

## WAYBILL CONTRACT-FOR-CARRIAGE TERMS

- In this contract and the notices appearing hereon: "Carrier" includes the Mainfreight company issuing this waybill, all Mainfreight affiliated companies, and every carrier, subcontractor, servant and agent who carries or undertakes to carry the cargo or perform any other service related to, or incidental to, such carriage. "Shipper" means the party listed on the face of this waybill as such, as well as any other party having an interest in the cargo including, but not limited to, the consignee, consignee, and any other holder of this waybill. Reference to Mainfreight in this contract as a "Carrier" does not alter the fact that in no event will Mainfreight, or any of its affiliates, operate any transporting conveyance used to transport any cargo tendered pursuant to this waybill.
- Carriage is subject to the most recent rates, rules, classifications, tariffs and declared value parameters posted on Carrier's website <https://www.mainfreight.com/americas/en-nz/product-terms-conditions> which are incorporated into this contract to the same extent as set forth verbatim herein. To request copies or receive a further explanation of this information, please call your local branch sales office. Intending the cargo described herein for carriage, Shipper agrees to the conditions of this contract and that this waybill is non-negotiable unless otherwise clearly marked and agreed by Carrier in a writing signed by an officer of Carrier prior to shipment. Shipper warrants it has the authority of any and all parties having any interest in the cargo (including each party included in the definition of "Shipper") to enter this contract on their behalf. Each such entity is jointly and severally liable to Carrier pursuant to this contract. Shipper warrants and represents that all information provided in respect of the goods is accurate and complete. Shipper agrees any stated delivery date and/or time is a non-binding estimate; Carrier does not guarantee delivery by a stipulated date or time.
- All provisions herein shall govern to the fullest extent permissible under any national or subnational law or international convention which may apply by force of law. In the event one or more provisions herein should for any reason be held unenforceable or invalid, such provision(s) shall be enforced to the maximum extent possible and the remaining provisions shall survive unaffected. Nothing in this contract shall be considered a waiver of any defense available to the Carrier under applicable national or subnational law or international convention. Carrier assumes no liability for any acts or omissions of any third party.
- Except if packing is performed by Carrier, Shipper warrants the cargo is packed to withstand the ordinary rigors of the contemplated carriage. In tendering the cargo to Carrier, Shipper warrants the cargo and all parties having any interest in the cargo are fully compliant with all rules and regulations of this contract as well as government regulations applicable for the contemplated carriage. Shipper is responsible for sufficiency and accuracy of accompanying documents. Without any obligation, Carrier shall have the unrestricted liberty to inspect the packaging and contents of the cargo for any purpose and to inquire and verify the accuracy or sufficiency of information provided and to seek assurances. Discrepancies may result in shipment delay or cancellation at no risk or additional cost to Carrier, as well as additional charges assessed by Carrier. Carrier may disclose and report, whether mandatorily or voluntarily, regulatory non-compliance to authorities; such authorities may assess penalties or exercise forfeiture. If Shipper is acting as an agent, authorized representative, broker, carrier, or other freight intermediary for any other person or entity, Shipper shall disclose that fact to Carrier and shall assist Carrier in complying with the requirements of Transport Canada, Canada Border Services Agency, regulated agents under the Air Cargo Security Program, and the Canadian Air Transport Security Authority by enabling Carrier to obtain any necessary documents from, or otherwise qualify, such other person or entity. As required by *Marine Transportation Security Regulations* (Canada), the *Canadian Aviation Security Regulations, 2012* (Canada), the Security Measures Respecting Air Cargo and all other applicable laws, Shipper hereby consents to a search or inspection of the cargo, including screening of the cargo.
- All shipments containing hazardous materials/dangerous goods ("DG") must comply with the *Transportation of Dangerous Goods Act* (Canada) and its regulations and, if the shipment is offered for air transportation, the International Civil Aviation Organization's Technical Instructions for the Safe Transport of Dangerous Goods by Air, as republished by the International Air Transport Association as the Dangerous Goods Regulations (collectively, the "Regulations"). Shipper assumes sole responsibility for complying with all requirements of the Regulations with respect to each DG shipment, including but not limited to those concerning packing, marking, labeling, and documenting, as well as compliance with all other applicable laws, regulations, ordinances and regulations. Each DG shipment must be accompanied by a Shipper's Declaration for Dangerous Goods when required. If a DG shipment damages or contaminates any property, Shipper is solely responsible for and will reimburse and indemnify Carrier for any costs, fees and expenses it incurs in connection with the cleanup of such damage or contamination. Shipper acknowledges that the Regulations require Shipper to administer job-specific DG training prior to tendering a DG shipment for transportation. Carrier will not be liable for, nor will any adjustment, refund or credit of any kind be given as a result of, any loss, damage, delay, mis-delivery, non-delivery, misinformation or failure to provide information caused by or resulting in whole or in part from DG shipments that Shipper did not properly declare, including proper documentation, markings, labels and packaging. Shipper agrees to defend, indemnify, and hold harmless Carrier for any losses arising out of (i) Shipper's failure to comply with the Regulations or this provision, or (ii) inaccurate representations made by Shipper regarding DG shipments it tenders for transportation (regardless of the mode).
- The sole liability of Carrier, and the sole recovery of any party with any interest in the cargo, with respect to loss, damage, destruction or delay to cargo shall be as set forth in this contract. As set forth herein, Carrier limits its liability to varying release rates depending upon the service provided, unless a higher value is declared herein and commensurate charges paid. Certain commodities may have a maximum Value which can be declared with Carrier, including items of extraordinary / subjective Value and/or fragility. Such commodities include, but are not necessarily limited to, works of art (including sculptures, paintings, recordings, manuscripts), jewelry, precious stones or other materials, antiques, antiquities, prototypes, commercial luxury goods, or other items where Value is based on rarity, perception, or marketing. "Value"

### A. INTEGRAL TERMS FOR DOMESTIC AIR TRANSPORTATION AND ALL SURFACE TRANSPORTATION (CARRIAGE AMENDMENT WAIVERS)

- The provisions under this heading apply to TRANSPORTATION AND ANY SEGMENT OF TRANSPORTATION NOT COMPRISING INTERNATIONAL AIR CARRIAGE AND NOT GOVERNED BY FORCE OF LAW BY AN INTERNATIONAL AIR CONVENTION including, but not limited to, the Montreal Convention or Warsaw Convention. In the event transportation hereunder includes a period or segment of international air transportation which is governed by force of law by an international air convention, any loss, damage or shortage shall be presumed to have occurred during the course of domestic transportation and subject to the terms in this part unless established by clear and convincing evidence that such loss, damage or shortage occurred during international air transportation.
- NOTICE CONCERNING CARRIER'S LIMITATION OF LIABILITY. Carrier shall not be liable for cargo loss, damage, or destruction unless directly and proximately caused by its negligence, and shall have no liability for delay except to the extent such delay constitutes failure to exercise reasonable dispatch and such failure results in actual loss, damage or destruction to cargo. Carrier's liability for cargo loss, damage or destruction, including due to unreasonable delay in delivery, is agreed to be CAD\$2.00 (two dollars) per pound, multiplied by the number of pounds (or fraction thereof) of each piece of the shipment which may have been delayed, lost, or damaged; provided, however, if a higher value was declared herein for such cargo and Shipper paid, or has agreed to pay, corresponding additional charges to Carrier, Carrier's liability shall be for such declared value of such loss, damage, or destroyed cargo, plus the related transportation charges

### B. INTEGRAL TERMS FOR INTERNATIONAL AIR TRANSPORTATION

NOTICE CONCERNING CARRIER'S LIMITATION OF LIABILITY. If the carriage involves an ultimate destination or stop in a country other than the country of departure, the Montreal Convention or the Warsaw Convention may be applicable to the liability of Carrier in respect of loss of, damage or delay to cargo. Carrier's limitation of liability in accordance with those Conventions shall be as set forth in Section 4 below unless a higher value is declared.

- In this contract and the Notices appearing hereon: SPECIAL DRAWING RIGHT ("SDR") is a Special Drawing Right as defined by the International Monetary Fund. WARSAW CONVENTION means whichever of the following instruments is applicable to the contract of carriage: the Convention for the Unification of Certain Rules Relating to International Carriage by Air, signed at Warsaw, 12 October 1929; that Convention as amended at The Hague on 28 September 1955; that Convention as amended at The Hague 1955 and by Montreal Protocol No. 1, 2, or 4 (1975) as the case may be. MONTREAL CONVENTION means the Convention for the Unification of Certain Rules for International Carriage by Air, done at Montreal on 28 May 1999.
- 2.1 Carriage is subject to the rules relating to liability established by the Warsaw Convention or the Montreal Convention unless such carriage is not "international carriage" as defined by the applicable Conventions.
- 2.2 To the extent not in conflict with the foregoing, carriage and other related services performed by each Carrier are subject to:
  - 2.2.1 Applicable laws and government regulations;
  - 2.2.2 provisions contained in the air waybill, Carrier's conditions of carriage and related rules, regulations, and timetables (but not the times of departure and arrival stated therein) and applicable tariffs of such Carrier, which are made part hereof, and which may be inspected at any airports or other cargo sales offices from which it operates regular services. Shipper is entitled, upon request, to receive a free copy of Carrier's conditions of carriage. Carrier's conditions of carriage include, but are not limited to:
    - 2.2.2.1 limits on Carrier's liability for loss, damage or delay of goods, including fragile or perishable goods;
    - 2.2.2.2 claims restrictions, including time periods within which Shipper must file a claim or bring an action against Carrier for its acts or omissions, or those of its agents;
    - 2.2.2.3 rights, if any, of Carrier to change the terms of the contract;
    - 2.2.2.4 rules about Carrier's right to refuse to carry;
    - 2.2.2.5 rights of Carrier and limitations concerning delay or failure to perform service, including schedule changes, substitution of alternate Carrier or aircraft and routing.
- The agreed stopping places (which may be altered by Carrier in case of necessity) are those places, except the place of departure and place of destination, set forth on the face hereof or shown in Carrier's timetables as scheduled stopping places for the route. Carriage to be performed hereunder by several successive Carriers is regarded as a single operation.
- CARRIER'S LIABILITY LIMITATION SHALL BE THE PER KILOGRAM MONETARY LIMIT SET OUT IN ANY APPLICABLE CONVENTION, DURING THE COURSE OF ANY INTERNATIONAL CARRIAGE BY AIR, WHERE NEITHER THE WARSAW CONVENTION NOR THE MONTREAL CONVENTION APPLIES, CARRIER'S LIABILITY SHALL NOT EXCEED 22 SDRS PER KILOGRAM, SUBJECT TO SECTION 6.2 below.
- 5.1 Except when Carrier has extended credit to the consignee without the written consent of Shipper, Shipper guarantees payment of all charges for the carriage due in accordance with Carrier's tariff, conditions of carriage and related regulations, applicable laws (including national laws implementing the Warsaw Convention and the Montreal Convention), government regulations, orders and requirements.
- 5.2 When no part of the consignment is delivered, a claim with respect to such consignment will be considered even though transportation charges thereon are unpaid.
- 6.1 For cargo accepted for carriage, the Warsaw Convention and the Montreal Convention permit Shipper to increase the limitation of liability by declaring a higher value for carriage and paying a supplemental charge if required.
- 6.2 In carriage to which neither the Warsaw Convention nor the Montreal Convention applies, Carrier shall, in accordance with the

means the actual repair or replacement cost of lost or damaged cargo. Where there is a specified total declared value for all packages, the declared value for each package will be determined by dividing the total declared value by the number of packages on the waybill face, absent verifiable evidence to Carrier's satisfaction of alternative allocation. IN NO EVENT SHALL CARRIER BE LIABLE FOR: (1) AN AMOUNT GREATER THAN THE VALUE OF THE AFFECTED CARGO, OR (2) CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY OR PUNITIVE DAMAGES, INCLUDING, BUT NOT LIMITED TO, ANY CONSEQUENCES OF DELAY OR DAMAGES DUE TO BUSINESS INTERRUPTION, EVEN IF CARRIER HAS BEEN PUT ON NOTICE OF THE POSSIBILITY OF SUCH DAMAGES. CARRIER SHALL HAVE NO LIABILITY FOR DAMAGE TO, OR LOSS OF, THE CARGO OR ANY PART OF THE CARGO IN CIRCUMSTANCES INVOLVING OR ARISING OUT OF THE INHERENT DEFECT OF THAT CARGO, QUALITY OR VICE OF THAT CARGO, DEFECTIVE PACKING NOT PERFORMED BY CARRIER, OR ANY FORCE MAJEURE EVENT, TO INCLUDE BUT NOT BE LIMITED TO, NATURAL DISASTERS, STRIKES, CIVIL UNREST, ACTS OF WAR OR ARMED CONFLICTS, ACTS OF PUBLIC AUTHORITIES, ACTS OR THREATENED ACTS OF PUBLIC ENEMIES, HIJACKERS OR ASSAILING THEVES, PLAGUE, PANDEMIC, EPIDEMIC, OUTBREAKS OF INFECTIOUS DISEASE AND/OR ANY PUBLIC HEALTH CRISIS (INCLUDING BUT NOT LIMITED TO COMPLIANCE WITH RELATED PRACTICES REQUIRED OR RECOMMENDED BY GOVERNMENTAL OR HEALTH ORGANIZATIONS).

- Carrier undertakes to complete the carriage with reasonable dispatch. Transportation of the cargo is subject to availability of equipment and space therein. Carrier shall be permitted to use alternative carriers, equipment or modes of transport without notice. Carrier shall exclusively determine the routing as it deems appropriate, and shall have the liberty to change or deviate from the routing shown on the face hereof.
- Shipment is subject to charges for actual or dimensional weight in accordance with applicable rates and rules. Shipper, including its principals, shall be liable for any and all unpaid charges payable on account of this contract and also for indemnity payment to Carrier for any claims, fines, penalties, damages, liabilities, costs or other moneys which may be incurred by Carrier by reason of breach of this contract or other cause not exclusively attributable to Carrier. Charges may be reversed to the responsible parties if shipment is refused or payment is not made by the original bill-to party. Claims for overcharges and duplicate billings must be made within 90 days from the date of the issue of the waybill, as must claims for duplicate payments and overpayments. The claim amount may not be deducted from the waybill charges. Instead, it will be refunded when the claim is validated and the claim amount is substantiated by Carrier.
- The liability of Carrier will be that of a warehouseman in accordance with Carrier's, or an affiliate's, standard warehousing terms and conditions posted on [https://www.mainfreight.com/getmedia/f0b799be-2acb-4d2c-9d8d-9a4024e9b965/Warehouse\\_Terms.pdf](https://www.mainfreight.com/getmedia/f0b799be-2acb-4d2c-9d8d-9a4024e9b965/Warehouse_Terms.pdf), if the cargo is not picked up within 48 hours after notice of its arrival is issued. Notwithstanding, Carrier shall be entitled to all benefits conveyed under this Contract.
- Carrier will have a general and continuing lien on any and all cargo tendered pursuant to this waybill, as well as on any proceeds thereof, in the possession of Carrier or any of its contractors or subcontractors, which such lien will survive delivery of cargo at issue and shall apply to any amounts owed to Carrier with respect to its services, regardless of whether arising from the same cargo at issue, with the additional rights to sell the cargo in a commercially reasonable manner after having given written notice thereof to the shipper and consignee identified on the waybill face. Carrier also reserves all other rights allowed by law to recover unpaid amounts.
- No agent, employee or representative of Carrier has authority to alter, modify or waive, in any way, any provisions of this contract.
- Any claim or dispute arising from or in connection with this waybill, or with respect to any aspect of the relationship between Shipper and Carrier, whether under federal, provincial, local, or foreign law, shall be resolved solely in the Federal Court of Canada, save and except where that court does not have jurisdiction *simpliciter* over the matter, in which case the Courts of the Province of Ontario shall have non-exclusive jurisdiction to resolve the matter. Shipper and Carrier: (a) agree that any action relating to the services performed by Carrier may be brought in said courts; (b) consent to the exercise of *in personam* jurisdiction by said courts over them; and (c) further agree that any action to enforce a judgment may be instituted in any jurisdiction.
- A French version of this waybill is available online at <https://www.mainfreight.com/americas/en-nz/product-terms-conditions>. If Shipper's principal place of business is in the Province of Quebec, by signing the English language version of the Mainfreight Business Credit Application, Shipper expressly acknowledges and affirms that: (i) French versions of the Mainfreight Business Credit Application and this waybill have been submitted to Shipper; (ii) it is Shipper's express wish that the Mainfreight Business Credit Application, this waybill, and all correspondence and documents related thereto be drawn up exclusively in the English language; and (iii) Shipper agrees to be bound by the Mainfreight Business Credit Application and this waybill as drawn up in the English language.

attributable to such cargo.

- For domestic air transportation cargo claims, unless applicable law provides for a shorter time limit, any rights and/or claims against Carrier shall be extinguished unless: (a) notice is given within 90 days from the date of delivery or the date the cargo should have been delivered; and (b) an action is both filed and served upon Carrier within 1 year from the date of delivery or the date the cargo should have been delivered. For domestic surface transportation cargo claims, Shipper agrees to use best efforts to submit all cargo claims within 90 days from the date of delivery or the date the cargo should have been delivered and file any related suit within 1 year from the date of delivery or the date the cargo should have been delivered. In any event, any rights and/or claims against Carrier shall be extinguished unless (y) notice is given within 9 months from the date of delivery or the date the cargo should have been delivered; and (z) an action is both within 2 years from the date the underlying claim, or portion thereof, was denied. For all cargo claims, notwithstanding the foregoing, as a condition precedent to recovery, any damage or loss discovered after a delivery without written exception (as may be the circumstance with concealed damage or shortage) must be reported in writing to Carrier within 7 days after delivery. In all events, Carrier must be given an opportunity to inspect the cargo and its packaging within 15 days after its receipt of the written notice as provided herein.
- 7.1 In cases of loss of, damage or delay to part of the cargo, the weight to be taken into account in determining Carrier's limit of liability shall be only the weight of the package or packages concerned.
- 7.2 Notwithstanding any other provisions, for transportation of passengers or property by aircraft as a common carrier for compensation, or the transportation of mail by aircraft, between a place in Canada and a place outside Canada when any part of the transportation is by aircraft:
  - 7.2.1 in the case of loss of, damage or delay to a shipment, the weight to be used in determining Carrier's limit of liability shall be the weight which is used to determine the charge for carriage of such shipment; and
  - 7.2.2 in the case of loss of, damage or delay to a part of a shipment, the shipment weight in 7.2.1 shall be prorated to the packages covered by the same air waybill whose Value is affected by the loss, damage or delay. The weight applicable in the case of loss or damage to one or more articles in a package shall be the weight of the entire package.
- Any exclusion or limitation of liability applicable to Carrier shall apply to Carrier's agents, employees, and representatives and to any person whose aircraft or equipment is used by Carrier for carriage and such person's agents, employees and representatives.
- Carrier undertakes to complete the carriage with reasonable dispatch. Where permitted by applicable laws, tariffs and government regulations, Carrier may use alternative carriers, aircraft or modes of transport without notice but with due regard to the interests of Shipper. Carrier is authorized by Shipper to select the routing and all intermediate stopping places that it deems appropriate or to change or deviate from the routing shown on the face hereof.
- Receipt by the person entitled to delivery of the cargo without complaint shall be prima facie evidence that the cargo has been delivered in good condition and in accordance with the contract of carriage.
  - 10.1 In the case of loss of, damage or delay to cargo a written complaint must be made to Carrier by the person entitled to delivery. Such complaint must be made:
    - 10.1.1 in the case of damage to the cargo, immediately after discovery of the damage and at the latest within 14 days from the date of receipt of the cargo;
    - 10.1.2 in the case of delay, within 21 days from the date on which the cargo was placed at the disposal of the person entitled to delivery.
    - 10.1.3 in the case of non-delivery of the cargo, within 120 days from the date of issue of the air waybill, or if an air waybill has not been issued, within 120 days from the date of receipt of the cargo for transportation by Carrier.
  - 10.2 Such complaint may be made to Carrier whose air waybill was used, or to the first Carrier or to the last Carrier or to Carrier, which performed the carriage during which the loss, damage or delay took place.
  - 10.3 Unless a written complaint is made within the time limits specified in 10.1 no action may be brought against Carrier.
  - 10.4 Any rights to damages against Carrier shall be extinguished unless an action is brought within two (2) years from the date of arrival at the destination, or from the date on which the aircraft ought to have arrived, or from the date on which the carriage stopped.
- Shipper shall comply with all applicable laws and government regulations of any country to or from which the cargo may be carried, including those relating to the packing, carriage or delivery of the cargo, and shall furnish such information and attach such documents to the air waybill as may be necessary to comply with such laws and regulations. Carrier is not liable to Shipper and Shipper shall indemnify Carrier for loss or expense due to Shipper's failure to comply with this provision.