

**Swire Shipping Pte. Ltd.****Terms and Conditions of Carriage**

Electronic copy available at [www.wsl.com](http://www.wsl.com)  
for and on behalf of the Ocean Carrier

**1. DEFINITIONS AND INTERPRETATIONS**

**"Bill of Lading"** means the applicable Bill of Lading or Waybill, as the case may be, to which these Terms and Conditions apply.

**"Carriage"** means the whole of the operations and services undertaken by the Ocean Carrier in respect of the Goods.

**"Goods"** means the whole or part of the cargo received from the merchant and includes any container, reefer, trailer, transportable tank, flat or pallet, or any similar article used to consolidate Goods whether furnished by the Carrier or Merchant.

**"Freight"** includes all charges payable to the Ocean Carrier in accordance with the applicable tariff, charter party, contract of affreightment and this Bill of Lading.

**"Indemnify"** means indemnify, defend and hold harmless.

**"Inland Carrier"** shall include any carrier by land, water or air, apart from the Ocean Carrier, which participates in the through transportation of Goods moving under this Bill of Lading.

**"Merchant"** includes the shipper, the person on whose account the Goods are shipped, holder, consignee, receiver of the Goods, any person owning or entitled to possession of the Goods or this Bill of Lading and anyone acting on behalf of any such person.

**"Ocean Carrier"** means Swire Shipping Pte. Ltd., the owners, the operator, demised charterer, and also any time charterer or person to the extent bound by this Bill of Lading who performs the ocean transportation of the cargo described on the face of the Bill of Lading.

**"Terms and Conditions"** shall mean these Terms and Conditions of Carriage.

**"Vessel"** means the vessel upon which it is proposed that the Goods shall be carried during all or part of their carriage between the initial port of loading and the final port of discharge. The Vessel may be either a feeder vessel or an ocean vessel and this term shall include any alternative or substituted vessel to the vessel named.

For greater certainty, where these Terms and Conditions are applicable to the Carriage of Goods by Waybill, any and all references to "Bill of Lading" in these Terms and Conditions shall be interpreted as a direct reference to the Waybill.

**2. CLAUSE PARAMOUNT**

This Bill of Lading shall have effect subject to all of the provisions of the United States Carriage of Goods by Sea Act, approved April 16, 1936 ("COGSA"). However, if the Hague Rules or the Hague-Visby Rules (collectively "the Hague Rules") are made compulsorily applicable to this Bill of Lading in the country where a dispute hereunder is adjudicated, then this Bill of Lading shall have effect subject to the Hague Rules. Nothing herein shall be deemed a surrender by the Ocean Carrier of any of its rights or immunities or an increase of any of its responsibilities or liabilities under COGSA or the Hague Rules, whichever is applicable. The provisions in COGSA or the Hague Rules, whichever is applicable, apply to Goods stowed on and under deck, and shall apply before the Goods are loaded on and after the Goods are discharged from the Vessel and throughout the Carriage of Goods by the Ocean Carrier and the Inland Carrier if the Carriage includes through transportation, and until the Goods are delivered to the Merchant. The Ocean Carrier shall also benefit from all other laws of the United States or any other countries which apply and which grant the Ocean Carrier exemption from or limitation of liability as if it were the owner of the vessel, and nothing in this Bill of Lading shall operate to limit or deprive the Ocean Carrier of same.

### **3. INCORPORATION OF TARIFF**

The terms of the Ocean Carrier's applicable tariff are incorporated by reference herein. Copies of the applicable tariff can be obtained from the Ocean Carrier or its agents upon request or online at [www.wsl.com](http://www.wsl.com) for and on behalf of the Ocean Carrier. In the case of inconsistency between the Terms and Conditions of this Bill of Lading and the applicable tariff, the Terms and Condition of this Bill of Lading shall prevail and govern.

### **4. SCOPE OF VOYAGE**

The scope of the voyage herein contracted for shall include usual, customary or advertised ports of call whether named in this Bill of Lading or not, and also ports in or out of the advertised, geographical, usual or ordinary route or order even though in proceeding thereto the Vessel may sail beyond the port of discharge or in a direction contrary thereto or depart from the direct or customary route. The Vessel may call at any port for the purpose of the current voyage or of a prior or subsequent voyage, omit calling at any port more than once, adjust equipment, dry-dock, go on ways or repair yards, shift berths, take fuel or stores, remain in port, sail without pilots, tow and be towed and save or attempt to save life or property.

### **5. GOVERNMENT LEVIES AND EXPENSES**

The Merchant shall forthwith Indemnify the Ocean Carrier for any expenses, duty, tax, or fine of whatsoever nature imposed or levied upon the Ocean Carrier by government authorities in connection with the Goods.

### **6. HIMALAYA CLAUSE: BENEFICIARIES OF CONTRACT, SUBCONTRACT**

The Ocean Carrier shall be entitled to subcontract on any terms whatsoever the whole or any part of the handling and Carriage of the Goods. Every employee, agent and independent contractor of the Ocean Carrier, including the Master, officers, crew members of the Vessel and stevedores, longshoremen, terminal operators, Inland Carriers, and others used and employed by the Ocean Carrier in the performance of services in relation to the Goods and the goods of others, shall be beneficiaries of this Bill of Lading and these Terms and Conditions and shall be entitled to all defenses, exemptions, and limitations of liability to which the Ocean Carrier is entitled hereunder and under the applicable laws. In entering into the contract for the carriage of Goods as evidenced by this Bill of Lading, the Ocean Carrier does so not only on its own behalf, but also as agent for each of the persons and companies described above, all of whom shall be deemed parties to the contract evidenced by this Bill of Lading.

### **7. LIBERTIES**

The Ocean Carrier may substitute another Vessel or forward the Goods by subsequent Vessel or Vessels, or before or after the commencement of the voyage, may transfer the Goods from point of receipt to point of loading or from point of discharge to point of delivery or from one dock to another, by any usual means of conveyance, or may forward and/or relay the whole or any part of the Goods to any other Vessel, whether operated by the Ocean Carrier or by others at the original port of shipment or at any other place or places and when necessary may forward the Goods by any means. Any and all rights and exemptions accorded to the Vessel in this Bill of Lading shall likewise apply to any of the conveyances mentioned in this clause. In any situation whatsoever, including but not limited to political disturbances, strikes, lockouts or work stoppages or closures or blockages of waterways, which in the judgment of the Ocean Carrier or Master is likely to give rise to risk of capture, seizure, detention, damage, injury, delay or disadvantage to the Vessel, cargo and/or those on board, the Ocean Carrier or Master shall have the right to stop or delay the Vessel awaiting removal of any such event, or to return the Goods to the port of shipment, or to proceed via any other route, or to transfer the Goods to crafts off shore and forward them by any means of conveyance to destination, all at the risk and expense of the Merchant. All storage charges in connection therewith, as well as all costs and expenses of forwarding and/or relaying shall be for the account of the Merchant and shall constitute a lien on the Goods

## 8. OCEAN CARRIER'S RESPONSIBILITY

The Ocean Carrier's responsibility and liability with respect to the Goods shall in all cases, including where the Goods are lost or damaged while in the custody of the Inland Carrier, be governed by COGSA or the Hague Rules, whichever is applicable, as provided in Clause 2 herein. The Ocean Carrier shall be entitled to the benefit of all limitations and exceptions from liability contained in COGSA or the Hague Rules, whichever is applicable. The Ocean Carrier does not undertake that the Goods shall arrive at the port of discharge at any particular time or in time to meet any particular market or use, and the Ocean Carrier shall not be responsible for any direct or indirect loss or damage which is caused through delay. **In addition, under no circumstance(s) and in no event shall the Ocean Carrier be liable for indirect, special or consequential damages, exemplary or punitive damages, or damages for loss of use or lost profit.** Nothing herein shall be deemed a waiver of any rights the Ocean Carrier may have against other carriers or subcontractors for indemnity or otherwise. **The Ocean Carrier shall not be responsible for any loss or damage to the Goods arising or resulting from nuclear incident occurring at any time.**

## 9. MERCHANT'S WARRANTIES – PACKING, DESCRIPTION AND MARKING

With respect to Goods not packed or stuffed by the Ocean Carrier, the Merchant warrants that the Goods are properly described, marked, secured, and packed; that any container or other unit used to consolidate the Goods, other than Ocean Carrier units, are seaworthy and physically suitable for carriage of such Goods and may be loaded, discharged and in all respects handled in the usual and customary manner. The Merchant warrants and agrees that the Ocean Carrier may assume that the Goods are packed in the best approved method for Goods of their type, and that the Ocean Carrier shall not be obligated to give them any care, handling or stowage beyond that appropriate to Goods so packed. For baled pulp received in normal shipping condition, Ocean Carrier shall issue clean Bills of Lading. Normal shipping condition for baled pulp includes torn, dirty or marked wrappers, minor exposure of contents, moisture stains or swelling unless caused by exposure to seawater. Merchant shall have no claim for damages for baled pulp discharged in normal shipping condition. With respect to Goods shipped in containers, whether or not furnished by the Ocean Carrier, the Ocean Carrier shall not be responsible for the safe and proper packing, stuffing and stowing of Goods in containers when done by the Merchant, consolidator or others on its behalf. The Ocean Carrier shall not be responsible or liable for any loss or damage caused to the Goods by shifting, overloading or improper packing, stuffing or stowing of such containers. The loading of such containers by the Merchant, consolidator or others on its behalf shall be prima facie evidence that they were sound and suitable for use. Such containers shall be properly sealed before shipment and the seal reference and identification reference of the container shall be shown herein. With respect to Goods shipped break-bulk and not in containers, prior to loading Merchant must clearly mark any shipping crates, pipe, boats, rolling stock, and any other break-bulk cargo with accurate and proper center of gravity and lifting points, gross weights and warrants the accuracy thereof. Merchant further warrants that the Goods have been properly packaged and secured in a fashion suitable for ocean transport. The Merchant further agrees to be responsible for any damage, loss, delay or expense whatsoever to the Ocean Carrier, the Vessel, other property, or to persons resulting from any defect in the Goods, shipper's packaging, securing and/or containerization, and shall indemnify and save harmless the Ocean Carrier from and against any loss, damage, injury, and expense, including, without limitation, lost profits, indirect, special and consequential damages and attorney fees, arising or resulting from such defects. In no event shall the Ocean Carrier be liable for loss or damage to any contents not specified on the face of this Bill of Lading. The Merchant further warrants that all particulars with regard to the Goods' marks, description, weight, quantity and any other particulars shown on the front side of this Bill of Lading are correct; and that container or other units are in compliance with all applicable government regulations. The Ocean Carrier, however, does not represent that any of the particulars shown on the face of this Bill of Lading are accurate and is not bound thereby. The Merchant shall indemnify and save harmless the Ocean Carrier from and against all loss,

damage or expense, including, without limitation, lost profits, indirect, special and consequential damages and attorney fees, arising or resulting from inaccuracies in or inadequacy of the Goods' marks, description, weight, quantity or any other particulars, including but not limited to shipping information or instructions, weight certificates, center of gravity or lifting points.

#### **10. REFRIGERATION, HEATING, INSULATION**

Containers with refrigeration, heating or insulation shall not be furnished unless contracted for on the front of this Bill of Lading and extra Freight paid. If a carrying temperature is noted on the front of this Bill of Lading, the Ocean Carrier does not undertake to deliver empty refrigerated Containers to the Merchant at any specific temperature, and it is the obligation of Merchant to deliver the Goods to the Ocean Carrier at the noted temperature. IT IS THE MERCHANT'S OBLIGATION TO PROPERLY PACK THE CONTAINER AND TO SET AND/OR CHECK THAT THE TEMPERATURE CONTROLS ON THE CONTAINER ARE AT THE REQUIRED CARRYING TEMPERATURE AND TO PROPERLY SET THE VENTS. The Ocean Carrier has the right but not the obligation to refuse to accept any Container loaded by the Merchant for shipment where the Goods are not or were not loaded into the Container at the contracted carrying temperature. The Merchant expressly acknowledges that refrigerated Containers are not designed: to cool or freeze Goods which have been loaded into a Container at a temperature higher than their designated carrying temperature. The Ocean Carrier shall not be responsible for the consequences of the Goods being loaded at a higher temperature than that required for the carriage; nor to monitor and control humidity levels, even if a setting facility exists, and because humidity is influenced by many external factors the Ocean Carrier does not guarantee and is not responsible for the maintenance of any intended level of humidity inside any Container. The Ocean Carrier shall not be liable for any loss or damage to the Goods arising from latent defects, breakdown, defrosting, stoppage of the refrigerating or any other specialised machinery, plant, insulation and/or apparatus of the Container and any other facilities, provided that the Ocean Carrier exercised due diligence before releasing the empty Container to the Merchant. The Ocean Carrier does not warrant refrigeration or heating machinery, but shall exercise care in its operation and maintenance while in the actual possession of the Ocean Carrier. The Ocean Carrier does not accept responsibility for the recording of temperatures in any form other than any reefer log book maintained on board the Vessel. The Ocean Carrier does not accept any obligation to comply with any governmental program or protocol unless noted on the front hereof and additional Freight is paid.

#### **11. INSPECTION OF GOODS**

The Ocean Carrier shall be entitled, but under no obligation, to open and/or scan the Goods at any time to inspect the contents. If it appears at any time that the Goods cannot be safely or properly carried or carried further, either at all or without incurring additional expense or taking any measures in relation to the Goods, the Ocean Carrier may at the sole risk and expense of the Merchant and 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 sell or dispose of the Goods and/or abandon the carriage and/or to store the Goods ashore or afloat, under cover or in the open, at any place, whichever the Ocean Carrier in its absolute discretion considers most appropriate, which sale, disposal, abandonment or storage shall be deemed to constitute delivery under this Bill of Lading. The Merchant shall Indemnify the Ocean Carrier against any reasonable additional expense so incurred. The Ocean 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 arising from any action or lack of action under this clause. If by order of the authorities at any place, the Goods have to be opened, the Ocean Carrier will not be liable for any loss or damage incurred as a result of any opening, unpacking, inspection, reweighing, re-measurement, revaluation or repacking. The Merchant shall Indemnify the Ocean Carrier for all costs, fines and penalties associated with such opening, unpacking, inspection, reweighing, re-measurement, revaluation or repacking.

**12. DANGEROUS AND HAZARDOUS CARGO**

The Ocean Carrier will carry dangerous, inflammable, explosive, noxious, corrosive, radio-active, hazardous or otherwise damaging Goods only upon the Ocean Carrier's written approval of a prior written application by the Merchant for the carriage of such Goods. Such application must accurately state the nature, proper shipping name, label and classification of the Goods as well as the method of rendering them innocuous. The Merchant shall distinctly and permanently mark the nature and danger of such Goods on the outside of the package or container containing such Goods as required by any law or regulations which may be applicable during the carriage. If any such Goods are delivered to the Ocean Carrier without such written consent or marking, or if in the opinion of the Ocean Carrier the Goods are or are liable to become dangerous, inflammable, explosive, noxious, corrosive, radio-active, hazardous or otherwise damaging, or are found to be contraband or prohibited by law in the port of loading, discharge, call or any place or waters during the transportation, such Goods shall at the Ocean Carrier's discretion, be unloaded, abandoned, destroyed, or rendered innocuous or otherwise disposed of at any time or place without compensation to the Merchant and without prejudice to the Ocean Carrier's right to Freight. If the Merchant has not given the Ocean Carrier prior notice of the nature of the Goods as required above, the Ocean Carrier shall be under no liability to make any general average contribution in respect of such Goods. Whether or not the Merchant was aware of the nature of the Goods, the Merchant shall indemnify the Ocean Carrier against any claims, losses damages, liabilities, fines, penalties or expenses, including consequential damages and attorneys' fees arising out of the custody or Carriage of such Goods.

**13. LIVE ANIMALS**

The Hague Rules or US COGSA shall not apply to the Carriage of live animals, which 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 to such live animals howsoever arising. Should the Master in his sole discretion consider that any live animal is likely to be injurious to any other live animal or any person or property on board, or to cause the Vessel to be delayed or impeded in the prosecution of its voyage, such live animal may be destroyed and thrown overboard without any liability attaching to the Carrier. The Merchant shall indemnify the Carrier against all or any extra costs incurred for any reason whatsoever in connection with the Carriage of any live animal.

**14. GENERAL AVERAGE**

General Average shall be adjusted, stated and settled according to the York/Antwerp Rules of 1994, as amended, at such port or place in the United States and in the currency as may be selected by the Ocean Carrier and as to matters not provided for by the York/Antwerp Rules according to the laws and usage at the port of New York. Such security including cash deposit as the Ocean Carrier may deem sufficient to cover the estimated contribution of the Goods and any salvage and special charges thereon, shall, if required, be submitted to the Ocean Carrier prior to delivery of the Goods. The Ocean Carrier shall be under no obligation to exercise any lien for general average contribution due to the Merchant.

**15. Ad Valorem**

The Merchant agrees and acknowledges that the Carrier has no knowledge of the value of the Goods, and that higher compensation than that provided for in this Bill of Lading may not be claimed unless, with the consent of the Carrier, the value of the Goods declared by the Merchant prior to the commencement of the Carriage is stated in this Bill of Lading and extra Freight paid, if required. In that case the amount of the declared value shall be substituted for the limits laid down in this Bill of Lading. Any partial loss or damage shall be adjusted pro rata on the basis of such declared value.

**16. NEW JASON CLAUSE**

In the event of accident, danger, damage or disaster, before or after commencement of the voyage resulting from any cause whatsoever, whether due to negligence or not, for which, or for the consequence of which, the Ocean Carrier is not responsible, the Goods and the Merchant, jointly and severally, shall contribute with the Ocean Carrier in general average to the payment of any sacrifices, losses or expenses of a general average nature that may be incurred and shall pay salvage and special charges incurred in respect of the

Goods. If a salving ship is owned or operated by the Ocean Carrier, salvage shall be paid for as fully and in the same manner as if such salving ship or ships belonged to strangers.

#### **17. BOTH-TO-BLAME COLLISION**

If a Vessel comes into collision with another vessel as a result of the negligence of the other vessel and any act, neglect or default of the Master, mariner, pilot or servants of the Ocean Carrier in the navigation or in the management of the Vessel, the Merchant will Indemnify the Ocean Carrier against all loss or liability to the other or non-carrying vessel 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 other or non-carrying vessel or her owners to the Merchant and set-off, recouped or recovered by the other or non-carrying vessel or her owners as part of their claim against the Vessel or the Ocean Carrier.

#### **18. FREIGHT**

Full Freight to the port of discharge shall be considered completely earned on receipt of the Goods by the Ocean Carrier, even if the Vessel and/or Goods are damaged or lost, or the voyage is changed, frustrated or abandoned. Freight may be calculated on the basis of any particulars concerning the Goods furnished by the Merchant, but the Ocean Carrier may at any time weigh, measure and value the Goods and open packages, containers or trailers to examine contents. If the Merchant's particulars are found to be erroneous and additional freight is payable, the Merchant shall be liable for the additional freight and any expense incurred in examining, weighing, measuring and valuing the Goods. All such charges shall be paid in full without offset, counter-claim or deduction in the currency named on this Bill of Lading, or at the Ocean Carrier's option in another unblocked currency of the Ocean Carrier's choice. Conversion to an unblocked currency which is different than the Bill of Lading currency will be made at the highest U.S. dollar selling rate of exchange effective on the third business day prior to the Vessel's departure from the first port of load for export cargo or for import cargo on the third business day prior to arrival of the Vessel at the first port of discharge. The Merchants shall be jointly and severally liable to the Ocean Carrier for the payment of all freight, charges, demurrage, deadfreight and other amounts due the Ocean Carrier and for any failure of any or all to perform his or their obligations under the provisions of this Bill of Lading and they shall Indemnify the Ocean Carrier against and hold it harmless from all liability, loss, or damage which the Ocean Carrier may sustain or incur arising or resulting from any such failure of performance by the Merchant. Payment of Freight to a freight forwarder or broker shall not be considered payment to the Ocean Carrier and shall be made at the Merchant's sole risk.

#### **19. LIEN**

The Ocean Carrier shall have a lien on the Goods and all documents relating thereto for all Freight and other monies due and payable to the Ocean Carrier from the Merchant under this Bill of Lading or any other contract to which the Merchant was a party or otherwise involved, which lien shall include, without limitation, general average contributions, demurrage, fines, taxes, salvage, damages, expenses and charges becoming due under this Bill of Lading or which may be sustained or incurred by the Ocean Carrier, whether they are payable in advance or not. Such lien shall extend to the cost of recovering the sums due including the cost, expenses and legal fees of exercising such lien, and shall survive delivery of the Goods. The Ocean Carrier may, without notice to the Merchant, enforce this lien by public or private sale of the Goods at any time or at any place at the sole discretion of the Ocean Carrier.

#### **20. VALUATION**

**If COGSA applies to this Bill of Lading, it is agreed and understood that the meaning of the word "package" includes containers, vans, trailers, pallets and unitized cargos and all pieces, articles or things of any description whatsoever except Goods shipped in bulk. In the event of any loss or damage to Goods exceeding in actual value \$500 per package lawful money of the United States, or in case of Goods not shipped in packages, per customary freight unit, the value of the Goods shall be deemed to be \$500 per package or per customary freight unit as the case may be, and Ocean Carrier's liability, if any, shall be determined on the basis of a value of \$500 per package or per customary freight unit, unless the nature of the Goods and a higher value shall be declared by the Merchant in writing before shipment and inserted herein and extra charges paid. Charges for excess**

value declarations shall apply as per the Ocean Carrier's tariff. In the event of a higher value being declared by the Merchant in writing and inserted herein and extra freight being paid thereon if required, the Ocean Carrier's liability, if any, for loss or damage to or in connection with the Goods shall be determined on the basis of, and in no circumstances greater than, such declared value and pro rata of such declared value in the case of partial loss or damage, provided such declared value does not exceed the actual value of the Goods. Notwithstanding the foregoing, where the loss, damage or delay to or of the Goods occurs while the Goods are in the care and/or custody of the Inland Carrier, if the provisions of any contract between the Ocean Carrier and Inland Carrier or the provisions of law applicable to the loss, damage or delay to or of the Goods would result in liability on the part of the Inland Carrier if a direct claim were brought by the Merchant against said Inland Carrier, and such liability would be less than the Ocean Carrier's liability as set forth above, then the Ocean Carrier's liability shall not exceed such lesser amount.

**21. NOTICE OF LOSS OR DAMAGE**

Unless written notice of loss or damage and the general nature thereof is given to the Ocean Carrier or its agent at the port of discharge before or at the time of the removal of the Goods into the custody of the person entitled to delivery thereof under this Bill of Lading, such removal shall be *prima facie* evidence of the Ocean Carrier's delivery of the Goods as described in this Bill of Lading. If the loss or damage to the Goods is not apparent, written notice must be given to the Ocean Carrier within three (3) days of delivery.

**22. TIME FOR SUIT**

The Ocean Carrier and the Vessel shall be discharged from all liability for any loss or damage, misdelivery, delay, or any claim of whatsoever kind, unless suit is brought within one year after the delivery of the Goods or the date when the Goods should have been delivered.

**23. LAW AND JURISDICTION**

All claims or disputes arising out of this Bill of Lading shall be governed by Singaporean law and SIAC arbitration.

**24. DISCHARGE AND DELIVERY**

The Port authorities are hereby authorized to grant a general order for discharging immediately after the arrival of the Vessel. The Vessel may commence discharging immediately on arrival, and discharge continuously day and night, Sundays and holidays included, any custom of the port to the contrary notwithstanding. At ports and places of discharge where the Ocean Carrier is required to discharge cargo into lighters or other craft by local law, local authorities or local custom, or where it has been so agreed or where piers and wharves which the Vessel can reach, lie at or depart from always afloat are not available, or where prevailing conditions at the time render discharge to a pier or wharf dangerous or imprudent or would subject the Vessel, the Goods and cargo of others to abnormal delay, the Merchant shall be required to furnish lighters or other craft and take delivery alongside the Vessel in such lighters or craft from the Vessel's tackle at the risk and expense of the Goods. In such cases, if Merchant fails or refuses to provide lighters or other craft, the Ocean Carrier acting as agent for the Merchant, may engage lighters or craft for the risk and account of the Goods, and upon discharge of Goods into such lighters or craft, performance hereunder and delivery of the Goods shall be completed and the Ocean Carrier shall not be under any further responsibility with respect to the Goods.

**25. STOWAGE**

The Ocean Carrier does not guarantee underdeck stowage and shall have the right to carry containers, breakbulk Goods and yachts on deck without notice to the Merchant or any notation on the face hereof.

**26. SPECIE AND VALUABLES**

The Ocean Carrier shall not be liable for loss of or damage to gold, silver, precious stones or metals, jewelry, or treasures of any kind, bank notes, securities, silks, furs, lace, pictures, plates, china, glass statuary unless the Ocean Carrier is notified in writing at the time of shipment, and bills of lading are signed therefore, in which their nature and value are expressed and extra freight paid for the assumption of extraordinary risk, and such articles will not in any case, be loaded or landed by the Ocean Carrier. No such valuables shall be considered received by Ocean Carrier until brought aboard the Vessel by the Merchant and put in the actual possession of, and a written receipt therefore is given by the Master or other officer in charge. Such valuables will only be delivered by the Ocean Carrier aboard the Vessel on presentation of bills of lading properly endorsed and upon such delivery on board, the Ocean Carrier's responsibility shall cease. If delivery is not so taken promptly after the Vessel's arrival at the port of discharge, the Goods may be retained aboard or landed or carried on, solely at the risk and expense of the Merchant.

**27. DELIVERY BY MARKS**

The Ocean Carrier shall not be liable for failure to deliver in accordance with leading marks unless such marks shall have been clearly and durably stamped or marked upon the Goods by the Merchant before



shipment in such a manner as to clearly identify such Goods and their port of discharge. Goods that cannot be identified as to marks and any unclaimed Goods not otherwise accounted for may at the Ocean Carrier's option be allocated for completing delivery to the various consignees of Goods of like character in proportion to any apparent shortage.

### **28. FORCE MAJEURE**

Force majeure shall mean and include, without limitation, acts of God or public enemy, labor disruptions such as strikes, fire, marine disaster, nuclear incident, embargoes, riots, government restraints or similar causes, but shall not include commercial contingencies such as changing market conditions, currency fluctuations, poor management decisions, unprofitability or business declines. Exclusive of liability under Ocean Carrier's Bill of Lading, if the Ocean Carrier or the Merchant dissolves or otherwise ceases to function during the term of a contract, the contract shall terminate and the Ocean Carrier and the Merchant shall be relieved of all remaining contractual rights and obligations, including assessment of liquidated damages. Either party invoking force majeure shall, within five (5) days of the impelling incident, notify the other party in writing and include all pertinent facts in such notice. Upon termination of force majeure circumstances, either party shall notify the other party in writing within ten (10) working days. The period of time force majeure is in effect shall be considered a disability period and the minimum cargo commitment set forth within individual essential terms will be adjusted to the nearest unit in proportion of the duration of the disability to the contract term.

### **29. HEAVY LIFT**

The weight of a single piece or package exceeding 37 metric tons gross must be declared by the Merchant in writing by means of a weight certificate issued by an independent third party surveyor before receipt by the Ocean Carrier and must be marked clearly and durably on the outside of the piece or package. In addition, prior to loading Merchant must provide proper center of gravity and lifting points. If the Merchant fails in his obligations herein, then the Ocean Carrier shall be at liberty, although not required, to refuse to load the cargo, and any extra cost or expense shall be for the account of the Merchant. In addition, whether the cargo is loaded or not, the Ocean Carrier shall not be responsible for any loss of or damage to or in connection with the Goods; the Merchant shall be liable for resulting loss of or damage to any person or property; and the Merchant shall indemnify the Ocean Carrier against any resulting loss, damage or liability suffered by the Ocean Carrier.

### **30. LIMITATION STATUTES**

Nothing in this Bill of Lading shall operate to limit or deprive the Ocean Carrier of any statutory protection or exception of limitation of liability authorized by any applicable laws, statutes or regulations of any country. The Ocean Carrier shall have the benefit of the said laws, statutes or regulations as if it were the owner of the Vessel.

### **31. FINAL AGREEMENT**

Except where the parties have specifically agreed to the contrary in writing, this Bill of Lading is the final contract between the parties and supersedes any prior agreement or understanding, whether in writing or verbal. The terms and conditions of this Bill of Lading are severable and if any part of said terms and conditions is declared invalid or unenforceable, the validity and enforceability of the remaining terms and conditions shall not be affected.