

## SERENITY container guarantee Standard and Premium offer General terms and conditions

November 6<sup>th</sup>, 2021

### PREAMBLE

The SERENITY container guarantee is a waiver of recourse deemed to be a partial and strictly limited derogation to the application of Article 26 (6) of CMA CGM Bill of lading terms and conditions, which states that containers released into the care of the Merchant for packing, unpacking or any other purpose whatsoever, are at the sole risk of the Merchant until redelivered to the Carrier. The Merchant shall indemnify the Carrier of all loss, damage, injury, fines or expenses caused or incurred by to such containers whilst in Merchant's control and/or until redelivery to the Carrier.

### DEFINITIONS

**The Carrier** means the Party on whose behalf the Bill of Lading is issued. It can be any entity of CMA CGM Group.

**The Merchant** is the person, including the Shipper, Holder, Consignee, Receiver of the goods, any Person owning or entitled to the possession of the goods or of the Bill of Lading and anyone acting on behalf of any such person, who has custody and care of the container in which the goods are loaded.

**A total loss** of the container is defined as a destruction or a so severe damage, that the repair is impossible, or its cost would be higher than the said container market value.

**A damage** is defined as any material deterioration that impairs the value, the usefulness, the shape, or the normal function of the container, whatever its cause.

**The repair costs** are defined as the costs incurred to bring the container back to the earlier condition at the time it was released to the Merchant.

**A negligence** is defined as a failure to behave with the level of care that someone of ordinary prudence would have exercised under the same circumstances.

### APPLICATION OF THE WAIVER OF RECOURSE

With SERENITY container guarantee Standard offer, the Carrier undertakes to release the Merchant from any liability exceeding USD 250.00 arising out of any accidental damage to the said container under the care of the Merchant, as defined in Article 26 (6) of CMA CGM bill of lading terms and conditions, including damage to the container caused by the goods loaded in the said container.

All repair costs within the limit of USD 250.00 will remain at the risk of the Merchant and will be claimed in accordance with article 26 (6) of the Bill of lading of CMA CGM, except in case the Merchant has purchased the Container Guarantee Premium offer, releasing him from the payment of the above-mentioned maximum amount of usd 250.00, **excluding in case of total loss** (see *infra*)

### SHIPMENT OF MULTIPLE CONTAINERS

In case of a shipment of more than one container, the waiver of recourse must apply to all the containers with no possibility to select which container will benefit from this service. The Merchant who wishes to benefit from SERENITY container guarantee, will have to pay the related charge, for each container of the said shipment;

### NON-APPLICATION OF THE WAIVER OF RECOURSE

Under no circumstances this waiver of recourse by the Carrier, above USD 250.00 releases the Merchant of his obligation to look after the container and handle it with care and attention.

It is agreed that the Carrier reserves the right to claim the full cost or expense consecutive to a damage to the container, arising out of negligence or willful misconduct of the Merchant, for instance, when the packaging, the stowage or the preparation of the goods loaded in the container have been improperly carried out

Under no circumstances this guarantee will cover pollution costs or any other liability of the client whatsoever.

Under no circumstances will the benefits of SERENITY container guarantee be granted if this service was purchased after the date and time the Merchant has collected the container subject to the guarantee.

**The waiver of recourse doesn't apply in case of theft or disappearance of the container.**

### **RESTRICTED COMMODITIES AND TOTAL LOSS**

The following commodities can benefit from SERENITY container guarantee under specific conditions: In case of total loss, the present guarantee will not be granted: The beneficiary should remain liable for the total amount of the depreciated value of the container.

This restriction concerns exclusively the following commodities: wet skins in bulk, urea and derivatives, cocoa and shea nut butter, cloves, naphthalene and derivatives, menthol, minerals and sand, steel (tubes, bars, pipes, plates, coils, tiles), extra heavy cargo (marble, stone, granite), scrap, logs (wood).

**For all other commodities, in case of total loss, the merchant will remain liable only for a maximum of usd 250 per container.**

### **DURATION**

Excepting the case of loss or damage to the container caused by the goods loaded inside, the waiver of recourse applies when the loss or damage to the container happened during the period it was under the care of the Merchant, at his sole risk.

### **DETERMINATION OF THE LOSS, DAMAGE AND INDEMNITY CALCULATION**

The calculation of the costs related to the loss or damage to the container shall be determined following the same procedure as if the Merchant hadn't purchased the SERENITY container guarantee service. Then, the total amount claimed from the Merchant will be limited to usd 250 per container for the Standard offer or totally waived for the Premium offer, except in case of total loss (see supra).

In case of loss, the client cannot keep the carcass which must be restituted to the carrier.

### **DUTY OF THE MERCHANT**

It is the duty of the Merchant:

- to take all reasonable measures to prevent or minimize the loss or damage to the container.
- to ensure that the sufficiency or the suitability of the packing, the lashing and the preparation of the goods loaded in the container, were properly done to withstand the ordinary incidents of the transit.
- to ensure that all rights against third parties are properly preserved and exercised.

It is a condition of application of the SERENITY container guarantee service that the Merchant shall act reasonably in all circumstances within his control.

By purchasing the SERENITY container guarantee service, the Merchant is deemed to accept without any reserve, the application of the present terms and conditions.

### **LAW & LANGUAGE**

The Law applicable to the present Terms and Conditions of SERENITY container guarantee is the one mentioned in the bill of lading of the Carrier.

The present English version of SERENITY container guarantee Terms & Conditions will prevail.

### **JURISDICTION**

All claims and actions arising between the Carrier and the Merchant in relation with the present SERENITY container guarantee terms and conditions shall be brought before the Jurisdiction mentioned in the bill of lading of the said carrier and no other Court shall have jurisdiction with regards to any such claim or action. Notwithstanding the above, the Carrier is also entitled to bring the claim or action before the Court of the place where the defendant has his registered office.

### **MODIFICATION**

The Carrier reserves the right to modify the above terms and conditions without prior notice.