

PALLETIZED TRUCKING INC. - General Terms and Conditions

1. **APPLICATION.** Each provision of this Rules Tariff shall apply to each transportation agreement entered into by Palletized Trucking Inc. ("Carrier"), regardless of the origin or destination, including interstate or intrastate shipments, unless expressly waived in a signed, written agreement. If there is any discrepancy or conflict between the terms and conditions herein and any terms contained in the bill of lading, including those executed by carrier's personnel and contractors, shipper's terms and conditions, or other document, the terms and conditions herein shall control, unless changes have been made by obtaining written approval by an officer of carrier prior to carrier performing the transportation.
2. **SUBSTITUTED SERVICE.** For its operating convenience, Carrier reserves the right to refer shipments to, and Shipper consents to the use of, Carrier's brokerage entity to provide all or part of given movements. Shipper will not hold Carrier vicariously liable for the actions of the separate freight brokerage entity nor for the actions of any third-party motor carrier. In the event of any claim or loss, Shipper must look solely to the independent motor carrier and its insurance providers.
3. **BILLS OF LADING.** The terms and conditions of Carrier's Bill of Lading shall apply notwithstanding the use by Shipper of any other bill of lading or shipping document. Drivers are not authorized to bind Carrier to, or sign, bills of lading with alternative terms and conditions.
4. **COMMODITY LIMITATIONS.** Carrier does not hold out to transport money, jewelry, manufactured tobacco products, ammunition, objets d'art, currency, documents, items of unusual value, rare metals, or temperature-sensitive goods.
5. **HAZARDOUS MATERIALS.** Shipper will comply with all U.S. DOT requirements governing hazardous materials. Shipper must provide a legible bill of lading and Shipper's certificate with proper Hazmat information and affix any required placards before the shipment is tendered. Failure to comply with these requirements will relieve Carrier of any and all liability for loss or damage directly or indirectly caused to or by the hazardous materials. SHIPPER AGREES TO INDEMNIFY, DEFEND AND HOLD HARMLESS CARRIER AND ITS OFFICERS, EMPLOYEES, AGENTS AND INSURERS, AGAINST ALL CLAIMS, LIABILITIES, LOSSES, FINES, REASONABLE ATTORNEY FEES AND OTHER EXPENSES ARISING OUT OF OR RELATED TO THE RELEASE OF ANY HAZARDOUS MATERIAL, INCLUDING WITHOUT LIMITATION, FINES OR EXPENSES RELATED TO THE REMOVAL OR TREATMENT OF HAZARDOUS MATERIAL OR OTHER REMEDIAL ACTION PERTAINING TO THE HAZARDOUS MATERIAL UNDER FEDERAL OR STATE LAW, IF SHIPPER FAILS TO PROVIDE ADVANCED NOTICE PRIOR TO TENDERING HAZARDOUS MATERIAL TO CARRIER; THE CONTACT, EXPOSURE OR RELEASE RESULTED FROM THE IMPROPER PACKAGING OR LOADING OR OTHER ACTS OR OMISSIONS OF THE SHIPPER, ITS EMPLOYEES OR AGENTS; AND THE CONTACT, EXPOSURE OR RELEASE OCCURRED SUBSEQUENT TO THE TRANSPORT OF THE HAZARDOUS MATERIAL BY CARRIER.
6. **LOADING/UNLOADING.** All shipments shall be loaded by the consignor and unloaded by the consignee. Omission of shipper load and count or "SLC" notation on the bills of lading shall not result in a presumption of Carrier liability for shortage or damage. Rates do not include loading or unloading by Carrier personnel unless expressly agreed to in writing.
7. **SITE ACCESS AND PREPARATION.** Customer shall, at its sole cost, provide Carrier a clear, level and compacted work area and remove all overhead or subsurface obstructions, including utility lines, fencing, tracks or bulkhead defects. Customer shall obtain all route, road, dockage or wharfage permits and pay any associated fees. Carrier may refuse, suspend or reschedule services, and assess standby or cancellation charges, if site conditions are unsafe, unsuitable or do not meet the requirements stated herein. Customer shall supply, at no charge to Carrier, all necessary assist equipment (forklifts, cranes, man-lifts) and on-site storage space for Carrier's equipment for up to one week before and after the project. Unless otherwise agreed in writing, quoted rates assume work will be performed Monday through Friday, daylight hours, excluding recognized holidays; premium rates apply to nights, weekends or holidays.
8. **PACKING OR PACKAGING.** Carrier will not be responsible for shortage on shipments which are banded, strapped, netted, shrink-wrapped or otherwise secured to bins, pallets, platforms or skids when such securing material is found to be intact at the time of unloading by consignee. Carrier will only be responsible for the number of bins, pallets, platforms or skids on such shipments. Carrier shall not be liable for damaged goods not clearly marked fragile or glass. Carrier will not be responsible for the structural integrity or cosmetic condition of the cargo. It is the Shipper's responsibility to ensure the cargo is self-supporting and structurally able to withstand the stresses of transport, including lashing and securement, or to apprise Carrier in advance, including technical drawings, of any special requirements in lifting, handling, blocking, securing, or covering of cargo. Customer is solely responsible for the design, strength and adequacy of all lifting lugs, shipping saddles, cribbing, blocking, tie-down points and any other support devices. Carrier assumes no liability for the adequacy of such devices, whether or not they are supplied by Customer or a third party.
9. **OVERWEIGHT/OVERDIMENSIONAL LOADS.** Shipper shall provide weight and measurement for all shipments. Advance written notification of overweight/overdimensional shipments is required and final pricing and performance may be based upon governmental approval. Any fines or expenses resulting from overweight/overdimensional shipments, in addition to any permit fees, will be included in the invoice and charges to be paid to Carrier. Unless otherwise stated, the following are not included in estimated charges and if incurred will be charged back to Customer at cost plus 15%: Engineering analysis, shoring, or matting of bridges, culverts, or other structures; Sign, signal, or other obstruction raising or removal on haul corridor; Utility company assistance for haul corridor preparation work, and raising or opening of lines; Traffic Control or Flag Person; Engineering reports; Bucket trucks; Cribbing/Saddles/Specialized material for securement. Customer warrants that the final weight and dimensions of the cargo will not vary by more than three percent (3%) from the figures provided to Carrier. Variances in excess of this tolerance constitute incorrect dimensions for purposes of additional billing under this section. IF FOR ANY REASON, THE DIMENSIONS PROVIDED BY SHIPPER ARE INCORRECT, CUSTOMER WILL BE BILLED FOR ANY ADDITIONAL FREIGHT CHARGES INCLUDING BUT NOT LIMITED TO DRAY, WEIGHT, DIMS AND ALL ACCESSORIAL CHARGES.

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10. **CARGO CLAIMS.** Cargo claims for interstate shipments shall be governed by 49 C.F.R. 370, 49 U.S.C. §14706, and Carrier's Bill of Lading. Claims are required in writing within 91 days from the date of delivery or a reasonable time at which delivery should have been accomplished. Written notice of any patent damage to cargo shall be provided to Carrier immediately, and not later than 3 days after delivery. Written notice of latent damage shall be provided to Carrier upon discovery, and, in any event, not later than 15 days after delivery. Any suit to recover loss or damage to cargo must be filed no later than two years and one day after the claim is denied. All other claims must be brought within two years from the date the claim accrues. ALL CLAIMS FOR WHICH PROPER AND TIMELY NOTICE ARE NOT GIVEN ARE DEEMED AUTOMATICALLY WAIVED.
11. **SALVAGE.** If goods are rejected, including overage, Carrier shall have the right to sell or dispose such goods.
12. **PAYMENT OF CHARGES & COLLECTION.** Payment will be due within 30 days of invoice. If charges are to be paid by a party other than the consignor or consignee and such third party fails to pay the charges within 30 days of invoice, the consignor and consignee shall be liable for the charges. Nonrecourse provisions on bills of lading shall not be given effect. Amounts not received within 30 days of invoice date are subject to 1.5% interest per month or the maximum amount allowed by law, whichever is less, beginning on the 31st day after payment was due. In the event Carrier deems it necessary to retain the services of legal counsel to collect any outstanding indebtedness, Shipper shall pay all attorneys' fees, collection service fees, court filing fees and related expenses to collect such outstanding debt.
13. **PAYMENT WITHOUT OFFSET.** Shipper, Consignor and/or Consignee shall pay all charges when due without offset for any cause. If Shipper or its agents offset charges, Shipper and its agents waive their right to any contested cargo claim that is offset against freight charges.
14. **INTERMODAL SHIPMENTS.** Carrier is a signatory to the Uniform Intermodal Interchange Agreement (UIIA). All trailer use and per diem charges incurred will be assessed to Shipper and include an additional administration fee. Carrier is not responsible for trailer use, per diem, claims, theft, or loss of/for equipment dropped at Shipper's facilities.
15. **CHARGES.** Carrier may advance for collection from Shipper, owner or Consignee, any lawful charges that may be associated with the transportation of the freight. Such charges will be paid by the Carrier and billed to the Shipper or Consignee at actual cost plus 15%. Unless otherwise specified, charges related to dockage, wharfage, and terminal charges are the responsibility of the Shipper/Consignee. Contingent upon the cost of fuel current at time of shipment, pricing may be adjusted accordingly by a fuel surcharge.
16. **TRUCK ORDERED NOT USED (TONU), CANCELLATION, ATTEMPTED PICKUP & DELIVERY.** When Carrier is requested to dispatch a vehicle to a point designated by the Shipper, or otherwise reserves or allocates transportation capacity for a shipment, and such vehicle or reserved capacity is not used due to no fault of Carrier, or the shipment is cancelled, postponed, or not tendered with less than two (2) business days' notice prior to the scheduled pickup date, Carrier may assess an attempted pickup charge, Truck Ordered Not Used (TONU) charge, cancellation charge, fuel surcharge, and any applicable accessorial charges. For purposes of this section, Saturdays, Sundays, and recognized holidays shall not constitute business days. If, through no fault of Carrier, a shipment is rejected wholly or in part by Consignee, Shipper shall be responsible for all freight charges as though the shipment had been accepted by Consignee. In addition, the rejected shipment will be returned to the point of origin or other location designated by Shipper, and Shipper shall be responsible for freight charges for return transportation.
17. **RECONSIGNMENT, DIVERSION, and DETENTION.** Shipments re-consigned or diverted while in transit may be subject to additional charges in accordance with Carrier's rates and/or rate sheets. Unless otherwise indicated, Carrier provides for two hours free time for loading and two hours free time for unloading. Detention charges will accrue after this free time has expired and will be invoiced at an hourly rate. If Carrier reports to site and due to conditions beyond Carrier's control, cannot proceed with its work, Shipper will be charged a full workday. Weekend, holiday or permit-, weather-, or force-majeure-related lay-ups beyond Carrier control will be billed at a standby rate of \$1,000 per truck per calendar day, in addition to detention charges.
18. **LIEN FOR FREIGHT CHARGES.** Carrier shall have a general and possessory lien on shipments in its dominion and control for the payment of freight charges past and present.
19. **LIMITATION OF CARRIER LIABILITY.**
 - a. **CARRIER WILL NOT BE LIABLE TO THE OWNER OF PROPERTY FOR LOSS OR DELAY CAUSED BY** (1) an act of default of the Shipper, owner or consignee; (2) an Act of God, the public enemy, authority of law, quarantine, embargo, riot, strike, perils of navigation, or hazard and danger incident to a state of war; (3) any act of any third party motor carrier; (4) any act of any affiliated or unaffiliated freight broker; (5) freezing or spoiling of any perishable goods or property or for natural shrinkage; (6) hidden or concealed damage; or (7) inadvertent damage to property or cargo at origin, during transit, or destination due to the activities, dimensions, or other characteristics of the transportation equipment, cargo, or uncontrollable environment. Carrier is not bound to transport a shipment by a particular schedule or in time for a particular market, but is responsible to transport a shipment with reasonable dispatch, as that term is defined at common law.
 - b. Notwithstanding any other provision in these terms and conditions, in no event shall carrier's liability for cargo loss or damage exceed the lesser of those set out in this rule tariff or the maximum set forth in any through bill of lading or otherwise agreed to between the shipper (or beneficial owner) and the party which retains carrier's services.
 - c. **RELEASE VALUE.** Cargo is released to, the lesser of, a maximum value of \$2.50 per pound or \$100,000 per shipment, and Carrier shall not be liable for loss or damage to cargo in excess of such released value unless (1) Shipper declares an excess value in writing by requesting excess cargo coverage, (2) receives acknowledgement of declared value from Carrier, and (3) complies with the provisions expressly

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provided in Carrier's rules tariff and terms and conditions. In no event will Carrier's liability for loss or damage to cargo exceed \$1,000,000, unless Carrier obtains excess insurance coverage for the increased value, in which case Carrier's liability shall not exceed Carrier's insurance coverage available for the shipment; proof of such coverage shall be made available upon request. In no event shall liability be greater than the actual value of lost or damaged articles less salvage. **DRIVERS ARE NOT AUTHORIZED TO AGREE TO HIGHER RELEASE VALUE.** Shipper may obtain rates for shipments with a higher release value than those indicated above by calling Carrier.

- d. **INADVERTENCE CLAUSE.** If a Shipper declares a value exceeding \$100,000 per truckload, without obtaining written approval from Carrier, the shipment will not be accepted, but if the shipment is inadvertently accepted, it will be considered as being released to a maximum value of \$100,000 per shipment, and the shipment will move subject to such limitation of liability. **DRIVERS ARE NOT AUTHORIZED TO AGREE TO HIGHER RELEASE VALUE.**
 - e. **SPECIAL AND CONSEQUENTIAL DAMAGES.** Carrier shall not be liable for special, incidental, indirect or consequential damages (including without limitation, lost profits or business opportunity, attorney fees or punitive and exemplary damages) under any circumstances.
 - f. **MEXICAN SHIPMENTS.** Carrier assumes no cargo loss responsibility for shortage or damage to shipments while in the Republic of Mexico. In the event it is determined, that Carrier is liable for loss, damage or delay occurring in the Republic of Mexico, Carrier's maximum liability shall be the rate affixed under the laws of the Republic of Mexico for domestic shipments within that country.
 - g. **HIGH-VALUE CARGO.** For heavy or super-load movements Customer releases Carrier from liability for loss of or damage to cargo in excess of one million dollars (US \$1,000,000), unless excess cargo insurance is purchased, in which case, the limit shall be equal to the amount acquired by Carrier. Should Customer elect to insure values above this amount, Customer shall name Carrier as an additional insured and cause its insurer to waive subrogation against Carrier to the extent of such excess value.
 - h. **DAMAGE TO CARRIER EQUIPMENT.** Customer shall reimburse Carrier for the repair or replacement cost of Carrier's equipment damaged during the performance of services, unless such damage is caused solely by the negligence of Carrier.
 - i. **LOSS-OF-USE AND LIQUIDATED DAMAGES WAIVER.** Customer waives any claim for loss of use, lost profits, liquidated or consequential damages arising out of delay, loss or damage to cargo, even if caused in whole or in part by Carrier's negligence.
 - j. **FORCE MAJEURE.** Delays caused by fire, weather, strikes, governmental acts, permit processing, natural disasters or other force-majeure events are at Customer's risk and subject to standby charges under §17.
20. **VENUE / JURISDICTION.** This agreement shall be construed to have been entered in Harris County, Texas and performable in Harris County, Texas. All parties consent to the jurisdiction of Texas and to venue in Harris County, Texas. It is expressly acknowledged and agreed that any suit related to Carrier's services or these terms and conditions shall be filed in the appropriate state or federal court in Harris County, Texas.
21. **ENTIRE AGREEMENT.** These terms and conditions and Carrier's Bill of Lading constitute the entire contract between Carrier and Shipper, and only an Officer of Carrier has authority to alter, modify or waive any provision herein, excepting that the rate stated may be modified by Carrier to conform to the services Carrier provides and/or Carrier's general rate schedule which is subject to change.
22. **CONFIDENTIALITY.** Each party shall keep confidential and shall not disclose to any third party, without prior written consent, any trade secrets, drawings, calculations, rates or proprietary information received from the other party in connection with the services.
23. **ASSIGNMENT.** Shipper may not assign or transfer any right or obligation under these terms and conditions without the prior written consent of Carrier.
24. **SEVERABILITY.** If any provision of these terms and conditions is held illegal, invalid or unenforceable, that provision shall be severed and the remaining provisions shall remain in full force and effect.