

# **FS2 Global Solutions (FS2)**

## Terms and Conditions of Carriage

## Article 1 - Definitions

### 1.1. AGENT

Except when the context otherwise requires, any person who has authority, expressed or implied, to act for or on behalf of CARRIER in relation to the CARRIAGE of CARGO.

### 1.2. AIR WAYBILL

Any document made out by or on behalf of the SHIPPER, which evidences the contract between the SHIPPER and CARRIER of cargo.

### 1.3. APPLICABLE CONVENTION

Unless the context requires otherwise, whichever of the following instruments is applicable to the CARRIAGE:

- 1.3.1. the Convention for the Unification of Certain Rules Relating to International Carriage by Air, signed at Warsaw, 12 October 1929; (hereinafter referred to as the Warsaw Convention);
- 1.3.2. the - Warsaw Convention as amended at The Hague on 28 September 1955;
- 1.3.3. the Warsaw Convention as amended by Additional Protocol No. 1 of Montreal 1975;
- 1.3.4. the Warsaw Convention as amended at The Hague 1955 and by Additional Protocol No. 2 of Montreal 1975;
- 1.3.5. the Warsaw Convention as amended at The Hague 1955 and by Protocol No. 4 of Montreal 1975;
- 1.3.6. the Convention for the Unification of Certain Rules for International Carriage by Air, done at Montreal on 28 May 1999; (the Montreal Convention of 1999).

### 1.4. CARGO (which is equivalent to the term GOODS)

Anything carried or to be carried in an aircraft or by any other means of transportation except baggage carried under a passenger ticket and baggage check, and includes any item moving under an AIR WAYBILL or SHIPMENT RECORD.

### 1.5. CARRIAGE (which is equivalent to the term transportation)

CARRIAGE of CARGO by air or by any other means of transportation, whether gratuitously or for reward.

### 1.6. CARRIER

Includes the air carrier designated in the AIR WAYBILL or the SHIPMENT RECORD and all carriers that carry or undertake to carry the CARGO or to perform any other services related to such CARRIAGE.

### 1.7. CHARGES COLLECT

The charges entered on the AIR WAYBILL or SHIPMENT RECORD for collection from the CONSIGNEE against delivery of the SHIPMENT.

### 1.8. CONSIGNEE

The person whose name appears on the AIR WAYBILL or SHIPMENT RECORD, as the party to whom the SHIPMENT is to be delivered by CARRIER.

### 1.9. DAYS

Full calendar days, including Sundays and legal holidays; provided that for purposes of notification the balance of the day upon which notice is dispatched shall not be counted.

### 1.10. ELECTRONIC MONITORING DEVICES

Equipment for tracking of SHIPMENTS or equipment to record transport or SHIPMENT related data attached at or located in the SHIPMENT, including but not limited to temperature monitoring devices, cargo tracking devices etc.

### 1.11. DELIVERY SERVICE

The surface CARRIAGE of inbound SHIPMENTS from the airport of destination to the address of the CONSIGNEE or that of his designated agent or to the custody of the appropriate government agency when required.

### 1.12. INDEMNIFY

The commitment of SHIPPER to fully indemnify and hold CARRIER, its officers, employees, agents and authorized representatives harmless from any and all liability, claims, loss, delay, damages, costs (including attorney's fees) and expenses incurred by the CARRIER in relation to any SHIPPER's obligation (and/or non-compliance of such obligation) or liability stipulated in these Conditions of carriage.

### 1.13. PICK-UP SERVICE

The surface CARRIAGE of outbound SHIPMENTS from the point of pickup at the address of the SHIPPER or that of his designated agent to the airport of departure.

### 1.14. READY FOR CARRIAGE

A SHIPMENT that is acceptable to CARRIER and ready to be transported by CARRIER, as described in Article 3 and accompanied by all the documentations required in Article 4.

### 1.15. SHIPMENT

Except as otherwise provided herein, one or more packages or pieces of CARGO accepted by CARRIER from one SHIPPER at one address, received for in one lot and under a single AIR WAYBILL or a single SHIPMENT RECORD, for CARRIAGE to one CONSIGNEE at one destination address.

### 1.16. SHIPMENT RECORD

Any record of CARRIAGE preserved by CARRIER, evidenced by means other than an AIR WAYBILL.

### 1.17. SHIPPER (which is equivalent to the term consignor)

The person whose name appears on the AIR WAYBILL or SHIPMENT RECORD, as the party contracting with CARRIER for the CARRIAGE of CARGO.

### 1.18. SPECIAL DRAWING RIGHT

A Special Drawing Right as defined by the International Monetary Fund.

## Article 2 - Applicability

### 2.1. GENERAL

These conditions shall apply to all CARRIAGE of CARGO, including all services incidental thereto, performed by or on behalf of CARRIER; provided however that if such CARRIAGE is International Carriage as defined in the APPLICABLE CONVENTION such CARRIAGE shall be subject to the provisions of the APPLICABLE CONVENTION and to these conditions to the extent that these conditions are not inconsistent with the provisions of such APPLICABLE CONVENTION. No provision of these Conditions of Carriage shall be deemed unenforceable if it is subject to an interpretation that would render it enforceable. If a court of competent jurisdiction finds that any provision of this Agreement is unenforceable, in whole or in part, (a) such a finding will not disturb the validity and enforceability of the remaining provisions of these Conditions of Carriage, and (b) the court shall have the authority to modify and/or "blue pencil" this Agreement in order to render it enforceable and to effect the original intent of the Parties to the fullest extent permitted by law.

## 2.2. APPLICABLE LAWS AND CARRIER's TARIFFS

To the extent not in conflict with 2.1 all CARRIAGE and other services performed by CARRIER are subject to:

- 2.2.1. applicable laws (including national laws implementing a Convention or extending the rules of the APPLICABLE CONVENTION to CARRIAGE which is not International Carriage as defined in the APPLICABLE CONVENTION) government regulations, orders and requirements;
- 2.2.2. these conditions and other applicable tariffs, rules, regulation and timetables (but not the times of departure and arrival therein specified) of CARRIER which may be inspected at any of its offices and at airports from which it operates regular services.

## 2.3. GRATUITOUS CARRIAGE

To the extent permitted by law with respect to gratuitous CARRIAGE, CARRIER reserves the right to exclude the application of all or any part of these conditions.

## 2.4. CHARTERS

With respect to CARRIAGE of CARGO performed pursuant to a charter agreement with CARRIER, such CARRIAGE shall be subject to CARRIER's charter tariffs applicable thereto (if any) and these conditions shall not apply except to the extent provided in said charter tariff. Where CARRIER has no charter tariff applicable to such charter agreement, these conditions shall apply to such agreement except that CARRIER reserves the right to exclude the application of all or any part of these conditions and, in case of divergence between the applicable provisions of these conditions and the conditions contained or referred to in the charter agreement, the latter shall prevail and the SHIPPER, by accepting CARRIAGE pursuant to a charter agreement, whether or not concluded with the SHIPPER, agrees to be bound by the applicable terms thereof.

## 2.5. CHANGE WITHOUT NOTICE

These conditions and the published and/or distributed rates and charges are subject to change without notice except to the extent otherwise provided by applicable law or government regulations or order; provided however that no such change shall apply to a contract of CARRIAGE after the date of conclusion of the contract of CARRIAGE or after the date the rate or charge for the CARRIAGE has been entered in the SHIPMENT RECORD.

## 2.6. EFFECTIVE RULES

All CARRIAGE of CARGO governed by these conditions shall be subject to CARRIER's rules, regulations and tariffs in effect on the date of the acceptance of the contract of CARRIAGE, provided that in the event of inconsistency between these conditions and CARRIER's rules, regulations and tariffs, these conditions shall prevail.

# Article 3 – Acceptability of Goods for CARRIAGE

## 3.1. CARGO ACCEPTABLE

- 3.1.1. CARRIER may transport, subject to the availability of suitable equipment and space, all SHIPMENTS, unless otherwise excluded by CARRIER's regulations and provided:
  - 3.1.1.1. the transportation, or the exportation or importation thereof is not prohibited by the laws or regulations of any country to be flown and/or transported from, to or through;

- 3.1.1.2. they are packed in a manner suitable for CARRIAGE and ready for CARRIAGE as required by the issuing CARRIER and any subsequent CARRIER;
- 3.1.1.3. they are accompanied by the requisite shipping documents;
- 3.1.1.4. they are not likely to endanger aircraft or any other means of transportation, persons or property, or cause annoyance to operating crew and/or passengers.

- 3.1.2. To the extent permitted by law the CARRIER reserves the right without assuming any liability to refuse CARRIAGE of CARGO when circumstances so require.

## 3.2. VALUATION LIMIT OF SHIPMENT

CARRIER may refuse CARRIAGE of SHIPMENTS having a declared value for CARRIAGE in excess of the amount specified and/or determined by CARRIER.

## 3.3. PACKING AND MARKING OF CARGO

- 3.3.1. SHIPPER is responsible for ensuring that the CARGO is packed in an appropriate way for CARRIAGE so as to ensure that it can be carried safely with ordinary care in handling, so as to protect it against loss, damage or deterioration and so as not to injure or damage any persons, goods or property. Each package shall be legibly and durably marked so as to identify the AIR WAYBILL number, SHIPPER, CONSIGNEE and, when applicable, any special handling instruction due to the nature of the CARGO and CARRIER shall incur no liability if SHIPPER fails to do so. SHIPMENTS likely to be subject to robbery or theft shall be packaged without indication of their contents.

- 3.3.2. The CARRIER reserves the right to refuse the transportation of cargo that is not suitably packed and/or marked.

## 3.4. SPECIAL CARGO

- 3.4.1. Special CARGO, including but not limited to high value, hazardous and/or dangerous good and fragile goods, is acceptable only under the conditions set forth in CARRIER's regulations applicable to the CARRIAGE of such CARGO or as instructed by CARRIER.
- 3.4.2. Hazardous and or dangerous goods must be marked as such in accordance with applicable laws and regulations and/or as instructed by CARRIER.

## 3.5. RESPONSIBILITY FOR NON-OBSERVANCE OF CONDITIONS RELATING TO CARGO

Responsibility for non-observance of the conditions relating to the CARRIAGE of CARGO rests upon the SHIPPER who shall INDEMNIFY the CARRIER in relation to the CARRIAGE of any such CARGO.

## 3.6. CARRIER'S RIGHT OF INSPECTION

CARRIER reserves the right to examine the packaging and contents of all SHIPMENTS and to enquire into the correctness or sufficiency of information licenses or documents tendered in respect of any SHIPMENT but CARRIER shall be under no obligation to do so.

## 3.7. UNIT LOAD DEVICES

Unless otherwise provided for by the APPLICABLE CONVENTION or law to the benefit of the rightful claimant, CARRIER shall not incur any liability for damage or loss of SHIPMENT that was

part of a unit load device (ULD) that was built solely by SHIPPER and SHIPPER shall INDEMNIFY CARRIER in relation to damage or loss of such SHIPMENT or any part thereof. For the avoidance of doubt, such ULD shall be considered as one single unit. In any case, when SHIPPER undertakes to load a unit load device (ULD) he must comply with CARRIER's loading instructions and the SHIPPER assumes liability and shall INDEMNIFY CARRIER for all damages or loss or any other irregularity to CARGO arising out of or connected (i) with the build-up of the ULD, (ii) the lack of READY FOR CARRIAGE status, and or (iii) with the fact, that the shipments do not correspond with documents and booked values. The SHIPPER shall INDEMNIFY CARRIER for therewith connected claims made by third parties. In addition, SHIPPER shall be responsible for the ULD and other auxiliary equipment as defined in the "General Conditions of the use of ULD and other Auxiliary Equipment released to the CARRIER's Customers" which is available on:

### 3.8. ELECTRONIC MONITORING DEVICES

- 3.8.1. At the time of booking, SHIPPER must notify CARRIER of the type/model and total number of Electronic Monitoring Devices included in the consignment.
- 3.8.2. Such Electronic Monitoring Devices are only permissible if they are pre-approved by FRONTIER TRANSPORT SOLUTIONS and are suitable for the use on board of aircrafts and are serviceable as per the Manufacturer's Operating Manual. The CARRIER must be notified in case of any revision or introduction of any additional data sensor to such devices. The use of such devices does not create any additional obligations of the CARRIER. Using such devices is solely permitted for quality purposes.
- 3.8.3. All data/information collected by the SHIPPER from the Electronic Monitoring Devices, including but not limited to cabin pressure, cabin temperature, cabin humidity, times, positions, acceleration, deceleration etc., shall at all times be treated as confidential and shall not be published, disclosed or circulation without prior written consent of the CARRIER.

## Article 4 – Documentation

### 4.1. AIR WAYBILL

The SHIPPER shall make out or have made out on his behalf, an AIR WAYBILL in the form, manner and number of copies prescribed or instructed by CARRIER, and shall deliver such AIR WAYBILL to CARRIER simultaneously with the acceptance of the CARGO by CARRIER for CARRIAGE. However, charges for CARRIAGE and other charges, insofar as they have been ascertained, shall be inserted in the AIR WAYBILL and/or on the invoice by CARRIER. CARRIER may require the SHIPPER to make out, or have made out on his behalf, separate AIR WAYBILLS when there is more than one package.

### 4.2. SHIPMENT RECORD

CARRIER, with the expressed or implied consent of the SHIPPER, if required by the APPLICABLE CONVENTION, may substitute for the delivery of an AIR WAYBILL a SHIPMENT RECORD to preserve a record of the CARRIAGE to be performed. If such SHIPMENT RECORD is used CARRIER shall, if so requested by the SHIPPER, deliver to the SHIPPER in accordance with CARRIER's regulations a receipt for the CARGO permitting identification of the SHIPMENT and access, in accordance with CARRIER's regulations, to the information contained in the SHIPMENT RECORD.

### 4.3. APPARENT CONDITION / PACKING OF THE CARGO

If the apparent order and condition of the CARGO and/or packing is in any way defective the SHIPPER shall, if an AIR WAYBILL is delivered, include on the AIR WAYBILL a statement of such apparent order and condition. If no AIR WAYBILL is delivered, the SHIPPER shall advise CARRIER of the apparent order and condition of the CARGO, to enable CARRIER to insert an appropriate reference thereto in the SHIPMENT RECORD. However, if the SHIPPER fails to include such statement in the AIR WAYBILL or to advise CARRIER of the apparent order and condition of the CARGO, or if such statement or advice is incorrect, CARRIER may include in the AIR WAYBILL or insert in the SHIPMENT RECORD a statement of the apparent order and condition of the CARGO, or note a correction thereto.

### 4.4. PREPARATION, COMPLETION OR CORRECTION BY CARRIER

CARRIER may at the request of the SHIPPER expressed or implied, make out the AIR WAYBILL in which event, subject to proof to the contrary, CARRIER shall be deemed to have done so on behalf of the SHIPPER. If the AIR WAYBILL handed over with the CARGO or if the particulars and statements relating to the CARGO furnished by or on behalf of the SHIPPER to CARRIER for insertion in the SHIPMENT RECORD do not contain all the required particulars, or if the AIR WAYBILL or such particulars or statements contain any error, CARRIER is authorized to complete or correct the AIR WAYBILL or particulars or statements to the best of CARRIER's ability without being under any obligation to do so. CARRIER may charge a fee to SHIPPER for the correction or completion of such AIR WAYBILL as a consequence.

### 4.5. RESPONSIBILITY FOR PARTICULARS

The SHIPPER is liable towards the CARRIER and any third party for the correctness of the particulars and statements relating to the CARGO inserted by him or on his behalf in the AIR WAYBILL or furnished by him or on his behalf to CARRIER for insertion in the SHIPMENT RECORD. The SHIPPER shall be liable for any damage, claim or cost incurred by the CARRIER or by any third party as a result of any incorrectness, inaccuracy or incompleteness of the particulars and statements above mentioned. Where such information is provided by means of Electronic Data Interchange (EDI) or any other electronic means, it is the responsibility of the SHIPPER or the SHIPPER's agent to verify contents, accuracy and completeness of the EDI messages and subsequent messages according to the agreed standards and specifications, or any information submitted by the SHIPPER. The SHIPPER shall INDEMNIFY CARRIER in relation to the irregularity, incorrectness or incompleteness of the particulars and statements furnished by the SHIPPER or on his behalf.

### 4.6. ALTERATIONS

AIR WAYBILLS, the writing on which has been altered or erased, need not be accepted by CARRIER.

## Article 5 – Rates and Charges

### 5.1. APPLICABLE RATES AND CHARGES

Rates and charges for CARRIAGE governed by these conditions are those duly published and/or distributed by CARRIER and in effect on the date the contract of carriage has been concluded, unless otherwise agreed in writing or in text form.

## 5.2. BASIS OF RATES AND CHARGES

Freight charges and CARRIAGE fees depend on the higher of the total weight or total volume and, if applicable, on the surcharge on the form of carriage chosen by the SHIPPER in accordance with the rules and conditions published in CARRIER's regulations and rate tariffs and/or distributed by the CARRIER.

## 5.3. SERVICES NOT INCLUDED IN PUBLISHED AND/OR DISTRIBUTED RATES AND CHARGES

Except as otherwise agreed by CARRIER or provided in CARRIERS's regulations, rates and charges apply only from airport to airport and do not include any ancillary service given by CARRIER in connection with the CARRIAGE, such as (without limitation) PICK-UP, DELIVERY and city terminal services to and from the airports from which the CARRIER performs its services, storage fees, insurance fees, cash on delivery charges, advanced charges, costs incurred by the CARRIER upon customs clearing of the cargo, or incurred by third parties irrespective of whether these act as agents of the SHIPPER, the consignee, the owner of the cargo, or the carrier, charges or fines imposed or collected by competent authorities, including duties or taxes, costs incurred by the CARRIER for repairing defective packaging, freight charges for the CARRIAGE, reloading or return CARRIAGE of CARGO with other means of transportation, as well as the freight charges for return CARRIAGE to the place of departure, surcharges, any other similar services or charges.

## 5.4. PAYMENT OF CHARGES

- 5.4.1. Rates and charges are published and/or distributed in the currency shown in the applicable rate tariffs, and CARRIAGE may be paid in such currency, or in USD. When payment is made in a currency other than USD, such payment will be made at the rate of exchange established for such purpose by CARRIER, the current statement of which is available for inspection upon first request at CARRIER's office where payment is made.
- 5.4.2. Full applicable charges, whether prepaid or collect, fees, duties, delivery fee, taxes, charges, advances and payments, made or incurred or to be incurred by CARRIER and any other sums payable to CARRIER, will be deemed fully earned, whether or not the CARGO is lost or damaged, or fails to arrive at the destination specified in the contract of CARRIAGE. All such charges, sums and advances will be due and payable upon receipt of the CARGO by CARRIER, except that they may be collected by CARRIER at any stage of the service performed under the contract of carriage and may be collected at any time upon demand of CARRIER. Invoices issued by the CARRIER are payable within 30 (thirty) calendar days from the date of issuance. Late payments will be subject to interest at a rate of 0.5% (half a percent) per month or the maximum rate allowed by applicable law, whichever is less. For the avoidance of doubt and notwithstanding any other mention to the contrary, any dispute regarding an invoice or part thereof shall not affect the SHIPPER's obligation to pay the invoice in full pending resolution of the dispute. CARRIER shall have the right at its sole and absolute discretion to apply any payments made by SHIPPER to any outstanding invoices in the order it sees fit. Any CARRIER's invoice shall be deemed correct and irrevocably accepted by the SHIPPER unless the SHIPPER has notified the CARRIER in writing within 30 (thirty) calendar days from the date of the invoice that the invoice or part thereof is disputed. Such notification shall include the relevant invoice number and all details of the reason for the dispute.
- 5.4.3. The SHIPPER guarantees payment of the freight rate, storage charges and all other unpaid charges, unpaid CHARGES COLLECT, advances and disbursements of CARRIER. The SHIPPER also guarantees payment of all costs, expenditures, fines, penalties, loss of time, damage and other sums which CARRIER may incur or suffer by reason of the inclusion in the SHIPMENT of articles the CARRIAGE of which is prohibited by law, or the illegal, incorrect or insufficient marking, numbering, addressing or packing of packages or descriptions of the CARGO, or the absence, delay or incorrectness of any export or import license or any required certificate or document, or any improper customs valuation, or incorrect statement of weight or volume or anything resulting from or related to the negligent act or omission by SHIPPER. CARRIER shall have a lien on the CARGO for each of the foregoing and, in the event of non-payment thereof, shall have the right to dispose of the CARGO at public or private sale (provided that prior to such sale CARRIER has sent notice thereof to the SHIPPER or to the CONSIGNEE at the address stated on the AIR WAYBILL) and to pay itself out of the proceeds of such sale any and all such amounts. No such sale shall, however, discharge any liability to pay any deficiencies, for which the SHIPPER and the CONSIGNEE shall remain jointly and severally liable. By taking delivery or exercising any other right arising from the contract of CARRIAGE, the CONSIGNEE agrees to pay such charges, sums and advances, except prepaid charges. If the gross weight, measurement, quantity or declared value of the CARGO as measured by CARRIER or any of its agent or as documented in any written record exceeds the gross weight, measurement, quantity or declared value on which charges for CARRIAGE have been previously calculated, CARRIER shall be entitled to require payment of the charge on such excess based on its tariff. SHIPPER further warrants the correctness of such gross weight, measurement, quantity or declared value and shall in any case INDEMNIFY CARRIER in relation to such correctness.
- 5.4.4. CHARGES COLLECT SHIPMENTS will be accepted only to countries listed in CARRIER's regulations or as agreed by CARRIER and subject to the conditions contained therein. In any event CARRIER reserves the right to refuse SHIPMENTS on a CHARGES COLLECT basis to any country where regulations prevent the conversion of funds into other currencies or the transfer of funds to other countries or for any other reasons CARRIER sees fit. Information on countries to which CHARGES COLLECT service is available may be obtained from offices and representatives of CARRIER.
- 5.4.5. All charges applicable to a SHIPMENT are payable at the time of acceptance thereof by the CARRIER in the case of a prepaid SHIPMENT, i.e. a SHIPMENT on which the charges are to be paid by the SHIPPER, or at the time of delivery thereof by the CARRIER in the case of a collect SHIPMENT, i.e. a SHIPMENT on which the charges are to be paid by the CONSIGNEE.
- 5.4.6. CARRIER may cancel the CARRIAGE of the SHIPMENT upon refusal by the SHIPPER, after demand by CARRIER, to pay the charges or portion thereof so demanded, without CARRIER being subject to any liability therefore.
- 5.4.7. COMPLIANCE Except as otherwise agreed with by the CARRIER, any payment of charge shall be effected from a bank account located at a place of residence of the SHIPPER. Furthermore, any payment in cash shall not be accepted unless agreed in writing by the CARRIER. In respect of payments to be received for any SHIPMENT, SHIPPER warrants complying with all applicable laws and regulations (including, but not limited to, tax regulations) of every jurisdiction

in which the SHIPPER is located and operate. SHIPPER shall INDEMNIFY CARRIER in relation to any actual or alleged violation by the SHIPPER of any applicable laws, rules and regulations (including tax laws) of every jurisdiction in which the SHIPPER is located and operate.

## Article 6 – Shipments in Course of CARRIAGE

### 6.1. COMPLIANCE WITH GOVERNMENT REQUIREMENTS

6.1.1. The SHIPPER shall comply with any and all applicable laws, customs and other government regulations of any country to, over, through or from which the CARGO may be carried at the choice of the CARRIER, including, but not limited to, those relating to the packing, CARRIAGE, delivery, ban of trade (such as any and all sanctions and/or embargo) of the CARGO, and shall, together with the SHIPMENT, furnish such information and deliver such documents, licenses or authorizations as may be necessary to comply with such laws and regulations. The SHIPPER will be solely liable for obtaining any licenses or approvals required by the U.N, the EU, the U.S. Government or any other competent authority prior to shipment. The SHIPPER shall also make sure that no shipment is consigned to any person or entities listed on the EU Consolidated List, on the United States' Consolidated Lists, including but not limited to OFAC's Specially Designated Nationals List, or any other list of debarred parties issued by national or international authorities. CARRIER shall not be obliged to inquire into the correctness or sufficiency of such information or documents or into the validity of such licenses or authorization, but SHIPPER may not refuse to furnish any such information, documents, license or authorizations if required by CARRIER. CARRIER shall not be liable to the SHIPPER or any other person for loss or expense due to SHIPPER's failure to comply with the provisions of this article. SHIPPER shall INDEMNIFY CARRIER in relation to any actual or alleged violation by the SHIPPER of the provisions of this article. The SHIPPER shall comply with the instructions given by the CARRIER (and the communications sent from time to time) in respect of the CARGO which is not accepted on board of CARRIER's aircraft, including, but not limited to, CARGO coming from, going to, or directly or indirectly related to embargoed countries, such as Iran, Syria, Sudan, North Korea, Russia, Belarus and Cuba. In addition, the SHIPPER acknowledges that the acceptance by the CARRIER of shipments containing weapons, military equipment, semiconductors (with final destination PR China) and dual-use goods (including civil aircraft parts) is subject to specific acceptance processes. The CARRIER retains the right to reject such shipments, at its sole discretion, to the extent they may represent a compliance risk or negatively impact the reputation of the CARRIER. The SHIPPER shall differentiate and notify these shipments to the CARRIER before making any booking. The SHIPPER shall have effective processes in place to make sure that the shipments that it books with the CARRIER comply at all times with the requirements of this Article 6.1.1.

6.1.2. CARRIER shall not incur any liability for refusing to carry any SHIPMENT if CARRIER determines at its full discretion that such refusal is required by any applicable law, government regulation, demand, order or requirement and the SHIPPER shall bear all and any cost as a result.

### 6.2. DISBURSEMENTS AND CUSTOMS FORMALITIES

CARRIER is authorized (but shall be under no obligation) to advance any duties, fines, taxes or charges and to make any disbursement with respect to the CARGO and the SHIPPER and by taking delivery or exercising any other right arising out of the contract of CARRIAGE the CONSIGNEE, shall be jointly and severally liable for the reimbursement thereof. No CARRIER shall be under obligation to incur any expense or make any advance in connection with the forwarding or reforwarding of the CARGO except against prepayment by the SHIPPER. If it is necessary to make customs entry of the CARGO at any stopping place, and no customs clearance AGENT has been named on the face of the AIR WAYBILL or in the SHIPMENT RECORD, the CARGO shall be deemed to be consigned to the CARRIER carrying the CARGO to such place. For any such purpose a copy of the AIR WAYBILL, or of the SHIPMENT record, certified by the CARRIER, shall be deemed original.

### 6.3. SCHEDULES, ROUTINGS AND CANCELLATIONS

6.3.1. Unless specifically agreed otherwise and so indicated in the AIR WAYBILL or SHIPMENT RECORD, CARRIER undertakes to carry the CARGO with reasonable dispatch but assumes no obligation to carry the CARGO by any specified aircraft or over any particular route or routes, or to make connections at any point according to any particular schedule. Times shown in CARRIER's timetables or elsewhere are approximate and not guaranteed and form no part of the contract of CARRIAGE. No time is fixed for commencement or completion of CARRIAGE or delivery of CARGO. CARRIER is hereby authorized to select or deviate from the route or routes of the SHIPMENT, notwithstanding that the same may be stated on the face of the AIR WAYBILL or in the SHIPMENT RECORD. CARRIER is not responsible for errors or omissions either in timetables or other representations of schedules. No employee, AGENT or representative of CARRIER is authorized to bind CARRIER by any statements or representations of the dates or times of departure or arrival, or of operation of any flight.

6.3.2. CARRIER is authorized to carry the SHIPMENT without notice wholly or partly by any other means of transportation or to arrange such CARRIAGE.

6.3.3. CARRIER reserves the right without notice, to cancel, terminate, divert, postpone, delay or advance any flight, or the further CARRIAGE of any CARGO, or to proceed with any flight without all or any part of the CARGO if it considers that it would be advisable to do so because of any fact beyond its control or not reasonably to be foreseen, anticipated, or predicted at the time the CARGO was accepted; or if it reasonably considers that any other circumstances so require, taking into account the interests of the SHIPPER.

6.3.4. Provided that no regulations/laws to the contrary are applicable, in the event any flight is, pursuant to 6.3.3, cancelled, diverted, postponed, delayed or advanced or is terminated at a place other than the place of destination or in the event the CARRIAGE of any SHIPMENT is so cancelled, diverted, postponed, delayed, advanced or terminated, CARRIER shall only be liable if such event was caused exclusively by CARRIER's gross negligence and/or willful misconduct. In the event the CARRIAGE of the SHIPMENT or any part thereof is so terminated, delivery thereof by CARRIER to any transfer agent for transfer or delivery or the placing of such SHIPMENT in storage shall be deemed complete delivery under the contract of CARRIAGE, and CARRIER shall be without any further liability with respect thereto, except to give notice of the disposition of the SHIPMENT to the SHIPPER or to the CONSIGNEE, at the address stated in the AIR WAYBILL or SHIPMENT RECORD. CARRIER may, but shall not be obligated

to, forward the SHIPMENT for CARRIAGE by any other route or forward the SHIPMENT as AGENT for the SHIPPER or the CONSIGNEE for onward CARRIAGE by any transportation service on behalf of the SHIPPER or the CONSIGNEE. The cost of doing so shall be borne by SHIPPER.

6.3.5. Unless otherwise agreed, and subject to applicable laws, regulations and orders, CARRIER is authorized to determine the priority of CARRIAGE as between SHIPMENTS, and as between CARGO and mail. CARRIER may likewise decide to remove any articles or parts from a SHIPMENT, at any time or place whatsoever, and to proceed with the flight without them. If as a result of determining such priority, CARGO is not carried or CARRIAGE thereof is postponed or delayed or if any articles are removed from a SHIPMENT, CARRIER will not be liable to SHIPPER or CONSIGNEE or to any other party for any consequences therefore.

#### **6.4. CERTAIN RIGHTS OF CARRIER OVER SHIPMENT IN COURSE OF CARRIAGE**

If in the opinion of CARRIER it is necessary to hold the SHIPMENT at any place for any reasonable purpose, either before, during or after CARRIAGE, CARRIER may, upon giving notice thereof to the SHIPPER, store the SHIPMENT for the account and at the risk and expense of the SHIPPER, in any warehouse or other available place, or with the customs authorities; or CARRIER may deliver the SHIPMENT to another transportation service for onward CARRIAGE to the CONSIGNEE. The SHIPPER shall INDEMNIFY CARRIER in relation to any actual or alleged violation by the SHIPPER of the provisions of this article.

## **Article 7 – Shipper's Right of Disposition**

### **7.1. EXERCISE OF RIGHT OF DISPOSITION**

Every exercise of the right of disposition must be made by the SHIPPER or his designated AGENT, if any, and must be applicable to the whole SHIPMENT under a single AIR WAYBILL, or under a single SHIPMENT RECORD. The right of disposition over the CARGO may only be exercised if the SHIPPER or such AGENT produces the part of the AIR WAYBILL which was delivered to him, or communicates such other form of authority as may be prescribed by CARRIER's regulations. Instructions as to disposition must be given in writing in the form prescribed by CARRIER. In the event that the exercise of the right of disposition results in a change of CONSIGNEE, such new CONSIGNEE shall be deemed to be the CONSIGNEE appearing on the AIR WAYBILL or in the SHIPMENT RECORD.

### **7.2. SHIPPER's OPTION**

7.2.1. To the extent permitted by law and APPLICABLE CONVENTION, and subject to his liability to carry out all his obligations under the contract of CARRIAGE and provided that this right of disposition is not exercised in such way as to prejudice CARRIER or other SHIPPERS, or the CONSIGNEE's right to delivery, the SHIPPER may at his own expense dispose of the CARGO either:

- 7.2.1.1. by withdrawing it at the airport of departure; or
- 7.2.1.2. by stopping it in the course of the journey on any landing; or
- 7.2.1.3. by calling for it in course of the journey to be delivered at the place of destination to a person other than the CONSIGNEE named in the AIR WAYBILL or SHIPMENT RECORD; or
- 7.2.1.4. by requiring it to be returned to the airport of departure;

7.2.2. Provided that if, in the discretionary opinion of CARRIER, it is not reasonably practicable to carry out the order of the SHIPPER, CARRIER shall so inform him promptly and CARRIER shall thenceforth be under no obligation to carry out any such order.

### **7.3. PAYMENT OF EXPENSES**

The SHIPPER shall be liable for and shall INDEMNIFY CARRIER in relation to the exercise of his right of disposition. The SHIPPER shall reimburse CARRIER for any and all expenses occasioned by the exercise of his right of disposition, including but not limited to loss of opportunity, loss of anticipated savings or lost profits, loss of business, loss of revenues or any other indirect damages or losses.

### **7.4. EXTENT OF SHIPPER's RIGHT**

Provided that no regulations to the contrary are applicable, the SHIPPER's right of disposition shall cease at the moment when, after arrival of the CARGO at the destination, the CONSIGNEE takes possession or requests delivery of the CARGO or AIR WAYBILL, or otherwise shows his acceptance of the CARGO. Nevertheless, if the CONSIGNEE declines to accept the AIR WAYBILL or the CARGO, or if he cannot be communicated with, such right of disposition shall continue to vest in the SHIPPER.

## **Article 8 – Delivery**

### **8.1. NOTICE OF ARRIVAL**

Notice of arrival of the SHIPMENT will, in the absence of other instructions, be sent to the CONSIGNEE and/or any other person whom CARRIER has agreed to notify as evidenced in the AIR WAYBILL or SHIPMENT RECORD; such notice will be sent by ordinary methods. CARRIER is not liable for non-receipt or delay in receipt of such notice.

### **8.2. DELIVERY OF SHIPMENT**

Except as otherwise specifically provided in the AIR WAYBILL or SHIPMENT RECORD, delivery of the SHIPMENT will be made only to the CONSIGNEE named therein, or his agent. Delivery to the CONSIGNEE shall be deemed to have been effected:

- 8.2.1. when CARRIER has delivered to the CONSIGNEE or his agent any authorisation from CARRIER required to enable the CONSIGNEE to obtain release of the SHIPMENT; and
- 8.2.2. when the SHIPMENT has been delivered to customs or other government authorities as required by applicable law or customs regulation.

### **8.3. PLACE OF DELIVERY**

Except as provided in 9.3, the CONSIGNEE must accept delivery of and collect the SHIPMENT at the airport of destination or the respective facility as designated by the CARRIER.

#### 8.4. FAILURE OF CONSIGNEE TO TAKE DELIVERY

8.4.1. Subject to the provisions of 8.5 hereof, if the CONSIGNEE refuses, fails to take delivery of the SHIPMENT or refuses to pay CHARGES COLLECT after its arrival at the airport of destination, CARRIER will endeavour to comply with any instructions of the SHIPPER set forth on the face of the AIR WAYBILL, or in the SHIPMENT record. If such instructions are not so set forth or cannot reasonably be complied with, CARRIER shall notify the SHIPPER of the CONSIGNEE's failure to take delivery and request his instructions. If no such instructions are received within thirty (30) DAYS, CARRIER may sell the SHIPMENT in one or more lots at public or private sale, or destroy or abandon such SHIPMENT.

8.4.2. The SHIPPER is liable for all charges and expenses resulting from or in connection with the failure or refusal to take due delivery of the SHIPMENT, including, but not limited to, storage charges and CARRIAGE charges incurred in returning the SHIPMENT if so required by the SHIPPER's instructions. If the SHIPMENT is returned to the airport of departure and the SHIPPER refuses or neglects to make such payments within fifteen (15) DAYS after such return, CARRIER may dispose of the SHIPMENT or any part thereof at public or private sale after giving the SHIPPER ten (10) DAYS notice of its intention to do so.

#### 8.5. DISPOSAL OF TEMPERATURE-CONTROLLED ARTICLES

8.5.1. When a SHIPMENT containing time sensitive or temperature controlled articles (as further defined in CARRIER's regulations) is unclaimed, refused or not claimed promptly at place of delivery, or for other reasons is threatened with deterioration, CARRIER may immediately take such steps as it sees fit for the protection of CARRIER and other parties in interest, and shall be entitled to reimbursement by the SHIPPER of any expense so incurred, including but not limited to the destruction or abandonment of all or any part of the SHIPMENT, the sending of communications for instructions at the cost of the SHIPPER, the storage of the SHIPMENT or any part thereof at the risk and cost of the SHIPPER, or the disposition of the SHIPMENT or any part thereof at public or private sale without notice.

8.5.2. In the event of the sale of the SHIPMENT as provided for above, either at the place of destination or at the place to which the SHIPMENT has been returned, CARRIER is authorized to pay to itself and other transportation providers out of the proceeds of such sale all charges, advances, and expenses of CARRIER and other transportation services plus costs of sale, holding any surplus subject to the order of the SHIPPER. A sale of any SHIPMENT shall, however, not discharge the SHIPPER and/or owner of any liability hereunder to pay any remaining portion of a due payment to CARRIER.

#### 8.6. RESPONSIBILITY FOR CHARGES

By accepting delivery of the SHIPMENT the CONSIGNEE shall become liable for payment of all costs and charges in connection with the CARRIAGE or the SHIPMENT. Unless otherwise agreed the SHIPPER shall not be released from his own liability for these costs and charges and will remain jointly and severally liable with the CONSIGNEE. CARRIER may make delivery of the SHIPMENT or the AIR WAYBILL conditional upon payment of these costs and charges.

### Article 9 – Pick-up and Delivery Services

#### 9.1. ACCEPTANCE

PICK-UP SERVICES are accepted for CARRIAGE from the moment when a valid and legal receipt of a READY FOR CARRIAGE SHIPMENT occurs at CARRIER's cargo terminal or airport office at the place of departure, or the respective facility as designated by the CARRIER.

#### 9.2. AVAILABILITY OF SERVICE

PICK-UP SERVICE and DELIVERY SERVICE will be available at the points, to the extent and subject to the rates and charges established for such services in accordance with the applicable regulations of CARRIER or as agreed by CARRIER.

#### 9.3. REQUEST FOR SERVICE

PICK-UP SERVICE, if available, will be provided when requested in writing by the SHIPPER. Except when otherwise provided by CARRIER's tariffs, DELIVERY SERVICE may be provided unless contrary instructions are given by the SHIPPER or by the CONSIGNEE. Such contrary instructions must be received by CARRIER prior to removal of the SHIPMENT from CARRIER's airport terminal at destination.

#### 9.4. SHIPMENT FOR WHICH SERVICE IS UNAVAILABLE

PICK-UP SERVICE and DELIVERY SERVICE will not be provided by CARRIER without special arrangement for any SHIPMENT which, in the opinion of CARRIER, because of its volume, nature, value or weight is impractical for CARRIER to handle in normal course.

#### 9.5. LIABILITY

If PICK-UP SERVICE or DELIVERY SERVICE is performed by or on behalf of CARRIER, such transportation shall be upon the same terms as to liability as set forth in article 11 hereof unless otherwise provided by mandatory regulations.

### Article 10 – Successive CARRIERS

#### 10.1. CARRIAGE

To be performed under one contract of CARRIAGE by several successive CARRIERS is regarded as a single operation.

### Article 11 – Carrier's Liability

#### 11.1. CARRIER is liable to the SHIPPER

CONSIGNEE or any other person for damage sustained in the event of destruction or loss of, or damage to, or delay in the CARRIAGE of CARGO only if the occurrence which caused the damage so sustained took place during the CARRIAGE as defined under Article 1.

#### 11.2. To the extent provided by APPLICABLE CONVENTION

CARRIER's liability shall be limited to the amount stipulated in such APPLICABLE CONVENTION notwithstanding the existence of gross negligence or willful misconduct on the part of the CARRIER.

### **11.3. Except as may be otherwise provided for**

In any APPLICABLE CONVENTION, CARRIER is not liable to the SHIPPER, CONSIGNEE or any other person for any damage, delay or loss of whatsoever nature arising out of or in connection with the CARRIAGE of CARGO or other services performed by CARRIER or its AGENTS, unless such damage, delay or loss is proved to have been caused by the gross negligence or willful misconduct of CARRIER.

### **11.4. CARRIER is not liable if**

The destruction, loss of or damage to CARGO is proved to have resulted solely from the inherent defect, quality, nature or vice of that CARGO and/or as a result of SHIPPER's negligent act or omission or failure to comply with SHIPPER's obligation.

### **11.5. CARRIER will not be liable for**

Any loss, damage or expense arising from death due to natural causes or death or injury of any animal or person (including but not limited to the animal attendant or keeper) caused by the conduct or acts of the animal itself or of other animals such as biting, kicking, goring or smothering, nor for that caused or contributed to by the condition, nature or propensities of the animal, or by defective packing of the animal, or by the inability of the animal to withstand unavoidable changes in its physical environment inherent to the CARRIAGE.

### **11.6. To the extent not in conflict with applicable law**

The CARRIER shall not incur any liability or obligation as a result of any loss of opportunity, any loss of anticipated savings or lost profits, any loss of production, any loss of business, loss of revenues, harm to business or business reputation or any indirect, incidental, collateral, special, punitive or consequential loss whether or not foreseeable, and whether arising in contract, tort (including active, passive or imputed negligence), strict liability or otherwise.

### **11.7. Contributory negligence on the part of the SHIPPER**

CONSIGNEE or other claimants shall entirely or partly release the CARRIER of its liability, or to the extent provided by APPLICABLE CONVENTION and applicable law.

### **11.8. Liability of CARRIER shall not**

exceed the APPLICABLE CONVENTION limit or, if no convention applies, 26 special drawing rights, per kilogram of CARGO destroyed, lost, damaged or delayed. If, with the agreement of the CARRIER, the SHIPPER has made a special declaration of value for CARRIAGE and has paid the supplementary sum applicable, it is agreed that the aggregate liability of the CARRIER shall in no event exceed such declared value for CARRIAGE stated on the face of the AIR WAYBILL or included in the SHIPMENT RECORD. All claims shall be subject to proof of value.

### **11.9. In the case of loss, damage or delay of part of the SHIPMENT**

Or of any object contained therein, the weight to be taken into consideration in determining the amount to which CARRIER's liability is limited shall be only the weight of the package or packages concerned. Nevertheless, when the loss, damage or delay of part of the SHIPMENT, or of an object contained therein, affects the value of other packages covered by the same AIR WAYBILL, the total weight of such package or packages shall also be taken into consideration in determining the limit of liability. In the absence of proof to the contrary, the value of any such part of the SHIPMENT lost, damaged or delayed as the case may be, shall be determined by reducing the total value of the SHIPMENT in the proportion that the weight of that part of the SHIPMENT lost, damaged or delayed has to the total weight of the SHIPMENT.

### **11.10. The SHIPPER, and to the extent permitted by applicable law**

The owner and CONSIGNEE, whose property or SHIPMENT causes directly or indirectly damage to or destruction of another SHIPMENT, of any aircraft or property or death or bodily injury to any person, shall INDEMNIFY CARRIER in relation to such event. CARGO which, because of inherent defect, quality or vice or because of defective packing, is likely to endanger aircraft, persons or property may be abandoned or destroyed by CARRIER at any time without notice and without liability therefore attaching to CARRIER.

### **11.11. A CARRIER issuing an AIR WAYBILL**

for CARRIAGE over the lines of another CARRIER does so only as AGENT for such other CARRIER. Any reference in a SHIPMENT record to CARRIAGE to be performed by another CARRIER shall be deemed to refer to CARRIAGE to be provided as principal by such other CARRIER. No CARRIER shall be liable for the loss, damage or delay of CARGO not occurring on its own line except to the extent that the SHIPPER shall have a right of action for such loss, damage or delay on the terms herein provided against the first CARRIER and the CONSIGNEE or other person entitled to delivery shall have such a right of action against the last CARRIER under the contract of CARRIAGE.

### **11.12. Whenever the liability of CARRIER is excluded or limited under these conditions**

such exclusion or limitation shall apply to AGENTS, servants or representatives of CARRIER and also to any CARRIER whose aircraft or other means of transportation is used for CARRIAGE.

### **11.13. Unless otherwise provided for by the APPLICABLE CONVENTION**

or any other applicable law to the benefit of the SHIPPER or CONSIGNEE, the following shall apply:

11.13.1. SHIPMENTS exposed to deterioration or decay due to change of climate, temperature, height or for any other usual circumstance or due to the duration of the agreed carriage time are taken on by the CARRIER to the exclusion of any liability for loss or damage caused by deterioration or decay.

11.13.2. The CARRIER shall be not liable if the destruction, loss or damage of the cargo was caused by:

- Insufficient and/or defective packaging of the cargo performed by any person other than the CARRIER or its servants or agents; and/or
  - an act of war (including terrorist acts) or an armed conflict; and/or
  - an act of public authority carried out in connection with the entry, exit or transit of the cargo; and/or
  - force majeure, in particular acts of God, any riot, civil commotion, strike, lockout, fire, war, act of foreign enemies or any event beyond the reasonable control of the CARRIER.

## **Article 12 – Limitations on Claims and Actions**

### **12.1. Receipt by the person entitled to delivery**

of the CARGO without complaint is prima facie evidence that the same has been delivered in good condition and in accordance with the contract of CARRIAGE.

## **12.2. No action shall be maintained in the case of**

loss or damage to goods unless a complaint is made to CARRIER in writing by the person entitled to delivery. Such complaint shall be made:

- 12.2.1. in the case of visible damage to the goods, immediately after its discovery and at the latest within fourteen (14) DAYS from the date of receipt of the goods;
- 12.2.2. in the case of other damage to the goods, within fourteen (14) DAYS from the date of receipt of the goods;
- 12.2.3. in the case of delay, within twenty-one (21) DAYS from the date on which the goods were placed at the disposal of the person entitled to delivery;
- 12.2.4. in the case of non-delivery of the goods, within one hundred and twenty (120) DAYS of the date the goods ought to have arrived at destination.

## **12.3. The right to damages shall be extinguished if**

an action is not brought within 2 years, reckoned from the date of arrival at the destination, or from the date on which the aircraft ought to have arrived, or from the date on which the transportation stopped. The method of calculating that period shall be determined by the law of the court seized of the case.

## **Article 13 – Modification and Waiver**

### **13.1. No AGENT, servant or representative of CARRIER has authority to alter**

Modify or waive any provision of the contract of CARRIAGE or of these conditions.

## **Article 14 – Set-Off / Assignment**

### **14.1. The SHIPPER may not set-off any claims against the CARRIER unless**

The respective claim is uncontested, acknowledged or has become non-appealable.

### **14.2. The SHIPPER may assign any claims arising from contracts with the CARRIER only with**

The prior written consent of the CARRIER.

## **Article 15 – Governing Law / Place of Jurisdiction**

### **15.1. Disputes arising from or in connection with these conditions are subject to IRISH Law**

In the event of applicability of an APPLICABLE CONVENTION, an action for damages may only be brought within one of the State Parties, at the choice of the SHIPPER either at the court of the location where the headquarters of the CARRIER are situated or at the location of its branch office which concluded the contract, or at the court of the place of destination.

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