Case 20-43597 Doc 1046 Filed 10/07/2

Pg 1 of 4

## UNITED STATES BANKRUPTCY COURT EASTERN DISTRICT OF MISSOURI

In Re:	)	
	)	Case No. 20-43597-11
BRIGGS & STRATTON, et al	)	Jointly Administered
Debtors.	)	

## MOTION OF CURTIS MACHINE COMPANY, INC. FOR ALLOWANCE OF ADMINISTRATIVE EXPENSE CLAIM, PURSUANT TO 11 U.S.C. SECTION 503(B)(9) AND RELATED RELIEF

COMES NOW Curtis Machine Company, Inc. ("Curtis Machine"), by and through its undersigned counsel, and for its Motion For Allowance Of Administrative Expense Claim ("Motion") states as follows:

## **JURISDICTION**

- 1. This Motion is a core proceeding under 28 U.S.C. § 157(b)(2) and this Court has jurisdiction over the Motion pursuant to 28 U.S.C. § 157 and 28 U.S.C. § 1334.
- 2. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

## BACKGROUND

- 3. On July 20, 2020 (the "Petition Date"), Briggs & Stratton and its affiliates (the "Debtors") filed voluntary petitions for relief under Chapter 11, Title 11, of the Bankruptcy Code.
- 4. Pre-petition, the Debtor regularly ordered goods from Curtis Machine in the ordinary course of the Debtor's business. Curtis Machine accepted orders, produced goods and delivered to Debtor within 20-days of the Petition \$47,182.00 worth of goods (the "503(b)(9) Goods") on credit for which the Curtis Machine has received no payment. A list of the 503(b)(9) Goods is attached hereto as Exhibit A and incorporated herein.



#### **RELIEF REQUESTED**

5. Curtis Machine requests that the Court enter an Order (i) granting Curtis Machine an allowed administrative priority claim in the amount of \$47,182.00 pursuant to Bankruptcy Code §§ 503(a), 503(b)(1), 503(b)(9) and 507(a)(2) and (ii) directing Debtors to pay Curtis Machine's allowed administrative expense claim within fourteen (14) business days of entry of the Order approving the same.

#### BASIS FOR THE RELIEF REQUESTED

- 6. Section 503(b)(1) provides for an administrative expense claim for "the actual, necessary cost and expense of preserving the estate". *See* 11 U.S. C. § 503(b)(1). Section 503(b)(9) provides for an administrative expense claim for "the value of any goods received by the debtor within twenty (20) days before the date of commencement of a case under this title, in which the goods have been sold to the debtor in the ordinary course of the debtor's business". *See* 11 U.S.C. § 503(b)(9). Section 503(b) of the Bankruptcy Code provides that an administrative expense claim that is allowed under § 503(b) of the Bankruptcy Code has first priority. *See* 11 U.S.C. § 507(a)(2).
- As shown on Exhibit A, product from Curtis Machine as requested by Briggs & Stratton was delivered to the Debtor on July 1, 2020, and the delivered items had a value of \$19,615.00.
- As shown on Exhibit A product from Curtis Machine was also delivered as requested by Briggs & Stratton, the Debtor, on July 9, 2020, and these delivered items had a value of \$27,567.00.

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9. On the basis of the foregoing, Curtis Machine respectfully requests that the Court enter an Order allowing its administrative expense claim in the amount of \$47,182.00 and directing payment thereof within fourteen (14) days thereafter.

WHEREFORE, Curtis Machine Company, Inc. requests that the Court enter an Order (i) awarding it an administrative expense claim in the sum of \$47,182.00 against the Debtors' bankruptcy estate under § 503(b) of the Bankruptcy Code, (ii) requiring payment for such administrative expense claim within fourteen (14) days of entry of any Order approving the claim of Curtis Machine Company, Inc., and (iii) granting Curtis Machine Company, Inc. such additional relief as this Court deems just and proper.

Dated: October 7, 2020

Respectfully Submitted,

<u>s/ Christopher J. Redmond</u> CHRISTOPHER J. REDMOND, MO. BAR #48072 REDMOND LAW FIRM LLC 13220 Metcalf, Suite 310 Overland Park, KS 66213 Telephone: 913-379-1100 Fax: 913-379-1109 christopher.redmond@christopherredmondlawfirm.com

Attorney for Curtis Machine Company, Inc.

## CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing document was filed electronically with the Court on October 7, 2020, and was served upon all parties receiving service via the Court's CM/ECF System as listed on the Court's Electronic Mail Notice List in this matter.

/s/ Christopher J. Redmond

## Case 20-43597 Doc 1046-1 Filed 10/07/20 Entered 10/07/20 13:32:04 Exhibit A Pg 1 of 12 EXHIBIT A

## UNITED STATES BANKRUPTCY COURT EASTERN DISTRICT OF MISSOURI

)

)

In Re:

BRIGGS & STRATTON, et al Debtors.

Case No. 20-43597-11 Jointly Administered

#### DECLARATION OF JOHN CURTIS

John Curtis, being duly sworn, declares as follows:

- 1. I am a resident of the State of Kansas and of legal age, over the age of 18.
- 2. I am President of Curtis Machine Company, Inc.
- Curtis Machine Company, Inc. is a Kansas Corporation located at 4209 Jayhawk Drive, Dodge City, Kansas, 67801-0700.
- 4. I am personally familiar with the facts and statements set forth in this Declaration which are true and accurate.
- 5. To the best of my knowledge and belief, Curtis Machine Company, Inc. is a machine company which manufactures gear boxes and other products for customers on a national and international basis.
- 6. As of July 20, 2020, Curtis Machine Company, Inc. was owed the sum of \$66,478.90 by the Debtor, Briggs & Stratton Corporation of which \$47,182.00 was delivered to Briggs & Stratton Corporation within the twenty (20) days prior to the commencement of the Chapter 11 proceeding of the Debtor.
- 7. The documentation and support for the balance due to Curtis Machine Company, Inc. and the delivery to Briggs & Stratton Corporation within the twenty (20) day period prior to the filing of this Chapter 11 by Briggs & Stratton Corporation are attached and set out within Exhibit A.

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 The balance of \$47,182.00 remains unpaid and is due and owing to Curtis Machine Company, Inc.

I declare under penalty of perjury that the above and foregoing Declaration is true and

correct.

Executed on this  $2^{T^{\lambda}}$  day of October, 2020.

JOHN CURITS

Fill in this information to identify the case:	
Debtor 1 Briggs & Stratton Corporation	-
Debtor 2 (Spouse, if filing)	
United States Bankruptcy Court for the: Eastern District of Missouri	
Case number 20-43597	

## Official Form 410 Proof of Claim

04/19

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. Do not send original documents; they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.

1. Who is the current creditor?	Curtis Machine Co Name of the current credit Other names the creditor	tor (the person or e		aim)				
2. Has this claim been acquired from someone else?								
3. Where should notices and payments to the	Where should notices to the creditor be sent? Where should payments to the creditor be sent? (if different)							
creditor be sent?	Curtis Machine C			Curtis Machine Co				
Federal Rule of	Name			Name				
Bankruptcy Procedure (FRBP) 2002(g)	PO Box 700 / 420	9 Javhawk D	rive	PO Box 1761				
(FRBF) 2002(9)	Number Street			Number Street				
	Dodge City	KS	67801	Dodge City	KS	67801-176		
	City	State	ZIP Code	City	State	ZIP Code		
	Contact phone 620-22	7-7164		Contact phone 620-22	7-7164	- <u></u>		
RECEIVED	Contact email ap_ar		ne.com	Contact email ap_ar@		ne.com		
AUG 3 1 2020	Uniform claim identifier fo	or electronic payme	ents in chapter 13 (if you u	ise one):				
ZMAN CARSON CONSULTANTS								
4. Does this claim amend one already filed?	☑ No ❑ Yes. Claim numb	er on court claim	ns registry (if known) _		Filed on			
<ol> <li>Do you know if anyone else has filed a proof of claim for this claim?</li> </ol>	☑ No □ Yes. Who made t	the earlier filing?						

page 1

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E	art 2: Give Information	About the Claim as of the Date the Case Was Filed
6.	Do you have any number you use to identify the debtor?	No ✓ No ✓ Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: <u>2</u> <u>1</u> <u>5</u> <u>1</u>
7.	How much is the claim?	<ul> <li>\$ 66,478.90. Does this amount include interest or other charges?</li> <li>☑ No</li> <li>☑ Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).</li> </ul>
8.	What is the basis of the claim?	Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card. Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c). Limit disclosing information that is entitled to privacy, such as health care information. Goods Sold
9.	Is all or part of the claim secured?	<ul> <li>No</li> <li>Yes. The claim is secured by a lien on property.</li> <li>Nature of property: <ul> <li>Real estate. If the claim is secured by the debtor's principal residence, file a Mortgage Proof of Claim Attachment (Official Form 410-A) with this Proof of Claim.</li> <li>Motor vehicle</li> <li>Other. Describe:</li> </ul> </li> <li>Basis for perfection: <ul> <li>Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)</li> </ul> </li> <li>Value of property: <ul> <li>\$</li></ul></li></ul>
and an one of the latest A sector we have so see a row of products	RECEIVED AUG 3 1 2020	Amount necessary to cure any default as of the date of the petition: \$
	KURTZMAN CARSON CONSU	TANTS Fixed Variable
1	0. Is this claim based on a lease?	<ul> <li>✓ No</li> <li>☑ Yes. Amount necessary to cure any default as of the date of the petition.</li> </ul>
1	1. Is this claim subject to a right of setoff?	<ul> <li>✓ No</li> <li>☐ Yes. Identify the property:</li> </ul>

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12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?	☑ No □ Yes. Check one:	Amount entitled to priority
A claim may be partly priority and partly	Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).	\$
entitled to priority under 11 U.S.C. § 507(a)?       Image: Yes. Check one:         A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.       Image: Domestic support obligations (including 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).         Image: Up to \$3,025* of deposits toward purp personal, family, or household use. 1         Image: Wages, salaries, or commissions (up bankruptoy petition is filed or the deb 11 U.S.C. § 507(a)(4).         Image: Taxes or penalties owed to government Contributions to an employee benefit	Up to \$3,025* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).	\$
entitied to priority.	Wages, salaries, or commissions (up to \$13,650*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).	\$ <u> </u>
	Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).	\$
	□ Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).	\$
	Other. Specify subsection of 11 U.S.C. § 507(a)() that applies.	\$
· · · · · · · · · · · · · · · · · · ·	* Amounts are subject to adjustment on 4/01/22 and every 3 years after that for cases begun on or aft	er the date of adjustment.

Part 3:	Sign	Below

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	The person completing	Check the approp	riate box:			
	this proof of claim must sign and date it.	I am the cred	litor.			
	FRBP 9011(b).	I am the cred	litor's attorney or	authorized agent.		
	If you file this claim			r, or their authorized agent. Bank	cruptcy Rule 30	004.
	electronically, FRBP 5005(a)(2) authorizes courts to establish local rules	l am a guara	ntor, surety, end	orser, or other codebtor. Bankru	ptcy Rule 3005	· .
	specifying what a signature is.	I understand that amount of the cla	an authorized sig	gnature on this <i>Proof of Claim</i> se ave the debtor credit for any pay	erves as an ack /ments receive	nowledgment that when calculating the d toward the debt.
	A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5	I have examined and correct.	the information ir	n this <i>Proof of Claim</i> and have a	reasonable bel	lef that the information is true
	years, or both. 18 U.S.C. §§ 152, 157, and	l declare under p	enalty of perjury	that the foregoing is true and cor	rrect.	
	3571.	Executed on date	08/25/2020	· · · · · · · · · · · · · · · · · · ·		
2011 D. 2017 D.		Print the name	of the person wi	no is completing and signing t	his claim:	-
		Nama	John	H.		Curtis
	•	Name	First name	Middle name		Last name
		Title	President	<u> </u>		······
		Company		ine Company, Inc. prate servicer as the company if the a	authorized agent	is a servicer.
	RECEIVED		Identity the corpo	state servicer as the company in the a		
	NEULIVED	• • • • • • • •	PO Box 700	) / 4209 Jayhawk Drive		
	AUG 3 1 2020	Address	Number	Street		
			Dodge City		KS	67801
KUR	TZMAN CARSON CONSULTANTS		City		State	ZIP Code
	'n	Contact phone	620-227-71	64	. <sub>Email</sub> joh	m@curtismachine.com

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08/25/2020 14:53:29

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## CURTIS MACHINE COMPANY, INC

Function: ARIC

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## A/R Invoices By Customer

Customer ID: 172151	Name: BR	IGGS & STRATTON CORPORATION	Balances
Acct Contact: VENDER # 924	056	OVER 60:	19,296.90
Acct Phone:		31-60:	0.00
Unapplied Cash:	0.00	1-30:	47,182.00
Unapplied Credit:	0.00	Current:	0.00
		Hold/Unapp:	0.00
	Select Invoice Option:	O Total A/R:	66,478.90

#### Order By: Due Date

Due	Invo	olce		Adjusted	Discounts	Payment	Remaining	
Date	No	, Ту	p St	Invoice Amt	Allowed	Amount	Balance	
092219	0000105008		N	19,296.90	0.00	0.00	19,296.90	
072920	0000106276	4	ĨN	19,615,00	0.00	0.00	19,615.00	
080720		1	N	27,567.00	0.00	0.00	27,567.00	
PRINT	ED IN:U. S. DOLLAI	RS					,	

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	AWK DRIVE TY KANSAS ) USA	,				Invoice	e Date: 08/23/2	019
		1			INVOICE	•		
Cust	omer No: 172151				Your C	order No: 45020560	44	
Custome	er Phone:				Our C	order No: C62144-0	001	
Bill To:					Ship To:			
BF	RIGGS & STRATT	ON CORPOR	ATION		B&S MFG S	HERRILL NY		
. A1	TN: ACCOUNTS I	PAYABLE			100 E SENE	CA ST		
P.(	O. BOX 702				SHERRILL,	NY		
M	ILWAUKEE, WI				13461-1008	USA		
53	201-0702 USA							
Terms:	Cash #1:		Disc:		Shipped: 082319			
	Cash #2:		Disc:		Shipped Via: FED EX	FRT		
I	Net Due Date:	092219			F.O.B.: DODGE	CITY, KANSAS		
					Shipment No: 0000497	45 Ref:		
You	ur Customer Rep I	s: JUM			Pro No:			
C	rdered	Shipped	Back-ordered	item .			Unit Price	Extd Price
	Qty	QTY	Qty	Number		U. S.	DOLLARS	U.S. DOLLARS

70 70 0 949586 215 1:1 SB TYPE 'BC' FOR BRIGGS & STRATTON 5105359

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SALES TOTAL:	19,296.90
SALES TAX:	0.00
FREIGHT:	0.00
LESS:	0.00
OTHER CHARGES:	0.00
INVOICE TOTAL:	19,296.90
U. S. DOLLARS	

275.67

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19,296.90

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							BOL NO:	BS47000759	
BILL OF LADING							Carrier: Old Dominion Freight Line		
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CURTIS MACHINE COMPANY INC								Origin Terminal	
	4209 JAYHAWK DR						GREAT BEN	ID KS	
		KS 67	801				P: 620-79	92-2006 F:	
							]	Destination Terminal	
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B&S D	IST CT	R SHER	RILL N	IY			References	•	
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				contracts that have	Trailer	Freight			
				shipper, if applicable ave been established		Counted:		ot make delivery of this shipment with and all other lawful charges.	out
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					plicable regulations of the	response information was or equivalent documenta	s made available and/o tion in vehicle. Proper	or carrier has the DOT emergency respon ty described above is received in good of	nse guidebool order, except
Shipper	**					Carrier: OD	FL Dro	3 Mipr 1-5K.c	* 
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Filed 10/07/20 Entered 10/07/20 13:32:04 Exhibit A

Invoice No: 0000106276

Invoice Date: 06/29/2020

## INVOICE

Customer No: 172151 **Customer Phone:** 

Your Order No: 4502078008 Our Order No: C62891-0000

Ship To:

BRI	GGS & STRATT	ON CORPORATION		Bå	S MFG SHERRI	LL NY
ATT	N: ACCOUNTS	PAYABLE		10	0 E SENECA ST	
P.O.	BOX 702			SH	ERRILL, NY	
MIL	WAUKEE, WI			13	461-1008 USA	
532	01-0702 USA					
Terms:	Cash #1:	Disc:	:	Shipped:	062920	
	Cash #2:	Disc	:	Shipped Via:	GENCO	
Ne	et Due Date:	072920		F.O.B.:	DODGE CITY, H	ANSAS
			,	Shipment No:	000050941	Ref:

ι.

Your Customer Rep Is: JUM

**Unit Price Extd Price** Ordered Shipped Back-ordered Item U.S. DOLLARS U.S. DOLLARS **Qty Number** QTY Qty 19,615.00 196.15 100 0 949735 100 200C 1:1.1 SB TYPE 'F' FOR BRIGG & STRATTON (5101164)

Pro No:

SALES TOTAL: 19,615.00 SALES TAX: 0.00 FREIGHT: 0.00 LESS: 0.00 **OTHER CHARGES:** 0.00 **CLOSE VARIANCE:** 0.00 INVOICE TOTAL: 19,615.00

U.S. DOLLARS

4209 JAYHAWK DRIVE DODGE CITY KANSAS 67801-0700 USA

CURTIS MACHINE COMPANY, INC

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P. O. BOX 700

Bill To:

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	/ICS_haz, rev 201	<u>6-1212</u>	Please	efer to ww	w.vics.org	for c	omple	te guid	eline inf	ormatio	on.					Da	ge: 1	of: 1	
Date: 0	7/01/2020						E	<u> SILL</u>	<u>. OF</u>		DIN					Fa	36.1		
			S	HP FROM:						Bill	of Lad	ling N	umber:	BS478'	7574				
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	te/Zip: DODG	ECIT	Y, KS E	57801					1		4502	05604	4 450205	6044, 45020	78008, 450	2078008			
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Cliptic MACHINE COMPANY INC	Doc 1046-1	Filed 10/07/20	Entered 10/07/20-40 182:840 1 Exhibit A
CURING WACHING COWFAMI, INC		Pg 11 of 1	12
P. O. BOX 700		. 9 0	Invoice No: 0000106305

P. O. BOX 700

67801-0700 USA

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4209 JAYHAWK DRIVE

DODGE CITY KANSAS

pice No: 0000106305 Invoice Date: 07/08/2020

INVOICE

	215A 1:	1 SB TYPE 'BO	C' FOR BRIGGS	STRATT	ON 5105359	
	100	100	0	949586		275.67
	Qty	QTY	Qty	Number		U. S. DOLLARS
Ore	dered	Shipped	Back-ordered	ltem		Unit Price
Your	Customer Rep	ls: JUM			Pro No:	
					Shipment No: 000050973	Ref:
Ne	t Due Date:	080720			F.O.B.: DODGE CITY, K	ANSAS
	Cash #2:		Disc:		Shipped Via: GENCO	
Terms:	Cash #1:		Disc:		Shipped: 070820	
5320	1-0702 USA					
MIL	NAUKEE, WI				13461-1008 USA	
P.O.	BOX 702				SHERRILL, NY	
ATT	N: ACCOUNTS	PAYABLE			100 E SENECA ST	
BRIC	GS & STRATI	TON CORPOR	ATION		<b>B&amp;S MFG SHERRIL</b>	LNY
Bill To:		<b>、</b> ·			Ship To:	
Customer	Phone:				Our Order No	: C62144-0007
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SALES TOTAL:	27,567.00
SALES TAX:	0.00
FREIGHT:	0.00
LESS:	0.00
OTHER CHARGES:	0.00
CLOSE VARIANCE:	. 0.00
INVOICE TOTAL:	27,567.00
U. S. DOLLARS	

Extd Price U.S. DOLLARS

27,567.00

## Case 20-43597 Doc 1046-1 Filed 10/07/20 Entered 10/07/20 13:32:04 Exhibit A

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City/Sta	te/Zip: DODG	E CIT	Y. KS	67801						1 1					
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City/Sta	ite/Zip: GREE									Driver's signature actors freight only. Received s to terms of a written or the terms, conditions a XPO Logistics Freight, I	hipment is subj intract, if any, o in limitations of	ect I IIIIIIIIII therwise subject to		U-12776	
			ADDITIC	NAL REI	FERENCE	ES				XPO Logistics Freight, I	nc, rules tariff. (	see www.xpo.com)	لا ج ت	- UC ( T b	XPOLogistics
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charges payment RECEIV writing bi- except a and dest whether by the ca individua this shipp SH This is to are propa- marked ar for transpo	100 r carrier, freight for exclusively from th of the transportati ED, subject to indi- etween the carrier is noted (contents is noted (contents of individually determ individually determ individually determined and not. IPPER SIGNATU cartify that the above ty classified, describ d labeled, and is in pritation according to	PCS warder we entity on char vidually and sh and cor ow. Th ineclification i NOT s RE / D/ named ed, pack proper co	, broker of from wh rges from wh rges from wh rges from wh rges from while the with y agreed subject to ATE materials raged, pondition of	or other tri ich it according the const contents Lading is nany fedd to in writi filed tariff TRAILL B By Si	FOR El FOR El ansportati epted the ignor or co or contrac described of packag not subject ration y the ffs. No lim ER LOAD	MERGEI Gi MERGEI Gi Shipme consigne cts that d below, res unkr te regul s Shippe nitation DED:	SPECIA SPECIA NCY CONT RAND TO Vice provint and ex e. have been rand Ca of carrier y tariffs on atory age atory age	SCRIPTI L - NET	EMTREC EM pts this shi waives any d upon in onsigned, cations naintained the applies to FREI tts said to co es	DERGENCY RESPON Doment from anyone other collection rig The carrier shall i other lawful charg X	2576	133300-3	92.5 92.5 Otal Pa sted hereo e available shipment v XPA CARRIE mrier acknow CARRIE mrier acknow comation wa S. DOT eme cumentation	Illets: 1	P7841010