

TNT EXPRESS

TERMS AND CONDITIONS OF CARRIAGE AND OTHER SERVICES

LONG FORM VERSION (02-11)

1. DEFINITIONS

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

"we", "us", "our" and "TNT"	means TNT Australia Pty Ltd A.C.N 000 495 269, its related bodies corporate (as this term is defined in the Corporations Act 2001 (Cth)) and its 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, any other party having a legal interest in those contents or any party having an interest in the performance of other services;
"carriage"	means and includes the whole of the operations and services undertaken by us in connection with the transportation of the shipment;
"other services"	means all services not being services for the carriage of shipments that are performed by us, such as storage, sorting, kitting, merging, packing, installation, value added- and transportation management services;
"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 or regarding which we have accepted to perform other services, 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;
"loss"	means damage, loss, cost, expense or liability (whether actual or contingent);

“Our Goods”	means goods which we may supply to you in connection with the carriage of a shipment or other services (including but not limited to any packaging or software);
“Non-Excludable Condition”	means any conditions, warranties and guarantees provided or implied by any State, Territory or Commonwealth law, including but not limited to the statutory consumer guarantees described in the Competition and Consumer Act 2010 (Cth) and the provisions of any State or Territory legislation which cannot be lawfully excluded.

2. THE PARTY WITH WHOM YOU ARE CONTRACTING

Your contract of carriage and of other services is with TNT Australia Pty Ltd. You agree that we may subcontract the whole or any part of the contract of carriage or of other services on any terms and conditions we decide.

3. YOUR ACCEPTANCE OF OUR TERMS AND CONDITIONS

By giving us your shipment you accept these terms and conditions on behalf of yourself and/or anyone else who has an interest in the shipment or the performance of other services 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, deliver your shipment or perform other services 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

Even if the carriage of the shipment forms part of another type of contract between you and us, these terms and conditions apply and will prevail over such contract unless otherwise agreed between you and us in writing.

5 DANGEROUS GOODS / SECURITY

5.1 Dangerous Goods

- a) Except in the circumstances shown in paragraph 5.1 (b) below we do not carry, nor perform other services regarding, 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, or the performance of other services regarding, dangerous goods (collectively referred to as ‘**dangerous goods**’).

- b) We may at our discretion accept some dangerous goods for carriage, or for the performance of other services, 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, codes and technical instructions (as referred to in paragraph 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.
- c) Whether or not you have told us that a shipment comprises dangerous goods you agree that if we consider on reasonable grounds that the shipment may cause injury or damage, we may at your cost do anything appropriate to minimize or avoid such injury or damage, including disposing of or destroying such dangerous goods. We will not be liable to you for any loss or damage you may incur by reason of our actions under this condition.

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 other accompanying document, and your responsibilities and liabilities are not extinguished by providing this information. Shipments carried, or handled, 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, or for the performance by us of other services, 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 or for the performance by us of other services.

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 and take any action we consider necessary in relation to a shipment if we need to verify the condition or nature of the shipment, the ownership or destination of the shipment or if we consider the shipment may contain prohibited items or dangerous goods.

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 condition.

8.3 Any customs duties, taxes (including but not limited to VAT or goods and services tax if applicable), 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 condition

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 then additional charges may apply if the address to which we deliver the shipment is different to the one shown on the consignment note or the label affixed to your shipment.

Deliveries to post office box numbers are not accepted.

10. UNDELIVERABLE AND REJECTED SHIPMENTS

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 or storage of or returning the shipment and our charges (if any) for making a second or more delivery attempts and for the agreed appropriate next action. If the address for delivery is unattended and you have given us a written 'authority to leave' then we may leave the shipment at the unattended address and delivery will be deemed to have occurred in accordance with these terms and conditions. You hereby agree to indemnify us against and hold us harmless from all claims by any party and from all loss or costs, of whatsoever nature, which we incur as a consequence of the shipment being left in accordance with such 'authority to leave'.

You give us authority to dispose of the shipment (or any part thereof) in accordance with our disposals policy which is available at www.tnt.com.au.

11. YOUR OBLIGATIONS

You warrant, represent and guarantee to us that:

- a) the contents of the shipment (including but not limited to providing a full and accurate description of any dangerous goods, weight, volume and number of items) have been properly described on our consignment note and (where applicable) the 'sender's declaration for dangerous goods';
- 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 prepared and packed safely and carefully by you to protect against the ordinary risks of transport including any associated sortation and/or handling process, or the performance by us of other services;
- f) 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 kilograms or more;

TNT EXPRESS

ENGLISH - LONG FORM

PAGE : 6

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- h) the contents of the shipment are not ones restricted by IATA or ICAO and are not prohibited items, and neither you nor the consignee is a person or organisation with whom we or you may not legally trade under any applicable laws or regulations;
 - i) 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;
 - j) all applicable laws and regulations have been complied with;
 - k) 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 or GST 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 shipment);
 - l) that you have taken all reasonable precautions to comply with all conventions, directives and legislation relating to the protection of personal data including if practicable encryption of the personal data to ensure the safety of the personal data in the event of loss or misdelivery of a shipment;
 - m) the value of any international shipment does not exceed \$25,000;
 - n) you alone own the shipment, or if there are other owners you act as their agent and they agree to the handling, transport and storage of the shipment in accordance with and agree to be bound by these terms and conditions.

You agree to indemnify us and hold us harmless from any loss, liabilities and damages we may suffer or any costs, damages or expenses, including legal costs, we incur either to you or to anyone else arising out of you being in breach of any of your obligations, warranties, representations and guarantees set out in these terms and conditions, even if we inadvertently accept a shipment that contravenes any of your obligations.

12. EXTENT OF OUR LIABILITY

12.1 Subject to condition 13 below, we limit our liability for any loss, damage or delay of your shipment or any part of it arising from the international carriage of a shipment as follows:

- a) 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 19 special drawing rights per kilo (approximately 20 Euros per kilo although the rate of exchange is variable).
- b) 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.

- 12.2 To the extent permitted by law, we exclude all conditions, warranties and guarantees provided or implied by any State, Territory or Commonwealth law, including but not limited to the statutory consumer guarantees described in the Competition and Consumer Act 2010 (Cth) and the provisions of any State or Territory legislation.
- 12.3 Subject to any Extended Warranty (refer to condition 14) we provide to you, our total liability for a breach of any Non-Excludable Condition is limited to the remedies available under Section 64A of Schedule 2 to the Competition and Consumer Act 2010 (Cth) or similar remedies under any applicable State or Territory fair trading legislation.
- 12.4 Except where condition 12.3 applies and subject to condition 12.1 (but only to the extent that any law or convention described under condition 12.1 compulsorily applies) and any Extended Warranty (refer to condition 14), we bear no liability for any loss you suffer:
- a) arising from the carriage, including but not limited to any failure by us to perform any services in connection with the carriage or other services, any mis-delivery, failure to deliver or delay in performing such services or other services;
 - b) arising from any loss, damage or destruction to a shipment or any part thereof;
 - c) arising from your use of Our Goods, including but not limited to where such goods are defective;
- for any reason whatsoever including our breach of contract, negligence, breach of duty as bailee, or willful act or default.
- 12.5 Subject to any other condition in these terms and conditions which limits liability, our maximum liability for all purposes in connection with the carriage of a shipment and the provisions of other services is limited to the total amount of payments received by us from you during a one (1) month period before a claim arises (less any amounts paid by us under this condition in respect of all or part of that period).

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, loss of deterioration, loss of business, loss of reputation or goodwill, loss of value or use of intellectual property or other proprietary rights even if we had knowledge that such damages or loss might arise or for any other indirect, incidental, special or consequential damages or loss howsoever arising including without limitation our breach of contract, negligence, wilful act or omission or default.
- 13.2 We are not liable 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):

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- 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. We may refuse to handle, carry or store a shipment for any reason (in our absolute discretion).

14. EXTENDED WARRANTY

- 14.1 We offer certain extended warranty products in relation to the provision of our services of carriage as set out in our extended warranty brochure, which is available at www.tnt.com.au, as amended from time to time.
- 14.2 To understand how to elect an extended warranty and your rights and obligations in relation to an extended warranty, you need to read our extended warranty brochure.

15. 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 even though we may have been negligent or in default and if a claim or action is made you will indemnify us against all loss, damages and other consequences of the claim or action and the costs and expenses we incur in defending it.

16. CLAIMS PROCEDURE

- 16.1 You warrant to us that your insurers or any other third party having an interest in the

shipment shall have waived any rights, remedies or relief to which they might become entitled by subrogation or otherwise against us.

- 16.2 Subject to any law, regulation or convention which compulsorily applies and which we are unable to contract out of (irrespective of whether or not we have attempted to contract out of such law, regulation or convention), your right to claim damages against us shall be extinguished unless you comply with the claims procedure under this condition 16.
- 16.3 If you believe we are liable to you, you must:
- a) immediately contact us; and
 - b) send written notice of your claim (**Claim Notice**) to us within 14 days of the date that the cause of action giving rise to the claim arose (**Notice Period**).
- 16.4 You will remain liable to pay all amounts we charge you in respect of the carriage of the shipment and other services, notwithstanding any Claim Notice.
- 16.5 If we do not receive a Claim Notice from you within the Notice Period, we will have no liability to you in respect of such claim.
- 16.6 Even if you serve a Claim Notice on us within the Notice Period, we will have no liability to you in respect of such claim unless you commence legal proceedings against us within 6 months of delivery of the shipment or where the shipment is undelivered, the date for delivery of the shipment requested by you in the applicable consignment note.

17. RATES AND PAYMENT

- 17.1 You waive all your rights to challenge our invoices if you do not contest our invoice in writing within 14 days from the date of the invoice. Even if you contest our invoice within the 14 day period, we will have no liability to you in respect of such claim unless you commence legal proceedings against us within 6 months of delivery of the shipment or where the shipment is undelivered, the date for delivery of the shipment requested by you in the applicable consignment note.
- 17.2 Our charges are calculated in accordance with the rates applicable to your shipment as set out in or otherwise referred to on our then current rate card and must be paid in the currency stated in the invoice or otherwise in a local currency against exchange rates provided by us. We may check the weight and/or volume of and/or the number of items within your shipment and if we find that there is a discrepancy between your declared weight and/or volume and/or number of items you agree that the weight and/or volume and/or the number of items that we determine may be used for the purpose of our calculation.
- 17.3 Our current rate card is available on request from any of our offices in the country from which the shipment is invoiced.
- 17.4 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. For the purposes of calculating weight we round up to the next whole kilogram.

TNT EXPRESS

ENGLISH - LONG FORM

PAGE : 10

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- 17.5 Our charges are earned as soon as we collect the shipment from you, or from the address nominated by you.
- 17.6 You must pay the charges relating to the carriage of the shipment or the performance of any other services (including those in relation to the extended warranty – see condition 14) unless the sender (where you are not also the sender) or the receiver pays them. If another person is nominated as paying the charges, you promise that person will pay.
- 17.7 We require payment of our charges within 14 days from date of invoice without withholding, deduction, counter claim or set-off.
- 17.8 The charges we will charge you will include:
- a) any additional expenses we incur as a result of any incorrect declaration by you of the weight, volume, description or packaging of the shipment;
 - b) any customs duty, storage charges or other charges or expenses we incur in relation to the shipment.
- 17.9 We will notify you of changes to our fuel surcharge and the date for the implementation of such changes on our website at www.tnt.com.au.
- 17.10 Unless stated to the contrary, our charges in connection with the carriage of a shipment or the provision of other services are exclusive of any Goods and Service Tax. If such tax is applicable to you, you must pay the tax in addition to and at the same time as you are required to pay our charges in accordance with this condition 17.
- 17.11 We may charge you interest on any overdue amount from the due date until the date of payment in full. The amount of interest will be calculated daily at the prime commercial lending rate charged by the Commonwealth Bank of Australia on the due date plus four percent (4%).
- 17.12 We have a general and a particular 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.
- 17.13 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:
- a) formal customs entries involving more than three different commodities;
 - b) customs bonds or the need to deliver goods under a customs bond;
 - c) temporary import facilities;
 - d) 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.

18. LAW AND JURISDICTION

18.1 In the event that any term or condition is declared invalid or unenforceable such a determination shall not affect the other provisions of these terms and conditions all of which remain in force.

18.2 Save as provided by any compulsory application of a convention, disputes arising from or related to these terms and conditions shall be subject to and governed by the laws of New South Wales. Each party irrevocably submits to the non-exclusive jurisdiction of the Courts of New South Wales.

19. PRIVACY

We will collect, use and disclose your personal information in accordance with the terms of our Privacy Policy, which is available at www.tnt.com.au as amended from time to time.

20. WAIVER AND VARIATION

20.1 We may only waive a right or remedy created by these terms and conditions in writing. Our delay in exercising a right or remedy does not constitute a waiver of that right or remedy, nor does our waiver (either wholly or in part) operate as a subsequent waiver of the same or any other right.

20.2 We reserve the right to amend these terms and conditions and the policies referred to in these terms and conditions from time to time without prior written notice to you.

21. ENTIRE AGREEMENT

These terms and conditions and all our policies referred to in these terms and conditions and such other policies notified to you from time to time constitutes the entire agreement of the parties about its subject matter and any other agreements, understandings and negotiations on that subject matter (whether oral or in writing) will, unless specifically agreed to by us in writing, have no effect.

22. PALLET CONTROL

22.1 Unless otherwise agreed by us in writing:

- (a) you must not transfer any pallets to any account which we may have with a pallet hirer;
- (b) all pallets which may be supplied to you as part of the carriage and which we do not transfer to your account with a pallet hirer must be made available for collection by us when requested and must not be used for any other purpose. For the avoidance of any doubt we will not be liable to you for any storage fees in relation to the pallets;
- (c) pallet exchanges will not be allowed;
- (d) we do not take responsibility for, or supply or exchange plain pallets.

22.2 If pallet transfers are agreed by us in writing:

- (a) we will reject transfers that are lodged by you after twelve weeks from the time of pick-up;
- (b) the financial responsibilities for pallets will be transferred between your account and the account of TNT Australia Pty Ltd at the time the pallets are transferred.