

Combined Transport Bills of Lading

RECEIVED in apparent external good order and condition except as otherwise noted the total number of Containers or other packages or units enumerated below(*) for transportation from the Place of Receipt to the Place of Delivery subject to the terms hereof.

One of the original Bills of Lading must be surrendered duly endorsed in exchange for the Goods or Delivery Order unless otherwise provided herein.

In accepting this Bill of Lading the Merchant expressly accepts and agrees to all its terms whether printed, stamped or written, or otherwise incorporated, notwithstanding the non-signing of this Bill of Lading by the Merchant.

IN WITNESS whereof the number of original Bills of Lading stated below have been signed, one of which being accomplished, the other(s) to be void.

(Terms of Bill of Lading continued on the back hereof)

1. DEFINITIONS

“Carrier” means Mitsui O.S.K. Lines, Ltd. on whose behalf this Bill of Lading has been signed.

“Merchant” includes the Shipper, Holder of this Bill of Lading, Consignee, Receiver of the Goods, any Person owning or entitled to the possession of the Goods or of this Bill of Lading and anyone acting on behalf of any such Person.

“Person” includes an individual, group, company or other entity.

“Sub-Contractor” includes owners and operators of Vessels and space providers of Vessels (other than the Carrier), stevedores, terminal and groupage operators, inland carriers, road, rail and air transport operators, any independent contractor directly or indirectly employed by the Carrier in performance of the Carriage, their respective servants and agents, and anyone assisting the performance of the Carriage.

“indemnify” includes defend, indemnify and hold harmless.

“Goods” means the whole or any part of the cargo received from the Shipper and includes any equipment or Container not supplied by or on behalf of the Carrier.

“Container” includes any container, trailer, transportable tank, flat or pallet and any equipment thereof or connected thereto.

“Carriage” means the whole or any part of the operations and services undertaken by the Carrier in respect of the Goods under this Bill of Lading.

“Freight” includes all charges payable to the Carrier in accordance with the applicable Tariff and this Bill of Lading.

“Hague Rules” means the provisions of the International Convention for the Unification of Certain Rules relating to Bills of Lading signed at Brussels on 25th August, 1924 and includes the amendments by the Protocol signed at Brussels on 23rd February, 1968, and the amendments by the Protocol signed at Brussels on 21st December, 1979, but only if such amendments (hereinafter collectively called “the Visby Amendments”) are compulsorily applicable to this Bill of Lading (It is expressly provided that nothing in this Bill of Lading shall be construed as contractually applying the Visby Amendments).

“Waterborne Carriage” means the Carriage by sea or water, and includes the period during which the Goods are under the custody of the Carrier for the Carriage at the sea/water terminal of the Port of Loading or of the Port of Discharge, whether or not on board the Vessel.

“Port of Loading” means a port or place so named overleaf or any other port or place where the Goods are loaded onto the Vessel for the Carriage.

“Port of Discharge” means a port or place so named overleaf or any other port or place where the Goods are discharged from the Vessel for the Carriage.

“Place of Receipt” means a place so named overleaf where the Goods are received by the Carrier for the Carriage.

“Place of Delivery” means a place so named overleaf or any other place where the Goods are delivered by the Carrier to the Merchant in accordance with the terms hereof.

“Vessel” means the Ocean vessel named overleaf and includes vessel, ship, craft, lighter or other means of transport by sea or water which is or shall be substituted, in whole or in part, for the Ocean vessel named on the face hereof.

2. CARRIER'S TARIFF

The terms of the Carrier's applicable Tariff are incorporated herein. Copies of the relevant provisions of the applicable Tariff are obtainable from the Carrier upon request. In the case of inconsistency between this Bill of Lading and the applicable Tariff, this Bill of Lading shall prevail.

3. LIMITATION STATUTES

Nothing in this Bill of Lading shall operate to limit or deprive the Carrier of any statutory protection or exemption or limitation of liability authorized by any applicable laws, statutes or regulations of any country. The Carrier shall have the benefit of the said laws, statutes or regulations as if it were the owner of the Vessel.

4. SUB-CONTRACTING AND INDEMNITY

- (1) The Carrier shall be entitled to sub-contract the Carriage on any terms whatsoever.
- (2) The Merchant undertakes that no claim or allegation shall be made against any servant, agent or Sub-Contractor of the Carrier which imposes or attempts to impose upon any of them, or upon any vessel owned or operated by any of them, any liability whatsoever in connection with the Goods, and, if any such claim or allegation should nevertheless be made, to indemnify the Carrier against all consequences thereof. Without prejudice to the foregoing, every such servant, agent and Sub-Contractor shall have the benefit of all provisions herein benefiting the Carrier as if such provisions were expressly for their benefit; and, in entering into this contract, the Carrier, to the extent of those provisions, does so not only on its own behalf, but also as agent and trustee for such servants, agents and Sub-Contractors.
- (3) The provisions of Clause 4 (2) including but not limited to the undertakings of the Merchant contained therein, shall extend to claims or allegations of whatsoever nature against other Persons chartering space on the carrying Vessel.

5. CARRIER'S RESPONSIBILITY

The Carrier shall not be responsible for loss or damage to the Goods occurring before the receipt of the Goods by the Carrier at the Place of Receipt or after the delivery of the Goods to the Merchant and the Carrier shall be liable for loss or damage to the Goods occurring between the time when he receives the Goods for transportation at the Place of Receipt and the time of delivery only to the extent set out below.

- (1) If the stage of the Carriage during which the loss or damage occurred can be proved, the liability of the Carrier shall be determined:
 - (a) if the loss or damage is proved to have occurred during the Waterborne Carriage, by the Hague Rules, Articles 1-8 inclusive, but excluding Article 1(e),
 - (b) except where the loss or damage is proved to have occurred during the Waterborne Carriage, by the provisions contained in any international convention or national law which provisions,
 - 1) cannot be departed from by private contract to the detriment of the Merchant; and
 - 2) would have applied if the Merchant had made a separate and direct contract with the Carrier in respect of the particular stage of the Carriage during which the loss or damage occurred and received as evidence thereof any particular document which must be issued in order to make such international convention or national law applicable; and
 - 3) would have been applicable if the contract referred to in 2) above had been governed by the internal law of the State where the loss or damage occurred.
- (2) If neither Clause 5 (1)(a) or (b) above apply, or if the stage of the Carriage during which the loss or damage occurred cannot be determined:
 - (a) the Carrier shall be relieved of liability for any loss or damage if such loss or damage was caused by;

- (i) act of God,
- (ii) act of War,
- (iii) act of public enemies,
- (iv) arrest or restraint of princes, rulers or people or seizure under legal process,
- (v) quarantine restrictions,
- (vi) an act or omission of the Merchant,
- (vii) compliance with instructions of any Person entitled to give them,
- (viii) insufficiency of or defective condition of packing or marking,
- (ix) handling, loading, stowage or unloading of the Goods by or on behalf of the Merchant,
- (x) inherent vice of the Goods,
- (xi) strike, lock-out, stoppage or restraint of labour, from whatever cause, whether partial or general,
- (xii) riots and civil commotions,
- (xiii) 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 Proving

The burden of proving that the loss or damage was due to one or more of the causes or events specified in this Clause 5(2)(a) shall rest upon the Carrier, save that if the Carrier establishes that, in the circumstances of the case, the loss or damage could be attributed to one or more of the causes or events specified in Clause 5(2)(a) other than (vi), (vii) or (xiii), it shall be presumed that it was so caused. The Merchant shall, however, be entitled to prove that the loss or damage was not, in fact, caused either wholly or partly by one or more of these causes or events.

(c) Limitation of Liability

Except as provided in Clauses 6(1), 6(2), and 29, if Clause 5(2) operates, total compensation shall in no circumstances exceed 2 SDRs per kilo of gross weight of the Goods lost or damaged (SDR means Special Drawing Right as defined by the International Monetary Fund).

(3) Contribution of Liability

Where loss or damage is caused partly by a cause for which the Carrier is liable and partly by a cause for which the Carrier is not liable, the Carrier shall be liable only for the portion of the loss or damage proved by the Merchant to have been produced by the cause for which the Carrier is liable.

(4) Notice of Loss or Damage

Unless notice of loss or damage to the Goods and the general nature of it be given in writing to the Carrier at the Place of Delivery before or at the time of the removal of the Goods into the custody of the Person entitled to delivery thereof under this Bill of Lading, or if the loss or damage be not apparent, within three working days thereafter, such removal shall be prima facie evidence of the delivery by the Carrier of the Goods as described in this Bill of Lading.

(5) Time-bar

The Carrier shall be discharged from all liability unless suit is brought and notice thereof given to the Carrier within one year after delivery of the Goods or, if the Goods are totally lost, after the date when the Goods should have been delivered.

6. SUNDRY LIABILITY PROVISIONS

(1) Hague Rules Limitation

If the Hague Rules are applicable by national law, the liability of the Carrier shall in no event exceed the limit provided in the applicable national law. If the Hague Rules are applicable otherwise than by national law, the liability of the Carrier shall in no event exceed 100 pounds sterling per package or unit.

(2) Ad Valorem

Higher compensation may be claimed only when, with the consent of the Carrier, the value for the Goods declared by the Shipper which exceeds the limits laid

down in this Bill of Lading has been stated in the declared value box on the face of this Bill of Lading and, if applicable, the ad valorem freight has been paid. In that case the amount of the declared value shall be substituted for that limit. Any partial loss or damage shall be adjusted pro rata on the basis of such declared value.

(3) Delay and Consequential Damages

The Carrier does not undertake that the Goods shall arrive at the Place of Delivery at any particular time or to meet any particular market or use, and the Carrier shall in no circumstances be liable for delay or for any indirect or special or consequential loss or damage incurred by the Merchant.

(4) Scope of Application

- (a) Save as otherwise expressly provided herein, the Carrier shall not be liable in any circumstances or in any capacity whatsoever for any loss or damage, howsoever arising out of or in connection with the Carriage or the supply of the Container.
- (b) The terms of this Bill of Lading shall govern the relations between the Carrier and the Merchant in respect of the Carriage, whether a Bill of Lading is issued or not.

(5) Defences and Limits for the Carrier

The defences and limits of liability provided for in this Bill of Lading shall apply in any action against the Carrier for loss or damage to the Goods, whether the action be founded in contract or in tort.

(6) Agency

Where on the face of this Bill of Lading any place of destination is shown and is different from the Place of Delivery, the Carrier shall not be liable in any capacity whatsoever for loss, damage or delay of or to the Goods after the delivery at the Place of Delivery. In these circumstances the Carrier in making arrangements with a Person or carrier for or in connection with transshipping or forwarding of the Goods to the place (if requested by the Merchant and so agreed by the Carrier) acts as agent only for the Merchant and the Merchant shall indemnify the Carrier for all charges and expenses therefor. If, for any reason, the Carrier is denied the right to act as agent only at these times, his liability for loss, damage or delay of or to the Goods shall be determined in accordance with this Bill of Lading.

(7) NVOCC

If this Bill of Lading is accepted by a non vessel operating common carrier (NVOCC), who has in turn made other contracts of carriage with third parties, the said NVOCC hereby;

- (a) undertakes that no claim or allegation in respect of the Goods shall be made against the Carrier by any Person other than in accordance with the terms hereof which imposes or attempts to impose upon the Carrier or any vessel owned or operated by the Carrier any liability whatsoever in connection with the Goods, whether or not arising out of negligence on the part of the Carrier, and if any such claim or allegation should nevertheless be made, to indemnify the Carrier against all consequences thereof, and
- (b) warrants that all bills of lading or other documents recording the contracts of carriage issued by him in respect of the Goods shall incorporate the terms of this Bill of Lading including the law and jurisdiction clause, and agrees to indemnify the Carrier, his servants, agents and Sub-Contractors against all consequences of his failing so to incorporate.

(8) HAMBURG RULES

- (a) Notwithstanding the terms of Clause 25 herein if proceedings are brought before the courts of a Contracting State to the United Nations Convention on the Carriage of Goods by Sea 1978 (the Hamburg Rules) or the courts of any State whose national legislation makes the Hamburg Rules effective and if such courts adjudge the Hamburg Rules or such national legislation to be compulsorily applicable to this Bill of Lading, then in those circumstances only shall this Bill of Lading take effect subject to the Hamburg Rules or such national legislation and any term of this Bill of Lading derogating therefrom to the detriment of the

Merchant shall be void to that extent but no further.

- (b) In any event the Carrier shall be entitled to contest enforcement of any judgement made in a Contracting State to the Hamburg Rules in any proceedings before courts in a Non-Contracting State.

7. MERCHANT-PACKED CONTAINERS

If a Container has not been packed or filled by or on behalf of the Carrier:

- (1) The Carrier shall not be liable for loss or damage to the Goods and the Merchant shall indemnify the Carrier against any loss, damage, liability or expense incurred by the Carrier, if such loss, damage, liability or expense has been caused by:
 - (a) the manner in which the Container has been packed or filled, or
 - (b) the unsuitability of the Goods for the Carriage in the Containers, or
 - (c) the unsuitability or defective condition of the Container which would have been apparent upon reasonable inspection by the Merchant at or prior to the time when the Container was filled or packed.
- (2) The loading of the Container by the Merchant shall be prima facie evidence that the Container was sound and suitable for use and the Merchant agrees that he will return the Carrier's Container in the same condition as received. Any loss or damage caused to the Container supplied by the Carrier while in the possession of the Merchant is for the account of the Merchant.
- (3) If the Container is delivered with seals intact, such delivery shall be deemed as full and complete performance of the Carrier's obligation hereunder and the Carrier shall not be liable for any loss or damage to the Goods.

8. INSPECTION OF GOODS

- (1) The Carrier shall be entitled, but under no obligation, to open any Container or package at any time and to inspect, reweigh, remeasure, revalue or repack the Goods without notice to the Merchant.
- (2) If Clause 8 (1) applies or if by order of the authorities at any place, a Container or package has to be opened, the Carrier will not be liable for any loss or damage incurred as a result of any opening, unpacking, inspection, reweighing, remeasurement, revaluation, or repacking. The Merchant shall indemnify the Carrier for the cost of all measures taken as above.

9. DESCRIPTION OF GOODS

- (1) This Bill of Lading shall be prima facie evidence of the receipt by the Carrier in apparent external good order and condition except as otherwise noted of the total number of Containers or other packages or units enumerated overleaf (*).
- (2) No representation is made by the Carrier as to the weight, contents, measure, quantity, quality, description, condition, marks, numbers or value of the Goods and the Carrier shall be under no responsibility whatsoever in respect of such description or particulars.
- (3) If any particulars of any Letter of Credit and/or Import Licence and/or Sale Contract and/or Invoice or Order Number and/or details of any contract to which the Carrier is not a party are shown on the face of this Bill of Lading, such particulars are included solely at the request of the Merchant for his convenience. The Merchant acknowledges that except when the provisions of Clause 6(2) apply, the value of the Goods is unknown to the Carrier, and that the inclusion of such particulars shall not be regarded as a declaration of value and in no way increases the Carrier's liability under this Bill of Lading. The Merchant further agrees to indemnify the Carrier against all consequences of including such particulars in this Bill of Lading.

10. MERCHANT'S RESPONSIBILITY

- (1) All of the Persons coming within the definition of Merchant in Clause 1 shall be jointly and severally liable to the Carrier for the due fulfillment of all obligations of the Merchant in this Bill of Lading.
- (2) The Merchant warrants to the Carrier that the particulars relating to the Goods as set

out overleaf have been checked by the Merchant on receipt of this Bill of Lading and that such particulars and any other particulars furnished by or on behalf of the Shipper are accurate and correct. The Merchant also warrants that the Goods are lawful goods and contain no contraband, are adequately packed and prepared for shipment, and will not cause loss, damage, or expenses to the Carrier, the Vessel, or to any other cargo during the Carriage.

- (3)The Merchant shall indemnify the Carrier against all loss, damage, expenses and fines arising or resulting from any breach of any of the warranties in Clause 10(2) hereof or from any other cause whatsoever in connection with the Goods, unless the Merchant proves that the Carrier is responsible for them.
- (4)The Merchant shall comply with all regulations or requirements of customs, port and other authorities, and shall bear and pay all duties, taxes, fines, imposts, expenses or losses incurred or suffered by reason of any failure to so comply, or by reason of any illegal, incorrect or insufficient marking, numbering or addressing of the Goods, and shall indemnify the Carrier in respect thereof.

11. FREIGHT

- (1)Freight shall be deemed fully earned on receipt of the Goods by the Carrier, whether the Goods are lost or not, and shall be paid and non-returnable in any event.
- (2)The Merchant's attention is drawn to the stipulations concerning currency in which the Freight is to be paid, rate of exchange, devaluation and other contingencies relative to Freight in the applicable Tariff.
- (3)Freight has been calculated on the basis of particulars furnished by or on behalf of the Merchant. If the particulars furnished by or on behalf of the Merchant are incorrect, it is agreed that a sum equal to double the correct Freight less the Freight charged shall be payable as liquidated damages to the Carrier, provided that the Carrier's Tariff does not stipulate otherwise.
- (4)All Freight shall be paid to the Carrier by the Merchant in cash without any set-off, counter-claim, deduction or stay of execution either at or prior to the time agreed for payment or at latest before delivery of the Goods.
- (5)The Merchant shall be liable to the Carrier for the payment of all Freight and/or expenses including but not limited to court costs, legal fee and expenses incurred in collecting monies due to the Carrier. Payment of the Freight to a freight forwarder, broker or anyone other than the Carrier or its authorized agent shall not be deemed payment to the Carrier and shall be made at the Merchant's sole risk.

12. LIEN

The Carrier shall have a lien on the Goods and any documents relating thereto for all sums payable to the Carrier under this contract and for general average contributions, to whomsoever due. The Carrier shall also have a lien against the Merchant on the Goods and any documents relating thereto for all sums due from the Merchant to the Carrier under any other contract. For recovering any sums due, the Carrier shall have the right to sell the Goods by public auction or private sale, without notice to the Merchant. In any event any lien shall extend to cover the cost of recovering any sums due. The lien shall survive delivery of the Goods.

13. OPTIONAL STOWAGE AND DECK CARGO

- (1)The Goods may be packed by the Carrier in Containers.
- (2)The Goods packed in Containers (other than flats or pallets) whether by the Carrier or the Merchant, may be carried on or under deck without notice to the Merchant. All such Goods whether carried on deck or under deck shall participate in general average and such Goods (other than live animals) shall be deemed to be within the definition of the Goods for the purposes of the Hague Rules.
- (3)Notwithstanding Clause 13(2), Goods which are stated herein to be carried on deck are carried without responsibility on the part of the Carrier for loss or damage of whatsoever nature arising during the Carriage whether caused by unseaworthiness or negligence or any other cause whatsoever.

14. LIVE ANIMALS

Live animals are carried without responsibility on the part of the Carrier for any accident, injury, illness, death, loss or damage arising at any time whether caused by unseaworthiness or negligence or any other cause whatsoever. The Merchant shall indemnify the Carrier against any claim, loss, damage or expense arising in consequence of the Carriage of live animals.

15. SPECIALIZED CARRIAGE

- (1) The Merchant undertakes not to tender for Carriage any Goods which require refrigeration, ventilation or any other special attention without previously giving written notice of their nature and particular temperature range to be maintained and/or special attention required. In the case of refrigerated, ventilated or any other specialized Container packed by or on behalf of the Merchant, the Merchant further undertakes that the Goods have been properly packed in the Container and that he has checked that its thermostatic, ventilating or any other special controls have been properly and exactly set, before receipt of the Goods by the Carrier. The Carrier shall not be liable for any loss or damage to the Goods arising out of or resulting from the Merchant's failure in such obligation and further does not guarantee the maintenance of any intended temperature inside the Container.
- (2) The Carrier shall not be liable for any loss or damage to the Goods arising from latent defects, derangement, breakdown, defrosting, stoppage of the refrigerating, ventilating or any other specialized machinery, plant, insulation and/or any apparatus of the Container, vessel, conveyance and any other facilities, provided that the Carrier shall before and at the beginning of the Carriage exercise due diligence to maintain the Container supplied by the Carrier in an efficient state.
- (3) If the 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.

16. METHODS AND ROUTES OF CARRIAGE

- (1) The Carrier may at any time and without notice to the Merchant:
 - (a) use any means of carriage whatsoever,
 - (b) transfer the Goods from one conveyance to another, including transshipping or carrying them on a different vessel from that named overleaf,
 - (c) unpack and remove the Goods which have been packed into a Container and forward them in a Container or otherwise,
 - (d) proceed by any route in his discretion (whether or not the nearest or most direct or customary or advertised route) and proceed to or stay at any place or port whatsoever, once or more often and in any order,
 - (e) load and unload the Goods at any place or port (whether or not such port is named overleaf as the Port of Loading or Port of Discharge) and store the Goods at any such place or port,
 - (f) comply with any orders or recommendations given by any government or authority, or any Person acting or purporting to act as or on behalf of such government or authority, or having under the terms of any insurance on any conveyance employed by the Carrier the right to give orders or directions,
 - (g) permit the Vessel to proceed with or without pilots, to tow or be towed, or to be dry-docked, loaded or not.
 - (h) comply with the custom or practice of any port or place, whether legal, factual or commercial, whether prevailing locally, nationally, or internationally, and whether the Merchant personally knows of the custom or practice with regard to receiving, loading, stowing, keeping, carrying, discharging, and/or delivering Goods and, in particular, the Carrier shall be entitled to give delivery of the Goods without surrender of an original Bill of Lading in those jurisdictions

where such practice is recognized whether by custom or law. Compliance with such custom or practice shall be deemed to be proper performance of the contract of carriage hereunder.

- (2) The liberties set out in Clause 16(1) may be invoked by the Carrier for any purpose whatsoever, whether or not connected with the Carriage including loading or unloading other goods, bunkering, undergoing repairs, adjusting instruments, picking up or loading any persons and assisting vessels in all situations. Anything done in accordance with Clause 16(1) or any delay arising therefrom shall be deemed to be within the Carriage and shall not be a deviation.

17. CARRIAGE AFFECTED BY CONDITION OF GOODS

If it appears at any time that, due to their condition, the Goods cannot safely or properly be carried or carried further, either at all or without incurring any additional expense or taking any measure(s) in relation to the Container or the Goods, the Carrier may without notice to the Merchant (but as his agent only) take any measure(s) and/or incur any additional expense to carry or to continue the Carriage thereof, and/or store them ashore or afloat, under cover or in the open at any place, whichever the Carrier, in his absolute discretion, considers most appropriate. Furthermore, the Carrier shall be entitled with or without notice to the Merchant to abandon the Goods whether in store or not, or to effect a sale or disposal of the Goods as may be necessary or appropriate. The Carrier's liability shall cease upon such abandonment, storage, sale or disposal. The Merchant shall indemnify the Carrier against any additional expense so incurred.

18. MATTERS AFFECTING PERFORMANCE

If at any time the Carriage is or is likely to be affected by any hindrance, risk, delay, difficulty or disadvantage of any kind and howsoever arising (even though the circumstances giving rise to such hindrance, risk, delay, difficulty or disadvantage existed at the time this contract was entered into or the Goods were received for the Carriage), the Carrier (whether or not the Carriage is commenced) may, without prior notice to the Merchant and at the sole discretion of the Carrier, either:

- (a) Carry the Goods to the named Place of Delivery by an alternative route to that indicated in this Bill of Lading or that which is usual for the Goods consigned to that Place of Delivery (If the Carrier elects to invoke the terms of this Clause 18(a), then notwithstanding the provisions of Clause 16 hereof, he shall be entitled to charge such additional Freight as the Carrier may determine); or
- (b) Suspend the Carriage of the Goods and store them ashore or afloat upon the terms of this Bill of Lading and endeavour to forward them as soon as possible, but the Carrier makes no representations as to the maximum period of suspension (If the Carrier elects to invoke the terms of this Clause 18(b) then he shall be entitled to such additional Freight as the Carrier may determine); or
- (c) Abandon the Carriage of the Goods and place the Goods at the Merchant's disposal at any place or port which the Carrier may deem safe and convenient, whereupon the responsibility of the Carrier in respect of such Goods shall cease. The Carrier shall nevertheless be entitled to full Freight on the Goods received for the Carriage, and the Merchant shall pay any additional costs of the Carriage to, and delivery and storage at, such place or port. If the Carrier elects to use an alternative route under Clause 18(a) or to suspend the Carriage under Clause 18(b), this shall not prejudice his right subsequently to abandon the Carriage.

19. DANGEROUS GOODS

- (1) The Merchant undertakes not to tender for transportation any Goods which are of a dangerous, inflammable, radio-active, or damaging nature without previously giving written notice of their nature to the Carrier and marking the Goods and the Container or other covering on the outside as required by any laws or regulations which may be applicable during the Carriage.
- (2) If the requirements of Clause 19(1) are not complied with, the Goods may, at any time or place, be unloaded, destroyed, or rendered harmless without compensation and the Merchant shall indemnify the Carrier against all loss, damage or expense

arising out of the Goods being tendered for transportation or handled or carried by the Carrier. Further, the Carrier shall be under no liability to make any general average contribution in respect of such Goods.

- (3) Whether or not the Merchant or the Carrier is aware of the nature of such Goods, the Merchant shall indemnify the Carrier against all claims, loss, damage or expenses arising in consequence of the Carriage of such Goods.

20. NOTIFICATION AND DELIVERY

- (1) Any mention in this Bill of Lading of parties to be notified of the arrival of the Goods is solely for information of the Carrier, and failure to give such notification shall not involve the Carrier in any liability nor relieve the Merchant of any obligation hereunder.
- (2) The Merchant shall take delivery of the Goods within the free storage time provided for in the Carrier's applicable Tariff or otherwise. If the Merchant fails to do so, without prejudice to any other rights of the Carrier hereunder, the Carrier may without notice unload the Goods or that part thereof from the Vessel or the Container and/or store the Goods or that part thereof ashore, afloat, in the open or under cover at the sole risk of the Merchant. Such storage shall constitute due delivery hereunder, and thereupon all liability whatsoever of the Carrier in respect of the Goods or that part thereof shall cease, and the costs of such unloading or storage (if paid or payable by the Carrier or any agent or Sub-Contractor of the Carrier) shall forthwith upon demand be paid by the Merchant to the Carrier.
- (3) If the Merchant fails to take delivery of the Goods within 30 days of becoming due under Clause 20(2), or if in the opinion of the Carrier they are likely to deteriorate, decay, become worthless or incur charges whether for storage or otherwise in excess of their value, the Carrier may, without prejudice to any other rights which he may have against the Merchant, without notice and without any responsibility whatsoever attaching to him, sell, destroy or dispose of the Goods and apply any proceeds of sale in reduction of the sums due to the Carrier from the Merchant in respect of this Bill of Lading.

21. SPECIAL DELIVERY

The special arrangement for receiving the Goods as Full Container Load and delivering them as Less than Container Load (FCL/LCL) and/or for split delivery of the Goods to more than one receiver shall be undertaken by the Carrier at his absolute discretion and on condition that the Carrier shall not be liable for any shortage, loss, damage, or discrepancies of the Goods, which are found upon unpacking the Container. The Merchant shall be liable for an appropriate adjustment of the Freight and shall pay any additional cost incurred.

22. AMENDED JASON CLAUSE AND BOTH-TO-BLAME COLLISION CLAUSE

(The amended Jason clause)

In the event of an accident, danger, damage or disaster before or after the commencement of the voyage, resulting from any cause whatsoever, whether due to negligence or not, for which, or for the consequence of which, the Carrier is not 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 salving vessel is owned or operated by the Carrier, salvage shall be paid for as fully in the same manner as if the said salving vessels belonged to strangers.

(Both to Blame Collision Clause)

If the (carrying) Vessel comes into collision with another ship as a result of the negligence of the other ship and any act, neglect or default in the navigation or the management of the carrying Vessel, the Merchant undertakes to pay the Carrier, or, where the Carrier is not the owner and in possession of the carrying Vessel, to pay to the Carrier as trustee for the owner and/or demise charterer of the carrying Vessel, a sum sufficient to indemnify the Carrier and/or the owner and/or demise charterer of the carrying Vessel against all loss or liability to the other or non-carrying ship or her owners in so far as such loss or liability represents loss

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 setoff, recouped or recovered by the other or non-carrying ship or her owners as part of their claim against the carrying Vessel or her owner or demise charterer or the Carrier. The foregoing provisions shall also apply where the owners, operators, or those in charge of any ships or objects other than, or in addition to, the colliding ships or objects are at fault in respect of a collision or contact stranding or other accident.

23. GENERAL AVERAGE & SALVAGE

- (1) Any general average on a Vessel operated by the Carrier shall be adjusted according to the York/Antwerp Rules of 1994 (or at the election of the Carrier, either York/Antwerp Rules 1974 as amended in 1990 or York/Antwerp Rules 2004) at any port or place and in any currency at the option of the Carrier. Any general average on a Vessel not operated by the Carrier (whether a seagoing or inland waterways Vessel) shall be adjusted according to the requirements of the operator of that Vessel. In either case the Merchant shall give such cash deposit or other security as the Carrier may deem sufficient to cover the estimated general average contribution of the Goods before delivery if the Carrier requires, or, if the Carrier does not so require, within three months of the delivery of the Goods, whether or not at the time of delivery the Merchant had notice of the Carrier's lien. The Carrier shall be under no obligation to exercise any lien for general average contribution due to the Merchant.
- (2) All expenses in connection with a general average or salvage act to avoid damage to the environment always to be considered general average expenses.
- (3) If salvage services are rendered to the Vessel and the Goods, then as soon as requested to do, the Merchant shall provide salvage security in the amount and in the form requested by the salvor or shall provide counter security to the Carrier if the Carrier has provided security to the salvor on behalf of the Merchant. In the event of any failure to provide security promptly, the Merchant shall indemnify the Carrier for all loss and expenses, including consequential loss caused by delay, suffered by the Carrier.

24. FIRE AND NUCLEAR INCIDENT

- (a) The Carrier shall not be responsible for any loss or damage to the Goods arising or resulting from fire occurring at any time, unless caused by the actual fault or privity of the Carrier.
- (b) The Carrier shall not be responsible for any loss or damage to the Goods arising or resulting from nuclear incident occurring at any time, unless caused solely by personal willful misconduct of the Carrier.

25. LAW AND JURISDICTION

The contract evidenced by or contained in this Bill of Lading shall be governed by Japanese law except as may be otherwise provided for herein. Unless otherwise agreed by the Carrier, any action against the Carrier thereunder must be brought exclusively before the Tokyo District Court in Japan. Any action by the Carrier to enforce any provision of this Bill of Lading may be brought before any court of competent jurisdiction at the option of the Carrier.

26. VARIATION OF THE CONTRACT

Any agreement for or in connection with the Carriage of the Goods is superseded by this Bill of Lading. No servant or agent of the Carrier shall have the power to waive or vary any of the terms of this Bill of Lading unless such waiver or variation is in writing and is specifically authorized or ratified in writing by the Carrier.

27. VALIDITY

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

28. WAIVER

Non-performance or delay by the Carrier in exercising its rights for any period of time under

this Bill of Lading shall not be a waiver of any of the Carrier's rights.

29. US CLAUSE PARAMOUNT

- (1) If the Carriage covered by this Bill of Lading includes Carriage to or from a port or place in the United States of America, this Bill of Lading shall be subject to the United States Carriage of Goods by Sea Act 1936 (US COGSA), the terms of which are incorporated herein and shall govern throughout the entire Carriage set forth in this Bill of Lading. Neither Clause 5(1)(a),(b), the Hamburg Rules nor the Visby Amendments shall apply to the Carriage to or from the United States. The Carrier shall be entitled to the benefits of the defences and limitations in US COGSA, whether the loss or damage to the Goods occurs at sea or not.
- (2) If the US COGSA applies as Clause 29(1) above, neither the Carrier nor the Vessel shall, in any event, be or become liable for any loss or damage to or in connection with the Goods in an amount exceeding \$500.00 per package, lawful money of the United States, or in case of Goods not shipped in packages, per customary freight unit unless the value of the Goods has been declared and inserted in the declared value box on the face hereof, in which case Clause 6 (2) shall apply.