Kompass Cargo

KOMPASS CARGO LLC DBA GAMMA USA DBA INCA LINES US

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House bill of lading — terms and conditions

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The Terms and Conditions below are those of Rule 8 (Bill(s) of Lading) of the Carrier's tariff on file with the Federal Maritime Commission and are incorporated in, and form part of, the contract of carriage evidenced by this bill of lading.

1. DEFINITIONS.

Carriage means the whole or any part of the operations and services of whatsoever nature undertaken by or performed by or on behalf of the Carrier in relation to the Goods covered by this bill of lading including but not limited to the loading, transport, unloading, storage, warehousing and handling of the Goods.

Carrier means KOMPASS CARGO LLC dba GAMMA USA dba INCA LINES US on whose behalf this bill of lading has been signed.

Charges includes freight, demurrage and all expenses and monetary obligations, including but not limited to duties, taxes and dues, incurred by the Carrier and payable by the Merchant.

COGSA means the Carriage of Goods by Sea Act of the United States of America approved on 16th April 1936.

Combined Transport arises where an address (and not just the name of a Port) is indicated as the Place of Receipt and/or the Place of Delivery on the face of this bill of lading in the relevant spaces.

Consignee means the party named as Consignee on the face of this bill of lading in the relevant space.

Consolidation includes stuffing, packing, loading or securing of Goods on or within Containers and Consolidate shall be construed accordingly.

Container includes any container (including but not limited to open top containers), trailer, transportable tank, platform, lift van, flat, pallet or any similar article of transport used to consolidate goods and any ancillary equipment.

Goods means the whole or any part of the cargo received by the Carrier from the Shipper and includes any packing and any equipment or Container not supplied by or on behalf of the Carrier (but excludes any Container supplied by or on behalf of the Carrier).

Hague Rules means the provisions of the International Convention for Unification of certain Rules relating to bills of lading signed at Brussels on 25th August 1924.

Hague-Visby Rules means the Hague Rules as amended by the Protocol signed at Brussels on 23rd February 1968. (It is expressly provided that nothing in this bill of lading shall be construed as contractually applying the Hague-Visby Rules.)

Holder means any Person for the time being in lawful possession of, or lawfully entitled to possession of, this bill of lading to or in whom rights of suit and/or liability under this bill of lading have been lawfully transferred or vested.

Indemnify includes defend, indemnify and hold harmless, including in respect of legal fees and costs, whether or not the obligation to indemnify arises out of negligent or non-negligent acts or omissions of the Carrier, his servants, agents or Sub-Contractors.

Merchant includes the Shipper, the Consignee, the receiver of the Goods, the Holder of this bill of lading, any Person owning or lawfully entitled to the possession of the Goods or this bill of lading, any Person acting on behalf of any of the above mentioned Persons.

Package: where a Container is loaded with more than one package or unit, the packages or other shipping units enumerated on the face of this bill of lading as packed in such Container and entered in the box on the face hereof entitled "Total number of Containers or Packages received by the Carrier" are each deemed a Package.

Person includes an individual, corporation or other legal entity.

Port to Port Shipment arises if the Carriage is not Combined Transport.

Sub-Contractor includes, but is not limited to, owners, charterers and operators of Vessels (other than the Carrier), stevedores, terminal and/or groupage operators, road, rail and air transport operators, warehousemen, longshoremen, customs inspection stations, port authorities, pilots and any independent contractor employed by the Carrier in performance of the Carriage and any direct or indirect sub-contractors, servants or agents thereof, whether in direct contractual privity with the Carrier or not.

Terminal Operators means any persons who provide port storage or handling services.

Terms and Conditions means all terms, rights, defences, provisions, conditions, exceptions, limitations and liberties herein.

Vessel means any waterborne craft used in the Carriage under this bill of lading including but not limited to a feeder vessel or ocean vessel.

2. CARRIER'S TARIFF. The provisions of the Carrier's applicable tariff, if any, are incorporated herein. Particular attention is drawn to the provisions therein, if any, relating to free storage time and to container and vehicle demurrage. Copies of such provisions are obtainable from the Carrier or his agents upon request or, where applicable, from a government body with whom the tariff has been filed. In the case of inconsistency between this bill of lading and the applicable tariff, this bill of lading shall prevail.

3. WARRANTY. The Merchant warrants that in agreeing to the Terms and Conditions hereof he is or is the agent of and has the authority of the Person owning or entitled to the possession of the Goods and this bill of lading or any Person who has a present or future interest in the Goods and this bill of lading.

4. NEGOTIABILITY AND TITLE TO THE GOODS. (1) This bill of lading shall be non-negotiable unless made out to order in which event it shall be negotiable and shall constitute title to the Goods and the Holder shall be entitled to receive or to transfer the Goods herein described. (2) This bill of lading shall be prima facie evidence of the taking in charge by the Carrier of the Goods as herein described. However proof to the contrary shall not be admissible when this bill of lading has been negotiated or transferred for valuable consideration to a third party acting in good faith.

5. CERTAIN RIGHTS AND IMMUNITIES FOR THE CARRIER AND OTHER PERSONS.

(1) The Carrier shall be entitled to sub-contract on any terms whatsoever the whole or any part of the Carriage.

(2) The Merchant undertakes that no claim or allegation shall be made against any Person or Vessel whatsoever, other than the Carrier, including, but not limited to, the Carrier's servants or agents, any independent contractor and his servants or agents, and all others by whom the whole or any part of the Carriage, whether directly or indirectly, is procured, performed or undertaken, which imposes or attempts to impose upon any such Person or Vessel any liability whatsoever in connection with the Goods or the Carriage of the Goods, whether or not arising in contract, bailment, tort, negligence, breach of express or implied warranty or otherwise; and if any claim or allegation should nevertheless be made, to Indemnify the Carrier against all consequences thereof. Without prejudice to the foregoing every such Person and Vessel shall have the benefit of all provisions herein benefiting the Carrier including Clause 20 hereof, the jurisdiction and law clause, as if such Terms and Conditions (including Clause 20 hereof) were expressly for his benefit and in entering into this contract the Carrier, to the extent of these provisions, does so not only on his own behalf but also as agent or trustee for such Persons and Vessels and such Persons and Vessels shall to this extent be or be deemed to be parties to this contract. Without prejudice to the generality of the foregoing, if the Carriage is Port to Port, Terminal Operators shall have the benefit of all provisions herein benefiting the Carrier, including the exceptions and limitations set out in Clause 6(1) and 6(3) hereof, in relation to any port storage or handling services provided whether before loading or after discharge and regardless of whether the Carrier's responsibility for the Goods has yet to commence or has ceased.

(3) The Merchant shall Indemnify the Carrier against any claim or liability (and any expense arising therefrom) arising from the Carriage of the Goods insofar as such claim or liability exceeds the Carrier's liability under this bill of lading.

(4) The defences and limits of liability provided for in this bill of lading shall apply in any action against the Carrier whether the action be founded in contract, bailment, tort, breach of express or implied warranty or otherwise.

6. CARRIER'S RESPONSIBILITY.

(1) Port to Port Shipment. (A) Where the Carriage is Port to Port, then the liability (if any) of the Carrier for loss or damage to the Goods occurring between the time of loading at the Port of Loading and the time of discharge at the Port of Delivery shall be determined in accordance with any national law making the Hague Rules, Hague-Visby Rules, COGSA or any other rules compulsorily applicable to this bill of lading or in any other case in accordance with the Hague Rules Article 1–8 inclusive (excluding Article 3 Rule 8) only. (B) The Carrier shall be under no liability whatsoever for loss or damage to the Goods while in its actual or constructive possession before loading or after discharge, howsoever caused. Notwithstanding the foregoing, in case and to the extent that any applicable compulsory law provides to the contrary, the Carrier shall have the benefit of every right, defence, limitation and liberty in the Hague Rules, Hague-Visby Rules, COGSA or any other rules as applied by Clause 6(1)(A) during such additional compulsory period of responsibility, notwithstanding that the loss or damage did not occur at sea. (C) If COGSA applies then the provisions stated in COGSA shall govern the Carrier's liability throughout the Carriage by sea and the entire time that the Goods are in the actual custody of the Carrier or his Sub-Contractor at the container yard, freight station or area immediately adjacent to the sea terminal before loading onto the Vessel or after discharge therefrom as the case may be. Where the Merchant requests the Carrier to procure Carriage by an inland Carrier in the United States of America, such carriage shall be procured by the Carrier as agent only to the Merchant and such carriage shall be subject to the inland Carrier's contract tariff. If, for any reason, the Carrier is denied the right to act as agent only at these times, his liability for loss, damage or delay to the Goods shall be determined in accordance with Clause 6(2) hereof. (D) If the Goods are discharged at a Port other than the Port of Discharge or (save in the United States of America) at a Place of Delivery instead of the Port of Discharge, and the Carrier in its absolute discretion agrees to a request to such effect, such further Carriage will be undertaken on the basis that the Terms and Conditions are to apply to such Carriage as if the ultimate destination agreed with the Merchant had been entered on the reverse side of this bill of lading as the Port of Discharge or Place of Delivery.

(2) Combined Transport. Save as is otherwise provided in this bill of lading, the Carrier shall be liable for loss or damage to the Goods occurring from the time when he receives the Goods into his charge until the time of delivery to the extent set out below:

(A) Where the stage of Carriage where the loss or damage occurred cannot be proved by the Merchant: (1) The Carrier shall be relieved from liability where such loss or damage was caused by: (a) an act or omission of the Merchant or Person acting on behalf of the Merchant other than the Carrier, his servant, agent or Sub-Contractor; (b) compliance with the instructions of a Person entitled to give them; (c) the lack or insufficiency of or defective condition 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) strikes or lock-outs or stoppages or restraints of labour from whatsoever causes whether partial or general; (g) fire, unless caused by the actual fault or privity of the Carrier, for which the Merchant shall have the burden of proof; (h) a nuclear incident; (i) any cause or event which the Carrier could not avoid as a consequence whereof he could not prevent by the exercise of reasonable diligence. (2) The burden of proof that the loss or damage was due to one or more of the causes or events specified in this Clause 6(2)(A) will rest upon the Carrier, save that if the Carrier establishes that, in the circumstances of the case, the loss or damage could be attributed to one or more of the causes or events specified in Clause 6(2)(A)(1)(c), (d) or (e), 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 these causes or events.

(B) Where the stage of Carriage where the loss or damage occurred can be proved by the Merchant: (1) The liability of the Carrier shall be determined by the provisions contained in any international convention or national law of the country, which provisions: (a) cannot be departed from by private contract to the detriment of the Merchant, 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 Carriage where the loss or damage occurred and had received as evidence thereof any particular document which must be issued in order to make such international convention or national law applicable. (2) Where 6(2)(B)(1) above does not apply, any liability of the Carrier shall be determined by 6(1) if the loss or damage occurred during a sea leg or by 6(2)(A) in all other cases.

(3) General provisions.

(A) **Compensation.** Subject to the Carrier's right to limit liability as provided for within this bill of lading, the Carrier's liability shall be calculated by reference to the FOB/FCA invoice value plus freight and insurance if paid. If there is no such invoice value, the value of the Goods shall be determined according to the value of the Goods at the place and time of delivery to the Merchant or at the place and time when they should have been so delivered.

(B) **Package or shipping unit limitation.** (1) Where the Hague Rules, Hague-Visby Rules, COGSA or any other rules apply under this bill of lading by national law or pursuant to Clause 6(2)(B)(1), the Carrier's liability shall in no event exceed the amounts provided in the applicable national law or in the law thereby made applicable. (2) If only the Hague Rules Articles 1–8 (excluding Article 3, Rule 8) apply pursuant to Clause 6(1)(A), Clause 6(1)(B) or Clause 6(2)(B)(2), then the Carrier's maximum liability shall in no event exceed US$500 per package or unit. (3) Where Carriage includes Carriage to, from or through a port in the United States of America and COGSA applies pursuant to Clause 6(1)(A) or 6(2)(B)(1), neither the Carrier nor the Vessel shall in any event be liable for any loss or damage to or in connection with the Carriage of the Goods in an amount exceeding US$500 per Package or customary freight unit. (4) In all other cases compensation shall not exceed the limitation of liability of US$2.00 per kilo of gross weight of the Goods lost, damaged or in respect of which the claim arises.

(C) **Ad valorem: declared value of Package or shipping unit.** The Carrier's liability may be increased to a higher value by a declaration in writing of the value of the Goods by the Shipper upon delivery to the Carrier of the Goods for shipment, such higher value being inserted on the front of this bill of lading in the space provided and, if required by the Carrier, extra freight paid. In such case, if the actual value of the Goods shall exceed such declared value, the value shall nevertheless be deemed to be the declared value and the Carrier's liability, if any, shall not exceed the declared value and any partial loss or damage shall be adjusted pro rata on the basis of such declared value.

(D) **Delay, consequential loss.** Save as otherwise provided herein, the Carrier shall in no circumstances be liable for direct, indirect or consequential loss or damage caused by delay or any other cause whatsoever and howsoever caused. Without prejudice to the foregoing, if the Carrier is found liable for delay, liability shall be limited to the freight applicable to the relevant stage of the transport.

(E) **Notice of loss or damage.** The Carrier shall be deemed prima facie to have delivered the Goods as described in this bill of lading unless notice of loss of, or damage to, the Goods, indicating the general nature of such loss or damage, shall have been given in writing to the Carrier or to his representative 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 is not apparent, within three consecutive days thereafter.

(F) **Time-bar.** The Carrier shall be discharged of all liability whatsoever in respect of the Goods unless suit is brought in the proper forum and written notice thereof received by the Carrier: (i) within nine months in respect of Combined Transport or (ii) within 12 months in respect of Port to Port Shipment, after delivery of the Goods or the date when the Goods should have been delivered. In the event that such time period shall be found contrary to any convention or law compulsorily applicable, the period prescribed by such convention or law shall then apply but in that circumstance only.

7. MERCHANT'S RESPONSIBILITY.

(1) The description and particulars of the Goods set out on the face hereof are furnished by the Merchant and the Merchant warrants to the Carrier that the description and particulars including, but not limited to, weight, content, measure, quantity, quality, condition, marks, numbers and value are correct.

(2) The Merchant shall comply with all applicable laws, regulations and requirements (including but not limited to any imposed at any time before or during the Carriage relating to anti-terrorism measures) of customs, port and other authorities and shall bear and pay all duties, taxes, fines, imposts, expenses and losses (including, without prejudice to the generality of the foregoing, freight for any additional Carriage undertaken) incurred or suffered by reason thereof or by reason of any illegal, incorrect or insufficient marking, numbering or addressing of the Goods.

(3) The Merchant undertakes that the Goods are packed in a manner adequate to withstand the ordinary risks of Carriage having regard to their nature and in compliance with all laws, regulations and requirements which may be applicable.

(4) No Goods which are or may become dangerous (whether or not so listed in codes), inflammable, damaging, injurious (including radioactive materials), noxious or which are or may become liable to damage any property or Person whatsoever shall be tendered to the Carrier for Carriage without: (A) the Carrier's express consent in writing; and (B) the Container and/or other covering in which the Goods are to be transported and/or the Goods themselves being distinctly marked on the outside so as to indicate the nature and character of any such Goods and so as to comply with all applicable laws, regulations and/or requirements. If any such Goods are delivered to the Carrier without such written consent and/or marking or if in the opinion of the Carrier the Goods are or are liable to become of a dangerous, inflammable and/or damaging nature, the same may at any time be unloaded, destroyed, disposed of, abandoned, or rendered harmless without compensation to the Merchant and without prejudice to the Carrier's right to Charges.

(5) The Merchant shall be liable for the loss, damage, contamination, soiling, detention or demurrage before, during and after the Carriage of property (including, but not limited to, Containers) of the Carrier or any Person or Vessel (other than the Merchant) referred to in Clause 5(2) above caused by the Merchant or any Person acting on his behalf or for which the Merchant is otherwise responsible.

(6) The Merchant shall Indemnify the Carrier against any loss, damage, claim, liability or expense whatsoever arising from any breach of the provisions of this Clause 7 or from any cause in connection with the Goods for which the Carrier is not responsible.

8. CONTAINERS. (1) Goods may be Consolidated by the Carrier in or on Containers and Goods may be Consolidated with other Goods. (2) The terms of this bill of lading shall govern the responsibility of the Carrier in connection with or arising out of the supply of a Container to the Merchant, whether supplied before or after the Goods are received by the Carrier or delivered to the Merchant. (3) If a Container has been Consolidated by or on behalf of the Merchant: (A) the Carrier shall not be liable for loss of or damage to the Goods: (a) caused by the manner in which the Container has been stuffed; (b) caused by the unsuitability of the Goods for carriage in Container actually used; (c) caused by the unsuitability or defective condition of the Container actually used, provided that where the Container has been supplied by or on behalf of the Carrier, this paragraph shall only apply if the unsuitability or defective condition would have been apparent upon reasonable inspection by the Merchant at or prior to the time when the Container was stuffed; (d) if the Container is not sealed at the commencement of the Carriage except where the Carrier has agreed to seal the Container; (B) the Merchant shall Indemnify the Carrier against any loss, damage, claim, liability or expense whatsoever arising from one or more of the matters covered by Clause 8(3)(A) above. (4) Where the Carrier is instructed to provide a Container, in the absence of a written request to the contrary accepted by the Carrier, the Carrier is not under an obligation to provide a Container of any particular type or quality.

9. TEMPERATURE CONTROLLED CARGO. (1) The Merchant undertakes not to tender for Carriage any Goods which require temperature control without previously giving written notice (and filling in the box on the front of this bill of lading if this bill of lading has been prepared by the Merchant or a person acting on his behalf) of their nature and particular temperature range to be maintained and, in the case of a temperature controlled Container Consolidated by or on behalf of the Merchant, further undertakes that the Container has been properly pre-cooled, that the Goods have been properly Consolidated in the Container and that its thermostatic controls have been properly set by the Merchant before receipt of the Goods by the Carrier. (2) If the above requirements are not complied with the Carrier shall not be liable for any loss of or damage to the Goods caused by such non-compliance. (3) The Carrier shall not be liable for any loss of or damage to the Goods arising from defects, derangement, breakdown, stoppage of the temperature controlling machinery, plant, insulation or any apparatus of the Container, provided that the Carrier shall before or at the beginning of the Carriage exercise due diligence to maintain the refrigerated Container in an efficient state.

10. INSPECTION OF GOODS. The Carrier or any Person authorised by the Carrier shall be entitled, but under no obligation, to open and/or scan any Container or package at any time and to inspect the contents. If it appears at any time that the Goods cannot safely or properly be carried, or carried further, either at all or without incurring any additional expense or taking measures in relation to the Container or Goods, the Carrier may without notice to the Merchant (but as his agent only) take any measures and/or incur any reasonable additional expense to carry or continue the Carriage thereof, and/or to sell or dispose of the Goods and/or to abandon the Carriage and/or to store the Goods ashore or afloat, under cover or in the open, at any place, whichever the Carrier in his absolute discretion considers most appropriate, which sale, disposal, abandonment or storage shall be deemed to constitute due delivery under this bill of lading. The Merchant shall Indemnify the Carrier against any reasonable additional expense so incurred. The Carrier in exercising the liberties contained in this clause shall not be under any obligation to take any particular measures and shall not be liable for any loss, delay or damage howsoever arising from any action or lack of action under this clause.

11. METHODS AND ROUTE OF TRANSPORTATION. (1) The Carrier may at any time and without notice to the Merchant: (a) use any means of transport or storage whatsoever; (b) load or carry the Goods on any Vessel whether named on the front hereof or not; (c) transfer the Goods from one conveyance to another including transshipping or carrying the same on a Vessel other than the Vessel named on the front hereof or by any other means of transport whatsoever and even though transshipment or forwarding of the Goods may not have been contemplated or provided for herein; (d) at any place unpack and remove Goods which have been stuffed in or on a Container and forward the same in any manner whatsoever; (e) proceed at any speed and 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 whatsoever once or more often and in any order; (f) load or unload the Goods from any conveyance at any place (whether or not the place is a port named on the front hereof as the intended Port of Loading or intended Port of Discharge); (g) 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; (h) permit the Vessel to proceed with or without pilots, to tow or be towed or to be dry-docked; (i) permit the Vessel to carry livestock, Goods of all kinds, dangerous or otherwise, contraband, explosives, munitions or warlike stores and sail armed or unarmed. (2) The liberties set out in Clause 11(1) above may be invoked by the Carrier for any purposes whatsoever whether or not connected with the Carriage of the Goods, including but not limited to loading or unloading the Goods, bunkering, undergoing repairs, adjusting instruments, picking up or landing any Persons, including but not limited to Persons involved with the operation or maintenance of the Vessel, and assisting Vessels in all situations. Anything done in accordance with Clause 11(1) above or any delay arising therefrom shall be deemed to be within the contractual Carriage and shall not be a deviation of whatsoever nature or degree.

12. DECK CARGO AND LIVESTOCK. (1) Goods of any description whether containerised or not may be stowed on or under deck without notice to the Merchant unless on the front of this bill of lading it is specifically stipulated the Containers or Goods will be carried under deck, and such stowage shall not be a deviation of whatsoever nature or degree. If carried on deck, the Carrier shall not be required to note, mark or stamp on the bill of lading any statement of such on deck carriage. Subject to Clause 12(2) below, such Goods whether carried on deck or under deck shall participate in General Average and such Goods (other than livestock) shall be deemed to be within the definition of Goods for the purposes of the Hague Rules or any legislation making such rules, COGSA or the Hague-Visby Rules compulsorily applicable to this bill of lading. (2) Goods (not being Goods stuffed in or on Containers other than open flats or pallets) which are stated on the front of this bill of lading to be carried on deck and which are so carried (and livestock, whether or not 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 or inland waterway whether caused by unseaworthiness or negligence or any other cause whatsoever. The Merchant shall Indemnify the Carrier against all and any extra cost incurred for any reason whatsoever in connection with carriage of livestock.

13. DELIVERY OF THE GOODS. (1) If at any time the Carriage is or is likely to be affected by any hindrance, risk, delay, difficulty or disadvantage of any kind (including the condition of the Goods), whensoever and howsoever arising (whether or not the Carriage has commenced) the Carrier may: (A) without notice to the Merchant abandon the Carriage of the Goods and where reasonably possible place the Goods or any part of them at the Merchant's disposal at any place which the Carrier may deem safe and convenient, whereupon delivery shall be deemed to have been made and the responsibility of the Carrier in respect of such Goods shall cease; (B) without prejudice to the Carrier's right subsequently to abandon the Carriage under Clause 13(1)(A) above, continue the Carriage. In any event the Carrier shall be entitled to full Charges on Goods received for Carriage and the Merchant shall pay any additional costs resulting from the above mentioned circumstances. (2) The liability of the Carrier in respect of the Goods shall cease on the delivery or other disposition of the Goods in accordance with the orders or recommendations given by any government or authority or any Person acting or purporting to act as or on behalf of such government or authority. This shall amount to due delivery to the Merchant. (3) Any mention herein 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 thereunder. (4) If delivery of the Goods or any part thereof is not taken by the Merchant at the time and place when and where the Carrier is entitled to call upon the Merchant to take delivery thereof, the Carrier shall be entitled and without prejudice to any other rights that he may have against the Merchant without notice to remove from a Container the Goods or that part thereof if Consolidated in or on a Container and to store the Goods or that part thereof ashore, afloat, in the open or under cover at the sole risk and expense of the Merchant, and the costs of such storage (if paid or payable by the Carrier or any agent or Sub-Contractor of the Carrier) shall forthwith upon demand be paid by the Merchant to the Carrier. Such storage shall constitute due delivery hereunder, and thereupon the liability of the Carrier in respect of the Goods or that part thereof shall cease.

14. BOTH-TO-BLAME COLLISION. If the Vessel on which the Goods are carried (the carrying Vessel) comes into collision with any other Vessel or object (the non-carrying Vessel or object) as a result of the negligence of the non-carrying Vessel or object or the owner of, charterer of or Person responsible for the non-carrying Vessel or object, the Merchant undertakes to Indemnify the Carrier against all claims by or liability to (and any expense arising therefrom) any Vessel or Person in respect of any loss of, or damage to, or any claim whatsoever of the Merchant paid or payable to the Merchant by the non-carrying Vessel or object or the owner of, charterer of or Person responsible for the non-carrying Vessel or object and set-off, recouped or recovered by such Vessel, object or Person(s) against the Carrier, the carrying Vessel or her owners or charterers.

15. GENERAL AVERAGE. (1) The Carrier may declare General Average which shall be adjustable according to the York/Antwerp Rules of 1974 at any place at the option of the Carrier, and the Amended Jason Clause as approved by BIMCO is to be considered as incorporated herein, and the Merchant shall provide such security as may be required by the Carrier in this connection. (2) Notwithstanding (1) above, the Merchant shall Indemnify the Carrier in respect of any claim (and any expense arising therefrom) of a General Average nature which may be made on the Carrier and shall provide such security as may be required by the Carrier in this connection. (3) The Carrier shall be under no obligation to take any steps whatsoever to collect security for General Average contributions due to the Merchant.

16. CHARGES. (1) Charges shall be deemed fully earned on receipt of the Goods by the Carrier and shall be paid and non-returnable in any event. (2) The Charges have been calculated on the basis of particulars furnished by or on behalf of the Merchant. The Carrier shall be entitled to production of the commercial invoice for the Goods or true copy thereof and to inspect, reweigh, remeasure and revalue the Goods and if the particulars are found by the Carrier to be incorrect the Merchant shall pay the Carrier the correct Charges (credit being given for the Charges charged) and the costs incurred by the Carrier in establishing the correct particulars. (3) All Charges shall be paid without any set-off, counter-claim, deduction or stay of execution. (4) Despite the acceptance by the Carrier of instructions to collect freight, charges or other expenses from any other person in respect of the transport under this bill of lading, the Merchant shall remain responsible for such monies on receipt of evidence of demand and the absence of payment for whatever reason.

17. LIEN. The Carrier shall have a lien on Goods and any documents relating thereto for all sums whatsoever due at any time to the Carrier under this contract and for General Average contributions to whomsoever due. The Carrier shall also have a lien against the Merchant on the Goods and any documents relating thereto for all sums due from the Merchant to the Carrier under any other contract. The Carrier may exercise his lien at any time and at any place in his sole discretion, whether the contractual Carriage is completed or not. In any event any lien shall (a) survive the delivery of the Goods and (b) extend to cover the cost of recovering any sums due, and for that purpose the Carrier shall have the right to sell the Goods and documents by public auction or private treaty, without notice to the Merchant and at the Merchant's expense and without any liability towards the Merchant.

18. VARIATION OF THE CONTRACT. No servant or agent of the Carrier shall have the power to waive or vary any of the terms hereof unless such waiver or variation is in writing and is specifically authorised or ratified in writing by a director or officer of the Carrier who has the actual authority of the Carrier to waive or vary.

19. PARTIAL INVALIDITY. If any provision in this bill of lading is held to be invalid or unenforceable by any court or regulatory or self-regulatory agency or body, such invalidity or unenforceability shall attach only to such provision. The validity of the remaining provisions shall not be affected thereby and this bill of lading contract shall be carried out as if such invalid or unenforceable provision were not contained herein.

20. JURISDICTION. Nothing in this bill of lading shall operate to limit or deprive the Carrier of any statutory protection or exemption from, or limitation of, liability contained in the laws of the United States, or in the laws of any other country which may be applicable.