

BILL OF LADING – TERMS AND CONDITIONS

a) Except as otherwise provided herein, this Bill of Lading shall have effect subject to the provisions of the Carriage of Goods by Sea Act of the United States of America, 1924, which shall be deemed to be incorporated herein, and nothing herein contained shall be deemed a surrender by the Carrier of any of its rights or immunities or an increase of any of its responsibilities or liabilities under said Act. The provisions stated in said Act (except as otherwise specifically provided herein) shall govern before loading and after discharge from the vessel and throughout the entire voyage of the Carrier. If this Bill of Lading is issued or delivered in a locality where there is in force a compulsorily applicable Carriage of Goods by Sea Act, Ordinance or Statute of a nature similar to the International Convention for the Unification of Certain Rules Relating to Bills of Lading dated at Brussels August 25, 1924, it shall be subject to the provisions of said Act, Ordinance or Statute and rules thereon annexed.

(b) The Carrier shall be entitled to the full benefit of and right to, all limitations of, or exceptions from liability authorized by any provisions of Sections 2481 to 4288, inclusive, of the Revised Statutes of the United States and amendments thereto and of any other provisions of the laws of the United States or of any other country whose laws shall apply.

In this Bill of Lading

(a) "Carrier" means and includes OMINITAINER LINE, INC., the Carrier named on the face side hereof, the vessel, her owner, Master, operator, demise charterer, and if bound hereby, the time charterer, and any substitute Carrier whether the owner, operator, charterer or Master shall be acting as carrier or bailee; the Goods are shipped, named on the face hereof, or any substitute vessel, also any feedership, frye, barge, lighter or any other watercraft used by the Carrier in the performance of this contract.

(c) "Merchant" means and includes the shipper, the consignee, the receiver, the holder of this bill of lading or the person entitled to the possession of the Goods and the servants or agents of any of these.

(d) "Charges" means and includes freight and all expenses and money obligations incurred and payable by the Merchant.

(e) "Goods" means and includes all cargo received from the shipper and described on the face side hereof and any Container not supplied by or on behalf of the Carrier.

(f) "Container" means and includes any container, van, trailer, transportable tank, flat, pallet or any similar article of transport.

(g) "Person" means and includes an individual corporation, partnership or other legal entity.

(h) "Participating Carrier" means and shall include any other water, land or air carrier performing any stage of the Combined Transport.

It is understood and agreed that other than the said Carrier no person whatsoever (including the Master, officers and crew of the vessel, all servants, agents, employees, representatives, and all stevedores terminal operators, crane operators, wharves, carpenters, ship cleaners, surveyors and other independent contractors) shall be liable for or shall be held responsible for any loss of, damage to, or destruction of or otherwise howsoever in contract or in tort if, however, it should be adjudged that any other than said Carrier's under any responsibility with respect to the Goods, all limitations of and exonerations from liability provided by law or by the terms hereof shall be available to such other persons as herein described in this Bill of Lading, or for the forwarding, retransmission of or exonerations from liability that the Carrier is acting as agent and trustee for and on behalf of all persons described above, all of whom shall to this extent be deemed to be a party to this contract evidenced by this Bill of Lading, it being always understood that said beneficiaries are not entitled to any greater or further exonerations from liability than those that the Carrier has under this Bill of Lading in any given situation.

Subject to the rights, privileges and limitations of and exonerations from liability granted to the ocean carrier under this Bill of Lading or by law, any liability by the respective participating carriers for loss or damage to the Goods or packages carried hereunder shall be governed by the following:

(a) If loss or damage occurs while the Goods or packages are in the custody of a participating domestic or foreign Carrier, only that participating domestic or foreign Carrier(s) shall be responsible therefore, and any liability of such participating domestic or foreign Carrier(s) shall be determined, in respective order, by the terms, conditions and provisions of the applicable participating domestic or foreign Carrier's Bill(s) of Lading, whether issued or not, tariff(s) and law compulsorily applicable in the circumstances.

(c) Notwithstanding subdivision (a) and by hereof, it is contemplated that the Goods or packages will from time to time be carried in transportation that will include inland transportation within the United States or by Railroad and sea carriage by one or more of the other Carriers above defined. (When used on or endorsed on this Bill of Lading the words "on board" shall mean and include on board the original carrying vessel when the Goods or packages are being transported from a foreign port or place to the continental United States, but when the Goods or packages are being transported from the continental United States to a foreign port or place "on board" shall mean and include on board a rail car operated by the originating carrier and enroute by rail to the port of loading for loading on board the Carrier's or participating Carrier's vessel).

(d) If loss or damage occurs while the Goods or packages hereunder, and it cannot be determined from the records of the ocean Carrier or participating domestic or foreign Carrier(s) whether such damage or loss occurred during ocean, domestic or foreign carriage, it shall be conclusively presumed that the loss, damage or destruction of the vessel and while the Goods or packages were in the custody of the ocean Carrier.

(e) At all times when the Goods or packages are in the custody of the above mentioned participating domestic or foreign Carriers, such Carriers shall be entitled to all the rights, defenses, exceptions from liability and immunities of whatsoever nature referred to or incorporated herein-applicable or granted to the Carrier as herein defined, to the full extent permitted to such domestic and foreign Carriers under this Bill(s) of Lading, tariffs and any other laws applicable or relating thereto, provided-however, that nothing contained in this bill of Lading shall be deemed to deprive the Carrier of any of its rights or immunities or an increase of any of its limitations of and exonerations from liability under said Bill(s) of Lading, tariffs or laws applicable or relating to said carriage.

(f) In any arrangements for transportation by participating domestic or foreign Carriers of the Goods or packages carried hereunder, either before or after ocean carriage, it is understood and agreed that the ocean Carrier acts solely as agent of the Merchant, without any other responsibility whatsoever, and it assumes no responsibility for such domestic or foreign transportation.

(g) Notice of loss or damage and claim against the ocean Carrier, where applicable, shall be given to the ocean Carrier, and suit commenced as provided for the Classes 30 and 31 hereof Notice of loss or damage against the participating domestic or foreign Carrier(s), where applicable, shall be filed with the participating domestic or foreign Carrier(s) and suit commenced as provided for in the terms, conditions and provisions of said Carrier(s) of Lading or by law applicable thereto, if it is understood by the Merchant that such terms, conditions and provisions, as they pertain to notice of, and claim for loss or damage and commencement of suit contain different requirements that those requirements pertaining to ocean Carriage as contained in Classes 30 and 31 hereof.

5 The goods carried hereunder are subject to all the terms and provisions of the Carrier's applicable Tariff or Tariffs which file with the Federal Maritime Commission, Interstate Commerce Commission or any other regulatory body which governs a particular portion of this carriage, and the terms and provisions of the said Tariff or Tariffs are hereby incorporated herein as part of the Terms and Conditions of this Bill of Lading. Copies of the relevant provisions of the applicable Tariff or Tariffs are obtainable from the Carrier, Federal Maritime Commission, Interstate Commerce Commission or other regulatory body upon request in the event of any conflict between the terms and provisions of such Tariff or Tariffs and the Terms and Conditions of this Bill of Lading, this Bill of Lading shall prevail.

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

7 The Carrier shall be entitled to sub-contract on any terms the whole or any part of the carriage, loading, unloading, stowage, warehousing, handling and any and all duties whatsoever undertaken by the Carrier in relation to the Goods.

8 It is through transportation by Carrier undertaken to procure such services as necessary and shall have the right at its sole discretion to select any mode of land, sea or air transport and to arrange participation by other Carriers to accomplish the combined transport from place of receipt to place of delivery. Whenever any stage of the combined transport is accomplished by any land or air Carrier or any other water Carrier, such such stage shall be controlled according to any law compulsorily applicable to such stage and according to the contracts, rules and tariffs of each participating Carrier, the same as if such contracts, rules and tariffs were fully set forth herein.

8 The Carrier shall be entitled but under no obligation to open any Container at any time and to inspect the contents unless applicable law prohibits same if it thereupon appears that the container is not properly closed or sealed or that the contents are carried further either at all or without incurring any additional expense or taking any measures in relation to the Container or its contents or any part thereof the Carrier may abandon the transportation thereof and/or take any measures and/or incur any reasonable additional expense to carry to or continue the carriage or to store the same ashore or afloat under cover or in any place which storage is deemed to be deemed to constitute due delivery under this Bill of Lading. The Merchant shall indemnify the Carrier against any reasonable additional expense so incurred.

9 Carrier may containerize any Goods or packages. Containers may be stowed on deck or under deck and when so stowed shall be deemed for all purposes to be stowed under deck including for General Average and US Carriage of Goods by Sea Act, 1936 and similar legislation.

10 Deck cargo (except goods carried in containers on deck) and live animals are received and carried solely at Merchant's risk (including accident or mortality of animals) and the Carrier shall not in any event be liable for any loss or damage thereto arising or resulting from any matters mentioned in Section 4, Sub-Section 2(a) (a) (inclusive of the United States Carriage of Goods by Sea Act or from any other cause whatsoever due to the fault of the Carrier any warranty of seaworthiness in the premises being hereby waived and the burden of proving liability being in all respects upon the Merchant. Except as provided above such shipments shall be deemed Goods and shall be subject to all terms and provisions of this Bill of Lading relating to Goods.

11 Special containers with heating or refrigeration units will not be furnished unless contracted for in advance. The Carrier does not however accept any responsibility for the functioning of heated or refrigerated containers owned or leased by the Carrier.

12 The scope of the voyage herein contracted for shall include use of customary or advertised routes of call whether or not in this contract or not also in any other of the advertised geographical or usual route or order even though in proceeding thereon the vessel may sail beyond the port of discharge named herein or in a direction contrary thereto or return to the original port or depart from the direct or customary route or order of call, and the responsibility for the routing of the vessel shall be the responsibility of the current, prior or subsequent voyages. The vessel may omit calling at any port whether scheduled or not and may call at the same port more than once, may discharge the goods during the first or subsequent call at the port of discharge, or may call at any port or place before or after proceeding towards the port of discharge, adjust compasses, drydock with or without cargo on board, stop for repairs, shift berths, make trail trips or tests, take fuel or stores, remain in port, lie on bottom, ground or at anchor, sail with or without pilots, lugs and be towed, and save or expend to save life or property, and all of the foregoing are included in the contract voyage. The vessel may carry contraband, explosives, munitions warfare stores, hazardous cargo, and sail armed or unarmed and with or without convoy.

The Carrier's sailing schedules are subject to change without notice both as to the sailing date and date of arrival. If this is a Through Bill of Lading, no Carrier is bound to transport the shipment by any particular train, truck, aircraft, vessel or other means of conveyance or in time for any particular market or otherwise. No Carrier shall be liable for delay and any Carrier shall have the right to forward the goods by substitute Carrier.

13 If at any time the performance of the contract evidenced by this Bill of Lading is prevented by a strike, lockout, or other labor dispute, or by any other cause, or by whatever kind which cannot be avoided by the exercise of reasonable endeavors, the Carrier (whether or not the transport is commenced) may without notice to the Merchant terminate the performance of this contract as terminated and place the Goods or any part of them at the Merchant's disposal at a place or port which the Carrier may select 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.

14 If the Carrier makes a special agreement, whether by stamp hereon or otherwise to deliver the Goods at a specified dock or place, it is mutually agreed that such agreement shall be construed to mean that the Carrier is to make such delivery only if in the sole judgment of the Carrier, the vessel can get to the dock and land said dock or place always safely afloat and only if such dock or place is available for immediate receipt of the Goods and that otherwise the Goods shall be discharged as otherwise provided in this Bill of Lading, whereupon all responsibility of Carrier shall cease.

15 The port authorities are hereby authorized to grant a general order for discharging immediately upon arrival of the vessel and the Carrier, without giving notice either of arrival or discharge, may immediately upon arrival of the vessel at the designated destination, discharge the goods, notwithstanding Sundays and holidays included in all such hours by day or by night as the Carrier may determine no matter what the state of the weather or custom of the port may be.

The Carrier shall not be liable in any respect whatsoever if heat or refrigeration or special cooling facilities shall not be furnished during loading or discharge or any part of the time that the Goods are upon wharf or other loading or discharging place.

Loading and delivery charges and pier dues shall be at the expense of the Goods unless included in the freight herein provided for if the Goods are not taken away by the consignee by the expiration of the next working day after the Goods are at his disposal. The Goods may at Carrier's option and subject to Carrier's lien be sent to store or warehouse or be permitted to lie where they may be at the expense and risk of the Goods. The responsibilities of the Carrier in any capacity shall altogether cease and the Goods shall be considered to be delivered and all their own risk and expenses in every respect when taken into the custody of Customs or other authorities, or into that of any municipality, Standards and Weights Commission or depository. The Carrier shall not be required to give any notification of disposition of the Goods, except as may be otherwise provided in this Bill of Lading.

16 At all ports or places where, by local law, authorities, or custom, the Carrier is required to discharge cargo by lighters or other craft, or where it has been so agreed or where wharves are not available which the ship can get to, lie at, or leave, always safely afloat, or where conditions prevailing at the time render discharge at a wharf dangerous, imprudent, or likely to delay the vessel, the Merchant, shall promptly furnish lighters or other craft to take delivery alongside the ship at the risk and expense of the Goods. If the Merchant fails to provide such lighters or other craft, Carrier, acting solely as agent for the Merchant may engage such lighters or other craft at the risk and expense of the Goods. Discharge of the Goods into such lighters or other craft shall constitute proper delivery and any further responsibility of Carrier with respect to the goods shall thereupon terminate.

17 The Carrier shall have liberty to employ with any order or directions or recommendations in connection with the transportation of the contract of carriage given by any Government or Authority or anyone acting or purporting to act on behalf of such Government or Authority or having under the terms of the mortgage or insurance on the vessel or other transport, the right to give such orders, directions or recommendations. Discharge or delivery of the Goods in accordance with the said order or directions or recommendations shall be deemed a fulfillment of the contract. Any extra expense incurred in connection with the exercise of the Carrier's liberty under this clause shall be paid by the Merchant in addition to freight and charges.

18 Whenever the Carrier or Master may deem it advisable or in any case where goods are destined for ports) or places) at which the vessel or participating carrier's will not call the Carrier may without notice forward the whole or any part of the shipment, before or after loading at the original port of shipment, or any other place or place to which the goods are destined, or to any other place or place, or to any port of discharge or the destination of the Goods by water, by land or by air or by any combination thereof, whether operated by the Carrier or others and whether departing or arriving or scheduled to depart or arrive before or after the ship expected to arrive at the destination of the Goods or the route to or beyond the port of discharge or the destination of the Goods by water, by land or by air or by any combination thereof, whether operated by the Carrier or others and whether departing or arriving or scheduled to depart or arrive before or after the ship expected to 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