

MX ENTERPRISES PTY LTD ('MXE') (ACN 650 217 351) trading as 'HUNTER EXPRESS'
STANDARD TERMS AND CONDITIONS OF CONTRACT FOR TRANSPORT SERVICES EFFECTIVE 1 JULY 2021

NB: THESE TERMS AND CONDITIONS EXCLUDE OR LIMIT THE LIABILITY OF MXE FOR LOSSES AND DAMAGES. CUSTOMERS ARE ADVISED TO READ THEM CAREFULLY AND TO CONSIDER PURCHASING APPROPRIATE INDEMNITY OR INSURANCE COVER TO ENSURE THEIR INTERESTS ARE ADEQUATELY PROTECTED.

1. These terms and conditions (hereinafter referred to as "Conditions") shall apply to provision of Services and except where otherwise expressly provided or where such meaning would be repugnant to or manifestly inconsistent with the context in which the word or expression appears:
 - (a) "Charges" means the prices, fees and charges being consideration due and payable to MXE for provision of Services to the Consignor in accordance with the Rates Schedule(s) applicable to the Consignor and the Surcharges Schedule and any other agreement between MXE and the Consignor applicable to the particular consignment
 - (b) "MXE" means MX Enterprises Pty Ltd (ACN 650 217 351) its employees, agents and subcontractors
 - (c) "Consignment" means goods (together with any containers, packaging, pallets or similar items containing holding or accompanying the goods) accepted by MXE from a Sender for the purpose of supplying Services
 - (d) "Consignment Note" (which term shall, except to the context in which it appears, include a prepaid consignment note) means a document in a form approved by MXE and used to accompany a consignment identifying the Sender and Consignee of the consignment and to obtain a recipient's signature as proof of delivery ("POD") of the consignment
 - (e) "Consignor" means the person with whom MXE contracts to provide Services except in 25 where it means the person whose credit worthiness is being assessed
 - (f) "Consignee" means the intended recipient of the consignment as advised to MXE by or on behalf of the Consignor
 - (g) "Contract" means the contractual relationship between MXE and the Consignor arising from placement of an order by the Consignor with MXE to provide Services to the Consignor and acceptance by MXE of that order
 - (h) "Credit Account Application" means the document so or similarly titled by which the Consignor requests MXE to establish a credit account on its behalf against which charges are debited and subsequently invoiced by MXE
 - (i) "Dangerous Goods" means goods classified as such by any Dangerous Goods Code or similar instrument applicable to the goods or which are or may become dangerous, volatile, offensive, noxious, hazardous, inflammable, poisonous, corrosive, explosive or radioactive or which are or may become liable to injure people or cause damage to the environment or any property whatsoever
 - (j) "Goods" means the wares and other tangible items of property (including liquids and bulk materials) comprised in a consignment and any receptacle, container, packaging or pallet in or on which they are contained or with which they are stored or handled
 - (k) "Invoice" (and "invoicing") in relation to an invoice issued by MXE means a tax invoice for the purposes of the A New Tax System (Goods and Services) Tax Act, 1999 (as amended) or any other legislation imposing a goods and services tax or value-added tax with respect to provision of Services
 - (l) "Loss" and "Damage" in relation to goods shall include concealed damage, deterioration, contamination or evaporation and all loss or damage consequential upon loss of or damage to goods (including actual or potential loss of profit or custom or damage to reputation and all costs, expenses, fines and other amounts arising as a consequence of or incidental to such loss or damage)
 - (m) "Non-conforming Consignment" is one that because of its size, bulk, weight, incompatibility with other consignments, or, some other characteristic imposes requirements or costs for supply of Services substantially in excess of the requirements or costs for more typical consignments - e.g. consignments marked "top-load only" and non-stackable goods (palletised or unpalletised); uncrated or unpalletised heavy or bulky goods (e.g. automotive parts, furniture, white goods); fragile items requiring special handling, protection or segregation; pallets, crates, cartons or flatpacks with any base dimension greater than 1.2 metres and/or height greater than 1.8 metres
 - (n) "Normal Trading Hours" means the time between 7.00am and 6.30pm Monday to Friday excluding public holidays in the place where the pick-up or delivery is attempted or carried out
 - (o) "Owner's Risk" means that, subject only to the provisions of these conditions, MXE shall not be liable for loss or damage to goods
 - (p) "Pallet" means any mobile platform, cage, receptacle or container made of wood, metal, plastic or other material used for storage and/or transportation of goods (including liquids) and includes equipment referred to as "skids" and "pallecons"
 - (q) "Prepaid Consignment Note" means a consignment note referred to in (d) above supplied by MXE to the Consignor and paid for by the Consignor at the time of supply at a charge agreed with MXE on condition that where later used by the Consignor to accompany a consignment that consignment will not be subject to any additional charge so long as the consignment does not exceed certain maximum weight and/or volume limits or is not consigned to a place other than an agreed place
 - (r) "POD" means proof of delivery of a consignment as referred to in (d) above
 - (s) "Rates Schedule" means a written schedule addressed and supplied by MXE to a Consignor by which charges can be calculated having regard to such factors as the type of service supplied, the number and size of goods, minimum charge, place of pick-up and delivery, weight, distance and transit time
 - (t) "Services" means the whole or any part of the operations and Services (including computer systems and programs) used, performed or supplied by MXE in connection with a consignment including the collection carriage, transportation, delivery and/or storage of the consignment

- (u) "Sender" means the person (including a Consignor) from whom MXE accepts a consignment for the purpose of supplying Services "Subcontractor" includes any person who pursuant to a contract or arrangement with any other person (whether or not MXE) performs or agrees to perform Services or any part thereof
 - (v) "Surcharge" means a charge payable pursuant to and invoiced in accordance with the Surcharges Schedule
 - (w) "Surcharges Schedule" means a document so or similarly titled and produced by MXE listing charges in addition to those set forth in a Rates Schedule
 - (x) "Tender" (and "tendered") in relation to goods consigned to MXE includes goods picked up from a Sender (other than the Consignor) on the instructions of the Consignor
 - (y) "Weight" includes mass
 - (aa)(i) The singular includes the plural and vice versa;
 - (ii) Any gender includes the other genders;
 - (iii) "Person" includes natural person, partnership, corporation, unincorporated association, regulatory body or governmental or semi-governmental organisation;
 - (iv) Reference to any legislation includes reference to regulations and other subordinate statutory instruments made pursuant to that legislation and amendments to that legislation and to legislation replacing or revoking that legislation that come into force and effect from time to time
 - (v) Reference to numbers and letters is reference to corresponding clauses and sub-clauses in these Conditions
 - (vi) The words "include", "includes", "included" and "including" shall where appearing be construed as if the words "without limitation" appeared immediately thereafter;
 - (vii) "Working day" for the purposes of 16(2) means any day from and including Monday to Friday but excluding public holidays in the place of residence of the recipient of the request by MXE for further particulars.
2. (1) Except where otherwise expressly agreed in writing by MXE:
- (a) Each and every Contract for supply of Services shall be subject to these Conditions and to payment by the Consignor of charges in accordance with operative Rates and Surcharges Schedules;
 - (b) These Conditions will prevail over any contractual conditions (written or otherwise) used or relied upon by the Consignor; and
 - (c) When the Consignor tenders goods to MXE the Consignor shall thereby be and be deemed to be bound by these Conditions and to payment of charges in accordance with operative Rates and Surcharges Schedules.
- (2) No person (including an employee, agent or subcontractor of MXE) has any authority from MXE to waive or vary any of these Conditions or the application of the operative Rates and Surcharges Schedules unless the waiver or variation is in writing and signed by a director, so described, of MXE
- (3) The terms of the Consignor's or Sender's documentation shall not diminish or negate the application of these Conditions or operative Rates and Surcharges Schedules to the provision of Services.
3. (1) For the purposes of these Conditions the expressions "Operative Rates Schedule" and "Operative Surcharges Schedule" and expressions of similar import mean the Rates Schedule(s) and Surcharges Schedule(s) in force and binding on the Consignor at the time the Services were performed by MXE for the Consignor
- (2) The Consignor acknowledges and agrees that:
- (a) where the Consignor remains indebted to MXE in respect of a credit account or otherwise, the Consignor shall promptly notify MXE in writing of any material change that should reasonably be disclosed to MXE as a creditor, including any proposed change of address of its principal place of business, or, sale of all or a substantial part of its business or assets, or, (if a company) its registered office, or, of a substantial change in its directorship or shareholding and will co-operate fully in completing and returning any fresh Credit Account Application required by MXE as a consequence of such notification; and
 - (b) Subject to 3(2)(c), MXE may at its discretion review and increase charges set forth in an operative Rates Schedule at any time after the expiration of 6 calendar months following that Rates Schedule coming into force provided however that:
 - (i) Any such increase shall only take effect upon expiration of a period of at least one month's written notice by MXE to the Consignor of such proposed increase; and
 - (ii) Such increases shall not take effect at intervals of less than 6 months
 - (c) MXE shall have the right to review and increase charges set forth in the operative Rates Schedule in the event that:
 - (i) Over a continuous period of at least 21 days the Consignor's average weekly expenditure for Services is less than the expected minimum average weekly expenditure indicated in the Consignor's Credit Account Application; or
 - (ii) Any invoice issued by MXE to the Consignor has not been paid in full by the Date Payable noted on the invoice; provided however that:
 - (ba) Any such increase shall only take effect upon expiration of a period of at least one month's written notice by MXE to the Consignor of such proposed increase; and
 - (bb) The right conferred on MXE under 3(2)(c)(ii) shall not derogate from the right of MXE in those circumstances to suspend or cancel credit facilities or supply of Services in accordance with the provisions of the Credit Account Application
- (3) MXE shall have the right at any time and from time to time to review and increase existing charges set forth in the operative Surcharges Schedule or impose new charges provided that such increase or imposition does not take effect less than one month following notification of such increase by MXE
- (4) For the purposes of 3(3) and in addition to other forms of direct notification given by MXE to the Consignor, notification shall be deemed to have been given by MXE from and including the day upon which details are displayed on its internet web site and it shall be the absolute responsibility of the Consignor at all times and from time to time to ensure awareness of those details MXE may charge by weight, measurement (volume)

- or value and may at any time reweigh, re-measure or revalue or require the goods to be reweighed, re-measured or revalued and levy and recover proportional additional charges accordingly
- (5) Where in the case of a prepaid consignment note the actual weight and/or measurements (volume) of the consignment exceeds the maximum limit as to weight and/or measurements (volume) or is consigned to a place other than an agreed place, MXE shall be entitled to levy and recover proportional additional charges accordingly. In the case of the consignment being directed to a place other than an agreed place, the additional charge shall be based on the difference between the prepaid charge and the charge normally levied by MXE on a similar consignment sent to the destination nominated by the Sender
 - (6) Where the goods are charged by measurement (volume) then unless otherwise stipulated by MXE in writing they shall be charged at the rate of 250 kgs per cubic metre except in the case of Non-Conforming Consignments which at MXE's discretion may be charged at the rate of 333 kgs per m³
 - (7) For the purpose of calculating the chargeable weight of goods, MXE reserves the right to round up the weight of the goods, whether calculated by actual weight or by measurement (volume), to the next whole kilogram
 - (8) Where MXE or any agent or subcontractor of MXE weighs or reweighs, measures or re-measures, values or revalues any goods by electronic or mechanical device or by any other means, the weight, measurements (volume) or value so determined shall be deemed to be accurate and correct for the purpose of determining charges to be invoiced and unless manifestly and demonstrably wrong shall be conclusive for that purpose.
4. A quotation by MXE is given to a Consignor on the basis that it is not an offer but an invitation to treat to which the Consignor may respond by offering to accept the quotation (with or without conditions) and MXE may in its absolute discretion respond by accepting the offer (with or without conditions) or rejecting the offer without need to show cause.
 5. (1) In addition to charges payable pursuant to the operative Rates and Surcharges Schedules, the Consignor shall be liable to MXE for all costs, fees and expenses incurred for any reason in the provision of Services including the cost to MXE of labour and material required to re-pack or palletise or otherwise rectify or render secure the packaging of goods to the extent which MXE considers in its absolute discretion to be required for the proper provision of Services
 - (2) Notwithstanding the provisions of 5(1):
 - (a) MXE shall not be obliged to expend such labour or material and shall incur no liability whatsoever in consequence of either doing or not doing so;
 - (b) Whether or not MXE expends such labour and material, the goods shall be at the owner's risk; and
 - (c) The Consignor shall at all times be solely responsible for the conformity of any containers, packaging, pallets or similar items with any requirements of the Consignee and any liability or expense incurred by MXE from any failure to so conform.
 6. (1) MXE is not a common carrier and accepts no liability as such and may in its absolute discretion:
 - (a) Refuse (without need to show cause) provision of Services to any person (including the Consignor) whether before or after collection of goods or transportation by MXE has occurred;
 - (b) Without limiting the generality of 6(1)(a), refuse to pick up or deliver freight where, in the absolute discretion of MXE, facilities and resources available at the point of pick-up or delivery (as the case may be) are not adequate to properly and safely effect loading, unloading or other handling of goods;
 - (c) Open any document, envelope, package or other container in which goods are placed or packaged to inspect the goods to determine the nature or condition of the goods, or, where any consignment note or identifying document or mark is lost, damaged or destroyed, to ascertain the ownership or intended destination of the goods provided however that MXE shall not be obliged to do so and shall incur no liability whatsoever in consequence of either doing or not doing so
 - (2) Any refusal pursuant to 6(1)(a) or (b) shall be conditional upon refund of any moneys paid by the Sender for Services not supplied subject to the right of MXE to charge a fee applicable in accordance with the operative Surcharges Schedule or otherwise in accordance with these Conditions.
 7. Where MXE supplies prepaid consignment notes for the purpose of providing Services, those prepaid consignment notes are not transferable and moneys paid for them are not refundable other than where required by law.
 8. The Consignor warrants and agrees that any person who purports to tender goods to MXE on behalf of the Consignor (or any Sender from whom MXE picks up goods at the direction of or in accordance with the instructions of the Consignor) is authorised by the Consignor to do so, to sign the relative consignment note and to accept these Conditions on behalf of the Consignor and any person having an interest in the goods.
 9. Where the Consignor is not the owner of the goods tendered to MXE, it warrants its authority to act as agent of the owner of, or any other person having an interest in, the goods for all purposes in connection with provision of Services and is authorised to accept and is accepting these Conditions not only for itself but as agent for and on behalf of all other persons who are or may hereafter be interested in the goods.
 10. The Consignor indemnifies and shall keep indemnified MXE in respect of all liability whatsoever or howsoever arising (including from negligence by act or omission by MXE or any other person) to any person in connection with provision of Services or the goods generally.
 11. The Consignor for itself and the Sender (where they are not identical):

- (1) Warrants that it has provided any necessary instructions and information regarding handling, care and control of the goods and the provision of Services with respect to them; and
 - (2) Warrants that it has complied with all laws and regulations relating to the nature, description, condition, packaging, labelling, storage and transportation of the goods and that the goods are packed in a manner adequate to withstand the ordinary risks associated with performance of Services having regard to the nature of the goods; and
 - (3) Warrants that it shall provide to MXE any assistance, information and documentation that may be necessary to enable MXE to comply with such laws and regulations; and
 - (4) Warrants the accuracy of all markings and brandings of the goods and all particulars furnished to MXE for the purpose of provision of Services; and
 - (5) Warrants that appropriate and adequate equipment and personnel will be available at points of pick-up and delivery to carry out loading and unloading activities where the size and/or nature of the consignment so requires; and
 - (6) Agrees that it is the responsibility of the Consignor to ensure the conformity of any containers, packaging or pallets supplied by the Sender with any requirements of the Consignee; and
 - (7) Indemnifies and holds harmless MXE against all loss and damage arising and all costs and expenses incurred as a consequence of failure to comply with the warranties referred to in 11(1), (2), (3) and (5), the agreement referred to in 11(6) and any inaccuracy or omission in respect of matters referred to in 11(4).
12. (1) The Consignor shall not tender to MXE any dangerous goods without presenting to MXE a full and accurate description disclosing the nature of the goods and, where relevant, how Services should be provided with respect to the goods and in any event shall be liable for and shall indemnify and hold harmless MXE from and against all claims for death, bodily injury, loss, damage, expense or penalty caused by those goods
- (2) If in the opinion of MXE the goods are or are liable to become dangerous goods, MXE may at any time, at the cost and without compensation or liability to the Consignor, take such action in respect of the goods as it considers appropriate including retention, destruction, disposal, abandonment or rendering harmless of the goods AND any such action shall be without prejudice to MXE's right to payment from the Consignor of all charges as would have been payable if the goods concerned had been delivered undisturbed and intact as well as the costs of taking action pursuant to this Clause.
13. (1) MXE and any subcontractor may subcontract on any terms all or any part of the Services.
- (2) Every exemption, limitation, condition and liberty herein contained and every right, power, authority, exemption from liability, defence and immunity of whatsoever nature applicable to MXE or to which MXE is entitled hereunder shall also be available and shall extend to protect:
- (a) All subcontractors;
 - (b) Every employee or agent of MXE and of every subcontractor;
 - (c) Every other person by whom Services or any part thereof are performed; and
 - (d) All persons who are or may be vicariously liable for the acts or omissions of any person falling within (a), (b) or (c) hereof
- (3) For the purpose of this Clause 13, MXE is or shall be deemed to be acting as agent or trustee on behalf of and for the benefit of all persons falling within 13(2)(a), (b), (c) and (d) who shall to that extent be deemed to be parties to the Contract
- (4) The Consignor:
- (a) Warrants that no claim or allegation inconsistent with this Clause 13 shall be made by the Consignor or any other person who is or may hereafter be interested in the provision of Services and/or the goods; and
 - (b) Indemnifies and shall keep indemnified MXE and each person referred to in 13(2) against all claims including liability for legal costs incurred by MXE in relation to any such claim on a full indemnity basis.
14. (1) If the Sender expressly or impliedly instructs MXE to perform Services in a particular way (whether as to means or route of carriage, place of storage or otherwise) MXE shall endeavour to give priority to that way but in any event the way of providing Services shall be at the sole discretion of MXE and the Consignor authorises MXE in its absolute discretion to adopt any way of providing Services other than the way instructed or agreed
- (2) The Consignor authorises any deviation from the customary or usual means or route of carriage or place of storage (if any) as MXE may in its absolute discretion deem desirable or necessary
- (3) MXE may comply with all orders, directions or recommendations made by a government or regulatory agency in relation to the goods and/or provision of Services without recourse to the Sender
- (4) Pending forwarding and delivery, the goods may be warehoused or otherwise held at any place or places when deemed necessary at the sole discretion of MXE at the owner's risk and the Consignor's expense.
15. (1) MXE is authorised to deliver goods to the Consignee at the address nominated by the Consignor or Sender or Consignee and, subject to (4)(a) below, shall be deemed to have delivered the goods in accordance with the Contract if at that address it obtains a signature acknowledging receipt of delivery from or on behalf of the Consignee by a person who holds himself out to be or to have the authority of the Consignee
- (2) An acknowledgement of receipt of the goods in good order and condition shall, in the absence of compelling evidence to the contrary, be conclusive in favour of MXE that the goods were delivered and received without loss or damage
- (3) The Consignor agrees without exception that the signature of any person at pick-up made on behalf of MXE is only acknowledgment of the number of separate visible items, not of the accuracy of the nature, weight, dimensions or volume of all of any of the goods comprised in the consignment

- (4) If the nominated place for delivery is unattended at the time delivery is attempted during normal trading hours or at the time specified by the Consignor (and agreed to by MXE) or if delivery cannot otherwise be effected for any reason whatsoever beyond the control of MXE, MXE may in its absolute discretion and without having to obtain prior instructions from the Consignor or Sender:
- Leave the goods at the nominated place which shall, in the absence of compelling evidence to the contrary, conclusively constitute delivery of the goods in accordance with the Contract; or
 - Without being obliged to do so, store the goods pending redelivery or return; and
 - Attempt redelivery of the goods at the nominated place for delivery; and/or
 - Return the goods to the Consignor or Sender
- (5) Storage, each attempt at redelivery and return of goods in accordance with 15(4)(b), (c) and (d) above shall be at the owner's risk and expense of the Consignor. Unless otherwise agreed in writing, the minimum charge payable for:
- Each attempt at redelivery shall be the same as the charge payable as a successful attempt; and
 - Return of the goods shall be the charge normally payable to MXE for goods being delivered from the place of storage or intended delivery (as the case may be) to the place where return is effected
- (6) Should an attempt by MXE to pick up goods at the place nominated by the Consignor during normal trading hours or at a time specified by the Consignor (and agreed to by MXE) be rendered futile because at such time or place:
- The Consignor or other person nominated by the Consignor is not in attendance; or
 - Without reasonable prior notice to MXE a consignment is not available for prompt pick-up; or
 - For any other reason whatsoever beyond the control of MXE, then MXE shall be entitled to impose and the Consignor shall be liable to pay a charge in accordance with the operative Surcharges Schedule and otherwise adequate to reasonably compensate MXE for each such attempt
- (7) If for any reason beyond the control of MXE (including time involved in waiting for a consignment to be available for collection or for loading or unloading to commence or be carried out) a pick-up or delivery cannot be completed within 10 minutes of arrival of MXE's vehicle at the nominated place within normal trading hours then MXE shall be entitled to impose and the Consignor shall be liable to pay a charge in accordance with the operative Surcharges Schedule and otherwise sufficient to reasonably compensate MXE for the time taken up by such delay
- (8) The Consignor acknowledges and agrees that in some circumstances, due to the nature or location of nominated address for pick-up or delivery (such as remoteness, accessibility or distance from the nearest depot of MXE or its local sub-contractor), or the characteristics of the goods (such as their weight or bulk), or, the lack of resources available to effect pick-up or delivery (such as fork-lifts or other appropriate equipment), it will be impracticable for MXE to effect pick-up or delivery at the address nominated by the Sender in which case it will be necessary for:
- The Sender to drop off the goods at a place nominated by MXE (or its sub-contractor); or
 - The Consignee to pick-up the goods at such a nominated place; and
 - The Consignor to pay MXE's reasonable charges, if any, attributable to the additional cost and expense caused by such circumstances.
16. Without limiting the force and effect of relief from liability conferred on MXE by these Conditions:
- Any claim by a Consignor against MXE for loss and/or damage to goods and/or other property allegedly caused in the course of provision of Services by MXE must be made in writing by the Consignor containing all relevant details and substantiated with all appropriate documentation, and:
 - where the claim relates to alleged damage to goods or any other property, must be made within 48 hours of delivery;
 - in the case of alleged loss, must be made within 48 hours from the time the goods allegedly lost should in the ordinary course have been delivered; or
 - where the claim arises from any other cause (including with respect to MXE's charges) must be made within 14 days from the Period Ending date on MXE's invoice
 - Where a claim is made within the relevant prescribed period and MXE makes written request of the claimant for further particulars, the time period prescribed in 16(1) shall be deemed to be extended for a further 7 working days from the date that the request was made and to expire at 5.00pm on the day marking the expiration of that period except where that day is not a working day in which case it shall expire at 5.00pm on the next working day
 - Consideration of claims made outside these periods will be entirely at the discretion of MXE and failure to notify a claim within the relevant prescribed period will be evidence of satisfactory performance by MXE of its obligations under the Contract
 - A claim will not be valid or eligible for consideration if based only on absence of evidence of proof of delivery endorsed on the Consignor's paperwork if that evidence is provided by MXE's consignment note and vice versa
 - A claim for loss of or damage to goods or other property will not be valid or eligible for consideration by MXE if at the time of delivery (provided the Consignee or some other person is in attendance at the place of intended delivery) an acknowledgement referred to in 15(2) is made by the Consignee or that other person
 - MXE shall promptly consider and give written notice to the Consignor of its decision with respect to any claim validly submitted, and, unless manifestly wrong or unreasonable, the decision of MXE shall be final and conclusive
 - Where MXE does not give written notice of its decision regarding a claim within 14 days from expiration of the prescribed period or the extended period referred to in 16(1) and (2), in the absence of written agreement between MXE and the claimant to the contrary, MXE will be deemed to have rejected the claim

- (8) MXE's charges shall be deemed fully earned as soon as the goods are received from the Sender and (unless paid by the Consignee) shall be payable in full by the Consignor without deduction or set-off for any outstanding credit claims which, if approved, will be the subject of adjustment against subsequent invoices or direct reimbursement by MXE
- (9) MXE shall be completely and forever discharged from all liability whatsoever in connection with goods and/or other property unless:
- The claim giving rise to the alleged cause of action has been the subject of a valid claim made to MXE in accordance with 16(1); and
 - The claim has been rejected wholly or in part by MXE or is deemed to have been rejected pursuant to 16(7); and
 - Proceedings are commenced against MXE within 21 days from rejection or deemed rejection of the claim (as the case may be).
17. (1) Unless otherwise agreed in writing, MXE's invoices shall be payable no later than the Period Ending date appearing on each invoice
- (2) In the event that the Consignor does not pay all or any part of an invoice in accordance with 17(1), the Consignor shall upon payment becoming overdue become liable to pay to MXE in addition to the unpaid invoiced amount an amount representing whichever from time to time is the greater of:
- A late payment fee as shown in the operative Surcharges Schedule; and
 - Interest at the rates on pre-judgment and judgment debts prescribed under the provisions of the Civil Procedures Act, 2005 (NSW).
- (3) The Consignor irrevocably agrees that interest calculated in accordance with 17(2) is a properly and fully recoverable as a genuine and substantially accurate pre-estimate of the minimum damages suffered by MXE from non-payment of any invoiced amount in accordance with 17(1) and does not constitute a penalty such as might otherwise render it unrecoverable by MXE in any legal proceedings against the Consignor.
18. (1) Unless MXE has agreed in writing to insure or arrange insurance against loss of or damage to a consignment then MXE shall have no responsibility whatsoever for insuring or arranging insurance and incur no liability whatsoever for not insuring or arranging insurance of that consignment which shall be the sole responsibility of the Consignor
- (2) If MXE has agreed in writing to insure or arrange insurance for a consignment, then, subject to 21, the liability of MXE is limited to the amount, if any, it is liable to pay under such insurance for physical loss of or damage to goods contained in the consignment provided however that any such liability shall be based on the cost to purchase or manufacture like goods or in the case of repairable damaged goods the cost of repair and in each case excluding GST except to the extent that the Sender is not legally able to claim an adjustment by way or refund of or reduction in or an input tax credit with respect to GST paid or payable to replace or repair lost or damaged goods (as the case may be)
- (3) Subject to 18(1) and (2), all consignments and goods are at the owner's risk and, unless expressly agreed in writing, MXE shall not be responsible in tort or contract or otherwise (including as bailee) for any loss of or damage to goods or misdelivery or failure to deliver or delay in delivery of goods (including perishable goods) either in transit or in storage, for any reason whatsoever including the negligence or breach of contract or wilful act or default of MXE or others, and, this sub-clause 18(3) shall apply to all such loss of or damage to goods or misdelivery or failure to deliver or delay in delivery of goods as aforesaid whether or not the same occurs in the course of:
- Performance by MXE of the Contract; or
 - Events which are in the contemplation of or are foreseeable by MXE and/or the Consignor; or
 - Events which would constitute a fundamental breach of these Conditions or the Contract or a breach of a fundamental term thereof
- (4) For the avoidance of doubt, the Consignor acknowledges and agrees that the provisions of 18(3) also apply to pallets (whether or not laden with goods) and to dockets relating to the transfer, exchange, hire or de-hire of pallets taken into the custody and control of MXE in the course of provision of Services to the intent and effect that MXE shall not be liable in any way to the Sender or to the owner of a such a pallet or docket for the hiring or other charges and fees payable in respect of the pallet or for damage to or loss of the pallet or docket and the Consignor shall indemnify and hold harmless MXE from and against all claims and demands to pay such charges and fees or to make good any damage to or loss of any pallet or docket
- (5) Subject to 18(1) and (2), in the event that any loading, unloading, handling, removal, dismantling, assembly or erection of any kind whatsoever is involved in performance of the Contract it is undertaken strictly on the basis that MXE accepts no liability for any loss, damage or injury of any kind whatsoever, however caused or incurred or occurring during any part of the relevant activity. This disclaimer extends to include not only loss of or damage to itemised goods or equipment itself, but loss, damage or injury to any person, property or thing caused during the activity and to any loss or damage consequentially or otherwise arising from any such loss, damage or injury aforesaid
- (6) Goods are accepted by MXE on condition that it shall not be responsible for the collection on behalf of the Consignor or any other person of payment of moneys (in cash or otherwise) from the Consignee or any other person for the goods and/or charges payable to MXE, and, when goods are tendered to MXE with instructions to collect such payment and MXE fails to comply with those instructions:
- MXE shall not be liable to the Consignor or any other person for such failure; and
 - The Consignor shall indemnify MXE against any claim or demand brought against it arising from such failure; and
 - The Consignor shall nevertheless be liable for payment in full of all MXE's charges relating to provision of Services with respect to those goods

- (7) Every instruction to MXE to the effect that charges shall be paid by a person other than the Consignor shall be deemed to include a stipulation that if the nominated person does not pay those charges within 7 days of delivery or attempted delivery of the goods, then those charges shall become due and payable by the Consignor on or before the Date Payable shown on the invoice containing those charges.
19. (1) MXE shall not be liable in negligence or contract or otherwise for loss, damage, costs, fines or penalties incurred by the Consignor or any other person resulting from or arising out of or in connection with any quotation, advice, statement, representation or information given or made by or on behalf of MXE to the Consignor or others as to classification of or any matter material to the valuation of or the liability for or the amounts, scale or rate of customs or excise duty or other impost, tax or rate charged in respect of the goods or any other item whatsoever
- (2) In giving or making any such quotation, advice, statement, representation or information, MXE relies solely on the particulars provided by the Consignor who warrants that those particulars accurately and completely describe all aspects of the goods and the transactions relating to the goods.
20. (1) Without limiting or prejudicing other legal and equitable rights and remedies available to it, MXE shall have both a general and a particular lien over the goods and/or any freight or other items of the Consignor (and any documents relating thereto) of the Consignor in the custody or under the control of MXE for any moneys owing to MXE by the Consignor whether in connection with the carriage of the goods or otherwise. MXE shall have the right to sell or dispose of any or all of the goods or other items as agent for and at the expense of the Consignor by public auction or private treaty without notice to the Consignor to satisfy that obligation and all costs incurred by MXE for storage or in relation to the sale, including legal costs on a full indemnity basis
- (2) Any such sale shall not prejudice or restrict the entitlement of MXE to recover moneys owing by the Consignor to MXE and not covered by the proceeds of sale
- (3) The lien conferred on MXE by 20(1) shall extend to allowing MXE without liability to withhold delivery and retain possession of the goods, other items and documents referred to therein pending payment of the moneys owing whether or not the goods, other items and documents are or reasonably appear to be the property of the Consignor
- (4) The Consignor shall indemnify and keep indemnified MXE from and against all liability whatsoever to any other person arising from any action taken by MXE pursuant to the provisions of this clause 20.
21. In all cases where liability of MXE has not been excluded, whether by these Conditions, by statute or otherwise, the liability of MXE whatsoever and howsoever arising is limited to whichever is the lesser of:
- (a) The value of the goods the subject of the Contract at the time the goods were received by MXE or
- (b) In the case of a proven breach of any statutory guarantee or warranty (including any implied by the Competition and Consumer Act, 2010, supplying the Services again or to the payment of the cost of having services substantially similar to the Services supplied again.
22. (1) Any relief from liability in these Conditions is to be read subject to any restriction on contracting out of liability and to any implied terms, conditions, guarantees and warranties imposed by any legislation (including the Competition and Consumer Act, 2010) binding on MXE so that the provisions for relief in these Conditions are limited or rendered ineffective only to the extent required to give effect to that legislation but are otherwise fully effective or independent of any provisions which are void or ineffective by reason of the legislation
- (2) In the absence of any such implied term, condition, guarantee or warranty, MXE gives no guarantee or warranty or undertaking:
- (a) As to time of pick-up or delivery of goods; or
- (b) That it will inform the Sender of the expected or actual time of pick-up or delivery and may in its discretion cancel the supply of Services at any time without liability to any person.
23. If any provision or part of any provision in these Conditions or in the Contract is or becomes unenforceable that unenforceability shall not affect the enforceability of the balance of the provision or any other provisions.
24. These Conditions and the Contract shall be governed and construed in accordance with the laws in force from time to time in the State of New South Wales and shall be subject to the jurisdiction of the courts of that State
25. In applying for credit facilities from MXE, the Consignor expressly agrees:
- (a) To the disclosure of personal, financial and other information to MXE from a credit reporting agency;
- (b) To the disclosure of personal, financial or other information by MXE to a credit reporting agency;
- (c) That MXE may contact any trade reference or other credit reference at any time or from time to time for the purpose of assessing the credit worthiness of the Consignor;
- (d) That MXE may receive from any credit provider or may supply to any credit provider any credit information whether by way of report, record, data or otherwise relating to the credit worthiness of the Consignor for the purposes of exchange of information, assessing credit worthiness, and notification of default at any time by the Consignor.
26. (1) MXE has the right at any time and from time to time to amend these Conditions without specific notice, written or otherwise, to the Consignor. All such amendments shall have full force and effect on and from the date upon which the amendments are incorporated in the Conditions displayed on MXE's internet website (www.hunterexpress.com.au > forms > standard terms and conditions of contract for transport services)
- (2) It shall be the absolute responsibility of the Consignor to ensure at all times that it has or has access to an up-to-date copy of these Conditions a written copy of which MXE will make available on request.

SURCHARGES SCHEDULE

Description	Surcharge / Fee
Monthly Account Service	\$3.50 per invoice (soft copy), \$7.50 per invoice (hard copy)
Manual Consignment Notes ^(A)	\$7.50 per consignment note
Minimum Daily Pick-Up Charge ^(B)	\$30.00
9.00am Delivery: up to 25kgs ^(C)	\$100.00 capital cities, other areas P.A.A.
9.00am Delivery: over 25kgs ^(C)	P.A.A. all areas
Non-Business Day Job: up to 25kgs	\$250.00 capital cities, other areas P.A.A.
Non-Business Day Job: over 25kgs	P.A.A. all areas
Same Day Interstate Delivery	P.A.A.
Timeslot Deliveries: up to 25kgs	\$10.00 capital cities, other areas P.A.A.
Timeslot Deliveries: over 25kgs	P.A.A. all areas
Time Specific Deliveries: up to 25kgs ^(D)	\$100.00 capital cities, other areas P.A.A.
Time Specific Deliveries: over 25kgs ^(D)	P.A.A.
Call/Book-in Pre-Delivery ^(E)	\$2.50 per contact phone call or \$10.00 for paperwork exchange
Saturday Collection from Depot ^(F)	\$50.00
Out-of-Hours Job ^(G)	P.A.A. pick-up, P.A.A. delivery
Waiting/Loading/Unloading ^(H)	\$0 to 10 mins then at rate of \$100/hour charged per 5 minute increment or part
Driver Assist ^(I)	\$100.00(*) min. charge to 60 minutes then \$25.00 per 15 minute unit or part
Tail-Lift Truck ^(J)	P.A.A. pick-up, P.A.A. delivery
Prepaid Satchels (remote area on forwarding)	\$15.00 1 and 3kgs, \$25.00 5kgs
Returns ^(K)	\$10.00 capital cities and major towns, \$30.00 other areas
Redelivery/Second Delivery ^(L)	Refer Redelivery Rates Schedule
Wrong Address/Insufficient Address ^(M)	\$25.00
Futile Pick-up ^(N)	\$40.00 capital cities only (excluding Darwin), other areas P.A.A.
Cancellation	\$15.00 capital cities only (excluding Darwin), other areas P.A.A.
Futile Delivery ^(O)	Refer Redelivery Rates Schedule
Proof of Delivery Request ^(P)	\$50.00 after three months from date of delivery
Excess Lengths or Oversize Dimension ^(Q) :	
1.5 metres up to/not incl. 2.5 metres ^(Q)	\$10.00
2.5 metres up to/not incl. 4.0 metres ^(Q)	\$50.00
4.0 metres up to/not incl. 6.0 metres ^(Q)	\$200.00
6.0 metres or longer/greater ^(Q)	P.A.A.
Fuel Levy	Refer Rates Schedule. As fuel levy may fluctuate thereafter, refer to invoice for updated fuel levy applicable.
Labour to Palletise, etc. ^(R)	\$25.00 per 15 minute unit or part
Pallet Supply ^(S)	\$50.00 per pallet (including shrink wrapping or strapping)
Storage ^(T)	\$3.50 per carton per week or part, \$15.00 per pallet per week or part
Bulk Deliveries/Pickups to/from Private/Residential Addresses ^(U) :	
Average dead or cubic weight per item 35-49kg ^(U)	\$10
Average dead or cubic weight per item 50-74kg ^(U)	\$20
Average dead or cubic weight per item 75-99kg ^(U)	\$30
Average dead or cubic weight per item 100kg or greater ^(U)	\$50
	(inclusive of call/alert to receiver to schedule delivery or to sender to schedule pickup, if required)
	(unless tail lift required, P.A.A.** and inclusive of call/alert to receiver to schedule delivery, or to sender to schedule pickup, if required)
Oversize/Overweight Pallets ^(V)	Charge method applicable is either 333kg per cubic metre cubic conversion for 'Basic Charge/Per Kilogram' tariffs or an additional pallet charge for 'Per Pallet/Item' tariffs.
Minimum Weight Charge for Skids, Pallets and Non-palletised Goods equal to or exceeding 35kg dead weight per item ^(W)	The Minimum Weight Charge for a skid is 125kg/0.5m ³ and for a pallet is 250kg/1.0m ³ . Also applies to consignments presented with non-palletised goods equal to or exceeding 35kg dead weight per item.
Late Payment Fee ^(X)	\$50.00 per invoice per month
Rubbish Disposal ^(Y)	\$10.00
Reprint and Affix Consignment Note/Shipping Label ^(Z)	\$2.50 per consignment
Change Request ^(AA)	\$15.00 per consignment
A4 Self-Adhesive Shipping Label or Thermal Label	P.A.A.
Freight Stickers (e.g. 'Fragile', 'Must Ride', Destination Labels, etc)	\$20.00 per roll
Supply Printer for Consignment Labels	P.A.A.

SURCHARGES SCHEDULE

Description	Surcharge / Fee
Dangerous Goods:	
Dangerous Goods General Surcharge	\$22.50
Dangerous Goods Paperwork Duplication Fee	\$10.00 (when insufficient paperwork copies are provided)
Dangerous Goods Labelling Fee	\$10.00 (when application of DG class labelling is required)
Dangerous Goods Paperwork Processing Fee	\$50.00 (when DG declaration is not provided)
Undeclared Dangerous Goods	\$100.00 (no labelling or DG declaration form provided)

FOR YOUR REFERENCE:

- The use of the word customer applies to existing accounts, as well as those applying to establish a credit account.
- Surcharges listed DO NOT include GST or fuel levy.
- Weights are based on whichever is greater: actual weight or cubic weight. It is calculated at the rate of 250kgs per m3 or 333kgs per m3 for 'non-conforming consignments' - refer 1(m) MXE's Standard Terms & Conditions of Contract for Transport Services.
- When a 'per item' based rate structure is used (as opposed to a basic charge plus per kilogram rate structure) additional items will be charged according to the following method:
 - Per carton: if a carton is greater than 25kgs or 0.10m3, a second carton rate will apply per 25kg or 0.10m3, or part thereof.
 - Per pallet/skid: if a pallet/skid dimension exceeds either 120cm in length, 120cm in breadth, 180cm in height, or 950kg dead weight, a second pallet/skid rate will apply.
- 'P.A.A.' = Price as advised by MXE at customer's request for quote.

FOOTNOTES:

- (A) Consignment notes (not generated by MXE's computer systems) supplied to the customer by MXE, to be filled in by the customer with particulars of the consignee and freight, and to be affixed to and accompany the freight from pick-up to delivery. Additionally, consignments generated by MXE's computer systems yet which are not electronically manifested by the Customer and/or transferred to MXE's server on the day of despatch. In most cases consignments which are not manifested yet are despatched have to be tracked down manually from the bar code and the destination details have to be deciphered manually through various means; otherwise manually data entered from a hard copy of the manifest if that is eventually supplied.
- (B) The minimum charge levied on your account for any day on which a pick-up is booked and the charge(s) for that day total less than \$30.00 (excluding GST and fuel levy).
- (C) Monday to Friday excluding public holidays (in the place(s) work required). Capital cities only (excluding Darwin).
- (D) Consignment requiring delivery at a time or within a period (e.g. hour) specified by sender or consignee (e.g. at distribution, exhibition and function centres) typically involving exclusive, additional or special arrangements compared with "standard" deliveries.
- (E) Where required to call intended receiver or complete a 'book-in' procedure prior to delivery including accessing websites, sending fax or e-mail and processing any paperwork to arrange delivery – but not including exclusive courier services if book-in time requires, to which surcharges in (D) for Time-Specific Deliveries apply.
- (F) Between 7.00am and 9.00am only. Capital cities only (excluding Darwin).
- (G) Monday to Friday excluding public holidays (in the place(s) work required) before 7.30am and after 6.00pm. Capital cities only (excluding Darwin).
- (H) When a driver is required to wait in excess of 10 minutes for loading or unloading at either the pick-up or delivery.
- (I) Where nature of job requires additional driver/labour (e.g. loading, unloading, security) (* for each additional person required).
- (J) Fee applies when tail-lift specified or nature of job requires.
- (K) Where goods are returned to the consignor/sender.
- (L) For each attempt to re-deliver goods after initial failure (or where re-delivery fee has been paid for each attempt after the first attempt).
- (M) If a consignment has insufficient or incorrect details such that the delivery cannot be made, we will endeavour to resolve the issue by calling the receiver if a telephone contact is supplied on the label, otherwise via online searches including Google and Google Maps. If that fails we will contact the sender to ascertain the correct delivery address details. The fee applicable excludes redelivery charges (if already attempted previously) or subsequent return to sender charges if required but includes telephone charges, storage, handling and reprint of new labels as required.
- (N) Inability to pick-up at nominated site for any reason beyond control of MXE, e.g. where 'permanent' (regular) pick-up run has been established, no freight is available for pick-up on a regular day at or around the regular time, and no advice to this effect is received by MXE from the customer before 3.00pm on that day; or, in the case of 'casual' ('ad hoc') jobs, no freight is available for pick-up on nominated day after pick-up for any reason beyond control of MXE.
- (O) Inability to deliver after pick-up for any reason beyond control of MXE.
- (P) For all consignments:
 - (a) Proof of Delivery ('POD') is available on the MXE website.
 - (b) If original con note is marked 'ATL' or 'authorised to leave', then no POD signature will be available.
- (Q) Excess length or oversize dimension surcharge applies to items where any one dimension measures or exceeds 1.5m, 2.5m, 4.0m or 6.0m.
- (R) Including wrapping, packaging, re-packing etc MXE reasonably considers necessary to render freight suitable for provision of Services.
- (S) Where specified or MXE reasonably considers nature of job requires supply of disposable (plain) pallet or skid.
- (T) Storage charges may apply for freight held in depot.
- (U) Applies to deliveries to and pickups from residential addresses where additional labour or other assistance is required to enable the driver to effect safe delivery/pickup without unreasonable risk of injury or damage. Where volume, size or weight of the consignment or any item included in the consignment require additional manpower, mechanical handling devices not provided by receiver/sender, the nature of the delivery site poses challenges or any other unusual factors that require prior arrangements. A consignment comprising or including an item with actual or cubic weight of 35kgs/0.14m3 (indicative only) and/or involving arrangements for the Consignee/Consignor (or others where necessary) to be present and/or depot storage pending making of arrangements will most likely qualify for this surcharge which includes 'phone call prior to delivery/pickup' and depot storage charges for a maximum of 2 days. Longer storage and other services (e.g. tail-lift truck) will incur additional surcharges as per the schedule.
- (V) An Oversize Pallet is defined as any pallet or skid which has a dimension that exceeds either 120cm at the base or 180cm at the height, or if the dead weight exceeds 950kg. Pallets in this category will require an additional line-haul space on a delivery vehicle. Therefore, an additional fee will apply to cover the increased cost of transport. The applicable fee will be determined by the tariff associated with the individual accounts service tier. For tariffs with a 'Basic

Charge and Per Kilogram' rate structure, a cubic conversion of 333kg per cubic metre will apply. For tariffs with a 'Per Pallet/Per Item' rate structure, an additional pallet or unit charge will apply to each oversize pallet.

- (W) If the freight item is not presented on a skid or pallet, the Minimum Weight Charge may apply if the item is equal to or greater than 35kg; (35kg is considered too heavy for a single person to lift). It may also apply if the consignment requires palletisation prior to line-haul departure due to safety issues/reasons.
- (X) Charged on each MXE invoice when the full invoiced amount has not been paid within 60 days from the Date Payable and thereafter charged for each following month (or part) during which moneys remain unpaid.
- (Y) Removal of incidental packaging and materials including cardboard, shrink-wrapping when not required for transportation or left after collection of freight from depot.
- (Z) Where the consignment note or shipping label has to be reprinted and affixed to the freight at our depot due to the original either having been removed, or the bar code print quality is so poor it cannot be scanned, or due to the entire consignment note or label being taped down such that the proof of delivery copy cannot be removed or is obliterated or unusable. Unless these steps are taken the integrity of the entire track and trace system can be compromised.
- (AA) A Change Request fee of \$15.00 will apply in order to cover the administrative and operational costs arising from the following services:
 - i. A request from the consignor with regards to an existing booking or consignment to change or edit one or more components including:
 - number of items
 - dimension(s) of any item(s)
 - dead weight of any item(s)
 - service type/level
 - pickup address or delivery address
 - delivery instructions
 - account to which the booking/consignment is to be charged
 - ii. A request from the consignor, sender or receiver to an existing booking or consignment to add Special Instructions or other service request for action with regards to a pending delivery.
 - iii. A request from the consignor to cancel an existing booking or consignment.
 - iv. A request from the consignor for a credit against or refund of a paid charge for an existing booking or consignment as a result of changes arising from i-iii above, subject to approval.

When a credit request is approved, the Change Request fee will be automatically deducted from the total of the credit request and the remainder/difference will be issued. Because of the basic administration charge, credit requests below \$15, excluding GST, will not be processed.

SURCHARGES TERMS & CONDITIONS:

- (a) The following Surcharges Terms & Conditions shall apply in addition to MXE's Standard Terms & Conditions containing provisions relating to surcharges binding on the customer and where there is any inconsistency between the two the former shall prevail to the extent of such inconsistency.
- (b) Under the Standard Terms & Conditions MXE has the right at any time to increase existing or impose new surcharges upon giving customers at least one month's notice. Customers are required and expected to be aware that:
 - (i) notification will be deemed properly given by MXE displaying details of changes on its website; and
 - (ii) it is the absolute responsibility of customers at all times to ensure awareness of changes; and
 - (iii) if in any doubt, customers should contact MXE to clarify or confirm the nature of any such changes.
- (c) Where the customer has or should reasonably have a doubt as to whether and/or what surcharge applies (including with respect to 'capital cities', 'other areas' and 'P.A.A.' items) it is the customer's sole responsibility before or at the time of placing a booking to contact MXE and provide full and accurate particulars to enable that doubt to be resolved, and in the case of a 'P.A.A.' item to ask for and obtain a price based on those particulars.
- (d) Where the customer fails to act responsibly in accordance with (c) MXE shall be at liberty to impose a surcharge in accordance with the Schedule based on the nature and characteristics of the freight as determined or measured by electronic or mechanical device or by any other means, and, in the case of 'P.A.A.' items or distinction between 'capital cities' and 'other areas', based on a charge normally levied by MXE on similar freight sent in similar circumstances to the same or a similar destination as nominated by the customer, and, in the absence of compelling evidence to the contrary the surcharge so determined by MXE shall conclusively be deemed true and correct for invoicing purposes.

For/on behalf of Applicant:

Name (Print)		Position/Title
Signature		Date / /

For/on behalf of Hunter Express:

Name (Print)		Position/Title
Signature		Date / /

