

PROJECT TRANSPORT

TERMS AND CONDITIONS OF CONTRACT

1. DEFINITIONS

"Forwarder" means Project Transport.

"Merchant" includes the consignor, shipper, consignee, owner of the Goods, and any person lawfully acting on behalf of any of the aforementioned persons.

"Carriage" means the operations and services undertaken or performed by or on behalf of the Carrier in respect of the Goods covered by this Bill of Lading.

"Goods" means the cargo that the Merchant has tendered for Carriage, whether carried on or under deck, and includes any Container not supplied by or on behalf of the Forwarder.

"Vessel" includes the vessel named on the front page of this Bill of Lading or any substitute for that vessel, and any feeder vessel, lighter, or barge used by or on behalf of the Forwarder in connection with any part of the Carriage.

"Sub-Contractor" includes, without limitation, includes owners and operators of vessels, water carriers, motor carriers, freight forwarders, brokers, drayage companies, stevedores, terminals, warehouses, container freight stations, road and depot and groupage operators, road and rail transport operators, and any independent contractors employed by the Forwarder in the performance of the Carriage and any sub-sub-contractor thereof. The term "Sub-Contractor" shall include direct and indirect sub-contractors and their respective servants, agents, or sub-contractors.

"Package" means each Container that is stuffed and sealed by or on behalf of the Merchant, and not the items packed in such Container if the number of such items is not indicated on the front page of this Bill of Lading or is indicated by the terms such as "Said to Contain" or similar expressions.

"Container" includes, without limitation, any shipping container, open top, trailer, transportable tank, flat rack, platform, pallet, and any other equipment or device used for or in connection with the Carriage.

"COGSA" means Carriage of Goods by Sea Act of the United States of America, Apr. 16, 1936, ch. 229, 49 Stat. 1207, *reprinted in* note following 46 U.S.C. section 30701.

"Charges" includes, without limitation, freight, all expenses, costs, detention, demurrage, general average, and any other money obligations incurred and payable by the Merchant, and all collection costs for freight and other amounts due from the Merchant, including attorneys' fees and court costs.

"Dangerous Goods" includes any Goods classified or described as dangerous in the International Maritime Organization's International Maritime Dangerous Goods Code or in the Carrier's applicable tariff, and any Goods that could present or could be likely to present any hazard to the transporting conveyance or to other cargo or property or to any person.

2. AGREEMENT TO TERMS AND CONDITIONS OF BILL OF LADING

By the Merchant's tender of the Goods for Carriage, the Merchant agrees to these Terms and Conditions of Contract, which no agent or employee of the parties may alter. This Bill of Lading is non-negotiable. The Merchant has prepared this Bill of Lading, or the Forwarder or its authorized agents have done so on the Merchant's behalf. The Merchant agrees that the Carriage is subject to these Terms and Conditions of Contract and those set forth on the front page of this Bill of Lading, the applicable tariff(s), which is/are available for inspection upon request, and which is/are expressly incorporated herein by reference, and COGSA, which is expressly incorporated into these Terms and Conditions of Contract, and which governs the Carriage of the Goods. The defenses and limits of liability set forth in this Bill of Lading shall apply in any action against the Forwarder under any legal theory whatsoever, whether the action is in contract, tort, bailment, indemnity, contribution, or otherwise.

3. FORWARDER'S UNDERTAKING

The Merchant understands that the Forwarder is a non-vehicle/vessel-operating domestic freight forwarder. The Forwarder is a Title 49 freight forwarder, licensed by the Federal Motor Carrier Safety Administration—docket number FF004705. The Forwarder contracts Sub-Contractors to transport or handle the Goods.

4. FORWARDER IS A SHIPPER'S AGENT FOR NON-CARRIAGE SERVICES

Whenever the Forwarder undertakes to accomplish any act, operation, or service outside of the Carriage undertaking or one not initially agreed or mentioned on this Bill of Lading, the Forwarder shall act as the Customer's shipper's agent and shall be under no liability whatsoever for any loss or damage to the Goods or any direct, indirect, or consequential loss arising out of or resulting from such act, operation, or service.

5. CONTRACTUAL WAIVER OF THE CARMACK AMENDMENT

Where the liability scheme for interstate surface transportation set forth in United States of America laws collectively known as the "Carmack Amendment" ("Carmack"), 49 U.S.C. sections 14706 or 11706, would otherwise apply to the Carriage of the Goods or any segment of such Carriage, the Merchant expressly agrees to a waiver of the Carmack liability scheme, and the Merchant expressly agrees that this Bill of Lading, and particularly, this paragraph, is a written agreement that satisfies the express written waiver required under 49 U.S.C. section 14101(b), of all of the Merchant's rights and remedies under Carmack, excluding the provisions governing registration, insurance, or safety fitness.

6. CLAUSE PARAMOUNT

- (A) COGSA is incorporated into this Bill of Lading. It shall have effect subject to COGSA during the entirety of the Carriage. But in the event of a conflict between a provision of COGSA and a provision in these Terms and Conditions of Contract, the latter shall prevail.
- (B) COGSA shall also apply contractually and govern the Carriage before the Goods are loaded aboard the Vessel and after they are discharged therefrom, and throughout the entire time that the Goods are in the custody of the Carrier or its Sub-Contractors.
- (C) The Carrier and Merchant expressly agree under the section 13 of COGSA that it shall apply to Carriage between ports in the United States of America, including its districts, territories, and possessions of the U.S., in lieu of the Harter Act, 46 U.S.C. sections 30701-30707.

7. NOTICE OF CLAIM AND TIME-BAR

- (A) As a condition precedent to the Forwarder's processing of a claim for loss or damage to the Goods, all Charges must have been paid in full.
- (B) Unless written notice of loss or damage and the general nature of such loss or damage is given in writing to the Forwarder or its agent at the Port of Discharge or Place of Delivery, whichever is applicable to the Carriage, 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 delivery by the Forwarder of the Goods as described in this Bill of Lading. If the loss or damage is not apparent, the notice must be given within three days of the delivery.
- (C) In any event, the Forwarder, its servants, agents, and Sub-Contractors shall be discharged from all liability in respect of loss or damage unless suit is brought within nine months after the delivery of the Goods or the date on when the Goods should have been delivered.

8. FORWARDER'S RESPONSIBILITIES

The responsibilities of the Forwarder for the Goods cover the entire period during which the Forwarder is in charge of the Goods, starting from the time the Forwarder has taken over the Goods at the Place of Receipt or Port of Loading, as applicable, until the time of delivery thereof at the Port of Discharge or Place of Delivery, as applicable, to the Merchant or to any authority to which the Forwarder is required to make delivery by local law or regulation, whichever occurs earlier.

9. LIMITATION OF LIABILITY; OPPORTUNITY TO AVOID LIMITATION

Unless the Merchant declares the nature and value of the Goods prior to the Carriage, sets forth the same on the front page of this Bill of Lading, and pays the corresponding ad valorem rate, the Merchant knowingly and willingly elects to ship under the Forwarder's regular/lower rates, the consequence of which is that neither the Forwarder nor its servants, agents, Sub-Contractors, or the Vessel shall in any event be or become liable for any loss or damage to or in connection with the Carriage of the Goods in an amount exceeding \$500 per package lawful money of the United States, or in case of Goods not shipped in packages, per customary freight unit. Forwarder's knowledge of the value of Goods and/or Merchant's declaration of the value of the Goods to Forwarder in regular course or for any other purpose, such as for Customs or insurance purposes, shall in no event constitute a declared value of the Goods to Forwarder for liability purposes.

In the event of loss or damage subject to mandatory applicable law which invalidates Forwarder's otherwise applicable maximum contractual liability hereunder, Forwarder's liability shall be limited to the lowest amount permissible by / in accordance with such applicable law unless the shipper declares a higher value. In any and all events, nothing in this document shall constitute a surrender of any liability immunity or limitation inuring to Forwarder's benefit under any applicable law, even if such immunity or limitation by law results in a liability by Forwarder less than the otherwise applicable maximum contractual liability hereunder. For purposes of Forwarder's liability, and for good and valuable consideration to Merchant in the form of freight rate, the package or customary freight unit shall be the object and unit referred to in the "No of Pkgs" column on the front page of this Bill of Lading and in the absence of designation in such column shall be deemed the Container. Liability for single vehicle, machine, or equipment shall never exceed liability for one package.

10. METHODS AND ROUTES OF CARRIAGE

The Merchant understands and agrees that the Forwarder, a Sub-Contractor performing the Carriage may, at any time and without notice to the Merchant:

- (A) Use any means of transport or storage whatsoever;
- (B) Transfer the Goods from one conveyance to another, including transshipment or carrying on a vessel other than the Vessel set forth on the front page of this Bill of Lading, or any other means of transport whatsoever; or
- (C) Sail with or without pilots, proceed at any speed and by any route in the Forwarder's sole discretion—irrespective of whether such route is the nearest, most direct, customary, or advertised route, proceed to, return to, and stay at any port or place whatsoever in any order, in or out of the route, or in a contrary direction to or beyond the Port of Discharge, once or more in order to, without limitation, bunker or load or discharge cargo, undergo repairs, adjust equipment, drydock, make trial trips, tow, or be towed.

The Merchant agrees that anything done or not done in accordance with the above sub-paragraphs or any delay arising therefrom shall be within the scope of the Carriage and not a deviation.

11. MATTERS AFFECTING PERFORMANCE

If at any time and for any reason the performance of the contract for the Carriage of the Goods evidenced by this Bill of Lading is or is likely to be affected by any hindrance, risk, delay, difficulty, or disadvantage of any kind, other than the inability of the Goods to be safely or properly carried or carried further, and howsoever arising, even though the circumstances giving rise to such matters as stated above existed at the time this contract was entered into or the Goods were received for shipment, the Forwarder, at its sole discretion, without prior notice to the Merchant and irrespective of whether the Carriage has commenced, may treat the performance of this contract of transportation as terminated and place the Goods at the Merchant's disposal at any place or port that the Forwarder, at its sole discretion, deems to be safe and convenient, whereupon the responsibility of the Forwarder in respect of such Goods shall cease. The Forwarder shall nevertheless be entitled to full freight for the Carriage of the Goods, and the Merchant shall pay any additional costs of transportation to and delivery and storage at such place or port.

12. NOTIFICATION AND DELIVERY

(A) Any mention in this Bill of Lading of parties to be notified of the arrival of the Goods is solely for the information of the Forwarder, and failure to give such notification shall not give rise to any liability on the part of the Forwarder or relieve the Merchant of any obligation thereunder.

(B) Where the Forwarder is obliged to transfer the Goods into the custody of the port, customs, or any other authorities at the Port of Discharge or Place of Delivery and the Goods are delivered by such authorities to the Merchant without necessity of production of this Bill of Lading by the Merchant as required by local law, regulation, or custom or practice, such transfer shall constitute delivery to the Merchant under this Bill of Lading, whereupon the responsibility of the Forwarder in respect of such Goods shall cease.

(C) The Merchant shall take delivery of the Goods within the time set forth in the Forwarder's applicable tariff(s) or as the Forwarder requires. If the Merchant fails to do so, or whenever in the Forwarder's sole discretion the Goods are likely to deteriorate, decay, become worthless, lose value, or incur charges, whether for storage or otherwise, in excess of their value, the Forwarder may, in its sole discretion, without prejudice to any rights the Forwarder may have against the Merchant, and without notice and without any responsibility whatsoever attaching to the Forwarder, un-stuff, sell, destroy, or dispose of the Goods at the sole risk and expense of the Merchant. The aforementioned un-stuffing shall constitute delivery to the Merchant under this Bill of Lading, whereupon the responsibility of the Forwarder in respect of such Goods shall cease.

(D) The Forwarder may, at its sole discretion, receive the Goods as a full container load and deliver them as a less-than-full container load or as break bulk cargo. In such event, the Forwarder shall not be liable for any shortage, loss, or damage to the Goods that the Forwarder discovers upon the un-stuffing of the Container.

(E) Refusal of the consignee or Merchant to take delivery of the Goods notwithstanding their having received notice of the Goods' availability shall constitute an irrevocable waiver of any claims arising out of or relating to the Goods or the Carriage. The Merchant shall be liable to the Forwarder for any losses, damages, expenses, and liabilities it incurs arising out of such a refusal, including, without limitation, the return of the Goods to their place of origin.

(F) The Merchant understands and agrees to the provisions on free storage time and demurrage in the Forwarder's applicable tariff(s), which is/are incorporated herein by reference.

13. FREIGHT AND CHARGES

(A) All freight shall be deemed fully, finally, and unconditionally earned on the Forwarder's receipt of the Goods and shall be paid and non-returnable in any event whatsoever.

(B) All freight and Charges shall be paid without any set-off, counter-claim, deduction, or stay of execution before delivery of the Goods.

(C) If the Merchant's description of the Goods in this Bill of Lading or in any documents the Forwarder receives from or on behalf of the Merchant is inaccurate, incorrect, or misleading in any respect, the Merchant shall pay for any actual damage that the Forwarder suffers as a result.

(D) Payment of freight and Charges to any freight forwarder or broker, or anyone other than the Forwarder or its authorized agent, shall not be considered payment to the Forwarder and shall be made at the Merchant's sole risk.

(E) The class of persons that make up the definition of "Merchant" shall, where applicable, be jointly and severally liable to the Forwarder for payment of all freight, demurrage, detention, general average, and Charges including, without limitation, court costs, expenses and attorneys' fees the Forwarder incurs in collecting any sums due, failing which shall be considered a default by the Merchant in the payment of freight and Charges.

14. FORWARDER'S SPECIFIC AND GENERAL LIENS

(A) In addition to all specific cargo liens under law, including under California Civil Code section 3051.5, the Forwarder shall have a general and continuing lien on the Goods and on any property of the Merchant coming into the Forwarder's actual or constructive possession or control as to any unpaid Charges, including, without limitation, for monies owed to the Forwarder with regard to the shipment on which the lien is claimed, a prior shipment, or both, including without limitation, freight, dead freight demurrage, detention, any Charges, and for any expenses the Forwarder incurs for repacking, remarking, fumigation, or required disposal of faulty Goods, for fines, dues, tolls, or commissions the Forwarder has paid or advanced on behalf of the Goods, for any sums, including, without limitation, for legal expenses the Forwarder has incurred because of any attachment or other legal proceedings brought against the Goods by governmental authorities or any person claiming an interest in the Goods. The Forwarder's lien or liens shall survive discharge or delivery of the Goods.

(B) The Forwarder shall provide written notice to the Merchant of the Forwarder's intent to exercise its lien rights, which notice shall set forth the exact amount of monies due. The Merchant shall notify all parties having an interest in the shipment(s) of the Forwarder's rights or the exercise of such lien rights.

(C) Unless, within 30 days of receiving notice of lien, the Merchant posts cash or letter of credit at sight, or if the amount due is in dispute, an acceptable bond equal to 110 per cent of the value of the total amount due, in favor of Company, guaranteeing payment of all monies due and owing, plus all ongoing and accruing charges, such as storage, the Forwarder shall have the right to sell such shipment(s) at public or private sale or auction and the Forwarder shall refund to the Merchant any net proceeds remaining after such sale.

15. DESCRIPTION OF GOODS AND NOTIFICATION

(A) The Merchant's description of the Goods stuffed in a sealed container by the Merchant or on its behalf shall not be binding on the Forwarder, and the description declared by the Merchant on the front page of this Bill of Lading is information provided by the Merchant solely for its own use. The Merchant understands that the Forwarder has not verified the contents, weight, or measurement of a sealed Container or Package, nor its weight or measurement, or the value, quantity, quality, description, condition, marks, or numbers of the contents thereof. The Forwarder is under no responsibility whatsoever in respect of such description of particulars, and the Merchant shall indemnify and hold the Forwarder harmless from against any loss, damage, liability, and expense, including, without limitation, attorneys' fees that the Forwarder has incurred, arising out of or in any way connected with or caused by, in whole or in part, such description of particulars.

(B) The Forwarder, its agents, and servants shall not in any circumstances whatsoever be under any liability for insufficient packing or inaccuracies, obliteration or absence of marks, numbers, addresses or description, or for misdelivery due to marks or countermarks or numbers, or for failure to notify the consignee of the arrival of the Goods, notwithstanding any custom of the Port of Discharge to the contrary.

16. DANGEROUS GOODS

(A) Prior to tendering Dangerous Goods for Carriage, the Merchant shall, in compliance with the regulations governing the transportation of such goods, have the same properly packed, distinctly marked, and labeled, and notify the Forwarder in writing of their proper description, nature, and the necessary precautions.

(B) Goods that are Dangerous Goods or are otherwise of an inflammable, explosive or dangerous nature to the shipment whereof the Forwarder, master or agent of the Forwarder, has not consented with knowledge of their nature and character, may at any time before discharge be landed at any place and destroyed or rendered innocuous by the Forwarder without compensation, and the Merchant of such goods shall be liable for all damages and expenses directly or indirectly arising out of or resulting from such shipment. If any such goods shipped with such knowledge and consent shall become a danger to the Vessel or any cargo thereon, they may in like manner be landed in any place, or destroyed and rendered innocuous by the Forwarder without liability on the part of the Forwarder except to general average, if any.

(C) The Merchant shall indemnify and hold the Forwarder harmless from against any loss, damage, liability, and expense, including, without limitation, attorneys' fees that the Forwarder has incurred, arising out of or in any way connected with or caused by, in whole or in part, omission of full disclosure required by this clause or by applicable treaties, conventions, laws, codes, or regulations.

17. PERISHABLE GOODS

(A) Goods of a perishable nature shall be carried in ordinary Containers without special protection, services, or other measures unless there is noted on the front page of this Bill of Lading that the Goods will be carried in a refrigerated, heated, electrically ventilated, or otherwise specially-equipped Container, or that the Goods are to receive special attention in any way. In case of refrigerated containers packed by or on behalf of the Merchant, it undertakes not to tender for Carriage any Goods that require refrigeration without giving written notice to the Forwarder of their nature and the required temperature setting of the thermostatic controls before the Forwarder's receipt of the Goods. The Merchant undertakes that the Goods have been properly stowed in the container and that the thermostatic controls have been adequately set before the Forwarder's receipt of the Goods and, if necessary, that the Goods have been pre-cooled before their stuffing into the container. The Merchant's attention is drawn to the fact that refrigerated containers are not designed to freeze down Goods that have not been presented for stuffing at or below their designated carrying temperature, and the Forwarder shall not be responsible for the consequences of Goods tendered to it at a higher temperature than that required for the Carriage. If the Merchant fails to comply with the foregoing requirements, the Forwarder shall not be liable for any loss of or damage to the Goods, howsoever arising.

(B) The term "apparent good order and condition" when used in this Bill of Lading with reference to Goods that require refrigeration does not mean that the Goods upon the Forwarder's receipt of the same, were verified by the Forwarder as being at the designated carrying temperature.

(C) The Forwarder shall in no event be held liable for damage to Goods due to condensation.

18. DECK CARGO, ANIMALS AND PLANTS

Goods, other than Goods stuffed in Containers, that are stated on the front page of this Bill of Lading as contracted to be stowed "on deck" and are so carried, and all live animals, including, without limitation, fish and birds, or plants shipped hereunder, shall be carried solely at the risk of the Merchant, and the Forwarder shall not be liable for any loss or damage of whatsoever nature arising during the Carriage, whether or not arising out of negligence on the part of the Forwarder. The Merchant shall indemnify and hold the Forwarder harmless from and against any extra costs the Forwarder has incurred for any reason whatsoever in connection with the Carriage of such live animals or plants.

19. INSPECTION OF GOODS

The Forwarder or any Sub-Contractor shall be entitled, but under no obligation, to open any Container or Package at any time and to inspect the Goods. If authorities at any place order the opening of a Container for purposes of an inspection, the Forwarder shall not be liable for any loss or damage that occurs as a result of any opening, unpacking, inspection, or repacking. The Forwarder is entitled to recover the cost of such opening, unpacking, inspection, and repacking from the Merchant.

20. MERCHANT-PACKED GOODS, MERCHANT-STUFFED CONTAINERS

(A) If Goods have not been packaged, and if a Container has not been stuffed by or on behalf of the Forwarder, the Forwarder shall not be liable for the loss of or damage to the Goods, and the Merchant shall indemnify and hold the Forwarder harmless from against any loss, damage, liability, and expense, including, without limitation, attorneys' fees that the Forwarder has incurred if such loss, damage, liability, or expense arises out of or is in any way connected with or is caused by, in whole or in part: (1) The manner in which the Goods or Container was stuffed, filled, packed, or loaded; or (2) The unsuitability of the Goods for Carriage in their packaging or in a Container; or (3) The unsuitability or defective condition of the Container, provided that, if the Container had been supplied by or on behalf of the Forwarder, that unsuitability or defective condition could have been apparent upon inspection by the Merchant at or prior to the time when the Container was stuffed, filled, packed, or loaded.

(B) The Merchant shall inspect Containers before stuffing them and the Merchant's use of a Container shall be prima facie evidence of its being suitable and without defect.

21. CARRIAGE AFFECTED BY THE CONDITION OF THE GOODS

If it appears at anytime that the Goods cannot safely or properly be carried or carried further, either at all or without incurring any additional expense or taking any measure in relation to the Goods or the Container, the Forwarder may, without notice to the Merchant, but as its agent only, take any measure or incur any additional expense to carry or to continue the Carriage, or sell or dispose of the Goods, or abandon the Carriage or store Goods ashore or afloat, under cover or in the open, at any place that the Forwarder, in its sole discretion, considers most appropriate, which abandonment, storage, sale, or disposal shall be deemed to constitute delivery under this Bill of Lading. The Merchant shall indemnify the Forwarder as to any additional expenses it has so incurred.

22. MERCHANT'S RESPONSIBILITY

The Merchant shall comply with all regulations or requirements of customs, port, and other authorities, and shall bear and pay all duties, taxes, fines, imposts, expenses, or losses, including the full return-freight for the Goods returned, or if on-carried, the full freight from the Port of Discharge or the Place of Delivery set forth on the front page of this Bill of Lading, as applicable, to another port of discharge or place of delivery, incurred or sustained by reason of any failure to so comply or by reason of any illegal, incorrect, or insufficient marking, numbering, or addressing of the Goods, and shall indemnify the Forwarder as to such expenses.

23. DELAY, CONSEQUENTIAL LOSS, ETC.

(A) The Forwarder does not undertake that the Goods will be transported from the Place of Receipt or Port of Loading, as applicable, or will arrive at the Port of Discharge or Place of Delivery, as applicable, or will be transshipped on board any particular vessel or other conveyance at any particular date or time or to meet any particular market or in time for any particular use. The scheduled or advertised departure and arrival times are only expected times and may be advanced or delayed and the Forwarder shall in no circumstances whatsoever and howsoever arising be liable for direct, indirect, or consequential loss or damage caused by delay.

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

24. FIRE

The Forwarder shall not be liable for any loss of or damage to or in connection with the Goods or the Carriage arising out of or resulting from fire, occurring at any time, including that before loading or after discharge from the Vessel, unless caused by the actual fault or privity of the Forwarder.

25. GENERAL AVERAGE AND SALVAGE

(A) Any general average on the Vessel shall be adjusted, stated, and settled according to the York-Antwerp Rules 1994, in a place and in a currency at the option of the owner or operator of the Vessel. Any general average on the Vessel, whether a seagoing or inland waterways vessel, shall be adjusted, stated, and settled according to the requirements of the operator of that Vessel. In either case, the Merchant shall give such cash deposit or other security as the Forwarder may deem sufficient to cover the estimated general average contribution of the Goods before delivery if the Forwarder requires, whether or not the Merchant had notice of the Forwarder's lien at the time of delivery. The Forwarder shall be under no obligation to take any steps whatsoever to collect security for general average contributions due to the Merchant.

(B) Conversion into the currency of the adjustment shall be calculated at the rate prevailing on the date of payment for disbursements and on the date of completion of discharge of the Vessel for allowances, contributory values, etc.

(C) In the event of the Vessel Master's considering that salvage services are needed, the Merchant agrees that the Master may act as its agent to procure such services to the Goods and that the Forwarder may act as its agent to settle salvage remuneration.

(D) If the Merchant contests payment of contribution to general average, salvage, salvage charges, or special charges to Goods on any grounds whatsoever, or fails to make payment of contribution within thirty days of notification of the adjustment thereof, whether or not prior security has been provided, the Merchant shall pay interest for the period in excess of thirty days on the contribution due at two percent per annum above the base lending rate of the central bank of the country in whose currency the adjustment is issued, in addition to the contribution due.

26. NEW JASON CLAUSE

In the event of accident, danger, damage, or disaster before or after the commencement of the voyage resulting from any cause whatsoever, whether due to negligence or not, for which or for the consequences of which, the Forwarder is not responsible by statute contract or otherwise, the Goods and the Merchant, jointly and severally, shall contribute with the Forwarder in general average to the payment of any sacrifices, losses, or expenses of a general average nature that may be made or incurred and shall pay salvage and special charges incurred in respect of the Goods. If a salving vessel is owned or operated by the Forwarder, salvage shall be paid for as fully as if the salving vessel or vessels belonged to strangers. Such deposit as the Forwarder or its agents may deem sufficient to cover the estimated contribution of the Goods and any salvage and special charges thereon shall, if required, be made by the Goods and the Merchant, jointly and severally, to the Forwarder before delivery.

27. BOTH-TO-BLAME COLLISION

If the 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 the servants of the Forwarder in the navigation or in the management of the vessel, the Merchant shall indemnify the Forwarder 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 the 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 carrying vessel or Forwarder. The foregoing provisions shall also apply where the owners, operators, or those in charge of any vessel or vessels or objects other than, or in addition to, the colliding vessels or objects, are at fault in respect of a collision or contact.

28. VARIATION OF THE CONTRACT

No employee, servant, agent, or Sub-Contractor of the Forwarder has the power to waive or vary any of the Terms and Conditions of Contract of this Bill of Lading unless the Forwarder, in writing, has specifically authorized such a waiver or variation.

29. PARTIAL INVALIDITY

If any provision of this Bill of Lading shall for any reason be held to be invalid or unenforceable by any court or regulatory body, then the remainder of this Bill of Lading shall be unaffected thereby, and remain in full force and effect.

30. MANDATORY LAW, VENUE, AND JURISDICTION

(A) **MANDATORY CHOICE OF LAW.** The Merchant agrees that all claims or disputes arising out of or in any way connected to this Bill of Lading or the Carriage shall be determined under the federal law of the United States of America, without regard to its conflict of laws rules, or in the absence of such federal law, then under the laws of the State of California, without regard to its conflict of laws rules.

(B) **MANDATORY VENUE.** The exclusive and mandatory venue for any of the above claims or disputes shall be the United States District Court for the Central District of California in Los Angeles, California, to the exclusion of all other courts. If after a filing in the above federal court it were to rule that it lacks subject matter jurisdiction, then the exclusive and mandatory venue for any of the aforementioned claims or disputes would become the Los Angeles Superior Court in Los Angeles, California, to the exclusion of all other courts.

(C) **MANDATORY CONSENT AND WAIVER.** The parties agree to irrevocably submit to the personal jurisdiction of such courts, and thereby waive any jurisdictional, venue, or inconvenient forum objections to such courts.