

UNIMODAL/INTERMODAL/INTERNATIONAL BILL OF LADING

I GENERAL PROVISIONS:

1. **Applicability:** The provisions set out or referred to in this Bill of Lading shall apply whether the goods have been carried by a single mode of transport or by multimodal transport.

2. Definitions:

VESSEL: In this bill of lading the word „vessel“ includes the vessel to be used for ocean transit on the face hereof or any substitute ocean vessel actually used, also any feeder ship, ferry, lighter or any other watercraft used in the performance of the contract.

CARRIER: „Carrier“ means I.C.E. TRANSPORT CO., INC. (a non-vessel operating common carrier), its agents, and employees. **CARRIER:** „carrier“ means any entity to whom the carriage, or any part of the carriage, has been entrusted by the Carrier.

MERCHANT: The meaning of the word „Merchant“ includes the shipper, the consignee, the receiver of the goods, the holder of the bill of lading (except when this document is marked non-negotiable), any person owning or entitled to the possession of the goods of this bill of lading, any person having a present or future interest in the goods or any person acting on behalf of any of the above mentioned persons.

CONTAINER: The meaning of the word „container“ includes any container trailer, transportable tank, lift van, flat, or any similar article of transport used to consolidate goods.

PERSON: The meaning of the word „person“ includes individuals, corporations, or associations existing under or authorized by the laws of the United States or of a foreign country.

GOODS: The word „goods“ includes anything or (other than a container supplied by the Carrier) anything used or to be used to pack or secure goods carried or to be carried from one place to another.

PACKAGE: The meaning of the word „package“ includes containers, vans, trailers, pallets (irrespective of what is on a pallet, the pallet will be the COGSA package), vehicles, modular units and all pieces, articles, or things of any description whatsoever except goods shipped in bulk.

DELIVERY: The meaning of the word „delivery“ includes delivering the goods to or placing the goods at the disposal of the party entitled to receive them.

CARRIAGE: The word „carriage“ means the whole of the operations and the services undertaken or performed by or on behalf of the Carrier in respect of the goods.

COMBINED TRANSPORT: „Combined Transport“ arises where the carriage called for by this bill of lading is not Port to Port.

PORT TO PORT: „Port to Port“ shipment arises where the place of receipt and the place of delivery are not indicated on the front of this bill of lading or if both the place of receipt and the place of delivery are ocean ports and the bill of lading does not in the nomination of the place of receipt or the place of delivery on the front hereof specify any place or spot within the area of the port so nominated.

CHARGES: The meaning of the word „charges“ includes freight and all expenses and money obligations incurred by the Merchant.

SHIPPING UNITS: „Shipping Unit“ means the freight unit and the term „unit“ as used in the Hague Rules.

3. In entering into this contract the Merchant expressly warrants that it is aware that the Carrier cannot direct the day to day operations and routing of the carrier(s) and of the vessel or other modes of transport to be utilized hereunder.

4. This bill of lading shall have effect subject to the provisions of the Carriage of Goods by Sea Act of the United States of America approved April 16, 1936, and any amendments thereto, which shall be deemed to be incorporated herein, and nothing herein contained shall be deemed a surrender by the Carrier of any of its rights or immunities or limitations or an increase of its responsibilities under said Act. If this bill of lading is issued or delivered in a locality where there is a compulsory applicable carriage of goods by sea act, ordinance or statute of nature similar to the International Convention for the Unification of Certain Rules Relating to Bills of Lading dated at Brussels August 25 1924, without the Visby Amendments, it is subject thereto. The provisions stated in U.S. Carriage of Goods by Sea Act or act similar to the said Brussel Convention, without the Visby Amendments, if applicable (except as otherwise specifically provided herein) shall govern before a shipment is loaded and after it is discharged from the vessel or other mode of transportation and throughout the entire time the goods are in the custody of the Carrier until removed from the Carrier's possession.

5. The Carrier and participating carriers shall be entitled to the full benefit of, and right to, all exemptions or exonerations from liability authorized by any provision of Sections 4281 and 4288 inclusive of the Revised Statutes of the United States and amendments thereto and any other provision of the Law of the United States or any other country whose laws shall apply. The terms of this bill of lading and the Carrier's tariff constitute the contract of carriage, which is between the Merchant and the Carrier and owner or charterer of the vessel designated to carry the shipment. It is understood and agreed that other than said Carrier, shipowner or charterer, no person, firm or corporation or other legal entity whatsoever (including the master, officers and crew of the vessel, all agents, employees, representatives, and all terminal operators, stevedores, watchmen and other independent contractors whatsoever), is or shall be deemed to be liable with respect to the goods as carrier, bailee or otherwise in contract or in tort. If however, it shall be adjudged that any such other than said Carrier, shipowner or charterer is the carrier or bailee of the goods and under responsibility with respect thereto, all limitations of any exonerations from liability provided by law or by the terms hereof shall be available to such other. In contracting for the foregoing exemptions and exonerations from liability, the Carrier is acting as agent and trustee for the other above mentioned.

6. No provision hereof may be changed, waived, discharged or terminated other than as herein provided or in writing by a duly authorized agent of the Carrier. The headings herein are for convenience of reference only and shall not define or limit the substance hereof. Merchant agrees that this document be executed in the English language.

7. IF THIS DOCUMENT IS ISSUED AS NON-NEGOTIABLE, THEN NOTWITHSTANDING ANYTHING TO THE CONTRARY, THE FOLLOWING APPLIES: THIS DOCUMENT IS NOT A DOCUMENT OF TITLE TO THE GOODS. UNLESS THE CONTEXT REQUIRES OTHERWISE, REFERENCES TO BILLS OF LADING IN THE CARRIAGE OF GOODS BY SEA ACT OF THE UNITED STATES OF AMERICA SHALL BE DEEMED TO BE REFERENCES TO THIS DOCUMENT NOTWITHSTANDING ITS NON-NEGOTIABILITY. THE MERCHANT ACCEPTS THE PROVISIONS OF THIS DOCUMENT ON HIS OWN BEHALF AND ALL OTHERS FROM TIME TO TIME HAVING AN INTEREST IN THE GOODS AND WARRANTS THAT HE HAS AUTHORITY TO DO SO. THE CONSIGNEE AND ANY OTHER PERSON REQUESTING OR TAKING DELIVERY OF THE GOODS, CARRIED OR INTENDED TO BE CARRIED PURSUANT HERETO AND OR MAKING CLAIM IN RESPECT OF ANY ALLEGED LOSS TO GOODS BY DOING SO THEREBY UNDERTAKES ALL LIABILITIES OF THE MERCHANT HEREUNDER. SUCH UNDERSTANDING BEING ADDITIONAL TO AND WITHOUT PREJUDICE TO THE MERCHANT'S OWN LIABILITY. THE BENEFITS OF THE CONTRACT EVIDENCED BY THIS DOCUMENT SHALL THEREBY BE TRANSFERRED TO THE PERSON ENTITLED TO REQUEST DELIVERY OR MAKE CLAIM AS AFORESAID.

8. In the case of inconsistency between this bill of lading and the applicable tariff, if any, this bill of lading shall prevail.

II PERFORMANCE OF THE CONTRACT.

9. The Carrier may at any time and without notice to the Merchant:

- (1) a) use any means of transport and storage whatsoever,
- b) transfer the goods from one conveyance to another including transshipping or carrying in the same or another vessel than that named on the face hereof or by any means of transport whatsoever.

- c) unpack and remove goods which have been stowed into container and forward the same 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 once or more often and in any order,
- e) load or unload the goods at any place or port (whether or not any 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 authorities or any person or body acting or purporting to act as or on behalf of such government or authority or having under the terms of the insurance on the conveyance employed by the Carrier the right to give orders or directions,

- g) goods, may be stowed by the Carrier by means of containers or similar articles of transport used to consolidate goods,
- h) goods may be stowed on deck or under deck.

(2) The liberties set out in sub-clause (1) may be invoked by the Carrier for any purpose whatsoever or not connected with the carriage of goods including undergoing repairs, towing or being towed, adjusting instruments, dry docking and assisting vessels or conveyances in all situations. Anything done in accordance with sub-clause (1) or any delay arising therefrom shall be deemed to be within the contractual carriage and shall not be a deviation.

(3) In arranging any transfers, transshipments or changes of mode of transports by overland, the Carrier acts as agent only for the Merchant. It is further agreed that liability or loss covered hereby will be governed by the statutory scheme(s) of liability applicable the mode(s) of transport involved, whether or not compulsorily applied by or by any contract of carriage entered into by the Carrier. Any mention herein to be notified of the arrival of the goods is solely for information and convenience of Carrier, and failure to give notification shall not involve Carrier in any liability nor relieve Merchant of any obligation.

(4) If at any time the performance of the contract evidenced by this bill of lading is or is likely to be effected by any hindrance, risk, delay, difficulty or disadvantage of whatsoever kind which cannot be avoided by exercise of reasonable endeavors the Carrier (whether or not the transport has commenced) may without notice to the Merchant treat the performance of this contract as terminated and place the goods or any part of them at the Merchant's disposal at any port or place whatsoever which the Carrier or Master may consider safe and advisable in the circumstances whereupon the responsibility of Carrier in respect of such goods shall cease. The Carrier shall nevertheless be entitled to full freight and charges on goods received for transportation and the Merchant shall pay any additional costs of carriage to and delivery and storage at such port or place.

(5) The circumstances referred to in sub-clause (4) above shall include but not be limited to those caused by the existence or apprehension of war declared or undeclared, hostilities, warlike or belligerent acts or operations, riots, civil commotions or other disturbances, closure of, obstacles in or danger to any canal, blockade of port or place or interdict or prohibitions of or restriction on commerce or trading, quarantine, sanitary, or other similar regulations, strikes, lockouts or other labor troubles whether partial or general and whether or not involving employees of the Carrier or carriers or any subcontractors, congestion of port wharf, sea terminal or any other place, shortage, absence or obstacles of labor or facilities for loading, discharge, delivery or other handling of the goods, epidemics or diseases, bad weather, shallow water, ice, landslide or other obstacle in navigation or haulage.

III CARRIER'S RESPONSIBILITIES AND LIABILITIES.

10. (1) It is agreed and understood that the Carrier will rely on the guarantees, warranties and obligations undertaken by the Merchant and its agents when the Carrier enters into contracts or engagements with other carriers for the performance of all or any part of the transportation provided for in this contract, and the Merchant or its agents hereby undertake to indemnify the Carrier for any liability and expense it may incur by reliance thereon.
- (2) For the purpose of calculating any liability of Carrier it is agreed that a container constitutes a package.
- (3) Except where a lower limit of liability is applicable, 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 transportation of the Goods in an amount exceeding U.S. \$500 per package or, in the case of unpackaged Goods, per customary freight unit. The Merchant can avoid this limitation by declaring the nature and value of the Goods and inserting them in this bill of lading, and by paying any applicable higher freight charges. Any such declaration of value shall not be conclusive on the Carrier. Where such higher value has been declared, the Carrier's liability for loss or damage howsoever caused shall in no event exceed such declared value, and shall be prorated for any partial loss or damage.
- (4) Carrier does not undertake that 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 shall in no circumstances whatsoever be responsible for any direct or indirect loss caused by delay.

IV MERCHANT'S RESPONSIBILITIES.

11. The Merchant shall comply with all applicable laws, regulations and requirements of customs, port and other authorities and shall bear and pay all duties, taxes, fines, imposts expenses and losses incurred or suffered by reason thereof or by reason of any illegal, incorrect or insufficient marking, numbering or addressing of the goods.
12. The Merchant, whether principal or agent, guarantees the accuracy of the particulars, weight, marks and description of the goods furnished to the Carrier, and warrants that the goods are safely and securely packed in the containers, palletized units or other packages and may be handled in ordinary course without damage to such containers or other goods, containers, the ship or property or persons or others. The Carrier or carriers shall not be bound as to the correctness of any marks, description or representation.
The Merchant, whether principal or agent, further warrants that it has ascertained and fully disclosed, in writing to the Carrier and all participant carriers, any conditions, nature, quality, ingredient or characteristic of the goods which are or may be dangerous, explosive, flammable, explosive, corrosive, radioactive, noxious or that may cause damage, injury or detriment to the goods, other property, the vessel or persons.
The Merchant shall comply with all of the statutes, ordinances and regulations of the ports of loading, discharge and ultimate destination and of the Department of Transportation of the United States of America and the Inter-Governmental Maritime Organization (IMO) with respect to labeling, packaging and preparation of hazardous, corrosive, flammable or dangerous cargo for shipment, and all such other regulations concerning the shipment.

13. Dangerous, illegal etc., goods: Goods shipped contrary to clause 10) above may at Carrier's sole discretion and without prejudice to its other recourses against Merchant relating thereto, be refused, jettisoned, landed destroyed or rendered innocuous at Merchant's sole risk and expense. If at any time the goods, whether ashore or afloat, are, in the judgment of Carrier or any carrier or master or of the health or other authorities, spoiling, decaying and/or injurious, offensive, noxious, unfit for further carriage or storage, or dangerous to health or other property, or if the goods are condemned or ordered destroyed by any such authorities, the goods, may, forthwith and without notice, be thrown overboard, destroyed, discharged, stored, put ashore or landed at place or aboard lighters or craft or otherwise disposed of by the Carrier, and/or any carrier, master or other, solely at the risk and expense of the goods, at which time the responsibility of the Carrier or any other carrier shall cease, and neither the Carrier nor any carrier shall be liable for any loss or damage whatsoever including in General Average.

14. The Carrier shall not be responsible for the safe and proper stowing of the goods in container, if such containers are loaded with goods by the Merchant, and no responsibility shall attach to the Carrier for any loss or damage caused to contents by shifting, overloading, improper, inadequate or insufficient packing of goods in Merchant's loaded container(s). Containers loaded by the Merchant shall be properly sealed and the seal identification reference as well as the container reference shall be shown herein. The Merchant and its agents shall inspect container(s) before loading them and loading of the container(s) by the Merchant and/or its agents shall be prima facie evidence that the container(s) are sound and suitable for their intended use and sufficient to withstand the rigors of the intended transportation and shipment. The Merchant shall indemnify the Carrier for any loss or damage suffered by breach of these duties.

15. The Merchant agrees to be liable for and to indemnify the Carrier, and all participating carriers, without limitation in amount, and the Carrier shall have lien on the goods, in respect to any loss, damage, injury or death, or loss or damage to property and for all fines, penalties or expenses arising from inaccuracy of the particulars or marks and non-compliance with any of the guarantees, warranties or the regulations specified above or elsewhere in this bill of lading.

16. If receipt of the goods is not taken by the Merchant within 48 hours after discharge from the vessel (or after arrival of the goods at the place of delivery if named herein) the Carrier shall be at liberty at his discretion either to unpack the container(s) and to put the goods in safe custody on behalf of and at the risk and expense of the goods, Merchant, or to charge demurrage and/or detention in accordance with the Carrier's or carrier's tariff applicable to the route over which the goods are carried.

V FREIGHT/CHARGES, LIEN

17. (1) **FREIGHT AND CHARGES:** Full freight and charges to final destination shall be deemed earned as soon as the goods are received by or on behalf of Carrier, irrespective of whether freight is stated or intended to be prepaid or collect. Freight and charges are due and payable under all circumstances, vessel and/or goods lost or not lost or should the carriage be broken or abandoned or package be delivered damaged or empty.
- (2) Payment of freight and charges by Merchant to a forwarder or broker or any person other than Carrier shall not be deemed payment to Carrier and is done at payer's sole risk.
- (3) Freight shall be payable on gross weight or measurement or gross discharge weight or measurement or on ad valorem basis or on a per package or per unit basis all at Carrier's option. Goods may be reweighed or remeasured by the Carrier in its sole option in order to verify particulars provided by the Merchant, but such verification to be at the risk and expense of the goods.
- (4) Freight and liquidated damages under sub-clause 15) (3) above may be recovered by the Carrier from any person falling within the definition of Merchant in clause 2) whether or not such person is the shipper.
- (5) **Lien:** Carrier shall have a lien on goods for any amount due by any Merchant hereunder to Carrier (or for salvage or General Average contribution to whomsoever payable) whether or not under the present contract or in respect of the present shipment and irrespective of whether stated to be prepaid or collect and for its full costs including legal expenses of recovering same and shall be entitled to cover any claims for goods privately or by auction without prior notice or legal proceeding.
Carrier shall have the right to withhold delivery pending payment of outstanding charges including all those referred to in the previous paragraph. For the above purposes Merchant pledges goods to Carrier. If on sale of goods the proceeds fail to cover the amount due and cost and expense incurred, Carrier shall be entitled to recover the difference from the Merchant.

VI MISCELLANEOUS PROVISIONS:

18. Refrigerated goods:

- (1) The Merchant undertakes not to tender for transportation any goods that require refrigeration without previously giving written notice of their nature and particular range to be maintained, and in the case of refrigerated container packed by or on behalf of the Merchant further undertakes that the goods have been properly stowed in the container and that its thermostatic controls have been adequately set by him before receipt of the goods by the Carrier. If the above requirements are not complied with the Carrier shall not be liable for any loss or damage to the goods howsoever arising.
- (2) The Carrier shall not be liable for any loss or damage to the goods arising from latent defects, derangement, breakdown, stoppage of the refrigerating machinery plant, insulation and/or apparatus of the container, vessel, conveyance and any other facilities provided that the Carrier shall before or at the beginning of the transport exercise due diligence to maintain the refrigerated container in an efficient state.

19. General Average and New Jason Clause:

General Average to be adjusted at any port or place at the Carrier's covering all goods whether carried on or under deck. The amended Jason Clause is to be considered as incorporated herein. Such security including a cash deposit as the Carrier may deem sufficient to cover the estimated contribution by the goods and any salvage and special charges thereon shall, if required, be submitted to the Carrier prior to delivery of the goods.

20. Delivery and claim time for suit:

- (1) If this document is non-negotiable, any endorsement thereof shall be without effect and delivery of goods will be made to the consignee named herein or its authorized agent at the place of delivery on production of identity and authority satisfactory to Carrier.
- (2) It is a condition of Carrier's liability for claim that notice of damage or loss and the general nature of such damage or loss be given in writing to the Carrier at the port of discharge or place of delivery before or at the time of delivery of the goods or if not apparent within 3 days after delivery and Merchant fully cooperate with Carrier to permit effective survey to be made on Carrier's behalf.
- (3) In any event the Carrier shall be discharged from all liability in respect of loss or damage unless suit is brought within one year after delivery of the goods or the date when the goods should have been delivered.

21. Jurisdiction and law:

Except as otherwise stated herein, the contract evidenced by or contained in this bill of lading is governed by the law of the United States of America and any claim or dispute arising hereunder or in connection herewith shall be determined by the United States District Court for New Jersey and no other court.

22. Separability:

The terms of this bill of lading shall be separable and if any provision hereof, or any part of any provision be held invalid or unenforceable, such holding shall not affect the validity or enforceability of any other provision in this bill of lading.