

## CONDITIONS OF CARRIAGE

**Article 1. Identity of carrier:** The carrier is Kintetsu World Express (Canada) Inc. (the "Carrier") and the shipper and consignee undertake that no claim or allegation whether arising in contract, bailment, tort or otherwise shall be made against any servant, agent, or subcontractor of the Carrier which imposes or attempts to impose upon any of them any liability whatsoever in connection with the goods or the carriage of the goods whether or not arising out of negligence on the part of such person, and, if any such claim or allegation should nevertheless be made, to indemnify the Carrier against all consequences thereof.

**Article 2. Obligations of carrier.** The Carrier acknowledges having received at the point of origin on the date specified, from the shipper the property herein described, in apparent good order, except as noted marked (contents and conditions of contents of package unknown), consigned and destined as indicated on the front of bill of lading, which the Carrier agrees to carry and to deliver to the consignee at the said destination, subject to the conditions stipulated in this bill of lading. Any change in the address for delivery must be provided in writing to the Carrier.

**Article 3. Exemptions from liability:** The Carrier shall not be liable for loss, damage or delay to any of the goods described in the bill of lading caused by an act of God, the Queen's or public enemies, riots, strikes, a defect or inherent vice in the goods, the act or default of the shipper, owner or consignee, authority of law, quarantine or differences in weights of grain, seed, or other commodities caused by natural causes.

**Article 4. Routing by carrier:** In case of physical necessity where the Carrier forwards the goods by a conveyance that is not a licensed rental vehicle, the liability of the Carrier is the same as though the entire carriage were by licensed rental vehicle.

**Article 6. Delay:** The Carrier is not bound to transport goods by any particular vehicle or in time for any particular market, unless by agreement specifically endorsed on the bill of lading and signed by the parties thereto.

**Article 5. Stoppage in transit:** Where goods are stopped and held in transit at the request of the party entitled to do so, the goods are held at the risk of that party.

**Article 6. Valuation:** Subject to Article 7 and Article 8 the amount of any loss or damage for which the Carrier is liable, whether or not the loss or damage results from negligence, gross negligence or willful misconduct of the Carrier, shall be computed on the basis of:

- a) the value of the goods at the time of shipment including the freight and other costs if paid; or
- b) where a value lower than that referred to in paragraph a has been represented in writing by the shipper or has been agreed upon, such lower value shall be the maximum liability.

**Article 7. Maximum liability:** The amount of any loss or damage computed in accordance with the provisions of paragraph a or b of Article 6 must not exceed CAD \$2.00 per pound of the total weight of the goods, in the case of a total loss, or the weight of the damaged portion of the goods in the case of a partial loss, unless the shipper has declared a higher value on the front of the bill of lading. This maximum liability applies whether or not the loss or damage results from negligence, gross negligence or willful misconduct of the Carrier.

**Article 8. Consequential loss.** The Carrier shall under no circumstances whatsoever and howsoever arising, including where the Carrier was negligence, gross negligence or willful misconduct of the Carrier, be liable for any direct, indirect or consequential loss, including any loss of profit, business losses or loss of reputation.

**Article 9. Shipper's risk:** Where it is agreed that the goods are carried at the risk of the shipper of the goods, such agreement covers all risks incidental to the transportation of the goods.

**Article 10. Notice of Claim:**

- (1) The Carrier is not liable for loss, damage or delay to any goods carried under the bill of lading unless written notice thereof setting out particulars of the origin, destination and date of shipment of the goods and the estimated amount claimed in respect of such loss, damage or delay is given to the Carrier within 60 days after the delivery of the goods, or, in the case of failure to make delivery, within 9 months from the date of shipment.
- (2) The final statement of the claim must be filed within 9 months from the date of shipment together with a copy of the paid freight bill.

**Article 11. Articles of extraordinary value:** The Carrier is not bound to carry any documents, specie or any articles of extraordinary value unless by a special agreement to do so. If such goods are carried without a special agreement and the nature of the goods is not disclosed herein, the Carrier shall not be liable for any loss or damage in excess of the maximum liability stipulated in Article 7 above.

**Article 12. Freight charges:**

- (1) Unless otherwise agreed, the freight and all other lawful charges accruing on the goods shall be paid at the latest before delivery and, if upon inspection, it is ascertained that the goods shipped are not those described in the bill of lading, the freight charges must be paid upon the goods actually shipped with any additional charges lawfully payable thereon.
- (2) Freight and all other lawful charges shall be considered completely earned on receipt of the goods by the Carrier and shall be paid and non returnable in any event, good or conveyance lost or not lost.
- (3) All freight and all other lawful charges shall be paid without any set-off, counter-claim, deduction or stay of execution.
- (4) If the shipper or consignee fail to pay the freight and all other lawful charges when due they shall be liable also for payment of interest due on any outstanding and/or overdue sum, reasonable attorney fees and expenses incurred in collecting any sums due to the Carrier.
- (5) Payment of freight and other charges to a freight forwarder, broker or anyone other than the Carrier or its authorised agent, shall not be deemed payment to the Carrier and shall be made at the shipper's, consignee's or owner of the goods' sole risk.
- (6) KWE will be solely liable for freight charges to the contracted carrier in accordance to Article 11 of the Carrier Confirmation contract.. The designated carrier **irrevocably waives** any rights to collect freight charges or other charges from any other party.

**Article 13. Dangerous goods:** Every person, whether as principal or agent, shipping explosives or dangerous goods without previous full disclosure to the Carrier as required by law, shall defend, indemnify and hold harmless the Carrier against all loss, damage or delay caused thereby, and such goods may be warehoused at the shipper's risk and expense.

**Article 14. Undelivered goods:**

- (1) where, through no fault of the Carrier, the goods cannot be delivered, the Carrier shall immediately give notice to the shipper and consignee that delivery has not been made, and shall request disposal instructions.
- (2) pending receipt of such disposal instructions:
  - (a) the goods may be stored in the warehouse of the Carrier, subject to a reasonable charge for storage;
  - (b) or provided that the Carrier has notified the shipper of his intention, the goods may be removed to, and stored in public or licensed warehouse at the expense of the shipper without liability on the part of the Carrier and subject to the lien for all freight and other lawful charges provided for in Article 20, the Carrier shall keep all C.O.D. monies separate from the other revenues and funds of his business in a separate trust fund or account.

**Article 15. Return of goods:** Where notice has been given by the Carrier in accordance with paragraph 1 of Article 14, and no disposal instructions have been received within 10 days from the date of such notice, the Carrier may return to the shipper, at the shipper's expense all undelivered shipments for which such notice has been given.

**Article 16. Alterations:** Subject to Article 17, any alteration, or addition or erasure in the bill of lading shall be signed or initialed by the shipper or his agent and the Carrier or his agent and unless so acknowledged shall be without effect.

**Article 17. Weights:** It shall be the responsibility of the shipper to show correct shipping weights of the shipment on the bill of lading. Where the actual weight of the shipment does not agree with the weight shown on the bill of lading, the weight shown thereon is subject to correction by the Carrier.

**Article 18. C.O.D. shipments:**

The Carrier shall not deliver a C.O.D. shipment unless payment is received in full.

The charge for collecting and remitting the amount of C.O.D. bills for C.O.D. shipments must be collected from the consignee unless the shipper has otherwise so indicated and instructed on the bill of lading. The Carrier shall remit all C.O.D. monies to the shipper or his agent within 15 days after collection.

**Article 19. Limitation period.** The Carrier shall in any event be discharged from all liability whatsoever in respect of the goods, unless suit is brought within one year of their delivery or of the date when they should have been delivered.

**Article 20. Lien.** The Carrier shall have a lien on the goods and any documents relating thereto for all sums payable to the Carrier under this bill of lading or any sums payable by the shipper or consignee on any other contract. The Carrier may exercise his lien at any time and any place in its sole discretion, whether the contractual carriage is completed or not. In any event any lien shall extend to cover the cost of recovering any sums due and for that purpose the Carrier shall have the right to sell the goods by public auction or private treaty, without notice to the shipper, owner of the goods or consignee. The Carrier's lien shall survive delivery of the goods.

**Article 21. Law and Jurisdiction.** This bill of lading shall be governed by and construed in accordance with the laws applicable in the province of Ontario and all disputes arising hereunder shall be



determined by the Courts of Ontario to the exclusion of the jurisdiction of the courts of another country.

**Article 22. Other Specifications.** All other specification agreed to by the parties shall be indicated on the bill of lading.