
ORIGINAL

Tariff No. 100

TITLE PAGE

CKJ TRANSPORT – ENERGY SERVICES LLC (“Carrier”)

RULES / ACCESSORIALS TARIFF

TRUCKLOAD SERVICE

**RULES, REGULATIONS AND CLAIMS PROCEDURES
FOR MOTOR CARRIER SERVICES**

BETWEEN

POINTS IN NORTH AMERICA (EXCEPT MEXICO)

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

ISSUED May 15, 2018

EFFECTIVE June 1, 2018

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TABLE OF CONTENTS

Subject	Item No.	Page
Application of Tariff and Bill of Lading	10.....	1
Mileage	20	1
Notice and Amendments.....	30.....	1
Rates and Schedules	100.....	1-2
Payment	110	2
Delinquent Accounts.....	120	2
Additional Costs	130	2
Lien Right	140	2
Minimum Charge	150	3
Quotes	160	3
Application of Accessorial Charges.....	200.....	3
Loading and Unloading	210	3
Proof of Delivery	215	3
Detention	220	4
Fuel Surcharge	230	4-5
Special Permits or Fees.....	240	5
Tolls	250	5
Vehicle Furnished But Not Used	270	5
Carrier Liability and Released Value.....	300.....	6-7
Filing of Cargo Claims.....	310	7-8
Investigations of Cargo Claims.....	320	8
Acknowledgment of Claims.....	330	9
Processing of Salvage	350	9
Claims for Overcharge, Undercharge or Duplicate Payment.....	400	10
Filing, Documenting, and Processing Claims	410	10
Disposition of Unidentified Payments, Overcharges or Duplicate Payments Not Supported By Claims.....	420	10
Liabilities Not Assumed	500	10
COD Shipments	510	11
Force Majeure Events	520	11
Appointments.....	530	11
Impracticable Operations.....	540	12
Size and Weight.....	550	12
Warranties	560	12
Non-Waiver	570	13
Packaging, Marking and Paperwork.....	580.....	13
Hazardous Materials.....	600	13
Congestion Fee	605	13
Pier Deliveries	610	13
Pallet Exchange	615	14
Reconsignment or Diversion.....	620	14
Holidays.....	625.....	14
Redelivery.....	630	14
Return, Rejected and Damaged Shipments	640	14
Specialized Services and/or Equipment	650	14-15
Stop-Off In Transit: Loading / Unloading	660	15
Storage Rights	670	15
Protective Service	680	15

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EFFECTIVE June 1, 2018

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|--------------------------------------------------------|-----|-------|----|
| Shipper Bill of Lading / Airway Bills / Paperwork..... | 700 | ..... | 16 |
| Subcontracting Rights.....                             | 710 | ..... | 16 |
| Vehicle Used to Transport Customer Trailer.....        | 720 | ..... | 16 |

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EFFECTIVE June 1, 2018

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**Item 10: APPLICATION OF TARIFF AND BILL OF LADING**

The provisions of this Tariff, as amended, shall apply to services provided by Carrier in interstate, intrastate and/or foreign commerce between points in North America, except that the provisions of this Tariff shall not apply to any services or transportation provided in Mexico and in no event will Shipper tender to Carrier any cargo moving to, from or within Mexico. Application of this Tariff may be waived only if such waiver is express and contained in a written agreement signed by an authorized representative of Customer and an officer of Carrier. For purposes of this Tariff, the term "Customer" shall mean any entity responsible for requesting that Carrier provide services governed by this Tariff, any entity responsible for payment to Carrier for such services, or any entity receiving the benefit of such services.

Unless expressly disclaimed by a written agreement signed by Carrier and Customer, this Tariff shall apply to all services provided by Carrier that are otherwise within the scope of this Tariff (including services performed pursuant to a short form rate confirmation or "spot" move agreement which such agreement does not specifically disclaim the provisions of this Tariff) and the terms and conditions of Carrier's standard bill of lading shall apply notwithstanding the use of any other bill of lading or shipping document. If there is a conflict between the terms and conditions of this Tariff and the terms and conditions on any air bill, manifest, label, bill of lading, or other transit documentation, the terms and conditions of this Tariff, as amended, modified, changed, or supplemented, will control.

Carrier shall have sole discretion as to whether to accept or reject any request for services by Customer and shall have no liability arising from or related to any refusal to provide services.

**Item 20: MILEAGE**

Mileage shall be calculated using the version of Carrier's mileage guide in-effect on the date of pick-up, which is currently PC Miler. Carrier shall have sole discretion in determining the routing of any shipment, and is under no obligation to select the shortest possible route. Customer shall be responsible for mileage based on the route actually taken.

**Item 30: NOTICE AND AMENDMENTS**

Upon written request, Carrier will provide a Customer with copies of all applicable rules circulars and rates.

Carrier may revise this Tariff within its sole discretion and the revised Tariff will apply to any movements of cargo initiated by Carrier during the effective period of the respective version of this Tariff. With respect to moves initiated prior to 12:01 A.M. on the effective date of this Tariff, the move in question will be governed by the version of this Tariff in effect as of the time and date that the move was initiated.

**Item 100: RATES AND SCHEDULES**

- a) Rates and charges are based on a rate book maintained by Carrier as revised by Carrier from time to time in its discretion (the "Rate Book"). Carrier reserves the right to base charges on a mileage basis or hourly basis, in its discretion. Carrier will provide Customer an estimate of fees upon request. Rates and service quotations are good faith estimates based upon information provided to Carrier, but final rates and service may vary based upon the shipment actually tendered, unknown circumstances, incorrect or incomplete information, and subsequent inclusion of the terms and conditions of this Tariff.
- b) All rates are based on solo transit times unless otherwise noted. If team service is requested or required to legally meet delivery windows, a \$3.25 per mile charge will apply.

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EFFECTIVE June 1, 2018

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- c) In calculating freight charges or mileage, fractions of less than ½ (.5) will be rounded down to the nearest whole number, and fractions of ½ (.5) or greater will be rounded up to the nearest whole number.

**Item 110: PAYMENT**

Absent a written waiver by Carrier or contractual specification to the contrary, all freight transportation and related charges are due and payable in full and without offset within fifteen (15) days of delivery of shipment, or in the event of a cancelled move, within fifteen (15) days of the date of the scheduled delivery. In addition to any other party that may be responsible for payment (e.g., the shipper, Customer, or a third-party “bill-to” payor, etc.), both the consignor and the consignee are liable for Carrier’s charges unless, with respect to a “collect” shipment, liability for charges is expressly disclaimed by the consignor on the face of the bill of lading in the space indicated for such disclaimer, if any.

**Item 120: DELINQUENT ACCOUNTS**

Payments received more than 30 days after the date of Carrier’s bill will be assessed a late payment fee equal to 1.5% of the total freight bill for each 30-day period or portion thereof, from the date of the Carrier’s freight bill until the date the payment is received, in addition to all other charges. In any action to recover unpaid freight bills from delinquent accounts, carrier shall be entitled to interest, reimbursement for reasonable attorney’s fees, court costs and any related fees associated with the collection or attempted collection of past due bills.

**Item 130: ADDITIONAL COSTS AND ADVANCES**

Whenever Carrier incurs costs due to Customer requirements, the customer shall be invoiced at 125 % of any and all fees, charges, repairs, replacements and/or general expenses associated with those incurred costs.

Carrier, acting as an agent for the shipper, consignee or owner of the freight, may advance for collection lawful charges of connecting air, rail, water or motor carrier; storage, dock, pier, wharf or stevedore fees. Also advancing charges for rigging, Crane services, escorts, permits, utility companies and any other fees associated with moving over size / over weight loads. All advancing charges are subject to a 10% procurement fee with a \$25.00 minimum for each purchased service.

**Item 140: LIEN RIGHTS**

CARRIER SHALL HAVE A POSSESSORY LIEN ON SHIPMENTS AND ANY PROCEEDS THEREFROM IN ITS DOMINION AND CONTROL FOR THE PAYMENT OF ANY AMOUNTS DUE AND OWING TO CARRIER. IN ADDITION, TO THE EXTENT PERMITTED BY APPLICABLE LAW, CARRIER WILL HAVE A GENERAL LIEN ON ANY GOODS THAT HAVE COME OR WILL COME INTO ITS POSSESSION, AND ON ANY PROCEEDS THEREOF, FOR ANY AND ALL AMOUNTS DUE AND OWING TO CARRIER REGARDLESS OF WHETHER THOSE CHARGES RELATED TO THE GOODS OR PROCEEDS AGAINST WHICH THE GENERAL LIEN IS ENFORCED.

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**Item 150: MINIMUM CHARGE**

Except as otherwise provided, rates are subject to a minimum charge of \$ 225.00.

**Item 160: Quotes**

Quotes are for informational purposes only. The correct and applicable rates and charges for a shipment shall be those rates and charges published in this tariff, contract rate schedule or spot rate form in effect of the date shipment.

**Item 200: APPLICATION OF ACCESSORIAL CHARGES**

In addition to line haul or base transportation rates, unless otherwise agreed in writing, the accessorial charges and fees set forth herein or otherwise agreed upon by Carrier and Customer shall govern.

**Item 210: LOADING AND UNLOADING**

- a) Rates in this Tariff contemplate loading of cargo by the consignor and unloading by the consignee, except that if the Customer, consignor or consignee requests that Carrier furnish outside labor to load or unload, all charges for such outside labor will be passed through to Customer, who will be billed of actual time of outside labor. Any loading and/or unloading provided by Carrier will be assessed at a charge of \$ 45.00 per hour, or fraction thereof, in addition to all other applicable charges.
- b) Carrier may accept sealed trailers or containers in Carrier's discretion. Carrier will have no liability for any shortage from any sealed container, nor with respect to damage caused by improper loading, in any instance where Carrier was not present at the time of loading, regardless of whether the bill of lading or other shipment documentation bears any designation indicating that the shipment was loaded outside of Carrier's ability to monitor loading. Carrier may break any seal if, in Carrier's sole discretion, Carrier or the driver believes that the load is unsafe or improperly loaded. Likewise, upon demand by law enforcement personnel, Carrier may break any seal and access any trailer or container. A missing or broken seal shall not affect Carrier's liability with respect to cargo loss or damage, nor shall it affect the cargo claimant's burden of proof with respect to cargo loss or damage. A broken or missing seal, in and of itself, is not evidence of damage, nor evidence that a shipment may have been subjected to contamination.
- c) Shipments loaded by the consignor will be properly secured and braced by the consignor. At the request of consignor, or if Carrier determines in its reasonable discretion that blocking and bracing performed by the consignor is insufficient, carrier will perform shoring or blocking services. A charge of \$45.00 per man hour or fraction thereof will be assessed for this service.

**Item 215: PROOF OF DELIVERY**

When carrier is requested to provide a hard copy of the Bill of Lading to accompany each freight bill, a fee of \$15 per copy of Bill of Lading will be charged. In order to avoid the P.O.D. fee, shipper may access Carrier's web site ([www.ckjtransport.com](http://www.ckjtransport.com)) to retrieve the necessary documents free of charge and/or request email billing and receive P.O.D.'s are "no charge."

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**Item 220: DETENTION**

- a) When Carrier's vehicles are delayed or detained at premises of consignor or consignee, or other places designated by consignor or consignee for loading or unloading, the following charges will be assessed which will be in addition to all other lawful transportation charges.

| Type of Equipment                     | Total "Free Time" Allowance for Loading and Unloading Combined | Charge per each 15 minutes or fraction thereof in excess of "Free Time" |
|---------------------------------------|----------------------------------------------------------------|-------------------------------------------------------------------------|
| Trailer Only (less than Tandem)       | 2 hours                                                        | \$15.00                                                                 |
| Trailer With Power (less than Tandem) | 2 hours                                                        | \$15.00                                                                 |
| Trailer Only (Tandem)                 | 2 hours                                                        | \$25.00                                                                 |
| Trailer with Power (tandem)           | 2 hours                                                        | \$25.00                                                                 |

- b) Time per vehicle shall begin upon arrival of driver to the consignor or consignee facility and end upon completion of loading or unloading and receipt by driver of a signed bill of lading or delivery receipt.
- c) When shipments are stopped for either partial loading or partial unloading service, or both, one hour free time for each stop will be added to the total "Free Time" allowed.

**Item 230: FUEL SURCHARGE**

Absent Carrier's written waiver, a fuel surcharge shall be applied. The calculated fuel cost is determined using the U.S. Department of Energy's Energy Information Administration U.S. National Average On-Highway diesel fuel price published each week.

Adjustments, if any, in surcharges will be made effective for shipments picked up the calendar day following the calendar day of publication of each week's price. The surcharge shall be applied and utilize the criteria established herein regardless of whether shipments are entirely within the U.S., involve the U.S. and Canada, or entirely within Canada. Fuel surcharges will be applied to any/all mileage related charges, and should prices rise above \$4.00 per gallon, Carrier reserves the right to implement an extended surcharge.

| <u>Week Price/Gallon</u> | <u>Surcharge</u> | <u>Week Price/Gallon</u> | <u>Surcharge</u> |
|--------------------------|------------------|--------------------------|------------------|
| \$2.00 - \$2.10          | 1%               | \$2.11 - \$2.20          | 2%               |
| \$2.21 - \$2.30          | 3%               | \$2.31 - \$2.40          | 4%               |
| \$2.41 - \$2.50          | 5%               | \$2.51 - \$2.60          | 6%               |
| \$2.61 - \$2.70          | 7%               | \$2.71 - \$2.80          | 8%               |
| \$2.81 - \$2.90          | 9%               | \$2.91 - \$3.00          | 10%              |
| \$3.01 - \$3.10          | 11%              | \$3.11 - \$3.20          | 12%              |
| \$3.21 - \$3.30          | 13%              | \$3.31 - \$3.40          | 14%              |
| \$3.41 - \$3.50          | 15%              | \$3.51 - \$3.60          | 16%              |

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| \$3.61 - \$3.70 | 17% | \$3.71 - \$3.80 | 18% |
| \$3.81 - \$3.90 | 19% | \$3.91 - \$4.00 | 20% |

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**Item 240: SPECIAL PERMITS OR FEES**

Any fees paid to any Federal, State or Municipal Government or Canadian Authority, or any subdivision thereof for special permits as may be required in connection with such movement will be added at a cost plus 10% of such cost, with a minimum of \$25.00 permit.

In addition, Carrier may impose a fee for shipments moving “in-bond” in accordance with regulations of U.S. Customs and Border Protection, or the Canada Border Services Agency.

**Item 250: TOLLS**

In concert with mileage calculations, a companion tolls calculation software will be used to determine toll charges. Toll charges will be assessed in addition to any and all other lawful transportation and related charges.

**Item 270: VEHICLE FURNISHED BUT NOT USED**

When an order is cancelled before a vehicle is dispatched for pick-up, a cancellation fee of \$200.00 will be assessed. When an order is canceled after a vehicle has already been dispatched with pickup orders, or if the Carrier is unable to load a dispatched vehicle at origin due to circumstances beyond the Carrier’s control, fees will be charged based on Carrier’s then-current rate/mile matrix for the type of equipment ordered multiplied by the number of miles from the point of dispatch, to the point of loading, and back to the point of dispatch subject to a minimum charge of \$200.00.

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**Item 300: CARRIER LIABILITY AND RELEASED VALUE**

- a) Carrier's liability for loss, damage, or destruction to cargo transported, including due to unreasonable delay, shall be that of a motor carrier as set forth in the Carmack Amendment currently codified at 49 U.S.C. § 14706 (Carmack), as amended from time to time, regardless of whether transport is interstate or intrastate, or involves foreign commerce. The period of Carrier's liability shall commence at the later of the time that cargo is loaded onto the transporting trailer or, if such loading occurs at any time while such trailer is not coupled to a power unit operated by Carrier, then upon coupling of a power unit operated by Carrier to the loaded trailer. The period of Carrier's liability shall terminate once Carrier has made the trailer available for unloading at the consignee's location. Carrier's sole liability with respect to delay in pick-up or transportation shall be if Carrier fails to deliver with reasonable dispatch and such failure results in loss, damage or destruction to cargo being transported. Unless a higher value is declared by Customer in accordance with the provisions herein and the additional freight charges applicable to such declaration have been paid, Carrier's liability for loss, damage, or delay as to any cargo shall not exceed the lesser of the cost to repair or replace lost, damaged, or destroyed cargo, or \$100,000 per trailer or conveyance.
- b) Declaring values in excess of \$100,000.
- i. Carrier must be notified at the time it agrees to transport cargo that a value in excess of \$100,000 will be declared, and the amount that will be declared. The released value shall be valid (meaning Carrier's \$100,000 limitation of liability shall apply) unless Carrier has agreed in writing signed by an authorized representative to accept the cargo at the declared value. In order request such additional liability, the Customer must contact Carrier at (972) 808-7660 and make such request. If Carrier agrees to accept the additional liability, Carrier will provide a signed rate confirmation sheet acknowledging Carrier's acceptance of increased liability and reflecting additional charges as set forth below. Carrier's driver is not an authorized representative of Carrier for purposes of this provision, meaning that declaration of value on the bill of lading at the time of tender, without complying with the remaining provisions of this Item, is an insufficient method of declaring value.
  - ii. The declared value must be clearly stated as such on the face of the bill of lading.
  - iii. Carrier will provide a quote for the additional cost associated with such declaration in value and Customer will be liable for any and all such amounts should Carrier undertake transport.
- c) The foregoing notwithstanding, Carrier's cargo liability on used or reconditioned equipment is limited to the lesser of the cost of repair, cost to replace, actual value, released value or declared value. In any event, Carrier cargo liability for such goods is limited to \$.10 per pound per item up to \$2,000.00 per trailer or conveyance unless excess value is declared and obtained in accordance with the foregoing provisions. Regardless of valuation, Carrier's liability is limited to visual surface damage to external parts only and not to the electrical or mechanical condition of the unit, and will not be liable for any claims of diminished value or any other value not specifically set forth herein. Carrier will provide a quote for the additional cost associated with such declaration in value and Customer will be liable for any and all such amounts should Carrier undertake transport. Shipments which unknowingly involve used or reconditioned equipment will still be governed by these terms regardless of other terms arranged. Freight will be considered reconditioned freight if it has been in previous service and was later reconditioned, regardless of the percentage or value of the new, unused, or reconditioned parts added during the reconditioning processes.
- d) In no event shall Carrier's liability exceed the lesser of the cost to repair or replace lost, damaged, or destroyed cargo or the declared value.
- e) Customer acknowledges and agrees that exposure to elements is an inherent risk with respect to transportation of cargo on open-air trailers. In no event will Carrier be liable for any loss or damage arising from or related to exposure of cargo to elements including, but not limited to, rust and/or corrosion.

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- f) The value of shipments involving documents (including checks, bonds, stock certificates, or any other negotiable or non-negotiable instrument), records and data records, without limitation as to the type, including but not limited to electronic or paper hard copy, shall be limited to the value of the actual media upon which it is contained. Further, no costs, expenses, or claims of any nature will be assumed or accepted which is associated with the replication, duplication or recreation of lost data or documentation. For example, in the case of paper documents the value shall be limited to the value of the paper.
- g) Regardless of commodity shipped or valuation, all transportation charges must be paid in full before any settlement for a claim for loss or damage will be made. No 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. Carrier reserves the right, at its sole discretion, to either credit an account or provide an actual refund for any sums determined to be owed by Carrier.
- h) The valuation as determined by the provisions of this item shall be the maximum liability in connection with a shipment of the specific cargo, including, but not limited to, any loss, damage, delay, misdelivery, non-delivery, misinformation, any failure to provide information, or misdelivery of information relating to the shipment. It is the shipper's responsibility to prove actual damages. Exposure to and risk of any loss in excess of the released value provisions or declared value provisions as provided for in this item is assumed by the shipper.
- i) Carrier shall have the full benefit of the limitations on the amount of Carrier's liability for cargo loss, damage or destruction as set forth herein unless the Carrier has converted the cargo to its own use, or, through its intentionally wrongful conduct, has destroyed the cargo.
- j) If for any reason, Carrier is unable to make delivery, including, but not limited to, the consignee's failure to accept, Carrier may deposit the cargo with a public warehouse or at a facility of Carrier. Upon deposit with a third-party, Carrier's responsibility for the cargo shall terminate. Upon deposit at one of Carrier's own facilities, Carrier's liability shall become that of a warehouseman under the Uniform Commercial Code, in which event, all limitations to and exclusions from Carrier's liability for loss, damage or destruction shall apply, but Carrier shall only be liable if loss, damage, or destruction is due to its failure to exercise reasonable care with respect to the cargo.
- k) Carrier's sole liability, and Customer's sole recovery, with respect to cargo loss, damage or delay will be as set forth in this Item and in no event will Carrier be liable under any other theory of law, nor to any party other than the actual beneficial owner of cargo, or its direct assignee, with respect to any claim arising from or related to loss or damage to cargo or delay. If Customer is not the beneficial cargo owner, then Customer warrants and represents that it is authorized to bind the beneficial cargo owner to this provision. In no event will the concept of deviation apply to services provided hereunder. Carrier will not be liable for cargo loss, damage or delay occurring or arising in Mexico and if it is unclear whether such a claim arose in Mexico there will be a rebuttable presumption that loss, damage or delay arose in Mexico unless rebutted by Customer by clear and convincing evidence.

**Item 310: FILING OF CARGO CLAIMS**

- a) Claims in writing required. Claims for loss, damage, injury, or delay to cargo must be filed in writing, as provided in subparagraph (b) below, and as otherwise may be required by law, the terms of the bill of lading.
- b) Minimum filing requirements. A communication in writing from a claimant for loss or damage must be filed within nine (9) months after the delivery of the property except that claims for failure to make delivery (or portion thereof) must be filed within nine (9) months from the date delivery should have been made: (1)

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containing facts sufficient to identify the shipment (or shipments) or property involved, (2) asserting liability for alleged loss, damage, injury, or delay, and (3) making claim for the payment of a specified or determinable amount of money, will be considered as sufficient compliance with the provisions for filing claims embraced in the bill of lading or other contract of carriage.

- c) Documents not constituting claims. Notations of shortage or damage, or both, on freight bill, delivery receipts, or other documents will not be considered by Carrier as sufficient to comply with the minimum claim filing requirements specified in subparagraph (b) above.
- d) Claims filed for uncertain amounts. Whenever a claim is presented against Carrier for an uncertain amount, such as "\$100 more or less," Carrier will determine the condition of the shipment involved at the time of delivery by it, if it was delivered, and will ascertain as nearly as possible the extent, if any, of the loss or damage for which it may be responsible. It will not, however, voluntarily pay a claim under such circumstances unless and until a formal notification in writing for a specified or determinable amount of money will have been filed in accordance with the provisions of subparagraph (b) above.
- e) Concealed damage claims. When damage to contents of a shipping container is discovered by the consignee which could not have been determined at the time of delivery, it must be reported by the consignee to Carrier upon discovery and a request for inspection by Carrier's representative made by consignee. Notice of loss or damage and request for inspection may be given by telephone or in person, but in either event must be confirmed in writing by mail or overnight courier.

If more than fifteen (15) days pass between date of delivery of shipment by Carrier and the date of report of loss or damage and subsequent request for inspection by consignee, it shall be the obligation of the consignee to offer reasonable evidence to the Carrier's representative when inspection is made that loss or damage was not incurred by the consignee after delivery of shipment by carrier. While awaiting inspection by Carrier, the consignee must hold the shipping container and its contents in the same condition they were in when damage was discovered insofar as it is possible to do so.

- f) Institution of Suits. Suit for loss, damage, injury or delay shall be instituted against Carrier no later than two years and one day from the day when written notice is given by the Carrier to the claimant that Carrier has disallowed all or any part of the claim specified in the notice. Where claims are not filed or suits are not instituted thereon in accordance with the foregoing provisions, Carrier shall not be liable, and such claims will not be paid.

### **Item 320: INVESTIGATIONS OF CARGO CLAIMS**

Each claim for loss or damage to cargo filed against Carrier in the manner prescribed herein will be promptly and thoroughly investigated.

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.

For shipments or any part thereof which are not delivered, Carrier reserves the right to require certification from the claimant that the missing cargo has not been received from any other source.

**Item 330: ACKNOWLEDGMENT OF CLAIMS**

Carrier will, upon receipt in writing of a proper claim in the manner and required, acknowledge the receipt of such claim in writing to the claimant within 30 days after the date of its receipt by Carrier unless Carrier will have paid or declined such claim in writing within 30 days of the receipt thereof. Carrier will indicate in its acknowledgment to the claimant what, if any, additional documentary evidence or other pertinent information may be required by it to further process the claim as its preliminary examination of the claim as filed, may have revealed.

**Item 350: PROCESSING OF SALVAGE**

Whenever baggage or material, goods, or other property transported by Carrier is damaged or alleged to be damaged and is, as a consequence thereof, not delivered or is rejected or refused upon tender thereof to the owner, consignee, or person entitled to receive such property, Carrier, after giving due notice whenever practicable to do so to the owner and other parties that may have an interest therein, and unless advised to the contrary after giving such notice, will undertake to sell or dispose of such property or by the employment of a competent salvage agent. Carrier will only dispose of the property in a manner that will fairly and equally protect the best interests of all persons having an interest therein. Carrier will make an itemized record sufficient to identify the property involved so as to be able to correlate it to the shipment or transportation involved and claim, if any, filed thereon. Carrier also will assign to each lot of such property a successive lot number and note that lot number on its record of shipment and claim, if any claim is filed thereon.

Whenever disposition of salvage material or goods will be made directly to an agent or employees of Carrier or through a salvage agent or company in which Carrier or one or more of its directors, officers, or managers has any interest, financial or otherwise, Carrier's salvage records will fully reflect the particulars of each transaction or relationship, or both as the case may be.

Upon receipt of a claim on a shipment on which salvage has been processed in the manner hereinbefore prescribed, Carrier will record on its claim file thereon the lot number assigned, the amount of money recovered, if any, from the disposition of such property, and the date of transmittal of such money to the person or persons lawfully entitled to receive the same.

If Carrier does not receive disposition instructions within forty-eight (48) hours of sending its initial notice, Carrier may, in its sole discretion, attempt to issue a second and final confirmed notification. Such second notice shall advise that if carrier does not receive disposition instructions within ten (10) days of that notification, Carrier may offer the shipments for sale at a public auction and Carrier has the right to offer the shipment for sale. If Carrier determines in its sole discretion that the potential for recovery will be prejudiced by such second notice period (e.g., where the goods to be salvaged are perishable), Carrier may shorten the second notice period or forego the second notice altogether. The amount of sale will be applied to the costs of the sale and Carrier's invoice for transportation and other lawful charges. The owner will be responsible for the balance of the charges not covered by the sale of goods. If there is a balance remaining after all charges and expenses are paid, such balance will be paid to the owner of the property sold hereunder, upon written claim and proof of ownership.

**Item 400: CLAIMS FOR OVERCHARGE, UNDERCHARGE OR DUPLICATE PAYMENT**

- a) "Overcharge" means an overcharge as defined in Section 49 U.S.C. § 14704(b). It also includes duplicate payments and unidentified payments as hereinafter defined when a dispute exists between the parties concerning such charges.

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- b) "Duplicate payment" means two or more payments for transporting the same shipment. Where one or more payment is not in the exact amount of the applicable rates and charges, refunds shall be made on the basis of the excess amount over the applicable rates and charges.
- c) "Unidentified payment" means a payment which a carrier has received but which the carrier is unable to match with its open accounts receivable or otherwise identify as being due for the performance of transportation services.
- d) "Claimant" means any shipper or receiver, or its authorized agent, filing a request with a carrier for the refund of an overcharge or duplicate payment.
- e) "Undercharge" means charges for transportation services which are less than those applicable thereto.

#### **Item 410: FILING, DOCUMENTING, AND PROCESSING CLAIMS**

Claims for overcharge or duplicate payment shall be accompanied by sufficient information to allow Carrier to conduct an investigation and pay or decline the claim within 180 days of the date of the invoice. 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 applicable payment information.

If Carrier invoices the shipper, receiver or its authorized agent for charges for transportation services which are less than those applicable to such services, Carrier shall file an undercharge claim within 180 days of the date of the original invoice to the party responsible for payment of the freight charges. Carrier shall provide the amount of the undercharge sought to be recovered and such claim shall be accompanied by a copy of the original freight bill and a corrected freight bill along with all other documents or data substantiating Carrier's claim.

#### **Item 420: DISPOSITION OF UNIDENTIFIED PAYMENTS, OVERCHARGES OR DUPLICATE PAYMENTS NOT SUPPORTED BY CLAIMS**

If Carrier is not provided sufficient information with which to properly apply a payment, Carrier shall notify the payor of the unidentified payment within 60 days of receipt of the payment and request information which will enable it to identify the payment. If Carrier does not receive the information requested within 90 days from the date of the notice, Carrier may treat the unidentified payment as a payment of freight charges owing to it. Following the 90-day period, the regular claims procedure shall be applicable.

#### **Item 500: LIABILITIES NOT ASSUMED**

CARRIER SHALL NOT BE LIABLE, REGARDLESS OF THE ACTUAL OR ALLEGED NEGLIGENCE OR OTHER WRONGFUL CONDUCT OF CARRIER, ITS EMPLOYEES, CONTRACTORS, OR UTILIZED INDIVIDUALS OR BUSINESS ENTITIES, FOR ANY SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, INCLUDING BUT NOT LIMITED TO LOSS OF PROFITS OR INCOME, REGARDLESS OF WHETHER CARRIER HAD KNOWLEDGE THAT SUCH DAMAGES MIGHT BE INCURRED.

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**Item 510: COD SHIPMENTS**

Unless otherwise provided, Collect-On-Delivery (COD) shipments will be accepted by Carrier subject to the following provisions and charges:

- a) Notification of a COD shipment must be given at time order is telephoned in or otherwise first communicated to carrier. Carrier assumes no liability for the form of tender accepted.
- b) The following, with the words “Collect on Delivery” must appear prominently and legibly on the bill of lading:

COLLECT ON DELIVERY \$ \_\_\_\_\_ and remit to:  
Name: \_\_\_\_\_  
Address: \_\_\_\_\_

- c) Only one COD amount may be shown and may not be subject to change dependent upon time or condition of payment.
- d) The charge for collecting and remitting the amount of each COD bill will be 1.5% of the COD amount, subject to a minimum charge of \$25.00 per shipment.
- e) Carrier’s responsibility for C.O.D. payment is limited to the exercise of reasonable care and diligence in forwarding the check or money order to the consignor, or to such other party as may be designated by the consignor as the payee, within 15 business days after receipt by Carrier.
- f) Carrier assumes no liability whatsoever for COD payments that default, without exception or limitation, for any reason whatsoever, including but not limited to those that default due to a lack of funds, credit exceeding established limits, erroneous, forged, counterfeit, stolen or fraudulent checks, drafts, currency, credit card or voucher.

**Item 520: FORCE MAJEURE EVENTS**

Carrier shall not be liable for any failure to perform, including failure to timely perform, services under this tariff 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.

**Item 530: APPOINTMENTS**

Carrier is not bound to transport a shipment by a particular appointment schedule, or in time for a particular market, but is responsible to transport a shipment with reasonable dispatch. Carrier will not be liable for late deliveries or unkept appointments unless such late delivery or unkept appointment is beyond Carrier’s duty of reasonable dispatch. In no event shall a time quotation be considered a guarantee of delivery time.

**Item 540: IMPRACTICABLE OPERATIONS**

Nothing in this tariff shall be construed as making it binding upon Carrier to accept freight from or make delivery to locations to which it is impracticable to operate vehicles, inclusive of performing pickup or delivery services, because of conditions of alleys or streets, because of riots or strikes, conditions typically referred to as Acts of God or Force Majeure events, inclusive of Force Majeure events as defined in that item of this Tariff, local, state, or federal regulations restricting or prohibiting certain vehicle types, commodities, services, or if perceived to constitute a risk to environment, vehicle, cargo, vehicle operators, the general public, or pose a security risk. Further, at its sole discretion, Carrier reserves the right to refuse or reject requests for service, or to return accepted shipments, if it is known or perceived that any of the foregoing may exist or occur. Any applicable service guarantees are rendered null and void in the event any of the foregoing are experienced.

**Item 550: SIZE AND WEIGHT**

Depending on size and weight information provided by Customer, Carrier may determine that tendered cargo will require oversize permits, overweight permits, specialized equipment, or otherwise be subject to additional requirements including, but not limited to, shipment routing and pilot car requirements. Customer understands and agrees that any conditions imposed under any applicable law, rule or regulation, or under any required permits or approvals, will supersede and instructions or requests of the Customer. Customer will be responsible for the costs of obtaining any such permits and approvals, and for costs associated with complying therewith.

Without in any way limiting the foregoing, Customer shall be responsible for the costs of any required pilot car service, and costs associated with loading cargo on and off of Carrier's equipment, including, but not limited to, any crane or rigging services. Any such amounts paid by Carrier for which Customer is responsible shall be subject to Carrier's lien.

In no event will Carrier have any liability to Customer arising from or related to services provided by any pilot car service, rigging or crane service, or forklift operator.

**Item 560: WARRANTIES**

Customer warrants and represents that all information provided to Carrier is accurate, complete and sufficient to allow Carrier to perform requested transportation in accordance with all applicable laws, rules and regulations. Without limiting the foregoing, Customer will provide Carrier with accurate and precise weights and dimensions of all tendered cargo. CUSTOMER WILL INDEMNIFY, DEFEND AND HOLD CARRIER HARMLESS FROM AND AGAINST ALL LOSS, COST, PENALTY AND EXPENSE (INCLUDING REASONABLE ATTORNEYS' FEES) WHICH CARRIER PAYS OR INCURS AS A RESULT OF CUSTOMER FAILING TO FULLY DISCHARGE THESE OBLIGATIONS OR OTHERWISE FAILING TO COMPLY WITH THE PROVISIONS OF THIS TARIFF.

CARRIER MAKES NO WARRANTIES, IMPLIED OR OTHER, FOR ANY TRANSPORTATION AND/OR RELATED SERVICES PROVIDED.

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EFFECTIVE June 1, 2018

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**Item 570: NON-WAIVER**

Failure by Carrier to apply or enforce the provisions of its Tariff(s), service guides, standard operating procedures, terms and conditions, or requirements shall not be considered a waiver of its ability to enforce application of such on any past, current or future transportation services provided.

**Item 580: PACKAGING, MARKING AND PAPERWORK**

The “shipper,” not Carrier, is responsible for ensuring compliance with all applicable laws and/or governmental authority relating to packing, marking, labeling, commodity identification, certifications, and all paperwork required for the safe and lawful transportation of its tendered cargo.

**Item 600: HAZARDOUS MATERIALS**

Shipments which contain articles considered hazardous as defined by applicable law or regulation will be subject to an additional charge of 10% of the otherwise applicable rate for transportation. Such charge shall be in addition to all other applicable charges. A minimum of 24 hours advance notice must be given to Carrier before tendering such a shipment advising of the consignor, origin, consignee and destination. When special permits are required by federal, state, provincial, or local regulation, the purchase costs of such permits will be paid by or billed to the party responsible for freight charges.

**NOTE:** The bill of lading and shipping order must be clearly marked noting any hazardous materials included in the shipment being tendered to Carrier. Customer must provide the carrier with the proper shipping names, hazardous class and the proper “UN” classification. Carrier and Customer shall operate in conformity with all applicable regulations contained in Title 49, CFR, Parts 100 to 180 insofar as they pertain to the preparation and transportation of Hazardous Materials. Customer will be responsible for the proper packaging, marking, and related paperwork, including Material Data Sheets, and all certifications as required by the DOT relating to all hazardous shipments. Customer will also be responsible for payment of all federal, state, city or county taxes incurred and all fines assessed in the occurrence of any leakage due to the result of improper packaging or improper loading, and any fees, fines or expenses, including administrative and legal fees incurred by Carrier, as a result of its failure to comply with any of the foregoing and/or those as required of a Customer by law. Further, Customer shall assume all liability incident to, arising from, or as a consequence of its failure to comply with any of the foregoing. Customer will indemnify, defend, and hold Carrier harmless from any property damage, loss, injury, death, or other liability, including costs of clean up, disposal, fines, remediation, attorney fees, and related expenses, related to noncompliance with the obligations set forth herein.

**Item 605: CONGESTION FEE**

A charge of \$250.00 per load will be applied to all shipments that have any or all drops or pick ups in New York City, Burroughs and Long Island, NY. Burroughs zips:100-104, 107-108, 110-119.

**Item 610: PIER DELIVERIES**

Carrier expenses incurred for pickup or delivery service on shipments involving piers, docks, pier terminals, transit sheds, or wharves, including the loading and/or unloading charges of the longshoremen, stevedores, public loaders, gate passes and all other applicable charges, the charge will be actual costs, plus 30%, subject to a \$25.00 minimum. Detention will be applied normally.

ISSUED May 15, 2018

EFFECTIVE June 1, 2018

ISSUED BY  
CKJ Transport –  
Energy Services



**Item 615: PALLET EXCHANGE**

If Carrier is required to provide pallets, the following accessorial cost will be assessed per pallet, in addition to the line haul rate and all other applicable charges; the greater of \$25.00 per pallet or the actual cost per pallet.

**Item 620: RECONSIGNMENT OR DIVERSION**

Shipments may be diverted or reconsigned upon instructions from Customer, and Carrier's applicable prevailing Tariff mileage rates from point of original destination to reconsignment destination will be applied and added to the original shipment mileage charges.

**Item 625: HOLIDAYS**

All applicable rates and charges for work performed on the following holidays will be charged at 150% of the otherwise applicable charges: New Years Day, Easter Sunday, Memorial Day, July 4<sup>th</sup>, Labor Day, Thanksgiving Day and Christmas Day.

**Item 630: REDELIVERY**

When a shipment is consigned to businesses, warehouses and other generally recognized receiving locations, and the Carrier vehicle is capable of making delivery and through no fault of Carrier such delivery cannot be accomplished, applicable detention charges will be assessed, with credit for any applicable free-time given, until delivery is made, subject to a maximum of ten (10) hours detention per calendar day, regardless of whether or not Carrier's vehicle remains on the consignee premises or departs from said premises while waiting (a) to deliver on the consignees next regularly scheduled business day or (b) to deliver at a re-designated time as instructed by a consignee representative. If redelivery is to a location other than original consignee location, detention charges will accrue as provided for herein until carrier receives instruction to deliver to a new consignee location. An additional charge based upon mileage and vehicle furnished will also be assessed for all miles from the original consignee location to the newly designated consignee location, provided however, that if redelivery is to a location within the confines of the same plant, compound or facility grounds, no additional mileage charges shall apply but in lieu thereof a stop-off charge of \$75.00 shall be assessed.

**Item 640: RETURN, REJECTED AND DAMAGED SHIPMENTS**

On shipments or portions thereof which are returned (refused) or rejected, or with respect to shipments which Carrier is unable to deliver due to circumstances beyond Carrier's control, Carrier will return such shipments or portions thereof upon request of the shipper or owner back to the original point of origin. The rate of the return movement of such shipments shall be the same as the outbound movement in effect on the date of return. Return charges will be in addition to all charges applicable for the original shipment prior to the requested return.

**Item 650: SPECIALIZED SERVICES AND/OR EQUIPMENT**

Upon request, Carrier may provide specialized services and/or equipment, and in any event, based on information provided by Customer, Carrier may determine, in its sole discretion, whether any such equipment or service is

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EFFECTIVE June 1, 2018

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required with respect to requested services. In such instances, Customer will be responsible for additional charges based on the type of equipment, as determined by the Rate Book. Customer shall be responsible for all charges related to specialized services or equipment. If prior arrangements for specialized services and/or equipment are not made with the Carrier, Carrier reserves the right to refuse such shipment. Customer may, at its own cost and risk, choose, or Carrier may, in its sole discretion and at Customer's sole cost and expense, choose to unload the shipment and wait for the required equipment to be furnished. Any costs incurred by Carrier with respect thereto shall be subject to Carrier's lien. Requests for special equipment and/or services must be noted on all shipping orders, bills of lading, and/or electronic media.

**Item 660: STOP-OFF IN TRANSIT: LOADING / UNLOADING**

- a) Shipments may be stopped in transit for the purpose of partial loading and/or unloading. One (1) hour additional free time will be given for each such in transit stop.
- b) The rate to be assessed shall be the rate applicable from point of origin to point of final destination (See Note).
- c) The initial pickup stop and the final delivery stop are not subject to stop-off charges. For all other stops for partial loading or unloading, including multiple stops within the same terminal area (defined as the city limits if the pick-up or delivery occurs within city limits) or jobsite, the charge shall be \$75.00 per stop.
- d) On shipments where the charges are collect or prepaid but not a combination of both, and shipper or consignee requests separate billing per stop-off, the carrier will divide the total applicable revenue of such shipment by the number of stops, and the result will be the charges for each billed stop.

**NOTE:** When rates are based on mileage, the rate to be applied shall be the rate applicable for the total mileage of the shipment calculated from the original point of origin to point of final destination via all stop-off points.

**Item 670: STORAGE RIGHTS**

On refused, rejected or other shipments where Carrier is unable to deliver a shipment or part of a shipment to its intended final destination, Carrier's liability as a warehouseman shall begin immediately upon refusal or rejection and Carrier shall be entitled to recover any and all costs in any way associated with the storage of any cargo. At its sole option, Carrier may deposit the cargo in a public warehouse or storage facility under the consignee's, and/or shipper's name so that storage fees do not accrue against Carrier.

Carrier liability for loss or damage to cargo terminates once cargo is deposited.

**Item 680: PROTECTIVE SERVICE**

Upon request, Carrier will provide tarping or other protective service. Charges for tarping are \$125.00 per shipment if tarping is requested before the transporting vehicle is dispatched for loading. If tarping is requested at any time after initial dispatch, the tarping charge is \$250.00 per shipment.

**Item 700: SHIPPER BILL OF LADING / AIRWAY BILLS / PAPERWORK**

Bills of Lading and/or paperwork provided by a shipper, broker, forwarder, other carrier, intermediary, or other documents not issued by Carrier, shall act solely as “receipts” for the transfer of custody of cargo only. All terms and conditions of transport shall be pursuant to Carrier’s Bill of Lading and applicable tariffs in effect when service is provided.

**Item 710: SUBCONTRACTING RIGHTS**

When necessary to honor service commitments, Carrier may, at its sole discretion, utilize the services of other carrier’s or modes of transportation. If Carrier subcontracts the entire transportation to one or more third party carriers, then such operations shall be deemed to have been performed by Carrier in its capacity as a licensed property broker. In such instances, Carrier’s status as a broker notwithstanding, Carrier shall remain liable to Customer for loss or damage to cargo in accordance with the provisions of this Tariff, but in no event shall Carrier otherwise be liable for any acts or omissions of any third party, including any subcontracted carrier, broker, or freight forwarder.

**Item 720: VEHICLE USED TO TRANSPORT CUSTOMER TRAILER**

All such moves are considered to be round-trip moves, even if the Customer trailer is only transported one-way. As Carrier is requested or required to provide power to transport a Customer trailer, charges will be 200% of the applicable one-way mileage (outbound) rate.

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