

TRANSPORT RATE & SERVICE AGREEMENT

TERMS & CONDITIONS

- 1) **Rate Application:** Rates apply only when billed to the named account(s). In rate agreements, that contain per UNIT rates and per CWT rates for the same lane and same commodity, the per UNIT rates will take precedence.
- 2) **Tariff Rate Application:** The "MDL Rate Schedule" rates, terms and conditions, including cube application, will apply to lanes and commodities not published in this rate agreement. The "MDL Rate Schedule" is subject to a general annual increase effective January 01st of each year.
- 3) **Cube Application:** Rates within Ontario/Quebec, OR rates to or from Western Canada, are based on a cube factor of:
 - 10 lbs per cubic foot or 1000 lbs per linear foot when 10 feet or more of trailer space is occupied. All other rates are based on a cube factor of:
 - 15 lbs per cubic foot or 1000 lbs per linear foot when 10 feet or more of trailer space is occupied. Skids exceeding 72" in height will be cubed to full height of 96" (see cube guidelines for details)
- 4) **Shipment Restrictions:** Maximum truckload gross shipping weight to or from the United States is 42,560 pounds.
- 5) **Pallet Service:** Rates do not include the supply or return of pallets.
- 6) **Schedule of Additional Services and Charges:** Services and charges as per attached Schedule "C" - "Value Added Services".
- 7) **Payment Terms & Invoice Requirements:**
 - Charges are payable in Canadian dollars unless otherwise stated.
 - Invoices are **payable within 21 days of the shipment date. Invoices exceeding 30 days are subject to an interest charge of 1.5% per month.** Disputed invoices must be brought to the attention of Midland in writing and in no event more than 90 days after the shipment date.
 - **All special billing requirements must be documented with Midland Transport prior to signing this agreement.**
 - Failure to comply with the credit terms will result in the cancellation of your preferred rates. The notice period in Section 14 will not apply under these circumstances. Any shipments tendered will be rated at the general tariff rate schedule.
- 8) **Fuel Surcharge:** Rates and accessorials will be subject to a fuel surcharge. Updates are provided on our invoice statements and our website at www.midlandtransport.com. The industry standard weights will be used for fuel surcharge purposes. LTL fuel surcharge percentage will apply on shipments with a billed weight under 10,000 lbs and TL fuel surcharge percentage will apply on shipments with a billed weight of 10,000 lbs or more.
- 9) **Taxes:** Shipments subject to applicable federal and provincial taxes.

- 10) a) **Liability:** The amount of any loss or damage shall not exceed \$2.00 per pound (computed on the actual weight of the shipment) unless a higher value is declared on the face of the Bill of Lading by the consignor and accepted by Midland. Midland will have no liability where, on an individual shipment basis, the claim amount is \$50.00 or less. All claims for loss, damage or delay shall be made by Customer in writing within sixty (60) days after delivery of the goods or, in the case of failure to make delivery, within nine (9) months from the date of shipment.
- b) **Delay:** Midland is not bound to transport the goods by any particular vehicle or in time for any particular market or otherwise other than with due dispatch, unless specifically provided otherwise herein.
- c) **Proof of Delivery:** Notwithstanding any other term or condition of this Rate and Service Agreement to the contrary, in no event shall Midland be liable to consignor, consignee, owner or any third party for any loss, damage or destruction of the goods where the consignee/owner has signed a Proof of Delivery indicating that the goods have been received in good order.
- d) **Force Majeure:** Midland shall not be liable for loss, damage or delay to any of the goods caused by an act of God, riots, strikes, a defect or inherent vice in the goods, the act or default of the consignor, owner or consignee, authority of law, quarantine.
- e) **Terms Incorporated into Carrier's Bill of Lading:** In the event that the customer's Bill of Lading is used, the terms and conditions contained in this Rate and Service Agreement are incorporated by reference into the customer's Bill of Lading and in the event of any conflict or ambiguity between the terms and conditions of this Rate and Service Agreement and the terms and conditions of the customer's Bill of Lading, the terms and conditions of this Rate and Service Agreement shall take priority and govern. Without limiting the generality of the foregoing, the limitation of liability provisions contained in Sections 10 and 11 of this Rate and Service Agreement shall apply to all contracts of carriage between Midland and customer irrespective of which party's Bill of Lading is used and even if a Bill of Lading is not used.
- f) **Exclusion of Consequential Damages:** Notwithstanding any term or condition of the customer's Bill of Lading, if any, or any other provision to the contrary, in no event shall Midland be liable to customer, owner, consignor, consignee or any third party interested in the goods for any special, indirect, incidental or consequential losses or damages including, but not limited to, loss of profits, downtime costs, delay costs and costs of substitute equipment arising out of or relating in any way to the non-delivery, misdelivery, delay in delivery or late delivery of the goods or the loss, damage or destruction of the goods, howsoever caused, including, without limitation, the negligence, gross negligence or the fundamental breach of this contract by Midland, its servants or agents, whether or not Midland had knowledge that such losses or damages may be incurred.
- 11) **Valuation Fee:** When the Bill of Lading indicates the consignor requires Midland Transport to accept liabilities up to a stated declared value, an excess valuation charge of 5% (five percent) of the total declared value in excess of \$2.00 per pound on the actual weight of the shipment will be assessed, subject to a minimum charge of \$2.00 per shipment.

- 12) **Effective Date of Preferred rates (Rate & Service Agreement)**: Upon Midland's receipt of this Rate & Service Agreement signed & dated by customer, a contract shall have been constituted between Midland and the Customer for the provision of carrier services described in this Rate & Service Agreement. Customer's tendering of a shipment to Midland without signing this Rate & Service Agreement shall be deemed to be acceptance of these terms and conditions and standard rates shall apply. This offer will not be backdated to accommodate shipments tendered prior to receipt of signed copy.
- 13) **Effective Date of Value Added Services (Schedule C)**: Upon the provision of value added services by Midland to the Customer, a contract shall have been constituted between Midland and the Customer for the cost of carrier services provided. Customer's tendering of a shipment to Midland requiring such services shall be deemed to be its acceptance of the charges contained in Schedule C. Schedule C charges are effective from January 1 to December 31, and are subject to change without notice.
- 14) **Termination of Contract**: This agreement may be terminated by either party upon written notification at least 15 days prior to cancellation.
- 15) **Amendment of Contract**: Midland reserves the rights to change these terms and conditions at any time without notice. Please see our website at midlandtransport.com for the most up to date version.
- 16) **Governing Law**: This agreement will be interpreted and governed by the laws of the Province of New Brunswick and the parties agree to submit to the exclusive jurisdiction of the courts of such province.
- 17) **Language of Choice**: This agreement has been written in the English language at the request of the parties. Cette entente a été rédigée en anglais à la demande des parties.
- 18) **Geographical Surcharge**: Due to an uncontrollable cost to Midland and to maintain our high level of service a cost recovery surcharge will be applied to all shipments destined to Newfoundland & Labrador.
- 19) **NL Fuel Tax Recovery Program**: Shipments moving to and intra-Newfoundland & Labrador will be subject to a fuel tax recovery charge.
- 20) **Carbon Surcharge**: Due to an uncontrollable cost to Midland by the Federal Government, a carbon surcharge will be applied to all shipments.