

**CITADEL CARTAGE, LLC (“CARRIER”)
TERMS AND CONDITIONS OF CARRIAGE**

1. **Agreement to Terms and Conditions; Definitions.** In tendering a shipment of goods for transportation (“Shipment”) to, accepting a Shipment from, or otherwise requesting transportation services by, Carrier, Customer agrees to these Terms and Conditions of Carriage as amended by Carrier from time to time (these “Terms and Conditions”). The foregoing notwithstanding, Carrier and Customer may disclaim these Terms and Conditions, but may only do so expressly in a transportation agreement signed by an officer of Carrier and Customer. For purposes of these Terms and Conditions, “Customer” means the party from whom the Shipment is received, the party that requested the Shipment be transported by Carrier, the party to which the Shipment is consigned, any party having an interest in the Shipment, and any party that acts as an agent for any of these. Customer certifies and represents to Carrier that any information inserted on the face of any shipping document, including any bill of lading, proof of delivery, waybill, cargo receipt applicable to transportation of any Shipment is complete and accurate. The bill of lading, waybill or other transportation document evidencing transportation of this Shipment shall be used only to document the service parameters of the Shipment (e.g., commodity, origin, destination, special handling requirements, etc.). The terms and conditions of any such document shall not apply to services provided by Carrier under these Terms and Conditions and these Terms and Conditions shall supersede any terms and conditions contained on the shipping document on which the Shipment was tendered. Carrier may, at its sole discretion, utilize the services of other carrier’s or modes of transportation. Carrier’s liability to its Customer will not change unless agreed upon in writing by Carrier and Customer. Any limitation of liability or other protection herein applicable to Carrier shall apply to and be for the benefit of Carrier’s subcontractors, agents, servants and representatives and any person or entity whose conveyance or services are used by Carrier for carriage or other services for Customer. This provision does not limit Carrier’s rights as against such persons or entities.

2. **Customer’s Completion of Bill, Packaging, and Other Requirements; Carrier’s Right to Reject; Carrier’s Custody.**

a. Customer warrants and certifies that the contents of this consignment are fully and accurately described on the shipping document by the proper shipping name, and are classified, packaged, marked, and labeled/placarded, and are in all respects in proper condition for transport according to applicable laws, rules and regulations.

b. Customer warrants and represents that it has provided all information to Carrier that is relevant or necessary to the proper and safe handling of the Shipment, that Customer is authorized to arrange for the transportation of the Shipment, and that Customer has obtained all licenses, permits, and authorizations required or necessary to arrange transportation of the Shipment with Carrier.

c. Carrier is under no obligation to accept a request for service, and upon acceptance by Carrier of any such request reserves the right to reject any Shipment for any reason whatsoever.

d. Carrier’s care, custody, and control over the Shipment shall commence when the Shipment is safely received by Carrier or its subcontractor or authorized agent, and shall terminate when delivered to the consignee, owner or any other party entitled to receive the Shipment or to such other destination as Customer may designate.

3. **Exceptions.** At time of delivery, the consignee must note on the delivery receipt any exceptions as to count, condition or quantity at the time of delivery such as a shortage in the Shipment or damage to the cargo. Carrier shall not be liable for damage/loss unless damage and/or loss is evident and is so noted on the delivery receipt at time of delivery. Notations such as “subject to inspection” and “subject to recount” are not exceptions to this rule. A clear delivery receipt without indication of loss or damage shall be prima facie evidence of having received ordinary care in handling. Notice of concealed loss/damage (that is, loss or damage discovered by the consignee after delivery and after a clear receipt has been given, which loss or damage would not have been identifiable upon reasonable inspection at the time of delivery) must be received in writing by Carrier within seven (7) days after delivery, or if perishables, verbally within forty-eight (48) hours. Otherwise, a presumption shall exist that such damage occurred subsequent to delivery, which presumption may be overcome only by clear and convincing evidence.

4. **Liabilities Not Assumed.** CARRIER SHALL NOT BE LIABLE IN ANY EVENT FOR ANY SPECIAL, EXEMPLARY, PUNITIVE, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, INCLUDING BUT NOT LIMITED TO LOSS OF PROFIT, INCOME, INTEREST, UTILITY, OR LOSS OF MARKET, WHETHER OR NOT CARRIER HAD KNOWLEDGE THAT SUCH DAMAGES MIGHT BE INCURRED. CARRIER DOES NOT GUARANTEE PICK UP, TRANSPORTATION, OR DELIVERY BY A STIPULATED DATE OR A STIPULATED TIME. CARRIER SHALL IN NO EVENT BE LIABLE FOR DELAY OR ANY LOSS OR DAMAGE ARISING THEREFROM EXCEPT TO THE EXTENT DIRECTLY AND PROXIMATELY CAUSED BY CARRIER’S FAILURE TO PROVIDE SERVICE WITH REASONABLE DISPATCH.

5. **Claims Procedure.** Claims for overcharge or duplicate payment shall be accompanied by sufficient information to allow Carrier to conduct an investigation and pay or decline the claim within 180 days of the date of the invoice. A communication in writing from a claimant for loss or damage must be filed within nine (9) months after the delivery of the property except that claims for failure to make delivery (or portion thereof) must be filed within nine (9) months from the date delivery should have been made: (1) containing facts sufficient to identify the shipment (or shipments) or property involved, (2) asserting liability for alleged loss, damage, injury, or delay, and (3) making claim for the payment of a specified or determinable amount of money, will be considered as sufficient compliance with the provisions for filing claims embraced in the bill of lading or other contract of carriage. Carrier shall be provided a reasonable opportunity to make inspection of the Shipment and the container(s) and packaging material(s) at place of delivery. Notations of shortage or damage, or both, on freight bill, delivery receipts, or other documents will not be considered by Carrier as sufficient to comply with the minimum claim filing requirements. No claims shall be allowed until all transportation charges have been paid. Claims may not be deducted from transportation charges and no claims may be deducted from any charges owed Carrier. No payor or other party with an interest in a Shipment may deduct or offset any cargo loss, damage, or delay claims from any freight charges owed to Carrier. Carrier reserves the right, at its sole discretion, to either credit an account or provide an actual refund for any sums determined to be owed by Carrier. Legal action to enforce a claim must be brought within two years after the claim has been denied in writing by Carrier, in whole or in part.

6. **Loss and Damage Claims, Declared Value and Limitation of Liability**

a. Carrier's liability for loss, damage, destruction or delay to cargo transported shall be that of a motor carrier as set forth in the Carmack Amendment currently codified at 49 U.S.C. § 14706 (Carmack), as amended from time to time, regardless of whether transport is interstate or intrastate, or involves foreign commerce. Unless a higher value is declared by Customer in accordance with the provisions herein and the additional freight charges applicable to such declaration have been paid, Carrier's liability for loss, damage, or delay as to any shipment shall not exceed \$100,000 per Shipment. For purposes of this provision, a Shipment shall consist of all cargo or goods covered by a single bill of lading, waybill or similar transportation document issued by Carrier or, if none, otherwise applicable to the Shipment.

b. Carrier must be notified at the time it agrees to transport a Shipment that Customer wishes to declare a value in excess of \$100,000 per Shipment, will be declared, and the amount that will be declared. The released value shall be valid (meaning Carrier's \$100,000 per Shipment limitation of liability shall apply) unless Carrier has agreed in writing signed by an authorized representative to accept the cargo at the declared value. In order request such additional liability, the Customer must contact Carrier at (303) 394-6072 and make such request. If Carrier agrees to accept the additional liability, Carrier will provide a signed rate confirmation sheet acknowledging Carrier's acceptance of increased liability and reflecting additional charges as set forth below. Carrier's driver is not an authorized representative of Carrier for purposes of this provision, meaning that declaration of value on the bill of lading at the time of tender, without complying with the remaining provisions herein, is an insufficient method of declaring value. The declared value must be clearly stated as such on the face of the bill of lading. A charge of \$0.65 per \$100.00 of declared value in excess of Carrier's limitation, in addition to all other charges, shall be assessed. Declared values in excess of \$250,000 per shipment shall not be accepted, and in the event Customer attempts to declare a value in excess of \$250,000 per shipment, Carrier's liability shall continue to be limited to \$250,000 per Shipment.

c. The value of Shipments involving documents (including checks, bonds, stock certificates, or any other negotiable or non-negotiable instrument), records and data records, without limitation as to the type, including but not limited to electronic or paper hard copy, shall be limited to the value of the actual media upon which it is contained. Further, no costs, expenses, or claims of any nature will be assumed or accepted which is associated with the replication, duplication or recreation of lost data or documentation. For example, in the case of paper documents the value shall be limited to the value of the paper.

d. In no event shall Carrier's liability exceed the lesser of the actual value of the cargo or the declared value.

e. Carrier may accept sealed trailers or containers in Carrier's discretion. Carrier will have no liability for any shortage from any sealed container, nor with respect to damage caused by improper loading, in any instance where Carrier was not present at the time of loading, regardless of whether the bill of lading or other shipment documentation bears any designation indicating that the shipment was loaded outside of Carrier's ability to monitor loading. Carrier may break any seal if, in Carrier's sole discretion, Carrier or the driver believes that the load is unsafe or improperly loaded. Likewise, upon demand by law enforcement personnel, Carrier may break any seal and access any trailer or container. A missing or broken seal shall not affect Carrier's liability with respect to cargo loss or damage, nor shall it affect the cargo claimant's burden of proof with respect to cargo loss or damage. A broken or missing seal, in and of itself, is not evidence of damage, nor evidence that a shipment may have been subjected to contamination.

f. On refused, rejected or other Shipments or where Carrier is otherwise unable to deliver a Shipment or part of a Shipment to its intended final destination, Carrier's liability as a warehouseman shall begin immediately upon refusal or rejection and Carrier shall be entitled to recover any and all costs in any way associated with the storage of any cargo. At its sole option, Carrier may deposit the cargo in a public warehouse or storage facility under the Customer's name so that storage fees do not accrue against Carrier. Carrier liability for loss or damage to cargo is eliminated once cargo is deposited. Deposit or acceptance of warehouseman liability by Carrier shall in no event impact applicability of Carrier's limitation of liability with respect to loss or damage to Shipments.

7. **Force Majeure.** Carrier shall not be liable for any failure to provide or delay in providing service arising from or related to: Acts of God; public authorities acting with actual or apparent authority; strikes; labor disputes; weather; mechanical failures; aircraft failures; civil commotions; acts or omissions of customs or quarantine officials; the nature of the freight or any defects thereof; public enemies; hazards incident to a state of war; acts of terrorism; and by acts, defaults or omissions of Customer or consignee for failure to observe these Terms and Conditions, including but not limited to improper packaging, marking, incomplete/inaccurate shipping instructions and the rules relating to freight not acceptable for transportation or freight acceptable only under certain conditions outlined below.

8. **Rates and Payment Obligation.**

a. Unless otherwise set forth in a rate confirmation sheet signed by the parties and in a form acceptable to Carrier, all services for transportation of Shipments shall be governed by Carrier's rates in effect on the date of pick-up, which rates are available upon request. Rates and service quotations are good faith estimates based upon information provided to Carrier, but final rates and service may vary based upon the shipment actually tendered, unknown circumstances, incorrect or incomplete information. Charges for and rules governing applicability of accessorial services and charges, including, but not limited to, detention, fuel surcharge, equipment ordered and not used, etc., shall apply to all services provided by Carrier regardless of whether the parties have entered into separate documentation governing the rate. All mileage calculations shall be in accordance with Carrier's then-current mileage guide on effect as of the date of pick-up.

b. The Customer, consignor and consignee shall be liable jointly and severally for the payment of (1) all sums due and payable to Carrier pursuant hereto on account of any Shipments, (2) interest at the rate of 18% per year on all sums over 30 days past due, (3) reasonable costs of collection and attorney's fees incurred in collecting any sums past due, and (4) actual fees incurred by Carrier in addition to all sums past due when referred to a collection agency. All charges are due within 15 days of receipt of invoice. All invoices are subject to final audit.

c. CARRIER SHALL HAVE A POSSESSORY LIEN ON SHIPMENTS AND ANY PROCEEDS THEREFROM IN ITS DOMINION AND CONTROL FOR THE PAYMENT OF ANY AMOUNTS DUE AND OWING TO CARRIER. IN ADDITION, TO THE EXTENT PERMITTED BY APPLICABLE LAW, CARRIER WILL HAVE A GENERAL LIEN ON ANY GOODS THAT HAVE COME OR WILL COME INTO ITS POSSESSION, AND ON ANY PROCEEDS THEREOF, FOR ANY AND ALL CHARGES DUE AND OWING TO CARRIER REGARDLESS OF WHETHER THOSE CHARGES RELATED TO THE GOODS OR PROCEEDS AGAINST WHICH THE GENERAL LIEN IS ENFORCED.

9. **C.O.D. Shipments.** Carrier may, in its sole discretion accept transportation of Collect on Delivery ("COD") Shipments. The charge for collecting and remitting the amount of each COD bill will be 10% of the COD amount, subject to a minimum charge of \$100 per Shipment. Customer must enter the amount of Customer's C.O.D. in U.S. dollars and cents in spaces specifically provided on the face of the bill of lading. Each piece in a C.O.D. Shipment must be marked "C.O.D." and show the total C.O.D. amount. All C.O.D. charges must be paid in cash, or by certified check. Carrier's responsibility for C.O.D. payment is limited to the exercise of reasonable care and diligence in forwarding the check or money order to the consignor, or to such other party as may be designated by the consignor as the payee, within 15 business days after receipt by Carrier. Carrier assumes no liability whatsoever for COD payments that default, without exception or limitation, for any reason whatsoever, including but not limited to those that default due to a lack of funds, credit exceeding established limits, erroneous, forged, counterfeit, stolen or fraudulent checks, drafts, currency, credit card or voucher.

10. **Service Obligation.** Upon Carrier's agreement to transport a tendered Shipment and subject to Carrier's right to subsequently decline such tender as stated herein, Carrier undertakes to complete the carriage hereunder with reasonable dispatch.

11. **Refused Shipment-Warehouseman Liability.** If the consignee refuses the cargo tendered by Carrier or if Carrier is unable to deliver the cargo because of fault or mistake of Customer or the consignee, or if Customer advises and instructs Carrier to stop movement of the cargo and to hold it in transit, Carrier's liability thereafter immediately shall be that of a warehouseman. The procedures

that Carrier agrees to and shall take as a warehouseman involve the use of ordinary care to keep the cargo in a safe or suitable place or to store the cargo properly. Carrier shall (a) attempt to give Customer notice as soon as possible if the foregoing occurs, (b) place the cargo in storage, if available, unless Carrier receives contrary disposition instructions from Customer within twenty-four (24) hours, and (c) if disposition instructions are not given by Customer within ten (10) days of Carrier's initial notification to Customer, Carrier may offer the cargo for public or private sale. Customer shall be responsible for storage costs and reasonable costs Carrier incurs in acting as a warehouseman. If Customer gives Carrier timely disposition instructions, Carrier shall use any commercially reasonable steps to abide with such instructions. Customer shall pay Carrier's costs and any additional transportation costs to Carrier incurs in doing so.

12. **No Hazardous Materials Accepted.** In no event shall Customer tender, or Carrier accept Shipments containing hazardous materials or dangerous goods described as such in the U.S. Department of Transportation hazardous materials transportation regulations (49 C.F.R. Parts 171, 172, 173, and 175) or the current edition of the International Air Transport Association (IATA) *Dangerous Goods Regulations*. Any hazardous materials or dangerous goods tendered to Carrier shall be refused.

13. **Loading and Unloading.** Carrier's rates contemplate loading of cargo by the consignor and unloading by the consignee, except that if the Customer, consignor or consignee requests that Carrier furnish outside labor to load or unload, all charges for such outside labor will be passed through to Customer. If the driver or any other Carrier personnel is requested to assist with loading and/or unloading, a charge of \$30 per hour, or fraction thereof, will be assessed in addition to all other applicable charges. Shipments loaded by the Customer will be properly secured and braced by the Customer. At the request of Customer, or if Carrier determines in its sole discretion that blocking and bracing performed by the Customer is insufficient, Carrier will perform shoring or blocking services. A charge of \$30 per man hour or fraction thereof will be assessed for this service.

14. **Record Retention.** Copies of all relevant shipping documents showing the cargo's consignee, description, and other relevant data shall be retained on file by Carrier until the cargo completes its transportation or such longer period as applicable law may require.

15. **Impracticable Operations.** Nothing in these Terms and Conditions shall be construed as making it binding upon Carrier to accept freight from or make delivery to locations to which it is impracticable to operate vehicles, inclusive of performing pickup or delivery services, because of conditions of alleys or streets, because of riots or strikes, conditions typically referred to as Acts of God or Force Majeure events, inclusive of Force Majeure events as defined in these Terms and conditions. Further, at its sole discretion, Carrier reserves the right to refuse or reject requests for service, or to return accepted Shipments, if it is known or perceived that any of the foregoing may exist or occur. Any applicable service guarantees are rendered null and void in the event any of the foregoing are experienced

16. **Governing Law and Dispute Resolution.** These Terms and Conditions, and the services provided by Carrier under them, shall be governed by and subject to the applicable federal law of the United States and by the laws of the State of Colorado, without regard to the choice-of-law rules of that State or any other jurisdiction. ANY CLAIM OR DISPUTE ARISING FROM OR IN CONNECTION WITH THESE TERMS AND CONDITIONS OR SERVICES PROVIDED HEREUNDER SHALL BE BROUGHT EXCLUSIVELY IN THE STATE OR FEDERAL COURTS SERVING DENVER COLORADO. CUSTOMER AND CARRIER HEREBY CONSENT TO THE EXCLUSIVE JURISDICTION OF SUCH COURTS. Should Carrier successfully defend itself in any legal actions brought by any person with an interest in the Shipment, Carrier shall be entitled to reasonable attorney fees and litigation expenses.