

BILL OF LADING

1. DEFINITIONS

"Carrier" includes the Company stated on the front of this Bill of Lading as being the Carrier and on whose behalf the Bill of Lading has been signed, the Ship, its Owners, Operators, Charterer (whether demise, time, voyage, space or slot), the Master, and any connecting or substituted Carrier performing the transportation.

"Ship" means any vessel or which the Goods are shipped or substituted and any craft, lighter or other means of transportation, owned, chartered or operated by the Carrier used in performance of the transportation.

"Merchant" includes the shipper, the consignee, the receiver of the Goods, the holder of this Bill of Lading, any person owning or entitled to the possession of the Goods or this Bill of Lading, any person having a present or future interest in the Goods or any person acting on behalf of any of the above mentioned persons whether jointly and/or severally.

"Goods" includes the cargo supplied by the Merchant and includes the whole or any part of the articles of every kind and description, including their packaging or Shipping Units or materials, tendered to the Carrier whether or not supplied by or on behalf of the Carrier and described or identified on the front of this Bill of Lading.

"Container" includes any container, trailer, transportable tank, lift van, flat, rack, skid, platform, pallet or any similar article of transport used, to consolidate Goods and any equipment associated or attached thereto.

"Shipping Unit" includes freight unit and the term "unit" as used in the Hague Rules and Hague-Visby Rules and as defined in sub-clause 8(4) of this Bill of Lading.

"Person" includes a natural individual, a partnership, a body corporate or other entity.

"Stuffed" includes filled, consolidated, packed, loaded or secured.

"Carriage" means the whole of the operations and services undertaken or performed by or on behalf of the Carrier or connecting Carrier in respect of the Goods under this Bill of Lading.

"Combined Transport" arises where the Carriage called for by this Bill of Lading is not Port to Port Shipment.

"Port to Port Shipment" arises where the Place of Receipt and/or the Place of Delivery are not indicated on the front of this Bill of Lading or if both the Place of Receipt and/or the Place of Delivery indicated are ports and this Bill of Lading does not in the nomination of the Place of Receipt and/or the Place of Delivery on the front hereof specify any place or spot within the area of the port so nominated.

"Hague Rules" means the provisions of the International Convention for Unification of certain Rules relating to Bills of Lading signed at Brussels on 25th August 1924.

"Hague-Visby Rules" means the Hague Rules as amended by the Protocol signed at Brussels on 23rd February 1968.

"SDR Protocol" means the Protocol amending the International Convention for the Unification of Certain Rules of Law relating to Bill of Lading of 25 August 1924, as amended by the Protocol of 23 February 1968, signed at Brussels, 21 December 1979.

"COGSA" means the Carriage of Goods by Sea Act of the United States of America approved on 16th April 1936.

"COGWA" means the Carriage of Goods by Water Act 1936 of Canada.

“PRC Maritime code “means the Maritime code of People’s Republic of China, approved on 7,November 1992 and any amendments thereof.

“Charges” includes freight, demurrage, equipment detention, general average, all expenses and money obligations incurred and/or payable by the Merchant, or for the payment of which the Carrier has a security interests or maritime lien on the Goods or by operation of law and all charges incurred and/or payable under the applicable tariff.

2. CARRIER'S TARIFF

The provisions of the Carrier's applicable Tariff, if any, are incorporated herein. Copies of such provisions are obtainable from the Carrier or his agents upon request or, where applicable, from a government body with whom the Tariff has been filed. In the case of inconsistency between this Bill of Lading and the applicable Tariff, this Bill of Lading shall prevail.

3. WARRANTY

The Merchant warrants that in agreeing to the terms hereof, it is or is the agent of and has the authority of the Person owning or entitled to the possession of the Goods and/or this Bill of Lading or any Person who has a Person or future interest in the Goods and/or this Bill of Lading.

The Merchant further warrants that all prior agreements and freight arrangements are incorporated into and/or superseded by the provisions of this Bill of Lading.

4. NEGOTIABILITY AND TITLE TO THE GOODS

- (1) This Bill of Lading shall be non-negotiable unless made out "to order" in which event it shall be negotiable and shall constitute title to the Goods and the holder shall be entitled to receive or to transfer the Goods herein described.
- (2) "To Order" means To Order of the Shipper unless otherwise stated.
- (3) This Bill of Lading shall be prima facie evidence of the taking in charge by the Carrier of the Goods as herein described. However, proof to the contrary shall not be admissible when this Bill of Lading has been negotiated or transferred for valuable consideration to a third party acting in good faith.

5. CERTAIN RIGHTS AND IMMUNITIES FOR THE CARRIER AND OTHER PERSONS

- (1) The Carrier shall be entitled to sub-contract on any terms the whole or any part of the Carriage, including but not limited to loading, discharge, storage, warehousing, handling and any other duties undertaken by the Carrier in relation to the Goods.
- (2) If the Ship is not owned by or chartered by demise to the entity by whom this Bill of Lading is issued (as may be the case notwithstanding anything that appears to the contrary), this Bill of Lading shall take effect only as a contract with the Ship, its Owners, Operators, Charterer as the case may be as principal made through the agency of the said entity who act as agents only and shall be under no liability whatsoever in respect thereof.
- (3) If the warehouse, truck or any other means of transport, as the case may be, are not owned by the entity by whom this Bill of Lading is issued (notwithstanding anything

that appears to the contrary), this Bill of Lading shall take effect only as a contract with the Owner of the warehouse, truck or any means of transport as the case may be as principal made through the agency of the said entity who act as agents only and shall be under no personal liability whatsoever in respect thereof.

- (4) Subject to Clause 5(2) and (3) hereinabove, if the said clauses are not applicable for whatsoever reason, the Merchant undertakes that no claim or allegation shall be made against any Person or Ship whatsoever, other than the Carrier, including, but not limited to, the Carrier's servants or agents, any independent contractor and his servants or agents, and all others by whom the whole or any part of the Carriage, whether directly or indirectly, is procured, performed or undertaken, which imposes or attempts to impose upon any such Person or Ship any liability whatsoever in connection with the Goods or the Carriage; and if any claim or allegation should nevertheless be made to defend, indemnify and hold harmless the Carrier against all consequences thereof. Without prejudice to foregoing every such Person and Ship shall have the benefit of all provisions herein benefiting the Carrier as if such provisions were expressly for its benefit and in entering into this contract the Carrier, to the extent of these provisions, does so not only on its own behalf but also agent or trustee for such Persons and Ship and such Persons and Ship shall to this extent be or be deemed to be parties to this contract.
- (5) The Merchant shall defend, indemnify and hold harmless the Carrier against any claim or liability (and any expense arising therefrom) arising from the Carriage of Goods insofar as such claim or liability exceeds the Carrier's liability under this Bill of Lading.
- (6) The defenses and limits of liability provided for this Bill of Lading shall apply in any action against the Carrier whether the action is found in contract or in Tort.

6. CARRIER'S RESPONSIBILITY

(1) CLAUSE PARAMOUNT

- (A) Subject to clause 13 below, this Bill of Lading insofar as it relates to sea Carriage by any Ship whether named herein or not shall have effect subject to the Hague Rules or any legislation making such Rules or the Hague-Visby Rules or the applicable SDR Protocol compulsorily applicable (such as COGSA or COGWA or PRC Maritime law) to this Bill of Lading and the provisions of the Hague Rules or Hague-Visby Rules or applicable legislation shall be deemed incorporated herein. The Hague Rules or Hague-Visby Rules (or COGSA or COGWA or PRC Maritime law if this Bill of Lading is compulsorily subject to U.S.A. or Canadian or PRC Maritime law respectively) shall apply to the Carriage of Goods by inland waterways and reference to Carriage by sea in such Rules or legislation shall be deemed to include reference to inland waterways. If and to the extent that the provisions of the Harter Act of the United States of America 1893 would otherwise be compulsorily applicable to regulate the Carrier's responsibility for the Goods during any period prior to loading on or after discharge from the Ship, the Carrier's responsibility shall instead be determined by the provisions of 6(3) below, but if such provisions are found to be invalid such responsibility shall be subject to COGSA.
- (B) The Carrier shall be entitled to (and nothing in this Bill of Lading shall operate to deprive or limit such entitlement) the full benefit of, and rights to, all limitations and exclusions of liability and all rights conferred or authorized by any applicable law, statute or regulation of any country (including, but not limited to, where applicable any provisions of sections 4281 to 4287, inclusive, of the Revised Statutes of the U.S.A. and amendments thereto and where applicable any

provisions of the laws of the U.S.A. and where applicable any Articles of the PRC Maritime code and amendments thereto and where applicable any provisions of the laws of the PRC) and without prejudice to the generality of the foregoing also any law, statute or regulation available to the Owner of the Ship(s) on which the Goods are carried.

(2) PORT TO PORT SHIPMENT

The responsibility of the Carrier is limited to that part of the Carriage from and during loading onto the Ship up to and during discharge from the Ship or transhipped to another Ship tackle-to-tackle, and the Carrier shall not be liable for any loss or damage whatsoever in respect of the Goods or for any other matter arising during any other part of the Carriage even though Charges for that Carriage have been charged by the Carrier. The Merchant constitutes the Carrier as agent to enter into contracts on behalf of the Merchant with others for transport, storage, handling or any other services in respect of the Goods prior to loading and subsequent to discharge of the Goods from the Ship without responsibility for any act or omission whatsoever on the part of the Carrier or others and the Carrier may as such agent enter into contracts with others on any terms whatsoever including terms less favorable than the terms in this Bill of Lading.

(3) COMBINED TRANSPORT

- (A) Save as is otherwise provided in this Bill of Lading, the Carrier shall not be responsible for loss of, damage or delay to the Goods occurring from the time while the Goods are in the actual custody of a connecting rail, motor or air Carrier, or a freight forwarder or non-vessel operating common Carrier subcontracting with such Carrier, or if it cannot be determined in which Carrier's custody the Goods were when lost, damaged or delayed, the Carrier hereby assumes liability for such loss, damage or delay to the extent, but only to the extent, provided in this sub-clause 6(3).
- (B) Except as provided in sub-clauses 6(3)(C), (D) and (E) below, the Carrier's liability shall be determined in accordance with sub-clause 6(1).
- (C) If the provisions of any contract between the Carrier and any connecting or substituted air, rail, motor, water Carrier are sub-contracted, entered into as described in Clause 5 hereinabove, or the provisions of an international convention or national law applicable to a particular mode of Carriage employed at the time of any loss, mis-delivery or conversion of, or damage to or delay of the Goods, the liability would be on the part of that Carrier causing same in the direct claim brought by the Claimant against that Carrier, and if such liability would be less than the Carrier's liability determined in accordance with the terms and conditions of this Bill of Lading, then that Carrier's liability shall not exceed such lesser amount.
- (D) Where the stage of Carriage where the loss or damage occurred cannot be proved:
 - (i) The Carrier shall be entitled to all defences and liability limitations under the Rules or legislation as provided by sub-clause 6(1)(A) above whether the loss or damage had occurred at sea or, there was no Carriage by sea under the Hague-Visby Rules (or COGSA or COGWA or PRC Maritime code if this Bill of Lading is subject to U.S.A. or Canadian or People's Republic of China law respectively).
 - (ii) Where under sub-clause 6(3)(D)(i) above, the Carrier shall not be liable for the loss of or damage to the Goods, unless it is proved that the loss or damage is directly caused by the Carrier,
 - (iii) Subject to sub-clause 8(3) below, where the Hague Rules or any legislation or the Hague-Visby Rules (such as COGSA or COGWA or PRC Maritime

code) is not compulsorily applicable, the Carrier's liability shall not exceed US\$2.00 per kilo of the gross weight of the Goods lost, damaged or in respect of which the claim arises or the value of such Goods, whichever is the lesser.

- (E) Where the stage of Carriage where the loss or damage occurred can be proved:
- (i) The liability of the Carrier shall be determined by the provisions contained in any international convention or national law of the country of which provisions:
 - (a) cannot be departed from by private contract to the detriment of the Merchant; and
 - (b) would have applied if the Merchant had made a separate and direct contract with the Carrier in respect to the particular stage of Carriage where the loss or damage occurred and had received as evidence thereof any particular document which must be issued in order to make such international convention or national law applicable;
 - (ii) With respect to the transportation within the U.S.A. or Canada to the Port of Loading or from the Port of Discharge, the responsibility of the Carrier acts as agent only to procure transportation performed by connecting and such transportation shall be subject to their inland Carriers' Contracts of Carriage and Tariffs and any law compulsorily applicable.
 - (iii) If sub-clause 6(3)(E)(i) or (ii) is not applied, any liability of the Carrier shall be determined by clause 6(3)(A) above.

7. GENERAL EXCLUSIONS AND IMMUNITIES

- (1) In addition to every exemption or immunity whatsoever that the Carrier is entitled to be benefited under the transportation agreement, any applicable national law and international convention, the Carrier shall in any event and in all case whatsoever be relieved of liability for any loss or damage if such loss or damage was caused by or resulted from but not limited to:
- (A) The wrongful act or neglect of the Merchant;
 - (B) Compliance with the instructions of the Merchant or any Person entitled to give them;
 - (C) Wrongful, false, incorrect or inaccurate description of Goods and other particulars declared by the Merchant of the Goods;
 - (D) The lack of, insufficiency of or defective condition of packaging in case of the Goods, which by their nature are not properly packed.
 - (E) Handling, loading, stowage, or unloading of the Goods by or on behalf of the Merchant;
 - (F) Inherent vice of the Goods;
 - (G) Lack of, insufficiency or inadequate of, marks or numbers of the Goods covering or unit loads;
 - (H) Pre-shipment loss or damage;

- (I) Strike, lock-out, stoppages or restraint of labour from whatsoever cause whether partial or general;
 - (J) Military actions;
 - (K) A nuclear incident;
 - (L) Force majeure;
 - (M) Fire, unless caused by the actual fault or privity of the Carrier;
 - (N) Saving or attempting to save life or property at sea;
 - (O) Any cause or event which the Carrier could not avoid and the consequences whereof it could not prevent by the exercise of reasonable diligence.
- (2) Where under the above sub-clause 7(1)(A), if the Carrier is not under any liability in respect of some of the factor causing the loss or damage, it shall only be liable to the extent that those factors for which it is liable under this paragraph have contributed to the loss or damage.
- (3) The burden of proving that the loss or damage was due to one or more of the causes, or events, specified in sub-clause 7(1)(A), 7(1)(B) and 7(1)(O) shall rest upon the Carrier.
- (4) When the Carrier establishes that in the circumstances of the case, the loss or damage could be attributed to one or more of the causes or events specified in the above-mentioned sub-clause 7(1), it shall be presumed that it was so caused. The Merchant shall, however, be entitled to prove that the loss or damage was not, in fact, caused either wholly or partly by one ore more of the causes or events.

8. GENERAL PROVISIONS

(1) DELAY, CONSEQUENTIAL LOSS

The Carrier does not undertake that the Goods will be transported from or loaded at the Place of Receiving or Loading or will arrive at the Place of Discharge, destination or transshipment abroad any particular Ship or other conveyance or any particular date or to meet any particular market or in time or any particular use. Schedule or advertised departure and arrival times are only expected times and may be advanced or delayed if the Carrier or any connecting Carrier shall find it necessary, prudent or convenient.

The Carrier shall in no circumstances be liable for direct, indirect or consequential loss or damage caused by delay or any other cause whatsoever and howsoever caused. Without prejudice to the foregoing, if the Carrier is found liable for delay, liability shall be limited to the freight applicable to the relevant stage of the transport.

(2) PACKAGE OR SHIPPING UNIT LIMITATION

(A) Where the Carrier is liable for compensation in respect of loss or damage to the Goods, such compensation shall be calculated by reference to the net invoice value of the Goods plus freight Charges and insurance if paid. In the event that the net invoice value per package, or in the case of Goods not shipped in packages, per Shipping Unit, exceeds GBP100.00 lawful money of the United Kingdom per package or unit, the value of the Goods shall be deemed to be GBP100.00 per package or unit, unless the nature and value of the Goods have been declared by the Merchant herein and extra Charges paid as provided in

the Carrier's Tariff. In no event shall the Carrier be liable for any loss of profit or any consequential loss or damage.

- (B) Where the Hague Rules or any legislation making such Rules compulsorily applicable (such as COGSA or COGWA) to this Bill of Lading apply, the Carrier shall not, unless a declared value has been noted in accordance with sub-clause 8(3) below, be or become liable for any loss or damage to or in connection with the Goods in an amount per package or Shipping Unit in excess of the package or Shipping Unit limitation as laid down by such Rules or legislation.
- (C) Subject to sub-clause 6(1) hereinabove, for a shipment to and from ports in the U.S.A., neither the Carrier nor the Ship shall, in any event, be or become liable for any loss or damage to such Goods in the amount exceeding US\$500.00 lawful money of the U.S.A. per package or in case of Goods not shipped in packages, per customary freight unit or equivalent of that sum in other currency.
- (D) Subject to sub-clause 6(1) hereinabove, for shipments to or from ports in the People's Republic of China, neither the Carrier nor the Ship shall, in any event, be or become liable for any loss or damage to such Goods in the amount exceeding RMB200.00 lawful money of the People's Republic of China per package or in case of Goods not shipped in package, per customary freight unit or the equivalent of that sum in other currency.
- (E) If no limitation is applicable under any applicable Rules or legislation, total compensation shall not exceed US\$2.00 per kilo of gross weight of Goods loss or damage or US\$500.00 per package or Shipping Unit or customary freight unit whichever is the lesser.

(3) AD VALORAM : DECLARED VALUE OF PACKAGE OR SHIPPING UNIT

The Carrier's liability limitation may be increased to a higher value by a declaration in writing of the value of the Goods by the shipper before delivery to the Carrier of the Goods for shipment, such higher value being inserted on the front of this Bill of Lading in the space provided and, according to the Carrier's applicable Tariff , extra freight paid. In such case, if the actual value of the Goods shall exceed such declared value, the value shall nevertheless be deemed to be the declared value and the Carrier's liability, if any, shall not exceed the declared value and any partial loss or damage shall be adjusted pro rata on the basis of such declared value.

(4) DEFINITION OF PACKAGE OR SHIPPING UNIT

Where a Container is used to consolidate Goods and such Container is Stuffed by the Carrier, the number of packages or Shipping Units stated on the face of this Bill of Lading in the box provided shall be deemed the number of packages or Shipping Units for the purpose of any limit of liability per package or Shipping Unit provided in any international convention or national law relating to the Carriage of Goods by Sea Except as aforesaid, the Container shall be considered the package or Shipping Unit.

The words "Shipping Unit" shall mean each physical unit or piece of cargo not shipped in a package, including articles and things of any description whatsoever and shall include, but not limited to, a skid, cradle, pallet or unitised load, group or assemblage, except Goods shipped in bulk, and irrespective of the weight or measurement unit employed in calculating freight Charges. As to Goods shipped in bulk, the limitation applicable thereto shall be the limitation provided in such international convention or national law which may be applicable, and in no event shall anything herein be construed to be a waiver or limitation as to Goods shipped in bulk.

(5) FIRE AND RUST

- (A) The Carrier shall not be liable for any loss of or damage to Goods occurring at any time, even though before loading on or after discharge from the Ship, by reason or by mean of any fire whatsoever, unless fire shall be caused by the actual fault or privity of the Carrier.
- (B) It is agreed that superficial rust, oxidation or any other like condition, is not a condition of damage but is inherent to the nature of the Goods and acknowledgement of receipt of the Goods in apparent good order and condition is not a representation that such conditions of rust, oxidation or the like does not exist on receipt.

(6) NOTICE OF LOSS OR DAMAGE

The Carrier shall be deemed to have delivered the Goods as described in this Bill of Lading unless notice of loss of, or damage to, the Goods indicating the general nature of such loss or damage, have been given in writing to the Carrier or to its representative at the Place of Delivery before or at the time of removal of the Goods into the custody of the Person entitled to delivery thereof under this Bill of Lading or, if the loss or damage is not apparent within three consecutive days thereafter.

(7) TIME BAR

The Carrier shall be discharged of all liability unless suit is brought in the proper forum and written notice thereof received by the Carrier within nine months after delivery of the Goods or the date when Goods should have been delivered. In the event that such time period is found contrary to any international convention or national law compulsorily applicable, the period prescribed by such convention or law shall then apply but in that circumstances only.

(8) GOVERNMENT ORDERS

The Carrier or the Master shall have liberty to comply with any orders, directions, regulations, requests or suggestions given by or received from the Government of any state or by any Person purporting to act with the authority of such Government. Any disposition of the Goods pursuant to this sub-clause 8(8) shall constitute completion of the Carriage by the Carrier, and the Goods and the Carriage thereafter shall be solely at the Merchant's own risk and expense. The Merchant shall bear and pay all duties, taxes, fines, imposts, expenses or losses incurred or suffered whatsoever and shall indemnify the Carrier arising therefrom.

(9) WAR RISK AND EXPENSES

The Carrier may at any time and without prior notice to the Merchant impose surcharges to cover all extra expenses (including but not limited to extra insurance premium and costs of diversion) incurred by the Carrier as a result of the outbreak of war, hostilities, war-like operations, civil war, civil commotions, blockade, piracy or revolutions regardless of whether or not the Ship sails or is underway at the time the expenses are incurred.

(10) SUBROGATION

When any claims are paid to the Merchant by the Carrier, the Carrier shall be automatically subrogated all rights of the Merchant against any other third party for the loss or damages.

9. MERCHANT'S RESPONSIBILITY

- (1) The description and particulars of the Goods set out on the face hereof are furnished by the Merchant and the Merchant who warrants to the Carrier that:

- (A) The description and particulars including, but not limited to, weight, content, measure, quantity, quality, condition, marks, numbers and value are correct.
 - (B) The cargo units other than the Carrier furnished units are seaworthy and physically suitable, sound and structurally adequate to contain and support the Goods during the whole period of handling and Carriage and that such cargo units may be handled safely in the usual and customary manner without damage to themselves or their contents or to the Ship or its other cargo or property or Persons.
 - (C) The Goods are properly secured and packed in their respective cargo units.
 - (D) Such cargo units are in compliance with all applicable laws, regulations and government requirements and other authorities and shall bear and pay all duties, taxes, fines, imposts, expenses and losses incurred or suffered whatsoever therefrom or by reason of any illegal, incorrect or insufficient marking, numbering or addressing of the Goods.
- (2) The Merchant shall, jointly and/or severally, indemnify the Carrier and hold the Carrier or any other property or the Ship harmless or any loss or expense, including but not limited to, loss of profit and legal costs, caused by the breach of Clause 9 hereof.
 - (3) No Goods, which are or may become dangerous, inflammable or damaging or which are or may become liable to damage any property or Person whatsoever, shall be tendered to the Carrier for Carriage without the Carrier's express consent in writing and without the Container or other conveyance in which the Goods are to be transported. The Goods are properly marked documented, packed and stowed indicating the nature and character of any such articles in accordance with all applicable laws, regulations and requirements. If, in the sole discretion and opinion of the Carrier, any such articles are delivered to the Carrier without such written consent and marking or documentation, packing, stowing or if in the sole discretion and opinion of the Carrier the articles are or are liable to become of a dangerous, inflammable or damaging nature, the articles, etc., may at any time be destroyed, disposed of, abandoned or rendered harmless without compensation to the Merchant and without prejudice to the Carrier's right to Charges. The Merchant shall indemnify the Carrier for all losses, damages (including, but not limited to, consequential damages such as loss of profit and expenses related to the Carrier's inability to use its Ships and equipments), liabilities, fines, civil penalties and expenses (including legal costs) suffered by the Carrier caused in whole or in part and the Carrier shall be under no liability to make any General Average Contribution in respect of such Goods by omission of full disclosure required by this sub-clause 9(3) or by applicable law or regulations.
 - (4) The Merchant shall be jointly and/or severally liable for the loss, damage, contamination, soiling, detention or demurrage before, during and after Carriage of property (including, but not limited to, Containers) of the Carrier or any Person or Ship (other than the Merchant) referred to in clause 5 above caused by the Merchant or any Person acting on its behalf or for which the Merchant is otherwise responsible.
 - (5) The Merchant shall jointly and/or severally defend, indemnify and hold harmless the Carrier against any loss, damage claim, liability or expense whatsoever arising from any breach of the provisions of this Clause 9 or from any cause in connection with the Goods for which the Carrier is not responsible.
 - (6) **If a national law has a penalty clause against container of which VGM has not been provided in time, the shipper may be penalized. When a container is not loaded on board the ship due to the lack of VGM, the additional cost may be passed on to the customer.**

10. CONTAINERS

- (1) Goods may be stuffed by the Carrier in or on Containers and Goods may be stuffed with other Goods.
- (2) The terms of this Bill of Lading shall govern the responsibility of the Carrier in connection with or arising out of a Container to the Merchant, whether incurred before or after the Goods are received by the Carrier or delivered to the Merchant.
- (3) If a Container has been stuffed by or on behalf of the Merchant,
 - (A) the Carrier does not represent to be accurate and is not bound by any description of the value, quantity, weight, condition or existence of the contents thereof as furnished by or on behalf of the Merchant and identified in this Bill of Lading by use of the phrase "said to contain", "Shipper's weight load and count" or terms of like meaning, and the Carrier in such case shall not be liable for any difference in value, quantity, weight or condition of the Goods furnished by or on behalf of the Merchant and that the Goods actually delivered.
 - (B) the Carrier shall not be liable for loss of or damage to the Goods.
 - (i) caused by the manner in which the Container has been stuffed;
 - (ii) caused by the unsuitability of the Goods for Carriage in Containers;
 - (iii) caused by the unsuitability or defective condition of the Container provided that where the Container has been supplied by or on behalf of the Carrier, if the unsuitability or defective condition arose without any want of due diligence on the part of the Carrier, containers shall be deemed to have been accepted by the Merchant as being in sound and suitable condition for transport, unless a written notice to contrary has been given by the Merchant to the Carrier.
 - (iv) if the Container is not sealed at the commencement of the Carriage except where the Carrier has agreed to seal the Container.
 - (C) the Merchant shall defend, indemnify and hold harmless the Carrier against any loss, damage, claim, liability or expense whatsoever arising from one or more of the matters covered by sub-clause 10(3)(B) above.
- (4) Where the Goods are not already packed into container(s) at the time of receipt, the Carrier shall be at liberty to stuff and carry them in any type of containers unless agreed otherwise.

11. TEMPERATURE CONTROLLED CARGO

- (1) The Merchant undertakes not to tender for transportation any Goods which require temperature control in the absence of a written agreement as to particulars and special terms of transport (in the box on the front of this Bill of Lading if this Bill of Lading has been prepared by the Merchant or a Person acting on its behalf) particular temperature range to be maintained. In the case of a temperature controlled Container Stuffed by or on behalf of the Merchant, the Merchant further undertakes that the Container has been properly pre-cooled, that the Goods have been properly Stuffed in the Container and that its thermostatic controls have been properly set by the Merchant before receipt of the Goods by the Carrier.

If the above requirements are not complied with the Carrier shall not be liable for any loss of or damage to the Goods caused by such non-compliance.

- (2) The Carrier shall not be liable for any loss of or damage to the Goods arising from defects, derangement, breakdown, stoppage of the temperature controlling machinery, plant, insulation or any apparatus of the Container, provided that the Carrier shall before or at the beginning of the Carriage exercise due diligence to maintain the refrigerated Container in an efficient state.
- (3) In the case of a temperature controlled Container Stuffed by the Carrier, and a temperature or temperature range has been disclosed to the Carrier by the Merchant or its authorized representative, the Carrier will set the thermostatic control within the requested temperature range, but does not guarantee the maintenance of such temperature inside the container.
- (4) Where the Carrier has undertaken, by special arrangements, to carry the Goods in particular temperature or temperature range, the Carrier only undertakes to exercise due diligence to make temperature control machinery perform within the operating specifications of the equipment and make no warranty or agreement with respect to the actual temperature of any commodity, fruit, vegetable, meat, fish or any perishable Goods within the Container.

12. INSPECTION OF GOODS

The Carrier or any Person authorized by the Carrier shall be entitled, but under no obligation, to open any Container or package at any time and to inspect the Goods. If it thereupon appears that the contents of any part thereof cannot safely or properly be carried further, either at all or without incurring any additional expenses or taking any measures in relation to the Container or its contents of any part thereof, the Carrier may abandon the transportation thereof and/or take any measures and/or incur any reasonable additional expense to carry or to continue or to store the same ashore or afloat under cover or in the open, at any place, which storage shall be deemed to constitute due delivery under this Bill of Lading. The Merchant shall jointly and/or severally indemnify the Carrier against any reasonable additional expenses so incurred.

13. MATTERS AFFECTING PERFORMANCE

- (1) If at any time the Carriage is or is likely to be affected by any hindrance, risk, delay, difficulty or disadvantage of any kind (including the condition of the Goods), whensoever and howsoever arising (whether or not the Carriage has commenced) the Carrier may:
 - (A) without notice to the Merchant abandon the Carriage of the Goods and place the Goods or any part of them at the Merchant's disposal at any place where the Carrier may deem safe and convenient, whereupon the responsibility of the Carrier in respect of such Goods shall cease.
 - (B) without prejudice to the Carrier's right to subsequently abandon the Carriage according to sub-clause 13(1)(A) above, continue the Carriage.In any event the Carrier shall be entitled to full Charges on Goods received for Carriage and the Merchant shall pay any additional costs arising from the above mentioned circumstances.
- (2) The liability of the Carrier in respect of the Goods shall cease on the delivery or other disposition of the Goods in accordance with sub-clause 13(1) or the orders or recommendations given by any government or authority or any Person acting or purporting to act as or on behalf of such government or authority.

14. METHODS AND ROUTE OF TRANSPORTATION AND TRANSHIPMENT

- (1) The Carrier may at any time and without notice to the Merchant use any means of transport or storage whatsoever, load or carry the Goods on any Ship whether named on the front hereof or not, transfer the Goods from one conveyance to another including transshipping or carrying the same on Ship other than that named on the front hereof or by any other means of transport whatsoever, at any place unpack and remove the Goods which have been Stuffed in or on a Container and forward the same in any manner whatsoever, proceed at any speed and by any route in its discretion (whether or not the nearest or most direct or customary or advertised route) and proceed to or stay at any place whatsoever once or more often and in any order; load or unload the Goods from any conveyance at any place (whether or not the place is a port named on the front hereof as the intended Port of Loading or intended Port of Discharge), comply with any orders or recommendations given by any government or authority or any Person or body acting or purporting to act as or on behalf of such government or authority or having under the terms of the insurance on the conveyance employed by the Carrier the right to give orders or directions, permit the Ship to proceed with or without pilots, to tow or be towed or to be dry-docked, permit the Ship to carry livestock Goods of all kinds, dangerous or otherwise, contraband, explosives, munitions or warlike stores and sail armed or unarmed.
- (2) The liberties set out in sub-clause 14(1) above may be invoked by the Carrier for any purposes whatsoever whether or not connected with the Carriage of the Goods. Anything done in accordance with sub-clause 14(1) above or any delay arising therefrom shall be deemed to be within the contractual Carriage and shall not constitute a deviation of whatsoever nature or degree.
- (3) Whether or not the Goods are consigned to a port or point where the Ship does not discharge, the Carrier may, on behalf of the Merchant and acting solely as their agent, without notice, transship the whole or any of the Goods before or after loading at the original port of shipment or any other place or places even though outside the scope of the Carriage by the route to or beyond the Port of Discharge of the destination of the Goods, by any substituted or connecting water Carrier's Ship or other means of transportation by water or by land or by air, whether operated by the Carrier or by others. In such case, the Carrier or participating Carrier will have no further duty or responsibility whatsoever as Carrier, this Bill of Lading operating only as a document of title thereafter. The Carrier may deliver the Goods to the connecting Carrier without production of the Carrier's original, properly endorsed, Bill of Lading, and upon request by the Merchant, shall obtain the connecting Carrier's acknowledgment that delivery of the Goods shall be delivered only upon surrender of the Carrier's original properly endorsed Bill of Lading.

15. DECK CARGO (AND LIVESTOCK) AND OPTIONAL STOWAGE

- (1) By tendering Goods for Carriage without any written request for Carriage in a specialized Container, or for Carriage otherwise than in a Container, the Merchant accepts that the Carriage may properly be undertaken in a general purpose Container or similar article of transport used to consolidate Goods.
- (2) Goods of any description whether containerized or not may be stowed on or under deck without notice to the Merchant (unless in the front of the Bill of Lading, it is specifically stipulated that the Containers or Goods will be stowed under deck) and such stowage shall not constitute a deviation of whatsoever nature or degree.

Subject to sub-clause 15(3) below, such Goods whether carried on deck or under deck shall participate in General Average and such Goods (other than livestock) shall be deemed to be within the definition of Goods for the purposes of the Hague Rules or any legislation making such Rules or the Hague-Visby Rules compulsorily applicable (such as COGSA or COGWA) to this Bill of Lading.

- (3) Goods (not being Goods Stuffed in or on Containers other than open flats or pallet(s)), which are stated on the front of this Bill of Lading to be carried on deck and are so carried (and livestock, whether or not carried on deck), are carried without any liability on the part of the Carrier for loss or damage whatsoever nature arising during Carriage by sea or inland waterway whether caused by unseaworthiness or negligence or any other cause whatsoever. The Merchant shall jointly and/or severally shall defend, indemnify and hold harmless the Carrier against all and any extra cost incurred for any reason whatsoever in connection with Carriage of such Goods.

16. NOTIFICATION, DELIVERY AND STORAGE OF GOODS

- (1) Any mention concerning parties to be notified of the arrival of the Goods is solely for information of the Carrier, and failure to give such notification shall not involve the Carrier in any liability or relieve the Merchant of any obligation hereunder.
- (2) If no Place of Delivery is named on the front of this Bill of Lading, the Carrier shall be at liberty to discharge the Goods at the Port of Discharge, without notice, at or onto any wharf, craft or place, on any day and at any time, whereupon the liability of the Carrier, if any, in respect of the Goods shall wholly cease, notwithstanding any Charges, bills or expenses that may be or become payable, unless and to the extent that any application compulsory law provides to the contrary (in which case the terms and conditions of this Bill of Lading shall continue during such additional compulsory period of responsibility.) The Merchant shall take delivery of the Goods upon discharge.
- (3) If the Place of Delivery is named on the front of this Bill of Lading, the Merchant shall take delivery of the Goods within the time provided for in the Carrier's applicable Tariff or any reasonable time.
- (4) If delivery of the Goods or any part thereof is not taken by the Merchant at the time and place when and where the Carrier is entitled to call upon the Merchant to take delivery thereof, the Carrier shall be entitled and without notice to remove from a Container the Goods or the part thereof if Stuffed in or on a Container and to store the Goods or that part thereof ashore, afloat, in the open or under cover at the sole risk and expense of the Merchant. Such storage shall constitute due delivery hereunder, and thereupon the liability of the Carrier in respect of the Goods or that part thereof shall cease.
- (5) If, at the place where the Carrier is entitled to call upon the Merchant to take delivery of the Goods under Clause 16, the Carrier is obliged to hand-over the Goods into the custody of any custom, port or other authority, such hand-over shall constitute due delivery to the Merchant under this Bill of Lading.
- (6) In the event of the Carrier agreeing, at the request of the Merchant, to any change of destination, the terms of this Bill of Lading shall continue to apply until the Goods are delivered by the Carrier to the Merchant at the amended Port of Discharge or Place of Delivery, whichever is applicable, unless the Carrier specifically agrees in writing to the contrary.
- (7) The Merchant's attention is drawn to the stipulation concerning free storage time and demurrage contained in the Carrier's applicable Tariff.

17. BOTH-TO-BLAME COLLISION

If the Ship on which the Goods are carried (the carrying Ship) comes into collision with any other Ship or object (the non-carrying Ship or object) as a result of the negligence of the non-carrying Ship or object or the owner of, or charterer of or Person responsible for the non-carrying Ship or object and any act, neglect or default of the Master, Mariner, Pilot or the Servant of the Carrier in the navigation or in the management of the Ship, the Merchant shall, indemnify the Carrier against all loss or liability which might be incurred directly or indirectly to the other or non-carrying ship or her owner in so far as such loss or liability represent loss or damage his Goods or any claim whatsoever of the Merchant paid or payable to the Merchant by the non-carrying Ship or object or the owner of, charterer of or Person responsible for the non-carrying Ship or object and set-off, recouped or recovered by such Ship, object or Person(s) against the Carrier, the carrying Ship or her owners or charterers.

18. GENERAL AVERAGE

- (1) The Carrier may declare General Average which shall be adjustable at any port or place at the sole discretion and option of the Carrier and subject to sub-clause 15(2) in accordance with the York Antwerp Rules 1994 and the New Jason Clause as approved by BIMCO which shall be considered as incorporated herein and the Merchant shall provide such security as may be required by the Carrier in this connection.
- (2) Notwithstanding sub-clause 18(1) above, the Merchant shall jointly and/or severally defend, indemnify and hold harmless the Carrier in respect of any claim (and any expenses arising therefrom) of a General Average nature which may be made on the Carrier and shall provide such security as may be required by the Carrier in this connection.
- (3) The Carrier shall be under no obligation to take any steps, including the exercise of any lien, whatsoever to collect security for General Average contributions due to the Merchant.

19. CHARGES

- (1) Charges shall be deemed fully earned on receipt of the Goods by the Carrier and shall be paid and non-returnable in any event.
- (2) The Charges have been calculated on the basis of particulars furnished by or on behalf of the Merchant. The Carrier shall be entitled to production of the commercial invoice for the Goods or true copy thereof and to inspect reweight, remeasure and revalue the Goods; If the particulars are found by the Carrier to be incorrect, the Merchant shall pay the Carrier the correct Charges (credit being given for the Charges already paid) and the costs incurred by the Carrier in establishing the correct particulars.
- (3) All Charges shall be paid without any set off, counter-claim, deduction or stay or execution.

20. LIEN

The Carrier shall have a general and particular lien on the Goods and any documents relating thereto to for all sums whatsoever due at any time to the Carrier from the Merchant and for General Average contributions to whomsoever nature, including, but not limited to, Charges for amending, co-operating, reporting, fumigating, devanning, restoring, storing or reconditioning and all expenses incurred for the benefit or protection of the Goods, and also for any payments, duties, fines or other expenses including but not limited to legal cost and expenses, due and for the costs of recovering the same and the Carrier shall have the right to sell the Goods and documents by public auction or private tender, without notice to the Merchant and at the Merchant's expense and without any liability towards the Merchant.

21. VARIATION OF THE CONTRACT

No servant or agent of the Carrier shall have power to waive or vary any of the terms hereof unless such waiver or variation is in writing and is specifically authorized or ratified in writing by a director or officer of the Carrier who has the actual authority of the Carrier so to waive or vary.

22. PARTIAL INVALIDITY

If any provision in this Bill of Lading is held to be invalid or unenforceable by any court or regulatory or self-regulatory agency or body, such invalidity or unenforceability shall attach only to such provision. The validity of the remaining provisions shall not be affected hereby and this Bill of Lading contract shall be carried out as if such invalid or unenforceable provision were not contained herein.

23. LAW AND JURISDICTION

(1) GOVERNING LAW

The Contract of Carriage contains in or evidenced by this Bill of Lading shall be governed by and construed in accordance with the laws of Hong Kong Special Administrative Region.

(2) JURISDICTION

Any dispute arising out of, or in connection with the Contract of Carriage contained in or evidenced by this Bill of Lading shall refer to the exclusive jurisdiction of Hong Kong Special Administrative Region. Save as aforesaid, the Merchant shall not commence any action or legal proceedings (including but not limited to proceedings commenced for the purpose of obtaining security in respect of any claims).

(3) If notwithstanding this sub-clauses 23(1) and (2), any action or legal proceedings are commenced by or on behalf of the Merchant otherwise than before Hong Kong Special Administrative Region Court, the Merchant, jointly and/or severally, shall:

(A) Indemnify the Carrier in respect of whatsoever costs and expenses incurred by the Carrier in connection therewith including but without prejudice to the generality of the foregoing;

(B) Indemnify the Carrier in respect of all guarantees, bail bond and interest Charges incurred by or on behalf of the Carrier in connection with the provision of

security in respect of any claim; and

(C) Whatever legal costs incurred by or on behalf of the Carrier.