

J.E. OSWALT AND SONS HEAVY HAAULING AND RIGGING, INC

TERMS AND CONDITIONS

All Quotations and Proposals issued by J. E. Oswalt and Sons Heavy Hauling and Rigging, Inc. (JEO) to you, our Customer, are subject to these Terms and Conditions, which are incorporated fully into those Quotations and Proposals. Once any Quotation or Proposal is accepted by the Customer or JEO begins work, the Quotation or Proposal along with these Terms and Conditions, shall constitute the Contract between JEO and Customer. These Terms and Conditions supersede any earlier oral or written agreements between JEO and Customer. All work performed by JEO for Customer is subject to these Terms and Conditions. All Quotations and Proposals issued by JEO are contingent upon availability of labor and equipment.

Customer's acceptance of these Terms and Conditions is confirmed by Customer ordering, requesting, allowing work to be performed, or by being aware that JEO is performing work, regardless of the issuance of a conflicting Purchase Order or absence of Customer's signature.

1. CARGO DESCRIPTION AND DECLARATION OF VALUE

Customer warrants that it has provided JEO with a written and accurate declaration of the value of each piece/unit of cargo prior to JEO submitting or confirming any Quotation or Proposal and that the declaration of value is accurately reflected in JEO's Proposal/quotation. Customer agrees that Customer's failure to provide JEO with a written declaration of the per piece/unit declared value releases JEO, its officers, directors, employees, agents, suppliers, subcontractors, owners, and insurers from any liability or claims related to any such unvalued piece/unit of cargo.

The Customer or its agents shall Provide JEO accurate cargo details, specifications, measurements, and requirements. JEO's proposal/quotation will be based upon transport diagrams, requirements, dimensions, and weights provided by the Customer. It is the responsibility of the Customer to promptly update JEO with any changes or additions on any of the above.

Shipping saddles, blocking, and cribbing of sufficient stability and integrity will be the responsibility of Customer or others unless specified otherwise. Customer shall provide adequate lifting and securing points and their location must be properly marked on each piece and diagram of said piece; and Customer shall mark each piece with a correct Center of Gravity location in the lateral and longitudinal direction, as well as a supplied diagram prior to loading. If applicable, Customer to orient cargo and vessel or railcar in a manner to minimize shipping height and location of saddles, allowing optimal transporter configuration.

Any redesign, fabrication, removal, installation of saddles due to permit restrictions will be at the cost of Customer. Tarping, application of shrink-wrap, taping, or packaging to be completed at the Customer's expense. Customer will hold JEO harmless for natural acts or events that decrease the integrity of packaging such as tree branches, road spray, wind, weathering, etc.

2. NOTICE OF INCIDENTS

The Customer shall immediately notify JEO of any accident or incident involving personal injury and/or property damage; including but not limited to, damage to the cargo, any JEO Equipment, or other property, which occurred during the work contemplated by the quotation. Accidents or incidents causing damage, include, but are not limited to damage from fire, flood, theft, comprehensive losses, collision, rollover, and Acts of God. All repairs required due to any such accident or incident shall be made at the expense of the Customer and are payable by the Customer to JEO upon receipt of invoice. Equipment damaged beyond repair is payable by the Customer to JEO at current replacement cost upon receipt of invoice.

Customer shall photograph any damage to the cargo, equipment, or shipment, and provide copy of the photograph to JEO within three days of the accident or incident.

Customer agrees that JEO is not liable for penalties, liquidated damages, consequential damages, loss of use, shut down or loss of profit.

3. RELEASE OF LIABILITY

Customer agrees to release and hold JEO, its officers, directors, employees, agents, suppliers, subcontractors, owners, and insurers harmless from any claims for damage or loss to cargo, property, personal injury, or death in excess of JEO's applicable insurance limits, even if any of JEO's officers, directors, employees, agents, suppliers, subcontractors, owners are alleged or deemed to have been negligent or otherwise at fault.

4. INDEMNITY

Customer shall indemnify, hold harmless, and defend JEO, its officer, employees, shareholders, agents, subcontractors, and representatives from and against any and all losses, damages, expenses, claims, suits, and demands of whatever nature, resulting from damages or injuries, including death and lost profits, to any property or persons, including JEO's equipment, caused by or arising out of any action, omission, or operation attributable to parties other than JEO, its material men, employees, agents or representatives; provided however, that the Customer shall not be required to indemnify JEO, its employees, agents, and representatives hereunder for any damages or injuries, including death, to any property or persons, caused solely and exclusively by the negligence of JEO.

5. INSURANCE/WAIVER OF SUBROGATION

During the term of this Quotation, JEO will maintain general liability, auto liability, and workers compensation insurance coverage under its existing insurance policies as amended or replaced and at such limits specified therein. It is the Customer's responsibility to provide its own required insurance above JEO's limits or, as an option, additional Customer insurance may be purchased through JEO,

provided the desired coverage is available to JEO. Customer must provide insurance for any cargo or property with a declared value above JEO's insurance limits, and JEO must be named as an additional insured on such policy or policies.

Customer waives all rights against JEO and any of their subcontractors, sub-subcontractors, agents, and employees for damages to the extent those damages are covered by property insurance obtained pursuant to these Terms and Conditions or other property insurance applicable to the Contract or cargo. The insurance policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.

A certificate of insurance confirming that JEO has been named as additional insured and loss payee and that Customer's insurer is waiving the right of subrogation against JEO and its suppliers and contractors must be provided to JEO prior to JEO commencing work, however, failure to provide the certificate does not release Customer from any of the obligations set forth in the quotation and these Terms and Conditions and shall not operate in any manner as a waiver of JEO's rights or remedies against Customer.

6. CLAIMS AGAINST JEO

Failure to give JEO timely written notice of a claim shall be a complete defense and bar to any claim, suit, or action asserted by the Customer. Customer must give JEO written notice of a claim or potential claim within fourteen days after Customer became aware or should have been aware of the claim or potential claim.

7. WAIVER OF CONSEQUENTIAL AND PUNITIVE DAMAGES

Customer waives all claims against JEO for consequential damages arising out of or relating to Customer's contract with JEO, including, but not limited to, damages incurred by Customer for rental expenses, for losses of use, income, profit, financing, reputation, advance loss of profits, and for loss management or employee productivity of such persons.

Notwithstanding any other provision of the Terms and Conditions, the Customer will not be entitled to claim any liability against JEO resulting from any delay or disruption of delivery (even if caused by an act, default or omission of JEO or JEO's personnel), or for any damages resulting from delay in start-up of operations, facilities, machines, equipment, production lines, or other items; including damages for lost profits, anticipated profits, increased costs, or other additional expenditures and consequential damages.

Customer also waives any claim to punitive damages regarding claim arising of or relating to any contract with JEO.

8. PERMITS

To the extent that any portion of the Contract or quotation is subject to the timely approval and issuance of any of governmental permits or other documentation, the quotation is contingent on the issuance of required permits, including permitting by the responsible state department of transportation.

9. ROUTE CHANGE IMPACTING QUOTATION

Customer agrees that changes to the route and/or to the job site occurring after JEO submits any proposal or quotation to the Customer may impact or result in JEO cancelling the quotation or contract. Examples are included, but not limited to: 1) Highway, roadway and/or bridge construction projects started after the completion of the route survey; 2) Highway, roadway and/or bridges that are restricted, re-classified, or deemed unsafe by JEO after the completion of the route survey; 3) Damage to highway, roadways, or bridges caused by natural disasters/acts of God; 4) Change to Route due to permitting through construction zones; and 5) Change in weight or dimension of cargo that differ from those quoted. Alterations to the permitted path may impact the overall cost and/or schedule and will be at the customer's expense.

10. LOADING AND UNLOADING

Quotations are based upon the Customer providing free, clear, and safe access for loading, offloading, and to all work areas. Customer shall prepare all access and work areas to allow for safe and damage-free operations. Clearances and sufficient ground compaction and ground conditions are the responsibility of the Customer. Customer, at its expense, must provide safe and appropriately sized ground-bearing areas for loading/unloading/ trans-loading and transport in a timely fashion. Any additional equipment needed to overcome site conditions will be paid for by the Customer. Any damage to JEO's or others' property, equipment, cargo, and utilities; including but not limited to above-ground and below ground water, gas, sewer, power, cable, and telephone; at origin or destination, resulting from the use or non-use of the JEO provided transportation and support equipment is at the sole risk and responsibility of the Customer.

11. CONSTRAINTS

JEO strives to meet any constraints of the job site and/or DOT permitting and will try to use an applicable transporter. However, changing site conditions may require transloading or offloading to a secondary transport or other system. Increased costs reflecting changes in site conditions will be borne by the Customer.

12. DELAYS\FORCE MAJEURE

JEO shall not be considered in default in the performance of its obligations under the proposal or quotation to the extent that performance of its obligations is prevented or delayed by any cause beyond

its reasonable control; including, without limitation, acts of God, acts or omissions of governmental authorities or the other party, strikes, lockouts or other industrial disturbances, acts of public enemies, wars, blockades, riots, civil disturbances, protests, epidemics, floods, hurricanes, tornadoes, and any other similar acts, events, or omissions. When determined that force majeure results in a delay of performance by JEO, the date of delivery or performance of any other obligations of JEO hereunder shall be extended for a period of equal duration to the time lost by reason of the delay. JEO shall notify Customer in writing within ten calendar days after recognition of the occurrence of any event that JEO believes will result in a delay.

13. PORT TRANS-LOAD ACTIVITES

Port work is determined by either the ship's schedule or rail schedule. Ship loading/offloading start times and working hours/days are generally determined by a port captain representing a vessel owner, a stevedore, or rail car availability. JEO has no control over the loading/offloading schedule.

Decisions made by others concerning start times and working hours/ days can create overtime, guarantee time, and extra mobilization charges for staging of equipment. Customer is responsible for any increased costs due to delays by others. JEO has no control over start times and working hours/ days, therefore JEO requires at least 36-hours advance notice to mobilize equipment. Any charges for standing by due to delays beyond the control of JEO, including overtime, guarantee time, or equipment mobilization due to lack of advance notice are payable by the Customer.

14. PORT CHARGES AND FEES

Customer is responsible for all Port charges and fees.

15. APPLICABLE AND RELATED CHARGES PAYABLE BY CUSTOMER

The following costs are payable by the Customer: a) Standby Time (confinements and delays for reasons beyond the control of JEO); b) Normal working hours/ days are from 7:00 AM to 5:00 PM, portal to portal (e.g., from and to Batesburg, S.C.), Monday through Friday, except holidays. JEO reserves the right to work beyond daylight hours and during major holidays; c) Overtime shall apply for all hours/ days beyond those normal working hours/ days (defined in a) above); d) Guarantee Time shall apply when JEO works less than 10 hours per day, portal to portal; e) Customer to provide all necessary equipment needed to assist in assembly and disassembly of JEO equipment at no cost to JEO. If Customer cannot provide the equipment necessary, JEO will provide the necessary equipment and invoice the Customer for any cost. JEO will supply all labor and equipment necessary to mobilize, demobilize, assemble and disassemble necessary equipment; f) Costs and Fees for utility assistance such as telephone, power, cable television, internet access and communications, and DOT/municipal signals and signs are not included. Unless otherwise stated in the Quotation, these services, if required, will be invoiced as Applicable Charges and payable by Customer; g) Job-specific training, special PPE beyond JEO standard issue, and/ or additional site requirements other than those part of normal protocol are not included and payable by Customer;

and f) All of the above Applicable Charges and those outlined in other contracts or the quotation, or incurred during JEO work are fully due and payable by the Customer at cost **plus** 18%.

16. METHOD STATEMENTS

Method Statements are not included in JEO Quotations unless otherwise agreed in writing and outlined within the Quotation.

17. SCOPE

Unless otherwise specified in any required Scope of Work and defined and included in the Quotation, loading and unloading waterborne cargo is the responsibility of the Customer or others, not JEO.

18. STRESS OF TRANSPORT

It is the Customer's responsibility to ensure that the cargo can withstand the stresses of transport, including lashing and securing cargo; and to advise JEO of any specific requirements in advance of any quotation. It is the responsibility of the Customer to provide JEO with all applicable technical drawings and special requirements for lifting, handling, transporting, blocking, bracing, securing, lashing and securing, and covering cargo. JEO is not responsible for the structural or cosmetic condition of the cargo.

19. GEORGIA GROSS WEIGHT

Gross vehicle weights that exceed 300,000 pounds in the State of Georgia are subject to a mandated bridge and route evaluation that must be conducted by an approved Third-Party Engineering Firm. This process could take up to (4) weeks for completion. The bridge and route evaluation required by the State of Georgia will not commence without a written Purchase Order, Contract, or written Authorization from the Customer specifying that JEO has been selected as the transportation contractor. The Customer shall pay all Third-Party engineering services and permit fees, regardless of permit approval.

20. SURVEY

If a survey is conducted prior to, during, or after the handling of the cargo; the Customer will forward a copy of the surveyor's report to JEO free of charge within three working days of the completion of the surveyors' report.

21. EQUIPMENT STORAGE

Customer shall permit JEO to store its equipment on site prior to, during, and after the performance period of its work and shall furnish electricity, water, and other utilities as reasonably requested by JEO, at no cost to JEO.

22. PAYMENT

In addition to paying JEO for work specified on any Quotation or purchase order, Customer shall pay JEO upon demand:

- a) all taxes, levies, assessments, fees and other public charges against or upon any of JEO's work, Including, but not limited to, personal property taxes, if applicable.
- b) any fines, penalties, forfeitures, costs, expenses, and attorney's fees arising with respect to transportation, use, supervision, control, maintenance, or repair of the Cargo or JEO equipment; including but not limited to any parking, traffic, or other violations assessed.
- c) JEO's costs and expenses, including reasonable attorney's fees, incurred in enforcing its agreements and collecting any amounts due hereunder from Customer; and
- e) all cost of repairs and any related expenses.

Any payments more than thirty (30) days past due under shall bear interest at 1.5% per month (or the maximum rate allowed by law, whichever is higher).

23. INVOICE

JEO will provide Customer with an invoice for services rendered. Payment in full is due upon receipt of invoice. JEO is not obligated to extend credit or financing terms to the Customer. Customer will not withhold retainage and/or deductions from any JEO invoice resulting in partial payment. JEO specifically reserves its right to a mechanic's lien and does not waive this right under any circumstances.

24. CHANGES

Should the terms of any purchase order or other document issued by Customer attempt to add new terms or different terms, the new or different terms shall be binding only if expressly accepted in writing by an authorized officer of JEO.

25. ENTIRE AGREEMENT

Unless there is a written agreement, duly approved and executed by both parties, modifying the quotation and these Terms and Conditions, these terms are intended by the parties as a final expression of their agreement and is intended as a complete and exclusive statement of the terms of their agreement. No

representations of any kind which are not set forth within the quotation and these terms and conditions shall be enforceable.

26. SEVERABILITY

If any provision of these terms and conditions is determined to be invalid, illegal, or unenforceable; the remaining provisions of this Agreement remain in full force, and the essential terms and conditions of this agreement for each party remain valid, binding, and enforceable.

27. CONFLICT BETWEEN DOCUMENTS:

If there is any conflict, discrepancy, or material inconsistency between these terms and conditions and the JEO issued quotation, customer-issued purchase order, or other form used by the parties; the terms of the JEO Quotation will control.

28. DEFAULT:

Time is of the essence with respect to Customer's performance of its obligations under any quotation and these Terms and Conditions. JEO may declare the Customer in default and stop all work if any one or more of the following occurs:

- (a) Customer fails to make any payment required hereunder when due.
- (b) Customer fails to maintain the required insurance.
- (c) Customer fails to properly label, maintain, or repair the Cargo.
- (d) Customer fails to observe or perform any other covenant or requirement of these terms, which failure is not cured to JEO's satisfaction within three (3) days after JEO's notice to Customer thereof.
- (e) Customer attempts to sell, transfer, or encumber the cargo.
- (f) a voluntary or involuntary proceeding is instituted in any court of competent jurisdiction, seeking a decree or order (i) for relief in respect of Customer under any applicable bankruptcy, insolvency, reorganization, assignment for the benefit of creditors, or other similar law, or (ii) for the appointment of a receiver, liquidator, assignee, custodian, trustee, sequestrator or similar official of Customer or its property, or (iii) for the winding up or liquidation of the Customer's affairs;
- (g) Customer shall fail to pay its debts as they come due; and/or
- (h) Customer, in JEO's opinion, shall become financially insecure.

At any time after such declaration of default, JEO may stop work, with or without notice.

29. REMEDIES

All of JEO's remedies shall be cumulative and are in addition to all other remedies available to JEO existing at law or in equity. In JEO's sole discretion, but without any obligation, to take such action, JEO may make any payment to remedy any default, including but not limited to, procuring any required insurance coverage, paying any fine, imposition, penalty, taxes or fees incurred to recover and/or release the Cargo or JEO Equipment from any forfeiture, seizure, confiscation or similar proceeding, or from any lien or other encumbrance, and all such payments shall be reimbursed to JEO by the Customer.

30. ATTORNEY'S FEES

In the event JEO retains legal counsel to enforce any rights under these terms and condition, including but not limited to the collection of money owed, JEO shall be entitled to full payment of all monies owed plus reimbursement of JEO's attorney fees and collection costs and expense incurred whether or not legal action is instituted.

31. CHOICE OF LAW, VENUE AND JURISDICTION:

For all suits, claims, causes of action or other legal proceedings arising out of services performed by JEO and which are in any way related to these terms and conditions, quotes, and contracts between Customer and JOE, this agreement shall be interpreted under the laws of the state of South Carolina. Venue for all suits, claims, causes of action or other legal proceedings shall be in Aiken County, South Carolina. Client specifically agrees and accepts this choice of law and venue and personal jurisdiction.

32. COMPLIANCE WITH LAWS

Customer shall fully comply with all applicable U.S. federal, state, or local laws, rules, regulations, or ordinances. Customer agrees to assume full responsibility, and to the fullest extent allowed by applicable law, shall indemnify, defend and save JEO harmless against actual or asserted violations of any such laws, regulations or ordinances, and pay all costs and expenses of every character, including reasonable attorneys' fees, occasioned by or arising out of any use, or result of any violation of law, regulation or ordinances.

33. MISCELLANEOUS:

Headings are provided for convenience only, not for interpretation. No failure of JEO to enforce performance of any terms or covenants, or to exercise or delay in exercising any right, under these terms

and conditions shall operate as a waiver thereof; nor shall any single or partial exercise of any right hereunder preclude any other or further exercise thereof or the exercise of any other right.

JEO is not responsible for any charges or fees unless specifically agreed to in these terms and conditions and stated in the quotation.

34. IMMEDIATE ACCEPTANCE

A Quotation is good for 90 days and is intended for immediate acceptance but will be subject to change prior to acceptance by Customer.

Attached Quotation