

# CONDITIONS OF CARRIAGE

## 1. DEFINITIONS. "Carrier" means TransAtlantic Container AB.

"Goods" means the cargo accepted from the Shipper and includes non-containerised units (cargoes, flat racks, pallets, transportable tanks and any Container not supplied by or on behalf of the Carrier.

"Container" includes any ISO container.

"Merchant" includes the Shipper, Holder, Consignee, the receiver of the Goods, any person owning or entitled to the possession of the Goods or this Bill of Lading and anyone acting on behalf of any such persons.

"Holder" means any person for the time being in possession of this Bill of Lading to whom the property in the Goods has passed on or by reason of the consignment of the Goods or the endorsement of this Bill of Lading or otherwise.

"Sub Contractors" shall mean direct and indirect sub-contractors and their respective servants and agents.

"Third Party" means any person, firm or corporation or other legal entity (including but not limited to the Master, Officers and crew of the vessel, all agents and Sub-Contractors whatsoever) other than the Carrier.

"Unit of Account" shall mean Special Drawing Rights as defined by the International Monetary Fund.

"Vessel" means the vessel named in box [ ] hereof.

2. CARRIER'S TARIFF. The terms of the Carrier's applicable Tariff are incorporated herein. Copies of the relevant provisions of the applicable Tariff are obtainable from the Carrier upon request. In the case of inconsistency between this Bill of Lading and the applicable Tariff, this Bill of Lading shall prevail except that the applicable Tariff shall govern as to the Freight.

3. WARRANTY. The Merchant warrants that in agreeing to the terms hereof he is, or has the authority of, the person owning or entitled to the possession of the Goods and this Bill of Lading.

4. SUB-CONTRACTING AND INDEMNITY. (i) The Carrier shall be entitled to sub-contract on any terms the whole or any part of the carriage, loading, unloading, storing, warehousing, handling and any and all duties whatsoever undertaken by the Carrier in relation to the Goods.

(ii) In contracting for the following exemptions and limitations and exoneration from liability, the Carrier is acting as agent and trustee for all other persons named in this Clause. It is understood and agreed that, other than the Carrier, no Third Party is, or shall be deemed to be liable with respect to the Goods, carrier, bailee or otherwise. If, however, it shall be adjudged that any other than the Carrier is carrier or bailee of the Goods or under any responsibility with respect thereto, all exemptions and limitations and exoneration from liability provided by the law or by the terms hereof shall be available to the Third Party. It is also agreed that each Third Party is an intended beneficiary, but nothing herein contained shall be construed to limit or relieve any Third Party from liability to the Carrier for acts arising or resulting from their fault or neglect. No claim or allegation shall be made against any Third Party for any liability whatsoever in connection with the Carriage of the Goods whether or not arising out of negligence on the part of the Third Party and, if any such claim or allegation is made, the Merchant shall indemnify the Carrier against all consequences thereof.

(iii) The Merchant undertakes that no claim or allegation shall be made against any servant, agent or Sub-Contractor, including, without limiting the generality of the foregoing, terminal and depot operators of the Carrier which imposes or attempts to impose upon any of them or any vessel owned by any of them any liability whatsoever in connection with the Goods, and, if any such claim or allegation should nevertheless be made, to indemnify the Carrier against all consequences thereof. Without prejudice to the foregoing, every such servant, agent and Sub-Contractor, including, without limiting the generality of the foregoing, terminal and depot operators shall have the benefit of all provisions herein benefitting the Carrier as if such provisions were expressly for their benefit; and in entering into this contract the Carrier, to the extent of those provisions, does so not only on its own behalf, but also as agent and trustee for such servants, agents and subcontractors, including, without limiting the generality of the foregoing, terminal and depot operators.

## 5. CARRIER'S RESPONSIBILITY.

(i) When loss or damage has occurred between the time of loading of the Goods by the Carrier, or any underlying carrier, at the Port of Loading and the time of discharge by the Carrier, or any underlying carrier, at the Port of Discharge, the responsibility of the Carrier shall be determined in accordance with any national law making the Hague Rules, or any amendment thereto, compulsory applicable to this Bill of Lading. If there are no such rules compulsorily applicable, the Hague-Visby Rules shall apply. The Carrier shall be under no liability whatsoever for loss of or damage to the Goods, however occurring, if such loss or damage arises prior to loading onto or subsequent to the discharge from the Vessel. Notwithstanding the above, in the event that any applicable compulsory law provides that the Carrier has responsibility prior to loading onto or subsequent to the discharge from the Vessel, the Carrier shall have the benefit of every right, defence, limitation and liberty in the Hague Visby Rules as applicable by this Clause during such additional compulsory period of responsibility, notwithstanding that the loss or damage did not occur at sea. In the event that this Bill of Lading covers shipments to or from the United States then the US Carriage of Goods by Sea Act (COGSA) shall apply.

(ii) Subrogation. When any claims are paid by the Carrier to the Merchant, the Carrier shall be automatically subrogated to all rights of the Merchant against all others, including underlying Carriers, on account of such loss or damage.

## 6. THE AMOUNT OF COMPENSATION.

(i) When the Carrier is liable for compensation in respect of loss of or damage to the Goods, such compensation shall be calculated by reference to the invoice value of the Goods plus freight charges and insurance if paid.

(ii) If there is no invoice value of the Goods, such compensation shall be calculated by reference to the value of the Goods at the time they are delivered to the Merchant in accordance with the contract or should have been delivered. The value of the Goods shall be fixed according to the commodity exchange price or, if there is no such price according to the current market price or, if there is no commodity exchange price or current market price, by reference to the normal value of goods of the same kind and quality.

(iii) Compensation shall not however exceed 666.67 Units of Account per package or unit or 2 Units of Account per kilogramme of gross weight of the Goods lost or damaged, whichever is the higher.

(iv) Higher compensation may be claimed only when with the consent of the Carrier the value of the Goods declared by the Shipper which exceeds the limits laid down in this clause has been stated in this Bill of Lading. In that case the amount of the declared value shall be substituted for that limit. Any partial loss or damage shall be adjusted pro rata on the basis of such declared value.

## 7. GENERAL.

(i) The Carrier does not undertake that the Goods shall arrive at the port of discharge or place of delivery at any particular time or to meet any particular market or use and the Carrier shall in no circumstances be liable for any direct, indirect or consequential loss or damage caused by delay.

The liability of the Carrier for indirect or consequential loss or damage caused by delay shall in no case exceed the freight for the transport covered by this Bill of Lading.

(ii) Save as otherwise provided herein, the Carrier shall in no circumstances be liable for indirect or consequential loss or damage arising from any other cause.

## 8. NOTICE OF LOSS. TIME BAR.

(i) Unless notice of loss of or damage to the Goods and the general nature of it is given in writing to the Carrier at the place of delivery before or at the time of removal of the Goods into the custody of the person entitled to delivery thereof under this Bill of Lading, or if the loss or damage be not apparent, within three consecutive days thereafter, such removal shall be "prima facie" evidence of the delivery by the Carrier of the Goods as described in this Bill of Lading.

(ii) Notwithstanding paragraph 5 above and subject to paragraph 9 (iii) below the Carrier shall be discharged of all liability under this Bill of Lading unless such is brought and written notice thereof given to the Carrier within nine months after delivery of the Goods. In the case of total loss of the Goods the period shall begin to run two months after the Goods have been received for transportation.

(iii) Notwithstanding paragraphs 5 and 9 (ii) above, the Carrier shall be discharged from all liability whatsoever in respect of the Goods, unless such is brought within one year of their delivery or of the date when they should have been delivered.

## 9. DEFENCES AND LIMITS FOR THE CARRIER.

(i) The defences and limits of liability provided for in this Bill of Lading shall apply in any action against the Carrier for loss or damage to the Goods whether the action be founded in contract, in tort or otherwise.

(ii) The Carrier shall not be entitled to the benefit of the limitation of liability provided for in Clause 6, sub-clause (iii) if it is proved that the loss or damage resulted from an act or omission of the Carrier done with intent to cause damage or recklessly and with knowledge that damage would probably result.

10. SHIPPER-PACKED CONTAINERS. (i) If a Container has not been packed by or on behalf of the Carrier, the Carrier shall not be liable for loss of or damage to the content and the Merchant shall indemnify the Carrier against any loss, damage, liability or expense incurred by the Carrier, if such loss, damage, liability or expense has been caused by:

a) the manner in which the Container has been packed; or

b) the unsuitability of the contents for carriage in Containers; or

c) the unsuitability or defective condition of the Container arising without any want of due diligence on the part of the Carrier to make the Container reasonably fit for the purpose for which it is required; or

d) the unsuitability or defective condition of the Container which would have been apparent upon reasonable inspection by the Merchant at or prior to the time when the Container was filled, packed, stuffed or loaded.

e) packing refrigerated Goods that are not at the correct temperature for Carriage.

(ii) Container with Goods packed by the Merchant shall be properly sealed by the Merchant.

(iii) In regard to refrigerated cargoes, the term "apparent good order and condition" when used in this Bill of Lading with reference to the Goods which require refrigeration does not mean the Goods when received were verified by the Carrier as being at the designated carrying temperature. Where a carrying temperature is indicated the Carrier merely undertakes that the container is equipped to maintain the temperature set by the Merchant. The Merchant remains responsible for the consequences of any temperature irregularities prior to receipt or after delivery by the Carrier.

11. INSPECTION OF GOODS. The Carrier shall be entitled, but under no obligation, to inspect, weigh, measure, count, mark, number or value the Goods and the Carrier does not mean the Goods when received were verified by the Carrier as being at the designated carrying temperature. Where a carrying temperature is indicated the Carrier merely undertakes that the container is equipped to maintain the temperature set by the Merchant. The Merchant remains responsible for the consequences of any temperature irregularities prior to receipt or after delivery by the Carrier.

12. DESCRIPTION OF GOODS. (i) This Bill of Lading shall be prima facie evidence of the receipt by the Carrier in apparent good order and condition except as otherwise noted of the total number of Containers or other packages or units enumerated overleaf. Proof to the contrary shall not be admissible when this Bill of Lading has been transferred to a third party acting in good faith.

(ii) No representation is made by the Carrier as to the weight, contents, measure, quantity, quality, description, condition, marks, numbers or value which the Goods and the Carrier shall be under no responsibility whatsoever in respect of such description or particulars.

13. SHIPPERS/MERCHANT'S RESPONSIBILITY. (i) The Merchant warrants to the Carrier that the particulars relating to the Goods as set out overleaf have been checked by the Merchant on receipt of this Bill of Lading and that such particulars and any other particulars furnished by or on behalf of the Merchant are correct. The Merchant also warrants that the Goods are lawful Goods and contain no contraband.

(ii) The Merchant shall indemnify the Carrier against all loss, damage and expenses arising or resulting from inaccuracies in or inadequacy of such particulars. The right of the Carrier to such indemnity shall in no way limit his responsibility and liability under this Bill of Lading to any person other than the Merchant.

(iii) All of the Persons coming within the definition of Merchant in Clause 1 shall be jointly and severally liable to the Carrier for the due fulfillment of all obligations undertaken by the Merchant in this Bill of Lading.

(iv) The Merchant shall comply with all regulations or requirements of customs, ports and/or other authorities and shall bear and pay all duties, taxes, fines, imports, expenses or losses (including, without prejudice to the generality of the foregoing, freight for any additional carriage undertaken) incurred or suffered by reason of any failure to so comply, or by reason of any illegal, incorrect, or insufficient marking, number or addressing of the Goods or the discovery of any drugs, narcotics, stowaways or other illegal substances within containers packed by the Merchant or inside Goods supplied by the Merchant, or stamps duty imposed by any country, and shall indemnify the Carrier in respect thereof.

14. FREIGHT AND CHARGES. (i) Freight and charges shall be deemed fully earned on receipt of the Goods by the Carrier and shall be paid and non-returnable in any event.

(ii) The Merchant's attention is drawn to the stipulations concerning currency in which the freight and charges are to be paid, rate of exchange, devaluation and other contingences relative to freight and charges in the applicable Tariff.

(iii) The Freight has been calculated on the basis of particulars furnished by or on behalf of the Merchant. The Carrier may at any time open any Container or other package or unit in order to reweigh, re-measure 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 charge, whichever sum is the smaller, shall be payable as liquidated damages to the Carrier.

(iv) Full freight hereunder shall be due and payable at the place where this Bill of Lading is issued, by the Merchant in cash without deduction on receipt of the Goods or part thereof to the Carrier for shipment even if stated in this Bill of Lading to be payable elsewhere and shall be deemed to have been fully earned upon such receipt of such Goods. All charges due hereunder together with freight (if not paid at the port of loading as aforesaid) shall be due from and payable on demand by the Shipper, Consignee, Owner of the Goods or Holder of this Bill of Lading (who shall be jointly and severally liable to the Carrier thereof) at such port or place as the Carrier may require, vessel or cargo lost or not lost from any cause whatsoever.

15. LIEN. The Carrier shall have a lien on the Goods and any documents relating thereto for all sums payable to the Carrier under this contract and for general average contributions to whatsoever due and for the cost of recovering the same and also for all previously unsatisfied debts whatsoever due to the Carrier by the Merchant, and for that purpose shall have the right to sell the Goods by public auction or private treaty without notice to the Merchant.

16. OPTIONAL STOWAGE. (i) The Goods may be stowed by Carrier in Containers or similar articles of transport used to consolidate goods.

(ii) Subject to Clause 17, Goods stowed in Containers or on flats or pallets whether by the Carrier or the Merchant, may be carried on or under deck without notice to the Merchant. Such Goods (other than livestock) whether carried on deck or under deck shall participate in general average and shall be deemed to be within the definition of goods for the purpose of the Hague Rules as amended by the Brussels Protocol of 23rd February 1968 and by the protocol signed at Brussels on 21st December 1979.

17. DECK CARGO. Goods which are stated herein to be carried on deck and are carried on deck are carried without responsibility on the part of the Carrier for loss or damage of whatsoever nature arising during carriage by sea whether caused by seaworthiness or negligence or any other cause whatsoever and the Hague Rules, or any amendments thereto, shall not apply.

18. LIVESTOCK. Livestock are carried at the sole risk of the Merchant. The Carrier shall be under no liability whatsoever for any injury, illness, death, delay or destruction whatsoever arising even though caused or contributed to by the act, neglect or default of the Carrier or by the seaworthiness or unfitness of any vessel, craft, conveyance, container or other place existing at any time. In the event of the Master, in his sole discretion, considering that any livestock is likely to be injurious to the health of any other livestock or other person on board or to cause the vessel or to be delayed or impeded in the prosecution of the voyage, such livestock may be destroyed and thrown overboard without any liability attaching to the Carrier. The Merchant shall indemnify the Carrier against the cost of veterinary services on the voyage and of providing forage for any period during which the carriage is delayed for any reason whatsoever, and of complying with the regulations of any authority of any country whatsoever with regard to such livestock.

19. METHODS AND ROUTES OF TRANSPORTATION. (i) The Carrier may at any time and without notice to the Merchant :-

(a) use any means of transport or storage whatsoever;

(b) transfer the Goods from one conveyance to another including transhipping or carrying the same on another vessel than the vessel named overleaf or on any other means of transport whatsoever;

(c) 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;

(d) load and 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;

(e) comply with any orders or recommendations given by any government or authority 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.

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

20. MATTERS AFFECTING PERFORMANCE. If at any time the performance of the contract evidenced by this Bill of Lading is likely to be affected by any hindrance, risk, delay, difficulty or disadvantage of whatsoever kind which cannot be avoided by the exercise of reasonable endeavours, the Carrier (whether or not the transport 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 place or port which the Carrier may deem safe and convenient, whereupon the responsibility of the 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 place or port. Notwithstanding the above, the Carrier reserves the right to reshipe the Goods without the Merchant's consent and without this act constituting an act of conversion and the merchant shall indemnify and hold the Carrier harmless for all liabilities and expenses incurred.

21. CARRIAGE AFFECTED BY CONDITION OF GOODS. If it appears at any time that, due to their condition, the Goods cannot safely or properly be carried further or without incurring additional expense or taking any measure(s) in relation to the Container or the Goods the Carrier may without notice to the Merchant (but as his agents only) take any measure(s) and/or incur any additional expense to carry or to continue the Carriage thereof, and/or to unload the Goods and/or to store the Goods and/or to transport the Goods and/or to unload under cover or in the open, at any place, whichever the Carrier, in his absolute discretion, considers most appropriate, which abandonment, storage or disposal shall be deemed to constitute due delivery under this Bill of Lading. The Merchant shall indemnify the Carrier against any additional expense so incurred.

22. DANGEROUS GOODS. (i) The Merchant undertakes not to tender for transportation any Goods which are a dangerous, inflammable, radio-active, or damaging nature without previously giving written notice of their nature to the Carrier and marking the Goods and the Container or other covering on the outside as required by any laws or regulations which may be applicable during the carriage.

(ii) If the requirements of sub-clause (i) are not complied with the Merchant shall indemnify the Carrier against all loss, damage or expense arising out of the Goods being tendered for transportation or handled or carried by the Carrier.

(iii) Goods which are or at any time become dangerous, inflammable, radio-active or damaging may, at any time or place, be unloaded, destroyed or rendered harmless without compensation, and if the Merchant has not given notice of their nature to the Carrier under (i) above, the Carrier shall be under no liability to make any general average contribution in respect of such Goods.

23. REFRIGERATED CARGO. (i) The Merchant undertakes not to tender for transportation any Goods which require refrigeration without previously giving written notice of their nature and particular temperature range to be maintained and in the case of a refrigerated Container packed by or on behalf of the Merchant further undertakes that the Goods have been properly stored 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 however arising.

(2) The Carrier shall not be liable for any loss of or damage to the Goods arising from latent defects, derangement, breakdown, stoppage of the refrigerating machinery, plant, insulation or any 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.

24. REGULATIONS RELATING TO GOODS. The Merchant shall comply with all regulations or requirements of Customs, port and other authorities and shall bear and pay all duties, taxes, fines, imports, expenses or losses incurred suffering by reason thereof or by reason of any illegal, incorrect or insufficient marking, numbering or addressing of the Goods and indemnify the Carrier in respect thereof.

25. NOTIFICATION AND DELIVERY. (i) Any mention in this Bill of Lading of parties to be notified of the arrival of the Goods is solely for information of the Carrier, and failure to give such notification shall not involve the Carrier in any liability nor relieve the Merchant of any obligation hereunder.

(ii) The Merchant shall take delivery of the Goods within the time provided for in the Carrier's applicable Tariff.

(iii) If the Merchant fails to take delivery of the Goods or part of them in accordance with this Bill of Lading, the Carrier may without notice unload the Goods or that part thereof and/or store the Goods or that part thereof ashore afloat, in the open or under cover. Such storage shall constitute due delivery hereunder, and thereupon all liability whatsoever of the Carrier in respect of the Goods or that part thereof shall cease.

(iv) The Merchant's attention is drawn to the stipulations concerning free storage time and demurrage contained in the Carrier's applicable Tariff, which is incorporated in this Bill of Lading.

26. BOTH-TO-BLAME COLLISION. If the (carrying) ship comes into collision with another ship as a result of the negligence of the other ship and any act, neglect or default in the navigation or the management of the carrying ship, the Merchant undertakes to pay the Carrier, or where the Carrier is not the owners and in possession of the carrying ship, to pay to the Carrier as trustee for the owner and/or demise charterer of the carrying ship, a sum sufficient to indemnify the Carrier and/or the owners and/or demise charterer of the carrying ship against all loss or liability to the other or non-carrying ship or her owners insofar as such loss or liability represents loss of or damage to, or any claim whatsoever of the merchant, paid or payable by the other or non-carrying ship or her owners to the Merchant and set-off, recouped or recovered by the other or non-carrying ship or her owners as part of their claim against the carrying ship or her owners or demise charterer or the Carrier. The foregoing provisions shall also apply where the owners, operators, or those in charge of any ship or ships or objects, other than, or in addition to, the colliding ships or objects, are at fault in respect to a collision, contact, stranding or other accident.

27. GENERAL AVERAGE. (i) General average shall be adjusted at any port or place at the option of the Carrier in accordance with the York-Antwerp Rules, provided that when an adjustment is made in accordance with the law and practice of the United States of America or of any other country having the same or similar law or practice the following clause shall apply :-

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(a) 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 Goods and the Merchant 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 Goods.

(b) If a salving vessel is owned or operated by the Carrier salvage shall be paid for as fully as if the said-salving vessel belonged to strangers.

(ii) If the Carrier delivers the Goods without obtaining security for general average contributions, the Merchant by taking delivery of the Goods, undertakes personal responsibility to pay such contributions and to provide such cash deposit or other security for the estimated amount of such contributions as the Carrier shall reasonably require.

(iii) The Carrier shall be under no obligation to exercise any lien for general average contribution due to the Merchant.

## 28. VARIATION OF THE CONTRACT ETC.

No servant or agent of the Carrier shall have power to waive or vary any term of this Bill of Lading unless such waiver or variation is in writing and is specifically authorised or ratified in writing by the Carrier.

29. WAR RISK CLAUSE. The Conwarime 2004 published by the Baltic and International Maritime Council (BIMCO), a copy of which is available upon request, is hereby incorporated into this Bill of Lading.

## 30. Validity

In the event that anything herein contained is inconsistent with any applicable International Convention or national law which cannot be departed from by private contract, the provisions hereof shall to the extent of such inconsistency but not further be null and void.

Unless otherwise specifically agreed in writing between the Merchant and the Carrier in this Bill of Lading, the terms and conditions of this Bill of Lading supersede any prior negotiations, discussions or agreements between Merchant and Carrier

31. LAW AND JURISDICTION. The contract evidenced hereby or contained herein shall be governed by English Law. Any claim or other dispute thereunder shall be solely determined by the English Courts unless the Carrier otherwise agrees in writing.

