

(1) CLAUSE PARAMOUNT

All carriage under this Bill of Lading to or from the United States shall have effect subject to the provisions of the Carriage of Goods by Sea Act of the United States, 46 U.S.C. sections 1900-1915 (hereafter, "COGSA"). Carriage to or from Canada shall have effect under the Water Carriage of Goods Act of Canada ("COGWA"). All carriage to and from other states shall be governed by the law of any state making the Hague Rules or Hague-Visby Rules compulsorily applicable to this Bill of Lading or if there be no such law, in accordance with the Hague Rules. The provisions of applicable law (except as may be otherwise specifically provided herein) shall govern before the goods are loaded on and after they are discharged from the vessel, whether the goods are carried on deck or under deck and throughout the entire time the goods are in the custody of the Carrier.

(2) DEFINITIONS:

- 2.1 "Ship" means the vessel named in this Bill of Lading, or any conveyance owned, chartered, or operated by Carrier or used by Carrier for the performance of this contract.
- 2.2 "Carrier" means FedEx Trade Networks Transport & Brokerage, Inc. (EMEA) B.V. on whose behalf this Bill of Lading has been signed.
- 2.3 "Merchant" includes the Shipper, the Receiver, the Consignor, the Consignee, the Holder of this Bill of Lading and any person having a present or future interest in the Goods or any person acting on behalf of any of the above-mentioned persons.
- 2.4 "Package" is the largest partially or completely covered or contained cargo made up by or for the Shipper which is delivered and entrusted to Carrier, including palletized units and each container stuffed and sealed by the Shipper or on its behalf, although the Shipper may have furnished a description of the contents of such sealed container on this Bill of Lading.
- 2.5 "Container" includes any container, trailer, transportable tank, lift van, flat, pallet, or any similar article of transport used to consolidate goods.
- 2.6 "Carrier's container or Carrier's equipment" includes containers or equipment owned, leased or used by Carrier in the transportation of Merchant's goods.
- 2.7 "Goods" mean the cargo described on the face of this Bill of Lading and, if the cargo is packed into container(s) supplied or furnished by or on behalf of the Merchant, includes the container(s) as well.

(3) SUBCONTRACTING

- 3.1 Carrier shall be entitled to subcontract directly or indirectly on any terms the whole or any part of the handling, storage, or carriage of the goods and all duties undertaken by Carrier in relation to the goods. Merchant warrants that no claim shall be made against any Subcontractor of Carrier or any other person claiming that it imposes or attempts to impose upon any of them or upon any of their vessel owned or operated by any of them any liability in connection with the goods, and if any such claims should nevertheless be made, to indemnify the Carrier against all consequences of such claims.
- 3.2 Every servant or agent or subcontractor (including sub-subcontractors) of Carrier shall be entitled to the same rights, exemptions from liability, defenses and immunities to which Carrier is entitled. For these purposes, Carrier shall be deemed to be acting as agent or trustee for such servants or agents or subcontractors, who shall be deemed to be parties to the contract evidenced in this Bill of Lading.

(4) ROUTE OF TRANSPORT

- 4.1 Carrier is entitled to perform the transport in any reasonable manner and by any reasonable means, methods and routes.
- 4.2 The Ship shall have the liberty, either with or without the goods on board, to at any time adjust navigational instruments, make trial trips, dry dock, go to repair yards, shift berths, take in fuel or stores, embark or disembark any persons, carry contraband and hazardous goods, sail with or without pilots, and save or attempt to save life or property.
- 4.3 If the goods, in whole or in part, are for any reason not carried on the Ship named in this Bill of Lading, or if loading the goods delays or is likely to detain the Ship, the Ship may proceed without carrying or loading the goods in whole or in part, and notice to Merchant of such sailing is hereby waived. Carrier may forward the goods under the terms of this Bill of Lading on the next available ship or at Carrier's option by any other means of transportation, whether by land, water or air.

(5) HINDRANCES AFFECTING PERFORMANCE

- 5.1 In any situation whatsoever, whether or not existing or anticipated before commencement of or during the transport, which in the judgment of Carrier (including for the purpose of this Article the Master and any person charged with the transport or safekeeping of the Goods) has given or is likely to give rise to danger, injury, loss, delay, or disadvantage of whatsoever nature to the Ship, Carrier, a vehicle, any person, the goods or any property, or has rendered or is likely to render it in any way unsafe, impracticable, unlawful, or against the interest of Carrier or Merchant to commence or continue the transport or to discharge the goods at the Port of Discharge or to deliver the goods at the place of delivery by the route and in the manner originally intended by Carrier, Carrier shall:
- (a) at any time be entitled to unpack the container(s) or otherwise dispose of the goods in such a way as Carrier may deem advisable at the risk and expense of Merchant, and/or
- (b) before the goods are loaded on the Ship, a vehicle, or other means of transport at the place of receipt or Port of Loading, be entitled to cancel the contract of carriage without compensation and to require Merchant to take delivery of the goods and, upon his failure to do so, to warehouse or place them at any place selected by Carrier at the risk and expense of Merchant, and/or
- (c) if the goods are at a place awaiting transshipment, be entitled to terminate the transport there and to store them at a place selected by Carrier at the risk and expense of Merchant, and/or
- (d) if the goods are loaded on the ship, a vehicle, or other means of transport whether or not approaching, entering, or attempting to enter the port of discharge, be entitled to refuse to deliver or to attempt to discharge the goods, be entitled to discharge the goods or any part of them at any port or place selected by Carrier or to carry them back to the port of loading or place of receipt and there discharge them.
- Any actions under (c) or (d) above shall constitute complete and final delivery and full performance of this contract, and Carrier thereafter shall be free from any responsibility for carriage of the goods. In any event, Carrier shall be entitled to full freight for any goods received for transportation and additional compensation for extra costs resulting from the circumstances referred to above.
- 5.2 If, after storage, discharge, or any actions according to subpart 5.1, above Carrier makes arrangements to store and/or forward the goods, it is agreed that the goods shall go only as Agent for and at the sole risk and expense of Merchant without any liability whatsoever in respect of such agency. Merchant shall reimburse Carrier forthwith upon demand for all extra freight charges and expenses incurred for any actions taken according to subpart 5.1, including delay or expense to the Ship, and Carrier shall have a lien upon the goods to that extent.
- 5.3 The situations referred to in subpart 5.1 above shall include, but shall not be limited to, those caused by the existence or apprehension of war, declared or undeclared, hostilities, riots, civil commotions, or other disturbances, closure of, obstacle in, or danger to any port or canal, blockade, prohibition, or restriction on commerce or trading quarantine, sanitary, or other similar regulations or restrictions, strikes, lockouts or other labor troubles, whether partial or general and whether or not involving employees of Carrier or its Subcontractors, or the closure of port, wharf, sea terminal, or similar place, shortage, absence or obstacles of labor or facilities for loading, discharge, delivery, or other handling of the goods, epidemics or diseases, bad weather, shallow water, ice, landslip, or other obstacles in navigation or carriage.
- 5.4 Carrier, in addition to all other liberties provided for in this Article, shall have liberty to comply with orders, directions, regulations or suggestions as to navigation or the carriage or handling of the goods or the Ship however given, by any actual or purported government or public authority, or by any committee or person having, under the terms of any insurance on the Ship, the right to give such order, direction, regulation, or suggestion. If by reason of and/or in compliance with any such order, direction, regulation, or suggestions, anything is done or is not done the same shall be deemed to be included within the contractual carriage and shall not be a deviation.

(6) BASIC LIABILITY

- 6.1 Carrier shall be liable for loss of or damage to the goods occurring between the time when it takes goods into its carriage and the time of delivery but shall not be liable for consequential damages arising from such loss or damage.
- 6.2 If it is established that the loss of or damage to the goods occurred during sea carriage, liability shall be governed by the legal rules applicable as provided in Section 1 of this Bill of Lading.
- 6.3 If it cannot be determined when the loss of or damage to the goods occurred, it shall be presumed that such loss or damage occurred during sea carriage and liability shall be governed as provided in Section 6.2 above.
- 6.4 Carrier does not undertake that the goods shall be delivered at any particular time and shall not be liable for any direct or indirect losses caused by any delay.
- 6.5 Carrier shall not be liable for any loss or damage arising from:
- (a) an act or omission of Merchant or person other than Carrier acting on behalf of Merchant from whom Carrier took the goods in charge,
- (b) compliance with the instructions of any person authorized to give them,
- (c) handling, loading, stowage or unloading of the goods by or on behalf of Merchant,
- (d) inherent vice of the goods,
- (e) lack or insufficiency of or defective condition of packing in the case of goods, which by their nature are liable to wastage or damage when not packed or when not properly packed,
- (f) insufficiency or inadequacy of marks or number on the goods, coverings or unit loads,
- (g) fire, unless caused by actual fault or privity of Carrier,
- (h) any cause or event which Carrier could not avoid and the consequences of which he could not prevent by the exercise of due diligence.
- 6.6 With respect to the transportation performed by Inland Carriers to the Port of Lading or from the Port of Discharge, the responsibility of Carrier shall be to procure transportation by such carriers (one or more) and such transportation shall be subject to the Inland Carriers' contracts of carriage or tariffs, which are incorporated herein by reference, and any law compulsorily applicable.
- 6.7 Where any claims are paid to Merchant by Carrier, Carrier shall automatically be subrogated to all rights of Merchant against all others, including Inland Carriers, on account of the losses of damages for which such claims are paid.

(7) COMPENSATION FOR LOSS AND DAMAGE

- 7.1 Unless otherwise mandated by compulsorily applicable law, Carrier's liability for compensation for loss of or damage to goods shall in no case exceed the amount of US\$500 per package or per customary freight unit, unless Merchant, with the consent of Carrier, has declared a higher value for the goods in the space provided on the front of this Bill of Lading and paid extra freight per Carrier's tariff, in which case such higher value shall be the limit of Carrier's liability. Any partial loss or damage shall be adjusted pro rata on the basis of such declared value. Where a container is stuffed by Shipper or on its behalf, and the container is sealed when received by Carrier for shipment, Carrier's liability will be limited to US\$500 with respect to the contents of each such container, except when the Shipper declares the value on the face hereof and pays additional charges on such declared value as stated in Carrier's tariff. The freight charged on sealed containers, when no higher valuation is declared by the Shipper, is based on a value of US\$500 per container. However, Carrier shall not in any case be liable for an amount greater than the actual loss to the person entitled to make the claim.
- 7.2 In any case where Carrier's liability for compensation may exceed the amounts set forth in Section 7.1 above, compensation shall be calculated by reference by the value of the goods, according to their current market price, at the time and place they are delivered, or should have been delivered, in accordance with this contract. Carrier shall have the option of replacing lost goods or repairing damaged goods.
- 7.3 If the value of the goods is less than US\$500 per package or per customary freight unit, their value for compensation purposes shall be deemed to be the invoice value, plus freight and insurance, if paid.
- 7.4 Carrier shall not be liable to any extent for loss of or damage to or, in connection with the precious metals, stones, or chemicals, jewelry, currency, negotiable instruments, securities, writings, documents, works of art, curios, heirlooms, or any other valuable goods including goods having particular value only for Merchant, unless the true nature and value of the goods have been declared in writing by Merchant before receipt of the goods by the Carrier or Inland Carrier, the same is inserted on the face of this Bill of Lading and additional freight has been paid as required.

(8) DESCRIPTION OF GOODS/SOLAS WEIGHT CERTIFICATION

- 8.1 Merchant warrants to Carrier that all particulars of the goods including, without limitation, the marks, number, quantity and weight, furnished by Merchant are correct and Merchant shall indemnify Carrier against all losses arising from any inaccuracy. Goods that cannot be identified as to marks or numbers, cargo sweeping liquid residue, and any unclaimed goods not otherwise accounted for may be allocated for the purpose of completing delivery to the various Merchants of goods of like character in proportion to any apparent shortage, loss of weight or damage.
- 8.2 Merchant acknowledges that it is required by the applicable International Maritime Organization's Safety of Life at Sea Convention to provide verified weights from calibrated and certified equipment of all cargo that is to be tendered to steamship lines and Merchant hereby confirms that Carrier is entitled to rely upon the accuracy of such weights and that Carrier may counter-sign or endorse the weight as Carrier's own certified weight to the steamship line carrying the cargo. The Merchant agrees that it shall indemnify the Carrier against any and all claims, losses, penalties or other costs resulting from any incorrect, questionable, incomplete or otherwise insufficient information provided by the Merchant or any of its agents as set forth above.

(9) CARRIER'S CONTAINERS

- 9.1 If goods are not received by Carrier already in containers, Carrier may pack them in any type container.
- 9.2 Merchant shall be liable to Carrier for damage to Carrier's containers or equipment if such damage occurs while such equipment is in control of Merchant or his Agents.
- 9.3 Merchant indemnifies Carrier for any damage or injury to persons or property caused by Carrier's containers or equipment during handling by or when in possession or control of Merchant.

(10) CONTAINER PACKED BY MERCHANT

- If Carrier receives the goods already packed into containers:
1. This Bill of Lading is prima facie evidence of the receipt of the particular number of containers set forth, and that number only. Carrier accepts no responsibility with respect to the order and condition of the contents of the containers.
2. Merchant warrants that the stowage and seals of the containers are safe and proper and suitable for handling and carriage and indemnifies Carrier for any injury, loss or damage caused by breach of this warranty;
3. Delivery shall be deemed as full and complete performance when the containers are delivered by Carrier with the seals intact; and
4. Carrier has the right but not the obligation to open and inspect the containers at any time without notice to Merchant, and expenses resulting from such inspections shall be borne by Merchant; and
5. Merchant shall inspect containers before stuffing them and the use of the containers shall be prima facie evidence of their being sound and suitable for use.

(11) DANGEROUS GOODS

- 11.1 Merchant may not tender goods of a dangerous nature without written application to Carrier and Carrier's acceptance of the same. In the application, Merchant must identify the nature of the goods with reasonable specificity as well as the names and addresses of the Shipper and the Consignee.
- 11.2 Merchant shall distinctly and permanently mark the nature of the goods on the outside of the package and container in a form and manner as required by law and shall submit to Carrier or to the appropriate authorities all necessary documents required by law or by Carrier for the transportation of such goods.
- 11.3 If the goods subsequently, in the judgment of Carrier, become a danger to Carrier, the Ship, or other cargo, Carrier may dispose of the goods without compensation to Merchant and Merchant shall indemnify Carrier for any loss or expenses arising from such action.

(12) DECK CARGO

- 12.1 Carrier has the right to carry the goods in any container under deck or on deck.
- 12.2 Carrier is not required to note "on deck stowage" on the face of this Bill of Lading and goods so carried shall constitute under deck stowage for all purposes including the General Average.
- 12.3 Except as otherwise provided by any law applicable to this contract, if this Bill of Lading states that the cargo is stowed on deck, then Carrier shall not be liable for any non-delivery, misdelivery, delay or loss to goods carried on deck, whether or not caused by Carrier's negligence or the Ship's unseaworthiness.

(13) HEAVY LIFT

- 13.1 Single packages with weight exceeding 2,240 pounds, gross, not presented to Carrier in enclosed containers, must be declared in writing by Merchant before receipt of the packages by Carrier. The weight of such packages must be clearly and durably marked on the outside of each package in letters and figures not less than two inches high.
- 13.2 If Merchant fails to comply with the above provisions, Carrier shall not be liable for any loss of or damage to the goods, persons or property, and Merchant shall be liable for any loss of or damage to persons or property resulting from such failure and Merchant shall indemnify Carrier against any loss or liability suffered or incurred by Carrier as a result of such failure.
- 13.3 Merchant agrees to comply with all laws or regulations that may be applicable during the carriage concerning overweight containers and Merchant shall indemnify Carrier against any loss or liability suffered or incurred by Carrier as a result of Merchant's failure to comply with this provision.

(14) DELIVERY

- 14.1 Carrier shall have the right to deliver the goods at any time at any place designated by Carrier within the commercial or geographic limits of the Port of Discharge or place of delivery shown in this Bill of Lading.
- 14.2 Carrier's responsibility shall cease when delivery has been made to Merchant, any person authorized by Merchant to receive the goods, or in any manner or to any other person in accordance with the custom and usage of the Port of Discharge of place of delivery.
- 14.3 If goods should remain in Carrier's custody after discharge from the Ship and possession is not taken by Merchant, after notice and within the time allowed in Carrier's applicable tariff, the goods may be considered to have been delivered to Merchant, and at Carrier's option, may be disposed of or stored at Merchant's expense.

(15) NOTICE OF CLAIM

Written notice of claims for loss of or damage to goods occurring or presumed to have occurred while in the custody of Carrier must be given to Carrier at the Port of Discharge before or at the time of removal of the goods by one entitled to delivery. If such notice is not provided, removal shall be prima facie evidence of delivery by Carrier. If such loss or damage is not apparent, Carrier must be given written notice within 3 days of the delivery.

(16) FREIGHT AND CHARGES

- 16.1 Freight may be calculated on the basis of the particulars of the goods furnished by Merchant, who shall be deemed to have guaranteed to Carrier the accuracy of the contents, weight, measure, or value as furnished by him at the time of receipt of the goods by the Inland Carrier, but Carrier for the purpose of ascertaining the actual particulars may at any time and at the risk and expense of Merchant open the container or package and examine contents, weight, measure, and value of the goods. In case of incorrect declaration of the contents, weight, measure and/or value of the goods, Merchant shall be liable for and bound to pay to Carrier:
- (a) the balance of freight between the freight charged and that which would have been due had the correct details been given, plus
- (b) expenses incurred in determining the correct details, plus
- (c) as liquidated and ascertained damages, an additional sum equal to the correct freight.
- Quotations as to fees, rates of duty, freight charges, insurance premiums or other charges given by Carrier to Merchant are for informational purposes only and are subject to change without notice and shall not under any circumstances be binding upon Carrier unless Carrier in writing specifically undertakes the handling of transportation of the shipment at a specific rate.
- 16.2 Freight shall be deemed earned on receipt of goods by Carrier, whether the freight be intended to be prepaid or collected at destination. Payment shall be in full and in cash without any offset, counterclaim, or deduction, in the currency named in this Bill of Lading, or another currency at Carrier's option. Interest at 2% shall run from the date when freight and charges are due. If the service is a Freight Forwarder, the Freight Forwarder is used for this performance, those services shall be deemed to be performed as Agent of Merchant and payment of freight to the Freight Forwarder is not payment to Carrier. Full freight shall be paid on damaged or unsound goods. In any referral for collection or action against Merchant for monies due to Carrier, upon recovery by Carrier, Merchant shall pay the expenses of collection and litigation, including reasonable attorneys' fees.
- 16.3 Merchant shall be liable for all dues, duties, fines, taxes and charges, including consular fees, levied on the goods. Merchant shall be liable for return freight and charges on the goods if they are refused export or import by any government. Merchant shall be liable for all demurrage, detention or other charges imposed on the goods or their containers by third parties.
- 16.4 All persons encompassed within the definition of "Merchant" as provided in Section 2 of this Bill of Lading shall be jointly and severally liable to Carrier for the payment of all freight and charges, including advances. This provision shall apply regardless of whether the front of this Bill of Lading has been marked "prepaid" or "freight prepaid" so long as freight and charges remain unpaid.
- 16.5 All persons encompassed within the definition of "Merchant" as provided in Section 2 of this Bill of Lading shall jointly and severally indemnify Carrier for all claims, fines, penalties, damages, costs and other amounts which may be incurred or imposed upon Carrier by reason of any breach of Merchant of any of the provisions of this Bill of Lading or of any statutory or regulatory requirements.

(17) LIEN

Carrier shall have a general lien on any and all property (and documents relating thereto) of Merchant, in its possession, custody or control or en route, for all claims for charges, expenses or advances incurred by Carrier in connection with any shipments of Merchant and if such claim remains unsatisfied for 30 days after demand for its payment is made, Carrier may sell at public auction or private sale, upon 10 days written notice by registered mail to Merchant, the goods, wares and/or merchandise or so much as may be necessary to satisfy such lien and the costs of recovery, and apply the net proceeds of such sale to the payment of the amount due. Any surplus from such sale shall be transmitted to Merchant, and Merchant shall be liable for any deficiency in the sale.

(18) TIME BAR

Carrier shall be discharged from all liability for loss of or damage to goods unless suit is brought within 12 months after delivery of the goods or the date when the goods should have been delivered. The time bar for overcharge claims shall be that set forth in Carrier's applicable tariff or 36 months, whichever is shorter and of legal effect under the laws of the country having jurisdiction over this contract.

(19) JURISDICTION

Any claim or dispute arising under this Bill of Lading shall be determined according to the laws of the Netherlands. Actions against the Carrier may only be instituted in the Court of Rotterdam.

(20) GENERAL AVERAGE

- 20.1 General Average shall be adjusted at New York, or any other port at Carrier's option, according to the York-Antwerp Rules of 1994 with the exception of Sections 21 and 22. The General Average statement shall be prepared by adjusters appointed by Carrier.
- 20.2 In the event of accident, damage, danger or disaster after commencement of the voyage resulting from any cause whatsoever, Merchant shall contribute with Carrier in General Average to the payment of any sacrifice, loss or expense of a General Average nature that may be made or incurred, and shall pay salvage or special charges incurred in respect of the goods. If a salving vessel is owned or operated by Carrier, salvage shall be paid for as fully as if the salving vessel or vessels belonged to strangers.

(21) BOTH-TO-BLAME COLLISION CLAIM

If the ship comes into collision with another vessel as a result of negligence of the other vessel and any negligence or fault on the part of Carrier or its servants or subcontractors, Merchant shall indemnify Carrier against all loss or liability to the other or non-carrying vessel or her owners, insofar as such loss or liability represents loss of or damage to or any claim whatsoever of Merchant paid or payable by the other or non-carrying vessel or her owners to Merchant and setoff, recouped or recovered by the other or non-carrying vessel or her owners as part of their claim against the carrying ship or her owner. This provision shall apply as well where the owners, operators or those in charge of any ship or ships or objects other than, or in addition to, the colliding ships or objects are at fault with respect to a collision or contact.

(22) CARRIERS' TARIFFS

- 22.1 The goods carried under this Bill of Lading are also subject to all the terms and conditions of tariff(s) on file with the United States Federal Maritime Commission or any other regulatory agency which governs a particular portion of the carriage and the terms are incorporated herein as part of the terms and conditions of this Bill of Lading.
- 22.2 Copies of Carriers' tariffs may be obtained from Carrier or its Agents upon request or from the governmental body with whom the tariff has been filed.

(23) PERISHABLE CARGO

- 23.1 Goods of a perishable nature shall be carried in ordinary containers without special protection, services or other measures unless there is noted on the reverse side of this Bill of Lading that the goods will be carried in a refrigerated, heated, electrically ventilated or otherwise specially equipped container or are to receive special attention in any way. Carrier shall not be liable for any loss of or damage to goods in a special hold or container arising from latent defects, breakdown, or stoppage of the refrigeration, ventilation or heating machinery, insulation, ship's plant, or other such apparatus of the vessel or container, provided that Carrier shall before or at the beginning of the transport exercise due diligence to maintain the special hold or container in an efficient state.
- 23.2 Merchant undertakes not to tender for transportation any goods which require refrigeration without given written notice of their nature and the required temperature setting of the thermostatic controls before receipt of the goods by Carrier. In case of refrigerated containers packed by or on behalf of Merchant, Merchant warrants that the goods have been properly stowed in the container and that the thermostatic controls have been adequately set before receipt of the goods by Carrier.
- 23.3 Merchant's attention is drawn to the fact that refrigerated containers are not designed to freeze down cargo which has not been pre-treated for stuffing at or below its designated carrying temperature. Carrier shall not be responsible for the consequences of cargo tendered at a higher temperature than that required for the transportation.
- 23.4 If the above requirements are not complied with, Carrier shall not be liable for any loss of or damage to the goods whatsoever.

(24) SEVERABILITY

The terms of this Bill of Lading shall be severable and if any part or term hereof shall be held invalid, such holding shall not affect the validity or enforceability of any other part or term hereof.

(25) VARIATION OF THE CONTRACT

No servant or Agent of Carrier shall have power to waive or vary any of the terms hereof unless such variation is in writing and is specifically authorized or ratified in writing by Carrier.