

# **TERMS AND CONDITIONS OF FREIGHT FORWARDING OF FEDEX TRADE NETWORKS**

## **TRANSPORT & BROKERAGE ITALY S.R.L.**

### 1. Introduction

These General Terms and Conditions rule all the obligations arising from the contract entered into by and between the Customer and the Freight Forwarder, as well as all actions and complaints, including those of a non-contractual nature, towards the latter.

These Terms and Conditions are subject to change and are published on the website: [http://ftn.fedex.com/terms/Italy\\_English\\_forwarding\\_conditions.pdf](http://ftn.fedex.com/terms/Italy_English_forwarding_conditions.pdf)

### 2. Definitions

For the purposes of these General Terms and Conditions, the expressions listed below shall have the meanings attributed to them:

- a. Freight Forwarder: FedEx Trade Networks Transport & Brokerage Italy S.r.l., Fiscal Code 07115460961;
- b. Customer: the person who gives the Freight Forwarder a mandate to enter into the transport contract with the Carrier and to perform one or more Ancillary Operations, if any.
- c. Carrier: the person who is obliged towards the Freight Forwarder to execute the transport contract.
- d. Ancillary Operations: any and all operations originating and devoted, directly or indirectly connected to the service provided by the Carrier (by way of example but not limited to: deposit, loading and unloading goods, customs clearance).
- e. Supplier of Ancillary Operations: the subject who undertakes towards the Freight Forwarder to carry out an Ancillary Operation.

### 3. Obligations of the Freight Forwarder

The Freight Forwarder is exclusively required for the performance of the mandate granted to him, to enter into the transport contract, as well as to commission the execution of the Ancillary Operations, if any, always acting exclusively as a Freight Forwarder and never as a Freight Forwarder-carrier.

The Freight Forwarder has the right to have goods gathered with other goods for transportation by the Carrier, unless instructed otherwise in writing by the Customer.

The Freight Forwarder undertakes no liability for the exact interpretation of the instructions, which have not been given in writing by the Customer. Missing adequate or feasible instructions regarding the fulfilment of the assignment, the Freight Forwarder may operate in accordance with his discernment in the best interest of the Customer.

The Freight Forwarder is authorised to substitute others for himself in the performance of the mandate, pursuant to and for the effects of art. 1717 cod. civ.

The Freight Forwarder is not required:

- to verify that the Carrier and/or the Supplier of Ancillary Operations and/or the means employed by them have adequate insurance coverage or that they have, by way of example, particular qualities/certificates/authorizations;
- to know and/or inform the Customer on the existence of impediments by law or by authorities regarding the shipment such as, by way of example, restrictions on import, export or transit;
- to verify that the documentation provided by the Customer for transport and/or for any Ancillary Operations is complete and/or duly filled in;
- to verify that nature of the goods, number, quantity, quality, content of the parcels, gross weight (including weight of parcels, pallets and their size), dimensions and any other indications provided by the Customer are truthful and correct;
- to verify, in relation to the goods contained and the way of transport, the suitability of packaging and labelling used for the goods given to him;
- to declare the value of the goods to the Carrier for the purposes of carrier's liability, unless this is expressly requested in writing by the Customer;

- to insure goods, unless he received from the Customer a written and express order.

#### 4. Unacceptable goods

The Freight Forwarder does not accept carrying out shipping activities related to:

- precious metals, whatever the value;
- one of a kind/irreplaceable articles (such as, for example, artwork) valued over USD 500,000 each;
- goods different in quantity, quality, value from those for which he made the quotation and accepted the assignment.

The Customer undertakes not to deliver - and guarantees not to have delivered - the aforementioned goods, either directly or through third parties.

If the aforementioned goods are nevertheless delivered to the Freight Forwarder, without his knowledge or consent, the Freight Forwarder has the right to terminate the contract, or, if circumstances so require, at his discretion, to refuse, deposit or otherwise dispose of goods, or also, in case of danger, to proceed to their destruction, and, in such a case, the Customer is liable for any harmful consequences and for costs arising for whatever reasons.

#### 5. Restricted goods

The Freight Forwarder, only with prior written agreement, accepts carrying out shipping activities related to:

- dangerous goods, which include but are not limited to, goods classified as dangerous by IATA, IMO, ICAO, or mentioned by ADR/RID regulations;
- one of a kind/irreplaceable articles (such as, for example, artwork) valued between USD 250,000 and USD 500,000 each.

The Customer undertakes not to deliver - and guarantees not to have delivered - the aforementioned goods, either directly or through third parties, unless a prior written agreement has been made with the Freight Forwarder.

If the aforementioned goods are nevertheless delivered to the Freight Forwarder, without his knowledge or consent, the Freight Forwarder has the right to terminate the contract, or, if circumstances so require, at his discretion, to refuse, deposit or otherwise dispose of goods, or also, in case of danger, to proceed to their destruction, and, in such a case, the Customer is liable for any harmful consequences and for costs arising for whatever reasons.

#### 6. Obligations of the Customer

The Customer is required to specify the nature of the goods, number, quantity, quality of the parcels, gross weight, dimensions and any other useful information for the correct performance of the mandate, to send to the Freight Forwarder, in due time, clear and precise instructions, in writing, regarding the transport, as well as the documents necessary for the performance thereof and of any Ancillary Operations.

Missing adequate or feasible instructions regarding the fulfilment of the assignment, the Freight Forwarder may operate in accordance with his discernment, in the best interest of the Customer.

The Customer warrants and therefore declares that:

- he knows which are the goods that the Freight Forwarder declared unacceptable for transportation, and that they have not been included in the shipment;
- he knows which are the goods that the Freight Forwarder declared acceptable for transportation only by prior agreement and that they were not included in the shipment in the absence of such agreement with the Freight Forwarder;
- the nature of the goods, number, quantity, quality, content of the parcels, gross weight (including weight of parcels, pallets and their size), dimensions and any other indications he provided are truthful and correct;
- shipment has been duly and accurately described in all the transport documents;
- documentation provided to the Freight Forwarder is complete, free of irregularities and suitable to allow the Freight Forwarder to perform the mandate he was granted with;
- transport documents contain, in a clear and legible form, all the essential information for the execution of the transport and all the data required by the applicable laws;

- packaging and labelling used are suitable, in relation to the goods contained and the way of transport.

The Customer undertakes to indemnify and hold harmless the Freight Forwarder from any claim (damage, complaint or expense of any kind) arisen by anyone, for breach of warranties stated above.

If the Freight Forwarder is entrusted with carrying out customs operations, the Customer:

- will promptly provide all the information (i.e. data, customs codes of goods) and all the documents - which he declares to be authentic, complete and free of irregularities - necessary to carry out the customs operations.
- will pay in advance customs duties (such as, for example, duties, withdrawals, taxes, monopoly rights, border charges) and any additional taxes (such as, by way of example, VAT and excise duties) if any upon request of the Freight Forwarder. Customs clearance will be carried out by the Freight Forwarder only after receipt of the amount sent by the Customer.

The Customer authorizes the Freight Forwarder to manage all shipment data, also those of personal nature, if any, in order to allow the Freight Forwarder to fulfil the contract.

#### 7. Terms of delivery

Times of collection and/or delivery of goods referred to in the shipping contract, which are indicated, when possible, in the pre-contractual phase by the Freight Forwarder, are not binding and are provided to the Customer by way of example only, based on what has been declared by the Carrier.

The Freight Forwarder does not accept - nor guarantees compliance with - withdrawal and/or delivery terms, if any, requested by the Customer, even if resulting from the shipping documents.

#### 8. Documentation issued by the Freight Forwarder

Documents issued by the Freight Forwarder to the Customer acknowledge the information provided by the latter and therefore does not imply any representations and warranties regarding the quality of the goods, content of the parcels, value, weight and packaging.

#### 9. Shipping quotation

Offers of the Freight Forwarder, made on the basis of the information provided by the Customer, are effective for 30 days from the date of issue, unless a different term (longer or shorter) is indicated by the Freight Forwarder in each quotation.

The Freight Forwarder in any case will have the right to request - or, in case of anticipation, to repeat from - the Customer any further amounts (i.e. for ancillary services, customs duties, taxes or duties) whose payment is - or is made - necessary for the correct performance of the mandate, even if such amounts were not included in the quotation.

Notwithstanding art. 1739 of the Italian Civil Code, rewards, rebates and tariff advantages obtained by the Freight Forwarder exclusively belong to the Freight Forwarder.

#### 10. Freight Forwarder's credits

If the Customer requests to debit any amounts deriving from - or connected to - the shipping contract to the recipient or to a third party and the Freight Forwarder accepts such a request, the Customer remains always jointly liable with them.

If the recipient or the third party, for whatever reason, does not promptly and spontaneously pay the Freight Forwarder, he can therefore demand payment from the Customer.

Unless otherwise agreed, no amount due to the Freight Forwarder can be offset with other amounts claimed by the Customer, for any reasons whatsoever.

The Freight Forwarder has the right to set off any of its own credits (even if the Customer disputes the existence or the amount of such credits) claimed against the Customer with the debts contracted with the latter.

Unless different terms are recorded in the quotation of the Freight Forwarder, payment must be made "at receipt of the invoice".

If, for reasons not dependent on the Freight Forwarder, the payment terms mentioned above are not respected, the Freight Forwarder will apply the interest rate provided for by art. 5 of Legislative Decree 9 October 2002 nr. 231.

No exceptions, except those of nullity, voidability and rescission of the agreement, can be raised by the Customer, in order to delay or avoid payment (*solve et repete*).

11. Right of retention

The Freight Forwarder has, towards the Customer and any other party of the contract, a lien and right of retention on goods and properties coming into Freight Forwarder possession, for credits that have expired or will expire, and he can also claim this right against the recipient and/or owner of the goods.

12. Validity of the mandate

As long as the Freight Forwarder has not entered into the transport contract with the Carrier, the Customer can revoke the shipping order, reimbursing the Freight Forwarder for the costs incurred in and paying him the compensation due for the activities performed, as per the Freight Forwarder's quotation or, in the absence, according to market prices.

13. Freight Forwarder's liability

The Freight Forwarder does not make warranties nor is liable for actions of the Carrier, nor of the Supplier of Ancillary Operations, whose services he requested in the fulfilment of the mandate: he is liable only for gross negligence or wilful misconduct in selecting them or in transmitting them the instructions, and not for work of the individual subjects he selected or appointed.

In the event of damage caused by the Carrier and/or by each Supplier of Ancillary Operations, the Customer waives, as of now, any action against the Freight Forwarder. If so requested by the Customer, the Freight Forwarder will assign the related compensation claim to the Customer.

In the event of Freight Forwarder's liability, such liability is in any case limited to € 500,00 per parcel or € 5,00 per gross kilogram of goods, applying the value which is the lowest, between them.

In the event of deficiencies, failures or delays for shipments of documents or samples and goods intended for fairs, exhibitions and the like, the Freight Forwarder's liability is limited to the value of the goods declared at the time of shipment and, in any case, within the limits set out in previous paragraph of this clause.

14. Unforeseeable circumstances and force majeure

The Freight Forwarder is not responsible for contractual breaches due to fire, flood, strike, union agitation, insurrections, state of war or similar acts, natural elements, embargo, extreme climatic conditions, acts of the State or Customs, or any other cause beyond its reasonable control and not caused by him.

The higher costs / expenses / charges of - by way of example - transport, storage, warehouse, insurance, deriving from - or connected to - events of unforeseeable circumstances or force majeure are born by the Customer, who will have to pay them to the Freight Forwarder at the latter's request.

15. Claims

All disputes, requests, claims, and/or demands of the Customer against the Freight Forwarder, if any, in relation to the mandate, must be submitted to the attention of the Freight Forwarder:

- by registered letter with return receipt to the following address: FedEx Trade Networks Transport & Brokerage Italy Srl, Via Londra 35, 20090 Segrate (MI) or,
- by Certified Electronic Mail to the PEC box: fedexitaly@legalmail.it ,

alternatively, within the mandatory deadline of:

- 3 (three) days from the date of the event, in case the major part of the transport is performed by sea;
- 7 (seven) days from the date of the event, in case the major part of the transport is performed by road;
- 14 (fourteen) days from the date of the event, in case the major part of the transport is performed by air.

Expiration of the term hereinbefore mentioned without any communication being received in the manner

stated above, will result in the forfeiture of the related right, even if it has not yet been extinguished by prescription.

16. Insurance

The Customer can give a mandate to the Freight Forwarder to insure goods for account of whom it may concern, stating the risks to be insured and the insured amount. The costs of the aforementioned insurance coverage, in this case, will be specified in the Freight Forwarder's quotation.

Missing the indications mentioned above, the Freight Forwarder is under no obligation to procure insurance cover for the goods.

In no case the Freight Forwarder can be considered as an insurer or a co-insurer.

As an alternative, the Customer may directly insure the goods, it being understood that, in such a case, the related insurance policy, under penalty of liability towards the Freight Forwarder, must contain an express waiver of the right of recourse against the Freight Forwarder by the insurer.

The Freight Forwarder does not have the obligation to act to obtain insurance compensation, to interrupt the limitation periods, to take care of the expert activity, unless otherwise agreed in writing.

17. Governing law and jurisdiction

The shipping contract between Freight Forwarder and Customer, ruled by these General Conditions, is concluded in Italy and governed by Italian laws. Any dispute deriving from the shipping contract shall be devolved to the exclusive jurisdiction of the Court of Milan.

18. Failure to comply

Failure by the Freight Forwarder to apply any provisions of these terms and conditions, does not constitute, in any way, waiver of such provision and will not affect nor limit, in any way, the Freight Forwarder's right to make use of it or to request its compliance or application.

19. Mandatory rules

If one or more clauses provided in these General Terms and Conditions are contrary to mandatory rules, such clauses will be limited in their effects to the maximum possible extent and, as limited, will remain effective and will be an integral part of the agreement between the Freight Forwarder and the Customer. The invalidity or impossibility of making use of any clause will, in no way, affect the remaining clauses of these General Terms and Conditions.

On \_\_\_\_\_ in \_\_\_\_\_

The Customer

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20. Pursuant to articles 1341 and 1342 of the Italian civil code the following clauses: 3 (Obligations of the Freight Forwarder), 4 (Unacceptable goods), 5 (Restricted goods), 6 (Obligations of the Customer), 7 (Terms of delivery), 10 (Freight Forwarder's credits), 13 (Freight Forwarder's liability), 15 (Claims), 16 (Insurance), 17 (Governing law and jurisdiction), are specifically approved and signed.

On \_\_\_\_\_ in \_\_\_\_\_

The Customer

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