHOUT LIMITATION, TRAFFIC LIGHTS AND TRAFFIC SIGNS, INSTRUCTS DIFFERENTLY THAN THE SERVICE, YOU MUST NOT RELY ON THE SERVICE.

13. THIRD PARTY SITES & ADS

The Service might contain links to third party websites, services, and advertisements for third parties (collectively, “Third Party Sites & Ads”). Such Third Party Sites & Ads are not under the control of Flash Racks and Flash Racks is not responsible for any Third Party Sites & Ads. Flash Racks provides these Third Party Sites & Ads only as a convenience and does not review, approve, monitor, endorse, warrant, or make any representations with respect to Third Party Sites & Ads. You use all Third Party Sites & Ads at your own risk. When you link to a Third Party Site & Ad, the applicable third party’s terms and policies apply, including the third party’s privacy and data gathering practices. You should make whatever investigation you feel necessary or appropriate before proceeding with any transaction in connection with such Third Party Sites & Ads.

14. COPYRIGHT POLICY

Flash Racks respects the intellectual property of others and asks that Users of our Service do the same. In connection with the Service, we have adopted and implemented a policy

respecting copyright law that provides for the removal of any infringing materials and for the termination, in appropriate circumstances, of Users who are repeat infringers of intellectual property rights, including copyrights. If you believe that one of our Users is, through the use of the Service, unlawfully infringing the copyright(s) in a work, and wish to have the allegedly infringing material removed, the following information in the form of a written notification (pursuant to 17 U.S.C. – 512(c)) must be provided to our designated Copyright Agent: 1. your physical or electronic signature; 2. identification of the copyrighted work(s) that you claim to have been infringed; 3. identification of the material on our services that you claim is infringing and that you request us to remove; 4. sufficient information to permit us to locate such material; 5. your address, telephone number, and e-mail address; 6. a statement that you have a good faith belief that use of the objectionable material is not authorized by the copyright owner, its agent, or under the law; and 7. a statement that the information in the notification is accurate, and under penalty of perjury, that you are either the owner of the copyright that has allegedly been infringed or that you are authorized to act on behalf of the copyright owner. Please note that, pursuant to 17 U.S.C.-512(f), any misrepresentation of material fact (falsities) in a written notification automatically subjects the complaining party to liability for any damages, costs and attorney's fees incurred by us in connection with the written notification and allegation of copyright infringement.

15. APPLE APP STORE ADDITIONAL TERMS AND CONDITIONS

The following additional terms and conditions apply to you if you are using a Mobile App from the Apple App Store. To the extent the other terms and conditions of this Agreement are less restrictive than, or otherwise conflict with, the terms and conditions of this Section 15, the more restrictive or conflicting terms and conditions in this Section 15 apply, but solely with respect to Mobile Apps from the Apple App Store.

15.1. Acknowledgement: Flash Racks and you acknowledge that this Agreement is concluded between Flash Racks and you only, and not with Apple, and Flash Racks, not Apple, is solely responsible for the Mobile App and the content thereof. To the extent this Agreement provides for usage rules for the Mobile App that are less restrictive than the Usage Rules set forth for the Mobile App in, or otherwise is in conflict with, the App Store Terms of Service, the more restrictive or conflicting Apple term applies.

15.2. Scope of License: The license granted to you for the Mobile App is limited to a nontransferable license to use the Mobile App on an iOS Product that you own or control and as permitted by the Usage Rules set forth in the App Store Terms of Service.

15.3. Maintenance and Support: Flash Racks is solely responsible for providing any maintenance and support services with respect to the Mobile App, as specified in this Agreement (if any), or as required under applicable law. Company and you acknowledge that Apple has no obligation whatsoever to furnish any maintenance and support services with respect to the Mobile App.

15.4. Warranty: Flash Racks is solely responsible for any product warranties, whether express or implied by law, to the extent not effectively disclaimed. In the event of any failure of the Mobile App to conform to any applicable warranty, you may notify Apple, and Apple will refund the purchase price for the Mobile App to you; and to the maximum extent permitted by applicable law, Apple will have no other warranty obligation whatsoever with respect to the Mobile App, and any other claims, losses, liabilities, damages, costs or expenses attributable to any failure to conform to any warranty will be Flash Racks' sole responsibility.

15.5. Product Claims: Flash Racks and you acknowledge that Flash Racks, not Apple, is responsible for addressing any claims of you or any third party relating to the Mobile App or your possession and/or use of the Mobile App, including, but not limited to: (i) product liability claims; (ii) any claim that the Mobile App fails to conform to any applicable legal or regulatory requirement; and (iii) claims arising under consumer protection or similar legislation. This Agreement does not limit Company's liability to you beyond what is permitted by applicable law.

15.6. Intellectual Property Rights: Flash Racks and you acknowledge that, in the event of any third party claim that the Mobile App or your possession and use of the Mobile App infringes that third party's intellectual property rights, as between Flash Racks and Apple, Company, not Apple, will be solely responsible for the investigation, defense, settlement and discharge of any such intellectual property infringement claim.

15.7. Legal Compliance: You represent and warrant that (i) you are not located in a country that is subject to a U.S. Government embargo, or that has been designated by the U.S. Government as a "terrorist supporting" country; and (ii) you are not listed on any U.S. Government list of prohibited or restricted parties.

15.8. Developer Name and Address: Flash Racks' contact information for any end-user questions, complaints or claims with respect to the Mobile App is set forth in Section 16.12.

15.9. Third Party Terms of Agreement: You must comply with applicable third party terms of agreement when using the Mobile App.

15.10. Third Party Beneficiary: Flash Racks and you acknowledge and agree that Apple, and Apple's subsidiaries, are third party beneficiaries of this Agreement, and that, upon your acceptance of the terms and conditions of this Agreement, Apple will have the right (and will be deemed to have accepted the right) to enforce this Agreement against you as a third party beneficiary thereof.

16. GENERAL

16.1. These Terms of Service are periodically reviewed, modified and enhanced as necessary. Please revisit the Terms of Service periodically to stay aware of any changes thereto. If we modify the Terms of Service, we will make the relevant updates available through the Service. Flash Racks will endeavor to notify you of these changes by email, but will not be liable for any failure to do so. Amendments will be effective upon Flash Racks' posting of such updated terms. Continued use of the Service following such posting shall indicate your acknowledgement of such changes and agreement to be bound by the terms and conditions, as amended. If you do not understand any of the terms herein, or have questions or other issues related to your use of Flash Racks, you may inquire regarding the same via email at support@Flash-Racks.com.

16.2. Dispute Resolution. PLEASE READ THIS CAREFULLY. IT AFFECTS YOUR RIGHTS

(a) In any dispute over or in any way related to the provisions of these Terms of Service or any transaction associated with or a result of any relationship with Flash Racks, and in all other disputes involving Flash Racks, the dispute shall:

- (i) Be professionally, promptly, and commercially reasonably presented and negotiated in good faith between the disputing parties.

- (ii) In the event that negotiation fails or upon the expiration of one (1) month of the event(s) giving rise to the dispute, whichever is sooner, the dispute shall then be submitted to non-binding mediation. The disputing party shall apply to the American Arbitration Association for a mediator, with the mediation to take place in Houston, Texas.
- (iii) In the event mediation fails to resolve all of the issues between or among the disputing parties, or if mediation is not held within two (2) months of the event(s) giving rise to the dispute, then the matter or any remaining matters shall be submitted to final, non-appealable, binding arbitration. The arbitration shall be held by the American Arbitration Association in accordance with the Commercial Arbitration Rules of the American Arbitration Association. The place of arbitration shall be Houston, Texas. The arbitration will be conducted in English. The arbitrator may issue preliminary, injunctive, and/or equitable relief. Nothing in this Paragraph will serve to restrict the ability to apply for emergency relief. Any party may, after failure of the negotiation and mediation procedures above, commence arbitration of the dispute by sending a written request for arbitration to all other disputing parties. The request shall state the nature of the dispute to be resolved by arbitration, and arbitration shall be commenced as soon as practical after such parties receive a copy of the written request. Parties may not bring suit regarding any disputes, controversies, or claims subject to this Paragraph of this Agreement in any venue other than an arbitration pursuant to this Paragraph of the Agreement, except in order to enforce this Paragraph or enforce an arbitral award made pursuant to this Paragraph. In the event that a party attempts to bring an action in violation of this Paragraph, all parties agree that the other party(ies) will be entitled to the arbitrator or judge entering an injunction to enjoin such unauthorized action. All parties shall initially share the cost of arbitration, but the prevailing party or parties shall be awarded attorney fees, costs, and other expenses of arbitration. All arbitration decisions shall be final, binding, and conclusive on all the Parties to arbitration, and legal judgment may be entered based upon such decision in accordance with applicable law in any court having jurisdiction to do so. All parties agree that the arbitral award shall be recognized by any applicable courts pursuant to all applicable statutes, conventions, and treaties. All parties agree that this Agreement concerns interstate commerce for purposes of the Federal Arbitration Act and the Federal Arbitration Act shall apply.

You are thus GIVING UP YOUR RIGHT TO GO TO COURT to assert or defend your rights EXCEPT for matters that may be taken to small claims court. Your rights will be determined by a NEUTRAL ARBITRATOR and NOT a judge or jury. You are entitled to a FAIR HEARING, BUT the arbitration procedures are SIMPLER AND MORE LIMITED THAN RULES APPLICABLE IN COURT. Arbitrator decisions are as enforceable as any court order and are subject to VERY LIMITED REVIEW BY A COURT.

You and we must abide by the following rules: (1) ANY CLAIMS BROUGHT BY YOU OR US MUST BE BROUGHT IN THE PARTIES' INDIVIDUAL CAPACITY, AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING; (2) THE ARBITRATOR MAY NOT CONSOLIDATE MORE THAN ONE PERSON'S CLAIMS, MAY NOT OTHERWISE PRESIDE OVER

ANY FORM OF A REPRESENTATIVE OR CLASS PROCEEDING, AND MAY NOT AWARD CLASS- WIDE RELIEF, (3) we also reserve the right in our sole and exclusive discretion to assume responsibility for all of the costs of the arbitration; (4) the arbitrator shall honor claims of privilege and privacy recognized at law;

(b) Notwithstanding the foregoing, either you or we may bring an individual action in small claims court. Further, claims of infringement or misappropriation of the other party's patent, copyright, trademark, or trade secret shall not be subject to this arbitration agreement. Such claims shall be exclusively brought in the state or federal courts located in Harris County, Texas. Additionally, notwithstanding this agreement to arbitrate, either party may seek emergency equitable relief before the state or federal courts located in Harris County, Texas in order to maintain the status quo pending arbitration, and hereby agree to submit to exclusive personal jurisdiction of the courts located within Harris County, Texas for such purpose. A request for interim measures shall not be deemed a waiver of the right to arbitrate.

(c) With the exception of subparts (1) and (2) in the paragraph 14.2(b) above (prohibiting arbitration on a class or collective basis), if any part of this arbitration provision is deemed to be invalid, unenforceable or illegal, or otherwise conflicts with the Agreement, then the balance of this arbitration provision shall remain in effect and shall be construed in accordance with its terms as if the invalid, unenforceable, illegal or conflicting provision were not contained herein. If, however, either subparts (1) and (2) in the paragraph 14.2(b) (prohibiting arbitration on a class or collective basis) is found to be invalid, unenforceable or illegal, then the entirety of this arbitration provision shall be null and void, and neither you nor we shall be entitled to arbitration. If for any reason a claim proceeds in court rather than in arbitration, the dispute shall be exclusively brought in state or federal court in Harris County, Texas.

(d) Notwithstanding any provision in this Agreement to the contrary, if we seek to terminate the Dispute Resolution section as included in the Agreement, any such termination shall not be effective until thirty (30) days after the version of the Agreement not containing the agreement to arbitrate is posted to the Site, and shall not be effective as to any claim of which you provided us with written notice prior to the date of termination.

(e) For more information on AAA, its Rules and Procedures, and how to file an arbitration claim, you may call AAA at 800-778-7879 or visit the AAA website at <http://www.adr.org>.

(f) Any and all controversies, disputes, demands, counts, claims, or causes of action between you and Flash Racks and our employees, agents, successors, or assigns, regarding or relating to the Service or this Agreement, shall exclusively be governed by the internal laws of the State of Texas, without regard to its choice of law rules and without regard to conflicts of laws principles except that the arbitration provision shall be governed by the Federal Arbitration Act.

16.3. Force Majeure. Any delay in the performance of any duties or obligations of either party (except the payment of money owed) will not be considered a breach of this Agreement if such delay is caused by a labor dispute, shortage of materials, fire, earthquake, flood, or any other event beyond the control of such party.

16.4. Entire Agreement. This Agreement, including but not limited to any applicable Accessorial Rates, SOP, and/or Work Order incorporated by reference herein, constitutes the entire agreement between you and us regarding the use of the Service. Our failure to exercise or enforce any right or provision of this Agreement shall not operate as a waiver of such right or provision. The section titles in this Agreement are for convenience only and have no legal or contractual effect. The word including means including without limitation. If any provision of this Agreement is, for any reason, held to be invalid or unenforceable, the other provisions of this Agreement will be unimpaired and the invalid or unenforceable provision will be deemed modified so that it is valid and enforceable to the maximum extent permitted by law. This Agreement may be executed in counterparts.

16.5. Independent Contractor. Your relationship to Flash Racks is that of an independent contractor, and neither party is an agent, employee or partner of the other. You assume complete responsibility for all state and federal taxes, assessments, insurance (including, but not limited to, workers' compensation, unemployment compensation, disability, pension and social security insurance) and any other financial obligations arising out of the transportation services rendered hereunder. You are not, nor will you be deemed to be, an agent, legal representative, joint venture, franchisor, franchisee, or legal partner of Flash Racks for any purpose. You will not be entitled to enter into any contracts, make any representations or warranties in the name of, or accept any obligations whatsoever on behalf of Flash Racks.

16.6. Assignment. This Agreement, and your rights and obligations herein, may not be assigned, subcontracted, delegated, or otherwise transferred by you without Flash Racks' prior written consent, and any attempted assignment, subcontract, delegation, or transfer in violation of the foregoing will be null and void. The terms of this Agreement shall be binding upon assignees.

16.7. Press. You hereby grant Flash Racks permission to identify you as a customer of Flash Racks or user of our Services and to reproduce your name and logo on the Site and in any other marketing materials.

16.8. Conflict. If there is any conflict or inconsistency between the terms and conditions set forth in this Agreement and the terms set forth in any Bill of Lading, Proof of Delivery or any other shipping form, the terms and conditions of this Agreement shall control over such terms. If there is a conflict between the terms of this Terms of Service and a separate Broker or Shipper Agreement which serves as the primary agreement for purposes of defining the transportation services to be provided by Broker, the terms of such separate agreement shall govern, but all non-conflicting terms herein shall apply.

16.9. Copyright/Trademark Information. Copyright © 2016, Flash Racks LLC. All rights reserved. All trademarks, logos and service marks ("Marks") displayed on the Service are our property or the property of other third parties. You are not permitted to use these Marks without our prior written consent or the consent of such third party, which may own the Marks.

16.10. Disclosures. Flash Racks is located at 1302 Waugh Dr., Suite 229, Houston, TX 77019. If you are a Texas resident, you may report complaints to the Consumer Protection Division of the Texas Attorney General Office by contacting them in writing at Office of the Attorney General, Consumer Protection Division, PO Box 12548, Austin, TX 78711-2548.

16.11. Electronic Communications. The communications between you and Flash Racks use electronic means, whether you use the Service or send us emails, or whether Flash Racks

posts notices on the Service or communicates with you via email. For contractual purposes, you (a) consent to receive communications from Flash Racks in an electronic form; and (b) agree that all terms and conditions, agreements, notices, disclosures, and other communications that Flash Racks provides to you electronically satisfy any legal requirement that such communications would satisfy if it were be in a hardcopy writing. The foregoing does not affect your non-waivable rights.

16.12. Contact Information:

Flash Racks LLC
Address: 1302 Waugh Dr., Houston, TX 77019
Email: help@Flash-Racks.com

16.13 Applicable Law. These Terms of Service, except where required by law to submit to another jurisdiction, shall be governed by, interpreted, construed, and administered under the laws of the State of Texas, as from time to time amended, and any applicable federal law. You acknowledge, understand, and agree that no effect is given to any choice-of-law or conflict-of-law provision or rule (whether of the State of Texas or any other jurisdiction) that would cause the application of the law of any jurisdiction other than that of the State of Texas.

16.14 Equitable Remedies. Notwithstanding the foregoing provisions of these Terms of Service, you acknowledge, understand, and agree that your breach or threatened breach of any of your obligations as described or contemplated by these Terms of Service would give rise to irreparable harm to Flash Racks and monetary damages would not be an adequate remedy. Therefore, you further acknowledge, understand, and agree that if you breach or threaten to breach any of your obligations as described or contemplated by these Terms of Service, Flash Racks shall be entitled to equitable relief, including a temporary restraining order, an injunction, specific performance, and any other equitable relief available from an arbitrator or arbitration tribunal (without any requirement to post bond). These equitable remedies are in addition to all other rights that may be available in respect of such breach.