

**PIL B/L Terms (Revision on 16-Dec-2015, Valid till 31 January 2024)**

**1. DEFINITIONS**

In this Bill of Lading, the terms:

**'Bill of Lading'** means the present document whether called Bill of Lading, paperless Bill of Lading, electronic Bill of Lading and/or waybill.

**'Carriage'** means the whole or any part of the operations and services undertaken by the Carrier in respect of the Goods covered by this Bill of Lading.

**'Carrier'** means the party on whose behalf this Bill of Lading has been signed and/or issued.

**'Combined Transport'** arises if the Place of Receipt and/or the Place of Delivery are indicated overleaf in the relevant spaces. Combined Transport consists of Port-to-Port carriage and Inland Transport.

**'Container'** means any container used for the transport of Goods (including, without limitation, any dry storage container, flat rack container, open top container, tunnel container, open side storage container, double doors container, refrigerated container, super freezer container, controlled-atmosphere container, insulated or thermal container, foldable container, half-height container, car carrier container, intermediate bulk shift container, swap bodies, special purpose container, or any combination of the foregoing examples), trailer, transportable tank, ISO tank, drums, flat or pallet or any similar article used to consolidate goods and any ancillary equipment. Unless a provision in this Bill of Lading expressly refers only to a specific type of Container, the defined term "Container" shall be given its full meaning wherever it appears in this Bill of Lading, notwithstanding that certain provisions in this Bill of Lading may contain words that are more generally or commonly understood in relation to a specific type of Container

**'Freight'** means all charges payable to the Carrier in accordance with the Carrier's applicable Tariff and under this Bill of Lading.

**'Goods'** means the whole or any part of the cargo accepted from the shipper and includes any Container not supplied by or on behalf of the Carrier.

**'Hague Rules'** means the provisions of the International Convention for the Unification of certain rules relating to Bills of Lading signed at Brussels on 25th August 1924 and includes the amendments by the protocol signed at Brussels on 23rd February 1968 and 1979, but only if such amendments (hereinafter collectively called "the Visby Amendments") are compulsorily applicable to this Bill of Lading. It is expressly provided that nothing in this Bill of Lading shall be construed as contractually applying the said Visby Amendments.

**'Holder'** means any Person for the time being lawfully in possession of this Bill of Lading or in whom rights of suit and/or liability under this Bill of Lading have been transferred or vested.

**'Inland Transport'** means carriage during Combined Transport, including but not limited to road, rail and water transport, other than the Port-to-Port segment.

**'Merchant'** means any Person who at any time has been or becomes the shipper, Holder, consignee, the receiver of the Goods, any Person owning or entitled to the possession of the Goods or this Bill of Lading and any Person acting on behalf of any such Person.

**'NVOCC'** means Non-Vessel Operating Common Carrier.

**'Person'** includes an individual, company, group or other entity.

**"Place of Delivery"** means any port or place so named overleaf.

**"Place of Receipt"** means any port or place so named overleaf.

**'Port of Discharge'** means any port so named overleaf.

**'Port of Loading'** means any port so named overleaf.

**'Port-to-Port'** means carriage between the Port of Loading and Port of Discharge.

**'Subcontractor'** means any party and/or Person to which the Carrier subcontracts the whole or any part of this Carriage, including but not limited to owners and operators of any vessels (other than the Carrier), stevedores, warehousemen, container terminal or depot operators, road, rail and air transport operators and any independent contractor employed by the Carrier in the performance of the Carriage or any part thereof and any of their sub-contractors, agents and servants.

**'Tariff'** means the charges payable to the Carrier which includes but is not limited to the following charges: storage charges, detention, demurrage, terminal handling charges, seal fees, bill of lading fees for any issuance, amendment, re-issuance, telex release fees, reefer power charges, late payment fees, booking cancellation/postponement fees, delivery order fees, container cleaning charges and miscellaneous charges (e.g. charges for misdeclaration of dangerous goods, misdeclaration of cargo weight).

**'US COGSA'** means the United States Carriage of Goods by Sea Act, 46 U.S.C. App. § 1300 et seq. as enacted 1936 and any subsequent recodification thereto.

**"Verified Gross Mass"** means the combined mass of a Container's tare mass and the masses of all packages and cargo items including but not limited to pallets, dunnage, other packing material and securing materials packed in the Container and verified by one of the methods of weighing specified in SOLAS Chapter VI Regulation 2.

**'Vessel'** means any waterborne craft or barge used in the Carriage under this Bill of Lading, which may be a feeder vessel or an ocean vessel.

## 2. CARRIER'S TARIFF

The terms and conditions of the Carrier's applicable Tariff are incorporated herein. Attention is drawn to the terms therein relating to free storage time and to container demurrage or detention. Copies of the relevant provisions of the applicable Tariff are obtainable from the Carrier or its agent upon request. The Carrier's standard Tariff (which is part of the applicable Tariff) can be accessed online at the Carrier's website [www.pilship.com](http://www.pilship.com).

### 3. CONTRACTING PARTY AND WARRANTY

(1) The contract evidenced by this Bill of Lading is between the Carrier and the Merchant. All Persons coming within the definition of "Merchant" in Clause 1 are jointly and severally liable towards the Carrier for the due fulfilment of all obligations undertaken by the Merchant under this Bill of Lading and shall remain so liable notwithstanding their having transferred this Bill of Lading and/or title to the Goods to another Person. Such liability includes but is not limited to court costs, expenses and legal fees incurred in collecting charges and the sums due to the Carrier. The Merchant warrants that in agreeing to the terms and conditions in this Bill of Lading, he is the owner of the Goods, or he does so with the authority of the owner of the Goods or of the Person entitled to the possession of the Goods or of this Bill of Lading.

(2) Where the Bill of Lading bears notations such as "[Shipper/Consignee] care of [third party]", "[Shipper/Consignee] c/o [third party]", "[third party] on behalf of [Shipper/Consignee]", "[third party] o/b the [Shipper/Consignee]", or other similar notations, the Merchant confirms and acknowledges that the named shipper or consignee, as the case may be, under the Bill of Lading shall remain the contractual party under the Bill of Lading and that the said third party shall acquire no rights under the Bill of Lading. By accepting the Bill of Lading with such notation, notwithstanding anything herein, the Merchant confirms and acknowledges that the Carrier's interpretation of the requested notation shall be binding on the Merchant and the parties to the Bill of Lading, and that the Carrier shall not in any way be held liable where it acts in accordance with and in reliance on the said interpretation.

### 4. Sub-Contracting

(1) The carrier shall be entitled to sub-contract on any terms the whole or any part of the carriage, including any loading, unloading, storing, warehousing and handling of the goods and all duties whatsoever undertaken by the carrier in relation to the goods.

(2) (a) For the purposes of this contract, the term "Servant" shall include the owners, managers, and operators of vessels (other than the Carrier); underlying carriers; stevedores and terminal operators; and any direct or indirect servant, agent, or subcontractor (including their own subcontractors), or any other party employed by or on behalf of the Carrier, or whose services or equipment have been used to perform this contract whether in direct contractual privity with the Carrier or not.

(b) It is hereby expressly agreed that no Servant shall in any circumstances whatsoever be under any liability whatsoever to the shipper, consignee, receiver, holder, or other party to this contract (hereinafter termed "Merchant") for any loss, damage or delay of whatsoever kind arising or resulting directly or indirectly from any act, neglect or default on the Servant's part while acting in the course of or in connection with the performance of this contract, including unseaworthiness of the Vessel and/or breach of a fundamental term and/or in all other respects.

(c) Without prejudice to the generality of the foregoing provisions in this clause, every exemption, limitation, condition and liberty contained herein (other than Art III Rule 8 of the Hague/Hague- Visby Rules if incorporated herein) and every right, exemption from liability, defence and immunity of whatsoever nature applicable to the carrier or to which the carrier is entitled hereunder including the right to enforce any jurisdiction or arbitration provision contained herein shall also be available and shall extend to every such Servant of the carrier, who shall be entitled to enforce the same against the Merchant hereunder and including for the negligence of the Servant and/or unseaworthiness of the Vessel and/or breach of a fundamental term and/or in all respects.

(d) (i) The Merchant undertakes that no claim or allegation whether arising in contract, bailment, tort or otherwise shall be made against any Servant of the carrier which imposes or attempts to impose upon any of them or any vessel owned or chartered by any of them any liability whatsoever in connection with this contract whether or not arising out of negligence on the part of such Servant and/or unseaworthiness of the Vessel and/or breach of a fundamental term and/or in all respects. The Servant shall also be entitled to enforce the foregoing covenant against the Merchant; and

(ii) The Merchant undertakes that if any such claim or allegation should nevertheless be made, he will indemnify the carrier against all consequences thereof.

(e) For the purpose of sub-paragraphs (a) to (d) 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 mentioned in subclause (a) above who are his Servant and all such persons shall to this extent be or be deemed to be parties to this contract.

#### **5. Carrier's Responsibility - Port-to-Port Carriage**

(1) Where the carriage is port-to-port, the liability (if any) of the carrier for loss, damage or delay to the goods occurring from and during loading onto any vessel up to and during discharge from that vessel or from another vessel into which the goods have been transhipped shall be determined in accordance with any national law making the Hague Rules compulsorily applicable to this Bill of Lading, or in any other case in accordance with the Hague Rules, articles I-VIII inclusive only.

(2) The carrier shall be under no liability whatsoever for loss, damage or delay to the goods, howsoever caused and howsoever arising, if such loss, damage or delay is caused or arises prior to loading onto or subsequent to discharge from a vessel. Notwithstanding the above, in case and to the extent that any applicable law provides for any additional period of responsibility, the carrier shall have the benefit of every right, defense, limitation and liberty in the Hague Rules as applied by this clause during that period, notwithstanding that the loss, damage or delay did not occur at sea.

(3) In the event of the goods being discharged at a port other than the port of discharge nominated in this Bill of Lading and forwarded to the nominated port of discharge by whatever means, the Hague Rules as referred to in paragraph (1) of this clause shall continue to apply until delivery at the nominated port of discharge (or elsewhere), notwithstanding that the carriage may not be by sea.

#### **6. Carrier's Responsibility - Combined Transport**

Where the 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 Bill of Lading, the carrier shall be liable for loss, damage or delay occurring during the carriage only to the extent set out below.

(1) If the stage of the carriage during which the loss or damage or delay occurred is not known:-

(a) Exclusions:- If the stage of the carriage during which the loss, damage or delay occurred is not known, the carrier shall be relieved of liability for any loss, damage or delay if such loss, damage or delay was caused by:-

(i) an act or omission of the merchant or any person acting on behalf of the merchant, other than the carrier, his servants, agents and sub-contractors;

(ii) The lack or insufficiency of or defective condition of packing or marks;

(iii) Handling, loading, stowage or unloading of the goods by the merchant or any person acting on behalf of the merchant;

(iv) Inherent vice of the goods;

(v) Strike, lockout, stoppage or restraint of labour, from whatever cause, whether partial or general;

(vi) A nuclear accident;

(vii) Any cause or event that the carrier could not avoid and the consequences of which he could not prevent by the exercise of reasonable diligence;

(viii) Any act or omission of the carrier the consequences of which he could not reasonably have foreseen; or

(ix) Compliance with the instructions of any person entitled to give them.

(b) Burden of Proof: - The burden of proof that the loss, damage or delay 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, damage or delay could be attributed to one or more of the causes 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, damage or delay was not, in fact, caused either wholly or partly by one or more of these causes or events.

(c) Limitation of Liability:- Except if Clause 7(3) or Clause 32 applies, if Clause 6(1) is applicable, the total compensation for loss or damage shall under no circumstances whatsoever and howsoever arising exceed 2 SDRs per kilogramme of the gross weight of the Goods lost or damaged or GBP100 per package or customary freight unit, whichever is lower. The Carrier shall be under no liability whatsoever for any delay, howsoever caused.

(2) If the stage of the carriage during which the loss or damage or delay occurred is known: - Subject to Clauses 18 and 19, if it is known during which stage of the carriage the loss, damage or delay occurred, the liability of the carrier in respect of such loss, damage or delay shall be determined: -

(a) By the provisions contained in any international convention or national law which provisions: -

(i) Cannot be departed from by private contract to the detriment of the merchant, and

(ii) Would have applied if the merchant had made a separate and direct contract with the carrier in respect of the particular stage of the carriage during which the loss, damage or delay

occurred and had received as evidence thereof any particular document which must be issued in order to make such international convention or national law applicable; or

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

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

For the purposes 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: -

(a) If the place of receipt is not named on the face hereof, the carrier shall be under no liability whatsoever for loss, damage or delay to the goods, howsoever caused, if such loss, damage or delay 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 caused, if such loss or damage arises subsequent to discharge from the vessel. Notwithstanding the above, in case and to the extent that any applicable law provides for any additional period of responsibility, the carrier shall have the benefit of every right, defense, limitation and liberty in the Hague Rules during that period, notwithstanding that the loss, damage or delay did not occur at sea.

## **7. Compensation and Sundry Liability Provisions**

### **(1) Basis of Compensation**

Subject always to the carrier's right to limit liability as provided for herein, if the carrier is liable for any payment or 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 if paid. If there is no invoice value of the goods or if any such invoice is not bona fi de, or if the value of the goods has not been declared by the shipper prior to the commencement of the carriage with the consent of the carrier and stated in this Bill of Lading and extra freight paid, if required, such payment or compensation shall be calculated by reference to the market value of such goods at the place and time they are delivered or should have been delivered to the merchant. The value of the goods shall be fixed by reference to the normal value of goods of the same kind and quality.

### **(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 GBP100 per package or customary freight 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 Bill of Lading 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 in this Bill of Lading 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 Bill of Lading. Any partial loss or damage shall be adjusted pro-rata on the basis of such declared value.

(4) Inspection by Authorities

If by order of the authorities at any place, a container has to be opened or unpacked for the goods to be inspected, the carrier will not be liable for any loss, damage or delay 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. General**

(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 and the carrier shall in no circumstances whatsoever and howsoever arising be liable for any direct, indirect or consequential loss or damage caused by delay. If, pursuant to any applicable international convention or national law which cannot be departed from by private contract, the carrier is held to be not entitled to completely exclude liability for delay, it is hereby expressly agreed that the carrier's liability for such delay shall not exceed the amount of freight for the carriage under this Bill of Lading.

(2) Save as is otherwise provided for in this Bill of Lading, the carrier shall in no circumstances be liable for any direct, indirect or consequential loss or damage or loss of profits arising from any other cause.

(3) The terms of this Bill of Lading shall govern the responsibility of the carrier in connection with or arising out of the supply of a container to the merchant whether before or after the goods are received by the carrier for transportation or delivered to the merchant.

(4) Any superficial rust, oxidation or condensation inside a container or any like condition due to moisture is not the responsibility of the carrier, unless the said condition arises out of the carrier's failure to provide a seaworthy container to the merchant prior to loading.

(5) Terminal handling, service charges and/or container demurrage as per the carrier's tariff together with a deposit, where requested by the carrier, for anticipated container demurrage is to be paid by the merchant before delivery of the goods by the carrier. If the container(s) are not returned to the carrier within the permitted free days commencing from the date of delivery of the container(s) to the merchant, the deposit for the anticipated container demurrage will be applied towards the payment of detention charges. All storage/customs clearance dues and taxes as per discharge port authorities' tariff are to be for the account of the merchant.

## **9. Notice of Loss, Time Bar**

(1) Unless notice of loss, damage or delay to the goods, specifying the general nature of such loss, damage or delay, is given in writing to the carrier or to his representative at the place of delivery (or the port of discharge if no place of delivery is named on the face hereof) 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 or delay is not apparent, within three consecutive days thereafter, such removal shall be prima facie evidence of the timely and proper delivery by the carrier of the goods described in this Bill of Lading.

(2) The carrier shall in any event be discharged from all liability whatsoever under this Bill of Lading and in respect of the goods, unless suit is brought in the proper forum and written notice thereof is given to the carrier within nine months after delivery of the goods or if the goods are not delivered, ten months after the date of issue of this Bill of Lading. In the event that such time period shall be found to be contrary to any law compulsorily applicable, the period described by such law shall then apply but in that circumstance only.

## **10. Defenses and Limits for the Carrier**

The rights, defenses, liberties and limits of liability of whatsoever nature provided for in this Bill of Lading shall apply in any action against the carrier for loss, damage or delay, howsoever caused and whether the action be founded in contract or in tort and even if the loss, damage or delay arose as a result of unworthy of sea conditions, negligence or breach of a fundamental terms of this contract.

## **11. Shipper-Packed Containers**

(1). If a Container has not been prepared, filled, packed, stuffed or loaded by the Carrier, the Carrier shall not be liable for loss of or damage to the contents and the Merchant shall indemnify the Carrier against any loss, damage, liability or expense incurred by the Carrier, if such loss, damage, liability or expense has been caused by:

- (a) the manner in which the Container has been filled, packed, stuffed or loaded; or
- (b) the unsuitability of the Goods for carriage in or on the Container supplied; or
- (c) the unsuitability or defective condition of the Container arising without any want of due diligence on the part of the Carrier to make the Container reasonably fit for the purpose for which it is required; or
- (d) the unsuitability or defective condition of the Container or the incorrect setting of any temperature controls thereof which would have been apparent upon reasonable inspection by the Merchant at or prior to the time when the Container was filled, packed, stuffed or otherwise prepared for shipment; or
- (e) packing of temperature controlled Goods at other than the booked temperature.
- (f) without prejudice to the foregoing, any other matters whatsoever which occur or which were undertaken before the Container is presented to the Carrier for shipment.

(2). The Shipper is responsible for the packing and sealing of all Shipper-packed Containers. The Shipper shall inspect Containers before stuffing them and the use of the Containers shall be prima facie evidence of the receipt of the Container by Shipper and that the Container is in good order and condition. If a Shipper-packed Container is delivered by the Carrier with its seal intact, the Carrier shall not be liable for any shortage of Goods. If a claim for shortage is made against the Carrier, the Merchant agrees to indemnify the Carrier against all and any costs (including, but without limitation, legal costs), expenses, liabilities or losses of whatsoever nature suffered and/or incurred in connection with any such claim.

## **12. Inspection of Goods**

The carrier or their sub-contractor, or any person authorized by them, shall be entitled, but under no obligation, to open, unpack or to scan any container or package at any time and to inspect, weigh and/or measure the goods and/or the container or to inspect, check or verify any preparation and/or packing of the Goods and/or the Container. Any failure on the part of



the Carrier or their Sub-Contractor to avail themselves of their rights under this Clause shall not result in any liability attaching to the Carrier or their Sub-Contractor.

### **13. Carriage Affected by Condition of Goods**

If it appears at any time that, due to their condition, the goods or any part thereof, cannot safely or properly be carried or carried further, either at all or without incurring any additional expense or taking any measures in relation to the container or the goods or any part thereof, the carrier may, without notice to the merchant (but as his agent only), sell or dispose of the goods or any part thereof, and/ or abandon the carriage and/or take any measures and/or incur any additional expense to carry or to continue the carriage or to store the same ashore or afloat, under cover or in the open, at any place (whichever option the carrier in his absolute discretion considers most appropriate), and such sale, disposal, abandonment or storage shall be deemed to constitute due delivery under this Bill of Lading. The merchant shall indemnify the carrier against any additional expense incurred.

### **14. Description of Goods**

(1) This Bill of Lading shall be prima facie evidence of the receipt of the goods 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 enumerated overleaf.

(2) Except as provided in Clause 14(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 are shown on this Bill of Lading, such particulars are included solely at the request of the merchant for its convenience. The merchant agrees that the carrier does not in any way warrant the accuracy of such particulars and that the inclusion of such particulars shall not be regarded as a declaration of value of the goods (which is unknown to the carrier) and in no way increases the carrier's liability under this Bill of Lading. The merchant further agrees to indemnify the carrier against all consequences of including such particulars in this Bill of Lading.

(4) The terms "apparent good order and condition" when used on this Bill of Lading with reference to any container supplied by the merchant does not mean that the container, when received, was free of dents, minor indentations of the bar, scratch marks and other minor damage. If the merchant so requests, a substitute Bill of Lading will be issued omitting the above definition and setting forth any notations as to minor pre-shipment damage.

### **15. 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 Bill of Lading and shall remain so liable throughout the carriage, notwithstanding their having transferred this Bill of Lading and/or title to the goods to another person.

(2) The shipper is obliged to declare the correct weight of the goods or any shipper-packed containers and warrants to the carrier that the particulars relating to the goods, including but not limited to the weight of the goods, as set out overleaf have been checked by the shipper on receipt of this Bill of Lading 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. If the container is not supplied by or on behalf of the carrier, the shipper further warrants that the container meets all ISO and/or other international safety standards and is fit in all respects for carriage by the carrier.

(3) The merchant shall defend and indemnify the Carrier from and against all claims, loss, damage, liabilities fines, costs and expenses arising or resulting from :

- (a) any breach of any of the terms contained in this Bill of Lading by the Merchant; or
- (b) any breach of any of the warranties in Clause 15(2) hereof; or
- (c) any other cause whatsoever in connection with the Goods or with the Containers for which the Carrier is not responsible under this Bill of Lading; or
- (d) any other cause whatsoever for which the Merchant has responsibility, whether such responsibility is borne by the Merchant under this Bill of Lading, under any applicable law or regulation, in accordance with general or local shipping custom or practice, or otherwise.

(4) If containers supplied by or on behalf of the carrier are unpacked at the Merchant's premises or the premises of any other person to whom the merchant delivers or releases the containers, the Merchant is responsible for returning the empty containers free from labels etc, with interiors or internal surfaces brushed clean, odour free and in every respect fit for immediate reuse, to the point or place designated by the carrier, his servants or agents, within the time prescribed. 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, loss or expense incurred as a result thereof.

(5) Containers released into the care of the merchant for packing, unpacking or any other purpose whatsoever are at the sole risk of the merchant until delivered to the carrier. The merchant shall indemnify the carrier for all loss and/or damage to such containers occurring during such period. The merchant shall also indemnify the carrier for any loss, damage, injury, fines or expenses caused or incurred by such containers whilst in his control.

## **16. Freight**

(1) Freight shall be deemed fully earned on receipt of the goods by the carrier and shall be paid and non-refundable 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 carrier's applicable tariff.

(3) The freight has been calculated on the basis of particulars furnished by or on behalf of the merchant. If the particulars furnished by or on behalf of the merchant are incorrect, it is agreed that a sum equal to double the correct freight less the freight charged shall be payable by the merchant as liquidated damages to the carrier.

(4) All freight shall be paid in cash without set off, deduction, counterclaim or stay of execution, and be due and payable on receipt of the goods or part thereof by the carrier for shipment and in any event before delivery of the goods. Payment of freight to a freight forwarder, broker or anyone other than the carrier or its authorised agent, shall not be deemed payment to the carrier and shall be made at the merchant's sole risk.

### **17. 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. The carrier shall also have a lien against the merchant on the goods and any documents relating thereto for all sums due from him to the carrier under any other contract. The carrier may exercise his lien at any time and at any place at his sole discretion, whether the contractual carriage is completed or not. 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, at any place at the sole discretion of the carrier.

### **18. Optional Stowage and Deck Cargo**

(1) The goods may be packed by the carrier in or on containers and consolidated with other goods in or on containers.

(2) Goods, whether or not packed in or on containers, may be carried on deck or under deck, at the sole discretion of the carrier, 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 those rules.

(3) Notwithstanding Clause 18(2), in the case of goods which are stated overleaf 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 caused and whether or not caused by unseaworthiness of the vessel or negligence on the part of the carrier, his servants, agents or sub-contractors.

### **19. Livestock**

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, loss, damage or destruction to such live animals howsoever arising and whether or not caused by unworthy sea conditions or negligence on the part of the carrier, his servants, agents or sub-contractors. Should the master in his sole discretion consider that any live animal is likely to be injurious to any other live animal or to any person or property on board, or to cause the vessel to be delayed or impeded in the prosecution of its voyage, such live animal may be destroyed and thrown overboard without any liability attaching to the carrier. The merchant shall indemnify the carrier against all and any extra costs incurred for any reason in connection with the carriage of such live animals, including without limitation the cost of veterinary services on the voyage and of providing forage for any period during which the carriage is delayed for any reason, and of complying with the regulations of any authority of any country with regard to such live animals.

## 20. Methods and Routes of Transportation

(1) The carrier may at any time and without notice to the merchant -

- (a) use any means of transport or storage ;
- (b) transfer the goods from one conveyance to another including but not limited to transshipping or carrying the same on another vessel than that named overleaf or on any other means of transport;
- (c) unpack and remove the goods which have been packed into or onto a container and forward them in or on 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 and unload the goods at any place or port whether or not any 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 or body acting or purporting to act as or on behalf of such government or authority or having under the terms of the insurance on the conveyance employed by the carrier the right to give orders or directions; and
- (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.

(2) The liberties set out in Clause 20(1) may be invoked by the carrier for any purpose, whether or not connected with the carriage of the goods, including but not limited to loading or unloading other goods, picking up or landing any persons, including but not limited to persons involved with the operation or maintenance of the vessel, bunkering, undergoing repairs, towing or being towed, adjusting instruments, dry docking and assisting vessels in all situations. Anything done in accordance with Clause 20(1) or any delay arising therefrom shall be deemed to be within the contractual carriage and shall not be a deviation. For the avoidance of doubt, nothing in this Clause 20(2) shall be construed as a limitation to the purposes for which the liberties under Clause 20(1) may be invoked by the carrier.

(3) By tendering goods for carriage without any written request for carriage in a specialised container, or for carriage otherwise than in or on a container, the merchant accepts that carriage may be properly undertaken in or on a general purpose container, carried on or under deck at the carrier's sole discretion.

## 21. Matters Affecting Performance

If at any time the carriage, the vessel or other goods on board the vessel are or are likely to be affected by any hindrance, risk, danger, delay, difficulty or disadvantage of any kind other than the inability of the goods, due to their condition, safely or properly to be carried or carried further and howsoever arising whether or not caused by any negligence on the part of the carrier, his servants, agents or sub-contractors, and even if the circumstances giving rise to such hindrance, risk, danger, delay, difficulty or disadvantage existed at the time this contract was entered into or the goods were received for carriage, the carrier may at his sole discretion and without prior notice to the merchant and whether or not the carriage is commenced, 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 this Bill of Lading 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 21(a), then, notwithstanding the provisions of Clause 20(2) hereof, the carrier shall be entitled to charge such additional freight as he may determine or

(b) Suspend the carriage of the goods and store them ashore or afloat upon the terms of this Bill of Lading and endeavors to forward the goods as soon as possible, but the carrier makes no representations as to the maximum period of such suspension of carriage. If the carrier elects to invoke the terms of this Clause 21(b), then, notwithstanding the provisions of Clause 20(2) hereof, the carrier shall be entitled to charge such additional freight as he may determine and the merchant shall pay any additional costs of the delivery and storage or

(c) Abandon the carriage of the goods and treat the performance thereof as terminated and place the goods 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 the carriage, and the merchant shall pay any additional costs arising from placing the goods at the merchant's disposal.

If the carrier elects to use an alternative route under Clause 21(a) or to suspend the carriage under Clause 21(b), this shall not prejudice his right subsequently to abandon the carriage.

## **22. Dangerous Goods and Contraband**

(1) No goods which are or which may become of a dangerous, noxious, hazardous, inflammable, damaging or injurious nature (including radio-active materials), or which are or may become liable to damage any property or injure any person whomsoever, 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 previous written notice of their nature, character, name, label and classification being given to the carrier and his express consent in writing for the carriage of such goods being obtained, 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 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, noxious, hazardous, inflammable, damaging or injurious nature, they may at any time and at any 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.

(2) The merchant undertakes and 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 or regulations which may be applicable during the carriage. In particular but without prejudice to the generality of this Clause 22(2), if the goods are not packed into or onto the container by or on behalf of the carrier, the merchant undertakes that incompatible goods are not packed in or on the same container.

(3) Whether or not the merchant was aware of the nature of the goods, the merchant shall indemnify the carrier against all claims, fines, liabilities, losses, delays, damages or expenses

arising in consequence of the carriage of such goods, including any steps taken pursuant to Clause 22(1).

(4) No goods which are illegal, prohibited by any applicable laws or regulations or contraband, shall be tendered to the carrier for carriage. If any such goods are delivered to the carrier for carriage, they may at any time and at any place be unloaded, thrown overboard, destroyed, disposed of, abandoned, or rendered harmless by the carrier without compensation to the merchant. Whether or not the merchant was aware of the nature of the goods, the merchant shall indemnify the carrier against all claims, fines, liabilities, losses, delays, damages or expenses arising in consequence of the carriage of such goods, including any steps taken pursuant to this clause.

(5) Nothing contained in this clause shall deprive the carrier of any of his rights provided for elsewhere.

### **23. Perishable and Refrigerated Cargo**

(1) Goods, including Goods of a perishable nature shall be carried in or on ordinary Containers without special protection, services or other measures unless it is noted on this Bill of Lading that the Goods will be carried in a refrigerated, electrically ventilated or otherwise specially equipped Container or are to receive special attention in any way.

(2) The Merchant undertakes not to tender for transportation any Goods which require refrigeration, ventilation or any other special attention without previously giving written notice of their nature and particular temperature or other setting of the thermostatic, ventilation or other special controls. 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. In the case of a refrigerated Container packed by or on behalf of the Merchant, the Merchant further undertakes that the Goods have been properly stowed in the Container and that its thermostatic controls/vent settings have been adequately set by him before receipt of the Goods by the Carrier. The Merchant's attention is drawn to the fact that refrigerated Containers are not designed to freeze down cargo 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 loaded into a Container by the Merchant or presented to the Carrier at a higher temperature than that required for the Carriage. 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.

(3) The Carrier shall not be liable for any loss of or damage to the Goods arising from latent defects, derangement, 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.

(4) The term "apparent good order and condition" when used in this Bill of Lading with reference to goods which require refrigeration, ventilation or other specialised attention does not mean that the Goods, when received, were verified by the Carrier as being at the carrying temperature, humidity level or other condition designated by the Merchant.

### **24. Regulations Relating to Goods and Containers**

The merchant shall comply with all regulations and requirements of customs, port and other authorities relating to goods and containers where the containers are supplied, filled, packed, stuffed or sealed by or on behalf of the merchant, and shall bear and pay all duties, taxes, fines, imposts, expenses or losses (including, without prejudice to the generality of the foregoing, the full return freight for the goods and/or containers 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 place of delivery, or other 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/or containers or otherwise in connection with the goods and/or containers, and shall indemnify the carrier in respect of any such failure to so comply.

## **25. Notification and Delivery**

(1) Any mention in this Bill of Lading of parties to be notified of the arrival of the goods is solely for the 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. If the merchant fails to do so, the carrier shall be entitled, without notice, to unpack the goods if packed in or on containers and/or to store the goods or such part thereof ashore, afloat, in the open or under cover, at the sole risk of the merchant. Such storage shall constitute due delivery hereunder, and thereupon all liability whatsoever 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 30 days of delivery becoming due under Clause 25(2), or if in the opinion of the carrier they are likely to deteriorate, decay, become worthless or incur charges whether for storage or otherwise in excess of or amounting to a significant percentage 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 and apply any proceeds of sale in reduction of the sums due to the carrier from the merchant.

(4) Refusal by the merchant to take delivery of the goods in accordance with the terms of this clause 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.

(5) In the event of the carrier agreeing to a request of the merchant to amend the place of delivery stated herein without stipulating any particular terms and conditions to apply during said amended carriage, to the extent provided by the carrier's applicable tariff the terms and conditions of this Bill of Lading shall continue to apply, but only until the goods are delivered by the carrier to the merchant at the amended place of delivery. Once the carrier's applicable tariff ceases to provide for the continued application of the terms and conditions of the Bill of Lading or, if the carrier declines to extend the Bill of Lading terms to the amended place of delivery, then the carrier shall act as agent only 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 (including by neglect), for the period of amended carriage.

(6) If at the place where the carrier is entitled to call upon the merchant to take delivery of the goods under Clause 25(2), the carrier is obliged to hand over the goods into the custody of the customs, port or other authorities, such hand-over shall constitute due delivery to the merchant under this Bill of Lading.

(7) The merchant's attention is drawn to the stipulations concerning free storage time and demurrage contained in the carrier's applicable tariff, which is incorporated in this Bill of Lading.

## **26. Heavy Lift Cargoes**

(1) Subject to the obligation of the shipper/merchant always to declare the correct weight of the goods or any shipper packed container as per clause 15(2), no single piece or package of goods exceeding 2,240 lbs gross shall be tendered to the carrier for carriage without previous written notification of their gross weight being given to the carrier and his express consent in writing for the carriage of such goods being obtained. If any such goods are delivered to the carrier without such written notification and/or consent, the carrier is entitled to reject such goods for shipment 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. The merchant shall also indemnify the carrier against all claims, liabilities, losses, damage to property, personal injury, delays, damages or expenses arising in consequence of the tender of such goods for shipment without prior written notification and/or consent.

(2) The weight of a single piece or package exceeding 2,240lbs.gross must be declared by the Merchant in writing before receipt by the Carrier and must be marked clearly and durably on the outside of the piece or package in letters and figures not less than two inches high.

(3) Whether or not the merchant was aware that the weight of the goods or any shipper packed container are incorrect or that the gross weight of a single piece exceeded 2,240lbs, the merchant shall indemnify the carrier against all claims, liabilities, losses, damage to property, personal injury, delays, damages or expenses arising in consequence of the tender of such goods for shipment and/or in consequence of the carriage of such goods.

## **27. Fire**

The carrier shall not be responsible for any loss or damage to the goods arising or resulting from fire occurring at any time, unless caused by the actual fault or privities of the carrier.

## **28. Both-to-Blame Collision**

If the carrying vessel comes into collision with another vessel as a result of the negligence of the other vessel and any act, neglect or default in the navigation or the management of the carrying vessel, the merchant undertakes to pay the carrier, or, where the carrier is not the owner and in possession of the carrying vessel to pay to the carrier as trustee for the owner and/or demise charterer of the carrying vessel, a sum sufficient to indemnify the carrier and/or the owner and/or demise charterer of the carrying vessel against all loss or liability to the other or non carrying vessel or her owner insofar 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 vessel or her owner to the merchant and set-off, recouped or recovered by the other



or non-carrying vessel or her owner as part of their claim against the carrying vessel or her owner or demise charterer or the carrier. The foregoing provisions shall also apply where the owner, operator, or those in charge of any vessel or vessels or objects, other than, or in addition to, the colliding vessels or objects, are at fault with respect to a collision, contact, stranding or other accident.

## **29. General Average and Salvage**

(1) 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 consequences 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.

(2) Any general average on a vessel operated by the carrier shall be adjusted at any port or place and in any currency at the option of the carrier and shall be settled in accordance with the York- Antwerp Rules 1994 or subsequent amendments this covering all goods on or under deck. Any general average on a vessel not operated by the carrier 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 the carrier and/or a party with assets in a jurisdiction nominated by the carrier. Such security must be provided prior to delivery of the goods if the carrier so requires, or, if the carrier does not so require, within three months of the delivery of the goods. The carrier shall be under no obligation to exercise any lien for general average contribution due to the merchant.

(3) 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.

(4) In the event of the master in his sole discretion or in consultation with owners 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, without any prior consultation with the merchant in both cases.

## **30. Variation of the Contract and Validity**

(1) No servant or agent of the carrier shall have power to waive or vary any term of this Bill of Lading unless such waiver or variation is in writing and is specifically authorized or ratified in writing by the carrier.

(2) 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.

## **31. Law and Jurisdiction**

(1) Where any or both of the port of loading and/or port of discharge stated overleaf is or are located in Argentina, Brazil and Uruguay :

(a) The contract evidenced hereby or contained herein shall be governed by English law.  
(b) Any claim against the Carrier hereunder shall be determined by the English courts to the exclusion of the jurisdiction of the courts of another country. The Carrier shall however be entitled to pursue any claim against the Merchant in England or in any other jurisdiction in which the Merchant has assets.

(2) Where the port of loading and the port of discharge stated overleaf are both not located in Argentina, Brazil and Uruguay :

(a) The contract evidenced hereby or contained herein shall be governed by Singapore law.

(b) Any claim against the Carrier hereunder shall be determined by the Singapore courts to the exclusion of the jurisdiction of the courts of another country. The Carrier shall however be entitled to pursue any claim against the Merchant in Singapore or in any other jurisdiction in which the Merchant has assets.

(3) Nothing herein shall prevent the parties to any claim and/or dispute under this Bill of Lading from agreeing to submit the claim and/or dispute to Singapore arbitration pursuant to the rules of the Singapore Chamber of Maritime Arbitration ("SCMA").

### **32. USA Clause Paramount (if applicable)**

(1) If carriage includes carriage to, from or through a port in the United States of America, this Bill of Lading 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 therefrom, as the case may be.

(2) The carrier shall not be liable in any capacity whatsoever for loss, damage or delays 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 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 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) of US COGSA), unless the value of the goods has been declared on the face hereof, in which case Clause 7(3) shall apply.

(4) Notwithstanding the provisions of Clause 31, if carriage includes carriage to, from or through a port in the United States of America, the merchant may refer any claim or dispute to the United States district court for the southern district of New York in accordance with the laws of the United States of America.

*Last update: 16/DEC/2015*