



TERMS AND CONDITIONS OF CARRIAGE AND OTHER SERVICES

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”, “MXL” or “MXL Delivers” means MXL Delivers (Gloucester) Limited and MXL’s employees, agents and independent contractors;

“you” and “your” means the sender or consignor;

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

“consignment note” means information provided by you in paper or electronic form concerning the shipment;

“other services” means all services not being services for the carriage of shipments that are performed by us, including, but not limited to, storage, sorting, kitting, value added and transportation management services;

“shipment” means goods or documents of whatever nature 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;

“POD” means proof of delivery obtained by MXL on delivering the shipment to the recipient stipulated by you.

“MXL responsible damages” means damages that were not noted on collection paper work, at the time that we took responsibility for your shipment, but were subsequently noted on the POD by the recipient, prior to them signing to accept the shipment.

2. THE PARTY WITH WHOM YOU ARE CONTRACTING

Your contract of carriage and of other services is with the MXL company 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 our directors 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

4.1. 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.

4.2. 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 for the performance of other services if related to non-carriage services.

5. **RIGHT OF INSPECTION**

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

6. **CALCULATION OF TRANSIT TIMES AND ROUTING OF SHIPMENTS**

Weekend days, public holidays, bank holidays, delays caused by customs, delays attributable to compliance with mandatory local security requirements 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.

7. **INCORRECT ADDRESS**

7.1. 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.

DELIVERY OF YOUR SHIPMENT

8.1. Where we are unable to complete the delivery of a shipment for whatever reason we will try to leave a notice at the receiver's address stating that delivery has been attempted and what steps the receiver needs to take to re-arrange delivery. If delivery has not been made after a second 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.

Special Delivery Instructions

8.2. You or the receiver of a shipment may give special instructions to us to deliver the shipment to another location/person (being for example a neighbour and/or neighbouring address) or the receiver may indicate its wish to collect the shipment from a location approved by us. Where you request and we agree to enable this special delivery instructions service, the following provisions shall apply:

8.2.1. Our furnishing of any delivery receipt upon which is listed the alternative person and/or delivery location shall constitute proof of delivery of the shipment;

8.2.2. We shall not be liable for any loss or damage (other than those deemed to be MXL responsible damages) in any way as a result of our performance of special delivery instructions, once the proof of delivery has been signed;

8.2.3. You shall indemnify us and hold us harmless from and against all claims, costs, liability and expenses (including reasonable lawyers fees and expenses) arising by reason of loss or damage (other than those deemed to be MXL responsible damages) to any shipments as a result of providing this special delivery instructions service. We also reserve the right to charge you an administration fee for providing this special delivery instructions service.

8.3 Where appropriate we may deliver the shipment to an address close to the delivery address if the receiver of the shipment is not available, at your risk.

9. **YOUR OBLIGATIONS**

You warrant, represent and guarantee to us that:

9.1. The contents of the shipment (including but not limited to weight and number of items) have been properly described on our consignment note, where appropriate 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;

9.2. The consignee's full delivery address including postcode and contact details have been fully, accurately and legibly entered on our consignment note;

9.3. 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;

9.4. The contents of the shipment are not restricted by IATA, ICAO, IMDG or ADR 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;

9.5. All applicable laws and regulations have been complied with;

9.6. The value of any shipment does not exceed £1,500.

9.7. All shipments are correctly packaged, clean, tidy and fit for purpose.

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 either to you or to anyone else arising out of you being in breach of any of these warranties, representations and guarantees, even if we inadvertently accept a shipment that contravenes any of your obligations.

10. **EXTENT OF OUR LIABILITY**

Liability for Transportation Services

10.1. Subject to Clause 11 below, we limit our liability for any loss or damage of your shipment or any part of it arising from carriage as follows:

10.1.4. We have a liability to you for whatever reason for transportation services performed by us, 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 cost 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 £10.00 per kilo 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.

Liability for Other Services

10.2. Subject to Clause 11 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 £500.00 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 £500.00..

11. EXCLUSIONS OF LIABILITY

11.1. 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.

11.2. We are not liable if we do not fulfil any obligations towards you at all as a result of:

11.2.1. 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.
- Glass, porcelain or marble

11.2.2. 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 Clause 9;
- An act or omission of any customs, security, airline, airport or government official.

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

11.2.4. Our refusal to make any illegal payments on your behalf.

11.3. We are not a common carrier and do not accept any liabilities of a common carrier.

12. **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.

13. 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:

13.1. You must notify us about the loss, damage or delay within 7 days after delivery of the shipment or within 7 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. If we send you a claim form you must return it within 21 days from the date of issue fully completed together with all relevant documentation in support of your claim;

13.2. 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;

13.3. 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 item damaged or evidence of the damage being claimed for must be made available to us on our request;

13.4. 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;

13.5. 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;

14. RATES AND PAYMENT

14.1. Unless otherwise agreed in writing, you agree to pay our charges (including applicable surcharges) 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 within the agreed payment terms without withholding, deduction, counterclaim or set off.

14.2. 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.

14.3. 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. Our current rate card is available on request.

14.4. You agree that we may charge interest on all invoices not paid within terms at the rate of 6% above the European Central Bank base rate until full and final payment of the relevant invoice. You agree to pay our reasonable and proper cost of collection of invoices not paid within seven days from the invoice date.

14.5. Our invoice will include where possible a copy of the Proof of Delivery (POD), which you agree may be validly obtained or provided in a digital or electronic format, or any other additional documents.

14.6 Where permitted by law, our standard invoice presentation method is electronic invoicing. Where you request, or we are required, to use paper invoicing we reserve the right to charge you an administration fee for providing this service.

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

14.8. 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.

14.9. You shall be liable for the payment of all duties, taxes and charges including stamp duties as applicable on the carriage and other services as well as on all documents including the consignment note.

15. **LAW AND JURISDICTION**

15.1. 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.

15.2. 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 MXL that accepts your shipment for carriage or performs other services is based.