

Attachment G6

DPM Claims and Liability Procedures

A. Claims Process for Shipments

(1) Claims Filing

- a. Member/employees who have property lost and/or damaged in transit and wish to file against the contractor must file their claims within two (2) years from the delivery date of the shipment that gave rise to the claim. If the owner submits the claim within nine (9) months of the delivery date, the contractor 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). Owners may transfer a claim immediately, and still be eligible for FRV, under the following conditions:
 1. Notice that the contractor has made a final offer on the claim or denied it in full.
 2. Notification by SDDC that the contractor is in bankruptcy.
 3. Notification that the contractor contract is terminated.
 4. The contractor's failure to comply with the catastrophic loss provisions in Paragraph A.(13), and as verified by the MCO.
 5. The contractor's failure to comply with essential items provisions in Paragraph A.(14), and as verified by the MCO.
- b. War or armed conflict: for the purpose of filing with the contractor within two (2) years, if a claim for loss and/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 (2) years before war or an armed conflict begins, and there is good cause for delay in filing due to that armed conflict or war, the claim must be presented within a reasonable time frame as determined by the MCO 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 contractor 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 contractor. If the contractor anticipates 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 contractor using the toll free number or email address given to the owner, to determine if the contractor has already obtained estimates. If the contractor has obtained estimates, the contractor must transmit the estimates within 24 hours, or the next business day if notification occurs on a Friday, Saturday or the day before a holiday, by fax or electronic mail to the MCO. If the contractor has not obtained estimates, the MCO may give the contractor until the next business day to decide whether to inspect and

obtain estimates on those items requiring estimates, and to make arrangements with the owner and repair firms for the estimates. If the contractor decides to inspect and obtain estimates, the estimates must be obtained by the second business day after contact unless the owner agrees to allow additional time. If the contractor is unable to obtain estimates within two (2) business days and the owner does not agree to allow additional time, the MCO will proceed to adjudicate and settle the claim.

- d. The MCO may assert a demand against the contractor for liability as established in 13.B. (liability). The contractor is not liable for payment of items for which the contractor has already paid the owner, if the correspondence between the contractor and the owner clearly indicates prior settlement was in full for the entire claim or was in full for the particular item and customer is satisfied
- e. For purposes of qualifying for FRV and for meeting the two (2) year limit for filing claims directly with the contractor, a claim submitted directly by the owner to the contractor must be submitted within nine (9) months from the delivery date to be eligible for FRV or two (2) years for depreciated value. 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 lost and damaged item and give a description of the damage.
- f. For shipments that have been in the custody of one or more contractors or a warehouse that are not agents of the delivering contractor, then the nine (9) month limit for obtaining FRV and the two (2) year limit for filing the claim is met for all contractors and warehouses in the chain of custody, if the claim is filed with the delivering contractor within the nine (9) month or two (2) year time limit. If the delivering contractor believes some of the loss and/or damage occurred while the goods were in the custody of a prior contractor or warehouse, the delivering contractor must forward the claim to the prior contractor with the documents or other evidence that establish the prior contractor or warehouses liability. The delivering contractor must also advise the owner the date the claim was forwarded, the items for which the delivery contractor is denying liability, and the address/telephone number of the prior contractor or warehouse to which the claim was forwarded. Filing with the delivery contractor satisfies the requirement for all contractors and warehouses in the chain of custody that a claim must be filed directly with a contractor to entitle the owner to FRV settlement.

(2) Exceptions to Filing Claims Directly with the Contractor

- a. Filing with the delivery contractor satisfies the requirement for all contractors in the chain of custody that a claim must be filed directly with a contractor to entitle the owner to settlement on the basis of FRV. Exceptions to the requirement that the owner file directly with the contractor will be granted on a case-by case basis, in writing, by the MCO. Some examples of exceptions are:
 - 1. No access to a telephone or fax machine.
 - 2. Claims for deceased owners (Bluebark) involving surviving family members not familiar with the claims process.

3. Language barriers in the claims filing process.

(3) Substantiation of Claims

- a. In addition to the minimum requirements needed to meet timely filing, all claims must include the following information in order for the contractor to begin the settlement process: any notices of concealed damages or loss that were found after the date of delivery, and not previously provided to contractor under Paragraph A.(4); sufficient information about the shipment to enable the contractor to locate a copy of the bill of lading, service order, or inventory; a description of each item that is lost; and a list of each item that is damaged including a statement of the nature, location and extent of the damage. The description of items lost and/or damaged must also include the date of purchase of each item (if known); 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 (if known).
- b. For claims filed directly with the contractor within nine (9) months of the delivery date, the contractor is responsible for obtaining all repair estimates or replacement cost estimates needed to settle the claim. The contractor may request the assistance of the closest MCO to obtain the name of reputable repair firms. If the contractor is still unable to obtain a repair or replacement estimate on an item, the contractor may ask the owner to obtain the estimates, provided the contractor agrees to pay all estimate fees and drayage costs 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 contractor must adjudicate the claim based on the other evidence in the file. The owner must cooperate with any reasonable request from the contractor in making items available for repair or for repair estimates. If the owner does not cooperate, the contractor should seek assistance from the closest MCO of the owner's military service. If the owner still does not cooperate, the contractor may delay settlement on those items that need estimates until the owner makes the item(s) available.
- c. For claims that are not filed within nine (9) months of the delivery date, but are correctly filed IAW Paragraph A.(1), the owner must provide the contractor with repair and replacement estimates on any item/ for which the amount claimed exceeds \$100.00. See Paragraph A.(6) repair estimates, for rules on use of contractor estimates for 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 contractor, 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 contractor, 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 contractor within nine (9) months of the delivery date, the contractor 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 in Paragraph A.(3)b.

(4) Notice of Loss and/or Damage

- a. Recording loss and/or damage. When unloading or unpacking articles at destination, the contractor must, in coordination with the owner, check the inventory prepared at origin and inspect each article for loss and/or damage. The contractor must, along with the owner record loss and/or 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 must be jointly signed by the contractor and the owner. For split shipments or partial deliveries, a separate DD Form 1840/1840R must be completed for each delivery of property to owner.
- b. The DD Form 1840/1840R will be prepared in five copies by the contractor. The contractor must 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. The contractor must furnish the origin PPSO a completed copy of the form within 75 days after the delivery date. If the service member waits until the 75th day to submit the DD Form 1840R to the contractor, the contractor will have 48 hours to submit the DD Form 1840R to the PPSO. One copy of the form will be held in the contractor's files for further reference.
- c. Upon delivery of the HHG or UB, it is the joint responsibility of the contractor and the owner to record all known loss and/or damage that is found at delivery on the DD Form 1840. Later discovered loss or transit damage must be listed on the DD Form 1840R, Notice of Loss or Damage After Delivery, or a reasonable facsimile thereof. The contractor must accept the DD Form 1840R, as overcoming the presumption of correctness of the delivery receipt, if it is transmitted or postmarked within 75 calendar days of the delivery date. Notice is not required if a claim is filed with the contractor 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 and/or damage of HHG or UB is postmarked or transmitted to the contractor more than 75 calendar days after the delivery date, the loss and/or damage on that notice will be presumed not to have occurred while the goods were in the possession of the contractor 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 contractor with the proof of the officially recognized absence and the additional days granted must not exceed the period of official absence.
- e. Contractors failure to provide the DD Form 1840/1840R to the owner and to have proof thereof will eliminate any requirement for notification to the contractor. Notice using the DD Form 1840/1840R is not required by the contractor in the case of major incidents requiring the contractor to notify SDDC and the 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 the delivery receipt is valid evidence that either the MCO or the contractor must consider along with timely notification in determining whether or not an owner has sustained loss and/or damage in the shipment.
- g. The owner will use the DD Form 1844 (List of Property and Claims Analysis Chart), or a reasonable facsimile thereof, when submitting a claim to the contractor or MCO. The DD Form 1844 can be found at DoD Forms Management Programs website: <http://www.dtic.mil/whs/directives/infomgt/forms/formsprogram.htm> or a copy can be obtained at your MCO, or it may be generated by the TSP Contractor or MCO automated data system

(5) Inspection by the Contractor

- a. The contractor may inspect the damaged items at any time prior to settlement of the claim, but may not deny a claim solely on the basis it was unable to inspect any item. If the owner has repaired an item before the contractor inspection, the owner must provide the repair bill or some other evidence of the damage and repair cost to the contractor. If the owner has disposed of a damaged item, they must give the contractor evidence that the item was damaged beyond economical repair.
- b. If, before a claim is filed, an owner calls the contractor and asks for either inspection of an item or permission to dispose of items, the contractor must provide notification of inspection or disposal permission to the owner within two (2) business days of being contacted. In such cases, if the contractor gives notice to inspect the items, they must 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 contractor to inspect, the contractor must 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 contractor must be provided with an equal number of days to perform the inspection (45 calendar days plus delay days caused by owner).

(6) Repair Estimates

- a. Responsible party: the contractor is responsible for paying all repair estimates required to process any and all claims filed directly with the contractor by the owner. The MCO is responsible for paying for all repair estimates required to process and substantiate any and all claims filed with the MCO by the owner. The contractor is responsible to pay all estimate costs and other costs associated presented by an MCO as a result of claims transferred to the MCO by the owner pursuant to, claims filing in Paragraph A.(1), unless:
 - 1. The contractor previously provided a reasonable estimate, or
 - 2. The contractor 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 contractor offered to repair it at no cost to the member, or
 4. The contractor previously offered to pay the replacement cost or to replace it in kind.
- b. All estimates provided by the contractor must identify a repair firm 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 estimates must be itemized.
 - c. If an MCO receives an itemized repair estimate from the contractor before a claim is settled, the MCO will use that estimate provided it is the lowest, and meets the criteria in Paragraph A.(6)b, above. If the contractor estimate is the lowest overall estimate and is not used, the MCO will advise the contractor in writing of the reason the lowest overall estimate was not used in determining the contractor's liability.
 - d. If the contractor sends the MCO a lower repair estimate after the recovery demand is made by the MCO, the lower repair estimate will be considered in the recovery rebuttal or appeal process. The lower estimate must prove the repair was unreasonable based on the value of the item before it was damaged.
 - e. If a contractor has made an inspection/estimate based upon the DD Form 1840R and the owner subsequently updates the notice, the contractor is authorized to make an additional inspection/estimate. The contractor must contact the MCO to determine if a deduction of \$75.00 or actual inspection cost (lesser amount) is authorized from the contractor's liability for performing the second inspection/estimate.
 - f. The contractor must ensure qualified repair firms and subcontractors perform the repairs. If requested by the MCO or owner they must provide the name and telephone number of the repair firm doing the work

(7) Settlement of Loss and Damage Claims

- a. For loss and/or damage claims, the contractor must pay, deny, or make an offer within 60 days of receipt of a complete, substantiated claim.
- b. The contractor must complete payment to the owner within 30 days of receipt of notice the owner has accepted a full or partial settlement.
- c. In cases where more than one independent contractor or TSP is responsible for the loss/and or damage, the contractor or TSP receiving a claim from the delivery contractor has a 60 day period for payment, denial or a final written offer. The 60 day period begins upon receipt of the claim from the delivery contractor, not on the date that the delivery contractor originally received the claim.

(8) Partial Settlements

- a. If the owner cannot reach a mutually acceptable settlement directly with the contractor for all or a portion of their claim, they can accept a partial settlement from the contractor on item(s) on which the owner and contractor have reached an agreement. If the owner elects to accept partial settlement, the contractor may pay the

owner for item(s) on which an agreement has been reached. The owner may transfer any unsettled portion of their claim to an MCO. The MCO may assert a recovery demand on the contractor. The contractor will not be liable for payment on any item(s) already paid to the owner if correspondence between the contractor and the owner lists the item(s) as “payment is being made” and clearly indicates that prior payment was in full and final satisfaction.

(9) Quick Claim Settlement

- a. The contractor may establish a quick claim settlement procedure to quickly resolve and pay claims for minor loss and/or damage discovered at the time of delivery. Such procedures should cover payment of less than \$500.00 total. Payment must be made within five (5) days of delivery. The process of settling and paying such claims will be left to the discretion of each contractor. Any small claim settlement agreements can only contain a limited release of liability and must specifically list the item(s) and the damage for which payment is being made. The owner must be advised that they may still file claims for later discovered loss and/or damage. A copy of the settlement agreement must be made available to the appropriate MCO, on request. If the owner receives a “quick” claim settlement and then files an additional claim, the owner must indicate they received a quick claim settlement and may not file an additional claim for any item(s) settled through the quick claim process.

(10) Salvage

- a. To the extent not prohibited by law or agreement, the contractor is entitled to take possession of and sell for salvage any damaged item(s) for which they paid either the depreciated or full, undepreciated replacement cost, or replaced the damaged item(s) with a new item(s).
- b. If the contractor pays the owner the depreciated or full undepreciated replacement cost of a lost item(s), and the lost item(s) is subsequently located, the contractor must notify the contracting officer, transportation officer (to) and the owner for instructions. The owner may decide to either request or decline delivery of the item(s). If the owner elects to receive a found item(s), the owner must refund any amount paid on these item(s). If the owner declines delivery of the item(s), the contractor may retain the item(s) for salvage.
- c. If the contractor locates an item(s) within 60 days of receipt of notice of the loss, and a claim on that item(s) has not yet been paid, then the owner will be obligated to accept delivery of the item(s) in lieu of a claim, even if the owner has already replaced the item(s). If the contractor locates a lost item(s) more than 60 days after receipt of notice of the loss, but the item(s) has not been replaced, and a claim on the item(s) has not been paid, then the owner will be obligated to accept delivery of the item(s) in lieu of a claim. If a lost item(s) is later delivered with damage, the time limits for qualifying for FRV protection and for filing claims on that item(s) will not commence until the delivery of that item(s). Notwithstanding the above, any essential item(s), as described in essential items, Paragraph A.(14), that have been replaced 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 contractor has been notified pursuant to essential items, Paragraph A.(14).
 2. The item is necessary for daily life, such that it must be replaced within two (2) business days of notice to contractor.
 3. The item has in fact been replaced.
- d. The contractor must take possession of salvage item(s) 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 contractor to take possession end until after the period allowed for the contractor's inspections (see inspection by the contractor, Paragraph A.(5)). The 30-day pickup period can be extended by an agreement between the contractor and the owner. If the owner refuses to cooperate with the contractor they should contact the appropriate service MCO and request assistance. At any time the owner may ask the contractor for permission to dispose of an item. Contractor must provide response within two (2) days, paragraph A.(5).
 - e. The contractor may not exercise 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 \$50.00. However, if a shipment has more than one salvageable item and one of the items has a value of \$50.00 or more the contractor may exercise salvage rights even if the total of all salvageable items is \$100.00 or less.
 - f. The contractor may not exercise 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. Exception: the owner must retain antiques, figurines, and crystal with a single item value of \$50.00 or more for potential salvage.
 - g. If the contractor is unable to exercise salvage rights due to the disposal of an item(s) by the owner, the contractor may reduce its liability by 25% on any item that has a depreciated replacement value of \$50.00 or more. The contractor 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.

(11) Claims for \$25.00 or Less

- a. To reduce administrative costs, the military services agree they will not pursue a claim against a contractor for loss and/or damage to HHG or UB transported under this document, if the amount of the claim is \$25.00 or less. This provision does not apply to claims submitted directly to the contractor by an owner.

(12) Dispute Resolution

- a. If an owner does not accept a settlement offered by the contractor, the owner may transfer a claim to the appropriate MCO. If the owner transfers a claim to the military, the MCO will resolve the owner's claim in accordance with the service's

claims regulations. The MCO will then assert a recovery claim against the contractor. The contractor 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 contractor 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 contractor for transportation services, or from any other payment due the contractor directly from the Government. If payments to the contractor are made by a third party payment system, the contractor agrees that the appropriate MCO may direct the party paying the contractor 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. In cases where more than one independent contractor or TSP has had custody of the shipment the claim must be filed with the delivery contractor. The delivery contractor who first receives the claim may forward it to a prior contractor or TSP in the chain of custody. If the prior contractor or TSP disputes the liability and alleges the delivery contractor was liable, the owner may transfer the claim to the appropriate MCO for resolution of the claim without giving prior notice to the delivery contractor.

(13) Catastrophic Loss Payments

- a. The contractor 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. The owner is 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. Contractors may declare any loss catastrophic and make a partial payment. If the contractor cannot contact the owner within 48 hours of the catastrophic event, they must make payment or come to an agreement on payment within 48 hours of making contact. Catastrophic losses and payments must be recorded with the origin/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. Contractors must 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 contractor otherwise come to an agreement. Contractors may make an advance payment in any amount they believe will not exceed their total expected liability to the owner. However, the contractor is required to pay no less than 5% of their total maximum liability for the shipment.
- d. The contractor must inform the owner's MCO within 24 hours if a contractor identifies or is informed of a catastrophic loss for which it believes it is not liable

under claims filing, Paragraph A.(1). In such cases, the MCO will handle the advance payment and claim. If it is later determined that the contractor was, in fact, liable for the loss, the MCO will assert a recovery claim against the contractor. The contractor will be liable as if the owner had filed a claim with the contractor within nine months of their loss.

(14) Essential items

- a. The contractor is responsible for promptly dealing with owners who have had essential items lost, destroyed or made unusable due to damage. The owner is responsible for notifying the contractor, MCO, or PPSO of such a loss within seven (7) days of the shipment delivery. Any item(s) not identified within seven days will 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(s) by either the owner, transportation officer/contracting officer or MCO and/or SDDC, the contractor must 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 contractor pursuant to this paragraph will be considered an advance on any claim and should not exceed the contractor’s expected total liability. The owner is required to file a claim for their loss. Any advance payment made will be deducted from the owner’s eventual settlement. Such payments are subject to the same maximum liability and rules applying to all payments under the contract.
- d. If a contractor declines to provide or pay for an essential item(s) or fails to respond to notification within the two (2) business day period, the owner may file a claim for items directly with the MCO. In such cases, the owner retains rights to FRV for those essential items with which notice was provided to the contractor. The owner is expected to file the remainder of their claim consistent with all claims provisions.
- e. In the event that a contractor identifies or is informed of the loss and/or damage of an essential item(s) for which it believes it is not liable under claims filing, Paragraph A.(1), exclusions from liability, the contractor must inform the owner’s MCO within 24 hours. In such cases, the MCO will handle the advance payment and claims. If it is later determined that the contractor or Contractor was, in fact, liable for the loss, the MCO will assert a recovery claim against the contractor. The contractor will be

liable as if the owner had filed a claim with the contractor within nine (9) months of their loss.

- f. DoD, or any of its components, may require the 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.

B. Liability

(1) Direct Procurement Method (DPM) Shipments

- a. When custody of a shipment is transferred from one TSP or contractor to another, the TSP or contractor delivering the shipment to another TSP or contractor will furnish the receiving TSP or contractor two legible duplicate copies of the shipment inventory. The receiving TSP or contractor will have the option, at its expense, to conduct a joint inspection of every item and carton listed on the shipment inventory. If, at the time each item is checked, there is a difference in the condition of the items from what is listed on the 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 shipment inventory. If no new loss and/or damage is discovered, an exception sheet will be prepared stating, "no differences noted", signed and dated by the receiving TSP's warehouseman and driver. In the event the opinion of the delivering TSP or contractor's driver and the receiving TSP or contractor representative differ, both opinions will be listed on the rider and separately identified. Both the delivering and receiving TSP or contractor 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 or contractor receiving the goods from another TSP or contractor will furnish legible copies of the exception sheet/rider to the member or MCO, upon request.

(2) Liability Limits for Loss or Damage

- a. The contractor is liable to the owner, or to the military service that contracted for the shipment, for loss and/or damage that occurs to the owner's personal property while it is in the custody of the contractor. 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 contractor within nine (9) months of the delivery date, the contractor's 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/or damage claims asserted against the contractor, the contractor's maximum liability will be limited to \$1.25 times the net weight of the shipment, in pounds.
- d. Payments by the contractor to an owner for inconvenience claims will not be deducted from the contractor's maximum liability for loss or damage, but are a separate liability.

(3) Full Replacement Value (FRV) Liability

- a. When the owner files a claim with the contractor within nine (9) months of the delivery date, the contractor is liable for the FRV of any lost or destroyed items subject to the limits of liability stated in Paragraph B.(2).
- b. If an owner submits a claim to a MCO within nine (9) months of the delivery date but wants the claim to be forwarded to the contractor for settlement, the owner will be considered as having filed within nine (9) months of the delivery date.
- c. If the contractor receives a claim that has been forwarded by a MCO within nine (9) months of the delivery date, the contractor will be liable for the FRV. If the contractor receives a claim from a MCO more than nine (9) months after the delivery date, but it is postmarked or electronically transmitted within nine (9) months of the delivery date, then the contractor will treat the claim as if it had been filed directly with the contractor within nine (9) months of the delivery date and the contractor will be liable for FRV protection. On these claims, the contractor liability is as follows:
 - 1. For items that are damaged but not destroyed, the contractor will, at its option, either repair the items to the extent necessary to restore them to their original condition when received by the contractor, or pay the owner for the cost of such repair.
 - 2. For items that are destroyed (i.e., the repair cost exceeds replacement cost) or lost, the contractor 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 contractor 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 quality and features. For lost or destroyed items that are parts of sets, such as a silver service, crystal glasses, or china, the contractor may replace the lost item with a like item that matches the rest of the set. 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, which cannot be properly replaced with new items because their value is partly based on the fact they are no longer made and are no longer available for purchase. For this type of item, the contractor 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 including one or more motor vehicles (motorcycles, mopeds, or motor scooters), the contractor's maximum liability for the vehicles will

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 contractor 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 contractor may replace the item with a comparable used item or pay the fair market value replacement cost since 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 contractor to settle a claim. If an owner files a claim with the delivering contractor within nine (9) months of the delivery date, but fails to settle the claim directly with the contractor, the owner may transfer their claim to a MCO subject to the limitation under claims filing procedures, Paragraph A.(1). In cases where transfers have occurred, the contractor will not have the option to repair or replace items in kind, but must pay the MCO the repair cost or undepreciated replacement cost of a new item, whichever is less. If the contractor can show that they offered the owner a replacement item of comparable or better quality than the item lost, the contractor's 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 contractor is not required to pay shipping charges and/or sales tax in excess of \$10.00 on a claim until provided proof that the charges and taxes were actually paid.

(4) Actual Value (Depreciated) Liability

- a. If the owner files a claim directly with the contractor more than nine (9) months after the delivery date, the contractor is liable for the depreciated value of the items 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 contractor will, at its option, either repair the items to the extent necessary to restore them to their original condition when received by the contractor, 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 contractor 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 contractor 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 contractor 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 contractor. The contractor, 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 contractor 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 contractor will use the Joint Military-Industry Depreciation Guide (JMIDG), for those items that are listed in the guide and any applicable supplements. The MCO and contractor 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 will 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. The contractor is not required to pay shipping charges and/or sales tax in excess of \$10.00 on a claim until provided proof that the charges and taxes were actually paid.

(5) Exclusions from Liability

- a. The contractor is liable for physical loss and/or damage to any article that occurs while being transported or stored except loss and/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 contractor;
 8. From loss and/or damage that occurs prior to release to the contractor while the goods are in the possession of another TSP or contractor under an unrelated shipment of the goods. When a shipment is released from storage under another TSP or contractor's control, the new contractor or TSP is not 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 prepared by the original contractor or TSP. However, the contractor or TSP will be liable for items packed in cartons, if the carton is listed on the inventory, and the item claimed bears a reasonable relationship to the contents of the carton listed on the inventory, unless the TSP or contractor can produce evidence (i.e. exception sheet/rider, etc.) to shift liability back to a prior handler.
 9. The contractor is not liable for intangible property, securities, or for the sentimental value of an item.
 10. The contractor is not liable for pre-existing damage.
- b. The exclusions listed above will not apply if the contractor's own negligence significantly contributed to the loss and/or damage. However, if the contractor, after giving written notice to the appropriate Government contracting office/transportation office, or electronic or written notice to the owner, of a potential risk of loss and/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 contractor is not liable for the loss attributed to the risk.

(6) Duty to Mitigate Loss

- a. If a loss and/or damage occurs to a shipment from one of the excluded causes listed in exclusions from liability, Paragraph B.(5), the contractor 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 contractor, as soon as practical, must 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 TO may direct the contractor to undertake specific mitigation work, or may authorize payment for mitigation work, subject to later determination of whether the Government or the contractor will be liable for the cost. The cost of any mitigation efforts not paid by the Government will be deducted from the contractor's maximum liability for loss or damage under liability, Paragraph B.(1) and B.(2).

(7) Time Limitations on Liability for Loss and/or Damage Claims

- a. The contractor will not be liable for loss and/or damage unless the owner files a claim directly with the contractor or with a MCO under the Military Personnel and Civilian Employees Claims Act (MPCECA) within two (2) years of the delivery date of the shipment that included the loss and/or damaged items. For purposes of timely filing

with the contractor 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 contractor within nine (9) months of the delivery date, the contractor is liable for the FRV of any loss and/or damaged items subject to the maximum liability listed in Paragraph B.(1).
- c. For the purpose of the two (2) year limit for filing directly with the contractor; if a claim for loss and/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 (2) 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 as determined by the MCO 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 contractor.
- d. If the owner files a claim with a MCO, the contractor will not be liable to the Government on a recovery claim if the Government does not dispatch a written demand on the contractor within four (4) years of the delivery date. This four (4) year period will be extended by any period granted under time limitations on contractor or contractors liability for loss and/or damage claims, Paragraph B.(7)c. If the Government does dispatch a written demand on the contractor within four (4) years of the delivery date, the Government will have the normal six (6) 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 contractor and then receives written notice from the contractor 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 contractor within four (4) years of the delivery date, including any extended period in time limitations on contractor or contractors liability for loss and/or damage claims, Paragraph B.(7), or member's suit is not instituted within two (2) years of receipt of the written notice, then the contractor is not 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 contractor will review then sign the DD1840 regardless if there are any loss and/or damage evident at the time of delivery.
 - 2. Within 75 days of delivery: Owner must submit the notice of loss and/or damage DD1840R to the contractor.
 - 3. Within nine (9) months of the delivery date: Owner must file a written or electronic claim with the TSP consisting of the information specified in Paragraph A.(1), to be eligible for FRV.

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 Paragraph A.(1)
5. Within two (2) years of the delivery date: Owner has the right to file their claim up to two (2) years from the delivery date. If the claim is filed after nine (9) months from the delivery date but before two (2) years from the delivery date, the owner is only entitled to depreciated value of the items as per claims rules.

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

- a. The contractor's responsibility for a shipment and its liability under the Bill of Lading or for a shipment in SIT will terminate, and the warehouse will become the final destination of the shipment, on midnight of the day specified in the notice which the contractor 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 (1) business day prior to the effective date of the termination.
- b. The Government will pay the contractor 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 contractor's 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 contractor 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 contractor 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.

(9) 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 \$100.00 per pound. For purposes of determining the contractor's liability, all such items will 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 \$50.00 will be considered a high value item.
- b. The contractor's liability for high value items will be limited to \$100.00 per pound of the article if the owner fails to inform the contractor that such items are included in the shipment after the contractor asks the owner, in writing, to list any 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 contractor may use a separate high-risk inventory. Items such as CDs, 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 which fails to note any shortage at delivery, will normally be treated like any other inventory for purposes of determining whether there was any loss and/or damage in transit. The Notice of Loss and/or Damage form (DD Form 1840R), that gives the contractor notice of later discovered loss and/or damage would overcome the presumption of correct delivery, even for 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, they may not later claim the item was missing with either the contractor or with a MCO.
 - 3. The destination contractor must attest in writing that, prior to departure from the residence, the contractor and the owner opened all containers in which the high risk/high value items were packed; they removed the items from the containers; physically inspected each item; and the contractor advised the owner of the consequences of signing the high risk/high value inventory form.

(10) Items Liable to Cause Damage

- a. The following will not be accepted for shipment by the contractor:
 - 1. Property whose inherent nature is liable to impregnate, contaminate, or otherwise cause damage to other property or equipment.
 - 2. Items which cannot be taken from or delivered to the premises without damage to the items or the premises.

(11) Rules for Inventory and Delivery of Damaged Items

- a. All current rules, published in the DTRAppendix 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 shipments will be followed.