

## DELIVERY ORDER TERMS AND CONDITIONS

On this Delivery Order, "Forwarder" refers to Nippon Express, USA, Inc. ("NEU"), its employees and agents. In accepting this shipment, Carrier agrees to the terms and conditions of carriage hereinafter set forth.

1. **Carrier Liability.** The carrier or the party in possession of any of the property described in this delivery order (hereinafter "Carrier") shall be liable to NEU and the owner of the goods as determined pursuant to 49 U.S.C. § 14706 (the Carmack Amendment) for any theft or loss thereof or damage thereto.
2. **Transportation of Goods.** Carrier is responsible to transport goods with reasonable dispatch. If arranged or agreed in writing, prior to shipment, carrier is bound to transport and deliver the shipment on a particular schedule or at a particular delivery time.
3. **Claims.** Claims handling for loss or damage shall be governed by 49 C.F.R. 370.
  - 3.1. Claims for loss or damage must be filed within nine months after the delivery of the property (or, in the case of export traffic, within nine months after delivery to the port of export), except that claims for failure to make delivery must be filed within nine months after a reasonable time for delivery has elapsed.
  - 3.2. Suits for loss, damage, injury or delay shall be instituted against any carrier no later than two years and one day from the day when written notice is given by the carrier to the claimant that the carrier has disallowed the claim or any part or parts of the claim specified in the notice.
  - 3.3. If the consignee refuses the shipment tendered for delivery by carrier, or if carrier is unable to deliver the shipment because of fault or mistake of the consignor or consignee, Carrier shall promptly provide notice, by telephonic or electronic means, of any inability to effect delivery.
4. **Released Value.** No released value shall be applicable to the shipment hereunder. No limitation on Carrier's or its subcontractors' liability in any tariff, rules circular, bill of lading, or other similar document will be given any effect unless contained in a specific writing executed by the parties.
5. **Freight Charges.** NEU shall solely be liable to Carrier for the freight and other lawful charges accruing on the shipment, as billed or corrected.
6. **Interline prohibited.** Carrier shall not assign or interline the shipment hereunder, nor broker or re-broker the shipment without the express written consent of NEU.
7. **Indemnification.** Carrier shall indemnify and hold harmless NEU and the parties identified on the delivery order from and against all liabilities, obligations, losses, damages, penalties, claims, actions, suits, costs, charges and expenses, including without limitation, reasonable fees and expenses of legal counsel and expert witnesses, which are the result of or arising out of the acts or omissions of Carrier, its employees or subcontractors in the performance of service pursuant to this Delivery Order.
8. **Agency.** No agency or employment relationship is created by this Delivery Order.
9. **Enforcement of these Terms and Conditions.** In the event of a default or breach of these Terms and Conditions, NEU shall be free to pursue whatever legal or equitable remedies may be available to seek judicial enforcement, whether by injunction, specific performance, an action for damages or otherwise.
  - 9.1. **Attorney Fees.** The parties further expressly agree that any and all attorney fees and expenses incurred in any proceeding brought by either party with respect to these Terms and Conditions hereof shall be recoverable by the prevailing party or parties.
  - 9.2. **Consequential Damages.** Neither party hereto shall be liable to the other for special, incidental or consequential damages.
10. **Order of Precedence.** Where NEU and Carrier have a separate transportation contract in effect, the terms of said transportation contract shall take precedence over any conflicting terms of this Delivery Order Terms and Conditions.