

# OCEANGUARANTEED® (LCL SERVICES) TERMS & CONDITIONS

## DELIVERY SERVICE GUARANTEE

### Acknowledgment of OceanGuaranteed® LCL Service Delivery Service Guarantee Terms and Conditions

The undersigned Merchant acknowledges it has reviewed APL Logistics, Ltd Worldwide Tariff APLX 003 which sets forth the terms and conditions governing the OceanGuaranteed® LCL Service Delivery Service Guarantee ("Delivery Service Guarantee"). The terms of the Delivery Service Guarantee are set forth below for Merchant's convenience. In the event of a conflict between the language below and Tariff APLX003, the Tariff rule shall govern.

#### APL Logistics, Ltd Worldwide Tariff APLX 003

All eligible shipments tendered to APL Logistics / XPO Logistics under the OceanGuaranteed® Service will receive a guarantee of on-time delivery ("Delivery Service Guarantee"). There will be no additional fee for this Delivery Service Guarantee. If delivery is not completed within the quoted transit time, the Merchant who has paid the ocean freight to APL Logistics (hereafter "Merchant Payor") will (subject to terms and conditions listed below) upon timely and proper request receive a 20% reduction on their invoice for all combined LCL and LTL linehaul charges, including fuel surcharges (hereafter "Guarantee Payment"). All other applicable accessorial charges would still apply.

1. Delivery Service Guarantee only applies to shipments picked up from OceanGuaranteed® ports in Asia and destined for points that are serviced within the continental United States, Metropolitan Canada and Mexico. Direct delivery points can be determined on APL Logistics' website: [www.aplogistics.com](http://www.aplogistics.com)
  - a. In the Sailing Schedules page, select the OceanGuaranteed® tab, select the origin port, select the destination country, and enter any other U.S. Metropolitan Canada or Mexico Postal code. If the response on the screen shows, "You have entered an invalid Location Code. Please try again", then the destination is not a direct delivery point.
2. Delivery is achieved when XPO Logistics tenders the entire shipment for delivery within the published standard transit time. Delivery shall be made between 8:00 am and 5:00 pm on a full business day. In the event a published delivery date falls on a weekend or holiday, for purposes of the Delivery Service Guarantee, the published standard transit time shall be extended to 5:00 pm on the next full business day.
3. The shipment must be delivered to and received into APL Logistics designated CFS participating in the OceanGuaranteed® program, at the port loading prior to CFS cut off time for loading onto intended sailing vessel.
4. The Merchant Payor must file a request with APL Logistics for the Guarantee Payment within 7 calendar days after the scheduled date of delivery, based on the published transit time on the date of shipment tender.
5. The published transit time can be viewed on the APL Logistics website or telephoning APL Logistics in the U.S. at: 1-844-479-9620 or your local APL Logistics office. Published transit times may vary depending upon:
  - a. Commodity being shipped
  - b. Date of the shipment
  - c. Exact continental U.S. / Metropolitan Canada / Mexico destination, with ZIP / Postal Code
  - d. Weight of shipment
6. Only the Merchant Payor may file for a Guarantee Payment. No agent, representative or third party may file on behalf of the Merchant Payor. Only the Merchant Payor is eligible for the Delivery Service Guarantee and Guarantee Payment.

7. The filing for the Guarantee Payment can be made using an electronic form available from APL Logistics via E-mail at [Guaranteed\\_Services@aplogistics.com](mailto:Guaranteed_Services@aplogistics.com) or by phone in the U.S. at 1-844-479-9620, or your local APL Logistics office.
8. A partial payment by the "Bill Payer" against an invoice is not considered a request for invoice adjustment or notice of a refund request.
9. The invoice for the shipment and all related charges, including but not limited to demurrage and per diem charges, must be paid in full before a Guarantee Payment is made.
10. In the event a claim for failure to perform service is denied, any objections or disputes of such denied claim must be filed within 30 calendar days of original scheduled date of delivery of shipment. Dispute claims are to be sent to the same contact locations as listed in #7 above.
11. The Delivery Service Guarantee is not available when on-time completion is frustrated due to reasons beyond the reasonable control of APL Logistics or XPO Logistics including but not limited to the following:
  - a. Any incorrect addresses or the unavailability or refusal of a person to accept delivery,
  - b. An act of God, public enemies, riot, strike, other work stoppage, labor unrest, or other events of a Force Majeure nature,
  - c. A defect or inherent vice in the goods,
  - d. An act of public authorities,
  - e. An act or omission of the Merchant's nominated customs broker,
  - f. Delays related to cross-border transportation and / or customs clearances arranged by Merchant or on Merchant's behalf,
  - g. Diversion at the direction of shipper, consignee or customs broker,
  - h. Mis-description or mis-declaration of the goods,
  - i. Storms or severe weather conditions,
  - j. Terrorism,
  - k. Faulty or impassable highway,
  - l. Lack of capacity of a highway or bridge,
  - m. Authority of law,
  - n. Quarantines,
  - o. Civil commotion, a state or act of war,
  - p. Compliance with laws, government regulations, orders or requirements,
  - q. Act, fault or omission of Merchant, including but not limited to shipper, consignee, and / or owner of the goods, and Merchant's agents,
  - r. Berth congestion.
12. Non C-TPAT certified Shippers are eligible for the Delivery Service Guarantee providing no delays are incurred due to inspection of shipments by Government agencies.
13. Shipments marked for or that subsequently require delivery using lift gate equipment are excluded from the Delivery Service Guarantee program.
14. Merchant acknowledges it is required to provide verified weights obtained on calibrated, certified equipment of all cargo that is to be tendered to container ship lines. Shipper agrees that Carrier is entitled to rely on the accuracy of such weights and to counter-sign or endorse it as Carrier's own certified weight to the container ship line carrying the cargo. The Merchant agrees that it shall indemnify and hold the Carrier harmless from any and all claims, losses, penalties or other costs resulting from any incorrect or questionable or contractor on which the Carrier relies.
15. The Delivery Service Guarantee is NOT applicable to shipments requiring temperature control.
16. Shipments marked as Hazardous Materials or that subsequently require the shipment to be handled as a Hazardous Material are excluded from the Delivery Service Guarantee program.
17. All freight will be booked under a Non Negotiable APL Logistics Sea Waybill of Lading.
18. All customers must have established credit arrangements in place with APL Logistics or XPO Logistics or all collect charges must be settled prior to arrival of vessel into first United States Port.
19. Shipments under the Delivery Service Guarantee program shall be subject to all of the terms and conditions of APL Logistics' bill of lading in effect at the time of shipment and APL Logistics' liability for cargo loss, damage, misdelivery and / or other breach of the contract of carriage ("cargo claims"), if any, shall be determined exclusively under the terms and conditions of the bill of lading. APL Logistics' maximum liability for cargo claims arising during inland handling and transportation in the United States and Canada shall be in accordance with Clauses 6 and 7 of the bill of lading. APL Logistics' maximum liability for cargo claims arising during inland handling and transportation in Mexico shall be in accordance with the Mexican Roads Bridges and Federal Trucking Transportation Act, Article 66 Section 5. In no event shall APL Logistics be liable to the Merchant or other person for any consequential, indirect or punitive damages or claims for loss of profits arising from a failure to deliver shipments according to the published transit times or as a result of any alleged breach of the Delivery Service Guarantee. APL Logistics does not undertake to provide time-definite delivery except as specified in this OceanGuaranteed® LCL Service Delivery Service Guarantee. The Guarantee Payment shall be the sole, adequate and exclusive remedy for breach of the Delivery Service Guarantee.
20. The Delivery Service Guarantee applies only to those shipments that are 1) Customs pre-cleared prior to vessel arrival at U.S. designated port; and 2) Customs cleared (as evidenced by U.S. Customs Form 3461 in APL Logistics' possession) no later than Noon Pacific Time / 2:00 pm Central Time (or noon Eastern Time for cargo discharging at U.S. East Coast ports) on the first business day of Shipment availability at the CFS designated on the APL Logistics Arrival Notice.
21. Merchant shall be responsible for arranging for customs clearances and cross-border transportation between the United States and Mexico, and between the United States and Canada. APL Logistics shall not be responsible for cargo loss, damage, delay, misdelivery or other loss occurring during transloading, handling, storage or transportation while shipments are in the possession or under the control of the Merchant or its agents, including Merchant's custom's broker.