

# ECL AGENCY, LTD. Service Agreement

**ECL AGENCY, LTD. (hereinafter "ECL") shall provide its clients with its services concerning the overseas shipping of goods such as used cars, based on the service agreement (hereinafter "Agreement") below.**

## Article 1 Definition

In the application form for the commencement of transactions (hereinafter "Application Form") and the Agreement, the terms prescribed below shall have the following meanings:

- (a) "Client(s)" shall mean any entity which, based on this Agreement, is provided with ECL's Services, having applied for the same using the Application Form.
- (b) "Services" shall mean all or part of the operation process (to be more specific, this refers to processes such as damage-checks, photo-shooting of the exterior appearance and interior decorations, measurement of radiation levels, repairs, export inspections, car wash and cleaning, storing, necessary procedures such as customs clearing, reservations of shipments, various procedures related to shipment and maritime shipping of goods such as used cars) related to the overseas shipping of goods such as used cars which the Clients requested ECL after their application for the commencement of transactions, and shall include both the main operations and the incidental operations.
- (c) "Terminal Yard" shall mean the storage areas of goods such as used cars which ECL constructed in major domestic seaports.
- (d) "Vehicles, etc. in Trust" shall mean goods entrusted by our Clients such as used cars (including their accessories).
- (e) "Site" shall mean ECL's website which can be accessed via the URL of <http://www.ecl-agency.co.jp/>
- (f) "Main Operations" shall mean the shipment operations, storage operations and radiation measurement operations regarding the Vehicles, etc. in Trust.
- (g) "Incidental Operations" shall mean operations other than the shipment operations, storage operations and radiation measurement operations regarding the Vehicles, etc. in Trust. Additional shooting of photos, investigation of engine numbers and additional loading operations of inner cargo, for instance, fall under this category; and Incidental Operations shall also include, for instance, land carriage in the case of a cargo carrying-out from ECL's Terminal Yard after the cancellation of shipment at the request of our Clients.
- (h) "Incidental Operation Fee" shall mean the fee arising from the carrying out of the Incidental Operations, and it shall accrue apart from the fees accruing from the Main Operations.

## Article 2 Purpose and Application of the Agreement, etc.

2.1 This Agreement shall regulate the terms and conditions regarding the use of the Services between ECL and its Clients.

2.2 Clients shall be deemed as having agreed to the Agreement, by submitting the Application Form to ECL. Please read the Agreement carefully before applying for the Services.

2.3 In the case of any contradiction between the Agreement and the Additional Clause, the Additional Clause shall prevail. For details, please refer to the Additional Clause.

## Article 3 Formation of Individual Agreements

Individual agreements between ECL and its Clients (hereinafter "Individual Agreements") shall be formed by the Client expressing its intention to apply for the Services, as well as the submission of documents required for export procedures (such as invoices, shipping instructions and export cancellations) by Clients. Please note that there are cases where ECL may not be able to accept such applications, depending on the circumstances.

## Article 4 Modifications to the Agreement

4.1 ECL may modify the Agreement anytime without the consent of the Clients.

4.2 The modifications to the Agreement shall become effective from the point when ECL posts the revised Agreement on the Site, and the revised Agreement will be applied to ECL and its Clients thereafter.

## Article 5 Scope of Operation Regarding the Services and the Scope of ECL's Responsibility

5.1 ECL shall provide the Services based on the Clients' requests. Detailed contents of the operations shall be determined by Individual Agreements.

5.2 ECL shall only be responsible for Vehicles, etc.

In Trust during the period from the point of actual delivery of such Vehicles, etc. to the completion of the shipment onto the vessel used for overseas shipping. "The point of actual delivery" here shall mean the point when the Vehicles, etc. in Trust are put in storage at ECL's Terminal Yard.

## Article 6 Payment and Billing

6.1 As for the fees arising from the Main Operations, books will be closed at the end of the month in which the Main Operations concerning the Vehicles, etc. in Trust were provided, or within which the date of completion of the shipment of such Vehicles, etc. belongs; and payments shall be made by the Clients by the end of the following month.

6.2 As for the Incidental Operation Fees, books will be closed at the end of the month within which the date of accrual of the Incidental Operations belongs; and payments shall be made by the Clients by the end of the following month.

6.3 ECL may deem the bank account stated in the documents submitted by the Clients as the Clients' bank account to be used for wire transfers.

6.4 Payments to ECL shall be made in the form of wire transfers in Japanese yen to the savings account separately designated by ECL. Please note that all fees incidental to payments such as transfer fees shall be borne by the Clients.

6.5 In the event that ECL makes a payment to the maritime shipping company on behalf of the Client, regarding the fees related to the shipment of goods, ECL may claim for compensation against the Client for such out-of-pocket payments, regardless of the terms and conditions of transactions between the Client and the consignee.

6.6 In the event that the Client fails to pay the fees and expenses prescribed in Articles 6.1, 6.2 and 6.5 above before the due date for payment, in cases other than force majeure such as natural disasters, the Client must pay the amount calculated at the annual rate of 14.6% regarding such fees and expenses as a delinquency charge, in accordance with the number of days starting from the day after the due date to the date of complete payment.

## Article 7 Exemption for ECL

7.1 ECL shall be exempt from liability in the event that any loss, damage or delay occurs in relation to the Vehicles, etc. in Trust, for the reasons stated below:

- (a) Reasons that are not attributable to ECL such as ignition, corruption, rusting, etc. of the Vehicles, etc. in Trust, acts of the Clients or agents of the Clients, acts of the maritime shipping company, or acts of the consignee;
- (b) Natural disasters, wars, riots, civil wars, amendment/abolishment or enactment of laws and regulations, etc., orders or dispositions by public authorities, administrative guidance, strikes and other industrial actions, and other force majeure; and
- (c) Other reasons or incidents inevitable for ECL, the occurrence of which cannot be avoided even with reasonable care.

7.2 Clients shall bear the costs and expenses such as additional costs accrued concerning the Vehicles, etc. in Trust, arising due to the reasons set forth in Article 7.2 above.

## Article 8 Remarks Concerning the Vehicles, etc. in Trust

ECL will not get involved in any way in the indication of weight, content, volume, quantity, quality, product name, condition, insignia, number or price of the Vehicles, etc. in Trust, nor will ECL bear any responsibility regarding such descriptions or specifications.

## Article 9 Clients' Specifications

9.1 Clients shall ensure to ECL that the specifications of the Vehicles, etc. in Trust which they submit upon delivery to ECL are submitted under their responsibility, and that the contents of such specifications are true and correct.

9.2 Clients must compensate ECL for any and all loss,

damage and expenses incurred by ECL, due to the incorrectness or untruthfulness of the specifications.

## Article 10 Packing, Stowage, etc. by Clients

Clients shall be responsible for any and all loss, damage and injuries arising as a result of inappropriate and inadequate

11.1 If the Vehicles, etc. in Trust have any defects or bear any kind of danger due to their nature, Clients must give to ECL prior notice of any necessary and sufficient content and necessary indications as required by law. Any loss, damage or delay regarding the Vehicles, etc. in Trust and damage incurred by ECL shall be borne by the Clients, regardless of the existence of willful intention or negligence.

11.2 If the Client fails to give the prior notice, etc. prescribed in Article 11.1 above, despite the fact that the Vehicles, etc. in Trust have defects or bear any kind of danger due to its nature, ECL may, at ECL's discretion and judgment, dispose of the Vehicles, etc. in Trust at any time regardless of their location, in ways such as dumping, destruction, detoxification or by other means, without the prior consent of the Client. In such case, any loss, damage or delay incidental to the Vehicles, etc. in Trust and damage incurred by ECL shall be borne by the Clients, regardless of the existence of their willful intention or negligence; and ECL shall not compensate for the disposed Vehicles, etc. in Trust.

11.3 Even in the event that the Client delivers the Vehicles (to be) in Trust in accordance with 11.1, if a reasonable reason which is enough to sufficiently evidence the endangerment by the subject Vehicles, etc. in Trust of vessels, cargos, other goods or any third party arises, ECL may dispose of the Vehicles, etc. in Trust in the same way as in Article 11.2. The Client's responsibilities in such cases shall be the same as set forth in Article 11.2.

## Article 12 Cancellation

If any of the following events occurs to the Client, ECL may immediately cancel the Individual Agreement(s) without any notification, and terminate all of the Services or a part thereof:

- (1) The Client fails to perform all of its duties or a part thereof based on the Agreement, the Additional Clause or Individual Agreement(s);
- (2) The Client has fallen into a state of bank suspension or insolvency;
- (3) The Client has filed or received a petition for the commencement of bankruptcy proceedings, the commencement of civil rehabilitation proceedings or the commencement of corporate reorganization proceedings;
- (4) The Client has passed a resolution of dissolution or merged with another company;
- (5) The Client has had an attachment, provisional attachment, provisional disposition, other compulsory executions, a petition of auction by a third party or a disposition of delinquency regarding taxes and public dues imposed upon it;
- (6) The Client has allowed anti-social forces to be involved in the Client's operations or management, or the Client has used anti-social forces; or
- (7) The Client has engaged in other significantly unfaithful acts.

## Article 13 Acceleration

In agreements with ECL, in the event that any reason for cancellation set forth in Article 12 arises, the Clients shall lose their benefit of time regarding any and all of their duties they owe against ECL at the point of accrual of such reason, and shall immediately pay the full amount of such duties to ECL.

## Article 14 Set-off

When ECL is entitled to a monetary claim against its Client, ECL may carry out a set-off at any time in the same amount with the Client's monetary claim against ECL.

## Article 15 Client's Obligation to Give Notification

- Clients must immediately notify ECL when any of the
- (1) Changes to the address, trade name or title, or the representative;
  - (2) Mergers, company splits, dissolutions or organizational changes;
  - (3) Transfers, take-overs, lending or management assignment of all or part of its business;
  - (4) Abolishment, cutbacks or expansion of business;
  - (5) Decreases in the amount of its stated capital or reserve funds;
  - (6) Any matter that may greatly affect the operation status or the status of assets; or
  - (7) Any matter that may fall under the provisions of Article 12.

## Article 16 Compensation

In the event that ECL inflicts any damage on its Client, due to intentional or negligent non-performance of its obligations prescribed in the Agreement, Additional Clause(s) or Individual Agreement(s), ECL shall be liable to compensate for such damage. The upper limit of the amount of compensation borne by ECL against the Client shall, in any case, be the amount of the Vehicles, etc. in Trust stated in documents such as invoices, drawn up between the Client and third parties such as the consignee.

## Article 17 Assignment of the Services to a Third Party

17.1 ECL may assign all or part of the Services it undertakes, based on arbitrary conditions, to a third party.

17.2 In the event that ECL inflicts any damage on its Client resulting from the intentional or negligent act of a third party commissioned by ECL, the upper limit of the amount of compensation borne by such third party in relation to the Client shall, in any case, be the amount of the Vehicles, etc. in Trust stated in documents such as invoices, drawn up between the Client and third parties such as the consignee.

## Article 18 Detainment and Disposition of Vehicles, etc. in Trust

18.1 In the event that the Client does not pay its debts arising as fees for the Services or other fees arising due to or in relation to the Services (including delinquency charges), ECL may detain the Vehicles, etc. in Trust at the expense of such Vehicles, etc. in Trust.

## Article 19 Jurisdiction

In the event that a dispute arises concerning the Agreement, Additional Clause(s) or Individual Agreement(s), the Tokyo District Court shall have exclusive jurisdiction in the the Vehicles, etc. in Trust by sale, ECL may allocate such fee for its credit against the Client.

## Article 19 Jurisdiction

In the event that a dispute arises concerning the Agreement, Additional Clause(s) or Individual Agreement(s), the Tokyo District Court shall have exclusive jurisdiction in the first instance.

## Article 20 Governing Law and Language

The Agreement, Additional Clause(s) or Individual Agreement(s) shall follow and be construed according to Japanese law. Irrespective of whether translations or briefing papers in English are made, no contradictions or discrepancies between these and the original in Japanese shall affect the Agreement. Additional Clause(s) or Individual Agreement(s) and only the originals in Japanese shall be effective.

## Article 21 Matters not Covered by the Agreement

Matters not covered by this Agreement shall be solved through discussions between ECL and its Clients.

Precautions for Sending Original B/L 1/2

B/L is essential to the handling of documentary bill based on the sales contract between the shipper and consignee. However, since B/L is a security, if a third party that acquired the lost or stolen B/L without fault and in good faith appeared, we are obliged to deliver the cargo to the third party. Therefore, when B/L is lost, certain procedures are required for reissuance. We will send B/L only in case in which you agree with such procedures.

Please note that we accept no liability for any accident caused by sending B/L and that you must not make claim for damage caused by such accident.

In case B/L is lost during transportation due to some kind of accident and you want to reissue the B/L, we reissue it on the condition that you pay the amount equivalent to 100% of the INVOICE VALUE (COMMERCIAL INVOICE) to us no later than a year after the date the vessel arrived at the unloading port. With regard to the deposit, please confirm the following conditions as well.

- 1) If we confirm that, regardless of judicial reason or not, there was no claim for delivery of the cargo or other claims for damage filed against us by the third party within a year after the delivery of the cargo, the deposit shall be refunded to you without interest.
- 2) If, regardless of judicial reason or not, a third party files a claim for delivery of the cargo, or other claims for damage against us, we shall respond to the matter as follows:
  - a) The deposit is applied toward any costs including compensation paid for the third party, judicial costs, and attorneys' fees.

- b) If there is remaining amount after payments including the compensation we are obliged to pay to the third party and all of the costs mentioned above are deducted, the remaining amount shall be refunded to you without interest after the claim by the third party is finally settled.
- c) If the compensation we are obliged to pay for the third party and all of the costs mentioned above exceed the amount of deposit, we shall charge you the amount of difference.
- 3) If our vessel or other properties of us are seized on the ground of delivery of cargo without B/L, we can use the deposit to release the seizure, and, if the deposit is not sufficient, we shall charge you additional deposit we consider appropriate.
- 4) Your responsibilities based on this agreement shall be governed by the laws of Japan, and the Tokyo District Court shall have jurisdiction.

With regard to the sending of B/L, please fully understand the above-mentioned precautions before making a request to us or our contact person.

The method of sending the B/L shall be specified by you. We shall send it in the way specified by you, with transportation cost paid by you.