

## **STANDARD TERMS AND CONDITIONS OF CARRIAGE ("TERMS") May/2019**

Yamato Transport U.S.A., Inc. and its affiliates ("Yamato"), as an indirect air carrier, is engaged in the international transportation of small packages ("International TAQBIN")

1. Introduction: The following contains standard terms and conditions of carriage ("Terms") under which Yamato is engaged in the transportation of packages, by itself and jointly through interchange with its affiliates via the services described below. The Terms are effective on the date set forth above and are subject to change without prior notice. The Terms are published periodically in printed form and electronically on the Yamato website. The Terms apply to the following services -, TAQBIN (Flat Rates Box TAQBIN), Besso TAQBIN (Unaccompanied Articles/Personal effects TAQBIN) and the services provided based on International TAQBIN.

### **2. Application**

2.1 Unless otherwise agreed upon in writing by an authorized officer of Yamato, when contracting with Yamato to handle a shipment, the shipper agrees, both on the shipper's behalf and on behalf of all other individuals with an interest in the Shipment, that the Terms set forth on the reverse side of Yamato's waybill shall apply from the time Yamato accepts the Shipment for transportation. Each Shipment is transported on a limited liability basis as set forth herein in Paragraph 10.

### **3. Definitions**

3.1 "Charges" means all applicable transportation and related charges including, but not limited to, all applicable accessorial charges, surcharges, additional handling charges, late payment and financial charges. "Delivery" shall be deemed to include, but not limited to, delivery to the consignee or the consignee's actual or ostensible agent or representative, or pursuant to consignee's instruction, delivery to the address or location specified in the air waybill, or delivery to a reasonable alternate address or location. "Perishable items" refers to a perishable commodity or a commodity requiring protection from heat or cold, including, but not limited to foods, and flowers. "Shipment" means any envelope, document, small package ("International TAQBIN") which is delivered to and accepted by Yamato for carriage by any means Yamato chooses from departure points in the United States of America and Canada to destination countries. "Shipper" refers to party contracting with Yamato for services. "Waybill" shall include any label produced by Yamato, air waybill, or other Consignment Note, and shall incorporate the Terms set forth herein.

### **4. Shipper's Obligations**

"4.1 The shipper is responsible for preparing and accurately completing the air waybill for each shipment. The air waybill shall be considered to be an air waybill within the terms specified in the Warsaw Convention. 4.2 The shipper shall ensure that the delivery item is adequately packed in a case, container or box of sufficient durability and strength so as to protect against damage to it during the course of delivery and shall be encased in or surrounded by sufficient and suitable protective material inside that case, container or box. The delivery item shall bear the words "FRAGILE HANDLE WITH CARE" in the case of a delivery item of a fragile nature and "DO NOT BEND" in the case of a delivery item which is susceptible to damage by bending, prominently displayed in capital letters on the face of the case, container or box and above the address of the named addressee. In the event that packing of the delivery item is deemed by Yamato to be unsuitable for transportation, the shipper shall, upon notification by Yamato, re-pack the delivery item in a suitable case, wrapper, container or box in accordance with Yamato's directions. Failing to do so, Yamato will re-pack the delivery item at the shipper's expense. 4.3 The shipper warrants that it has complied with all applicable laws and regulations relating to the shipment, condition, size and weight of the delivery item and hereby authorizes Yamato to do all things necessary, at the shipper's expense, and on shipper's behalf, in order to comply with the applicable laws and regulations. It shall be the shipper's responsibility to: (a) ensure that import regulations in the destination country are complied with; and (b) determine documents required in the destination country and to attach such documents to the Consignment Note, etc. The shipper hereby acknowledges that it may incur civil or criminal liability arising from an incomplete, false or misleading customs declaration. 4.4 Shipper shall consent to search or inspection of the package, as required by the TSA (Transportation Security Administration of the U.S. Department of Homeland Security) regulations (49 C.F.R. § 1548.9(b)), including screening of the package. If the shipper does not consent to search or inspection of its package, Yamato may refuse to accept any shipment.

### **5. Yamato's Right to inspect Contents**

5.1 Yamato may, at any time, in its sole discretion, open and inspect the contents of the delivery item for any reason whatsoever including, without limitation, the verification of the contents of the delivery item. If upon such opening and inspection, the description and declaration of the contents of the delivery item is verified as being incorrect or misleading, Yamato may, in its sole discretion, refuse to accept such delivery item without giving any reason or it may revise the shipment charges applicable to the contents discovered.

### **6. Refusal of Shipments**

"6.1 The shipper hereby agrees and acknowledges that Yamato may decline to deliver any item where Yamato is of the opinion that it is unable to deliver any item safely or legally including, without limitation, the following items;

- (1) any package exceeding 25kg (55lbs) in actual weight;
- (2) any package exceeding 160cm (63 inches) in combined width, length and height;
- (3) any package exceeding US\$2,500 in value;
- (4) any of the following items:
  - (a) gold, silver or platinum items, jewelry, diamonds or other precious stones, bullion or coins;
  - (b) cash, credit cards, debit cards, cash cards, cheques, bills, stock, other marketable securities or bearer form negotiable instruments;
  - (c) live animals, human or animal remains, memorial tablets or any items for use in religious ceremonies;
  - (d) perishable items;
  - (e) firearms or other weapons, explosives, pressurized gases, flammable materials, flashbulbs for photography equipment or magnetic substances;
  - (f) substances containing mercury, acids and oxidizing agents, poisonous or toxic substances or substances capable of easily vaporizing or any other similar kind of fluids;
  - (g) all "dangerous goods" as defined by the International Air Transport Association ("IATA") and the International Civil Aviation Organization ("ICAO") from time to time;
  - (h) all internal documents issued by government authorities such as identification cards, passports, driver's license, and birth certificates etc., or other documents containing confidential personal information;
- (i) original copies of any record, drawing, document or electronic recording of which duplicates or copies have not been made and kept by the shipper;
- (j) unsanitary items;
- (k) items which are illegal to produce or distribute such as illegal narcotics or drugs or pornography;
- (l) items the delivery of which is prohibited under applicable laws;
- (m) items which are banned or restricted from export or import by any country, state or government; or
- (n) items Yamato deems to be inappropriate or unsuitable for delivery via the International TAQBIN Service for any reason other than those specified above.

6.2 In the event that Yamato discovers during the course of delivery that a delivery item consists of any goods, items, products or materials referred to in Clause 6.1, Yamato reserves the right to forthwith dispose of the delivery item as it thinks appropriate without notifying the shipper and/or the addressee and shall notify the shipper of the disposal, within a reasonable period from the disposal, and the shipper shall pay Yamato any sum incurred by Yamato in connection with such disposal.

### **7. Charges**

"7.1 Yamato's Shipment charges are calculated based on the greater of actual or volumetric weight. Any Shipment may be re-weighed by Yamato to confirm the calculation. The shipper shall pay or reimburse Yamato for all Shipment charges relating to the Shipment, including, but not limited to Charges relating to shipping, handling, and customs duties and taxes incurred for services provided by Yamato or incurred by Yamato on the shipper's behalf.

7.2 Where additional Charges are incurred by Yamato from the addressee of the delivery item upon delivery, Yamato reserves the right to claim reimbursement for such charges. Unless otherwise expressly agreed in writing, where the Fees or Additional Charges will be paid by a third party (other than the shipper or the consignee), prior written approval from Yamato is necessary and, in either case, the shipper shall remain primarily responsible for all sums due to Yamato and shall make payment when Yamato is unable to collect all such sums, whether owing from the addressee or the third party.

7.3 There are no refund of Fees paid to Yamato, except in cases where any of the events in Clause 9.1(d) results in delay in delivery or damage to the delivery item which Yamato deems significant.

7.4 All invoices from Yamato and all payments to or from Yamato shall be made in lawful currency issued by the United States. All currency conversions shall be made based on Yamato's designated applicable rate.

7.5 Yamato reserves the right to institute a fuel surcharge on some or all shipments with prior notice. The surcharge is subject to adjustment monthly.

### **8. Deliveries and Undeliverable**

"8.1 Delivery is deemed to have been completed where the delivery item is delivered to the address of addressee by leaving the delivery item with other persons such as receptionists, concierges, janitors, caretakers, family members, friends, colleagues, roommates or neighbors as Yamato deems appropriate and/or alternative addressees as specified by the shipper but not necessarily to the named addressee personally. The shipper hereby agrees and acknowledges that any electronically recorded delivery acknowledgement or printout shall be conclusive evidence that delivery of the delivery item was completed.

8.2 In the event that the addressee is found to be absent from the address specified by the shipper and no other persons are present to take delivery of the delivery item, the delivery item will be held at any of Yamato's offices or branches and a delivery failure report shall be made at such office or branch containing the following particulars: the attempted time and date of delivery and telephone number for inquiries regarding retrieval of the delivery item. 8.3 In the event that the addressee refuses to accept the delivery item or refuses to pay the Fees and/or additional charges, the delivery item will be deemed by Yamato to be unacceptable for delivery and Yamato shall notify the shipper of the delivery failure and seek the shipper's instructions as to the appropriate action to be taken, such as the disposal or re-delivery of the delivery item at the shipper's responsibility and cost within a reasonable period from the date of such delivery failure. Such costs will be forthwith reimbursed by the shipper upon Yamato's request, however, Yamato reserves the right to decline to accept such further instructions from the shipper for any reason whatsoever.

8.4 In the event that the shipper does not provide instructions regarding the appropriate action to be taken within a period of 30 days after Yamato has notified the shipper of a delivery failure, the delivery item may be disposed of by Yamato at its sole discretion in accordance with the laws of the destination country but at the shipper's cost. Such costs will be forthwith reimbursed by the shipper upon Yamato's request. Without prejudice to the foregoing, in the event that the contents of the delivery item are found by Yamato to be perishable or otherwise susceptible to changes in quality, Yamato has the right to immediately dispose of the item without waiting for the expiration of the 30-day period. However, Yamato shall use its reasonable efforts to notify the shipper upon such disposal.

### **9. Loss or Damage**

"9.1 In the event that Yamato discovers that there has been loss of, or damage to, the delivery item, Yamato shall notify the shipper of such loss or damage within a reasonable period and shall seek instructions from the shipper with respect to the appropriate action to be taken. Yamato may also elect to decline to accept any further instructions for any reason whatsoever.

9.2 In the event that the shipper does not provide further instructions regarding the appropriate action to be taken within a reasonable period of Yamato's notification, Yamato shall, at the shipper's cost, such cost to be reimbursed by the shipper upon Yamato's request, take such action in relation to the delivery item as it deems appropriate, including without limitation, re-delivery of the delivery item to the shipper or retention of the delivery item, and shall notify the shipper.

9.3 Yamato shall have the sole discretion to take all reasonable measures to prevent the delivery item from causing any damage whatsoever, such as declining to deliver, inspecting or destroying, removing or disposing of the delivery item in the event that the delivery item is found to be harmful or potentially harmful to other items being transported by Yamato. In such event, the shipper shall bear the costs of such preventive measures taken by Yamato and Yamato shall not in any case be liable for any damage arising from or in connection with the preventive measures taken by it.

### **10. Yamato's Liability**

"10.1 Yamato's liability for loss or damage to the delivery item caused by or arising during the course of delivery by Yamato shall be in accordance with applicable Conventions such as Convention for the Unification of Certain Rules relating to International Carriage by Air opened for signature at Warsaw on 12 October 1929, Warsaw Convention as amended by the Hague Protocol on 28 September 1955 and as further amended by the Montreal 4th Protocol on 25 September 1955 and Convention for the Unification of Certain Rules relating to the International Carriage by Air executed at Montreal on 28 May 1999. However, Yamato shall not be liable for such loss or damage arising from or in connection with:

- (a) the delivery of any of the items set out in Clause 6.1 where Yamato was not aware that the contents of a delivery item comprised or included such items;
- (b) the shipper fails to specify any special precautions to be taken in respect of a delivery item on the Consignment Note etc. as required under Clause 4;
- (c) defects or imperfections, misalignment, wear and tear, disarrangement, heat, mold, rot, discoloration, degeneration, explosion, ignition or the hazardous, perishable, corruptible, fragile, or brittle nature of the contents of the delivery item;
- (d) Yamato's failure to perform any of its obligations hereunder due to circumstances outside its control, including without limitation any act of God such as weather conditions, flood or earthquake, work stoppages, strikes, industrial disputes, war, any act of government (including delay or confiscation or detention of the delivery item by government authority), accidents, traffic obstructions or congestion, mechanical breakdown, other events, or any other force majeure; or
- (e) any acts or omissions of any party other than Yamato, including without limitation the shipper, the consignee, or any government official.

10.2 Yamato shall not be liable for indirect or consequential loss or damage, including without limitation, loss of profits, income, interest, future business or anticipated savings, even where the risk of such loss or damage was brought to Yamato's attention before or after acceptance of the delivery item.

10.3 Acceptance for carriage of any package or shipment containing items that are prohibited from shipping that Yamato does not or is not authorized to accept for transportation, that Yamato states it will not accept or that Yamato has a right to refuse, does not constitute a waiver of any provisions of the Terms or Conditions limiting Yamato's liability or responsibility for any such package or shipment.

### **11. Claims**

"11.1 Any claims for damage to the delivery item or for delay in delivery must be made within 21 calendar days, and/or any claims for loss of the delivery item by Yamato must be made within 60 calendar days from the date on which Yamato accepts for the delivery item for delivery, failing which Yamato shall have no liability whatsoever.

11.2 All claims must be made in writing, accompanied by the original Consignment Note etc. and other supporting documents requested by Yamato and submitted to Yamato.

11.3 Claims are limited to one claim per delivery item, settlement of which shall be full and final settlement for all loss or damage in connection therewith.

11.4 Without prejudice to Clause 10 and provided that Yamato is satisfied that the shipper's claim is justified, Yamato's liability for any loss of the delivery item shall be limited to the value of the delivery item as indicated by the shipper on the Consignment Note etc. upon acceptance of the delivery item by Yamato or US\$2,500 per delivery item, whichever is lower. ("Liability Limits").

11.5 In the case of damage to the delivery item, the amount of compensation shall be based on Yamato's own assessment of the extent of the damage to and the actual cash value of the contents of the delivery item provided always that the amount of compensation shall not exceed the compensation limits.

11.6 In cases of a delivery failure and provided that Yamato is satisfied that the shipper's claim is justified, Yamato's liability for any loss or damage arising from Yamato's failure to deliver by the preferred delivery date shall be limited to the amount of the fees charged in respect of that delivery item.

11.7 In any event, Yamato's liability shall not exceed the compensation limits even if there is both damage to a delivery item as well as a delay in delivery of the delivery item.

### **12. Customs, Export and Import**

12.1 Yamato may perform the following activities on Shipper's behalf: (i) complete any documents and pay any duties or taxes required under applicable laws and regulations; (ii) act as Shipper's forwarding agent for customs and export control purposes and as a custodian solely for the purpose of designating a customs broker to perform customs clearance and entry; and (iii) redirect the Shipment to consignee's import broker or other address upon request by a person authorized by the Shipper or its consignee.

### **13. Customer's Warranties and Indemnity**

"13.1 The shipper agrees to indemnify, defend, and hold harmless Yamato, its parent company, and affiliated companies, their officers, directors, employees, agents, and their successors and assigns, from all claims, demands, expenses, liabilities, causes of action, enforcement procedures, and suits of any kind or nature brought by a governmental agency, or any other person or entity, arising from or relating to the shipper's noncompliance with governmental laws or regulations applicable to the package or Yamato requirements applicable to the package; from shipper's tendering any refusal items for shipment; or from shipper's failure to comply with the terms.

13.2 Yamato makes no warranties, either express or implied, and expressly disclaims any and all such warranties.

### **14. Personal Data (Privacy) Policy**

14.1 By signing the Consignment Note etc., the shipper shall authorize Yamato to use the shipper's personal data for all lawful purposes including but not limited to disclosure of the shipper's personal data by Yamato to any government and/or regulatory authority.

### **15. Cargo Security Requirements**

15.1 The shipper acknowledges that Yamato, like all indirect air carriers, is required by TSA to maintain an air cargo security program. 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 Yamato and shall assist Yamato in complying with the TSA requirements by enabling Yamato to obtain any necessary documents from, or otherwise qualify, such other person or entity. If Shipper, as the person who originates and tenders cargo for air transportation or as such person's representative, is an individual (natural person), such person shall advise Yamato of that fact and Yamato shall, if required by law, provide Shipper or such person with a Privacy Act Notice.

### **16. Governing Law**

16.1 This Standard Terms and Conditions shall be governed by and construed in accordance with the laws of the state in which the shipments were tendered to Yamato to the extent that any court finds that state rather than federal law applies to any provision.

### **17. Severability**

17.1 The invalidity or unenforceability of any provision of these Terms and Conditions shall not affect the enforceability of any other provision contained herein, and where any provision of these Terms and Conditions is found to be illegal or, potentially unenforceable, that provision will nonetheless be enforced to the maximum extent allowed by law.

### **18. Waiver**

18.1 A failure by Yamato to apply or enforce any provision herein shall not constitute a waiver of that provision.