

# **Terms and Conditions - Long Form Version (09-07)**

The terms and conditions below are the standard English terms and conditions of carriage. Local variations may exist and apply depending on the country of origin of the shipment. Please contact the nearest TNT local office to obtain a copy of the local terms and conditions.

## **1. DEFINITIONS**

The following definitions apply to the terms and conditions set out below that govern this contract of carriage between you and us.

"we", "us", "our" and TNT means TNT Express Holdings B.V., XP International B.V., TNT Holdings (Deutschland) GmbH, TNT Holdings (UK) Ltd, TNT Australia Pty Ltd, TNT China Holdings Co Ltd ("TNT") and subsidiaries and affiliates of TNT and TNT's employees, agents and independent contractors;

"you" and "your" means the sender, consignor or consignee of the shipment, holder of a consignment note, receiver and owner of the contents of the shipment or any other party having a legal interest in those contents;

"carriage" means and includes the whole of the operations and services undertaken by us in connection with the shipment;

"shipment" means goods or documents of whatever nature (whether in bulk or in one or more packages) which we have accepted for carriage from one address to another, whether under our consignment note or not;

"prohibited items" means any goods or materials the carriage of which is prohibited by any law, rule or regulation of any country in or over which the shipment travels;

## **2. THE PARTY WITH WHOM YOU ARE CONTRACTING**

Your contract of carriage is with the TNT company or the subsidiary or affiliate of TNT that accepts the shipment for carriage from you. You agree that we may subcontract the whole or any part of the carriage on any terms and conditions we decide.

### **3. YOUR ACCEPTANCE OF OUR TERMS AND CONDITIONS**

By giving us your shipment you accept our terms and conditions set out in the consignment note and or the contract of carriage on behalf of yourself and/or anyone else who has an interest in the shipment irrespective of whether you have signed the front of our consignment note or not. Our terms and conditions also cover and can be invoked by anyone we use or sub-contract to collect, transport or deliver your shipment as well as our employees, directors and agents. Only one of our authorised officers may agree to a variation of these terms and conditions in writing. When you give us the shipment with oral or written instructions that conflict with our terms and conditions we shall not be bound by such instructions.

### **4. SCOPE OF THE CONTRACT**

a) Irrespective of whether a separate contract of carriage was agreed between you and us or the carriage of the shipment forms part of another type of contract between you and us, these terms and conditions apply to the contract agreed between you and us in respect of any carriage of goods pursuant to the contract.

b) By concluding any type of contract with us you agree that:

- the contract is a contract of carriage of goods by road if the carriage of the shipment actually takes place by road;
- the contract is a contract of carriage of goods by air if the carriage of the shipment actually takes place by air.

### **5 DANGEROUS GOODS / SECURITY**

#### **5.1 Dangerous Goods**

a) Except in the circumstances shown in paragraph 5.1 (b) below we do not carry goods which are in our sole opinion dangerous goods including, but not limited to, those specified in the International Civil Aviation Organisation (ICAO) technical instructions, the International Air Transport Association (IATA) dangerous goods regulations, the International Maritime Dangerous Goods (IMDG) code, the European Agreement concerning the international carriage of Dangerous goods by Road (ADR) regulations or any other national or international rules applicable to the transport of dangerous goods.

b) We may at our discretion accept some dangerous goods for carriage in some countries if you have been accorded the status of an approved customer and this must be given by us in writing before your shipment can be accepted. Your dangerous goods will only be accepted if they comply with the applicable regulations (as referred to in condition 5.1 a) and our requirements. Details of our requirements together with the procedure for applying for approved customer status are available from our nearest office and a dangerous goods surcharge will be invoiced to you upon acceptance of your shipment.

## **5.2 Air Cargo Security Regulations**

a) You must ensure and you hereby certify by completing our consignment note or tendering a shipment to us that your shipment does not contain a prohibited article as specified in ICAO Annex 17 or other national or international regulations that govern aviation security. You must give us a full description of the contents of the shipment on the consignment note and your responsibilities and liabilities are not extinguished by providing this information. Shipments carried by us may be subject to security screening which could include the use of X-ray equipment and you accept that your shipment may be opened and the contents of your shipment may be examined in transit.

b) You declare that you have prepared the shipment for carriage in secure premises using reliable staff employed by you and that the shipment has been safeguarded against unauthorised interference during preparation, storage and transportation immediately prior to acceptance for carriage of the shipment by us.

## **5.3 Prohibited Items**

We do not accept shipments that contain prohibited items.

## **6. RIGHT OF INSPECTION**

You agree that we or any governmental authority including customs may open and inspect your shipment at any time.

## **7. CALCULATION OF TRANSIT TIMES AND ROUTING OF SHIPMENTS**

Weekend days, public holidays and bank holidays together with delays caused by customs or other events beyond our control are not included when we quote door to door delivery times in our published literature. The route and the method by which we transport your shipment shall be at our sole discretion.

## **8. CUSTOMS CLEARANCE**

8.1 You hereby appoint us as your agent solely for the purpose of clearing and entering the shipment through customs and you hereby certify that we are the consignee for the purpose of designating a customs broker to perform customs clearances and entries if we subcontract this work. If any customs authority requires additional documentation for the purpose of confirming the import/export declaration or our customs clearance status it is your responsibility to provide the required documentation at your expense.

8.2 You certify that all statements and information you provide relating to the exportation and importation of the shipment will be true and correct. You acknowledge that in the event that you make untrue or fraudulent statements about the shipment or any of its contents you risk a civil claim and/or criminal prosecution the penalties for which include forfeiture and sale of your shipment. To the extent that we may voluntarily assist you in

completing the required customs and other formalities such assistance will be rendered at your sole risk. You agree to indemnify us and hold us harmless from any claims that may be brought against us arising from the information you provide to us and any costs we will incur regarding this and pay any administration fee we may charge you for providing the services described in this article.

8.3 Any customs duties, taxes, penalties, storage charges or other expenses we incur as a result of the actions of customs or other governmental authorities or your failure and/or the receiver's failure to provide proper documentation and/or to obtain the required licence or permit will be charged to you or the receiver of the shipment. In the event that we decide to charge the receiver and the receiver refuses to pay the incurred charges you agree to pay them to us together with our fee for the administration involved as well as any extra costs we will incur. Upon our first request you will provide a proper guarantee for any of the duties, taxes, penalties, storage charges or any other expenses set out in this article.

8.4 We will endeavour to expedite all customs clearance formalities for your shipment but are not liable for any delays, losses or damage caused by interference from customs officers or other governmental authorities.

## **9. INCORRECT ADDRESS AND P.O. BOX NUMBERS**

If we are unable to deliver a shipment because of an incorrect address we will make all reasonable efforts to find the correct address. We will notify you of the correction and deliver or attempt to deliver the shipment to the correct address although additional charges may apply if the correct address is different to the one shown on the consignment note or the label affixed to your shipment. Deliveries to post office box numbers are only accepted if the telephone number of the consignee is also provided and you agree that in the event that we are unable to deliver the shipment at the first attempt then we may post the shipment to the consignee and proof of posting is sufficient proof of delivery.

## **10. UNDELIVERABLE AND REJECTED SHIPMENTS**

10.1 Where we are unable to complete the delivery of a shipment we will try to leave a notice at the receiver's address stating that delivery has been attempted and the whereabouts of the shipment. If delivery has not been made after one more attempt by us or the receiver refuses to accept delivery we will try to contact you and agree the appropriate next action. You agree to pay us any costs we incur in forwarding, disposing of or returning the shipment and our charges (if any) for making a third or more delivery attempt and for the agreed appropriate next action. If you do not give us timely instructions after our second attempt to deliver the shipment, it will be at our discretion to destroy or sell the content of the shipment.

## 11. YOUR OBLIGATIONS

You warrant and guarantee to us that:

- a) the contents of the shipment have been properly described on our consignment note;
- b) the contents of the shipment have been correctly labelled and the label or labels have been securely fixed by you in a prominent position on the outer surface of the shipment that can be clearly seen by us;
- c) the consignee's full address including the postcode has been entered on our consignment note;
- d) the consignee's full address including the postcode has been accurately and legibly completed on an address label securely fixed by you to a prominent position on the outer surface of the shipment that can be clearly seen by us;
- e) the contents of the shipment have been packed safely and carefully by you to protect against the ordinary risks of transport including any associated sortation process;
- f) you have declared the correct weight of the shipment and you will provide any special equipment we may need to load or unload the shipment on or off our vehicles.
- g) you have securely fixed a heavy weight label in a prominent position on the outer surface of the shipment that can clearly be seen by us for any item weighing 30 kilos or more;
- h) the contents of the shipment are not ones restricted by IATA or ICAO and are not prohibited items;
- i) in the case of an intra-European Union shipment where the receiver pays our charges your VAT identity number and that of the receiver has been correctly given in writing to us;
- j) when you have asked us to charge the receiver or a third party and the receiver or third party does not pay us you will promptly settle our invoice together with an administration fee in full within 7 days of us sending you the invoice;
- k) all applicable laws and regulations have been complied with;
- l) in shipments that will be carried by us across borders you have included the correct commercial invoice related to the shipment (mentioning correct "bill to" address with applicable VAT number, correct and clear description of the commodity, the General Agreement on Tariffs and Trade ("GATT") code being the first 6 digits of the Harmonised System ("HS") code and the correct weight of the concerning shipment)

You agree to indemnify us and hold us harmless from any liabilities we may suffer or any costs, damages or expenses including legal costs we incur arising out of you being in breach of any of these warranties and guarantees.

## **12. EXTENT OF OUR LIABILITY**

Subject to condition 13 below we limit our liability for any loss, damage or delay of your shipment or any part of it as follows:

### a) Carriage by air

If the carriage of your shipment is solely or partly by air and involves an ultimate destination or a stop in a country other than the country of departure the Warsaw Convention (1929), or the Warsaw Convention as amended by the Hague Protocol (1955) and/or Montreal Protocol No. 4 (1975), or the Montreal Convention (1999), whichever is compulsorily applicable will apply. These international treaties govern and limit our liability for loss, damage or delay to your shipment to 17 special drawing rights per kilo (approximately 20 Euros per kilo although the rate of exchange is variable).

### b) Carriage by road

If we carry your shipment by road within, to or from a country that is a party to the convention on the contract for the international carriage of goods by road 1956 (CMR) our liability for loss or damage to your shipment shall be governed by the CMR and thus limited to 8.33 special drawing rights per kilo (approximately 10 Euros per kilo although the rate of exchange is variable). In the case of delay where you can show to us you have suffered loss our liability is limited to refunding to you the charge you paid us for carriage in respect of that shipment or the part which was delayed.

c) If we have a liability to you for whatever reason including without limitation breach of contract, negligence, wilful act or default, and

a) none of the conventions referred to above under 12 a) or b) apply compulsorily, or;

b) such liability is not governed by any of the above mentioned conventions pursuant to 12 a) or b) above nor any other law or convention which applies compulsorily, or;

c) it relates to any services not being carriage by road or air,

our liability to you is at all times limited to the actual cost incurred by you to acquire or repair the shipment or the part affected with in every case an upper limit that does not exceed 17 Euros per kilo with a maximum of 10,000 Euros per shipment. In the case of delay where you can show to us you have suffered loss our liability is limited to refunding to you the charge you paid us for carriage in respect of that shipment or the part which was delayed.

### **13. EXCLUSIONS**

13.1 We will not be liable for any loss of income, loss of profits, loss of markets, loss of reputation, loss of customers, loss of use, loss of an opportunity or for any indirect, incidental, special or consequential damages or loss howsoever arising including but not limited to the loss, damage, delay, misdelivery or non-delivery of your shipment even if we had knowledge that such damages or loss might arise.

13.2 We are not liable if your shipment or any part of it is lost, damaged, delayed or misdelivered or not delivered or if we do not fulfil any obligations towards you at all as a result of:

a) circumstances beyond our control such as (but not limited to):

- acts of god including earthquakes, cyclones, storms, flooding, fire, disease, fog, snow or frost;
- force majeure including (but not limited to) war, accidents, acts of public enemies, strikes, embargoes, perils of the air, local disputes or civil commotions;
- national or local disruptions in air or ground transportation networks and mechanical problems to modes of transport or machinery;
- latent defects or inherent vice in the contents of the shipment.
- criminal acts of third parties such as theft and arson.

b) your acts or omissions or those of third parties such as:

- you being in breach of (or any other party claiming an interest in the shipment causing you to breach) your obligations under these terms and conditions and in particular those warranties set out in Condition 11;
- an act or omission of any customs, airline, airport or government official.

c) The contents of the shipment consisting of any article that is a prohibited item even though we may have accepted the shipment by mistake.

13.3 We are not a common carrier and do not accept from you any liabilities of a common carrier. Under normal circumstances we do not accept shipments sent to and from residential addresses.

## **14 VALUABLE GOODS**

Valuable goods such as precious stones, precious metals, jewellery, money, negotiable instruments, unprotected furniture, glass or china, objects of art, antiques and important documents that include passports, tenders, share and option certificates should not be sent through our network delivery system because it involves the use of mechanical handling and automated sortation equipment together with multiple transshipments on and off vehicles. If we nevertheless carry these goods it shall be for your own risk.

## **15. INCREASED LIMITS OF LIABILITY FOR INTERNATIONAL SHIPMENTS**

15.1 An increased limit of liability option ("ITLL") can be purchased for international shipments for loss or damage to your shipment (non document shipment) subject to the conclusion of a specific agreement to that effect between you and us.

15.2 On payment by you to us of our current charge for the ITLL, we will increase our limit of liability for loss or damage to your shipment to 45 Euros per kilogram for shipments of 10 kilograms and above and for loss or damage to shipments below 10 kilograms to 450 Euros per shipment provided that at all times the maximum liability that we offer and accept is 25,000 Euros per shipment.

15.3 ITLL does not apply where:

- a) our liability is excluded as set out in these terms and conditions,
- b) no specific agreement to that effect exists between you and TNT, and/or
- c) you fail to pay us our charge for the increase in our limit of liability.

15.4 For the avoidance of doubt, ITLL does not cover losses of a consequential nature (see condition 13.1 above) or delays in carriage or where the loss has arisen as a result of your breach of your obligations under these terms and conditions.

15.5 ITLL is not available for precious stones, precious metals, laptop computers, plasma screens, jewellery, money, glass, china, objects of art, antiques, documents or any films, tapes, discs, memory cards or any such other data or image carrying goods. If you do send such goods we recommend that you arrange insurance yourself.

## **16. INSURANCE**

16.1 You may purchase insurance from us for the full value of your parcel and freight shipment (non document shipment) by completing the relevant box on the consignment note and paying the indicated charge to cover you against 'all risks' of loss and damage during carriage up to a maximum of 25,000 Euros per shipment. This insurance is not available for precious stones, precious metals, laptop computers, plasma screens, jewellery, money, glass, china, objects of art, antiques, documents or any films, tapes, discs, memory cards or any such other data or image carrying goods. If you do send such goods we recommend that you arrange insurance yourself.

16.2 You may purchase insurance from us for the reconstruction, reproducing, reissuing or re-printing cost (including the costs of the materials (e.g. paper) plus reasonable labor costs) of your document shipment by completing the relevant box on the consignment note and paying the indicated charge to cover you against 'all risks' of loss and damage during carriage up to a maximum of 500 Euros per shipment. This insurance is only available for documents which are listed on the website of the subsidiary or affiliate or branch of TNT that accepts your shipment for carriage.

16.3 The above insurance options (16.1 and 16.2) (i) do not cover losses of a consequential nature (see condition 13.1 above) or delays in carriage or where the loss has arisen as a result of your breach of your obligations under these terms and conditions and (ii) are not available for a limited number of countries. For a list of these countries, and/or to obtain further details on the insurance conditions and coverage, please contact our customer service center or visit the website of the subsidiary or affiliate or branch of TNT that accepts your shipment for carriage.

## **17. CLAIMS BROUGHT BY THIRD PARTIES**

You undertake to us that you shall not permit any other person who has an interest in the shipment to bring a claim or action against us arising from the carriage even though we may have been negligent or in default and if a claim or action is made you will indemnify us against the consequences of the claim or action and the costs and expenses we incur in defending it.

## **18. CLAIMS PROCEDURE**

If you wish to claim for a lost, damaged or delayed shipment you must comply with any applicable convention or if none applies you must comply with the following procedure otherwise we reserve the right to reject your claim:

a) you must notify us in writing about the loss, damage or delay within 21 days after delivery of the shipment or within 21 days of the date the shipment should have been delivered and then within the next 21 days you must document your claim by sending us

all relevant information about the shipment and the loss, damage or delay suffered. We are not obliged to act on any claim until our carriage charges have been paid nor are you entitled to deduct the amount of your claim from our carriage charges;

b) we will assume the shipment was delivered in good condition unless the receiver has noted any damage on our delivery record when he or she accepted the shipment. In order for us to consider a claim for damage the contents of your shipment and the original packaging must be made available to us for inspection;

c) save as otherwise provided by any applicable convention and or law your right to claim damages against us shall be extinguished unless an action is brought in a court of law within 1 year from the date of delivery of the shipment or from the date on which the shipment should have been delivered or from the date on which the carriage ended.

## **19. RATES AND PAYMENT**

19.1 You agree to pay our charges for the carriage of the shipment between the locations specified on the consignment note/contract of carriage and any value added taxes for the carriage within 7 days from the date of our invoice. You waive all your rights to challenge our invoices if you do not contest our invoice in writing within 7 days from the date of the invoice. Our carriage charges are calculated in accordance with the rates applicable to your shipment as set out in our current rate card. We may check the weight and/or volume of your shipment and if we find that there is a discrepancy between your declared weight and/or volume you agree that the weight and/or volume that we determine may be used for the purpose of our calculation. As a matter of course all import duties, value added taxes on goods and all other charges levied on the shipment in the destination country shall be payable to us by the receiver upon delivery of the shipment and if the receiver refuses to pay you agree to pay us these amounts in full within 7 days of us notifying you that the receiver has not paid. You agree that we may charge interest on all invoices not paid within 7 days from the invoice date at the rate of 6% above the European Central Bank base rate. You agree to pay our reasonable and proper cost of collection of invoices not paid within seven days from the invoice date.

19.2 Our current rate card is available on request from any of our offices in the country from which the shipment is invoiced. We charge for either the actual weight of the shipment or the volumetric weight of the shipment whichever is the higher and the volumetric weight is calculated in accordance with the volumetric conversion equation set out in our rate card.

19.3 The door to door delivery rates shown on our current rate card include provision for simple customs clearance formalities and we reserve the right to charge an extra administration fee where time-consuming excessive customs clearance work is needed to enable us to deliver your shipment to the receiver. Additional charges may therefore be applied in some countries for complex customs clearance activities and these include but are not limited to shipments that require:

- (i) formal customs entries involving more than three different commodities.
- (ii) customs bonds or the need to deliver goods under a customs bond.
- (iii) temporary import facilities
- (iv) clearances involving a government department other than the customs authority

We may in some countries make advance payments of import duty, taxes, penalties or have to post bond on behalf of the importer and where this additional service is provided a local administration fee will be charged to the receiver and you will be liable for this charge if he or she does not pay us.

19.4 You may give us special invoicing instructions or agree with the receiver of the shipment or another third party that he or she will pay our charges and/or any duties, taxes, penalties, bonds, assessments, expenses, surcharges and fines levied or incurred by us in connection with the shipment. If the receiver or other third party refuses to pay our charges for the carriage or reimburse us for any of the above costs you agree to pay these amounts within 7 days of us notifying you of the refusal to pay.

19.5 Our invoice does not include a copy of the Proof of Delivery (POD) or any other additional documents.

19.6 Our invoices must be paid in the currency stated in the invoice or otherwise in a local currency against exchange rates provided by us.

19.7 With respect to time-guaranteed products that we may offer and that you order, if we fail to deliver your shipment within the time specified, if our failure was not caused by any events set out in Condition 13.2 and if you notify us of your claim in compliance with Condition 18, we will charge you, within the same product category as the service you ordered, for the actual delivery service provided (e.g. before noon) rather than charging the price we quoted for the service you asked for (e.g. before 9 am).

19.8 We have a general lien on all your shipments in our possession at any one time that gives us the right to sell the contents and retain the proceeds of sale in settlement of any amounts that you may owe us for previously carried or delivered shipments.

## **20. YOUR INDEMNITY IN RESPECT OF EMPLOYEES**

You agree to indemnify us against and keep us harmless from all costs, claims, liabilities and demands of any nature arising directly or indirectly from the redundancy selective re-employment or transfer of any employee or former employee of yours or of any supplier or former supplier to you or of any third party which may in any way arise from the commercial relationship between us and you including but not limited to any liability arising under the European Community Acquired Rights Directive (77/187/EEC, as amended by Directive 2001/23/EC) or national implementing legislation thereof or under

any other applicable employment legislation.

## **21. LAW AND JURISDICTION**

21.1 In the event that any term or condition is declared invalid or unenforceable such a determination shall not affect the other provisions of this contract of carriage all of which remain in force

21.2 Disputes arising from or related to this contract of carriage shall be subject to the laws and the courts of the country in which the subsidiary or affiliate or branch of TNT that accepts your shipment for carriage is based.

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