



## Standard Terms & Conditions

**1 Services Overview.** AFS Logistics, L.L.C. ("AFS"), 670 Emberwood Drive, Shreveport, LA 71106, agrees to provide services as selected by Customer in the Service Order Form (the "Services") for the duration of the Term set forth in the Service Order Form in a professional manner in accordance with industry standards. Customer agrees to engage AFS as its sole and exclusive representative for the purpose of providing the Services during the term. Additional details are set forth in these Standard Terms & Conditions and, if Customer has elected to receive Parcel Cost Management Services and/or LTL Cost Management Services, as set forth in the applicable Cost Management Details page(s), which can be found at: <http://www.afs.net/tc>. The Services may include Freight Audit and/or Parcel Audit ("Audit Services"), Freight Payment and/or Parcel Payment ("Payment Services"), LTL Cost Management and/or Parcel Cost Management ("CM Services"), and AFS Analytics, AFS Intel, AFS TMS, AFS OSD, and/or Data Storage ("Technology Services").

**2 Service, Service Fees and Payments.** Customer shall pay AFS for the Services as indicated on the Service Order Form and, if applicable, as set forth below and/or in the applicable Cost Management Details page(s). In the event Customer selects Audit Services, AFS will receive Customer's carrier invoices, perform a pre-audit, and process the Customer's carrier invoices on a weekly basis ("Weekly Processing Period"). Upon completion of each Weekly Processing Period, AFS will forward to Customer for approval an invoice, summary of charges, general ledger allocation, and detail of all bills processed. Upon Customer's approval, Customer will forward payments to AFS via wire transfer or ACH. In AFS' sole discretion, other payment methods may be accepted; however, additional service fees will apply to cover additional costs incurred by AFS. In the event Customer selects Payment Services, upon receipt of Customer's confirmed funds, AFS will disburse monies on Customer's behalf to the Customer's carriers for the applicable Weekly Processing Period. Unless specific price increases are otherwise provided for during the Term in the Service Order Form or elsewhere in these Standard Terms & Conditions and/or applicable Cost Management Details page(s), AFS reserves the right to adjust pricing and fee structures with at least 30-days advance written notice to Customer.

**2.1 Late Fees.** Customers who elect to pay their own carrier invoices via voucher are responsible for paying any and all late payment fees assessed by carriers.

Settlement Customers (i.e., Customers who have AFS pay their carrier invoices on their behalf) are responsible for paying any and all late payment fees assessed by carriers if:

- The Customer instructs AFS to short pay the carrier invoice due to any current audit findings; or
- If Customer funds AFS with insufficient time for AFS to, in turn, pay the carrier invoice on time.

**2.2 LTL Claim Fees for Customers Not Receiving LTL Cost Management Services.** In the event a Customer who is not receiving LTL Cost Management Services elects to request AFS' assistance with individual LTL claims, AFS will manage/file each individual claim for a fee in the amount specified in the Service Order Form ("Non-LTL CM Claim Fee"). In AFS' discretion, the Non-LTL CM Claim Fee may be increased each January 1<sup>st</sup>; however, each such increase will be no more than 7% rounded to the nearest dollar unless otherwise indicated on the Service Order Form. If Customer fails to file LTL claims via AFS electronic means, an additional charge of \$25 per claim will be applied to each LTL claim filed (Note: This \$25 charge will be assessed in addition to the Non-LTL CM Claim Fee. *[Note: LTL Claim Fee terms for Customers receiving LTL Cost Management Services are separately set forth in the LTL Cost Management Service Details]*

**2.3. Carrier Rate Loading Fees.** If Customer is receiving Freight Audit and Pay services from AFS and is not receiving LTL Cost Management Services, a Carrier Rate Loading Fee of \$200 per carrier per update will be applied to the loading of carrier rates unless otherwise provided for in the Service Order Form.<sup>1</sup>

**2.4. EDI/API Fees.** In the event Customer desires EDI/API and other integration services, an EDI/API Fee of \$500 per carrier will be applied. Additional fees (see 2.5) may apply if the scope exceeds standard integrations.<sup>1</sup>

**2.5. Other Technical Support.** In the event Customer requires custom GL Coding beyond standard Inbound/Outbound/3<sup>rd</sup> Party GL Coding, custom business rules coding, or other Technical Support, a fee of \$195 per hour (billable in 15-minute increments) will be applied unless otherwise provided for in the Service Order Form.

**2.6 FAP Pre-Audit and Weekly Processing Fees.** In the event Customer is being charged any of the following FAP Pre-Audit and/or Weekly Processing fees: (a) Weekly Processing Fee; (b) EDI/Paper per bill fees (all modes), and/or (c) EDI setup fees, AFS may in its discretion, increase the applicable transaction fees and/or hourly rates by 4% after the completion of the initial term for the applicable Service and after the completion of each 12-month period thereafter.

**3 Relationship of the Parties.** Customer's execution of the Service Order Form authorizes AFS to act as Customer's agent, to act on Customer's behalf, and to take any and all actions necessary to perform the Services. As applicable to the Services selected by Customer on the Service Order Form, Customer authorizes AFS, without limitation, to: (a) use software and information systems to track packages tendered by or for Customer to each carrier for delivery; (b) contact and collect information from any carrier with respect to Customer's shipments, contracts, invoices, and general history with such carrier; and (c) take any other actions necessary with respect to the performance of this Agreement.

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<sup>1</sup> In AFS' discretion, the Carrier Rate Loading Fee and EDI/API Fees may be increased each January 1<sup>st</sup>; however, each such increase will be no more than 7% rounded to the nearest dollar unless otherwise indicated on the Service Order Form.



Customer agrees to make available to AFS any and all shipping information that AFS deems necessary in order to perform the Services.

**4. Customer Obligations. Software.** Customer agrees that neither it, nor its employees, agents, or independent contractors, will undertake any action, directly or indirectly, to (i) reproduce, alter, modify, in whole or in part, any AFS software Customer is provided or granted access to by AFS, including software that AFS licenses from third party vendors ("AFS Software"); (ii) reverse engineer, in whole or in part, or otherwise attempt to discover the source code, interfaces, or any part of AFS' Software; (iii) sale, grant access to, distribute or transmit, by any means, in whole or in part, AFS' Software; (iv) modify, install or operate AFS' Software other than for the purposes set forth in the Service Order Form; or (v) use AFS' Software, in whole or in part, to design or develop any software that competes, in whole or in part, with AFS' Software. Customer agrees that neither it, nor its employees, agents, or independent contractors will share AFS' Software with any carriers or competitors of AFS or any other third party. In the event the services (including but not limited to Audit Services, Payment Services, and/or CM Services) selected by Customer include rights to access AFS' Software, Customer will have a non-exclusive, non-assignable, and non-ownership right to use AFS' Software as set forth in the applicable Service Details, subject to the terms and conditions set forth in this agreement, which encompasses the Order Form, Terms & Conditions, Service Details, and any additional addenda attached hereto ("Agreement"). **Information.** Customer agrees to provide (or grant access to) information that is necessary for AFS to perform the Services.

**5. Term; Termination.** The length of the Term for each of the Services selected by Customer in the Service Order Form is set forth in the Service Order Form. If Customer has chosen to receive CM Services, additional details regarding the Term, termination, and renewal Terms for those services are set forth in the applicable Service Detail page. If Customer has chosen to receive Audit Services, Payment Services, or Technology Services, upon the completion of the initial Term set forth in the Service Order Form and any Term thereafter, the Term for those three Services will automatically renew for additional 12-month Terms unless either party provides advance written notice to the other party of its intention to terminate the Agreement at the end of the then current Term at least thirty (30) days prior to the end of the then current Term. Either party may terminate Audit Services and Payment Services at any time upon sixty (60) days prior written notice to the other party. Any notifications or correspondence related to this section shall be sent via Certified Mail to AFS Logistics, L.L.C., Attn: Ryan Jarvis, AFS General Counsel, P.O. Box 18170, Shreveport, LA 71138-1170 along with an e-mail copy to [rjarvis@afs.net](mailto:rjarvis@afs.net) with the subject line "Service Termination Request." Upon termination, all invoices and fees owed to AFS by the Customer will be immediately due and payable.

**6. Confidentiality.** Each party agrees to not disclose any confidential information of the other party, including information with respect to such party's business, financial results and projections, trade secrets, proprietary rights, methods, programs, vendors, suppliers, customers, employees or any other similar aspects of the present or future business of such party ("Confidential Information"). Customer's Confidential Information includes, without limitation, Customer's requests for proposals and any non-public information obtained by AFS while performing the Services. AFS' Confidential Information includes, without limitation, carrier pricing, proprietary data analysis tools, sales and operational processes, benchmark and gain-share processes, AFS' Software, and AFS' web related services. Each party agrees to use the Confidential Information solely and exclusively in connection with the Services set forth herein. In the event that the receiving party is required by law, regulation or court order to disclose any Confidential Information, the receiving party agrees to promptly notify the disclosing party of such demand prior to such disclosure and to give the disclosing party a reasonable opportunity to contest such disclosure. Such disclosed information shall remain Confidential Information. Upon the termination of Services herein, each party agrees, upon written request, to promptly return all tangible items containing or relating to the Confidential Information to the disclosing party. Notwithstanding anything herein to the contrary, the parties shall each have the right to retain a copy of the Confidential Information of the other party only to the extent required for legal, regulatory or other governmental compliance purposes and neither party shall be obligated to return or destroy Confidential Information contained in its electronic back-up systems.

**7. Limitations on Liability; Disclaimers.** Customer and AFS shall not be liable to each other or to any other party with respect to the performance of Services provided hereunder for loss of profits, business, data, interruption of business, or for any indirect, special, incidental, or consequential damages arising out of, or in connection with, the performance of this agreement. AFS hereby disclaims and shall not be liable to Customer as to the status of the future relationship between Customer and any carrier.

**8. Other Considerations.** The Service Order Form, the Standard Terms & Conditions, and any attached Service Details, or any other documents expressly referred to herein, including any additional addenda that may subsequently become attached hereto, embody the complete agreement and understanding among the parties and supersede and preempt any prior understandings, agreements, or representations by or among the parties, written or oral, which may have related to the Services subject matter hereof in any way. This Agreement and the rights and obligations hereunder shall not be assignable, in whole or in part, by Customer without AFS' prior written consent. If any provisions of this Agreement shall be held by a court of competent jurisdiction to be contrary to law, the remaining provisions of this Agreement shall remain in full force and effect. This Agreement shall be governed by and construed and interpreted in accordance with the laws of the State of Louisiana, without giving effect to its conflict laws. In the event a legal proceeding or arbitration action, including an action for declaratory relief, is brought to enforce or interpret the provisions of this Agreement, the prevailing party will be entitled to reasonable attorney's fees in addition to any other relief to which that party may be entitled. The attorney's fees may be set by the court or arbitrator(s) hearing the action. This Agreement may be executed in counterparts, each of which shall constitute an original, and all of which shall constitute one and the same instrument.