BACK

SEA WAYBILL - TERMS AND CONDITIONS

1. DEFINITIONS

"Carrier" means the Party named on the face of the document as being the Carrier.

"Merchant" includes the Shipper, Holder, Consignee, Receiver of the Goods, any Person owning or entitled to the possession of the Goods or of this Sea Waybill and anyone acting on behalf of any such Person.

"Holder" means any Person for the time being in possession of this Sea Waybill to whom the property in the Goods has passed on or by reason of the consignment of the Goods or the endorsement of the Sea Waybill or otherwise.

"Person" includes an individual, group, company or other entity.

"Sub-Contractor" includes owners and operators of vessels (other than the Carrier); stevedores, terminal and groupage operators, road and rail transport operators and any independent contractor employed by the Carrier in performance of the Carriage and any sub-sub-contractors thereof.

"Indemnify" includes defend, indemnify and hold harmless.

"Goods" means the whole or any part of the cargo received from the Shipper and includes, but not limited to, any equipment or container or any break bulk cargo not supplied by or on behalf of the Carrier.

"Container" includes any container, trailer, transportable tank, flat or pallet, or any similar article used to consolidate Goods and any ancillary equipment.

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

"Combined Transport" arises if the Place of Receipt and/or the Place of Delivery are indicated on the face hereof in the relevant spaces.

"Port to Port" arises if the Carriage is not Combined Transport.

"Freight" includes all charges payable to the Carrier in accordance with the applicable Tariff and this Sea Waybill.

"Hague Rules" means the provisions of the International Convention for the Unification of Certain Rules relating to Sea Waybills signed at Brussels on 25th August, 1924 and includes the amendments by the Protocol signed at Brussels on 23rd February, 1968, but only if such amendments are compulsorily applicable to this Sea Waybill (it is expressly provided that nothing in this Sea Waybill shall implement Article X(c) of said Rules as amended by said Protocol).

"Working day" means any day (other than Saturday, Sunday or legal holiday) on which legal business can be conducted.

2. GENERAL CONDITIONS

(1) This Sea Waybill is issued for a contract of Carriage which is not covered by a Bill of Lading or similar document of title.

(2) The terms and conditions of the Carrier's applicable Tariff are incorporated herein. Particular attention is drawn to the terms and conditions therein relating to container and vehicle demurrage. Copies of the relevant provisions of the applicable Tariff are obtainable from the Carrier or his Agents upon request, in the case of inconsistency between this Sea Waybill and the applicable Tariff, this Sea Waybill shall prevail.

(3) The Carrier shall not be liable for any loss or damage or delay to or in connection with the Goods or any consequential or indirect damage to the Merchant arising unintentionally from erroneous input to the computer system or from wrongful data transmission.

2a. RIGHT OF CONTROL, DELIVERY OF GOODS

(1) The shipper shall be the only party entitled to give the Carrier instructions in relation to the contract of Carriage. The Shipper nominates the consignee and advises same to the Carrier including a procedure whereby the person or entity respectively its representative so authorized to receive the goods is identifiable for the Carrier or its servants.

(2) The Goods mentioned on the Face will be delivered after payment of Freight and other charges to the Consignee, or to such person who identifies himself as being a representative of the Consignee, and such delivery shall constitute due performance of this contract.
The Shipper indemnifies the Carrier against all unpaid charges at destination.

(3) The Carrier shall be under no liability for wrong delivery if he can prove that he has exercised reasonable care to ascertain that the party claiming delivery is in fact entitled.

3. WARRANTY

The Merchant warrants that in agreeing to the terms and conditions hereof he is, or has the authority of, the Person owning or entitled to the possession of the Goods and this Sea Waybill.

4. SUB CONTRACTING AND INDEMNITY

(1) The Carrier shall be entitled to sub-contract the Carriage on any terms whatsoever.

(2) It is hereby expressly agreed that no servant or agent of the Carrier (which for the purpose of this Clause includes every independent contractor from time to time employed by the Carrier) shall in any circumstances whatsoever be under any liability whatsoever to the Merchant under this Contract of carriage for any loss damage or delay of whatsoever kind arising or resulting directly or indirectly from any act, neglect or default on his part while acting in the course of or in connection with his employment.

(3) Without prejudice to the generality of the foregoing provisions in this Clause, every exemption from liability, limitation, condition and liberty herein contained and every right, defence and immunity of whatsoever nature, applicable to the Carrier or to which the Carrier is entitled, shall also be available and shall extend to protect every such servant and agent of the Carrier acting as aforesaid.

(4) The Merchant undertakes that no claim shall be made against any servant or agent of the Carrier and, if any claim should nevertheless be made, to indemnify the Carrier against all consequences thereof.

(5) For the purpose of all the foregoing provisions of this Clause the Carrier is or shall be deemed to be acting as agent or trustee on behalf of and for the benefit of all persons who might be his servants or agents from time to time and all such persons shall to this extend be or be deemed to be parties to this Contract of carriage.

(6) The provisions of Clause 4 (2), (3), (4), (5), including but not limited to the undertakings of the Merchant contained therein, shall extend to claims or allegations of whatsoever nature against other Persons chartering space on the carrying vessel.

(7) 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 Sea Waybill which imposes or attempts to impose upon the Carrier any liability whatsoever in connection with the Goods, or the Carriage of 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. CARRIER'S RESPONSIBILITY
Port-to-Port Shipment

(1) When loss or damage has occurred between the time of loading of the Goods by the Carrier at the Port of Loading and the time of discharge by the Carrier at the Port of Discharge, the responsibility of the Carrier shall be determined in accordance with English law making the Hague-Visby Rules compulsory applicable to the Sea Waybill

(2) Howsoever the Carrier shall be under no liability whatsoever for loss of or damage to the Goods occurring, if such loss or damage arises prior to loading on or subsequent to the discharge from the vessel. Notwithstanding the above, in the event that the applicable compulsory law provides the contrary, the Carrier shall have the benefit of every right, defence, limitation and liberty in the Hague-Visby Rules or the Hague Rules, notwithstanding that the loss or damage did not occur after loading on or after discharge from the vessel. In the event that the Sea Waybill covers a shipment to or from the USA, however, COGSA shall be applicable before the Goods are loaded on or after they are discharged from the vessel.

(3) Unless notice of loss or damage be given in writing to the Carrier or his agent at the Port of Discharge before or at the time of the removal of the Goods into the custody of the person entitled to delivery thereof under the contract of carriage, or, if the loss or damage is not apparent, within three (3) days, such removal shall be prima facie evidence of the delivery by the Carrier as described in this Sea Waybill and any such loss or damage which may have occurred to the Goods shall be deemed to be due to circumstances which are not the responsibility of the Carrier. The notice must clearly specify the damage. Notwithstanding the aforesaid, if a container has been delivered to the Merchant, the Merchant must prove that the damage to or loss of the Goods did not occur during the period after delivery, when the container was in the custody of the Merchant.

(4) Compensation shall be calculated by reference to the value of the Goods at the place and the time they are delivered to the Merchant, or at the place and the time they should have been delivered. The value of the goods shall be calculated according to the commodity exchange price, or, if there be no such price, according to the current market price, or, if there be no commodity exchange price or current market price, by reference to the normal value of goods of the same kind and quality. The value of the goods shall in any case not be higher than the invoice value plus freight and insurance if paid.

(5) In the event that the Sea Waybill has been issued in the USA or in a country making the Hague Rules applicable and this Sea Waybill covers a shipment from or to the USA COGSA shall apply. COGSA shall also be applicable before the goods are loaded on or after they are discharged from the vessel.

6. CARRIER'S RESPONSIBILITY
Combined Transport

If Carriage is Combined Transport, the Carrier undertakes to perform and/or in his own name to procure performance of the Carriage from the Place of Receipt or the Port of Loading. Whichever is applicable to the Port of Discharge or the Place of Delivery, whichever is applicable, and, save as is otherwise provided for in this Sea Waybill, the Carrier shall be liable for loss or damage occurring during the Carriage only to the extent set out below.

(1) If the stage of the Carriage during which loss or damage occurred is not known

(a) *Exclusions*
If the stage of the Carriage during which the loss or damage occurred is not known, the Carrier shall be relieved of liability for any loss or damage if such loss or damage was caused by
(i) an act or omission of the Merchant.
(ii) insufficiency of or defective condition of packing or marking.
(iii) handling, loading, stowage or unloading of the Goods by or on behalf of the Merchant.
(iv) inherent vice of the Goods.
(v) strike, lock-out, stoppage or restraint of labour from whatever cause, whether partial or general,
(vi) a nuclear incident.
(vii) any cause or event which the Carrier could not avoid and the consequences whereof he could not prevent by the exercise of reasonable diligence.
(viii) compliance with instructions of any Persons entitled to give them.

(b) *Burden of proof:*
The burden of proof that the loss or damage was due to one or more of the causes or events specified in this Clause 6 (1) shall rest upon the Carrier. Save that if the Carrier establishes that in the circumstances of the case, the loss or damage could be attributed to one or more of the clauses or events specified in Clause 6(1)(a) (ii) (iii) or (iv) 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 or more of these causes or events.

(c) *Limitations of Liability*
Except as provided in Clauses 7(2) and 7(3) if Clause 6(1) operates total compensation shall in no circumstances whatsoever and howsoever arising exceed 2 SDRs per kilo of the gross weight of the Goods lost or damaged (SDR means Special Drawing Right as defined by the International Monetary Fund).

(2) If the stage of the Carriage during which the loss or damage occurred is known

Notwithstanding anything provided for in clause 6 (1) and subject to clauses 15 and 22 if it is known during which stage of the Carriage the loss or damage occurred the liability of the Carrier in respect of such loss or damage shall be determined

(a) by the provisions contained in any international convention or national law which provisions –
(i) cannot be departed from any private contract to the detriment of the Merchant and
(ii) would have applied if the Merchant had made a separate and direct contract to the Carrier in respect of the particular stage of the Carriage during which the loss or damage occurred and received as evidence thereof any particular document which must be issued in order to make such international convention or national law applicable, or

(b) if no international convention or national law would apply by virtue of clause 6(2) (a) by the Hague Rules Articles 1-8 inclusive if the loss or damage is known to have occurred during waterborne Carriage, or

(c) by the provisions of Clause 6(1) of the provisions of Clause 6(2) (a) and (b) above do not apply.

For the purpose of Clause 6(2) references in the Hague Rules to Carriage by sea shall be deemed to include references to all waterborne Carriage and the Hague Rules shall be construed accordingly.

(3) If the Place of Receipt or Place of Delivery is not named on the face hereof

Subject to Clause 5.

(a) If the Place of Receipt is not named on the face hereof the Carrier shall be under no liability whatsoever for loss or damage to the Goods, however occurring if such loss or damage arises prior to loading onto the vessel.

(b) If the Place of Delivery is not named on the face hereof the Carrier shall be under no liability whatsoever for loss of or damage to the Goods, howsoever occurring, if such loss or damage arises subsequent to discharge from the vessel.

(4) Notice of Loss or Damage

Unless Clause 34 applies, the Carrier shall be deemed prima facie to have delivered the Goods as described in this Sea Waybill unless notice of loss of or damage to the Goods, indicating the general nature of such loss or damage, shall have been given in writing to the Carrier or to his representative at the Place of Delivery (or Port of Discharge if no Place of Delivery is named on the face hereof) before or at the time of removal of the Goods into the custody of the Person entitled to delivery thereof under this Sea Waybill.

(5) Time-bar

Unless Clause 34 applies the Carrier shall be discharged of all liability whatsoever in respect of the Goods, unless suit is brought and notice thereof given to the Carrier within nine months after delivery of the Goods or, if the Goods are totally lost, ten months after the date of issue of this Sea Waybill.

7. SUNDRY LIABILITY PROVISIONS

(1) Basis of Compensation

Unless Clause 34 applies, compensation shall be calculated by reference to the value of the Goods at the place and time they are delivered to the Merchant, or at the place and time they should have been delivered. The value of the goods shall be calculated according to the commodity exchange price, or, if there be no such price, according to the current market price, or, if there be no commodity exchange price or current market price, by reference to the normal value of goods of the same kind and quality. The value of the goods shall in any case not be higher than the invoice value plus freight and insurance if paid.

(2) Hague Rules Limitation

If the Hague Rules are applicable by national law the liability of the Carrier shall in no event exceed the limit provided in the applicable national law. If the Hague Rules are applicable otherwise than by national law in determining the liability of the Carrier the liability shall in no event exceed £1,00 sterling per package or unit.

(3) Ad Valorem

The Merchant agrees and acknowledges that the Carrier has no knowledge of the value of the Goods and that higher compensation than that provided for in this Sea Waybill may not be claimed unless, with the consent of the Carrier, the value of the Goods declared by the Shipper prior to the commencement of the Carriage is stated on this Sea Waybill and extra Freight paid, if required. In that case the amount of the declared value shall be substituted for the limits laid down in this Sea Waybill. Any partial loss or damage shall be adjusted pro rata on the basis of such declared value.

(4) Delay

The Carrier does not undertake that the Goods shall arrive at the Port of Discharge or Place of Delivery at any particular time or to meet any particular market or use and the Carrier shall in no circumstances whatsoever and however arising be liable for direct or indirect or consequential loss or damage caused by delay.

(5) Scope of Application

(a) The terms and conditions of this Sea Waybill shall at all times govern all responsibilities of the Carrier in connection with or arising out of the supply of a Container to the Merchant, not only during the Carriage, but also during the periods prior to and/or subsequent to the Carriage.

(b) The rights, defences, limitations and liberties of whatsoever nature provided for in this Sea Waybill 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.

(c) Save as is otherwise provided for in this Sea Waybill, 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.

(6) Inspection by Authorities

If by order of the authorities at any place, a Container has to be opened for the Goods to be inspected the Carrier will not be liable for any loss or damage incurred as a result of any opening, unpacking, inspection or repacking. The Carrier shall be entitled to recover the cost of such opening, unpacking, inspection and repacking from the Merchant

8. SHIPPER-PACKED CONTAINERS

If a Container has not been packed by or on behalf of the Carrier:

(1) The Carrier shall not be liable for loss of or damage to the Goods caused by:
(a) the manner in which the Container has been packed, or
(b) the unsuitability of the Goods for Carriage in the Container supplied,
or
(c) the unsuitability or defective condition of the Container or the incorrect setting of any refrigeration controls thereof, provided that, if the Container has 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 packed,
or
(d) packing refrigerated Goods that are not at the correct temperature for Carriage.

(2) The Shipper is responsible for the packing, securing and sealing of all Shipper-Packed Containers and, if a Shipper-Packed Container is delivered by the Carrier with its original seal as affixed by the Shipper intact, the Carrier shall not be liable for any shortage of Goods ascertained at delivery.

(3) The Merchant shall indemnify the Carrier against any loss or damage, liability or expense whatsoever and howsoever arising caused by one or more of the matters referred to in Clause 8(1), save that, if the loss, damage, liability or expense was caused by a matter referred to in Clause 8 (1) (c), the Merchant shall not be liable to indemnify the Carrier in respect thereof unless the proviso referred to in that Clause applies.

9. INSPECTION OF GOODS

The Carrier or any Person to whom the Carrier has sub-contracted the Carriage 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.

10. CARRIAGE AFFECTED BY CONDITION OF GOODS

If it appears at any time that due to their condition, the Goods cannot safely or properly be carried or carried further, either at all or without incurring any additional expense or taking any measure(s) in relation to the Container or the Goods the Carrier may without notice to the Merchant (but as his agent only) take any measure(s) and/or incur any additional expense to carry or to continue the Carriage thereof, and/or sell or dispose of the Goods, and/or abandon the Carriage and/or store them ashore or afloat, under cover or in the open, at any place, whichever the Carrier, in his absolute discretion, considers most appropriate, which abandonment, storage, sale or disposal shall be deemed to constitute due delivery under this Sea Waybill. The Merchant shall indemnify the Carrier against any additional expense so incurred.

11. DESCRIPTION OF GOODS

(1) This Sea Waybill shall be prima facie evidence of the receipt by the Carrier from the Shipper in apparent good order and condition, except as otherwise noted, of the total number of Containers or other packages or units indicated in the box on the face hereof entitled "Total No. of Containers/Packages received by the Carrier".

(2) Except as provided in Clause 11 (1) no representation is made by the Carrier as to the weight, contents, measure, quantity, quality, description, condition, marks, numbers or value of the Goods and the Carrier shall be under no responsibility whatsoever in respect of such description or particulars.

(3) If any particulars of any Letter of Credit and/or Import License and/or Sale 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 face of this Sea Waybill, such particulars are included solely at the request of the Merchant for his convenience. The Merchant agrees that the inclusion of such particulars shall not be regarded as a declaration of value and in no way increases the Carrier's liability under this Sea Waybill. The Merchant further agrees to indemnify the Carrier against all consequences of including such particulars in this Sea Waybill.

The Merchant acknowledges that except when the provisions of Clause 7(3) apply, the value of the Goods is unknown to the Carrier.

12. SHIPPER'S / MERCHANT'S RESPONSIBILITY

(1) All of the Persons coming within the definition of Merchant in Clause 1 shall be jointly and severally liable to the Carrier for the due fulfillment of all obligations undertaken by the Merchant in this Sea Waybill.

(2) The Shipper warrants to the Carrier that the particulars relating to the Goods as set out overleaf have been checked by the Shipper on receipt of this Sea Waybill and that such particulars and any other particulars furnished by or on behalf of the Shipper, are adequate and correct. The Shipper also warrants that the Goods are lawful Goods and contain no contraband.

(3) The Merchant shall indemnify the Carrier against all Claims, loss, damage, fines and expenses arising or resulting from any breach of any of the warranties in Clause 12(2) hereof or from any other cause in connection with the Goods for which the Carrier is not responsible.

(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 or loss (including without prejudice to the generality of the foregoing Freight for any additional Carriage undertaken) incurred or suffered 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.

(5) If Containers supplied by or on behalf of the Carrier are unpacked at the Merchant's premises, the Merchant is responsible for returning the empty Containers with interiors clean, to the point or place designated by the Carrier, his servants or agents, within the time prescribed. Should a Container not be returned within the time prescribed in the Tariff the Merchant shall be liable for any detention, loss or expenses which may arise from such non-return.

(6) Containers released into the care of the Merchant for packing, unpacking or any other purpose whatsoever are at the sole risk of the Merchant whilst in his control. The Merchant shall indemnify the Carriers for all loss and/or damage to such Containers. Merchants are deemed to be aware of the dimensions of any Container released to them.

13. FREIGHT

(1) Freight shall be deemed fully earned on receipt of the Goods by the Carrier and shall be paid and nonreturnable in any event.

(2) The Merchant's attention is drawn to the stipulations concerning currency in which the Freight is to be paid, rate of exchange, devaluation and other contingencies relative to Freight in the applicable Tariff.

(3) Freight has been calculated on the basis of particulars furnished by or on behalf of the Shipper. If the particulars furnished by or on behalf of the Shipper are incorrect, it is agreed that liquidated damages shall be payable to the Carrier in accordance with the applicable Tariff.

(4) Freight has been calculated on the basis of the Carrier's costs as known at the time the contract or Carriage is made. Should in an emergency there be any subsequent substantial change in those costs (including but not limited to additional war risk premiums) the Carrier may recover additional Freight from the Merchant whether or not Freight is prepaid or collect and whether or not Carriage has commenced.

(5) All Freight shall be paid without any set off counterclaim, deduction or stay of execution before delivery of the Goods.

(6) Any Person engaged by the Merchant to perform forwarding services in respect of the Goods shall be considered to be the exclusive agent of the Merchant for all purposes and any payment of Freight to such Person shall not be considered payment to the Carrier in any event. Failure of such Person to pay any part of the Freight to the Carrier shall be considered a default by the Merchant in the payment of Freight.

14. LIEN

The Carrier shall have a lien on the Goods and any documents relating thereto for all sums payable to the Carrier under this contract and for general average contributions to whomsoever due. The Carrier shall also have a lien against the current Holder of the Goods and any documents relating thereto for all sums due from him to the Carrier under any other contract. In any event any lien shall extend to cover the cost of recovering the sums due and for that purpose the Carrier shall have the right to sell the Goods by public auction or private treaty without notice to the Merchant.

15. OPTIONAL STOWAGE AND DECK CARGO

(1) The Goods may be packed by the Carrier in Containers and consolidated with other Goods in Containers.

(2) Goods whether or not packed in Containers may be carried on deck or under deck without notice to the Merchant. All such Goods whether carried on deck or under deck, shall participate in general average and shall be deemed to be within the definition of goods for the purposes of the Hague Rules and shall be carried subject to these Rules.

(3) Notwithstanding Clause 15(2) in the case of Goods which are stated on the face thereof as being carried on deck and which are so carried the Hague Rules shall not apply and the Carrier shall be under no liability whatsoever for loss, damage or delay, howsoever arising.

16. METHODS AND ROUTES OF CARRIAGE

(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 another vessel 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 over leaf 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 to be dry-docked.

(2) The liberties set out in Clause 16(1) may be invoked by the Carrier for any purpose whatsoever whether or not connected with the Carriage of the Goods including 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 16(1) or any delay arising there from shall be deemed to be within the contractual Carriage and shall not be a deviation.

(3) By tendering the Goods for Carriage without any written request for Carriage in a specialized Container or within a specific temperature range or subject to any particular attention or for Carriage otherwise than in a Container the Merchant accepts that the Carriage may properly be undertaken in a general purpose container in the customary manner.

17. MATTERS AFFECTING PERFORMANCE

If at any time the Carriage is of or is likely to be affected by any hindrance, risk, delay, difficulty or disadvantage of any kind (other than the inability of the Goods safety or properly to be carried or carried further) and howsoever arising (even though the circumstances giving rise to such hindrance, risk, delay, difficulty or disadvantage existed at the time the contract was entered into or the Goods were received for Carriage) the Carrier (whether or not the Carriage is commenced) may without prior notice to the Merchant and at the sole discretion of the Carrier either:

(a) Carry the Goods to the contracted Port of Discharge or Place of Delivery whichever is applicable, by an alternative route to that indicated in the Sea Waybill or that which is usual for Goods consigned to that Port of Discharge or Place of Delivery. If the Carrier elects to invoke the terms of this Clause 17(a) then, notwithstanding the provisions of Clause 16 hereof, he shall be entitled to charge such additional Freight as the Carrier may determine
or

(b) Suspend the Carriage of the Goods and store them ashore or afloat upon the terms of this Sea Waybill and endeavor to forward them as soon as possible, but the Carrier makes no representations as to the maximum period of suspension. If the Carrier elects to invoke the terms of this Clause17 (b) then, notwithstanding the provision of Clause 16 hereof, he shall be entitled to charge such additional Freight as the Carrier may determine
or

(c) Abandon the Carriage of the Goods and place them at the Merchant's disposal at any place or port which the Carrier may deem safe and convenient, whereupon the responsibility of the Carrier in respect of such Goods shall cease. The Carrier shall nevertheless be entitled to full Freight on the Goods received for Carriage and the Merchant shall pay any additional costs of the Carriage to, and delivery and storage at, such place or port.

If the Carrier elects to use an alternative route under Clause 17(a) or to suspend the Carriage under Clause 17(b) this shall not prejudice his right subsequently to abandon the Carriage.

18. NOTIFICATION AND DELIVERY

(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 involve the Carrier in any liability nor relieve the Merchant of any obligation hereunder.

(2) The Merchant shall take delivery of the Goods within the time provided for in the Carrier's applicable Tariff (see Clause 2). If the Merchant fails to do so the Carrier shall be entitled, without notice, to unpack the Goods if packed in Containers and/or to store the Goods ashore, afloat in the open or under cover at the sole risk of the Merchant. Such storage shall constitute due delivery hereunder, and thereupon the liability of the Carrier in respect of the Goods stored as aforesaid shall wholly cease, and the costs of such storage (if paid or payable by the Carrier or any agent or Sub-Contractor of the Carrier) shall forthwith upon demand be paid by the Merchant to the Carrier.

(3) If the Merchant fails to take delivery of the Goods within thirty days of delivery becoming due under Clause 18(2), or if in the opinion of the Carrier they are likely to deteriorate, decay, becoming worthless or incur charges whether for storage or otherwise in excess of their value, the Carrier may without prejudice to any other rights which he may have against the Merchant without notice and without any responsibility whatsoever attaching to him sell, destroy, or dispose of the Goods apply any proceeds of sale in reduction of tile sums due to the Carrier from the Merchant in respect of the Sea Waybill.

(4) If at the place where the Carrier is entitled to call upon the Merchant to take delivery of Goods under Clause 18(2) the Carrier is obliged to hand over the Goods into the custody of customs port or other authority such hand-over shall constitute due delivery to the Merchant of this Sea Waybill.

(5) Refusal by the Merchant to take delivery of the Goods in accordance with the terms of Clause 18 (2) and/or to mitigate any loss or damage thereto shall constitute a waiver by the Merchant to the Carrier of any claim whatsoever relating to the Goods or the Carriage thereof.

(6) In the event of the Carrier agreeing to a request of the Merchant to amend the Place of Delivery stated herein, the terms and conditions of this Sea Waybill shall continue to apply only to the extent provided by the applicable Tariff until the Goods are delivered by the Carrier to the Merchant at the amended Place of Delivery. Once the applicable Tariff ceases to provide for the continued application of the terms and conditions of this Sea Waybill then the Carrier shall act as agent of the Merchant in arranging for delivery of the Goods to the amended Place of Delivery but shall then be under no liability whatsoever for loss, damage or delay to the Goods, howsoever arising.

19. FCL MULTIPLE BILL OF LADING

(1) Goods will only be delivered in a Container to the Merchant if all Sea Waybills in respect of the contents of the Container have been surrendered authorizing delivery to a single Merchant at a single Place of Delivery. In the event that this requirement is not fulfilled the Carrier may unpack the Container and, in respect of Goods for which Sea Waybills have been surrendered, deliver them to the Merchant on an LCL basis. Such delivery shall constitute due delivery hereunder but will only be effected against payment by the Merchant of LCL Service Charges and any charges appropriate to LCL Goods (as laid down in the Tariff) together with the actual costs incurred for any additional services rendered.

(2) If this is an FCL Multiple Sea Waybill (as evidenced by the qualification of the tally acknowledged overleaf to the effect that it is "One of … part cargoes in the Container") then the Goods detailed overleaf are said to comprise part of the contents of the Container indicated. If the Carrier is required to deliver the Goods to more than one Merchant and if all or part of the total Goods within the Container consists of bulk Goods or unappropriated Goods, or is or becomes mixed or unmarked or unidentifiable, the Holders of Sea Waybills relating to Goods within the Container shall take delivery thereof (including any damaged portion) and bear any shortage in such proportions as the Carrier shall in his absolute discretion determine and such delivery shall constitute due delivery hereunder.

20. GENERAL AVERAGE & SALVAGE

(1) In the event of accident, danger, damage or disaster before or after the commencement of the voyage, resulting from any cause whatsoever due to negligence or not, for which, or for the consequences of which, the Carrier is not responsible, by statute, contract or otherwise, the Merchant 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.

(2) Any general average on a vessel operated by the Carrier shall be adjusted according to the York-Antwerp Rules of 1974 or any subsequent amendment thereto at any port or place and in any currency at the option of and by an adjuster appointed by 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. Any security other than cash deposits, must be given by a party acceptable to and with assets in a jurisdiction nominated by the Carrier. Such security must be provided before delivery if the Carrier requires, or if the Carrier does not so require, within three months of the delivery of the Goods, whether or not at the time of delivery the Merchant had notice of the Carrier's lien. The Carrier shall be under no obligation to exercise any lien for general average contribution due to the Merchant.

(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.

(4) If a salving vessel is owned or operated by the Carrier salvage shall be paid for as fully as the salving vessel or vessels belonging to strangers.

(5) In the event of any general average credit balances due to Merchants still being unclaimed 1 year after the date of issue of the adjustment, these shall be paid to the owner or disponent owner of the vessel who will hold such credit balances pending application by the Merchants entitled thereto.

(6) 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.

21. DANGEROUS GOODS

(1) No Goods which are or may become dangerous, inflammable or damaging (including radioactive materials), or which are or may become liable to damage any property whatsoever, shall be tendered to the Carrier for Carriage without his express consent in writing, and without the Container as well as the Goods themselves being distinctly marked 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 such written consent and/or marking or if in the opinion of the Carrier the Goods are or are liable to become of a dangerous, inflammable or damaging nature they 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 Freight.

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

(3) Whether or not the Merchant was aware of the nature of the Goods, the Merchant shall indemnify the Carrier against all claims, losses, damages or expenses arising in consequences of the Carriage of such Goods.

(4) Nothing contained in this Clause shall deprive the Carrier of any of his rights provided for elsewhere.

22. LIVE ANIMALS

Subject to the law prevailing at the time, the Carrier shall at his sole discretion agree to carry any live animals on board. The Hague Rules shall not apply to the Carriage of live animals which are carried at the sole risk of the Merchant. The Carrier shall be under no liability whatsoever for any injury, illness, death, delay or destruction howsoever arising. Should the Master in his sole discretion consider that any live animal is likely to be injurious to any other live animal or any Person or property on board, or to cause the vessel to be delayed or impeded in the prosecution of the Carriage, such live animal may be destroyed and thrown overboard without any liability attaching to the Carrier. The Merchant shall indemnify the Carrier against all or any extra costs incurred for any reason whatsoever in connection with the Carriage of any live animal. If live animals are carried on board the vessel, they shall be carried in accordance with the law and other provisions currently in force and any equipment of whatsoever nature required for their Carriage will be supplied by the Merchant. The Merchant will, entirely at his risk and expense, provide a Person properly and suitably qualified and experienced in the Carriage of live animals to travel on board the vessel to look after and tend the needs of the animals. He or she will however, always be under the authority of the Master and will follow any reasonable order that he may give.

23. IRON & STEEL CARGOES - UNPACKED

The Carrier shall in no circumstances whatsoever be responsible or liable for atmospheric rust, superficial oxidation, white rust or any other alteration due to unavoidable sweat or moisture which might affect the external aspects of the iron and steel Goods or result from their propensities.

24. TIMBER

The Carrier can, at his sole discretion, accept cargoes of timber. In so doing however, even if the cargo is stated to be shipped in good order and condition, such statement does not amount to any admission and the Carrier shall in no circumstances be liable should there be an absence or inadequacy of any lashing or securing devices or equipment or broken pieces and this clause shall be deemed and accepted as express notice to all Merchants taking delivery under this Sea Waybill that such timber does or may contain pieces so affected.

25. AMMUNITION CLAUSE

The Carrier shall have the option of accepting ammunition. Such cargo, if accepted, will be carried entirely at the risk of the Merchant and the Carrier shall be exonerated from any and all liability of whatsoever nature for the Carriage of such cargo. All licenses, permissions and any other consents required by the Authorities must be disclosed in full to the Carrier at least 7 days prior to the shipment and the Merchant hereby warrants that all licenses, permissions or other consents needed are lawful and have been obtained by or through lawful means.

26. HEAVY LIFT

The Carrier, in his sole discretion shall accept heavy lift cargo. Further, if, as a result of the carrying of this cargo, any container and/or cargo is damaged, the Merchant will indemnify the Carrier for any and all his losses for which the Carrier may be found liable.

27. FRAGILE CARGOES

All articles of glass or contained in glass or any other article(s) of a fragile nature will be accepted entirely at the Merchant's risk and the Merchant hereby accepts and acknowledges that the Carrier shall in no way be liable for any damage, breakage or otherwise occasioned to the cargo under this clause.

28. SPECIAL CARGOES

The Carrier shall in no way be liable for the theft and/or loss of gold, silver, precious metals in a manufactured state or not, specie ornaments, watches, furs, loose jewels, precious stones, securities, paper money documents or other papers of value, silk, paintings, porcelain, glassware or other precious articles or valuable articles and/or damage to precious articles easily damageable unless the value and nature of the articles are declared to the Carrier before or concurrent with the loading of such cargo and such value and nature inserted in the Sea Waybill and provided freight is calculated on the basis of such value. All cargo the value of which exceeds 5 pounds per cubic foot measurement or 254.54 kilograms for weight cargo, is classed as precious. Money and all objects of value must be packed in double bags with inside seams or in boxes both sealed with wax and the seal must be reproduced on the Sea Waybill and any shipping orders arising there from.

29. DAMAGE TO CONTAINERS

The Merchant shall be liable for any damage to containers which has arisen whilst under his control and/or as a result of bad or improper stowage of cargo in the containers by the Merchant or his agents, the Merchant undertakes to indemnify the Carrier not only for the cost of repair or renewal should the container be beyond repair but also for all other expenses and loss occasioned thereby.

30. ISPS-CODE

Subject to any applicable provisions of the Hague and/or Hague Visby and/or Hamburg Rules, the Carrier shall not be liable to the Merchant for any damage and/or loss and/or expense arising out of or in connection with

(a) any non-compliance by any Sub-Contractor and/or port and/or port facility with, or violation of, the ISPS Code and/or

(b) any action and/or restriction and/or delay required or imposed by the port authorities at any port of discharge or place of delivery of the cargo. In such circumstances, the Carrier reserves the right to discharge the cargo at a port other than that stated on the face of this Sea Waybill and the Carrier shall not be liable for any consequential losses or expenses arising therefrom.

31. BOTH-TO-BLAME COLLISION; NEW JASON CLAUSE

The Both-to-Blame collision clause published by the Baltic and International Maritime Council and the New Jason Clause shall be incorporated into this Sea Waybill.

32. USA CLAUSE PARAMOUNT

(1) If Carriage includes Carriage to, from or through a port in the United States of America, this Sea Waybill shall be subject to the United States Carriage of Goods by Sea Act 1936 (US COGSA) the terms of which are incorporated herein and shall be paramount throughout Carriage by sea and the entire time that the Goods are in the actual custody of the Carrier or his Sub-Contractor at the sea terminal in the United States of America before loading onto the vessel or after discharge there from as the case may be. As thus applied other than at sea US COGSA is applied to determine the liability of the Carrier who shall be entitled to the benefits of the defences and limitations therein notwithstanding that loss did not occur at sea.

(2) The Carrier shall not be liable in any capacity whatsoever for loss, damage or delay of or to the Goods while the Goods are in the United States of America away from the sea terminal and are not in the actual custody of the Carrier. At these times the Carrier acts as agent only to procure Carriage by Persons (one or more) under the usual terms and conditions of those Persons. If for any reason the Carrier is denied the right to act as agent only at these times, his liability for loss damage or delay to the Goods shall be determined in accordance with Clause 6 hereof.

(3) If this Sea Waybill is accepted by a groupage agent acting as a non-vessel operating common Carrier (NVOCC) who has in turn issued other contracts of Carriage to third parties, said NVOCC hereby warrants that all contract of Carriage issued by him in respect of Goods the subject of this Sea Waybill shall incorporate the terms and condition of this Sea Waybill and, where necessary, be in accordance with the Tariffs filed with the appropriate authority. Said NVOCC further agrees to indemnify the Carrier, his servants, agents and Sub-Contractors against all consequences of his failing so to incorporate.

(4) If US COGSA applies the liability of the Carrier and/or the vessel shall not exceed US$500 per package or customary freight unit (in accordance with Section 1304 (5) thereof), unless the value or the Goods has been declared on the face hereof in which case Clause 7 (3) shall apply.

32a. U.S. Trade, Period of Responsibility

(1) In case the Contract evidenced by this Sea Waybill is subject to the Carriage of Goods by Sea Act of the United States of America, 1936 (U.S. COGSA), then the provisions stated in said Act shall govern before loading and after discharge and throughout the entire time the cargo is in the Carrier's custody and in which event freight shall be payable on the cargo coming into the Carrier's custody.

(2) If the U.S. COGSA applies, and unless the nature and value of the cargo has been declared by the shipper before the cargo has been handed over to the Carrier and inserted in this Sea Waybill, the Carrier shall in no event be or become liable for any loss or damage to the cargo in an amount exceeding USD 500 per package or customary freight unit.

33. VARIATION OF THE CONTRACT

No servant or agent of the Carrier shall have the power to waive or vary any of the terms of this Sea Waybill, unless such waiver or variation is in writing and is specifically authorized or ratified in writing by the Carrier.

34. VALIDITY

In the event that anything herein contained is inconsistent with any applicable international convention or national law which cannot be departed from by private contract, the provisions hereof shall to the extent of such inconsistency but no further be null and void.

35. LAW AND JURISDICTION

This Sea Waybill shall be governed by English law and any dispute arising hereunder shall be referred to the High Court of Justice in London for its determination.

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