

## NYK Waybill Clause ('02 amendment)

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**RECEIVED** by the Carrier from the Shipper named herein in apparent good order and condition unless otherwise indicated herein, the Goods, or the container(s) or package(s) said to contain the Goods herein mentioned, to be carried subject to the terms and conditions on the back hereof by the vessel named herein or any substitute at the Carrier's option and/or other means of transport, from the place of receipt or the port of loading to the port of discharge or the place of delivery shown herein and there to be delivered unto the Consignee named herein, or his authorized agents, on production of such proof of identity as required by the Carrier.

In witness whereof, the undersigned, on behalf of Nippon Yusen Kaisha as carriers, has signed the number of Waybill(s) stated under, all of this tenor and date. (Terms continued on back hereof)

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1. This Waybill shall have effect subject to the "CMI Uniform Rules for Sea Waybills", which is deemed to be incorporated herein.
2. Unless otherwise set out on the face and back hereof, the Goods to be carried subject to the terms and conditions provided for in the Carrier's applicable Bill of Lading and the tariff, both of which may be seen at the Carrier's offices or at those of his authorized agents. Every reference therein to the words "Bill(s) of Lading" shall be read and construed as a reference to the words "Non Negotiable Waybill(s)" and the terms and conditions thereof shall be read and construed accordingly.

In accepting this Waybill, the Shipper agrees to be bound by all the stipulations, exceptions, terms and conditions on the face and back of this Waybill and the applicable Bill of Lading, and in the applicable tariff, whether written, typed, stamped or printed, as fully as if signed by the Shipper, any local custom or privilege to the contrary notwithstanding, and agrees that all agreements or freight engagements for and in connection with the carriage of the Goods are superseded by this Waybill.
3. (1) When the Goods are held in the Carrier's custody and only before the Consignee claims their delivery after their arrival at the place of delivery, the Shipper may request that the Carrier, on production of the full sets of the Waybill and also by paying to the Carrier such reasonable remuneration as demanded by the Carrier and indemnifying him against all expenses, loss and damage which may be incurred by him by complying with such request,

to withdraw them at the terminal of departure, to stop the Goods in transit, to unload, to warehouse or re-route the Goods, and to delivery the Goods to some other person than the Consignee indicated in the Waybill at any stage of the transit as well as to change the place of delivery of the Goods.

(2) However, the Carrier may refuse the above requests if the requests interfere with his normal or intended operations, or if they are not practically possible to comply with at the time when the requests reach the Carrier, or if damage or substantial inconvenience would be caused to him or to consignees of other consignments.

(3) Notwithstanding paragraph 1 above, the Shipper may make an irrevocable declaration in writing to the Carrier that the Consignee will make, in place of the Shipper, those requests stipulated in paragraph 1 to the Carrier, and if the Carrier thereafter comply with such requests, the Shipper shall indemnify the Carrier from all loss and damage and all consequences whatsoever which may be sustained by the Carrier by his complying with the requests.

4. (a) The contract evidenced by or contained in this Waybill shall be governed by Japanese law except as may be otherwise provided herein, and (b) notwithstanding anything else contained in this Waybill or in any other contract, any and all actions against the Carrier in respect of the Goods or arising out of the Carriage shall be brought before the Tokyo District Court in Japan to the exclusion of the jurisdiction of any other courts whilst any such actions against the Merchant may be brought before the said Court or any other competent court at the Carrier's option.
5. The Carrier shall not in any event be liable for any loss of or damage to or in connection with the transportation of the Goods in an amount exceeding 666.67 Units of Account per package or unit or 2 Units of Account per kilogramme of gross weight of the Goods lost or damaged, whichever is the higher, or in case of the Goods not shipped in packages, per customary freight unit, unless the nature and value of such Goods have been declared by the Merchant before shipment and inserted in this Waybill on the face hereof and extra freight has been paid as required. This declaration, if embodied in the Waybill shall be prima facie evidence, but shall not be conclusive on the Carrier. The Unit of Account mentioned in the preceding paragraph is the Special Drawing Right (SDR) as defined by the International Monetary Fund. Notwithstanding anything else contained herein, if this Waybill covers the Goods moving to or from the U.S.A (including its districts, territories or possessions), and if the following is not invalid or unenforceable under the local law of the jurisdiction in which legal proceedings are brought, then the amount of the foregoing limitation shall instead be U.S.\$500 per package or customary freight unit.