

AUGUST MOON FARM

USDOT 569784

**TERMS AND CONDITIONS OF SHIPMENT
INCLUDING RATES, CLASSIFICATIONS, RULES,
PRACTICES AND CHARGES**

BY MOTOR VEHICLE IN INTERSTATE OR FOREIGN COMMERCE

EFFECTIVE: March 15, 2008

Issued by:

DANSH, INC.

d.b.a. AUGUST MOON FARM

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PART I -- Scope and Application

1.1 Purpose. This document establishes terms, conditions, rates, classifications, rules, practices and charges applicable to transportation by **Dansh, Inc.** an Oregon corporation doing business as **August Moon Farm** of Cave Junction, Oregon as a common carrier of horses by motor vehicle in interstate or foreign commerce.

1.2 Supersedes and Modification. These Terms and Conditions of Shipment supersede all prior documents, tariffs and other prior statements of terms, conditions, rates and/or charges applicable to transportation by Dansh, Inc. [hereafter referred to as August Moon Farm]. Except as otherwise expressly provided in these Terms and Conditions of Shipment, the terms, conditions, rates and charges established herein control and take precedence over any inconsistent or conflicting provision of any bill of lading or other transit document and can be modified only upon the express written consent of an officer of August Moon Farm.

PART II -- Definitions and Rules of Construction

2.1 Definitions. As used in these Terms and Conditions of Shipment and in Carrier's bill of lading, the words and phrases underlined below have the meaning set forth thereafter.

2.1.1 Agreed Value means the value of an animal as agreed to by the Shipper or Shipper's agent on signing the bill of lading for a Shipment to be the largest amount for which Carrier will be liable in the event of the death of, injury or other damage to, or as the result of delay in the transportation of such animal. The Agreed Value for each animal in such Shipment shall be \$2,000.00.

2.1.2 Beneficial Owner means any person who has an ownership interest in any animal in a Shipment at the time the animal is loaded into Carrier's Van and receives or expects to receive a benefit from the transportation of such Shipment.

2.1.3 Carrier means August Moon Farm, and each other carrier providing any part of the transportation of a Shipment.

2.1.4 Basic Charge means the rate set on the bill of lading applicable to a particular Shipment. Basic Charge can also be referred to as Established Rate.

2.1.5 Livestock means domesticated animals, including horses.

2.1.6 Ordinary Livestock means livestock the transportation of which (if transported in interstate commerce) would be exempt from regulation by the Federal Highway Administration under 49 U.S.C. § 13506(a) (6) (A).

2.1.7 Shipment means one or more animals tendered to Carrier on a single bill of lading for transportation from one or more origins to one or more destinations. If more than one bill of lading form is needed or as a matter of convenience is used to enable all animals comprising the Shipment to be identified, then all such bill of lading forms shall comprise and be deemed a single bill of lading.

2.1.8 Shipper means the person requesting the Carrier's services for a Shipment, all Beneficial Owners of each animal in such Shipment, and all other principals for whom the person requesting Carrier's services for Shipment acts as agent in making such request.

2.1.9 Van means any motor vehicle, portion thereof, or trailer including one or more stalls for the transportation of animals.

2.2 Rules of Construction. As used in this document, unless the context clearly requires otherwise, words importing the singular include the plural, and vice versa; and words importing gender include all genders.

PART III --Carrier's Responsibility and Limitation of Liability

3.1 General Responsibilities of Carrier. The Carrier shall be responsible only for the actual transportation of the animal(s). The Carrier's Basic Charge includes the loading, unloading, handling, feeding, watering and other care of the animal(s), and such extra care as necessary in Carrier's opinion, if no Attendant is provided by Shipper. However, if the Shipment is accompanied by an Attendant(s) provided by Shipper then it shall be the duty and responsibility of such Attendant(s) to care for, load and unload the animal(s). The Carrier, its employees and agents are not liable for injuries or death occurring to animal(s) while said Attendant(s) or their agents assist in the loading or unloading and care of said animals. Shipper and/or the individual receiving said animal(s) shall indemnify the Carrier and its agents for damages to equipment and for injury or death to animal(s) resulting from negligence or willful misconduct on the part of the Shipper, the individual receiving such animal(s) or their Attendants and/or agents. Furthermore, if Shipper's agents or employees at the request of a Shipper or the one receiving said animal(s) assist in the loading or unloading of animal(s), the Shipper and/or the individual receiving said animal(s) shall indemnify the Carrier for damages to equipment and injuries or death to the animal(s) of the Shipper and/or receiver requesting unloading or loading assistance and also to the animal(s) of any other Shipper or receiver occurring in connection therewith.

3.2 Limitation of Liability. CARRIER'S MAXIMUM LIABILITY FOR THE DEATH, INJURY OR LOSS OF ANY KIND OR NATURE SHALL BE LIMITED TO THE AGREED VALUE OF THE ANIMAL OF \$2,000.00.

3.2.1 Shipper shall release and discharge Carrier from all liability from any cause whatsoever, unless such death, injury, or loss shall be caused intentionally or by negligence of Carrier, and in said event, Carrier shall be liable only to the extent of actual damage sustained, but in no event an amount greater than the Agreed Value for the animal(s) in question.

3.2.2 Shipper, or shipper's agent on Shipper's behalf, by signing the bill of lading, acknowledges that horses are unpredictable and specifically, and without limitation, accepts that equine activities, including horse transportation, involve certain inherent risks. Shipper agrees to hold harmless August Moon Farm, its owners and any officers, directors, employees or agents from any claim or claims of injury, death or loss to said animal unless intentionally caused by Carrier. Shipper accepts all risks of loss to said animal and acknowledges he/she is advised to carry his/her own insurance on said animal.

3.2.3 If the Shipper or his/her agent fails to agree to this limitation of liability, and/or fails to sign the bill of lading, the Shipment will not be accepted. If the Shipment is inadvertently accepted by Carrier without a signature by Shipper or his/her agent on the bill of lading, the Carrier's maximum liability will be \$2,000.00 per animal.

3.2.4 When Shipper individually or through its agent signs Carrier's bill of lading, Carrier's maximum liability for each such animal shall be the Agreed Value.

PART IV -- General Terms and Conditions

4.1 Warranties of Shipper. Shipper individually or through Shipper's agent warrants the animals are in all respects fit, healthy and suitable for the intended transportation and that the animals are current on all vaccinations and wormings. When the animal will be crossing international, state or provincial boundaries, Shipper agrees to provide Carrier with all necessary original Coggins test results, veterinary health certificates and brand inspections, where required, at Shipper's expense. Shipper also specifically warrants that Shipper has clear title to said animals and therefore the full right to ship said animals, or has obtained permission from the owner(s) of said animals to arrange shipping of said animals. Shipper also warrants that the animals have no hauling peculiarities except as separately stated on the bill of lading.

4.2 Persons Bound. The provisions contained within these Terms and Conditions of Shipment and Carrier's bill of lading shall enure to the benefit of and be binding upon

the parties hereto, all Beneficial Owners of the property identified herein, and all Carriers handling the Shipment or any part thereof and shall apply to any return or reconsignment of the Shipment. The Shipper (including all Beneficial Owners of the Shipment) and each consignee shall be jointly and severally liable for payment of Carrier's lawful charges.

4.3 Currency. Rates and charges are stated and payable in U.S. dollars and cents.

4.4 Determination of Mileage. Where Carrier's rates are based on the number of miles an animal is transported, mileage shall be determined by Carrier using the most convenient mileage guide available and assuming movement over interstate highways and major roads, after allowing for weather and other variables. The actual number of miles traveled via the Carrier's routing from origin to destination as determined by Carrier will apply unless the Shipper requests transportation via a longer route, in which event the number of miles via the route requested by Shipper shall apply.

4.5 Carrier's Convenience. All Shipments accepted by Carrier will be transported at Carrier's convenience. Except as otherwise agreed in writing between Carrier and Shipper, Carrier makes no warranty, express or implied, any animal will be transported on any particular schedule or will be loaded or delivered at any particular time.

4.6 Limitation of Service. The Carrier is not obligated to transport property for which it does not have suitable or sufficient equipment, nor to accept Shipments except as equipment is available.

4.7 Impractical/Unsafe Operations. Transportation service will not be performed where conditions of roadways, streets, driveways, lanes or premises over which vehicles must operate are such that in Carrier's judgment it is impractical or unsafe to operate. If at any time in the judgment of Carrier it is impractical or unsafe to deliver or to continue transporting a Shipment or any part thereof, Carrier shall make a reasonable effort to notify the Shipper, and upon notification Shipper may elect to reconsign the Shipment or affected part thereof in accordance with Section 5.3 of these Terms and Conditions of Shipment. If after making a reasonable effort Carrier has been unable to provide notification to Shipper as contemplated by this Section 4.7 or if upon notification Shipper fails or declines to reconsign the Shipment or affected part thereof, the Shipment or affected part thereof shall thereupon be deemed to have been tendered for delivery and the provisions of Section 4.18 of these Terms and Conditions of Shipment shall apply.

4.8 Cancellation of Service. When a request for service is placed by Shipper for transportation service, and, due to no fault of Carrier, a cancellation of such request for service is made, Carrier may charge as liquidated damages an amount equal to 10% of the established rate. If said request for cancellation is made after dispatch of vehicle, a charge of \$2.00 per mile (but in no event less than \$200.00) will be assessed and computed from the point of dispatch to the point of origin and return to the point of

dispatch, in addition to the 10% charge previously mentioned. Said charges for cancellation of service may be retained from Shipper's payment.

4.9 Claims. Claims for loss or damage are governed by the provisions of 49 C.F.R. 1005. Claims for duplicate payment and overcharges are governed by the provisions of 49 C.F.R. 1008. As a condition precedent to recovery, claims must be filed in writing with the receiving or delivering Carrier or Carrier issuing the bill of lading, or Carrier on whose line the loss, damage, injury or delay occurred, or Carrier in possession of the property when a loss, damage, injury or delay occurred, within nine months after delivery of the property (or in the case of export traffic, within nine months after delivery to port of export) or, in the case of failure to make delivery, within nine months after a reasonable time for delivery has lapsed. Suits shall be instituted against any Carrier only within two years and one day from the day when notice in writing is given by the Carrier to the claimant that the Carrier has disallowed the claim or any part or parts thereof specified in the notice. Where claims are not filed and suits are not instituted thereon in accordance with the foregoing provision, no Carrier hereunder shall be liable and such claims will not be paid. Any suit instituted against Carrier must be brought in the U.S. District Court in Medford, Oregon. Unless the suit is successful, claimant shall be liable for Carrier's legal and court costs, including costs of expert and other witnesses.

4.10 Detention of Vehicle. When due to no disability, fault or negligence on the part of the Carrier, the loading or unloading of animal(s) is delayed beyond one hour free time, a charge of \$65.00 per hour or fraction thereof, will be assessed after expiration of the one hour free time.

4.10.1 The time shall begin to run upon notification by the driver to the Shipper's or receiver's representative responsible for loading or unloading and shall end upon completion of loading or unloading and receipt by the driver of the signed bill of lading.

4.10.2 This Section 4.10 shall not apply if the stand-by rates set forth in Section 4.16 are applicable.

4.11 Carrier's Established Rates for Transportation. Carrier's Basic Charge (Established Rate) includes transportation of animal(s) from points of origin to points of destination and does not include the loading or unloading of same while en route except for the best interests of the animal(s) or for overnight layovers. Carrier's Basic Charge ranges from \$.90 per mile to \$1.25 per mile depending on distance involved and Shipper's requirements for the animal(s) being transported. Discounts may be available for multiple horse shipments. [For Contract Hauls, see Section 5.] Carrier reserves the right to add a fuel price surcharge during periods of escalating diesel fuel prices—Carrier references its diesel fuel costs to West Coast diesel fuel prices.

4.12 Bill of Lading. When animals are transported subject to the provisions of these Terms and Conditions of Shipment, the acceptance of the use of the Carrier's bill of lading is required. The application of the rates established by Carrier is conditioned upon the use of such bill of lading.

4.13 Shipper's Copy of Bill of Lading. Shipper, individually or through its agent, and Carrier agree that if Shipper or Shipper's agent does not receive a copy of the bill of lading at point of the Shipment's origin, Carrier will provide a copy of the bill of lading to Shipper or Shipper's agent at final destination or mail it to Shipper or Shipper's agent after delivery, upon receipt by Carrier of Shipper or Shipper's agent's written request to do so.

4.14 Conduct and Condition of Animals. Shipper agrees Carrier shall not be responsible for the conduct or acts of the animals to themselves or to each other including but not limited to biting, kicking or smothering, fits, shipping fever, rolling or getting cast in a stall or pen during layover, nor for loss or damage arising from the condition of the animals themselves, or which results from their nature or propensities, which risks are assumed by Shipper. Shipper also agrees to indemnify Carrier against any losses resulting from the conduct and/or condition of Shipper's animals, including damage to other animals, and to reimburse Carrier for any damages to Carrier's Van. This section in particular applies to stallions and other horses who are "bad haulers".

4.15 Import/Export Costs. Where import regulations of the country/state/province of destination or any intermediate country/ state/province require certificate(s) relating to the health of the animal(s) or their transit across boundaries, the cost of any necessary veterinary expense shall be borne by the Shipper and is not included in Carrier's Established Rate. All other charges incidental to international border crossings including broker's fees, customs charges, etc. shall be borne by Shipper and are likewise not included in Carrier's Established Rate. All duties, taxes, imports or levies of any kind payable at the port of destination or any intermediate port, and any expenses properly incurred in relation to the animals after arrival at the port of destination before delivery to the one receiving the animal(s) are payable by the one receiving the animal(s) but the Shipper shall indemnify the Carrier against any such payments which the Carrier shall be required or deem it necessary to make.

4.16 Standby Rates. When Carrier is required by actions or inactions of Shipper or Shipper's agent to delay overnight the departure of a Shipment due to no fault of Carrier, standby rates will apply. Standby rates are the equivalent of applicable driver pay and necessary subsistence, shall be in addition to all other rates applicable to the shipment, and shall be a charge of \$250.00 per 24 hour period of delay or fraction thereof, per Van held over.

4.17 Rejected Shipments. If, for any reason not ascribable to the Carrier, a Shipment is rejected, it may be returned to the point of origin upon order of the Shipper. The rate on the return movement will be calculated as a Contract Haul.

4.18 Redelivery. If a Shipment or part thereof is tendered for delivery and delivery cannot be accomplished through no fault of the Carrier, the Shipment or applicable part thereof and tack associated therewith will be left at the nearest available facility acceptable to Carrier. No further effort will be made to effect delivery, except on request. In the event of redelivery, the rate will be calculated as a Contract Haul. All storage, feed and stable facility charges must be paid by the Shipper.

4.19 Payment Terms. All shipments are prepaid or C.O.D. However if credit is allowed by Carrier, following presentation of a billing statement from Carrier, the person responsible for payment of such charges shall have a credit period of 16 days in which to make payment. Accounts unpaid as of the expiration of the credit period shall be subject to a late fee of 1.5 percent per month or fraction thereof (18 percent per annum) on the unpaid account balance beginning with the day following the last day of such credit period.

4.20 Carrier's Right to Sell Animals. Upon arrival of the animal(s) and tack if any at destination, unless prior credit arrangements are made, Shipper or the person who is to receive said animal(s) shall forthwith receive said animal(s) and tack and pay all outstanding charges due, if not prepaid, and if Shipper or the person to receive said animal(s) fails or refuses to duly receive said animal(s) and tack and pay all charges due, Carrier or a connecting Carrier having said animal(s) and tack in its charge, may, as agent of Shipper, have said animal(s) and tack provided for in some suitable place at the cost and risk of Shipper, and subject to a lien for all freight and other lawful charges including costs of care and storage. Carrier may at any time or times thereafter sell said animal(s) and/or tack or any number of them, at public or private sale, with or without notice, as Carrier may deem necessary, and apply the proceeds arising therefrom, or so much as may be needed for the payment of any charges that may be due Carrier plus any other necessary costs and expenses.

4.21 Collection Costs. In the event Shipper's account is turned over by Carrier for collection, Shipper and Beneficial Owner agree to pay all collection and court costs, legal interest and reasonable attorney fees.

4.22 Severability. In the event any part, portion, term or condition of Carrier's bill of lading or these Terms and Conditions of Shipment shall be held to be unenforceable, the remaining parts, portions, terms or conditions thereof shall nevertheless continue to be valid and enforceable as though the invalid or unenforceable part, portion, term or condition had not been included.

PART V -- Special Services

5.1 Loading in Excess of Capacity. Carrier will not accept loads in excess of capacity of the Van being used.

5.2 Exclusive Use-Contract Haul. When, at the request of Shipper, a Van is used exclusively for the transportation of a Shipment provided by Shipper, the provisions of this Section 5.2 will apply. For Contract Hauls, a Day Rate will be calculated based on the requirements of the Shipper. The minimum Day Rate is \$650.00, plus any out-of-pocket expenses.

5.2.1 If a Day Rate is not calculated, and a Van for the exclusive use of the Shipper is requested, the charge shall be \$1.25 per mile from dispatch point to point of origin, plus \$1.25 per mile from point of origin to point of delivery, plus \$1.25 per mile for return from point of delivery to dispatch point [unless Carrier can arrange a shipment to pick up in the area of the delivery].

5.3 Re-consignment or Diversion. At the request of Shipper, Carrier will attempt to accomplish a re-consignment or diversion of any Shipment unless deemed impractical by Carrier, subject to the following provisions:

5.3.1 Re-consignment or diversion will include a change in destination of Shipment as well as an additional pick up at a receiving point, or a delivery of a Partial Shipment at a destination, not originally scheduled.

5.3.2 Carrier's charges to Shipper requesting re-consignment or diversion will be based upon the distance from point of origin via the point or points of re-consignment or diversion to final destination, plus a charge of \$125.00 for each re-consignment or diversion.

5.3.3 The party requesting re-consignment or diversion shall be responsible for all expenses incurred by the Carrier in an attempt to effect a re-consignment or diversion, regardless of whether Carrier's efforts are successful.

5.3.4 When a change in destination of the Shipment is involved, the new point of destination must be within the scope of Carrier's operations as set forth in Section 1.1.

5.4 Requirement for Box Stall. Should the Shipper or the Carrier deem it necessary for an animal to occupy a "box stall", a "box stall" being defined as the equivalent of two slots (approximately eight feet by eight feet) the Basic Charge (Established Rate) for one animal will be one and one-quarter times the established rate. However, one mare and foal will be subject to a minimum charge of one and one-half times the established rate. Where the Carrier provides one or more box stalls solely for the Carrier's own convenience without regard to the particular requirements of such animal and without request of the Shipper, the provisions of this Section 5.4 shall not apply.

5.5 Stopping in Transit. If a Shipment moving on one bill of lading from one point of origin at one time to one destination is stopped in transit at any point or place at the

request of Shipper or Shipper's agent for the purpose of partial loading or unloading of animals or retrieval of documents, stable equipment, etc., the following provisions apply:

5.5.1 The bill of lading must show the point or points at which the Shipment is to be stopped for partial loading or unloading together with a complete description of the animals to be loaded or unloaded at each point and the name and address of the party to whom each animal is to be delivered. If delivery is made to more than one address in the same city, town or village, each delivery will be considered a separate stop in the application of this section.

5.5.2 The substitution of animals other than those animals originally loaded or the exchange of contents of the load in any manner is prohibited.

5.5.3 The charge for each stop-off, to obtain documents or stable equipment to accompany animals, shall be \$65.00 which charge shall be in addition to all other applicable charges.

5.6 Attendants.

5.6.1 Attendants provided by Shipper or Shipper's agent will be transported without charge, together with their baggage, but in consideration of such free transportation Carrier shall not be responsible other than as a private carrier for any personal injury or death to said attendants or loss of or damage to their belongings. Attendants must ride in the body of the truck and not in the trailer. In consideration of the carriage without charge of an attendant or attendants provided by Shipper, Shipper agrees to indemnify and save harmless Carrier from all demands of every kind, nature and description by reason of personal injury sustained by said attendant(s) whether the same be caused by negligence or otherwise.

5.6.2 Costs for attendants employed by Carrier accompanying and caring for Shipper's animal(s) will be borne by Shipper.

5.6.3 Indemnification of Carrier. Shipper personally and where applicable his/her agent shall indemnify and save harmless Carrier from any and all claims, liabilities and demands of any and every nature arising out of any personal injury or death, or loss or damage of any and every kind or nature sustained by an attendant or attendants requested or supplied by Shipper or Shipper's agent while in, upon or about the Van of Carrier or incurred while acting as attendant for the aforementioned animals.

5.7 Stable Equipment. Carrier's Established Rate includes the transportation without additional charge of usual stable equipment consisting of blankets, tack box, halter, saddle and tack equipment not otherwise specified, not to exceed 15 pounds per animal.

Stable equipment exceeding the above-mentioned weight limit may be accepted for transport with an additional charge of \$50.00 so long as the stable equipment does not exceed the Van's tack accommodation room.