

TERMS OF SERVICE
KOTTKE TRUCKING LTL OPERATIONS



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1. SCOPE AND APPLICATION

- 1.1 This document serves as the general rules and procedures for the Terms of Service governing the handling of shipments by Kottke Trucking for LTL and cross-dock services. These rules and procedures supersede any previous Terms of Service and overrides any conflicting notation on a Bill of Lading or any other document unless expressly agreed to separately by the management of each company.
- 1.2 The act of tendering orders/shipments to Kottke Trucking for LTL/cross-dock service constitutes acceptance to these terms and conditions including the Terms of Service, the OS&D Redelivery Tariff, and includes all related services.
- 1.3 These rules and procedures do not apply when a shipment is booked for exclusive use.

2. DEFINITIONS

- 2.1 Dock: refers generally to any dock facility where product is transferred from one trailer to another, including our primary cross-dock facility in Central Florida.
- 2.2 LTL: Less than truckload; any shipment booked with Kottke Trucking for which exclusive use services are not specified or contracted.
- 2.3 True Blue Warehousing LLC: The operator of the LTL cross-dock program uses trucking assets operated directly by Kottke Trucking, owner-operators contracted to Kottke Trucking, carriers provided by True Blue Supply Chain Management, and the cross-dock facility and warehouse in Lake Alfred, FL.
- 2.4 Shipper: The origin point/vendor of the product being shipped and may also include third party shipping locations as agents of the shipper.
- 2.5 Shipping Day: the day product is picked up from the vendor; always the day prior to the cross-dock day.
- 2.6 OS&D: Over, short, and damage; refers to any exception on delivery, including but not limited to shortages, overages, damages, quality issues and refused and/or rejected product.
- 2.7 Beneficial Owner: the company that owns the product that is being shipped/while it is in transit. Generally, this is the same company that is tendering the order to Kottke, however on FOB/ExWorks shipments that are refused on delivery, ownership may transfer from the receiver back to the vendor and/or shipper.

3. PICK-UP SCHEDULE

- 3.1 The Kottke LTL Program operates on a 3 times-per-week schedule:
 - 3.1.1 Monday pick-up for Tuesday load out on the cross-dock.
 - 3.1.2 Wednesday pick-up for Thursday load out on the cross-dock.
 - 3.1.3 Friday pick-up for Saturday load out on the cross-dock.
 - 3.1.4 Special arrangements may be made if notice is given 24 hour in advance and approved by Operations.
- 3.2 The pick-up schedule is subject to change for holidays.
- 3.3 All orders must be scheduled through the cross-dock;
- 3.4 Kottke reserves the right to pickup orders in route to final receiver on outbound loads. Customer requests for pick-ups in route will be accepted based on out-of-route miles

and the impact on the load's schedule; Kottke reserves the right to decline request for pick-ups in route that adversely impact the load schedule. Customer requested pick-ups in route may incur additional charges.

3.5 For a complete pick-up and delivery schedule including service areas, see the LTL section on our website.

4. ORDER TENDER

4.1 Order tender cut-off time is 10AM Eastern Time on day of pick-up. Any order tenders submitted after this time are subject to capacity constraints and approval by Kottke Trucking Management. **All orders should be tendered via email to DavOps@kottke-trucking.com. Kottke Trucking reserves the right to cut off orders prior to the listed cut off time during peak seasons, holidays, or at other times of capacity constraints.**

4.2 Order tenders must include all pick-up and delivery address information along with the receiver PO number, pallet count, total weight, any pick-up/appointment numbers, along with any special instructions. Pallet counts are crucial to the pick-up schedule for the trucks, and any changes should be communicated as soon as known.

4.3 Kottke Trucking will make all delivery appointments as required by receivers. All orders must adhere to the Kottke Trucking delivery schedule; orders with requested delivery dates that do not meet the schedule will be delivered per the schedule or refused back to the shipper until proper dates can be obtained.

5. TEMPERATURE

5.1 All trailers utilized in the Kottke Trucking LTL program operate on "continuous run." The Kottke Trucking LTL program provides protective service only at 35°F. Trailers containing only tropical commodities are set to 42°F. Service requested for other temperatures would need to be requested through management.

5.2 When product is shipped with Kottke Trucking via LTL service that has a temperature requirement other than 35/36°F seasonally, it is the shipper's responsibility to take the proper precautions to protect the product during shipment in a 35/36°F environment. To the extent that Kottke Trucking LTL trailer maintained the 35/36°F temperature, Kottke Trucking will not be responsible for any product damage due to temperature.

5.3 The act of tendering orders/shipments to Kottke Trucking for LTL/cross-dock service constitutes acknowledgement and acceptance of the temperature parameters used in transit by Kottke Trucking as defined in section 5.1 and 5.2, and the shipper accepts this regardless of the temperature stated on the BOL.

6. PRODUCT PALLETIZATION

6.1 All product must be palletized using pallets that meet GMA pallet specifications. CHEP and PECO pallets are also acceptable based on shipper and receiver requirements. Kottke Trucking does not do pallet exchange and **does not pay or accept deductions for pallets.**

- 6.2 Maximum pallet height including the pallet is 85". – Kottke is not responsible for tipped pallets that are over 85" in height.
- 6.3 Product must be palletized as one destination per pallet. Multiple PO's for a single delivery location on a single pallet are acceptable as long as each PO's has a separate label. Kottke Trucking does not provide a case pick service and is not responsible for case count or case pick when a pallet arrives containing multiple destinations unless previously arranged and approved by Kottke Management.
- 6.4 Kottke's service is that of an LTL carrier. By the nature of LTL, pallets are handled multiple times, including in and out of dock facilities, and may be on multiple trailers during the course of transportation from origin to destination. Product packaging and palletizing should be designed to withstand transit via truck in an LTL environment to the receiver's destination. When multiple products are palletized onto a single pallet, generally the heavier packages should be on the bottom, lighter items on top. It is the shipper's responsibility to palletize product to withstand transit.
- 6.5 Pallets should be wrapped or otherwise secured to maintain the integrity and stability of the pallet in transit. Corner edge protectors should be used as required to help with pallet stability. Short pallets should be wrapped and secured in such a manner as to allow stacking of multiple small pallets. If a particular smaller pallet cannot have another pallet stacked on top of it, the pallet should be clearly marked "Top Load Only".
- 6.6 Each pallet must be clearly labeled identifying origin and destination. This includes:
- 6.6.1 Origin vendor name
 - 6.6.2 Receiver name and city/state
 - 6.6.3 Receiver PO number
 - 6.6.4 Pallet number – listed sequentially (ex: 1 of 5; 2 of 5; 3 of 5; etc.)
- 6.7 Each pallet should have a label on two opposing sides, minimum size of 5" square, and in a highly visible color. Alternately, an 8 ½" x 11" piece of paper as a placard with the information is also acceptable. An example of the ideal label is contained in Appendix A. There should be a label for each respective PO number.
- 6.8 Pallets without proper marking will be charged a per pallet labeling fee.

7. PICK-UP PROCESS

- 7.1 A member of the Kottke Dispatch Team will be in communication with each vendor on the day of shipping to confirm product is ready to load. Truck schedules are based on these times; if for any reason these times change, the shipper must inform Kottke Trucking as soon as known so that schedules can be adjusted.
- 7.2 Each individual order/shipment must have 2 copies of its own Bill of Lading (BOL). BOL must contain a detailed list of products shipped including pieces, description, country of origin and weight, **along with the physical address of both the origin and destination and all pertinent purchase and sales order numbers.** 3rd Party shippers must supply BOL's with actual delivery address and information. Quantities listed must be final modified shipped quantities, not necessarily original order quantities. For clarity, all documents should be typed/printed, and not handwritten.

- 7.3 Truck pick-up schedules are based on a two-hour loading window and the confirmation from the shipper that product is ready to ship. After two hours, shippers may be subject to detention charges. Kottke Trucking, at its sole discretion, reserves the right to pull a truck to protect other pick-ups if loading is not occurring in a timely manner.
- 7.4 Drivers will be on the dock to observe the loading and to check temperatures at the discretion of the shipping location. All shipments are Shipper Load & Count (SL&C); if the driver is allowed on the dock and at the door of loading, the driver may verify and sign for pallet count. Kottke Trucking is not responsible for case count and is only responsible for pallet count if the driver is on the dock and at the door where the trailer is being loaded while loading is occurring.
- 7.5 All product must be available and ready for pick-up no later than 10:00 PM day of shipment; product ready times after this are at the discretion of Kottke Trucking Management and may be declined.
- 7.6 Due to the nature of LTL, pick-ups run on a very tight schedule. All product is crossdocked at our facility the day after pick-ups are made. Pick-up days are Monday/Wednesday/Friday but may be adjusted on holiday weeks. Product that is requested to be picked up outside of our normal pick-up days will incur an “Off-day pick-up fee”.
- 7.6.1 All orders shipping on an “Off-day” must be ready and loaded on our trailer by a predetermined time set by Kottke. Any delay past this time may result in the truck being pulled from shipper in order to keep all other orders on time for delivery.
- 7.7 Order cancellations after 3PM Eastern Time day of ship may be subject to a Truck Ordered – Not Used (TONU) on a per order basis.
- 7.8 Generally, Kottke drivers do not have TWIC cards. If a pick-up or delivery point is within a TWIC-controlled area, drivers will use the escort service for the facility and related charges will be in addition to the pallet charges.

8. CROSS-DOCK AND DELIVERY

- 8.1 The cross-dock LTL program consolidates the product from multiple shippers to build outbound truckload shipments. Kottke Trucking maintains liability as a common carrier while product in transit, including while on a dock in the normal course of transit. However, if product is shipped out of cycle or for any other reason that causes the product to be held in storage at a dock facility, then Kottke Trucking’s liability will revert to that of a warehouseman to the extent and for the period of time the product is held in storage.
- 8.2 Kottke Trucking LTL makes every effort to meet delivery schedules and appointments and strives to meet on-time service requirements. However, LTL, by nature of the service, **is not a guaranteed service**, and Kottke Trucking makes no warrant or guarantee of service to a certain day or time. Claims for late delivery will not be accepted, and Kottke Trucking makes no warrant or guarantee of service to cover receiver’s late delivery or service fines, or for any charges for consequential, special, or incidental damages of any kind.

8.3 Delivery rates do not include unloading fees. Actual unloading fees will be invoiced at cost with the regular freight bill; if there are multiple customers for a delivery, the fee will be allocated based on the number of shipped pallets.

8.4 At time of delivery, it is expected that all receivers provide a proof of delivery. If there are exceptions, they should be clearly noted on the POD at the time of delivery, including at a minimum the quantity, product description, and reason for the exception. Lacking specific notations of exceptions, the POD is a clear delivery and any subsequent exceptions for any reason are considered concealed damage.

9. ACCESSORIAL/WAREHOUSE CHARGES

9.1 Accessorial charges are now listed on Addendum B of these Terms of Service.

10. OS&D AND FREIGHT CLAIMS HANDLING

10.1 Kottke Trucking will give notice of all OS&D's reported to it by either the receiver or our driver. Notice will generally be via email and may follow-up via phone call. Given the nature of the receiving processes at some receivers, shippers may receive notice of an exception prior to the driver and/or Kottke Trucking receiving notice; when this occurs, it will expedite the process if the shipper contacts the Kottke Trucking OS&D Department with the information.

10.2 Any exception to delivery not initially noted on the delivery receipt is considered concealed damage. Receivers agree to notify Kottke Trucking immediately upon discovery of any concealed damage. Kottke Trucking must be afforded an opportunity to inspect the product, including the packaging, and may require the receiver to show evidence that the loss or damage did not occur after the delivery of the shipment. Lacking mitigating circumstances, freight claims will not be accepted if the above requirements are not met.

10.3 When a receiver refuses product back onto the Kottke truck, shippers are required to assist Kottke Trucking in the prompt disposition of the product. Failure or unwillingness to assist may result in the product being considered as abandoned and negate any liability on the part of Kottke Trucking. Delays in providing disposition of refused and/or rejected product may result in the assessment of detention and/or layover charges.

10.4 The handling of refused and/or rejected product by Kottke Trucking may result in the assessment of reconsignment and/or disposal charges. These are governed by a separate OS&D Redelivery Tariff and included in this policy by reference here. Generally, charges are incurred when product is requested to be reconsigned to a Price After Sale (PAS) vendor, food bank, or dump site. Based on the situation and costs incurred, charges may include, but are not limited to mileage charges, stop charges, dump fees, lumper fees, detention charges, layover charges, and gate fees. Mileage and stop charges are the base charges for handling refused or rejected product; other charges such as dump fees, lumper fees, and gate fees are charged only when Kottke incurs the expense and are charged at cost.

10.5 To the extent Kottke Trucking maintained 35-36°F while in transit as shown by a download from the trailer reefer unit, Kottke Trucking will not be responsible for temperature abuse to product.

10.6 All claims against Kottke Trucking must adhere to the general guidelines of the Carmack Amendment, 49 USC § 14706, and 49 CFR Part 370. Claims include any charges to Kottke Trucking by the shipper or receiver, including but not limited to OS&D claims and any type of fee reimbursement including but not limited to receiver late fees, gate fees, or unloading fees. Claims must be filed in writing using a standard freight claim form – invoices will not be accepted. Send claims to:

Claims Department
Kottke Trucking
201 Government Center BLVD.
Lake Alfred, FL 33850

Or via email to OSD@kottke-trucking.com.

10.7 Claims must be filed within 9 months of the delivery date of the shipment or the scheduled date if the shipment was lost; claims received after this point will not be considered. Claims must be dated with the date the claim is filed, and not the date of shipment or delivery. Claims must include supporting documents as generally outlined by Carmack.

10.8 In the instance of a potential claim, it remains the responsibility of the beneficial owner to make every effort to mitigate any loss. Failure to do so shall constitute abandonment and negate any subsequent claim payments.

10.9 All services and rates are based on a liability limit of \$3000 per pallet. If your product has a value exceeding \$3000 per pallet and you wish full liability coverage, please contact Kottke Trucking for rate options. All service and rate agreements for liability above \$3000 per pallet must be in writing, signed, and included as an addendum to this Terms of Service. Agreements must include effective and expiration dates and must cover all referenced shipments for that time period. If you accept a higher rate for full liability, this does not constitute insurance, and all aspects of claims handling as outlined in Section 10 and in Carmack would still be required.

10.10 Deductions from payment of freight invoices will not be accepted. Withholding payment for pending or possible claims is also not allowed, and shipper agrees to pay all freight bills within prescribed time limits regardless of a possible claim or filed claim status.

10.11 Private Label product is handled the same as all other products shipped with Kottke Trucking. Kottke Trucking does not hold higher liability for private label product. Shipper or customer must be able to provide disposition on any private label product in the case it is involved in an OS&D. 50% value will be assessed for claims on Private Label product due to non-ability to salvage.

10.12 Carrier shall not be liable for any loss of profits, loss of business, loss of market, loss of income, interest, or attorney's fees, nor for any special, incidental, indirect, or

consequential damages, including those arising from delay, regardless of whether such damages were foreseeable.

10.13 Carrier will not entertain any concealed damages not reported within 24 hours of delivery.

10.14 The Shipper, consignor or broker or its agent shall pay all freight invoices when due without offset for any cause, including but not limited to cargo and overage claims.

10.15 Claims for temperature abuse must be supported by photographs evidencing the product temperature at both the shipper's facility and the receiver's facility, temperature recorder download data, a completed quality assurance (QA) form, and any other documentation reasonably required by Carrier to demonstrate that the temperature abuse occurred while the shipment was in Carrier's care, custody, and control.

11. INVOICES AND PAYMENT

11.1 LTL rates are on a per-pallet basis and are not inclusive of any accessorial charges including but not limited to gate fees, late fees, lumper/unloading fees, escort fees, or any fees resulting from the handling of OS&D's. All accessorial charges are invoiced as separate line items generally on the original invoice.

11.2 Payment terms are 15 days after receipt of invoice.

12. CONFIRMATION OF RECEIPT AND ACKNOWLEDGEMENT OF ACCEPTANCE

Signed: _____

By: _____

Company: _____

Date: _____

APPENDIX A

Sample Pallet Label - 1

Shipper Name

Receiver PO – 123456

Receiver Name

City, State

Pallet 1 of 2

APPENDIX B

Accessorial Charges

All services and rates are based on a liability limit of \$3000 per pallet. If your product has a value exceeding \$3000 per pallet and you wish full liability coverage, please reference section 10.9 in the Terms of Service and contact Kottke Trucking for rate options.

Detention: \$60.00 minimum - \$15/Qtr. Hour Free time: Loading: 2 hours Delivery: 3 hours
The calculation of detention will begin at the scheduled time of the pick-up/delivery and will continue until the shipment has been loaded/unloaded and all shipment paperwork has been completed and returned to the driver. If the dock works from a “first come, first served” schedule, then the clock will start when the driver arrives. GPS tracking of the tractor and/or trailer will be used for tracking and invoicing detention. Charges for each shipment will be prorated based on pallet count for each customer compared to total pallet count loading or unloading at the same shipper/receiver beyond the free time.

Layover: \$250.00

Disposal fee: \$250.00

Trailer washout: \$50.00

Shrink-wrap Fee: \$25.00/pallet

Broken Pallet Fee: \$25.00/pallet – Picture will be provided with pallet on trailer.

BOL Creation Fee: \$25.00/order

Pallet Labeling Fee: \$25.00/pallet

Off Day Pick-up Fee: Product requested for pickup outside of Carrier’s normal pickup days (Monday, Wednesday, and Friday) will incur an **Off-Day Pickup Fee** of **\$250.00**. Pickup days may be modified during holiday weeks and will be communicated in advance of the applicable holiday.

Truck Ordered Not Used (TONU): \$150/order

(continued)

Warehouse charges:

Handling: \$20 in / \$20 out.

Initial and Recurring Storage: \$40/pallet per 30-day period

Transfer in Storage: \$50 minimum \$10.00 per pallet

This applies when ownership of the product is transferred to a new owner while the product remains in storage. Upon such transfer, new storage charges will apply and the applicable thirty (30)-day storage period will reset.

Rework/Restack Fee: \$500 minimum charge - \$85/man-hour.

Disposal fee: \$250.00

Shrink-wrap Fee: \$25.00/pallet

Broken Pallet Fee: \$25.00/pallet – Picture will be provided with pallet on trailer.

Transload/Transfer Fee: \$250 minimum \$20/pallet

This charge applies when palletized products are transferred from one trailer or container to another and no additional services are required. Both the originating and receiving trailers and/or containers must be present simultaneously for the service to be considered a transload or transfer; otherwise, additional charges may apply.

Product delivered for storage at True Blue Warehouse will be maintained at **34°F**, unless special arrangements are made in writing for storage in refrigerated (“reefer”) trailers at alternative specified temperatures. Trailer rental for storage is available for products requiring different temperature ranges. The minimum charge for trailer rental at ambient temperature is **\$1,200 per thirty (30) days**, with additional charges assessed based on the required temperature settings and the operating cycle mode of the reefer trailer.

Warehouseman’s liability shall be governed by the Uniform Commercial Code and shall apply only to goods actually received by True Blue Warehouse. True Blue Warehousing shall be responsible solely for the **pallet count** reflected on the warehouse receipt and shall not be responsible for the **case count**, quantity, or condition of the goods unless expressly noted on the warehouse receipt or otherwise agreed in writing with the beneficial owner of the product.

Limitation of Damages: In no event shall True Blue Warehousing be liable for any **consequential, incidental, special, or indirect damages**, including but not limited to lost profits, lost income, or other economic losses, arising from the storage, handling, or transportation of goods.

Transit Exception: Warehouseman’s liability shall **not apply to products in transit** as part of the normal LTL cross-dock program, even if the products are temporarily held at the facility as part of such transit.