

TERMS AND CONDITIONS

1. DEFINITIONS:

"Carrier" means SEAGULLS INTERNATIONAL LOGISTICS CO., LTD. on whose behalf this Bill of Lading has been signed. "COGSA" means the Carriage of Goods by Sea Act of the United States of America approved on 16 April 1936. "Merchant" means and includes the shipper, the consignee, and the holder of this Bill of Lading and the owner of the goods. "Goods" means the cargo received from the Merchant and includes goods, wares, merchandise and articles of every kind whatever; and any container, trailer, tank or pallet (including similar articles of transport used to store or consolidate goods) not supplied by or on behalf of the Carrier. "Dangerous Goods" includes goods which are of dangerous, explosive, inflammable, radioactive or damaging nature. "Hague Rules" means the International Convention for the Unification of certain Rules of Law relating to Bills of Lading signed at Brussels on 25 August 1924. "Hague-Visby Rules" means The Hague Rules as amended by the Protocol signed at Brussels on 23 February 1968. "Services" means the whole or any part of the operations and services of whatsoever nature undertaken by or performed by or on behalf of the Carrier in relation to the Goods covered by this Bill of Lading including but not limited to the loading, transport, unloading, storage, warehousing, and handling of the goods. "Combined transport" means carriage of the Goods under this bill of lading from place of receipt from Merchant to the place of delivery to Merchant by the Ocean Carrier plus one or more inland Carriers. "Port to Port Transportation" means carriage of the Goods under this bill of lading other than combined transport.

2. PARAMOUNT CLAUSE:

- 2.1. If at any time one or more of the terms of this Bill of Lading becomes invalid or illegal, the validity or legality of the remaining terms of this Bill of Lading shall not in any way be affected.
- 2.2. The Carrier shall be entitled to all the rights, immunities, exceptions and limitations conferred on the carrier or the owner of the vessel by any applicable law or legislation.
- 2.3. Carriage of goods by sea or inland waterway covers the period from the time when the goods are loaded on to the time they are discharged from the vessel. As far as carriage of goods by sea or inland waterway is concerned, the Carrier's liability shall be determined by the Hague Rules or any legislation making such Rules or the Hague-Visby Rules compulsorily applicable (such as COGSA) to this Bill of Lading. Without prejudice to Clause 3.2 and solely for the purpose of applying the Hague Rules, this Bill of Lading shall be deemed as a document of title as required by Article I (b) of the Hague Rules. The Hague or the Hague-Visby Rules shall prevail in so far as they are inconsistent with any other terms of this Bill of Lading. The limitation amount in Article IV (5) of the Hague Rules is deemed to be the nominal value of 100 pounds sterling. Article IX of the Hague Rules is deemed to be deleted. The limitation amount according to COGSA is US\$500 per package or customary freight unit, unless the nature and value of the goods have been declared by the shipper before shipment and inserted in this Bill of Lading.
- 2.4. Regarding the responsibility and liability of the Carrier for loss or damage to, or in connection with, the custody and care and handling of the goods prior to the loading on, and subsequent to the discharge from the vessel, such shall be determined by the terms of this Bill of Lading.
- 2.5. The Services are subject to the terms of this Bill of Lading.

3. NEGOTIABILITY AND TITLE TO THE GOODS

- 3.1. This Bill of Lading, if consigned to order, is negotiable and constitutes title to the goods. The holder, by endorsement of this Bill of Lading, is entitled to receive or transfer the goods.
- 3.2. This Bill of Lading, if consigned to a named consignee, is not negotiable. The Carrier is entitled to deliver the goods to the named consignee without production of any original of this Bill of Lading.
- 3.3. This Bill of Lading is prima facie evidence of receipt of the goods by the Carrier. However, proof to the contrary is not admissible when this Bill of Lading has been transferred to a third party acting in good faith.

4. MERCHANT'S RESPONSIBILITY:

- 4.1. The Merchant shall indemnify the Carrier against all claims, liability, losses, damages, costs and expenses arising out of the Carrier acting in accordance with the Merchant's instructions, or arising from a breach of warranty or obligation on the part of

the Merchant, or arising from the inaccurate information or the insufficient instructions provided by the Merchant, or arising from the negligence of the Merchant.

4.2. The Merchant undertakes that no claim shall be made against any servant, agent or sub-contractor of the Carrier if such claim imposes upon them any liability in connection with any Services provided by the Carrier. If any such claim should nevertheless be made, the Merchant shall indemnify the Carrier against all consequences. Every such servant, agent and sub-contractor shall have the benefit of all the terms herein benefiting the Carrier as if such terms were expressly provided for his or its benefit. For these purposes, the Carrier contracts for itself and also as agent and trustee for each such servant, agent and sub-contractor.

4.3. The Merchant shall defend, indemnify and hold harmless the Carrier from and against all claims, costs and demands whatsoever and by whomsoever made or preferred in excess of the liability of the Carrier under the terms of this Bill of Lading, and such indemnity shall include all claims, costs and demands arising from the negligence of the Carrier, its servants, agents or sub-contractors.

4.4. The Merchant shall defend, indemnify and hold harmless the Carrier in respect of any General Average claim that may be made against the Carrier and the Merchant shall provide such security as may be required by the Carrier. General Average shall be adjusted according to the York-Antwerp Rules 1974 or any amendment thereto or the York-Antwerp Rules 1994 or any modification thereof at the option of the Carrier.

4.5. If the vessel carrying the goods (the carrying vessel) collides with any other vessel (the non-carrying vessel) as a result of the negligence of both the vessels, the Merchant undertakes to defend, indemnify and hold harmless the Carrier against any liability to any other party in so far as such liability relates to any claim whatsoever made against the non-carrying vessel by the Merchant.

4.6. In the event of 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 cargo, Shipper, Consignee or owners of the cargo shall contribute with the Carrier in General Average to the payment of any sacrifices, losses 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 cargo. If a salving vessel is owned or operated by the Carrier, salvage shall be paid for as fully as if the said salving vessel or vessels belonged to strangers. Such deposit as the Carrier, or its agent, may deem sufficient to cover the estimated contribution of the cargo and any salvage and special charges thereon shall, if required, be made by the cargo, Shipper, Consignee or owners of the cargo to the Carrier before delivery.

5. MERCHANT'S WARRANTY:

5.1. The Merchant entering into any business with the Carrier warrants to the Carrier that the Merchant is either the owner of the goods or the authorized agent of the owner of the goods and that it is authorized to accept the terms of this Bill of Lading not only for itself but also for the owner of the goods.

5.2. The Merchant further warrants that:

- a. All the goods have been properly and sufficiently packed and that the Carrier has no liability for any loss of, damage to or any other claims relating to the goods which are improperly or insufficiently packed; and
- b. The goods are fit and suitable for the carriage, storage and any other handling in accordance with the Merchant's instructions; and
- c. It shall fully comply with applicable laws and regulations of ports, Customs or other authorities.

6. DANGEROUS GOODS: Except under special arrangements previously made in writing, the Merchant warrants that the goods are not Dangerous Goods, nor are goods of comparable hazard, nor are goods otherwise likely to cause damage. Should the Merchant nevertheless deliver any such goods to the Carrier or cause the Carrier to handle any such goods otherwise than under special arrangements previously made in writing, then whether or not the Carrier is aware of the nature of such goods, the Merchant shall be liable for all expenses, losses or damage whatsoever caused by or to or in connection with such goods and howsoever arising, and shall indemnify the Carrier against all penalties, claims, damages, costs, expenses and any other liability whatsoever arising in connection with such goods, and such goods may be destroyed or otherwise dealt with at the risk and expenses of the Merchant in the sole discretion of and without any liability to the Carrier. If such goods are handled by the Carrier under arrangements previously made in writing, they may nevertheless be destroyed at the risk and expenses of the Merchant in the sole discretion of and without any liability to the Carrier on account of risk to other goods, property, life or health. The

goods that are likely to cause damage include goods that are likely to encourage vermin or other pests.

7. LIEN: The Carrier shall have a general lien on all property (and documents relating thereto) of Merchant, in its possession, custody or control or in route, for all claims for Charges, expenses or advances incurred by Carrier in connection with any shipments of Merchant. If such claim remains unsatisfied for 30 days after demand for its payment is made, Carrier shall be entitled to sell the goods privately or by auction, without prior notice to the Merchant, as may be necessary to satisfy such lien and the costs of recovery and apply the net proceeds of such sale to the payment of the amount due Carrier. Any surplus from such sale shall be transmitted to Merchant, and Merchant shall be liable for any deficiency in the sale. The carrier's general lien shall be in addition to any other rights the carrier has or may acquire under other agreements and/or applicable law, and carrier's general lien shall survive delivery or release of any specific property of the shipper, consignee and merchant as defined in carrier's bill of lading.

8. WAREHOUSEMAN LIEN: If Goods go into demurrage, Carrier shall assume all rights of a warehouseman, and this Bill of Lading shall constitute a warehouseman's non-negotiable receipt. Goods will be delivered to the consignee or other Person(s) entitled to receipt of the goods upon payment of all Charges due. If Goods are not claimed within ten (10) days after demurrage commences, Carrier may exercise its warehouseman's right to sell or auction such Goods. Carrier may assert a general lien for Charges and expenses in relation to other Goods, whether or not these Goods have been delivered by Carrier.

9. PRECIOUS GOODS: Except under special arrangements previously made in writing, the Carrier will not deal with bullion, bank notes, coins, cheques, bonds, negotiable documents and securities, precious stones, precious metal objects, jewelry, valuables, antiques, valuable works of art, live animals or plants. Should the Merchant deliver any such goods to the Carrier or cause the Carrier to handle any such goods otherwise than under special arrangements previously made in writing, the Carrier shall be under no liability whatsoever in connection with such goods (including any loss, damage, misdelivery, misdirection or delay howsoever caused) and notwithstanding that the value of any such goods may be shown or declared on any documents accompanying such goods.

10. OPTIONS OF THE CARRIER:

10.1. The Carrier shall be entitled to sub-contract on any terms the whole or any part of the Services whatsoever undertaken by the Carrier.

10.2. The Carrier reserves to itself absolute discretion as to the means, the routes and the procedures to be followed in the carriage, the storage and the other handling of the goods. The Carrier has liberty to use any means, routes or procedures, including using any vessel whether or not named on the front page of this Bill of Lading or stowing the goods on or under deck. Anything done in accordance with the aforesaid discretion or liberty shall not be a deviation of whatsoever nature or degree.

11. FREIGHT INCLUDING CHARGES:

11.1. Freight including charges shall be deemed fully earned on receipt of the goods by the Carrier and shall be paid and non-returnable in any event.

11.2. The freight has been calculated on the basis of particulars furnished by or on behalf of the Shipper. The Carrier may at any time open any container or other package or unit in order to reweigh, remeasure or revalue the contents and if the particulars furnished by or on behalf of the Shipper are incorrect, it is agreed that a sum equal to either five times the difference between the correct freight and the freight charged or to double the correct freight less the freight charged, whichever sum is smaller and the expenses incurred in determining the correct particulars, shall be payable as liquidated damage to the Carrier.

11.3. Full freight hereunder shall be due payable at the place where this Bill of Lading is issued, by the Merchant without deduction on receipt of the Goods or part thereof by the Carrier for shipment. All charges due hereunder together with freight (if not paid at the port of loading as aforesaid) shall be due from and payable by on demand by the Merchant (who shall be jointly liable to the Carrier therefore) at such port or place as the Carrier require, vessel or cargo lost or not lost from any cause whatsoever.

11.4. All other charges shall be paid to the Carrier before delivery of the Goods in full without offset, counterclaim or deduction, in the currency as specified on the applicable tariff or, if no currency is

specified, the lawful currency of the United States of America.

11.5. The Merchant shall remain responsible for all freight and charges regardless whether Bill of Lading be marked, in words or symbols, prepaid or collect.

12. CARRIER'S RESPONSIBILITY:

12.1. The Carrier does not guarantee any arrival time and shall not be liable for any delay. The Carrier shall not be liable for any damage to, loss, misdirection or misdelivery of goods or any other claims, unless it is proved that such damage, loss, misdirection, misdelivery or any other claims are caused by the negligence of the Carrier, its servants, agents or sub-contractors. In any event, the liability of the Carrier shall not exceed those limits as set out in Clause 11.3.

12.2. Notwithstanding any other terms in this Bill of Lading to the contrary but subject to Clause 2.3, the Carrier shall not in any event be liable whatsoever for:

- a. any indirect, consequential or economic loss (including loss of market, profit, revenue, business or goodwill); or
- b. any loss, damage, expense or claim arising from fire, flood, storm, typhoon, explosion or strike; or
- c. any loss of or damage to the goods (which are stated on the front page of this Bill of Lading to be carried on deck and which are so carried) howsoever caused and whether or not resulting from any act or omission or default or neglect on the part of the Carrier, its servants, agents or sub-contractors.

12.3 LIMITATION OF LIABILITY: ocean Carrier's liability is subject to

a. The Merchant agrees that the value of the Goods is the Merchant's net invoice cost, plus freight and insurance premium, if paid. The ocean Carrier shall not be liable for any loss of profit or any consequential loss.

b. Insofar as the loss of or damage to or in connection with the Goods was caused during the part of the custody or carriage to which the applicable version of the Hague version of the Hague Rules applies.

i. The Ocean Carrier shall not be liable for loss or damage in an amount exceeding the minimum allowable per package or unit in the applicable version of the Hague Rules, which when U.S. COGSA is applicable an amount not exceeding U.S.\$500 per package or customary freight unit, unless the value (and nature) of Goods higher than this amount has been declared in writing by the Merchant before receipt of the Goods by the ocean Carrier and inserted on the face of this Bill of Lading and extra freight has been paid as required. If the actual value of the Goods per package or unit exceeds such declared value, the value shall nevertheless be deemed to be the declared value and the Carrier's liability if any, shall not exceed the declared value. Any partial loss or damage shall be adjusted prorata on the basis of such declared value. If the declared value has been willfully misstated or is markedly higher than the actual value, the ocean Carrier shall not be liable to pay any compensation.

ii. Where the cargo has been packed into a container or unitized into a similar article of transport by or on behalf of the Merchant, it is expressly agreed that the number of such containers or similar article of transport shown on the face of this Bill of Lading shall be considered as the number of the packages or units for the purpose of the application of the limitation of liability.

12.4. All and any Services provided by the Carrier gratuitously are provided on the basis that the Carrier will not accept any liability whatsoever.

12.5. It is agreed that superficial rust, oxidation, discoloration, or any like condition due to moisture, is not a condition of damage but is inherent to the nature of the goods and acknowledgement of receipt of the goods in apparent good order and condition is not a representation that such conditions of rust, oxidation, discoloration, or the like did not exist on receipt.

13. NOTICE OF CLAIM AND TIME BAR: Any claim against the Carrier must be in writing and delivered to the Carrier within Three days from the date of delivery of the goods or the date the goods should have been delivered or the date of the event giving rise to the claim, whichever is the earliest. Otherwise, the Carrier shall be discharged of all liability whatsoever in respect of any claim.

14. DELIVERY OF THE GOODS: If the Services are or are likely to be affected by any risk, delay, hindrance, difficulty or disadvantage of any kind whensoever and howsoever arising, the Carrier may abandon the Services and place the goods at any place for the Merchant to dispose of the goods, whereupon the Carrier's liability and responsibility in respect of the goods shall cease.

15. GENERAL AVERAGE:

General average shall be adjusted at Los Angeles, California, or any other port at Carrier's option, according to the York-Antwerp Rules of 1974. The General Average statement shall be prepared by adjusters appointed by Carrier. The Amended Jason Clause as approved by BIMCO is incorporated herein, and the Merchant shall provide such security as may be required by the carrier in this regard. Notwithstanding the above, the Merchant shall defend, indemnify and hold harmless the Carrier in respect of any claim, whether due to negligence or not, (and any expense rising therefrom) of a carrier in this connection. If a salving vessel is owned or operated by Carrier, salvage shall be paid for as fully as if the salving vessel or vessel belonged to strangers. The Carrier shall be under no obligation to take any steps whatsoever to collect security for General Average contributions due to the Merchant.

16. BOTH-TO-BLAME COLLISION

The both-to-blame Collision Clause published by the Baltic and International Maritime Council which is obtainable from the Carrier is available upon request, is incorporated as part of this Terms and Conditions.

17. CARRIER'S TARIFF

This Bill of Lading is subject to the Carrier's applicable Tariff, copy of which is available upon request.

18. HIMALAYA CLAUSE

All exceptions, exemptions, defenses, immunities, limitations on liability, privileges, and conditions granted or provided by this Bill of Lading or by applicable tariff or by statute or for the benefit of the Carrier shall also apply to and for the benefit of the officers and employees of the Carrier and the agents, officers and crew of the vessel and to and for the benefit of all parties performing services in connection with the Goods as agents or contractors of the Carrier and employees of each of them.

19. LAW AND JURISDICTION:

Any claim or dispute arising under this Bill of Lading shall be determined exclusively according to the laws of the United States and the Merchant agrees that any suits against the Carrier shall be brought in the United States District Court for the Central District of California, which shall have exclusive jurisdiction. The Carrier shall be entitled to avail itself of all the terms and conditions of onward carriers, including such Carriers' forum selection and limits of liability. Carrier reserves the right to bring suit against the Merchant for the collection of freight or other charges in any venue having jurisdiction over Merchant.