

# Heinrich Dehn GmbH- BILL OF LADING Terms & Conditions

## Definitions

«Carrier» means Heinrich Dehn Internationale Spedition GmbH, Bredowstrasse 6, 22113 Hamburg, Germany

«Carriage» means the whole or any part of the performance and services undertaken by the Carrier in respect of and or in connection with the transport of the Goods as set out in this bill of lading whether by water, land, air or combined.

«Combined Transport» means a Carriages including more than one leg of transport and arises if the Place of Receipt and the Place of Delivery are indicated on the face hereof in the relevant spaces.

«Consignee» means the party who has the right to receive the Goods from the Carrier.

«Container» means any container, trailer, transportable tank, flat rack or pallet, or any similar article used to consolidate Goods and any ancillary equipment.

«Dangerous Goods» means any Goods which are or may become a hazard or danger to life or property, flammable, explosive, noxious or otherwise damaging, whether or not listed in any codes, rules, or regulations.

«Freight» means the agreed freight as well as any other dues, taxes and charges, detention, demurrage, or other expenses in connection with the Goods and the Carriage under this bill of lading.

«Goods» means any cargo in whole or in part as well as Containers or packaging not supplied by or on behalf of the Carrier.

«Merchant» means and includes the Shipper, the Consignee, the holder of this bill of lading, the receiver, the owner of or any other party having a right and/or interest in the Goods.

«Port-to-Port» means that the Carriage between the Port of Loading and the Port of Discharge and arises if the Port of Loading and the Port of Discharge are indicated on the face hereof in the relevant spaces.

«Shipper» means the individual person, corporation or other legal entity who concluded the freight contract with the carrier and/or is named as shipper in this bill of lading.

«SDR» means Special Drawing Rights of the International Monetary Fund.

## 1. Negotiability

This bill of lading is negotiable if consigned "to order", or to order of a named Consignee.

## 1. Carrier's obligations

The Carrier undertakes to perform and/or to procure the Carriage from place of receipt evidenced in this bill of lading to the place of delivery designated in this bill of lading and shall be liable subject to these bill of lading conditions.

## 3. Dangerous Goods and Indemnity

3.1 Without a clear marking of the Goods as well as the Container and/or other packaging on the outside as dangerous and without the prior written consent of the Carrier, Dangerous Goods are not accepted for Carriage.

3.2 The Merchant is obliged to comply with all rules mandatory according to the national law or by reason of International Convention, relating to the carriage of Dangerous Goods, and has to inform and disclose to the Carrier in writing the exact nature of the danger and the precautions to be taken, before the Goods shall be taken over by the Carrier for the Carriage to enable the Carrier to express his consent for the Carriage of such Dangerous Goods.

3.3 If the Merchant tenders the Dangerous Goods but fails to comply with Clause 3.2, or if at any time, Goods are deemed or become a hazard to life or property of the Carrier or any other Goods during the Carriage, they may at any place be unloaded, destroyed, or rendered harmless, as circumstances may require, without compensation to the Merchant. The Merchant shall indemnify the Carrier against all loss, damage, liability, fines, or expense arising out of or in connection therewith or of any service incidental thereto.

The Carrier shall not be liable for the loss, damage, or destruction of the Dangerous Goods resulting from the lack of information of the dangerous nature of the Goods and the necessary precautions to be taken.

The burden of proof that the Carrier was aware of the general and specific danger constituted by the Dangerous Goods and/or their Carriage shall rest on the Merchant.

## 4. Description of Goods and Merchant's Packing, Loading and Inspection

4.1 The Shipper guarantees the correctness, at the time the Goods were taken over by the Carrier for the Carriage, of all information and particulars relating to the general nature of the Goods, including their marks, number, weight, volume, quantity, insurance, measurements, value and, if applicable, to the dangerous character of the Goods, as given by him or on his behalf for insertion on the bill of lading or as otherwise submitted in connection with the Carriage.

The Carrier has the liberty, but no obligation, to inspect or have the Goods inspected and the weight, measurements or value verified.

The Merchant shall indemnify the Carrier against any loss, damage, and expense resulting from any inaccuracy or inadequacy of such information and/or particulars and pay any difference between the Freight charged and the correct Freight which would have been charged if the Merchant had informed the Carrier about the particulars correctly.

4.2 If the Carrier is obliged to open the Container for inspection of the Goods by order of the authorities at any place or port, the Carrier shall not be liable for any loss or damage resulting from the opening, unpacking, inspection, and/or repacking of the Goods. The Merchant shall indemnify the Carrier for any costs and expenses incurred by or in connection with such opening, unpacking, inspection and/or repacking of the Goods.

4.3 Where the Container is packed by or on behalf of the Merchant, he shall be responsible for the packing, loading and unloading of the Goods. The Carrier shall not be liable for any loss, damage or expense caused by wrong or inadequate packing of the Goods or packing the Goods within Containers or other transport units or by defective or insufficient loading and lashing of the Goods. This shall apply irrespective of whether such packing or loading has been performed by the Merchant or by a third party. The Carrier shall neither be liable for any loss, damage or expense caused by the defect or unsuitability of the Containers or other transport units supplied by the Merchant or on his behalf by a third party, or in case the Containers were supplied by the Carrier if a defect or unsuitability of the Containers or other transport units would have been apparent upon reasonable examination by the Merchant. The Merchant shall indemnify the Carrier against all loss, damage, liability, and expense arising out of any of the aforementioned clauses.

## 5. Carrier's Responsibility and Liability

The Carrier shall be responsible for the Goods from the time the Carrier has taken the Goods in his custody according to German law and/or any international conventions compulsorily applicable subject to the following provisions:

5.1 Loss or Damage during sea passage, inland waterway passage or Port-to-Port

5.1.1 If in a Combined Transport it is established that the Goods were lost or damaged during the sea passage or in case of Port-to-Port via ocean carriage, the Carrier shall not be liable (a) for any fault or neglect on the part of its servants or of the crew, insofar as the damage was caused in the course of steering or otherwise operating the vessel ("error in navigation"), or (b) if the loss or damage was caused by fire or explosion on board the vessel.

5.1.2 If in a Combined Transport it is established that the Goods were lost or damaged during the inland waterway passage or in case of Port-to-Port via inland waterway carriage, the Carrier shall not be liable for losses arising from

(a) an act or omission by the master of the vessel, the pilot or any other person in the service of the vessel, pusher or toiler during navigation or in the formation or dissolution of a pushed or towed convoy, provided that the vessel was manned in accordance with the applicable regulations, unless the act or omission results from an intention to cause damage or from reckless conduct with the knowledge that such damage would probably result, or

(b) fire or an explosion on board the vessel, where it is not possible to prove that the fire or explosion resulted from a fault of the Carrier or the actual carrier or their servants or agents or a defect of the vessel, or

(c) defects existing prior to the voyage of the vessel if the Carrier can prove that such defects could not have been detected prior to the start of the voyage despite due diligence.

5.2 Loss or Damage during a known passage other than sea or inland waterway

If in a Combined Transport it is established that the Goods were lost or damaged during a known passage of transport other than the sea passage or inland waterway passage, the Carrier's liability shall be determined by the law applicable to such transport passage. If the law applicable is not compulsorily and provides for liability exceeding 2 SDR per kilogram of the gross weight of the Goods, the Carrier's liability for loss or damage to the Goods shall be limited to 2 SDR per kilogram of the gross weight of the Goods damaged or lost.

5.3 Loss or Damage during unknown passage

If in a Combined Transport it is not established during which passage of transport the Goods were lost or damaged, in deviation from the statutory limits of liability according to German law, the Carrier's liability shall be limited to 2 SDR per kilogram of the gross weight of the Goods damaged or lost.

5.4 Exemptions from the liability limits for loss or damage

The limitation of liability stipulated in the Clauses 5.2 and 5.3 shall not apply

(a) if the loss or damage to the Goods was caused by an act or omission of the Carrier, his servants or agents done with the intent to cause such damage, or recklessly and with knowledge that such damage would probably result, or

(b) if, different from Clause 8.1, (d), the Carrier had agreed with the Merchant that the Goods were to be carried below deck whereas the damage resulted from the Goods having been loaded and stowed on deck.

5.5 Delay

5.5.1 Arrival and/or delivery dates mentioned in this bill of lading or otherwise are not guaranteed by the Carrier unless expressly and separately agreed accordingly in writing and the Carrier shall not be liable for any direct, indirect or consequential losses resulting from the noncompliance with the arrival and/or delivery dates.

5.5.2 Notwithstanding Clause 5.5.1, the Carrier's liability for delay shall be limited to an amount equal to three times the freight unless a lower limitation applies pursuant to the relevant statutory laws. The limitation does not apply if the delay was caused by an act or omission of the Carrier, his servant or agents done with the intent to cause damages, or recklessly and with knowledge that damages would probably result.

5.6 Miscellaneous liability provisions

5.6.1 Except as otherwise provided in this bill of lading, the Carrier shall not be liable for any indirect, or consequential damages, or for loss of profit, unless such damages or losses were caused by an act or commission of the Carrier, his servant or agents done with the intent to cause damages, or recklessly and with knowledge that damages would probably result.

5.6.2 The liability provisions, in particular, but not limited to, the exclusions and limitations of liability, shall apply to all claims against the Carrier relating to the Carriage and/or the performance of any other duties under the freight contract evidenced by this bill of lading, whether the claim be founded in contract or in tort.

## 6. Merchant's Responsibility and Warranties

6.1 The Merchant warrants by agreeing to these bill of lading conditions that he is, or has the authority of the person owning or entitled to the possession of the Goods and this bill of lading, and that he, including his managers, employees and agents, is not a sanctioned party designated by any applicable competent sanctioning authority or government

6.2 The Merchant further warrants that the information and details about the Goods set out in this bill of lading or otherwise given to the Carrier and/or his servants and/or his agents by or on behalf of the Merchant are correct and complete, and that, with respect to the Carriage, no sanctioned party has an interest in the Goods and their loading, carriage or discharging is neither sanctioned nor prohibited by any applicable competent sanctioning authority or government.

6.3 The Merchant shall comply with all statutes, ordinances, regulations and requirements with regard to or in connection with the Goods, the Container, customs, ports and/or other authorities for the Carriage, and shall be liable and pay for all duties, fines, taxes and/or other expenses or losses incurred by a non-compliance of such rules.

6.4 If the Carrier, or his servants, or his agents supplied a Container, the Merchant shall return the empty container, undamaged, cleaned and with no dangerous placards, labels or markings, to the place designated by the Carrier, or his servants, or his agents at the latest at the specified time.

6.5 All persons being defined as the Merchant in this bill of lading shall be jointly and severally liable for any Merchant's responsibilities described in this clause, or otherwise in this bill of lading, or by statutory law or agreed upon with the Carrier as well as for a breach of such responsibilities.

## 7. Subcontracting

7.1 The Carrier shall have the right to subcontract on any terms the whole or any part of his obligations under this bill of lading and/or the freight contract evidenced by this bill of lading to a third party.

7.2 The subcontractors shall, however, under no circumstances be liable in respect of the Goods or the Carriage as Carrier to the Merchant. Notwithstanding the foregoing, should the subcontractor be found liable nonetheless, the provisions of this bill of lading including the exemption from and limitation of liability, the law and jurisdiction clause as well as any objections arising out of this bill of lading shall apply accordingly.

## 8. Merchant Packed Container

8.1. It is left in the Carrier's sole discretion to

(a) choose the means, route, and procedure to be followed in Carriage of the Goods including the handling, stowage and storage;

(b) transfer the Goods from one conveyance to another and carry the Goods on a vessel or other means of transport or conveyance other than the vessel named in this bill of lading.

(c) proceed by any route, place or port at any speed, and to stay at any place or port as often as he wishes, whether scheduled or not, and in any order.

(d) carry the Goods on or under deck in his sole discretion and unpack and remove the Goods which have been packed into a Container and forward them in a Container or otherwise.

(e) open any Container to inspect the Goods and other contents, and if it appears that the Goods or other contents cannot be carried safely or properly, the Carrier may terminate the Carriage of the relevant Goods and/or other contents.

(f) comply with any orders, directions or recommendations given by any government, international regulatory body or any other authority, including but not limited to measures to reduce carbon intensity, compliance with greenhouse gas emissions laws and other environmental rules and ordinances.

(g) comply with any orders, directions or recommendations given by any government, international regulatory body or any other authority, including but not limited to measures to reduce carbon intensity, compliance with greenhouse gas emissions laws and other environmental rules and ordinances.

8.2. The above liberties may be invoked by the Carrier in any situation and for any purpose whatsoever, irrespective of their connection to the Carriage and/or the Goods, including but not limited to the carriage of other goods, bunkering, ongoing repairs of the vessel or other conveyance, and/or adjusting instruments.

8.3. Anything done by the Carrier in accordance with this Clause 8 and any delay resulting therefrom is not considered as a deviation of the Carriage according to this bill of lading.

## 9. Matters affecting Performance of the Carriage

If at any time the Carriage (whether commenced or not) under this bill of lading is or is likely to be affected by any hindrance, risk, danger, delay, difficulty or disadvantage of any kind, including the condition of the Goods, and howsoever arising without the fault or neglect of the Carrier, including but not limited to Acts of God, epidemics or pandemics (incl. COVID-19), disruption in labor, war, riots, blockades, sanctions, embargoes, civil commotion, political unrest, piracy, act of terrorism, and threat thereof (and even though the circumstances affecting performance hereunder existed at the time this contract was entered into or when the Goods were received for the Carriage), the Carrier may, at its sole discretion and without prior notice to Merchant, either:

(a) carry the Goods to the agreed port of discharge or place of delivery, whichever is applicable, by an alternative route to that indicated in this bill of lading or that which is usual for Goods consigned to that port of discharge or place of delivery in which case the Carrier shall be entitled to charge such additional Freight; or

(b) suspend the Carriage of the Goods and store them ashore or afloat under these terms and conditions and endeavor to forward them as soon as reasonably possible in which case the Carrier shall be entitled to such storage costs and additional Freight; or

(c) abandon the Carriage of the Goods and place them at the Merchant's disposal at any place or port which the Carrier may deem safe and convenient, whereupon the responsibility of the Carrier in respect of such Goods shall cease. The Carrier shall nevertheless be entitled to full Freight on the Goods received for the Carriage as well as any additional costs of the Carriage to, and delivery and storage at, such place or port.

## 10. Delivery

10.1 Once the Goods have been handed over or placed at the disposal of the Merchant or his agent in accordance with this bill of lading, they shall be considered as delivered. The same applies if, according to the laws and rules applicable at the place of delivery, the Goods must be presented with the authorities or other parties, once the Goods have been presented and handed over accordingly.

10.2 The Merchant shall take delivery of the Goods within seven calendar days. If the Merchant fails to do so, the Carrier may without notice to the Merchant and at the Merchant's sole risk and expense devan the Goods, and/or store them in an appropriate way. If, after the devanning and/or storing of the Goods, the Merchant fails to take delivery of the Goods for another thirty calendar days or if in the opinion of the Carrier, the Goods are likely to worsen, expire, decay, become worthless, or if they incur expenses of whatsoever nature exceeding the value of the Goods, the Carrier has the right to sell, destroy or dispose of the Goods. Any proceeds of such a sale shall be applied in reduction of the Freight or any other sums due under this bill of lading or otherwise in connection with the Carriage.

10.3 If the Carrier stores the Goods pursuant to Clause 10.2, the Goods shall be deemed to be delivered in accordance with this bill of lading, and the Carrier's responsibility and liability in respect of the Goods shall cease. In addition to the costs of the storage, the Merchant shall also be liable for detention and demurrage.

10.4 Notwithstanding the above and unless otherwise expressly agreed between the Carrier and the Merchant in writing, the Goods shall also be deemed to be delivered and the Carrier's responsibility and liability for them shall cease, once taken into the custody of the customs or other authority.

## 11. Freight

11.1 Freight shall be fully earned and paid in cash by the Carrier and non-refundable in any event, without any reduction or deferment, whether prepaid or payable at destination, once the Goods have been received by the Carrier.

11.2 Freight and all other amounts mentioned in this bill of lading are to be paid in the currency named in this bill of lading.

11.3 If the Carrier supplied Containers, other transport units and/or equipment, the Merchant is responsible for and shall pay demurrage at cost and other fees charged in connection with the supply of the equipment not caused by the faulty or negligent behavior of the Carrier.

11.4 The Merchant shall not have the right to set-off any counterclaim unless the counterclaim is undisputed or determined by a final and binding court decision.

11.5 Irrespective of any agreement or acceptance by the Carrier of instructions to collect the Freight and/or other expenses in connection with the Carriage from a third party, the Merchant shall always remain liable for such monies until they are fully paid.

## 12. Lien

The Carrier shall have a lien on the Goods and any documents relating thereto for any amount due at any time to the Carrier from the Merchant under this bill of lading or any other contract including general average contributions, salvage, storage fees and the cost of recovering the aforementioned amounts due and may enforce such lien in any reasonable manner which he may think fit.

## 13. General Average

The Merchant shall indemnify the Carrier in respect of any claims of a General Average nature which may be made on him and shall provide such security as may be required by the Carrier in this connection before delivery of the Goods as the Carrier requires, or, in the absence of such requirement, within three months after delivery of the Goods.

## 14. Both-to-Blame Collision Clause

Containers, whether goods therein be stowed by the Carrier or by the Merchant, and uncontainered unit load machinery may be carried on or under deck without notice to the Merchants and if they are so carried the Hague Rules are incorporated herein shall be applicable notwithstanding carriage on or under deck and the Goods and/or containers shall contribute in General Average whether carried on or under deck. Goods which are stowed on the front hereto to be carried on deck and which are so carried (and livestock, whether or not carried on deck) are carried at the sole risk of Merchant without any responsibility on the part of Carrier for loss or damage or delay or any matter of whatsoever nature whether or not caused by unseaworthiness or negligence or any other cause whatsoever. The Hague Rules, the Hague-Visby Rules and the US COGSA shall not apply to such Carriage. Merchant shall indemnify Carrier against all and any extra cost incurred for any reason whatsoever in connection with Carriage of such Goods or livestock.

## 15. Notice

15.1 If the Merchant fails to notify the Carrier of any loss of or damage to the Goods on delivery of the Goods, at the latest, in writing, the Goods shall be deemed to be delivered in their entirety and in undamaged condition. The notice must be given in writing and describe the loss or damage in sufficiently clear terms.

15.2 If the loss or damage was not externally apparent, the same presumption shall apply if notice in writing is not filed within 3 days of delivery in accordance with Clause 10.

## 16. Time bar

Unless otherwise expressly agreed in writing, the Carrier shall be discharged from all liability in connection with the Carriage or otherwise under these conditions unless suit is brought within 1 year after the delivery of the Goods, or the date when the Goods should have been delivered.

## 17. Validity

If any clause or a part thereof is held to be invalid, the validity of this bill of lading and the remaining clauses or a part thereof shall not be affected.

## 18. Jurisdiction and applicable law

Any claim, or dispute arising out of or in connection with the Carriage and/or this bill of lading shall be governed by German law. The courts of Hamburg, Germany shall have jurisdiction for any of the aforementioned claims or disputes unless any other jurisdiction is compulsorily applicable. Notwithstanding the foregoing, the Carrier may, in his sole discretion, chose to commence court proceedings against the Merchant at the Merchant's place of business.