

**NIPPON EXPRESS PAN EUROPEAN  
FREIGHT FORWARDERS COMMERCIAL CARGO  
INSURANCE POLICY**

Open Cover Policy No. NEEU-C-2019-01

Policyholder: Nippon Express Europe GmbH  
Marie-Bernays-Ring 23a,  
D-41199 Mönchengladbach

Assured: Customers of the Policyholder and/or its subsidiaries as per section 26 for which they receive instructions to insure prior to shipment (for third-party account)

Insured Goods: Goods and/or Merchandise of every description incidental to the Assured's business as may be declared, the property of the Assured or for which the Policyholder and/or Co-Policyholder have or assume a responsibility to insure, whether contractually or otherwise, or for which they receive instructions to insure prior to shipment or prior to known or reported loss or accident (for third-party account), excluding Goods and/or Merchandise as per section 3.1.1

Means of Conveyance: Approved Vessels and/or Aircraft and/or Post and/or Rail and/or Road conveyances including transshipment, if applicable

Vessels subject to Institute Classification Clause 01/01/2001 (Clause N° 354) are held covered at premium to be agreed.

Voyages/Storage: From and to all place(s) in the world excluding those countries as per section 7.

Maximum Limits: As per Page 24 "Limits of Liability"

Conditions: As per Page 7 "Basis of Contract"

Period of Insurance: From 1<sup>st</sup> January 2019 to 31<sup>st</sup> December 2019  
- both days included

Underwriters: SI Insurance (Europe), SA  
Zweigniederlassung Deutschland  
Niederkasseler Lohweg 18, D-40547 Düsseldorf

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## 1. Preamble

This Pan European Freight Forwarders Commercial Cargo Insurance Policy  
No. NEEU-CC-2019-01

entered between

**Nippon Express (Europe) GmbH**

(hereinafter referred to as the "Policyholder") of the one part,

and

**SI Insurance (Europe), SA**

(hereinafter referred to as the „Underwriters“) of the other part,

is subject to the following terms and conditions which the Policyholder and the Underwriters hereby declare to have fully agreed upon.

This Pan European Freight Forwarders Commercial Cargo Insurance is effected to insure transports and storage as specified herein to be made on and after January 1, 2019 by or for third-party account for which the Policyholder and / or its subsidiaries assume a responsibility to insure, whether contractual or otherwise, or for which the Policyholder and/or its subsidiaries receive instructions to insure, subject to the terms and conditions of the written conditions attached hereto.

## 2. Basis of Contract

Unless otherwise provided for in the agreements under this Open Contract, the following conditions and clauses apply (see attachments):

Institute Cargo Clauses (A) 1/1/09

Institute Cargo Clauses (B) 1/1/09

Institute Cargo Clauses (C) 1/1/09

Institute Cargo Clauses (Air) (excluding sendings by Post) (1/1/09)

Institute War Clauses (Cargo) 1/1/09

Institute War Clauses (Air Cargo) (excluding sendings per Post) 1/1/09

Institute War Clauses (sendings by Post) 1/3/09

Institute Strikes Clauses (Cargo) 1/1/09

Institute Strikes Clauses (Air Cargo) 1/1/09

Institute Replacement Clause 1/12/08

Institute Classification Clause 1/1/2001

Institute Radioactive Contamination, Chemical, Biological, Bio-Chemical and Electromagnetic Weapons Exclusion Clause 10/11/03

International Sanctions Clause

Termination of Transit Clause (Terrorism) 1/1/09

Institute Cyber Attack Exclusion Clause 10/11/03

In case of variations of conditions and clauses, written conditions prevail the standard clauses mentioned immediately above.

### **3. Coverage**

#### **3.1 Goods &/or Merchandise with Special Attention**

Goods and/or Merchandises hereinafter listed, for which the Policyholder Nippon Express Europe GmbH receive instructions to insure or assume the responsibility to insure, require special attention prior to inception of risk:

##### **3.1.1 Excluded Cargo**

Goods &/or Merchandise hereinafter listed cannot be covered

- (1) Weapons, Arms, Explosives, Missiles ,Grenades, and ammunition including components for these items and the like
- (2) Equipment such as ground vehicles, with the Military and Policing constituent components, body armour, helmets and the like
- (3) Dangerous goods designed for execution, torture and the like
- (4) Dangerous Drugs according to law on narcotics
- (5) Nuclear energy or other ionising radiation
- (6) Nuclear Fuels, Radioactive Materials
- (7) Scrap, Salvage and Waste related cargo

##### **3.1.2 Underwriters Authorisation prior to Inception of Risk**

The Policyholder is not authorised to provide insurance for the following Goods and/or Merchandise such as but not limited to the below mentioned without prior agreement of the Underwriters prior to inception of risk:

- (1) Live Animals and Live Stocks
- (2) Bulk Chemicals
- (3) Cash, Securities or other negotiable documents, Banknotes, Bonds, Credit Cards, Jewellery & Pearls, Precious Stones, Precious Metals, Coins, Gems, Shares, Valuable papers, Deeds, Certificates, Furs, Gemstones, Manuscripts, Documents and Plans
- (4) Plant Machineries
- (5) Iron & Steel, Wire & Cables
- (6) Fine Arts, Antiques, Carpets, Musical Instruments and similar high valued goods which exceeds 250.000,00 EUR per any one certificate
- (9) Pleasure Boats, Yachts, Motor Boats
- (10) All Refrigerated Cargoes (e.g. Pharmaceutical Products, Frozen and Perishable Foods)
- (11) All Cargo which exceeds 1.500.000,00 EUR (or equivalent in other currencies) per any one certificate
- (12) Container Itself

General Cargo, New Machinery, Electric Goods (Computer and PC) and Fragile Goods not mentioned and/or not similar to the Goods and/or Merchandise mentioned above must not be authorised by the Underwriters prior to inception of Risk.



### **3.2 Special Extension Clause for ICC (B) (1/1/09)**

In case of insurance on "Institute Cargo Clauses (B) (1/1/09) conditions, it is specially understood and agreed that this insurance shall be deemed to extend to cover loss of or damage to the subject-matter insured caused by heavy weather.

Subject always to the terms, conditions, limits and exclusions contained elsewhere in this policy.

### **3.3 Special Extension Clause for ICC (C) (1/1/09)**

In case of insurance on "Institute Cargo Clauses (C) (1/1/09) conditions, it is specially understood and agreed that this insurance shall be deemed to extend to cover followings:

- (1) total loss of the subject-matter insured caused by washing overboard
- (2) total loss of any package lost overboard or dropped whilst loading on to, or unloading from, vessel or craft
- (3) total loss of the subject-matter insured caused by entry of sea lake or river water or place of storage
- (4) total loss of the subject-matter insured caused by heavy weather

Subject always to the terms, conditions, limits and exclusions contained elsewhere in this policy.

### **3.4 Special Piracy Clause**

In case the basic condition is Institute Cargo Clauses (B) or Institute Cargo Clauses (C), it is hereby agreed that the Article 6.2 of that clauses should be deleted and replaced by the Article 6.2 of Institute Cargo Clauses (A) and further that this insurance covers loss of or damage to the subject-matter insured caused by piracy, subject always to the other exclusions contained in this insurance.

### **3.5 Special Clause for Air Cargo with Named Peril Extension**

In case of insurance on "Named Perils" conditions, the following clause shall be applied in place of clause 1 of the Institute Cargo Clauses (Air) (excluding sendings by Post) incorporated herein.

This insurance covers, except as excluded in clause 3,4 and 5 of the Institute Cargo Clauses (Air) (excluding sendings by Post)

- 1 loss of or damage to the subject-matter insured reasonably attributed to
  - 1.1 fire or explosion or lightning
  - 1.2 aircraft crash and/or aircraft impact, forced or crashed landing caused by engine and/or air pressure trouble or electrical and/or mechanical breakdown in flight
  - 1.3 overturning or derailment of land conveyance
  - 1.4.2 collision or contact of aircraft with any external object other than a runway
  - 1.4.3 collision or contact of vessel craft or conveyance with any external object other than water
- 1.5 vessel or craft being stranded grounded sunk or capsized
- 1.6 discharge of cargo at a port and/or an airport of distress,
- 2 loss of or damage to the subject-matter insured caused by
  - 2.1 general average sacrifice
  - 2.2 jettison and overboard
  - 2.3 entry or sea lake or river water into any conveyances container or place of storage
- 3 total loss of any package lost dropped whilst loading on to or unloading from aircraft or vessel.

Subject always to the terms, conditions, limits and exclusions contained elsewhere in this policy.

### **3.6 Risk Attachment Clauses (INCOTERMS)**

#### **3.6.1 F.O.B. Attachment Clause**

Notwithstanding anything contained herein to the contrary, the risks covered hereunder shall not attach to the interest hereby insured prior to being on board the overseas vessel at the port of shipment.

In case, however, the assureds have to bear the risks of the interest hereby insured, under their F.O.B. or C. & F. contract with the shipper, from the time when it has effectively passed the rail of the overseas vessel at the port of shipment, the risks covered hereunder shall attach from that time.

#### **3.6.2 FOB Airport Attachment Clause**

Notwithstanding anything contained herein to the contrary (excepting coverage against War Risks), it is understood and agreed that this insurance shall not attach until such time as the goods have been delivered, at the place named in the policy, into the charge of the air carrier or his agent or any other person named by the buyer, or, if no air carrier, agent or other person has been so named, of an air carrier or his agent chosen by the seller.

### 3.6.3 F.A.S. Attachment Clause

Notwithstanding anything contained herein to the contrary, the risks covered hereunder shall not attach until the title of the interest hereby insured is duly vested in the assured alongside the overseas vessel at the port of shipment under their F.A.S. contract with the shipper.

### 3.6.4 Free Carrier Attachment Clause

Notwithstanding anything contained herein to the contrary (excepting coverage against War Risks), it is understood and agreed that this insurance shall not attach to the interest hereby insured prior to being delivered into the charge of or the custody of the carrier at the point or place named in the policy for the commencement of the transit.

## 3.7 Mail and Parcel Post Clauses

1. Notwithstanding anything to the contrary contained in the Institute Cargo Clauses and Institute Strikes Clauses, this insurance attaches only as the subject-matter insured and as to any part as that part is first moved in the premises of the senders at the place named in the contract of insurance for the immediate commencement of the transit and continues, until the subject-matter insured and as to any part as that part is delivered to the address on the postal package(s) when this insurance shall terminate.

2. Notwithstanding anything contained herein to the contrary, it is specially understood and agreed as follows:

- (1) Warranted free from claim for loss or damage proved to be due to incorrect and/or ambiguous and/or insufficient description of the address on the package and also for loss or damage resulting from any disposal by the Postal Authorities by reason of the interest having become undeliverable to, or having been unaccepted by, the addressees.
- (2) No claim for pilferage to be admitted if package be delivered with seals intact.
- (3) Post Office Receipt for the Mail and/or Parcel Post will be required as proof in case of claim.
- (4) In case of loss, claim in the form of an affidavit must be immediately filed against the Government (Postal Service), and a copy thereof and of the reply thereto must accompany any claim presented under this policy.

## 3.8 Deleted

### **3.9 Duty Clause**

To pay partial loss sustained on duty imposed on the goods insured hereunder, by reason of the perils insured against, but subject to the policy terms of average; also to pay total loss if the goods are totally lost in accordance with the policy terms after the duty is paid. In case of the insured amount of duty stated herein being in excess of the full amount of duty imposed on the goods insured hereunder according to the relevant regulations when they arrive at the final port of discharge named herein in sound condition, this Company's liability shall not exceed the amount of actual loss of duty.

In case of the insured amount of duty stated herein being less than the full amount of duty mentioned above, this Company's liability shall not exceed such proportion of the loss sustained on duty as the former bears to the latter.

The Assured shall, when this Company so elects, surrender the goods to the Customs Authorities and avoid duty payment, and in case of any reduction in duty the amount so reduced shall be deducted in settling any loss for which this Company may be liable.

### **3.10 Special Clause for Containerised Cargo**

In case of the interest hereby insured or any part thereof being packed in dry van containers, the original conditions stated herein shall apply if the container is loaded on deck or temporarily stored in open yards at the port of landing or customs clearance or other places named herein.

It is hereby specially understood and agreed that this Open Contract covers loss and/or non-delivery, howsoever caused, or package(s) and/or content(s) packed into and carried by container(s).

Such loss and/or non-delivery shall be ascertained by comparison of the numbers of packages and/or contents thereof shown in the shippers' commercial invoice with those duly evidenced at the time of devanning at the port of discharge or at the consignee's final warehouse.

### **3.11 Institute Theft, Pilferage and Non-Delivery Clause**

In consideration of an additional premium, it is hereby agreed that this insurance covers loss of or damage to the subject-matter insured caused by theft or pilferage, or by non-delivery of an entire package, subject always to the exclusions contained in this insurance.

### **3.12 Institute Malicious Damage Clause**

In consideration of an additional premium, it is hereby agreed that the exclusion "deliberate damage to or deliberate destruction of the subject-matter insured or any part thereof by the wrongful act of any person or persons" is deemed to be deleted and further that this insurance covers loss of or damage to the subject-matter insured caused by malicious acts vandalism or sabotage, subject always to the other exclusions contained in this insurance.

**3.13 On-Deck Clause (applying to imported cargo)**

Notwithstanding anything contained herein to the contrary, it is specially understood and agreed that in the event of the subject-matter insured or any part thereof being carried on deck, whether by the exercise of a liberty granted to shipowners or charterers under the contract of affreightment or not, the conditions (only applying to the original condition is broader than Institute Cargo Clauses (B)) on such deckload shall be subject to Institute Cargo Clauses (C), including the risks of Washing Overboard, as from the commencement of this insurance.

In case, however, the assured prove that the loss of or damage to the subject-matter insured was occurred during the insured period before loading on board the vessel or after completion of discharge from the vessel, the original condition would be applied.

(for the purpose of this clause, Clause 4.7 of Institute Cargo Clauses (C) shall be deemed to be deleted in case of the original condition not excluding deliberate damage to or deliberate destruction of the subject-matter insured or any part thereof by the wrongful act of any person or persons in the said clause)

**3.14 Open-Yard Storage Clause (applying to imported cargo)**

Notwithstanding anything contained herein to the contrary, it is specially understood and agreed that in the event of the subject-matter insured or any part thereof being stored in the open-yard at the port of landing named in the policy, this Company's liability for such subject-matter insured shall be subject to Institute Cargo Clauses (C) so long as they are so stored, provided, however, that the foregoing shall not apply in case of the Assured having given a previous notice of such storage to this Company and agreed to pay an additional premium required. (for the purpose of this clause, Clause 4.7 of Institute Cargo Clauses (C) shall be deemed to be deleted in case of the original condition not excluding deliberate damage to or deliberate destruction of the subject-matter insured or any part thereof by the wrongful act of any person or persons in the said clause)

**3.15 Special Container Clause**

Notwithstanding the provisions of the ON-DECK CLAUSE and the OPEN-YARD STORAGE CLAUSE contained herein, it is specially understood and agreed that in case of the goods hereby insured or any part thereof being packed in dry container (closed van type metal, FRP containers) under the Bill of Lading containing Optional Stowage Clause, the original conditions stated herein shall be applied even if the insured goods are carried on deck or stored in open yards.

**3.16 Breakup Vessel Clause**

It is understood and agreed that the conditions specified herein and the rate already quoted for the shipment insured hereunder shall be subject to alteration in case where it has already been decided before sailing that the carrying vessel will be broken up.

**3.17 Special Capture & Seizure Clause**

Notwithstanding anything contained in the Clause 1 of Institute War Clauses, this insurance covers, except as excluded by the provisions of Clauses 3 and 4 of that Clauses, loss of or damage to the subject-matter insured caused by "capture seizure arrest restraint or detainment and the consequences thereof or any attempt thereat.

### **3.18 Pairs and Set Clause**

In the event of loss or damage to (a) any article or articles which are part of a pair or set, the measure of loss of or damage to such article or articles shall be a reasonable and fair proportion of the total value of the pair or set, but in no event shall such loss or damage be construed to mean total loss of the pair or set; (b) machinery, equipment, computers or any other electronic equipment consisting of several parts, this Policy is only liable for the value of part(s) lost or damaged.

### **3.19 Used &/or Secondhand Goods Clause**

Notwithstanding anything contained herein to the contrary, it is specially understood and agreed that in case of the interest hereby insured or any part thereof being used &/or secondhand goods, the conditions on such used &/or secondhand goods shall be Institute Cargo Clauses (C), including the risk of Theft, Pilferage and Non-Delivery [Subject to Institute Theft, Pilferage and Non-Delivery (Insured Value) Clause]” as from the commencement of this insurance.

Provided however, that in case of the original conditions not covering the Theft, Pilferage and Non-Delivery risks, the conditions on the used &/or secondhand goods shall be “Institute Cargo Clauses (C)” only.

(for the purpose of this clause, Clause 4.7 of Institute Cargo Clauses (C) shall be deemed to be deleted in case of the original condition not excluding deliberate damage to or deliberate destruction of the subject-matter insured or any part thereof by the wrongful act of any person or persons in the said clause)

2. The above provision shall not apply in case of the Assured having given this Company a previous notice of the interest hereby insured or any part thereof being used &/or secondhand goods and agreed to pay an additional premium required.

### **3.20 Label Clause**

In case of damage from perils insured against affecting labels only, loss to be limited to an amount sufficient to pay the cost of reconditioning, cost of new labels and relabelling the goods, provided the damage will have amounted to a claim under the terms of the policy.

### **3.21 Special Painting and Replacement Clause**

It is understood and agreed that repainting fees shall be restricted only to the part where loss or damage suffered are caused by perils insured against.

In no case repainting fee covered includes the repainting of the entire body for reasons of aesthetic purposes.

And it is also understood and agreed that in case of repair or replacement, the cost covered by this company should be restricted to the cost of repair on the part directly damaged by perils insured against.

### **3.22 Warranty for Refrigerated (Chilled) Cargo**

In case the cargoes are chilled ones, the word in parentheses is applied.

Notwithstanding anything to the contrary contained herein, it is a warranty of this insurance that:-

- (1) The goods are in sound condition and properly prepared, packed and frozen (chilled) at the time of attachment of the insurance.
- (2) The Assured shall take all precautions to ensure that the goods are kept in refrigerated (chilled) or insulated space during the currency of the policy except during actual loading or unloading operations.
- (3) On discovery by the Assured, his servants or agents of any loss of, deterioration of or damage to any part of the goods immediate notice shall be given to Underwriters. In no case shall any claim be recoverable hereunder where notice is given to Underwriters more than 30 days after the termination of the insurance.
- (4) Claim against the carrier shall be immediately filed in writing, a copy of which must accompany any claim presented under this insurance.

### **3.23 Standard Packing Clause**

In case of loss or damage to the goods hereby insured, the Underwriters shall not decline any claim by reason of insufficient packing of the goods, so long as such packing shall be in accordance with the Standard packing admitted by the expert of packing.

### **3.24 Special Clause for Re-Packing Charge**

In case of loss or of damage to the package, carton or the like of the goods hereby insured, the sum recoverable shall include the actual cost for re-packing.

Provided always that in no case shall the liability of the Underwriters exceed the insured value of the goods hereby insured.

### **3.25 Special Salvage and Debris Removal Clause**

Costs of clearing up, cartage, destruction and fire extinguishing on the occasion of indemnifiable damage shall be deemed insured at "first risk" insofar as they are not indemnifiable elsewhere. Underwriters' liability is limited to 30% of the sum insured, however, to a maximum of 50.000,00 EUR per means of conveyance / storage location and case of damage insured against.

These costs shall be borne by Underwriters no matter whether such costs added to the otherwise due indemnity proper would exceed the sum insured.

### **3.26 Special Replacement Clause**

In case of a loss of or damage to any part or parts of goods hereby insured caused by a peril covered by this Open Contract, the sum recoverable shall not exceed the cost of replacement or repair of such part or parts plus charges for forwarding (irrespective of conveyance) and refitting, if incurred, including duty, if imposed.

Provided always that in no case shall the liability of the Underwriters exceed 130% of such the amount insured of each complete machine hereby insured which sustained such loss or damage.

### **3.27 Special Clause for Inspection**

In case an accident should occur during the tenure of this insurance and there should be the possibility of loss or damage covered by the Policy, the Insurer shall be liable for any inspection &/or survey fees and charges incurred from such accident irrespective of actual loss or damage, provided that the inspector &/or surveyor duly authorized by the Insurer shall regard the inspection of the subject-matter insured as appropriate and reasonable.

The recoverable amount under this clause shall be limited to 3.000.000,00 JPY (or equivalent in other currencies) or 30% of the amount insured per any one policy, whichever shall be the lower.

### **3.28 Special Airfreight Cover Clause**

If the Assured has good or reasonable reason to suppose that any part or parts of subject-matter insured has suffered loss or damage caused by a peril covered by this policy from the external appearance of the subject-matter insured &/or package at the time of their arrival at destination, this policy covers the charges for forwarding of substitute cargoes to destination named in the policy (including airfreight, cost of custom clearance and relatives), duty if imposed.

It is necessary for the Assured to obtain a consensus from this Company prior to substitute shipment.

The recoverable amount under this clause shall be limited to 3.000.000,00 JPY (or equivalent in other currencies) or 30% of the amount insured per any one accident, whichever shall be the lower.

### **3.29 Special Forwarding Charge Clause**

If the Assured has good or reasonable reason to suppose that any part or parts of subject-matter insured has suffered loss or damage caused by a peril covered by this policy from the external appearance of the subject-matter insured &/or package at the time of their arrival at destination, this policy covers the charges for forwarding to export &/or substitute country and subsequently to re-send them to the consignee. This charges include airfreight, cost of custom clearance and relatives, duty if imposed.

It is necessary for the Assured to obtain a consensus from this Company prior to shipment to export &/or substitute country.

The recoverable amount under this clause shall be limited to 3.000.000,00 JPY (or equivalent in other currencies) or 30% of the amount insured per any one accident, whichever shall be the lower.

### **3.30 Special Non-Delivery Clause for Containerized Cargo**

It is hereby understood and agreed that this insurance is also to cover the risks of missing and/or non-delivery of an entire package carried in containers, for not exceeding 3.000.000,00 JPY (or equivalent in other currencies) per one container.

Such missing and/or non-delivery shall be ascertained in comparison of the number of package(s) shown in the Shipper's &/or supplier's invoice &/or packing list with those of evidenced at the time of devanning at the port of discharge or at the consignee's final warehouse named in the contract of insurance.



### **3.31 Special Clause for Concealed Damage**

It is specially understood and agreed that this insurance shall be specially extended to cover loss or damage to the subject-matter insured caused by a peril covered by this insurance, even though such loss or damage is discovered at the time of unpacking of the subject-matter insured at the destination after this insurance has already expired.

Provided always that such concealed loss or damage be substantiated to have occurred during the tenure of this insurance.

No liability for loss or damage to be payable hereby unless notice has been given to this Company's Agents within 180 days of the expiry of this insurance.

### **3.32 Special Transit Clause (Installation)**

Notwithstanding anything contained herein to the contrary (particularly the Transit Clause of the Institute Cargo Clauses), this insurance (excepting coverage against War Risks, earthquake in Japan &/or California, USA) shall continue, until the installation of the subject-matter insured is completed or until the expiry of 60 days counting from midnight of the day on which the subject-matter insured is completely unloaded from the carrying vehicle or other conveyance in or at the said place whichever shall first occur.

In no case, however, shall the period of cover after completion of discharge overseas of the subject-matter insured from the overseas vessel (or unloading of the goods from the aircraft) at the final port (or airport) of discharge extend beyond 90 days.

### **3.33 Special Clause for Musical Instruments**

Notwithstanding anything contained herein to the contrary, it is understood and agreed that this policy does not cover any loss, damage or expense due to out of tune, looseness of strings and natural disorder in actions occurring to the musical instrument hereby insured.

In the event of loss of or damage to Musical Instruments hereby insured caused by perils covered by this policy, this company shall pay only the cost of repair actually incurred.

Provided always that in no case shall this company be liable for;

- (1) any depreciation in value due to loss or damage caused by perils covered by this policy.
- (2) any loss or damage due to weather conditions and/or atmospheric phenomena (such as moisture conditions and/or temperature).

The liability of this company shall not exceed the insured value of such goods being damaged.

### **3.34 Special Clause for Fine Art and Antiques**

In the event of loss of or damage to fine art, antiques or similar goods hereby insured caused by perils covered by this policy, this company shall pay only the cost of repair actually incurred. Provided always that in no case shall this company be liable for:

- (1) any depreciation in value due to loss or damage caused by perils covered by this policy.
- (2) any loss or damage due to weather conditions and/or atmospheric phenomena (such as moisture conditions and/or temperature).

The liability of this company shall not exceed the actual value of the damaged goods at the time and place of arrival or the insured value of the damaged goods as described in the packing or insurance list, whichever shall be lower.

### **3.35 Mechanical Electrical and Electronic Derangement Exclusion Clause**

Excluding Mechanical, Electrical and/or Electronic Derangement unless caused by a peril insured against.

In case where items are not otherwise damaged, no liability will attach hereunder for the non-functioning of any mechanical or electrical device

### **3.36 Special Clause for Vehicles**

Excluding scratching, chipping, denting, bruising and repainting.

On deck shipments excluding sea water damage.

Warranted no road risk whilst under own power except when loading and unloading.

Excluding loss of tools and accessories unless stolen with the vehicle.

Excluding mechanical derangement unless caused by external impact to the vehicle.

## **4. Special Clauses for Insurance of Stock**

The insured warehouses mentioned at the written condition under schedule of insurance must be suitable for the storage of the insured goods. Loss of or damage to the insured goods located in buildings or parts of buildings that are not ready for occupancy are generally excluded from coverage.

The risks of flood and deluge are excluded from the coverage for any of the named storage locations, which are situated

- (1) In Amsterdam (Holland area, postal code 10,11,14,20,21)
- (2) In Rotterdam (Zuid Holland area, postal code 25 to 33)
- (3) Below NAP (Normal Amsterdam Ordnance Level) + 1 meter
- (4) Within 10 km from the River Maas or the River Waal

Unexplained or mysterious disappearance, or loss or shortage disclosed upon taking inventory are not included under this cover.

No claim to attach hereto for loss and/or damage to property hereby insured may be sustained whilst the same is in use and/or whilst being worked upon and directly resulting therefrom

Restacking and other handling of the insured goods such as sorting, numbering, packing, refilling, drawing off into smaller containers etc. within a warehouse during the insured period are always insured.

Goods stored in the open air are insured against fire only unless otherwise agreed.

Re-stacking and other handling of the goods such as sorting, numbering, packing, refilling, drawing off into smaller containers etc. within a warehouse during the insured period are always insured.

Other conditions to be agreed prior to inception of risk.”

## **5. Basis of Valuation**

- 5.1 Invoice Value (freight and other charges to be added, if not included therein) plus ten per cent (10%) unless otherwise agreed by the Underwriters prior to attachment of the risk.
- 5.2 For Goods &/or Merchandise without Commercial Invoice  
Fair market value of the goods or, failing that, their market value at the place of departure at commencement of cover plus the cost of insurance, the costs incurred until the goods are delivered to the carrier, and the freight ultimately paid.

## **6. Exclusions**

### **6.1 Wild Fauna and Flora Clause**

It is understood and agreed that

- (1) no claim will be paid unless the trades of the goods covered hereunder are lawful in the light of any rules, regulations and/or laws enforced in compliance with the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES, so-called “Washington Convention”) in each country of origin, export, re-export or import,
- (2) the assured, if required by this Company, shall submit certificates, permits, vouchers and/or other documents showing that the trades are not inconsistent with the above rules, regulations and/or laws,  
and
- (3) this Company shall have the right to investigate facts and legality in respect of the trades in case of claims being presented.

## 6.2 Cargo ISM Endorsement

Applicable to shipments on board Ro-Ro passenger ferries.

Applicable with effect from 1 July 1998 to shipments on board:

- 1) passenger vessels transporting more than 12 passengers and
- 2) oil tankers, chemical tankers, gas carriers, bulk carriers and cargo high speed craft of 500 gt or more.

Applicable with effect from 1 July 2002 to shipments on board all other cargo ships and mobile offshore drilling units of 500 gt or more.

In no case shall this insurance cover loss, damage or expense where the subject matter insured is carried by a vessel that is not ISM Code certified or whose owners or operators do not hold an ISM Code Document of Compliance when, at the time of loading of the subject matter insured on board the vessel, the Assured were aware, or in the ordinary course of business should have been aware:

- a) Either that such vessel was not certified in accordance with the ISM Code.
- b) Or that a current Document of Compliance was not held by her owners or operators as required under the SOLAS Convention 1974 as amended.

This exclusion shall not apply where this insurance has been assigned to the party claiming hereunder who has bought or agreed to buy the subject matter insured in good faith under a binding contract.

## 6.3 Quarantine Clause (applying to imported cargo)

Notwithstanding anything contained in the Institute Cargo Clauses and/or the Institute War Clauses incorporated herein, this policy is warranted free from any claim for either,

- (1) loss, damage or expense due to quarantine or other similar regulations causing or resulting in seizure, arrest, restraint, detainment, rejection or destruction, or
- (2) loss, damage or expense caused by the interest being infected with harmful bacteria or other similar microorganisms unless such loss, damage or expense is attributable to contact of the interest with sea water, rain or fresh water, or derangement or breakdown of the refrigerating plant (including refrigerating machinery and insulation) or stoppage of the refrigerating machinery.

#### **6.4 Electronic Date Recognition Exclusion Clause**

In no case shall this insurance cover any loss, damage, expense or liability of whatever nature which might otherwise be recoverable under this insurance arising out of or in any way connected with, whether directly or indirectly, the use or operation of any computer, computer system, computer software, programme or process or any electronic system where any such loss, damage, expense or liability arises, whether directly or indirectly, as a consequence of (i) the date change to the year 2000 or any other date change and/or (ii) any change or modification of or to any such computer, computer system, computer software, program or process or any electronic system in relation to any such date change.

This exclusion, however, does not apply to claims for loss of or damage to any subject-matter insured caused by following risks (1), (2) and claims for loss of or damage to the subject-matter insured (3):

- (1) fire or explosion
- (2) any risks whilst in transit
- (3) any subject matter insured other than temperature-controlled cargoes, money and/or securities, fine arts, antiques, precious metals, jewelry and the like, semiconductors and their relevant goods

Subject always to the terms, conditions, limits and exclusions contained elsewhere in this policy.

#### **6.5 Institute Dangerous Drugs Clause**

It is understood and agreed that no claim under this policy will be paid in respect of drugs to which the various International Conventions relating to Opium and other dangerous drugs apply unless

- (1) the drugs shall be expressly declared as such in the policy and the name of the country from which, and the name of the country to which they are consigned shall be specifically stated in the policy

and

- (2) the proof of loss is accompanied either by a licence, certificate or authorization issued by the Government of the country to which the drugs are consigned showing that the importation of the consignment into that country has been approved by that Government, or, alternatively, by a licence, certificate or authorization issued by the Government of the country from which the drugs are consigned showing that the export of the consignment to the destination stated has been approved by that Government;

and

- (3) the route by which the drugs were conveyed was usual and customary.

## **7. Excluded Territories Clause**

It is hereby agreed that cover will not extend to transports subject to State or United Nations Legislation and those geographical areas as listed as Elevated, High, or Severe in the Global Cargo Watch List (GCWL)

(<http://watch.exclusive-analysis.com/jccwatchlist.html>)

Notwithstanding the above, Underwriters will, however, consider reinstating cover subject to satisfactory packing and security arrangements. This reinstatement of cover must be negotiated on individual sendings prior to the commencement of transit and will be subject to an additional premium to be agreed by Underwriters.

## **8. Certificate of Insurance**

The Policyholder will issue a certificate of Marine Insurance to the Assured. This confirms and certifies that insurance in the name of the goods specified on the certificate, valued at the amount insured, for the insured transit has been granted.

## **9. Declaration Clause**

The Policyholder shall make monthly declaration of each individual transport and storage covered by the policy, giving details of the respective insured values. The declaration shall detail the commodity, type of packaging, means of transport and route. The Policyholder shall further disclose all circumstances that the Insurer has queried expressly.

Each and every Policy or Certificate of Insurance/Declaration issued under this Open Contract is subject to the terms and conditions to this Open Contract, whether expressly so stated in the Policy or Certificate of Insurance or not, unless otherwise specially agreed by the Underwriters.

Declaration shall be made within 30 days calculated from the end of the month where the transport commenced.

It is, however, agreed that this Open Contract shall not be prejudiced by any omission of, error and/or delay in making declaration, except for those made intentionally or by gross negligence, provided prompt notice is given to the Underwriters as soon as the said omission, error and/or delay has become known to the Assured and subject to the adjustment of premium if and as required

## **10. Payment of Premium Clause**

Premium shall be paid by the Policyholder immediately after receipt of the respective statement of account from the underwriter.

## 11. Cancellation

This Open Contract will be automatically renewed for further 12 months unless notice of cancellation has been given by either party concerned 3 (three) months prior to the date of expiry.

- 11.1 This Open Contract may be cancelled in case of a claim by either party, the Policyholder or Underwriters. The cancellation become effective 30 days after the date under which notice has been given. Cancellation in case of a claim is only possible immediately after final decision regarding settlement.
- 11.2 The cover against war risks and strikes, riots and civil commotions risks (as defined in the relevant Institute War Clauses and Institute Strikes Clauses) may be cancelled by either the Underwriters or the Policyholder except in respect of any insurance which shall have attached in accordance with the conditions of the Institute War Clauses and Institute Strikes Clauses before the cancellation becomes effective.  
War cover cancellation shall however only become effective on the expiry of 7 days from midnight of the day on which notice of the cancellation is issued by or to the Underwriters. Strikes, riots, civil commotions and terrorism cover (as defined in the relevant Institute Strikes Clauses) shall however only become effective on the expiry of 2 days from midnight of the day on which notice of the cancellation is issued by or to the Underwriters.
- 11.3 Where this insurance covers piracy and/or general average, salvage and sue and labour charges arising from piracy, such cover may be cancelled by insurers giving 7 days' notice in writing, cancellation to take effect on the expiry of 7 days (10 days in respect of reinsurance) from midnight of the day on which the notice is issued by insurers. Insurers agree to reinstate this coverage subject to agreement between Underwriters and the Assured prior to the cancellation taking effect as to any new rate of premium and/or conditions and/or warranties. Such cancellation shall not affect any insurance which has attached before the cancellation takes effect. If the cancellation is in relation to specific geographical areas, such areas will be clearly defined by Underwriters in the notice of cancellation.

## **12. Letter of Credit Clause**

It is agreed that certificates and/or policies (including S.G. Policy form which is indicated "Policy Body") may be issued hereunder to enable the Assured to comply with the insurance requirements of any Letter of Credit and/or Sales Contract, such agreement being conditional on the following wording being incorporated in such certificate and/or policy.

"The following insurance conditions referred to in the Letter of Credit and/or Sales Contract are noted"

The following should be considered to be inserted into the policy after any special conditions required by Letter of Credit and/or Sales Contract wording:

"But in no event is the cover herein extended wider than the terms of Institute Cargo Clauses(A)(1/1/09)"

It is also agreed that regardless of the conditions on which any certificates and/or policies may be issued pursuant to the foregoing, the Assured shall continue to enjoy the full protection of this contract.

## **13. Warranty for Loss before Insurance Declaration**

Warranted free from any claim arising out of any loss or accident in case this Company proves that the Policyholder, Nippon Express (Europe) GmbH, or their servants &/or employee were aware of a loss or accident happened before the date of insurance declaration.

## **14. Waiver of Subrogation Clause**

Underwriters shall waive the right of subrogation in respect of loss of or damage to the goods hereby insured claimable hereon, if any, against Nippon Express (Europe) GmbH and all subsidiaries (including overseas subsidiaries) and associated companies and agents / sub-contractor of the aforementioned engaged in transportation of the goods hereby insured (hereinafter called NEEU interest(s)), unless the loss or damage resulted from an act or omission of NEEU interest(s) done with intent to cause loss or damage, or recklessly and with knowledge that damage would probably result.

## **15. Subrogation Clause (only applying to the ownership of the subject-matter insured)**

Where the is Company pays for a claim, this Company shall take over the right of the assured to claim to any liable party in respect of the subject-matter insured, provided however that this Company shall not take over the ownership or the title of the subject-matter insured or its any part(s) so paid for, unless otherwise declared by this Company.

## **16. Alteration of Conditions**

The Assured is allowed to declare risks under this Open Contract on conditions different from those as generally applied. A suchlike declaration, however, has to be made prior to the inception of risk.



## **17. Error and Omission Clause**

It is, however, agreed that this Open Contract shall not be prejudiced by any omission of, error and/or delay in making declaration, except for those made intentionally or by gross negligence, provided prompt notice is given to the Underwriters as soon as the said omission, error and/or delay has become known to the Assured and subject to the adjustment of premium if and as required.

## **18. Increased Value**

Increased value might be insured by declaration immediately after the Assured becomes aware of the increase in value.

## **19. Disclosure**

There is a duty on the Assured to take reasonable care not to make a misrepresentation to Underwriters in respect of this Policy. This means that it is very important that the information the Assured provide to the Underwriters, is accurate and complete. If it is not clear to the Assured whether or not something needs to be mentioned it is better to mention it; likewise if some information that the Assured give may not be completely correct, then the Assured should explain this. Failure to provide Underwriters with complete and accurate information may mean that the Assured is not entitled to some or all of the benefits provided by the Policy.

## **20. Foreign Currency Obligation**

If a money debt stated in a currency other than EURO is payable within the country, then payment may be made in EURO unless payment in the other currency has been expressly agreed. Conversion occurs at the rate of exchange in effect in the place of payment at the time of payment.

## **21. Rates**

As per attached schedules or to be agreed prior to the inception of risk.

## **22. Endorsements, Replacement Pages, Notifications etc.**

Endorsements, replacement pages, notifications, information and premium agreements concerning this Open Contract shall be deemed as an Integral part of this Open Contract.

Modifications enter into force on the date stated on the replacement pages.

## **23. Data Protection Clause**

The Assured shall permit the Underwriters to pass data evolving from the application documents or performance of the contract (contributions, insurance cases, alterations of such re-insurance and their professional association and other underwriters for assessment of the risk and claims.

The Assured shall also permit the Underwriters to hold general contract, settlement and liability data in (joint) data collections insofar as this serves the proper implementation of insurance matters.

## **24. Place of Jurisdiction**

The place of jurisdiction shall be Düsseldorf, Germany.

## 25. Limits of Liability

### 25.1 Maximum per Certificate

Maximum Limit of Liability per any one certificate (transit and/or storage in transit) 1.500.000,00 EUR

### 25.2 Maximum per storage location

Maximum Limit per any one storage location other than storage in transit 1.000.000,00 EUR

### 25.3 Limit of Liability Clause

Notwithstanding anything to the contrary contained in the Open Policy, the Underwriters shall not be liable for more than the limit(s) specified in paragraph 25 immediately above, unless a request is made by the Policyholder prior to the attachment of risk or before any known or reported loss or accident for the increase of such limit(s) and the special agreement is obtained from the Underwriters.

## 26. List of subsidiaries

Subsidiaries covered under this Pan-European Freight Forwarders Commercial Cargo Insurance Policy are

Subsidiary	Country / Region Name including its branches
Nippon Express (Deutschland) GmbH	Austria Czech Republic Germany Hungary Poland Romania
NEX Logistics Europe GmbH	Germany
Nippon Express (Belgium) N.V./S.A.	Belgium
Nippon Express de Espana, S.A.	Spain
Nippon Express France, S.A.S.	France
Nippon Express (Ireland) Ltd.	Ireland
Nippon Express (Italia), S.R.L.	Italy
Nippon Express (Nederland) B.V	Nederland
Nippon Express (U.K.) Ltd.	United Kingdom

## 27. Subsidiaries covered locally

Subsidiaries covered locally at a Group company and/or cooperation partner of SI Insurance (Europe), SA

Subsidiary	Country / Region Name including its branches
Nippon Express (Schweiz) AG	Switzerland
Nippon Express (Middle East) L.L.C.	United Arab Emirates

## 28. Subscription List

This insurance contract has been written in duplicate in Düsseldorf  
In witness thereof, the Underwriters of Sompo Japan Nipponkoa Insurance Company of Europe Limited on behalf of the said Company, have subscribed their names on the date written below.

**UNDERWRITER**

SI Insurance (Europe), SA  
Zweigniederlassung Deutschland  
Niederkasseler Lohweg 18  
D-40547 Düsseldorf

PROPORTION: 100%

Düsseldorf,

Stamp and Signature

We, Nippon Express (Europe) GmbH, hereby declare that this Open Contract has been made with our full knowledge and consent and that it shall be duly executed as prescribed and its terms faithfully complied with and in witness thereof, we the Undersigned have subscribed our names on the date written below.

**POLICYHOLDER**

Nippon Express (Europe) GmbH  
Marie-Bernays-Ring 23a  
D-41199 Mönchengladbach

Mönchengladbach,

Stamp and Signature