

# MATERIAL HANDLING

## YOU ARE ENTERING A CONTRACT WHICH LIMITS YOUR POSSIBLE RECOVERY IN CASE OF LOSS OR DAMAGE.

The terms and conditions set forth below become a part of the Contract between FREEMAN and you, the EXHIBITOR. Acceptance of said terms and conditions will be construed when any of the following conditions are met:

- THE MATERIAL HANDLING SERVICE AGREEMENT IS SIGNED; OR
- EXHIBITOR'S MATERIALS ARE DELIVERED TO FREEMAN'S WAREHOUSE OR TO A SHOW OR EXPOSITION SITE FOR WHICH FREEMAN IS THE OFFICIAL SHOW CONTRACTOR; OR
- AN ORDER FOR LABOR AND/OR RENTAL EQUIPMENT IS PLACED BY EXHIBITOR WITH FREEMAN.

**1. DEFINITIONS.** For purposes of this Contract, "FREEMAN" or "The Freeman Companies" means Freeman Decorating Services, Inc., Freeman Decorating Ltd., Freeman Exhibit, AVW-TELAV Inc., Freeman Transportation, Hoffend Xposition, Stage Rigging, Inc., Kerry Technical Services, TFC, Inc., Freeman Electrical Services, and their respective employees, directors, officers, agents, assigns, affiliated companies, and related entities including, but not limited to, any subcontractors FREEMAN may appoint. The term "EXHIBITOR" means the Exhibitor, its employees, agents, representatives, and any Exhibitor Appointed Contractors ("EAC").

**2. PACKAGING AND CRATES.** FREEMAN shall not be responsible for damage to loose or uncrated materials, pad-wrapped or shrink-wrapped materials, glass breakage, concealed damage, carpets in bags or poly, or improperly packed materials. In addition, FREEMAN shall not be responsible for crates and packaging which are unsuitable for handling, in poor condition, or have prior damage. Crates and packaging should be of a design to adequately protect contents for handling by fork-lift and similar means.

**3. EMPTY CONTAINERS.** Empty container labels will be available at the show site service desk. Affixing labels to the containers is the sole responsibility of EXHIBITOR or its representative. All previous labels must be removed or obliterated. FREEMAN assumes no responsibility for:

- Error in the above procedures
- Removal of containers with old empty labels and without FREEMAN labels
- Improper information on empty labels

FREEMAN WILL NOT BE LIABLE FOR LOSS OR DAMAGE TO CRATES AND CONTAINERS OR THEIR CONTENTS WHILE SAME ARE IN EMPTY CONTAINER STORAGE.

**4. INBOUND SHIPMENT(S).** Consistent with trade show industry practices, there may be a lapse of time between the delivery of shipment(s) to the booth and the arrival of EXHIBITOR or its representative, and during such time the materials will be left unattended. FREEMAN WILL NOT BE RESPONSIBLE OR LIABLE FOR ANY LOSS, DAMAGE, THEFT, OR DISAPPEARANCE OF EXHIBITOR'S MATERIALS AFTER SAME HAVE BEEN DELIVERED TO EXHIBITOR'S BOOTH AT SHOW SITE. FREEMAN highly recommends the securing of security services from Facility or Show Management.

**5. OUTBOUND SHIPMENT(S).** Consistent with trade show industry practices, there may be a lapse of time between the completion of packing and the actual pickup of materials from the booths for loading onto a carrier and during such time the materials will be left unattended. FREEMAN WILL NOT BE RESPONSIBLE OR LIABLE FOR ANY LOSS, DAMAGE, THEFT, OR DISAPPEARANCE OF EXHIBITOR'S MATERIALS BEFORE SAME HAVE BEEN PICKED UP FOR RELOADING AT THE CONCLUSION OF THE EVENT. FREEMAN highly recommends the securing of security services from Facility or Show Management. All Material Handling Agreements submitted to FREEMAN by EXHIBITOR will be checked at the time of pickup from the booth and corrections will be made where discrepancies exist between the quantities of items on any form submitted to FREEMAN and the actual count of such items in the booth at the time of pickup.

**6. DELIVERY TO THE CARRIER FOR RELOADING.** FREEMAN assumes no responsibility for loss, damage, theft, or disappearance of EXHIBITOR'S materials after same have been delivered to EXHIBITOR'S appointed carrier, shipper, or agent for transportation after the conclusion of the show. FREEMAN loads the materials onto the carrier under directions from the carrier or driver of that carrier. Any loading onto the carrier will be understood to be under the exclusive supervision and control of the carrier or driver of that carrier. FREEMAN assumes no responsibility for loss, damage, theft or disappearance of EXHIBITOR'S materials that arises out of improperly loaded materials.

**7. DESIGNATED CARRIERS.** In order to expedite removal of materials from show site as required by Show Management and/or the facility, FREEMAN shall have the authority to change the EXHIBITOR designated carrier if that carrier does not pick up the shipment(s) at the appointed time. Where no disposition is made by EXHIBITOR, materials may be taken to a warehouse to await EXHIBITOR'S shipping instructions and EXHIBITOR agrees to be responsible for charges relating to such rerouting and handling. In no event shall FREEMAN be responsible for any loss resulting from such rerouting designation.

**8. FREEMAN'S RESPONSIBILITIES.** FREEMAN shall be responsible only for those services which it directly provides. FREEMAN assumes no responsibility for any persons, parties, or other contracting firms not under FREEMAN'S direct supervision and control. FREEMAN'S performance hereunder is subject to, and FREEMAN shall not be responsible for loss, delay, or damage due to, strike, lockouts, work stoppages, natural elements, vandalism, Act of God, civil disturbances, power failures, explosions, acts of terrorism or war, or for any other cause beyond FREEMAN'S reasonable control, nor for ordinary wear and tear in the handling of materials.

**9. INSURANCE.** It is understood that FREEMAN is not an insurer. Insurance on exhibit materials, if any, shall be obtained by EXHIBITOR in amounts and for perils determined by EXHIBITOR. EXHIBITOR agrees to provide FREEMAN with a release of subrogation to the extent of any insurance settlement received.

**10. CLAIM(S) FOR LOSS.** EXHIBITOR agrees that any and all claims for loss or damage must be submitted to FREEMAN immediately at the show site, and in any case not later than thirty (30) business days after the conclusion of the show or exposition. (For purposes of claim reporting, the "conclusion" of the show shall be construed as the time when EXHIBITOR'S materials are delivered to the carrier for transportation from the show site or from FREEMAN'S warehouse). All claims reported after thirty (30) days will be rejected. In no event shall a suit or action be brought against FREEMAN more than one (1) year after the date of loss or damage occurred.

(a) **PAYMENT FOR SERVICES MAY NOT BE WITHHELD.** In the event of any dispute between the EXHIBITOR and FREEMAN relative to any loss, damage, or claim, EXHIBITOR shall not be entitled to and shall not withhold payment, or any partial payment, due FREEMAN for its services as an offset against the amount of any alleged loss or damage. Any claims against FREEMAN shall be considered a separate transaction and shall be resolved on their own merits.

(b) **MAXIMUM RECOVERY.** If found liable for any loss, FREEMAN'S sole and exclusive MAXIMUM liability for loss or damage to EXHIBITOR'S materials and EXHIBITOR'S sole and exclusive remedy is limited to \$.50 (USD) per pound per article with a maximum liability of \$100.00 (USD) per item, or \$1,500.00 (USD) per shipment whichever is less.

(c) **BREACH OF CONTRACT AND/OR NEGLIGENCE ONLY.** FREEMAN'S liability shall be limited to any loss or damage which results solely from FREEMAN'S NEGLIGENCE in the actual physical handling of the items comprising EXHIBITOR'S shipment(s) OR which results from BREACH OF THIS CONTRACT and not for any other type of loss or damage. In no event shall FREEMAN be liable to the EXHIBITOR or to any other party for special, collateral, exemplary, indirect, incidental, or consequential damages, whether such damages occur either prior or subsequent to, or are alleged as a result of, tortious conduct, failure of the equipment or services of FREEMAN or breach of any of the provisions of this Contract, regardless of the form of action, whether in contract or in tort, including strict liability and negligence, even if FREEMAN has been advised or has notice of the possibility of such damages, or for any damages caused by EXHIBITOR'S failure to perform EXHIBITOR'S responsibilities. Such excluded damages include but are not limited to loss of profits, loss of use, interruption of business or other consequential or indirect economic losses.

**11. DECLARED VALUE.** Declarations of Declared Value are between the EXHIBITOR and the selected Carrier ONLY, and are in no way an extension of FREEMAN'S maximum liability stated herein. FREEMAN will use commercially reasonable efforts to transmit the Declared Value instructions to the selected Carrier; however, FREEMAN WILL NOT BE LIABLE FOR ANY CLAIM ARISING FROM THE TRANSMITTAL OF, OR FAILURE TO TRANSMIT, DECLARED VALUE INSTRUCTIONS TO THE CARRIER NOR FOR FAILURE OF THE CARRIER TO UPHOLD THE DECLARED VALUE OR ANY OTHER TERM OF CARRIAGE.

**12. JURISDICTION / ARBITRATION.** THIS CONTRACT SHALL BE CONSTRUED UNDER THE LAWS OF THE STATE OF TEXAS WITHOUT GIVING EFFECT TO ITS CONFLICT OF LAWS RULES. EXCLUSIVE VENUE FOR ALL DISPUTES ARISING OUT OF OR RELATING TO THIS CONTRACT SHALL RESIDE IN A COURT OF COMPETENT JURISDICTION IN DALLAS COUNTY, TEXAS. Notwithstanding anything herein to the contrary, any controversy or claim arising out of or relating to this Contract, or the breach thereof, shall be settled by arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules and judgment on the award rendered by the arbitrator(s) may be entered by any court having jurisdiction thereof.

**13. INDEMNIFICATION.** EXHIBITOR agrees to indemnify and forever hold harmless FREEMAN and its employees, directors, officers, and agents from and against any and all demands, claims, causes of action, fines, penalties, damages (including consequential), liabilities, judgments, and expenses (including but not limited to reasonable attorneys' fees and investigation costs) on account of personal injury, death, or damage to or loss of property or profits arising out of or contributed to by any of the following:

- EXHIBITOR'S negligent supervision of any labor secured through FREEMAN, or the negligent supervision of such labor by any of EXHIBITOR'S employees, agents, representatives, customers, invitees and/or any Exhibitor Appointed Contractors (EAC);
- EXHIBITOR'S negligence, willful misconduct, or deliberate act, or the negligence, willful misconduct, or deliberate act of EXHIBITOR'S employees, agents, representatives, customers, invitees and/or any Exhibitor Appointed Contractors (EAC) at the show or exposition to which this Contract relates, including but not limited to the misuse, improper use, unauthorized alteration, or negligent handling of FREEMAN'S equipment;
- EXHIBITOR'S violation of Federal, State, County or Local ordinances;
- EXHIBITOR'S violation of Show Regulations and/or Rules as published and set forth by Facility and/or Show Management.

**14. WAIVER & RELEASE.** EXHIBITOR, as a material part of the consideration to FREEMAN for material handling services, waives and releases all claims against FREEMAN with respect to all matters for which FREEMAN has disclaimed liability pursuant to the provisions of this Contract.

**15. SEVERABILITY.** If any provision of this Contract proves to be illegal, invalid, or unenforceable, the remainder of this Contract will not be affected by such finding, and in lieu of each provision of this Contract that is proven to be illegal, invalid, or unenforceable, a provision will be added as part of this Contract as similar in terms to such illegal, invalid, or unenforceable provision as may be possible and be legal, valid, and enforceable.