

Container Protect Terms

These Container Protect Terms apply to the carriage of goods subject to Container Protect:

1. Definitions

The definitions set out in Hamburg Süd's Terms and Conditions for Carriage ("Terms and Conditions for Carriage"), available at https://www.hamburgsud-line.com/liner/en/liner_services/terms_and_conditions.html, shall be adopted and have the same meaning where used in these Container Protect Terms unless otherwise defined herein.

"Applicable Container" means a Container supplied by or on behalf of the Carrier in relation to which Container Protect has been purchased by the Customer.

"Container Protect" means a value-added service which may be purchased by Customer in conjunction with entering into a Contract of Carriage, such value-added services include "Container Protect Essential" and "Container Protect Unlimited".

"Container Protect Limit" means the limitation amount applicable to the Applicable Container, as stated in Container Protect web page on www.hamburgsud.com.

"Contract of Carriage" means any contract of carriage evidenced by a Transport Document for carriage of goods entered into between Hamburg Süd as Carrier and the Customer whether or not such Transport Document has been physically issued but provided that Goods have been accepted for carriage and the Shipper is entitled to demand a Transport Document.

"Customer" means the party purchasing Container Protect, any person or entity which falls within the 'Merchant' definition as set forth in Hamburg Süd's Terms and Conditions for Carriage, or any party subrogating the aforementioned parties' rights in full.

"Transport Document" means a Hamburg Süd bill of lading or sea waybill.

"Wilful Misconduct" means an act intentionally done, or a deliberate omission by the Customer, with the knowledge that the performance or omission will probably result in loss or damage, or an act done or omitted in such a way as to allow an inference of a reckless disregard of the probable consequences.

2. Application

2.1 Container Protect must be purchased by the Customer prior to delivery of the Applicable Container by the Carrier to the Customer. By purchasing Container Protect, the Customer agrees to the applicability of these Container Protect Terms to the Contract of Carriage.

2.2 Upon such delivery of the Applicable Container to the Customer by the Carrier and provided always that Customer has purchased Container Protect prior to such delivery, Container Protect will apply to the Applicable Container for the shipment under the Contract of Carriage.

2.3 Container Protect and these Container Protect Terms shall co-exist with, and logically amend, vary and supplement the relevant parts of the terms of the Contract of Carriage, which shall in all other respects remain in full force and effect.

2.4 In case of a shipment of more than one Container under a single booking, Container Protect must apply to all Applicable Containers, with the same Container Protect Limit for each Applicable Container.

2.6 The calculation of loss or damage to the Applicable Container shall be determined following the same procedure as if the Customer had not purchased Container Protect. The Applicable Container (and any parts thereof) must in all cases be returned to the Carrier.

2.7 The Customer agrees that their right to rely upon these Container Protect Terms is subject to the Customer at all times exercising reasonable endeavours to prevent or minimise loss or damage to any Applicable Container.

2.8 These Container Protect Terms only apply to loss and/or damage to Applicable Containers, and in no circumstances shall they apply to any other liability of the Customer under the Contract of Carriage.

3. Container Protect Cover

3.1 If Containers supplied by or on behalf of the Carrier are unpacked by or for the Customer, the Customer is responsible for returning the empty Containers, with interiors clean **and** odour, to the point or place designated by the Carrier, within the time prescribed. Should a Container not be returned **with interiors clean and odour free, to the point or place designated by the Carrier** and/or within the time prescribed in the Tariff, the Customer shall be liable for any detention, loss or expense incurred as a result thereof.

3.2 **Applicable** Containers released into the care of the Customer for packing, unpacking or any other

purpose whatsoever are at the sole risk of the Customer until redelivered to the Carrier. The Customer shall indemnify the Carrier for all loss of and/or damage **to the Applicable Container over the applicable Container Protect Limit** and/or delay to such Applicable Containers, and all liability claims from third parties or costs or fines resulting from Customer's use of such Applicable Containers. Customers are deemed to be aware of the dimensions and capacity of any Applicable Containers released to them. **Subject to clause 3.3, the Customer shall not be liable for any loss of and / or damage to the Applicable Container under the applicable Container Protect Limit.**

3.3 In no circumstances shall Container Protect apply in relation to loss or damage to the Applicable Container arising or resulting from or contributed to by the Wilful Misconduct or gross negligence of the Customer.

4. Exclusions

4.1 Container Protect applies to shipments which are accepted for carriage by the Carrier and within the cargo acceptance policy of the Carrier. Furthermore, the following commodities are excluded from the Container Protect terms and without regard to how the Goods are described in the Transport Document:

4.1.1 N/A

4.2 The provisions of clause 3 above shall not apply:

4.2.1 to any shipment where the Goods are mis-declared or incorrectly described in the Transport Document regardless of the reason for any such mis-declaration or incorrect description and whether material or not; and/or

4.2.2 if the application for Container Protect is received by the Carrier after the Applicable Container has been delivered to the Customer.

4.3 Container Protect does not apply for any shipments to or from Cuba, North Korea, Crimea, Syria, Iran and/or Sudan.

4.4 In no circumstances whatsoever shall Container Protect apply in the case of theft or disappearance of the Applicable Container.

4.5. Save as provided for in these Container Protect terms, the defences available to the Carrier as set out in or applicable to the Contract of Carriage remain in full force and effect.

5. Miscellaneous

5.1 The Customer or any person or entity falling within the definition of Customer and who has the right to claim under the Contract of Carriage, shall have the benefit of these Container Protect Terms to the exclusion of all other third parties.

5.2 Except as expressly provided for in clause 5.1 above, a person who is not a party to the Contract of Carriage shall not have any rights under the Contracts (Rights of Third Parties) Act 1999, or otherwise, to enforce any term of these Container Protect terms.

5.3 All prices and rates are exclusive of VAT and any other indirect taxes which may be levied and payable by the Customer.

5.4 No servant or agent of the Carrier shall have the power to waive or vary any of these Container Protect terms unless such waiver or variation is in writing and is specifically authorised or ratified in writing by the Carrier.

5.5 If any provision or part-provision of these Container Protect Terms is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this agreement.

6. Law & Jurisdiction

6.1. Clause 17 of the Terms and Conditions for Carriage regarding Law and Jurisdiction shall apply to the Container Protect Terms and is hereby incorporated as if set out in full herein.