

Globetrans International (GTI) B.V. NVOCC Bill of lading Terms and conditions.

Indexed and easy to read copy of the 2023 GTI Terms and conditions

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DEFINITIONS

"Carrier": Carrier under this Bill of Lading is the legal company according to the laws of the Netherlands GLOBETRANS INTERNATIONAL (GTI) B.V. registered in BARENDRECHT with office address Augustapolder 72, unit 1.3 .

"Merchant": Includes the Shipper, Holder, Consignee, Receiver of the Goods, any Person owning or entitled to the possession of the Goods or of this Bill of Lading, any Person having a present or future interest in the Goods and anyone acting on behalf of any such Person.

"Goods": Includes the cargo supplied by the Merchant and includes any Container whether or not supplied by or on behalf of the Carrier.

"Container": Includes any Container, trailer, transportable tank, lift van, pallet, flat or any similar article to transport used to consolidate Goods.

"Carriage": Means the whole of the operations and services undertaken or performed by or on behalf of the Carrier in respect of the Goods.

"Combined Transport": Arises if the Place of Receipt and/or the Place of Delivery are indicated on the face hereof in the relevant places.

"Port to Port Shipment": Arises if the Carriage called for by this Bill of Lading is not Combined Transport and refers to carriage between Port of Loading and Port of Discharge as indicated on the face hereof.

"Subcontractor": Includes owners and operators of the vessels (other than the Carrier), managers, agents, stevedores, terminal and joint-cargo operators, road and rail transport operators and any independent contractor employed by the Carrier in the performance of the Carriage.

1. APPLICABLE LAW

The law of the Netherlands, in which the Hague-Visby Rules are incorporated, shall apply. Nevertheless, if the law of any other country would be compulsorily applicable, the Hague-Visby Rules as laid down in the treaty of Brussels of 25th August 1924 and amended in the Protocol of Brussels of the 23rd of February 1968 shall apply, save where the Hamburg Rules of the UN Convention on the Carriage of Goods by Sea of 1978 would apply compulsorily, in which case the Hamburg Rules shall apply. If any stipulation, exception and part of these conditions would be found inconsistent with the Hague-Visby Rules of Hamburg Rules or any compulsory law, only such stipulation, exception and condition or part thereof, as the case may be, shall be null and void.

In case the port of loading or port of discharge stipulated on the reverse side is situated in the United States of America, the US Carriage of Goods by Sea Act 1936 shall apply, but only to the extent this law is compulsorily applicable. In as far as this law is not compulsorily applicable, the law of the Netherlands shall apply.

2. JURISDICTION

Any claim or dispute arising from the contract of Carriage evidenced by this Bill of Lading shall be subject to the exclusive jurisdiction of the District Court of Rotterdam (Netherlands) at first instance and no other Court shall have jurisdiction. Alternatively and at the Carrier's sole option, the Carrier may commence proceedings against the Merchant at a competent court of a place of business of the Merchant.

3. RESPONSIBILITY COMPENSATION AND LIABILITY

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

The Carrier shall in no event be liable for any consequential or indirect damages.

Subject always to the Carrier's right to limit liability as provided for herein, if the Carrier is liable for compensation in respect of loss of or damage to the Goods, such compensation shall be calculated by reference to the invoice value of the Goods, plus Freight and insurance if paid. If there is no invoice value of the Goods or if any such invoice is not bona fide, such compensation shall be calculated by reference to the market value of such Goods at the place and time they are delivered or should have been delivered to the Merchant. The market value of the Goods shall be fixed according to the current market price, by reference to the normal value of goods of the same kind and/or quality.

The Merchant agrees and acknowledges that the Carrier has no knowledge of the value of the Goods. Higher compensation than that provided for in this Bill of Lading may be claimed only when, with the written confirmation of the Carrier, the value of the Goods declared by the Shipper upon delivery to the Carrier has been stated by the Carrier in the box marked "Declared Value" on the front of this Bill of Lading and ad valorem charges paid.

In that case, the amount of the Declared Value shall be substituted for the limits provided in this Bill of Lading. Any partial loss or damage shall be adjusted pro rata on the basis of such Declared Value.

Nothing in this Bill of Lading shall operate to limit or deprive the Carrier of any statutory protection, defence, exemption, or limitation of liability authorised by any applicable laws, statutes, or regulations of any country or which would have been applicable in the absence of any of the terms set out in this Bill of Lading. The Carrier shall have the benefit of the said laws, statutes, or regulations as if it were the owner of the Vessel.

A. Port-to-Port shipment

The responsibility of the Carrier is limited to that part of the Carriage from and during loading onto the vessel up to and during discharge from the vessel and the Carrier shall not be liable for loss of damage to the Goods during the period before loading onto and the period after discharge from the vessel, howsoever such loss or damage may arise. Loading and discharge take place when the Goods pass the vessels rail or ramp.

When the Goods are in the custody of the Carrier and/or his subcontractors before loading and after discharge, they are in such custody for the risk and account of the Merchant without any liability of the Carrier. When the place of origin or final destination of the Goods is other than the port of loading or the port of discharge, the Carrier may take care of the forwarding to the port of loading and/or from the port of discharge, but the Carrier shall perform this service only as forwarding agent for the Merchant without accepting any liability for loss, damage or delay.

The Carrier's liability will in no event exceed the maximum amounts of liability as defined in the compulsory applicable rules and conventions laid down in article 1 above.

B. Combined Transport

Save as is otherwise provided in this Bill of Lading, the Carrier shall be liable for loss of or damage to the Goods occurring from the time that the Goods are taken into his charge until the time of delivery to the extent set out below:

(1) When the stage of Carriage where the loss or damage occurred cannot be proved:

(a) The Carrier shall only be liable if it is proven by the Merchant that the loss or damage to the Goods has been caused by the gross negligence and/or willful misconduct of the Carrier. In all other circumstances the Carrier will not be liable;

(b) The Carrier shall anyhow notwithstanding the provision under (a) always be entitled to rely upon all remedies and exclusions under the rules or legislation that would have applied under clause 1 above.

(2) When the stage of Carriage where the loss or damage occurred can be proved, the liability of the Carrier shall be governed by the rules of law applicable to the stage of Carriage where the loss or damage occurred, as follows:

- by sea and inland waterway: the Hague-Visby Rules;

- by road: the CMR Convention of Geneva, 19th May 1956 with the Protocol dated Geneva, 5th July 1978;

- by rail: the CIM Convention of Bern, dated 7th February 1970 and COTIF Convention of Bern of 9th May 1980;

- by air: the Convention for the International Carriage by Air, dated Warsaw 12th October 1929, as amended by Protocols dated The Hague, 28th September 1955 and the Convention of Guadalajara of 18th September 1961.

These rules will be set aside in case they are inconsistent with the conditions of Carriage, unless these rules are mandatory law.

(3) The Merchant is liable towards the Carrier for all damage and loss sustained by the Carrier and/or his subcontractors, which may be caused by the Merchant's cargo.

4. THE SCOPE OF VOYAGE

This contract is for Port-to-Port Shipment or Combined Transport as the case may be, and the voyage herein undertaken shall include usual or customary or advertised ports of call whether named in this contract or not, also ports in or out of the advertised, geographical, usual or ordinary route or order, even though in proceeding thereto the vessel may sail beyond the port of discharge or in a direction contrary thereto, or depart from the direct or customary route. The vessel may call at any port for the purpose of the current voyage or of a prior or subsequent voyage. The vessel may omit calling at any port or ports whether scheduled or not, and may call at the same port more than once, may either with or without the Goods on board, and before or after proceeding towards the port of discharge, adjust compasses, dry-dock, go to repair yards, shift berths, undergo degassing, wiping or similar measures, take fuel or stores, land stowaways, remain in port, sail without pilots, tow and be towed, and save or attempt to save life or property, and all of the afore going are included in the contract voyage.

5. SUBSTITUTE OF VESSEL, TRANSSHIPMENT

Whether expressly arranged beforehand or otherwise, the Carrier shall be at liberty to carry out the transport wholly or partly by the said or other vessel or vessels either belonging to the Carrier or others, or by other means of transport, proceedings either directly to such port and to carry the Goods or part of them beyond their port of destination, and to transship, land and store the Goods either on shore or afloat and reship and forward the same at Carrier's expense but at Merchant's risk.

6. LOADING, DISCHARGING AND DELIVERY

A. Loading, discharge and delivery of the Goods are to be arranged by the Carrier or his agent. Landing, storing and taking delivery will be for the Merchant's account. Any lighterage in or off the ports of loading or discharge shall be for the Merchant's account and risk. Goods of any descriptions whether Containerized or not may be stowed on or under deck without notice to the Merchant. Loading and discharging may commence without previous notice. The Carrier is not obliged to give notice of arrival.

B. The Merchant shall tender the Goods when the vessel is ready to load and as fast as the vessel can receive and – but only if required by the Carrier – also outside working hours notwithstanding any custom of port. If Goods contracted for shipment are not tendered when the vessel is ready to load, the Carrier is relieved of any obligation to load such Goods and the vessel may leave the port without further notice and dead freight is to be paid by the Merchant.

C. Goods may be stowed by the Carrier as received, or, at Carriers option, by means of containers, or similar articles of transport used to consolidate goods.

D. In case of Port to Port shipment where the port of discharge is optional, the option must be declared by the Merchant to the vessel's agents at the first of the optional ports not later than 48 hours before the vessel's arrival there. In the absence of such declaration the Carrier may elect to discharge at the first or any other optional port and the contract of carriage shall then be considered as having been fulfilled. Any option can be exercised for the total quantity of Goods only as per particulars furnished by the Merchant mentioned in this Bill of Lading.

E. The Merchant or his assign must be ready to take delivery of the Goods and continue to receive the Goods as tendered by day and night, Sundays and holidays, notwithstanding the custom of the port. Otherwise the Carrier shall be at liberty to discharge the Goods and any discharge to be deemed true fulfilment to the contract.

F. The Merchant authorizes the Carrier to deliver the Goods to the representative of the Consignee or to any other person whom the Carrier reasonably believed to be authorized to take delivery on behalf of the Consignee. Such delivery shall constitute due fulfilment of the Carrier's obligations as to delivery of the Goods.

G. The Merchant shall bear all overtime charges in connection with the tendering and taking delivery of the Goods as above.

H. If the Goods are not applied for within a reasonable time, the Carrier shall be entitled to proceedings to sell and dispose of the Goods privately or by auction.

I. Without any further right to indemnification the Merchant shall at all times accept subsequent deliveries of Goods covered by this Bill of Lading and which may originally have been found missing. The Carrier shall have the option of replacing any lost or damaged Goods. The Merchant shall accept his reasonable proportion of unidentified loose cargo.

J. The Goods for this Bill of Lading have been accepted on the understanding that immediate clearance and direct delivery will be effectuated at the Port of Discharge or at the Place of Delivery as the case may be. Failure to comply may result in payment of additional charges for double handling and storage. In case of Combined Transport by rail or road to the final destination, delivery shall be deemed to have been fulfilled if and when the road or rail vehicle, as the case may be, has arrived at the final destination and has been duly tendered to the Merchant.

K. In case of Port to Port shipment of Goods in Containers supplied by the Carrier, failure by the Merchant to take receipt of the Goods within 14 days from the date of discharge shall entitle the Carrier to strip and take back the Container and store the Goods. Stripping costs incurred by the Carrier are for account of the Merchant. The same applies to Goods carried in Containers supplied by the Carrier in case of Combined Transport, in which case the Merchant must confirm within 14 days from the date of discharge that he shall strip the Container and receive the Goods immediately upon arrival of same at the place of final destination.

L. Without prejudice to the above, the Merchant shall at all times be obliged to return Containers supplied by the Carrier within 10 calendar days from the date of making these available to the Merchant for stuffing, loading, delivery, stripping or otherwise and the Carrier shall be entitled to claim demurrage for non-return of the Containers supplied by him within the aforementioned period at a rate of US\$ 25 per day per 20' Container, respectively US\$ 40 per day per 40' Container.

M. (1) Containers, pallets or similar articles of transport supplied by or on behalf of the Carrier shall be returned to the Carrier in the same order and condition as handed over to the Merchant, normal wear and tear accepted, with interiors clean and within the time prescribed in the Carrier's booking.

(2) The Merchant shall be liable for any loss of, damage to, or delay, including demurrage, of such articles, incurred during the period between handling over to the Merchant and return to the Carrier.

7. EXCEPTIONS

The Carrier does not undertake that the Goods shall arrive at the Port of Discharge or Place of Delivery at any particular time or to meet any particular market or use, and the Carrier shall in no circumstance whatsoever and howsoever arising be liable for direct, indirect or consequential loss or damage caused by delay, unless otherwise on the basis of mandatory law, in which case the Carrier's liability shall not exceed the amount of freight charged by him in respect of the Goods carried. Furthermore, the Carrier shall not be liable for any damage to and/or losses of Goods, which are carried on deck and stipulated accordingly in the Bill of Lading, as well as to living animals.

8. DESCRIPTION OF THE GOODS

A. This bill of lading shall be prima facie evidence of the receipt by the Carrier in apparent good order and condition, except as otherwise noted, of the total number of Containers or other packages or units indicated in the box entitled "Carrier's Receipt" on the reverse side hereof.

B. 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.

C. The Shipper warrants to the Carrier that the particulars including the Verified Gross Mass relating to the Goods as set out on the front of this Bill of Lading have been checked by the Shipper on receipt of this bill of lading and that such particulars, and any other particulars furnished by or on behalf of the Shipper, are adequate and correct. The Shipper also warrants that the Goods are lawful goods, and contain no contraband, drugs or other illegal substances or stowaways, and that the Goods will not cause loss, damage or expense to the Carrier, or to any other cargo. The Shipper shall indemnify the Carrier against all losses, damage and expenses arising out of or resulting from inaccuracies in or inadequacy of such particulars.

D. If any particulars of any letter of credit and/or import license 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 bill of lading, such particulars are included at the sole risk of the Merchant and for his convenience. The Merchant agrees that the inclusion of such particulars shall not be regarded as a declaration of value and in no way increases Carrier's liability under this bill of lading.

9. FREIGHT AND CHARGES

A. Freight, whether pre-payable (freight prepaid) or payable at destination (freight collect) and whether paid or not, shall be considered fully earned upon loading and non-returnable in any event even if the Goods are lost or damaged. The Carrier's claim for any charges under this contract shall be considered definitely established in like manner as soon as the charges have been incurred. Pre-payable freight shall fall due upon loading and collect freight and charges upon discharge in the port of discharge in case of Port to Port Shipment or in like manner upon arrival at the place of final destination in case of Combined Transport. In case freight and charges are not paid promptly, interest at a rate of 12% per year shall be due from the date that payment is due and payable plus debt collecting costs and administrative costs of 10%.

B. The Merchant under this Bill of Lading and the owner of the Goods are jointly and severally responsible for payment of freight and charges without any deduction whatsoever and without the right to set off any claim presumed by the Merchant under the Bill of Lading or otherwise. A declaration of this Bill of Lading regarding payment of freight shall be considered as prima facie evidence only.

C. The Merchant shall be liable for expenses of fumigation and assorting of loose cargo and expenses incurred in repairing damage to and replacing of packing.

D. No weighing of Goods shall take place on board the vessel without permission of the Master, any custom of the port notwithstanding. All expenses of weighing, including detention and extra costs of discharging, shall be for Merchant's account.

E. Any costs incurred with lightering in or off ports of loading or port of discharge to be for the account of the Merchant.

F Any dues, duties, taxes, charges or surcharges which under any denomination may be levied on any basis such as amount of freight, weights of cargo or tonnage of the vessel shall be paid by the Merchant.

G The Merchant is obliged to fulfil all regulations relative to the Goods of all port customs and other authorities, and to pay and/or indemnify the Carrier of all costs and damages including any fee payable by the Carrier for the misdeclaration of the Goods or the Verified Gross Mass in consequence of the non-fulfilment of these regulations, furthermore to pay and/or indemnify the Carrier for all duties and fines imposed for whatsoever reason by one or any of the afore-mentioned authorities, relative to the cargo. If the Goods may not be imported, the Carrier, insofar as he

cannot dispose of the Goods (by destruction or otherwise), is free to ship or have the Goods shipped at the expense of and at the risk of the Merchant to a port at the option of the Carrier.

H. In case of incorrect declaration of contents, weights, measurement or value of the Goods, the Carrier is entitled to claim from the Merchant double the amount of freight, which would have been due if such declaration would have been correctly given. 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, measurements or value verified. The Carrier shall not be liable for loss or damage to the Goods if the nature or value has been willfully misstated. Incorrect statements by the Merchant shall be considered to have been willfully made, unless proof to the contrary to be provided by the Merchant.

10. LIEN

The Carrier shall have a lien on the Goods for all freight, dead freight, demurrage, detention and all other costs and charges resulting from the Carriage, hire, detention, demurrage for Containers and stripping and storage costs, as well as for all other monies which are or become due to the Carrier by the Merchant in respect of previous Carriages for account of the Merchant. The Carrier shall be entitled but not obliged to sell the Goods privately or by auction to cover any such claims.

11. CLAIMS

A. Unless notice of loss or damage and the general nature of such loss or damage be given in writing to the Carrier or his agent at the Port of Discharge in case of Port to Port Shipment, or at the Place of Delivery in case of Combined Transport, before or at the time of the removal of the Goods into the custody of the person entitled to delivery thereof under the Contract of Carriage, or, if the loss or damage be not apparent, within 3 days, such removal shall be prima facie evidence of the delivery by the Carrier of the Goods in the same order and condition as described in the Bill of Lading.

B. Any claim against the Carrier for any adjustment or refund or otherwise with respect to freight, charges and expenses must be given to the Carrier or his agent in writing by or before the date when the Goods are or should have been delivered.

C. In any event, the Carrier shall be discharged from all liability for any loss or damage with respect to the Goods, freight and charges and any other claim, unless suit is brought within one year after delivery of the Goods or the date when the Goods should have been delivered.

12. GENERAL AVERAGE

General Average shall be settled in accordance with the York- Antwerp Rules 2016 and be adjusted at Rotterdam or elsewhere at the option of the Carrier. In all and every case where the vessel is ashore, all expenditure made and damage sustained by the vessel in endeavoring to refloat her will be allowed in General Average. All expenses for ice breakers to be considered as General Average. The Merchant is bound to declare, if required, the value of the Goods. If the Merchant fails to furnish the Carrier with the required particulars, these shall be fixed at the expense of the Merchant by a surveyor to be appointed by the average adjustor. Such deposit as the Carrier or his agent, without prejudice, may deem sufficient to cover the estimated contribution of the Goods and any special charges thereof, shall, if required, be paid to the Carrier or his agent prior to delivery and will be placed on a special account. There shall be no obligation whatsoever on the part of the Master of the Carrier or his agent to collect adequate deposits or other securities or to act otherwise for collecting general average contribution, but it is understood that the costs of the Carrier of collecting and settling deposits or other securities or to act otherwise for collecting general average contribution shall be made good in general average.

If the 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 persons.

It is agreed that the Carrier shall have the right to have converted without notice any deposits and/or advances into the currency in which the average statement shall be drawn up and also to have the rate of exchange stated on the receipt.

The Carrier shall be entitled to claim contribution to general average from the Merchant, which right shall not be affected though the danger which gave rise to the sacrifice or expenditure may have been due to any default whatsoever by the Carrier, Master, crew, pilot of the vessel or any other person in the service of the Carrier, or to the unseaworthiness of the vessel.

13. HINDRANCE

If for any reason whatsoever and to the sole discretion of the Carrier, the vessel is prevented or hindered from entering or leaving any port including the Port of Loading and Port of Discharge or otherwise from proceeding with the voyage, or from loading or discharge or continuing to load or discharge any Goods, in particular caused by the act of government or other authority, if war is declared or if a state of war exists whereby the ship or the cargo is liable to or threatened by seizure, if any such port is blockaded or likely to be blockaded, if the through traffic cannot take place or not in the manner or in the time intended, if an embargo is placed on the ship or if the ships is requisitioned or is seized or likely to be seized, in case at any stage sea-frost sets in or has already set in or can be feared to set in, if in any such port strike or lockout takes place or is about to take place, if quarantine measures are taken or about to be taken, if in case of a pandemic, if any such port is congested and the ship is thereby prevented from or will be delayed in entering or obtaining an immediate berth at such port, if any such port the ship is or would be likely to be delayed, if to the sole discretion of the Master the call at any such port should expose the ship and/or crew and/or cargo to danger and in all circumstances which in the opinion of the Master are similar to any or all of the aforesaid, then the Carrier or Master in his sole discretion may abandon the voyage or proceed to any other port including returning to the Port of Loading and may there discharge or take such other steps with regard to the Goods as he shall think fit. Such discharge or other steps shall be deemed to have been authorized by the Merchants and shall be at their risk and expense and the carrier shall not by reason thereof incur any liability whatsoever. Any port at which the Goods are discharged as aforesaid, may at the Carrier's option be deemed for all purposes to become the port of discharge hereunder in relation to such Goods and the Carriage shall be deemed to be terminated and fulfilled there.

If during the voyage special circumstances occur in regard to the ship and/or her cargo, or if the ship has to put into a port of distress or such like port, or if the ship experiences exceptional delay at a port or place, the Master is at liberty, notwithstanding all measures for the common good of the ship and cargo, to take such measures on behalf of the Goods as he considers necessary and desirable, such measures being for account of the Goods and without prejudice to any indemnification in general average. In regard to damaged Goods, or Goods the further transport of which is objectionable, or Goods for which the Bill of Lading is not presented by the holder, the Master has the liberty to forward the Goods at the expense of the Merchant without prejudice to any indemnification in general average and in such cases the full freight remains due.

If the carrying ship owing to special circumstances during the voyage is unable to carry the Goods on to the port or place where Goods were intended to be discharged from the ship, or if it is found advisable to discharge the Goods during the voyage either on account of particular and/or general average to the ship or to the cargo, or in order to avoid delay or to save expenses, the contract of Carriage shall thereupon be considered as completed and the Carrier to have complied with all his obligations and the full freight is earned and all freights and expenses incurred in re-forwarding or storing or disposing of the Goods, or arising in connection therewith, shall be for account of the Merchant.

14. FORCE MAJEURE

. In so far as not otherwise stipulated in statutory rules the Company shall not be liable for losses, damages, delays, wrongful or missed deliveries or nonperformance, in whole or in part, of its responsibilities under the Agreement, resulting from circumstances beyond the control of either Company or its sub-contractors, including but not limited to:

- A. Acts of God, including flood, earthquake, tornado, storm, hurricane, power failure, epidemic or other severe health crisis, or other natural disaster;
- B. War, hijacking, robbery, theft or terrorist activities;
- C. Incidents or deteriorations to means of transportation,
- D. Embargoes,
- E. Civil commotions or riots,
- F. Defects, nature or inherent vice of the goods;
- G. Acts, breaches of contract or omissions by Customer, Shipper, Consignee or anyone else who may have an interest in the shipment
- H. Acts by any government or any agency or subdivision thereof, including denial or cancellation of any import/export or other necessary license; or
- I. Strikes, lockouts or other labor conflicts. In such event, Company reserves the right to amend any tariff or negotiated freight or logistics rates, on one day's notice, as necessary to provide the requested service

15. WAR RISKS

The ship shall have liberty to comply with any orders or directions as to departure, arrival, routes, ports of call, stoppages, destination, delivery or otherwise howsoever given by the Government of the Nation under whose flag the vessel sails or any department thereof, or by any other Government or any department thereof, or any person acting or purporting to act with the authority of such Government or any department thereof, or by any committee or person having, under the terms of the War Risks Insurance on the ship, the right to give such orders or directions and if by reason of and in compliance with any such orders or directions anything is done or is not done, the same shall not be deemed a deviation and delivery in accordance with such orders or directions shall be a fulfilment of the contract voyage and the freight shall be payable accordingly.

16. BOTH TO BLAME COLLISION CLAUSE

If the vessel comes into collision with another vessel as a result of the negligence of the other vessel and any act, negligence or default of the Master, mariner, pilot, or the servants of the Carrier in the navigation or in the management of the vessel, the Merchant will indemnify the Carrier or, where the Carrier is not the owner and in possession of the carrying vessel, the Merchant will pay to the Carrier as trustee for the owner and/or demise Charterer of the carrying vessel a sum sufficiently 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 vessel or her owners insofar as such loss or liability represents loss of, or damage to, or any claim whatsoever of the Merchant, paid or payable by the other or non-carrying vessel or her owners to the Merchant and set-off, recouped or recovered by the other or non-carrying vessel or her owners as part of their claim against the carrying vessel or her owners or demise Charterer or the Carrier.

The foregoing provisions shall also apply where the owners operators, or those in charge of any vessel or vessels or objects, other than, or in addition to the colliding vessel or objects, are at fault in respect of collision, contact, stranding or other accident.

17. HIMALAYA CLAUSE AND SUBCONTRACTING

The Carrier shall be entitled 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.

It is hereby expressly agreed that no servant or agent of the Carrier or any other person for whom the Carrier may be responsible (including any person who performs work on behalf of the vessel on which the Goods are carried or of any other vessel of the Carrier, their cargo, their passengers or their luggage, including towage of and assistance and repairs to the vessels and including every subcontract 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 or whatsoever kind 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 provisions in this Bill of Lading, every stipulation, exception and condition 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 to and shall extend to protect every such servants or agent of the Carrier acting as aforesaid, and for the purpose of all the foregoing provision of this paragraph the Carrier is or shall be deemed to be acting on behalf of and for the benefit of all persons who are or might be his servants or agents or for whom the Carrier otherwise may be responsible (including any person who performs work on behalf of the vessel on which the Goods are carried or of any of the other vessels of the Carrier, their cargo, their passengers or their luggage, including towage of and assistance and repairs to the vessels and including every subcontractor from time to time employed by the Carrier) and all such persons shall to this extent be deemed to be parties to the contract contained in or evidenced by this Bill of Lading. The Merchant shall indemnify the Carrier against any claim by third parties against whom the Carrier cannot rely on these conditions insofar as the Carrier's liability would be accepted if said parties were bound by these conditions.

18. SHIPPER PACKED CONTAINERS

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

A. The Carrier shall not be liable for loss or damage to the Goods caused by:

- (1) the manner in which the Container has been packed, or
- (2) the unsuitability of the Goods for Carriage in Container, or
- (3) the unsuitability or defective condition of the Container, provided that where the Container has been provided by or on behalf of the Carrier, this paragraph (cc) shall only apply if the unsuitability or defective condition could have been apparent upon inspection by the Merchant at or prior to the time when the Container was packed.

B. The Merchant shall indemnify the Carrier against any loss, damages, liability or expense whatsoever and howsoever arising, caused by one or more of the matters referred to in sub-clause 1 above, save that where the loss, damage, liability, or expense was caused by a matter referred to in sub-clause (A) under (1) above, the Merchant shall not be liable to indemnify the Carrier in respect thereof, unless the provision referred to in that sub-clause applies.

19. DANGEROUS GOODS

A. The Merchant warrants the Goods as lawful merchandise at the Ports of Loading and Discharge or Places of Receipt or Delivery and will indemnify the Carrier against all costs, expenses, liabilities and further consequences of the Goods not being lawful merchandise at the said port or at any other port or place where the Goods may be.

B. The Merchant agrees to indemnify the Carrier against all liability, loss and expenses which the Carrier may incur if the Goods when received by the Carrier contain (whether or not the Merchant or any other person interested in or connected with the Goods is aware of such fact) any person(s), who are refused entry or permission to land at the port of discharge whose entry or landing there is unlawful for any reason whatsoever.

C. Hazardous or dangerous Goods shall not be shipped or sent down for shipment without prior written permission from the Carrier or his agent. The Merchant agrees to indemnify the Carrier against all consequences and liabilities arising out of the shipment or acceptance hazardous or dangerous Goods or substances forming part of Goods whether or not the nature thereof is known to the Carrier unless the Merchant proves that such consequences or liabilities are or were caused directly by negligence of the Carrier, his servants or agents.

D. If for any reason whatsoever the Master of the vessel on which hazardous or dangerous Goods have been shipped (whether or not the nature thereof is known to the Carrier) decides in his sole discretion that such Goods have become an unacceptable danger to the vessel or to the rest of the cargo, passengers or crew, then he shall be entitled to discharge or destroy the Goods or otherwise render them harmless at any time or place without liability on the part of the Carrier.

20. PERISHABLE CARGO AND REFRIGERATION

- A. The Merchant undertakes not to tender for Carriage of any Goods requiring refrigeration, ventilation or any other specialized attention without giving written notice of their nature and the particular temperature of supply air to be maintained or other setting of the thermostatic, ventilation or other special controls. If these requirements are not complied with, the Carrier shall not be liable for any loss or damage to the Goods howsoever arising.
- B. Special Containers with refrigeration, heating or insulation shall not be furnished unless contracted for on the front of this Bill of Lading and extra Freight paid. If a carrying temperature is noted on the front of this Bill of Lading, the Merchant shall deliver the Goods to the Carrier at plus or minus 2 degrees Celsius from the noted temperature, and the Carrier shall exercise due diligence to maintain such supply air temperature, plus or minus 2 degrees Celsius while the Goods are in its possession. IT IS THE MERCHANT'S OBLIGATION TO SET AND/OR CHECK THAT THE TEMPERATURE CONTROLS ON THE CONTAINER ARE AT THE REQUIRED CARRYING TEMPERATURE AND TO PROPERLY SET THE VENTS. The Carrier does not undertake to deliver empty refrigerated Containers to the Merchant at any specific temperature. The Carrier has the right but not the obligation to refuse to accept any Container loaded by the Merchant for shipment where the Goods are not or were not loaded into the Container within plus or minus 2 degrees Celsius of the contracted carrying temperature.
- C. The Merchant must take note that refrigerated Containers are not designed:
- (1) to cool or freeze Goods which have been loaded into a container at a temperature higher than their designated carrying temperature. The Carrier shall not be responsible for the consequences of the Goods being loaded at a higher temperature than that required for the carriage;
 - (2) to monitor and control humidity levels, even if a setting facility exists, and because humidity is influenced by many external factors the Carrier does not guarantee and is not responsible for the maintenance of any intended level of humidity inside any Container.
- D. The Carrier shall not be liable for any loss or damage to the Goods arising from latent defects, breakdown, defrosting, stoppage of the refrigerating or any other specialised machinery, plant, insulation and/or apparatus of the Container and any other facilities, provided that the Carrier exercised due diligence before releasing the empty Container to the Shipper.
- E. The Carrier does not warrant refrigeration or heating machinery but shall exercise care in its operation and maintenance while in the actual possession of the Carrier. The Carrier will not accept responsibility for the recording of temperatures in any form other than any reefer log book maintained on board the Vessel. The Carrier does not accept to comply with any governmental program or protocol unless noted on the front hereof and additional Freight is paid.