

**RED CLASSIC TRANSIT, LLC  
("Carrier")**

**TERMS AND CONDITIONS  
OF  
MOTOR CARRIER TRANSPORTATION SERVICE**

**BETWEEN**

**POINTS IN THE UNITED STATES OF AMERICA**

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

**THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THE CLAUSES HEREOF WHICH EXCLUDE OR LIMIT CARRIER'S LIABILITY, AND THOSE WHICH REQUIRE THE CUSTOMER TO INDEMNIFY CARRIER IN CERTAIN CIRCUMSTANCES. NOTICE IS HEREBY GIVEN THAT NO PERSON, OTHER THAN AN OFFICER OR DIRECTOR OF CARRIER, HAS OR WILL BE GIVEN AUTHORITY TO AGREE TO ANY VARIATION, CANCELLATION, OR WAIVER OF THESE TERMS AND CONDITIONS.**

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**Item 10: APPLICATION OF TERMS AND CONDITIONS**

These Terms and Conditions of Motor Carrier Transportation Service (the “Terms and Conditions”) apply to Carrier’s provision of motor carrier transportation with respect to cargo moving to, from and between points in the United States for Customer (the “Services”). For purposes of these Terms and Conditions, “Customer” shall mean the shipper, consignor or consignee of goods with respect to which Services are provided, the owner of the goods (including any packaging, containers or equipment) to which any business conducted under these Terms and Conditions relates and any other person who is or may become interested in them, as well as any person at whose request or on whose behalf the Company undertakes any Services.

Any terms and conditions in a document exchanged between the parties or maintained by Customer other than these Terms and Conditions, as revised from time to time, shall not apply to any Services and shall not be binding on or applicable to Carrier unless set forth in a separate transportation contract negotiated between and signed in writing by Carrier and Customer.

Carrier and Customer represent and warrant that their relationship is that of independent contractors and as between the parties to these Terms and Conditions, that their respective employees shall be under their respective exclusive management and control. Nothing in these Terms and Conditions shall be deemed to require Carrier to provide Services upon request of Customer and Carrier reserves the right to accept or decline, in its sole discretion, any particular request for Services.

Pursuant to 49 U.S.C. § 14101(b)(1), Carrier and Customer expressly waive any and all rights and remedies provided for under Part B of Subtitle IV to Title 49 of the United States Code, and the regulations promulgated thereunder, to the extent such rights and remedies conflict with the provisions of these Terms and Conditions.

Carrier may revise these Terms and Conditions at any time. Revised Terms and Conditions will be posted on Carrier’s website at [www.red-classic.com](http://www.red-classic.com) and will take effect at 12:01 A.M. Eastern Time as of the effective date shown on the revised Terms and Conditions.

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**Item 20: COMPLIANCE WITH LAW**

Carrier and Customer shall each comply with any and all laws, rules and regulations applicable to their respective operations and businesses and any Services provided under these Terms and Conditions.

Carrier is duly and legally qualified to operate as a motor carrier and to provide the Services contemplated herein.

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**Item 30: CUSTOMER WARRANTIES AND RESPONSIBILITIES**

Customer represents and warrants that it is the owner of the cargo or is otherwise lawfully authorized to tender the cargo in question to Carrier and that all descriptions of the cargo are complete, accurate, and include all information required by applicable law, rules or regulation.

Customer will not tender or attempt to tender any consignment containing any waste, any goods of a noxious, dangerous, hazardous or flammable or explosive nature, or any goods likely to cause damage (each a “Hazardous Substance”), unless Carrier has given express written consent to accept such cargo in response to a written request for service by Customer which request specifically identifies the hazardous or dangerous nature of the potential cargo and risks related thereto. If Customer tenders for transportation cargo designated as or containing any Hazardous Substance, Customer (i) shall be solely responsible for all unloading charges, fees and expenses, (ii) shall be solely responsible for trailer clean-up charges, plus any trailer detention charges, and (iii) will defend, indemnify and hold harmless Carrier and its affiliates, subsidiaries, members, managers, employees, successors and assigns, from any damage, injury, cost, suit, legal action or loss resulting from or related to such Hazardous Substance.

Customer warrants that it will ensure all goods tendered to Carrier will be, prior to such goods coming into the possession of Carrier, (i) properly and sufficiently prepared, packed, packaged, stowed and labeled and/or marked for normal handling, including any special handling requested by the Customer if applicable, and (ii) that the goods will be properly loaded in a suitable transport unit in suitable condition to carry the goods.

Carrier shall have the right to inspect any shipments tendered by Customer, and may reject any shipments which are not properly and sufficiently prepared, packed, packaged, stowed, and labeled, marked, or otherwise secured for transportation. Except where Carrier has expressly accepted special instructions in writing, and has issued advanced written acknowledgement of its acceptance thereof, Customer warrants that: (i) the consignor shall be responsible for loading, blocking and bracing the shipment in such proper and timely manner to prevent shifting of the shipment during normal transportation and to comply with highway weight limits and (ii) consignee will unload shipments in a timely manner and within free time allowed by the Carrier or other equipment owner. Detention beyond allowed free time may cause assessment of additional charges.

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#### **Item 40: SHIPMENT DOCUMENTATION**

In no event shall any terms or conditions of any bill of lading, cargo receipt, proof of delivery or other shipment-specific documentation relating to a shipment apply to any Services provided by Carrier or otherwise be binding on Carrier. Any bill of lading issued by Customer shall constitute a delivery receipt only. Further, drivers of Carriers are not authorized to and cannot vary the provisions of these Terms and Conditions by signing or accepting any bill of lading, receipt, or other form of freight receipt.

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#### **Item 100: RATES**

In the absence of Customer-specific pricing signed by Customer and Carrier, the rates charged by Carrier and paid by Customer will be as set forth in rate catalogues or sheets maintained by Carrier. Customer-specific pricing may likewise be set forth in rate catalogues or sheets that are signed by Carrier and Customer, or pursuant to a spot market rate quotation provided by Carrier to Customer.

Carrier shall be permitted to rely upon the information provided to it by Customer, and Carrier has no obligation to verify the veracity or completeness of such information. Rates and service quotations are good faith estimates based upon information provided to Carrier, but final rates and services may vary, in Carrier's sole discretion, based upon the cargo actually tendered, unknown circumstances, incorrect or incomplete information, and additional services provided by Carrier not contemplated at the time of tender. If any information provided by Customer is inaccurate or incomplete, Customer acknowledges and agrees that agreed upon rates may, in Carrier's sole discretion, be revised to reflect the goods actually tendered.

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#### **Item 110: MILEAGE**

If Carrier's rates are based on mileage, mileage shall be calculated using predetermined mileage as negotiated or, if none, via the mileage guide (including version) used by Carrier as of the date the goods in question are physically tendered to Carrier hereunder.

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#### **Item 120: ACCESSORIAL SERVICES**

Customer shall also be responsible for additional charges for services that were not anticipated by or which were not otherwise included in the rate quoted by Carrier to Customer, including, but not limited to, accessorial charges as set forth in Appendix "A" hereto, which may be amended from time to time in Carrier's sole discretion.

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#### **Item 130: PAYMENT**

Customer will pay in full the applicable rates and charges, without offset, within fifteen (15) days of receiving an invoice from Carrier, with interest accruing monthly at a rate which shall be the lesser of one percent (1%) per month on any unpaid balance, or the maximum amount permitted under applicable law. Customer shall also be liable for any expenses, including reasonable attorney fees and collection costs/commissions, Carrier incurs in collecting its rates and charges arising from Services provided to Customer. In no event will Customer remit payment to any third-party with respect to Services provided by Carrier and any such payment will not relieve Customer of its payment obligations to Carrier.

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**Item 140: SUPPORTING DOCUMENTS**

Unless expressly agreed to in writing by Carrier prior to the date on which the Services in question are performed, Carrier shall have no obligation to provide any proof of delivery or other documentation with its invoice evidencing the provision of Services, and failure to provide such documentation shall not relieve Customer of its payment obligations hereunder.

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**Item 150: UNDERCHARGE AND OVERCHARGE CLAIMS**

The time limit for Customer or Carrier to file initial claims for alleged undercharges or overcharges related to Services under these Terms and Conditions shall be one hundred and twenty (120) days from the date of delivery of the shipment. Failure to file a claim challenging initial charges within said one hundred and twenty (120)-day period shall forever bar any action at law for recovery of same. Any action at law by Carrier or Customer to collect alleged undercharges or overcharges with respect to Services provided under these Terms and Conditions shall be commenced not later than eighteen (18) months after delivery of the shipment. Expiration of said eighteen (18) month term shall be a complete and absolute defense against any such claim, regardless of any extenuating or mitigating circumstances or excuses of any nature whatsoever.

Claims by Customer for overcharge or duplicate payment shall be accompanied by sufficient information to allow Carrier to conduct an investigation and pay, decline, or offer to settle the claim. 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 evidence of Customer's payment of the same.

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**Item 200: LIABILITY OF CARRIER FOR CARGO LOSS AND DAMAGE**

Carrier shall have no liability for cargo loss, damage, or shortage except to the extent such loss, damage, or shortage is directly and proximately caused by Carrier's negligent acts or omissions, in which case, Carrier's liability shall be limited to the lesser of: (i) the replacement cost of the goods lost, damaged, or short; or (ii) the charges assessed by Carrier and paid by Customer with respect to the Services involving such goods. Provided, however, that Carrier's maximum liability for loss, damage, or shortage of cargo shall be limited to \$100,000 per shipment. In all instances, Carrier's liability, if any, will be offset by a credit for salvage value with respect to any damaged cargo.

Carrier shall be under no obligation to provide service in accordance with any set pick-up or delivery schedule. Carrier's sole obligation is to provide services with reasonable dispatch. In no event will Carrier have any liability with respect to any delay or alleged delay of any shipment, except to the extent Carrier's failure to exercise reasonable dispatch results in a delay which causes actual loss or damage to the cargo. In such instance, Carrier's liability for loss or damage to the cargo shall be limited as set forth in the preceding paragraph.

It will be Customer's responsibility to insure product in-transit. Customer acknowledges that, for any shipment, if Customer wishes to declare excess value higher than the Carrier's limitation as set forth herein, the parties must agree thereto in writing prior to Customer's tender of such shipment to Carrier, and Customer acknowledges that such shipment will be subject to additional charges, in Carrier's sole discretion.

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**Item 210: CLAIM FILING AND PROCESSING - CARGO LOSS AND DAMAGE**

Customer must submit to Carrier any claim for cargo loss, damage, or shortage, within ninety (90) days of the date of delivery. Any such claim must be in writing and: (i) contain facts sufficient to identify the shipment (or shipments) or property involved; (ii) be fully supported by all relevant documents, including, but not limited to, the signed delivery receipt; (iii) assert the nature and cause of, and Carrier's alleged liability for, the alleged loss, damage, or shortage; and (iv) make claim for the payment of a specified or determinable amount of money. Failure to do so will result in an absolute bar to any such claim and will relieve Carrier of any and all liability with respect thereto.

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. Notations of shortage or damage, or both, on freight bills, delivery receipts, or other documents will not be sufficient to comply with the minimum claim filing requirements specified above.

If no shortage or damage is indicated on the bill of lading or delivery receipt, and more than fifteen (15) days pass between date of delivery and the date of report of loss or damage, there will be a presumption that loss or damage occurred subsequent to delivery and it shall be the obligation of the Customer to offer reasonable evidence that loss or damage occurred prior to delivery.

Carrier shall pay, dispute, or offer to settle all cargo claims filed against it within one hundred twenty (120) days of receipt. Notwithstanding the above, all transportation charges must be paid in full before any settlement for a claim for loss or damage will be made. No Customer, 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.

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#### **Item 220: COMMENCING LEGAL ACTION RELATED TO CARGO LOSS AND DAMAGE**

Any lawsuit or other legal action arising from cargo loss, damage or delay must be commenced against Carrier within eighteen (18) months of denial of all or any part of such claim. Customer acknowledges and agrees that the sole liability of Carrier with respect to loss, damage or delay to cargo shall be as set forth in these Terms and Conditions.

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#### **Item 300: LIABILITY LIMITATIONS AND WARRANTIES**

IN NO EVENT SHALL EITHER PARTY BE RESPONSIBLE FOR ANY PUNITIVE, INCIDENTAL, EXEMPLARY, SPECIAL OR CONSEQUENTIAL DAMAGES REGARDLESS OF WHETHER THE PARTY TO BE CHARGED HAD NOTICE OF THE POSSIBILITY OF SUCH DAMAGES. THE TOTAL LIABILITY OF CARRIER WITH RESPECT TO ANY CLAIMS OR DAMAGES ARISING FROM OR RELATED TO SERVICES PROVIDED PURSUANT TO THESE TERMS AND CONDITIONS WILL BE LIMITED TO THE AMOUNT CHARGED TO CUSTOMER BY CARRIER FOR THE SERVICES SPECIFICALLY GIVING RISE TO SUCH CLAIMS OR DAMAGES; PROVIDED, HOWEVER, THAT CARRIER'S MAXIMUM LIABILITY FOR CLAIMS OF LOSS, DAMAGE, OR SHORTAGE OF CARGO SHALL BE LIMITED TO \$100,000 PER SHIPMENT.

EXCEPT AS EXPRESSLY SET FORTH HEREIN, THE SERVICES ARE PROVIDED "AS IS" AND "AS AVAILABLE," WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, WARRANTIES AS TO WORKMANSHIP OR FITNESS FOR A PARTICULAR PURPOSE.

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#### **Item 310: INDEMNITIES**

EXCEPT TO THE EXTENT INJURY, DAMAGE OR LOSS IS CAUSED BY THE NEGLIGENCE OR WILLFUL MISCONDUCT OF CARRIER, CUSTOMER SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS CARRIER, ITS AFFILIATES, SUBSIDIARIES, OFFICERS, EMPLOYEES, AND AGENTS (THE "INDEMNIFIED PARTIES"), FROM AND AGAINST ANY AND ALL CLAIMS, LOSSES, DAMAGES, LIABILITIES, ACTIONS, SUITS, FINES, JUDGMENTS, AND PENALTIES (INCLUDING THE COST OF DEFENSE, SETTLEMENT, AND REASONABLE ATTORNEY FEES) ARISING FROM OR RELATED TO: (i) BREACH BY CUSTOMER OF THESE TERMS AND CONDITIONS; (ii) THE NEGLIGENCE OR OTHER WRONGFUL CONDUCT OF CUSTOMER, ITS REPRESENTATIVES, CONTRACTORS OR EMPLOYEES; (iii) VIOLATION BY CUSTOMER, ITS REPRESENTATIVES, CONTRACTORS OR EMPLOYEES OF ANY APPLICABLE LAWS, RULES OR REGULATIONS; (iv) ANY INDEMNIFIED PARTY'S COMPLIANCE WITH OR RELIANCE ON ANY INSTRUCTIONS, DIRECTIONS, OR REQUEST OF CUSTOMER; OR (v) ANY ALLEGATION OR ARGUMENT THAT THESE TERMS AND CONDITIONS ARE INAPPLICABLE TO SERVICES PROVIDED TO CUSTOMER BY CARRIER.

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**Item 320: INTERMODAL RAIL SERVICE**

In the event any cargo tendered for transportation hereunder is transported by rail, Customer acknowledges and agrees that the services, including, but not limited to, liability for loss or damage to cargo, and terms and conditions of services are governed by tariffs, circulars or similar documents maintained by the underlying rail carrier and/or by third party intermodal marketing companies (the "Rail Conditions") and Customer is bound by and will comply with the Rail Conditions.

Customer shall be solely responsible for proper packing, blocking and bracing of all cargo in accordance with the Rail Conditions, and shall further be responsible for compliance with any and all obligations or charges imposed by the Rail Conditions with respect to tender of cargo for rail and/or intermodal transportation.

Any additional charges levied on Carrier under the Rail Conditions and not accounted for in the rate agreed upon by the parties will be passed through to and be the responsibility of Customer.

CUSTOMER SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS CARRIER, ITS OFFICERS, EMPLOYEES, AND AGENTS (THE "INDEMNIFIED PARTIES") FROM AND AGAINST ANY AND ALL CLAIMS, LOSSES, DAMAGES, LIABILITIES, ACTIONS, SUITS, FINES, JUDGMENTS, AND, INTEREST AND EXPENSES (INCLUDING COST OF DEFENSE, SETTLEMENT AND REASONABLE ATTORNEY FEES), ARISING FROM OR RELATED TO CUSTOMER'S FAILURE TO COMPLY WITH, OR BREACH OF, THE RAIL CONDITIONS.

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**Item 400: FORCE MAJEURE AND IMPRACTICABLE OPERATIONS**

Carrier shall not be liable for any failure to perform, including failure to timely perform, Services 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.

Nothing in these Terms and Conditions shall be construed as making it binding upon Carrier to provide Services or arrange delivery to locations to which it is impracticable to operate vehicles, or if perceived to constitute a risk to environment, vehicle, cargo, vehicle operators, the general public, or pose a security risk.

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**Item 410: NON-WAIVER**

Failure by Carrier to apply or enforce the provisions of these Terms and Conditions shall not be considered a waiver of its ability to enforce application of such with respect to any past, current or future Services.

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**Item 420: STORAGE RIGHTS**

On refused, rejected or other shipments where the Carrier is unable to deliver a shipment or part of a shipment, to its intended final destination, Carrier shall be entitled to recover any and all costs incurred by it in any way associated with the storage of any cargo and shall have no liability arising from or related to such storage or the arrangement thereof. At its sole option, Carrier may arrange for deposit of the cargo in a public warehouse or storage facility under the Customer's name so that storage fees do not accrue against Carrier and Carrier's liability shall not revert to that of a warehouseman.

**Item 430: DISPUTE RESOLUTION**

These Terms and Conditions shall be deemed to have been drawn in accordance with the statutes and laws of the State of North Carolina. In the event of any disagreement or dispute regarding the Services or the Terms and Conditions, to the extent not otherwise governed by federal law, the laws of the State of North Carolina shall apply, without regard to its provisions concerning conflicts or choice of law. Any action regarding the Services or these Terms and Conditions must be brought in the state or federal courts located in Mecklenburg County, North Carolina, and each party expressly consents to the exclusive personal jurisdiction of such courts.



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**Appendix A: Accessorial Charges**

Driver load/unload/assist	\$65/hour - \$250 minimum
Detention w/power	\$60/hour (\$15/15 min) after 2 free hours - \$650 per day max
Stopoff	Not to include initial pickup and final delivery
	1st - \$100
	2nd - \$150
	3rd + - \$200
Congestion	\$800 per delivery and pickup
	3 Digit Zip Ranges: 100-104, 110-119
Detention w/o power	\$50 per trailer per day after 2 free business days for 5 days
	\$200 per trailer per day after 7 days (includes the 2 free days and 5 days at \$50/day)
Truck Order Not Used	\$250
Reconsignment	\$250 + \$1.85/mile or RPM of original load whichever is greater + fuel on all subsequent miles other than those of the original load. A corrected bill of lading must be provided to Carrier prior to the load being dispatched to the re-consigned.
Minimum Charge	\$750 + fuel
Layover	\$750 per 24 hours
Redelivery	\$250 + layover
Lumpers	Actual charges passed through with receipt