



# TNT EXPRESS

## Terms and conditions of carriage

SHORT FORM VERSION (06-09)

The Terms and Conditions below are a shortened version of our full Terms and Conditions, which apply on all carriage, or, as the case may be, the performance of other services, by us. A copy of the Long Form Version is available on request from our nearest office to you and/or on our internet site.

### 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 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, 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;

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

Your contract of carriage and of other services is with the TNT company or the subsidiary or affiliate of TNT that accepts from you the shipment for carriage or, as the case may be, the performance of other services. 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 our terms and conditions set out in the consignment note and/or the contract of carriage and/or the contract for the performance of other services 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

- a) Even if 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 that involves the carriage of goods 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;
  - the contract is a contract of carriage of goods by sea if the carriage of the shipment actually takes place by sea;
  - the contract is a contract for the performance of other services if related to non-carriage services.

## **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.
- 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 (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.

### **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, or 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.

## **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 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.

## 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 carriage 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 17 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.
  - c) If none of the above conventions apply and we have a liability to you for whatever reason, including without limitation breach of contract, negligence, wilful act or default, our liability to you for loss, damage, misdelivery or non-delivery of your shipment or the part affected is at all times limited to the lower of the market value of the shipment at the time of carriage or the cost of repairing the shipment or the part affected with in each case an upper limit that does not exceed 17 Euros per kilo limited to 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.
- 12.2 Subject to condition 13 below, if we have a liability relating to other services for whatever reason, including without limitation breach of contract, negligence, wilful act or default, our liability to you is at all times limited to 10 000 Euros per event or series of events with one and the same cause of damage or; in case of the loss of or damage to a shipment, to the lower of the market value of the shipment or the cost of repairing the shipment or the part affected with in every case an upper limit that does not exceed 3.40 Euros per kilo with a maximum of 10 000 Euros per event or series of connected events.

## 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 even if we had knowledge that such damages or loss might arise or for any indirect, incidental, special or consequential damages or loss howsoever arising including without limitation breach of contract, negligence, wilful act 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):
    - 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.

## **16. ENHANCED LIABILITY**

- 16.1 You may, against payment of the indicated charge, make a declaration on the consignment note of the value of the shipment (non document shipment) exceeding the limits laid down in condition 12 up to a maximum of 25 000 Euros per shipment ("Enhanced Liability"). Declaration must be made by completing the relevant box on the consignment note and paying the indicated charge. Compensation for proved loss or damage to your shipment may be claimed up to the total amount of the above declared value. Enhanced Liability is not available for precious stones, precious metals, laptop computers, plasma and LCD screens, jewellery, money, glass, china, objects of art, antiques, documents (other than the reconstitution cost as provided for in paragraph 16.2 below) 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 opt for Enhanced Liability 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. Compensation for proved loss or damage to your document shipment may be claimed up to 500 Euros per shipment. This Enhanced Liability option 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 Enhanced Liability options (16.1 and 16.2) (i) do not provide compensation for losses of a consequential nature (see paragraph 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, (ii) are not available for non-carriage services and (iii) are not available for a limited number of countries. For a list of these countries, and/or to obtain further details on the conditions of Enhanced Liability, 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 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, or for any other damages, you must comply with any applicable convention and 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, within 21 days from the date the shipment should have been delivered or if the claim relates to other services within 21 days from the date you ought reasonably to have become aware of the loss, damage or delay and then within the next 21 days you must document your claim by sending us all relevant information about the shipment and/or the loss, damage or delay suffered. We are not obliged to act on any claim until our charges have been paid nor are you entitled to deduct the amount of your claim from our 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 or if the claim relates to other services within 1 year from the date you ought reasonably to have become aware of the loss, damage or delay;
- d) in case of acceptance by us of part or all of your claim, 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;
- e) the shipment shall not be deemed to be lost until at least 30 days have elapsed since the date you notified us of the non delivery. We may agree with you in writing to shorten this period.

## **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, or for the performance by us of other services, and any value added taxes thereon 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 charges are calculated in accordance with the rates applicable to your shipment as set out in our current rate card or in the relevant contract. 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. 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.

## **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 all of which remain in force
- 21.2 Save as provided by any applicable convention, disputes arising from or related to this contract 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 or performs other services is based.