

NON NEGOTIABLE RECEIPT AND AGENCY AGREEMENT – Terms and Conditions

1. Definition

- A. "Company" as used herein includes KNE, LLC, dba H2O Logistics, its servants, agents, employees, and subcontractors.
- B. "Cargo" as used herein includes goods tendered for transport and described on the face hereof, as well as the packaging and/or any other preparations(s) for transportation.
- C. "Shipper" as used herein includes the principal on whose Behalf Company arranges carriage and/or performs services hereunder as well as the consignee, the owner of the Cargo, and the person in possession of this Receipt and Agreement.

2. Responsibility of the Company

- A. Company has been engaged as Shipper's Agent in arranging the receipt and transportation described on the face hereof. It is expressly agreed that Company undertakes no responsibility as a carrier or to perform the transportation, and assumes no liability for loss of damage to the Cargo arising out of or occurring during the transportation and/or while the Cargo is in the custody of the carrier(s). It is further acknowledged and agreed that the carriers who will be used to perform such transportation customarily issue a bill of lading or other contract of carriage which contains terms, conditions, limitations of liability, and may incorporate and/or otherwise be subject to U.S. Carriage of Goods by Sea Act, 46 U.S.C., 1300-1315, the Harter Act, 46 U.S.C., 190-196, and/or other statutes laws, rules, tariffs or regulations which provide defenses to and/or limitations of liability.
- B. Subject to subparts C, D and E of this Article, Company shall not be liable in any amount unless the loss or damage is proximately caused by the Company's negligence and the burden of proving Company's negligence shall be upon the Shipper and/or other party making a claim. It is expressly agreed that no presumption of negligence of fault of the Company shall arise under any circumstances.
- C. The Company shall be in no case liable for an amount in excess of 50 cents per pound, at a maximum of \$50.00 per package, based upon the weight of the Cargo as furnished by the Shipper, for any loss of damage to the Cargo however and whatever arising or caused, unless the value and nature of the Cargo has been declared by the Shipper and inserted of the face of this Receipt and Agreement, and extra fees have been paid to and accepted by Company in consideration of the declared value. If the actual value of the Cargo exceeds such declared value, the value of the Cargo shall nonetheless be deemed to be the declared value, and any claim for loss or damaged shall be based upon such declared value and the Company's liability, if any, shall not exceed the declared value. Any partial loss or damaged shall be adjusted pro rata on the basis of such declared value. The Company shall not in any case be liable in any amount higher than the actual value of the Cargo.
- D. The Company shall not be liable for loss or damage arising or resulting from: (1) an act of omission of a carrier, its agents, servants, employees or subcontractors; (2) the custody or carriage of live animals and plants; (3) the act, neglect, or fault of the master or any other person in the navigation or management of a carrying vessel or conveyance; (4) fire, unless proximately caused by the actual fault and privity of the Company; (5) perils or dangers of the sea or navigable waters; (6) wastage in bulk or weight of any other loss of damage arising from the inherent nature of or latent defects of conditions of the Cargo; (7) insufficiency of packaging, packing or marks; or (8) any action taken under Article 6, 7, 8, 9, 10 or 16, as set forth hereinafter.
- E. The Company shall not be liable for any loss or damage resulting from delay.

3. Warranties of the Shipper

- A. The Shipper warrants:
 - 1) that the particulars and description of the Cargo set forth on the face of this Receipt and Agreement as furnished by him is accurate as to the marks, number, quantity, value (if declared) and weight; Shipper agrees to indemnify Company against all losses, damages, expenses, including reasonable attorney fees, arising or resulting from inaccuracies in these particulars and/or description
 - 2) that the Cargo does not contain any article or substance of a dangerous, hazardous, toxic, explosive, flammable or corrosive nature unless such nature has been declared in writing by the Shipper prior to acceptance of the Cargo by the Company, and additional fees have been paid therefore, and Shipper complies with Article 13.
 - 3) That the Cargo is safely and properly packaged and labeled for the carriage arranged and the storage and/or handling performed hereunder;
 - 4) That the Cargo, its packaging and/or labeling complies with all laws and regulations of any place where it is to be carried and/or stored.
- B. The Shipper, consignee, owner of the Cargo, and person in possession of this Receipt and Agreement, by acceptance of this Receipt and Agreement and/or by demand for the Cargo hereunder, agree jointly and severally, to indemnify and hold harmless the Company against all loss, damage, liability, claims, fines and/or expenses, including attorney fees, arising from or in connection with the breach of or failure to comply with any warranty set forth in subpart A hereinabove.

4. Statutory Defenses Preserved

Nothing in this Receipt and Agreement shall operate to limit or deprive the Company from any statutory protection, exemption from, or limitation of liability authorized by any applicable laws, statutes, or regulations.

5. Subcontracting: Exemption and Immunities of Subcontractors

- A. The Company shall be entitled, but not required, to subcontract the whole, or any part of, the handling, packing and/or storage of the Cargo subject to the same terms, conditions, and limitations set forth herein.
- B. The Shipper agrees that its sole recourse for any claim due to loss or damage to the Cargo shall be against Company and shall be subject to Articles 2, 6, 7, 8, 9 and 16 herein and that no claim shall be made against any subcontractor (including but not limited to stevedores, terminal operators, warehousemen, truckers and/or their servants or agents) engaged by Company to perform serviced on its behalf.
- C. Without prejudice to the foregoing, it is expressly agreed that every such subcontractor shall have the benefit of all provisions of this Receipt and Agreement.

6. Route of Transport

- A. The Cargo may, at the Company's absolute direction, be assembled for carriage as a single shipment or as multiple shipments, to be transported by Vessel(s) and/or any other means of land, water, and/or air transportation, and by any route whatsoever, whether or not such route is direct, advertised, or customary route.
- B. The carrying Vessel(s) and/or conveyance(s) shall have liberty to call and/or stay at any port or place in or out of the direct, advertised, or customary route, once or more often, and in any order, and/or shall have liberty to omit calling at any port or place and/or to alter the rotation of ports or places of call.
- C. If the Cargo, in whole or in part, is for any reason not carried on the Vessel or conveyance identified on this Receipt and Agreement, if any, the Company may arrange for transport of the Cargo on the next available vessel or conveyance, or at Company's option by any other means of transportation, whether by land, water, or air.
- D. At the Company's option and without notice to Shipper, another ship(s) or other conveyance(s) may be substituted for the Vessel or conveyance identified in this Receipt and Agreement, whether or not the substituted ship or conveyance is scheduled to arrive or depart before or after the Vessel or other conveyance identified in this Receipt and Agreement.

7. Liberties

- A. In any situation whatsoever, whether or not in existence of reasonably anticipated before commencement of services hereunder, which in the judgment of the Company: 1) has given or is likely to give rise to danger, injury, loss, delay, or disadvantage of whatsoever nature to Company, a vehicle, any person, the Cargo, or any property, or 2) has rendered or is likely to render it in any way unsafe, impracticable, unlawful, or against the interest of the Company or the Shipper to commence or continue the transport, or to discharge the Cargo at the port or point of discharge, or to deliver the Cargo at the place of delivery, by the route and in the manner originally intended by the Company, the Company:
 1. at any time and place shall be entitled to open or inspect the Cargo or dispose of the Cargo in such a way as Company deems appropriate, at the sole risk and expense of the Shipper; and/or
 2. before the Cargo is loaded onto the Vessel or other conveyance Company shall be entitled to cancel this contract and/or the contract of carriage, and/or to require the Shipper to retake delivery of Cargo, failing which Company may warehouse or place the Cargo at any place selected by the Company at the risk and expense of the Shipper; and/or
 3. if the Cargo is at a place awaiting transshipment, Company shall be entitled to terminate the transport there and to store it at any place selected by the Company at the risk and expense of the Shipper; and/or
 4. if the Cargo is loaded on a Vessel or other conveyance, Company shall be entitled to accept delivery of the Cargo, of any part of it at any port or place selected by the Carrier, or to arrange for transport back to the port of loading or place of receipt at the risk and expense of the Shipper. Any actions under subparts (3) or (4) above shall constitute complete and full performance of this contract, and the Company thereafter shall be free from all responsibility for care of the Cargo.
- B. If after storage, discharge, or any actions according to subpart A above, Company makes arrangements to store and/or transship and/or forward the Cargo, it is agreed that Company shall do so only as agent for and at the sole risk and expense of the Shipper without any liability whatsoever in respect of such agency. The Shipper shall reimburse the Company forthwith upon demand for all extra fees, freight, charges, and expenses incurred for any actions taken according to subpart A, including but not limited to demurrage, delay or expense to the Vessel or conveyance, and the Company shall have a lien upon the Cargo to the extent of such extra freight charges and expenses.
- C. The situations referred to subpart A above shall include, but shall not be limited to, those caused by the existence or apprehension of war, hostilities, or other disturbances; closure of, obstacle in, or danger to any port, navigable waters,

highways or other transportation route; any restriction on commerce or trading; quarantine, sanitary, or other similar regulations or restrictions; labor troubles; congestion of port, terminal, or similar place; shortage, absence, or obstacles of labor or facilities for loading, delivery, or other handling or storage of the Cargo; bad weather, shallow water, ice, or other obstacles in navigation or transportation.

- D. The Company, in addition to all other liberties provided for in this Article, shall have liberty to comply with orders, directions, regulations, or suggestions as to the transportation or handling of the Cargo, howsoever given, by any actual or purported government or public authority, or by any committee or person having, under the terms of any insurance on the Vessel, the right to give such order, direction, regulation, or suggestion. If by reason of and/or in compliance with any such order, direction, regulation, or suggestion anything is done or is not done, the same shall be deemed to be included within the contractual services and the Company shall not be liable for loss or damage resulting therefrom.

8. Delivery

- A. The Company shall have the right to arrange for delivery of the Cargo at any time and at any place designated by the Company within the geographic limits of the port of discharge or place of delivery shown on the face of this Receipt and Agreement.
- B. The Company's responsibility shall cease when the Cargo has been delivered to the Shipper, connecting carrier, or any other person entitled to receive the Cargo on the Shipper's behalf, at the place designated by the Company. Delivery of the Cargo to the custody of customs or any other public authority shall constitute delivery and shall operate to discharge Company's responsibilities hereunder.
- C. The Company is not responsible to give notification, in writing or otherwise, either to Shipper or others, of the arrival, discharge, or disposition of the Cargo, any custom, usage, or agreement to the contrary notwithstanding, and notwithstanding any notation on the face of this Receipt and Agreement concerning notification or designating a notify party.

9. Transshipment and Forwarding

Transshipment or forwarding of the Cargo to ports or other points not included within this Agreement is at the sole risk and expense of the Shipper, and Company shall not be deemed to be the agent or principal of a prior subsequent carrier.

10. Lien

Company shall have a lien on the Cargo, which shall survive delivery, for all fees, damages, charges, expenses, and any other sums (including costs and attorney's fees for recovering sums) chargeable to the Shipper under this Receipt and Agreement, and any preliminary contract for custody or care of the Cargo. It is also acknowledged that one or more liens may arise in favor of the carrier(s) performing the transportation arranged hereunder. If a judicial sale of the Cargo fails to recover the amount due and the costs and fees incurred, Company shall be entitled to recover the deficit from the Shipper.

11. Fees and Charges

- A. Fees may be calculated on the basis of the particulars of the Cargo furnished by the Shipper. In case of incorrect declaration of the contents, weight, measure, or value of the Cargo, the Shipper shall be liable for and bound to pay the Company:
 1. the balance of the freight between the freight charged by the carrier(s) and that which would have been due had the correct details been given, plus
 2. expenses incurred in determining the correct details, plus
 3. as liquidated damages, an additional sum equal to the correct freight.
- B. It is acknowledged that full freight to the port of discharge or place of delivery may be considered as completely earned on receipt of the Cargo by the Carrier(s).
- C. The Company shall be entitled to all fees and other charges due hereunder, whether actually paid or not, and to receive and retain such fees and charges under any circumstances, whether the Cargo is damaged or lost, or the transportation is broken up, frustrated, or abandoned at any stage.
- D. The payment of fees and/or charges shall be made in full and in cash without any offset, counterclaim or deduction.
- E. Cargo once received by the Company cannot be taken away or disposed of by the Shipper except upon the Company's consent and after payment of full fees and compensation for any loss sustained by the Company through such taking away or disposal.
- F. The Shipper shall be liable for and shall indemnify the Company against: (1) all dues, duties, taxes, consular fees, and other charges levied on the Cargo, and (2) all fines, damages and losses, sustained by the Company in connection with the Cargo, however caused, including the Shipper's (a) failure to comply with laws and regulations of any public authority in connection with the Cargo, or (b) failure to procure consular, Board of Health, or other certificates to accompany the Cargo. The Shipper shall be liable for return freight charges on any Cargo refused exportation of importation by any public authority.
- G. If Company is of the opinion that the Cargo is in need of sorting, inspecting, mending, repairing, or reconditioning, the Company, at its sole discretion, may provide such additional services at the risk and expense of the Shipper.
- H. The Shipper, consignee, owner of the Cargo, and person in possession of this Receipt and Agreement shall be jointly and severally liable to the Company for the payment of all freight and charges.

12. Notice of Claim and Time for Suit against Company

- A. Unless notice of loss or damage and the general nature of such loss or damage be given in writing to the Company before or at the time of delivery of the Cargo or, if the loss of damage is not apparent, within 3 days after delivery, the Cargo shall be deemed to have been delivered as described in this Receipt and Agreement and a presumption of delivery in good order shall arise in favor of Company.
- B. In any event Company shall be discharged from all liability in respect of nondelivery, misdelivery, delay, loss or damage unless suit is brought within one year after delivery of the Cargo or the date when the Cargo should have been delivered.

13. Dangerous Goods or Contraband

- A. The Company shall undertake to carry goods of an explosive, inflammable, radioactive, corrosive, toxic, hazardous, poisonous, or dangerous nature only upon Company's approval of a written application by the Shipper prior to the tender of such goods. Such application must accurately state the name, nature, and classification of the goods by the U.S. Department Transportation and under any applicable state statutes or regulations, including but not limited to the California Health and Safety Code. Shipper must also provide the specific characteristic(s) which warrant such classification and the appropriate label(s), if any, to be affixed to the container and/or conveyance, together with the full names and business addresses of the Shipper and the consignee.
- B. The Shipper shall undertake to ensure that the nature and danger of such goods be distinctly and permanently marked on the outside of the package(s) or container(s) tendered to Company.
- C. Shipper shall submit all documents or certificates required in connection with such Cargo by any applicable statute or regulation, or by the Company, to accompany the Shipper's written application, as required by subpart A hereinabove.
- D. If Cargo is discovered to have been received by the Company without compliance with subparts A, B, or C above, or if the Cargo is found to be contraband or prohibited by any law or regulation of any place during the custody, care or transport, Company shall be entitled to arrange to have such Cargo rendered innocuous, discharged, or otherwise disposed of at the Company's discretion and without compensation to the Shipper, and the Shipper shall be liable for and indemnify the Company against any loss, damage, or liability, including loss of freight, and any other expenses directly or indirectly arising out of custody, care, or carriage of such Cargo.
- E. The Company may exercise the right conferred upon it under the preceding subpart if Cargo received in compliance with subparts A, B, and C above has become or will become hazardous, toxic, radioactive, corrosive, poisonous, or dangerous, even if not dangerous when received by the Company.
- F. Company has the right to inspect the contents of any package or container at any time and place without prior notice to Shipper and at the sole risk and expense of the Shipper in order to ensure compliance hereunder.

14. Valuable Goods

The Company shall not be liable to any extent for any loss or damage to or in connection with precious metals, precious or semiprecious stones, jewelry, currency, negotiable instruments, securities, writings, documents, works of art, curios, heirlooms, or any other valuable goods, including goods possessing a special or particular value only for the Shipper, unless Shipper has complied fully with Article 2C of this Receipt and Agreement and Company has accepted Shipper's declaration of value.

15. Special Care

The Company does not undertake to care for or store the Cargo, or arrange for carriage of the Cargo, in a refrigerated, heated, insulated, or ventilated warehouse or container.

16. On Deck Carriage

It is acknowledged and agreed the Cargo may be carried on the deck of the vessel, and when the Cargo is carried on deck the Company need not make any notation of "on deck" stowage or carriage on the face of this Receipt and Agreement, any custom to the contrary notwithstanding. All risks of loss of damage from perils inherent in or incident to the custody or carriage of Cargo on deck shall be borne by the Shipper.

17. Superseding Clause

All prior or preliminary agreements and/or instructions for the care, custody, and/or transportation of the Cargo are superseded by this Receipt and Agreement.

18. Severability of Terms

The terms and conditions of this Receipt and Agreement are severable, and if any term or condition is declared invalid or unenforceable, the validity or enforceability of any other term or condition shall not be affected.