

COMBINED TRANSPORT / PORT TO PORT BILL OF LADING

I. GENERAL PROVISIONS

1. Applicability
Notwithstanding the heading "Combined Transport", the provisions set out and referred to in this Bill of Lading shall also apply, if the transport as described in this Bill of Lading is performed by one mode of transport only.

Definitions

In this Bill of Lading the word:

- "Carrier" means the party on whose behalf this Bill of Lading has been signed.
- "Goods" means the whole or any part of the cargo accepted from the Shipper and includes the packing and any equipment or any supplied by or on behalf of the carrier.
- "Combined Transport" arises if the Place of Receipt and/or the Place of Delivery are indicated on the face hereof in the relevant spaces.
- "Container" includes any container, trailer, transportable tank, flat or pallet or any similar article used to consolidate goods and any ancillary equipment.
- "Merchant" includes any Person who at any time has become the Shipper, Holder, Consignee, Receiver of the Bill of Lading, signed or entitled to the possession of the Goods or of this Bill of Lading and anyone acting on behalf of any such person.
- "Hague Rules" means the provisions of the International Convention for the Unification of Certain Rules relating to Bill of Lading 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 conventionally applicable to this Bill of Lading (it is expressly provided that nothing in this Bill of Lading shall be construed as contractually applying said Rules as amended by said Protocol).
- "Holder" means any person for the time being in possession of this Bill of Lading to whom the property in the Goods has passed on by reason of the consignment of the Goods or the endorsement of this Bill of Lading or otherwise. "Port to Port" arises if the Carriage is not Combine Transport.

2. **Carrier's Tariff.** The terms of the Carrier's applicable Tariff at the date of the shipment are incorporated herein. Copies of the 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. **Warranty.** The Merchant warrants that in agreeing to the term hereof he is, or has the authority, the person owning or entitled to the possession of the Goods and this Bill of Lading.
4. **Time Bar.** All liability whatsoever of the Carrier shall cease unless suit is brought within 9 months after delivery of the Goods or at the time when the Goods should have been delivered.

Law and Jurisdiction.

Unless provided elsewhere herein, any dispute arising under this Bill of Lading shall be decided in Malaysia and the law of Malaysia shall apply. The Merchant irrevocably submits to this jurisdiction.

- (1) The Carrier shall be entitled to pursue any claim against the Merchant according to the law of Malaysia or in any jurisdiction in which the Merchant has assets but then in accordance with the local law of that jurisdiction.
- (2) Nothing herein shall prevent the parties to any claim or dispute under this Bill of Lading from agreeing to submit the claim or dispute to arbitration by mutually acceptable arbitrator(s) on mutually acceptable terms at a mutually acceptable venue.

II. PERFORMANCE OF THE CONTRACT.

6. Sub-contracting

- (1) The Carrier shall be entitled to sub-contract on any term the whole or any part of the carriage, loading, unloading, storing, warehousing, handling and any and all duties whatsoever undertaken by the Carrier in relation to the Goods.
- (2) The Merchant undertakes that no claim or allegation shall be made against any servant, agent or sub-contractor of the Carrier which imposes or attempts to impose upon any of them or any vessel owned or any of them any liabilities whatsoever in connection with the Goods, and if any such claim or allegation should nevertheless be made, to indemnify the Carrier against all consequences thereof. Without prejudice to the foregoing, every such servant, agent and sub-contractor shall have the benefit of all provisions herein benefitting the Carrier as if such provisions were expressly for their benefit; and in entering into this contract, the Carrier, to the extent of those provisions, does so not only its own behalf, but also as agent and trustee for such servants, agents and sub-contractors.
- (3) The expression "sub-contractor" in this clause shall include direct and indirect sub-contractors including stevedores and respective servants and agents.
- (4) The provisions of Clause 6(2), 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.
- (5) The Merchant further undertakes that no claim or allegation in respect the Goods shall be made against the Carrier by any Person, other than in accordance with the terms and conditions of this Bill of Lading, which imposes or attempts to impose upon the Carrier any liability whatsoever in connection with the Goods or the Carriage of the Goods, whether or not arising out of negligence on the part of the Carrier and, if any such claim or allegation should nevertheless be made, to indemnify the Carrier against all consequences thereof.

7. 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 stowage whatsoever;
- (b) Transfer the Goods from one conveyance to another including transhipping or carrying the same on a vessel other than the vessel named overlaid or on any other mean of transfer whatsoever;
- (c) Proceed by any route in his discretion (whether or not any the nearest or most direct or customary or advertised route) and proceed to or stay at any place or port whatsoever once or more often and in any order;
- (d) Load and unload the Goods at any place or port (whether or not any such port is named overlaid as the Port of Loading or Port of Discharge) and store the Goods at any such place or port;
- (e) 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 performance of the contract, the Carrier (whether or not the transport is commenced) may elect to:
- (f) To load and unload the Goods at any port in the customary manner as adopted by the port in accordance with the custom or usage of the port and/or in accordance with the directions of the relevant authority.
- (2) The liberties set out in sub-clause (1) may be invoked by the Carrier for any purpose whatsoever including undergoing repairs, towing or being towed, adjusting instruments, drydocking and assisting vessels in all situations, and anything done in accordance with sub-clause (1) or any delay arising therefrom shall be deemed to be within the contractual carriage and shall not be a deviation.

8. Optional Stowage

- (1) The Goods may be stowed by the Carrier by means of containers, trailers, transportable tanks, flats, pallets or similar articles of transport used to consolidate goods.
- (2) Containers, trailers, transportable tanks and covered flats whether stowed by the Carrier or received by him in a stowed condition from the Merchant, may be carried on 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.

9. Hindrance etc. Affecting Performance.

- (1) The Carrier shall use reasonable endeavours to complete the transport and to deliver the goods at the place designated for delivery.
- (2) If at any time the performance of the contract as evidenced by this Bill of Lading is or will be affected by any hindrance, risk, delay, difficulty or disadvantage of whatsoever kind, and if by virtue of sub-clause 8(2) the Carrier has no duty to complete the performance of the contract, the Carrier (whether or not the transport is commenced) may elect to:
- (a) Treat the performance of this contract as terminated and place the goods at the Merchant's disposal at any place which the Carrier shall deem safe and convenient;
- (b) Deliver the goods at the place designated for delivery.
- (3) If the goods are not taken delivery of by the Merchant within a reasonable time after the Carrier has call upon him to take delivery, the Carrier shall be at liberty to put the goods in safe custody on behalf of the Merchant at the latter's risk and expense.
- (4) In any event the Carrier shall be entitled to full freight for goods received for transportation and additional compensation for extra costs resulting from the circumstances referred to above.

III. CARRIER'S LIABILITY

10. Basic Liability.

(A) Port to Port Shipment.

- (1) Where the Carriage called for by this Bill of Lading is a Port to Port Shipment, then the liability (if any) of the Carrier for loss of or damage to the Goods occurring from and during loading on to any sea-going vessel up to and during discharge from the vessel or from another sea-going vessel into which the Goods have been transhipped shall be determined in accordance with the Carriage of Goods by Sea Act 1924 (Revised in 1994) of Malaysia.
- (2) All the terms of this Bill of Lading (except Clause 10(B)) shall apply to such carriage.

(B) Combined Transport.

- (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.
- (2) The Carrier shall however be relieved of liability for any loss or damage if such loss or damage arose or resulted from:
- (a) The wrongful act or neglect of the Merchant;
- (b) compliance with the instructions of the person entitled to give them;
- (c) The lack of, or defective condition 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 Merchant;
- (e) Inherent vice of Goods;
- (f) Insufficiency or inadequacy of marks or numbers on the Goods, coverings or containers;
- (g) Stripes, or lockouts or stoppages or restraints of labour from whatever partial or general;
- (h) Any cause or event which the Carrier could not avoid and the consequence whereof he could not prevent by the exercise of reasonable diligence.
- (3) When 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 event, specified in (a), (b) and (h) 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 event, specified in (a) 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 event.

(C) Period of Responsibility

- (1) The Carrier shall not be liable for any loss of or damage to the Goods prior to receipt of the Goods by him in his charge or after delivery or the date when the Goods should have been delivered.
- (2) Where this Bill of Lading is part of a contract of carriage involving several carrier each Carrier will only be responsible for that part of the carriage performed by him.

11. The Amount of Compensation

- (1) When the Carrier is liable for compensation in respect of loss or damage to the Goods, such compensation, the sound value of the Goods shall calculated by reference to the invoice value of the Goods plus freight charges and insurance if paid.
- (2) If there is no invoice value of the Goods, such compensation shall be calculated by reference to the value of such Goods at the place and time they are delivered to the Merchant in accordance with the contract or should have been delivered. The value of the Goods shall be fixed according to the commodity exchange price or, if there be no price, according to the current market price, or, of there be no commodity exchange price or current market price, by reference to the normal value of the Goods of the same kind and quality.
- (3) The liability of the Carrier is not in event exceed the limit provided in the applicable Malaysia LA, revised from time to time. In determining the liability of the Carrier the liability shall be no in event exceed 100 sterling per package or unit.
- (4) Higher compensation may be claimed only when, with the consent of the Carrier, the value for the Goods declared by the Shipper which exceeds the limits laid down in this Clause has been stated on the face of this Bill of Lading. 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.

12. Special Provisions - Combined Transport

- (1) Notwithstanding anything provided for in Clause 10(B) and 11 of this Bill of Lading and subject to Clause 25, if it can be proved where the loss or damage occurred the Carrier and/or the Merchant shall, as to the liability of the Carrier, be entitled to require such liability to be determined by the provisions contained in any international convention or national law which provisions:
- a. Cannot be departed from by private contract to the detriment of the Merchant; and
- b. Would have applied if the Merchant had made a separate and direct contract with the Carrier in respect of the particular stage of transport where the loss or damage occurred and received as evidence thereof of any particular document which must be issued if such international convention or national law shall apply.
- (2) Insofar as the Hague Rules relating in the International Convention for the Unification of Certain Rules Relating to Bill of Lading dated 25th August 1924, do not apply to carriage by sea by virtue of the foregoing provisions of this clause, the liability of the Carrier in respect of any carriage by sea shall be determined by that Convention. The Hague Rules shall also determine the liability of the Carrier in respect of carriage by inland waterways if such carriage were carriage by sea. Furthermore, they shall apply to all goods, whether carried on deck or under deck.

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 and save as provided in Clause 12 the Carrier shall in no circumstances be liable for any indirect or consequential loss or damage caused to 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.
- (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.

14. Notice of Loss.

- (1) The Carrier shall be deemed prima facie to have delivered the Goods as described in the Bill of Lading 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 the Port of Discharge if no Place of Delivery is named on the face thereof) before or at the time of removal of the Goods into the custody of the person entitled to delivery thereof under this Bill of Lading.
- (2) Where the loss or damage is not apparent, the same prima facie effect shall apply if notice in writing is not given within three (3) consecutive days thereafter.

15. Defences and Limits of the Carrier.

The defences 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 can be founded in contract or in tort.

IV. DESCRIPTION OF GOODS.

16. Carrier's Responsibility.

The information in this Bill of Lading shall be prima facie evidence of having been taken in charge by the Carrier of the Goods as described by such information unless, a contrary indication, such as "Shipper weight, load and count", "Shipper-pack declaration" or similar expressions, have been taken in the printed text or superimposed on the Bill of Lading. Proof to the contrary shall not be admissible, when the Bill of Lading has been transferred to a third party who in good faith has relied and acted thereon.

17. Shipper's Responsibility

- (1) All of the Persons coming within the definition of Merchant in Clause 1 shall jointly and severally be liable to the Carrier for the due fulfillment of all obligations undertaken by the Merchant in this Bill of Lading and remain to liable throughout Carriage, notwithstanding their having transferred this Bill of Lading and/or title to the Goods to another party.
- (2) The Shipper warrants to the Carrier that the particulars relating to the Goods as set out overleaf have been checked by the Shipper or receipt of this Bill of Lading and that such particulars, and any other particulars furnished by or behalf of Shipper, are accurate 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 meet ISO and/or other Inter-national safety standards and is fit in all respects for Carriage by the Carrier.

- (3) The Merchant shall indemnify the Carrier against all claims, losses, damages, fines and expenses arising or resulting from any breach of any of the warranties in Clause 17(2) hereof or from any other cause in connection with the Goods for which the Carrier is not responsible. The Carrier is not responsible for the loss of or damage to the Goods if the Merchant is responsible therefor.
- (4) The Merchant shall comply with all regulation or requirements of Customs, port and other authorities, and shall bear and pay all duties, taxes, fines, imposts, expenses or losses (including, without prejudice to the generality of the foregoing, Freight for any additional Carriage undertaken) incurred or suffered in respect of the Goods, and shall indemnify the Carrier in respect thereof.
- (5) If the container, supplied by or on behalf of the Carrier are unpacked at the Merchant's premises, the Merchant is responsible for returning the empty containers, free from labels etc., with interiors brushed, clean, odour free and in every respect fit for immediate reuse. To the point or place designated by 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 consider appropriate for the account of the Merchant and the Merchant shall be liable for any detention, loss or expense incurred as a result thereof.
- (6) Container release into the care of the Merchant for packing/unpacking or for any other purpose whatsoever shall be at the sole risk of the Merchant until redelivered 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 Container whilst in his control.

V. FREIGHT, CHARGE AND LIEN.

18. Freight and Charges

- (1) Freight and charges shall be deemed fully earned on receipt of the Goods by the Carrier and shall be paid and non-returnable in any event.
- (2) The Merchant's attention is drawn to the stipulations concerning currency in which the freight and charges are to be paid, rate of exchange, devaluation and other contingencies relating to freight and charges in the relevant tariff conditions. If in such stipulation as to devaluation exists or is applicable the following shall apply:
- If the currency in which freight and charges are quoted is devalued between the date of the freight agreement and the date when the freight and charges are paid. Then all freight and charges shall be automatically and immediately increased in proportion to the extent of the devaluation of the said currency.
- (3) For the purpose of verifying the freight basis, the Carrier reserves the right to have the contents of containers, trailers or similar articles of transport inspected in order to ascertain the weight, measurement, value or nature of the Goods.

19. LIEN.

The Carrier shall have a lien on the Goods for any amount due under this contract and for the costs of recovering the same, and may enforce such lien in any reasonable manner, including sale or disposal of the Goods.

VI. MISCELLANEOUS PROVISIONS.

20. Dangerous Goods.

- (1) The Merchant shall comply with all internationally recognized requirement and all rules which apply according to national law or by reason of International Convention, relating to the carriage of goods of a dangerous nature, and shall in any event inform the Carrier in writing of the exact nature of the danger before goods of a dangerous nature are taken into charge by the Carrier and indicate to him of need be, the precautions to be taken.
- (2) If the requirements of sub-clause (1) are not complied with, the Merchant shall indemnify the Carrier against all loss, damage or expenses arising out of the Goods being tendered for transportation or handled or carried by the Carrier.
- (3) Goods which are or at any time become dangerous, inflammable, radioactive or damaging may, at any time or place, be unloaded, destroyed, or rendered harmless without any compensation, and if the Merchant has not given notice of their nature to the Carrier under (1) above, the Carrier shall be under no liability to make any General Average contribution in respect of such Goods.

21. Regulations Relating to Goods

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 losses incurred or suffered by reason thereof or by reason of any illegal, incorrect or insufficient marking, numbering or addressing of the Goods, and indemnify the Carrier in respect thereof.

22. Shipper-Packed Containers

- (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, if such damage or expense has been incurred by the Merchant in connection with the Goods, and the Merchant shall be deemed to have accepted the following conditions:
- a. Negligent filling, packing or stowing of the container;
- 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 apparent upon reasonable inspection at or prior to the time when the container was filled, packed or stowed.
- (2) The provisions of sub-clause (1) of this Clause also apply with respect to trailers, transportable tanks, flats and pallets which have not been filled, packed or stowed by the Carrier.
- (3) The Carrier does not accept liability for damage due to the unsuitability or defective condition of reefer equipment or trailers supplied by the Merchant.

23. 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 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.
- (3) If the Merchant fails to take delivery of the Goods or of part thereof in accordance with this Bill of Lading, the Carrier may without notice unload the Goods or that part thereof and/or store the Goods or that part thereof in a warehouse, afloat, in the open or under cover. Such storage shall constitute due delivery hereunder, and the Merchant shall be deemed to have accepted the Carrier's responsibility for the Goods or that part thereof shall cease.
- (4) 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.
- (5) Goods will only be delivered in the container to the Merchant if all bill of Lading 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 remove the container and deliver the Goods without the container to the Merchant. Such delivery shall constitute due delivery hereunder but only effected against payment by the Merchant of LCL, Service Charges applicable to LCL cargo (as laid down in the Tariff) together with the actual costs incurred for any additional services rendered.

24. Inspection of Goods.

The Carrier shall be entitled, but under no obligation, to open any container at any time and to inspect the contents. If it thereupon appears that the contents are or any part thereof cannot safely or properly be loaded or carried further without incurring any additional expense or taking any measures in relation to the contents or if its contents or any part thereof, the Carrier may abandon the container, transportation thereof and/or take any measure and/or incur any reasonable 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, which storage can be deemed to constitute due delivery under this Bill of Lading. The Merchant shall indemnify the Carrier against any reasonable additional expense so incurred.

25. Deck Cargo and Lestwood.

- (1) Goods (not being Goods stowed in containers other than flats or pallets) which are stated herein to be carried on deck and livestock, whether or not carried on deck, are 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) When the Goods (in container) are carried on deck, the Carrier shall not be required to specially note, mark or stamp any statement of "on deck stowage" on the face hereof, any custom to the contrary notwithstanding. The Goods so carried shall be subject to the applicable Hague Rules legislation, and the stowage of such Goods shall be deemed to constitute under deck stowage for all purposes including general average.

26. Refrigerated Cargo.

- (1) The Merchant undertakes 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 and in the case of a refrigerated container packed by or on behalf of the Merchant further undertakes that the Goods have been properly stored in the container and that its thermostat controls have been adequately set up by him before receipt of the Goods by the Carrier. If the above requirements are not complied with, the Carrier shall not be liable for any loss or damage to the Goods whatsoever arising.
- (2) The Carrier shall not be liable for any loss or damage to the Goods arising from latent defects, breakdown, stoppage at the refrigerating machines, plant insulation &/or any apparatus of the container, vessel, conveyance and any other facilities, provided that the Carrier shall, before or at the beginning of the transportation, exercise due diligence to maintain the refrigerated container in an efficient state.

27. Iron, Steel and Metal Goods.

Iron, steel and metal goods of any description which are at the time of shipment in ordinary external condition as to rust, corrosion, oxidation, moisture, scratching, denting or bending are admitted as being in apparent good order and condition for the Carrier and the Merchant, and the terms "apparent good order and condition" on the face hereof does not mean any admission by the Carrier as to the absence of such ordinary rust, corrosion, oxidation, moisture, scratching, denting or bending. In case of iron and steel, angles, bars, channels etc. Shipped loose or in bundles, the Carrier shall not be responsible for correct delivery, and all expenses incurred at the port of discharge consequent upon insufficient securing or marking shall be paid by the Merchant unless:- (a) Every piece is distinctly and permanently marked with its weight; (b) Every bundle is securely fastened, distinctly and permanently marked with its weight and metal tagged, so that each piece or bundle can be distinguished at the port of discharge.

28. Timber

Any statement herein that timber has been shipped on apparent good order and condition does not involve any admission by the Carrier as to timber discoloration, warps, splits, knots or broken pieces and this clause shall deemed to constitute express notice to all persons taking delivery on the terms of this Bill of Lading that such timber does or may contain pieces so affected.

29. Bulk Liquid

The Carrier shall not be responsible for loss of or damage to bulk liquid caused before loading or after discharge. Loading shall be deemed to occur with the receipt of goods in the vessels permanent pipe connections. "Discharge" shall be deemed to be completed when the bulk liquid has passed beyond the vessel's permanent pipe connections"

30. Return of Containers

- (1) For the purpose of this Clause, the Consignor shall mean the Person who concludes this Contract with the carrier and the Consignee shall mean the person entitled to receive the goods from the Carrier.
- (2) Container, pallets or similar articles of transport supplied by or on behalf of the Carrier shall be returned to the Carrier in the same order and condition as handed over to the Merchant, normal wear and tear excepted, with interiors clean and within the time prescribed in the Carrier's applicable Tariff.
- (3) (a) The Consignor shall be liable for any loss of, damage to, or delay, including demurrage, of such articles, incurred during the period between handing over to the Consignor and return to the Carrier for carriage.
- (b) The Carrier and the Consignee shall be jointly and severally liable for any loss of, damage to, or delay, including demurrage, of such articles, incurred during the period between handing over to the Consignee and return to the Carrier.

31. CLAUSE PARAMOUNT

This bill of lading shall have effect subject to the provisions of the Carriage of Goods by Sea Act of the United States, the Hague Rules, or the Hague-Visby Rules, as applicable, or such other similar national legislation as may mandatorily apply to the carriage of goods by sea of origin destination of the bill of lading, which shall be deemed to be incorporated herein and nothing herein contained shall be deemed to surrender by the Carrier or any of its rights or immunities or on increase of any of its responsibilities or liabilities under said applicable Act. If any term of this bill of lading be repugnant to said applicable Act to any extent, such term shall be void to that extent, but no further."

32. BOTH-TO-BLAAME COLLISION

If the vessel comes into collision with another vessel as a result of the negligence of the other vessel and of its act, neglect or default of the Master, Mate, Pilot or the servants of the Carrier in the navigation or in the management of the vessel, the Merchant will indemnify the Carrier against all loss or liability to the other non-carrying vessel or its owners in so far as such loss or liability represents loss of or damage to or any claim whatsoever of the Merchant, paid or payable by the other or non-carrying vessel or its owners to the Merchant and set off, recovered or recovered by the other or non-carrying vessel or Carrier. The foregoing provision shall also apply where the owners, operators 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 in respect of collision or contact.

33. GENERAL AVERAGE

- (1) General Average shall be adjusted at any port or place at the option of the Carrier in accordance with the York-Antwerp Rules 1994, or any modification thereof, this covering all Goods, whether carried on or under deck. The General Average Statement in every instance shall be prepared by Average Adjusted selected by the Carrier. In average adjustment, disbursement in foreign currency shall be exchanged into any currency at the Carrier's option at the rate prevailing at time of payment and allowances for damage to cargo claimed in foreign currency shall be converted at the rate prevailing on the last day of discharge at the port of final discharge of such damaged cargo. Average agreement or bond and such additional security as may be required by the Carrier, must be furnished before the delivery of the Goods. Such cash deposit, agreement or other security as the Carrier or its agents may consider required to cover the estimated contribution of the Goods and any salvage and special charges thereon shall be made by the Goods, or the Merchant(s) to the Carrier if required before delivery.
- (2) In the event of accident, danger, damage or disaster before or after 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 Merchant shall contribute with the Carrier in General Average to the payment of any sacrifice, loss or expenses of a General Average nature which may be incurred by the Owners, the Charterers shall pay the provable additional cost of insuring the vessel against hull risks in an amount equal to the value under her ordinary hull policy but not exceed for as fully as the salvaging vessel or vessel belonging to strangers, if the Carrier delivers the Goods to the Merchant without claiming any average bond or other security for contribution to General Average the Merchant, by receiving the Goods, becomes personally liable for the contribution up to the C.I.F. value of the Goods provided the Carrier notifies the Merchant within 90 days after receipt by the Merchant of the Goods of his intention to declare General Average. The Merchant undertakes, if so requested by the Carrier, to disclose the C.I.F. value of the Goods and the name and address of the insurer. Unless the Merchant provides a guarantee for the payment of General Average contribution from his insurer, the Merchant is bound to provide the Carrier with such other security as deemed acceptable by the Carrier.
- (3) The Carrier shall be under no obligation to exercise any lien for General Average contribution due to the Merchant.
- (4) The above stipulations shall also apply to the contribution of containers in General Average or special charges.

- (5) 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, that provisions hereof shall to the extent of such inconsistency but no further, be null and void.

35. NEW JASON CLAUSE

In the event of accident, danger or disaster before or after the commencement of the voyage, resulting from any cause whatsoever, whether due to negligence or not, for which, or for the consequences of which, the Carrier is not responsible by statute, contract or otherwise, the Goods, Shippers, Consignees or owners of the Goods 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 in or incurred and shall pay salvage and special charges incurred in respect of the goods.

If a salvaging ship is owned or operated by the Carrier, salvage shall be paid for as fully as if the said salvaging ship or ships belonged to strangers. Such deposit as the Carrier or his agent may deem sufficient to cover the estimated contribution of the goods and any salvage and special charges thereon, if required, be made by the goods, Shippers, Consignees or owners of the goods to the Carrier before delivery.

36. DRUG LAUSE

In pursuance of the provisions of the U.S. Anti Drug Abuse Act 1986 or any re-enactment thereof, the Charterers warrant to exercise the highest degree of care and diligence in preventing unmanifested narcotic drugs and marijuana to be loaded or concealed on board the Vessel. Non-compliance with the provisions of this clause shall amount to breach of warranty for consequences of which the Charterers shall be liable and shall hold the Owners, the Charterers and the Carrier jointly and severally liable for the full amount of any fines or penalties or be made against the Charterers or the individual or jointly, furthermore, all time lost and all expenses incurred, including fines, as a result of the Charterers' breach of the provisions of this clause shall be for the Charterers' account and the Vessel shall remain on hire. Should the Vessel be arrested as a result of the Charterers' non-compliance with the provision of this clause, the Charterers shall at their expense take all reasonable steps to secure that within a reasonable time the Vessel is released and at their expense put up the bails to secure release of the Vessel. The Owners shall remain responsible for all time lost and all expenses incurred, including fines, in the event that unmanifested narcotic drugs and marijuana are found in the possession or effects of the Vessel's personnel.

37. WAAR CLAUSE

No contraband of war shall be shipped. The Vessel shall not be required, without the consent of the Owners, which shall not be unreasonably withheld to enter any port or zone which is involved in a state of war, warlike operations, or hostilities, civil strife, insurrection or piracy whether there be a declaration of war or not, where the Vessel, cargo, crew might reasonably be expected subject to capture, seizure or arrest, or to a hostile act by belligerent power (the term "power" meaning any de jure or de facto authority or any purported governmental authority maintaining naval, military or air forces). If such consent is given by the Owners, the Charterers shall pay the provable additional cost of insuring the vessel against hull risks in an amount equal to the value under her ordinary hull policy but not exceeding a valuation of, in addition, the Owners may purchase and the Charterers shall pay for any such risk insurance on ancillary risks such as loss of fire, freight disbursements, total loss, blocking and trapping, etc. If such insurance is not obtainable, the Charterers shall be deemed to have agreed to the insurance. The Vessel shall not be required to enter or remain at any such port or zone, in the event of the existence of the conditions described in (b) subsequent to the date of this charter, or while the Vessel is on hire under this charter, the Charterers shall, in respect of voyages to any such port or zone assume provable additional cost of wages and insurance properly incurred in connection with warlike, official or war as a consequence of such war, warlike operations or hostilities. Any war port or zone assume provable additional cost of the Vessel's trading or cargo carried shall be for the Charterers' account.