



Bill of Lading

Terms and Conditions

1. Definitions

- 1.1. "Carrier" means the Company stated on the front of this Bill of Lading as being the Carrier and on whose behalf this Bill of Lading or Sea Waybill has been signed and who assumes in a capacity as Multimodal Transport Operator (MTO) the liability for the performance of this contract under the following terms and conditions.
- 1.2. "Merchant" means and includes the Shipper, the Consignor, the Consignee, the Receiver, the Owner of the Goods, the Holder of this Bill of Lading and any person having a present or future interest in the goods or any person acting on behalf of any of the above-mentioned persons.
- 1.3. "Bill of Lading" means a document of title whether made out "to order" or to a nominated consignee. This Bill of Lading shall be non-negotiable, unless made out "to order" in which event it shall be negotiable and shall constitute title to the goods and the holder shall be entitled to receive or to transfer by endorsement the goods herein described.
- 1.4. "Sea Waybill" means a receipt, evidencing the conclusion of a contract of carriage whereby delivery is made to the nominated consignee against proof of identity. This Sea Waybill is not transferable and not a document of title. If this document is issued and marked as Sea Waybill, these terms and conditions shall apply accordingly.
- 1.5. "Ship" means the vessel named in this Bill of Lading or Sea Waybill, or any conveyance owned, chartered, or operated by Carrier or used by Carrier for the performance of this contract.
- 1.6. "Port to Port Shipment" arises where the Place of Receipt and where the Place of Delivery are not indicated in the front of this Bill of Lading or Sea Waybill or if both the Place of Receipt and the Place of Delivery indicated are Ports and the Bill of Lading or Sea Waybill does not provide a specification of the Place of Receipt or Place of Delivery in the areas of the nominated ports on the front hereof
- 1.7. "Combined Transport" or "Multimodal Transport" means any transport that is not only a port to port transport.
- 1.8. "Goods" means any cargo including any property of Merchant as containers, pallets, units, packaging not supplied by or on behalf of the carrier, irrespective of whether such goods is to be or is carried on or under deck.
- 1.9. "Container" means any transport unit and includes any container, trailer, transportable tank, lift van, flat, pallet, or any similar article of transport used to transport goods.
- 1.10. "SDR" means Special Drawing Rights, the unit of account as defined by the IMF International Monetary Fund.

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2. Paramount Clause

- 2.1.** All carriage of goods effected by sea as well as by inland waterways under this Bill of Lading or any Seaway Bill shall be subject to the Hague-Visby Rules (as contained in the Protocol of Brussels, February 1968) and they shall apply whether the goods are carried on deck or under deck. However, Article III rule 8 of the Hague or Hague Visby Rules has no application and does not form part of the terms of this contract.
- 2.2.** All carriage of goods effected by sea as well as by inland waterways, whether on deck or under deck, under this Bill of Lading to or from the United States shall be subject to COGSA (Carriage of Goods by Sea Act of the United States) and all carriage under this Bill of Lading to or from Canada shall be subject to COGWA (Carriage of Goods by Water Act of Canada) in so far as COGSA and or COGWA are compulsorily applicable.
- 2.3.** All carriage of goods by air shall be subject to the Convention for the Unification of Certain Rules Relating to Carriage by Air (Warsaw Convention) dated 12th October 1929, in the version of the Hague Protocol dated 28th September 1955, or shall be subject to the Convention for the Unification of Certain Rules for International Carriage by Air (Montreal Convention) dated 28th May 1999 and entered into force on 4th November 2003.

3. Issuance of this Bill of Lading / Sea Waybill

- 3.1.** By the issuance of this Bill of Lading or Sea Waybill, the Carrier
- a) undertakes to perform and/or in its own name to procure the performance of the entire transport from the place the goods are taken in charge to the place designated for delivery in this Bill of Lading or Sea Waybill.
 - b) assumes the liability as provided in these terms and conditions.

4. Subcontracting and Himalaya Clause

- 4.1.** The Carrier at his sole discretion shall be entitled to subcontract directly or indirectly on any terms the whole or any part of the carriage, handling, loading, unloading, storage, warehousing of the goods and all duties whatsoever undertaken by Carrier in relation to the goods
- 4.2.** The Carrier shall assume and be responsible for the acts and omissions of any person, servant or subcontractor it makes use for the performance of the contract evidenced by this Bill of Lading or Sea Waybill.
- 4.3.** Every person, servant, agent or subcontractor of the Carrier shall be entitled to the same rights, exemptions from liability, defenses and immunities to which Carrier is entitled. For these purposes, Carrier shall be deemed to be acting as agent or trustee for such servants or agents, who shall be deemed to be parties to the contract evidenced in this Bill of Lading

5. Methods and Routes of Transportation

- 5.1.** The Carrier reserves the right and liberty to carry the goods on or under deck and to choose or substitute at any time the means, route and procedure to be followed in the transportation, handling stowage and storage of the goods. Any consequence or delay from such activity shall not be deemed a deviation.

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6. Hindrances affecting Performance

- 6.1.** The Carrier undertakes to use reasonable endeavors to complete the transport and to deliver the goods at the place designated for delivery.
- 6.2.** If at any time the performance of this contract in the opinion of the Carrier is or will be affected by any hindrance, risk, delay, difficulty or disadvantage of any kind including dangers, perils of the sea, strike, lockout or other labor unrest, governmental action, war, riots, social disturbance, ice or quarantine, the Carrier shall be exempted from liability and shall have no duty to complete the performance of the contract.
- 6.3.** Irrespective if and whether or not the transport is commenced, the Carrier may without notice to the Merchant elect to:
- a)** treat the performance of this contract as terminated and place the goods at Merchant's disposal at any place the Carrier shall deem safe and convenient, or
 - b)** deliver the goods at the place designated for delivery.
- In any event, the Carrier shall be entitled to full freight for any goods received for transportation and additional compensation for extra costs resulting from the circumstances referred to above.

7. Description of Goods

- 7.1.** The Merchant undertakes and warrants to the Carrier to fulfil any and all information provisions, requirements and obligations as well as to furnish any legally required information by Customs, Authorities and/or Governments for customs, security, safety or other purposes in relation with all particulars of the goods as description of the goods, marks, numbers, dangerous goods declaration, quantity and weight and to guarantee that this information is correct and accurate.
- 7.2.** The Merchant shall be liable, hold harmless and indemnify the Carrier for all loss, damage, cost and expense arising out or in connection with the inaccuracy or incompleteness of information and particulars.

8. Carrier's Containers

- 8.1.** Except as otherwise provided, the Carrier shall be entitled, if goods are not received already in containers, to load and stuff the goods in any type of container convenient with other goods.
- 8.2.** The Merchant undertakes to return such containers to the Carrier in accordance with the time provisions provided for in the Carrier's applicable tariff. In case of failure or non-observance, the Merchant shall be liable and pay to the Carrier the applicable charges due for demurrage or detention.

9. Packing and Inspection of Merchant's Containers

- 9.1.** The Carrier shall not be liable for any loss, damage, cost and expense caused by defective or insufficient packing of the goods or by inadequate loading or packing within the containers or other transport units when such loading has been performed by the Merchant, its servants, subcontractors or other persons acting on his behalf.

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- 9.2.** The Carrier shall not be responsible for the unsuitability or defective condition of the containers supplied by the Merchant if such defect or unsuitability would have been apparent upon reasonable inspection at or prior to the time the container was loaded, packed, stuffed and/or sealed.

10. Container Clause and Deck Cargo

- 10.1.** The Merchant herewith confirms and agrees that the Carrier shall be entitled at its sole discretion to carry the goods in containers under deck or on deck without notice to the Merchant and such stowage and transportation shall not be deemed a deviation of whatsoever nature or degree.
- 10.2.** Except as otherwise provided by any law applicable to this contract, if this Bill of Lading states that the cargo is stowed on deck, then Carrier shall not be liable for any loss of or damage to the goods, non-delivery, mis delivery or delay of the goods carried on deck, whether or not caused by the negligence of the Carrier or other reasons as the vessels unseaworthiness.

11. Carrier's Liability

- 11.1.** The period of responsibility of the Carrier for the goods under these terms and conditions covers the period from the time the Carrier has taken the goods in his care, custody and control to the time of their delivery.
- 11.2.** If containers, pallets or other transport units are loaded which contain more packages or units, the basis of Liability of the Carrier as per Clauses 2.1 and 2.2 shall be determined according to the number of containers, or pallets and not the packages or units enumerated in this Bill of Lading or Sea Waybill under the section "Number and Kind of Packages".
- 11.3.** The liability of the carrier shall be governed by the following Liability System:

12. The Liability in case of known Place of Loss or Damage

- 12.1.** If the place of loss of or damage to the goods is known, the Liability of the Carrier shall be governed by the following provisions:
- a)** Sea Carriage: If it is established and proven that the loss of or damage to the goods occurred during sea carriage, the Liability of the Carrier shall be determined as per Clause 2.1 of this Bill of Lading, and for the USA or Canada by the provisions of COGSA or COGWA as per Clause 2.2 of these terms and conditions.
 - b)** Land/Air Carriage: If it is established and proven that the loss of or damage to the goods occurred during land or air carriage, the Liability of the Carrier shall be governed as follows:
Land Carriage: by the CMR-Convention (trucking) or CIM-Convention (railways), if applicable, or by any mandatory applicable national transport law, or if no such law is applicable, the maximum liability of the Carrier shall be limited to the amount determined in Clause 16.2
Air Carriage: by the Warsaw Convention or Montreal Convention or by any national air transportation law mandatory applicable, or if no such law is applicable, the maximum liability of the Carrier shall be limited to the amount determined in Clause 16.2 c).

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13. The Liability in case of unknown Place of Loss or Damage

- 13.1.** If it cannot be determined where the loss of or damage to the goods occurred, the Liability of the Carrier shall be governed and limited by the provisions defined in Clause 16.2 c).

14. The Liability for Delay

- 14.1.** The Carrier does not undertake that the goods shall be delivered at any particular time and shall not be liable for any direct or indirect loss or consequential damages caused by any delay. If the Carrier should be nonetheless be held legally liable for any such direct or indirect loss or consequential damages, such Liability shall in no event exceed the Freight paid for the transport covered by this Bill of Lading or Sea Waybill.

15. Liability Exclusions

- 15.1.** Carrier shall not be liable for any loss of or damage to the goods or delay arising from or in connection with:
- a)** an act or omission of the Merchant or any person acting on behalf of the Merchant or from whom the Carrier took the goods in charge;
 - b)** failure, incompleteness and/or lack of compliance with legal information requirements, non-observance of instructions in respect of security, safety and environmental provisions or Codes;
 - c)** handling, loading, stowage or unloading of the goods by the Merchant or a person acting on his behalf;
 - d)** inherent vice of the goods;
 - e)** lack, insufficiency or defective condition of the packing of goods, containers or transport units;
 - f)** insufficiency or inadequacy of marks and/or numbers on the goods or unit loads;
 - g)** war, strike, lockout, stoppage or restraint of labour, social disturbances and civil commotions;
 - h)** act of God
 - i)** fire
 - j)** any cause or event which Carrier could not avoid and the consequences of which he could not prevent by the exercise of due diligence.

16. Compensation for Loss of or Damage to the Goods

- 16.1.** To assess and determine the amount of compensation of the Carrier for loss of or damage to the goods, the value of such goods at the time and place of delivery to the consignee or at the time and place when they should have been delivered to the consignee shall be considered. The value of the goods shall be determined by the commercial invoice, the current commodity exchange price, or if there is no such price, according to the current market price or, if there is no such price, by analyze and reference to the actual value of such kind of goods of the same quality and quantity.

- 16.2.** Unless the Merchant, with the consent of the Carrier, has declared a higher value for the goods in the space provided on the front of this Bill of Lading and paid the required extra freight as per Carrier's tariff, in which case such higher value shall be the limit of compensation, the Carrier's Liability shall be limited as follows:

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- a) If it can be determined where loss or damage occurred, except for the USA, the Liability Limits provided in the international Conventions or national Laws as mentioned in Clauses 2.2, 2.4 and 12.1 b) shall apply.
- b) The Carrier's Liability for Compensation for loss of or damage to the goods under the USA COGSA as per Clause 2.3 shall in no case exceed the amount of U.S. \$500 per package or per customary freight unit.
- c) If it cannot be determined where loss of or damage to the goods took place, or if no legal or mandatory rules apply, it is herewith contractually agreed and confirmed by the Merchant that the Carrier's Liability for Compensation shall in no case exceed SDR 1 (Special Drawing Right) of the International Monetary Fund (IMF) per kilogram of gross weight of the goods lost or damaged, with a maximum of SDR's 2'000 per Bill of Lading or Sea Waybill.

17. Dangerous Goods

- 17.1.** The Merchant warrants to observe, comply and fulfil any and all legal obligations and duties provided in international Conventions and national legislations in respect of the transportation of dangerous and hazardous goods.
- 17.2.** The Merchant shall provide to the Carrier in writing with sufficient time notification before the goods are taken in charge by the Carrier with the necessary and legally required information about the nature and dangers of the dangerous and hazardous goods with appropriate claims prevention and precautions information. The Carrier may in its absolute discretion reject any such dangerous goods for transportation.
- 17.3.** In case of failure of the Merchant to comply with said obligation and information requirements and, if as a consequence the goods should be deemed to become a danger for life, property, vessel or goods, the Carrier shall be entitled at any time to dispose of the goods, unload, discharge, destroy or render harmless as circumstances may require, without compensation to Merchant and Merchant shall indemnify Carrier for any loss or expenses arising from such action.
- 17.4.** The Merchant shall indemnify and hold harmless Carrier from all direct and indirect loss or damage, consequential damages of any nature whatsoever, including but not limited to environmental damages and cost attributable to or arising out of the transport of dangerous and hazardous or otherwise restricted articles. Such liability by the Merchant shall include all costs, direct and indirect, cleanup or rehabilitation expenses, attorney fees, any fines or penalties imposed by governmental authorities, or otherwise.

18. Delivery

- 18.1.** The goods shall be deemed to have been delivered when they have either been handed over to, or placed at the disposal of, the Consignee or his duly authorized agent for release and one Original B/L has been surrendered duly endorsed; or in accordance with local trade custom at the place of delivery. In the case of a Sea Waybill the goods shall be deemed to have been delivered when they have been handed over to, or placed at the disposal of, the Consignee or his duly authorized agent against proof of identity.

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18.2. If after discharge from the vessel or delivery at the place of delivery the goods are not taken by Merchant or the legally authorized, after notice, within the time allowed in Carrier's applicable tariff, the goods may be considered to have been delivered to Merchant, and, at Carrier's option, may be stored in the open or under cover at Merchant's risk and expense.

18.3. If during the voyage, the Carrier should at any time detect any hindrance or risk of any kind whatsoever which could jeopardize life, vessel or cargo or affect the carriage of the goods, the Carrier shall have the right to deliver the goods or part thereof at any time at any port or place and store the goods at the disposal of the Merchant in any such port or place at the sole risk and expense of the Merchant and the liability of the Carrier shall cease. Under such circumstance, the Carrier shall be entitled to full freight under this Bill of Lading or Sea Waybill.

19. Freight and Charges

19.1. The Freight and Charges shall be deemed fully earned when the Carrier has taken in charge the goods for carriage. It is expressly stated and agreed that the Freight and Charges shall be paid in cash, whether prepaid or collect at destination, and that the Merchant shall under no circumstance and for whatsoever reason be allowed to reduce the freight amount and charges with any claim, counter-claim or set-off. The payment shall be in full and in cash, in the currency named in this Bill of Lading, or another currency at the Carrier's option.

19.2. The Merchant warrants the accuracy and correctness of the information furnished in his declarations in respect of the description of goods, quantities, measurements, weight or value of the goods and the freight may be calculated on the basis of these particulars of the goods. Therefore, the Carrier shall be entitled to inspect and control this information and the goods. In case of incorrect declarations, the Merchant shall pay a sum equal to five times the difference between the correct freight and the freight charged as liquidated damages, including all cost and expense of such inspection, notwithstanding any other sum having been stated herein as freight payable.

19.3. The Merchant shall be liable and reimburse the Carrier for all dues, duties, fines, penalties, taxes and charges, levied on the goods as well as all advances made by the Carrier in Carrier's own discretion. Merchant shall be liable for return freight and charges on the goods if they are refused by the consignee or any governmental authority for whatsoever reason.

19.4. All parties mentioned within the definition of "Merchant" as provided in Clause 1.2 of this Bill of Lading shall be jointly and severally liable to the Carrier for the payment of all freight and charges, including advances, and they shall indemnify and hold harmless the Carrier for all claims, fines, penalties, damages, costs and expense and other amounts which may be incurred or imposed upon the Carrier by reason of breach of the Merchant of any of the provisions of this Bill of Lading or any statutory or regulatory requirements provided by Law.

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20. Carriers Tariffs

20.1. The goods carried under this Bill of Lading may be subject to all the terms and conditions of tariff(s) on file with official governmental authorities as the Federal Maritime Commission, the Interstate Commerce Commission or any other regulatory agency which governs a particular portion of the carriage and the terms are incorporated herein as part of the terms and conditions of this Bill of Lading.

20.2. Copies of Carriers tariffs may be obtained from Carrier or its agents upon request or from the governmental body with whom the tariff has been filed.

21. Lien

21.1. The Carrier shall have a general lien on any and all property, including any documents relating thereto, of the Merchant, in its care, custody or control or en route, for all monies due, claims or charges, expenses or advances incurred by the Carrier in connection with any shipments of the Merchant, including all charges applicable to past shipments and general average contributions, and if such claim remains unsatisfied for 30 days after demand for its payment is made, the Carrier may sell at public auction or private sale, upon 10 days written notice, by registered mail to the Merchant's last known address, the goods or so much as may be necessary to satisfy such lien, and the costs including attorney's fees of recovering the same.

22. General Average

22.1. In case of declaration of General Average, the Merchant shall indemnify and hold harmless the Carrier for any and all claims and amounts required under General Average which may be made on him and the Merchant shall provide such security upon request of the Carrier.

23. Notice of Claim

23.1. Unless a clear and specified notice of loss of or damage to the goods is given in writing to the Carrier when the goods are delivered to the consignee, such uncontested takeover by the consignee shall constitute prima facie evidence that the goods have been delivered by the Carrier in the same condition as described in this Bill of Lading or Sea Waybill.

23.2. If the loss of or damage to the goods is not apparent, the same prima facie evidence shall apply, unless the Carrier has received within three (3) days of the delivery a written notice.

24. Time bar

24.1. The Carrier shall be discharged from any and all liabilities under these conditions, unless suit is brought within nine (9) months after the delivery of the goods or the date when the goods should have been delivered, except that such time bar shall be found contrary to any international Convention or law compulsory applicable.

25. Severability

25.1. If any provision, term or clause should be held to be invalid, illegal or unenforceable under any law, statute, regulation or other rule, such provision shall not affect the validity or enforceability of this contract of carriage and its terms and conditions, and the remaining clauses shall remain in effect.

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26. Actions in Tort

- 26.1.** The defenses, exemptions and limits of liability provided for in these terms and conditions shall apply in any action against the Carrier for loss of or damages to the goods or delay as well as for any other claim in connection with the performance of this contract, whether the action be founded in contract or in tort.

27. Place of Jurisdiction and Governing Law

- 27.1.** All disputes arising from or in connection with the interpretation or application of the provisions of this Bill of Lading or Sea Waybill shall be exclusively governed by the Laws of Hong Kong and subject to the jurisdiction of the Hong Kong High Court. The Carrier reserves the right to bring suit against the Merchant at Merchant's domicile.

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