



Combined Transport Bill of Lading

Revised July 2018



Combined Transport Bill of Lading

1. Definitions:

- A. "Carrier" means **Bacarella Transportation Services, Inc. d/b/a BTX Sea Freight** (FMC No. 003805) and any other Inland Carrier or company which performs the sea carriage of Goods, whether any of the preceding parties is acting as carrier or bailee, on whose behalf this Bill of Lading has been executed.
- B. "Combined Transport" means carriage of the Goods under this Bill of Lading from place of receipt from Merchant to place of delivery to Merchant by the Carrier plus one or more Inland Carriers.
- C. "Container" includes any and all types of containers but not limited to flat rack, platform, trailer, transportable tank, pallet or any other device used for the transportation of goods.
- D. "Goods" mean the cargo described on the face of this Bill of Lading, including the Container if the cargo is packed into a Container(s) supplied or furnished by or on behalf of the Merchant.
- E. "Inland Carrier" means carriers (other than the Carrier) by land, water or air, participating in combined transport of the Goods, whether acting as carrier or bailee.
- F. "Laden on Board" or similar words endorsed on this Bill of Lading means that the Goods have been loaded on board the Vessel or are in the custody of the Carrier, and in the event of Combined Transport if the originating carrier is an Inland Carrier. "On Board" means that the Goods have been loaded on board rail cars or other means of Inland carriage or are in the custody of a participating railroad or other Inland Carrier.
- G. "Merchant" includes the shipper, consignor, consignee, owner, receiver, the holder of this Bill of Lading and any other party having an interest in the Goods.
- H. "Package" is the largest individual unit of partially or completely covered or contained cargo which is delivered to Carrier, including palletized units and each Container which is stuffed and sealed by the shipper (or on its behalf), whether or not a description of the contents of such sealed container is on this Bill of Lading.
- I. "Port to Port Transportation" means carriage of the Goods under this Bill of Lading other than combined transport.
- J. "Subcontractor" includes any person, firm, corporation or other legal entity which performs services incidental to the carriage of the Goods.
- K. "Vessel" includes the vessel named on the face of this Bill of Lading and/or any ship, craft, lighter, barge, charter or other means of water transport that is substituted in whole or in part for that vessel used by Carrier for the performance of this contract.

2. Clause Paramount:

- A. Except as set forth below, this Bill of Lading shall be subject to the provisions of the Hague Rules, as amended (including, where enacted, the Visby Rules), as enacted in the country of shipment. When no such enactment is in force in the country of shipment or destination, or is otherwise compulsorily applicable, the Hague Rules shall apply.
- B. If this Bill of Lading covers Goods moving to or from ports of the United States, then carriage of such goods shall be subject to the provisions of the United States Carriage of Goods by Sea Act, 1936, 46 U.S.C. Note 30701, as amended (hereinafter "COGSA"), the terms of which shall be incorporated herein. The provisions of U.S. COGSA shall (except as otherwise specifically provided in this Bill of Lading) govern throughout the time when the Goods are in the custody of the Carrier and as otherwise provided in this Bill of Lading.
- C. Applicable law as set forth above shall apply to carriage of Goods by inland waterways in all particulars. Except as otherwise provided herein, applicable law shall govern throughout the entire time the Goods are in custody of the Carrier, irrespective of stowage location on the Vessel.

3. Limitation of Liability Statutes: Nothing in this Bill of Lading shall operate to limit or deprive the Carrier of any statutory protection, exemption from, or limitation of liability authorized by the applicable laws, statutes, or regulations of any country.

4. Sub Contracting:

- A. The Carrier shall be entitled to subcontract on any terms the whole or part of the handling, storage, or carriage of the Goods and any and all duties whatsoever undertaken by the Carrier in relation to the Goods.



- B. Merchant warrants that no claim shall be made against any Subcontractor, that imposes or attempts to impose upon any of them or any vessel owned or operated by any of them any liability in connection with the Goods, and, if any such claims should nevertheless be made, to indemnify the Carrier against all consequences of such claims.
- C. Without prejudice to the foregoing, it is agreed that every Subcontractor (and Subcontractor's Subcontractor) shall have the benefit of all provisions in this Bill of Lading for the benefit of the Carrier as if such provisions were expressly for the Subcontractor's benefit. In entering into this contract the Carrier, to the extent of those provisions, does so not only on its own behalf but also on behalf of such Subcontractors as agent.

5. Selection of Route for Transport:

- A. The Goods may, at the Carrier's absolute discretion, be carried (or, as necessary, forwarded) as a single shipment or as several shipments by the Vessel and/or any other reasonable means or method of transport by land, water, or air and by any route whatsoever.
- B. The Vessel shall have liberty to call and/or stay at any port or place in or out of the direct, advertised, or customary route, once or more often and in any order, and/or to omit calling at any port or place whether scheduled or not.
- C. The Vessel shall have liberty, either with or without the Goods on board and either before or after proceeding toward the port of discharge to adjust to compasses and other navigational instruments, make trial trips or tests, dry dock, go to repair yards, shift berths, take on fuel or stores, embark or disembark any person, carry contraband and hazardous cargo, sail with or without pilots,, and save or attempt to save life or property.
- D. If the Goods in whole or in part are for any reason not carried on the Vessel named in this Bill of Lading, or if loading the Goods is delayed or is likely to detain the Vessel, the Vessel may proceed without carrying or loading the Goods in whole or in part, and notice to Merchant of such sailing is hereby waived.
- E. Any action taken by the Carrier hereunder shall be deemed to be included within the contractual carriage and any delay resulting therefrom shall not be considered a deviation.

6. Carrier's Liability:

- A. Insofar as this Bill of Lading is used for Port to Port Transportation of the Goods, the Carrier shall not be responsible for loss of or damage to the Goods caused before loading or after discharge. "Loading" shall be deemed to commence with the hooking on the vessel's tackle, or if not using the vessel's tackle, with the receipt of the Goods on deck or in the hold of (if the Goods are in bulk liquid) in the vessel's permanent pipe connections. "Discharge" shall be deemed to be completed when the Goods have been unhooked from the vessel's tackle or removed from the vessel's deck or passed beyond the vessel's permanent pipe connections.
- B. Insofar as this Bill of Lading is used for combined transport of the Goods, the responsibility of the Carrier with respect to the Goods shall be limited to the period when the Carrier has actual custody of the Goods, and no carrier, shall be responsible for any loss or damage caused while the Goods are not in its actual custody. Any claim for loss of or damage to the Goods, including loss or damages resulting from delay, shall only be made against the carrier having actual custody of the Goods when the loss or damage or delay was caused.
- C. If it is established by the Merchant that the Carrier is responsible for loss of or damage to or delay in connection with the Goods, such responsibility, subject to the provisions of this Bill of Lading, shall be to the extent following but not further: (1) With respect to loss or damage caused during the period from the time when the Goods arrived at the sea terminal at the port of loading to the time when they left the sea terminal at the port of discharge, or caused during any previous or subsequent period of carriage by sea or waterways, to the extent provided in Article 2 herein; (2) If it cannot be determined when the loss or damage to the Goods occurred, liability shall be governed as provided in Article 2 herein; (3) Except as indicated (C) (1) above, with respect to loss or damage caused during the handling, storage or carriage of the Goods by Carrier's Subcontractor, to the extent to which such Subcontractor would have been liable to the Merchant if he had made a direct and separate contract with the Merchant in respect of such handling, storage or carriage, provided, however, that with respect to loss or damage caused during Combined Transport of the Goods where Carrier has arranged for such Combined Transport at Merchant's request as indicated on the face of this Bill of Lading, Carrier shall (except to the extent superseded by compulsory law) be liable for such loss or damage solely to the extent caused by its failure to exercise reasonable care in regards to the



Goods, and such liability shall be limited to Fifty Cents (US\$0.50) per pound unless a special declaration of value or interest in delivery at destination is made in advance by the Merchant and a supplementary charge is paid to Carrier.

- D. If it is established by the Merchant that an Inland Carrier is responsible for loss of or damage to or delay in connection with the Goods, such responsibility shall be to the extent, but not further, than the Inland Carrier would have been liable to the Merchant if he had made a direct and separate contract with the Merchant in respect of handling, storage or carriage of the Goods, as applicable.
- E. Carrier does not undertake that the Goods shall arrive at the port of discharge or place of delivery at any particular time or in time to meet any particular market or use, and the Carrier shall not be responsible for any direct or indirect loss or damage that is caused through delay.
- F. If this Bill of Lading is used for Port to Port Transportation, the column indicating final destination on the face of this Bill of Lading is solely for the purpose of the Merchant's reference, and the Carrier's responsibility for the Goods shall in all cases cease at the time of discharge of the Goods at the port of discharge.
- G. Carrier shall not be liable for any loss or damage arising from : (1) an act or omission of Merchant or person acting on behalf of Merchant from whom Carrier received Goods for transport; (2) compliance with the instructions of any person authorized to give them; (3) handling, loading, stowage or unloading of Goods; (4) inherent vice of the Goods, or concealed damage to or shortage of Goods when packed by Merchant; (5) insufficient or defective packaging of Goods which are liable to damage when not properly packed; (6) inadequacy of numbers or marks on the Goods; (7) fire, except where caused by the actual fault or privity of Carrier; and(8) any cause or event which Carrier could not avoid and the consequences of which it could not prevent by the exercise of due diligence. Carrier is subrogated to all rights of Merchant against all others once Carrier has paid Merchant any claim.

7. Carrier's Liberties:

- A. In any situation whatsoever whether or not existing or anticipated before commencement of or during the transport, which in the judgment of the Carrier has given or is likely to give rise to danger, injury, loss, delay, or disadvantage with respect to the contract of carriage,, or has rendered or is likely to render it in any way unsafe, impracticable, unlawful, or against the interest of the Carrier to commence or continue the transport or to discharge the Goods at the port of discharge or to deliver the Goods at the place of delivery by the route and in the manner originally intended by the Carrier, the Carrier elect in its sole discretion (1) to treat this contract of carriage as terminated and place the Goods at Merchant's disposal at such place Carrier shall deem convenient; or (2) deliver the Goods at the place of delivery in accordance with the provisions of this contract. If, after storage, discharge, or by virtue of any the foregoing actions the Carrier makes arrangements to store and/or forward the Goods, it is agreed that he shall do so only as agent for and at the sole risk and expense of the Merchant without any liability whatsoever in respect of such agency. The Merchant shall reimburse the Carrier forthwith upon demand for all extra freight charges and expenses incurred for any such actions taken, including delay or expense to the Vessel.
- B. The situations referred to in subpart (A) above shall include, but shall not be limited to, those caused by the existence or apprehension of war declared or undeclared, hostilities, riots, civil commotions, or other disturbances, closure of, obstacle in, or danger to any port or canal, blockade, prohibition, or restriction on commerce or trading quarantine, sanitary, or other similar regulations or restrictions, strikes, lockouts or other labor disturbances whether partial or general and whether or not involving employees of the Carrier or its Subcontractors, congestion of port, wharf, sea terminal, or similar place, shortage, absence or obstacles of labor or facilities for loading, discharge, delivery, or other handling of the Goods, epidemics or diseases, bad weather, shallow water, ice, landslip, or other obstacles in navigation or carriage.
- C. The Carrier, in addition to all other liberties provided for herein, shall have liberty to comply with orders, directions, regulations or suggestions as to navigation or the carriage or handling of the Goods or the Vessel howsoever given, by any actual or purported government or public authority, or by any committee or person having under the terms of any insurance on the Vessel, the right to give such order, direction, regulation, or suggestion. If by reason of and/or in compliance with any such order, direction, regulation, or suggestions, anything is done or is not done the same shall be deemed to be included within the contractual carriage and shall not be a deviation.



8. Obligation of Merchant to Provide Accurate Description of Goods:

- A. Any reference on the face of this Bill of Lading to marks, numbers, description, quantity, quality, gauge, weight, measure, nature, kind, value, and any other particulars of the Goods, is as furnished by the Merchant. The Carrier shall not be responsible for the accuracy of any such reference and is not bound thereby. Carrier is required by U.S. law and regulations to transmit certain cargo-related information to U.S. Customs and Border Protection. Accordingly, Merchant warrants to the Carrier that it shall provide all such required information to the Carrier in a timely fashion and that the descriptions and particulars furnished by the Merchant are correct, and the Merchant shall indemnify the Carrier against all loss, damage, expenses, liability, penalties and fines arising or resulting from inaccuracy of any description or particular.
- B. Safety of Life At Sea (SOLAS) Verified Gross Mass (VGM) Certification. Unless separate written arrangements are made with Carrier, Merchant shall provide to Carrier or its agent a VGM obtained on certified weighing equipment of all cargo tendered for transport on this Bill of Lading, including, upon Carrier's request, third-party weighing service certification documents. Merchant warrants the accuracy of such VGM and agrees that Carrier is entitled to rely on such VGM and to endorse same as Carrier's own VGM. The Merchant agrees that it shall indemnify and hold Carrier harmless from any and all claims, losses, damages, fines, penalties or other costs (including, but not limited to, demurrage, storage, drayage, obtaining new VGM on Merchant's behalf, and the cost of returning freight to Merchant) arising from: (1) Carrier's reliance upon any VGM provided by Merchant or its agent or contractor where that VGM later is determined to be incorrect; (2) any conflict (regardless of fault) between a later determined VGM and Merchant's VGM earlier supplied to Carrier or its agent; or (3) any action taken by a public authority with respect to the cargo under this Bill of Lading in connection with that cargo's VGM.

9. Container Usage: When the Goods are not already packed into a container at the time of receipt by the Carrier, Carrier shall be at liberty to pack and carry the Goods in any type of container. The Merchant assumes full responsibility for and shall indemnify the Carrier against any loss of or damage to the Carrier's containers and other property, or injury to persons, if the loss, damage or injury is caused or occurs while in the possession or control of the Merchant, his agents, or common carriers engaged by or on behalf of the Merchant

10. Container Packed by Merchant: If Carrier receives Goods packed in a Container(s) by or on behalf of the Merchant:

- A. This Bill of Lading is prima facie evidence of the receipt only of the particular number of containers set forth on the face of this Bill of Lading. Carrier accepts no responsibility for the accuracy of the description of condition or particulars.
- B. The Merchant warrants (1) that the stowage of the contents of the containers and the closing and sealing of the containers are safe and proper, and (2) that the containers and their contents are suitable for handling and carriage in accordance with the terms of this Bill of Lading and are in compliance with all applicable laws, regulations or public authority. In the event of the Merchant's breach of any of these warranties, Merchant shall indemnify and hold Carrier harmless from, any resulting loss or damage to persons or property (including the Goods).
- C. The Merchant shall inspect the container if furnished by or on behalf of the Carrier, and the container shall be deemed to have been accepted by the Merchant as being in sound and suitable condition for transport, unless the Merchant gives notice to the contrary, in writing, to the Carrier before stuffing.
- D. If the container is delivered with seals intact, such delivery shall be deemed to be full and complete performance of the Carrier's obligation under this Bill of Lading, and the Carrier shall not be liable for any loss of or damage to the contents of the container.
- E. Carrier shall have the right but not the obligation to open the container and to inspect its contents at any time without notice to the Merchant, and all expenses incurred therefrom shall be borne by the Merchant.
- F. If any seal of the container is broken by customs or other authorized authorities for inspection, the Carrier shall not be liable for any resulting loss, damage or expenses.



11. Special Carriage or Container:

- A. The Carrier does not undertake to carry the Goods in refrigerated, heated, insulated, ventilated, or any other special hold or container, nor to carry any special container packed by or on behalf of the Merchant, but the Carrier will treat such Goods or container only as ordinary goods or dry container, respectively, unless: (1) special arrangements for the carriage of such Goods or container have been agreed to in writing prior to transport between the Carrier and the Merchant; (2) such special arrangements are noted on the face of this Bill of Lading; and (3) special freight as required has been paid. Carrier shall not be responsible for the function of a special container supplied by or on behalf of the Merchant, nor will it be responsible for cargo that has not been presented for stuffing at or below its designated carrying temperature.
- B. The Carrier shall not be liable for any loss of or damage to Goods in a special hold or container arising from latent defects, breakdown, or stoppage of the refrigeration or heating machinery, insulation, ship's plant, or other such apparatus of the Vessel or container, provided that the Carrier shall before or at the beginning of the transport exercise due diligence to maintain the special hold or container in an efficient state.
- C. If Goods have been packed into a refrigerated container by the Carrier, and the particular temperature range requested by the Merchant is inserted in this Bill of Lading, the Carrier will set the thermostatic controls within the requested temperature range but does not guarantee the maintenance of such temperature inside the container.
- D. If the cargo received by Carrier is in a refrigerated container packed by or on behalf of the Merchant, it is the obligation of the Merchant to pack the contents properly and set the thermostatic controls exactly. The Carrier shall not be liable for any loss of or damage to the Goods arising out of or resulting from the Merchant's failure in such obligation and Carrier does not guarantee the maintenance of the intended temperature inside the container. The Merchant assumes full responsibility for and shall indemnify the Carrier against any governmental or private enforcement regarding compliance with regulations concerning emissions arising from the use of refrigeration units or heating units supplied by Merchant or affixed to Merchant's container.

12. Dangerous Goods, Contraband:

- A. Merchant may not tender Goods of a dangerous or hazardous nature without proper written application to Carrier and Carrier's acceptance of same. Such application must accurately state the name, nature and classification of the Goods, the full names and addresses of the shipper and the consignee as well as fulfill any other regulatory or governmental requirement.
- B. The Merchant shall distinctly and permanently mark the nature of the Goods on the outside of the package(s) or container(s) in a manner prescribed by law or regulation and submit to Carrier and/or all governmental authorities any and all documents required for the transport of such Goods.
- C. Whenever the Goods are discovered to have been received by the Carrier without complying with subparts (A) and (B) above, or the Goods are found to be contraband or prohibited by any law or regulation of any place during the transport, or whenever it is apprehended that Goods received in compliance with subparts (A) and (B) above have become dangerous, even if not dangerous when received by the Carrier, the Carrier shall be entitled to have such Goods disposed of at the Carrier's discretion without compensation to Merchant, and the Merchant shall be liable for and indemnify the Carrier against any loss, damage or liability, including loss of freight, and any other expenses directly or indirectly arising out of custody or carriage of such Goods.
- D. The Carrier has the right to inspect the contents of any package or container at any time and place without prior notice to Merchant and at the risk and expense of the Merchant.

13. Stowage Under and on Deck:

- A. Goods in containers, vans, trailers, or chassis may be carried under deck or on deck, and when such Goods 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 of this Bill of Lading, any custom to the contrary notwithstanding. Such on deck carriage shall not be considered a deviation.
- B. Goods stowed in any covered in space, or stowed in a container wherever placed, shall be deemed to be stowed under deck for all purposes including general average.



- C. All other Goods customarily or reasonably carried on deck may, at Carrier's option, be carried on deck without further notice to Merchant and without liability to the Carrier for the risks inherent in or incident to such carriage. Such on deck carriage shall not be considered a deviation.
- D. In respect of Goods not in containers and carried on deck, and stated on this Bill of Lading to be so carried, all risks of loss or damage from perils inherent in or incident to the custody or carriage of such Goods shall be borne by the Merchant and Carrier shall not be liable for non-delivery, misdelivery delay or loss to goods carried on deck. In all respects the Carrier shall have the benefit of the provisions of applicable law and the terms of this Bill of Lading.

14. Live Animals and Plants: With respect to the custody and carriage of live animals and plants, all risks of loss or damage by perils inherent in or incident to such carriage shall be borne by the Merchant, and in all other respects the Carrier shall have the benefit of the provisions of the applicable law and the terms of this Bill of Lading.

15. Valuable Goods: The Carrier shall not be liable for any loss of or damage to precious metals, stones, or chemicals, jewelry, currency, negotiable instruments, securities, writings, documents, works of art, curios, heirlooms, or any other valuable goods, including goods having particular value only for the Merchant, unless the true nature and value of the Goods have been declared in writing by the Merchant before receipt of the Goods by the Carrier, the same is inserted on the face of this Bill of Lading and additional freight has been paid as required.

16. Heavy Lift:

- A. The weight of a single piece or package exceeding 2,240 lbs. 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.
- B. If the Merchant fails in his obligations under (A), above: (1) the Carrier shall not be responsible for any loss of or damage to in connection with the Goods; (2) the Merchant shall be liable for resulting loss of or damage to any person or property, and (3) the Merchant shall indemnify the Carrier against any resulting claim, demand, loss, damage, or liability suffered by the Carrier.
- C. Merchant shall be familiar with and comply with all laws and regulations pertinent to the transport of overweight or out-of-gauge cargo and Merchant shall indemnify and hold Carrier harmless against any claim, demand, loss, damage or liability arising from Merchant's failure to comply with any such law or regulation.

17. Delivery by Marks:

- A. The Carrier shall not be liable for failure or delaying delivery in accordance with marks, unless such marks have been clearly and durably stamped or marked upon the Goods, package, or container by the Merchant before they are received by the Carrier, in letters and numbers not less than two inches high, together with the names of the port of discharge and place of delivery. In no circumstances shall the Carrier be responsible for delivery in accordance with other than leading marks. The Merchant warrants that the marks on the Goods, packages and containers correspond to the marks shown on this Bill of Lading and also in all respects comply with all laws and regulations in force at the port of discharge or place of delivery. The Merchant shall indemnify the Carrier against all loss, damage or expenses resulting from inaccuracy or incompleteness of the marks.

18. Delivery:

- A. The Carrier shall have the right to deliver the Goods at any time, at any place designated by the Carrier, within the geographic limits of the port of discharge or place of delivery shown on the face of this Bill of Lading.
- B. The Carrier's responsibility shall cease when the Goods have been delivered to the Merchant or any other person entitled to receive the Goods on Merchant's behalf at the place designated by the Carrier. Delivery of the Goods to the custody of customs or any other public authority shall constitute final discharge of the Carrier's responsibility.
- C. In case the cargo received by the Carrier is in containers packed by or on behalf of the Merchant: (1) the Carrier shall only be responsible for delivery of the total number of containers received; and (2) the Carrier shall not be required to unpack the containers and deliver their contents in accordance with brands, marks, numbers sizes, to types of items or pieces.



- D. At the Carrier's discretion, and subject to prior arrangement between the Merchant and the Carrier, the Goods may be delivered to Merchant in the container, in which case if the container is delivered with seals intact all the Carrier's obligations under this Bill of Lading shall be deemed to have been discharged, and the Carrier shall not be responsible for any demurrage, loss or damage to the contents of the container.
- E. Carrier is not responsible to give notification, in writing or otherwise, either to Merchant or others, of the arrival, discharge, or disposition of Goods, any custom or agreement to the contrary notwithstanding, and notwithstanding any notation on the face of this Bill of Lading, concerning notification or a notify party.
- F. If Goods remain in Carrier's custody after discharge and Merchant fails to take possession in the appropriate timeframe as reflected in Carrier's applicable tariff after notice, the Goods will be considered delivered to Merchant or abandoned, at Carrier's sole option. Any disposal or storage of such goods will be at Merchant's sole risk and expense.

19. Lien:

- A. The Ocean Carrier shall have a general lien on any and all of Merchant's property in Carrier's custody, possession or control, which shall survive delivery, for all freight, charges (including costs, customs fees, attorney fees, and other fees for recovering same) chargeable to the Merchant under this Bill of Lading.. The Carrier shall also have a general and continuing lien on any and all Goods of Customer coming into Carrier's actual or constructive possession or control for monies owed to the Carrier with regard to the shipment on which the lien is claimed, a prior shipment(s) and/or both. If such claim by Carrier is unsatisfied for thirty (30) days following demand for payment, Carrier may foreclose its lien by selling the Goods privately or by public auction upon ten (10) days written notice to Merchant via registered mail to Merchant's last known address. If on sale of the Goods the proceeds fail to cover the amount due and the costs and fees incurred, the Carrier shall be entitled to recover the deficit from the Merchant. Surplus from such sale shall be paid over to Merchant.
- B. Whenever in the Carrier's reasonable opinion the Goods will become deteriorated, decayed or worthless, or reasonably appear to be abandoned, the Carrier (without responsibility to it) may at its discretion and subject to its lien, sell, abandon, or otherwise dispose of such Goods at the sole risk and expense of the Merchant.

20. Freight and Charges:

- A. Freight may be calculated on the basis of the particulars of the Goods furnished by the Merchant, who shall be deemed to have guaranteed to the Carrier the accuracy of the contents, weight, measure, or value as furnished by him at the time of receipt of the Goods, but the Carrier for the purpose of ascertaining the actual particulars may at any time and at the risk and expense of the Merchant open the container or package and examine contents, weight, measure, and value of the Goods. In case of incorrect declaration of the contents, weight, measure and or value of the Goods, the Merchant shall be liable for and bound to pay to the Carrier: (1) the balance of freight between the freight charged and that which would have been due had the correct details been given; (2) expenses incurred in determining the correct details; and (3) as liquidated and ascertained damages, an additional sum equal to the correct freight.
- B. Full freight to the port of discharge or place of delivery shall be considered as completely earned on receipt of the Goods by the Carrier, whether the freight be stated or intended to be prepaid or to be collected at destination. The Carrier shall be entitled to all freight and other charges due hereunder, whether actually paid or not and to receive and retain such freight and charges under any circumstances, whether the Vessel and/or the Goods be lost or not, or the voyage be broken up, frustrated, or abandoned at any stage of the entire transit. Full freight shall be paid on damaged or unsound Goods, without right of offset, counterclaim or deduction. Payment of freight charges by Merchant to a broker or other intermediary shall not constitute payment to Carrier. Merchant remains fully, jointly and severally liable to Carrier for all freight charges regardless of this Bill of Lading being marked "prepaid" so long as charges remain unpaid. Merchant shall bear any and all costs of collection of unpaid freight charges, including court costs and reasonable attorney's fees.
- C. Where freight is payable at the port of discharge or place of delivery, such freight and all other charges shall be paid in the currency named in this Bill of Lading, or, at Carrier's option, in other currency.



- D. Goods once received by the Carrier cannot be taken away or disposed of by the Merchant except upon the Carrier's consent and after payment of full freight and compensation for any loss sustained by the Ocean Carrier through such taking away or disposal.
- E. If the Goods are not available when the Vessel is ready to load the Carrier is relieved of any obligation to load such Goods and the Vessel may leave the port without further notice, with liability to Carrier.
- F. The Merchant shall be liable for and shall indemnify the Carrier against: (1) all dues, duties, taxes, consular fees, and other charges levied on the Goods, and (2) all fines, damages and losses sustained by the Carrier in connection with Goods, however caused, including the Merchant's failure to comply with laws and regulations of any public authority in connection with the Goods, or failure to procure consular, Board of Health, or other certifications to accompany the Goods. The Merchant shall be liable for return freight and charges on any Goods refused exportation or importation by any public authority or in connection with or arising from enforcement of any law, regulation, rule or other public authority.
- G. If the Carrier is of the opinion that the Goods are in need of sorting, inspecting, mending, repairing, or reconditioning, or otherwise require protecting or caring for, the Carrier at its discretion may, by itself or through Subcontractors, and as agent for the Merchant, carry out such work at the risk and expense of the Merchant.

21. Notice of Claim and Time for Suit:

- A. Unless notice of loss or damage, detailing with reasonable particularity the nature of such loss or damage be given in writing to the Carrier at the port of discharge or place of delivery before or at the time of delivery of the Goods or, if the loss or damage is not apparent, within 3 days after delivery, lack of such notice shall be prima facie evidence that the Goods have been delivered in good order as described in this Bill of Lading.
- B. The Carrier shall be discharged from all liability in respect of the Goods unless suit has been brought within one year after delivery of the Goods or the date when the Goods should have been delivered. Suit shall not be considered to have been "brought" within the time specified unless process shall have been served and jurisdiction properly obtained over the Carrier within such time.

22. Limitation of Liability:

- A. Subject to subpart (B) below for the purpose of determining the extent of the Carrier's liability for loss of or damage to the Goods, the Merchant agrees that the value of the Goods is the Merchant's net invoice cost, plus freight and insurance premium, if paid.
- B. Unless otherwise required by compulsory law, Carrier's liability for loss or damage to Goods shall in no instance exceed an amount of U.S. \$500 per package or per customary freight unit, unless the value (and nature) of Goods higher than this amount has been declared in writing by the Merchant, and consented to in writing by Carrier, before receipt of the Goods by the Carrier and inserted on the face of this Bill of Lading and extra freight has been paid as required in Carrier's tariff. Such value shall then be the limit of Carrier's liability. Even if the actual value of the Goods per package or unit exceeds such declared value, the value shall nevertheless be deemed to be the declared value, and the Carrier's liability, if any, shall not exceed the declared value. Any partial loss or damage shall be adjusted pro rata on the basis of such declared value. If the declared value has been willfully misstated or is markedly higher than the actual value, the Carrier shall not be liable to pay any compensation.
- C. Where the cargo has been packed into a container or unitized into a similar article of transport by or on behalf of the Merchant, it is agreed that the number of such containers or similar articles of transport shown on the face of this Bill of Lading shall be considered as the number of the packages or units for the purpose of the application of the limitation of liability provided for herein
- D. IN NO EVENT WILL CARRIER BE LIABLE FOR ANY SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES, REGARDLESS OF WHETHER CARRIER HAD NOTICE OF THE POSSIBILITY OF SUCH DAMAGES.

23. General Average:

- A. General average shall be adjusted, stated and settled at any port or place at the Carrier's option and according to the York-Antwerp Rules of 1994. The general average statement shall be prepared by the adjusters appointed by the Ocean Carrier. Average agreement or bond and such cash deposit as the Carrier may deem sufficient to cover



the estimated contribution of the Goods and any salvage and special charges thereon and any other additional securities as the Carrier may require shall be furnished by the Merchant to the Carrier before delivery of the Goods.

- B. 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 consequence of which the Carrier isn't responsible by statute, contract, or otherwise, the Goods and the Merchant shall jointly and severally contribute with the Carrier in general average to the payment of any sacrifices, loss, 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. If a salvage ship is owned or operated by the Carrier, salvage shall be paid for as fully and in the same manner as if such salvaging ship belonged to strangers.

24. Both to Blame Collision: If the Vessel comes into collision with another ship as a result of the negligence of the other ship and any act, neglect, or default of the Master, mariner, pilot, or servants of the owner of the Vessel in the navigation or in the management of the Vessel, the Merchant shall indemnify the Carrier against all loss or liability which might be incurred directly or indirectly to the other or non-carrying ship or her owners insofar as such loss or liability represents loss of or damage to his Goods or any claim whatsoever of the Merchant paid or payable by the other or non-carrying ship or her owners to the Merchant and set off, recouped, or recovered by the other or non-carrying ship or her owners as part of their claim against the carrying Vessel or its owner. The foregoing provisions shall also apply where the owners, operators, or those in charge of any ship or ships or objects other than, or in addition to the colliding ships or objects are at fault in respect of a collision or contact.

25. Carriage of Metal Products, Lumber and Cotton:

- A. The term "apparent good order and condition" when used in this Bill of Lading does not mean: (1) with reference to iron, steel, or metal products, that the Goods when received were free from visible rust or moisture; (2) with reference to lumber, timber, plywood, or other wood products, that the Goods when received were free from visible stains, discoloration, moisture, shakes, holes, chaffed, breakage or splitting. If the Merchant so requests a substitute bill of lading will be issued setting forth any notations as to the foregoing that may appear on the mate's or tally clerk's receipts or similar document.
- B. Description of the condition of cotton cargo does not relate to the sufficiency or not or condition of the covering nor to any damage, resulting therefrom. Carrier shall not be responsible for any such damage.

26. Intermodal Transportation:

- A. This Bill of Lading may be issued for Intermodal Transportation in any country. When so issued as between the Merchant and an Inland Carrier, custody and carriage of the Goods by the Inland Carrier are subject to the relevant laws, regulations, tariffs and bill of lading.
- B. Claims by the Merchant against an Inland Carrier for loss or damage shall be given and suit commenced as provided in the Inland Carrier's applicable bill of lading.

27. Ocean Carrier's Tariff and Agreement to Terms: This Bill of Lading is subject to the Carrier's applicable tariff and the terms of such tariffs are incorporated herein. Copies of the applicable tariff are obtainable from the Carrier upon request or from Carrier's website, the address of which is set forth in the U.S. Federal Maritime Commission's website at www.fmc.gov. Pursuant to U.S. Federal Maritime Commission authority, Carrier may enter into Negotiated Rate Agreements with Merchant from time to time in lieu of publishing rates and charges in a tariff. In the event any Shipment is tendered to Carrier for Carriage on any shipping document other than Carrier's Bill of Lading, Merchant agrees that Carrier's Bill of Lading shall supersede any rules, regulations or contractual terms contained on the shipping document on which the shipment was tendered. Except to the extent of any written contract between Merchant and Carrier, this shipping document supersedes and negates any claimed, alleged, or asserted oral or written contract, promise, representation, or understanding between the parties with respect to a shipment.

28. Severability: The terms of this Bill of Lading are severable and if any part or term is declared invalid or unenforceable, the validity or enforceability of any other part or term shall not be affected.



29. Himalaya Clause: All exceptions, exemptions, defenses, immunities, limitations on liability, privileges and conditions granted or provided by this Bill of Lading or by applicable tariff or by statute or for the benefit of the Carrier shall also apply to and for the benefit of the officers and employees of the Carrier and the agents, officers and crew of the Vessel and to and for the benefit of all parties performing services in connection with the Goods as agents or Subcontractors of the Carrier and the employees of each them.

30. Modifications to Contract: No agent or servant of Carrier shall have the authority to vary or waive any of the terms contained in this contract unless such change or waiver is in writing, signed by an authorized person and ratified by Carrier.

31. Law and Jurisdiction: This Agreement shall be deemed to have been drawn in accordance with the statutes and laws of the state of the State of Connecticut. The Parties agree that jurisdiction over any disputes hereunder shall be exclusively in the appropriate state or federal courts serving Fairfield County, Connecticut, and each party specifically submits to the exclusive personal jurisdiction of such courts for disputes involving this Agreement. Except as provided in this Bill of Lading, any dispute hereunder shall be governed by the laws of the State of Connecticut without giving effect to principles of conflicts of law.

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