

Guidelines For Full Replacement Value (FRV)

Definitions:

Military Claims Office (MCO): Any office designated by a military service to take in, process or adjudicate claims.

Notices or Communications: When communications are required to be “in writing”, they may be transmitted by mail, by telephonic facsimile, or by electronic mail.

Owner: The term “owner” pertains to the person whose property is being shipped and whose name the property is stored under and shall mean the person who is entitled to a shipment at DoD expense, even if that person does not have formal legal title to all of the goods that are shipped, and shall include the owner’s agent/consignee, or, in the case of a deceased owner, the survivors or estate of the owner.

Transportation Service Provider (TSP): Any party, person, agent, or carrier that provides freight or passenger transportation and related services to an agency. In the case of personnel property the term “TSP” in the liability and claims sections of this document refers to contractor, motor carrier, freight forwarder, or broker.

1 . Claims Process for All Shipments

1.1 Claims Filing

- a. Owners whose property is lost or damaged in transit and wish to file against the TSP must file their claims within two years of delivery of the shipment that gave rise to the claim. If the owner submits the claim within nine (9) months of delivery, the TSP will be liable for the full, undepreciated replacement value (FRV) on all lost or destroyed items. If a claim is not completely settled after 30 days, owners may transfer the claim to the appropriate Service Military Claims Office (MCO). However, owners may transfer a claim immediately, and still be eligible for FRV, upon:
 1. Notice that the TSP has made a final offer on the claim or denied it in full.
 2. Notification by SDDC that the TSP is in bankruptcy.
 3. Notification that the TSP DOD approval has been revoked, or contract terminated.
 4. The TSP’s failure to comply with the catastrophic loss provisions in Paragraph 1.13, and as verified by the MCO.
 5. The TSP’s failure to comply with essential items provisions in Paragraph 1.14, and as verified by the MCO.
- b. For the purpose of filing with the TSP within two (2) years, if a claim for loss or damage accrues during war or an armed conflict in which an armed force of the United States is involved, or has accrued within two years before war or an armed conflict begins, and there is good cause for delay in filing due to that armed conflict or war, then the claim must be presented within a reasonable time frame after the cause no longer exists, or after the war or armed conflict ends, whichever is earlier. An armed conflict begins and ends as stated in concurrent resolution of Congress or a decision of the President. This same exception will apply to the nine (9) month filing period required to trigger the TSP liability for FRV. Any extension granted by this provision will be at least as long as the duration of the good cause and may be longer, at the discretion of the TSP. If the TSP anticipates the denial of an extension, they may contact the appropriate Service Military Claims HQ for an advisory opinion.

- c. When an owner transfers a claim to the MCO, the MCO may contact the TSP using the toll free number or email address given the owner, to determine if the TSP has already obtained any estimates. If the TSP has obtained estimates, the TSP will transmit them within 24 hours, or the next business day if notification occurs on a Friday or Saturday or the day before a holiday, by fax or electronic mail to the MCO. If the TSP has not already obtained estimates, the MCO may give the TSP until the next business day to decide if it will inspect and obtain estimates on those items requiring estimates, and make arrangements with the owner and repair firms for the estimates. If the TSP decides to inspect and obtain estimates, it will have until the second business day after it is contacted to obtain them unless the owner agrees to give it more time. If the TSP is unable to obtain estimates within two business days of being contacted and the owner does not agree to give it more time to do so, then the MCO will proceed to adjudicate and settle the claim.
- d. The MCO may assert a demand against the TSP for TSP liability as established under, Section 2 Liability of this document. The TSP will not be liable on such a recovery claim for payment on any items on which the TSP has already paid the owner, if the correspondence between the TSP and the owner lists the item as one on which payment is being made and clearly indicates that the prior payment was in full and final satisfaction of either the entire claim, or was in full and final satisfaction of the claim for the particular item.
- e. For purposes of qualifying for FRV and for meeting the two-year limit for filing claims directly with the TSP, a claim submitted directly by the owner to the TSP must be submitted within the relevant time period (nine months to be eligible for FRV or two years for depreciated value, see paragraph 2.3c). The claim must identify the owner; contain facts sufficient to identify the shipment or shipments involved; must assert a demand for a specific or determinable amount of money; and, must list each item that was lost or damaged and give a general description of the damage.
- f. If goods have been in the custody of one or more TSPs or a warehouse that are not agents of the delivering TSP (e.g. Code 3 shipments, delivery out of NTS by other than the warehouse, or DPM shipments), then the nine month limit for obtaining FRV and the two year limit for filing the claim are met for all TSPs and warehouses in the chain of custody, if the claim is filed with the delivering TSP within the nine month or two year time limit. If the delivering TSP believes that some of the loss or damage occurred while the goods were in the custody of a prior TSP or warehouse, then the delivering TSP must forward the claim to the prior TSP with the documents or other evidence that establish the prior TSP or warehouses liability. The delivering TSP must also advise the owner of the date the claim was forwarded, the items for which the delivery TSP is denying liability, and the address and telephone number of the prior TSP or warehouse to which the claim was forwarded. Filing with the delivery TSP will also satisfy any requirement for all TSPs and warehouses in the chain of custody that a claim must be filed directly with a TSP to entitle the owner to settlement on the basis of FRV.

1.2 Exceptions to Filing Claims Directly with the TSP

Filing with the delivery TSP will satisfy the requirement for all TSPs and warehouses in the chain of custody that a claim must be filed directly with a TSP to entitle the owner to settlement on the basis of FRV. Exceptions to the requirement that the owner file directly with the TSP will be granted on a case-by-case basis, in writing, by the MCO. Some examples of exceptions are:

- a. No access to a telephone or fax machine.
- b. Claims for deceased owners (Bluebark) involving surviving family members not familiar with the claims process.
- c. Language barriers in the claims filing process.

1.3 Substantiation of Claims

- a. In addition to the minimum requirements needed to meet any timely filing requirements, claims must include additional information in order for the TSP to begin the settlement

- process. On all claims, this additional information will include any notices of concealed damages or loss that were found after the day of delivery, and not previously provided to TSP under (see Paragraph 1.4 below); sufficient information about the shipment to enable the TSP to locate its copy of the bill of lading, inventory; a description of each item that is lost; and a list of each item that is damaged stating the nature, location and extent of the damage. The description of items lost or damaged must also list the date of purchase of each item, the age of each item, if known, or, for items that were not purchased (e.g., gifts or bequests), the date the owner acquired the item, along with an estimate of the original purchase price or value at time of purchase/acquisition.
- b. For claims filed directly with the TSP within nine months of delivery, the TSP is responsible for obtaining any repair estimates or replacement cost estimates that it may need to settle the claim. The TSP may request the assistance of the closest MCO to obtain the name of reputable repair firms. If the TSP is still unable to obtain a repair or replacement estimate on an item, the TSP may ask the owner to obtain the estimates, provided that the TSP agrees to pay all estimate fees and drayage costs that are incurred, even if the final settlement does not include payment for that item. If the owner is unable or unwilling to get the estimate(s), the TSP must adjudicate the claim without them based on the other evidence in the file. The owner must cooperate with any reasonable request from the TSP in making items available for repair or for repair estimates. If the owner does not cooperate, the TSP should seek assistance from the closest MCO of that owner's military service. If the owner still does not cooperate, the TSP may delay settlement on those items that need estimates until the owner makes the items available or deny payment on those items.
 - c. For claims that are not filed within nine months of delivery, but are correctly filed IAW section 1.1 above, the owner must provide the TSP with repair and replacement estimates on any item(s) for which the amount claimed exceeds \$100. (See Paragraph 1.6 Repair Estimates.), for rules on use of TSP estimates on claims filed with the military.
 - d. **Internal Damage Rule:** If the claim includes repair of internal damage to appliances or electronic items, and there is no new external damage to the item, the claim must be supported by additional substantiation regardless of the amount claimed. For these items, the owner must submit both a written statement explaining how they know the item was working when tendered to the TSP, along with an estimate of repair that includes both an explanation of the damage and a statement by the repair technician as to their opinion of the cause of the damage. For claims filed directly with the TSP, the same information will be required to establish that the loss or damage occurred in transit. However, on those claims that are filed directly with the TSP within 9 months of delivery, the TSP will attempt to obtain the repair estimate, including the repair technician's opinion as to the source of damage, and will have the right to request assistance from the owner under the rules stated above in Paragraph 1.3 b.

1.4 Notice of Loss and Damage

- a. **Recording Loss or Damage.** When unloading or unpacking articles at destination, the TSP will, in coordination with the owner, check the inventory prepared at origin and inspect each article for loss or damage. The TSP will, along with the owner record loss and damage on a DD Form 1840, Joint Statement of Loss or Damage at Delivery. The DD Form 1840 will indicate any differences in count and condition from that shown on the inventory prepared at origin and will be jointly signed by the TSP and the owner. For split shipments or partial deliveries, a separate DD Form 1840 will be completed for each delivery of property to the owner.
- b. The DD Form 1840 will be prepared in five copies by the TSP. The TSP will obtain a receipt by owner signature in the space provided on the form and provide the owner three copies of the DD Form 1840/1840R, Notice of Loss or Damage. The TSP will furnish the origin PPSO a completed copy of the form within 75 days after delivery. If the service member waits until the 75th day to submit the DD Form 1840R to the TSP, the TSP will have 48 hours to submit

the DD Form 1840R to the PPSO. Consideration will be taken by the PPSO for scoring purposes as long as the TSP can provide evidence that the service member waited until the 75th day to submit the DD Form 1840R. One copy of the form will be held in the TSP files for further reference.

- c. Upon delivery of the HHG or UB, it is the joint responsibility of the TSP and the owner to record on the Joint Statement of Loss or Damage at Delivery (DD Form 1840) all loss and transit damage that is found at delivery. Later discovered loss or transit damage shall be listed on the Notice of Loss or Damage after Delivery DD Form 1840R. The TSP shall accept this form (DD Form 1840R), as overcoming the presumption of correctness of the delivery receipt, if it is transmitted or postmarked within 75 calendar days of delivery. Notice shall not be required if a claim is filed with the TSP within 75 days of delivery. Neither the DD Form 1840 nor DD Form 1840R are conclusive; both can be rebutted by other evidence.
- d. If notice of loss or damage of HHG or UB is postmarked or transmitted to the TSP more than 75 calendar days after delivery, the loss or damage on that notice will be presumed not to have occurred while the goods were in the possession of the TSP unless there is good cause for the delay, as determined by the appropriate MCO. Good cause may include, but is not limited to, officially recognized absence or hospitalization of the owner during all or a portion of the period of 75 calendar days from the date of delivery. In case of recognized official absence, the appropriate Service MCO will provide the TSP with the proof of the officially recognized absence and the additional days granted shall not exceed the period of official absence.
- e. The TSP failure to provide the DD Form 1840/1840R to the owner and to have proof thereof will eliminate any requirement for notification to the TSP. Notice using the DD Form 1840/1840R is not required by the TSP in the case of major incidents requiring the TSP to notify the Military Surface Deployment and Distribution Command and appropriate PPSO of the incident. Such incidents include fire, pilferage, vandalism, and similar incidents that produce significant loss, damage, or delay.
- f. The inventory prepared at origin and delivery receipt is valid evidence that either the MCO or the TSP shall consider along with timely notification in determining whether or not a owner has sustained loss and/or damage in the shipment.
- g. The service member will use the DD Form 1844 (List of Property and Claims Analysis Chart) when submitting a claim to the TSP or MCO. The DD Form 1844 can be found at DOD Forms Management Programs at this website <http://www.dtic.mil/whs/directives/infomgt/forms/formsprogram.htm> or a copy can be obtained at your MCO.

1.5 Inspection by the TSP

- a. The TSP may inspect the damaged items at any time prior to settlement of the claim, but may not deny a claim solely on the basis that it was unable to inspect any item. If the owner has repaired an item before the TSP inspection, the owner must provide the repair bill or some other evidence of the damage and repair cost to the TSP. If the owner has disposed of a damaged item, he or she must give the TSP evidence that the item was damaged beyond economical repair.
- b. If, before a claim is filed, an owner calls the TSP and asks it to inspect, or give permission to dispose of items, the TSP will, within two business days of being contacted, notify the owner that either the items will be inspected or that the owner may dispose of the items. In such cases, if the TSP gives notice to inspect the items, TSP will do so within 45 calendar days of being contacted by the owner unless the owner grants a further extension.
- c. If the owner refuses to permit the TSP to inspect, the TSP shall contact the appropriate Service MCO and request assistance in arranging an inspection of the goods. If the owner

causes a delay by refusing inspection, the TSP shall be provided with an equal number of days to perform the inspection/estimate (45 calendar days plus delay days caused by owner).

1.6 Repair Estimates

- a. Responsible Party: The TSP will be responsible for paying for repair estimates it requires to process any and all claims that are filed with the TSP by the owner. The MCO will be responsible for paying for all repair estimates it requires to process and substantiate any and all claims that are filed with the MCO by the owner. The TSP is responsible for paying all estimates and associated fees presented by an MCO as a result of claims that were transferred to the MCO by the owner pursuant to, Claims Filing in Paragraph 1.1a, unless:
 1. The TSP previously provided a reasonable estimate, or
 2. The TSP previously offered to pay the owner a value that matches or exceeds the repair cost for all items on the estimate, or
 3. The item damaged is repairable and the TSP offered to repair it at no cost to the member, or
 4. The TSP previously offered to pay the replacement cost or to replace it in kind.
- b. All estimates provided by the TSP must identify a repair firm that is willing and able to make the repair within a reasonable time, for the amount stated. The repair firm must be reputable, having a reputation for timely and satisfactory performance. All such estimates must be itemized.
- c. If an MCO receives an itemized repair estimate from the TSP before a claim is settled, then the MCO will use that estimate provided that it is the lowest overall, and meets the criteria in paragraph b, above. If the TSP estimate is the lowest overall estimate and is not used, the MCO will advise the TSP in writing of the reason the lowest overall estimate was not used in determining the TSP liability.
- d. If the TSP sends the appropriate MCO a lower repair estimate after the recovery demand on the TSP it will be considered in the TSP recovery rebuttal or appeal process if lower than the estimate used by the MCO and if it establishes that the estimate submitted by the owner was unreasonable in comparison with the market price in the area or that the price was unreasonable in relation to the value of the goods prior to being damaged.
- e. If a TSP has made an inspection/estimate based upon the DD Form 1840R and the owner subsequently updates the notice, the TSP is authorized to make an additional inspection/estimate. The TSP will contact the MCO to determine if it will authorize a deduction of \$75.00 or actual inspection cost, if less, from the TSP's liability for performing the second inspection/estimate.
- f. The TSP is required to ensure that qualified repair firms and subcontractors perform the repairs and they must provide the name and telephone number of the repair firm that will be doing the work, if requested by either the MCO or the owner.

1.7 Settlement of Loss and Damage Claims

- a. On loss and damage claims, the TSP shall pay, deny, or make an offer within 60 days of receipt of a complete, substantiated claim.
- b. The TSP will complete payment to the owner within 30 days of receipt of notice that the owner has accepted a full or partial settlement.
- c. In those cases where more than one independent TSP or warehouse may be responsible for the loss, the TSP or warehouse that receives a claim from the delivery TSP, the 60 day

period for payment, denial or a final written offer will begin on receipt of the claim from the delivery TSP, not on the date that the delivery TSP originally received the claim.

1.8 Partial Settlements

- a. If the owner cannot reach a mutually acceptable settlement directly with the TSP on part of his or her claim, the owner can accept payment from the TSP on those items on which the owner and TSP have reached agreement. If the owner elects to accept partial settlement, the TSP may pay the owner on the items on which they have reached an agreement. The owner may transfer any unsettled portions of their claim to a MCO. The MCO may assert a recovery demand on the TSP. The TSP will not be liable on such a recovery claim for payment on any items on which the TSP has already paid the owner, if the correspondence between the TSP and the owner lists the item as one on which payment is being made and clearly indicates that the prior payment was in full and final satisfaction of either the entire claim, or was in full and final satisfaction of the claim for the particular item.

1.9 Quick Claim Settlement

- a. The TSP may establish a quick claim settlement procedure to quickly resolve and pay claims for minor loss or damage discovered at the time of delivery. Such procedures should cover payment for less than \$500 with payment made within 5 days of delivery. The process of settling and paying such claims will be left to the discretion of each TSP. However, any small claim settlement agreement can contain only a limited release of liability and must specifically list the items and the damage for which payment is being made. Owners must be advised that they may still file claims for later discovered loss or damage. A copy of the settlement agreement must be made available to the appropriate MCO, on request. However, if the owner receives a “quick” claim settlement and then files an additional claim, the owner must indicate that he or she received a quick claim settlement and he or she may not file an additional claim for any items that he settled through the quick claim process.

1.10 Salvage

- a. To the extent not prohibited by law or agreement, the TSP is entitled to take possession of and sell for salvage any damaged item on which it has paid either the depreciated or undepreciated replacement cost, or replaced the damaged item with a new item.
- b. If the TSP pays a owner the depreciated or undepreciated replacement cost of a lost item, and the lost item is subsequently located, the TSP must notify the Contracting Officer and Transportation Officer (TO) and the owner for instructions. The owner may then decide either to request or decline delivery of the item(s). If the owner elects to receive a found item, the owner must refund any amount paid on that item. If the owner declines delivery of the item, the TSP may retain the item(s) for salvage.
- c. If the TSP locates an item within 60 days of receipt of notice of the loss, and a claim on that item has not yet been paid, then the owner will be obligated to accept delivery of the item in lieu of a claim, even if the owner has already replaced the item. In addition, if the TSP locates a lost item more than 60 days after receipt of notice of the loss, but the item has not been replaced, and a claim on the item has not been paid, then the owner will be obligated to accept delivery of the item in lieu of a claim. If a lost item is later delivered with damage, the time limits for qualifying for FRV protection and for filing claims on that item will not commence until the delivery of that item. Notwithstanding the above, any essential item(s), as described in Essential Items, Paragraph 1.14, that a reasonable person would and has replaced promptly may be declined by the owner before the 60 day period has run. This provision applies only when:
 - 1. The item has been missing for at least seven (7) days from the date of delivery and the TSP has been notified pursuant to Essential Items, Paragraph 1.14.
 - 2. The item is necessary for daily life, such that it must be replaced within 2 business days of notice to TSP.

3. The item has in fact been replaced.
- d. The TSP must take possession of salvage items, at the owner's residence, or other location acceptable to the owner, not later than 30 days after receipt of a complete claim from either the owner or the MCO. However, in no case will the 30-day period for the TSP to take possession end until after the period allowed for the TSP inspections (see Inspection by the TSP, Paragraph 1.5). The 30-day pickup period can be extended by an agreement between the TSP, and the owner. If the owner refuses to cooperate with the TSP in the exercise of salvage rights, the TSP should contact the appropriate Service MCO closest to the owner and request assistance. At any time the owner may ask the TSP whether it may dispose of an item and get an answer within 2 days under, Paragraph 1.5b.
 - e. The TSP will not exercise its salvage rights if the depreciated replacement value of all salvageable items totals less than \$100.00, or, in the case of a single salvageable item, the item has a value of less than \$50. If a shipment has more than one salvageable item, one of which has a value of \$50.00 or more, yet the total of all salvageable items is \$100.00 or less, then the TSP may exercise its salvage rights.
 - f. The TSP will not exercise its salvage rights on any item that is hazardous or dangerous to the health or safety of the owner or the owner's family. Such items include, but are not limited to, broken mirrors or glass, spoiled food, moldy mattresses or other fabric items. However, the owner for potential salvage will retain antiques, figurines, and crystal with a single item value of \$50 or more.
 - g. If the TSP is unable to exercise its salvage rights due to the disposal of an item(s) by the owner, the TSP may reduce its liability by 25% on any item that has a depreciated replacement value of \$50.00 or more. The TSP is entitled to no deduction for salvage on a single item with a depreciated replacement value of less than \$50.00; unless the total combined depreciated replacement value of all items that have been disposed of is \$100.00 or more.

1.11 Claims for \$25 or Less

- a. In an effort to reduce administrative costs, the Military Services agree that they will not pursue a claim against a TSP for loss or damage to household goods that were transported under this document, if the amount of the claim is for \$25 or less. The TSP agreed that they will not request reimbursement for such claims from the Military Services for an amount of \$25 or less. However, this provision does not apply to claims submitted directly to the TSP by an owner.

1.12 Dispute Resolution

- a. If an owner does not accept a settlement offered by the TSP, the owner may transfer a claim as specified in Claims Filing, Paragraph 1.1a to the appropriate MCO. If the owner transfers a claim to the military, the MCO will resolve the owner's claim in accordance with its Service's claims regulations. The MCO will then assert a recovery claim against the TSP. The TSP must pay, deny or make an offer on the recovery claim within 60 days of receipt of the claim, unless an extension is granted.
- b. If the TSP and the MCO cannot reach a mutual settlement on the recovery claim, the military service may collect the amount of its recovery claim by administrative offset from money that is owed to the TSP for transportation services, or from any other payment due the TSP directly from the government. If payments to the TSP are made by a third party payment system, the TSP agrees that the appropriate MCO may direct the party paying the TSP to divert all or part of any payment to the appropriate military finance center in order to accomplish offset to pay a government claim from a prior shipment.
- c. If the TSP, following such an offset, continues to dispute the amount of its liability, then it may file an administrative appeal under the provisions of Title 31, United States Code, Section

3702, to the Defense Office of Hearing and Appeals (DOHA) or it may file suit in the appropriate federal court.

- d. In some cases more than one independent TSP or warehouse may have had custody of the goods, the claim will be filed with the delivery TSP and the delivery TSP who first receives the claim may forward it to a prior TSP or warehouse in the chain of custody. In those cases, if the prior TSP or warehouse disputes the liability and alleges the delivery TSP was liable, the owner does not have to continue to deal with the TSPs but may transfer the claim to the appropriate MCO for resolution of the claim without giving prior notice to the delivery TSP.

1.13 Catastrophic Loss Payments

- a. The TSP is responsible for identifying and making partial, advance payments to owners who have suffered a catastrophic loss. These payments are designed to relieve an owner's hardship associated with the loss of all or a majority of their HHG or UB. The payments are an advance and should not exceed the owner's expected total liability. Owner will still be required to file a claim for their loss. Any advance payment made will be deducted from the owner's eventual award. Such payments are subject to the same maximum liability and rules as all payments.
- b. Catastrophic loss occurs when over 60% of the inventory line items in a given shipment are lost, damaged or destroyed. However, TSP are free to declare any loss catastrophic and make a partial payment. If the TSP cannot contact the owner within 48 hours, they will make payment or come to an agreement on payment within 48 hours of making contact. Catastrophic losses and payments must be recorded with the destination transportation office, Contracting Office and MCO. The declaration of a loss as catastrophic and the making of a partial payment is not an admission of liability regarding any particular piece of property.
- c. TSPs and contractors are expected to make advance payments as soon as possible after a catastrophic loss occurs. Payments must be made within 48 hours of discovery or being notified of a catastrophic loss, unless the owner and TSP otherwise come to an agreement. TSPs are free to make an advance payment in any amount they believe will not exceed their total expected liability to the owner. However, TSP is required to pay no less than 5% of their total maximum liability for the shipment.
- d. In the event that a TSP identifies or is informed of a catastrophic loss for which it believes it is not liable under Claims Filing, Paragraph 1.1a, 4, the TSP shall inform the owner's MCO within 24 hours. In such cases, the MCO shall handle the advance payment and claim. If it is later determined that the TSP was, in fact, liable for the loss, the MCO will assert a recovery claim against the TSP. The TSP shall be liable as if the owner had filed a claim with the TSP within nine months of their loss.

1.14 Essential Items.

- a. The TSP is responsible for promptly dealing with owners who have had essential items lost, destroyed or made unusable due to damage. Owners are responsible for notifying the TSP, MCO, or PPSO of such a loss within 7 days of the date their goods were delivered. Any item not identified in this way by the owner shall not be considered "essential."
- b. Essential items are only those items necessary for everyday living, which would reasonably need to be replaced promptly. Items used solely for entertainment purposes are not considered essential. Fungible items that are regularly used up or worn out and must be routinely replaced are not considered essential. Essential items include but are not limited to:
 - 1. Refrigerators or other appliances necessary for the safe storage and preparation of food.
 - 2. Necessary medical equipment.

3. Mattresses

- c. Upon notification of the loss of an essential item by either the owner, MCO or SDDC, the TSP shall either pay for such items, provide temporary or permanent replacements for them, or such other arrangement as agreed to by owner. Such action must be taken within two (2) business days of notification, regardless of whether a claim has been filed. Any payments made by the TSP pursuant to this paragraph shall be considered an advance on any claim and should not exceed the TSP expected total liability. The owner will still be required to file a claim for their loss. Any advance payment made will be deducted from the owner's eventual award. Such payments are subject to the same maximum liability and rules as apply to all payments under the contract.
- d. If a TSP declines to provide or pay for an essential item or fails to respond to notification within the two (2) business day period, the owner may file a claim for said item(s) directly with the MCO. In such cases, the owner shall retain his or her right to FRV for those essential items with which notice was provided to the TSP. The owner is expected to file the remainder of their claim consistent with all claims provisions.
- e. In the event that a TSP identifies or is informed of the loss or damage of an essential item for which it believes it is not liable under Claims Filing, Paragraph 1, a, 5, Exclusions from Liability, the TSP shall inform the owner's MCO within 24 hours. In such cases, the MCO shall handle the advance payment and claims. If it is later determined that the TSP was, in fact, liable for the loss, the MCO will assert a recovery claim against the TSP. The TSP shall be liable as if the owner had filed a claim with the TSP within nine months of their loss.
- f. Department of Defense, or any of its components, may require the TSP or contractors to provide claims reports. These reports will include, as a minimum, shipment information/identification, loss/damage reports and, information about claims settlement, if settlement has occurred.

2. Liability

2.1 Liability Limits for Loss or Damage

- a. The TSP is liable to the owner, or to the military service that contracted for the shipment, for loss or damage that occurs to the owner's personal property while it is in the custody of the TSP. Liability on all shipments, whether domestic or international, will be determined in accordance with the Carmack Amendment to the Interstate Commerce Act, (Title 49, United States Code, Section 14706) unless a specific provision herein establishes a different rule or procedure
- b. When a claim is filed directly with the TSP within nine months of delivery, the TSP maximum liability on all shipments will be the greater of:
 - 1. \$5,000 per shipment, or
 - 2. \$4.00 times either the net weight of the HHG shipment or the gross weight of the UB shipment, in pounds, not to exceed \$50,000.
- c. On all other loss and damage claims asserted against the TSP, the TSP's maximum liability will be limited to \$1.25 times the net weight of the shipment, in pounds.
- d. Payments by the TSP to an owner for inconvenience claims will not be deducted from the TSP's maximum liability for loss or damage, but are a separate liability.

2.2 Full Replacement Value (FRV) Liability

- a. When the owner files a claim with the TSP within nine (9) months of delivery, the TSP is liable for the Full Replacement Value (FRV) of any lost or destroyed items subject to the limits of liability stated in Section 2.1 above.

- b. If an owner submits a claim to a MCO within nine (9) months of delivery but wants the claim to be forwarded to the TSP for settlement, the owner will be considered as having filed within 9 months of delivery.
- c. If the TSP receives a claim that has been forwarded by a MCO within nine months of delivery, the TSP will be liable for the full replacement value. If the TSP receives a claim from a MCO more than nine months after delivery, but it is postmarked or electronically transmitted within nine months of the delivery date, then the TSP will treat the claim as if it had been filed directly with the TSP within nine months and the TSP will be liable for full replacement value protection. On these claims, the TSP liability is as follows:
 - 1. For items that are damaged but not destroyed, the TSP will, at its option, either repair the items to the extent necessary to restore them to their original condition when received by the TSP, or pay the owner for the cost of such repairs.
 - 2. For most items that are destroyed (i.e., the repair cost exceeds replacement cost) or lost, the TSP will, at its option, either replace the lost or destroyed item with a new item, or pay the undepreciated replacement cost of a new item. New items should, to the greatest extent possible, be from the same manufacturer and should be the same make and model as the item that was lost or destroyed. If the TSP cannot find a new item that is the same as the item that was lost or destroyed, it may replace the item with one of comparable qualities and features. However, for lost or destroyed items that are parts of sets, such as a silver service, crystal glasses, or china, the TSP may replace the lost item with a like item that matches the rest of the set. Likewise, some items, such as collectable figures (e.g., Hummel and Lladro), collectable plates, collectable dolls, baseball cards, antiques, comic books, coin and stamp collections, and objects of art, cannot be properly replaced with new items because their value is based, in part, on the fact that they are no longer made and are no longer available for purchase as new items. For this type of item, the TSP may replace the lost or destroyed item with the same or comparable item or pay the replacement cost of the item.
- d. When FRV applies to a shipment that includes one or more motor vehicles (automobiles, vans, pickup trucks, motorcycles or sport utility vehicles), the TSP maximum liability for the vehicles shall be the value stated in the current issue of the N.A.D.A.'s Official Used Car Guide (the "Guide") for such vehicle(s), adjusted for mileage and other factors considered in the guide. However, if either the owner or the TSP has obtained an appraisal of the vehicle from a qualified appraiser, settlement will be based on the appraised value rather than the book value.
- e. For boats, personal watercraft, ultra light aircraft, pianos, organs, firearms, objects of art, all-terrain vehicles, and snowmobiles, the TSP may replace the item with a comparable used item or pay the *fair market value* replacement cost, because these are large, expensive items that are not part of the typical shipment and have an active, widespread secondary market.
- f. The owner may reject a payment or item offered by the TSP to settle a claim. If an owner files a claim with the delivering TSP within nine (9) months of delivery, but fails to settle the claim directly with the TSP, the owner may transfer their claim to a MCO subject to the limitation under Claims Filing Procedures, Paragraph 1.a. In those cases where transfers have occurred, the TSP shall not have the option to repair or replace items in kind, but must pay to the MCO the repair cost or undepreciated replacement cost of a new item, whichever is less. If the TSP can show that they offered the owner a replacement item of comparable or better quality than the item lost, the TSP liability for that item will be limited to their replacement cost at the time offered (including any tax or drayage) or the amount demanded, whichever is less.
- g. Replacement cost is based on the replacement cost at destination. It includes any shipping charges and sales tax. However, the TSP is not required to pay shipping charges and/or

sales tax in excess of \$10 on a claim until it receives proof that the charges and taxes were actually paid.

2.3 Actual Value (Depreciated) Liability

- a. If the owner files a claim directly with the TSP more than nine months after delivery, the TSP is liable for the depreciated value of the items only up to a maximum of \$1.25 times either the net weight of the HHG shipment or the gross weight of the UB shipment. Liability will be as follows:
 1. For items that are damaged but not destroyed, the TSP will, at its option, either repair the items to the extent necessary to restore them to their original condition when received by the TSP, or pay the owner for the cost of such repairs, up to the depreciated value of the items.
 2. For items that are destroyed (i.e., the repair cost exceeds depreciated value) or lost, the TSP will pay the depreciated replacement cost for the item. However, if the owner is willing to accept a replacement item instead of cash payment, the TSP may settle all or part of a claim by delivering a replacement item(s) of like kind, quality and condition to the owner.
- b. If the owner files a claim directly with a MCO, and does not file directly with the TSP for settlement, the MCO will adjudicate the claim pursuant to statutory and regulatory guidance. The MCO may then assert a recovery claim against the destination TSP. The TSP, on this type of a recovery claim, will be liable to the MCO for the depreciated replacement or repair cost, whichever is less. If the owner files a claim directly with a MCO, the TSP will not be liable for more than the depreciated replacement cost, not to exceed \$1.25 times the net weight of the HHG shipment or the gross weight of the UB shipment, in pounds.
- c. In settling claims for the depreciated replacement cost of an item, the MCO and TSP will use the Joint Military-Industry Depreciation Guide (JMIDG), for those items that are listed on the guide and any applicable supplements. The MCO and TSP will use the current replacement cost of the item as a base to apply the depreciation factor to arrive at the current actual value of the item. If an item cannot be replaced, or no suitable replacement is obtainable, the proper measure of damages for items that depreciate shall be the original cost, adjusted upward to reflect the increase in the consumer price index (CPI) since the date of purchase, and then adjusted downward to reflect the depreciation rate in the JMIDG found at the following web site:
[https://www.jagcnet.army.mil/JAGCNETIntranet/Databases/Claims/USARCS.nsf/\(JAGCNetDocID\)/82E95D4B1F719EF985257067004E4515/\\$FILE/JMIDG.pdf#search=%22Joint%20Military-%20Industry%20depreciation%20guide%22](https://www.jagcnet.army.mil/JAGCNETIntranet/Databases/Claims/USARCS.nsf/(JAGCNetDocID)/82E95D4B1F719EF985257067004E4515/$FILE/JMIDG.pdf#search=%22Joint%20Military-%20Industry%20depreciation%20guide%22)
- d. Replacement cost is based on the replacement cost at destination. It includes any shipping charges and sales tax. However, the TSP is not required to pay shipping charges and/or sales tax in excess of \$10 on a claim until it receives proof that the charges and taxes were actually paid.

2.4 Exclusions from Liability

- a. The TSP shall be liable for physical loss or damage to any article that occurs while being transported or stored EXCEPT loss or damage caused by or resulting from the following:
 1. From an act or omission of the owner;
 2. From defect or inherent vice of the article;
 3. From hostile or warlike action in time of peace or war including action in hindering, combating or defending against an actual, impending or expected attack; from any weapon of war employing atomic fission or radioactive force whether in peace or war; or

from insurrection, rebellion, revolution, civil war, usurped power or action taken by governmental authority in hindering, combating or defending against such occurrence;

4. From seizure or destruction under quarantine or customs regulations; confiscation by order of any government or public authority, or risks of contraband or illegal transportation or trade;
 5. From delay caused by strikes, lockouts, labor disturbances, riots, civil commotions, or the acts of any person or persons taking part in any such occurrence or disorder;
 6. From Acts of God (also known as Acts of Nature);
 7. From pre-existing infestations by mollusks, arachnids, crustaceans, parasites or other types of pests; and for fumigation or decontamination when not the fault of the TSP.
 8. From loss or damage that occurs prior to release to the TSP while the goods are in the possession of another TSP under an unrelated shipment of the goods. When a shipment is released from storage under another TSP control, the new TSP shall not be liable for an item claimed as missing which should have been listed as a separate item on the inventory, but which was not listed on the inventory that was prepared by the original TSP. However, the TSP will be liable for items packed in cartons, if the carton is listed on the inventory, unless the TSP can produce evidence (i.e. exception sheet/rider, etc.) to shift liability back to a prior handler.
 9. The TSP shall not be liable for intangible property, securities, nor for the sentimental value of an item.
 10. The TSP shall not be liable for pre-existing damage.
- b. The exclusions listed above will not apply if the TSP's own negligence significantly contributed to the loss. However, if the TSP, after giving written notice to the appropriate government transportation office, or electronic or written notice to the owner, of a potential risk of loss or damage to the shipment from the above causes, is instructed by the government or the owner to proceed with such transportation and/or delivery, notwithstanding such risk, the TSP shall not be liable for the loss attributed to the risk.

2.5 Duty to Mitigate Loss

- a. If a loss or damage occurs to a shipment from one of the excluded causes listed in Exclusions from Liability, Paragraph 2.4 above, the TSP may still be liable for additional damage that results from its failure to take reasonable steps to mitigate the extent of the loss. For example, if a shipment is damaged by water from a flood or hurricane, the TSP, as soon as practical, should attempt to clean and dry the items, rather than allow further damage (e.g., rust, warping, or mildew), to develop from prolonged exposure to dampness. In some cases, the responsible transportation office may direct the TSP to undertake specific mitigation work, or may authorize payment for mitigation work, subject to later determination of whether the government or the TSP will be liable for the cost. The cost of any such mitigation efforts that are not paid for by the government will be deducted from the TSP maximum liability for loss or damage under Liability, Paragraph 2.1a&b. above.

2.6 Time Limitations on Liability for Loss and Damage Claims

- a. The TSP will not be liable for loss or damage unless the owner files a timely claim directly with the TSP or with a MCO under the Military Personnel and Civilian Employees Claims Act (MPCECA) within two years of the delivery of the shipment that included the loss or damaged items. For purposes of timely filing with the TSP or a MCO, timeliness will be determined by the MCO based on the statute, case law, and the service's claims regulations and instructions.

- b. When the owner files a claim with the TSP within nine (9) months of delivery, the TSP is liable for the Full Replacement Value (FRV) of any loss or damaged items subject to the maximum liability listed in section 2.1.
- c. For the purpose of the two-year limit for filing directly with the TSP, if a claim for loss or damage accrues during war or an armed conflict in which an armed force of the United States is involved, or has accrued within two years before war or an armed conflict begins, and there is good cause for delay in filing due to that armed conflict or war, then the claim must be presented within a reasonable time after the cause no longer exists, or after the war or armed conflict ends, whichever is earlier. An armed conflict begins and ends as stated in concurrent resolution of Congress or a decision of the President. Any extension granted by this provision will be at least as long as the duration of the good cause and may be longer, at the discretion of the TSP.
- d. If the owner files a claim with a MCO, the TSP will not be liable to the government on a recovery claim if the government does not dispatch a written demand on the TSP within four years of delivery. This four-year period will be extended by any period granted under Time Limitations on TSP Liability for Loss and Damage Claims, Paragraph 2.6 c. above. If the government does dispatch a written demand on the TSP within four years of delivery, the government will have the normal six years specified in Title 28, United States Code, Section 2415, to resolve the claim or file suit.
- e. If an owner files a claim directly with the TSP and then receives written notice from the TSP that all or part of the claim has been denied, then the owner may transfer the claim to the appropriate MCO, provided such a claim can still be timely filed under the MPCECA. If a recovery claim is not filed by a MCO against the TSP within four years of delivery, including any extended period in Time Limitations on TSP Liability for Loss and Damage Claims, Paragraph 2.6.d. above, or Member's suit is not instituted within two years of receipt of the written notice, then the TSP shall not be liable for any part of the claim that was denied in the notice.
- f. **In summary, the specific timeline and steps for filing a claim are as follows:**
 1. At delivery: Owner and TSP will review then sign the DD1840 if there is any Loss or Damage evident at the time of delivery.
 2. Within 75 days of Delivery: Owner must submit the Notice of Loss and Damage - DD1840R to the TSP.
 3. Within 9 months of delivery: Owner must file a written or electronic claim with the TSP consisting of the information specified in paragraph 1.1e, to be eligible for Full Replacement Value.
 4. If a claim is not completely settled after 30 days, owners may transfer the claim to the appropriate MCO. However, owners may transfer a claim immediately, and still be eligible for FRV under the conditions in section 1.1.a.
 5. Within 2 years of delivery: Owner has the right to file their claim up to 2 years from delivery. If the claim is filed after 9 months from delivery but before 2 years from delivery, the owner is only entitled to depreciated value of the items as per these business rules.

2.7 Termination of Liability for Goods in Storage-in-Transit (SIT)

- a. The TSP responsibility for a shipment and its liability under the bill of lading for a shipment in SIT shall terminate, and the warehouse shall become the final destination of the shipment, on midnight of the day specified in the notice which the TSP receives through the PPSO advising that the government nature of the shipment will terminate. The notice of termination cannot be retroactive. This notice of termination can be rescinded not later than one business day prior to the effective date of the termination.

- b. The government will pay the TSP for all SIT costs, up to and including the day of termination. Once termination, in accordance with the above paragraph has occurred, the government may not revive the TSP liability under the original bill of lading, or reinstate the original bill of lading. If after termination, the government wishes to continue the government's payment for continued storage, the government must enter into a new contract with the warehouse and/or issue a purchase order or new bill of lading for delivery and any additional services needed after the termination notice.
- c. In the event that SIT converts to the service members expense, the TSP is required to provide a copy of the Joint Inspection Form (i.e. rider to the inventory or exception sheet) if requested by the Military Claim Office.

2.8 High Value Items and High Risk Inventories

- a. High value items are limited to currency, coins, jewelry, silverware and silver service sets, crystal, figurines, furs, objects of art, computer software programs, manuscripts, comic books, baseball cards, stamps, and other collectable items or rare documents that have a value in excess of \$100 per pound. For purposes of determining the TSP liability, all such items shall be deemed to weigh at least one pound. A collection of compact disks (CDs) and digital video disks (DVDs) will not be considered high value items. However, individual CDs or DVDs with a value in excess of \$50 will be considered a high value item.
- b. The TSP liability for high value items shall be limited to \$100 per pound of the article, if the owner fails to inform the TSP that such items are included in the shipment after the TSP asks the owner, in writing, to list any such items in the above categories that will be included in the shipment. In order to account for such items, and in order to facilitate special handling of such items, the TSP may use a separate high-risk inventory. Items such as CD's, video tapes and DVDs, that do not qualify as high value items for purposes of this provision limiting liability may be included on a high risk inventory.
- c. A high risk/high value inventory form, even if it is signed by the owner upon delivery and fails to note any shortage at delivery, will normally be treated like any other inventory for purposes of determining whether there was any loss or damage in transit. The Notice of Loss or Damage form (DD Form 1840R), that gives the TSP notice of later discovered loss or damage would overcome the presumption of correct delivery, even of high value items listed on a special inventory, unless the following conditions are met:
 1. If the high risk/high value inventory form has a block to denote delivery, the owner must initial each block for each item. A check mark, or an "x", is not sufficient.
 2. The high risk/high value inventory form must contain a warning, in bold type larger than any other type on the form, that if the owner notes on this inventory that an item was delivered, he or she may never claim that the item was missing with either the TSP or with a MCO.
 3. The destination TSP must attest in writing that, just prior to departure from the residence, the TSP and the owner opened all containers in which the high risk/high value items were packed; that they removed the items from the containers; that they physically inspected each item; and that the TSP advised the owner of the consequences of signing the high risk/high value inventory form.

2.9 Shared Liability on International Shipments Transported on Military Aircraft or Vessels

- a. Code 5, T, and J Shipments
 1. On some international shipments, the government requires the TSP to use Air Mobility Command aircraft or a vessel operating under a Voluntary Intermodal Shipping Agreement to transport the shipment for part of the journey (i.e. code 5, code T, or code J shipment). Liability shall be shared.

2. TSPs are relieved of liability for loss or damage on these shipments when they can reasonably establish, to the satisfaction of the MCO, that the loss or damage occurred while the shipment was in the custody and control of the Government Directed Source. If a TSP receives a claim directly from the owner, and all of the loss occurred while the goods were in the custody of the Government Directed Source, the TSP will deny liability and advise the owner to file a claim with the appropriate MCO. If only part of the loss or damage occurred while the shipment was in the custody of the Government Direct Source the TSP will settle those portions of the claim for which it is liable and refer the owner to the MCO for the payment on the rest of the claim.
3. Where it is evident that the loss or damage occurred while the property was in the possession of the TSP, the TSP will be responsible to the full extent of its normal liability.
4. If the time and place of the loss or damage to this type of shipment cannot be clearly established, and if the owner submits a claim directly with the TSP, the TSP will pay the owner the full amount of the loss, not to exceed twice the TSP maximum liability on the shipment. The TSP will then forward a request for payment of 50% of the settlement to the MCO designated by each military service, supported by a copy of the completed claim. The MCO will pay 50% of the settlement, but not more than 100% of the depreciated replacement cost, to the TSP within 30 days of receipt of the request, provided the owner/owner was a proper owner under the Military Personnel and Civilian Employees Claims Act, and the claim was timely filed.
5. If the time and place of the loss or damage to this type of shipment cannot be clearly established, and the owner files a timely claim directly with a MCO, the military service will pay the owner the depreciated replacement value of the claim. The MCO will then assert a recovery claim against the TSP for only 50% of the loss, not to exceed the TSP maximum liability. The government will accept this compromise settlement of its recovery claim, if the TSP accepts and agrees to pay that amount within 60 days of receipt of the demand. In the event the TSP does not accept the MCO's adjudication of a claim in this category or does not accept and agree to pay within 60 days, then normal negotiating procedures will apply and the 50% compromise agreement will not be acceptable.

b. Code 3 Shipments

1. The minimum liability of for each shipment is \$5,000. Ocean Transportation Service Provider liability is outlined in the SDDC Operations Center USC Contract at W81GYE-05-D-XXXX, Maritime Clause. International Transportation Service Providers need to consider any differences in their liability of \$4.00 times the net shipment weight and the ocean Transportation Service Provider liability. Claims costs should be included in Code 3 rate submissions.
2. Resolution of Loss and/or Damage Claims.
 - (a) The International Transportation Service Provider will act as the Government's claims agent against the Ocean Transportation Service Provider in those cases where the forwarder can prove the ocean Transportation Service Provider was at fault.
3. In the absence of a resolution of a claim, the Transportation Service Provider and the SDDC Operations Center Ocean Transportation Service Provider shall have the right of recourse to the SDDC Operations Center procurement contracting officer (CO), under the Contracts Dispute Clause. In the event of a disputed claim by an International Transportation Service Provider against the Ocean Transportation Service Provider, the International Transportation Service Provider shall provide all necessary documentation to support the Government's claim against the Ocean Transportation Service Provider to SDDC Operations Center. The procurement contracting officer will issue a CO's final decision determining the extent to which a valid claim has been established. If the CO's final decision determines the Government has an affirmative claim against the Ocean Transportation Service Provider, SDDC Operations Center will assign its rights to assert

an action against the Ocean Transportation Service Provider for loss and/or damage, under the Container Agreements, to the International Transportation Service Provider, subject to the right of the Attorney General to supervise and control litigation directly involving the United States.

c. Non Temporary Storage (NTS)

1. The provisions of the Tender of Service apply in regard to inspection and inventory between the NTS TSP and the TSP for Carriage during the transfer of custody of the property at the NTS TSPs facility.
2. The provisions of 1.1 f. and 1.2 apply in regard to the nine month limit for obtaining FRV and the two year limit for filing the claim are met for all TSPs and warehouses in the chain of custody, if the claim is filed with the delivering TSP within the nine month or two year time limit.

d. Direct Procurement Method (DPM) Shipments

1. When custody of a DPM shipment is transferred from one TSP to another, the TSP that delivers the shipment to another TSP will furnish the receiving TSP two legible duplicate copies of the DPM shipment inventory. The receiving TSP will have the option, at its expense, of conducting a joint inspection of every item and carton listed on the DPM shipment inventory. If, at the time each item is checked, there is a difference in the condition of the items from that listed on the DPM shipment inventory, the receiving TSP driver will prepare an exception sheet noting the condition of the containers or to specific cartons within the containers, and use a rider noting thereon any shortage/overage, or differing conditions, cross-referenced to the original DPM shipment inventory. If no new damage or loss is discovered, an exception sheet will be prepared stating, "no differences noted", signed and dated by the receiving TSP's representative or driver. In the event the opinion of the delivering TSP driver and the receiving TSP representative differ as to shortage/overage or condition, both opinions will be listed on the rider and separately identified as to source. Both the delivering and receiving TSP representatives will sign and date the exception sheet/rider, each retaining a legible copy for their files. In the event a claim is filed, each TSP that received the goods from another TSP will furnish legible copies of the exception sheet/rider to the owner and MCO.

2. The provisions of 1.1 f. and 1.2 apply in regard to the nine month limit for obtaining FRV and the two year limit for filing the claim are met for all TSPs and warehouses in the chain of custody, if the claim is filed with the delivering TSP within the nine month or two year time limit.

2.10 Items Liable to Cause Damage

The following will not be accepted for shipment by the TSP:

- a. Property whose inherent nature is liable to impregnate, contaminate, or otherwise cause damage to other property or equipment.
- b. Items which cannot be taken from or delivered to the premises without damage to the items or the premises.

2.11 Rules for Inventory and delivery of damaged items.

- a. All current rules, published in the Defense Transportation Regulation (DTR) Part IV, Appendix B the Tender of Service (TOS) for Personal Property Household Goods (HHG) and Unaccompanied Baggage (UB) for the preparation of the inventory will be followed.
- b. All current rules, published in the DTR, Appendix G - Performance Work Statement for Packing, Containerization and Local Drayage of Direct Procurement Method (DPM) Personal Property Shipments, for the preparation of the inventory for DPM shipments will be followed.

- c. All current rules, published in the DTR, Appendix J, Tender of Service for the preparation of the Inventory for all Nontemporary Storage (NTS) shipments and will be followed.