

TERMS AND CONDITIONS FOR VEHICLE RENTAL AGREEMENT (SHORT FORM)

By signing a Vehicle Rental Agreement (the “**Agreement**”), Lessor accepts and agrees to the following Terms and Conditions (“**T&C**”) and the Pricing Schedule attached to the Agreement, both of which are expressly incorporated into the Agreement by reference.

1. Definitions. The definitions set forth in the Agreement shall apply in the T&C. In addition, the following terms are defined as follows: (a) “**Intellectual Property**” shall mean a Party’s technology and intellectual property assets, including, without limitation, any trade secrets, trademarks, trade names, service marks, service names, patents, copyrights, computer programs, hardware and software (including any applications or registrations for intellectual property protection for any of the foregoing), as well as any inventions, designs, configurations, processes, know-how, proprietary information and formulae, and any and all components of the foregoing, regardless of form. (b) “**Mileage and Fuel Tax Documents**” shall mean driver trip reports and original fuel purchase receipts. (c) “**Motor Fuel Use Tax**” shall mean taxes imposed under the International Fuel Tax Agreement “**IFTA**” or state specific fuel use tax regulations. The calculation for the tax is in conformance with IFTA or state requirements. (d) “**Weight Distance Tax**” shall mean taxes based upon the vehicle weight and the miles traveled within the state imposing the tax.

2. Payment; Invoices. Lessor shall submit its invoices to UPS in electronic form using an electronic invoicing system that is required by UPS, at UPS’s sole discretion. All invoices under this Agreement will be accumulated for a period commencing on the 14th day of a month and ending on the 13th day of the following month (“**Accumulation Period**”). All invoices that are received and approved for payment in a UPS-approved e-invoicing system will be included in the current Accumulation Period. Provided that the invoices conform to the requirements of the Agreement, UPS will pay the invoices collected during the Accumulation Period within 90 days from the end of the Accumulation Period. Any early payment discounts allowable under this Agreement will be calculated from the last day of an Accumulation Period. Nothing in this provision will preclude UPS and Lessor from agreeing upon other payment discounts, which may be offered through UPS’s e-invoicing and electronic payment systems. UPS shall have no obligation to pay an invoice issued one hundred eighty (180) days or more after the services have been provided. Payment shall be subject to offset for any claims of UPS against Lessor.

3. Parties' Relationship. Nothing contained in this Agreement shall be construed to create the relationship of principal and agent, or employer and employee, between Lessor and UPS or make either Lessor or UPS partners, joint venturers, principals, agents or employees of the other, or result in joint service offerings to their respective customers. Neither Party shall have any express, implied or apparent authority to create or assume, in the other Party’s name or on its behalf, any obligation, or to act or purport to act as the other Party’s agent. No Party shall have a claim or right to the ownership or use of the other Party’s Intellectual Property and the Agreement does not constitute consent or authority for one Party to use the other Party’s Intellectual Property in any capacity outside the scope of the Agreement.

4. Driver Trip Reports. UPS shall pay the Motor Fuels Use Tax and Weight Distance Tax attributable to UPS’s use of the Vehicle as part of UPS’s applicable weight-distance tax returns. If applicable, Lessor shall prepare and file Motor Fuel Use Tax and Weight Distance Tax returns, based upon Lessor’s submission of Mileage and Fuel Tax Documents and any other information necessary for the preparation of such tax returns. In the event Lessor fails to submit the Mileage and Fuel Tax Documents, Lessor shall calculate UPS’s mileage and fuel tax liability based upon such information as is available to Lessor. UPS’s Motor Fuels Use Tax and Weight Distance Tax obligation shall be billed to UPS as an additional charge. UPS shall pay such obligation per the terms of the Agreement.

5. Condition and Use of the Vehicle. Lessor represents that the condition of the Vehicle will be clean and in good condition, except as otherwise noted on the Agreement or any Lessor inspection report furnished to UPS. UPS shall under no circumstances be responsible for or incur any liability in connection with any latent defects of any rented Vehicle. UPS shall use the Vehicle for its purposes in accordance with the terms of the Agreement.

6. Maintenance and Repairs. UPS shall have the right to inspect the Vehicle at the time of or prior to receipt of the Vehicle. Any such inspection by UPS shall not relieve Lessor of its warranty obligations as provided in Section 9 below. UPS shall, at its own expense, be responsible for all routine maintenance of the Vehicle and any repairs to Vehicle as set forth in Section 12 below.

7. Return of Vehicle.

- a. **Obligations of Return.** UPS shall return the Vehicle to Lessor in substantially the same condition as received, except for ordinary wear and tear, to the location where rented or to the location listed on the Cover Sheet before or on the due date specified, unless the term of the Rental is extended by the Parties and, then, no later than the extended due date.
- b. **Required Fuel Upon Return.** UPS shall return the Vehicle with no less than the amount of fuel as when rented (“**Threshold Amount**”). If UPS does not return the Vehicle with at least the Threshold Amount of Fuel, Lessor will charge UPS to fill the Vehicle to the Threshold Amount.

8. WAIVER OF CONSEQUENTIAL DAMAGES; LIMITATION OF LIABILITY. NEITHER LESSOR NOR UPS (NOR THE AFFILIATES OF EITHER PARTY) SHALL BE LIABLE TO EACH OTHER FOR ANY CONSEQUENTIAL, INCIDENTAL, SPECIAL, PUNITIVE OR STATUTORY DAMAGES, INCLUDING LOST PROFITS, LOSS OF USE, LOSS OF PRODUCTION, LOSS OF ANTICIPATED SAVINGS, LOSS OF BUSINESS OR GOODWILL, OR LOSS OF REPUTATION. THE LIMITATIONS SET FORTH IN THIS SECTION 8 SHALL NOT APPLY TO CLAIMS FOR INDEMNIFICATION UNDER SECTION 13; TO BREACH OF SECTION 11 (CONFIDENTIALITY) OR TO LIABILITY FOR PERSONAL INJURY (INCLUDING DEATH) AND TANGIBLE PROPERTY DAMAGE ARISING FROM THE GROSS NEGLIGENCE OR INTENTIONAL MISCONDUCT OF THE OTHER PARTY.

9. Warranty. Lessor represents and warrants that (a) it will provide the services herein in a professional and workmanlike manner; (b) it has the requisite corporate power and authority to enter into and perform its obligations under the Agreement; (c) all Vehicles tendered by Lessor shall be in good working order and free from defects, and shall comply with applicable law and industry standards; (d) neither the execution of the Agreement nor the consummation of the transactions contemplated by the Agreement will require the consent of any governmental authority or other third party or violate any applicable law; and (e) it is (x) duly organized, validly existing and in good standing under the applicable law of the jurisdiction in which it is formed and (y) qualified to conduct business and is in good standing in the state(s) in which the Vehicles will be provided.

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10. UPS Property. If the Vehicle contains any property (“**UPS Property**”) at the time the Vehicle is returned to Lessor’s possession, Lessor will hold with due care UPS Property for UPS or place it in storage for UPS, at UPS’s cost.

11. Confidentiality. Lessor agrees to protect all UPS information which is of economic or competitive value to UPS and to maintain its secrecy, including, without limitation, information related to UPS’s operations, procedures, policies, accounts, and personnel, and information that is confidential or proprietary to a third party and is in the possession of UPS (collectively “**CCI**”) in the same manner it protects the confidentiality of its own similar confidential information, but using no less than a reasonable standard of care. Lessor will not use CCI for any purpose other than to comply with its regulatory obligations and to provide the services set forth in this Agreement. Unless required by law, Lessor may not disclose CCI except to employees of Lessor having a need to know such information. CCI shall at all times remain the property of UPS. Lessor acknowledges that disclosure of CCI in violation of this Section 11 may cause irreparable harm to UPS for which monetary damages may be difficult to ascertain. Lessor therefore agrees that UPS will have the right to seek injunctive relief, without the obligation to post any bond for such relief, for any violation hereof.

12. Insurance: Risk of Loss.

- a. **Liability Coverage.** UPS shall, at its sole cost, procure liability coverage for UPS in accordance with the standard provisions of a basic business automobile liability insurance policy as required in the jurisdiction in which Vehicle is operated, against liability for bodily injury, including death, and property damage arising out of maintenance, use and operation of Vehicle. Such coverage shall be primary and not in excess or contributory and shall be in conformity with the basic requirements of the applicable No-Fault or Uninsured Motorist Laws. UPS may self-insure against any and all loss or damage to each Vehicle consistent with the terms herein.
- b. **Risk of Loss.** Subject to Section 13 of these T&C and except as set forth in this Section 12 and as otherwise provided in the Agreement, UPS assumes the risk of loss of, or damage to (except normal wear and tear), all Vehicles in UPS’s possession (excluding transportation, loading, and unloading) during the term of the Rental from any and every cause whatsoever, including but not limited to, casualty, collision, fire, theft, malicious mischief, vandalism, and mysterious disappearance. Provided UPS is responsible for the repair pursuant to the terms herein, UPS shall pay to repair and restore the Vehicle to good working order, and if a Vehicle has been lost, stolen, destroyed, or damaged beyond repair (“**Casualty Occurrence**”), UPS shall pay Lessor the Vehicle’s Fair Market Value, which shall be the wholesale black book value as of the date immediately preceding the Casualty Occurrence. Notwithstanding the foregoing, UPS does not assume, and Lessor retains, the risk of loss of, or damage to, Vehicles: (a) while or caused while a Vehicle was in the care, custody or control of Lessor; (b) when the Vehicle is being transported, loaded, unloaded, or inspected by Lessor; (c) arising from normal wear and tear of the Vehicle; (d) arising from any third-party for whom Lessor is responsible, or (e) for claims or damages caused by a defect in or with the Vehicle (including, for avoidance of doubt, any of its parts).
- c. The insurance coverages required by this section shall not supersede any of the rights or obligations of UPS or Lessor under this Agreement.

13. Indemnification. Each Party (“**Indemnitor**”) agrees to defend, indemnify, and hold harmless the other Party (“**Indemnitee**”) its respective agents, servants and employees from any and all third party claims, suits, costs, damages, expenses and liabilities (including reasonable attorney’s fees) (collectively referred to as “**Claims**”) arising from: (i) Indemnitor’s failure to comply with any laws or regulations applicable to its performance under the Agreement or with respect to the Vehicles; (ii) any and all injuries (including death) or property damage sustained by Indemnitor or any driver, agent, servant or employee of Indemnitor in connection with the Agreement; (iii) Indemnitor’s failure to properly operate, connect or maintain a trailer or other equipment not provided or maintained by Indemnitee under the Agreement; (iv) Indemnitor’s negligence or willful misconduct in connection with the Agreement; (v) Indemnitor’s operation of any Vehicle hereunder; (vi) Indemnitor’s violation of Section 9 (Warranty) and (vii) Indemnitor’s breach of the Agreement. Notwithstanding the foregoing, Indemnitor shall have no obligation or liability under this Section with respect to any Claim to the extent the Claim arises from or is based upon Indemnitee’s negligence, willful misconduct or breach of the Agreement. The Indemnitee must provide the Indemnitor prompt written notice of a Claim (provided that the Indemnitor will not be excused from its obligations by the failure of Indemnitee to provide prompt notice, except to the extent the Indemnitor is materially prejudiced in its defense of the Claim by the delay), and must allow the Indemnitor (and its insurance carrier, if applicable) to investigate such Claim and otherwise cooperate with the defense. The Indemnitor will have sole control over the defense of a Claim unless the Indemnitee elects to handle its own defense of the Claim. The Indemnitee may participate in the defense of a Claim at its expense.

14. Termination. UPS may terminate this Agreement, in whole or in part, for any or no reason and at any time, effective upon thirty (30) day notice to Lessor, without payment of any fee, charge or penalty. Upon any such termination, UPS will pay all reasonable and documented amounts UPS owes under this Agreement up to the date of the termination.

15. Attorneys’ Fees. A substantially prevailing party in any legal action for breach of the Agreement shall be entitled to recover its reasonable attorney’s fees, and litigation costs and expenses, it incurred to prosecute or defend the claims on which it substantially prevailed. Prevailing party means the party determined by the court to have most nearly prevailed even if such party did not prevail in all matters.

16. Full Agreement. The Agreement constitutes the entire agreement between the Parties relating to the rental of a Vehicle and any additional terms and conditions presented to UPS in connection with the use of a Vehicle shall have no force or effect, even if a representative executes such agreement as a condition of receiving such Vehicle. The Agreement shall not be modified or altered except by written instrument duly executed by the Parties.

17. Non-Assignment. Neither Party is permitted to assign, transfer, or convey any rights, duties and/or obligations set forth in the Agreement without the other Party’s prior written consent; provided, however, that UPS may assign, transfer, or convey the Agreement to any affiliate of UPS.

18. Publicity. Each Party agrees that it shall not, without prior written consent of the other party in each instance, publically use in advertising, publicity or otherwise use the name of such other party or any of its affiliates, or any partner or employee of such other party or its affiliates, nor any trade name, trademark, trade device or simulation thereof owned by such other party or its affiliates. Lessor agrees that it shall not represent, directly or indirectly, that any product or any service provided by Lessor has been approved or endorsed by UPS or its affiliates.

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19. Governing Law; Severability. The Agreement shall be governed by and construed in accordance with the substantive law of the State of Delaware. In the event that any of the provisions of this Agreement are held invalid or unenforceable by law, such invalidity or unenforceability will not affect the validity or enforceability of any other provision of this Agreement. Each Party submits to the jurisdiction of the federal and state courts located in New Castle County, Delaware, to hear and decide any dispute under this Agreement or the T&C's and hereby waives all objections or defenses of lack of personal jurisdiction or improper venue that otherwise might be available in any such action.