

Montway Terms of Service

Thank you for choosing Montway for your vehicle's transport. By using our vehicle transportation broker services, you and the person or entity you represent accept all of the terms and conditions of service ("TERMS") stated herein. In the event of a conflict between these TERMS and those in any other document, including a motor carrier bill of lading, tariff or service guide, or any other documents, these TERMS will supersede and control as between you and Montway. These TERMS cannot be modified by anyone except for Montway.

THESE TERMS CONTAIN PROVISIONS THAT GOVERN HOW CLAIMS CUSTOMER AND MONTWAY MAY HAVE AGAINST EACH OTHER CAN BE BROUGHT. THESE PROVISIONS WILL, WITH LIMITED EXCEPTION, REQUIRE CUSTOMER TO SUBMIT CLAIMS CUSTOMER HAS AGAINST MONTWAY TO BINDING AND FINAL ARBITRATION ON AN INDIVIDUAL BASIS, NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY CLASS, GROUP OR REPRESENTATIVE ACTION OR PROCEEDING. PLEASE REVIEW SECTION 12 FOR THE DETAILS REGARDING CUSTOMER'S AGREEMENT TO ARBITRATE ANY DISPUTES WITH MONTWAY.

1. Definitions

- a. **"Additional Services"** means upgrades and additional services ordered by the Customer such as vehicle top-loading, guaranteed pick up date, covered transport, additional personal belongings, etc.
- b. **"Bill of Lading"** means a document provided by the Carrier to the Customer at delivery documenting the details of the Shipment and its condition, Point of Origin, Destination and other details regarding the Order. Bill of Lading can serve as a receipt or a contract between the Carrier and Customer.
- c. **"Carrier"** means a motor carrier of property, as defined at 49 U.S.C. §13102(14), duly licensed by State and/or Federal Department of Transportation, or a carrier of goods by sea pursuant to 46 U.S.C. § 30701.
- d. **"Carrier Form"** means a receipt, inspection report, Bill of Lading, shipping order or similar document provided by the Carrier at Point of Origin and/or Destination.
- e. **"C.O.D."** means collect on delivery or payment on delivery.
- f. **"Customer"** means the individual, company or other entity, including its agents and representatives, ordering the transportation of Shipment.
- g. **"Customer's Agent"** means an individual over the age of 18 designated by Customer to act on Customer's behalf or as an agent.
- h. **"Destination"** means the Shipment drop off location designated by the Customer or as later modified by mutual agreement between Montway and Customer prior to delivery.

- i. **“Inoperable”** means a state or condition in which a Shipment cannot function or be driven for any reason including but not limited to its parts having been removed, altered, damaged or deteriorated such parts including but not limited to engine, transmission, wheels, steering mechanism, brakes, tires, etc.
- j. **“Montway”, “we”, “us” or “our”** means Montway LLC, its affiliates and subsidiaries. Montway is a transportation broker as defined at 49 U.S.C. § 13102(2), arranging for the transportation of freight through third party Carriers and is duly licensed by the Department of Transportation (DOT), and is registered with the Federal Motor Carrier Safety Administration (FMCSA) under Docket No. MC-611862 and/or other government agencies as may be required by law. Montway is not a Carrier.
- k. **“Order”** means Customer’s request for Montway to arrange for the transportation of Customer’s Shipment.
- l. **“Order Confirmation”** means any written confirmation from Montway to the Customer confirming the Customer’s Order and other details including but not limited to description of Shipment, Point of Origin, Destination, dates and quoted rate.
- m. **“Point of Origin”** means the Shipment pick up location designated by Customer or as later modified by mutual agreement between Montway and Customer prior to transport.
- n. **“Shipment”** means the Customer’s property — an automobile or motorized vehicle — arranged for transportation in accordance with these TERMS.

2. Services

- a. Upon Customer’s request, Montway will arrange for the transportation of Customer’s Shipment by Carriers subject to these TERMS. Montway reserves the right, in its sole discretion, to refuse or cancel any Order at any time.
- b. Montway’s services are deemed completed when a Carrier has accepted Customer’s Order.
- c. Customer understands and accepts that Montway (i) operates only as a transportation broker, (ii) is not a motor carrier or transporter, and (iii) does not hold itself out as providing the transportation of property.
- d. Customer expressly understands and agrees that Montway never takes custody or possession of, transports, or handles Customer’s Shipment, or assumes any liability for the Shipment.
- e. All ocean transportation arranged by Montway will also be subject to the terms and conditions of the ocean Carrier’s bill of lading, tariff, schedules, rates and rules. Ocean Carriers offer limited liability coverage for loss or damage, and

Customer must inquire with the ocean Carrier about purchasing additional insurance.

- f. Montway shall provide Customer with an estimated pickup and estimated delivery date, however, delays may occur prior to, and/or during transport due to weather or road conditions, government regulations, mechanical problems, and other causes that are beyond Montway's control. **Montway cannot and does not guarantee delivery dates or times.** Customer understand and accepts that Montway is not – responsible or liable for any losses or expenses caused by delays of any kind or for any reason.

3. Customer's Responsibilities

- a. **Accuracy of Information.** Customer understands and accepts that only Customer is responsible to ensure the accuracy of all of the details including the description of the Shipment (year, make, model, body style, trim, etc.), Point of Origin, Destination, fees, and special instructions in the Order Confirmation, and as applicable, on the Carrier's Form, Bill of Lading, or other required documents. Any changes or corrections to the Shipment description or any other changes to an Order may result in additional fees or cancellation of the Order. Customer waives all claims against Montway for any additional charges or cancellation if the Shipment does not match the Shipment listed in the Order Confirmation.
- b. **Shipment size and condition.** Customer must inform Montway about the Shipment's size and condition at the time of booking and prior to the pick up date. Customer understands and accepts that if the Shipment is or becomes inoperable during the transit, or if the Shipment (i) is modified from the original equipment manufacturer ("OEM") condition with features including but not limited to aftermarket spoilers, lowered chassis, height modifications, etc., (ii) is oversized due to but not limited to dual or oversized wheels, extra-large tires, racks, lifted chassis (iii) is a large vehicle such as a limousine or a hearse, then the Carrier may charge additional fees to transport such Shipment or refuse to transport the Shipment altogether.
- c. **Preparing Shipment.** Customer understands and accepts that Customer is responsible for preparing the Shipment for transportation. Customer must either secure or remove all loose parts, fragile accessories, low hanging spoilers, etc. prior to shipment. Customer must remove all non-permanent, outside mounted luggage and other racks prior to shipment. Shipment must be tendered to Carrier in operable condition with no more than a quarter tank of fuel. Customer understands and accepts that Customer is responsible for any damages, losses and claims to the Shipment, other vehicles and/or persons which are caused by any part of the Shipment that becomes loose or detached during the transport.
- d. **Alarm.** Customer must disarm any alarm system installed in the Shipment or provide clear instructions for disengaging it to the Carrier. In the event such alarm is activated during the transit, and there are no keys or instructions to turn it off,

Carrier may be forced to silence alarm by any reasonable means available and without recourse by Customer.

- e. **Personal Property.** Customer may leave one suitcase **OR** one bag carrying personal property which shall not exceed one hundred pounds (100 lbs.) and must be confined to the trunk or storage area of the Shipment. Customer must notify Montway and Carrier of such personal property in the Shipment at the Point of Origin prior to loading of the Shipment. Customer understands and accepts that the Carrier has the right to reject any personal property in the Shipment if transporting such personal property is unsafe or violates the law. Customer is advised not to leave any negotiable instruments, legal papers, jewelry, furs, money, cash or currency, antiques, or any valuable articles in the Shipment. Customer understands and accepts that the Carrier and Montway are not liable for personal items of any kind and value left in the Shipment, or for damage to Shipment caused by excessive or improper loading of personal items. If Customer puts personal property in the Shipment, Customer does so at Customer's own risk.
- f. **Prohibited Items.** Customer understands and accepts that Customer is **expressly prohibited** from loading any explosives, guns, ammunition, weapons, flammable products, live pets, live plants, any contraband, drugs or narcotics, alcoholic beverages, and or any illegal goods in the Shipment. Customer understands and accepts that upon discovery, such prohibited items and/or the Shipment may be confiscated or disposed of by law enforcement, or the Carrier and the Order may be cancelled in entirety without any remuneration or compensation to Customer and Customer will be solely responsible for any fees, fines, damages, or other liabilities arising from a violation of this Section.
- g. **Shipment by sea.** Customer understands and accepts that no personal property of any nature or value and no illegal goods will be allowed in the Shipment for transportation by sea and Customer will ensure that the Shipment is completely empty except for OEM or factory installed equipment. Customer is responsible for furnishing all required documents and paperwork required by U.S. and international customs. Customer must share the vehicle identification number (VIN) and its approximate value in U.S. dollars at the time of placing the Order. If the Point of Origin or Destination is a shipping port, then Customer agrees to pay any associated additional fees.

4. Customer Warranties

Customer warrants that Customer will comply with all applicable laws, rules, and regulations including but not limited to customs laws, import and export laws and governmental regulation of any country to, from, through or over which the Shipment may be carried. Customer agrees to furnish such information and documents as are necessary to comply with applicable laws, rules and regulations. Montway assumes no liability to Customer or to any other person for any loss or expense due to Customer's failure to comply with this provision. Any Customer's Agent and/or entity acting on

behalf of Customer also warrants that it has the right to act on behalf of Customer and the right to legally bind Customer.

5. Pickup and Delivery of Shipment

- a. Customer understands and accepts that a change to Point of Origin and/or Destination may be necessary due to municipal zoning restrictions, road conditions, road closures, low hanging trees, low hanging wires, narrow streets, residential area restrictions, etc.
- b. If the Carrier is unable to access the Point of Origin or Destination, Customer agrees to meet the Carrier at an alternate location in order for the Carrier to safely pick up or drop off the Shipment.
- c. Customer must be present at the Point of Origin and Destination for the pickup and/or delivery of a Shipment, or Customer must designate a Customer's Agent if Customer is unavailable for any reason.
- d. At the time of pickup at the Point of Origin, Customer or Customer's Agent agrees to 1) carefully inspect the Shipment with the Carrier for pre-existing damage, and 2) acknowledge the condition of the Shipment by a) noting any pre-existing damage on the Carrier Form or Bill of Lading, b) signing the Carrier Form or Bill of Lading, and c) requesting a copy of same from the Carrier. Customer or Customer's Agent is also urged to photograph the Shipment from all angles at the Point of Origin.
- e. At the time of delivery at Destination, Customer or Customer Agent agrees to carefully inspect the Shipment in the presence of the Carrier for possible transit damage and clearly notate any new damage as exception on the Bill of Lading. Customer or Customer's Agent agrees to sign and require a final copy of the Bill of Lading signed by the Carrier to serve as a final Shipment condition report, especially in case of a dispute with the Carrier. Again, Customer or Customer's Agent is urged to photograph the Shipment from all angles prior to signing the Bill of Lading.
- f. Customer understands and accepts that Customer's or Customer Agent's signing of the Carrier's Form or Bill of Lading at Destination **without** any notation of any damage regardless of the lighting or weather conditions at the time of inspection, will serve as confirmation that Customer received the Shipment at destination in satisfactory condition and that Montway and the Carrier will have no further responsibility.

6. Carrier Responsibilities

- a. Carrier shall (i) pick up and deliver Customer's Shipment as close to Customer's door or Customer's designated Point of Origin and Destination as legally and safely possible, and (ii) transport the Shipment in a commercially reasonable manner.

- b. Carrier may issue a Carrier Form, receipt or Bill of Lading at the Point of Origin and/or Destination. Customer or Customer's Agent agrees to read such Carrier Form carefully as it may constitute a contract of transportation as between Customer and Carrier, and Customer will contact Carrier directly with any disputes or questions regarding such documents.
- c. Customer understands and agrees that Customer may also be subject to the Carrier's terms and conditions of service, tariffs, rules or classification, copies of which must be requested by the Customer directly from the Carrier.

7. Fees and Payment

- a. Customer agrees to pay all amounts due in full for each Order and any Additional Services as per the terms of the Order Confirmation and these TERMS without any offsets, chargebacks or reductions by Customer for any actual, pending or unfiled claims, losses, delays, or damages. Payment for Montway's services is due when a Carrier accepts an Order as Montway's services have been rendered at that point.
- b. All payments for the balance due to Carrier for C.O.D. must be made on or before the delivery of Shipment in the form of cash, certified funds, cashier's check or money order made payable to the Carrier. **Customer WILL NOT use personal checks, debit or credit card when making payments to the Carrier.**
- c. Any outstanding invoices for Montway's services shall accrue an interest rate of one and a half percent (1.5%) per month and Customer shall be liable to Montway for all expenses incurred by Montway, plus reasonable attorney's fees, to collect any outstanding charges.
- d. If Shipment is placed in storage due to Customer's refusal to pay the fees or accept delivery from the Carrier for any reason, then the Shipment may be placed in storage at Customer's expense and subject to Carrier's lien for transportation charges until Customer pays in full the outstanding balance. Any and all storage and redelivery charges will be the responsibility of Customer and Customer agrees that Customer will not look to Montway for reimbursement.

8. Cancellation and Refund Policy

- a. Customer may cancel an Order at any time at no cost or cancellation fees as long as the Order has not yet been accepted by a Carrier. If the Order is canceled for any reason after a Carrier accepts the Order, such reasons including but not limited to Customer canceling an Order, Montway canceling an Order due to the Customer's breach of these TERMS or if the Carrier is denied pick up of the Shipment for any reason when the Carrier arrives at the Point of Origin, then the Customer agrees to pay a minimum of two hundred and forty nine dollars (\$249.00) in cancellation fees as Montway's services have been rendered at that point. Customer understands and accepts that the Customer may be subject to

additional cancellation fees including but not limited to a dry run fee imposed by a Carrier and other vendors contracted to fulfill Customer's Order.

- b. Customer is entitled to a refund for only the unfulfilled portion of the services. If Additional Services were paid for but not rendered for any reason and the Shipment was delivered, the sole remedy for the Customer shall be a refund for the unfulfilled portion of the Additional Services fees.
- c. Cancellation of an Order by Customer must be submitted in writing via email sent to info@montway.com. Cancellations made via telephone, text, chat or any other medium will not be accepted by Montway.

9. Loss, Damage or Delay Claims

- a. Montway is a property transportation broker, therefore, is not and will not be liable for any cargo loss and damage claims for any reason.
- b. If Customer has a claim for loss or damage to a Shipment, then Customer understands and agrees that the party liable for all such claims is the Carrier and not Montway, and it is Customer's responsibility to file any claim directly with the Carrier who transported the Shipment.
- c. If Customer decides to file a claim against the Carrier, Customer must promptly report such claim to Montway, but in no event later than **forty-eight (48) hours of the delivery**, so Montway may provide the Customer with relevant documents regarding the Carrier in a commercially reasonable manner.
- d. Customer is hereby informed and understands that claims against motor Carriers are governed by federal law, the Carmack Amendment to the ICC Termination Act of 1995, 49 U.S.C. §14706, and claims against ocean Carriers are typically governed by the Carriage of Goods by Sea Act, 46 U.S.C. §30701. Customer is urged to seek independent legal advice (at Customer's sole expense) on these laws in the event of a claim.
- e. Customer understands and agrees that Montway and Carrier are not liable for any cargo loss or damage caused by any acts or omissions that are out of Montway's or Carrier's control including but not limited to damage caused by weather conditions including hail, storm or other acts of God, riots, strikes, political unrest, acts of terrorism, loose, worn, or broken parts of a Shipment, personal items in the Shipment.

10. Indemnification

Customer agrees to indemnify, defend and hold Montway and our affiliates, and our and their employees, officers and directors harmless from and against any and all losses, liabilities, damages, payments, settlements, judgments, penalties, fines, expenses, (including reasonable attorneys' fees), and costs, suits, actions and claims (whether actual, potential, threatened or pending), brought by any person or entity, including

damages for injury or death of persons and/or damage to property, including real property and/or the environment, claim liability and damages, arising from the acts or omissions of Customer, its agents, employees or representatives.

11. Disclaimer and Limitation of Liability

- a. The total cumulative liability of Montway for any and all claims and damages, whether arising from statute, contract, tort or otherwise, shall not under any circumstances exceed the total fees paid by Customer to Montway for Montway's services under the respective Order Confirmation.
- b. EXCEPT AS OTHERWISE PROVIDED HEREIN, MONTWAY MAKES NO WARRANTIES FOR ANY OF ITS SERVICES AND HEREBY DISCLAIMS ALL WARRANTIES OR REPRESENTATIONS, EXPRESSED OR IMPLIED, INCLUDING ANY IMPLIED WARRANTIES OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR USE, AND ANY WARRANTIES ARISING FROM COURSE OF DEALING, USAGE OR TRADE PRACTICE.
- c. UNDER NO CIRCUMSTANCES WILL MONTWAY BE LIABLE OR RESPONSIBLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, CONSEQUENTIAL (INCLUDING DAMAGES FROM LOSS OF BUSINESS, LOST PROFITS, LITIGATION, OR THE LIKE), SPECIAL, EXEMPLARY, PUNITIVE, OR OTHER DAMAGES, UNDER ANY LEGAL THEORY, ARISING OUT OF OR IN ANY WAY RELATING TO A SHIPMENT OR THESE TERMS, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

12. Arbitration

- a. **Arbitration.** Any dispute, controversy, or claim between the parties arising out of or relating in any way to these TERMS, an Order, Montway's services or any other Customer engagement with Montway will be resolved by binding arbitration, rather than in court, except that Customer or Montway (1) must assert claims in small claims court if Customer's or our claims qualify, and (2) bring suit in any court of competent jurisdiction to enjoin infringement or other misuse of intellectual property rights, including with respect to temporary restraining orders. The Federal Arbitration Act and federal arbitration law shall apply to this arbitration agreement.

There is no judge or jury in arbitration, and court review of an arbitration award is limited. However, an arbitrator can award the same damages and relief as a court (including injunctive and declaratory relief or statutory damages).

At least thirty (30) days before beginning an arbitration proceeding, Customer must send an individualized letter personally signed by Customer and identifying Customer, Customer's legal claims, the requested relief and requesting arbitration

to Montway – 425 N. Martingale Rd., Suite 550, Schaumburg, IL 60173 by certified mail, Federal Express, UPS or USPS express mail (signature required). We will do the same; except in the event that we do not have a physical address on file for Customer, by electronic mail to the last known address. Except as otherwise stated herein, the arbitration will be conducted by the National Arbitration Mediation (“NAM”) under its rules, including for Consumer-Related Disputes. Customer and Montway also agree to delegate the issue of arbitrability to an arbitrator. Payment of administration and arbitrator fees will be governed by the NAM’s rules, except all of the filing fees will be paid by the filing party. If Customer is a prevailing party, Customer may seek reimbursement of Customer’s fees and costs. However, Montway may seek our attorney’s fees and costs if the arbitration finds Customer’s claims to be frivolous. There will be only one arbitrator, not a panel. Customer may choose to have the arbitration conducted by telephone, based on written submissions, or in person in the county where Customer lives or at another mutually agreed location. Customer and Montway also agree that, if more than one dispute arises regarding the same or substantially similar issues, the parties’ respective claim(s) will be arbitrated in the order in which it/they were filed, except all claims shall be arbitrated within three (3) years. THIS ARBITRATION AGREEMENT WILL SURVIVE TERMINATION OF THESE TERMS.

- b. **Class Action Waiver.** The parties each agree that any dispute resolution proceedings or lawsuits, whether in arbitration or in a court of law, will be conducted only on an individual basis and not in a class or representative action. Therefore, Customer waives all rights to bring claims on behalf of a class of persons; however, Customer may still bring an individual claim for public injunctive relief and in small claims court. Nothing in this provision, however, should operate to prevent the parties from settling claims on a class-wide basis or otherwise coordinating claims filed in arbitration.
- c. **Enforceability.** If this arbitration agreement is invalidated in whole or part, the parties agree that the exclusive jurisdiction in the section below entitled “Governing Law; Jurisdiction” shall govern any claim in court arising out of or related to these Terms.
- d. **Jury Trial and Small Claims Court.** If for any reason a claim proceeds in court rather than in arbitration, the parties each waive any right to a jury trial. The parties also both agree that Customer or Montway may bring suit in any court of competent jurisdiction to enjoin infringement or other misuse of intellectual property rights, including with respect to temporary restraining orders.

13. Additional Terms for California Residents

- a. **User Complaints.** Under Cal. Civ. Code § 1789.3, California users are entitled to know that they may file grievances and complaints with the Complaint Assistance Unit of the Division of Consumer Services of the California Department of Consumer Affairs, in writing at 1625 North Market Blvd., Suite N 112,

Sacramento CA 95834, or by telephone at (916) 445-1254 or (800) 952-5210 or by email at dca@dca.ca.gov.

14. Governing Law; Jurisdiction

These TERMS shall be construed in accordance with Title 49, United States Code and be governed by the laws of the State of Illinois without regard to any conflict of law principles. Further, the parties agree to the jurisdiction of a state or federal court in the State of Illinois to resolve any dispute, claim, or controversy that relates to or arises in connection with these TERMS (and any non-contractual disputes and/or claims relating to or arising in connection with it) and that is not subject to mandatory arbitration under Section 12 above.

15. Miscellaneous

- a. Nothing contained in these TERMS or Customer's use of Montway's services shall be construed to constitute either party as a partner, joint venturer, employee or agent of the other party, nor shall either party hold itself out as such. Neither party has any right or authority to incur, assume or create, in writing or otherwise, any warranty, liability or other obligation of any kind, express or implied, in the name of or on behalf of the other party, it being intended by both parties that each shall remain independent contractors responsible for its own actions.
- b. Except as expressly set forth in these TERMS, Customer may not assign any rights hereunder without Montway's prior written consent. These TERMS are binding on and inure to the benefit of the parties and their respective successors and permitted assigns.
- c. If any provision of these TERMS shall be adjudged by any court of competent jurisdiction to be unenforceable or invalid, that provision shall be limited or eliminated to the minimum extent necessary so that these TERMS will otherwise remain in full force and effect.
- d. These TERMS supersede all prior written or oral representations and constitute the entire agreement between Customer and Montway and may not be changed by anyone except for Montway. Customer warrants that Customer has read these TERMS in their entirety and by continuing with the transaction, fully understands and agrees to them.
- e. Customer waives any claims or defenses based in whole or in part on Customer not having read, not knowing, or not understanding these TERMS.
- f. The failure of Montway to exercise or enforce any right or provision of these TERMS shall not operate as a waiver of such right or provision. Any waiver of these TERMS by Montway must be in writing and signed by an authorized representative of Montway.

- g. Montway reserves the right to use Customer's name and/or Montway name, logo, and trademarks and to identify Customer as a Montway customer, and for other similar marketing or promotional purposes on Montway's websites and in other communications and collateral materials provided to with existing or potential Montway customers, partners, and investors. To decline Montway this right Customer must email privacy@montway.com stating that Customer does not wish to be used as a reference.

- h. These TERMS constitutes the entire agreement between Customer and Montway and governs the terms and conditions of Customer's use of our services, and supersedes all prior or contemporaneous communications and proposals, whether electronic, oral or written, between Customer and Montway with respect to such services. Notwithstanding the foregoing, Customer may also be subject to additional terms and conditions, posted policies (including but not limited to the Privacy Policy), guidelines, or rules that may apply when Customer uses Montway's services.