

## CONDITIONS OF CARRIAGE

Special provisions herein override general provisions in as far as contradictory.

### 1. DEFINITIONS

In this Sea Waybill both on the front and on the reverse, the terms mentioned hereunder shall have the following meaning:

- (a) 'Carrier' means Cargow B.V. of Albert Plesmanweg 41G, Rotterdam, the Netherlands.
- (b) 'Merchant' shall include the person or firm in whose name the booking was concluded, as well as the Shipper, the Consignee, the Consignor and the Owner of the Goods.
- (c) 'Shipper' shall mean the party named in or identifiable as such from the contract of carriage
- (d) 'Consignee' shall mean the party named in or identifiable as such from the contract of carriage, or any person substituted as consignee in accordance with clause 2.7
- (e) 'Container' includes any Container, transportable tank or flat, or similar means of transport used to consolidate Goods.
- (f) 'Ship' or 'Vessel' includes any substituted Vessel and any Vessel or other means of conveyance whatsoever, owned, chartered, operated, employed or on his behalf contracted for by the Carrier.
- (g) 'Goods' mean the whole or any part of the Goods accepted from the Shipper and include any Container not supplied by or on behalf of the Carrier.
- (h) 'Ocean Transport' arises when the shipment is from one port to another without Pre- or Oncarriage but which may include storage prior and/or subsequent to the carriage in the Port of Loading or in or near to the Port of Discharge. This is to be indicated overleaf in box 5 and/or box 9.
- (i) 'Combined Transport' arises when the shipment is from one port to another with Pre- and/or Oncarriage, which is to be indicated overleaf in box 4 and/or box 10. This may include storage prior to and/or subsequent to the Sea Carriage in the Port of Loading or in or near to the Port of Discharge. This is to be indicated overleaf in box 5 and/or box 9.
- (j) 'Free Storage Period' shall mean the period of storage subsequent to the Sea Carriage in case of Ocean Transport as described in clause 3 (2) (c), or in case of Combined Transport as described in clause 3 (3) (b) hereof, the duration whereof is to be indicated overleaf in box 8. The day of commencement of discharge of the Goods carried hereunder counts as the first storage day. A storage day starts at 00.00h and ends at 24.00h Local Time.
- (k) 'Hague Rules' shall mean the International Convention for the unification of certain rules of law relating to Bills of Lading (Brussels August 25, 1924).

(l) 'Hague-Visby shall mean The Hague Rules as amended by the Protocol done at Brussels on February 23, Rules' 1968.

(m) 'Hamburg shall mean the United Nations Convention on the Carriage of Goods by Sea 1978 or legislation Rules' making such rules compulsorily applicable.

## 2. SEA WAYBILLS

(1) The Merchant warrants that in accepting this Sea Waybill he agrees to the terms hereof and that he is, or has the authority of the person, owning or entitled to the possession of the Goods, or has (the authority of any person who has) a present or future interest in the Goods.

(2) This Sea Waybill can be used for Ocean Transport and Combined Transport, with or without carriage or storage prior or subsequent to the Sea Carriage to or from, respectively in or near to the Port of Loading or Discharge, which is to be indicated on the face hereof, in accordance with the actual situation and with the definitions under clause 1 hereof.

(3) The titles of clauses herein are printed for Merchant's convenience only and said titles shall not be considered binding for purposes of construing or interpreting any clause and/or term and/or word.

(4) No servant or Agent of the Carrier shall have the power to waive or vary any of the terms hereof unless such waiver or variation is in writing and specifically authorized or ratified in writing by the Carrier.

(5) In no event shall the Carrier be liable for any loss or damage resulting from issuing a Sea Waybill containing incorrect or erroneous statements. The Merchant is not entitled to issue or use self-printed or self-made stamps. The Merchant shall be liable for all consequences (including any loss or damage whatsoever), howsoever arising from the issuance or use of self made or self-printed stamps.

(6) The Shipper upon entering into the contract of carriage does so not only on his own behalf but also as agent for and on behalf of the Consignee, and warrants to the Carrier that he has authority to do so.

(7) (a) Unless the Shipper has exercised his option under subparagraph (b), he shall be the only party entitled to give the Carrier instructions in relation to the contract of carriage. He shall be entitled to change the name of the Consignee at any time up to the Consignee claiming delivery of the Goods after their arrival at destination, provided he gives the Carrier reasonable notice in writing, thereby undertaking to indemnify the Carrier against any additional expense caused thereby.

(b) The Shipper shall have the option, to be exercised not later than the receipt of the Goods by the Carrier, to transfer the right of control to the Consignee. The exercise of this option must be noted on the Sea Waybill or similar document, if any. Where the option has been exercised, the Consignee shall have such rights as are referred to in subparagraph (a) and the Shipper shall cease to have such rights.

### 3. CARRIER'S RESPONSIBILITY

#### (1) General provisions

##### (a) Clause Paramount

This Sea Waybill is subject to the CMI Uniform Rules for Sea Waybills.

Subject to article 8 and to par(3) of this article below, this Sea Waybill in so far as it relates to Sea Carriage shall have effect subject to the Hague Rules or any legislation making such Rules or the Hague-Visby Rules compulsorily applicable (such as COGSA) to this Sea Waybill and the provisions of the Hague Rules or applicable legislation shall be deemed incorporated herein. The Hague Rules shall apply to the carriage of Goods by inland waterways and reference to carriage by sea in such Rules or legislation shall be deemed to include reference to inland waterways. Where the Hamburg Rules apply, the same shall be deemed incorporated herein, but only to the extent that the said Rules apply compulsorily.

##### (b) Period of Responsibility

If the 'Place of Receipt for Precarriage' and 'Storage before Sea carriage' (box 4 and 5) are not named on the face hereof, the Carrier shall be under no liability whatsoever for loss of or damage to the Goods, howsoever occurring, if such loss or damage arises prior to loading onto the Vessel, which will mean when the tackle of the Ship is connected with the Goods for loading, or, in case of shore cranes being used, when the Goods cross the Ship's rail, unless the Sea Waybill reads FIS, "Free in stowed", in which case the Carrier will not be liable prior to disconnection of the tackle and loading, stowing and/or trimming of the Goods in the Vessel's holds, as the case may be.

If the 'Free Storage Period' and 'Place of Storage after Sea Carriage' and 'Place of Delivery after Oncarriage' (box 8, 9 and 10) are not named on the face hereof, the Carrier shall be under no liability whatsoever for loss of or damage to the Goods, howsoever occurring, if such loss or damage arises subsequent to discharge from the Vessel, which will mean when the tackle is disconnected in the process of discharging or, in case shore cranes are being used, when the Goods cross the Ship's rail, unless the Sea Waybill reads FIOS or LIFO "Free in and out stowed", resp. "Liner in free out", in which case the Carrier's liability will end with the opening of the vessel's hatches in the Port of Discharge but in any case with the commencement of the discharge.

##### (c) Limitation of liability

The Carrier shall be entitled to (and nothing herein shall operate to deprive or limit such entitlement) the full benefit of, and rights to, all limitations of and exclusions from liability and all rights conferred or authorized by any applicable law, statute or regulation of any country and without prejudice to the generality of the foregoing also any law, statute or regulation available to the Owner of the Vessel(s) on which the Goods are carried.

##### (d) Delay/consequential damage

The Carrier does not undertake that the Goods shall arrive at the Port of Discharge or the Place of Delivery at any particular time or to meet any particular market or use. Schedules or other predictions of estimated time of arrival do not constitute an agreement to deliver the Goods at any particular time. The Carrier shall neither be liable for any loss sustained by the Merchant through delay of the Goods, unless, but then only to such extent that the contract of carriage is compulsorily subject to the Hamburg Rules, nor shall the Carrier be liable for any indirect or consequential loss or damage or for loss of profits, howsoever and whenever caused.

## (2) Special Provisions: Ocean Transport

### (a) Ocean Transport without storage prior and subsequent to the carriage.

In case of Ocean Transport as per clause 1 (h), not including storage prior, nor subsequent to the carriage in the Port of Loading or Discharge as per paragraph (1) of this clause, the liability of the Carrier for loss of or damage to the Goods shall not commence before loading and shall cease after discharging, all as described in paragraph (1) sub (b) of this clause. Goods in the custody of the Carrier before loading and after discharge whether being forwarded to or from the Ship or whether awaiting shipment, landed, or stored, or put into trucks, railway wagons and/or any other means of conveyance or craft belonging to the Carrier or not, or pending transshipment, are in such custody at the sole risk of the Merchant, and the Carrier, as Carrier or in any other capacity whatsoever, shall not be liable for loss or damage arising or resulting from any cause whatsoever, such leaving unaffected all the Carrier's remedies and defences. In case of Ocean Transport, compulsorily subject to the Hamburg Rules, the period of responsibility shall be limited to the time that the Carrier is in charge of the Goods.

### (b) Ocean Transport with storage prior to the Sea Carriage.

In case of Ocean Transport, including storage prior to the carriage in the Port of Loading as indicated in box 4 overleaf, the liability of the Carrier for loss of or damage to the Goods shall commence at the moment that the Goods have been taken into custody for storage by the Carrier in the place designated for storage. Unless paragraph (2) (c) hereof applies as well, liability shall cease as described above in paragraph (2) (a) hereof.

### (c) Ocean Transport with storage subsequent to the Sea Carriage.

In case of Ocean Transport, including storage subsequent to the carriage in or near to the Port of Discharge as indicated in box 9 overleaf, the liability of the Carrier for loss of or damage to the Goods shall commence as per paragraphs (2) (a) or (b) above, as the case may be, and continue after discharge from the Vessel for a maximum period of the Free Storage Period, during which period the Carrier will arrange for proper storage of the Goods. In case the Merchant does not take delivery of the Goods prior to the termination of the Free Storage Period, the Goods will be deemed to have been placed at the disposal of the Merchant and delivered on the moment and in the manner as described in clause 9 (2) hereof, and the Carrier will be relieved from all liability.

### (3) Special Provisions: Combined Transport.

#### (a) General

In case of Combined Transport, as per clause 1 (i), the Carrier undertakes to perform and/or in his own name to procure performance of the Carriage from the Place of Receipt for Precarriage or the Port of Loading, to the Port of Discharge or the Place of Delivery, and, save as is otherwise provided herein the Carrier shall be liable for loss or damage occurring during the carriage to the extent set out below.

(I) If the stage of the carriage where loss or damage occurred is not known:

#### (A) Exclusions

The Carrier shall in any case be relieved from liability for any loss or damage if such loss or damage has resulted from:

- (i) an act or omission of the Merchant,
- (ii) insufficiency of or defective condition of packing or marking,
- (iii) handling, loading, stowage or unloading of the Goods by or on behalf of the Merchant,
- (iv) compliance with instructions of the person entitled to give them
- (v) inherent vice of the Goods,
- (vi) strike, lock-out, stoppage or restraint of labour,
- (vii) a nuclear incident,
- (viii) any cause or event which the Carrier could not avoid and the consequences whereof he could not prevent by the exercise of reasonable diligence.

#### (B) Burden of proof

The Burden of proof that loss or damage was due to one or more of the causes or events specified in this paragraph (3) (a) (I) (A) shall rest upon the Carrier, save 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, specified in this paragraph (3) (a) (I) (A) (ii), (iii), (iv) or (v). 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 these causes or events.

(II) If the stage of the carriage where the loss or damage occurred is known:

Notwithstanding anything provided for in paragraph (3) (I) and subject to clause 8, if it is known during which stage of the carriage or storage the loss or damage has occurred, the liability of the Carrier in respect of such loss or damage shall be determined:

(A) by any international convention or national law the provisions of which

(i) cannot be departed from by private contract to the detriment of the Merchant; and

(ii) would have applied if the Merchant had made a separate and direct contract with the Carrier in respect of the particular stage of the carriage or storage where the loss or damage has occurred and had received as evidence thereof any particular document which must be issued in order to make such international convention or national law applicable; or

(B) by the Hague (Visby) Rules (or COGSA, if applicable) in case no international convention or national law is applicable, if the loss or damage is known to have occurred at sea or on inland waterways; or

(C) by the provisions of paragraph (3) (a) (I) if the provisions of paragraph (3) (a) (II) (A) and (B) above do not apply.

For the purpose of this paragraph (3) (a) (II), references in the Hague (Visby) Rules (or COGSA) or Hamburg Rules shall be construed accordingly.

(b) Combined Transport with storage subsequent to the Sea Carriage

When, in the course of Combined Transport, the Goods are to be stored subsequent to the Sea Carriage in the Port of Discharge as indicated overleaf in box 9, such storage will be for a maximum period of the Free Storage Period as indicated overleaf in box 8. The Merchant is to instruct the Carrier or his Agent ultimately 5 working days before termination of that period whether the Goods are to be oncarried to destination as described overleaf, failing which the Goods will be deemed to have been placed at the disposal of the Merchant on the moment and in the manner as described in clause 9 (2) hereof, and the Carrier will be relieved from all liability. The Carrier will thereafter act as forwarding Agent only. No claim will be acknowledged by the Carrier for damage or loss arising during any further storage and/or any subsequent part of the transport even though the freight for the whole transport has been collected by him. Freight received, as far as relating to further storage and/or carriage, will be considered to be forwarding commission and expenses.

#### 4. DESCRIPTION AND PARTICULARS OF GOODS

(1) The description and particulars of the Goods set out on the face hereof are furnished by the Merchant and are unknown to the Carrier who has no knowledge of the number, weight, contents, measure, quantity, condition, marks, numbers and value of the Goods and who shall be under no responsibility whatsoever in respect of, nor be bound by, such description and particulars.

(2) The Merchant warrants to the Carrier that the particulars relating to the Goods as set out on the face hereof, and any other particulars furnished by or on behalf of the Merchant, are correct, and the Merchant shall indemnify the Carrier against all loss, delay, damages and expenses, including any fines, arising or resulting from inaccuracies in or inadequacy of such particulars.

(3) Particularly the Merchant warrants to the Carrier that no drugs and/or other contraband will be hidden in or form part of or are being packed with or within the Goods. In case of breach of this warranty the Merchant shall indemnify the Carrier as set out in paragraph (2) above.

## 5. CONTAINERS, OPTIONAL STOWAGE, CONSOLIDATION

(1) Goods may be stowed by the Carrier as received, or, at the Carriers' option by means of pallets, Containers or by any other means of transport used to consolidate Goods.

(2) The Goods, whether stowed as aforesaid or not or received in a stowed condition from the Merchant, may be carried on or under deck without notice to the Merchant.

(3) Unless stated on the face hereof as being carried on deck at Merchant's risk, as per clause 8, the liability of the Carrier for Goods carried on deck shall be governed by the Hague or Hague Visby Rules, as applicable and incorporated herein, or the Hamburg Rules where and to the extent that same apply compulsorily, and the Goods so carried shall contribute in General Average, Salvage and Salvage charges.

(4) If the means of consolidated transport accepted for transportation is Containers and the contents were packed and stowed inside the Container by or on behalf of the Merchant and not by or on behalf of the Carrier:

(a) The Carrier shall be under no liability in the event of loss of or damage to any of the Goods directly or indirectly caused by the manner in which the contents have been packed and/or stowed inside the Containers or by the unsuitability of the contents for Container carriage or by the unsuitability or defective condition of the Container, provided that, if the Container has been supplied by the Carrier this unsuitability or defective condition could have been apparent upon reasonable inspection by the Merchant at or prior to the the time the Container was packed.

(b) The Merchant hereby agrees to indemnify the Carrier against any loss, costs or expenses which the Carrier may suffer, or liability to any person which the Carrier may incur, on account of personal injury or loss of or damage to any property due to the manner in which the contents have been packed and/or stowed inside the Container or due to the unsuitability or defective condition of the Container provided that, if the Container has been supplied by the Carrier this unsuitability or defective condition could have been apparent upon reasonable inspection by the Merchant at or prior to the the time the Container was packed.

(c) The Merchant further agrees to indemnify the Carrier against any additional expenses, fines, duties and taxes which the Carrier may incur by reason of errors or omissions in the marks, numbers or descriptions of the Containers or its contents.

(d) Any means of consolidated transport in or on which Goods have been stowed shall be deemed for all purposes to constitute one package or unit only and the liability of the Carrier shall not exceed the limit of liability as per clause 3 (1) (c) hereof.

(e) The Carrier shall be entitled, but under no obligation, to open any Container, whether sealed or not, at any time and to inspect the contents. If it thereupon appears that the contents or any part thereof cannot safely or properly be carried or carried further either at all or without incurring any additional expense or taking any measures in relation to the Container or its contents or any part thereof, the Carrier may abandon the transportation thereof and/or take any measures and/or incur any reasonable additional expense to carry or continue the carriage or to store the same ashore or afloat under cover or in the open, at any place, which storage shall be deemed to constitute the placing at the disposal of the Merchant and the delivery hereunder. The Merchant shall indemnify the Carrier against any reasonable additional expenses so incurred.

(f) The Carrier has no responsibility whatsoever for the functioning of reefer Containers or trailers, not owned or leased by the Carrier.

## 6. SUBSTITUTION OF VESSEL, TRANSSHIPMENT AND FORWARDING

The Carrier shall be at liberty to subcontract on any terms 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, to carry the Goods to their port of destination by the said or other Vessel or Vessels either belonging to the Carrier or others, or by other means of transport, proceeding either directly or indirectly to such port and to carry the Goods or part of them beyond their port of destination, and to transship, lighter, land and store the Goods either on shore or afloat and reshipe and forward the same to destination.

## 7. ROUTES OF TRANSPORTATION

The intended voyage shall not be limited to the direct route but shall be deemed to include any proceeding and returning to or stopping or slowing down at or off any ports or places for any purpose connected with the service including bunkering and/or maintenance of Vessel and/or matters relating to the Crew.

## 8. DECK GOODS

(1) Goods (not being stowed in Containers) carried or to be carried on deck and stated herein to be so carried are received, stowed, carried, kept, discharged, delivered and otherwise handled at the Merchant's risk and the Carrier shall not be liable for any loss, damage, injury, illness, death and/or delay of whatever nature and howsoever caused, even if due to unseaworthiness or unfitness of the Vessel or other means of transport or to negligence on the part of the Carrier, its employees, Agents, or sub-contractors or in the case of deviation.

(2) The Merchant's approval (when or where required) of initial or subsequent stowage of the Goods in Containers on deck shall be deemed to be given by acceptance hereof, whether or not the Goods are stated herein to be carried on deck.

## 9. LOADING, DISCHARGING, NOTIFICATION, DELIVERY AND OPTIONS

### (1) General Provisions

(a) Loading on and discharging from the means of transport may commence without prior notice.

(b) Any mention herein of parties to be notified of the arrival of the Goods is solely for Carrier's convenience. No liability attaches to the Carrier for failure to give such notification or any other notification in connection with the Carriage hereunder, nor does such failure relieve the Merchant of any obligation hereunder.

(c) The Goods contracted for shipment shall be brought alongside the Ship ready for loading either on the quay, midstream or in open roads, at the latest upon arrival of the Ship. Goods contracted for Combined Transport shall be ready for loading upon arrival of the means of transport at the Place of Receipt for Precarriage.

(d) The Goods shall be loaded as fast as the Ship or other means of transport can receive, also, if requested, outside the ordinary working hours, during the night, on Saturdays, Sundays and Holidays, notwithstanding any custom of the port, any extra expenses incurred thereby to be borne by the Merchant, unless expressly agreed otherwise.

(e) If any Goods contracted for carriage are not available when the Ship or other means of transport is ready to load, the Ship or other means of transport is not obliged to wait for and/or load such Goods and is, without prejudice to the right of claiming time lost for waiting, at liberty to continue its voyage or depart for other purposes without further notice, and the Merchant will have to pay deadfreight. The Merchant cannot appoint the loading places.



(f) If the Merchant for whatsoever reason fails to take delivery of the Goods or any part thereof at the time and place when and where the Carrier is entitled to call upon the Merchant to take delivery thereof and/or otherwise to take delivery in accordance with the conditions hereof, or if he fails to do so promptly, the Ship or other means of transport shall be at liberty and/or the Carrier shall be entitled, with or without notice, to deposit the Goods or that part thereof in lighters, on quay or wharf, in warehouses or in Custom houses or the like, and/or to unstow the Goods or that part thereof and/or store the Goods or that part thereof ashore, afloat, in the open or under cover, which shall constitute due delivery under the contract of carriage by placing the Goods at the disposal of the Merchant, and the Carrier's liability in respect of the Goods or that part thereof deposited, unstowed or stored as aforesaid (as the case may be) shall thereupon wholly cease, and any and all costs and expenses after such delivery (if paid or payable by the Carrier or any Agent or sub-contractor) shall upon demand forthwith be paid by the Merchant to the Carrier.

(g) Furthermore, the quay and port dues charged on the basis of the Goods shall be for Merchant's account, along with any additional expenses resulting from the Ship or discharge being delayed as a consequence of the way of stowing.

(h) The Carrier shall deliver the Goods to the Consignee or his authorised agent upon production of proper identification (and, in the case of an agent, reasonable proof of authority) without production of this Sea Waybill. The Carrier shall be under no liability whatsoever for wrong delivery when he has exercised reasonable care to ascertain that the party claiming to be the Consignee or an authorised agent is in fact that party.

#### (2) Delivery after storage

(a) When it has been agreed and as indicated in box 9 overleaf, that after discharge from the Vessel in the Port of Discharge, the Goods will be stored in a warehouse there, the Goods will so remain stored at the risk and expense of the Carrier for a maximum period of the Free Storage Period.

(b) The Merchant will, in case of Ocean Transport with a Free Storage Period as described in clause 3 (2) (c) have to take delivery of the Goods ultimately within the mentioned period, in the manner as set out herein, and, in case of Combined Transport with storage subsequent to the Sea Carriage in the Port of Discharge as described in clause 3 (3) (b) shall give timely instructions for On-carriage to Place of Delivery as described above in the mentioned clause, failing which the Goods will be deemed to have been placed at the disposal of the Merchant at 24.00 hrs. local time of the last day of the Free Storage Period, whereafter the Goods will remain stored at the warehouse at the risk and the expense of the Merchant, (also) under applicability of the general trading conditions (if any) of the relevant storage facility, and the Carrier will be relieved from any and all liability, without prejudice however to all the Carrier's rights and remedies as set out herein and/or any (other) legislation in force, and, in case of Combined Transport, the Carrier will thereafter act as forwarding Agent only.

#### 10. APPORTIONMENT

The Carrier or his Agents may at their discretion sell unclaimed and perishable Goods forthwith and frozen or other unclaimed Goods after three months from date of discharge and payment to the Owners of the Goods of the net proceeds of the sale less freight, expenses and charges, if any, shall free the Carrier from all liability.

#### 11. DANGEROUS GOODS

(1) When the Merchant hands Goods of a dangerous nature to the Carrier, he shall inform him in writing of the exact nature of the danger and indicate, if necessary, the precautions to be taken.

(2) Goods of a dangerous nature which the Carrier did not know were dangerous, may, at any time or place, be unloaded, destroyed or rendered harmless without any compensation; and the Merchant shall be liable for all expenses, loss or damage, arising out of the handing over for carriage, or out of the carriage of such Goods.

(3) If any Goods shipped with the knowledge of the Carrier as to their dangerous nature shall become a danger to the Ship or the Goods, they may in the like manner be landed at any place or destroyed or rendered innocuous by the Carrier without any liability on the part of the Carrier except to General Average, if any.

#### 12. CARRIAGE AFFECTED BY CONDITION OF GOODS, CUSTOMS REGULATIONS

(1) If it appears at any time that the Goods cannot safely or properly be carried or on-carried further, either at all or without incurring any additional expense or taking any measure(s) and/or incur any additional expenses to carry or to continue the carriage thereof, and/or abandon the carriage and/or store the same ashore or afloat, under cover or in the open, at any place, which abandonment or storage shall be deemed to constitute the placing at the disposal of the Goods to the Merchant and due delivery hereunder. The Merchant shall indemnify the Carrier against any additional expense so incurred.

(2) The Merchant is obliged to comply with all regulations and requirements of port, customs or any other authorities, to provide Carrier with such information as it may reasonably require to comply with such regulations and requirements, and to pay and/or indemnify the Carrier and/or the Owners of other Goods on board for detention of a Ship or Goods and for all costs, losses, damages, duties, fines of whatever nature, incurred or suffered in consequence of the non-observance, incorrect fulfilment, non-provision or non-timely provision thereof.

(3) If the Goods are not permitted to be delivered or imported, the Carrier shall be at liberty to dispose thereof, even by destroying, or to bring back or to reship such Goods to the Port of Loading or any other port, all at the risk and expense of the Merchant. The Carrier shall then be considered as having complied with all his obligations under this contract, and the Goods will be deemed to have been placed at the disposal of the Merchant.

#### 13. FREIGHT AND OTHER CHARGES

(1) Freight is due, and shall be considered as fully earned and non returnable in any event, upon receipt of the Goods by the Carrier for Ocean Transport or Combined Transport, respectively for storage prior to such carriage or transport, Ship and/or Goods lost or not lost, whether the Goods arrive in sound, damaged or in leaking condition.

(2) Freight is due, whether the Carrier acts as Carrier or (in part or in whole) as Forwarder only, in accordance with clause 3 (3) (b) hereof.

(3) The Freight payable hereunder has been calculated and based on particulars furnished by or on behalf of the Merchant. The Carrier may at any time open any Container or package in order to count, inspect, reweigh, remeasure or revalue the Contents; and, if the particulars furnished by or on behalf of the Merchant are incorrect, it is agreed that the Carrier is entitled to claim, as liquidated damages to the Carrier, double the amount of Freight which would have been due if such declaration had been correctly furnished, notwithstanding any other sum having been stated herein as Freight payable. For the purpose of ascertaining the actual facts, the Carrier reserves the right to obtain from the Merchant the original invoice and to have the contents inspected and the weight, measurement or value verified, all expenses being paid by the Merchant unless the description of the Goods is found to be correct.

(4) Freight, demurrage, detention, deadfreight and all Charges must be paid without any

counterclaim, deduction or set-off before delivery of the Goods to the Merchant. The Carrier's claim for any Charges under this contract shall be payable as soon as they have been incurred. Interest at 12% per annum or pro-rata shall run from the date Freight and Charges, however named, are due. In any event the persons denominated "Merchant" are jointly and severally liable for Freight, additional and any Charges due in connection with the performance of this contract of carriage.

(5) The Merchant is liable for expenses of fumigation, of gathering and sorting loose Goods, of weighing on board and expenses incurred in repairing damage to and replacing of packing, and for all expenses caused by extra handling of the Goods for any reason whatsoever.

(6) Furthermore any dues, duties, taxes and Charges which under any denomination may be levied on any basis shall be paid by the Merchant.

(7) Freight and Charges shall be paid in the currency in which the Goods are freighted or at Carrier's option in the currency of the country of the Port of Loading or Port of Discharge, in each case converted at the highest rate of exchange on the date of booking or shipment or date of payment, whichever is the higher.

(8) The remark "freight prepaid" is only valid if signed by the Carrier or his Agents.

(9) The Carrier is not responsible for the payment or collection of whatsoever taxes, dues etc. on the Goods and/or freight and/or the Vessel having cargo on board. Such levies to be paid by the Merchant.

#### 14. LIEN

The Carrier shall have a lien on the Goods and on any documents relating thereto for any amount due by the Merchant under this contract and any earlier contracts and the costs of recovering what is due to the Carrier and shall be entitled to sell the Goods by public auction or privately, without notice to the Merchant.

#### 15. BOTH TO BLAME COLLISION AND NEW JASON CLAUSES

Both to Blame Collision and New Jason clauses as recommended by Bimco, latest version, shall be deemed to be incorporated herein.

#### 16. GENERAL AVERAGE AND SALVAGE

(1) General Average to be adjusted at any port or place at Carrier's option and to be settled in Rotterdam according to the York-Antwerp Rules 1994, or any modifications thereafter. 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 is not responsible by statute, contract or otherwise, the Merchant shall contribute with the Carrier in General Average to the payment of any sacrifice, losses or expenses of a General Average nature that may be made or incurred, and shall pay Salvage, Salvage charges and other charges incurred in respect of the Goods.

(2) If a salving Vessel is owned or operated by the Carrier, Salvage shall be paid for as fully as if the salving Vessel or Vessels belonged to third parties.

(3) The Merchant shall be liable for the payment of the General Average Contributions of the Goods and/or any Salvage and/or special charges thereon as well as for making such deposits to the Carrier as the Carrier may deem sufficient to cover the estimated amount of such contribution and/or Salvage and/or charges. Such payments and deposits shall not prejudice Carrier's lien on the Goods and shall be made as required by the Carrier before or after delivery of the Goods.

(4) The Merchant shall be obliged to declare on Carrier's request the value of the Goods for

the purpose of determining the aforesaid amounts.

(5) The Merchant agrees that damage to and expenses and sacrifices incurred by the Vessel, even if caused by the inherent vice or unseaworthiness of the Vessel, or by fault or neglect of the Master or Crew, shall be considered as matters of General Average and shall be contributed to the Merchant accordingly.

#### 17. EXEMPTIONS AND IMMUNITIES OF ALL SERVANTS AND AGENTS OF THE CARRIER

(1) It is hereby expressly agreed that no servant or Agent of the Carrier (including every independent contractor from time to time employed by the Carrier) shall in any circumstances whatsoever be under any liability whatsoever to the Merchant for any loss, damage or delay arising or resulting directly or indirectly from any act, neglect or default on his part while acting in the course of or in connection with his employment and without prejudice to the generality of the foregoing provisions in this clause, every exemption, limitation, condition and liberty herein contained and every right, exemption from liability, defence and immunity of whatsoever nature applicable to the Carrier or to which the Carrier is entitled hereunder shall also be available and shall extend to protect every such servant or Agent of the Carrier acting as aforesaid. For the purpose of all the foregoing provisions of this clause the Carrier is or shall be deemed to be acting as Agent or trustee on behalf of and for the benefit of all persons who are or might be his servants or Agents from time to time (including independent contractors as aforesaid) and all such persons shall to this extent be or be deemed to be parties to the contract evidenced hereby.

(2) The Carrier shall be entitled to be paid by the Merchant on demand any sum recovered or recoverable by the Merchant or any other from such servant or Agent of the Carrier for any such loss, damage or delay or otherwise.

#### 18. GOVERNMENT DIRECTIONS, WAR, EPIDEMICS, ICE, STRIKES, ETC.

(1) The Master and the Carrier shall have liberty to comply with any order or directions or recommendations in connection with the transport under this contract given by any Government or Authority, or anybody acting or purporting to act on behalf of such Government or Authority, or having under the terms of the insurance on the Vessel the right to give such orders or directions or recommendations.

(2) Should it appear that the performance of the transport would expose the Vessel or any Goods on board to risk of seizure or damage or delay, resulting from war, warlike operations, blockage, blockade, riots, civil commotions or piracy, or would expose any persons on board to the risk of loss of life or freedom, or that any such risk has increased, the Goods to be discharged at the Port of Loading or any other convenient port at Master's discretion.

(3) Should it appear that epidemics, quarantine, ice, labour troubles, labour obstructions, strikes, lockouts, any of which on board or on shore, difficulties in loading or discharging would prevent the Vessel from leaving the Port of Loading or reaching or entering the Port of Discharge or there discharging in the usual manner and leaving again, all of which safely and without delay, the Goods to be discharged at the Port of Loading or any other convenient port at Master's discretion.

(4) The discharge under the provisions of this clause of any Goods for which a Sea Waybill has been issued shall be deemed due fulfillment of the contract. If in connection with the exercise of any liberty under this clause any extra expenses are incurred, they shall be paid by the Merchant in addition to the freight, together with return freight if any and a reasonable compensation for any extra services rendered to the Goods.

(5) If any situation referred to in this clause may be anticipated, or if for any such reason the

Vessel cannot safely and without delay reach or enter the loading port or must undergo repairs, the Carrier may cancel the contract before the Sea Waybill is issued.

(6) The Merchant shall be informed as soon as practicable.

#### 19. JURISDICTION/APPLICABLE LAW

(1) All actions under this contract of carriage against the Carrier shall exclusively be brought before the competent Court at Rotterdam, the Netherlands.

(2) In as far as anything has not been dealt with by the terms and conditions hereof, Dutch Law shall apply.

#### 20. NOTICE OF CLAIM, TIME BAR

(1) The Carrier shall be deemed prima facie to have delivered the Goods as described herein 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 hereof) before or at the time of removal of the Goods into the custody of the person entitled to delivery thereof hereunder, or if the loss or damage is not apparent, within three working days after delivery.

(2) In any event the Carrier shall be discharged from all liability in respect of loss or damage unless suit is brought within one year after delivery of the Goods or the date when the Goods should have been delivered, resp. two years in as far as the Hamburg Rules apply compulsory.

(3) In the case of any actual or apprehended loss or damage the Carrier and the Merchant shall give all reasonable facilities to each other for inspecting and tallying the Goods.

(4) The Carrier shall not be liable to pay any compensation if the nature or the value of the Goods has been willfully misstated. The above includes claims in the nature of General Average.

(5) This clause in its entirety shall also apply in any case of loss sustained as a result of mis-delivery, non-delivery, wrongful delivery or delivery to any person whomsoever not entitled to the Goods.

#### 21. WAIVERS

Nothing herein shall operate to limit or deprive the Carrier of any statutory protection or exemption from, or limitation of, liability or to increase his responsibilities or liabilities under any statute.

#### 22. VALIDITY

In the event that anything contained herein is inconsistent with any applicable international convention or national law which cannot be departed from by private contract, the provisions hereof shall to the extent of such inconsistency but no further be null and void.