



ADDITIONAL TERMS AND CONDITIONS FOR OCEAN FREIGHT FORWARDING OF FULL CONTAINERLOAD SHIPMENTS

All services, materials, equipment and supplies, including all sub-contractor services, arranged by or provided by DHX, Dependable Hawaiian Express, Inc., or Dependable Global Express, Inc., (dba DGX) herein together known as “Dependable” for ocean freight forwarding of full container load (FCL) shipments are subject to the following special terms and conditions in addition to Dependable’s standard Terms & Conditions of Service. Merchant, as that term is defined herein, by accepting the services, materials, equipment and supplies, including all sub-contractor services, thereby accepts, agrees to and does ratify these standard terms and conditions of service. Dependable conducts business in the international and foreign trades of the United States as an Ocean Freight Forwarder type of Ocean Transportation Intermediary and is duly licensed under the Shipping Act of 1984 by the United States Federal Maritime Commission. Dependable also conducts business in the domestic offshore trades of the United States as an unregulated transportation broker or shipper’s agent. Merchant hereby expressly acknowledges and agrees that Dependable does not own nor provide the physical facilities of transportation carriers but arranges such services without express or implied warranty as to the carriers’ transportation services or equipment utilized. Merchant hereby acknowledges and agrees that in the event of any claim of loss or damage, delay, or any other claim unrelated to the “selection” of the underlying common or contract carrier, such claim shall be brought and asserted directly with the motor carrier, vessel operating carrier or freight forwarder that provided the physical transportation service. Merchant hereby acknowledges and agrees that Dependable shall not be held responsible for, nor in any manner liable for, any claim of loss or damage, shortage, deterioration, stowage, delay, misrouting, consequential or special damages of any nature whatsoever, theft, fire, water or moisture damage or damage from or relating the mishandling of any cargoes or containers transported pursuant to any arrangement made by or provided by Dependable. Merchant hereby acknowledges and agrees that, in the event of any loss or damage claim, that Dependable may, but is not obligated to nor assumes any responsibility for or liability for, the processing of any such claim on behalf of the Merchant, beneficial owner or lien holder on such damaged cargoes. Merchant hereby acknowledges and expressly agrees to compensate Dependable for such services in the processing of such loss and damage claims in the amount of twenty percent (20%) of the value of such claim(s). Such services do not include the assumption of liability for the cost(s) of inspection/surveyors of such damaged cargoes, legal fees and costs of litigation, expert witness fees, and any other costs or expenses incurred in the collection of or prosecution of such claims. All costs, expenses, legal fees, both witness and expert witness fees, travel costs and expenses are for the account of the Merchant and the cargo. Merchant further agrees to promptly pay and reimburse Dependable for any and all fees, expenses, and costs as identified above. In the event that Merchant fails to pay any invoice of Dependable for



such fees, costs and expenses, then Merchant hereby acknowledges and agrees to pay all costs and expenses and reasonable legal fees incurred in the collection, including compromise or settlement, of all funds and monies due Dependable in regard to the above matters. Merchant further agrees to indemnify, save and hold harmless Dependable from any and all claims, losses, injuries, real or alleged, that are received by or incurred by Dependable as a result of any cargoes handled by or the transportation of which is arranged by Dependable. Such indemnification is to specifically include any and all legal fees incurred as a result of any third party claim, claim from or by any carrier, counter-claim, cross-claim or claim for indemnification by any other person. No employee of Dependable servant nor agent, shall have power to waive or vary any of the terms hereof unless such waiver or variation is in writing and is specifically authorized in writing by an officer of Dependable.

Merchant, as that term is defined herein, acknowledges and agrees that the fees, rates and charges quoted and assessed by Dependable for the services procured and provided by Dependable, represent reasonable compensation and that Merchant, by accepting those services is legally and contractually bound to payment of such fees, rates and charges. Unless otherwise agreed by Dependable all fees, rates and charges assessed by Dependable are due and payable upon the date of issuance of an invoice thereof by Dependable or the departure/sailing date of the subject freight cargoes upon which such fees, rates and charges are assessed. In the event that Merchant shall fail to timely pay all such invoices, without claim of setoff, then Dependable may bring the necessary civil action in any court in the State of California, Merchant hereby waiving any objection of court jurisdiction and/or venue. Dependable shall be entitled to the recovery from Merchant of all costs, expenses and legal fees as noted on the invoices of Dependable issued to Merchant. All parties included within the definition of "Merchant" herein shall be jointly and severally liable to Dependable for all fees, rates, charges, expenses and costs of collection of monies and funds due Dependable.

Merchant hereby expressly acknowledges that the ocean transportation of cargo is an inherently dangerous undertaking and that on occasion loss or damage to cargo does occur. Merchant agrees that and acknowledges that ocean carriers are limited in their liability for such cargo loss and/or damage and that such limits are set by international law or treaty, or where applicable by contract. Merchant further acknowledges and agrees that Dependable will not declare a value for carriage liability with any carrier nor procure or provide cargo insurance against such loss and/or damage except with the express written instructions of the Merchant or shipper and then only at their expense and lodgment of a declaration as to the value of the cargo prior to shipment. Dependable, as noted above, shall in no manner be liable for any special, consequential, exemplary or punitive damages in regard to the cargo transported nor the services provided by either the ocean carrier, its agent or servants, sub-contractor, marine terminal operator(s), warehouseman, trucking company nor their agents, employees or assigns. Further,



Merchant hereby acknowledges and agrees that any claim against Dependable, however founded, is limited to circumstances of independent negligence or other fault of Dependable and to \$50 per shipment in accordance with Dependable's standard Terms & Conditions of Service. Merchant hereby further agrees that any and all claims or any nature whatsoever are hereby subject to and governed by the laws of the State of California, excluding any conflict of law provision, statute or regulation, and shall be heard in the Federal Court in Los Angeles County, California.

Merchant warrants and agrees that all FCL or truckload shipments or cargo are tendered to the carriers on a shipper load, count and sealed basis. Neither the carriers nor Dependable may be held liable in any manner for any claim for shortage on such cargoes. Merchant further acknowledges and agrees that any claims against Dependable shall be brought, filed by, and served upon Dependable within 90 days after receipt of the shipment by the intended consignee at the point/port of destination. In the event that a shipment or cargo is lost overboard, misdelivered, subject of theft or conversion, then such 90 day period shall run from the date that such cargo was tendered to the initial carrier for such movement to destination.

Merchant further warrants and agrees that Merchant shall comply with all regulations, both State and Federal, applicable to the transportation of any commodity defined to be a hazardous commodity or product under applicable State or Federal law and regulation. Merchant hereby represents, warrants and agrees that Merchant shall be liable for any and all damages, claims, fines, penalties of any nature whatsoever associated with the transportation of Merchant's cargo or products when such cargoes, products or commodities are defined as hazardous materials.

Merchants which tender or request Dependable to procure or arrange the transportation or any freight, property or cargo which requires protection from heat or cold hereby expressly acknowledge and agree that Dependable shall in no matter be responsible for the safe, secure, or successful transportation of such cargoes. The utilization of refrigerated cargo containers constitute the provision of specialized equipment and a specialized undertaking by the carriers. Such refrigerated cargoes are especially susceptible to deterioration, spoilage, and damage while in loading, transit and unloading. Dependable does not hold itself out to provide any form of specialized equipment and Merchant hereby acknowledges that Dependable is not liable for nor responsible for the safe, adequate or proper operation of such specialized equipment. As noted above, any and all claims relating transportation services using specialized equipment shall be made and brought directly with the carrier that provided the involved equipment. Such claims include the failure of the equipment to maintain proper temperature, breakdown or uncontrolled variations of temperature during shipment.

These special terms and conditions are subject to the following definitions as used herein:



- “MERCHANT” - The term “merchant” means the shipper, consignor, consignee, domestic freight forwarder, the holder of such documentation as evidencing the ownership, title, or right of possession or equitable ownership of the goods, cargoes or property and/or the receiver or actual legal owner of the goods, cargoes or property.
- “CARGOES, GOODS, OR PROPERTY” - The term “cargoes, goods or property” means the cargoes, goods or property the transportation of which is to be arranged by or procured by Dependable and which is tendered to any underlying carrier pursuant to any contractual or other arrangement with the Merchant or Dependable.
- “DEPENDABLE” - The term includes the DHX – Dependable Hawaiian Express, Inc. and Dependable Global Express, Inc., its officers, employees, agents and representatives and includes any commonly owned and operated corporation such as Dependable Hawaiian Express, Inc.; Dependable Hawaiian Express, Maui, Inc.; and Dependable Hawaiian Express, Big Island, Inc.

“CARRIER” - The term includes any and all entities that provide the physical transportation facilities, equipment, containers, ships, trucks, chassis and services that transport or move Merchant’s cargoes, goods or property from the point(s) of origin to destination(s).