

## **ROCK-IT CARGO USA LLC**

### **WEBSITE TERMS OF USE**

Welcome to the Rock-It Cargo website, located at: <https://www.rockitcargo.com/> (the “**Site**”), and operated by Rock-It Cargo USA LLC (“**Rock-It Cargo**”, “**we**” or “**us**”). The following terms and conditions (the “**Terms**”) govern your access to, and use of, all or part of this Site.

By accessing, viewing, downloading or otherwise using the content, materials, products, or services available on or through the Site, you certify that you have read, understand, and agree to be legally bound, both on your behalf and on behalf of the company you represent (collectively, “**you**”), by these Terms and [Rock-It Cargo’s Terms and Conditions of Service](#). You represent and warrant that you have all the proper authority needed to bind the company you represent to these Terms. You further agree that your use of the Site or any services made available on or through the Site signifies that you fully accept and agree to these Terms. If you do not agree to these Terms, you are not granted permission to use the Site and must exit and discontinue your use of it immediately.

**THESE TERMS CONTAIN AN ARBITRATION CLAUSE AND A CLASS ACTION WAIVER CLAUSE. BY USING THE SITE, YOU ARE ACCEPTING THIS AGREEMENT AND, WHILE YOU MAY STILL PURSUE CLAIMS AGAINST ROCK-IT CARGO, YOU ARE AGREEING THAT YOU MUST PURSUE YOUR CLAIMS IN A BINDING ARBITRATION PROCEEDING (AND NOT IN A COURT) AND ONLY ON AN INDIVIDUAL (AND NOT A CLASS ACTION) BASIS. PLEASE READ THESE TERMS CAREFULLY TO UNDERSTAND YOUR RIGHTS AND RESPONSIBILITIES.**

If you have any questions concerning these Terms or wish to exercise your rights as described below, please contact Rock-It Cargo at [info@rockitcargo.com](mailto:info@rockitcargo.com).

#### **1. License to Use the Site**

Subject to these Terms, Rock-It Cargo hereby grants you a personal, limited, terminable, revocable, non-exclusive, nontransferable, nonsublicenseable license to access and use the Site solely for use in accordance with these Terms. Without limiting any other provisions of these Terms, all content, photographs, and other materials, including the Site, made available to you are the copyrighted work of Rock-It Cargo or its licensors. Copying or distributing the Site or the Site Content (as defined below) is expressly prohibited.

#### **2. Registration**

In order to access certain content, services or features made available through the Site, you may be asked to register and create an account. As part of the registration process, you may be asked to select or submit a username and password. You may also be required to provide Rock-It Cargo with certain information about yourself, including some types of personally identifiable information, such as your legal name, phone number, physical address, and email address. You represent that the personal information you provide to Rock-It Cargo via the Site is true, valid, complete, and up-to-date in all respects. Should any of the information you provide on the Site change, please login to your account and update such information directly on the Site.

You are responsible for ensuring that your password and account login are kept secret, safe, and secure at all times. You are solely responsible for any and all activities which occur under your account. Rock-It Cargo will not be held responsible or liable for any misuse of your account, including in the event that a third party has access to and uses your password and account login in any way. In the event that your username or account login is used without your consent or that you discover any other breach of security, you agree to promptly notify us. We are not responsible for your failure to comply with this clause, or for any delay in shutting down your account after you have notified us.

Rock-It Cargo has the right to disable any user name, account login, password or other identifier, whether chosen by you or provided by us, at any time in our sole discretion for any or no reason, including if, in our opinion, you have violated any provision of these Terms.

### **3. Payments, Billing and Payment Processor**

The Site allows users to make payments on invoices for purchased services. By accessing the Site, you represent that you have reached the age of majority, which in most jurisdictions is 18 years old, and have the legal capacity to enter into a contract and that you agree to these Terms, Rock-It Cargo's Terms and Conditions of Service, and any additional terms presented to you at the time of payment.

Rock-It Cargo uses a third-party payment processor to process credit card transactions made through the Site. If you purchase products from Rock-It Cargo or make any payments via the Site with your credit card, the credit card information that you submit to Rock-It Cargo will be protected by encryption, such as with the Secure Socket Layer ("SSL") protocol. Encryption decreases the likelihood that your credit card information will be stolen or intercepted during transmission to Rock-It Cargo. You are responsible for all charges incurred under your account, whether made by you or another person using your account.

### **4. General Restrictions on Use**

You agree to use the Site only for purposes that are permitted by these Terms in compliance with all applicable laws, regulations, and generally accepted practices and guidelines in the relevant jurisdictions. You may only use the Site as authorized in these Terms and for no other purposes.

You will not (and will not attempt to): (a) access the Site by any means other than through the interfaces that are provided by Rock-It Cargo; (b) gain unauthorized access to Rock-It Cargo's computer system or engage in any activity that interferes with the performance of, or impairs the functionality or security of the Site or Rock-It Cargo's networks and computer systems; (c) access the Site through any automated means or with any automated features or devices (including use of scripts or web crawlers, data mining, scraping, robots, spiders, or any other data gathering or extraction tools), except to the extent the Site is indexed by general purpose consumer-accessible search engines, such as Google or Bing; (d) access or collect any personally identifiable information, including any names, email addresses or other such information for any purpose, including commercial purposes; (e) reproduce, duplicate, copy, sell, trade, or resell any aspect of the Site for any purpose; (f) upload, post, or otherwise transmit, through the Site, any unsolicited or unauthorized advertising, promotional materials, "junk mail," "spam," "chain letters," "pyramid schemes," "phishing," or any other form of solicitation, including the solicitation of users to become subscribers of other online information services competitive with Rock-It Cargo; (g) stalk, harass, or otherwise disturb another person; (h) impersonate another person; or (i) infringe any intellectual property rights of any person or entity, including any trademark rights, rights of publicity, personality, or privacy of any person or entity.

### **5. Intellectual Property**

As between you and Rock-It Cargo, Rock-It Cargo owns all patent, copyright, trademark, trade secret, ideas, concepts, know-how, documentation or techniques or other intellectual property rights that may exist in the Site, any photographs, graphics, texts, icons, buttons, data or information we include in the Site ("Site Content"). All Site Content is protected pursuant to copyright, trademark, patent, and other applicable laws. You shall not remove or alter any copyright notice or any other proprietary notice on the Site or on any Site Content. All names, trademarks, symbols, slogans, or logos appearing on the Site are proprietary to Rock-It Cargo or its licensors, clients, or suppliers. Use or misuse of these trademarks is expressly prohibited and may violate federal and state trademark law. Under no circumstances will you have any rights of any kind in or to the Site Content, other than the right to use the Site Content in accordance with these Terms. No right, title or interest in or to the Site or any of the Site Content is transferred to you, and all rights not expressly granted herein are reserved by Rock-It Cargo. Any use of the Site not expressly permitted by these Terms is a breach of these Terms and may violate patent, copyright, trademark and other laws.

## **6. Errors, Inaccuracies, and Omissions**

Occasionally there may be information on the Site that contains typographical errors, inaccuracies, or omissions that may relate to service descriptions, pricing, promotions, offers, and availability. We reserve the right to correct any errors, inaccuracies or omissions and to change or update information if any information on the Site is inaccurate at any time without prior notice. We cannot and do not review all communications, products, or services made available on or through the Site, but, although not obligated to, may review, verify, make changes to or remove any Site Content or the Site, including information submitted in connection with the Site Content or other features at any time, with or without notice in our sole discretion.

## **7. Links To and Features Provided by Third Parties**

The Site may contain links or references to other websites or feature services of third parties for the convenience of users: (a) in locating information, products, or services that may be of interest; (b) with performing or receiving the services made available through the Site, and complying with any requirements associated with such transactions. These third-party websites and services may be available on the Site via a link, redirect, plug-in, integrated application, or other technology, and may be recognized automatically by your browser. Rock-It Cargo does not recommend and expressly disclaims any responsibility for the content, the accuracy of the information, or quality of products or services provided by or advertised on third party websites or the transactions you conduct or enter into with third parties. Your use of any third-party websites or services is at your own risk, and subject to the terms and conditions of such third parties. Rock-It Cargo encourages you to read the privacy policies and terms of use linked or referenced in connection with third party websites.

## **8. Site Access**

While Rock-It Cargo endeavors to ensure that the Site is normally available 24 hours a day, it will not be liable if for any reason it is unavailable at any time or for any period. Access to the Site may be suspended temporarily and without notice in case of a system failure, maintenance or repair or for reasons beyond our control. Rock-It Cargo has the right to terminate or suspend your access to all or part of the Site for any or no reason, including any violation or suspected violation of these Terms.

## **9. Disclaimers**

YOUR USE OF THE SITE IS AT YOUR OWN RISK. THE SITE IS PROVIDED ON AN "AS IS" AND "WITH ALL FAULTS" BASIS, WITHOUT ANY WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING THE WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT AND FITNESS FOR PARTICULAR PURPOSE. NEITHER ROCK-IT CARGO NOR ANY PERSON ASSOCIATED WITH ROCK-IT CARGO MAKES ANY WARRANTY OR REPRESENTATION WITH RESPECT TO THE SITE, SITE CONTENT, SERVICES, PRODUCTS, INFORMATION AND OTHER MATERIALS CONTAINED THEREIN. WITHOUT LIMITING THE FOREGOING, NEITHER ROCK-IT CARGO NOR ANYONE ASSOCIATED WITH ROCK-IT CARGO REPRESENTS OR WARRANTS THAT THE SITE OR ITS CONTENTS WILL BE ACCURATE, RELIABLE, ERROR-FREE OR UNINTERRUPTED, THAT DEFECTS WILL BE CORRECTED, THAT THE SITE OR SERVICES THAT MAKE THE SITE AVAILABLE ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS OR THAT THE SITE OR ANY SERVICES OR PRODUCTS OBTAINED THROUGH THE SITE WILL OTHERWISE MEET YOUR NEEDS OR EXPECTATIONS. YOU ACKNOWLEDGE AND AGREE THAT THE ENTIRE RISK ARISING OUT OF YOUR USE OF THE SITE REMAINS SOLELY WITH YOU, TO THE MAXIMUM EXTENT PERMITTED BY LAW.

You understand that the technical processing and transmission of any Site Content may be transferred unencrypted and involve transmissions over various networks and changes to conform and adapt to technical requirements of connecting networks or devices. Please be advised that we do not guarantee that any information sent to or from our Site will be secure during transmission, nor can we guarantee the confidentiality of any communication or material transmitted to us via the Site or the Internet, including personal information such as your name or address.

#### **10. Limitation of Liability**

IN NO EVENT WILL ROCK-IT CARGO BE LIABLE FOR DAMAGES OTHER THAN ACTUAL AND DIRECT DAMAGES PROVEN EITHER IN A COURT OF LAW OR THROUGH ARBITRATION. IN NO EVENT SHALL ROCK-IT CARGO'S LIABILITY EXCEED THE PRICE YOU PAID FOR THE PRODUCT OR SERVICE THAT IS THE SUBJECT OF THE CLAIM. IF ANY PART OF THIS LIMITATION OF LIABILITY IS FOUND TO BE INVALID OR UNENFORCEABLE FOR ANY REASON, THEN THE TOTAL LIABILITY OF ROCK-IT CARGO AND ITS LICENSORS SHALL NOT EXCEED TEN U.S. DOLLARS (\$10).

IN AS MUCH AS PERMITTED BY LAW, AND EXCEPT FOR DAMAGE CAUSED BY WILLFUL INTENT OR GROSS NEGLIGENCE, ROCK-IT CARGO AND THEIR AFFILIATES, SUBSIDIARIES AND LICENSORS AND THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, SHAREHOLDERS OR AGENTS OF ANY OF THEM, EXCLUDE ALL LIABILITY AND RESPONSIBILITY FOR ANY AMOUNT OR KIND OF LOSS OR DAMAGE THAT MAY RESULT TO YOU OR A THIRD PARTY (INCLUDING ANY INDIRECT, OR CONSEQUENTIAL LOSS OR DAMAGE, OR ANY LOSS OF INCOME, PROFITS, GOODWILL OR DATA) IN CONNECTION WITH (A) THE SITE, SITE CONTENT OR THE PRODUCTS OR SERVICES OBTAINED ON OR THROUGH THE SITE IN ANY WAY OR (B) THE USE, INABILITY TO USE OR THE RESULTS OF USE OF THE SITE, ANY WEBSITES LINKED TO THE SITE OR THE MATERIAL ON SUCH WEBSITES, INCLUDING LOSS OR DAMAGE DUE TO VIRUSES THAT MAY INFECT YOUR COMPUTER EQUIPMENT, SOFTWARE, DATA OR OTHER PROPERTY ON ACCOUNT OF YOUR ACCESS TO, USE OF OR BROWSING OF THE SITE OR YOUR USE OF ANY SITE CONTENT OR ANY WEBSITES LINKED TO THE SITE; ALL THE FOREGOING REGARDLESS OF LEGAL THEORY, WHETHER OR NOT YOU OR WE HAD BEEN ADVISED OF THE POSSIBILITY OR PROBABILITY OF SUCH DAMAGES, AND EVEN IF THE REMEDIES OTHERWISE AVAILABLE FAIL OF THEIR ESSENTIAL PURPOSE. IF YOU ARE DISSATISFIED WITH THE SITE, SERVICES, OR WITH ANY OF THESE TERMS, OR FEEL WE HAVE BREACHED THESE TERMS, YOUR SOLE REMEDY IS TO DISCONTINUE USING THE SITE.

#### **11. Indemnity**

You agree to defend, indemnify, and hold harmless Rock-It Cargo, its parents, subsidiaries, officers, directors, shareholders, members, employees, agents, affiliates, licensors and suppliers, from and against all claims, damages, obligations, losses, liabilities, costs or debt, and expenses (including attorneys' fees) arising from: (a) your use of and access to the Site, products, and services; (b) your violation of any of these Terms or Rock-It Cargo's Terms and Conditions of Service; (c) your fraud, violation of law, negligence, or willful misconduct; and (d) your violation of any third party rights, including intellectual property or privacy rights. This defense and indemnification obligation will survive the termination or cessation of these Terms and your use of the Site. Rock-It Cargo reserves the right, at Rock-It Cargo's own expense, to assume the exclusive defense and control of any matter otherwise subject to indemnification by you hereunder, and you shall cooperate in all reasonable respects in such defense. You may not settle any claim that is referenced or otherwise covered by this Section 12 without the prior written consent of Rock-It Cargo.

#### **12. Arbitration**

You and Rock-It Cargo agree that any disputes arising from or relating to these Terms or your use of the Site, including disputes arising from or concerning their interpretation, violation, invalidity, non-performance, or termination, which cannot be resolved informally, shall be submitted to final and binding arbitration before one (1) arbitrator; provided,

however, in the event that the dispute involves an allegation of liability in excess of \$250,000 USD, three (3) arbitrators shall be used. Any dispute arising out of these Terms shall be resolved exclusively through final and binding arbitration conducted by the American Arbitration Association (the “AAA”) pursuant to its Commercial Arbitration Rules. Arbitration uses a neutral arbitrator instead of a judge or jury, and court review of an arbitration award is very limited. However, an arbitrator can award the same damages and relief on an individual basis that a court can award to an individual; and an arbitrator must also follow and enforce these Terms, as a court would. All issues are for the arbitrator to decide, except that issues relating to arbitrability and the scope or enforceability of this agreement to arbitrate shall be for a court of competent jurisdiction to decide. Arbitration shall take place in Los Angeles, California, unless Rock-It Cargo elects otherwise.

All matters relating to the Site and these Terms and any dispute or claim arising therefrom or related thereto (in each case, including non-contractual disputes or claims), shall be governed by and construed in accordance with the internal laws of the State of California without giving effect to its choice or conflict of law provisions or rules. The arbitrator will decide the substance of all claims in accordance with the laws of the California. The arbitrator shall not be bound by rulings in prior arbitrations involving different Rock-It Cargo users, but is bound by rulings in prior arbitrations involving the same Rock-It Cargo user to the extent required by applicable law. The arbitrator’s award shall be final and binding, and judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. This clause shall not preclude parties from seeking provisional remedies in aid of arbitration from a court of appropriate jurisdiction.

You acknowledge and agree that you and Rock-It Cargo are each waiving the right to a trial by jury. You further acknowledge and agree that you waive your right to participate as a plaintiff or class member in any purported class action or representative proceeding. Further, unless both you and Rock-It Cargo otherwise agree in writing, the arbitrator may not consolidate more than one person’s claims, and may not otherwise preside over any form of any class or representative proceeding.

In the event this Section 12 is held unenforceable, then the entirety of this Section 12 will be deemed void. Except as provided in the preceding sentence, this Section 12 will survive termination of the Terms and your use of the Site.

Notwithstanding the foregoing, each party retains the right to seek injunctive or other equitable relief in a court of competent jurisdiction to prevent the actual or threatened infringement, misappropriation or violation of a party’s copyrights, trademarks, trade secrets, patents or other intellectual property rights.

### **13. Operation of the Site and United States Law**

The Site is controlled and operated from within the United States. Without limiting anything else, Rock-It Cargo makes no representation that the Site, Site Content, services, products, information, or other materials available on, in, or through the Site is appropriate or available for use outside the United States, and access to them from territories where they are illegal is prohibited. Those who choose to access the Site from outside the United States do so on their own will and are responsible for compliance with applicable laws.

### **14. Complaint Policy**

If you believe that any content or posting on the Site violates your intellectual property or other rights, please notify Rock-It Cargo at the email address set forth above, providing a comprehensive, detailed message setting forth the following information: (a) your name and the name of your company, if any; (b) your contact information, including your email address; (c) the nature and substance of your complaint, the specific rights at issue, and your basis for making the complaint, including the content or posting that is objectionable; and (d) the following statement: “The statements, representations, and assertions made in this message are true, complete, and accurate, and I have the full legal authority to make each and every such statement, representation, and assertion and to make and be granted any demand made in this message.”

## 15. Miscellaneous

These Terms, and Rock-It Cargo's Terms and Conditions of Service, constitute the entire legal agreement between you and Rock-It Cargo regarding the Site and govern your use of the Site and any transactions you may have with Rock-It Cargo through the Site. These Terms completely replace and supersede any prior agreement or understanding, arrangement, undertaking, or proposal, written or oral, between you and Rock-It Cargo regarding these matters. In the event any other rule, code of conduct, or other matter posted on the Site conflicts with these Terms, these Terms shall govern. No oral explanation or oral information given by any party shall alter the interpretation of these Terms. When used herein, the words "includes" and "including" and their syntactical variations shall be deemed followed by the words "without limitation."

You understand that Rock-It Cargo may make changes to these Terms from time to time. Your continued use of the Site following the posting of changes to these Terms will be considered your consent to those changes. When these changes are made, Rock-It Cargo will make a new copy of the Terms available on the Site. You agree that Rock-It Cargo is under no obligation to provide you with notices regarding changes to these Terms. You understand that it is your responsibility to check the Terms regularly for changes.

You agree that any failure or delay by Rock-It Cargo to exercise or enforce any legal right or remedy contained in or made available by these Terms (or that Rock-It Cargo has the benefit of under any applicable law) will not be taken to be a formal waiver of Rock-It Cargo's rights and that those rights or remedies will still be available to Rock-It Cargo. If any court of law, having the jurisdiction to decide a matter arising out of these Terms, rules that any provision of these Terms is invalid, then that provision will be removed from these Terms without affecting the rest of the Terms and the remaining provisions will continue to be valid and enforceable.

You hereby acknowledge and agree that we reserve the right at any time to modify or discontinue the whole, or any part of, the Site, without notice, and that we will not be responsible or liable, directly or indirectly, to you or any other person or entity for any loss or damage of any kind incurred as a result of any such modifications or discontinuance.

These Terms are binding upon you, your heirs, executors, beneficiaries, successors and assigns and you may not assign these Terms to any other party without our prior written consent, which consent may be withheld in our sole and absolute discretion.

Last Updated: **November 16<sup>th</sup>, 2020**

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