

TERMS & CONDITIONS OF SERVICE

These Terms and Conditions of Service constitute a legally binding contract between the "Company" and the "Customer". In the event Company renders services and issues a document containing different terms and conditions governing such services, the terms and conditions set forth in such other documents(s) shall govern those services.

1. Definitions.

- (a) "Company" shall mean MAINFREIGHT MEXICO, S. DE R.L. DE C.V., its subsidiaries, related companies, agents and/or representatives;
- (b) "Customer" shall mean the person for which Company is rendering service, as well as its agents and/or representatives, including, but not limited to, shippers, importers, exporters, carriers, secured parties, warehousemen, buyers and/or sellers, shipper's agents, insurers and underwriters, break-bulk agents, consignees, etc. It is the responsibility of the Customer to provide notice and copy(s) of these terms and conditions of service to all such agents or representatives;
- (c) "Documentation" shall mean all information received directly or indirectly from Customer, whether in paper or electronic form;
- (d) "Ocean Transportation Intermediaries" ("OTI") shall include an "ocean freight forwarder" and a "non-vessel operating carrier";
- (e) "Third parties" shall include, but not be limited to, the following: "carriers", "truckmen", "cartmen", "lightermen", "forwarders", OTIs, "customs brokers", "intermediaries", "transportation brokers", "warehousemen" and others to which the goods are entrusted for transportation, cartage, handling and/or delivery and/or storage or otherwise.

2. Offered Services.

To the extent that they are requested by the Customer and permitted by applicable law, Company shall provide to the Customer, the following services: duties in connection with the entry and release of goods, post entry services, the securing of export licenses, the filing of export and security documentation on behalf of the Customer and other dealings with Government Agencies, arranging transportation services, both domestically and internationally, or other logistics services in any capacity other than as carrier.

3. Claims.

- (a) Unless subject to a specific statute or international convention, all claims against Company for a potential or actual loss, must be made in writing and received by Company, within ninety (90) days of the event giving rise to claim; the failure to give Company timely notice shall be a complete defense to any suit or action commenced by Customer.
- (b) All suits against Company must be filed and properly served on Company as follows:

- i For claims arising out of ocean transportation, within one (1) year from the date of the loss;
- ii For claims arising out of brokering ground transportation or air transportation within two (2) years from the date of loss;
- iii For claims arising out of the preparation and/or submission of an import entry(s), within seventy-five (75) days from the date of liquidation of the entry(s);
- iv For any and all other claims, within one hundred and eighty (180) days from the date of the loss or damage.

4. No Liability for the Selection or Services of Third Parties and/or Routes.

Unless services are performed by persons or firms engaged pursuant to express written instructions from the Customer, Company shall use reasonable care in its selection of third parties, or in selecting the means, route and procedure to be followed in the handling, transportation, clearance and delivery of the shipment; advice by Company that a particular person or firm has been selected to render services with respect to the goods, shall not be construed to mean that Company warrants or represents that such person or firm will render such services nor does Company assume responsibility or liability for any action(s) and/or inaction(s) of such third parties and/or its agents, and shall not be liable for any delay or loss of any kind, which occurs while a shipment is in the custody or control of a third party or the agent of a third party; all claims in connection with acts of a third party shall be brought solely against such party and/or its agents; in connection with any such claim, Company shall reasonably cooperate with the Customer, which shall be liable for any charges or costs incurred by Company.

5. Quotations Not Binding.

Quotations as to fees, rates of duty, freight charges, insurance premiums or other charges given by Company to the Customer are for informational purposes only and are subject to change without notice; no quotation shall be binding upon Company unless Company in writing agrees to undertake the handling or transportation of the shipment at a specific rate or amount set forth in the quotation and payment arrangements are agreed to between Company and the Customer.

6. Reliance on Information Furnished.

- (a) Customer acknowledges that it is required to review all documents and declarations prepared and/or filed with U.S. Customs and Border Protection and/or other Government Agency and/or third parties, and will immediately advise Company of any errors, discrepancies, incorrect statements, or omissions on any declaration filed on Customer's behalf; (b) The Customer acknowledges that Company, when preparing and sending customs clearances, export declarations, applications, delivery orders, documentation and/or any other customs or import documents to or from abroad, and/or when sending information provided by the Customer to any Third party for the purpose of generating the corresponding legal and tax documents, is based on the correctness, accuracy and completeness of all documentation and information provided by the Customer, whether in written or electronic format. Customer acknowledges that Company will require all Mexican carriers transporting shipments within Mexico to issue, among other tax documents required by Mexican laws, the respective "Complement Bill of Lading" for each shipment. The issuance of the Complement Bill of Lading will require certain information from Customer; therefore, Customer agrees to promptly provide the information required, including the classification of the products according to the official catalog published by the Mexican Tax Authority (SAT), which Customer shall determine under its own responsibility and criterion. Company shall not be liable for any failure, fault, negligence, damage, loss or seizure of the cargo or any delay in the provision of the services, directly attributable to the Customer's acts, omissions or arising from the inaccuracy, error or falsification of data provided directly by Customer. Customer shall indemnify and hold Company harmless from any and all claims, liabilities, damages and/or losses suffered by the lack of or inadequacy of the information provided by Customer, or any incorrect or false statement by the Customer or any agent of Customer. The Customer agrees that the Customer has an affirmative non-delegable duty to disclose any and all information required to transport, import, export or enter the goods if Customer does not provide the information required by Company within the indicated time frame. Company, without the need for authorization or any liability whatsoever, may suspend the services requested by Customer;
- (c) Customer warrants that the description, marks, numbers and quantities of the goods are accurate, complete and comply with all regulations. Customer shall have the exclusive burden to provide verified gross mass (VGM) of Goods as obtained on calibrated and certified equipment. Company shall be entitled to rely on the accuracy of the weight information provided by Customer for all purposes, including compliance with the VGM requirement under the Safety of Life at Sea Convention (SOLAS). Company shall be entitled to tender, counter-sign or endorse such certificates, weight tickets or other weight data provided by Customer as Company's own VGM to subcontractors, including any vessel operator;
- (d) Customer shall not tender hazardous goods absent advance notice and consent of Company and shall in all events be responsible for compliance with all applicable hazardous material regulations, whether national or international.

7. Declaring Higher Value to Third Parties.

Third parties to whom the goods are entrusted may limit liability for loss or damage in terms of the applicable legislation where the services will be provided; Company will request excess valuation coverage only upon specific written instructions from the Customer, which must agree to pay any charges therefor; in the absence of written instructions from Customer or the refusal of the Third party or Company to agree to a higher declared value, at Company's discretion, the goods may be tendered to the Third party for transportation, subject to the terms of the Third party's limitations of liability and/or terms and conditions of service.

8. Insurance.

Unless requested to do so in writing and confirmed to Customer in writing, Company is under no obligation to procure insurance on Customer's behalf; in all cases, Customer shall pay all premiums and costs in connection with procuring requested insurance.

9. Limitation of Liability.

- (a) Except as stated herein, Company makes no express or implied warranties relating to its services;
- (b) Subject to (d) below, Customer agrees that in connection with any and all services performed by Company, Company shall only be liable for its criminal or negligent acts, which are the direct and demonstrable cause of any injury or damage to Customer, including loss or damage to Customer's goods, and Company shall in no event be liable for the acts of third parties;
- (c) In connection with all services performed by Company, Customer may obtain additional liability coverage, up to the actual or declared value of the shipment or transaction, by requesting such coverage and agreeing to make payment therefor, which request must be confirmed in writing by Company prior to rendering services for the covered transaction(s).
- (d) Without additional coverage under (c) above, Company's liability shall be limited to the following:

- i where the claim arises from activities other than those relating to customs brokerage, **15 Units of Measure and Update (Unidad de Medida y Actualización, as such term is described in Mexican Legislation) per ton of cargo lost or damaged, or the proportional part in shipments of lesser weight, or**
- ii where the claim arises from activities relating to "Customs business," **\$50.00 per entry or the amount of brokerage fees paid to Company for the entry, whichever is less;**

(e) In no event shall Company be liable or responsible for consequential, indirect, incidental, statutory or punitive damages even if it has been put on notice of the possibility of such damages.

(f) In no event shall Company be liable or responsible for damages attributable to circumstances of Force Majeure, which includes, but is not limited to, natural disasters, acts of the public enemy, assailing thieves, Laws and Regulations, wars or warlike action (whether actual or impending) arrests and other restraints of government (civil or military), blockades, insurrections, riots, epidemics or other severe health crisis and associated containment efforts, landslides, lightning, earthquakes, fires, sabotage, tropical storms and hurricanes, civil disturbances, tidal waves, explosions, confiscation or seizure by any government or other public authority, and any other causes, whether of the kind herein enumerated or otherwise, that are not reasonably within the control of Company and that could not have been overcome by the exercise of ordinary diligence. Company shall notify Customer with reasonable promptness of the existence of any such Force Majeure and the probable duration thereof, and shall provide Customer from time to time with correct information concerning same.

10. Advancing Money.

All charges must be paid by Customer in advance unless Company agrees in writing to extend credit to Customer; the granting of credit to a Customer in connection with a particular transaction shall not be considered a waiver of this provision by Company.

11. Indemnification/Hold Harmless.

The Customer agrees to indemnify, defend, and hold Company harmless from any claims and/or liability arising from the importation or exportation of Customer's merchandise and/or any conduct of the Customer, which violates any Federal, State and/or other laws, and further agrees to indemnify and hold Company harmless against any and all liability, loss, damages, costs, claims and/or expenses, including but not limited to reasonable attorney's fees, which Company may hereafter incur, suffer or be required to pay by reason of such claims; in the event that any claim, suit or proceeding is brought against Company, it shall give notice in writing to the Customer by mail at its address on file with Company.

12. Inspection Consent.

Company may, but shall not be obligated to, inspect any shipment. Cargo items tendered for transportation may be subject to security controls by carriers and to other government regulations. The Customer expressly agrees and consents to searches / inspections / screenings of all cargo in accordance with applicable security controls, initiatives and regulations, including, but not limited to, the regulations of the U.S. Transportation and Security Administration, Mexican Customs and any other authority, in accordance with national or international regulations.

13. C.O.D. or Cash Collect Shipments.

Company shall use reasonable care regarding written instructions relating to "Cash/Collect" or "Deliver (C.O.D.)" shipments, bank drafts, cashier's and/or certified checks, letter(s) of credit and other similar payment documents and/or instructions regarding collection of monies but shall not have liability if the bank or consignee refuses to pay for the shipment.

14. Forfeiture of Discounts and Costs of Collection.

All discounts offered, as indicated on the invoice faces, are forfeited should Customer fail to comply in all respects with payment terms. In any dispute involving monies owed to Company, Company shall be entitled to all costs of collection, including reasonable attorney's fees and interest at 15% per annum or the highest rate allowed by law, whichever is less, unless a lower amount is agreed to by Company.

15. General Lien and Right to Sell Customer's Property.

- (a) Company shall have a general and continuing lien on any and all property coming into Company's actual or constructive possession or control for any monies owed to Company, including but not limited to monies owing relating to the shipment on which the lien is claimed, a prior shipment(s) and/or both. (b) Company shall provide written notice to Customer of its intent to exercise such lien, the exact amount of monies due and owing, as well as any on-going storage or other charges; Customer shall notify all parties having an interest in its shipment(s) of Company's rights and/or the exercise of such lien. (c) Company shall have the right to sell such encumbered assets, for sale or public or private auction (reimbursing the Customer for the remaining amounts), unless within 30 (thirty) days after receipt of the lien notice the Customer:

- i Settles all due in cash;
- ii Present to Company a letter of credit at sight or other collateral for the amount due; or;
- iii When the amount owed is in dispute, enter into a bond acceptable to Company that covers 110% (one hundred and ten percent) of the value of the total amount owed plus all accumulated or accrued storage charges.

16. No Duty to Maintain Records for Customer.

Customer acknowledges that, unless otherwise agreed to in writing, Company shall only keep such records that it is required to maintain by applicable customs and fiscal statute(s) and/or regulation(s), but not act as a "recordkeeper" or "recordkeeping agent" for Customer.

17. Obtaining Binding Rulings, Filing Protests, etc.

Unless requested by Customer in writing and agreed to by Company in writing, Company shall be under no obligation to undertake any pre- or post-Customs release action, including, but not limited to, obtaining binding rulings, advising of liquidations, filing of petition(s) and/or protests, etc.

18. Preparation and Issuance of shipping documents.

Up to the extent permitted by law, where Company prepares and/or issues a shipping document, Company shall be under no obligation to specify thereon the number of pieces, packages and/or cartons, etc.; unless specifically requested to do so in writing by Customer or its agent and Customer agrees to pay for same, Company shall rely upon and use the cargo weight supplied by Customer.

19. Amendments.

These terms and conditions of service may only be modified, altered or amended in writing signed by both Customer and Company; any attempt to unilaterally modify, alter or amend same shall be null and void.

20. Compensation of Company and Invoicing.

Customer, shippers, consignees and bill-to parties are jointly and severally liable for the compensation of Company for its services. Company's charges may be reversed to the responsible parties if a shipment is refused or payment is not made by the original bill-to party. The compensation of Company for its services shall be included with and is in addition to the rates and charges of all carriers and other agencies selected by Company to transport and deal with the goods and such compensation shall be exclusive of any brokerage, commissions, dividends, or other revenue received by Company from carriers, insurers and others in connection with the shipment. On ocean exports, upon request, Company shall provide a detailed breakout of the components of all charges assessed and a true copy of each pertinent document relating to these charges. In any referral for collection or action against the Customer for monies due Company, upon recovery by Company, the Customer shall pay the expenses of collection and/or litigation, including a reasonable attorney fee. Customer acknowledges and agrees that each invoice is payable upon receipt of the invoice. Customer acknowledges and agrees that Company will apply payments to the oldest invoice first unless the payment is accompanied by the remittance copy of the invoice(s) being paid or by some other written indication from the Customer directing how the payment is to be applied. Company will discontinue providing services, in a manner and in accordance with applicable law, for any Customer whose account is in arrears, unless special arrangements in writing are approved by an authorized officer of Company.

21. Severability.

In the event any Paragraph(s) and/or portion(s) hereof is found to be invalid and/or unenforceable, then in such event the remainder hereof shall remain in full force and effect.

22. Governing Law; Consent to Jurisdiction and Venue.

These Terms and Conditions of Service and the parties' relationship shall be construed in accordance with the federal laws of Mexico. All disputes arising hereunder shall be resolved in the federal courts of Mexico City.