

## CUSTOMER AGREEMENT FOR SERVICES & CREDIT

### CUSTOMER IDENTIFICATION

Customer Name \_\_\_\_\_

Limited Liability Company     Corporation     Partnership     Sole Proprietorship/Individual

Street Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

Billing Address (if different from the above) \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

Phone \_\_\_\_\_ Fax \_\_\_\_\_ Email \_\_\_\_\_

Website \_\_\_\_\_

Primary Contact for Account \_\_\_\_\_

Phone \_\_\_\_\_ Email \_\_\_\_\_

Tax ID Number \_\_\_\_\_ Tax ID Country \_\_\_\_\_

Tax ID Type     EIN     EORI     GST     IVA     UID     VAT     Other: \_\_\_\_\_

Sales Tax Exempt Number \_\_\_\_\_ D-U-N-S Number \_\_\_\_\_

State of Incorporation \_\_\_\_\_ Years in Business \_\_\_\_\_

Parent Company \_\_\_\_\_

Name of Predecessor Business \_\_\_\_\_

### CTPAT (CUSTOMS TRADE PARTNERSHIP AGAINST TERRORISM)

CTPAT Certified:     Yes     No

Does your company participate in any foreign customs security program? (AEO, PIP, etc.)     Yes     No

If yes, please provide Country of Program \_\_\_\_\_

### INSURANCE INFORMATION

If Customer declines insurance by Rock-It, please provide information on your existing insurers (attach additional sheets as necessary).

Name of Insurance Underwriter \_\_\_\_\_ Policy Number \_\_\_\_\_

Type of coverage (e.g., cargo legal liability, commercial general liability) \_\_\_\_\_

Policy Effective Date \_\_\_\_\_ Policy Expiration Date \_\_\_\_\_

Deductible, if any \_\_\_\_\_

**CREDIT REFERENCES**

**Primary Bank** \_\_\_\_\_ Phone \_\_\_\_\_ Contact \_\_\_\_\_

Name \_\_\_\_\_ Account Number \_\_\_\_\_

Address \_\_\_\_\_

**Other Bank** \_\_\_\_\_ Phone \_\_\_\_\_ Contact \_\_\_\_\_

Name \_\_\_\_\_ Account Number \_\_\_\_\_

Address \_\_\_\_\_

**TRADE REFERENCES**

**Name** \_\_\_\_\_ Phone \_\_\_\_\_ Contact \_\_\_\_\_

Address \_\_\_\_\_

Account Number \_\_\_\_\_

**Name** \_\_\_\_\_ Phone \_\_\_\_\_ Contact \_\_\_\_\_

Address \_\_\_\_\_

Account Number \_\_\_\_\_

**Name** \_\_\_\_\_ Phone \_\_\_\_\_ Contact \_\_\_\_\_

Address \_\_\_\_\_

Account Number \_\_\_\_\_

**PERSONS AUTHORIZED TO INSTRUCT ROCK-IT AND INCUR CHARGES ON CUSTOMER'S ACCOUNT**

Name \_\_\_\_\_ Title \_\_\_\_\_ Phone \_\_\_\_\_ Email \_\_\_\_\_

Name \_\_\_\_\_ Title \_\_\_\_\_ Phone \_\_\_\_\_ Email \_\_\_\_\_

Name \_\_\_\_\_ Title \_\_\_\_\_ Phone \_\_\_\_\_ Email \_\_\_\_\_

**SIGNATURE**

I certify that the information provided in this Agreement is true and correct and that I have the authority to sign this Agreement. I agree that that all services provided under this Agreement are governed by Rock-It Cargo USA LLC's Standard Terms and Conditions of Service, attached hereto.

Signature \_\_\_\_\_ Title \_\_\_\_\_ Date \_\_\_\_\_

## PART 1 – GENERAL TERMS

By executing these Terms or by utilizing Rock-It's Services, the undersigned Customer retains Rock-It Cargo USA LLC or one of its U.S. based operating subsidiaries ("together, Rock-It") pursuant to these Terms and Conditions of Service ("Terms") to arrange transportation services and provide logistics assistance (itself or via an affiliate, where Rock-It may act as a third party logistics provider) with respect to shipments of cargo (herein, the "Goods"). These services include but are not limited to: preparing and/or processing export declarations and carnets; providing and/or arranging customs brokerage services; booking, arranging for or confirming cargo space for air, ocean or surface shipments; preparing and/or processing delivery orders or dock receipts; preparing and/or processing bills of lading; arranging for and/or providing crating, packing, unpacking, and warehouse storage; arranging for cargo insurance; handling freight or monies advanced by shippers, or remitting or advancing freight or monies or credit in connection with the dispatching of shipments; and assisting with letters of credit, carnets, licenses, or inspections, or other documents or issues relating to the dispatch of cargo (collectively, the "Services"). "Customer" as defined herein includes any party from whom the Goods are received, the party who requested the Goods be transported by Rock-It, any party having an interest in the Goods, or any party who acts as an agent for any of the foregoing.

Rock-It may under these Terms perform Services as an agent and use its commercially reasonable efforts to select and engage responsible carriers, warehousemen, and other transportation intermediaries on behalf of Customer as agent. Customer understands that in such case the terms and conditions of the storage receipts of warehousemen, and contracts of carriage of air, land and/or ocean carriers that Rock-It engages will apply to Customer as if Customer had entered into those contracts itself.

Services may also include where Rock-It on its own behalf (as a principal or carrier) and not as an agent provides warehouse storage, air carriage, and surface motor carriage services of less-than-truckload shipments as a licensed freight forwarder or full truckload shipments as a licensed property broker. Rock-It shall be deemed to be performing Services as a principal or carrier and not as an agent when it issues in its own name and on its own behalf a warehouse receipt or "house" bill of lading or waybill or other contract of carriage. Note that quotations provided by Rock-It are based on "release rates" subject to the limits of liability in these Terms. The Customer may request an excess valuation over the "release rates," which Rock-It may accept in its sole discretion and for which Customer must pay an additional fee.

Shipments are subject to all applicable international, federal, state and local laws and regulations, including anti-bribery and anti-corruption laws. Rock-It and Customer shall comply with all applicable laws and government regulations of any country to, from, through, or over which the Goods may be carried, including those relating to the packing, carriage, or delivery of the Goods. Customer shall furnish such information to Rock-It as may be necessary to comply with such laws and regulations. Exporting shipments to companies, organizations, or persons listed on any governmental denied parties or related lists, or in any manner that violates sanctions or embargoes of countries or persons, is prohibited under these Terms unless conducted under legal authorization. Rock-It may decline to provide Services in its discretion based on the Services requested or the type of Goods, including, but not limited to, perishable shipments, fragile and/or improperly packaged Goods, precious metals, live animals, human remains or household goods.

Quotations for Services are provided by Rock-It for informational purposes only and may be subject to change due to changes in market conditions, world events, currency fluctuations and other matters beyond Rock-It's control.

### LIMITATION OF LIABILITY FOR LOSS, DAMAGE, OR DELAY

When acting as agent of Customer, Rock-It shall not be liable for loss, damage or delay to a shipment unless such loss, damage or delay results from the gross negligence of Rock-It in the selection and engagement of carriers, warehouse companies, or other logistics services providers on behalf of Customer. Rock-It shall not be responsible for the acts or omissions of such carriers, warehouse companies, or other logistics services provider. If Rock-It is determined to be liable under this section its liability shall be limited in all circumstances to no more than the charges paid by Customer to Rock-It related to the loss, damage or delay of such shipment. Storage services arranged by Rock-It are made as a convenience for Customer and are stored under Rock-It's Non-Negotiable Warehouse Receipt and, in the absence of such document, subject to these Terms. In the event of default of payment of storage charges, Rock-It may abandon the Goods or proceed to sale of the Goods under the terms herein.

Upon written request from Customer, and if Customer has paid Rock-It's fees and charges for the relevant shipment(s), Rock-It may assist with claims processing and may provide a preliminary notice of claim on Customer's behalf for loss, damage, or delay against a carrier or warehouse. Customer understands that recovery on such claims will be limited by the terms of the underlying contracts of carriage or storage.

In the event of loss, damage, or delay to Goods when Rock-It is acting as a principal on its own behalf or as a carrier, Rock-It shall only be liable for such loss, damage or delay that occurs while the Goods are in the physical care, custody and control of Rock-It or any of its subcontractors, subject always to the liability limits provided hereunder except where the Customer has requested a declaration of excess value which has been accepted and agreed to by Rock-It in writing, and consequent fee paid by Customer for such increased valuation. Rock-It shall not be liable to Customer for any loss, damage or delay to Goods that occurs while the Goods are in the care, custody, or control of other freight forwarders, carriers, brokers or logistics providers with which Customer has separately contracted or arranged for transportation services.

Rock-It's liability for loss, damage or delay to any shipment when acting as a principal shall be no more than Customer's actual replacement cost for the portion of such shipment lost, damaged or delayed and shall be determined as follows:

- **Transportation by Sea:** For shipments transported by vessel by Rock-It as a carrier, the liability of Rock-It for loss or damage to the Goods shall be determined by the international convention known as the Hague-Visby Rules for shipments not in the "US trades" as defined under the U.S. Carriage of Goods by Sea Act ("COGSA"), or for shipments in the US trades, COGSA will apply.
- **Transportation by Air:** For shipments transported by air carriage by Rock-It as a carrier, the liability of Rock-It for loss or damage to the Goods shall be determined as follows: if international carriage, by the international convention known as the Montreal Convention 1999 (as amended); and if domestic US carriage, \$0.50/lb. of Goods lost or damaged.
- **Transportation by Rail or Road:** For shipments transported by rail or road by Rock-It as a carrier, the liability of Rock-It for loss or damage to the Goods shall be \$0.50 per pound of Goods lost or damaged.
- Any loss or damage that occurs during the provision of Services that are ancillary to transportation (including, but not limited to, temporary storage in-transit, consolidation, cross docking), shall be deemed to have occurred during the transportation portion of the services, and therefore shall be subject to the liability limits of the relevant transportation service at set forth herein, and if none is applicable, \$0.50/lb. of Goods lost or damaged.
- For customs brokerage services, Rock-It shall not be liable for any loss or liability unless such loss or liability resulted from the failure by Rock-It to exercise such care in performing the services as a reasonably careful customs broker would exercise under like circumstances. To the extent that there shall be any delay, error, failure or penalty in performing all or part of the Services or otherwise due to Customer having provided or failed to provide (or procured the provision of) information and/or documentation to Rock-It which is incorrect and/or incomplete and which exposes Rock-It to any liability to any Customs authorities or in respect of documentation relating to inbound or incoming Goods or otherwise then to such extent Rock-It shall be excused such delay, error, failure or penalty. Rock-It's (or any affiliates') liability for fault, if any, for any claim arising from customs business services shall be limited to the amount of brokerage fees paid by Customer to Rock-It for the entry giving rise to the claim, or \$100.00, whichever is less.
- For warehousing services, in the absence of a warehouse receipt, to the extent caused by Rock-It's failure to exercise such care with regards to the Goods in storage as a reasonable person would exercise under like circumstances, the lesser of (i) the actual replacement cost of the Goods lost or damaged; (ii) \$0.50/lb. of Goods lost or damaged, exclusive of tare; or (iii) \$40 per article lost or damaged.
- For Carnet services, Rock-It's total liability under all circumstances shall not exceed the total fees charged by Rock-It to Customer for the relevant Carnet.

Rock-It shall have no liability for concealed loss or damage to Goods tendered on a "said to contain" basis and not accompanied by evidence of external damage or tampering, or the loss or damage to Goods resulting from the inherent vice of such Goods; improper packing or stowing (unless performed by Rock-It or its subcontractor), or any act or omission of Customer or its logistics provider, agents, vendors or customers. Further, Rock-It will not be liable for any loss, damage, or delay to Goods caused by any cause beyond Rock-It's reasonable control including, without limitation, acts of God, public authorities, strikes, labor disputes, weather, mechanical failures, civil commotion, acts of terrorism, hazards incident to a state of war, acts or omissions of customs or other governmental authorities (or those acting under such authority), or defects in the Goods being shipped. IN NO EVENT SHALL ROCK-IT BE LIABLE FOR CONSEQUENTIAL, INDIRECT, INCIDENTAL, STATUTORY (TO THE EXTENT PERMITTED BY APPLICABLE LAW) OR PUNITIVE DAMAGES, INCLUDING LOST PROFITS, EVEN IF IT HAS BEEN PUT ON NOTICE OF THE POSSIBILITY OF SUCH DAMAGES.

IF THE AFORESAID LIMITATIONS POSE UNACCEPTABLE RISKS TO THE CUSTOMER, ROCK-IT RECOMMENDS THAT THE CUSTOMER OBTAIN ITS OWN CARGO INSURANCE OR CUSTOMER HAS THE OPTION OF INSTRUCTING ROCK-IT TO ARRANGE INSURANCE COVERAGE FOR PHYSICAL LOSS OR DAMAGE IN EXCESS OF THESE LIMITS BASED ON CUSTOMER DECLARING THE ACTUAL REPLACEMENT VALUE OF THE GOODS TO ROCK-IT AND PAYING RELEVANT FEES. PLEASE MAKE YOUR SELECTION IN SECTION 6, BELOW. COVERAGE IS NOT PLACED UNTIL ROCK-IT CONFIRMS TO CUSTOMER IN WRITING THAT COVERAGE IS CONFIRMED. CLAIMS ON SUCH CARGO INSURANCE WILL ONLY BE HONORED TO THE EXTENT ALL FEES FOR AN AFFECTED SHIPMENT HAVE BEEN PAID.

#### HAZARDOUS MATERIALS; CUSTOMER WARRANTIES; INSPECTION OF SHIPMENTS

Customer warrants:

- (i) it is either the owner or authorized agent of the owner of the Goods and that it accepts these Terms not only for itself but also as agent for and on behalf of the owner.
- (ii) the description and particulars of any Goods furnished by or on behalf of the Customer are timely, complete and accurate.
- (iii) all Goods have been properly and sufficiently prepared, packed, stowed, labelled and/or marked and that the preparation, packing, stowage, labelling and marking are appropriate to any operations or transactions affecting the Goods and characteristics of the Goods.
- (iv) the Goods do not comprise or contain any explosive, incendiary or other device, substance or weapon which may endanger life or the safety of any aircraft, ship, vehicle or other transport conveyance or which may cause or is likely to cause loss, damage, injury to or death of any person or property.
- (v) it will not tender any dangerous or hazardous materials within the meaning of the IATA Dangerous Goods Regulations, the International Maritime Organization Dangerous Goods Code or other similar regulations from time to time in force (collectively "the Regulations") without obtaining Rock-It's prior written consent thereto. Where such consent is granted the Customer warrants that all such materials are packed, labelled and specified and otherwise meet all the requirement and provisions of the Regulations; and
- (vi) at all times is has and will continue to comply with all statutes, rules and regulations of any and all governments and governmental agencies governing its activities.

If Rock-It has provided Customer with any information regarding the identity of a motor carrier or its driver, including, but not limited to the motor carrier's or driver's name, or if Customer is not the consignor, Customer will require the consignor to confirm that information prior to tendering a shipment and will not release the Goods to the motor carrier if the information of the motor carrier or driver that arrives to retrieve a shipment is not the same as the information provided by Rock-It. Rock-It will not be liable for any loss or damage incurred by Customer arising from or related to the tendering party's failure to verify the motor carrier or driver information as required hereunder. In no event shall Rock-It have any liability to Customer or to any third party arising from or related to the consequences of identity theft or fraudulent or criminal conduct perpetrated by third parties, including any third party that has misrepresented its identity to Rock-It.

Customer on behalf of itself or the owner of the Goods consents to screening of such Goods if and as required by any governmental authority. Customer shall make no claim nor bring suit against Rock-It or any person or entity acting on behalf of Rock-It arising from any loss, damage, or delay caused by the screening or inspection by such government authority and/or third party (including Rock-It) when operating under a government-issued mandatory cargo security program or applicable law, except if caused by Rock-It's gross negligence or willful misconduct.

#### PROMPT NOTICE OF LOSS, DAMAGE, OR DELAY REQUIRED

Customer agrees to inspect its shipment upon delivery and give written notice of any loss or damage within 10 days of delivery for air or ground shipments (or within 15 days of when such shipment should have been delivered in the event of nondelivery) and within 3 days of delivery for ocean shipments. Customer agrees that Rock-It will not be held responsible (nor need to entertain any written claim) for any loss or damage if written notice of damage is not provided as set forth herein. Customer agrees that notification of delay does not invalidate Rock-It's limitation of liability set forth in Part 1.

#### PAYMENT OF INVOICES REQUIRED BEFORE CONSIDERATION OF CLAIMS

Customer agrees that Rock-It has no obligation to consider claims or to assist Customer in the filing of such claims against carriers or warehousemen on behalf of Customer if Customer has not paid Rock-It's invoices in full for the shipment in which the claim arose.

#### CLAIMS EXPIRE AFTER ONE YEAR

Except where subject to compulsory law, Customer agrees that any suit brought against Rock-It must be commenced within one year from the date of delivery or the date the loss or damage occurs, whichever is later. In the event of delay or non-delivery, the scheduled delivery date shall be deemed the day on which services were completed for purposes of computing the one-year time limit.

## **PART 2 - PAYMENT TERMS AND CREDIT AGREEMENT**

#### CREDIT TERMS; SERVICE FEES ACCRUE ON LATE PAYMENTS

Unless other credit terms are agreed in writing in advance, Customer agrees to pay Rock-It's invoice(s) in full prior to pickup of the first shipment. Rock-It reserves the right to require payment of a deposit in advance of providing Services. For any payments not received within ten days of the payment due date, Customer agrees that Rock-It will be entitled to late fees of 1 ½% of the outstanding amount per month.

#### ROCK-IT ENTITLED TO COSTS OF COLLECTION

Customer agrees to pay Rock-It's reasonable attorney's fees, costs, and other expenses incurred by Rock-It in collection efforts in the event Customer defaults on its payment obligations under these Terms.

#### ROCK-IT LIEN ON GOODS FOR UNPAID CHARGES

Customer and consignee, holder, or assignee on any bill of lading shall be jointly and severally liable with Customer for all unpaid fees for Services provided under these Terms. When Rock-It is instructed to collect charges from any person or entity other than Customer, Customer shall remain liable for the charges and interest if Rock-It is not paid. ROCK-IT SHALL HAVE A LIEN ON ANY GOODS SHIPPED UNDER THESE TERMS FOR FAILURE TO PAY FEES ON CURRENT AND PRIOR SHIPMENTS, REGARDLESS OF CREDIT ARRANGEMENTS, OWED BY THE CUSTOMER, CONSIGNEE, HOLDER, OR ASSIGNEE ON ANY BILL OF LADING. CUSTOMER AGREES THAT ROCK-IT'S LIEN CONTINUES IN EFFECT UNTIL ALL CHARGES ARE PAID.

Rock-It has the right to withhold delivery or release of any Goods if Customer is in breach of any indebtedness or obligation to Rock-It, even if not related to such property. If any such indebtedness or obligation is unsatisfied, Rock-It may, in addition to all other rights and remedies under other agreements and/or applicable law, exercise all of the rights or

remedies of a secured party under the Uniform Commercial Code or applicable law. Any notice required to be given of a sale or other disposition made at least ten (10) calendar days before a proposed action constitutes fair and reasonable notice. Customer agrees to do anything (such as obtaining consents, signing and producing documents, producing receipts and documents completed and signed) which Rock-It requests and considers necessary for the purpose of ensuring that the lien created hereunder is enforceable, perfected (including registered if necessary) and otherwise effective.

#### CONSENT TO RECEIVE CREDIT INFORMATION

Customer authorizes Rock-It to obtain business credit reports on Customer, and to obtain credit and funding information from Customer's bank or other references. It is understood that any such credit information will be held in confidence under these Terms and used only for Rock-It's business purposes. Customer further agrees to supply such additional information as may be required by Rock-It to warrant future extensions of credit.

#### DUTIES AND TAXES

Customer acknowledges that it is solely responsible for collecting, reporting, and paying any and all sales taxes, use taxes, excise taxes, customs duties, and all other assessments on Customer's Goods, regardless of the role(s) undertaken by Rock-It on behalf of Customer and as may be required by applicable laws or as imposed by any governmental authorities. In the event a governmental authority imposes a tax, tariff, customs duty, or other assessment against Rock-It regarding Customer's Goods, Customer warrants that it shall promptly acknowledge and pay Customer's obligation hereunder to the governmental authority. If Rock-It agrees to advance funds on behalf of Customer to such authority, invoices issued by Rock-It to Customer for such assessments (and any agreed disbursement fees) are payable on net 5 business day terms by Customer.

### **PART 3 – LIMITED POWER OF ATTORNEY FOR US EXPORT SHIPMENTS**

To enable Rock-It to export Customer's Goods on its behalf, Customer specifically grants the following limited export power of attorney:

**POWER OF ATTORNEY GRANTED BY CUSTOMER AS U.S. PRINCIPAL PARTY IN INTEREST TO ROCK-IT FOR EXPORT SHIPMENTS** - Customer is the U.S. Principal Party in Interest organized and doing business under the laws of the U.S. and having an office and place of business as indicated below hereby authorizes ROCK-IT CARGO USA LLC or one of its subsidiaries, SOS Global Express, Inc. or Magusa Logistics, LLC, to act for and on its behalf as a true and lawful agent and attorney of the Customer for, and in the name, place, and stead of the Customer, from the date hereof, in the U.S. either in writing, electronically, or by other authorized means to: act as authorized agent for export control, U.S. Census Bureau reporting, and U.S. Customs and Border Protection purposes; prepare and transmit any Electronic Export Information (EEI) or other documents or records required to be filed by the U.S. Census Bureau, U.S. Customs and Border Protection, U.S. Department Commerce-Bureau of Industry and Security, or any other U.S. Government agency; perform any other act that may be required by law or regulation in connection with the exportation or transportation of any Goods shipped or consigned by or to the Customer and receive or ship any Goods on behalf of the Customer. The Customer hereby certifies that all statements and information contained in the documentation provided to Rock-It and relating to exportation is and will be true and correct. The Customer understands that civil and criminal penalties may be imposed for making false or fraudulent statements or for the violation of any U.S. laws or regulations on exportation. Customer shall hold Rock-It harmless from and shall defend and indemnify Rock-It against any action or assessment by a governmental authority arising from any breach by Customer of Customer's representations herein and/or its export compliance obligations. This Power of Attorney is to remain in full force and effect until revocation in writing is duly given by the Customer and received by Rock-It or the termination of these Terms, whichever comes first.

### **PART 4 – ATA CARNETS**

Rock-It may upon written agreement with Customer arrange an ATA Carnet ("Carnet") to facilitate the international transportation of the Goods. All Carnets are issued under the rules and regulations of the applicable ATA conventions, the World Customs Organization, the applicable Guaranteeing or Issuing Association(s), rules or regulations of relevant Customs authorities, and these Terms. Rock-It will use reasonable skill and care in providing any Carnet based on information provided by the Customer. While Rock-It is experienced in providing Carnets, there is no guarantee of the effectiveness of any Carnet when used in contravention of applicable rules and regulations by Customer or if Customs authorities incorrectly process or mishandle the Carnet. Customer may be required by Rock-It to enter into a written financial guarantee agreement to secure Rock-It's facilitating the issuance of a Carnet.

Customer shall always (and ensure that its agents or subcontractors also shall) provide full, timely, accurate and complete information to Rock-It regarding preparation, execution and closing of any Carnet and use such Carnet in compliance with Rock-It's instructions and applicable rules and regulations. Failure of Customer with respect to the foregoing obligation shall excuse Rock-It from any liability arising therefrom. Customer shall ensure that all individuals in possession of any Carnet are aware of and comply with these Terms. The Customer agrees that they are responsible for the acts or omissions of any individuals in control of a Carnet after issuance. Customer must give prompt notice to Rock-It of any irregularities or problems with any Carnet and agrees to comply with Rock-It's instructions and requests for additional information. Customer must return any Carnet to Rock-It immediately upon completion of the scheduled transportation and in no event later than one (1) year from the date of issue. Customer bears all financial and legal responsibility to Rock-It and/or any third party for breach of Customer's obligations herein. In the event Customer is given possession of any Carnet, Rock-It undertakes no liability for the acts, omissions or failure by Customer to act or to comply with the terms and conditions of any Carnet, applicable laws, Rock-It's instructions relative to any Carnet (including but not limited to the return of the original Carnet), or these Terms.

Customer shall pay all fees for Carnets as provided hereunder in these Terms. If the cost of providing Carnet services increases for any reason, Rock-It shall provide notice of such increase to Customer. In the event Customer cancels an order for a Carnet, Customer agrees to pay Rock-It for any bona fide costs incurred prior to such cancellation.

### **PART 5 – MISCELLANEOUS**

#### INTELLECTUAL PROPERTY

Rock-It's intellectual property provided, demonstrated or used in connection with any Services, including databases, software, web pages, programs, processes and procedures, reports, manuals, presentations, patents, trademarks, copyrights, trade secrets, service marks, know-how and any other similar rights or intangible assets recognized under applicable law (all of the foregoing, "Intellectual Property"), was developed and is maintained at great expense, is of great value to Rock-It, is confidential and proprietary, and shall remain the sole and exclusive property of Rock-It at all times. Customer shall neither directly nor indirectly attempt to use, re-create, duplicate, decode, alter, change, disassemble, decompile, or reverse engineer any Intellectual Property.

#### INDEMNIFICATION

**Customer Indemnification.** Customer shall indemnify, defend and hold harmless Rock-It, its parents, subsidiaries, affiliates, officers, directors, employees, agents and representatives (collectively, the "Rock-It Indemnitees"), from and against any and all third-party claims, demands, actions, suits, losses, damages, liabilities and expenses, including reasonable attorneys' fees (collectively, "Losses"), to the extent arising out of or relating to: (i) bodily injury or property damage caused by the negligence, gross negligence or willful misconduct of Customer or its agents, employees, or subcontractors; (ii) any alleged or actual violation by Customer of applicable laws, rules or regulations; (iii) any breach by Customer of its warranties, representations or other obligations under these Terms; or (iv) any inaccurate, incomplete, or misleading information or documentation provided by Customer to Rock-It in connection with the Services.

**Rock-It Indemnification.** Rock-It shall indemnify, defend and hold harmless Customer, its parents, subsidiaries, affiliates, officers, directors, employees, agents and representatives (collectively, the "Customer Indemnitees"), from and against any and all Losses to the extent arising out of or relating to: (i) bodily injury or property damage caused by the gross negligence or willful misconduct of Rock-It or its employees while performing Services; or (ii) any alleged or actual violation by Rock-It of applicable laws, rules or regulations in the performance of the Services. Rock-It's obligations under this subsection shall be subject to and limited by the limitations of liability set forth in these Terms, including all applicable liability caps and exclusions of consequential, indirect, incidental, statutory and punitive damages.

**Indemnification Procedures.** The party seeking indemnification (the "Indemnified Party") shall: (i) give the indemnifying party (the "Indemnifying Party") prompt written notice of any claim for which indemnification is sought, provided that a failure to give prompt notice shall not relieve the Indemnifying Party of its obligations except to the extent it is materially prejudiced by such failure; (ii) grant the Indemnifying Party sole control of the defense and settlement of such claim, provided that the Indemnifying Party shall not settle any claim that imposes any obligation or liability on the Indemnified Party without the Indemnified Party's prior written consent, which shall not be unreasonably withheld; and (iii) provide reasonable cooperation and assistance to the Indemnifying Party in the defense of such claim, at the Indemnifying Party's expense for reasonable out-of-pocket costs incurred in providing such cooperation. The Indemnified Party may participate in the defense of any claim with counsel of its own choosing and at its own expense.

**Exclusive Remedy.** This subsection states the entire liability and the sole and exclusive remedy of each Indemnified Party with respect to any third-party claims subject to indemnification hereunder.

#### TERM, TERMINATION AND SURVIVAL

These Terms shall remain in effect until terminated by either party upon thirty (30) days' written notice to the other party. If Customer terminates these Terms, Customer agrees to pay Rock-It's fees for all Services and expenses incurred up to the point of termination upon receipt of Rock-It's invoice. Rock-It has the right to immediately terminate these Terms upon: (a) breach by Customer for failure to pay Rock-It's fees following a five (5) day cure period after notice, or (b) breach of Customer's warranties herein. All provisions of these Terms shall survive the termination to the extent necessary to effectuate the terms herein.

#### APPLICABLE LAW AND FORUM SELECTION

To the extent not governed by applicable federal statutes, the laws of the state of New York shall govern the validity, construction, and performance of these Terms and all controversies and claims arising hereunder. Customer agrees that the forum for any litigation arising out of the performance of these Terms, whether initiated by the Customer or Rock-It, shall be in the state courts serving New York County or the United States District Court for the Southern District of New York.

#### DATA PRIVACY

Customer represents and warrants: (i) that it complies with all applicable privacy and data protection laws with respect to information about customers or clients of Customer, or about other third parties ("Customer Data"), that Customer provides to Rock-It to enable Rock-It to provide the Services; and (ii) that it has obtained any necessary consents with respect to disclosure of the Customer Data to Rock-It. With respect to such Customer Data, Customer acts as a "data controller" or similar term under applicable law. In performing the Services Rock-It may process Customer Data in accordance with Customer's instructions. Customer Data processed may vary but Rock-It undertakes to utilize only such Customer Data as is necessary to perform the Services, including but not limited to Customer account opening and general administrative and compliance purposes. Information retained by Rock-It to perform Services may be transferred to or be accessible from offices in the Rock-It Company group around the world. When sharing Customer Data with third parties to fulfil the Services, Rock-It undertakes to have in place appropriate safeguards in line with Rock-It's privacy policies, available at [www.rockitcompany.com](http://www.rockitcompany.com).

#### USE OF CUSTOMER'S NAME AND LOGO

Subject to Customer's consent in writing, in advance, Customer consents that Rock-It may utilize Customer's name and/or logo in Rock-It's marketing materials, and with such consent grants to Rock-It a limited, revocable, license to Rock-It to use such name and logo in its reasonable discretion. Customer may revoke the license granted hereunder on a going forward basis in writing at any time, provided that Rock-It shall be under no obligation to remove references to Customer's name and logo in historical materials.

#### ACCESS TO ROCK-IT'S PROPRIETARY CUSTOMER PORTAL

If provided to Customer, Rock-It hereby grants Customer, and Customer hereby accepts, a non-exclusive, non-transferable, non-sublicensable, limited right to access and use the customer portal in the form made available to Customer by Rock-It or its affiliates, including all software, data, algorithms, methodology and related documentation ("Customer Portal") solely for Customer's internal business purposes. Customer shall be responsible, at its sole expense, for procuring, operating and maintaining the computer hardware, systems software, telecommunications applications and other items necessary or appropriate to enable it to exercise its rights and license hereunder. Customer shall not do, attempt to do, nor permit any other person to do, any of the following: (i) access or use the Customer Portal for any purpose or in any manner not specifically authorized under these Terms; (ii) make or retain any copy of the Customer Portal; (iii) modify, adapt, translate or create derivative works based upon the Customer Portal, or combine or merge any part of the Customer Portal with or into any other software, data or other materials; (iv) use the Customer Portal for any commercial purpose, whether for a fee basis or otherwise; (v) sell, market, license, sublicense, distribute or otherwise grant to any person, including any outsourcer, vendor, consultant or partner, any right to use the Customer Portal, whether on Customer's behalf or otherwise; (vi) reverse engineer, reverse assemble or otherwise attempt to discover the underlying source code; (vii) input, upload, transmit or otherwise provide to or through the Customer Portal any information or materials that are unlawful or injurious or any virus, worm, malware or other malicious computer code designed to disrupt, disable or harm the Customer Portal or other systems; and (viii) remove, erase or tamper with any copyright or other proprietary notice printed or stamped on, affixed to, or encoded or recorded in the Customer Portal. As between Rock-It and Customer, title to the Customer Portal and all related patent, copyright, trademark, trade secret, intellectual property and other ownership rights shall be and remain exclusively with Rock-It. THE CUSTOMER PORTAL MAY OR MAY NOT BE PROVIDED AS A COURTESY TO CUSTOMER FOR INFORMATIONAL PURPOSES ONLY AND IT IS THEREFORE PROVIDED "AS IS" AND WITHOUT, AND SPECIFICALLY EXCLUDES, ANY WARRANTY OR REPRESENTATION OF ANY KIND, INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, TITLE, DESIGN, QUALITY, QUIET ENJOYMENT, SYSTEM INTEGRATION, ACCURACY OF DATA, NON-INFRINGEMENT, UPTIME, DOWNTIME, OR ANY OTHER WARRANTY, WHETHER EXPRESS OR IMPLIED, INCLUDING ARISING FROM A COURSE OF DEALING, USAGE OR TRADE PRACTICE, ALL OF WHICH ARE EXPRESSLY EXCLUDED AND DISCLAIMED. NONE OF ROCK-IT, ANY OF ITS AFFILIATES, ANY SUPPLIER, LICENSOR NOR ANY OTHER THIRD PARTY MAKES ANY WARRANTY, REPRESENTATION OR GUARANTY AS TO THE ACCURACY, RELIABILITY, TIMELINESS OR COMPLETENESS OF THE CUSTOMER PORTAL, INCLUDING ANY DATA OR OTHER INFORMATION FURNISHED HEREUNDER OR WITHIN THE CUSTOMER PORTAL, OR THAT ANY SUCH INFORMATION OR DATA DISSEMINATED MAY BE RELIED UPON FOR ANY PURPOSES. NONE OF ROCK-IT, ITS AFFILIATES, NOR ANY OF ITS OR THEIR LICENSORS OR SUPPLIERS WILL BE LIABLE TO CUSTOMER OR ANY OTHER PERSON FOR ANY INACCURACY, DELAY OR OMISSION OF ANY DATA OR OTHER INFORMATION OBTAINED FROM THE CUSTOMER PORTAL. ROCK-IT RESERVES THE RIGHT TO IMPLEMENT OR CHANGE THE FEES FOR THE CUSTOMER PORTAL AT ANY TIME UPON NOTICE TO CUSTOMER, WHICH MAY BE ELECTRONIC NOTICE ON THE CUSTOMER PORTAL. UNDER NO CIRCUMSTANCES WILL THE TOTAL LIABILITY OF ROCK-IT OR ANY OF ITS AFFILIATES, ARISING FROM THE CUSTOMER PORTAL EXCEED, IN THE AGGREGATE, ONE HUNDRED DOLLARS (\$100). THE PARTIES AGREE THAT THE FOREGOING REPRESENTS A FAIR ALLOCATION OF RISK.

#### GENERAL PROVISIONS

**Assignment.** Neither party may assign or transfer these Terms or any rights or obligations hereunder without the prior written consent of the other party, except that Rock-It may assign these Terms to any parent, subsidiary, or affiliate, or to a successor in connection with a merger, acquisition, or sale of all or substantially all of its assets, without Customer's consent. Any purported assignment in violation of this section shall be void.

**Severability.** If any provision of these Terms is held to be invalid, illegal, or unenforceable by a court of competent jurisdiction, such provision shall be modified to the minimum extent necessary to make it enforceable, or if modification is not possible, severed, and the remaining provisions shall continue in full force and effect.

**Waiver.** No failure or delay by either party in exercising any right or remedy under these Terms shall operate as a waiver thereof, nor shall any single or partial exercise of any right or remedy preclude any other or further exercise thereof or the exercise of any other right or remedy. All waivers must be in writing and signed by the waiving party.

**Entire Agreement/Amendments.** These Terms comprise the entire agreement between Customer and Rock-It. These Terms may not be amended, modified, or supplemented except by a written instrument signed by both parties. For the avoidance of doubt, no terms or conditions contained in any purchase order, acknowledgment, or other business form issued by Customer shall modify or supplement these Terms, regardless of any failure by Rock-It to object to such terms.

**Notices.** All notices required or permitted under these Terms shall be in writing and shall be deemed given when: (i) delivered personally; (ii) sent by nationally recognized overnight courier, one business day after deposit; or (iii) sent by email, upon confirmation of receipt by the receiving party. For Customer, notices shall be sent to the addresses specified on the signature page of these Terms, or as otherwise notified by Customer. For Rock-It, notices shall be sent to: Legal Department, 2121 Park Place, Suite 150, El Segundo, CA 90245 with an email copy to [legalnotices@rockitcompany.com](mailto:legalnotices@rockitcompany.com).

**PART 6 – ACKNOWLEDGEMENT AND WARRANTY OF AUTHORITY**

WARRANTY OF AUTHORITY AND CERTIFICATION

The person signing these Terms represents and warrants they have full authority to execute these Terms on behalf of Customer. No signature or countersignature by Rock-It is required for these Terms to be valid, enforceable, and in full force and effect as to the Customer. An electronic signature is intended to, and shall, have the same legal force and effect as a handwritten signature, and that execution and delivery of these Terms by electronic means (including, without limitation, clicking to sign within an e-signature platform, affixing a digital signature, or returning a signed PDF or similar electronic image) constitutes a valid and binding acceptance by the Customer.

CARGO INSURANCE ELECTION

**Y E S .** By checking this box, you agree to have Rock-It arrange cargo insurance on the Goods on your behalf on an ongoing basis for the full actual replacement value on a shipment, subject to the terms and conditions of Rock-It's cargo insurance policy in effect at the time of such shipment.

**N O .** By checking this box, you agree that the limits of liability for loss or damage set forth in Part I shall apply to any shipment and Rock-It will have no further liability for replacement value beyond the stated limits of liability

CUSTOMER:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Company and/or Artist Name

\_\_\_\_\_  
Management Company (if applicable)

\_\_\_\_\_  
Physical Street Address

\_\_\_\_\_  
City, State, ZIP Code

\_\_\_\_\_  
Date