

Value Protect Terms

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

1. Definitions

The definitions set out in Hamburg Süd's Terms and Conditions for Carriage ("Terms for Carriage"), available at https://www.hamburgsud-line.com/liner/media/sonstiges/starting_page_3/terms_conditions/bl/2021-01_HS_BL_A4_verso.pdf shall be adopted and have the same meaning where used in these Value Protect Terms unless otherwise defined herein.

"Contract of Carriage" means any contract of carriage evidenced by a Transport Document for the Carriage of Goods entered into between Hamburg Süd as Carrier and the Merchant 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.

"Applicable Event" means any cause of a loss occurring during an Applicable Period for which the Carrier accepts liability pursuant to these Value Protect Terms beyond that which would otherwise be applicable pursuant to the Hamburg Süd Terms for Carriage.

"Applicable Period" means the period during which the Value Protect Goods are under the Carrier's responsibility as defined in the contract of carriage.

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

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

"Value Protect" means a value-added service which may be purchased by Customer in conjunction with entering into a Contract of Carriage.

"Value Protect Goods" means Goods for which Value Protect has been purchased by the Customer.

2. Application

2.1 Value Protect must be applied for by the Customer prior to acceptance by the Carrier of the custody of the Goods at the port of loading.

2.2 Upon cargo acceptance by the Carrier and provided always that Customer has applied for Value Protect prior to such cargo acceptance, Value Protect will apply to the Goods.

2.3 Value Protect shall remain in effect and shall be applicable to the Value Protect Goods only whilst under the Carrier's responsibility as defined in the contract of carriage.

2.4 Value Protect and these Value Protect Terms shall co-exist with, and logically amend, vary and supplement the relevant parts of the terms of contract of carriage, which shall in all other respects remain in full force and effect.

3. Value Protect Cover

3.1 Where these terms are applicable to a contract of carriage, the following clause shall be incorporated into the Terms for Carriage, and notwithstanding any terms that may be printed on the reverse of a bill of lading or otherwise incorporated or referenced:

"4.1 (c) Notwithstanding the provisions of clause 4.1 (a) and (b) above, the provisions of Article IV Rules 2(a), (b), (c), (h), (l), (o) and 5 of the Hague Rules shall not apply to the contract of carriage."

3.2 Subject to these Value Protect Terms and notwithstanding any provision to the contrary in or applicable to the contract of carriage, upon the occurrence of an Applicable Event any compensation payable to the Customer for claims arising from an Applicable Event shall be limited to the lower of the commercial value of the Goods covered by Value Protect, as set out in the commercial invoice for the Goods, and the compensation limit of the applicable Value Protect tier value.

3.3 If an Applicable Event gives rise to General Average and/or salvage liabilities, the Carrier will settle any claim for contribution or security in respect of salvage and/or General Average contributions as may be due from the Customer in respect of all or part of the Value Protect Goods.

3.4 The compensation limits applicable for each Value Protect tier are:

3.4.1. Value Protect Dry Starter up to and including USD 15,000

3.4.2. Value Protect Dry Base up to and including USD 30,000

3.4.3. Value Protect Dry Plus up to and including USD 60,000

3.4.4. Value Protect Dry Extended up to and including USD 120,000

3.4.5. Value Protect Cool Standard up to and including USD 12,000

3.4.6. Value Protect Cool Advanced up to and including USD 36,000

3.4.7. Value Protect Special Standard up to and including USD 180,000

3.4.8. Value Protect Special Advanced up to and including USD 240,000

4. Exclusions

4.1 Value Protect applies to shipments which are accepted for carriage by the Carrier and within the cargo acceptance policy of the Carrier. The Value Protect tiers set out in 3.4.7 and 3.4.8 are only applicable to Goods carried as special cargo in open top or flat rack containers. Notwithstanding this, the following commodities are excluded from the Value Protect terms and without regard to how the Goods are described in the Transport Document:

4.1.1 Chilled avocados, berries, bananas, pineapples, papayas, non-citrus fruits (except apples, pears and grapes), seafood and fish;

4.1.2 Frozen fish and seafood; or

4.1.3 Goods carried at ultra-low temperature of negative 60 degrees centigrade or lower, alternatively called the 'super freezer segment'.

4.2 The provisions of clause 3 above shall not apply

4.2.1 to any Goods that 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 Value Protect is received by the Carrier after the Goods have been received for Carriage.

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

4.4. Save as provided for in these Value Protect terms, the defenses available to the Carrier as set out in or applicable to the contract of carriage remain in full force and effect. In particular, but without limitation, the defenses available to the Carrier pursuant to the Hague Rules not listed in clause 3.1 above.

4.5 Value Protect is not available in Taiwan.

5. Claims

5.1 In the event of an Applicable Event during the Applicable Period, the Customer or Merchant shall give notice of their claim to the Carrier by notifying the local Hamburg Süd claims desk and supplying all supporting documentation which shall include, but is not limited to:

5.1.1. Copy of the Transport Document

5.1.2. Copy of the commercial invoice

5.1.3. If the Goods have been delivered, colour photographs of the Goods

5.1.4. A statement of facts and particulars of loss or damage to the Goods; and

5.1.5. Any other documents(s) that may be required to assess liability and compensation as may be requested by the Carrier.

5.2. If the Customer has purchased Value Protect Dry Plus, Value Protect Dry Extended, Value Protect Cool Advanced or the Value Protect Special tiers, provided that the Customer notifies the Carrier's local representative within 3 days of delivery of the Goods, the Customer has no obligation to instruct a third-party surveyor to assess the extent of damage to the Goods but the Carrier may do so in its own discretion.

5.3. Where any claim exceeds the amount of the Value Protect tier purchased for the Value Protect Goods claimed for, the Customer's eligibility for compensation above the tier will be assessed solely according to the Carrier's Terms for Carriage. For the avoidance of doubt, the Carrier shall not be liable to compensate the Customer for any amount above the Value Protect tier if the Carrier's liability for the entire claim under the Terms for Carriage is less than the tier purchased.

5.4. The Customer and Merchant shall take all reasonable steps to mitigate any loss suffered as a result of an Applicable Event.

6. Settlement

6.1. It shall be a condition precedent to payment of any claim under these Value Protect Terms that:

- 6.1.1. all sums due to the Carrier from the Customer shall have been settled in full; or
- 6.1.2. in the case of a Customer with a valid credit agreement, there are no overdue amounts under that agreement.

6.2. Notwithstanding clause 6.1 above, if there are any sums due to the Carrier from the Customer, or any overdue amounts under a credit agreement with the Customer, the Carrier shall be entitled to set-off any compensation due to the Customer under these Value Protect Terms or the contract of carriage against such sums or amounts.

7. Miscellaneous

7.1. The Customer or any person or entity falling within the definition of Merchant and who has the right to claim under the contract of carriage, shall have the benefit of these Value Protect Terms to the exclusion of all other third parties.

7.2. Except as expressly provided for in clause 7.1 above, a person who is not a party to the contract of carriage shall not have any rights hereunder or otherwise to enforce any term of these Value Protect Terms.

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

7.4. No servant or agent of the Carrier shall have the power to waive or vary any of these Value Protect Terms unless such waiver or variation is in writing and is specifically authorized or ratified in writing by the Carrier.

7.5. If any provision or part-provision of this agreement 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.

8. Law & Jurisdiction

8.1. Clause 17 of the Hamburg Süd Terms for Carriage regarding Law and Jurisdiction shall apply to the Value Protect Terms and is hereby incorporated as if set out in full herein.