

**SUMMIT NW CORP.**  
**Terms and Conditions of Carriage**

**A. INCORPORATION OF TARIFFS; RATES AND CHARGES; PAYMENT**

1. All services performed by Summit NW are subject to the Terms and Conditions of Carriage set forth herein and SUMMIT NW's tariffs, which are incorporated herein by reference, and are available without cost by calling SUMMIT NW at telephone number (503) 255-3826 or accessing them at [www.summitnw.com](http://www.summitnw.com).
2. Shipper and Consignee are liable, jointly and severally: (a) for all rates and charges payable on account of services provided by SUMMIT NW calculated in accordance with the Bill of Lading, SUMMIT NW's tariffs, and the load confirmation/rate sheet specifically applicable to the shipment, if any, except where a special contract has been executed between SUMMIT NW and Shipper or Consignee; (b) to pay or indemnify SUMMIT NW for all claims, fines, penalties, damages, costs or other sums which may be incurred by SUMMIT NW for any violation or other default of the Shipper or Consignee or their agents of their obligations hereunder; and (c) for all collection costs, including attorneys' fees, incurred by SUMMIT NW in collecting any amounts owed hereunder.
3. All rates and charges are due and payable prior to or upon delivery or, if credit has been extended by SUMMIT NW, within fifteen (15) days after the invoice date, and charges not paid within fifteen (15) days of the invoice date shall bear interest at the rate of 1.5% per month. SUMMIT NW has the right to grant or deny credit in its sole discretion.
4. SUMMIT NW shall have a lien against the shipment for all sums due and payable to SUMMIT NW.

**B. SHIPMENTS; ROUTING; REFUSED OR REJECTED SHIPMENTS**

1. In tendering the shipment for carriage, Shipper warrants that the shipment is packaged to protect the enclosed goods and to insure safe transportation with ordinary care in handling, and that each package is appropriately labeled and is in good order for carriage as specified.
2. All shipments may, at SUMMIT NW's option, be opened and inspected.
3. In the absence of specific contrary instructions by Shipper, SUMMIT NW may arrange for the transportation of the shipment by any route, schedule, mode of transportation, and by another carrier, and regardless of the route, schedule, mode, or carrier employed, SUMMIT NW rates and charges shall be those set forth in SUMMIT NW tariffs and the load confirmation/rate sheet specifically applicable to the shipment, if any, or special contract executed between SUMMIT NW and Shipper or Consignee.
4. In the event of the failure, refusal, or inability of Consignee to take delivery of the shipment, SUMMIT NW will notify Shipper in writing and request disposition instructions. If Shipper fails to provide disposition instructions within five (5) days after the date of SUMMIT NW's notice, SUMMIT NW will return the shipment to Shipper at Shipper's expense. If Shipper fails to accept delivery of a return shipment, SUMMIT NW may, upon

thirty (30) days written notice to Shipper, or a shorter period of time if the goods are perishable or threaten to decline in value speedily, dispose of the shipment at public or private sale and pay itself out of the proceeds to satisfy all charges owing to SUMMIT NW with respect to the shipment, including but not limited to freight charges and the costs of sale. Any sums collected by SUMMIT NW in excess of such transportation and sale charges will be paid to Shipper. No sale or disposal pursuant to this rule will discharge any liability or lien to any greater extent than the proceeds thereof. Shipper and Consignee shall remain liable, jointly and severally, for any deficiency, pursuant to paragraph A.2.

### **C. SUMMIT NW LIABILITY FOR LOSS OR DAMAGE; CLAIMS**

**1.** Except as provided herein, SUMMIT NW's liability shall be that of a common carrier under 49 USC § 14706.

**2.** SUMMIT NW shall not be liable for loss, damage, delay or other results caused by (a) acts of God, public enemies, public authorities acting with actual or apparent authority, authority of law, quarantine, riots, strikes, civil commotions, or hazards or dangers incident to a state of war or acts of terrorism; (b) the act or default of the Shipper or Consignee, including any breach of the warranty set forth in paragraph B.1. above; (c) the nature of the shipment, or any defect, characteristic or inherent vice thereof; (d) violation by the Shipper or Consignee of any applicable term or condition; (e) compliance or non-compliance with delivery or special instructions.

**3.** SUMMIT NW shall not be liable for special, consequential, or exemplary damages, whether or not SUMMIT NW has knowledge that such damages might be incurred.

**4.** SUMMIT NW shall not be liable for damages to boxes, crates, cases or any other types of packaging or covering used for protection of the shipment.

#### **5. Liability Limited Unless Higher Value Declared.**

(a) Unless the Shipper declares a value in the "declared value" space on the Bill of Lading and indicates its agreement to pay, and does pay, additional charges by initialing in the space provided for that purpose, SUMMIT NW's liability for loss or damage is limited to \$0.50 per pound per article, subject to a maximum of \$100,000.00 per shipment.

(b) If Shipper enters a value in the "declared value" box on the Bill of Lading and agrees in writing to pay additional freight charges, SUMMIT NW's liability shall be limited to the amount of the "declared value"; provided however, that in no event shall SUMMIT NW's liability exceed \$100,000.00 per shipment. Shipper acknowledges its right to specify the declared value of the shipment, and Shipper further acknowledges that it has not relied on any representations or advice from SUMMIT NW or its agents whether to specify a declared value or the amount of the declared value if one is specified.

**6.** Claims for loss or damage discovered by the Consignee after delivery and after a clear receipt has been given to SUMMIT NW must be reported in writing to SUMMIT NW within seven (7) days after delivery of the shipment, and SUMMIT NW must be given the

opportunity to inspect the shipment and its container(s) and packing material within fifteen (15) days after receipt of such notice.

**7.** Claims for loss, damage or delay must be made in writing to SUMMIT NW within nine (9) months after the date of delivery or tender of delivery of the shipment to Consignee.

**8.** No claims with respect to a shipment, any part of which is received by the consignee, will be allowed unless and until all rates and charges have been paid in accordance with paragraph A.2.

**9.** SUMMIT NW shall not be liable in any legal action unless (a) a claim has been filed in accordance with paragraph C.7., and (b) the legal action is brought within two years and one day after the date written notice is given by SUMMIT NW to the claimant that the claim is declined in whole or in part.

#### **D. APPLICABLE LAW; JURISDICTION AND VENUE; ATTORNEY FEES**

**1.** To the extent that it is not governed by federal law, these Terms and Conditions shall be interpreted pursuant to the laws of the State of Oregon, in which these Terms and Conditions are deemed to have been entered. Subject to paragraph E, below, Federal law will control the rights of the parties to this transaction where interstate or foreign commerce is involved.

**2.** Any legal action by or against SUMMIT NW must be filed in the Circuit Court of the State of Oregon for Multnomah County, or, subject to jurisdictional limitations, in the U.S. District of Oregon, Portland Division, which courts have exclusive jurisdiction and in which venue is proper; and the Shipper and Consignee hereby submit to the personal jurisdiction and venue of these courts.

#### **E. 49 USC § 14101(b) WAIVER.**

SUMMIT NW, Shipper and Consignee execute these Terms and Conditions pursuant to 49 USC § 14101(b) and expressly waive any and all rights and remedies under Title 49, Subtitle IV, Part B, to the limited extent that the provisions of these Terms and Conditions and any tariff or other document incorporated by reference conflicts with those statutory provisions.