

# HANKYU HANSHIN EXPRESS

## Terms and Conditions

BILL OF LADING · SEA WAYBILL

2024-01-01

## FACE CLAUSE

## BACK CLAUSE

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HANKYU HANSHIN EXPRESS CO., LTD

TERMS AND CONDITIONS

BILL OF LADING · SEA WAYBILL

[FACE]

Received by the Carrier from the Shipper in apparent good order and condition, except as otherwise noted herein, the Goods or the Container(s) or package(s) said to contain the cargo, as described herein, to be carried from the Place of Receipt or Port of Loading to the Place of Delivery or Port of Discharge, as applicable, subject to all the terms and conditions on the face and back hereof, whether written, typed, stamped or printed.

Delivery of the Goods to the Carrier for Carriage hereunder constitutes acceptance by the Merchant (as defined hereinafter) (i) of all the terms and conditions, whether printed, stamped or otherwise incorporated on this side and on the reverse side of this Bill and the terms and conditions of the Carrier's applicable tariff as if they were all signed by the Merchant, any local custom or privilege to the contrary notwithstanding, and (ii) that any prior representations and/or agreements for or in connection with Carriage of the Goods are superseded by this Bill.

If this is a non-negotiable Bill of Lading, or where issued as a Sea Waybill, the Carrier shall deliver the Goods or issue a Delivery Order or the pin codes for any applicable Electronic Release System (after payment of outstanding Freight) to the named consignee or its agent against the surrender of one original Bill of Lading, or in the case of a Sea Waybill, on production of such reasonable proof of identify as may be required by the Carrier, or in accordance with the national law at the Port of Discharge or Place of Delivery as applicable.

IN WITNESS WHEREOF the Carrier or their Agent has signed the number of Bills of Lading (Waybill) stated at the top, all of this tenor and date, and whenever one original Bill of Lading has been surrendered in exchange for the Goods all other Bills of Lading shall be void.

(Terms and Conditions continued on the back hereof. Enlarged copy of all terms and conditions is available from the Carrier upon request.

Particulars furnished by Merchant. All descriptions contained herein considered unknown to Carrier.

Merchant's Declared Value. The Merchant's attention is called to the fact that according to provisions of this Bill of Lading/ (Sea Waybill), the liability of Carrier is, in most case, limited in respect of loss of or damage to Goods. Carrier's limitation shall not apply if Merchant enters a value and additionally pays the Ad Valorem rate before receipt of the Goods by the Carrier (see Clause 18, 29 and 34).

HANKYU HANSHIN EXPRESS CO., LTD

TERMS AND CONDITIONS

BILL OF LADING · SEA WAYBILL

[BACK]

1 DEFINITIONS

- (a) "Bill" means this document, whether issued as a Bill of Lading or a Sea Waybill, and whether issued in paper or electronic form.
- (b) "Carriage" means the whole or any part of the operations and services whatsoever including but not limited to carriage, warehousing, forwarding, agent, as well as special services such as export packing, undertaken by Carrier in this Bill or otherwise in respect of Goods.
- (c) "Carrier" means Person named on the face hereof and in whose name the carriage contract is made with a Merchant and who takes responsibility for Carriage.
- (d) "Container" includes any container(s) (including an open top container), trailer(s), transportable tank(s), flat rack or pallet or any similar article(s) used to consolidate Goods and any ancillary equipment.
- (e) "Freight" includes all charges payable to Carrier in accordance with the applicable Tariff, this Bill or otherwise in respect to Goods including but not limited to freight, fee, expenses, costs, detention, demurrage and general average.
- (f) "Goods" means the cargo that Merchant has tendered for Carriage, as described on the face hereof or on an attached or referenced manifest, whether carried on or under deck, and includes any containers, pallets or similar articles of transport or packaging not supplied by Carrier.
- (g) "Hague-Rules Legislation" means the provisions the International Convention for the Unification of Certain Rules of Law relating to Bills of Lading done at Brussels on 25 August 1924 ("Hague Rules") and to the Protocol to amend the Hague Rules done at Brussels on 23 February 1968 or to the Protocol amending the Hague Rules as amended by the Protocol of 23 February 1968 done at Brussels on 21 December 1979 ("Visby Amendments"), if applicable or any other legislation of a nature similar to them.

- (h) "Japan COGSA" means the International Carriage of Goods by Sea Act of Japan, as amended on May 25, 2018 (Law No.29, 2018).
- (i) "Merchant" includes the consignor, shipper, exporter, seller, consignee, owner of Goods, or the lawful holder or endorsee of this Bill, person entitled to the possession of Goods, and any person having any interest in Goods, or anyone acting on behalf of any such person.
- (j) "Person" includes an individual, group, company or other entity.
- (k) "Sub-Contractor" includes owners, charterers and operators of Vessel or any other vessel (other than Carrier), sea, water, rail, road, air or other transport operators or carriers, stevedores, terminal operators, warehousemen, and any independent contractors employed by Carrier in performance of Carriage and any servant and agent and sub-contractor thereof and anyone assisting the performance of the Carriage.
- (l) "US COGSA" means the United States Carriage of Goods by Sea Act, 1936.
- (m) "Vessel" includes the vessel named on the face hereof or any substitute for that vessel, and any feeder vessel, lighter, barge, or other conveyance used by or on behalf of Carrier in whole or in part for any part of Carriage.
- (n) "Waterborne Carriage" means carriage by sea or water, and includes the period during which Goods are under the custody of Carrier for Carriage at the sea/water terminal of Port of Loading or Port of Discharge, whether or not on board Vessel.

## 2 TARIFF

The terms of Carrier's applicable Tariff(s) ("Tariff") all or part of which may be shown in the Carrier's quotation are incorporated herein. Copies of the relevant provisions of the Tariff are obtainable from Carrier upon request. In the case of inconsistency between this Bill and any applicable Tariff, this Bill shall prevail.

### 3 PROVISIONS

- 3.1 If any provision hereof shall for any reason be held to be invalid or unenforceable by any court or regulatory body, then the remainder of this Bill shall be unaffected thereby and shall remain in full force and effect. Nothing herein shall operate to limit or deprive Carrier of any statutory protection or exemption or limitation of liability authorized by any applicable laws, statutes or regulations of any country.
- 3.2 No employee, servant, agent, or Sub-Contractor of Carrier has the power to waive or vary any provisions hereof unless Carrier, in writing, has specifically authorized such a waiver or variation.
- 3.3 The provisions hereof shall apply in any action by or against Carrier whatsoever and howsoever occurring in respect of Carriage (and without restricting the generality of the foregoing, including delay, late delivery and/or delivery without surrender of this Bill), whether the action be founded in contract, bailment or in tort.
- 3.4 Merchant undertakes that no claim or allegation in respect of Goods shall be made against Carrier by any Person, other than in accordance with the provisions hereof including but not limited to Clause 33, which imposes or attempts to impose upon Carrier any liability whatsoever in connection with Goods, whether or not arising out of negligence on the part of Carrier, and if any such claim or allegation should nevertheless be made, to indemnify Carrier against all consequences thereof (including legal fees, expert fees and disbursements).
- 3.5 The provisions hereof shall govern the relations between Carrier and Merchant in respect of Carriage, whether this Bill is issued or not.

### 4 CARRIER'S RESPONSIBILITY

- 4.1 Carrier shall only be responsible for loss or damage or delay occurring between receipt and delivery of Goods by Carrier and only to the extent set out herein.
- 4.2 If Carrier is requested by Merchants to procure performance of carriage, warehousing, agency or any other service whatsoever for the period other than those stated in Clause 4.1, such service shall be procured by Carrier as agent only to enter into contracts on behalf of Merchant and Carrier shall have no liability whatsoever for such carriage or the acts or omissions of such service provider. If Carrier is liable for such service for any reason, Carrier shall be liable in accordance with relevant clauses herein to the extent that they benefit Carrier.

4.3

- (a) Except for the shipment of Goods to, from or through the USA, including its districts, territories and possessions, which shall be governed by Clause 34 below, if it can be proved where loss of or damage to Goods or delay in delivery occurred, Carrier's liability shall be determined:
- i. if it is proved that loss or damage or delay occurred during Waterborne Carriage, by Japan COGSA, unless it is adjudged that Hague Rules Legislation mandatorily applies to this Bill, in which case by provisions of such Legislation correspond to Article 1-8 of Hague Rules including applicable amendments inclusive but excluding Article 1(e);
  - ii. if it is proved that loss or damage or delay occurred during the period of carriage by air, by the Convention for the Unification of Certain Rules relating to International Carriage by Air signed in Warsaw on October 12 1929 ("Warsaw Convention"), the Warsaw Convention as amended by the Hague Protocol dated September 28 1955, the Warsaw Convention as amended by Montreal Protocol No.4 dated September 25 1975 or the Convention for the Unification of Certain Rules relating to International Carriage by Air ("Montreal Convention") dated May 28, 1999, whichever is applicable to the state of carriage;
  - iii. if it is not proved that loss or damage or delay occurred during Waterborne Carriage nor the period of carriage by air, by the provisions contained in any international convention or national law which provisions
    - (i) cannot be departed from by private contract to the detriment of Merchant;
    - (ii) would have applied if Merchant had made a separate and direct contract with Carrier in respect of the stage of Carriage during which loss or damage or delay occurred and had received as evidence thereof any document which must be issued in order to make such international convention or national law applicable; and
    - (iii) would have been applicable if the contract referred to in (ii) above had been governed by the internal law of the State where loss or damage of delay occurred;
  - iv. if Sub-Contractor's contract or tariff applies, by such applicable Sub-Contractor's contract or tariff provided that if there is inconsistency between Sub-Contractor's contract or tariff and Carrier's General Terms and Conditions in sub-paragraph (v) below the later shall prevail to the extent that it benefits Carrier ; and



- v. If Carrier's other General Terms and Conditions apply, by such applicable Carrier's General Terms and Conditions (<https://www.hh-express.com/jp/support/agreement/>).

The provisions applicable in accordance with the above sub-paragraph (i) to (v) are incorporated herein as set forth above. If any such provisions are inconsistent with those of this Bill, the latter shall prevail to the extent that it benefits Carrier.

- (b) Except for the shipment of Goods to, from or through the USA, including its districts, territories and possessions, which shall be governed by Clause 34 below, if it cannot be proved where the loss or damage or delay occurred and Carrier is liable for Carriage for any reason, Carrier shall be liable only to the extent prescribed by Clause 29 and other relevant clauses herein.

- 4.4 Where this Bill is issued as a Sea Waybill, this Bill shall have effect subject to the CMI Uniform Rules for Sea Waybills which are incorporated herein; provided, however that if any provisions of such Rules are inconsistent with those of this Bill, the latter shall prevail.

## 5 SUB CONTRACTOR

- 5.1 Carrier shall be entitled to sub-contract the whole or any part of Carriage on any terms whatsoever, including liberty to further sub-contract.
- 5.2 Merchant undertakes that no claim or allegation shall be made against any Person who performs or undertakes Carriage (including all Sub-Contractors) other than Carrier, which imposes or attempts to impose upon such Person, or any vessel any liability whatsoever in connection with Goods or Carriage, whether or not arising out of negligence on the part of such Person and, if any such claim or allegation should nevertheless be made, to indemnify Carrier against all consequences thereof.
- 5.3 Without prejudice to the foregoing such Person (including any Sub Contractor) shall have the benefit of every right, exemption from liability, defence and immunity of whatsoever nature applicable to Carrier or to which Carrier is entitled herein including but not limited to the right to enforce Clause 33 hereof, as if such provisions were expressly for his benefit.
- 5.4 In entering into this contract, Carrier, to the extent of these provisions, does so not only on his own behalf but also as agent and trustee for Sub-Contractor.

## 6 DESCRIPTION OF GOODS

- 6.1 This Bill shall be prima facie evidence of the receipt by Carrier in apparent external good order and condition, (except as otherwise noted), of the total number of Container or other packages or units enumerated in the box entitled Carrier's Receipt.
- 6.2 Merchant shall be deemed to have guaranteed to Carrier the accuracy and the correctness of the weight, contents, measure, quantity, quality, description, condition, marks, numbers or value of Goods including but not limited to Container's Verified Gross Mass ("VGM") furnished by merchant at the time Goods are delivered to Carrier. This Bill is issued setting forth such descriptions or particulars as furnished by Merchant, and Merchant shall indemnify Carrier against any loss, damage, expense, cost and fee arising from or in connection with any inaccuracy, incorrectness and/or insufficiency of such descriptions or particulars.
- 6.3 No representation is made by Carrier as to the weight, contents, measure, quantity, quality, description, condition, marks, numbers or value of Goods and Carrier shall be under no responsibility whatsoever in respect of such description or particulars.
- 6.4 If any particulars of any Letter of Credit and/or Import Licence and/or Sale Contract and/or Invoice or Order Number and/or details of any contract to which Carrier is not a party are shown on the face hereof, such particulars are included solely at the request of the Merchant for his convenience. Merchant acknowledges that except when the provisions of Clause 29.6 apply, the value of Goods is unknown to Carrier, and that the inclusion of such particulars shall not be regarded as a declaration of value and in no way increase Carrier's liability under this Bill. Merchant further agrees to indemnify Carrier against all consequences whatsoever of including such particulars in this Bill.

## 7 FAILURE TO LOAD AND DELAY IN DELIVERY

- 7.1 In the event Carrier or Sub-Contractor fails to load Goods on the vessel specified on the face hereof, whether due to act(s) or omission(s) of Merchant, Sub-Contractor, Carrier, or from any other cause whatsoever, Carrier shall be entitled, but under no obligation, to arrange for transport on another vessel, or by other means as set forth in Clause 21 hereinabove, or Carrier may choose to cancel this contract. Any extra freight, charges, or expenses incurred by Carrier to so arrange for alternate transport shall be for the account of the Merchant, and Carrier shall have a lien on Goods for

these extra charges and expense, which shall likewise be considered Freight, in addition to the freight quoted and/or set for on the face hereof.

7.2 Carrier does not guarantee that Goods shall arrive at Port of Discharge or Place of Delivery at any particular time or in time to meet any particular market use, and Carrier shall not be responsible or liable for loss of or diminution in value due to any such delay.

## 8 INSPECTION OF GOODS

8.1 Carrier shall be entitled, but under no obligation, to open and/or scan any Container or package at any time and to inspect, re-weigh, remeasure, revalue or repack Goods without notice to Merchant for any purpose and to inquire and verify the accuracy or sufficiency of information provided and to seek assurances. Any discrepancies may result in shipment delay, cancellation and/or additional charges assessed by Carrier. All expenses incurred therefrom shall be borne by Merchant.

8.2 If pursuant to any of Carrier's rights under this Bill or if by order of the authorities at any place, a Container or package has to be opened and/or seal of a Container broken, Carrier will not be liable for any loss or damage incurred as a result of any opening, unpacking, inspection, re-weighing, re-measurement, revaluation, or repacking. Merchant shall indemnify Carrier for the cost of all measures taken as above.

8.3 Carrier may disclose and report, whether on a mandatory or voluntary basis, any and all regulatory non-compliance to authorities.

## 9 CONTAINER PACKED BY MERCHANT

If Goods received by Carrier is Container into which contents have been packed by or on behalf of Merchant,

(a) this Bill is prima facie evidence of the receipt only of the number of Container as shown herein; and

(b) Merchant warrants that the stowage of the contents of Container and their closing and sealing are safe and proper and also warrants that Container and contents thereof are suitable for Carriage in accordance with the terms hereof including Clause 11; and

(c) Merchant shall inspect Container when the same are furnished by or on behalf of

Carrier, and they shall be deemed to have been accepted by Merchant as being in sound and suitable condition for Carriage, unless he gives notice to the contrary in writing to Carrier; and

- (d) if Container are delivered by Carrier with seals intact, such delivery shall be deemed as full and complete performance of Carrier's obligation and Carrier shall not be liable for any loss of or damage to the contents of Container and neither required to unpack Container and deliver the contents thereof in accordance with brands, marks, numbers, sizes or types of packages or pieces.

## 10 SEPCIAL CARRIAGE AND SPECIAL CONTAINER

10.1 Merchant acknowledges that Goods do not require special care in the stowage, handling, or transport, such as ventilation, humidity control, refrigerated carriage, or watering (in the case of live plants) unless special arrangements for Carriage of such Goods or Container, have been agreed to in writing between Carrier and Merchant and the same is inserted on the face hereof and special freight as required had been paid. In the event Merchant declares the need for special care, and the Merchant's instructions for special care are inserted on the face hereof, and higher freight is paid therefor, Carrier shall exercise due diligence to provide such special care, but in no event shall Carrier be liable for the function of any equipment including but not limited to breakdown, stoppage, malfunction, or latent defect in any refrigeration or temperature-controlling equipment supplied by or on behalf of Merchant.

10.2 In the case of refrigerated, ventilated or any other specialized Container packed by or on behalf of Merchant, Merchant acknowledges and agrees that it has inspected such Container and has found it suitable and operational, including its refrigeration plant and thermostatic controls. Merchant further undertakes that Goods have been properly packed in Container and that he has checked that its thermostatic, ventilating or any other special controls have been properly and exactly set and working, before receipt of Goods by Carrier. Carrier shall not be liable for any loss or damage to Goods arising out of or resulting from Merchant's failure in such obligation.

10.3 The term "apparent good order and condition," when used herein with reference to Goods that require refrigeration and/or temperature controls, does not

mean that Goods upon Carrier's receipt of the same, were verified by Carrier as being at a specific temperature.

10.4 As regards Goods which have been agreed to be carried in special Container, Carrier shall exercise due diligence to maintain the facilities of the special Container while they are in his actual custody and control and shall not be liable for any kind of loss of or damage to Goods caused by latent defects, derangement or breakage of facilities of Container.

10.5 Carrier shall in no event be held liable for any loss of or damage to Goods due to fluctuations in temperature and condensation and the maintenance of any intended temperature inside Container.

## 11 OPTIONAL STOWAGE AND DECK CARGO

11.1 If Goods are not already packed into Container at the time of receipt, Carrier shall be at liberty to pack and carry them in any type of Container.

11.2 Goods packed in Containers (other than flats or pallets) by Carrier or Merchant, may be carried on or under deck without notice to the Merchant. All such Goods whether carried on deck or under deck shall participate in general average and such Goods (other than live animals) shall be deemed to be within the definition of Goods for the purposes of Hague-Rules Legislation.

11.3 Notwithstanding Clause 11.2, Goods which are stated herein to be carried on deck are carried without any responsibility whatsoever on the part of Carrier for loss or damage of whatsoever nature arising during Carriage whether caused by Vessel's unseaworthiness or Carrier (including their servant and agent which performs Carriage by virtue of authority from Carrier's negligence or any other cause whatsoever.

## 12 LIVE ANIMALS AND PLANTS

Carrier shall not be liable in any capacity and due to any cause including Carrier (including their servant and agent which performs Carriage by virtue of authority from Carrier's negligence or Vessel's unseaworthiness, whatsoever for loss of or damage to live animals and/or plants.

### 13 IRON, STEEL AND METAL PRODUCTS

Rust, oxidation, moisture or any like condition of any iron, steel or metal products is not a condition of damage but is inherent to the nature of Goods and acknowledgement of receipt of Goods in apparent good order and condition does not mean that Goods when received were free of visible rust, oxidation or moisture. Carrier shall in no event be liable for loss or damage arising out of or resulting from such inherent nature of Goods.

### 14 HEAVY LIFT

14.1 The weight of a single piece or package exceeding 1 metric ton, gross must be declared by Merchant in writing before receipt thereof by Carrier and must be marked clearly and durably on the outside of the piece or package in letters and figures not less than two inches high.

14.2 In case of Merchant's failure in his obligations under Clause 14.1, Carrier shall not be responsible for any consequence thereof and Merchant shall be responsible for and indemnify Carrier against all consequence thereof including but not limited to the loss of or damage to any property or personal injury or death.

### 15 AUTOMOBILE AND OTHER UNPACKED GOODS

Acknowledgement of receipt of Goods in apparent good order and condition with reference to unpacked Goods, including but not limited to automobiles, rolling stock, tractor and machinery, does not mean that Goods when received were free of any dent, scratch, hole, cut, bruise, discoloration, rust or similar visible defects that could not have been found by ordinary care and diligence. Carrier shall in no event be liable for loss or damage arising out of or resulting from such conditions.

### 16 PRECISE MACHINERY

Merchant acknowledges that Carrier has not undertaken an inspection of moving parts or the operation of machinery tendered for Carriage. Acknowledgement of receipt of Goods in apparent good order and condition shall not be construed as a representation or warranty of the working order of such Goods, and shall not constitute prima facie evidence of the goods order of such Goods with regard to damage not readily determinable by visible inspection or without opening packaging, including but not limited to damage caused by shock, vibration, or other movement of these Goods in the

course of loading, discharging or other handling. Merchant further acknowledges Carrier has not undertaken to carry Goods under special care or specific instructions for care of handling, unless Carrier has agreed in writing on the face hereof to provide such special care or follow such specific instructions and additional freight has been prepaid to and accepted by Carrier. Notwithstanding such special care or instructions, and additional freight paid to Carrier therefor, Carrier shall nonetheless be entitled to all right, exemption from liability, defence and immunity of whatsoever nature arising under this Bill or any applicable law.

## 17 DANGEROUS GOODS AND CONTRABAND

17.1 Carrier undertakes to carry Goods of an explosive, inflammable, radioactive, corrosive, damaging, noxious, hazardous, poisonous, injurious or any other dangerous nature only upon Carrier's acceptance of a prior written application by Merchant for Carriage of such Goods, which acceptance Carrier shall not be obliged to give. Such application must accurately state the precise nature, name, label and classification of Goods as well as the method of rendering them innocuous, with the full names, addresses and telephone numbers of Merchant.

17.2 Merchant shall undertake that the nature of Goods referred to in Clause 17.1 above is distinctly and permanently marked and manifested on the outside of Goods or the package(s) and shall also undertake to submit the documents or certificates required by any applicable statutes or regulations at any stage of Carriage or by Carrier.

17.3 Merchant warrants that such Goods are packed in a manner to withstand the risks of Carriage having regard to their nature and in compliance with all applicable laws, regulations or requirements.

17.4 Whenever Goods are perceived or are discovered to pose a threat to Vessel, any other means of transport, cargoes, properties or persons, or not to comply with the foregoing paragraphs, or Goods are perceived or found to be contraband or prohibited by any laws or regulations of any place applicable to Carriage, Carrier shall be entitled to have such Goods rendered innocuous, thrown overboard or discharged and left to Merchant at any stage and place Carrier may choose, or otherwise disposed of at Carrier's discretion without compensation, and Merchant shall be liable for and indemnify Carrier against all loss, damage, expense or liability

whatsoever directly or indirectly arising out of or resulting from such Goods and all resulting actions taken by Carrier, and shall post any bonds or financial guarantees as may be required.

#### 18 VALUABLE GOODS

Carrier shall not be liable to any extent for any loss of or damage to or in connection with platinum, gold, silver, jewelry, precious stones, precious metals, radioisotopes, precious chemicals, bullion, specie, currency, negotiable instruments, securities, writings, documents, pictures, works of art, curios, heirlooms, collections of every nature or any other valuable goods whatsoever including Goods having particular value only for Merchant, unless the true nature and value of Goods have been declared in writing by Merchant before receipt of Goods by Carrier, and the same is inserted on the face hereof and ad valorem freight has been fully prepaid.

#### 19 MARK ON GOODS

19.1 Merchant undertakes that (i) the marks are clearly and durably stamped or marked on the outside of Goods or package(s) by Merchant before the receipt of Goods by Carrier in letters and numbers not less than two inches high, together with the names of the port of discharge and/or destination, (ii) such marks correspond to the marks shown on this Bill and (iii) such marks, in all respects, comply with all laws and regulations in force at the ports of loading and discharge and/or destination.

19.2 Merchant shall indemnify Carrier against all loss, damage, liability to third party, expenses, penalties and fines arising out of or resulting from incorrectness or incompleteness thereof.

#### 20 WHEN CARRIAGE IS AFFECTED BY GOODS

If it appears or if Carrier has reasonable grounds to believe at any time that, due to their nature or condition, Goods cannot safely or properly be carried, stored, handled, possessed or provided any other service included in Carriage in whole or in part for or done so further either at all or without incurring additional expense or taking measure(s) in relation to Container or Goods, Carrier may without notice to Merchant (but as his agent only) take any measure(s) and/or incur any additional expense to carry or to



continue Carriage thereof, and/or store them ashore or afloat, under cover or in the open at any place, whichever Carrier, in his absolute discretion, considers most appropriate. Furthermore, Carrier shall be entitled with or without notice to Merchant to abandon Goods whether in store or not, or to effect a sale or disposal of Goods as may be necessary or appropriate. Carrier's liability shall cease upon such abandonment, storage, sale or disposal. Merchant shall indemnify Carrier against any additional fees and expenses so incurred.

## 21 METHOD AND ROUTE OF CARRIAGE

21.1 Carrier may at any time and without notice to Merchant: use any means of transport, storage, handling, possession or any other service included in Carriage whatsoever; transfer Goods from one conveyance to another including transshipping or carrying the same on another vessel or means of transport other than Vessel named herein; proceed by any route in his discretion (whether or not the nearest or most direct or customary or advertised route) and proceed to or stay at any place or port whatsoever once or more often, and in any order; and/or load and unload Goods at any place or port (whether or not any such port is named herein as the port of loading or port of discharge) and store Goods at any such place or port.

21.2 Vessel shall always have liberty to dry dock, go to repair yards, shift berths, shift or re-stow Goods, and take in fuel or stores. These liberties may be invoked by Carrier for any purpose whatsoever and anything done in accordance with this Clause or any delay arising therefrom shall not be deemed to be a breach by Carrier of the contract contained herein or a deviation. Should Carrier be held liable in respect of any such action, Carrier shall be entitled to the full benefit of Carrier's right, exemption from liability, defence and immunity of whatsoever nature.

## 22 MATTER AFFECTING CARRIAGE

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

- (a) carry Goods to the named Place of Delivery or Port of Discharge as applicable or perform any other service included in Carriage by an alternative route or means to that indicated herein or that which is usual for Goods consigned to that Place of Delivery or Port of Discharge as applicable (if Carrier elects to invoke the terms of this Clause 22(a), then notwithstanding the provisions of Clause 21 hereof, he shall be entitled to charge such additional freight as Carrier may determine); or
- (b) suspend Carriage of Goods and store them ashore or afloat upon the terms hereof and endeavour to forward them as soon as possible, but Carrier makes no representations as to the maximum period of suspension (if Carrier elects to invoke the terms of this Clause 22(b) then he shall be entitled to such additional freight and/or storage charges and/or legal fees and expenses as Carrier may determine); or
- (c) abandon and terminate Carriage of Goods and place Goods at Merchant's disposal at any place or port which Carrier may at his sole discretion deem safe and convenient, whereupon Carrier's responsibility in respect of such Goods shall cease. Carrier shall nevertheless be entitled to full freight on Goods received for Carriage, and the Merchant shall pay any additional costs of Carriage to, and delivery and storage at such place or port. If Carrier elects to use an alternative route under Clause 22(a) or to suspend Carriage under Clause 22(b), this shall not prejudice his right subsequently to abandon Carriage.

## 23 CARRIER'S CONTAINER

- 23.1 Merchant shall assume full responsibility for and shall indemnify Carrier against any loss of or damage to Carrier's Container and other equipment which occurs while in the possession or control of Merchant, his agents or independent contractors engaged by or on behalf of Merchant.
- 23.2 Carrier shall in no event be liable for and Merchant shall indemnify and hold Carrier harmless from and against any loss of or damage to property of other persons or injuries to other persons caused by Carrier's Container or the contents thereof during handling by, or while in the possession or control of, Merchant, his agents or independent contractors engaged by or on behalf of Merchant.
- 23.3 If Container supplied by or on behalf of Carrier are unpacked at Merchant's premises, Merchant is responsible for returning the empty Container, with interiors

brushed and clean, to the point or place designated by Carrier, its agents or servants, within the time prescribed in the applicable Tariff. Should Container not be returned as aforesaid within the time prescribed, Merchant shall be liable for any detention, losses and/or expenses which Carrier may incur including but not limited to the cost of cleaning the interior of Container.

## 24 NOTICE AND DELIVERY

24.1 Any mention herein of parties to be notified of the arrival of Goods is solely for information of Carrier, and failure to give such notification shall not involve Carrier in any liability nor relieve Merchant of any obligation hereunder.

24.2 Merchant shall take delivery of Goods immediately after arrival of Goods at Port of Discharge or Place of Delivery. If the delivery of Goods or any part thereof is not taken by Merchant at the time and place when and where Carrier is entitled to call upon Merchant to take delivery thereof, without prejudice to any other rights of Carrier hereunder, Carrier may without notice unload Goods or part thereof from Vessel or Container and/or store Goods or part thereof ashore, afloat, in the open or under cover at the sole risk of Merchant. Such storage shall constitute due delivery hereunder, and thereupon all liability whatsoever of Carrier in respect of Goods or part thereof shall cease, and the costs of such unloading or storage (if paid or payable by Carrier or any agent or Sub-Contractor of the Carrier) shall immediately on demand be paid by the Merchant to Carrier.

24.3 Merchant's attention is drawn to the stipulations in Carrier's and/or Sub-Contractor's applicable tariff or otherwise. If Goods are unclaimed during a reasonable period specified under Carrier's and/or Sub-Contractor's applicable tariff or otherwise or in Carrier's opinion or whenever in Carrier's opinion Goods will become deteriorated, decayed or worthless, Carrier may, without prejudice to any other rights against Merchant, at his sole discretion and subject to his lien and without any responsibility attaching to him, sell, abandon or otherwise dispose of such Goods solely at the risk and expense of Merchant, and apply the proceeds of any such sale or disposal in reduction of the sums due to Carrier from Merchant.

24.4 Delivery of Goods under this Bill shall be effected by Carrier providing to Merchant Goods or a Delivery Order or the pin codes for any Electronic Release System as applicable. If the Carrier is obliged to discharge Goods into the hands of

any customs, port or other authority, such discharge shall constitute due delivery of Goods to the Merchant under this bill of lading. Carrier shall have no liability for any direct or consequential damages arising after such delivery of Goods.

## 25 SPECIAL DELIVERY

25.1 In case Goods received by Carrier are Containers in which contents have been packed by the Merchant, Carrier shall only be responsible for delivery of the total number of Containers as shown on the face hereof ; provided that, at the absolute discretion of Carrier, Containers may be opened and the contained Goods may be delivered separately to more than one receiver in case of split delivery on the conditions that Carrier shall not be liable for any shortage, loss, damage, or discrepancies of Goods contained in Container.

25.2 In case Goods have been packed into Containers by Carrier, Carrier shall unpack Containers and deliver the contents thereof ; provided that, at absolute discretion of Carrier, Goods may be delivered in Containers to Merchant, in which case if Containers are delivered with seals intact by Carrier, such delivery shall be deemed as full and complete performance and Carrier shall not be responsible for any loss of or damage to the contents of Containers.

## 26 LIEN

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

## 27 FREIGHT AND CHARGES

27.1 Freight shall be deemed fully earned on receipt of Goods by Carrier, whether Goods are lost or not or for any other reason whatsoever, and shall be paid as soon as incurred and non-returnable in any event.

27.2 Freight has been calculated based on particulars furnished by or on behalf of

Merchant. If such particulars are incorrect, it is agreed that a sum equal to double the correct Freight less Freight charged shall be payable as liquidated damages to Carrier; provided that, if Sub-Contractor charges higher, such higher charge shall be payable by Merchant. The liquidated damages shall only relate to the freight. Merchant shall indemnify Carrier for all other damage or loss, penalties and legal fees resulting from the incorrect particulars being furnished.

27.3 All Freight shall be paid to Carrier by Merchant in cash without any set-off, counter-claim, deduction or pardon either at or prior to the time agreed for payment or at latest before delivery of Goods. If Freight are payable at Port of Discharge or Place of Delivery, such Freight shall be paid in the currency stated on the face hereof or in another currency as designated by Carrier.

27.4 Merchant shall be liable to Carrier for the payment of expenses including but not limited to all duties, taxes, fees, charges, freight, demurrage, detention, general average, and any other expenses whatsoever accrued in connection with Goods.

27.5 Merchant shall be liable for expenses for mending, baling, repairs or replacement of package of Goods and expenses incurred in fumigating, protecting, caring for and regaining possession of Goods and any other expenses whatsoever incurred for Goods regardless of Merchant's negligence.

27.6 Merchant shall be liable to Carrier for the payment of all Freight as well as court costs, legal fees and expenses incurred in collecting monies due to Carrier. Payment of any Freight to a broker or anyone other than Carrier or its authorized agent shall not be deemed payment to Carrier and shall be made at Merchant's sole risk.

## 28 MERCHANT RESPONSIBILITY

28.1 All Persons defined as Merchant in Clause 1 shall be jointly and severally liable to Carrier for the due fulfillment of all obligations of Merchant herein.

28.2 Merchant shall comply with all statutes, ordinances, regulations or requirements of customs, port, and any other authorities relative to Goods, documentation and any other matters affecting or in any way relating thereto including but not limited to the requirement to provide VGM, and shall bear and pay all duties, taxes, fines, imposts, expenses or losses incurred or suffered due to any failure to so comply, or due to any illegal, incorrect or insufficient marking,

numbering or addressing of Goods, and shall indemnify Carrier in respect thereof.

28.3 Merchant shall indemnify, defend and hold Carrier harmless from all consequences of any: (a) failure by Merchant to comply with any provision hereof, applicable Tariff, and/or any applicable circulars or contracts, laws or regulations, and/or (b) breach of any of Merchant's representations or warranties or undertakings herein.

28.4 Merchant's obligation to so indemnify, defend and hold harmless shall include reimbursement of all expenses or amounts spent or incurred, including legal fees and expenses, penalties or liabilities imposed, or loss of profit, directly or indirectly arising from or in connection with such failure or breach and shall not be defeated or reduced by any negligence on the part of or attributable to Carrier.

28.5 Merchant is responsible for the same obligation and liability at each stage of Carriage as Carrier owes to each Sub-Contractor under provisions of each Sub Contractor's contract or tariff. Merchant agrees that Carrier is entitled to the same benefit of every right, exemption from liability, defence and immunity of whatsoever nature as Sub-Contractor is entitled to under provision of Sub-Contractor's contract or tariff. The relevant information of the provisions of the contract or tariff shall be provided upon request to the extent that it is provided by Sub-Contractor.

28.6 Merchant warrants that at the date of this Bill and throughout Carriage he and any other party to this Contract is not (a) any Person subject to sanctions imposed by the UN, EU, UK, USA or any other applicable competent authority or government, (b) owned, or controlled (individually/in aggregate, directly/indirectly), and/or (c) acting for or on behalf of, such Person.

## 29 LIABILITY OF THE CARRIER

29.1 Except for the shipment of Goods to, from or through the United States, including its districts, territories and possessions, which shall be governed by Clause 34 below and unless otherwise provided herein, Carrier shall be relieved of liability for any loss or damage whatsoever and howsoever arising out of Carriage if such loss or damage or delay was caused by:

- (i) act of God,
- (ii) act of War,
- (iii) act of public enemies,

- (iv) arrest or restraint of princes, rulers or people or seizure under legal process,
- (o) quarantine restrictions,
- (vi) an act or omission of Merchant, his agent, representative or sub-contractor,
- (vii) compliance with instructions of any Person entitled to give them,
- (viii) insufficiency of or defective condition of packing or marking,
- (ix) handling, loading, stowage or unloading of Goods by or on behalf of Merchant,
- (x) inherent vice of Goods,
- (xi) latent defects not discoverable by due diligence,
- (xii) fire or nuclear incident unless caused by the actual fault or privity of Carrier,
- (xiii) strike, lock-out, stoppage or restraint of labour, from whatever cause, whether partial or general,
- (xiv) riots and civil commotions,
- (xv) any cause or event which Carrier could not avoid and the consequences whereof he could not prevent by the exercise of reasonable diligence.

29.2 The burden of proving prima facie that loss or damage or delay whatsoever was due to one or more of the causes or events specified in Clause 29.1 shall rest upon Carrier, save that if Carrier establishes that one or more of the causes or events specified in Clause 29.1 was present or occurred and that the loss or damage or delay whatsoever was what would ordinarily arise therefrom, it shall be presumed that it was caused thereby. Merchant shall, however, be entitled to prove that loss or damage or delay whatsoever was not, in fact, caused either wholly or partly by one or more of these causes or events.

29.3 It is agreed by Merchant that Carrier qualifies and shall be regarded as a person entitled to limit liability under any applicable convention for the Limitation of Liability for Maritime Claims notwithstanding that Carrier may have secured space on board the relevant vessel by means of a bill of lading, waybill or other contract of carriage. Subject to any law compulsorily applicable to Carriage to the contrary, and save to that extent, the fund to which Carrier may limit its liability in respect of all claims arising out of an incident shall be that part or proportion of the limitation fund applicable to the actual carrier that is available for Carrier's claims against the actual carrier.

29.4 If Hague-Rules Legislation are applicable by virtue of national law, the liability of Carrier shall in no event exceed the limit provided in the applicable national law.

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

29.5 Unless otherwise provided herein, total compensation shall in no event exceed 666.67 SDR per package or unit or 2 SDR per kilogram of gross weight of Goods lost or damaged, whichever is the higher (SDR means Special Drawing Right as defined by the International Monetary Fund). When Goods have been packed by or on behalf of Merchant, and when the number of package or units packed into Container is not enumerated on the face hereof, each Container shall be considered as one package for the purpose of application of Carrier's limitation of liability.

29.6 Merchant agrees and acknowledges that Carrier has no knowledge of the value of Goods and higher compensation than that provided for in this Bill may be claimed only when, with the consent of Carrier, (i) for multimodal shipments to or from the USA where the USA inland carriage is undertaken, Merchant elects to avoid any liability limitation provided herein by prepaying extra freight and opting for full liability by complying with the terms in Carrier's contract or tariff; and (ii) in all other cases, shipper declares the value of Goods and requests that Carrier insert the declared value of Goods in the box marked "Declared Value" on the face hereof and the entry "NVD" or any other notation indicating no value has been declared does not appear in that space, and for which extra freight has been paid by the Merchant. In that case, the amount of the declared value shall be substituted for the limits laid down herein. Any partial loss or damage shall be adjusted pro rata based on such declared value. In accepting this Bill, Merchant acknowledges that it has been offered the opportunity to declare the actual value of Goods in the space on the face hereof so designated.

29.7 In any event, Carrier shall not be liable for loss of profits, exemplary, special, consequential, direct or indirect damages, or loss of market value due to delay whatsoever or howsoever caused by Carriage. Without prejudice to the foregoing, if Carrier is found liable for delay by the court, Carrier's liability shall be in no event exceed to the freight payable for the delayed Goods and applicable to the relevant stage of Carriage.

29.8 Carrier's liability is further reduced by up to the amount of money that Sub-Contractor has paid as compensation to Merchant.



### 30 NOTICE OF CLAIM AND TIME-BAR

30.1 Unless notice of loss or damage or delay and the general nature of such loss or damage or delay is given in writing to Carrier at Place of Delivery or Port of Discharge as applicable before or at the time of delivery of Goods or, if the loss or damage be not apparent, within 3 days after delivery, Goods shall be deemed to have been delivered as described herein.

30.2 If Goods have been or may have been lost or damaged or delayed during the custody of Sub-Contractor, Carrier shall be discharged from all liability whatsoever in respect of Goods unless the Merchant gives Carrier notice of loss and notice of claim in time for Carrier to comply with the requirements of Sub-Contractor. It is Merchant's obligation to inquire as to those requirements. Carrier is not obligated to volunteer that information.

30.3 In any event, Carrier shall be discharged from all liability whatsoever in respect of Carriage unless suit is brought within nine months after delivery of Goods or the date when Goods should have been delivered.

### 31 GENERAL AVERAGE

31.1 General average shall be adjusted, stated and settled at any port or place at Carrier's option according to the York-Antwerp Rules 1994, and as to matters not provided for by these Rules, according to the laws and usages of the port or place of adjustment, and in the currency selected by Carrier. The general average statement shall be prepared by adjusters appointed by the Carrier. An average agreement or bond and such cash deposit as Carrier may deem sufficient to cover the estimated contribution of Goods and any salvage and special charges thereon and any other additional securities as Carrier may require shall be furnished by the Merchant to Carrier or other Person upon Carrier's demand before delivery of Goods.

31.2 All expenses in connection with or related to any act by Carrier or Sub-Contractor in order to avoid or minimize damage to the environment, shall be considered a general average expense, unless such action constitutes a remediation or clean-up-cost under Clause 17 hereinabove in which case Merchant and Goods shall be solely responsible for such expense.

31.3 If Carrier delivers Goods without obtaining security for general average

contributions, Merchant, by taking delivery of Goods, undertakes responsibility to pay such contribution and to provide such deposit for the estimated amount of such contributions as Carrier shall require.

### 32 BOTH TO BLAME COLLISION CLAUSE AND NEW JASON CLAUSE

The Both-To-Blame Collision Clause and New Jason Clause published by the Baltic and International Maritime Council (BIMCO), a copy of which shall be provided upon request, are hereby incorporated into this Bill.

### 33 GOVERNING LAW AND JURISDICTION

33.1 Subject to Clause 34 below, the contract herein shall be governed by Japanese law except as may be otherwise provided for herein. Unless otherwise agreed by Carrier, any action against Carrier hereunder must be brought exclusively before the Tokyo District Court. Any action by Carrier hereunder may be brought before any court of competent jurisdiction at the option of the Carrier.

33.2 For Shipment to or from the USA (including its districts territories and possessions), the contract contained herein shall be governed by the USA law.

### 34 US CLAUSE PARAMOUNT

34.1 If Carriage covered hereby includes Carriage to or from a port or place in the USA, including its districts, territories and possessions, this Bill shall be subject to US COGSA, the terms of which are incorporated herein and US COGSA shall govern throughout the entire Carriage set forth herein (and not just Waterborne Carriage) from the time of receipt of Goods to the time of delivery of the goods. If US COGSA so applies, then with respect to Goods carried on deck and stated on the face hereof to be so carried, with respect to live animals, birds, reptiles, fish, shellfish and plants, all risk or loss or damage by perils inherent in or incidental to such Carriage shall be borne by Merchant, and in all other respects, Carrier shall have benefit of the provisions of US COGSA, notwithstanding Section 1(c) thereof. Neither the Hamburg Rules nor the Visby Amendments shall apply to Carriage to or from the USA. Carrier shall be entitled to the benefits of the defences and limitations in US COGSA, whether or not the loss or damage to Goods occurs at sea.

34.2 For limitation purposes under US COGSA, it is agreed that the meaning of the

word "package" shall be any palletised and/or unitised assemblage of cartons which has been palletised and/or unitised for the convenience of Merchant, regardless of whether said pallet or unit is disclosed on the front hereof. If US COGSA so applies, neither Carrier nor Vessel shall, in any event, be or become liable for any loss or damage to or in connection with Goods in an amount exceeding \$500.00 lawful money of the USA per package, or in the case of Goods not shipped in packages, per customary freight unit, unless the nature and value of Goods have been declared by shipper before shipment and inserted herein.