



These Brokerage Terms & Conditions (U.S., Canada, Mexico) (“Agreement”) govern Swift Logistics’ transportation brokerage services for customers (“Customer”) without a separate written agreement.

Swift Logistics, LLC (“Creditor”) is licensed in the U.S. as a property broker under MC-812305; DOT-2372545 and contractually engages third party motor carriers (“Carrier”) to perform interstate U.S., and cross-border transportation services hereunder in Canada and Mexico. Creditor arranges for transportation in Mexico with Mexican motor carriers and local drayage companies.

Governing Law. (U.S.) This Agreement shall be construed first under applicable U.S. laws. Any dispute or suit arising from this Agreement shall be adjudicated in the state or federal courts of Maricopa County, Arizona without regard to conflicts of laws principles. **(Canada)** For the portion of services provided in Canada, this Agreement shall be construed in accordance with the laws of the Province of Ontario, Canada. **(Mexico)** For the portion of services provided in Mexico and/or a border gateway commercial zone of Mexico, this Agreement shall be construed in accordance with the laws of Mexico. Without expressly waiving rights and remedies under U.S., Canadian and Mexican laws, to the extent the terms of this Agreement are inconsistent with such laws, the parties concur this Agreement shall govern.

General Cargo Liability Terms. It is understood Creditor is a transportation broker and not a motor carrier and that Creditor shall not be held liable for loss, damage or delay, unless caused by Creditor’s negligent acts or omissions or willful misconduct in arranging for transportation services herein. Cargo loss or damage liability shall be determined by the location where the loss or damage occurred, regardless of any through bill of lading, rate confirmation sheet, *carta de porte* or similar document. Customer fully understands that Carrier will accept higher cargo liability levels at higher quoted rates, but Customer freely chooses this liability level as sufficient for its needs, and agrees these limitations are reasonable under the circumstances, including the cargo’s value, Creditor’s rates, and Customer’s ability to obtain its own cargo insurance. Unless Customer has provided advance written request to Creditor of its desire to obtain additional insurance (for high value, exempt goods or Mexican insurance) and the applicable additional charges are paid, Customer warrants that it is fully authorized, by ownership or otherwise, to agree to these limitations, and Customer will indemnify Creditor and Carrier against any claims (and legal expenses) for greater or other liability asserted by any consignee, subrogee or other claimant regarding such cargo. Creditor and Carrier are exempt from liability for loss or damage to cargo caused by an act of God, a public enemy, a public authority, legal strike, an act or omission of Customer, the inherent vice or nature of the cargo, theft, any other act or situation beyond Carrier’s control.

Cargo Liability in the United States. Cargo liability and claims shall be governed by 49 U.S.C. 14706 and 49 C.F.R. Part 370. Cargo liability is limited to actual loss or damage of cargo, minus salvage value, not to exceed \$100,000 USD per shipment. In the event Customer gives advance written notice of higher value load, then cargo liability shall be limited to declared higher value. In no event shall Creditor or Carrier be liable to Customer for any special, incidental, punitive, exemplary or consequential damages that relate to loss, damage or delay to a shipment.

Cargo Liability in Canada. Cargo liability is limited to actual loss or damage of the cargo, minus salvage value, not to exceed either (a) \$2.00 CDN per pound computed on the total weight of the shipment or (b) declared extraordinary value. Creditor will not be liable to Customer or owner for: (x) consequential or indirect loss, including loss of market, except for delay or deviation damages in excess of twice the difference between the charges invoiced by the Creditor and amounts paid by the Customer to third parties for transport of shipment, or (y) amounts in excess of a maximum recoverable 75,000 SDRs (SDR = Special Drawing Rights) per transaction.

Cargo Liability in Mexico. Cargo loss or damage occurring within the borders or a border gateway commercial zone of Mexico shall be governed by the General Law on Roads, Bridges and Federal Motor Transportation and any other applicable law in Mexico. Cargo liability is limited to the replacement cost of the actual loss or damage of the commodities or article(s) lost, damaged or destroyed, minus salvage value, not to exceed \$2,000 USD per shipment.

Cargo Claims. Customer understands Carrier’s insurance is primary and Customer must submit cargo claims directly with the U.S. Carrier, Canadian Carrier or Mexican Carrier, as applicable. If payment of a cargo claim is made by Creditor to Customer, Customer automatically assigns its rights and interest in the claim to Creditor. Payment by Creditor to Customer shall not be deemed an acceptance of any type of liability or responsibility by Creditor. For any claims to be asserted against the Mexican Carrier, the Customer agrees to submit any claim, suit or action to the jurisdiction of the competent courts located in Mexico City Federal District.

Refused Shipment – Warehouseman/Storer Liability (U.S., Canada, Mexico). If Carrier is unable to deliver shipment due to consignee refusal, fault or mistake of Customer or consignee or upon instruction of Customer to hold shipment in transit, Carrier’s liability shall immediately be that of a warehouseman/storer with a duty to exercise such care and diligence in regard to them as a careful and vigilant owner of similar goods would exercise. Carrier shall be entitled to possessory and non-possessory lien rights and may dispose/sell lading 10 days after providing notice to Customer. Customer shall pay for storage and warehouseman/storer costs minus salvage value. Perishable lading will be disposed of at Carrier’s discretion. **(Mexico)** The parties agree that Creditor and/or Carrier are service providers and in no event shall be considered depository of such Products of Customer, as provided by Article 2522 of the Federal Civil Code and other applicable provisions of the laws of Mexico. As a result thereof, Customer agrees to hold Creditor and Carrier harmless and safe from any liability that might be imposed on Creditor and/or Carrier as depositaries.

Independent Contractor. Creditor’s relationship to Customer is that of independent contractor and no act or omission of Creditor or Customer shall be construed to imply any principal/agent, employer/employee, partnership, franchise or joint venture relationship between them.

Payment. Customer agrees to be unconditionally liable for all charges, fees and costs any authorized person incurs on Customer’s account net 15 days from date of Creditor’s invoice, without offset for any disputes or claims, including freight claims, overcharges, duplicate payments or disputed invoices. Late charges of [18% (U.S., Mexico)] [24% (Canada)] per year shall commence on the 31st day after the date of Creditor’s invoice until paid. Should Customer’s account become past due, in addition to the balance owed, Customer agrees to the following extra fees and costs **(Canada)** calculated as a percentage of the overdue invoice, excluding taxes: 30% if referred to collection agency; 33% if referred to an attorney, plus attorney’s fees whether or not suit is filed (plus principal, interest, 30% collection agency fees). Any payment dispute or suit shall be governed by the laws of the State of Arizona and adjudicated in the courts of Maricopa County, Arizona without regard to conflicts of laws principles. Customer expressly acknowledges it has received, read, understands and agrees to the terms and conditions of this Agreement and acknowledges the language in this Agreement has not been altered. For the purpose of establishing credit, Customer authorizes its bank, any credit reporting agencies, any other financial institutions and any other creditors to release credit and financial information to Creditor and hereby expressly waives any rights to privacy or confidentiality concerning such information as may be provided under any federal, provincial, territorial or state statute.

Indemnification By Creditor and Customer (U.S., Canada, Mexico). Each party (“Indemnitor”) agrees to indemnify, defend and hold the other party, including its affiliated and parent companies, officers, directors and employees (“Indemnitees”) harmless from and against all claims, liabilities, duties, taxes, losses, damages, fines, penalties, payments, costs, and expenses (“Claims”) (including, without limitation, costs of defense, settlement, and reasonable attorneys’ fees), including any storage, demurrage, port or terminal charges, and including property damage or bodily injury (including death) to any person, to the extent same is caused by: (i) any act or omission by Indemnitor or its employees, (ii) any Claims by Indemnitor’s agents or employees, (iii) the failure of Indemnitor to comply with applicable laws or regulations, (iv) Indemnitor’s and its employees’ performance of this Agreement, or (v) Indemnitor’s debts or obligations regarding wages, salaries, taxes or benefits of its employees. The foregoing indemnity shall not apply to any Claim caused in whole or in part by the negligent acts or omissions of Indemnitees.

Indemnification by Carrier (U.S., Canada). Creditor shall contractually require Carrier to indemnify, defend and hold Customer harmless from and against any and all Claims (including costs of defense, settlement, and reasonable attorneys’ fees) including property damage or bodily injury (including death) to any person, directly or indirectly caused by: (i) any act or omission by Carrier, its agents or employees, (ii) the failure of Carrier to comply with applicable laws or regulations, (iii) Carrier’s debts or obligations regarding wages, salaries, taxes or benefits of its employees, or (iv) Carrier’s and its employees’ performance under this Agreement or any Rate Confirmation Sheet. The foregoing indemnity shall not apply to any Claim caused in whole or in part by the negligent acts or omissions of Customer.

Logo/Trademark. Customer shall not use Swift’s name, logo, trademarks or trade names whether written, or oral, without obtaining Swift’s prior written consent, which consent shall be given at Swift’s sole discretion.

Miscellaneous. These terms and conditions embody the entire Agreement of the parties and supersede all prior oral and written understandings. Should any clause in this Agreement be found to be legally void, all other provisions shall remain intact and enforceable. This document may only be modified with the written consent of both parties. Any party’s failure to enforce strictly any provision of this Agreement shall not be construed as a waiver thereof, or as excusing the other party from future performance. Performance under this Agreement may be suspended during the pendency of any event beyond the reasonable control of Creditor without liability for damages resulting from such suspension. This Agreement shall not be modified by any Carrier’s bill of lading, *carte de porte* or Carrier tariff.