

# TERMS AND CONDITIONS

## **I. TERMS AND CONDITIONS ON FACE OF B/L**

RECEIVED for shipment in external apparent good order and condition, unless otherwise indicated. The total number of packages or units stuffed in the container, the description of the goods and the weights shown in this Bill of Lading are furnished by the Merchants and the containers are already sealed by the Merchants, and which the carrier has no reasonable means of checking and is not a part of this Bill of Lading contract. The carrier has issued the number of Bills of Lading stated below, all of this tenor and date, one of the original Bills of Lading must be surrendered and endorsed or signed against the delivery of the goods or the delivery order and whereupon any other original Bills of Lading shall be void.

NOTE: Notwithstanding any customs or privileges to the contrary, the Merchant's attention is drawn to the fact that the Merchant, in accepting this Bill of Lading, expressly agrees to be bound by all the stipulations, exceptions, limitations, liberties, terms and conditions attached hereto or stated herein, whether written, printed, stamped or otherwise incorporated on the front and/or reverse side hereof as well as the provisions of the Carrier's published Tariff Rules, Regulations and Schedules, without exceptions, as fully as if they were all signed by such Merchant, and the carrier's undertaking to carry the goods is made on the basis of the merchant's acceptance and agreements as aforesaid.

This Bill of Lading is governed by the laws of the People's Republic of China. Any claims and disputes arising under or in connection with this Bill of Lading shall be determined by Shanghai Maritime Court or Qingdao Maritime Court at the exclusion of the Courts of any other country.

The printed terms and conditions appearing on the face and reverse side of this Bill of Lading are available at [www.sitc.com](http://www.sitc.com) in SITC's published tariffs.

## **II. TERMS AND CONDITIONS ON BACK OF B/L**

### **1. DEFINITION. In this Bill of Lading (hereinafter referred to as B/L)**

"Carrier" means the party on whose behalf this B/L is issued.

"Merchant" includes the Shipper, Holder, Consignee, Receiver, Endorsee, Owner of the Goods, any person owning or entitled to the possession of the Goods or of this B/L and anyone acting on behalf of any such person.

"Container" includes any ISO standard container, trailer, transportable tank, flat or pallet, or any similar article used to consolidate Goods and any equipment thereof or connected thereto.

"Vessel" means the intended vessel named on the face hereof and any ship, craft, lighter, barge, or other vessel which is or shall be substituted, in whole or in part, for that vessel.

"Goods" means the whole or part of the cargo received from the Shipper and includes any equipment or container not supplied by or on behalf of the carrier.

"Sub-contractor" includes owners and operators of any vessel (other than the carrier), stevedores, terminal and groupage operators, underlying carrier, road and rail transport operators and any independent contractor employed by the carrier covered by the B/L.

"Carriage" means the whole or any part of the operations and services undertaken by the Carrier in respect of the Goods.

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

### **2. CARRIER'S TARIFF**

2.1 The terms of the Carrier's applicable Tariff and other requirements regarding charges are incorporated into this B/L. Particular attention is drawn to the terms contained therein, including but not limited to, free storage time, container and vehicle demurrage, detention, etc. Copies of the relevant provisions of the applicable Tariff are obtainable from the Carrier or his agents upon request. In case of any inconsistency between this B/L and applicable Tariff, this B/L shall prevail.

2.2 Before loading the Carrier allows to Merchant three days container utilization (in which the day of collection ex-quay is included) free of demurrage. In addition the Carrier allows a demurrage-free period in accordance with the tariff of the manifested destination or as advised by the local SITC Agent, counting from the day of discharge ex-vessel. Demurrage is levied thereafter for container, trailer and other equipment. All containers shall be the joint and several responsibility of the Shipper and the Consignee and shall be re-delivered clean and undamaged to a place nominated by the Carrier, failing which the Shipper and the Consignee shall be jointly and severally liable for all the costs of replacement, transportation, and repair, including legal costs and lawyer fee.

### **3.DEMISE CLAUSE**

If the ship is not owned by or chartered by demise to the corporation by whom this B/L is issued (as the case may be notwithstanding anything that appears to the contrary), this B/L shall take effect only as contract with the Owner or demise charter as the case may be as principal made through the agency of the said corporation who act as agent only and shall be under no personal liability whatsoever in respect thereof.

### **4.SUB-CONTRACTING AND INDEMNITY**

4.1 The Carrier shall have the right at any time and on any terms whatsoever to sub-contract the whole or any part of the carriage with any Sub-contractor and/or to substitute any other vessel or means of transport for the Vessel.

4.2 The Merchant undertakes that no claim or legal action whatsoever shall be made or brought against any person by whom the carriage is performed or undertaken (including, but not limited to, the Carrier's servants, agents or Sub-contractors), other than the Carrier, which imposes or attempts to impose upon any such person, or any vessel owned or operated by such person, any liability whatsoever in connection with the Goods or the carriage thereof whether or not arising out of negligence on the part of such person. Should any such claim or legal action nevertheless be made or brought, the Merchant undertakes to indemnify the Carrier against all consequences thereof including legal expenses and lawyer fee on a full indemnity basis. Without prejudice to the foregoing, every such person or vessel, including, but not limited to, the Carrier's servants, agents, or Sub-contractors as defined in Clause 1 above, shall have the benefit of every exemption, defense and limitation herein contained applicable to the Carrier, in contract or in tort, as if such provision were expressly contracted for its benefit, and, in entering into this contract, the Carrier, to the extent of such exemptions, defenses and limitations, does so not only on its behalf, but also as an agent and trustee for such person or vessel.

4.3 The provisions of clause 4.2 including but not limited to the undertaking of the Merchant contained therein, shall extend to all claims or allegations of whatsoever nature against other Persons chartering space on the carrying vessel.

4.4 The Merchant further undertakes that no claim or allegation in respect of the Goods shall be made against the Carrier by any Person other than in accordance with the Terms and Conditions of this B/L which imposes or attempts to impose upon the Carrier any liability whatsoever in connection with the Goods or the Carriage of the Goods, whether or not arising out of negligence on the part of the Carrier, and if any such claim or allegation should nevertheless be made, to indemnify the Carrier against all consequences thereof.

### **5.NON-VESSEL OPERATING COMMON CARRIER("NVOCC")**

If this B/L is accepted by a Merchant acting as a NVOCC, who has in turn concluded other contract of carriage with third parties, the NVOCC hereby warrants that the contracts concluded by him in respect of the Goods subject

to this B/L shall incorporate the terms and conditions of this B/L including the law and jurisdiction clause. The NVOCC further warrants to indemnify the Carrier, its servants, agents and Sub-contractors against all consequences of his failure to do so.

## **6.CARRIER'S RESPONSIBILITY**

**6.1** Port to Port Shipment If boxes 7 and 8 but not boxes 4, 5 and 9 are filled in on the front of this B/L, this B/L is a Port-to-Port contract. The Carrier shall be responsible for the Goods as Carrier from the time when the Goods are received by the Carrier at the Port of Loading until the time of delivery thereof at the port of discharge to the Merchant or to the Authority as required by local laws or regulations, whichever occurs earlier.

**6.2** Combined Transport If Box 4, Box 5 and /or Box 9 are filled in on the front of this B/L and the place(s) or port(s) indicated therein is/are place(s) or port (s) other than that indicated in Box 7 and Box 8 and Freight is paid for combined transport, this B/L is a combined transport contract. The Carrier undertakes to arrange or procure the pre-carriage and/or on-carriage segments of the combined transport. All claims arising from the combined transport carriage must be filed with the Carrier within 3 months after the delivery of the Goods or the date when the Goods should have been delivered, failing which the Carrier shall be discharged from all liabilities whatsoever in respect of the Goods. If any payment is made by the Carrier to the Merchant in respect of any claim arising from the combined transport carriage, the Carrier shall be automatically subrogated to or given all rights of the Merchant against all others including pre-carrier or on-carrier or Sub-contractor on account of such loss or damage. Nothing herein contained shall be deemed a waiver of any rights that the Carrier may have against a pre-carrier or on-carrier or Sub contractor for indemnity or otherwise.

**6.3** If the stage of the combined transport during which loss or damage occurred can be determined, the liability of the Carrier shall be governed by the national law(s) and/or international convention(s) applicable thereto. If the stage of the combined transport during which loss or damage occurred cannot be determined, the Merchant and the Carrier agree that it shall be deemed that the loss or damage occurred aboard the Carrier's Vessel. In either case, the terms and conditions in this B/L shall apply.

## **7.COMPENSATION, LIMITATION OF LIABILITY AND DELAY**

**7.1** The terms of this B/L shall at all times govern all responsibilities of the Carrier in connection with or arising out of the carriage of the Goods not only during the carriage, but also during the period prior to and/or subsequent to the carriage. The exemptions from liability, defenses and limitation of liability provided for herein or otherwise shall apply in any action against the Carrier for loss or damage or delay, howsoever occurring and whether the action be founded in contract or in tort and even if the loss, damage or delay arose as a result of unseaworthiness, negligence or fundamental breach of contract.

**7.2** Except as provided for in Clause 7.3, this B/L shall be subject to the provisions of the Maritime Code of the People's Republic of China. Neither the Carrier, its servants, agents, Sub-contractors nor the Vessel shall in any event be liable for any loss of or damage to the Goods in any amount exceeding the limits of 666.67 SDR per package/unit or 2 SDR per kg prescribed by that Code, unless the nature and value of the Goods have been declared by the Merchant before shipment and inserted in this B/L (Box 12) and the Merchant has paid additional Freight on such declared value.

**7.3** If a legal regime other than the Maritime Code of the People's Republic of China or US COGSA is compulsorily applied to this B/L, the liability of the Carrier, if any, shall not exceed the limits of 666.67 SDR per package/unit or 2 SDR per kg prescribed therein, unless the nature and value of the Goods have been declared by the Merchant and inserted in this B/L (Box12) and the Merchant has paid additional Freight on such declared value.

**7.4** For the purpose of this Clause 7, the declared value shall be the basis for calculating the Carrier's liability, if any, provided that such declared value shall not be conclusive on the Carrier and further provided that

such declared value does not exceed the true value of the Goods at destination. Any partial loss or damage shall be adjusted pro-rata on the basis of such declared value.

7.5 In any event, the Carrier shall in no circumstances whatsoever and howsoever arising be liable for direct or indirect or consequential loss or damage or loss of profits, in addition, the Carrier does not undertake that the Goods will be transported from or loaded at the place of receipt or loading or will arrive at the Port of Discharge or Place of Delivery or transshipment aboard any particular vessel or other conveyance at any particular time or to meet any particular market or in time for any particular use, and the Carrier shall in no circumstances whatsoever and howsoever arising be liable for direct, indirect or consequential loss or damage or profits caused by delay, the liability of the carrier for the loss or damage resulting from delay in delivery of the Goods shall be limited to an amount equivalent to the freight payable for the Goods so delayed.

7.6 Scheduled or advertised departure and arrival times are only expected times and may be advanced or delayed if the Carrier shall find it necessary, prudent or convenient. However, unless a latest date of delivery is shown on the face hereof and any required premium paid, timely delivery shall be considered to have been made if the Goods are made available to the Merchant at the port of Discharge or Place of Delivery, as the case may be, within 60 days after the date published in the SITC Inbound Schedule against the Port of Discharge nominated therein for the relevant ocean Vessel. The Carrier shall be entitled to all the defences, exceptions and limitations provided in the applicable international convention or national law and this B/L.

#### **8.FIRE**

The Carrier shall not be liable for any loss of or damage to the Goods occurring at any time, including that before loading or after discharge by reason of any fire whatsoever, unless such fire is caused by the actual fault or privity of the Carrier, and the Merchant shall bear the burden of proof on the cause of fire.

#### **9.CARRIER'S CONTAINER**

9.1 Goods received in break bulk will be stuffed by the Carrier in Containers and the Carrier shall have the right to carry any Containers, whether or not stuffed by the Carrier, on deck or below deck. All such Goods shall participate in General Average.

9.2 If the Containers and equipment supplied by the Carrier or anyone on his behalf are used by the Merchant for pre-carriage or unpacked at the Merchant's premises, the Merchant is responsible for returning the empty Containers, with interiors brushed, clean and free of smell to the point or place designated by the Carrier, its servants or agents, within the time prescribed in the Tariff. Should a Container not be returned as required above within the time prescribed, the Carrier is entitled to take such steps as he considers appropriate for the account of the Merchant and the Merchant shall be liable for any detention, demurrage, loss, expenses and/or lawyer fee incurred as a result thereof.

9.3 Containers and other equipment released into the care of the Merchant or anyone acting on the Merchant's behalf for packing, unpacking or any other purpose whatsoever are at the sole risk of the Merchant until redelivered to the Carrier. The Merchant shall be liable during such period for any loss of or damage to the property of others or for any injuries or death and shall also indemnify and hold the Carrier harmless against all loss, damages, including legal expenses and lawyer fee, incurred from any and all such claims arising during such periods.

#### **10. MERCHANT-STUFFED CONTAINERS AND INSPECTION OF THE GOODS**

10.1 If a Container has not been stuffed by or on behalf of the Carrier, the Carrier shall not be liable for loss of or damage to or in connection with Goods and the Merchant shall be liable for loss of or damage to any property, or for personal injury, death or the consequences of any other accidents or events whatsoever and shall defend, indemnify and hold Carrier harmless against all loss, damage, liability, expense and/or lawyer fee if such loss, damage, liability, expense and/or lawyer fee has been caused by;

(a) the manner in which the Container has been filled, packed, loaded or stuffed, or  
(b) the unsuitability of the Goods for carriage in the Container, or  
(c) the unsuitability or defective condition of the Container, provided that, if the Container had been supplied by or on behalf of the Carrier, this unsuitability or defective condition could have been apparent upon inspection by the Merchant at or prior to the time when the Container was filled, packed, loaded or stuffed.

10.2 If a Merchant-stuffed Container is delivered by the Carrier with its seal intact, such delivery shall constitute full and complete performance of the Carrier's obligations hereunder and the Carrier shall not be liable for any loss or shortage of the Goods ascertained at delivery. In case the seals of Container(s) are broken by or pursuant to the order of the customs or other authorities, Carrier shall not be liable for any loss, damage, expenses or any other consequences arising or resulting therefrom.

10.3 The Merchant shall inspect Containers before stuffing them and the use of a Container shall be conclusive evidence of its being suitable and without defect.

10.4 Where the Carrier is instructed to provide a container, in the absence of a written request to the contrary, the Carrier is not under an obligation to provide a Container of any particular type or quality.

10.5 Carrier shall be entitled, but under no obligation to open Container(s) and to inspect Goods and take any measures with respect thereto without notice to Merchant at such time and place as Carrier may deem necessary and all expenses incurred therefrom shall be borne by Merchant if such expenses relate to Container(s) packed by Merchant, or were incurred by a reason for which Merchant should be responsible.

## **11. SPECIAL, REFRIGERATED OR HEATED CONTAINERS**

11.1 Unless the Merchant and the Carrier agree in writing before shipment that specially ventilated, refrigerated or heated Containers will be used to ship the Goods and such agreement is noted on the front of this B/L, and the Merchant gives proper written notice to the Carrier of the nature of the Goods and of the particular temperature range to be maintained and/or special attention required and the Merchant pays the extra Freight charged under the Carrier's Tariff or as agreed, the Goods shall be carried in ordinary unventilated Containers.

11.2 In case of a refrigerated Container stuffed by or on behalf of the Merchant, the Merchant undertakes that its thermostatic, ventilating or any other controls have been correctly set by the Merchant and that the temperature of the Goods and the refrigerated Container has been brought to the required temperature level before stuffing and that the Goods have been properly stowed in the Container before the receipt thereof by the Carrier. If these requirements are not fully met, the Carrier shall not be liable for any loss of or damage to the Goods howsoever arising. The Merchant shall be responsible for the operation and maintenance of the Carrier's Container while it is in the custody of the Merchant or anyone acting on the Merchant's behalf.

11.3 If a suggested temperature is noted on the front of this B/L, the Merchant shall deliver the Goods to the Carrier at the noted temperature plus or minus 3°C permitted, and the Carrier shall exercise due diligence to maintain such temperature, plus or minus 3°C while the Goods are in its actual possession.

11.4 The Carrier does not warrant that the Container be properly ventilated, refrigerated or heated throughout the carriage, nor shall the Carrier be liable for any loss of or damage to the Goods arising from any latent defects, derangement, any total or partial failure or breakdown, or stoppage of the refrigerating machinery, plant, insulation and/or any apparatus of the Container, Vessel, conveyance and any other facilities, 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.

## **12. DESCRIPTION OF THE GOODS**

12.1 The Merchant's description of the Goods stuffed in a sealed Container by the Merchant or on his behalf, shall not be binding on the Carrier, and the description declared by the Merchant on the front of this B/L is information provided by the Merchant solely for its own use including but not limited to the use of its freight

forwarder. It is understood by the Merchant that the Carrier has not verified the contents, weight or measurement of a sealed container, and the Carrier makes no representation as to the contents of a sealed Container, van, crate or box hereunder, nor its weight or measurement, nor the value, quantity, quality, description, condition, marks or number of the contents thereof. The Carrier shall be under no responsibility whatsoever in respect of such description or particulars.

12.2 If any particulars of any letter of credit and/or import license and/or sales contract and/or invoice or order number and/or details of any contract to which the Carrier is not a party are shown on the front of this B/L, such particulars are included solely at the request of the Merchant for its convenience. The Merchant agrees that the inclusion of such particulars shall not be regarded as a declaration of value and shall in no way affect the Carrier's liability under this B/L. The Merchant acknowledges that, except as provided for in Clause 7 hereof, the value of the Goods is unknown to the Carrier.

### **13. OPTIONAL STOWAGE, DECK GOODS, LIVE ANIMAL AND PLANTS**

13.1 The Merchant agrees that the Goods may be packed by the Carrier in containers and consolidated with other Goods in Containers.

13.2 The Merchant confirms to the Carrier that Goods, whether packed in Containers or not, may be carried on deck or under deck without notice to the Merchant unless on the reverse side hereof it is specially stipulated that the Containers or Goods will be carried under deck. If carried on deck, the Carrier shall not be required to note, mark or stamp on the B/L that are stated on the front of this B/L any statement of such on-deck carriage.

13.3 Goods as contracted to be stowed "on deck" and are so carried, and all live animals, including fish and birds, or plants shipped hereunder, shall be carried solely at the risk of the Merchant and participate in general average, and the Carrier shall not be liable for any loss or damage of whatsoever nature arising during carriage by sea whether or not arising out of unseaworthiness or negligence on the part of the Carrier.

13.4 The Merchant shall indemnify the Carrier against all or any extra costs incurred for any reason whatsoever in connection with the carriage of such live animals or plants.

### **14. PERISHABLE GOODS**

14.1 The Merchant undertakes not to tender for transportation any Goods which require refrigeration without giving written notice of their nature and the required temperature setting of the thermostatic controls before receipt of the Goods by the Carrier in case of refrigerated Container(s) packed by or on behalf of the Merchant. The Merchant undertakes that the Goods have been properly stowed in the Container and that the thermostatic controls have been adequately set by him before receipt of the Goods by the Carrier and that the Goods have been pre-chilled before the loading into the Container. The Merchant's attention is drawn to the fact that refrigerated Containers are not designed to freeze down Goods which has not been presented for stuffing at or below its designated carrying temperature and the carrier shall not be responsible for the consequences of cargo presented at a higher temperature than that required for the transportation. If the above requirements are not complied with the Carrier shall not be liable for any loss of or damage to the Goods howsoever arising.

14.2 The term "apparent good order and condition" when used in this B/L with reference to Goods which require refrigeration does not mean that the Goods, when received were verified by the Carrier as being at the designated carrying temperature.

14.3 Goods of a perishable nature shall be carried in ordinary Containers without special protection, services or other measures unless there is noted on the reverse side of this B/L that the Goods will be carried in a refrigerated, heated, electrically ventilated or otherwise specially equipped Container or are to receive special attention in any way. The Carrier shall in no event be held liable for damage to Goods due to condensation.

### **15. DANGEROUS GOODS**

15.1 No Goods which are or which may become of a dangerous, explosive, corrosive, poisonous, injurious,

noxious, hazardous, flammable, or damaging nature (including radioactive material), or which are or may become liable to damage any Persons or property whatsoever, and whether or not so listed in any official or unofficial, international or national code, convention, listing or table shall be tendered to the Carrier for Carriage without previously giving written notice of their accurate nature, description, character, name, label, classification of Goods as well as the method of rendering them innocuous, with full names, addresses and telephone numbers of Merchant to the Carrier and obtaining his consent in writing and without distinctly marking and labeling the Goods and Container or other covering on the outside so as to indicate the nature and character of any such Goods and so as to comply with any applicable laws, regulations or requirements if any such Goods are delivered to the Carrier without obtaining his consent and/or such marking.

15.2 In case the Merchant fails to or inaccurately notifies the Carrier or notwithstanding the Carrier's knowledge of the nature of the dangerous Goods and its consent to carry if in the opinion of the Carrier the Goods are or are liable to become of a dangerous, noxious, hazardous, flammable or damaging nature, the Carrier may have such Goods at any time or place be unloaded, destroyed, disposed of abandoned or rendered harmless without compensation to the Merchant and without prejudice to the Carrier's right to Freight and, the Carrier shall be under no liability to make any general average contribution in respect of such Goods.

15.3 The Merchant warrants that such Goods are packed in a manner adequate to withstand the risks of Carriage having regard to their nature and in compliance with all laws, regulations or requirements which may be applicable during the Carriage.

15.4 The Merchant shall be liable for and indemnify the carrier against all of claims, liabilities, loss, damage, delay, costs, lawyer fee, fines and/or expenses including loss of freight directly or indirectly arising in consequence of the Carriage of such Goods, and/or arising from breach of any of the warranties in this B/L including any steps taken by the Carrier whether or not the Merchant was aware of the nature of such Goods. The Merchant shall post any necessary bonds or financial guarantees as may be required by the Carrier.

15.5 Nothing contained in this clause shall deprive the Carrier of any of his rights provided for elsewhere.

## **16. MERCHANT'S RESPONSIBILITY**

16.1 The parties defined as "Merchant" in clause 1 hereof shall, where applicable, be jointly and severally liable to the Carrier for the due fulfillment of all obligations undertaken by any of them under this B/L and remain liable throughout the Carriage, notwithstanding their having transferred this B/L and/or title to the Goods to another party.

16.2 The Merchant warrants to the Carrier that the particulars relating to the Goods as set forth on the front of this B/L have been checked by the Merchant on receipt of this B/L and that such particulars, and any particulars furnished by or on behalf of the Merchant, are adequate and correct. The Merchant also warrants that the Goods are lawful Goods and contain no contraband. If the container is not supplied by or on behalf of the Carrier, the Merchant further warrants that the Containers meets all ISO and/or other international safety standard and is fit in all respects for Carriage by the Carrier.

16.3 The Merchant shall indemnify the Carrier against all liabilities, costs, losses, damages, fines, penalties, expenses or other sanctions of a monetary nature arising or resulting from any breach of the warranties in this B/L or from any other cause in connection with the Goods for which the Carrier is not responsible.

16.4 The Merchant shall comply with all regulations or requirements of customs, port and other Authorities, and shall bear and pay all duties, taxes, fines, imposts, expenses, lawyer fee or losses (including the full return Freight for the Goods if returned, or if on-carried, the full Freight from the Port of Discharge or the Place of Delivery nominated herein to the amended Port of Discharge or the amended Place of Delivery) incurred and/or sustained by reason of any failure to so comply, or by reason of any illegal, incorrect or insufficient marking, numbering, or addressing of the Goods, and shall indemnify the Carrier in respect thereof.

## **17. FREIGHT, EXPENSES, FEES AND CHARGES**

17.1 All Freight, expenses, fees and charges shall be deemed fully, finally and unconditionally earned on receipt of the Goods by the Carrier and shall be paid and non-returnable in any event whatsoever whether the vessel and/or Goods lost or not.

17.2 All Freight, expenses, fees and charges shall be paid without any set-off, counter-claim, deduction, or stay of execution before sailing of the vessel.

17.3 The Merchant's attention is drawn to the stipulations concerning currency in which the Freight, expenses, fees and charges are to be paid, rate of exchange, devaluation and other contingencies concerning the Freight in the applicable Tariff or as agreed otherwise.

17.4 Freight has been calculated on the basis of the particulars furnished by or on behalf of the Merchant. If the Merchant's description of the Goods in this B/L or in any document or certificate furnished to the Carrier by or on behalf of the Merchant shall prove to have been inaccurate, incorrect or misleading in any respect, it is agreed by the Merchant that a sum equal to double the correct Freight less the Freight charged plus interests shall be payable as liquidated damages to the Carrier.

17.5 Payment of Freight, expenses, fees and charges to any freight forwarder or broker, or anyone other than the Carrier or its authorized agent, shall not be considered payment to the Carrier and shall be made at the Merchant's sole risk.

17.6 The parties defined as Merchants in clause 1 hereof shall be jointly and severally liable to the Carrier for payment of all Freight, demurrage, General Average and charges, including but not limited to court costs, expenses and lawyer fees incurred in collecting sums due the Carrier, failing which shall be considered a default by the Merchant in the payment of Freight and charges.

## **18. LIEN**

18.1 The Carrier, his servants or agents shall have a lien on the Goods and any documents related thereto and a right to sell the Goods whether privately or by public auction for all Freight (including additional Freight payable under Clause 8.1), primage, dead freight, pre-Carriage and/or inland Carriage whatsoever, demurrage, Container demurrage and storage charges, detention charges, salvage, general average contributions and all other charges and expenses whatsoever which are for the account of the Goods or of the Merchant and for the costs and expenses of exercising such lien and of such sale and also for all previously unsatisfied debits whatsoever due to him by the Merchant.

18.2 The Carrier, his servants or agents shall also have a lien on the Goods carried under this B/L and any document relating thereto for all sums including Freights and charges as above mentioned due and outstanding on any other contracts for the carriage charges as above mentioned due and outstanding on any other contracts for the carriage of goods concluded between the Carrier, his servants or agents and the Merchant, at any time where such sums or Freights remains due and unpaid.

18.3 If the goods are unclaimed during a reasonable time, or whenever in the Carrier's opinion, the Goods will become deteriorated, decayed or worthless, the Carrier may, at his discretion and subject to his lien and without responsibility, auction, sell, abandon or otherwise dispose of such Goods solely at the risk and expense of the Merchant. Nothing in this Clause shall prevent the Carrier from recovering from the merchant the difference between the amount due to him by the Merchant and the amount realized by the exercise of the rights given to the Carrier under this Clause.

## **19. METHODS AND ROUTES OF CARRIAGE**

19.1 The Carrier may at any time and without notice to the Merchant:

- (a) use any means of carriage whatsoever,
- (b) transfer the Goods from one conveyance to another, including but not limited to transshipping or

carrying them on a Vessel other than that named on the face hereof,

(c) unpack and remove the Goods which have been packed into a Container and forward them in a Container or otherwise,

(d) proceed by any route in his discretion (whether or not the nearest or most direct or customary or advertised route), at any speed, and proceed to or stay at any place or port whatsoever, once or more often and in any order,

(e) load or unload the Goods at any place or port (whether or not such port is named overleaf as the Port of Loading or Port of Discharge) and store the Goods at any such place or port,

(f) comply with any 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, or having under the terms of any insurance on any conveyance employed by the Carrier the right to give orders or directions,

(g) permit the vessel to proceed with or without pilots, to tow or be towed, or to be dry-docked, with or without Goods and/or Containers on board.

19.2 The liberties set out in Clause 19.1 may be invoked by the Carrier for any purpose whatsoever, whether or not connected with the Carriage of the Goods, including but not limited to loading or unloading other goods, bunkering, undergoing repairs, adjusting instruments, picking up or landing any persons, including but not limited to persons involved with the operation or maintenance of the vessel and assisting vessels in all situations. Anything done in accordance with Clause 19.1 or any delay arising therefrom shall be deemed to be within the contractual Carriage and shall not be a deviation.

## **20. MATTERS AFFECTING PERFORMANCE OR CARRIAGE**

If at any time the carriage is or is likely in the judgment of the Master to be affected by any hindrance, risk, delay, difficulty, condition of the Goods or disadvantage of any kind, other than the inability of the Goods to be safely or properly carried or carried further, and howsoever arising (even though the circumstances giving rise to such matters as stated above existed at the time this contract was entered into or the Goods were received for shipment), the Carrier (whether or not the carriage is commenced) may, at his sole discretion and without prior notice to the Merchant:

20.1 Carry the Goods to the contracted Port of Discharge or Place of Delivery, whichever is applicable, by an alternative route from that indicated in this B/L or from that which is customary for Goods consigned to that Port of Discharge or Place of Delivery. If the Carrier elects to invoke the terms of this sub-Clause, the Carrier shall be entitled to charge such additional Freight as the Carrier may determine, or

20.2 Suspend the carriage of the Goods and store them ashore or afloat upon the terms of this B/L and endeavor to forward them as soon as possible, but the Carrier makes no representation as to the maximum period of suspension. If the Carrier elects to invoke the terms of this sub-Clause, the Carrier shall be entitled to charge such additional Freight as the Carrier may determine, or

20.3 Abandon the carriage of the Goods and place the Goods at the Merchant's disposal or store them ashore or afloat, under cover or in the open, at any port or place where the Carrier may deem safe and convenient, which abandonment, storage, sale or disposal thereof shall be deemed to constitute due delivery under this B/L and the responsibility of the Carrier in respect of such Goods shall entirely cease. The Carrier shall nevertheless be entitled to full Freight on the Goods received for shipment, and the Merchant shall indemnify the Carrier against any additional costs of the carriage to, and delivery and storage at such port or place.

Where the Carrier elects to use an alternative route under Clause 20.1 or to suspend the carriage under Clause 20.2, same shall not prejudice its right subsequently to abandon the carriage.

## **21. TIME BAR AND NOTICE**

21.1 Unless notice of loss or damage is given in writing to the Carrier's agent at the Port of Discharge or

Place of Delivery before or on the date of delivery of the Goods, or if loss or damage is not apparent, within 15 consecutive days thereafter, such delivery shall be conclusive evidence of the delivery of the Goods by the Carrier and/or on carrier in the order and condition described in this B/L.

21.2 The Carrier, its servants, agents and Sub-contractors shall be discharged from all liabilities whatsoever unless suit is brought within one year after the delivery of the Goods or the date when the Goods should have been delivered.

## **22. NOTIFICATION AND DELIVERY**

22.1 Any mention herein of 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 give rise to any liability on the part of the Carrier or relieve the Merchant of any obligation hereunder.

22.2 The Merchant shall take delivery of the Goods within the time provided for in the Carrier's applicable Tariff or as required by the Carrier.

22.3 If the merchant fails to take delivery of the Goods during a reasonable time or whenever in the opinion of the Carrier the Goods are likely to deteriorate, decay, become worthless or incur charges whether for storage or otherwise in excess of their value, the Carrier may, at its discretion, without prejudice to any rights which he may have against the Merchant, without notice and without any responsibility whatsoever attaching to him, unstuff, sell, destroy or dispose of the Goods at the sole risk and expense of the Merchant, and apply any proceeds of sale in reduction of the sums due to the Carrier from the Merchant. The aforesaid unstuffing shall constitute due delivery hereunder and thereupon all liability whatsoever of the Carrier in respect of the Goods thereof shall cease.

22.4 Where the Carrier is obliged to hand over the Goods so carried into the custody of the port, customs or any other Authorities at the Port of Discharge or Place of Delivery and the Goods are delivered by the same to the merchant without necessity of production of this B/L by the Merchant as required by the local law, regulation and/or practice, such hand-over shall constitute due delivery to the Merchant under this B/L and thereupon the liability of the Carrier in respect of the Goods shall entirely cease.

22.5 Refusal, either expressly or implied, by the Merchant to take delivery of the Goods in accordance with the terms of this Clause, notwithstanding its having been notified of the availability of the Goods for delivery, shall constitute an irrevocable waiver by the Merchant to the Carrier of all and any claims whatsoever relating to the Goods or the Carriage. The Carrier shall be entitled to without notice to remove from a Container the Goods or that part hereof if stuffed in or on the 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. The Merchant shall be liable for any losses, damages, expenses and liabilities incurred and sustained by the Carriers arising from such refusal, including but not limited to, the return of the Goods to their place of origin.

## **23. GENERAL AVERAGE, NEW JASON AND SALVAGE CLAUSE**

23.1 In the event of accident, danger, or disaster before or after the commencement of the voyage, resulting from any cause whatsoever, whether due to negligence or not, for which, or for the consequences of which, the Carrier is not responsible, by statute, contract or otherwise, the Goods and the Merchant jointly and severally shall contribute with the Carrier in General Average to the payment of any sacrifices, losses or expenses of a General Average nature that may be made or incurred and shall pay salvage and special charges incurred in respect of the Goods. All expenses in connection with a general average or salvage act to avoid damage to the environment shall always be considered general average expenses.

23.2 Any general average on a vessel operated by the Carrier shall be adjusted according to the York/Antwerp Rules of 1994 at Shanghai in any currency at the option of the Carrier. Any general average on a vessel not operated by the Carrier (whether a seagoing or inland waterways vessel) shall be adjusted according to

the requirements of the operator of that vessel, in either case the Merchant shall give such cash deposit or other security as the Carrier may deem sufficient to cover the estimated general average contribution of the Goods before delivery if the Carrier requires, or, if the Carrier does not so require, within one month of the delivery of the Goods, whether or not the Merchant had notice of the Carrier's lien at the time of delivery. The Carrier shall be under no obligation to exercise any lien for general average contribution due to the Merchant.

23.3 Conversion into the currency of the adjustment shall be calculated at the rate prevailing on the date of payment for disbursements and on the date of completion of discharge of the vessel for allowances, contributory values, etc.

23.4 If a salving vessel is owned or operated by the Carrier, salvage shall be paid for as fully as if the salving vessel or vessels belonged to strangers.

23.5 In the event of the Master considering that salvage services are needed, the Merchant agrees that the Master may act as his agent to procure such services to Goods and that the Carrier may act as his agent to settle salvage remuneration.

23.6 If the Merchant contest payment of contribution to General Average, salvage, salvage charges and/or special charges to Goods on any grounds whatsoever or fails to make payment of contribution within one month of the issue of the adjustment thereof, whether or not prior security has been provided, the Merchant shall pay interest for the period in excess of one month on the contribution due at three percent per annum above the base lending rate of the central bank of the country in whose currency the adjustment is issued, in addition to the contribution due.

#### **24. BOTH-TO-BLAME COLLISION**

If the Vessel on which the Goods are carried ("carrying vessel") comes into collision with another ship or object ("non-carrying vessel") as a result of the negligence of the non-carrying vessel and any act, neglect or default of the Master, Mariner, Pilot or the servants of the Carrier in the navigation or in the management of the carrying vessel, the Merchant hereunder will indemnify the Carrier against all loss or liability to the other or non-carrying ship or her Owners in so far as such loss or liability represents loss of, or damage to, or any claim whatsoever of the Merchant, paid or payable by the other or non-carrying ship or her Owners to the Merchant and set-off, recouped or recovered by the other or non-carrying ship or her Owners as part of their claim against the carrying Vessel or Carrier. The foregoing provisions shall also apply where the Owners, operators or those in charge of any ship or ships or objects other than, or in addition to, the colliding ships or objects are at fault in respect of a collision or contact.

#### **25. VARIATION OF THE CONTRACT AND FINAL AGREEMENT**

25.1 No servant, agent or Sub-contractor of the Carrier shall have the power to waive or vary any terms of this B/L unless such waiver or variation is in writing and is specifically authorized or ratified in writing by the Carrier itself. Any change to this B/L must be in writing and consented to by signature of the Master or the Carrier itself.

25.2 In case of any conflict, all prior agreements, Dock Receipt or Freight Booking of the shipment of the goods and all other arrangement are superseded by this B/L Contract, which constitute the Final Agreement between the Carrier and the Merchant. The terms and conditions of this B/L are separable, and if any term or condition is, or is held to be invalid, null and void, or unenforceable, such holding shall not affect in any way the validity or enforceability of any other term or condition of this B/L.

25.3 The terms and conditions of this B/L shall govern the responsibility of Carrier in connection with or arising out of the supply of a Container to Merchant whether before or after Goods are received by Carrier for Carriage or delivered to Merchant.

#### **26. NOTICE TO ENDORSEE AND/OR HOLDER AND/OR TRANSFEREE**

By taking up this B/L, whether by endorsement and/or becoming a holder and/or transfer hereof and/or by presenting this B/L to obtain delivery of the Goods herein and/or otherwise, the endorsee/holder/transferee and the Carrier agree that the endorsee/holder/transferee thereupon become a party to a contract of carriage with the Carrier on the basis of the terms and conditions contained in this B/L.