

Transporters Logistics Ltd. Terms and Conditions of Carriage

1. DEFINITIONS

Except where expressly provided otherwise and / or where the context necessarily requires otherwise, the following definitions apply in these conditions ---

“the Carrier” always means Transporters Logistics Ltd. As a shipping broker, Transporters Logistics Ltd. will, as a matter of course, and from time to time, use third party carriers to complete and fulfill the contract with **“the shipper”** but will always remain **“the Carrier”**;

“the Company” always means Transporters Logistics Ltd. As a shipping broker, Transporters Logistics Ltd. will, as a matter of course, and from time to time, use third party carriers to complete and fulfill the contract with **“the shipper”** but will always remain **“the Company”** and for the purposes of this document, is interchangeable with the Carrier;

“the Consignee” means any business, person, or corporation authorized by the Shipper to take delivery of the goods;

“the Customer” means any business, person, or corporation authorized by the Shipper to take delivery of the goods and for the purposes of this document, is interchangeable with the Consignee;

“dangerous goods” means those materials and substances designated as dangerous by the rules and definitions as set out in Health Canada’s Workplace Hazardous Materials Information System (WHMIS) and by any other applicable legislation and regulations in force from time to time, but does not include gasoline, diesel oil, or other fuel present in reasonable quantities in the fuel tanks of vehicles;

“financial consequences” means any and all liabilities, damages, costs (including legal costs), expenses, charges, fines, penalties, and other monetary payments which the Carrier may incur or otherwise be obliged to pay;

“freight” means all charges due to the Carrier for or in connection with a shipment, including any associated charges and expenses and/or any storage charges and expenses incurred by the Carrier prior to loading and/or after discharge and/or any surcharges which the Carrier may levy in respect of variations in currency exchange rates and/or fuel prices;

“freight document” means the document issued by the Carrier for the receipt and shipment of a consignment of goods and includes without limitation, any waybill, bill of lading (BOL), ticket, and internal electronic record produced by the Carrier as evidence of such consignment having been received for shipment;

“goods” means collectively any cargo, including dangerous goods, as described on delivery to the Carrier and thereafter evidenced in the freight document;

“invoice” means the document created by the Carrier which includes all charges due to the Carrier by the Shipper;

“loss and damage” includes financial and consequential loss and damage (including loss of profit) as well as physical loss of damage to goods and also includes, if necessary, any liability for misdelivery and non-delivery of goods;

“misdelivery” means delivery to a location listed on the Freight Document but subsequently refused as incorrect delivery;

“the Parties” means the person(s), business, or corporation, as the case may be, who enter into a contract and are the principals thereof;

“the Shipper” means the person, business, or corporation, as the case may be, who enters into a contract with the Carrier for a shipment and/or who has control of the goods delivered to the Carrier for shipment and who is in any event liable for the payment of the freight, but also includes, where the context permits, any other person with an interest in the goods or any part thereof;

“shipment” means the carriage of goods;

“time of receipt” means the time at which the goods are received by the Carrier as evidenced by the issue of a Freight Document, or alternatively, the time goods are declared for shipment by the Shipper;

“transport document” means the same as Freight Document;

2. ROLE OF TRANSPORTERS LOGISTICS LTD. (“the Company”)

The Company offers its services on the basis of these conditions that apply to all activities of the Company in arranging transportation or providing related services, such as, but not limited to, warehousing and any other kind of logistics service. The Company may provide its services as either principal or agent. The Company acts as agent of the Customer, except:

- a) where it issues a transport document or electronic record evidencing its obligation or the delivery of goods, or
- b) to the extent it physically handles goods by its own employees and equipment in the course of performing any service in which case it acts as principal,

but whether acting as principal or as agent these conditions govern the rights and liabilities of the Customer and the Company.

Advice and information that is not related to instructions accepted by the Company is provided gratuitously and without liability. Advice is for the Customer only and is not to be furnished to any other party without prior written consent.

3. CLAIMS AGAINST OTHERS

These conditions apply whenever any claim is made against any employee, agent, or independent contractor engaged by the Company to perform any transport or related service for the Customer’s goods, whether such claims are founded in contract or in tort, and the aggregate liability of the Company and all such persons shall not exceed the limitations of liability in these conditions. For purposes of this Clause, the Company acts as agent for all such persons who may ratify such agency at any subsequent time.

4. ROLE AS AGENT

When acting as an agent, the Company acts solely on behalf of the Customer in engaging the services of third parties on the usual terms and conditions on which the third parties offer such services for the carriage, storage, packing, or handling of any goods, or for any other services in relation to them, thereby establishing a direct contract between the Customer and the provider of such services capable of being enforced by the Customer as principal, whether or not the Customer is identified in the contract.

5. THE CONTRACT

- a) The contract is made on the terms of these conditions between the Carrier and the Shipper for the shipment of goods by the Carrier.
- b) No person other than the director of the Carrier is permitted or authorized to waive, vary, or alter any provisions of these conditions, and any such waiver, variation, or alteration shall not be effective unless and until issued in writing.
- c) The contract shall be subject to the provisions of Provincial, National, and International rules and regulations and shall also be deemed to incorporate the description and identity of the goods, the Shipper, and the Carrier contained in any notice issued by the Carrier confirming that the goods have been booked.

6. THE COMPANY'S GENERAL RESPONSIBILITIES

- a) The Company shall exercise reasonable care in the discharge of its obligations including the selection and instruction of third parties that provide any services engaged on behalf of the Customer.
- b) The Company shall arrange transport and any related services within a reasonable time after receiving the Customer's instructions.
- c) If it has reasonable grounds for departing from any of the Customer's instructions, the Company can do so without prior authorization from the Customer, but must act with due regard to the interests of the Customer and, as soon as possible, inform the Customer of its actions and any resulting additional charges.
- d) The Company shall notify the Customer of any accidents, spills, theft, hijacking, or other events which impair the safe and prompt delivery of the Customer's goods in its control.
- e) Quotation as to fees, rates of duty, freight charges, insurance premiums, or other charges given by the Company to the Customer are for informational purposes only and are subject to change with or without notice and shall not under any circumstances be binding upon the Company unless the Company in writing specifically undertakes the handling or transportation of the shipment at a specific rate.

7. CUSTOMER'S GENERAL RESPONSIBILITIES

- a) The Customer shall be deemed to be competent and to have reasonable knowledge of matters affecting the conduct of its business, including terms of purchase and sale, the need for insurance and the extent of coverage available for the type of goods being tendered for shipment, the need for care to avoid transmitting viruses by electronic communications, the need for confidential handling of information relating to high value goods, and all other matters relating hereto.
- b) The Customer warrants that all information in whatever form relating to the general and dangerous character of the Goods, their description, Bar-Coding, marks, number, weight, volume, and quantity of the Goods, as furnished by the Customer or on its behalf, was accurate and complete at the time the Goods were taken in charge by the Company or any third party whose services it has engaged. The Customer further undertakes to provide independent confirmation of such particulars on the request of the Company.
- c) The Customer agrees to indemnify the Company against:
 - i. any and all financial consequences of a breach of the Customer's warranties as set out in this clause;

- ii. any and all financial consequences resulting from the inaccuracy or inadequacy of the description, weight, number, measure, quantity, marks, value, condition, quality, or content of goods and/or from defective loading and overloading and/or from the inadequate securing, packing, packaging, sealing, or stuffing of goods;
 - iii. any liabilities of the Company in excess of the limits under these conditions.
- d) The Company's right of lien for unpaid freight is provided by clause 9(f) below and shall extend to any financial consequences arising under this clause.

8. CUSTOMER'S RESPONSIBILITY FOR PACKAGED AND CONTAINERIZED GOODS

- a) Except where the Company has accepted instructions in respect of the preparation, packing, stowage, labelling, or marking of the goods, the Customer warrants that all goods have been properly and sufficiently prepared, packed, stowed, labeled, and/or marked, and that the preparation, packing, stowage, labelling and markings are appropriate to any operations or transactions affecting the goods and the characteristics of the goods.
- b) Unless the Company has accepted instructions to arrange for or perform the loading of a transport unit by its employees, the Customer warrants that:
 - i. the transport unit has been properly and competently loaded;
 - ii. the goods are suitable for carriage in or on the transport unit; and
 - iii. the transport unit is in a suitable condition to carry the goods loaded therein (save to such extent as the Company has approved the suitability of the transport unit).

9. QUOTATIONS, INVOICING, AND PAYMENT OF FREIGHT

- a) The Company does not assume a role as principal by delivering a fixed price quotation or invoice. The Customer acknowledges that the difference between the amounts payable to third parties retained to carry out the Customer's instructions and the fixed price represents the Company's gross profit for its services. A Customer agrees that the Company is an agent as provided in Clause 2 where the Customer:
 - i. accepts a fixed price quotation, and
 - ii. does not within fifteen (15) days after receipt of the invoice object to the Company charging a fixed price for its services.
- b) Quotations are given on the basis of immediate acceptance and are subject to withdrawal or revision. Unless otherwise provided in the quotation the Company may, after acceptance, revise quotations or charges upon notice in the event of changes beyond the Company's control, including changes in exchange rates, rates of freight, carrier surcharges, or any charges applicable to the goods.
- c) Unless otherwise expressly stated, payment for the freight delivery is due thirty (30) days from the invoice date regardless of delivery date or receiving date of the freight. Notwithstanding any agreement for freight to be paid by any other person, the Customer shall at all times remain liable for payment.
- d) The Company shall be entitled at any time prior to actual shipment to levy a surcharge in respect of variations in currency exchange rates, fuel prices, and any other relevant expense outside the Company's control.

- e) Unless otherwise agreed in writing by the Company, all freight quoted by the Company in CANADIAN DOLLARS must be paid in Canadian dollars. Notwithstanding, all freight quoted by the Company in UNITED STATES DOLLARS must be paid in United States dollars. Unless otherwise agreed in writing by the Company, all freight quoted by the Company in CANADIAN DOLLARS but payable at a non-Canadian port, must be paid in United States dollars and shall be calculated at the highest rate of exchange on the last banking day prior to the freight's arrival at the non-Canadian port.
- f) Lien. The Company shall have both a particular lien and a general lien on all goods and documents in its possession or control for the payment of:
 - i. any unpaid freight and any other sum whatsoever due from any person(s) with an interest in the goods, and whether or not such liability is joint or several, whether or not such liability is in respect of the goods subject to the exercise of the lien, and whether or not arising in respect of any other goods belonging to the person whose goods are subject to the exercise of the lien, and
 - ii. any other sums that may become due to the Company by reason of and pursuant to these conditions.

If events or circumstances, including a Customer's failure to take delivery, occur that affect performance of the Customer's mandate, the Company shall take reasonable steps to obtain the Customer's further instructions. If for whatever reason it does not receive timely instructions, the Company may:

- iii. store the goods at the sole risk and expense of the Customer, or
- iv. sell the goods immediately and without further notice, and hold any net proceeds for the account of the Customer, or
- v. authorize any third party to abandon carriage and make the Goods or any part of them available to the Customer at a place that is reasonable in the circumstances.

10. DANGEROUS GOODS

- a) The Company shall be under no obligation to receive or to carry dangerous cargo without having expressly agreed in advance to do so.
- b) The Customer shall provide the Company with all the necessary information as to all the required precautions to take in respect of dangerous cargo and shall provide all labels, stickers, or notifications required to indicate that the cargo is dangerous. In the absence of such notification the Company has the absolute right to refuse the shipment.
- c) The Customer shall always be responsible for any injury, loss, or damage resulting from the carriage of dangerous goods. The Company shall, at its sole discretion, destroy or otherwise render innocuous such cargo without liability to compensate the Customer for any resulting loss. The Customer shall remain responsible for all freight and other charges due to the Company as well as for those costs and expenses incurred by the Company in taking such action.
- d) Goods which in the opinion of the Company or the person who has custody or possession thereof are or may become dangerous and present a hazard may at any time or place be unloaded, destroyed, or rendered harmless without liability on the part of the Company.

11. INSURANCE

- a) The Customer is at all times and in every way responsible for providing insurance on its goods tendered for storage or transport. The Company has no duty regarding insurance, and no liability for loss of or

damage to the goods during transport or storage that could have been covered by insurance on the goods, whether such loss or damage has been caused or contributed to by its negligence or breach of these conditions, or otherwise.

- b) Notwithstanding Clause 11(a), the Company agrees that the measure of damages for the Customer's goods that are lost or damaged, and for which the Company has liability, shall be the Customer's actual costs to replace the goods, less salvage value, if any. The Company shall not, however, be liable for any damage, loss, or theft to or of sealed loads, except where such damage, loss, or theft results solely from the Company's negligent acts or omissions. The Company's liability hereunder shall in no event exceed \$2.00 Canadian Dollars per pound to a maximum of \$2,500.00 Canadian Dollars.
- c) Without prejudice, the Company shall have the benefit of all statutory limitations of and exemptions from liability of carriers which apply and are in force from time to time in Canada or elsewhere.
- d) In no circumstances shall the Company be liable for:
 - i) delay, howsoever or whensoever caused;
 - ii) loss of use of the goods or any part thereof, or any other form of consequential loss or damage, including loss of profit;
 - iii) misdelivery of the goods.
- e) The defenses, exclusions, and limits of liability in these conditions shall apply in any action against the Company and whether such action is founded in contract and/or in bailment and/or in tort.

12. INDEMNITY

The Customer shall indemnify the Company against all duties, taxes, payments, fines, expenses, losses, claims, and liabilities, including any liability to indemnify any other person against claims made against such other person by the Customer:

- a) for which the Company may be held responsible unless caused or contributed to by any negligence or breach of duty of the Company, or
- b) in excess of the liability of the Company in accordance with these Conditions,

resulting from or connected with the actions of the Company related to any service to which these Conditions apply.

13. SET OFF AND COUNTERCLAIM

The Customer shall pay to the Company in cash, or as otherwise agreed, all sums immediately when due without reduction or deferment on account of any claim, counterclaim, or set off.

14. TIME BAR

The Company shall, unless otherwise expressly agreed, be discharged of all liability under these Conditions unless suit is brought within nine (9) months from:

- a) the date of delivery of the Goods for claims to damage to Goods, or
- b) the date when the Goods should have been delivered for claims in the delay in delivery or loss of goods.

With respect to loss or damage other than loss of or damage to the Goods, the nine-month period shall be counted from the time when the act or omission of the Company giving rise to the claim occurred.

15. CUSTOMARY REMUNERATION RECEIVED FROM THIRD PARTIES

The Company shall be entitled to be paid and retain all brokerages paid by carriers, commissions, documentation allowances, profits on foreign exchange and other remunerations paid by third parties as is customary in the trade.

16. APPLICABLE LAW AND JURISDICTION

- a) The Parties agree that where they have used electronic communications to transact in whole or in part any business, such communications will be given legal effect in accordance with the provisions (so far as they may be applicable) of The Uniform Electronic Commerce Act as approved by the Uniform Law Conference of Canada. Otherwise these Conditions shall be governed by the law of the Province within Canada in which the Company has its principal place of business. By accepting the services provided under these Conditions, the Customer irrevocably attorns to the exclusive jurisdiction of the Courts of that Province.
- b) The Contract shall be at all times governed in accordance with the laws of Canada and any dispute arising out of or in connection with the Contract or otherwise in relation to the goods shall be subject to the exclusive jurisdiction of the Superior Courts of British Columbia, Canada.
- c) Removal of the goods from the port of destination shall be prima facie evidence of proper delivery unless either:
 - i) a written acknowledgement of damage is obtained from the Company at the port of destination at the time of removal of the goods; or
 - ii) notice of loss or damage, including the nature of the loss or damage, is given to the Company at the port of destination at the time of removal of the goods; or
 - iii) if the loss or damage is not immediately apparent at such time, is notified to the Company in writing within thirty (30) days of such removal.
- d) Notwithstanding clause 16(c)(i)-(iii) it is a requirement to submit a Freight Claim Form to the Company indicating the nature of the damage. No claims for damage will be processed without the receipt of a Freight Claim Form.

17. FORCE MAJEUR

- a) Without prejudice to any rights or privileges of the Company's under covering Bills of Lading, dock receipts, or booking contracts or under applicable provisions of law, in the event of war, hostilities, warlike operations, embargoes, blockades, port congestion, strikes or labour disturbances, regulations of any governmental authority pertaining thereto or any other official interferences with commercial intercourse arising from the above conditions and effecting the Company's operations, the Company reserves the right to cancel any outstanding booking or contract of carriage. At the Company's option, cargo in transit may be enrouted to a different discharge port or destination for cargo delivery. Any additional cost associated to this arrangement shall be for account of cargo and be the responsibility of the Customer.

- b) In the event that threat, existence or continuance of any present or future war or warlike condition or hostilities or civil commotion or the existence or continuance of conditions or cessation or prohibition of intercourse (commercial or otherwise) between nations or measures taken by any Government or Governments which, in the opinion of the Company indicate that there is a danger of any of the foregoing which may render impossible performance of its obligations due to the requisition, seizure or loss of any of the Company's vessels or vehicles, or any other cause whatsoever, whether similar or dissimilar, or which in the Company's sole judgement may directly or indirectly result in the imposition upon the carriers of any undue financial or other hardship or burden in the performance of its obligations or in an increase in rates of freight charged for transportation generally, or in this trade, the Company reserves the right of forthwith canceling or suspending any or all of the obligations expressed under this engagement and/or tariff and/or relative contracts and/or booking notes. So far as cargo actually shipped may be concerned, the provisions of the Company's Bill of Lading shall apply. This clause shall not affect or supersede any provision in any contract for carriage which permits the Company to cancel such a contract in the event of hostilities breaking out or threatening to break out.