

TERMS AND CONDITIONS

1. DEFINITION

"Carrier" means the issuer of the Bill of Lading or the party on whose behalf this Bill of Lading has been signed.

"Merchant" includes the Shipper, the Receiver, the Consignor, the Holder of this Bill of Lading and the Charterer of the goods.

2. CARRIER'S TARIFF

The terms of the Carrier's applicable Tariff at the date of the shipment are incorporated herein. Copies of relevant provisions of the applicable Tariff are available from the Carrier upon request. In the case of inconsistency between this Bill of Lading and the applicable Tariff, this Bill of Lading shall prevail.

3. GVERNING LAW

Insofar as anything has not been dealt with by the terms and conditions of this Bill of Lading, Hong Kong SAR law shall apply. Hong Kong SAR law shall in any event apply in interpreting the terms and conditions hereof.

JURISDICTION

The contract evidenced hereby or contained herein shall be governed by English law. Any claim or other dispute thereunder shall be solely determined by the Courts in Hong Kong Special Administrative Region and no other court unless the Carrier otherwise agrees in writing.

4. DEMISE CLAUSE

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

5. TENDER NOTICE OF LOSS

(1) The Carrier shall be discharged from all liabilities under this Bill of Lading unless suit is brought within one year after the delivery of the goods or the date when the goods should have been delivered. (2) Unless notice of loss of or damage to the goods and the general nature of it be given in writing to the carrier at the place of delivery before or at the time of the removal of the goods into the custody of the person entitled to delivery thereof under this Bill of Lading, or, if the loss or damage be not apparent, within three consecutive days after such removal, such notice shall be prima facie evidence of the delivery by the Carrier of the goods as described in this Bill of Lading. (3) The notice in writing need not be given if the state of the goods has at the time of their receipt been the subject of joint survey or inspection. (4) In the case of any actual or apprehended loss or damage, the Carrier and the Merchant shall give all reasonable facilities to each other for inspecting and tallying the goods.

6. SUB-CONTRACTING

(1) The Carrier shall be entitled to sub-contract any terms the whole or any part of the carriage, including unloading, storing, warehousing, handling and any and all duties whatsoever undertaken by the Carrier in relation to the goods. (2) For the purposes of the contract evidenced by this Bill of Lading and subject to the provisions in this Bill of Lading, the Carrier shall be responsible for the acts and omissions of any person of whose services he makes use for the performance of the contract of carriage evidenced by this document.

7. METHODS & ROUTES OF TRANSPORTATION

(1) The Carrier is entitled to perform the transport in any reasonable manner and by any reasonable means, methods and routes. (2) In accordance herewith, for instance, in the event of carriage by sea, vessels may sail with or without pilots, undergo repairs, adjust equipment, drydock, tow or be towed and save or attempt to save life or property in all situations.

8. METHODS AFFECTING PERFORMANCE

If at any time the performance of the contract evidenced by this Bill of Lading is or is likely to be affected by any hindrance, risk, delay, difficulty or disadvantage of whatsoever kind which cannot be avoided by the exercise of reasonable endeavours, the Carrier (whether or not the transport is commenced) may without notice to the Merchant treat the performance of this contract as terminated and place the goods or any part of 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 and charges on goods received for transportation and the Merchant shall pay any additional costs of carriage to and delivery and storage at such place or port.

9. CARRIER'S LIABILITY

(1) The Carrier shall be liable for loss of or damage to the goods occurring between the time when he receives the goods into his charge and the time of delivery:

- a. by handling over the goods to the Consignee; or
- b. in cases where the Consignee does not receive the goods from the Carrier, by placing them at the disposal of the Consignee in accordance with the contract or with the law or with the usage of the particular trade, applicable at the port of discharge, or
- c. by handling over the goods to an authority or other third party to whom, pursuant to law or regulations applicable at the port of discharge, the goods must be handed over.

(2) The Carrier shall, however, be relieved of liability for any loss or damage if such loss or damage arose or resulted from:

- a. Involvement or neglect of the Merchant
- b. Compliance with the instructions of the person entitled to give them
- c. The lack of or insufficiency of or defective conditions of packing in the case of goods which, by their nature, are liable to wastage or to be damaged when not packed or when not properly packed
- d. Handling, loading, stowage or unloading of the goods by or on behalf of the Merchant
- e. Inherent vice of the goods
- f. The lack of or insufficiency of marks or numbers on the goods, covering or unit loads
- g. Strikes or lock outs or stoppage or restraints of labour from whatever cause whether partial or general
- h. Military action
- i. Force majeure
- j. Fire, unless caused by the fault or privity of the Carrier
- k. Saving or attempting to save life or property at sea

(3) In all cases where the Carrier is liable for loss or damage to the goods, the Merchant shall be liable for compensation in which the Carrier could not avoid and the consequence whereof he could not prevent by the exercise of reasonable diligence

(3) Where under sub clause (2) the Carrier is not under any liability in respect of some of the factors causing the loss or damage, he shall only be liable to the extent that those factors for which he is liable under this clause have contributed to the loss or damage. (4) The burden of proving that the loss or damage was due to one or more of the causes or events specified in (a), (b), (f), (j), (k) and (l) of sub-clause (2) shall rest upon the Carrier. When the Carrier establishes that in the circumstances of the case, the loss or damage could be attributed to one or more of the causes, or events, specified in (c) to (g) of sub-clause (2), 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 the causes or events.

10. THE AMOUNT OF COMPENSATION

(1) The Carrier shall be liable for compensation in respect of loss of or damage to the goods, such compensation shall be calculated by reference to the invoice value of the goods plus freight and insurance premium if paid. (2) Notwithstanding clause 14 of this Bill of Lading the limitation of liability under the Hague Rules, compensation shall not, however, exceed USD0.10 per kilo of gross weight of the goods, lost or damaged. Where container(s) is/are loaded by shipper or on his behalf and/or freight rate is charged per container, Carrier's liability will be limited to USD 500 with respect to the contents of each container. However, the smaller amount to be at Carrier's discretion. (3) Higher compensation may be claimed only when, with the consent of the Carrier, the value for the goods declared by the Merchant which exceeds the limits laid down in this clause has been stated in this Bill of Lading and extra freight has been paid as required. In that case, the amount of the declared value shall be substituted for that limit. Any partial loss or damage shall be adjusted pro rata on the basis of such declared value.

11. LIGHTERAGE

All lighterage in or off ports of loading or ports of discharge shall be for account of the Shipper or Receiver.

12. FORWARDING, SUBSTITUTE OF VESSEL, THROUGH CARGO AND TRANSHIPMENT
If necessary, the Carrier may carry the goods to their port of destination by other vessel or vessels either belonging to the Carrier or other persons or by rail or other means of transport proceeding either directly or indirectly to such port, and to carry the goods or part of them by air, water, land or other transport, lighter, land and store the goods on shore or afloat and reship and forward same at Carrier's expense but at Shipper's or Receiver's risk. The responsibility of the Carrier shall be limited to the part of the transport performed by him on the vessel under his management.

13. DELAY, CONSEQUENTIAL LOSS, ETC.

(1) 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. The Carrier shall not be liable for any direct, indirect or consequential loss or damage caused by delay. (2) Save as otherwise provided herein, the Carrier shall in no circumstances be liable for direct or indirect or consequential loss or damage arising from any other cause.

14. SPECIAL PROVISIONS

A. Notwithstanding anything provided for in clauses 9 and 10 of this Bill of Lading, if it can be proved where the loss or damage occurred the Carrier and the Merchant shall share the liability, but the Carrier shall be liable to acquire such liability to be determined

(1) by the provisions contained in any international convention or national law which provisions

a. cannot be departed from any private contract, to the detriment of the Merchant, and

b. would have applied if the Merchant had made a separate and direct contract with the Carrier in respect of the particular stage of transport where the loss or damage occurred

and the liability thereunder is defined in any particular document which must be issued if such international convention or national law shall apply

(2) Subject to (1) by the Hague Rules contained in the International Convention for the Unification of Certain Rules Relating to Bills of Lading dated 25th August, 1924, if the loss or damage is proved to have occurred at sea or on inland waterways, for the purposes of this sub-clause the limitation of liability under the Hague Rules shall be deemed to be £100 sterling, lawful money of the United Kingdom per package or unit and references in the Hague Rules to carriage by sea shall be deemed to include references to carriage by inland waterways and the Hague Rules shall be construed accordingly, or B. If the whole of the carriage undertaken by the Carrier is limited to carriage from a Container Yard (CY) or Container Freight Station (CFS) in or immediately adjacent to the sea terminal at the port of loading to a CY or CFS in or immediately adjacent to the sea terminal at the port of discharge, the liability of the Carrier shall be determined by the national law, which shall be applicable to the carriage by sea under paragraph (1) above or failing which by the Hague Rules, respectively (A), (2) (1) above, irrespective of whether the loss or damage is proved to have occurred during the period of carriage at sea or prior or subsequent thereto. C. U.S.A. Clause Notwithstanding any other term hereof the Carriage of Goods by Sea Act 1936 of the United States of America shall have been effect subject to in respect of carriage of goods to and from the ports of the United States of America. If any provision of this Bill of Lading be invalid under the Carriage of Goods by Sea Act 1936 such provision shall, to the extent of such invalidity, but no further, be null and void.

15. SHIPPER'S RESPONSIBILITY

The Shipper shall be deemed to have guaranteed to the Carrier the accuracy, at the time the goods were taken in charge by the Carrier of the description of the goods, marks, number, quantity and weight as furnished by him, and the Shipper shall indemnify the Carrier against all loss, damage and expenses arising or resulting from inaccuracies in or inadequacy of such particulars. The right of the Carrier to such indemnity shall in no way limit his responsibility and liability under this Bill of Lading to any person other than the Shipper.

16. DEFENCES AND LIMITS FOR THE CARRIER

(1) In cases and limits of liability provided for in this Bill of Lading shall apply in any action against the Carrier for loss or damage to the goods whether the action be founded in contract or in tort. (2) If an action for loss or damage to the goods is brought against a servant, agent or independent contractor, including stevedores or any of those referred to in sub-clause (2) of clause 6, such person shall be entitled to avail himself of the defences and limits of liability which the Carrier is entitled to invoke under the Bill of Lading. (3) In any case the aggregate of the amounts recoverable from the Carrier and his servants, agents or independent contractors, including stevedores and any of those referred to in sub-clause (2) of clause 6 in no case exceed the limits provided for in this document.

17. OPTIONAL STOWAGE

(1) Goods may be stowed by the Carrier in containers or similar articles of transport used to consolidate goods.

(2) Goods stowed in containers other than flats, pallets, trailers, transportable tanks or similar articles of transport whether by the Carrier or the Shipper, may be carried on or under deck without notice to the Shipper. Such goods whether carried on or under deck shall participate in general average.

If the goods are not taken by the Merchant at the time when the Carrier is entitled to call upon him to take delivery, then the Carrier shall be at liberty to land such goods at any proper places at the sole risk and expense of the Merchant, and the Carrier's responsibility of delivery of goods shall be deemed to have been fulfilled. If the goods are unclaimed or if a reasonable time or otherwise the goods will become deteriorated, decayed or worthless, the Carrier may at his discretion and subject to his lien and without any responsibility attaching to him, sell, abandon or otherwise dispose of such goods solely at the risk and expense of the Merchant.

19. DECK CARGO AND LIVESTOCK

(1) Goods (not being goods stowed in containers other than flats or pallets) which are stated herein to be carried without responsibility on the part of the Carrier for loss or damage of whatsoever nature arising during carriage by sea whether caused by unseaworthiness or negligence or any other cause whatsoever. (2) Livestock are carried without responsibility on the part of the Carrier for any accident, injury, illness, death, loss or damage arising at any time whether caused by unseaworthiness or negligence or any other cause whatsoever.

20. DANGEROUS GOODS CONTRABAND

(1) The Merchant undertakes not to tender for transportation any goods which are a dangerous, inflammable, radio-active, and/or any other harmful nature without previously giving written notice of their nature and indicating, if necessary, the precautions to be taken, to the Carrier and marking the goods and the container or other covering on the outside as dangerous. (2) If the Carrier is notified of the nature of the goods which are to be transported, and Whenever the goods are discovered to have been shipped without complying with the sub-clause (1) above or the goods are found to be contraband or prohibited by any laws or regulations of the port of loading, discharge or call or any place or waters during the carriage, the Carrier shall be entitled to have such goods rendered innocuous, thrown overboard or discharged or otherwise disposed of at the Carrier's discretion without compensation and the Merchant shall be liable for and indemnify the Carrier against all loss, damage or liability including loss of freight, and any expenses directly or indirectly arising out of or resulting from such shipment. (3) If any goods shipped complying with the sub-clause (1) above become a danger to the ship or cargo they may in like manner be rendered innocuous, thrown overboard or discharged or otherwise disposed of at the Carrier's discretion without compensation except to general average, if any.

21. HEAVY LIFTS AND OVER LENGTH CARGO

Any one piece or package of cargo which exceeds 2000 kilos or 9 meters must be declared by the Merchant in writing before receipt by the Carrier and must be marked with the weight and/or length clearly and durably on the outside of the piece or package in letters and figures not less than 2 inches high by the Merchant. In case of the Merchant's failure to do so, his obligation to provide the carriage shall be liable for and indemnify the Carrier against any kind of loss or liability suffered or incurred by the Carrier as a result of such failure.

22. REFRIGERATED CARGO

Refrigerated cargoes are not to tender for transportation any goods which require refrigeration without previously giving written notice of their nature and particular temperature range to be maintained. If the above requirements are not complied with, the Carrier shall not be liable for any loss of or damage to the goods whatsoever arising.

23. TIMBER

Any statement in this Bill of Lading to the effect that timber has been shipped "in apparent good order" shall not be taken as an admission of liability for the carriage of such timber in the absence of stains, shakes, splits, holes or broken pieces, for which the Carrier accepts no responsibility.

24. BULK CARGO

As the Carrier has no reasonable means of checking the weight of bulk cargo, any reference to such weight in this Bill of Lading shall be deemed to be reference only, but shall constitute no warranty against the Carrier.

25. COTTON

Description of the apparent condition of cotton or products does not relate to the insufficiency of or torn condition of the covering, nor to any damage resulting therefrom, and Carrier shall not be responsible for damage of such nature.

26. OPTIONAL CARGO

The port of discharge for optional cargo must be declared to the vessel's agents at the first of the optional ports not later than 48 hours before the vessel's arrival there. In the absence of such declaration the Carrier may elect to discharge at the first or any optional port and the contract of carriage shall then be considered as having been fulfilled. Any option must be considered as having been fulfilled. Any option must be for the total quantity of goods under this Bill of Lading.

27. GOODS TO MORE THAN ONE CONSIGNEE

Where bulk goods without marks or goods with the same marks are shipped to more than one Consignee, the Consignees or Owners of the goods shall jointly and severally bear any expense or loss in dividing the goods or parcels into pro rata quantities and any deficiency shall fall upon them in such proportion as the Carriers, his servants or agents shall decide.

28. FREIGHT

(1) Freight and charges shall be deemed earned on receipt of the goods by the Carrier and shall be paid by the Merchant and non-returnable and non-deductible in any event. Freight payable at destination together with other charges is due on arrival of the goods at the place of destination and shall be paid before delivery of the goods. (2) For the purpose of verifying the freight basis, the Carrier reserves the right to have the goods and the container inspected in the presence of the Merchant at the port of destination or at any other port inspected in order to ascertain the weight, measurement, value or nature of the goods. In the case the particulars of the goods furnished by the Merchant are incorrect, the Merchant shall be liable and bound to pay to the Carrier a sum either five times the difference between the correct freight and the freight charged or to double the correct less the freight charged, whichever sum is the smaller, as liquidated damage to the Carrier.

29. LIEU

The Carrier shall have a lien on the goods and any documents relating thereto for all sums payable to the Carrier under this Bill of Lading and for general average contributions to whomsoever due and for the cost of recovering the same, and for that purpose shall have the right to sell the goods by public auction or private treaty without notice to the Merchant. If the proceeds of such sale are insufficient to meet the amount due and the cost incurred, the Carrier shall be entitled to recover the deficit from the Merchant.

30. GENERAL AVERAGE

General average shall be adjusted at any port or place at the option of the Carrier and subject to Clause 17 in accordance with the York-Antwerp Rules 1974, provided that where an adjustment is made in accordance with the law and practice of the United States of America, the law and practice of the United States of America shall apply. The following clause shall apply: New Jason Clause (a) in the event of accident, danger, damage 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 consequence of which, the Carrier is not responsible, by statute, contract or otherwise, the Goods and 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; (b) if a salving vessel is owned or operated by the Carrier salvage shall be paid for as fully as if the said salving vessel belonged to strangers. If the Carrier delivers the Goods without obtaining security for general average contributions, the Merchant by taking delivery of the Goods, undertakes to contribute to the liability for such contributions or to provide such security by deposit or other security for the estimated amount of such contributions as the Carrier shall reasonably require. The Carrier shall be under no obligation to exercise any lien for general average contribution due to the Merchant.

31. BOTH TO BLEM COLLISION

If the carrying ship comes into collision with another ship as a result of the negligence of the carrying ship or the negligence or default of the navigation or management of the carrying ship, this Merchant undertakes to pay the Carrier, or where the Carrier is not the Owner and in possession of the carrying ship to pay to the Carrier as trustee for the Owner and/or demise charterer of the carrying ship, a sum sufficient to indemnify the Carrier and/or the Owner and/or demise charterer of the carrying ship against all loss or liability to the other non-carrying ship or the Owner of the other non-carrying ship as such loss or liability represents loss of or damage to his goods or any claim whatsoever the Merchant paid or payable by the other or non-carrying ship or non-Owners to the Merchant and set-off, recouped or recovered by the other or non-carrying ship of her Owners as part of their claim against the carrying ship or her Owner or demise charterer or the Carrier. The foregoing provisions shall also apply where the Owners, operators or those in charge of any ship or ships or vessels are involved in collision with the colliding ships or objects, are at fault in respect to a collision, contact, stranding or other accident.

32. SHIPPER-PACKED CONTAINER, ETC.

(1) If a container has not been filled, packed or stowed by the Carrier, the Carrier shall not be liable for any loss of or damage to its contents and the Merchant shall cover any loss or expense incurred by the Carrier is such loss, damage or expense has been caused by:

- a. negligent filling, packing or stowing of the container, or
- b. the contents being unsuitable for carriage in container, or
- c. the unsuitability or defective condition of the container unless the container has been supplied by the Carrier and the unsuitability or defective condition would not have been discovered by reasonable inspection at or prior to the time when the container was filled, packed or stowed.

(2) The provision of the sub-clause (1) above also apply with respect to trailers, transportable tanks, flats and pallets which have not been filled, packed or stowed by the Carrier.