

#### 1.4. Duty to Mitigate Loss.

1.4.1. If loss or damage occurs to a shipment from one of the excluded causes listed in Exclusions from Liability, the TSP may still be liable for additional damage that results from its failure to take reasonable steps to mitigate the extent of the loss. For example, if a shipment is damaged by water, the TSP, as soon as practical, should attempt to clean and dry the items, rather than allow further damage (e.g., rust, warping, or mildew), to develop from prolonged exposure to dampness. In some cases, the responsible PPSO/PPPO may direct the TSP to undertake specific mitigation work, or may authorize payment for mitigation work, subject to later determination of whether the government or the TSP will be liable for the cost. The cost of any such mitigation efforts not paid for by the government will be deducted from the TSP's maximum liability.

1.4.2. **Mold.** Shipments that develop mold in transit present special problems. When containers show signs of contamination, for example water saturation or mold growth on the exterior, the TSP should contact the responsible PPSO/PPPO by phone and via written notification (email preferred with Delivery and Read Receipt as proof of notification). The TSP will continue shipping operations to a location as determined by the TSP and responsible PPSO/PPPO. The responsible PPSO/PPPO will make arrangements for a Quality Assurance (QA) Inspector to be present at the selected location within two (2) business days to be present when the seals are broken and the containers inspected for mold. If the PPSO/PPPO is unable to provide a QA inspector, contact SDDC at [usarmy.scott.sddc.mbx.pp-perf@mail.mil](mailto:usarmy.scott.sddc.mbx.pp-perf@mail.mil). If there is no evidence of mold, the containers will be resealed, notations made on the inventory by the QA inspector and/or the TSP, and shipment will continue in-transit to destination. When mold is discovered, the TSP will notify the customer and the inspecting PPSO/PPPO will notify the servicing MCO and update the destination PPSO/PPPO with findings. The TSP in possession at the time the mold is discovered is responsible for mitigation. Mitigation costs will be assessed under Paragraph 1.4.2.5. of this section.

1.4.2.1. ***Payment in lieu of remediation.*** Prior to undertaking any remediation work, the TSP shall procure the services of a qualified mold remediation firm, if reasonably available, unless otherwise directed by the MCO or responsible PPSO/PPPO. The mold remediation firm shall make a preliminary assessment of the mold damage. The TSP will provide a copy of the estimate to all parties (e.g., destination PPSO/PPPO, MCO, and customer). After consultation with the TSP, mold remediation firm, responsible PPSO/PPPO, and customer, the MCO shall determine whether circumstances warrant disposal of the contaminated items without attempting remediation. If the MCO determines that remediation is appropriate, there may be circumstances where customers will still refuse delivery. For example, a customer may choose to dispose of the property rather than accept the shipment because of a family member's "documented" medical condition. When the MCO determines that remediation is appropriate and reasonable under the circumstances, the TSP will only be liable for the lesser of the remediation cost or full replacement cost.

1.4.2.2. ***Delivery of Uncontaminated Items.*** As soon as practical after it's determined that remediation is an option, the TSP will determine, after consulting with the mold remediation firm, whether there is an uncontaminated portion of the shipment that can be

separated, without cross contamination, from the mold contaminated items and separate those items accordingly. If there are uncontaminated items, the TSP will make a new inventory of either the contaminated items or the uncontaminated items, whichever is smaller. The TSP will cross reference the new inventory with the corresponding reference from the origin inventory. The TSP will deliver any uncontaminated items in accordance with the transit agreement and provide a copy of the origin inventory and the new inventory to the customer.

1.4.2.3. ***Items Suitable for Cleaning or Remediation.*** Whether mold contaminated items are suitable for cleaning or remediation depends upon several factors including, but not limited to, the extent of the contamination on a particular item, the nature of the material contaminated, limiting future contamination, and the cost of remediation in relation to the value of the item. If items are still wet, measures should be taken to dry all items suitable for cleaning or remediation. Heavily contaminated porous items (e.g., carpets, rugs, mattresses, cloth or clothing, some wood and wood products, some ceramic items, and soft plastic) may not be suitable for cleaning or remediation. Less heavily contaminated porous items (e.g. clothes and textiles) may be adequately laundered, however, contamination from mold may require adding bleaching agents to remove mold stains and sanitize clothing. Adding bleaching agents might fade some fabrics and damage other fabrics and be unacceptable to the customer. Mold-contaminated items made of leather, suede, or a similar material may not be suitable for laundering or bleaching. Other professional cleaning or dry cleaning may be an option. Other non-porous household items (e.g., dishes, pots, glass items, or other metal or hard plastic items) can usually be cleaned or remediated. Advice from remediation professionals on whether to clean or discard an item may be beneficial. The TSP will arrange for the contaminated items to be divided into items that are suitable for cleaning or other remediation and those items that are not suitable for cleaning or remediation. The customer and the QA inspector should be notified with date/time prior to the process.

1.4.2.3.1. If all contaminated items are suitable for cleaning or remediation, the TSP will notify the customer that the remainder of the shipment will be delivered when it has been cleaned or otherwise remediated. The delivery will not be considered a separate shipment.

1.4.2.3.2. If none of the contaminated items are suitable for cleaning or remediation, the TSP will notify the customer that none of the remainder of the shipment is suitable for cleaning or remediation. The TSP will offer the customer an opportunity to inspect the shipment and remove items of sentimental or special value at the owner's discretion in coordination with the responsible PPSO/PPPO. Before removal of any items, the TSP may require the customer to release them from personal injury liability for exposure to mold.

1.4.2.3.3. If some of the contaminated items are suitable for cleaning or remediation and some items are not suitable, then the TSP will notify the customer of that circumstance. The TSP will arrange for the cleaning or other remediation of that portion of the contaminated shipment suitable for cleaning or remediation. The TSP will arrange for delivery of the cleaned or remediated items in coordination with the customer and responsible PPSO/PPPO. The delivery will not be considered a separate shipment.

1.4.2.3.4. The TSP will offer the customer an opportunity to inspect the part of the shipment that is unsuitable for cleaning or remediation. The customer may remove items of sentimental or special value from the unremediated portion of the contaminated items, at the owner's discretion. Before removal of any items, the TSP may require the customer to release them from personal injury liability for exposure to mold. If a TSP is found liable for the loss and has not reached their maximum liability, 25% of the replacement value of any item that is removed from the unremediated portion of the contaminated items will be deducted from the TSP's liability. If the TSP's maximum liability is exceeded and the items removed do not decrease the TSP's maximum liability, there will be no percentage of value taken off the item. The TSP is responsible for appropriately disposing of the unremediated portion of the contaminated items.

1.4.2.4. ***Delivery of remediated items.*** Items that have been remediated will normally be delivered to the customer as soon as practical after remediation is complete. Before delivery, TSP's must notify the customer and destination PPSO/PPPO that the items have been remediated, are ready for delivery, and provide a reasonable opportunity to inspect the remediated items before delivery transportation begins. The notice shall also include the location for inspection, the hours for inspection, and that the opportunity to inspect shall expire after three (3) business days or when delivery transportation begins, whichever is longer.

1.4.2.4.1. Customer inspects remediated items. If the customer accepts all remediated items, the goods will be delivered as soon as practical. If the customer does not accept the remediation on any item during the inspection, that item will be separated from the accepted items. If the TSP agrees with the customer that those items are unacceptable, the TSP shall deliver the accepted items and, if appropriate, process claims on the unacceptable items for compensation at Full Replacement Value. If the TSP disagrees with the customer on any item, the TSP will contact the destination PPSO/PPPO and advise them of the conflict. In the event of a conflict, no delivery of any remediated item, accepted or not, will be made until ordered by the destination PPSO/PPPO. The PPSO/PPPO will contact the servicing MCO and the MCO will determine the acceptability of the remediated items in question. Service MCO can be found at : [http://www.move.mil/dod/claims\\_css/dod\\_claims.cfm](http://www.move.mil/dod/claims_css/dod_claims.cfm).

1.4.2.4.2. Customer does not inspect remediated items. Some customers may decline to inspect or decline to respond to the notification to inspect remediated items and refuse to accept delivery of those items. If customers advise the TSP before delivery transportation begins that they will not accept the delivery, the TSP will not attempt delivery until ordered by the destination PPSO/PPPO. If customers refuse delivery of remediated items after delivery of those items begins, the TSP will transport those items to a DOD approved storage facility at the TSP's discretion. In either case, the TSP will notify the destination PPSO/PPPO of the situation and await further direction. The destination PPSO/PPPO will contact the servicing MCO and the MCO will determine the acceptability of the remediated items in question. Each MCO will designate a single centralized authority for these determinations.

1.4.2.4.3. MCO acceptability determinations. The MCO will notify the customer and TSP of the acceptability determination.

1.4.2.4.3.1. Remediation Unacceptable. When the MCO determines that remediation efforts on items are unacceptable, the TSP shall dispose of the unacceptable items.

1.4.2.4.3.2. Remediation Acceptable. The MCO will notify the customer when remediation efforts on items are determined to be acceptable and advise that further refusals to accept delivery of the acceptable items may result in a denial of any claim for loss or damage to those items. If the customer elects to accept delivery, the MCO will notify the destination PPSO/PPPO and they will direct the TSP to complete delivery of the acceptable items. If the customer still refuses delivery, the MCO will electronically notify the destination PPSO/PPPO and TSP that the customer still refuses delivery and the destination PPSO/PPPO will direct the TSP to dispose of the items.

1.4.2.5. *Accessorial Services payments for mold contamination.* Costs associated with mold remediation will normally be at the expense of the TSP, however, accessorial service payments may be authorized under limited circumstances. Accessorial services for mold mitigation will normally be authorized when the mitigating TSP is not liable for the damage. MCO's will determine liability. Other factors that may warrant accessorial service payments include, but are not necessarily limited to, the number and size of contaminated shipments, the extent of contamination, the availability of mitigation/ remediation services in the location, and the actions of the customer. Types of accessorial services that may be involved with mold mitigation/remediation include, but are not necessarily limited to SIT, preparation of new inventories, repacking, container costs, mold remediation firm services, estimate fees, drayage, TSP remediation costs, refused delivery charges, and disposal.

1.4.2.5.1. Destination PPSO/PPPO will approve accessorial service payments to TSP's for the cost of government ordered testing or inspection or other charges occasioned by such orders when no outward indicia of mold is present on the shipping container(s) and no mold is found in the container(s).

1.4.2.5.2. Code J, Code T and Code 5 mold contaminated shipments and shipments where the TSP is relieved from liability. Destination PPSO/PPPO will approve accessorial service payments to TSP's for mold remediation in all Code 5, Code J and Code T mold contaminated shipments regardless of liability, and on shipments where the TSP has been relieved of liability, up to the TSP's maximum liability for that shipment.

1.4.2.5.3. SIT before and during remediation on all other shipments. This service is normally at the expense of the TSP except for Code J, Code T, Code 5, or after a determination that the TSP is not liable.

1.4.2.5.4. Disposal after payment in lieu of remediation. Destination PPSO/PPPOs will approve accessorial service payments for TSP's disposing of mold contaminated items when the TSP has made a payment to the customer in lieu of remediation and the TSP has exceeded their maximum liability on the shipment.

1.4.2.5.5. Disposal after refused delivery. Destination PPSO/PPPOs will approve accessorial service payments to TSP's for refused delivery charges after remediation and the cost of disposal, when the customer refuses delivery if both of the following have occurred:

1) The MCO has determined that the refused delivery was unreasonable under the circumstances, and 2) the TSP has exceeded their maximum liability on the shipment.