

COMBINED TRANSPORT BILL OF LADING

I. GENERAL PROVISIONS

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

2. Definitions. "Carriage" means the whole of the operations and services undertaken by the Carrier in respect of the Goods. "Carrier" means the party on whose behalf this B/L has been signed. "Combined Transport" arises when the place of acceptance and/or the place of delivery are indicated on the face hereof in the relevant spaces. "Container" includes any Container, trailer, transportable tank, flat, pallet or any other form of cargo carrying unit. "Goods" means the cargo received from the shipper and includes any Container not supplied by or on behalf of the Carrier. "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, but only if such amendments are compulsorily applicable to this B/L. "Holder" means any person for the time being in possession of this B/L to whom the property in the Goods has passed on or by reason of the consignment of the Goods or the endorsement of this B/L or otherwise. "Merchant" includes the shipper, the receiver, the consignor, the consignee, the Holder of this B/L and the owner of the Goods. "Multi-modal Transport" arises if the place of receipt and/or the place of delivery are indicated on the reverse hereof in the relevant spaces. "Port-to-Port Shipment" arises when the Carriage is not multi-modal. "US COGSA" means the US Carriage of Goods by Sea Act 1936.

The contract evidenced by this B/L is between the Merchant and the Owner of the vessel named herein (or substitute) and it is therefore agreed that said shipowner only shall be liable for any damage or loss due to any breach or non-performance of any obligation arising out of the contract of Carriage, whether or not relating to the vessel's seaworthiness. If, despite the foregoing, it is adjudged that any other is the Carrier and/or bailee of the Goods shipped hereunder, all limitations of and exonerations from, liability provided for by law or by this B/L shall be available to such other.

3. Carrier's Tariff. The terms of the Carrier's applicable tariff at the date of shipment are incorporated herein. Copies of the relevant provisions of the applicable tariff are available from the Carrier upon request. In the case of inconsistency between this B/L and the applicable tariff, this B/L shall prevail.

4. Time Bar. All liability whatsoever of the Carrier shall cease unless suit is brought within 9 months after delivery of the Goods or the date when the Goods should have been delivered, unless another time limit is applicable by mandatory law.

5. Law and Jurisdiction. Except as otherwise specifically provided herein any dispute or claim under this B/L or connected therewith shall be governed by and construed in accordance with English law (notwithstanding clause 11 (3) (d) below) and all disputes arising hereunder and in connection herewith shall be determined by the English High Court of Justice in London to the exclusion of the jurisdiction of the courts of any other country.

II. PERFORMANCE OF THE CONTRACT

6. Subcontracting.

(1) The Carrier shall be entitled to subcontract on any terms whatsoever the whole or any part of the Carriage.

(2) The Merchant agrees that no servants or agents or subcontractors of the Carrier are, or shall be deemed to be liable with respect to the Goods or the Carriage of the Goods as Carrier, bailee or otherwise and no claim whether arising in contract, bailment, tort or otherwise shall be made against these. If any such claim or allegation should nevertheless be made, the Merchant to indemnify the Carrier against all consequences thereof. If it shall be adjudged that any other than the Carrier is carrier or bailee of the Goods or responsible with respect thereto, all exemptions and limitations of and exoneration from liability provided by law, international convention or by the terms and conditions including the jurisdiction clause hereof shall be available to such servant or agent or subcontractor. In entering into this contract, the Carrier, to the extent of such terms and conditions, does so on its own behalf and also as agent and trustee for such servants, agents and subcontractors.

(3) The provisions of clause 6 (2) shall extend to all claims or allegations of whatsoever nature against other persons chartering space on the carrying vessel.

7. Vessels and Routes of Transportation.

(1) The Carrier is entitled at any time and without notice to the Merchant to perform the Carriage in any reasonable manner, to use any reasonable means and methods of Carriage whatsoever and to proceed by any route in its discretion. When effecting Carriage by sea, vessels may sail with or without pilots, undergo repairs, adjust equipment, dry-dock and tow vessels in all situations.

(2) Anything done in accordance with clause 7 (1) or any delay arising there from shall be deemed to be within the contractual Carriage and shall not be a deviation.

8. Optional Storage / Deck Cargo / Livestock.

(1) Goods may be stowed by the Carrier or his agents or servants in Containers and may be consolidated with other Goods.

(2) Containers, whether stowed as aforesaid or received fully stowed from shippers, and other Goods may be carried on deck without notice to the Merchant, and if they are so carried, the Hague Rules as incorporated herein shall be applicable notwithstanding Carriage on deck, unless they are stated on the face hereof to be carried on deck. Goods carried on deck shall in any case participate in general average.

(3) The Carrier shall not be liable whatsoever for loss, damage or delay howsoever occurring to Goods which are stated on the face hereof to be carried on deck and are so carried, or to live animals whether or not carried on deck.

9. Hindrances etc. affecting Performance.

(1) If at any time the performance of the contract as evidenced by this B/L is or is likely to be affected by any hindrance, risk, delay, difficulty or disadvantage of whatsoever kind (including war, civil commotion, political unrest, terrorist act or threat thereof) and howsoever arising, the Carrier (whether or not the transport is commenced) may at its sole discretion elect to

(a) treat the performance of this contract as terminated and place the Goods at the Merchant's disposal at any place which the Carrier shall deem safe and convenient; or

(b) suspend the Carriage of the Goods and place or store these ashore or afloat and endeavour to forward them as soon as possible.

(2) In any of the aforementioned situations the Carrier shall be entitled to full freight for Goods received for transport and to additional compensation for extra costs and/or additional freight resulting from the circumstances referred to above.

III. CARRIER'S LIABILITY

10. Port-to-Port Shipment.

(1) If the Carriage under this B/L is Port-to-Port, the liability, if any, for loss or damage to the Goods occurring between the time of loading at the port of loading and the time of discharge at the port of discharge shall be determined in accordance with any national law making the Hague Rules compulsorily applicable to this B/L; in any other case in accordance with the Hague Rules Art. 1-8 inclusive only, however, for shipments to or from the United States of America these will always be the US-COGSA whether said Act is compulsorily applicable or not.

(2) Subject to sub-paragraph (3) below, the Carrier shall be under no liability whatsoever for loss of or damage to the Goods occurring prior to loading on or subsequent to the discharge from the vessel. Notwithstanding the foregoing, in the event and to the extent that any applicable mandatory law provides to the contrary, the Carrier shall have the benefit of every right, defence, limitation, exception and liberty in the Hague Rules as applied by clause 10 (1) during such period, notwithstanding that the loss or damage did not occur at sea.

(3) In the event that the US-COGSA applies in accordance with clause 10 (1) above, the provisions of the said Act shall govern also before loading onto the vessel and after discharge from the vessel. If the Carrier is requested by the Merchant to procure Carriage by an inland carrier in the United States of America, such Carriage shall be procured by the Carrier as agent only to the Merchant and it shall be subject to the inland carrier's contract and tariff. If for any reason the Carrier is denied the right to act as agent, his liability for loss of or damage to the Goods shall be determined in accordance with clause 11 hereof.

11. Multi-modal Transport.

(1) If the Carriage under this B/L is Multi-modal transport, the Carrier shall be liable for loss of or damage to the Goods occurring between the time when he re-

ceives the Goods into his charge and the time of the delivery only to the extent set out below.

(2) When the stage of Carriage where the loss or damage occurred is not known:

- (a) The Carrier shall be relieved of liability for any loss or damage which was caused by:
- (i) an act or omission of the Merchant or person acting on behalf of the Merchant other than the Carrier, his servant, agent or subcontractor,
 - (ii) compliance with instructions of any person entitled to give them,
 - (iii) insufficient or defective or lack of packing or marks,
 - (iv) handling, loading, stowage or unloading of the Goods by the Merchant or on his behalf,
 - (v) inherent vice of the Goods,
 - (vi) strike, lockout, stoppage or restraint of labour, from whatever cause, whether partial or general,
 - (vii) nuclear incident,
 - (viii) any cause or event which the Carrier could not avoid and the consequences thereof he could not prevent by the exercise of reasonable diligence.

(b) The burden of proof that the loss or damage was due to one or more of the causes or events specified in this clause 11 (2) shall rest with the Carrier. Save that if the Carrier establishes that the loss or damage could be attributed to one or more of the causes or events specified in clause 11 (2) (a) (iii), (iv), (v) or (vi), 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) When under sub-clauses (a) and (b) above the Carrier is under any liability in respect of one or more of the factors causing the loss or damage, he shall only be liable to the extent that those factors for which he is liable under this clause have contributed to the loss or damage.

(3) When the stage of Carriage where the loss or damage occurred is known, the liability of the Carrier in respect of such loss or damage shall, notwithstanding anything provided for in clause 11 (2) and subject to clause 8, be determined:

(a) by the provisions contained in any international convention or national law which provisions cannot be departed from by private contract to the detriment of the Merchant and 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 if such international convention or national law shall apply; or

(b) in case of shipments to or from the United States of America, by the provisions of the US-COGSA if the loss or damage has occurred during Carriage by sea to or from the USA or during Carriage to or from a Container yard or Container freight station in or immediately adjacent to the sea terminal at the port of loading or port of discharge in the USA; or

(c) by the Hague Rules Art. 1-8 inclusive only, where the provisions of clauses 11 (3) (a) or (b) do not apply and the loss or damage is known to have occurred during carriage by sea; or

(d) if the loss or damage occurred during inland carriage in the USA, in accordance with the contract of carriage or tariff of any inland carrier in whose custody the loss or damage occurred; in the absence of such contract or tariff, by the provisions of clause 11 (2), in either case applying the law of the State of New York; or

(e) when the provisions of this clause 11 (3) (a), (b), (c), and/or (d) do not apply, in accordance with the contract of carriage or tariffs of any inland carrier in whose custody the loss or damage occurred or in the absence of such contract or tariff by the provisions of clause 11 (2). For the purposes of clause 11 (3), references in the Hague Rules to carriage by sea shall be deemed to include references to all waterborne carriage and the Hague Rules shall be construed accordingly.

(f) With respect to all inland carriage in the United States of America, the Merchant is specifically referred to the fact that the Carrier offers him in his tariff special coverage for full compensation in case of loss or damage in accordance with the Carmack Amendment against payment of the respective additional freight.

12. The Amount of Compensation / Inland Waterways Carriage.

(1) When the Carrier is liable for compensation in respect of loss of or damage to the Goods, such compensation shall – subject always to the Carrier's right to limit liability as provided for in this B/L – be calculated or referenced to the value of such Goods at the place and time they are delivered to the Merchant in accordance with the contract or should have been so delivered.

(2) The International Convention for the Unification of certain rules relating to Bills of Ladings signed at Brussels on 25th August 1924 (Hague Rules), Article 1 – 8 only, shall also determine the liability of the Carrier in respect of Carriage by inland waterways as if such Carriage were Carriage by sea.

(3) As provided for in sub-clause (4) below: the Carrier's liability shall in no event exceed the amounts provided in the applicable national law. If the Hague Rules Art. 1 – 8 apply pursuant to clauses 10 (1) or 11 (3) (c), the Carrier's maximum liability shall in no event exceed GBP 100 legal money per package or unit.

(b) Where the Carriage includes Carriage to, from or through a port in the United States of America and US-COGSA applies by virtue of clauses 10 (1) or 11 (3) (b), neither the Carrier nor the Vessel shall in any event be or become liable in an amount exceeding US \$ 500 per package or customary freight unit.

(c) In all other cases compensation shall not exceed the limitation of liability of 2 special drawing rights per kilo of the gross weight of the Goods lost or damaged, unless and to the extent the Merchant has elected a higher compensation due to a declared value of the Goods or according to clause 11 (3) (f).

(4) The Carrier has no knowledge of the value of the Goods which the Merchant agrees and acknowledges, and higher compensation than that provided for in this B/L may be claimed only when, with the consent of the Carrier, the value of the Goods declared by the Shipper upon delivery to the Carrier has been stated in the box marked "declared value" on the reserve of this B/L and extra freight paid. In that case, the amount of the declared value shall be substituted for the limits otherwise laid down in this B/L. Any partial loss or damage shall be adjusted pro rata on the basis of such declared value.

(5) Nothing in this B/L shall operate to limit or deprive the Carrier of any statutory protection, defence, exception or limitation of liability authorised 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 any carrying ship or vessel.

13. Delay, Consequential Loss etc.

The Carrier does not guarantee arrival times or times to meet any particular requirement and shall under no circumstances whatsoever and howsoever arising be liable for any damage due to delay or for any indirect or consequential loss whatsoever. If contrary to the above the Carrier is held liable in respect of delay, consequential loss or damage other than loss of or damage to the Goods, the Carrier's liability shall be limited to the amount of the freight for the transport covered by this B/L or to the value of the Goods as determined in clause 12 (1), whichever is least.

14. Notice of Loss.

Unless notice of loss of or damage to the Goods and the general nature of it be given in writing to the Carrier or his agents at the place of delivery (or port of discharge if no place of delivery is named on the reverse hereof) before or at the time of the removal of the Goods into the custody of the Merchant or if the loss or damage is not apparent within three consecutive days thereafter, such removal shall be prima facie evidence of the delivery by the Carrier of the Goods as described in this B/L.

15. Defences and Limits for the Carrier.

(1) The terms and conditions of whatever nature provided for in this B/L shall apply in any action against the Carrier for any loss or damage whatsoever and howsoever occurring (and, without limiting the generality of the foregoing, including delay, late delivery and/or delivery without surrender of this B/L) and whether the action is founded in contract, bailment, tort or otherwise and even if the loss or damage arose as a result of unseaworthiness, negligence or fundamental breach of contract.

(2) The Carrier shall not be entitled to the benefit of the limitation of liability provided for in the terms of this B/L if it is proved that the loss or damage resulted from an act or omission of the Carrier or his servants done with intent to cause damage, or recklessly and with knowledge that damage would probably result. However, if the loss or damage has occurred during the Carriage of Goods by sea to which maritime law applies, the Carrier is entitled to the benefit of limitation of liability as provided for in this B/L except where a law applies making the Hague Visby Rules compulsorily applicable and it is proved that the loss or damage resulted from an act or omission of the Carrier himself done with intent to cause damage, or recklessly and with knowledge that damage would probably result.

16. Defences and Limits for Servants, etc.

(1) If an action for loss or damage to the Goods is brought against a servant, agent or independent contractor, such person shall be entitled to avail himself of all provisions of this contract, especially, but not limited thereto, of all defences and limits of liability which the Carrier is entitled to invoke hereunder. The Carrier, in entering into this contract, does so, to the extent of these provisions, not only on his own behalf but also as agent and trustee for such servants, agents and independent contractors.

(2) However, if it is proved that the loss or damage resulted from an act or omission of this person, done which intent to cause damage or recklessly and with knowledge that damage would probably result, such person shall not be entitled to the defences and limits of liability as per sub-clause (1).

(3) The aggregate of amounts recoverable from the Carrier and his servants, agents or independent contractors shall in no case exceed the limit provided for in this B/L, if applicable.

IV. DESCRIPTION OF GOODS

17. Carrier's Responsibility.

(1) This B/L shall be prima facie evidence of the receipt by the Carrier of the Goods as herein described in respect of the particulars which he had reasonable means of checking. In respect of such particulars, proof to the contrary shall not be admissible, when this document has been transferred to a third party acting in good faith.

(2) If any particulars of any letter of credit and/or import licence and/or sales 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 B/L, such particulars are included at the sole risk of the Merchant and for his convenience. The Merchant agrees that such inclusion shall not be regarded as a declaration of value or description of Goods and in no way increases Carrier's liability under this B/L.

18. Merchant's Responsibility.

(1) The Merchant shall be deemed to have guaranteed to the Carrier the accuracy, at the time the Goods were taken in charge by the Carrier, of the description of the Goods, marks, number, quantity and weight, as furnished by him, and the Merchant shall indemnify the Carrier against all loss, damage and expenses arising or resulting from inaccuracies in or inadequacy of such particulars. The right of the Carrier to such indemnity shall in no way limit his responsibility and liability under this B/L to any person other than the Merchant.

(2) The Merchant shall comply with all regulations or requirements of customs, port and other authorities, and shall bear and pay all duties, tax, fines, expenses, charges or losses (including but not limited hereto freight for any additional Carriage) incurred or suffered by reason thereof or by reason of any illegal, incorrect or insufficient declaration, marking, numbering or addressing of the Goods, and shall indemnify the Carrier in respect thereof.

V. FREIGHT AND LIEN

19. Freight, Charges, etc.

(1) Full freight shall be considered completely earned on receipt of the Goods by the Carrier and shall be paid and non-returnable in any event.

(2) All freight shall be paid without any set-off, counter-claim, deduction or stay of execution when due but at latest before delivery of the Goods.

(3) The Merchant's attention is drawn to the stipulations concerning currency in which the freight and charges are to be paid, rate of exchange, devaluation and other contingencies relative to freight and charges in the relevant tariff conditions. If no such stipulation as to devaluation exists or is applicable the following clause to apply:

If the currency in which freight and charges are quoted is devalued between the date of the freight agreement and the date when the freight and charges are paid, then all freight and charges shall be automatically and immediately increased in proportion to the extent of the devaluation of the said currency.

(4) For the purpose of verifying the freight basis, the Carrier reserves the right to have the contents of Containers, trailers or similar articles of transport inspected in order to ascertain the weight, measurement, value, or nature of the Goods.

20. 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 him to the Carrier under any other contract whatsoever. The Carrier may exercise his lien at any time and any place in his sole discretion, whether the contractual Carriage is completed or not. In any event any lien shall extend to cover the costs of recovering any sums due and for that purpose the Carrier shall have the right to sell the Goods by public auction or private sales contract, without notice to the Merchant. The Carrier's lien shall always survive delivery of the Goods.

VI. MISCELLANEOUS PROVISIONS

21. General Average.

(1) General Average to be adjusted at any port or place at the Carrier's option, and to be settled according to the York-Antwerp Rules 1994, this covering all Goods, whether carried on or under deck. The Amended Jason clause as approved by BIMCO to be considered as incorporated herein.

(2) Security, including a cash deposit as the Carrier may deem appropriate, sufficient to cover the estimated contribution of the Goods and of unpaid freight and any salvage and special charges thereon, shall, if required, be submitted to the Carrier prior to delivery of the Goods. The Carrier shall be under no obligation to exercise any lien for General Average contribution due to the Merchant.

22. Dangerous Goods.

(1) No Goods which are or may become of a dangerous, noxious, hazardous, inflammable, or damaging nature or which are or may become liable to damage any persons or property whatsoever, shall be tendered to the Carrier for Carriage without previously giving written notice of their nature, character, name, label and classification to the Carrier and obtaining his consent in writing and without distinctly marking the Goods and the Container or other covering on the outside so as to indicate the nature and character of any such Goods, and to comply with any applicable laws, regulations or requirements. If any such Goods are delivered to the Carrier without obtaining his consent or without such marking, or if in the opinion of the Carrier the Goods are or are liable to become of a dangerous, noxious, hazardous, inflammable, or damaging nature, they may at any time or place be unloaded, destroyed, disposed of, abandoned or rendered harmless without compensation to the Merchant and without prejudice to the Carrier's right to freight and other charges, and the Carrier shall be under no liability to make any General Average contribution in respect of such Goods.

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

23. Both-to-Blame Collision Clause.

The Both-to-Blame Collision and new Jason clauses as adopted by BIMCO (and obtainable from the Carrier or his agent) to be considered incorporated herein.

24. Shipper-packed Containers, etc.

(1) If a Container has not been filled, packed or stowed by the Carrier, the Carrier shall not be liable for any loss of or damage to its contents and the Merchant shall cover any loss or expense incurred by the Carrier, if such loss, damage or expense has been caused by

- (a) the manner of filling, packing or stowing of the Container
- (b) the contents being unsuitable for Carriage in Container; or
- (c) the unsuitability or defective condition of Container or the incorrect setting of any thermostat, ventilation or other special control thereof, unless the Container has been supplied by the Carrier and the unsuitability or defective condition would not have been apparent upon reasonable inspection at or prior to the time when the Container was filled, packed or stowed.

(2) The provisions of sub-clause (1) of this clause also apply with respect to trailers, transportable tanks, flats and pallets which have not been filled, packed or stowed by the Carrier.

25. 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 to the extent of such inconsistency but no further be null and void.