



## **CRATING AND PACKAGING SERVICES AGREEMENT**

This Crating and Packaging Services Agreement (the "Agreement") is made and entered into by and between Rock-it Cargo USA LLC, together with its subsidiaries and affiliates (together, "ROCK-IT"), and ("PROVIDER"), (each may be referred to individually as a "PARTY" or collectively, as the "PARTIES").

### **Recitals**

- A. **WHEREAS** ROCK-IT is in need of packaging and crating services as more fully set forth herein; and
- B. **WHEREAS** PROVIDER is an independent contractor engaged in the business of crating and packaging cargo of various types for transportation, and desires to provide such services to ROCK-IT on the terms and conditions contained herein;

**NOW THEREFORE**, intending to be legally bound, ROCK-IT and PROVIDER agree as follows:

### **Agreement**

1. **TERM AND TERMINATION.** The Term of this Agreement shall be for one (1) year and shall automatically renew for successive one (1) year periods; provided, however, that either Party may terminate this Agreement at any time by giving thirty (30) days prior written notice.

2. **PROVIDER'S AUTHORITY AND COMPLIANCE WITH LAW.** PROVIDER represents and warrants that it is duly and legally qualified in accordance with all federal, state, provincial and local laws, statutes, regulations, rules, and ordinances (collectively, "Applicable Law") to provide the services contemplated herein. PROVIDER further agrees to comply with all Applicable Law in the performance of its services under this Agreement.

3. **PERFORMANCE OF SERVICES.**

- (a) PROVIDER's services under this Agreement are designed to meet the needs of ROCK-IT and ROCK-IT's customer under the specified conditions set forth herein. PROVIDER agrees that the terms and conditions of this Agreement apply to all services performed by PROVIDER for ROCK-IT and that the terms of this Agreement control the relationship between the PARTIES. This Agreement does not grant PROVIDER an exclusive right to perform any services for ROCK-IT or its customer.
- (b) The services required by ROCK-IT and to be performed by PROVIDER, and the cargo to be prepared for shipment by PROVIDER ("Cargo") will be on "per engagement" basis, upon written request by ROCK-IT.
- (c) PROVIDER warrants and represents that it has experience in crating and packaging goods similar in size and material characteristics to the Cargo, so as to withstand the rigors of transportation via the mode selected by ROCK-IT. PROVIDER's services, and those of its permitted subcontractors, will be performed in a good and workmanlike manner in accordance with the highest industry standards. Upon completion, the Cargo will be prepared to withstand the normal rigors of transport via the mode of transportation selected by ROCK-IT.
- (d) PROVIDER will be responsible for documenting, photographing, and providing all pertinent information to ROCK-IT. Photos will be taken by PROVIDER immediately upon its receipt of Cargo, and prior to packaging/crating, and will be taken after completion of the required packaging. The purpose of the photographs will be to document any patent defects, damage or abnormalities in the Cargo. Any damage identified at the time the Cargo is loaded for

transportation subsequent to packaging will be deemed to have occurred while the Cargo was in the possession of PROVIDER unless such damage is documented, with photographs upon PROVIDER's initial receipt of Cargo.

- (e) PROVIDER will adhere to any cargo security protocols or procedures required of it by ROCK-IT or under Applicable Law.
- (f) ROCK-IT will provide to PROVIDER information regarding the Cargo provided to ROCK-IT by ROCK-IT's customer, which such information will be relied upon PROVIDER in quoting rates for services. PROVIDER acknowledges and agrees that ROCK-IT's sole obligation with respect to such information is to pass through information received by ROCK-IT from the customer.

4. **PROVIDER'S OPERATIONS.**

- (a) PROVIDER shall, at its sole cost and expense:
  - i. furnish all supplies and equipment necessary or required for the performance of its obligations hereunder (the "Equipment");
  - ii. pay all expenses related, in any way, with the use and operation of the Equipment or otherwise to the provision of the services; and
  - iii. maintain the Equipment in good repair and mechanical condition.
- (b) PROVIDER shall utilize only competent, able and legally licensed personnel and permitted subcontractors ("Personnel") in the performance of services hereunder. PROVIDER shall have full control of such Personnel. PROVIDER shall be solely responsible for ensuring, and will ensure, at PROVIDER's cost and expense, that such Personnel are fully qualified to perform services hereunder.
- (c) PROVIDER shall perform the services hereunder as an independent contractor, and assumes complete responsibility for all state and federal taxes, assessments, insurance (including, but not limited to, workers' compensation, unemployment compensation, disability, pension and social security insurance) and any other financial obligations arising out of the services performed hereunder. PROVIDER shall have exclusive control over the means and methods of accomplishing its services hereunder.
- (d) PROVIDER hereby waives any lien right with respect to the Cargo.

5. **RATES & PAYMENTS.**

- (a) PROVIDER will invoice and ROCK-IT will pay the agreed rates and charges for services performed under this Agreement. PROVIDER will send invoices to ROCK-IT. Payment by ROCK-IT will be made within thirty (30) days of receipt of such invoice, provided all services have been rendered in satisfactory manner.
- (b) If ROCK-IT is not the owner of the Cargo, PROVIDER agrees that ROCK-IT has the exclusive right to handle all billing of charges to the owner for the services provided herein, and, as such, PROVIDER agrees to refrain from all collection efforts against the shipper, receiver, or the owner.
- (c) PROVIDER further agrees that ROCK-IT has the discretionary right to offset any payments owed to PROVIDER hereunder for liability incurred by PROVIDER.

6. **DAMAGE TO CARGO.**

- (a) PROVIDER shall have the sole and exclusive care, custody and control of the Cargo tendered hereunder from the time it is delivered to PROVIDER or PROVIDER otherwise takes actual or constructive possession thereof, until such time as the Cargo is accepted for loading onto a transporting conveyance. PROVIDER will ensure that all Cargo is secure and protect such Cargo from tampering, theft or unauthorized access. PROVIDER shall notify ROCK-IT immediately in the event any such Cargo is lost (including stolen), damaged or destroyed.
- (b) PROVIDER assumes all liability for loss, damage or delay to the Cargo during the period of PROVIDER's responsibility as set forth above except to the extent such loss, damage or delay is caused solely by an act of God, an of a public authority, an act of a public enemy, an act of ROCK-IT's customer, or the inherent vice of the Cargo.
- (c) During transportation of the Cargo, PROVIDER will remain liable for any and all loss or damage arising from or related to PROVIDER's negligent performance of the services or its failure to comply with the provisions of this Agreement.
- (d) PROVIDER's liability under this section shall be for the lesser of the cost of repair or the full replacement cost of the Cargo lost, damaged or destroyed, as well as any additional costs or fees imposed upon ROCK-IT by the claimant. PROVIDER acknowledges and agrees that, because of the business of ROCK-IT's customers, the customers may be required to replace lost, damaged, or destroyed equipment prior to claims being filed with PROVIDER, or prior to PROVIDER accepting liability for such a claim. Any such replacement by the customer will be deemed in furtherance of its duty to mitigate damages, and will not impact PROVIDER's obligations pursuant to this paragraph.
- (e) PROVIDER waives any right to salvage goods subject to this provision, as well as any right to claim an offset for the value of salvage.

7. **INSURANCE**. PROVIDER shall procure and maintain, at its sole cost and expense, the following insurance coverages:

- (a) Commercial General Liability ("CGL") insurance covering the services under this Agreement in an amount not less than \$1,000,000 per occurrence. Such insurance shall also cover PROVIDER's contractual liability under this Agreement, including, without limitation, loss, damage or destruction of the Cargo while in PROVIDER's custody and control.
- (b) If coverage for loss, damage or destruction to Cargo is covered under a policy of insurance other than CGL, PROVIDER shall provide evidence of such policy to ROCK-IT in accordance with the terms herein. Such policy shall have minimum coverage limits of \$1,000,000 per occurrence, and is not a substitute for the CGL insurance required in part (a), above.
- (c) Statutory Workers' Compensation Insurance coverage in such amounts and in such form as required by applicable state law.
- (d) All insurance policies required by this Agreement shall, as applicable, be primary and shall waive subrogation and contribution against ROCK-IT. The policies will contain no exclusions reasonably likely to result in denial of coverage for claims arising from PROVIDER's services hereunder (including, but not limited to, property damage claims caused by rust, water intrusion, etc.). Likewise, the geographic scope of all such coverages will include losses occurring in any location where PROVIDER is performing services. PROVIDER shall furnish to ROCK-IT written certificates obtained from the insurance carrier showing that such insurance has been procured, is being properly maintained, the expiration date, and specifying that written notice of cancellation of the policies shall be given to ROCK-IT at least thirty (30) days prior to such cancellation or modification. In addition, ROCK-IT shall be named as an additional insured on PROVIDER's CGL policy, and, if requested by ROCK-IT, as a loss payee as

evidenced by an endorsement on the certificates of insurance. Upon request of ROCK-IT, PROVIDER shall provide ROCK-IT with copies of the applicable insurance policies.

8. **INDEMNITY**. PROVIDER shall defend, indemnify, and hold ROCK-IT and ROCK-IT's customer harmless from and against all loss, liability, damage, claim, fine, cost or expense, including reasonable attorney's fees, arising out of or in any way related to the performance or breach of this Agreement by PROVIDER, its employees, agents, representatives, subcontractors or independent contractors working for PROVIDER (collectively, the "Claims"), including, but not limited to, Claims for or related to personal injury (including death), property damage and PROVIDER's or PROVIDER's subcontractor's possession, use, maintenance, custody or operation of the Equipment; provided, however, that PROVIDER's indemnification and hold harmless obligations under this paragraph will not apply to the prorated extent that any Claim is attributable to the negligence or other wrongful conduct of the party seeking to enforce this provision. Any customer of ROCK-IT is an intended third-party beneficiary of this Agreement.

9. **CONFIDENTIALITY**. Neither Party may disclose the terms of this Agreement, and PROVIDER shall not disclose the identity of ROCK-IT's customer(s) nor the nature of the Cargo, to a third party without the written consent of the other Party except (1) as required by law or regulation; or (2) disclosure is made to its parent, subsidiary or affiliate company on a need-to-know basis only.

10. **SUB-CONTRACT PROHIBITION**. Except as specifically identified in this Agreement, PROVIDER agrees that PROVIDER shall not in any manner sub-contract, or in any other form arrange for services required hereunder to be provided by any third party, except upon ROCK-IT's written permission, given in advance. In the event that PROVIDER breaches this provision, PROVIDER shall remain directly liable to ROCK-IT as if PROVIDER provided services in accordance with this provision, and shall further hold harmless and indemnify ROCK-IT from any and all loss, liability, damage, claim, fine, cost or expense, including reasonable attorney's fees, arising out of or in any way related to the use of any subcontractor in violation of this provision regardless of whether arising from the conduct or omissions of PROVIDER, the subcontractor, or any other third party.

11. **DATA PRIVACY**. PROVIDER understands that, in the course of providing transportation services hereunder, PROVIDER may receive, access, or collect information regarding ROCK-IT Customers that may be considered "Personal Information" under the California Consumer Privacy Act ("CCPA"), as amended by the California Consumer Privacy Rights Act ("CPRA"). Capitalized terms used in this Section 11 but not defined herein shall have the meaning given to such terms in the CCPA/CPRA. The parties agree that, with respect to the Processing of Personal Information, ROCK-IT is the "Business" and PROVIDER is a "Service Provider." PROVIDER will ensure that all Processing of Personal Information by PROVIDER complies with the CCPA/CPRA. PROVIDER shall notify ROCK-IT if it is unable to comply with this Section 11. PROVIDER will not use or disclose any Personal Information for any purpose other than to perform the transportation services hereunder, and PROVIDER will not "Sell" or "Share" such Personal Information or combine such Personal Information about Customer personnel with other Personal Information about the same personnel received from another source. PROVIDER shall cooperate with ROCK-IT in responding to any requests or complaints from individuals who are exercising their rights under the CCPA/CPRA. PROVIDER will require any subcontractor to abide by the terms of this Section 11.

12. **GENERAL PROVISIONS**. This Agreement may not be assigned or transferred in whole or in part by PROVIDER absent the prior written consent of ROCK-IT. This Agreement supersedes and replaces any and all other agreements, communications, proposals, discussions or other arrangements between the parties, whether express or implied, written or oral, signed or unsigned. This Agreement shall be binding upon and inure to the benefit of the parties hereto. In the event that the operation of any portion of this Agreement results in a violation of any law, the parties agree that such portion shall be severable and that the remaining provisions of this Agreement shall continue in full force and effect. Failure of ROCK-IT to insist upon PROVIDER's performance under this Agreement or to exercise any right or privilege arising hereunder shall not be a waiver of any ROCK-IT's rights or privileges herein. This Agreement constitutes the entire agreement of the Parties with reference to the subject matters herein, and may not be changed, waived, or modified except in writing signed by both Parties. Any notices hereunder will be made in writing to PROVIDER at the address indicated below, and if to ROCK-IT, to 5343 W. Imperial Hwy., Suite 900, Los Angeles, CA 90045, with an email copy to: [compliance@rockitcargo.com](mailto:compliance@rockitcargo.com).

13. **DISPUTE RESOLUTION**. This Agreement shall be deemed to have been drawn in accordance with the statutes and laws of the state of California. In the event of any disagreement or dispute, the laws of California shall apply. All such disagreements or disputes shall be submitted to the court of proper jurisdiction in the courts serving Los Angeles county and the Parties hereby agree and waive objection to the exclusive jurisdiction of such courts.