



### Fuel Surcharge Program

Based on Department of Energy - ORIGIN REGIONAL average diesel price.

Applies on all traffic between points in the Continental 48 States, with the exception of:

Interstate and Intrastate West Coast applications are based on Department of Energy - *WEST COAST* average diesel price. Interstate and Intrastate West Coast application applies on traffic moving in or between points in AZ, NV, OR, and WA.

Intrastate California application is based on CA PADD.

*\* This item supersedes all previous issues. - Issued March 4, 2010*

The weekly price is reported each Monday by the Department of Energy (DOE) and will be used to determine the fuel surcharge applicable for the next seven (7) days. Any adjustments in the fuel surcharge will become effective 12:01am, Tuesday and remain in effect through 11:59pm on the following Monday.

For every five-cents change in the NATIONAL Average Index the following surcharge will be applied in addition to the base rate for all lanes greater than 151 miles.

\$0.95	\$1.05	<b>BASE</b>			
\$1.051	\$1.100	\$0.01	\$3.001	\$3.050	\$0.40
\$1.101	\$1.150	\$0.02	\$3.051	\$3.100	\$0.41
\$1.151	\$1.200	\$0.03	\$3.101	\$3.150	\$0.42
\$1.201	\$1.250	\$0.04	\$3.151	\$3.200	\$0.43
\$1.251	\$1.300	\$0.05	\$3.201	\$3.250	\$0.44
\$1.301	\$1.350	\$0.06	\$3.251	\$3.300	\$0.45
\$1.351	\$1.400	\$0.07	\$3.301	\$3.350	\$0.46
\$1.401	\$1.450	\$0.08	\$3.351	\$3.400	\$0.47
\$1.451	\$1.500	\$0.09	\$3.401	\$3.450	\$0.48
\$1.501	\$1.550	\$0.10	\$3.451	\$3.500	\$0.49
\$1.551	\$1.600	\$0.11	\$3.501	\$3.550	\$0.50
\$1.601	\$1.650	\$0.12	\$3.551	\$3.600	\$0.51
\$1.651	\$1.700	\$0.13	\$3.601	\$3.650	\$0.52
\$1.701	\$1.750	\$0.14	\$3.651	\$3.700	\$0.53
\$1.751	\$1.800	\$0.15	\$3.701	\$3.750	\$0.54
\$1.801	\$1.850	\$0.16	\$3.751	\$3.800	\$0.55
\$1.851	\$1.900	\$0.17	\$3.801	\$3.850	\$0.56
\$1.901	\$1.950	\$0.18	\$3.851	\$3.900	\$0.57
\$1.951	\$2.000	\$0.19	\$3.901	\$3.950	\$0.58
\$2.001	\$2.050	\$0.20	\$3.951	\$4.000	\$0.59
\$2.051	\$2.100	\$0.21	\$4.001	\$4.050	\$0.60
\$2.101	\$2.150	\$0.22	\$4.051	\$4.100	\$0.61
\$2.151	\$2.200	\$0.23	\$4.101	\$4.150	\$0.62
\$2.201	\$2.250	\$0.24	\$4.151	\$4.200	\$0.63
\$2.251	\$2.300	\$0.25	\$4.201	\$4.250	\$0.64
\$2.301	\$2.350	\$0.26	\$4.251	\$4.300	\$0.65
\$2.351	\$2.400	\$0.27	\$4.301	\$4.350	\$0.66
\$2.401	\$2.450	\$0.28	\$4.351	\$4.400	\$0.67
\$2.451	\$2.500	\$0.29	\$4.401	\$4.450	\$0.68
\$2.501	\$2.550	\$0.30	\$4.451	\$4.500	\$0.69
\$2.551	\$2.600	\$0.31	\$4.501	\$4.550	\$0.70
\$2.601	\$2.650	\$0.32	\$4.551	\$4.600	\$0.71
\$2.651	\$2.700	\$0.33	\$4.601	\$4.650	\$0.72
\$2.701	\$2.750	\$0.34	\$4.651	\$4.700	\$0.73
\$2.751	\$2.800	\$0.35	\$4.701	\$4.750	\$0.74
\$2.801	\$2.850	\$0.36	\$4.751	\$4.800	\$0.75
\$2.851	\$2.900	\$0.37	\$4.801	\$4.850	\$0.76
\$2.901	\$2.950	\$0.38	\$4.851	\$4.900	\$0.77
\$2.951	\$3.000	\$0.39	\$4.901	\$4.950	\$0.78

**Note:**

For fuel prices in excess of scale above, continue with same format of increase.

\* The current DOE index averages may be obtained by calling (202) 586-6966 or on the internet at [www.eia.doe.gov](http://www.eia.doe.gov)



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For every five-cents change in the NATIONAL Average Index the following surcharge will be applied in addition to the base rate for all lanes less than or equal to 150 miles.

\$0.95	\$1.05	BASE			
\$1.051	\$1.100	1.00 %	\$3.001	\$3.050	30.250 %
\$1.101	\$1.150	1.75 %	\$3.051	\$3.100	31.000 %
\$1.151	\$1.200	2.50 %	\$3.101	\$3.150	31.750 %
\$1.201	\$1.250	3.25 %	\$3.151	\$3.200	32.500 %
\$1.251	\$1.300	4.00 %	\$3.201	\$3.250	33.250 %
\$1.301	\$1.350	4.75 %	\$3.251	\$3.300	34.000 %
\$1.351	\$1.400	5.50 %	\$3.301	\$3.350	34.750 %
\$1.401	\$1.450	6.25 %	\$3.351	\$3.400	35.500 %
\$1.451	\$1.500	7.00 %	\$3.401	\$3.450	36.250 %
\$1.501	\$1.550	7.75 %	\$3.451	\$3.500	37.000 %
\$1.551	\$1.600	8.50 %	\$3.501	\$3.550	37.750 %
\$1.601	\$1.650	9.25 %	\$3.551	\$3.600	38.500 %
\$1.651	\$1.700	10.00 %	\$3.601	\$3.650	39.250 %
\$1.701	\$1.750	10.75 %	\$3.651	\$3.700	40.000 %
\$1.751	\$1.800	11.50 %	\$3.701	\$3.750	40.750 %
\$1.801	\$1.850	12.25 %	\$3.751	\$3.800	41.500 %
\$1.851	\$1.900	13.00 %	\$3.801	\$3.850	42.250 %
\$1.901	\$1.950	13.75 %	\$3.851	\$3.900	43.000 %
\$1.951	\$2.000	14.50 %	\$3.901	\$3.950	43.750 %
\$2.001	\$2.050	15.25 %	\$3.951	\$4.000	44.500 %
\$2.051	\$2.100	16.00 %	\$4.001	\$4.050	45.250 %
\$2.101	\$2.150	16.75 %	\$4.051	\$4.100	46.000 %
\$2.151	\$2.200	17.50 %	\$4.101	\$4.150	46.750 %
\$2.201	\$2.250	18.25 %	\$4.151	\$4.200	47.500 %
\$2.251	\$2.300	19.00 %	\$4.201	\$4.250	48.250 %
\$2.301	\$2.350	19.75 %	\$4.251	\$4.300	49.000 %
\$2.351	\$2.400	20.50 %	\$4.301	\$4.350	49.750 %
\$2.401	\$2.450	21.25 %	\$4.351	\$4.400	50.500 %
\$2.451	\$2.500	22.00 %	\$4.401	\$4.450	51.250 %
\$2.501	\$2.550	22.75 %	\$4.451	\$4.500	52.000 %
\$2.551	\$2.600	23.50 %	\$4.501	\$4.550	52.750 %
\$2.601	\$2.650	24.25 %	\$4.551	\$4.600	53.500 %
\$2.651	\$2.700	25.00 %	\$4.601	\$4.650	54.250 %
\$2.701	\$2.750	25.75 %	\$4.651	\$4.700	55.000 %
\$2.751	\$2.800	26.50 %	\$4.701	\$4.750	55.750 %
\$2.801	\$2.850	27.25 %	\$4.751	\$4.800	56.500 %
\$2.851	\$2.900	28.00 %	\$4.801	\$4.850	57.250 %
\$2.901	\$2.950	28.75 %	\$4.851	\$4.900	58.000 %
\$2.951	\$3.000	29.50 %	\$4.901	\$4.950	58.750 %

**Note:**

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## Schedule of Accessorial Charges

Service Type	Applicable Charge
Circuitous/Out-Of-Line Miles	\$1.40 per mile, if less than original rate per mile or original rate was a flat rate. If original Rate per mile is greater than \$1.40, that rate will apply to final destination.
Collect Shipments	A fee of 5% of the freight charges will be assessed.
Collection of Charges	Interest on all unpaid debts will be charged per annum at 8%.
Congestion and/or High Toll Charge	\$ 125.00 per shipment for movements terminating in ZIP Codes 100-104, 106, 107, 110-119
Detention - Trailers with Power Units	Free Time: 2 Hour Loading 2 Hour Unloading Charge: \$1.00 per minute subject to a minimum detention charge of \$15.00 All detention charges are subject to a maximum of \$600 per (24) twenty-four hour period.
Detention - Trailers without Power Units	Free Time: 24 Hours Loading 24 Hours Unloading Charge: \$ 25.00 per day after expiration of free time. Storage charges will apply after 72 hours. Repositioning of Equipment charges will apply.
Dunnage Disposal	\$ 150.00 per occurrence.
Extra Day Charge	\$ 150.00 per occurrence
Extra Driver (Team Drivers)	Additional \$ .08 per mile applied to all loaded miles (min \$300 per day).
Haz Mat Charge	\$250.00 per occurrence
Late Payment Service Charge	Terms from invoice date are 15 days. 2% charge of invoice with \$10.00 Minimum Charge are applicable to past due invoices.
Layover	\$ 250.00 per driver/vehicle per night. \$ 500.00 for team drivers/vehicle per night.
Loading and/or Unloading by NAFT	\$75.00 charge if driver moves freight to the trailer tailgate or utilizes a pallet jack to reposition palletized freight to the dock immediately adjacent to trailer. \$.35 cwt (per hundred pound) subject to a \$160.00 minimum for Driver load or unload. Any requirement to utilize loading or unloading labor (lumper) provided at shipping or receiving location shall be passed through at actual cost. All loading and unloading charges are subject to applicable detention rules and charges
Maximum Cargo Insurance Coverage	Maximum Release Value of Cargo is \$ 200,000 per shipment. Each increment of \$ 100,000 above the stated ceiling will be billed \$ .05 per mile.
Minimum Charge	\$ 550.00 per trailer used except as otherwise specifically stated.
Overcharge Audit Fee	Quoted on a per project basis.
Pallet Exchange	\$ 8.00 per pallet.
Proof of Delivery (Physical Documentation)	\$10.00 per POD supplied.
Protective Service	\$.0.35 per mile in addition to the base rate.
Reconsignment and Diversion	\$150.00 will be assessed in addition to the regular applicable rate. Subject to equipment detention and circuitous/out-of-line miles rules.
Redelivery	\$1.60 per mile (to and from nearest National terminal or safe haven) subject to \$600 minimum. Subject to equipment and storage detention rules if not completed within (24) twenty four hours
Repositioning of Equipment	\$ 1.35 per mile for locating and/or retrieving. \$ 1.35 per mile to subsequent load. \$ 150.00 Minimum Charge per segment.
Refused and Rejected shipments	Returned at same inbound rate per mile (\$1.40 per mile minimum),subject to a minimum total charge of \$475.00. In addition, shipment will be subject to equipment detention rules.
Sorting or Segregating	\$ 150.00 per shipment.
Stop Offs	The charge for each stop, excluding the initial pick-up and the final delivery shall be: 1st Stop - \$100.00 (1 additional hour free time) 2nd Stop - \$150.00 (1 additional hour free time) 3rd Stop - \$375.00 (1 additional hour free time) 4th Stop - \$450.00 (1 additional hour free time)
Storage	\$ 300.00 per shipment per day or fraction thereof.
Trailer Pools	\$ 25.00 per trailer per day for each trailer in excess of the negotiated pool. Repositioning of Equipment may apply.
Truck Ordered Not Used	\$ 250.00 per Occurrence.
Vehicle Furnished But Not Used	Repositioning of Equipment charges will apply. Detention - Trailers with Power Units may apply also.
Weekend/Holiday Pickup and Delivery	Charge - \$150.00 Holidays include - New Years Day, Memorial Day Independence Day, Labor Day, Thanksgiving, and Christmas.
Weight Tickets (Upon Request)	105% pass through of weight ticket expense.

## **TRANSPORTATION TERMS & CONDITIONS**

**1. APPLICABILITY** These Terms & Conditions and agreed upon pricing documents apply to all transportation services (the "Services") provided by CARRIER to SHIPPER. These Terms & Conditions shall constitute the entire Agreement between the parties and no other tariff provisions shall apply to the Services provided by CARRIER to SHIPPER under these Terms & Conditions. Performance of any work by CARRIER for SHIPPER shall constitute acceptance by SHIPPER of these Terms & Conditions. CARRIER objects to any terms proposed in SHIPPER's acknowledgment or other form of acceptance of CARRIER's offer to perform services which add to, vary from, or conflict with these Terms & Conditions. Any such terms proposed by SHIPPER shall be void and these Terms & Conditions constitute the complete and exclusive statement of the terms and conditions between CARRIER and SHIPPER. These Terms & Conditions may be modified only by a written instrument executed by authorized representatives of both parties. If CARRIER's offer to perform service has been issued in response to SHIPPER'S offer and if any of the Terms & Conditions herein add to, vary from or conflict with any terms of SHIPPER's offer, then the acceptance by SHIPPER of CARRIER's tender to perform services shall constitute an acceptance of SHIPPER's offer subject solely to the express Terms & Conditions set forth herein, and any additional, different or conflicting terms in SHIPPER's offer are rejected by CARRIER, so that these Terms & Conditions and agreed upon pricing documents constitutes the entire Agreement between SHIPPER and CARRIER with respect to the subject matter hereof and the subject matter of SHIPPER's offer.

## **2. SHIPPER'S OBLIGATIONS**

### **A. Payment for Services.**

(1) SHIPPER shall pay CARRIER for the Services provided by CARRIER under these Terms & Conditions at the rates and charges as agreed between the parties. All payments by SHIPPER shall be remitted to CARRIER at the following address: NFL, PO Box 12852 Philadelphia, PA 19176-0852

(2) CARRIER shall invoice by the load. SHIPPER may require submittal of a bill of lading and/or proof of delivery with invoice as a condition of payment. Payment of invoices shall be made by SHIPPER within fifteen (15) days after delivery of the load. All amounts not paid by SHIPPER within thirty (30) days shall be subject to interest at the rate of 1.5% per month.

(3) Except as may be later disclosed in a records review or audit, each party shall have one year from the date of shipment to file a claim with the other party for overcharges or undercharges relating to such shipment.

(4) Except as otherwise provided in these Terms & Conditions, each party must bring a civil action to recover damages or amounts claimed under these Terms & Conditions within two (2) years from the date of shipment. Any matters not filed within the above limitations period shall be barred.

(5) Except as otherwise provided in these Terms & Conditions, all lawsuits concerning disputed invoices, including lawsuits by CARRIER against SHIPPER for unpaid invoices, shall be commenced in the Superior Court of New Jersey, Camden County. SHIPPER shall pay CARRIER all reasonable expenses of litigation, including attorneys' fees, costs and expenses, in all successful actions by CARRIER to collect unpaid invoices from SHIPPER.

(6) In the event that CARRIER accepts and provides Services to SHIPPER before reaching an agreement with SHIPPER on pricing, SHIPPER agrees to pay CARRIER the last pricing quoted by CARRIER to SHIPPER for that load or, in the event that no pricing has been provided by CARRIER, SHIPPER agrees to pay for CARRIER's Services based on CARRIER's standard pricing model.

(7) It is expressly agreed, as a condition of NFI's provision of freight services to SHIPPER, that NFI shall have a lien on all of freight in NFI's possession for the total amount owed to NFI for all freight charges, storage and charges for related services, including charges related to freight previously delivered upon the promise of Shipper to pay such charges. No further notice of this lien shall be provided to Shipper.

**B. Loading & Unloading.** SHIPPER and SHIPPER's agents shall be responsible for loading SHIPPER's goods onto trailers to be transported by CARRIER. As such, SHIPPER shall be solely and exclusively responsible for ensuring that all loads are properly loaded, secured and sealed. SHIPPER, SHIPPER's agent or SHIPPER's consignee shall be responsible for unloading SHIPPER's goods from trailers transported by CARRIER.

## **3. CARRIER'S OBLIGATIONS**

### **A. General.**

(1) Compliance with Laws, Rules and Regulations. CARRIER shall have authority from the FMCSA as a common carrier to transport general commodities in interstate commerce. CARRIER shall comply with all applicable provisions of the Interstate Commerce Act, related laws, rules and regulations of the FMCSA, and all applicable state and local laws, rules and regulations to the extent they govern CARRIER's operations.

(2) Prompt Service. CARRIER shall promptly and efficiently receive, transport with reasonable dispatch and deliver safely the goods entrusted to it hereunder, whether received from SHIPPER or from SHIPPER's agents.

(3) Delay; Accidents. CARRIER shall notify SHIPPER of any accidents, spills, theft, hijacking or other events which impair the safe and prompt delivery of SHIPPER's goods in its control.

(4) On-Hand Freight. CARRIER shall notify SHIPPER of any refused freight at SHIPPER and/or third party locations and request additional instructions regarding delivery or storage of the refused goods. Such notice by CARRIER shall occur, as soon as reasonably practical.

### **B. Receipts, Bills of Lading and Load Sheets**

(1) Bill of Lading, Receipt or Load Sheet. Each shipment received by CARRIER shall be evidenced by a bill of lading showing the kind, quantity and condition of commodities received by CARRIER. Such bill of lading shall be evidence of receipt of such commodities by CARRIER in apparent good order and condition or as may be otherwise noted on the face of such receipt.

(2) Delivery Receipt. Except as otherwise provided in an Exhibit, CARRIER shall obtain an acknowledgement of delivery for all shipments by notation on the bill of lading. At the request of SHIPPER, CARRIER agrees to provide copies of same to SHIPPER in sufficient detail to substantiate billing for the services provided. CARRIER shall retain such records for two (2) years after delivery of the involved shipments or for such greater period of time as may be required by federal or state laws, rules, or regulations.

(3) Period of CARRIER Responsibility. CARRIER's duties and responsibilities under these Terms & Conditions shall commence when SHIPPER tenders possession and control of SHIPPER's property to CARRIER, and shall end when CARRIER arrives at the intended shipment destination when CARRIER is not unloading or, as applicable, completes the unloading of CARRIER's trailer at the intended shipment destination.

(4) Conflict between Terms & Conditions and Bill of Lading. The parties agree that the bill of lading shall be used solely as a receipt for shipment and to identify the kind and quantity of goods, place of pickup and delivery, shipper and consignee and other information as required by SHIPPER. References to classifications, tariffs, service guides or other publications and/or contractual terms and conditions on the face or reverse side of the document shall be null and void, and these Terms & Conditions shall govern the rights and obligations of the parties hereto.

### **C. Equipment and Drivers**

(1) Lawful Operation. CARRIER shall, at its cost and expense, operate its equipment in a proper and lawful manner and further agrees to maintain its equipment in good, safe and lawful operating condition at all times.

(2) Exclusive Control. CARRIER shall have sole and exclusive control over the manner in which CARRIER performs the Services provided for hereunder, and CARRIER shall utilize such individuals as it may deem necessary in connection therewith, it being understood and agreed that such individuals shall be competent, able and legally licensed and shall be subject to discharge, discipline, and control solely and exclusively by CARRIER. CARRIER represents that it is entirely independent and that it is not

substantially economically dependent upon the SHIPPER and there is no functional integration of the SHIPPER's and the CARRIER's respective operations.

**4. MILEAGE** Where rates are based on mileage, mileages will be determined through the use of the most current version of PC Miler Practical Miles (Zip Code to Zip Code, with the 53-foot option turned on) at the time the load is tendered.

#### **5. LIABILITY FOR LOSS, DAMAGE OR DELAY**

**A. CARRIER Liability.** CARRIER agrees that the measure of damages for SHIPPER's goods that are lost or damaged, and for which CARRIER has liability, shall be SHIPPER's actual costs to replace the goods, less salvage value, if any. CARRIER shall not, however, be liable for any damage, loss or theft to or of sealed loads, except where such damage, loss or theft results solely from CARRIER's negligent acts or omissions. CARRIER's liability hereunder shall in no event exceed \$100,000 per trailer load.

**B. Non-Applicability of Tariffs.** Irrespective of any provisions in bills of lading, tariffs, service guides or similar publications, CARRIER's liability for loss, damage or delay shall be determined solely by these Terms & Conditions. Any attempts to enhance or limit CARRIER's liability by tariff or other provisions incorporated by reference shall be deemed null and void.

**C. Non-Applicability of Carmack Amendment.** Pursuant to 49 U.S.C. 14101, these Terms & Conditions shall not be governed by the Carmack Amendment, 49 U.S.C. 14706 et seq. All rights and remedies provided therein are specifically waived by the parties.

**D. Claims; Filing Requirements.** The following shall constitute filing a claim: A written or electronic notice of claim to CARRIER, containing facts sufficient to identify the shipment and that reasonably informs CARRIER that loss, damage or delay has occurred.

**E. Claims; Processing.** Claims shall be processed and disposed of by CARRIER in a reasonably timely fashion. In the event a claim is denied, CARRIER shall state a lawful reason for declining to accept responsibility for the claim, and shall be stated by the CARRIER, not its insurer.

**F. Time Limits; Claims for Loss or Damage.** The time limit within which SHIPPER must make a claim for loss against CARRIER shall be 90 days from the date of delivery.

**G. Time Limits; Suits for Loss or Damage.** The time limit within which SHIPPER must institute suit against CARRIER to recover on a claim filed pursuant to this Section shall be one (1) year from the date such loss or damage occurred.

#### **6. INDEMNITY**

**A. Indemnity by CARRIER.** CARRIER shall indemnify and defend SHIPPER, its affiliated and associated companies, and their respective agents, officers, directors, and employees from and against any liability, loss, cost, claims, and expenses, including attorneys' fees and costs of defense, arising out of the negligent acts or omissions of CARRIER, its third-party contractors, agents or employees.

**B. Indemnity by SHIPPER.** SHIPPER shall indemnify and defend CARRIER, its affiliated and associated companies, and their respective agents, officers, directors, and employees from and against any liability, loss, cost, claims, and expenses, including attorneys' fees and costs of defense, arising out of the negligent acts or omissions of SHIPPER, its third-party contractors, agents or employees. The above indemnity shall extend to all claims, liabilities and losses that in any way arise from or out of the loading by SHIPPER of any trailer of CARRIER, regardless of equipment ownership.

**7. NON-EXCLUSIVE TERMS & CONDITIONS** It is understood and agreed between the parties hereto that CARRIER shall be free to accept freight for transportation from shippers other than SHIPPER and that SHIPPER shall be free to tender freight for transportation to carriers other than CARRIER.

**8. INDEPENDENT CONTRACTOR** CARRIER shall perform the services hereunder as an independent contractor and shall have exclusive control and direction of all persons operating equipment or otherwise engaged in providing transportation services. CARRIER assumes full responsibility for the acts and omissions of such persons and, when applicable, shall have exclusive liability for the payment of local, state and federal payroll taxes or contributions or taxes for unemployment insurance, workers' compensation, old age pensions or other social security and related protection, and agrees to comply with all applicable rules and regulations pertaining thereto.

**9. GOVERNING LAW** To the extent not governed by the Interstate Commerce Act or other applicable federal statutes, the laws of the State of New Jersey shall govern the validity, construction and performance of these Terms & Conditions. All controversies, claims, actions, suits or proceedings arising hereunder shall be brought in the Superior Court of New Jersey, Camden County.

#### **10. FORCE MAJEURE**

**A.** Except for SHIPPER's obligations regarding the timely payment of freight charges to CARRIER, neither party hereto shall be liable to the other for default in the performance of any of the terms and provisions of these Terms & Conditions if caused by fire, strikes or labor disputes, riot, war, Act of God, governmental order or regulation, or other similar contingency beyond the reasonable control of the respective parties.

**B.** The party claiming force majeure shall notify the other party within twenty-four (24) hours of when it learns of the existence of such a condition and shall similarly notify the other within a period of two (2) working days after the condition is remedied. However, if such condition of force majeure is not remedied within 20 days, the unaffected party shall have the right to terminate any obligations created by these Terms & Conditions upon notice to the other party.

**11. SEVERABILITY AND WAIVER** If any phrase, clause, sentence, or other provision contained in these Terms & Conditions violates any applicable statute, ordinance, rule or law, such phrase, clause, sentence or provision shall be ineffective to the extent of such violations without invalidating any other provision of these Terms & Conditions. The waiver by either party of any breach or default hereunder, or the failure of either party to enforce any of the terms and conditions herein, shall not affect, limit or waive the right of either party thereafter to enforce and compel strict compliance with these Terms & Conditions.

**12. ENTIRE AGREEMENT/AMENDMENTS** These Terms & Conditions represent the entire understanding of the parties with respect to the subject matter herein and cannot be amended except in writing signed by both parties. All prior discussions, understandings, negotiations and Agreements regarding the subject matter herein, are merged herein.

**13. LIMITATION OF LIABILITY** Except as otherwise expressly provided in these Terms & Conditions, in no event will either party be liable to the other for any lost revenues, lost profits, incidental, indirect, consequential, special or punitive damages.