

**B. ARBITRATION PROCEDURE:** Messenger and Logistics Broker will select an Arbitrator by mutual agreement. Unless Messenger and Logistics Broker mutually agree otherwise, the Arbitrator will be an attorney licensed to practice in the location where the arbitration proceeding will be conducted or a retired federal or state judicial officer who presided in the jurisdiction where the arbitration will be conducted. If for any reason the parties cannot agree to an Arbitrator, either party may apply to a court of competent jurisdiction with authority over the location where the arbitration will be conducted for appointment of a neutral Arbitrator. The court will then appoint an Arbitrator, who will act under this Arbitration Agreement with the same force and effect as if the parties had selected the Arbitrator by mutual agreement. The location of the arbitration proceeding may be no more than 45 miles from the geographic area where Messenger performed his or her employment duties, unless each party to the arbitration agrees in writing otherwise. In arbitration, the parties will have the right to conduct adequate civil discovery, bring dispositive motions, and present witnesses and evidence as needed to present their cases and defenses, and any disputes in this regard will be resolved by the Arbitrator. Either party or the Arbitrator may issue subpoenas to third parties for records or testimony as provided by applicable law.

**C. MAKING A DEMAND FOR ARBITRATION:** A demand for arbitration must be in writing and delivered by hand or first class mail to the other party within the applicable statute of limitations period. Any demand for arbitration made to Logistics Broker must be sent to 36-40 37<sup>th</sup> St Suite 201, Long Island City, NY 11101. The Arbitrator will resolve all disputes regarding the timeliness or propriety of the demand for arbitration.

**D. CLASS ACTION WAIVER:** Both Messenger and Logistics Broker agree to bring any dispute in arbitration on an individual basis only, and not on a class, collective, or private attorney general representative basis. There will be no right or authority for any dispute to be brought, heard or arbitrated as a class, collective, representative or private attorney general action, or as a member in any purported class, collective, representative or private attorney general proceeding, including without limitation pending but not certified class actions ("Class Action Waiver"). Disputes regarding the validity and enforceability of the Class Action Waiver may be resolved only by a civil court of competent jurisdiction and not by an arbitrator. In any case in which (1) the dispute is filed as a class, collective, representative or private attorney general action and (2) a civil court of competent jurisdiction finds all or part of the Class Action Waiver unenforceable, the class, collective, representative and/or private attorney general action to that extent must be litigated in a civil court of competent jurisdiction, but the portion of the Class Action Waiver that is enforceable shall be enforced in arbitration.

**E. ATTORNEYS' FEES AND ARBITRATION COSTS:** Each party will pay the fees for its own attorneys, subject to any remedies to which that party may later be entitled under applicable law. Costs unique to arbitration, including the cost of the Arbitrator and the meeting site ("Arbitration Costs"), will be borne by Messenger and Logistics Broker equally, unless otherwise required by applicable law, as determined by the Arbitrator, and any dispute regarding a party's obligation to pay Arbitration Costs will be determined by the Arbitrator. In the event Messenger contends that, as a matter of law, he or she is not responsible for payment of all or some of the Arbitration Costs, Messenger will have no obligation to pay any portion of the contested Arbitration Costs until, and only if, the Arbitrator determines that Messenger is responsible for such costs. If necessary for arbitration of the dispute, Logistics Broker agrees to cover the amount of the Arbitration Costs contested by Messenger until such time as the Arbitrator determines payment responsibility. If the Arbitrator determines that Messenger is responsible for any amount of the Arbitration Costs already paid by Logistics Broker, Messenger must remit payment of that amount to Logistics Broker within 30 days of the Arbitrator's determination.