
ORIGINAL Tariff No. 100

TITLE PAGE

**LANDAIR TRANSPORT, INC. (“Carrier”)
1 Landair Way (zip 37743)
P.O. Box 938 (zip 37744)
Greeneville, Tennessee**

RULES / ACCESSORIALS TARIFF

TRUCKLOAD SERVICE

**RULES, REGULATIONS AND CLAIMS PROCEDURES
FOR MOTOR CARRIER SERVICES**

BETWEEN

POINTS IN NORTH AMERICA

ALL FEES, SUMS & VALUATIONS STATED IN U.S. DOLLARS

ISSUED August 23, 2018

EFFECTIVE August 23, 2018

ISSUED BY
Landair Transport, Inc. 1 Landair Way
Greeneville, TN 37743

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|---------------------------------------------------------|-----------|-------|
| Stop-Off In Transit: Loading / Unloading .....          | 660 ..... | 16    |
| Out-of-Route/Circuitous Miles .....                     | 665 ..... | 16    |
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**Item 10: APPLICATION OF TARIFF AND BILL OF LADING**

The provisions of this Tariff, as amended, shall apply to services provided by Carrier in interstate, intrastate and/or foreign commerce between points in North America. The provisions of this Tariff may be waived in a written agreement signed by Carrier and a Customer. For purposes of this Tariff, the term "Customer" shall mean any entity responsible for requesting that Carrier provide services governed by this Tariff, any entity responsible for payment to Carrier for such services, or any entity receiving the benefit of such services.

Unless expressly disclaimed by a written agreement signed by Carrier and Customer, this Tariff shall apply to all services provided by Carrier that are otherwise within the scope of this Tariff (including services performed pursuant to a short form rate confirmation or "spot" move agreement which such agreement does not specifically disclaim the provisions of this Tariff) and the terms and conditions of the Standard truckload bill of lading shall apply notwithstanding the use of any other bill of lading or shipping document. If there is a conflict between the terms and conditions of this Tariff and the terms and conditions on any air bill, manifest, label, bill of lading, or other transit documentation, the terms and conditions of this Tariff, as amended, modified, changed, or supplemented, will control.

**Item 20: MILEAGE**

Mileage shall be calculated using the version of Carrier's mileage guide in-effect on the date of pick-up, which is currently PC Miler, Practical Miles- ALK & Associates.

**Item 30: NOTICE AND AMENDMENTS**

Upon written request, Carrier will provide a Customer with copies of all applicable rules circulars and rates.

When this Tariff is amended by revised pages, the cancellation of prior pages will be effected by means of this item. A revised page will not show a cancellation notice for the prior version. A revised page takes effect at 12:01 A.M. Eastern time as of the Effective Date shown thereon, and cancels any and all uncanceled revised or original pages, or uncanceled portions thereof.

**Item 100: RATES AND SCHEDULES**

- a) Rates and schedules may be published in rate catalogues or sheets, on a shipper specific basis or pursuant to a spot market rate quotation. Rates and service quotations are good faith estimates based upon information provided to Carrier, but final rates and service may vary based upon the shipment actually tendered, unknown circumstances, incorrect or incomplete information, and subsequent inclusion of the terms and conditions of this Tariff.
- b) All rates are based on solo transit times unless otherwise noted. If team service is requested or required to legally meet delivery windows, a \$.15 per mile charge will apply.
- c) If refrigerated or protective service is requested, a \$.10 per mile up charge will be assessed with a minimum charge of \$100.00.
- d) In calculating freight charges or mileage, fractions of less than ½ (.5) will be rounded down to the nearest whole number, and fractions of ½ (.5) or greater will be rounded up to the nearest whole number.

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**Item 110: PAYMENT**

Where credit is extended, all freight transportation and related charges are due and payable in full and without offset within twenty-one (21) days of the invoice date. In addition to any other party that may be responsible for payment (e.g., the shipper, Customer, or a third-party "bill-to" payor, etc.), both the consignor and the consignee are liable for Carrier's charges unless, with respect to a "collect" shipment, liability for charges is expressly disclaimed by the consignor on the face of the bill of lading in the space indicated for such disclaimer, if any.

**Item 120: DELINQUENT ACCOUNTS**

Payments received more than 30 days after the date of Carrier's invoice will be assessed a late payment fee equal to \$15 per invoice per month plus interest at a rate of 1.5% of the total freight bill for each 30-day period or portion thereof, from the date of the Carrier's freight bill until the date the payment is received, in addition to all other charges. In any action to recover unpaid freight bills from delinquent accounts, carrier shall be entitled to interest, reimbursement for reasonable attorney's fees, court costs and any related fees associated with the collection or attempted collection of past due bills.

**Item 130: ADDITIONAL COSTS**

Whenever Carrier incurs costs due to Customer requirements, the customer shall be invoiced at 100% of any and all fees, charges, repairs, replacements and/or general expenses associated with those incurred costs.

**Item 140: LIEN RIGHTS**

Carrier shall have a possessory lien on shipments and any proceeds therefrom in its dominion and control for the payment of any amounts due and owing to carrier. In addition, to the extent permitted by applicable law, Carrier will have a general lien on any goods that have come or will come into its possession, and on any proceeds thereof, for any and all charges due and owing to carrier regardless of whether those charges related to the goods or proceeds against which the general lien is enforced.

**Item 150: MINIMUM CHARGE**

Except as otherwise provided, rates are subject to a minimum charge of \$660.00.

**Item 160: APPLICATION OF RATES**

Where applicable, rates are named as being from or to a certain area (I.e. Texas points on and east of US Hwy 281) all points within the entire corporate limits of the cities, towns, or villages divided by the named highway will be charged the applicable rate as being "on" the named highway.

In the determinations of applicable rates, the following order of precedence will be observed:

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1. The applicable rate will be based on the most specific description of commodity (e.g. rates on paper will take precedence over forest products; forest products will take precedence over rates on freight, all kinds, etc.).
2. The applicable rate will be based on the most specific geographic or political jurisdiction of the origin and destination (e.g. rates from Chicago will take precedence over Cook County; and rates from Cook County will take precedence over rates from points in Illinois).
3. Where two or more rates on freight, all kinds could have application to a shipment, the rate which applies from the most specific geographic or political jurisdiction will take precedence (e.g. rates from Chicago will take precedence over rates from Illinois).

In the application of county rates, if a destination city is bisected by two or more counties, the rate to the highest rated county will apply.

**Item 170: TERRITORIAL APPLICATION**

|              |       |                  |       |                       |
|--------------|-------|------------------|-------|-----------------------|
| ALABAMA      | North | 350-362, 367-369 | South | 363-366               |
| CALIFORNIA   | North | 932-966          | South | 900-931               |
| FLORIDA      | North | 320-326          | South | 327-349               |
| GEORGIA      | North | 300-312, 318-319 | South | 313-317               |
| MICHIGAN     | North | 496-499          | South | 480-495               |
| NEW YORK     | East  | 100-127          | West  | 128-149               |
| OREGON       | East  | 977-979          | West  | 970-976               |
| PENNSYLVANIA | East  | 170-196          | West  | 150-169               |
| TENNESSEE    | East  | 373-374, 376-379 | West  | 370-372, 375, 380-385 |
| TEXAS        | East  | 750-767, 770-778 | West  | 768, 769, 779-799     |
| WASHINGTON   | East  | 988-994          | West  | 980-987               |

**Item 180: QUOTES**

Quotes are for informational purposes only. The correct and applicable rates and charges for a shipment shall be those rates and charges published in this tariff, contract rate schedule or spot rate form in effect of the date shipment.

**Item 200: APPLICATION OF ACCESSORIAL CHARGES**

In addition to line haul or base transportation rates, unless otherwise agreed in writing, the accessorial charges and fees set forth herein or otherwise agreed upon by Carrier and Customer shall govern.

**Item 210: LOADING AND UNLOADING**

- e) Carrier will provide “pick-up” at origin, which shall mean collecting freight from a loading site, platform, doorway, or shipping room directly accessible to a highway vehicle. Carrier will likewise “deliver” at destination, which shall mean transporting freight to a platform, doorway, or shipping room directly accessible to a highway vehicle.

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- f) Rates in this Tariff contemplate loading of cargo by the consignor and unloading by the consignee, except that if the Customer, consignor or consignee requests that Carrier furnish outside labor to load or unload, all charges for such outside labor will be passed through to Customer, who will be billed of actual time of outside labor. If the driver or any other Carrier personnel is requested to assist with loading and/or unloading, (includes counting, or tailgating) a charge of \$150.00 for each service will be assessed in addition to all other applicable charges. If an outside service is used to load and/or unload, the total price charged by said outside source will be passed through at cost plus 0 %.
- g) Carrier may accept sealed trailers or containers in Carrier’s discretion. Carrier will have no liability for any shortage from any sealed container, nor with respect to damage caused by improper loading, in any instance where Carrier was not present at the time of loading, regardless of whether the bill of lading or other shipment documentation bears any designation indicating that the shipment was loaded outside of Carrier’s ability to monitor loading. Carrier may break any seal if, in Carrier’s sole discretion, Carrier or the driver believes that the load is unsafe or improperly loaded. Likewise, upon demand by law enforcement personnel, Carrier may break any seal and access any trailer or container. A missing or broken seal shall not affect Carrier’s liability with respect to cargo loss or damage, nor shall it affect the cargo claimant’s burden of proof with respect to cargo loss or damage. A broken or missing seal, in and of itself, is not evidence of damage, nor evidence that a shipment may have been subjected to contamination.
- h) Shipments loaded by the consignor will be properly secured and braced by the consignor. At the request of consignor, or if Carrier determines in its reasonable discretion that blocking and bracing performed by the consignor is insufficient, carrier will perform shoring or blocking services. A charge of \$18.00 per man hour or fraction thereof will be assessed for this service.

**Item 215: PROOF OF DELIVERY**

When carrier is requested to provide a hard copy of the Bill of Lading to accompany each freight bill, a fee of \$15 per copy of Bill of Lading will be charged. In order to avoid the P.O.D. fee, shipper may request an eStat account by going to [estatreq@landairtransport.com](mailto:estatreq@landairtransport.com) for tracing and to retrieve the necessary documents free of charge and/or request email billing and receive P.O.D.’s at "no charge." When an original Bill of Lading is requested, a fee of \$30 will apply.

**Item 220: DETENTION**

- a) When Carrier's vehicles are delayed or detained at premises of consignor or consignee, or other places designated by consignor or consignee for loading or unloading, the following charges will be assessed which will be in addition to all other lawful transportation charges.

| Type of Equipment  | Total “Free Time” Allowance for Loading and Unloading                         | Charge in excess of “Free Time”                  |
|--------------------|-------------------------------------------------------------------------------|--------------------------------------------------|
| Trailer Only       | 24 Hours (assessed during all weekends and holidays as well as business days) | \$75 per 24 hour period. Charge is not prorated. |
| Trailer With Power | 2 Hrs each at origin, destination                                             | \$25.00 per each full 15 minute increment        |

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- b) Time per vehicle shall begin upon arrival of driver to the consignor or consignee facility and end upon completion of loading or unloading and receipt by driver of a signed bill of lading or delivery receipt.
- c) When shipments are stopped for either partial loading or partial unloading service, or both, two hours free time for each stop will be added to the total "Free Time" allowed.
- d) Maximum detention charge in a 24 hour period for a solo driver is \$600 and for a team of drivers is \$1,000.
- e) Trailer Only detention applies when the shipper or consignee is unable to unload within the allotted free time and request the trailer to be dropped. Free time calculation will begin when the power unit is detached (Trailer with Power detention charges will be assessed until the trailer is detached). The charge to pick-up a trailer dropped in this manner is \$1.75 per mile with a minimum charge of \$550, plus applicable fuel surcharge.

**Item 230: FUEL SURCHARGE**

Carrier will use the National DOE base diesel price of \$1.05 per gallon unless otherwise noted. For each \$.02 increase in the National DOE base price of diesel over \$1.05, a \$.005 per mile surcharge will be assessed.

**Emergency Supplemental Fuel Surcharge:** In the event the Petroleum Administration for Defense District 5 ("PADD 5") fuel price exceeds the DOE National average by \$.10 or more per gallon, Landair Transport will initiate an Emergency Supplement Fuel Surcharge. The fuel surcharge will be based on \$.02 increments and will be flat rated on all loads originating in PADD 5. The updated charge per load and PADD map can be found on [www.landairtransport.com](http://www.landairtransport.com) on the first business day of the week.

**Refrigerated Trailer Fuel Surcharge:** Applicable to all temperature controlled loads, Carrier will use National DOE based diesel of \$1.05 per gallon unless otherwise noted. For every increase of \$.02, a \$.00125 (one eighth of 1 cent) per mile surcharge will be assessed or adjusted to cover the fuel used to power refrigerated trailer equipment.

**Item 240: SPECIAL PERMITS OR FEES**

Any fees paid to any Federal, State or Municipal Government or Canadian Authority, or any subdivision thereof for special permits as may be required in connection with such movement will be added at a cost plus 10% of such cost.

In addition, Carrier may impose a fee for shipments moving "in-bond" in accordance with regulations of U.S. Customs and Border Protection, or the Canada Border Services Agency.

**Item 250: TOLLS**

In concert with mileage calculations, a companion tolls calculation software will be used to determine toll charges. Toll charges will be assessed in addition to any and all other lawful transportation and related charges.

**Item 260: TRANS-BORDER FEE: CANADA**

A fee of \$150 will be assessed each time Carrier is required to cross the Canadian/U.S. border.



**Item 270: VEHICLE FURNISHED BUT NOT USED**

When a vehicle is requested and dispatched, but due to no fault of Carrier is not used, a charge of \$300 for a solo operator and \$500 for a team operator shall be assessed in addition to mileage charges from the point of origin to the location of the vehicle at the point where it is recalled or redirected.

**Item 300: CARRIER LIABILITY AND RELEASED VALUE**

- a) Standard of Liability. Carrier's liability for loss, damage, destruction to cargo transported, including loss, damage or destruction due to unreasonable delay by Carrier, shall be that of a motor carrier as set forth in the Carmack Amendment currently codified at 49 U.S.C. § 14706 (Carmack), as amended from time to time, regardless of whether transport is interstate or intrastate, or involves foreign commerce.
- b) Limitations of Liability. Unless a higher value is declared by Customer in accordance with the provisions herein and the additional freight charges applicable to such declaration have been paid, Carrier's liability for loss or damage, including loss or damage due to unreasonable delay shall not exceed the lesser of the actual value of the goods or the amounts stated below:
  - i. Default Limitation of Liability. Unless a different limitation set forth in this Tariff applies, Carrier's liability is limited to the lesser of the cost to repair or replace the goods, or \$2.50 per pound per package subject to a maximum liability of \$100,000 per trailer or conveyance.
  - ii. Limitation of Liability for shipments moving to, from or within Mexico. With respect to goods (including used or reconditioned articles) moving to, from, or within Mexico, and regardless of whether Carrier issues a separate bill of lading which only applies to transportation provided by Carrier outside of Mexico, Carrier's liability is limited to the lesser of the cost to repair or replace the goods, or \$.25 per pound per package subject to a maximum liability of \$3,000 per trailer or conveyance. .
  - iii. Used or Reconditioned Equipment. With respect to used or reconditioned equipment Carrier's liability is limited to the lesser of the cost to repair or replace the goods or. \$1.00 per pound per package subject to a maximum liability of \$50,000 per trailer or conveyance. Regardless of valuation, Carrier's liability is limited to visual surface damage to external parts only and not to the electrical or mechanical condition of the unit, and will not be liable for any claims of diminished value or any other value not specifically set forth herein. Shipments which unknowingly involve used or reconditioned equipment will still be governed by these terms regardless of other terms arranged. Freight will be considered reconditioned freight if it has been in previous service and was later reconditioned, regardless of the percentage or value of the new, unused, or reconditioned parts added during the reconditioning processes.
  - iv. Consignments Containing Food. Limitations applicable to shipments containing Food (as defined in Item 340) are set forth in Item 340.
- c) Declaring values in excess of otherwise applicable limitation.
  - i. Carrier must be notified at the time it agrees to transport cargo that a value in excess of the otherwise applicable limit (as established by the foregoing) will be declared, and the amount that will be declared. The released value shall be valid (meaning the otherwise applicable limitation on Carrier's liability shall apply) unless Carrier has agreed in writing signed by an authorized representative to accept the cargo at the declared value. In order to request such additional liability, the Customer must contact Carrier's customer Service at (423) 821-1212 and make such request. If Carrier agrees to accept the additional liability, Carrier will provide a signed rate confirmation sheet acknowledging Carrier's acceptance of increased liability and reflecting additional charges as mutually agreed. Carrier's driver is not an authorized representative of Carrier for purposes of this provision, meaning that declaration of value on the bill of lading at the time of tender, without complying with the remaining provisions of this Item, is an insufficient

method of declaring value. Acceptance of a load via Electronic Data Interchange (EDI) or other electronic acceptance shall not be deemed to be a writing signed by an authorized representative of Carrier.

- ii. Declared values in excess of \$5.00 per pound per package, or \$250,000 per trailer shall not be accepted, and in the event Customer attempts to declare a value in excess of either such amount, Carrier's liability shall continue to be limited in accordance with the provisions herein to the otherwise applicable limitation.
- d) In no event shall Carrier's liability exceed the lesser of the actual value of the cargo or the declared value.
- e) The value of shipments involving documents (including checks, bonds, stock certificates, or any other negotiable or non-negotiable instrument), records and data records, without limitation as to the type, including but not limited to electronic or paper hard copy, shall be limited to the value of the actual media upon which it is contained. Further, no costs, expenses, or claims of any nature will be assumed or accepted which is associated with the replication, duplication or recreation of lost data or documentation. For example, in the case of paper documents the value shall be limited to the value of the paper.
- f) Regardless of commodity shipped or valuation, all transportation charges must be paid in full before any settlement for a claim for loss or damage will be made. No payor or other party with an interest in a shipment may deduct or offset any cargo loss, damage, or delay claims from any freight charges owed to Carrier. Carrier reserves the right, at its sole discretion, to either credit an account or provide an actual refund for any sums determined to be owed by Carrier.
- g) Carrier's sole liability with respect to, any loss, damage, delay, misdelivery, non-delivery, misinformation, any failure to provide information, or misdelivery of information relating to the shipment, shall be as set forth in this Item. It is the shipper's responsibility to prove actual damages. Exposure to and risk of any loss in excess of the released value provisions or declared value provisions as provided for in this item is assumed by the shipper.

### Item 310: FILING OF CARGO CLAIMS

- a) Claims in writing required. Claims for loss, damage, injury, or delay to cargo must be filed in writing, as provided in subparagraph (b) below, and as otherwise may be required by law, the terms of the bill of lading.
- b) Minimum filing requirements. A communication in writing from a claimant for loss or damage must be filed within nine (9) months after the delivery of the property except that claims for failure to make delivery (or portion thereof) must be filed within nine (9) months from the date delivery should have been made: (1) containing facts sufficient to identify the shipment (or shipments) or property involved, (2) asserting liability for alleged loss, damage, injury, or delay, and (3) making claim for the payment of a specified or determinable amount of money, will be considered as sufficient compliance with the provisions for filing claims embraced in the bill of lading or other contract of carriage.
- c) Documents not constituting claims. Notations of shortage or damage, or both, on freight bill, delivery receipts, or other documents will not be considered by Carrier as sufficient to comply with the minimum claim filing requirements specified in subparagraph (b) above.
- d) Claims filed for uncertain amounts. Whenever a claim is presented against Carrier for an uncertain amount, such as "\$100 more or less," Carrier will determine the condition of the shipment involved at the time of delivery by it, if it was delivered, and will ascertain as nearly as possible the extent, if any, of the loss or damage for which it may be responsible. It will not, however, voluntarily pay a claim under such circumstances unless

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and until a formal notification in writing for a specified or determinable amount of money will have been filed in accordance with the provisions of subparagraph (b) above.

- e) Concealed damage claims. When damage to contents of a shipping container is discovered by the consignee which could not have been determined at the time of delivery, it must be reported by the consignee to Carrier upon discovery and a request for inspection by Carrier's representative made by consignee. Notice of loss or damage and request for inspection may be given by telephone or in person, but in either event must be confirmed in writing by mail or overnight courier.

If more than fifteen (15) days pass between date of delivery of shipment by Carrier and the date of report of loss or damage and subsequent request for inspection by consignee, it shall be the obligation of the consignee to offer reasonable evidence to the carrier's representative when inspection is made that loss or damage was not incurred by the consignee after delivery of shipment by carrier. While awaiting inspection by Carrier, the consignee must hold the shipping container and its contents in the same condition they were in when damage was discovered insofar as it is possible to do so.

- f) Institution of Suits. Suit for loss, damage, injury or delay shall be instituted against Carrier no later than two years and one day from the day when written notice is given by the Carrier to the claimant that Carrier has disallowed all or any part of the claim specified in the notice. Where claims are not filed or suits are not instituted thereon in accordance with the foregoing provisions, Carrier shall not be liable, and such claims will not be paid.

#### **Item 320: INVESTIGATIONS OF CARGO CLAIMS**

Each claim for loss or damage to cargo filed against Carrier in the manner prescribed herein will be promptly and thoroughly investigated.

Carrier reserves the right to require any and all other documentation it deems necessary, in its sole discretion, to investigate any claim. Regardless of the foregoing, each claim will be supported by the original bill of lading, evidence of the freight charges, if any, and either the original invoice, a copy of the original invoice, or an extract made therefrom, certified by the claimant to be true and correct.

For shipments or any part thereof which are not delivered, Carrier reserves the right to require certification from the claimant that the missing cargo has not been received from any other source.

#### **Item 330: ACKNOWLEDGMENT OF CLAIMS**

Carrier will, upon receipt in writing of a proper claim in the manner and required, acknowledge the receipt of such claim in writing to the claimant within 30 days after the date of its receipt by Carrier unless Carrier will have paid or declined such claim in writing within 30 days of the receipt thereof. Carrier will indicate in its acknowledgment to the claimant what, if any, additional documentary evidence or other pertinent information may be required by it to further process the claim as its preliminary examination of the claim as filed, may have revealed.

#### **Item 340: SHIPMENTS CONTAINING FOOD**

Notwithstanding any other provisions of this Tariff, with respect to any food intended for human or animal consumption, including articles used for components thereof ("Food") with respect to which services are provided by

Carrier, the provisions of this section shall apply and supersede to the extent in conflict with any other terms and conditions maintained in this Tariff.

- a) **Notice of Consignments Containing Food.** Any Customer tendering, receiving or otherwise requesting services with respect to any shipment consignment containing Food shall, at the time of the initial request for services with respect to the individual consignment in question is made, provide written notice to Carrier that the consignment contains Food (hereinafter, the “Food Consignment Notice”), which Food Consignment Notice must also include any special instructions or handling requirements applicable to any such consignment, including, but not limited to, any requirements related to condition, design, maintenance or type of transportation equipment; sealing of trailers; cross-contaminant restrictions; segregation/isolation of Food consignments; records relating to equipment (such as prior use or cleaning); temperature range requirements; temperature records (including method of measuring, monitoring and documenting temperature); pre-cooling requirements; required transit-times, etc., (any such instructions, hereinafter the “Specialized Instructions”) regardless of whether such requirements are imposed by private parties or by any applicable law, rule, regulation. Temperature requirements must be stated solely in degrees Fahrenheit. Any such Food Consignment Notice must be provided in writing (including electronic means) at the time of Customer’s initial request for services to which such Food Consignment Notice relates and shall specifically identify the consignment to which it relates. Carrier shall not be bound to comply with any provisions contained in a Food Consignment Notice, including any Specialized Instructions set forth therein, unless Carrier expressly confirms in a writing identifying the specific consignment covered by the Food Consignment Notice, Carrier’s agreement to comply. If Customer tenders a consignment identified in a Food Consignment Notice without receiving such written confirmation from Carrier prior to pick-up, Customer acknowledges and agrees that Carrier shall have no obligation to abide by the Food Consignment Notice, or any Specialized Instructions contained therein. In no event shall any Food Consignment Notice purporting to apply to multiple consignments (including any Food Consignment Notice purporting to apply to any specifically enumerated commodities, any category of commodities, or commodities moving to or from specified locations) be binding on Carrier or otherwise apply to services provided by Carrier, regardless of whether receipt of such general Food Consignment Notice has been confirmed by Carrier.
- b) **Effect of Failure to Provide Required Notice.** If a consignment of Food with respect to which Food Consignment Notice is required pursuant to the provisions of this Tariff is tendered, but Food Consignment Notice is not given and Carrier’s agreement to comply is not confirmed by Carrier in writing in accordance with the provisions of this Tariff, then, notwithstanding any other provision of this Tariff, liability of Carrier arising from or related to cargo loss, damage or destruction, including loss, damage or destruction due to unreasonable delay, shall be limited to \$0.05 per pound per package unless excess value has been declared by Customer in accordance with the requirements of this Tariff. Moreover, if Customer has declared excess valuation with respect to any such consignment, with respect to which notice is required but not provided, notwithstanding the amount of excess value declared, in no event will liability of Carrier exceed \$20,000 per trailer or conveyance.
- c) **Consignments Requiring Temperature Control.** With respect to any consignment for which temperature control service has been requested in a Food Consignment Notice containing Specialized Instructions, in the absence of Carrier’s confirmation of any Specialized Instructions to the contrary, the following terms and conditions will apply to Carrier’s transportation of such commodities: (1) the consignor of the consignment shall ensure that commodities are within appropriate temperature ranges at the time of physical tender to Carrier; (2) the consignor and consignee shall be solely responsible for taking, and maintaining records of, temperature readings at origin and destination respectively and Carrier shall have no responsibility to do so nor to record temperature while in-transit; (3) the consignor shall be solely responsible for ensuring the transporting conveyance is set to appropriate temperature ranges prior to initiation of loading; and (4) upon delivery, temperature readings shall be taken of product itself, not the ambient trailer temperature, and in the event a reading indicates commodities

in one part of the trailer have been subjected to temperatures outside of the agreed upon range, sample readings will be taken of product loaded throughout the entire trailer.

- d) Failure to Comply with Written Instructions. ANY FAILURE OR ALLEGED FAILURE BY CARRIER TO COMPLY WITH SPECIALIZED INSTRUCTIONS PROVIDED AND ACKNOWLEDGED IN ACCORDANCE WITH THE PROVISIONS OF THIS TARIFF SHALL NOT, IN AND OF ITSELF, RESULT IN ANY PRESUMPTION THAT THE CONSIGNMENT IS UNSAFE, CONTAMINATED, ADULTERATED, OR OTHERWISE UNFIT FOR ITS INTENDED PURPOSE. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, IN NO EVENT WILL LACK OF THE ORIGINAL SEAL AT THE TIME OF DELIVERY RESULT IN ANY PRESUMPTION THAT THE CONSIGNMENT IS UNSAFE, CONTAMINATED, ADULTERATED OR OTHERWISE UNFIT FOR ITS INTENDED PURPOSE. ANY DETERMINATION THAT FOOD HAS BEEN RENDERED UNSAFE, CONTAMINATED, ADULTERATED, OR UNFIT FOR ITS INTENDED PURPOSE REQUIRES EXERCISE OF REASONABLE DISCRETION. CUSTOMER CONFIRMS ITS OBLIGATION TO MITIGATE DAMAGES.

#### **Item 350: PROCESSING OF SALVAGE**

Whenever baggage or material, goods, or other property transported by Carrier is damaged or alleged to be damaged and is, as a consequence thereof, not delivered or is rejected or refused upon tender thereof to the owner, consignee, or person entitled to receive such property, Carrier, after giving due notice whenever practicable to do so to the owner and other parties that may have an interest therein, and unless advised to the contrary after giving such notice, will undertake to sell or dispose of such property or by the employment of a competent salvage agent. Carrier will only dispose of the property in a manner that will fairly and equally protect the best interests of all persons having an interest therein. Carrier will make an itemized record sufficient to identify the property involved so as to be able to correlate it to the shipment or transportation involved and claim, if any, filed thereon. Carrier also will assign to each lot of such property a successive lot number and note that lot number on its record of shipment and claim, if any claim is filed thereon.

Whenever disposition of salvage material or goods will be made directly to an agent or employees of Carrier or through a salvage agent or company in which Carrier or one or more of its directors, officers, or managers has any interest, financial or otherwise, Carrier's salvage records will fully reflect the particulars of each transaction or relationship, or both as the case may be.

Upon receipt of a claim on a shipment on which salvage has been processed in the manner hereinbefore prescribed, Carrier will record on its claim file thereon the lot number assigned, the amount of money recovered, if any, from the disposition of such property, and the date of transmittal of such money to the person or persons lawfully entitled to receive the same.

If Carrier does not receive disposition instructions within forty-eight (48) hours of sending its initial notice, Carrier may, in its sole discretion, attempt to issue a second and final confirmed notification. Such second notice shall advise that if carrier does not receive disposition instructions within ten (10) days of that notification, Carrier may offer the shipments for sale at a public auction and Carrier has the right to offer the shipment for sale. If Carrier determines in its sole discretion that the potential for recovery will be prejudiced by such second notice period (e.g., where the goods to be salvaged are perishable), Carrier may shorten the second notice period or forego the second notice altogether. The amount of sale will be applied to the costs of the sale and Carrier's invoice for transportation and other lawful charges. The owner will be responsible for the balance of the charges not covered by the sale of goods. If there is a balance remaining after all charges and expenses are paid, such balance will be paid to the owner of the property sold hereunder, upon written claim and proof of ownership.

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**Item 400: CLAIMS FOR OVERCHARGE, UNDERCHARGE OR DUPLICATE PAYMENT**

- a) "Overcharge" means an overcharge as defined in Section 49 U.S.C. § 14704(b). It also includes duplicate payments and unidentified payments as hereinafter defined when a dispute exists between the parties concerning such charges.
- b) "Duplicate payment" means two or more payments for transporting the same shipment. Where one or more payment is not in the exact amount of the applicable rates and charges, refunds shall be made on the basis of the excess amount over the applicable rates and charges.
- c) "Unidentified payment" means a payment which a carrier has received but which the carrier is unable to match with its open accounts receivable or otherwise identify as being due for the performance of transportation services.
- d) "Claimant" means any shipper or receiver, or its authorized agent, filing a request with a carrier for the refund of an overcharge or duplicate payment.
- e) "Undercharge" means charges for transportation services which are less than those applicable thereto.

**Item 410: FILING, DOCUMENTING, AND PROCESSING CLAIMS**

Claims for overcharge or duplicate payment shall be accompanied by sufficient information to allow Carrier to conduct an investigation and pay or decline the claim within 180 days of the date of the invoice. Claims shall include the name of the claimant, its file number and the amount of the refund sought to be recovered and shall be accompanied by the original freight bill along with all other documents or data in the possession of the claimant which substantiates the basis for the claim. Claims for duplicate payment shall be accompanied by the original freight bill(s) for which charges were paid and by applicable payment information.

If Carrier invoices the shipper, receiver or its authorized agent for charges for transportation services which are less than those applicable to such services, Carrier shall file an undercharge claim within 180 days of the date of the original invoice to the party responsible for payment of the freight charges. Carrier shall provide the amount of the undercharge sought to be recovered and such claim shall be accompanied by a copy of the original freight bill and a corrected freight bill along with all other documents or data substantiating Carrier's claim.

**Item 420: DISPOSITION OF UNIDENTIFIED PAYMENTS, OVERCHARGES OR DUPLICATE PAYMENTS NOT SUPPORTED BY CLAIMS**

If Carrier is not provided sufficient information with which to properly apply a payment, Carrier shall notify the payor of the unidentified payment within 60 days of receipt of the payment and request information which will enable it to identify the payment. If Carrier does not receive the information requested within 90 days from the date of the notice, Carrier may treat the unidentified payment as a payment of freight charges owing to it. Following the 90-day period, the regular claims procedure shall be applicable.

**Item 500: LIABILITIES NOT ASSUMED AND LIMITATION OF LIABILITIES**

CARRIER SHALL NOT BE LIABLE, REGARDLESS OF THE ACTUAL OR ALLEGED NEGLIGENCE OR OTHER WRONGFUL CONDUCT OF CARRIER, ITS EMPLOYEES, CONTRACTORS, OR UTILIZED

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INDIVIDUALS OR BUSINESS ENTITIES, FOR ANY SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, INCLUDING BUT NOT LIMITED TO LOSS OF PROFITS OR INCOME OR DAMAGES DUE TO BUSINESS INTERRUPTION, REGARDLESS OF WHETHER CARRIER HAD KNOWLEDGE THAT SUCH DAMAGES MIGHT BE INCURRED.

BY TENDERING ANY SHIPMENT OF COMMODITIES TO CARRIER, CUSTOMER WARRANTS AND REPRESENTS THAT IT HAS INSPECTED THE CONVEYANCE IN QUESTION AND DETERMINED THAT THE EQUIPMENT IS IN COMPLIANCE WITH ANY APPLICABLE STANDARDS APPLICABLE TO THE COMMODITIES IN QUESTION AND THAT CARRIER IS OTHERWISE, AT THE TIME OF TENDER, IN COMPLIANCE WITH ANY APPLICABLE OBLIGATIONS RELATED TO HANDLING OF THE COMMODITIES. ANY THIRD PARTY MAKING CUSTOMER'S COMMODITIES AVAILABLE FOR LOADING ONTO A CARRIER CONVEYANCE IS FULLY AUTHORIZED TO ACT ON BEHALF OF CUSTOMER WITH RESPECT TO DETERMINING WHETHER THE TENDERED CONVEYANCE IS SUFFICIENT TO MEET CUSTOMER'S REQUIREMENT AND TO OTHERWISE ENSURE CARRIER IS IN COMPLIANCE WITH APPLICABLE OBLIGATIONS. CARRIER SHALL HAVE NO OBLIGATION TO PROVIDE ANY SPECIAL HANDLING OR SERVICES WITH RESPECT TO ANY CONSIGNMENT, INCLUDING ANY CONSIGNMENT CONTAINING FOOD, UNLESS CUSTOMER HAS PROVIDED NOTICE OF SPECIALIZED INSTRUCTIONS IN ACCORDANCE WITH THE PROVISIONS OF THIS TARIFF, AND CARRIER HAS CONFIRMED RECEIPT OF SUCH NOTICE (INCLUDING ANY FOOD CONSIGNMENT NOTICE) IN WRITING AND PHYSICALLY ACCEPTS SUCH CONSIGNMENT FOR TRANSPORTATION. CARRIER IS NOT LIABLE FOR THE EFFECTS OF USE OF ANY TRANSPORTATION EQUIPMENT (INCLUDING PALLETS, TOTES, PACKAGING, ETC.) PROVIDED BY OR UNDER THE CONTROL OF THIRD PARTIES, INCLUDING CUSTOMER.

#### **Item 510: COD SHIPMENTS**

Carrier may, at its option, transport C.O.D. (Collect on Delivery) shipments subject to the following:

1. Shipments may be made by use of a straight bill of lading.
2. Consignor must show in bold lettering and figures and in plain sight on the bill of lading that it covers a C.O.D. Shipment and the amount to be remitted to consignor.
3. Except as otherwise provided, the shipment will not be delivered to consignee until after receipt by the carrier of a money order or cashier's check for the full amount of the shipping charges made payable to the carrier.
4. When specifically authorized in writing on the bill of lading by the consignor (see Note 1), the C.O.D. Shipment will be delivered to consignee at destination upon receipt by the carrier of a check in the amount of the C.O.D. made payable to the consignor. In such event, carrier will assume no responsibility or liability for the amount of the C.O.D. other than delivering the check to the consignor.
5. The amount of the C.O.D. will be remitted to consignor within 7 days after delivery of the shipment to the consignee.
6. COD fees are \$250 or 10% of the amount collected, whichever is greater.

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\*\* Consignor's authorization must be signed by the consignor or its authorized representative.

- f) Carrier's responsibility for C.O.D. payment is limited to the exercise of reasonable care and diligence in forwarding the check or money order to the consignor, or to such other party as may be designated by the consignor as the payee, within 15 business days after receipt by Carrier.
- g) Carrier assumes no liability whatsoever for COD payments that default, without exception or limitation, for any reason whatsoever, including but not limited to those that default due to a lack of funds, credit exceeding established limits, erroneous, forged, counterfeit, stolen or fraudulent checks, drafts, currency, credit card or voucher.

#### **Item 520: FORCE MAJEURE EVENTS**

Carrier shall not be liable for any failure to perform, including failure to timely perform, services under this tariff where such failure is wholly or partially due to an Act of God, War, Fire, Weather, Explosion, Riot, Civil Commotion, Act of Terrorism, Restriction by Government or other Authority, Strikes, Lock Outs, Failure of Suppliers, or to any cause whatsoever which is beyond the direct and exclusive ability of Carrier to control, or which could not be reasonably anticipated by Carrier.

#### **Item 530: APPOINTMENTS**

Carrier is not bound to transport a shipment by a particular appointment schedule, or in time for a particular market, but is responsible to transport a shipment with reasonable dispatch. Carrier will not be liable for late deliveries or unkept appointments unless such late delivery or unkept appointment is beyond Carrier's duty of reasonable dispatch. In no event shall a time quotation be considered a guarantee of delivery time.

#### **Item 540: IMPRACTICABLE OPERATIONS**

Nothing in this tariff shall be construed as making it binding upon Carrier to accept freight from or make delivery to locations to which it is impracticable to operate vehicles, inclusive of performing pickup or delivery services, because of conditions of alleys or streets, because of riots or strikes, conditions typically referred to as Acts of God or Force Majeure events, inclusive of Force Majeure events as defined in that item of this Tariff, local, state, or federal regulations restricting or prohibiting certain vehicle types, commodities, services, or if perceived to constitute a risk to environment, vehicle, cargo, vehicle operators, the general public, or pose a security risk. Further, at its sole discretion, Carrier reserves the right to refuse or reject requests for service, or to return accepted shipments, if it is known or perceived that any of the foregoing may exist or occur. Any applicable service guarantees are rendered null and void in the event any of the foregoing are experienced.

#### **Item 550: LIMITATION OF SIZE AND WEIGHT**

The obligation to accept articles for shipment shall be subject to capacity, type of vehicle, facilities, equipment, and to requirements of laws or ordinances limiting or regulating the transportation of property or the use of vehicles or facilities. Without limiting the foregoing, Carrier is not required to accept for transportation any lading that exceeds 45,000 pounds or which occupies the full visible capacity of the trailer provided.

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**Item 560: WARRANTIES**

CARRIER MAKES NO WARRANTIES, IMPLIED OR OTHER, FOR ANY TRANSPORTATION AND/OR RELATED SERVICES PROVIDED.

**Item 570: NON-WAIVER**

Failure by Carrier to apply or enforce the provisions of its Tariff(s), service guides, standard operating procedures, terms and conditions, or requirements shall not be considered a waiver of its ability to enforce application of such on any past, current or future transportation services provided.

**Item 580: PACKAGING, MARKING AND PAPERWORK**

The “shipper,” not Carrier, is responsible for ensuring compliance with all applicable laws and/or governmental authority relating to packing, marking, labeling, commodity identification, certifications, and all paperwork required for the safe and lawful transportation of its tendered cargo.

**Item 600: HAZARDOUS MATERIALS**

Shipments which contain articles considered hazardous as defined by applicable law or regulation will be subject to an additional charge of \$150 per shipment. Such charge shall be in addition to all other applicable charges. A minimum of 24 hours advance notice must be given to Carrier before tendering such a shipment advising of the consignor, origin, consignee and destination. When special permits are required by federal, state, provincial, or local regulation, the purchase costs of such permits will be paid by or billed to the party responsible for freight charges.

**NOTE:** The bill of lading and shipping order must be clearly marked noting any hazardous materials included in the shipment being tendered to Carrier. Customer must provide the carrier with the proper shipping names, hazardous class and the proper “UN” classification. Carrier and Customer shall operate in conformity with all applicable regulations contained in Title 49, CFR, Parts 100 to 180 insofar as they pertain to the preparation and transportation of Hazardous Materials. Customer will be responsible for the proper packaging, marking, and related paperwork, including Material Data Sheets, and all certifications as required by the DOT relating to all hazardous shipments. Customer will also be responsible for payment of all federal, state, city or county taxes incurred and all fines assessed in the occurrence of any leakage due to the result of improper packaging or improper loading, and any fees, fines or expenses, including administrative and legal fees incurred by Carrier, as a result of its failure to comply with any of the foregoing and/or those as required of a Customer by law. Further, Customer shall assume all liability incident to, arising from, or as a consequence of its failure to comply with any of the foregoing. Customer will indemnify, defend, and hold Carrier harmless from any property damage, loss, injury, death, or other liability, including costs of clean up, disposal, fines, remediation, attorney fees, and related expenses, related to noncompliance with the obligations set forth herein.

**Item 605: CONGESTION FEE**

A charge of \$500 per load will be applied to all shipments that have any or all drops or pick ups in New York City, Burroughs and Long Island, NY. Burroughs zips:100-104, 107-108, 110-119.

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**Item 610: PIER DELIVERIES**

Carrier expenses incurred for pickup or delivery service on shipments involving piers, docks, pier terminals, transit sheds, or wharves, including the loading and/or unloading charges of the longshoremen, stevedores, public loaders, gate passes and all other applicable charges, the charge will be actual costs, plus 30%, subject to a \$100 minimum. Detention will be applied normally.

**Item 615: PALLET EXCHANGE**

If Carrier is required and Carrier if agrees to provide pallets, the following accessorial cost will be assessed per pallet, in addition to the line haul rate and all other applicable charges; the greater of \$10 per pallet or the actual cost per pallet.

**Item 620: RECONSIGNMENT OR DIVERSION**

Shipments may be diverted or reconsigned upon instructions from Customer, and Carrier's applicable prevailing Tariff mileage rates from point of original destination to reconsignment destination will be applied and added to the original shipment mileage charges.

**Item 630: REDELIVERY**

When the Carrier vehicle is capable of making delivery and through no fault of Carrier such delivery cannot be accomplished, a redelivery fee of \$150 plus all other applicable charges (including detention) will be assessed. If redelivery is to a location other than original consignee location, detention charges will accrue as provided for herein until carrier receives instruction to deliver to a new consignee location. An additional charge based upon mileage and vehicle furnished will also be assessed for all miles from the original consignee location to the newly designated consignee location, provided however, that if redelivery is to a location within the confines of the same plant, compound or facility grounds, no additional mileage charges shall apply.

**Item 640: RETURN, REJECTED AND DAMAGED SHIPMENTS**

On shipments or portions thereof which are returned (refused) or rejected, or with respect to shipments which Carrier is unable to deliver due to circumstances beyond Carrier's control, Carrier will return such shipments or portions thereof upon request of the shipper or owner back to the original point of origin. The rate of the return movement of such shipments shall be the same as the outbound movement in effect on the date of return. Return charges will be in addition to all charges applicable for the original shipment prior to the requested return.

**Item 650: SPECIALIZED SERVICES AND/OR EQUIPMENT**

Upon request, Carrier may consider providing special services and/or equipment. Carrier will not be responsible to provide special and/or extra equipment or perform accessorial services if not specifically requested to do so prior to the tender of the shipment with approved pricing. If prior arrangements for specialized services and/or equipment are not made with the carrier, carrier reserves the right to refuse such shipment.

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**Item 660: STOP-OFF IN TRANSIT: LOADING / UNLOADING**

A shipment tendered on one bill of lading or shipping receipt, from one consignor consigned to one consignee, may be stopped in transit at any point or place between the origin and final destination, including, but not limited to, for the purpose or partial loading and/or unloading (for sake of clarity, this Item applies to any stops in transit made at the request, or for the benefit, of the Customer, including stops required to obtain documentation, even if the stop is at a building located in the same campus at a building at which loading or unloading is to occur), subject to the following:

1. As to shipments moving on mileage rates, mileage will be determined by the shortest route via the stop-off point or points from origin to destination in accordance with provisions of Item 100 herein.
2. The bill of lading or shipping order must show the point or points at which the shipment is to be stopped, and if partial loading or unloading it to occur, must also contain a complete description of the kind and quantity of freight to be loaded or unloaded at each point and the name and address of the party to whom each portion is to be delivered.
3. If stops are made at two or more different addresses or structures in the same point (city, town, campus or village), each pickup and/or delivery will be considered a separate stop in the application of this rule.
4. The substitution of other property for that originally loaded or the exchange of contents of the load in any manner is prohibited.
5. The word "stops" or "stop", as used herein, means the stopping for any purpose if requested by, required by, or of the benefit of Customer, excluding the initial loading at origin, the final unloading at destination.
6. The charge for each stop-in-transit for partial loading or unloading exclusive of those at initial origin and final destination is:

|                                   |          |
|-----------------------------------|----------|
| 1st stop off                      | \$150.00 |
| 2nd stop off                      | \$300.00 |
| 3rd stop and each stop thereafter | \$500.00 |

**\*These charges are in addition to any charges applicable in Item**

**Item 665: OUT-OF-ROUTE/CIRCUITOUS MILES**

When out-of-route miles for stops-in-transit exceed the total miles on point-to-point rates, all out-of-route / circuitous miles will be billed at the applicable rate per mile.

**Item 670: STORAGE RIGHTS**

On refused, rejected or other shipments where Carrier is unable to deliver a shipment or part of a shipment to its intended final destination, Carrier's liability as a warehouseman shall begin immediately upon refusal or rejection and Carrier shall be entitled to recover any and all costs in any way associated with the storage of any cargo. At is

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sole option, Carrier may deposit the cargo in a public warehouse or storage facility under the consignee's, and/or shipper's name so that storage fees do not accrue against Carrier.

Carrier liability for loss or damage to cargo is eliminated once cargo is deposited.

**Item 700: SHIPPER BILL OF LADING / AIRWAY BILLS / PAPERWORK**

Bills of Lading and/or paperwork provided by a shipper, broker, forwarder, other carrier, intermediary, or other documents not issued by Carrier, shall act solely as "receipts" for the transfer of custody of cargo only. All terms and conditions of transport shall be pursuant to the Standard Truckload Bill of Lading and applicable tariffs in effect when service is provided.

**Item 710: SUBCONTRACTING RIGHTS**

When necessary to honor service commitments, Carrier may, at its sole discretion, utilize the services of other carrier's or modes of transportation. Carrier's liability to its customer will not change unless agreed upon in writing by Carrier and Customer.

**Item 720: VEHICLE USED TO TRANSPORT CUSTOMER TRAILER**

All such moves are considered to be round-trip moves, even if the Customer trailer is only transported one-way. As Carrier is requested or required to provide power to transport a Customer trailer, charges will be negotiated and approved prior to providing the service.