

# Midland Transport Limited Website Terms of Use

THIS DOCUMENT CONTAINS THE TERMS AND CONDITIONS GOVERNING YOUR USE OF THIS WEBSITE. YOU SHOULD READ IT IN ITS ENTIRETY AS IT CONTAINS PROVISIONS THAT AFFECT YOUR LEGAL RIGHTS.

## 1 – Use of the Website

This website (the "Website") is operated by Midland Transport Limited as a service to its customers. Any use of this Website is subject to the terms and conditions stated in this document (the "Terms of Use"). By accessing or using the Website, you and the entity you are authorized to represent ("you" or "your") automatically agree to abide by the Terms of Use in their entirety. Midland Transport Limited reserves the right to change, modify, or update the Terms of Use at any time without notice and your continued use of the Website signifies your acceptance of the revised Terms of Use. Changes will be effective when they are posted. Please check the Terms of Use regularly for updates. If any Terms of Use or any change is not acceptable to you, you must discontinue your use of the Website immediately. Your continued use of the Website after any change to these Terms of Use is posted will constitute acceptance of this change. These Terms of Use apply only to your use of the Website and not to any other agreement you may have with any Midland Transport Limited affiliate.

## 2 – Additional Terms and Conditions

Certain areas of the Website may be subject to separate, specific terms of use or other agreement ("Additional Terms and Conditions"). The existence of such Additional Terms of Use shall be brought to your attention by a hyperlink on the page from which the specific Service is made available on the Website and your use of the specific Service shall automatically indicate your acceptance of the Additional Terms and Conditions. The Terms of Use, together with the Additional Terms and Conditions, any online notices, and the Website Privacy Policy (referred to below, <https://www.midlandtransport.com/midland-about-legal-privacy.aspx>), constitute the entire agreement between you and Midland Transport Limited with respect to the subject matter discussed in these paragraphs, and, to the maximum extent permitted by law, supersede all communications, representations or agreements, either oral or written, between you and Midland Transport Limited or any of its affiliates with respect to this subject matter. In the case of any conflict between the Terms of Use and the Additional Terms and Conditions, the Terms of Use shall govern.

## 3 – License and Ownership

The Website and its contents (the "Content") are the intellectual property of Midland Transport Limited, its affiliates or Midland Transport Limited's licensors. The Content is protected by Canadian and international copyright law. Particular elements of the Content is also protected by trade-mark law and laws related to trade dress, trade secrets, and unfair competition.

You may not deal with any Content in any way other than in accordance with the specific rights allowed under these Terms of Use. For greater certainty, it is expressly prohibited to copy, reproduce, modify, lease, loan, sell, create derivative works from, publicly perform, export, import, upload, reverse-engineer, republish, translate into any language or computer language, re-transmit in any form or by any means, resell or redistribute any Content without the prior written authorization of Midland Transport Limited.

Midland Transport Limited grants you a limited, personal, nontransferable, revocable license to access and use the Website, Content and Services only in the manner presented and intended by Midland Transport Limited, and to only use or access any computer and network systems owned or operated by Midland Transport Limited for the sole purpose of using the Website and its features as intended by Midland Transport Limited. Midland Transport Limited also grants to you a limited license to display on your computer, print, download and use the Content and the underlying HTML text, audio clips, video clips and other material that is made available to you on the Website, for personal, informational, non-prohibited, non-commercial purposes only, provided that (i) you do not modify or misrepresent any such Content; and (ii) you include with, do not delete or change and display, as the case may be, on each copy of such Content the associated copyright, trademark or other proprietary notices (including a notice that the applicable copy is subject to this limited license).

## 4 – Restrictions on Use of the Website

In addition to other restrictions contained in these Terms of Use, you agree that:

- (a) You shall not disguise the origin of information transmitted through the Website, nor shall you disguise your origin or the origin of the computer or website by which you connect to the Website;
- (b) You will not place false or misleading information on the Website;
- (c) You will not use or access any service, information, application or software available via the Website in a manner not expressly permitted by Midland Transport Limited;
- (d) You will not input or upload to the Website or submit to Midland Transport Limited any information or data which contains viruses, trojan horses, worms, time bombs or other files, malware or computer programs that are intended to damage, interfere with, intercept or expropriate any system, the Website or Content or that infringes the rights of another, including intellectual property rights;
- (e) You will not access or attempt to access certain areas of the Website which are restricted to customers of Midland Transport Limited; and
- (f) You may not use or access the Website or the Midland Transport Limited Systems or Services in any way that, in Midland Transport Limited's judgment, adversely affects the performance or function of the Services or the Website or interferes with the ability of authorized users to access the Midland Transport Limited Systems, Services or the Website.

## 5 – Links

### (a) Links to other sites

The Website may contain links to other websites and resources that are not a part of the Website ("Linked Websites"). Links to Linked Websites are only provided by Midland Transport Limited as a convenience to the users of the Website and such links do not imply any endorsement of the Linked Websites by Midland Transport Limited. Midland Transport Limited has no control over the content of Linked Websites and makes

no representations or warranties related to the Linked Websites or their content. Users must be aware that the Linked Sites may also have terms of use or privacy policies that differ significantly from those of the Website. All use of Linked Websites is entirely at your own risk.

**(b) Links to the Website**

It is expressly prohibited to "deep link" to the Website, meaning linking to any page other than the principal Website page located at <http://www.ship.midlandtransport.com>, unless specific written permission has been granted by Midland Transport Limited.

All linking to the Website is at your own risk and expense and shall not be construed as an endorsement by or implication of any affiliation with Midland Transport Limited. Midland Transport Limited reserves the right to object to or have removed any link that is determined by Midland Transport Limited, in its sole judgment, to be inappropriate, inconsistent with the Website's and Midland Transport Limited's image and reputation, or otherwise creates an undue burden on the Website or Midland Transport Limited.

You shall not, and shall not authorize any other person to co-brand the Website or portion thereof without Midland Transport Limited's prior written authorization ("co-branding" means to display a name, logo, trade-mark, or other means of attribution or identification of any party in a manner reasonably likely to give a user the impression that such other party has the right to display, publish, or distribute the Website or Content), or

Midland Transport Limited's consent must be obtained in writing before deep-linking, framing, co-branding, or other activity that may have an impact on the access to or the use of the Website. Failure to obtain such consent may result in liability on your part for infringing the exclusive rights of Midland Transport Limited or other legal liability. Furthermore, you agree to cooperate with Midland Transport Limited in causing any unauthorized deep-linking, framing, co-branding, or other activity to immediately cease.

**6 – Limitation of Liability**

To the extent permitted by law and to the extent that Midland Transport Limited is otherwise found responsible for any damages, Midland Transport Limited is responsible for actual damages only. To the extent permitted by law, in no event shall Midland Transport Limited, its affiliates, its licensors, its suppliers or any third parties mentioned on the Website be liable for any incidental, indirect, exemplary, punitive or consequential damages, lost profits, or damages resulting from lost data or business interruption resulting from the use of or inability to use the Website or the Content, regardless of the theory of law upon which such claim may be based, including warranty, contract, tort, (including but not limited to negligence) or otherwise, and whether or not Midland Transport Limited is advised of the possibility of such damages. To the extent permitted by law, the remedies stated in these Terms of Use are exclusive and are limited to those expressly provided for in these Terms of Use.

**7 – Release/Indemnity**

To the extent permitted by applicable law, you agree to release, indemnify and hold harmless Midland Transport Limited, and any of its directors, officers, agents and employees, and such other additional persons to be released and/or indemnified as identified in the terms, conditions and rules which govern specific promotions, contests or other programs on the Website (collectively referred to herein as the "Releasees") from all liability (whether arising in an action in contract, tort (including but not limited to negligence) or otherwise) in any way relating to or arising in connection with your use of the Website, including injuries, loss or damage of any kind. You acknowledge and agree that, to the fullest extent permitted by law, the Releasees have not made, and are not liable for, any representation, guarantee, warranty or condition in respect of the Website.

**8 – Disclaimer of Warranties**

Midland Transport Limited makes no representations with respect to the website, including any representations related to results that may be obtained by using the website. all use of the website is at the sole risk of the user.

The website and the content are provided on an "as is" basis and Midland Transport Limited disclaims any and all warranties to the fullest extent permissible by law, including implied and/or statutory warranties, including but not limited to implied warranties of merchantability, non-infringement of third-party rights, and fitness for a particular purpose. Midland Transport Limited makes no representations or warranties about (and specifically disclaims any responsibility for) the accuracy, completeness, security or timeliness of the website or its content. no warranties may be made in relation to the website or its contents except as contained in these terms of use.

You agree and acknowledge that the limitations and exclusions of liability and warranty provided in these terms of use are fair and reasonable.

**9 – Jurisdiction and Forum**

Your use of the Website and these Terms of Use shall be governed by and construed in accordance with the laws of the Province of New Brunswick and the laws of Canada applicable therein, without giving effect to the principles of conflicts of law thereof. You expressly agree that any dispute, claim or action related to your use of the Website or under these Terms of Use shall be resolved before the Courts of the Province of New Brunswick, Canada, sitting in the City of Moncton, and you hereby submit to the non-exclusive jurisdiction of those Courts

**10 – Compliance with Law**

You agree to use the Website in strict compliance with all applicable laws and regulations and in a fashion that does not, in the sole judgment of Midland Transport Limited, negatively reflect on the goodwill or reputation of Midland Transport Limited. You shall take no actions which would cause Midland Transport Limited to be in violation of any laws, rulings or regulations applicable to Midland Transport Limited.

Midland Transport Limited and the Website are based in Canada. Some laws of Canada or of foreign jurisdictions may prohibit the export of certain information to specified countries. If you access this Website, you represent that you are not in a country where such export is prohibited or are not a person or entity to which such export is prohibited. You are solely responsible for compliance with the laws of your local jurisdiction and any other applicable laws regarding the import, export, or re-export of Content.

### **11 – Midland Transport Limited Privacy Policy**

Through your use of the Website, you consent to the collection, use, disclosure and processing of personal data as contemplated by Midland Transport Limited's Website Privacy Policy. Please read our Website Privacy Policy to obtain information about your privacy rights and on how Midland Transport Limited uses, discloses and processes your personal data during your use of the Website.

<https://www.midlandtransport.com/midland-about-legal-privacy.aspx>

### **12 – Termination**

You may terminate your agreement with Midland Transport Limited created by the use of this Website and the acceptance of these Terms of Use at any time, by immediately discontinuing your use and access of the Website and by destroying all Content obtained from each Midland Transport Limited Website you have accessed, along with all related documentation and all copies and installations.

Midland Transport Limited may, in its sole discretion, terminate or suspend the licenses and rights granted to you under these Terms of Use at any time and without notice to you. Upon termination, you are required to destroy all Content and cease using the Website.

Notwithstanding termination, you agree to remain bound by these Terms of Use with respect to any previous use of the Website and any Content downloaded or accessed.

### **13 – For Residents of Quebec**

The parties declare that they have required that these Terms of Use and all documents related hereto, either present or future, be drawn up in the English language only. Les parties déclarent avoir exigé que les présentes conditions d'utilisation et tous les documents y afférents, présents ou futurs, soient rédigés en anglais seulement.

### **14 – General**

You may not assign these Terms of Use or any of your interests, rights or obligations under these Terms of Use. If any provision of these Terms of Use is found to be invalid by any tribunal having competent jurisdiction, the invalidity of such provision shall not affect the validity of the remaining provisions of these Terms of Use, which shall remain in full force and effect. Any waiver of any portion of these Terms of Use or of any right or remedy of Midland Transport Limited must be in writing in order to be effective.

# Straight Bill of Lading Terms of Use

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## I APPLICATION

The following provisions shall apply to all transportation of good by for-hire highway carriers licensed under the Motor Vehicle Transport Act (Canada R.S.C. 1970, M-14) or under provincial statutes with the exception of the transportation of:

- a) used household goods
- b) livestock
- c) bus parcel express shipments
- d) the personal luggage of bus passengers
- e) such other specific commodities as may be specified by provincial law.

## II BILL OF LADING

1. A Bill of Lading shall be completed as provided herein for each shipment.
2. On each article covered by the Bill of Lading, there shall be plainly marked thereon by the consignor, the name of the consignee and the destination thereof. This requirement does not apply in cases where the shipment is from one consignor to one consignee and constitutes a truckload shipment.
3. The Bill of Lading shall be signed in full (no initialled) by the consignor and by the carrier as an acceptance of all terms and conditions contained therein.
4. At the option of the carrier a waybill may be prepared by the carrier and the waybill shall bear the same number or other positive means of identification as the original Bill of Lading. Under no circumstances shall the waybill replace the original Bill of Lading.

## III CONDITIONS OF CARRIAGE

### 1. Liability of Carrier

The carrier of the goods herein described is liable for any loss of or damage to goods accepted by him or his agent except as hereinafter provided.

### 2. Liability of Originating and Delivering Carriers

Where a shipment is accepted for carriage by more than one carrier, the carrier issuing the Bill of Lading (hereinafter called the originating carrier) and the carrier who assumed responsibility for delivery to the consignee (hereinafter called the delivering carrier), in addition to any other liability hereunder are liable for any loss of or damage to the goods while they were in the custody of any other carrier to whom the goods are or have been delivered and from which liability the other carrier is not relieved.

### 3. Recovery from Connecting Carrier

The originating carrier or the delivering carrier, as the case may be, is entitled to recover from any other carrier to whom the goods are or have been delivered the amount of the loss of damage that the originating carrier or delivering carrier, as the case may be, may be required to pay hereunder resulting from loss or damage to the goods while they were in the custody of such other carrier. When shipments are interlined between carriers, settlement of concealed damage claims shall be prorated on the basis of revenues received.

### 4. Remedy by Consignor or Consignee

Nothing in articles 2 or 3 deprives a consignor or consignee of any right he may have against any carrier.

### 5. Exceptions from Liability

The carrier shall not be liable for loss, damage or delay to any of the goods described in the Bill of Lading caused by an Act of God, the Queen's or public enemies, riots, strikes, a defect or inherent vice in the goods, the act of default of the consignor, owner or consignee, authority of law, quarantine or differences in weights or grain, seed, or other commodities caused by natural shrinkage.

### 6. Delay

No carrier is bound to transport the goods by any particular vehicle or in time for any particular market or otherwise other than with due dispatch, unless by agreement specifically endorsed on the Bill of Lading and signed by the parties thereto.

### 7. Routing by Carrier

In case of physical necessity where the carrier forwards the goods by a conveyance that is not a licensed for-hire vehicle, the liability of the carrier is the same as though the entire carriage were by licenced for-hire vehicle.

### 8. Stoppage in Transit

Where goods are stopped and held in transit at the request of the party entitled to so request, the goods are held at the risk of that party.

### 9. Valuation

Subject to article 10, the amount of any loss or damage for which the carrier is liable, whether or not the loss or damage results from negligence, shall be computed on the basis of:

- a) the value of the goods at the place and time of shipment including the freight and other charges if paid; or

- b) where the value lower than that referred to in paragraph (a) has been represented in writing by the consignor or has been agreed upon, such lower value shall be the maximum liability.

#### **10. Maximum Liability**

The amount of any loss or damage computed under paragraph (a) or (b) or article 9, shall not exceed \$2.00 per pound (computed on the total weight of the shipment) unless a higher value is declared on the face of the Bill of Lading by the consignor.

#### **11. Consignor's Risk**

Where it is agreed that the goods are carried at the risk of the consignor of the goods, such agreement covers only such risks as are necessarily incidental to transportation and the agreement shall not relieve the carrier from liability for any loss or damage or delay which may result from any negligent act or omission of the carrier, his agents or employees and the burden of proving absence from negligence shall be on the carrier.

#### **12. Notice of Claim**

- a) No carrier is liable for loss, damage or delay to goods carried under the Bill of Lading unless notice hereof setting out particulars of the origin, destination and date of shipment of the goods and the estimated amount claimed in respect of such loss, damage or delay is given in writing to the originating carrier or the delivering carrier 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) The final statement of the claim must be filed within nine (9) months from the date of shipment together with a copy of the paid freight bill.

#### **13. Articles of Extraordinary Value**

No carrier is bound to carry any documents, specie or any articles of extraordinary value unless by special agreement to do so. If such goods are carried without special agreement and the nature of the goods is not disclosed hereon, the carrier shall not be liable for any loss or damage in excess of the maximum liability stipulated in article 10 above.

#### **14. Freight Charges**

- a) If required by the carrier the freight and all other lawful charges accruing on the goods shall be paid before delivery and if upon inspection it is ascertained that the goods shipped are not those described in the Bill of Lading the freight charges must be paid upon the goods actually shipped, with any additional charges lawfully payable thereon.
- b) Should a consignor fail to indicate that a shipment is to move prepaid, or fail to indicate how the shipment is to move it will automatically move on a prepaid basis.

#### **15. Dangerous Goods**

Every person, whether as principal or agent, shipping explosive or dangerous goods without previous full disclosure to the carrier as required by law, shall indemnify the carrier against all loss, damage or delay caused thereby, and such goods may be warehoused at the consignor's risk and expense.

#### **16. Undelivered Goods**

- a) Where, through no fault of the carrier, the goods cannot be delivered, the carrier shall immediately give notice to the consignor and consignee that delivery has not been made, and shall request disposal instructions.
- b) Pending receipt of such disposal instructions:
- i) The goods may be stored in the warehouse of the carrier, subject to a reasonable charge for storage; or
  - ii) Provided that the carrier has notified the consignor of his intention, the goods may be removed to and stored in a public or licensed warehouse, at the expense of the consignor, without liability on the part of the carrier, and subject to a lien for all freight and other lawful charges, including a reasonable charge for storage.

#### **17. Return of Goods**

Where notice has been given by the carrier pursuant to article 16a, and no disposal instructions have been received within ten (10) days from the date of such notice, the carrier may return to the consignor, at the consignor's expense, all undelivered shipment for which such notice has been given.

#### **18. Alterations**

Subject to article 19 any limitation on the carrier's liability on the Bill of Lading and any alteration or addition or erasure in the Bill of Lading shall be signed or initialled by the consignor or his agent and the originating carrier or his agent and unless so acknowledged shall not be without effect.

#### **19. Weights**

It shall be the responsibility of the consignor to show correct shipping weights of the shipment on the Bill of Lading. Where the actual weight of the shipment does not agree with the weight shown on the Bill of Lading. The weight shown hereon is subject to correction by the carrier.

#### **20. C.O.D. Shipments**

- a) A carrier shall not deliver a C.O.D. shipment unless payment is received in full.
- b) The charge for collecting and remitting the amount the C.O.D. bills for C.O.D. shipments is the responsibility of the party paying the freight charges.
- c) A carrier shall remit all C.O.D. monies to the consignor or person designated by him within 15 days after collection.
- d) A carrier shall keep all C.O.D. monies separate from other revenue and funds of his business in a separate trust fund or account.

e) A carrier shall include as a separate item in his schedule of rates, the charges for collecting and remitting money paid by consignees.

**21. Protective Service Required Notation Specifics:**

Maintain Fresh – Inside trailer temperature is maintained between 32°F (0°C) and 36°F (2°C)

Maintain Frozen – Inside trailer temperature is maintained below 0°F (-18°F)

Maintain Heat – Inside trailer temperature is maintained between 40°F (4.5°C) and 55°F (12.8°C)

**22. Exclusion of Consequential Damages**

Carrier is not responsible and shall not be liable in any event to consignor, consignee, owner, or any third party invested in the goods for any and all 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 related 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 carrier, its servants or agents, whether or not carrier had knowledge that such losses or damages may be incurred.

**23. Proof of Delivery**

Notwithstanding any other term or condition of this Bill of Lading to the contrary, including Section 10 herein, in no event shall carrier 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.

**IV OTHER SPECIFICATIONS**

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