

SEA MASTER SHIPPING COMBINED TRANSPORT BILL OF LADING

I. GENERAL PROVISIONS

1. Applicability. Notwithstanding the heading "Combined Transport Bill of Lading", the provisions set out and referred to in this document shall also apply, if the transport as described on the face of the B/L is performed by one mode of transport only.

2. Definitions. "Carrier" means the party on whose behalf this B/L has been signed. "Merchant" includes the Shipper, the Receiver, the Consignor, the Consignee, the Holder or this B/L and the Owner of the Goods.

"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. "Goods" means the cargo received from the shipper and includes any container not supplied by or on behalf of the carrier. "Container" includes any container, trailer, transportable tank, flat, pallet or any other form of cargo carrying unit. "Carriage" means the whole of the operations and services undertaken by the carrier in respect of the goods. "Combined Transport" arises when the place of acceptance and/or the place of delivery are indicated on the face hereof in the relevant spaces. The contract evidenced by this Bill of Lading is between the Merchant and the Owner of the vessel named herein (or substitute) and it is therefore agreed that said Shipowner only shall be liable for any damage or loss due to any breach or non-performance of any obligation arising out of the contract of carriage, whether or not relating to the vessel's seaworthiness, if despite the foregoing, it is adjudged that any other is the Carrier and/or bailee of the goods shipped hereunder, all limitations of and exonerations from, liability provided for by law or by this Bill of Lading shall be available to such other.

3. Carrier's Tariff. The terms of the Carrier's applicable Tariff at the date of shipment are incorporated herein. Copies of the relevant provisions of the applicable Tariff are available from the Carrier upon request. In the Case of inconsistency between this B/L and the applicable Tariff, this B/L shall prevail.

4. Time Bar. All liability whatsoever of the Carrier shall cease unless suit is brought within 9 months after delivery of the goods or the date when the goods should have been delivered, unless another time limit is applicable by mandatory law.

5. Law and Jurisdiction. Disputes arising under this B/L shall be determined by a German Court in Hamburg. No proceedings may be brought before other courts unless the parties expressly agree on both the choice of another court or arbitration tribunal and the law to be then applicable.

II. PERFORMANCE OF THE CONTRACT

6. Subcontracting.

(1) The Carrier shall be entitled to subcontract on any terms the whole or any part of the carriage, loading, unloading, storing, warehousing, handling and any and all duties whatsoever undertaken by the Carrier in relation to the goods.

(2) For the purposes of this contract and subject to the provisions in this B/L, the Carrier shall be responsible for the acts and omissions of any person of whose services he makes use for the performance of the contract of carriage evidenced by this document.

7. Methods and Routes of Transportation.

(1) The Carrier is entitled to perform the transport in any reasonable manner and by any reasonable means, methods and routes.

(2) In accordance herewith, for instance, in the event of carriage by sea, vessels may sail with or without pilots, undergo repairs, adjust equipment, drydock and tow vessels in all situations.

8. Optional Stowage.

(1) Goods may be stowed by the Carrier by means of containers, trailers, transportable tanks, flats, pallets, or similar articles of transport used to consolidate goods.

(2) Goods may be stowed by the carrier or his agents or servants in Containers; and Containers, whether stowed as aforesaid or received fully stowed from shippers, may be carried on deck without notice to the shipper, and if they are so carried, the Hague Rules as incorporated herein shall be applicable notwithstanding carriage on deck, and the goods and/or containers shall contribute in general average as if carried under deck.

(3) Notwithstanding anything contained in paragraph 2 above the carrier shall be under no liability whatsoever for loss, damage or delay howsoever occurring to goods which are stated on the face hereof to be carried on deck and are so carried or to live animals whether or not carried on deck.

9. Hindrances etc. Affecting Performance.

(1) The Carrier shall use reasonable endeavors to complete the transport and to deliver the goods at the place designated for delivery.

(2) If at any time the performance of the contract as evidenced by this B/L is or will be affected by any hindrance, risk, delay, difficulty or disadvantage of whatsoever kind, the Carrier (whether or not the transport is commenced) may elect to

(a) treat the performance of this contract as terminated and place the goods at the Merchant's disposal at any place which the Carrier shall deem safe and convenient; or

(b) deliver the goods at the place designated for delivery. In any event the carrier shall be entitled to full freight for goods received for transportation and additional compensation for extra costs resulting from the circumstances referred to above.

III. CARRIER'S LIABILITY

10. Basic Liability.

(1) The Carrier shall be liable for loss or damage to the goods occurring between the time when he receives the goods into his charge and the time of delivery.

(2) The Carrier shall, however, be relieved of liability for any loss or damage if such loss damage arose or resulted from:

(a) The wrongful act or neglect of the Merchant.

(b) Compliance with the instructions of the person entitled to give them.

(c) The lack of, or defective conditions of packing in the case of goods which by their nature, are liable to wastage or to be damaged when not packed or when not properly packed.

(d) Handling, loading, stowage or unloading of the goods by or on behalf of the Merchant.

(e) Inherent vice of the goods.

(f) Insufficiency or inadequacy of marks or numbers on the goods, covering, or unit loads.

(g) Strikes or lock outs or stoppage or restraints of labor from whatever cause whether partial or general.

(h) Any cause or event which the Carrier could not avoid and the consequence whereof he could not prevent by the exercise of reasonable diligence.

(3) Where under sub-clause (2) the Carrier is not under any liability in respect of one or more of the factors causing the loss or damage, he shall only be liable to the extent that those factors for which he is liable under this clause have contributed to the loss or damage.

(4) The burden of proving that the loss or damage was due by one or more of the causes, or events, specified in (a), (b) and (h) of sub-clause (2) shall rest upon the Carrier.

When the Carrier establishes that in the circumstances of the case, the loss or damage could be attributed to one or more of those causes, or events, specified in (c) to (g) of sub clause (2), it shall be presumed that it was so caused. The Merchant shall, however, be entitled to prove that the loss or damage was not, in fact, caused either wholly or partly by one or more of the causes or events.

11. The Amount of Compensation.

(1) 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 value of such goods at the place and time they are delivered to the Merchant in accordance with the contract or should have been so delivered.

(2) The value of the goods shall be fixed according to the commodity exchange price or, if there be no such price, according to the current market price and if there be no such current market price, by reference to the normal Value of goods of the same kind and quality.

(3) Compensation per B/L for goods lost or damaged or other damage claim, if any, max. US\$ 1,000.00.

(4) Compensation shall not, however, exceed the limits or the Hague Rules, Hague-Visby-Rules/Cogsa 1936/Water Carriage of Goods Act 1936 where applicable according to these terms. In all other cases the compensation shall not exceed US \$ 2.00 per Kilo of gross weight of the goods.

(5) Higher compensation may be claimed only when, with the consent of the Carrier, the value for the goods declared by the consignor which exceeds the limits laid down in this clause has been stated in this B/L. In that case the amount of the declared value shall be substituted for that limit.

12. Special Provisions.

(1) Notwithstanding anything provided for in clauses 10 and 11 of this B/L, if it can be proved where the loss or damage occurred the Carrier and/or the Merchant shall, as to the liability of the Carrier, be entitled to require such liability to be determined by the provisions contained in any international convention or national law, which provisions

(a) cannot be departed from by private contract, to the detriment of the Claimant; and

(b) would have applied if the Merchant had made a separate and direct contract with the Carrier in respect of the particular stage of transport where the loss or damage occurred and received as evidence thereof any particular document which must be issued if such international convention or national law shall apply.

(2) Insofar as neither the Hague Rules/Hague Visby Rules/COGSA 1936/Water Carriage of Goods Act 1936 apply to carriage by sea by virtue of the foregoing provisions of this clause, the ability of the carrier in respect of any carriage by sea shall be determined by the International Convention for the Unification of certain rules relating to Bills of Lading dated 25 August 1924 (Hague Rules). The Hague Rules shall also determine the liability of the Carrier in respect of carriage by inland waterways as if such carriage were carriage by sea. Furthermore, they shall apply to all goods, whether carried on deck or under deck.

(3) In case of carriage by sea, be it a port-to-port transport or part of a combined transport, the Carrier shall be under no liability whatsoever for loss of or damage to the goods, howsoever occurring, if such loss or damage arises prior to loading of the goods onto the vessel or subsequent to the discharge from the vessel.

13. Delay, Consequential Loss, etc.

Arrival times are not guaranteed by the carrier. The Carrier is not liable for delay, consequential loss and loss or damage other than loss of or damage to goods, all of which howsoever occurring. If contrary to the above the Carrier is held liable, in respect of delay, consequential loss or damage other than loss of or damage to the goods, the liability of the Carrier shall be limited to the freight for the transport covered by this B/L, or to the value of the goods as determined in Clause 11, whichever is least.

14. Notice of Loss.

Unless notice of loss of or damage to the goods and the general nature of it be given in writing to the Carrier at the place of delivery before or at the time of the removal of the goods into the custody of the person entitled to delivery thereof under this B/L, 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 B/L.

15. Defenses and Limits for the Carrier.

(1) The defenses and limits of liability provided for in this B/L 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.

(2) The Carrier shall not be entitled to the benefit of the limitation of liability provided for in Clause 11 sub-clause (3), if it is proven 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.

16. Defenses and Limits for Servants, etc.

(1) If an action for loss or damage to the goods is brought against a servant, agent or independent contractor, such person shall be entitled to avail himself of all provisions of this contract, especially, but not limited thereto, of all defenses and limits of liability which the Carrier is entitled to invoke hereunder. The Carrier in entering into this contract does so, to the extent of these provisions, not only on his own behalf but also as agent and trustee for such servants, agents and independent contractors.

(2) However, if it is proved that the loss or damage resulted from an act or omission of this person, done which intent to cause damage or recklessly and with knowledge that damage would probably result, such person shall not be entitled to the defenses and limits of liability as per sub-clause (1)

(3) Subject to the provisions of Clause 11 sub-clause (3), of Clause 15 sub-clause (2) and of sub-clause (2) of this clause, the aggregate of the amounts recoverable from the Carrier and his servants, agents or independent contractors shall in no case exceed the limits provided for in this document.

IV. DESCRIPTION OF GOODS

17. Carrier's Responsibility.

This B/L shall be prima facie evidence of the receipt by the Carrier of the goods as herein described in respect of the particulars which he had reasonable means of checking. In respect of such particulars, proof to the contrary shall not be admissible, when this document has been transferred to a third party acting in good faith.

18. Shipper's Responsibility.

The Shipper shall be deemed to have guaranteed to the Carrier the accuracy, at the time the goods were taken in charge by the Carrier, of the description of the goods, marks, number, quantity and weight as furnished by him, and the Shipper 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 B/L to any person other than the Shipper.

V. FREIGHT AND LIEN

19. Freight/Charges

(1) Freight shall be deemed earned on receipt of the goods by the Carrier and shall be paid in any event.

(2) 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 contingencies relative to freight and charges in the relevant tariff conditions. If no such stipulation as to devaluation exists or is applicable the following clause to apply

If the currency in which freight and charges are quoted is devalued between the date of the freight agreement and the date when the freight and charges are paid, then all freight and charges shall be automatically and immediately increased in proportion to the extent of the devaluation of the said currency.

(3) For the purpose of verifying the freight basis, the Carrier reserves the right to have the contents of containers, trailers or similar articles of transport inspected in order to ascertain the weight, measurement, value, or nature of the goods.

(4) Local arrival charges at destination for consignees account.

20. Lien.

The Carrier shall have a lien on the goods for any amount due under this contract and for the costs of recovering the same, and may enforce such lien in any reasonable manner even if the Bill of Lading reads freight prepaid.

VI. MISCELLANEOUS PROVISIONS

21. General Average.

(1) General Average to be adjusted at any port or place at the Carrier's option, and to be settled according to the York-Antwerp Rules 1974, this covering all goods whether carried on or under deck. The Amended Jason Clause as approved by BIMCO to be considered as incorporated herein.

(2) Security, including a cash deposit as the carrier may deem appropriate, sufficient to cover the estimated contribution of the goods and of unpaid freight and any salvage and special charges thereon, shall, if required, be submitted to the Carrier prior to delivery of the goods.

22. Dangerous Goods.

(1) When the Merchant hands goods of a dangerous nature to the Carrier he shall inform him in writing of the exact nature of the danger and indicate, if necessary, the precautions to be taken.

(2) Goods of a dangerous nature which the Carrier did not know were dangerous, may, at any time or place, be unloaded, destroyed, or rendered harmless, without compensation; further the Merchant shall be liable for all expenses, loss or damage arising out of or in connection with the handling over of such goods for carriage and/or the carriage of such goods.

(3) If any goods shipped with the knowledge of the Carrier as to their dangerous nature shall become a danger to the ship or cargo, they—in like manner be landed at any place or destroyed or rendered innocuous by the Carrier without liability on the part of the Carrier except to General Average, if any.

23. Both-to-Blame Collision Clause.

The Both-to-Blame Collision Clause as adopted by BIMCO to be considered incorporated herein.

24. Shipper-packed Containers, etc.

(1) If a container has not been filled, packed or stowed by the Carrier, the Carrier shall not be liable for any loss of or damage to its contents and the Merchant shall cover any loss or expense incurred by the Carrier, if such loss, damage or expense has been caused by

(a) negligent filling, packing or stowing of the container; or

(b) the contents being unsuitable for carriage in container, or

(c) the unsuitability or defective condition of the container unless the container has been supplied by the Carrier and the unsuitability or defective condition would not have been apparent upon reasonable inspection at or prior to the time when the container was filled, packed or stowed.

(2) The provisions of sub-clause (1) of this clause also apply with respect to trailers, transportable tanks, flats and pallets which have not been filled, packed or stowed by the Carrier.

25. 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 no further be null and void.