

## TERMS AND CONDITIONS OF SERVICE

Una copia en español de este documento se puede encontrar aquí: [www.echo.com/es/tc/spanish](http://www.echo.com/es/tc/spanish)

- 1. Definitions.** "Echo" means Echo Global Logistics, Inc., and its subsidiaries and affiliates, including but not limited to Fastmore Logistics and Echo – Mexico, and "Customer" means you, the person or entity engaging Echo for its services, including any of your employees, agents, divisions, entities, subsidiaries or affiliates. Echo and Customer may be referred to individually as a "Party" and collectively as the "Parties." The "Agreement" shall mean these Terms and Conditions of Service.
- 2. Services.** Echo will arrange for the transportation of shipments (such arrangement, the "Services") of Customer's cargo (each, a "Shipment") pursuant to the terms of this Agreement. Echo will perform the Services solely in its capacity as a property broker authorized by the Federal Motor Carrier Safety Administration under docket number MC-511639. Echo is not a motor carrier and does not take possession of cargo. The transportation of Shipments tendered to Echo will be performed by third party motor carriers, air carriers, rail carriers, freight forwarders, and other transportation providers or arrangers (collectively, "Carriers").
- 3. Non-Exclusive/No Minimums.** Customer may seek the services of other third-party logistics providers and is not required to tender any minimum number of shipments to Echo. Echo may perform services for any third-party and is not required to perform any minimum amount of services for Customer, nor is Echo required to accept any particular shipment from Customer. Either Party may suspend the Services at any time, provided that Customer shall pay for all shipments for which Echo has provided all or partial Services.
- 4. Credit Approval.** Payment terms and credit limits are subject to credit approval, which shall be determined from time to time and in Echo's sole discretion. Customer grants Echo the continuing right to perform credit and background checks, and reviews of Customer and its financial data, as Echo deems necessary. Echo reserves the right to grant, refuse or change credit terms in its sole discretion and without prior notice.
- 5. Payment.** Customer will pay Echo the amounts mutually agreed to by the Parties by commercially reasonable means, including via Echo's customer-facing online or mobile applications or via email or telephone. If Echo provides Services for which no mutually agreed upon rate is established, then Customer agrees to pay the amount set forth in Echo's invoice(s). In addition, Customer shall be responsible for payment of all fees and charges related to accessorial services not foreseen or reasonably required at the time the Parties agreed to rates, but which are performed by Echo or the Carrier with respect to a Shipment, as well as any additional fees, surcharges and taxes (other than Echo's income tax) arising from or related to any services rendered, even if such costs are set out in an amended or second invoice. Customer shall pay all invoices within thirty (30) days of the invoice date, without reduction or setoff. When paying by credit card or electronic funds, Customer agrees it will be responsible for all bank or credit card fees, which may be automatically debited from Customer's credit card or bank account. If Customer fails to make full and timely payment, Echo may decline to provide Services and Customer's account may be referred for collection. Invoices that are past due shall be subject to an interest charge of twelve percent (12%) per annum or the maximum allowed by applicable law, if less than twelve percent (12%). Customer shall also pay all reasonable costs, attorneys' fees and expenses Echo incurs to enforce its rights to collect its rates and charges hereunder. Unless disputed in writing by Customer within sixty (60) days from the date of invoice, the Customer will be deemed to have conclusively accepted and approved such invoice and waives any right to dispute such invoice.
- 6. Compliance:** Customer represents and warrants that it: (a) is and will be in compliance with all applicable laws, rules, orders, executive orders, and regulations, including, but not limited to those applicable laws of any country to, from, through or over which the Shipment may be transported; (b) is the owner of the cargo or otherwise authorized to tender the Shipment to Echo, to arrange the Services in accordance with this Agreement and to make decisions about the Shipment, (c) is the proper party to receive payment on a

claim for loss, damage or delay to the cargo (if any); (d) will ensure that the cargo is accurately and completely described, classified, packaged, labeled, and placarded; (e) all information it provides to Echo is truthful, accurate and complete; and (f) is responsible for properly and safely loading and securing all cargo that is loaded outside of the presence of Carrier personnel, regardless of whether notated as “shipper load and count” or similar designation. Customer shall advise Echo at the time of tender if a Shipment is valued over \$100,000. Although Echo may provide a form bill of lading for use in transportation, Customer shall provide all information for preparation of the bill of lading and Customer shall be considered the preparer of the bill of lading and the offeror of any cargo. Placing Echo’s name on a bill of lading shall not change Echo’s status as a broker. Echo shall have no liability for any loss, damage or expense due to Customer’s failure to comply with this section (including subparts below) and Customer shall defend, indemnify and hold Echo harmless for any loss, damage or expense (including reasonable costs and attorneys’ fees) arising from or related to a violation of this section (including subparts below). Without limiting the foregoing in any way:

- a. if Customer tenders hazardous materials or dangerous goods for transportation, Customer shall be solely responsible for complying with all applicable laws, rules, and regulations with respect to such cargo and must provide all necessary notice and documentation, including but not limited to a Safety Data Sheet (“SDS”), at the time of its request for Services.
- b. if Customer tenders any cargo intended for human or animal consumption, Customer shall be solely responsible for all obligations of a shipper set forth in any applicable law, rule or regulation, including, but not limited to 21 C.F.R. 1.900 *et. seq.* and Customer shall be solely responsible for communicating any food handling instructions or notices on a per shipment basis in writing at the time of its initial request for Services; in the absence of any such written instruction or notice, neither Echo nor Carriers shall have any liability related to or arising from failure to exercise any specialized handling including, but not limited to, controlled temperature transportation.
- c. Customer represents and warrants that it: (i) and its officers, directors and managers are not and will not be, a person or entity with whom U.S. persons or entities are restricted from doing business under applicable law, including but not limited to, the USA Patriot Act of 2001 or the regulations of the Office of Foreign Assets Control, Department of the Treasury (“OFAC”) and (ii) is not entering into this Agreement and no shipment shall be tendered to Echo, directly or indirectly, in violation of any laws relating to drug trafficking, money laundering or predicate crimes to money laundering.

- 7. Independent Contractors.** Echo and Customer shall be independent contractors in their respective performance of this Agreement and nothing in this Agreement shall create a partnership, joint venture, subcontractor or employer-employee relationship. Customer does not exercise or retain any control or supervision over Echo, its operations, or employees and has no authority to bind Echo to any contract, debt or obligation. Echo and Carriers are independent contractors and, as such, Echo does not control any Carrier’s performance nor does it have control over Carrier’s personnel or equipment. Carriers (including their employees, agents or representatives) are not partners, joint venturers, employees, agents, or subcontractors of Echo and no Carrier has authority to bind Echo to any contract, obligation or liability.
- 8. Carriers:** Except as expressly set forth herein, Echo makes no warranties or representations as to the manner or terms of a Carrier’s services and does not guarantee that any Carrier satisfies any specific customer requirement, obligation or standard.
- 9. Delivery:** Echo shall require Carriers to provide services with reasonable dispatch. All displayed or provided transit times are estimates and do not include the day of pickup, holiday and/or no service days as defined by the individual Carrier. Echo does not guarantee delivery by any specific date or time and will have no liability for delay in pick-up or delivery of cargo except to the limited extent expressly assumed in this paragraph. Notwithstanding the foregoing, Echo may agree to arrange shipments with a guaranteed delivery date, but only if requested by Customer in writing prior to the time of tender, Echo accepts such

guaranteed delivery date in writing, and Customer pays an additional fee for such guaranteed delivery services (the "Guaranteed Service Fee"). If a Carrier fails to comply with the guaranteed services requirements, the Customer shall have fourteen (14) days from the actual delivery date of the Shipment to file a written claim with Echo. If Echo does not receive a timely claim, then guaranteed service requirements will be deemed satisfied conclusively and the claim will be denied. If the Carrier fails to timely deliver a shipment when using the guaranteed delivery service, Customer's sole remedy will be a refund of the Guaranteed Service Fee for such shipment.

**10. Shipping Documents.** This Agreement shall control over any contradictory term in any bills of lading, rate confirmations, shipment tenders, proofs of delivery or similar documentation (collectively "Shipping Documents"). Shipments, and the underlying Carrier's services, may be subject to the Carrier's terms and conditions, tariff, circular, or similar document (collectively, "Tariffs"), in which case, the Tariffs shall control as to the Carrier's services and liability. Customer is responsible for obtaining, reviewing and understanding the terms of such Tariffs. Customer expressly waives its rights under 49 CFR §371.3, including its right to review Echo's payments to or rates negotiated with Carriers. The Parties expressly waive all rights and remedies under Title 49 U.S.C., Subtitle IV, Part B to the extent that it conflicts with this Agreement.

**11. Cargo Loss, Damage or Delay For Domestic, Surface Shipments.**

- a. In the event of a loss, damage, shortage, theft or delay to cargo (collectively, "Cargo Loss") while in the care, custody or control of a Carrier, upon Customer's request, Echo shall assist Customer in the filing and resolution of a claim with the Carrier. Echo shall require that Carriers be liable for loss, damage or delay to cargo in accordance with 49 U.S.C. §14706. The claims process shall be governed by 49 CFR Part 370. All claims must be presented by Customer to Echo within nine (9) months of the delivery date or the claim is waived; provided that concealed damage claims must be presented to Echo within five (5) days of the delivery date. Customer shall timely provide all information necessary to submit and enforce any such claim and shall cooperate with Echo's reasonable requests related to such claims. The minimum amount for any claim for loss, damage or delay shall be \$50 per less than truckload ("LTL") shipment and \$250 per all other shipment types, including but not limited to full truckload, partials, intermodal (after any applicable limit of liability is applied). The filing of a claim does not relieve Customer of any responsibility for payment of Echo's invoice(s).
- b. Customer agrees that a Carrier's liability for Cargo Loss shall be the lesser of: (a) any limit or disclaimer of liability for Cargo Loss by tariff, by contract, under any applicable law, or as set forth in the shipping documentation; or (b) (i) \$100,000 per occurrence for domestic, full truckload shipments or (i) \$50,000 per occurrence or \$2 per pound for all other modes of transportation.
- c. Echo shall not be liable for any Cargo Loss except if caused by Echo's gross negligence or willful misconduct. Under no circumstances shall Echo be liable for: (a) the acts or omissions of the Carrier, Customer or third parties; (b) the nature of the Shipment or inherent vice of the cargo or any defect in the cargo; (c) improper packaging, breakage, or wear and tear; (d) leakage or failure to detect concealed damage; (e) lack of or failure of equipment; (f) the selection of a Carrier for a particular shipment; or (g) storages charges, wrecker fees, charges related to port congestion or labor shortages. If Echo is liable for Cargo Loss its liability shall be limited to the lesser of (a) the charges invoiced (or to be invoiced) by Echo for the Shipment at issue or (b) \$2,500.
- d. If Customer requires coverage beyond the limits of liability set forth in this Agreement, Customer may purchase supplemental cargo insurance for its shipment (including but not limited to EchoInsure+), which request is only deemed accepted if Customer pays an additional cost for such coverage. The terms of the supplemental insurance coverage shall be governed by the relevant insurance policy. All such insurance is provided by third parties, as Echo is not an insurer or an insurance producer. Echo is

not liable for selecting insurance, paying for coverage, paying any deductibles or any decision to deny or pay a claim covered by such insurance.

- 12. Limitation of Liability.** EXCEPT TO THE EXTENT PROHIBITED BY LAW, ECHO SHALL NOT BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT, PUNITIVE OR CONSEQUENTIAL DAMAGES OR LOST PROFITS, LOST REVENUE OR LOSS OF GOODWILL, INCLUDING, BUT NOT LIMITED TO, CLAIMS ARISING FROM OR RELATED TO LOST PROFITS OR BUSINESS INTERRUPTION, REGARDLESS OF WHETHER ECHO HAD KNOWLEDGE THAT SUCH DAMAGES MIGHT BE INCURRED. EXCEPT FOR MATTERS OF CARGO LOSS AND DAMAGE WHICH HAVE THEIR OWN LIMIT OF LIABILITY PURSUANT TO SECTIONS 11, 15 & 16 AND FOR MATTERS OF GUARANTEED SERVICES WHICH HAS ITS OWN LIMITATION OF LIABILITY PURSUANT SECTION 9, UNDER NO CIRCUMSTANCES SHALL ECHO'S LIABILITY FOR ANY MATTER ARISING FROM OR RELATING TO THIS AGREEMENT OR THE SERVICES PROVIDED HEREUNDER, REGARDLESS OF THE CAUSE OF ACTION, EXCEED THE LESSER OF (A) THE AMOUNTS PAID TO ECHO BY CUSTOMER UNDER THIS AGREEMENT DURING THE 6 MONTHS BEFORE SUCH LIABILITY AROSE OR (B) \$250,000. THE FOREGOING LIABILITY CAP WILL APPLY EVEN IF CUSTOMER'S REMEDIES UNDER THIS AGREEMENT FAIL OF THEIR ESSENTIAL PURPOSE. CUSTOMER ACKNOWLEDGES THAT ALL OF THE LIMITS OF LIABILITY SET FORTH IN THIS AGREEMENT ARE NECESSARY FOR ECHO TO PROVIDE COMPETITIVE RATES AND SERVICES; THEREFORE, ALL LIMITS OF LIABILITY CONTAINED HEREIN ARE MATERIAL TERMS OF THIS AGREEMENT.
- 13. Lien.** Echo shall have a general and continuing lien on the Shipment for all sums due relating to the Shipment or any amounts otherwise owed by Customer regardless of whether such amounts relate to prior shipments. The Customer authorizes Echo to advise third-parties of asserted liens and to hold possession of any shipment against which a lien is asserted. If Customer fails to make payment arrangements or post security to Echo's satisfaction, Echo will have the right to sell the Shipment in accordance with any commercially reasonable methods and will remit to Customer any net proceeds after the sale which exceeds the total amount owed (including any costs of sale, and accrued unloading, loading and storage charges).
- 14. Disclaimer of Warranties.** THE SERVICES ARE PROVIDED "AS IS." EXCEPT AS PROHIBITED BY LAW, ECHO MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR REGARDING SHIPMENTS.
- 15. Air, Ocean & International Transportation.** For all air and ocean shipments, Customer agrees to the terms and conditions found here <https://www.echo.com/tc/air-ocean-international/>. The Air & Ocean Terms hereby incorporate the terms of this Agreement. To the extent that any provision of the Air & Ocean Terms conflict with this Agreement, the Air & Ocean Terms shall control for air and ocean shipments.
- 16. Mexico & Cross Border Shipments.** For all shipments traveling within Mexico or to/from the United States of America ("US") or Canada and Mexico, Customer agrees to the terms and conditions found here <https://www.echo.com/tc/mexico/> ("Mexico Terms"). The Mexico Terms hereby incorporate the terms of this Agreement. To the extent that any provision of the Mexico Terms conflict with this Agreement, the Mexico Terms shall control for shipments traveling within or to/from the US or Canada and Mexico. *Please note, as more fully set forth in the Mexico Terms, you should not expect any insurance or liability recovery for shipments within Mexico or to/from the US or Canada and Mexico. Echo offers supplemental cargo insurance coverage, but such coverage is for cargo only and is not considered bound until you receive confirmation from an Echo representative and receive a copy of the certificate of insurance for the shipment. In the US, carriers are required to have cargo insurance coverage of \$100,000 for transit only from the applicable to destination or vice versa.*
- 17. Forum Selection and Choice of Law.** Any claim, dispute or litigation relating to this Agreement shall be exclusively filed in a state or federal court located in Cook County, Illinois and shall be subject to federal law or, if federal law does not apply, then Illinois law without reference to conflict of law rules. The parties

waive any challenge or defense to personal (but not subject matter) jurisdiction of, or venue in, any such court. If Customer files an action in violation of this provision, Echo shall be entitled to reimbursement of all attorneys' fees and costs incurred in connection with dismissing the action for improper venue or transferring the action to the venue set forth herein. ECHO AND CUSTOMER WAIVE THE RIGHT TO A TRIAL BY JURY.

- 18. Entire Agreement.** Unless the Parties have entered into a shipper broker agreement or similar transportation management agreement which disclaims applicability of this Agreement, and is executed by Echo's in-house legal counsel or vice-president level (or higher) employee, this Agreement shall apply to all Services provided by Echo. Echo reserves the right to change the terms of this Agreement by mailing notice to Customer or by posting updated terms and conditions on its website or at [www.echo.com/tc](http://www.echo.com/tc). This Agreement is the entire agreement between the Parties on this subject and supersedes all prior or contemporaneous written or oral representations or agreements between the Parties on this subject.
- 19. Severability.** In the event that the operation of any portion of this Agreement results in a violation of any law, or any provision is determined by a court of competent jurisdiction to be invalid or unenforceable, the Parties agree that such portion or provision shall be severable and shall be enforced to the maximum extent permissible so as to effect the intent of the Parties, and that the remaining provisions of the Agreement shall continue in full force and effect.
- 20. General.** Echo's failure to enforce any right or provision in this Agreement shall not constitute a waiver of such right or provision unless acknowledged and agreed to by Echo in writing.
- 21. Force Majeure.** Neither Party shall be liable for a default in the performance or discharge of any duty or obligation under this Agreement (other than payment of invoices) when caused by acts of God, public enemy, labor disputes and disorders, lockouts, strikes, work stoppages, fire, floods, windstorms, corruption, earthquakes, tidal waves, tornadoes, hurricanes, civil commotion, pandemic, epidemic, closing the public highways, intentional or malicious acts of third persons, acts or orders of governmental authorities or any other matters beyond the reasonable control of the Parties.
- 22. Contact.** Customer agrees that Echo may contact Customer by telephone, text message (including by an automatic telephone dialing system and/or with an artificial or pre-recorded voice) or by email at any phone number or email for marketing purposes. Customer is not required to give this consent as a condition of purchasing or using any goods or services from Echo. Customer may opt out of any such communications by contacting [legal@echo.com](mailto:legal@echo.com).