



## DOMESTIC FREIGHT BROKERAGE TERMS

These Domestic Freight Brokerage Terms ("DFBTs") apply to and govern any domestic transportation brokerage services provided by Ingram Logistics Services LLC ("ILS") to Customer (as defined below). ILS is an FMCSA licensed & registered Motor Carrier Broker (MC-1199109-B / DOT 3565442) and Freight Forwarder (FF-45625). In addition, ILS is registered and licensed with the FMC as a Non-Vessel Operating Common Carrier ("NVOCC") (#028174N) and is in the business of international or domestic (or both) transportation of its customers' cargo. Customer wants to retain ILS to arrange domestic transportation services as set forth below.

Accordingly, the parties hereby agree as follows:

### 1. Definitions.

- a) "Customer" means the person or entity for which ILS is rendering or procuring service, including its principals, agents and/or representatives, as well as its shippers, importers, exporters, carriers, secured parties, warehousemen, buyers and/or sellers, shipper's agents, insurers and underwriters, break-bulk agents, consignees, etc. It is the responsibility of the Customer to provide notice and copy(s) of these DFBTs to all parties included in the preceding definition.
- b) "Documentation" means all information received directly or indirectly from Customer, whether in paper or electronic form, including, without limitation, bills of lading.
- c) "Goods" means all freight, cargo or other shipments of property brokered by ILS on behalf of Customer.
- d) "ILS" means Ingram Logistics Services LLC, and includes ILS, its subsidiaries, successors or assigns, its parent company, Ingram Barge Company LLC, and any other authorized agents, employees or representatives of any of such entities. ILS is not a motor carrier and does not provide motor carriage services.
- e) "Services" is defined in Section 2 below.
- f) "Shipper" will have the meaning given to it in any Bill of Lading issued by ILS.
- g) "Third Party/Parties" includes, but is not limited to, the following: carriers, truck drivers, cart men, lightermen, forwarders, OTIs, customs brokers, motor freight brokers, agents, warehousemen and others to which Goods are entrusted for transportation, cartage, handling and/or delivery and/or storage or otherwise.



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- 2. General Applicability.** These DFBTs apply to and govern transportation brokerage services provided by ILS to Customer solely in the United States (the “Services”). These DFBTs do not apply to motor carriage brokered by ILS as part of its performance under a contract for the carriage of goods by sea. Any entity that places an order for any Services will be deemed to accept these DFBTs, as will any entity that tenders any Goods to ILS (or its other contractors or agents) for transportation or that holds the shipping receipt (or bill of lading if one is issued) issued by ILS for such cargo. These DFBTs apply to and supplement any verbal agreement, e-mail, facsimile confirmation, booking note, detailed order, a document specifically styled as a “Domestic Transportation Order,” or other agreement (any of the foregoing are the “Order”) between ILS and Customer calling for ILS’s provision of Services, (the Order in conjunction with these DFBTs, will be the “Agreement”). To the extent there is any conflict between the Order and these DFBTs these DFBTs will supersede and govern unless each conflicting provision in the Order includes the exact following phrase: “The parties specifically intend for the following term to supersede any conflicting term(s) in the DFBTs.”
- 3. Compensation of ILS; Credit Terms.**

  - a)** ILS will invoice Customer for all Services based on these DFBTs and rates and charges as quoted by ILS or agreed upon from time to time by ILS and Customer. Unless ILS agrees in writing to extend credit to Customer, Customer shall pay all charges in advance; the granting of credit to a Customer in connection with a particular transaction will not be a waiver of this provision by ILS. The compensation of ILS for its services will be billed to Customer in the aggregate with the rates and charges of all Third Parties retained by ILS to transport Customer’s Goods. Such compensation will be exclusive of any brokerage, commissions, dividends, or other revenue received by ILS from Third Parties, insurers and others in connection with the Services; Customer will not be entitled to any rebate or offset in the event that ILS receives such additional revenue.
  - b)** Customer agrees to pay ILS within 30 calendar days of invoice date without deduction or setoff. In the event of nonpayment Customer shall repay ILS for all costs of collection, including reasonable attorney's fees and the lesser of (i) a late payment fee of 1.5% per month of the outstanding balance due or (ii) the highest rate permitted by applicable law.
  - c) Selection of Third-Parties.** ILS’ sole responsibility with respect to selection and retention of Third Parties, including, without limitation, motor carriers, is to make reasonable efforts to place Customer’s Goods with Third Parties that are authorized to perform the services requested by Customer and that comply with applicable legal requirements. It is acknowledged and agreed that ILS does not direct or control any such Third Parties and is not responsible for their actions and/or omissions.
- 4. Bills of Lading and Other Shipping Documents.** The insertion of ILS’ name on any Documentation will be for Customer or Third Parties’ convenience only and will not change ILS’ status as a broker. The terms and conditions of any Documentation used by the Customer, any Shipper, or a Third Party carrier will not, supersede, supplement, alter, or modify these DFBTs. Unless it has



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agreed to do so in writing after specific request and payment by Customer or its agent, in the event ILS prepares a bill of lading or other Documentation, ILS will be under no obligation to specify thereon the number of pieces, packages, cartons, etc., unless it has agreed to do so in writing and for additional compensation. Furthermore, ILS will have no obligation to verify weights supplied by Customer.

## 5. Loss, Damage, or Delay of the Goods

- a) ILS will not be liable for loss, damage, or delay in connection with the transportation of Goods. If requested by Customer or any Third Party and agreed to by ILS, ILS may assist Customer or Third Party in filing and/or processing claims with other Third Parties. In the absence of express written instructions from the Customer, ILS shall use reasonable care in selecting of Third Parties, or in selecting or recommending the means, route and procedure to be followed in the handling, loading, transportation, clearance, unloading and delivery of Goods. Advice by ILS that a Third Party has been selected shall not constitute an undertaking or warranty with respect to the services to be rendered by that Third Party. ILS does not under any circumstances assume responsibility or liability for the acts or omissions of any Third Parties and will not be liable for delay or loss occurring while a shipment is in the custody or control of any Third Party. All claims based on the acts or omissions of Third Parties will be brought solely against those parties or their agents; ILS shall reasonably cooperate with the Customer in the pursuit of such claims, but Customer shall reimburse any charges or costs incurred by ILS arising from its reasonable cooperation.
  
- b) Customer understands that Third Parties to whom the goods are entrusted may limit liability for loss or damage. If Customer desires excess valuation coverage for any shipment, it shall submit a written request to ILS to declare value in excess of the Third Party's liability limitation and shall agree to pay, if necessary, any additional ad valorem freight or other such charges; however, in the absence of such written request from Customer, or upon the refusal of a Third Party to agree to a higher declared value when requested, ILS may, at its sole discretion, tender the Goods to the Third Party subject to the Third Party's standard applicable terms of service.
  
- c) Third Parties' liability for loss or damage to Goods or for delay in delivery of the same will be the lesser of the following:
  - i. The actual value of the Goods
  
  - ii. \$100,000 per shipment; or,
  
  - iii. The applicable limitation of liability amount found in any written agreement (e.g. between ILS and the Third Party (including, without limitation, any such tariff or bill of lading).



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- 6. Insurance.** Unless requested to do so in writing by Customer in sufficient time prior to shipment from point of origin and confirmed to Customer in writing, ILS will have no obligation to procure insurance on Customer's behalf. ILS does not undertake or warrant that such insurance can or will be placed. Unless the Customer has its own open policy and instructs ILS to effect insurance under such policy, any insurance that ILS secures will be with one or more insurance companies or other underwriters as selected by ILS. Any such insurance placed will be governed by the standard terms and conditions of the certificate or policy issued and will only be effective when accepted by such insurance companies or underwriters. In all cases, Customer shall pay all premiums and costs in connection with procuring requested insurance. Should an insurer dispute its liability for any reason, Customer will have recourse against the insurer only and ILS will not be under any responsibility or liability in relation thereto, notwithstanding that the premium upon the policy may not be at the same rates as that charged or paid to ILS by the Customer or that the shipment was insured under a policy in the name of ILS. ILS makes no representation about the extent of coverage afforded by any policy, which may be subject to exclusions or limitations. If for any reason the Goods are held in warehouse, or elsewhere, the same will not be covered by insurance, unless ILS receives specific written instructions from the Customer and ILS confirms its agreement to secure such coverage in writing. And, unless specifically agreed in writing, ILS assumes no responsibility to effect insurance on any export or import shipment with respect to which ILS is not providing services to Customer.
- 7. Quotations Not Binding.** Quotations as to fees, rates of duty, freight charges, insurance premiums or other charges given by ILS to the Customer are for informational purposes only and are subject to change without notice; no quotation shall be binding upon ILS unless ILS agrees in writing to undertake the handling or transportation of the shipment at a specific rate or amount set forth in the quotation and payment arrangements are agreed to between ILS and the Customer with a stated validity date indicating expiration of quote. Any quote not given a stated validity or expiration is eligible to change without notice by ILS.
- 8. Customer Obligations.**

  - a)** Customer warrants and represents that it is authorized to tender any and all Goods to ILS, that the Goods are properly packaged and labeled, and that all descriptions of the Goods are complete, accurate, and include all information required by applicable law, rules or regulation.
  - b)** Where Customer tenders a loaded container for transportation, Customer shall ensure that Goods are properly and safely loaded, supported, blocked, braced, and secured. Customer shall be responsible for expenses arising out of any load shift that occurs during transportation due to improper or insufficient loading, blocking, or bracing.
  - c)** Customer shall provide necessary shipping instructions and properly identify all Goods in the bill of lading or other Documentation. Customer shall not tender any restricted commodities, including but not limited to hazardous materials and waste, oversize or overweight shipments, coiled or rolled products or commodities requiring protection from heat or cold, without properly identifying such shipments in advance and making necessary prior arrangements for transportation.



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- d) Unless Customer has requested that ILS arrange for a Third Party to provide driver count services before dispatch and the Third Party actually performs such driver count services, Customer shall properly count and record the number of pieces loaded for transportation and shall ensure that loaded equipment is properly sealed.
- e) Prior to loading, Customer shall check all empty containers or trailers tendered for loading and reject any equipment that is not roadworthy and in suitable condition to protect and preserve the Goods during transportation.
- f) Customer shall not lose, damage, or misuse transportation equipment and shall pay for loss or damage to the equipment occurring during or as a result of such Customer's custody, control, possession or use of the equipment, including equipment left unattended by Third Parties at Customer's direction
- g) Customer shall comply with all applicable laws and regulations governing the safe and secure transportation of food products that will be ultimately consumed by humans or animals ("Food Shipments"), including those required by local, provincial, state and federal laws, regulations, ordinances and rules including, but not limited to, the Food Safety Modernization Act (21 U.S.C. § 2201, et. seq.), the Federal Food, Drug and Cosmetic Act (21 U.S.C. § 341, et seq.) ("FD&C Act"), the Sanitary Food Transportation Act (49 U.S.C. 5701, et seq.), the U.S. Food and Drug Administration's Final Rule on the Sanitary Transportation of Human and Animal Food (21 C.F.R. § 1.900, et seq.) and all applicable U.S. Department of Agriculture and Food Safety and Inspection Service regulations (collectively, the "Food Safety Laws"). Customer represents and warrants that any Food Shipments offered for transportation pursuant to the Agreement are tendered in safe condition for human or animal consumption, as applicable.
- h) If a Food Shipment is covered under any of the Food Safety Laws that prohibit the sale or distribution of unsafe or "adulterated" food, Customer shall specify the applicable body or bodies of law, statutes and/or regulations on face of the governing bill of lading for the shipment. At the time of booking, and prior to loading the goods, Customer shall further specify in the booking request and on the face of the governing bill of lading all instructions to be followed by the Third Party to maintain the safety of the food, including, without limitation, all temperature control requirements and temperature control Documentation requirements, including an operating temperature for the transportation and, when necessary, the pre-cooling phase, all sanitation requirements and sanitation Documentation requirements for the Food Shipment, including those for the motor Carriers' vehicle and transportation equipment, any design specifications and cleaning procedures ("Written Instructions"). ILS may assist in providing any written instructions to the Third Party(ies) transporting Customer's food cargo, but it is the ultimate responsibility of the Customer to ensure Carrier is provided with Written Instructions. Customer, including consignors and consignees, shall permit the Third Party(ies) to verify the temperature of Food Shipments prior to acceptance of tender and upon delivery at destination.



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- i) Customer acknowledges and agrees that the definition of “adulterated” as applicable to Food Shipments is that provided in the FD&C Act (21 U.S.C. §§ 342(a)(i)(4), 342(i)). In the event of apparent adulteration of any portion of a Food Shipment, Customer warrants that Customer shall, at its own expense, obtain a reliable inspection of the food shipment by a qualified expert as soon as possible after delivery. Customer acknowledges that the Third Party(ies) will bear no liability for Food Shipments wrongfully refused without a timely and documented determination by a qualified expert of adulteration. Customer additionally acknowledges that if fails to provide written instructions, as required above, the Third Party(ies) will not be liable for loss or damage to Food Shipments deemed adulterated.
  - j) Customer warrants that Customer will not directly or indirectly interfere with or attempt to adversely influence the Third Party(ies) safe operation of equipment including performance pursuant to the federal hours of service regulations.
  - k) Customer represents and warrants that it is and will remain in compliance with all applicable Laws, including (without limitation or exclusion): anti-corruption, export control and trade sanctions laws such as the U.S. Foreign Corrupt Practices Act (“FCPA”) and the U.K. Bribery Act; the U.S. Export Administration Regulations (“EAR”) administered by the U.S. Commerce Department’s Bureau of Industry and Security (“BIS”); the International Traffic in Arms Regulations (“ITAR”) administered by the U.S. State Department’s Directorate of Defense Trade Controls (“DDTC”); the U.S. Anti-Boycott regulations, and the various U.S. economic sanctions programs administered by the U.S. Treasury Department’s Office of Foreign Assets Control (“OFAC”); and, that the information the Customer provides to ILS in connection with Customer’s compliance with all such applicable laws is true and complete. Customer shall also comply with all applicable laws of any country or other jurisdiction to, from, through, over or in which any goods may be carried, including all applicable laws relating to the marking, packing, carriage, storage, clearance or delivery of the goods.
- 9. Hazardous Materials.** Customer must provide ILS with advance notice of the proposed shipment of any hazardous material, as defined in 49 U.S.C. §5101, et seq. (“Hazardous Material”) and provide a copy of the Material Safety Data Sheet for that Hazardous Material. Customer will indemnify, defend and hold harmless ILS, Third Parties, and their officers, employees, agents and insurers, against all claims, liabilities, losses, fines, legal fees and other expenses arising out of contact with, exposure to, or release of any Hazardous Material, including without limitation fines or expenses relating to the removal or treatment of that Hazardous Material or any other remedial action pertaining to that Hazardous Material under the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §9601, e seq. as amended (“CERCLA”), The Resource Conservation and Recovery Act, 42 U.S.C. §6901, et seq, as amended (“RCRA”) or any comparable state law.
- 10. MEXICO LIABILITY EXCLUSION.** Regardless of the fact that any shipment hereunder may be moved under a through bill of lading, ILS shall not be liable for any cargo loss or damage which occurs in Mexico nor for seal integrity, loss, damage, or destruction of shipments occurring at or across the



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U.S./Mexico border. For purposes of determining ILS's liability, if any, for cargo loss and/or damage hereunder, all shipments either originating in or ultimately destined for a point in Mexico shall be deemed as either originating or terminating at the border crossing point in the United States and as shipments in Mexico, despite the issuance of a through bill of lading. Pursuant to the authority of 49 U.S.C. Section 14101 (b) (1), Customer expressly waives any and all rights and remedies under the provisions of 49 U.S.C. Section 14706 for shipments moving from or to points in Mexico. Any concealed loss or damage will be presumed to have occurred in Mexico. This waiver shall be effective regardless if the bill of lading is a through or international bill of lading and regardless of the mode of transportation. Customer shall look solely to Third Parties for any damages and/or recourse, should loss, damage, or delay occur in Mexico. Title 49 cargo liability rights and remedies which are contrary to these Terms and Conditions, or other cargo liability provisions contained herein, are hereby waived to the fullest extent legally permitted.

**11. Indemnification/Hold Harmless.** Customer shall indemnify, defend, and hold ILS harmless from all liability or loss, including reasonable attorneys' fees, arising from: (i) fines, duties, penalties or liquidated damages or other loss arising from the importation or exportation of Goods; (ii) any conduct, misconduct or illegal or unlawful action of the Customer, including, but not limited to, the inaccuracy or untruthfulness of any Documentation; (iii) any breach of the DFBTs by Customer; (iv) any claims by third parties for freight, demurrage, advances or other claims arising from services provided to or on behalf of the Customer; or (v) any combination of (i) – (iv). If any claim, suit or proceeding is brought against ILS, it shall give notice in writing to the Customer by mail at its address on file with ILS or by email. The confiscation or detention of Goods by any governmental authority will not affect or diminish the liability of the Customer to ILS to pay all charges or other money due promptly on demand.

**12. General Lien and Right to Sell Customer's Property.**

- a) To the extent ILS has paid any Third Party for transportation of Customer's Goods, ILS may assert (and will be deemed to have) a general and continuing lien on the Goods coming into ILS's actual or constructive possession or control for such monies owed to ILS relating to such shipment(s);
- b) ILS shall provide written notice to Customer of its intent to exercise such lien, the exact amount of monies due and owing, as well as any ongoing storage or other charges;
- c) Customer shall notify all parties having an interest in its shipment(s) of ILS's lien rights, the exercise of such lien rights by ILS, or both; and,
- d) Unless within 30 days of receiving notice of lien Customer posts cash or letter of credit at sight (or, if the amount due is in dispute, an acceptable bond equal to 110% of the value of the total amount due) in favor of ILS guaranteeing payment of the monies owed plus all storage charges accrued or to be accrued, ILS may sell such shipment(s) at public or private sale or auction and any net proceeds remaining thereafter will be refunded to Customer. For purposes of such sale



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by ILS to mitigate its losses, Customer will be deemed to have abandoned any right, title, or interest in the shipment(s) for itself and for any other party on whose behalf it has arranged such shipment(s).

- 13. Information Systems.** Any management information system or computer hardware or software used or supplied by ILS in connection with the Services is and will remain ILS' exclusive property. All management information systems and related computer software and Documentation used or supplied by ILS are proprietary to ILS, and Customer will treat all such systems as confidential and not copy, use, or disclose them to third parties without ILS' prior written consent, except as required by law.
- 14. Jurisdiction and Venue.** These DFBTs and the relationship of the parties shall be construed according to the laws of the State of Tennessee, without regard to its conflict of law principles. Customer and ILS hereby (a) irrevocably consent to the jurisdiction of the United States District Court and the State courts of Tennessee; (b) agree that any action relating to the services performed by ILS, can only be brought in said courts; (c) consent to the exercise of in personam jurisdiction by said courts over it, and (d) further agree that any action to enforce a judgment of such court may be instituted in any jurisdiction.
- 15. Force Majeure.** Without limiting any other specific terms and conditions, and expressly in addition to such terms and conditions, ILS will not be liable for failure to perform its obligations – including any resulting losses, damages, delays, wrongful or missed deliveries or non-performance, in whole or in part under these DFBTs if prevented from doing so (i) because of an act of God, including but not limited to strike, fire, flood, earthquake, storm, hurricane, power failure or other natural disaster; (ii) because of explosion, civil disturbance, acts of terrorism, epidemic, pandemic, disease, interference by civil or military authority, accident, incidents or deteriorations to means of transportation, labor disputes, labor shortages or slowdowns; (iii) because of acts by third parties including breaches of contract or omissions by Customer, Shipper, Consignee and/or such parties' agents or representatives, or anyone else who may have an interest in the shipment; (iv) because of any defects, nature or inherent vice of the goods; (v) because the continuation of the services would be in violation of any governmental laws, rules, or regulations or would cause or create any material safety, health, or environmental concerns; or (vi) because of any other causes beyond the reasonable control of ILS and not intentionally caused by ILS (such occurrence to be referred to as 4 "Force Majeure"). Customer acknowledges that it bears the risk of any damages or losses due to Force Majeure and the responsibility to insure against the same. If ILS takes steps outside the ordinary course of business to protect customer's goods due to Force Majeure, Customer shall pay all reasonable charges associated with ILS's efforts.
- 16. Not Used.**





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- 17. Conflict.** If any of Customer’s Documentation includes: (i) additional proposed terms, (ii) language stating that Customer’s terms supersede and govern for any reason, or (iii) any combination of (i) and (ii), any such additional terms described in (i) – (iii) will be deemed material alterations of these DFBTs. ILS does not assent to any such alterations to these DFBTs absent an express statement to that effect in writing sent to Customer, and this “Conflict” Section will be deemed sufficient notice of ILS’s objection to such additional terms under applicable law. These DFBTs (and, when applicable, the applicable terms of any bill of lading or other shipper document issued by ILS to Customer) are the entirety of the terms offered by ILS to Customer; Customer’s acceptance of ILS’s terms is not (and will not be deemed) conditioned on ILS’s acceptance of any material alterations to these DFBTs proposed by Customer—any such alterations will be deemed errant, void, and unenforceable against ILS without further notice. If there is any conflict between these DFBTs and the terms in a bill of lading issued to Customer by ILS, then the ILS bill of lading terms will be deemed to supersede and govern, with any non-conflicting sections in these DFBTs applying to supplement ILS’s bill of lading terms.
- 18. Amendments.** These DFBTs may only be modified, altered or amended in writing by ILS; any attempt by Customer or Third Party to unilaterally modify, alter or amend same will be deemed null and void.
- 19. Modification.** If any provision of these DFBTs, or the application of any such provision to any person or circumstance is held invalid, illegal, or unenforceable for any reason whatsoever, the remaining provisions of these DFBTs and the application of such provision to other persons or circumstances are not affected thereby and to the fullest extent possible the court finding such provision invalid, illegal, or unenforceable must modify and construe the provision so as to render it valid and enforceable as against all persons or entities and to give the maximum possible protection to the party or parties affected within the bounds of validity, legality, and enforceability.
- 20. Disclaimers; Limitation of Liability.**
- a) Except as specifically set forth herein, ILS makes no express or implied warranties in connection with the Services, and to the extent any such warranties may arise by operation of law, they are disclaimed;
  - b) ILS’ total liability with respect to any claims or damages arising from or related to services provided pursuant to these terms and conditions will be for the amount charged by ILS for the services specifically giving rise to such claims or damages.
  - c) In no event will ILS be liable or responsible for consequential, indirect, incidental, statutory or punitive damages even if it has been put on notice of the possibility of such damages, including any and all loss or damages arising from delay of services.
  - d) As permitted by 49 USC § 14101, Customer and ILS hereby expressly waive any legal rights that each may have under 49 U.S.C. §§ 13101 through 14914 that are contrary to specific provisions of these DFBTs.



## 21. Limitation of Actions.

- a) **Applicable to ILS.** Unless subject to a specific statute or international convention, Customer shall provide notice of claims against ILS for a potential or actual loss, in writing and received by ILS, within ninety (90) days of the event giving rise to claim; Customer's failure to give ILS timely notice will be a complete defense to any suit or action commenced by Customer and Customer will be deemed to have waived any right to suit.
  
- b) **Applicable to any Third Party.** Customer shall file any claim for cargo loss, damage, or delay against the responsible Third Party within the time period(s) required by the Third Party's governing terms of service. As an advisory to Customer, for Third Party carriers who transport Customer's Goods domestically, the notice of claim may need to be filed as soon as 9 months from the date of delivery of Goods, or, in the case of non-delivery, within 9 months of the date delivery should have been made. Notice to ILS does not constitute filing of claim with a Third Party. Any suit or other legal action to recover for cargo loss, damage, or delay, must be commenced against a Third Party no later than the time period(s) required by the Third Party's governing terms of service.

**22. Confidentiality.** As part of the business relationship between ILS and Customer, either party may be in or come into possession of information or data that constitutes trade secrets, know-how, confidential information, marketing plans, pricing, or anything else otherwise considered proprietary or secret by the other ("Confidential Information"). In consideration of the receipt of such confidential Information and potential business, each Party agrees to protect and maintain such Confidential Information in the utmost confidence, to use such Confidential Information solely in connection with their business relationship, and, to take all measures reasonably necessary to protect the Confidential Information. The parties agree that a remedy at law may be inadequate and that each party shall be entitled, in addition to other remedies, to an injunction restraining the violating party from further violations of this confidentiality provision.

**23. Independent Contractors.** The relationship between Customer or any Third Party and ILS will remain that of independent contractors and no employer/employee or principal-agent relationship exists or is intended.

**24. Entire Agreement.** These DFBTs and any order or other memorandum confirming the brokering of any specific Goods shipment shall constitute the entire agreement between ILS and Customer and shall supersede all prior agreements, representations, warranties, statements, promises, information, arrangements and understandings, whether oral, written, express or implied, with respect to the subject matter hereof.