



## SERVICE TERMS & CONDITIONS (U.S., CANADA, MEXICO)



These Service Terms & Conditions (U.S., Canada, Mexico) ("Agreement") govern Swift's transportation services for customers ("Customer") without a separate written agreement. **Swift Transportation Services, LLC** ("Creditor") is licensed in the U.S. as a property broker under MC-876419; DOT-2537157. Creditor's affiliates, Swift Transportation Co. of Arizona, LLC ("ST"), is licensed in the U.S. as a motor carrier and property broker under MC-136818; DOT-054283; Swift Transportation Canada, Inc. ("SC"), is licensed in the U.S. as a motor carrier and property broker under MC-889846; DOT-2553037; Swift Logistics, LLC ("SL"), is licensed in the U.S. as a property broker under MC-812305; DOT-2372545. ST, SC and/or SL will provide or arrange transportation services hereunder under its own authority or through brokerage to third party motor carriers in the U.S. ST and SC provide cross-border transportation services hereunder U.S.-Canada. Creditor's affiliate, Trans-Mex, Inc. ("TM"), licensed in the United Mexican States as a motor carrier, and local Mexican drayage companies, provide motor carrier transportation services hereunder in Mexico. Motor carriers are collectively referred to herein as "Carrier."

**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.** 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*, service order 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. Brokered loads arranged by SL are governed by SL's separate Brokerage Terms & Conditions (found at [www.swiftlogistics.com](http://www.swiftlogistics.com)).

**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.

**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 depositories.

**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 31<sup>st</sup> 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.** Creditor shall indemnify, defend and hold Customer and its employees and agents 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 caused by and resulting from (i) the negligence or intentional misconduct of Creditor, Carrier or its employees or agents; (ii) Creditor's, Carrier's or its employees' or agents' violation of applicable laws or regulations; or (iii) Creditor's or Carrier's debts or obligations regarding wages, salaries, taxes or benefits of its employees. Notwithstanding the foregoing, as set forth in SL's separate Brokerage Terms & Conditions (found at [www.swiftlogistics.com](http://www.swiftlogistics.com)), the hauling Carrier assumes Creditor's indemnification obligations on brokered loads. The foregoing indemnity shall not apply to any Claim caused in whole or in part by the negligent acts or omissions of Customer.

**Indemnification by Customer.** Customer shall indemnify, defend and hold Creditor, its affiliated companies, its employees and agents harmless from and against all Claims caused by and resulting from (i) the negligent act or omission or willful misconduct of Customer, its employees, or agents; (ii) the inherent vice or nature of the commodities being transported, including but not limited to, any and all product liability claims related to such commodities; (iii) the violation of any applicable law or regulation by Customer or its employees or agents; or (iv) Customer'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 Creditor.

**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. Except with regard to loads brokered by SL to third party (non-Swift) motor-carriers (governed by SL's separate Brokerage Terms & Conditions found at [www.swiftlogistics.com](http://www.swiftlogistics.com)), to the extent terms and conditions are not addressed in this Agreement, ST's tariff (found at [www.swifttrans.com](http://www.swifttrans.com)), SC's tariff or TM's tariff, as applicable, shall apply and control.