

**SCARBROUGH INTERNATIONAL EXPRESS LINES LTD  
TRADE NAME: SIX LINES LTD  
7280 NW 87<sup>TH</sup> TERRACE, STE 300  
KANSAS CITY, MO 64153  
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**TARIFF NO. 018224-011**

**FMC ORG. NO: 018224 EFFECTIVE DATE: 03/21/2003**

**NON-VESSEL OPERATING COMMON CARRIER PUBLISHED DATE:  
07/23/2025**

**EXPIRATION DATE: NONE**

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**NRA GOVERNING RULES TARIFF**

**NAMING RULES AND REGULATIONS ON CARGO MOVING IN CONTAINERS  
AND BREAKBULK BETWEEN U.S. PORTS AND POINTS (SEE RULE 1 SCOPE)  
AND WORLD PORTS AND POINTS  
(SEE RULE 1)**

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Scarborough International Express Lines LTD is an NVOCC licensed by the Federal Maritime Commission, License No. 018224 and operating under FMC Organization No. 018224.

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### **NOTICE TO TARIFF USERS**

Carrier has opted the use of NRA on some shipments, which are to be exempt from tariff publication requirements pursuant to 46 C.F.R. §520 and 532. In that respect Carrier has opted the use of Negotiated Rate Arrangements (“NRAs”). NVOCC NRA means the written and binding arrangement between an NRA shipper or consignee and eligible NVOCC to provide specific transportation service for a stated cargo quantity, from origin to destination on and after receipt of the cargo by the Carrier or its agent (originating carrier in the case of through Transportation). Carrier may issue written quotations, booking confirmations, e-mail communications and other writings with applicable rates and charges for the shipments subject of the NRA, and shipper must provide the Carrier with a signed agreement, or send carrier a written communication, including an email, indicating acceptance of the NRA terms, or book a shipment after receiving the NRA terms from the Carrier. NOTE: “THE SHIPPER'S BOOKING OF CARGO AFTER RECEIVING THE TERMS OF THIS NRA OR NRA AMENDMENT CONSTITUTES ACCEPTANCE OF THE RATES AND TERMS OF THIS NRA OR NRA AMENDMENT.” The terms contained in the NRA writings shall be a valid offer for 30 days (or dates listed on quotes provided with NRA notice) from the booking date, unless otherwise rescinded by the Carrier prior to receiving Shipper’s cargo. Carrier's or Carrier's agent's receipt of cargo for the shipment constitutes final acceptance by Shipper or Consignee of the NRA offer, and the terms of the NRA shall bind the parties. All applicable origin and destination local terminal and/or port charges shall be for the account of the cargo. The NRA may be amended after the time the initial shipment is

received by the NVOCC, but such changes may only apply prospectively to shipments not yet received by the NVOCC. For any pass-through charge for which a specific amount is not included in the NRA or the rules tariff, the NVOCC may invoice the shipper for charges the NVOCC incurs, with no markup. The NRA may list the additional surcharges or assessorial charges, including pass-through charges, or reference specific surcharges or assessorial charges in the NVOCC's rules tariff.

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PUBLISHED BY: SCARBROUGH INTERNATIONAL EXPRESS LINES LTD

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Tel: (816) 584-2400

Tariff Number: **018224-011**

Tariff Title: **Rates & NRA Governing Rules**

Effective: 03/21/2003

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Expires: None

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Amendment Dates:

Original Issue: 04/01/2024

TARIFF TYPE: GOVERNING PUBLISHED RATES, RULES AND REGULATIONS, & NRA RULES  
TARIFF

CERTIFICATION STATEMENT: ALL INFORMATION CONTAINED IN THIS TARIFF IS TRUE,  
ACCURATE AND NO UNLAWFUL ALTERATIONS ARE PERMITTED.

NAMES: SCARBROUGH INTERNATIONAL EXPRESS LINES LTD

SIX LINES LTD

TYPE: NON-VESSEL OPERATING COMMON CARRIER

HEADQUARTER COUNTRY: USA

HOME OFFICE: KANSAS CITY, MO USA

**NVOCC Rules & Regulations Tariff # 018224-011**

Effective 03/21/2003

#### **BOND INFORMATION**

9911EE664 Effective 10/15/2011

Surety 036 American Alternative Insurance Corporation, 555 College RD E Princeton, NJ  
08540

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**RULE 1 – SCOPE**

This tariff applies to goods transported from or to the ports in the United States as recognized by U.S. Customs and Border Protection and between foreign ports as recognized by their governments as ports of entry. Tariff also applies when transporting from warehouse location in the USA, where determined and stated, to warehouse location outside the USA, where determined and stated.

**RULE 2 – RATE ARRANGEMENTS**

See page 1 of this Tariff.

**RULE 3 – APPLICATION OF FREIGHT RATES AND CHARGES**

- a) Freight Rates and Charges do not include charges established or required by Customs, Port Authorities, Harbor Improvement Rates, or port terminal tariffs.
- b) Freight Rates and Charges herein are quoted in U.S. Dollars.
- c) LCL rate application is per Cubic Foot, & by Weight depending on the charge stipulated on this tariff.
- d) When measuring articles cylinder shape (drums, cylinders, kegs, casks, etc.) or irregular shapes, the dimensions will be calculated to the extreme point for each point for each height, width and depth measurement.
- e) Warehouse, in and out charges (Receiving and Loading) are based by LBS, or by Cubic Foot, whichever yields the greater revenue.

**RULE 4 – MARINE INSURANCE**

Freight Rates and Charges do not include marine insurance. Insurance may be purchased separately.

**RULE 5 – AES CHARGE****\$150**

Automated Export System filing charge.

**RULE 6 – RECEIPT OF GOODS**

A shipment shall not be considered as received by the NVOCC or their agents until the full bill of lading quantity has been tendered for movement in a manner that movement can commence.

**RULE 7 – BILL OF LADING CHARGE****\$150**

A minimum bill of lading charge could apply unless stipulated on the NRA.

**RULE 8 – PAYMENT OF CHARGES**

Unless otherwise arranged with Scarborough International Express Lines prior to tendering of goods, all freight rates and charges are to be prepaid prior to the goods being released

from the steamship lines or their agents for Bills of Ladings which are prepaid. Collect Bills of Ladings may be paid at Destination.

**RULE 9 – FULL CONTAINER LOAD BOOKING COORDINATION FEE** **\$150**

A booking coordination fee will apply on all export full container load shipments, unless otherwise stipulated on the NRA.

**RULE 10 – ADDITIONAL UNLOADING TIME** **Received Charges + 25%**

Additional unloading time charges will apply when free unloading time is exceeded. Free unloading time when not listed in NRA will be dependent on carrier agreements and governing laws.

**RULE 11 – ALAMEDA CORRIDOR SURCHARGE** **Pass Through**

A charge will apply for using the Alameda Corridor with the ports of Los Angeles CA, USA and Long Beach CA, USA.

**RULE 12 – BUNKER ADJUSTMENT FACTOR** **Pass Through**

Additional fuel surcharges and increases in rates due to fuel applying to ocean freight charges. Notifications will be posted 30 days in advance at [Scarborough Global - Expect More From Your Logistics Provider](#) when not stipulated on NRA.

**RULE 13 – CHASSIS FEE** **Received Charges + 25%**

Additional charges for use of chassis' related to FCL (Full Container Load) will apply when not stipulated on NRA.

**RULE 14 – CHASSIS SPLIT FEE** **Received Charges + 25%**

Additional charges for relocation of chassis' related to FCL (Full Container Load) will apply when not stipulated on NRA.

**RULE 15 – CURRENCY DISCREPANCY FEES** **Received Charges + 25%**

Export currency conversion discrepancies due to date of quote versus sailing will result in fee changes when not stipulated on NRA.

**RULE 16 – DESTINATION CHARGES** **Received Charges + 25%**

Additional charges due to destination ports specific requirements when not stipulated on NRA.

**RULE 17 – EQUIPMENT AVAILABILITY FEES** **Received Charges + 25%**

Charges related to availability of equipment depending on supply and demand per port pairing when not stipulated on NRA.

**RULE 18 – GENERAL RATE INCREASE** **Pass Through**

Charges related to market pricing fluctuations on ocean freight. Notifications will be posted 30 days in advance at [Scarborough Global - Expect More From Your Logistics Provider](#) when not stipulated on NRA.

**RULE 19 – HAZ MAT FEES** **Received Charges + 25%**  
Hazardous material charges will be assessed and charged on all LCL & FCL shipments when not stipulated on NRA.

**RULE 20 – LATE DOCUMENTATION FEES** **Received Charges + 25%**  
Fees will apply when export filing is delayed due to late documentation.

**RULE 21 – NEW ORLEANS PORT MODERNIZATION** **Pass Through**  
A charge will apply when using the port of New Orleans for modernization of said port.

**RULE 22 - OPERATIONS COST RECOVERY** **Pass Through**  
India/Middle East Suez canal ocean freight fees to avoid the Red Sea.

**RULE 23 – PEAK SEASON SURCHARGE** **Pass Through**  
Ocean freight increases due to high volume shipping times. Notifications will be posted 30 days in advance at [Scarborough Global - Expect More From Your Logistics Provider](#) when not stipulated on NRA.

**RULE 24 – PIER PASS/TRAFFIC MITIGATION** **Pass Through**  
A charge will apply for using the ports of Los Angeles CA, USA and Long Beach CA, USA

**RULE 25 – EMERGENCY OPERATION SURCHARGE** **Pass Through**  
Fees assessed by ports and carriers for operational disruptions at U.S. ports, as a consequence to work stoppages, strikes, and other labor-related reasons.

**RULE 26 – PORT CONGESTION FEE** **Received Charges + 25%**  
Fees assessed by ports when congestion creates additional factors.

**RULE 27 – PORT EVERGLADES HANDLING** **Received Charges + 25%**  
Fees assessed by Port Everglades for terminal handling.

**RULE 28 – STATEN ISLAND BRIDGE FEE** **Received Charges + 25%**  
A charge will apply when using the Staten Island Bridge for the ports of New York City and Global Container Terminals.

**RULE 29 – WAR RISK SURCHARGE** **Received Charges + 25%**  
Insurance underwriter fees will apply when shipping through war risk zones.

**RULE 30 –CHARGES – NOT LISTED HEREIN** **Received Charges + 25%**

NRA's may contain additional charges that are unique to the movement(s) covered, and are not specifically listed in the Rules Tariff. This will include, but not limited to, charges for additional handling, terminal handling, demurrage, storage, non-NVOCC services, container drayage, US Customs inspections, PGA inspections, U.S. LTL (Less Than Load) charges.

### **RULE 31 – LIABILITY / SPECIAL PROVISIONS**

See provisions of Rule 36 of this Rules Tariff. Such provisions are applicable to all movements by SCARBROUGH INTERNATIONAL EXPRESS LINES LTD as an NVOCC.

### **RULE 32 – CO-LOADING**

SCARBROUGH INTERNATIONAL EXPRESS LINES LTD engages in co-loading both as a shipper and a carrier. As a carrier, SCARBROUGH INTERNATIONAL EXPRESS LINES LTD accepts co-load from other NVOCC's providing they are complying with all FMC rules and regulations. Co-load cargo is subject to all applicable rules in the tariff. As a shipper, SCARBROUGH INTERNATIONAL EXPRESS LINES LTD engages in co-loading with other NVOCC's to accommodate the movement of cargo to maintain regular scheduled service. SCARBROUGH INTERNATIONAL EXPRESS LINES LTD accepts liability for cargo co-loaded with other NVOCC's as indicated on the bill of lading, and is responsible to pay all rates and charges to the NVOCC to the destination as indicated on the bill of lading.

### **RULE 33 – QUOTATIONS AND ACTUAL SHIPMENT ADJUSTMENTS**

Quotations are based on the information provided to SCARBROUGH GLOBAL freight rate and charges will be assessed based on the actual produce, weight and cube as tendered for movement. SCARBROUGH INTERNATIONAL EXPRESS LINES LTD, its agents, and the steamship line have the right to inspect and weight goods to verify the information on the Bill of Lading, and if needed to adjust the Bill of Lading to match the actual tender of goods.

### **RULE 34 – OVERCHARGE CLAIMS**

Freight rates and charges for shipments are subject to review with an overcharge claim when submitted in writing to SCARBROUGH GLOBAL and include:

- 1) Copy of the disputed invoice.
- 2) Statement of the correct charge.
- 3) Copy of the NRA that is to apply.
- 4) Copy of the bill of lading.
- 5) Supporting documentation for change in the product, weight, cube, or other disputed information.

The claim is to be sent to SCARBROUGH GLOBAL at 7280 NW 87<sup>th</sup> Terrace, Suite 300, Kansas City, MO 64153. Disputes are to be supported by an obvious error in calculation by SCARBROUGH GLOBAL or carrier, measurement at port of loading or discharge,

measurement at port of discharge by carrier's agent and consignee of shipment, and measurement of a marine surveyor when requested by carrier's agent.

### **RULE 35 – DEMURRAGE AND DETENTION BILLING**

### **Pass Through**

As an NVOCC under Fed Reg 541.7 Scarborough International Express Lines have an additional 30 days from the date on which the invoice was received from a VOCC or MTO.

According to Fed Reg 541.8(A) Billed Parties have 30 days to dispute a received invoice. In turn Fed Reg 541.8(B) allows Scarborough International Express Lines an additional 30 days to resolve the dispute. Demurrage and detention charges are pass through charges but they are subject to Rule 29 which will be billed separately and distinctly.

### **RULE 36 – HEAVY LIFT**

(a) Single packages with a weight exceeding 2,204 pounds gross not presented to Carrier in enclosed containers must be declared in writing by Merchant before receipt of the packages by Carrier. The weight of such packages must be clearly and durably marked on the outside of the package in letters and figures not less than two inches high.

(b) If Merchant fails to comply with the above provisions, Carrier shall not be liable for any loss or damage to the goods, persons or property, and Merchant shall be liable for any loss of or damage to persons or property resulting from such failure and Merchant shall indemnify Carrier against any loss or liability suffered or incurred by Carrier as a result of such failure.

(c) Merchant agrees to comply with all laws or regulations that may be applicable during the carriage concerning overweight containers and Merchant shall indemnify Carrier against any loss or liability suffered or incurred by Carrier as a result of Merchant's failure to comply with this provision.

### **RULE 37 – OVERWEIGHT CONTAINERS**

Shipper/Consignee for CY origin shipments shall be jointly severally and absolutely liable for any fine, penalty or other sanction imposed upon carrier, its agent motor/rail carrier by authority for exceeding lawful over-the-weight limitations in connection with any transportation services provided under this tariff and occasioned by any act of commission or omission of the shipper/consignee, its agent or contractors, and without regard to intent, negligence or any other factor. When carrier pays any such fine or penalty and assumes any other cost or burden, arising from such an event, it shall be on behalf of and for benefit of the cargo interest and carrier shall be entitled to full reimbursement therefore upon presentation of an appropriate invoice. Nothing in this rule shall require carrier, its agents or motor/rail carrier to resist, dispute or otherwise oppose the levy of such a fine, penalty or other sanction and carrier shall not have any liability to the cargo interest should it not do so. Any charges incurred in re-handling cargo to comply with maximum weight restrictions will be for the account of the cargo.

The party responsible (i.e., merchant, the shipper or the consignee) for the shipment exceeding any lawful weight limitation shall indemnify and hold the ocean carrier transporting the shipment, its agents and the motor/rail carrier(s), harmless from any and all damages or liability from claims by whomever brought arising in whole or in part from the shipment exceeding any lawful weight limitation. Such indemnification shall include attorneys' fees and all costs incurred in the defense of such claim(s).

#### **RULE 38 – SHIPPER’S LOAD AND COUNT**

When containers are loaded and sealed by shipper, carrier or its authorized agent will accept same as "Shipper's load and count" and the Bill of Lading shall be so cloused, and:

No container will be accepted for shipment if the weight of the contents thereof exceeds the weight carrying capacity of the container.

Carrier will not be directly or indirectly responsible for:

- 1) Damage resulting from improper loading or mixing of articles in containers, or shipper's use of unsuitable or inadequate protective and securing materials when loading to open-side flat-rack type containers.
- 2) Any discrepancy in count or concealed damage to articles. Except as otherwise provided, shipments destined to more than one port of discharge may not be loaded by the shipper into the same container.

Except as otherwise provided, materials, including special fittings, and labor required for securing and properly stowing cargo in containers moving in CY service, including but not limited to lashing, bulkheads, cross members, platforms, dunnage and the like must be supplied by shippers and their expense and the carrier shall not be responsible for such materials nor their return after use. The carrier shall not be liable in any event for any claim for loss or damage to the cargo arising out of improper or inadequate mixing, stuffing, tallying or bracing of cargo within the container

#### **RULE 39 – DEFINITIONS**

##### **Term Definition**

**Any Quantity or “AQ”** indicates the application of a rate or other provision with no specified quantity for shipment.

**Cargo N.O.S.** means cargo not otherwise specified.

**Carrier** means., SCARBROUGH INTERNATIONAL EXPRESS LINES LTD a non-vessel operating common carrier, and Carrier’s agents and assigns.

**CFS** Container Freight Station Cargo is delivered in bulk to Carrier’s loading terminal or container freight station to be packed into containers by the Carrier, and to be unpacked from the containers by the Agent at a terminal or container freight station at port of discharge.

**Charges Accessorial Fees** indicate but not limited to ad valorem charges, advance charges and less than full container load service charges, currency adjustment factor, bunker adjustment factor, surcharges, war risk premiums, arbitrary and accessorial charges, all charges arising as a result of changing the port of loading or discharge, and expenses arising or incurred under this Bill of Lading, as stated in an NRA or Rules Tariff and are added to the basic freight Rate.

**Container** means and includes, unless otherwise indicated, any container, trailer, transport table tank, flat, or pallet, and similar articles of transport.

**Container Freight Location** designated by Carrier for receiving and delivery of goods by Carrier or agent, and Station (CFS) must be adjacent to Carrier's Container Yard.

**Container Service** refers to services performed at loading ports and is restricted to:

- Moving empty containers from CY to CFS.
- Drayage of loaded containers from CFS to CY and/or ship's tackle.
- Issued dock receipt / shipper order.

**Container Yard (CY)** Location designated by Carrier in the port area where:

- 1) The carrier assembles, holds or stores container(s)
- 2) Where containers loaded with goods are received or delivered.

**Freight Rates Prices** are stated in an NRA for providing a specified level of transportation service for a stated cargo quantity, from origin to destination.

**Goods** means the cargo described on the face of this B/L and, if the cargo is packed into Containers, supplied or furnished by or on behalf of Merchant, shall include the Containers as well.

**Handling Charges** for services performed in

- 1) moving or conveying cargo, including ordinary breaking down, sorting and trucking from place where unloading from railroad car, truck.
- 2) Movement from place or rest on terminal, barge or lighter to ship's tackle
- 3) between Carrier's container and place of rest in terminal.

**Holiday Day** a day recognized by carriers as a holiday by Federal or State governments where services to the shipping public are not provided.

**Merchant** means individually and collectively the Shipper, the Receiver, the Consignor, the Consignee, the Holder of this B/L, and the Owner of the Goods.

**Negotiated Rate** means a written and binding arrangement between Merchant and Carrier to provide arrangement (NRA) specific transportation service for a stated cargo quantity, from origin to destination, prior to the receipt of the cargo by Carrier Port Place where ocean carrier's vessel calls.

**Quote**, as referred to in Rule 2 shall mean the last communication, within the last 45 days from ship date, by Carrier to Merchant regarding offered rates, charges and services for the identical goods, service, containers, origin, destination, and other shipment information qualifications. Quotes will all be in writing and by email.

**Rail Carrier** is railroad that is participating in the move.

**Rail Carrier's Place** is where loaded containers are delivered by rail carrier, and where empty containers terminal will be returned by consignee. Where rail carrier assembles, holds or stores containers.

**Rules & Regulations Tariff** is a tariff containing Charges and terms and conditions governing the Charges, and the classifications, rules, regulations and practices of Carrier, but does not include Freight Rates.

**Shipment** is quantity of freight received at one point of origin, at one place, at one time and on one bill of lading or shipping document; and, is destined to one consignee.

**Storage Charges** assessed by the terminal on cargo remaining at the terminal after free time has expired and before such cargo has been loaded to the vessel or before cargo has been placed in public warehouse for storage.

**Stripping** is removal of cargo from the container as well as the removal of all securing material not constituting a part of the container.

**Unpacking** is removal of cargo from the container as well as the removal of all securing material not constituting a part of the container.

**Work Day** is period of each calendar day – except Saturday, Sunday and Holidays – from 8:00 a.m. to Working Day 4:30 p.m. CST

## **RULE 40 – BILL OF LADING TERMS AND CONDITIONS**

RECEIVED FOR SHIPMENT from the MERCHANT in apparent good order and condition unless otherwise stated herein, the GOODS mentioned on the face of this Bill of Lading to be transported as provided herein, by any mode of transport for all or any part of the Carriage, SUBJECT TO ALL THE TERMS AND CONDITIONS appearing on the face and back hereof and in the CARRIER'S applicable Tariff(s) and/or Service Agreements, to which the Merchant agrees by accepting this Bill of Lading.

### **1. DEFINITIONS.**

- a) "Bill of Lading" as used herein includes conventional bills of lading, as well as electronic, express and laser bills of lading, sea waybills and all like documents, howsoever generated, covering the Carriage of Goods hereunder, whether or not issued to the Merchant.
- b) "Carriage" means the whole or any part of the operations and services undertaken or performed by or on behalf of the Carrier with respect to the Goods.
- c) "Carrier" means the Company named on the face side hereof and on whose behalf this Bill of Lading was issued, whether acting as carrier or bailee.
- d) "Charges" means freight, dead freight, demurrage and all expenses and money obligations incurred and payable by the Merchant.
- e) "Container" means any container (closed or open top), van, trailer, flatbed, transportable tank, railroad car, vehicle, flat, flat rack, pallet, skid, platform, cradle, sling-load or any other article of transport and any equipment associated or appurtenant thereto.
- f) "Goods" means the cargo received from the shipper and described on the face side hereof and any Container not supplied by or on behalf of the Carrier.
- g) "Merchant" means the shipper, consignee, receiver, holder of this Bill of Lading, owner of the cargo or person entitled to the possession of the cargo and the servants and agents of any of these, all of whom shall be jointly and severally liable to the Carrier for the payment of all Charges, and for the performance of the obligations of any of them under this Bill of Lading.
- h) "On Board" or similar words endorsed on this Bill of Lading means that in a Port to Port movement, the Goods have been loaded on board the Vessel or are in the custody of the actual ocean carrier and, in the event of intermodal transportation, if the originating carrier is an inland or coastal carrier, means that the Goods have been loaded on board rail cars or another mode of transport at the Place of Receipt and/or are in the custody of a Participating carrier and en route to the Port of Loading named on the reverse side.
- i) "Participating carrier" means any other carrier by water, land or air, performing any stage of the Carriage, including inland and coastal carriers, whether acting as sub-carrier, connecting carrier, substitute carrier or bailee.
- j) "Person" means an individual, a partnership, a body corporate or any other entity of whatsoever nature.
- k) "Vessel" means the ocean vessel named on the face side hereof, and any substitute vessel, feeder ship, barge, or other means of conveyance by water used in whole or in part by the Carrier to fulfill this contract.

## **2. CARRIER'S TARIFFS.**

The Goods carried hereunder are subject to all the terms and conditions of the Carrier's applicable tariff(s) and/or Service Agreements which, if required, are on file with a regulatory body whose rules govern all or a particular portion of the Carriage and said terms and conditions 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(s) are obtainable from the Carrier or concerned regulatory body upon request. In the event of any conflict between the terms and conditions of such tariff(s) and the Terms and Conditions of this Bill of Lading, this Bill of Lading shall prevail.

## **3. WARRANTY/ACKNOWLEDGMENT.**

The Merchant warrants that in agreeing to the Terms and Conditions hereof, it is, or is the agent and has the authority of, the owner or person entitled to the possession of the Goods or any person who has a present or future interest in the Goods. The Merchant acknowledges that the Carrier is a non-vessel operating common carrier ("NVOCC"), and that it neither owns nor charters vessels, as a result of which the Carrier or any sub-carrier, connecting carrier or substitute carrier (which may be a NVOCC) will be required to contract with an actual ocean carrier to accomplish the Carriage contemplated by this Bill of Lading and does so as agent of the Merchant. The Merchant further acknowledges that by identifying the carrying Vessel on the face side

hereof, it knows or can determine the name of the actual ocean carrier and the terms and conditions of the actual ocean carrier's bill of lading and applicable tariff(s) and agrees to be bound thereby.

#### **4. RESPONSIBILITY.**

- a) Except where the Carriage covered by this Bill of Lading is to or from a port or locality where there is in force a compulsorily applicable 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, the provisions of which cannot be departed from, and suit or other proceeding is instituted and litigated in such locality, this Bill of Lading shall have effect subject to the Carriage of Goods by Sea Act of the United States ("COGSA"), approved April 16, 1936, and nothing herein contained, unless otherwise stated, shall be deemed a surrender by the Carrier of any of its rights, immunities, exemptions, limitations or exonerations or an increase of any of its responsibilities or liabilities under COGSA or, as the case may be, such compulsorily applicable ordinances or statutes. The provisions of COGSA or such compulsorily applicable ordinances or statutes (except as otherwise specifically provided herein) shall govern before loading on and after discharge from the vessel and throughout the entire time the Goods or Containers or other packages are in the care, custody and/or control of the Carrier, Participating carriers or independent contractors (inclusive of all subcontractors), their agents and servants, whether engaged by or acting for the Carrier or any other person, as well as during the entire time the Carrier is responsible for the Goods. In the absence of compulsorily applicable legislation, COGSA shall apply.
- b) The Carrier shall not be liable in any capacity whatsoever for any delay, non-delivery, mis-delivery or other loss or damage to or in connection with the Goods or Containers or other packages occurring at any time contemplated under subdivision a) of this Clause.
- c) The Carrier shall, irrespective of which law is applicable under subdivision a) of this Clause, be entitled to the benefit of the provisions of Sections 181 through 186 and 188, Title 46, U.S. Code.
- d) The rights, defenses, exemptions, limitations of and exonerations from liability and immunities of whatsoever nature provided for in this Bill of Lading shall apply in any action or proceeding against the Carrier, its agents and servants and/or any Participating carrier or independent contractor.

#### **5. THROUGH TRANSPORTATION.**

When either the Place of Receipt or Place of Delivery set forth herein is an inland point or place other than the Port of Loading or Port of Discharge (Through Transportation basis), the Carrier will procure transportation to or from the sea terminal and such inland point(s) or place(s) and, notwithstanding anything in this Bill of Lading contained, but always subject to Clause 4. hereof, the Carrier shall be liable for loss or damage of whatsoever nature and howsoever arising to the following extent, but no further:

- a) Upon proof that the loss or damage arose during a part of the Carriage herein made subject to COGSA or other compulsorily applicable legislation, as set forth in Clause 4. a) hereof, said legislation shall apply; or
- b) Upon proof that the loss or damage not falling within a) above, but concerning which the law of any country, state or subdivision thereof contains provisions that are compulsorily applicable and would have applied if the Merchant had made a separate and direct contract with the Carrier, a Participating carrier or independent contractor, as referred to in Clause 4. a), relative to a particular stage of transport or other handling wherein the loss or damage occurred and received as evidence thereof a particular receipt or other document, then the liability of the Carrier, Participating carrier and independent contractor shall be subject to the provisions of such law.
- c) If it should be determined that the Carrier bears any responsibility for loss or damage occurring during the care, custody and/or control of any Participating carrier or independent contractor, and be subject to law compulsorily applicable to their bills of lading, receipts, tariffs and/or law applicable thereto, then the Carrier shall be entitled to all rights, defenses, immunities, exemptions, limitations of and exonerations from liability of whatsoever nature accorded under such bill of lading, receipt,

tariff and/or applicable law, provided however, that nothing contained herein shall be deemed a surrender by the Carrier of any of its rights, defenses and immunities or an increase of any of its responsibilities or liabilities under this Bill of Lading, the Carrier's applicable tariff or laws applicable or relating to such Carriage.

d) Except as hereinabove provided, the Carrier shall have no liability for damage to the Goods.

#### **6. SUBCONTRACTING: BENEFICIARIES.**

a) The Carrier shall be entitled to subcontract on any terms the whole or any part of the Carriage, loading, unloading, storing, warehousing, handling and any and all duties whatsoever undertaken by it in relation to the Goods or Containers or other packages or any other goods.

b) It is understood and agreed that if it should be adjudged that any person or entity other than or in addition to the Carrier is under any responsibility with respect to the Goods or any other goods, regardless of the port or place where any loss or damage shall occur and without regard to whether the Goods covered hereby or any other goods are being handled or are damaged directly or indirectly during any handling, and even if the Goods or other goods are transported on free in, stowed and/or free out terms, all exemptions, limitations of and exonerations from liability provided by law or by the Terms and Conditions hereof shall be available to all agents, servants, employees, representatives, all Participating (including inland and coastal) carriers and all stevedores, terminal operators, warehousemen, crane operators, watchmen, carpenters, ship cleaners, surveyors and all independent contractors whatsoever. In contracting for the foregoing exemptions, limitations of and exonerations from liability, 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 the contract evidenced by this Bill of Lading, regardless for whom acting or by whom retained and paid, it being always understood that said beneficiaries are not entitled to any greater or further exemptions, limitations of or exonerations from liability than those that the Carrier has under this Bill of Lading in any given situation.

c) The Carrier undertakes 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 total or any part of the Carriage from Port of Loading to Port of Discharge or from Place of Receipt to Place of Delivery, or any combination thereof, except as may be otherwise provided herein.

d) The Merchant agrees that the Carrier shall be deemed to be a beneficiary of the actual ocean carrier's bill of lading and of all exemptions, limitations of and exonerations from liability therein contained even though the Carrier acts as agent of the Merchant in contracting with the actual ocean carrier for the Carriage of the Goods. Notwithstanding, under no circumstances shall the Carrier be responsible for any damages to an extent greater than the actual ocean carrier or any beneficiaries thereof or hereof.

e) No agent or servant of the Carrier or other person or class named in subdivision b) hereof shall have power to waive or vary any of the Terms and Conditions hereof unless such waiver or variation is in writing and is specifically authorized or ratified in writing by an officer or director of the Carrier having actual authority to bind the Carrier to such waiver or variation.

#### **7. MERCHANT'S RESPONSIBILITY/ DESCRIPTION OF GOODS.**

a) The description and particulars of the Goods set out on the face hereof or any description, particular or other representation appearing on the Goods or documents relating thereto are furnished by the Merchant and the Merchant warrants to the Carrier that the description, particulars and any representation made including, but not limited to, weight, content, measure, quantity, quality, condition, marks, numbers and value are correct.

b) The Merchant warrants that it has complied with all applicable laws, regulations and requirements of Customs, Port and other Authorities and shall bear and pay all duties, taxes, fines, imposts,

expenses and losses incurred or suffered by reason thereof or by reason of any illegal, incorrect or insufficient marking, numbering, addressing or any other particular relative to the Goods.

c) The Merchant further warrants 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.

d) No Goods which are or may become dangerous, inflammable or damaging or which are or may become liable to damage any property or person whatsoever shall be tendered to the Carrier for Carriage without the Carrier's prior express consent in writing and without the Container or other covering in which the Goods are to be transported being distinctly marked on the outside thereof so as to indicate the nature and character of any such articles and so as to comply with all applicable laws, regulations and requirements. If any such articles are delivered to the Carrier without such written consent and marking or if in the opinion of the Carrier the articles are or are liable to become of a dangerous, inflammable or damaging nature, the same may at any time be destroyed, disposed of, abandoned or rendered harmless without compensation to the Merchant and without prejudice to the Carrier's right to Charges.

e) The Merchant shall be liable for all loss or damage of any kind whatsoever, including but not limited to contamination, soiling, detention and 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) caused by the Merchant or any person acting on its behalf or for which the Merchant is otherwise responsible.

f) The Merchant and the Goods themselves shall be liable for and shall indemnify the Carrier, and the Carrier shall have a lien on the Goods for all expenses of mending, repairing, fumigating, repacking, cooping, baling, reconditioning of the Goods and gathering of loose contents, also for expenses for repairing Containers damaged while in the possession of the Merchant, for demurrage on Containers and any payment, expense, fine, dues, duty tax, import, loss, damage or detention sustained or incurred by or levied upon the Carrier, Vessel or any action or requirement of any government or governmental authority or person purporting to act under the authority thereof, seizure under legal process or attempted seizure, incorrect or insufficient marking, numbering or addressing of Containers or other packages or description of the contents, failure of the Merchant to procure consular, Board of Health or other certificates to accompany the Goods or to comply with laws or regulations of any kind imposed with respect to the Goods by the authorities at any port or place or any act or omission of the Merchant. The Carrier's lien shall survive delivery and may be enforced by private or public sale and without notice.

g) The Merchant shall defend, indemnify and hold harmless the Carrier, any Participating carrier, independent contractor, their agents and servants, 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.**

a) Goods may be stowed by the Carrier in or on Containers, and may be stowed with other goods. Containers, whether stowed by the Carrier or received fully stowed, may be carried on or under deck without notice, and the Merchant expressly agrees that cargo stowed in a Container and carried on deck is considered for all legal purposes to be cargo stowed under deck. Goods stowed in Containers on deck shall be subject to the legislation referred to in Clause 4. hereof and will contribute in General Average and receive compensation in General Average, as the case may be.

b) The Terms and Conditions of this Bill of Lading shall govern the responsibility of the Carrier with respect to the supply of a container to the Merchant.

c) If a Container has been stuffed by or on behalf of the Merchant, the Carrier, any Participating Carrier, all independent contractors and all persons rendering any service whatsoever hereunder

shall not be liable for any loss or damage to the Goods, Containers or other packages or to any other goods caused (1) by the manner in which the Container has been stuffed and its contents secured, (2) by the unsuitability of the Goods for carriage in Containers or for the type of Container requested by and furnished to the Merchant, or (3) condition of the Container furnished, which the Merchant acknowledges has been inspected by it or on its behalf before stuffing and sealing.

d) The Merchant shall defend, indemnify and hold harmless the Carrier, any Participating carrier, independent contractor, their agents and servants, against any loss, damage, claim, liability or expense whatsoever arising from one or more of the matters covered by a), b) and/or c) above.

#### **9. CONTAINERS WITH HEATING OR REEFER APPARATUS.**

Containers with temperature or atmosphere control apparatus for heating, refrigeration, ventilation or otherwise will not be furnished unless contracted for expressly in writing at time of booking and, when furnished, may entail increased Charges. In the absence of an express request, it shall be conclusively presumed that the use of a dry container is appropriate for the Goods.

Merchant must provide Carrier with desired temperature range in writing at time of booking and insert same on the face side of the Bill of Lading and, where so provided, Carrier is to exercise due diligence to maintain the temperature within a reasonable range while the Containers are in its care, custody and/or control or that of any Participating carrier or independent contractor. The Carrier does not accept any responsibility for the functioning of temperature or atmosphere-controlled Containers not owned or leased by Carrier or for latent defects not discoverable by the exercise of due diligence.

Where the Container is stuffed or partially stuffed by or on behalf of the Merchant, the Merchant warrants that it has properly pre-cooled or pre-heated the Container, that the Goods have been properly stuffed and secured within the Container and that the temperature controls have been properly set prior to delivery of the Container to the Carrier, or any Participating carrier or independent contractor, their agents and servants. The Merchant accepts responsibility for all damage or loss of whatsoever nature resulting from a breach of any of these warranties, including but not limited to other cargo consolidated in the Container with the Merchant's Goods or to any other cargo, property or person damaged or injured as a result thereof, and the Merchant agrees to defend, indemnify and hold the Carrier, Participating carriers and independent contractors, their agents and servants, harmless from and against all claims, suits, proceedings and all other consequences thereof regardless of their nature and merit.

#### **10. OPTION OF INSPECTION.**

The Carrier and any Participating carrier shall be entitled, but under no obligation, to open any Container at any time and to inspect the contents. If it thereupon appears that the contents or any part thereof cannot safely or properly be carried or carried further, either at all or without incurring any additional expense, the Carrier and Participating carrier may abandon the transportation thereof and/or take any measures and/or incur any reasonable additional expenses to continue the Carriage or to store the Goods, which storage shall be deemed to constitute due delivery under this Bill of Lading. The Merchant shall indemnify the Carrier, any Participating carrier, independent contractor, their agents and servants, against any reasonable additional Charges so incurred.

#### **11. DECK CARGO.**

Deck cargo (except that 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 will not in any event be liable for any loss or damage for or from which he is exempt, immune or exonerated by applicable law, or from any other cause whatsoever not 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 may be otherwise provided, such shipments shall be deemed Goods and shall be subject to all Terms and Conditions of this Bill of Lading.

#### **12. METHODS AND ROUTES OF TRANSPORTATION.**

With respect to the Goods or Containers or other packages, the Carrier may at any time and without notice to the Merchant:

- a) use any means of transport (water, land and/or air) or storage whatsoever;
- b) forward, transship or retain on board or carry on another vessel or conveyance or by any other means of transport than that named on the reverse side hereof;
- c) carry Goods on or under deck at its option;
- d) proceed by any route in its sole and absolute discretion and whether the nearest, most direct, customary or advertised route or in or out of geographical rotation;
- e) proceed to or stay at any place whatsoever once or more often and in any order or omit calling at any port, whether scheduled or not;
- f) store, vanned or devanned, at any place whatsoever, ashore or afloat, in the open or covered;
- g) proceed with or without pilots;
- h) carry livestock, contraband, explosives, munitions, warlike stores, dangerous or hazardous Goods or Goods of any and all kinds;
- i) drydock or stop at any unscheduled or unadvertised port for bunkers, repairs or for any purpose whatsoever;
- j) discharge and require the Merchant to take delivery, vanned or devanned;
- k) comply with any orders, directions or recommendations given by any government or authority or by any person or body acting or purporting to act with the authority of any government or authority or having under the terms of the insurance on the Vessel or other conveyance employed by the Carrier the right to give such orders, directions or recommendations.
- l) take any other steps or precautions as may appear reasonable to the Carrier under the circumstances.

The liberties set out in subdivisions a) through l) may be invoked for any purpose whatsoever even if not connected with the Carriage covered by this Bill of Lading, and any action taken or omitted to be taken, and any delay arising therefrom, shall be deemed to be within the contractual and contemplated Carriage and not be an unreasonable deviation.

In no circumstance whatsoever shall the Carrier be liable for direct, indirect or consequential loss or damage caused by delay.

### **13. MATTERS AFFECTING PERFORMANCE.**

In any situation whatsoever and wheresoever occurring and whether existing or anticipated before commencement of, during or after the Carriage, which in the judgment of the Carrier is likely to give rise to any hindrance, risk, capture, seizure, detention, damage, delay, difficulty or disadvantage or loss to the Carrier or any part of the Goods, or make it unsafe, imprudent, impracticable or unlawful for any reason to receive, keep, load, carry or discharge them or any part of them or commence or continue the Carriage or disembark passengers at the Port of Discharge or of the usual or intended place of discharge or delivery, or to give rise to danger, delay or difficulty of whatsoever nature in proceeding by the usual or intended route, the Carrier and any Participating carrier, independent contractor, their agents and servants, without notice to the Merchant, may decline to receive, keep, load, carry or discharge the Goods, or may discharge the Goods and may require the Merchant to take delivery and, upon failure to do so, may warehouse them at the risk and expense of the Merchant and Goods or may forward or transship them as provided in this Bill of Lading, or the Carrier may retain the Goods on board until the return of the Vessel to the Port of Loading or to the Port of Discharge or any other point or until such time as the Carrier deems advisable and thereafter discharge them at any place whatsoever. In such event, as herein provided, such shall be at the risk and expense of the Merchant and Goods, and such action shall constitute complete delivery and performance under this contract, and the Carrier shall be free from any further responsibility. For any service rendered as herein above provided or for any delay or expense to the Vessel or Carrier caused as a result thereof, the Carrier shall, in addition to full Charges, be entitled to reasonable extra compensation, and shall have a lien on the

Goods for same. Notice of disposition of the Goods shall be sent to the Merchant named in this Bill of Lading within a reasonable time thereafter.

All actions taken by the Carrier hereunder shall be deemed to be within the contractual and contemplated Carriage and not be an unreasonable deviation.

**14. DELIVERY.**

If delivery of the Goods or Containers or other packages or any part thereof is not taken by the Merchant when and where and at such time and place as the Carrier is entitled to have the Merchant take delivery, whether or not the Goods are damaged, they shall be considered to have been delivered to the Merchant, and the Carrier may, at its option, subject to its lien and without notice, elect to have same remain where they are or, if containerized, devanned and sent to a warehouse or other place, always at the risk and expense of the Merchant and Goods.

If the Goods are stowed within a Container owned or leased by the Carrier, the Carrier shall be entitled to devan the contents of any such Container, whereupon the Goods shall be considered to have been delivered to the Merchant, and the Carrier may, at its option, subject to its lien and without notice, elect to have same remain where they are or sent to a warehouse or other place, always at the risk and expense of the Merchant and Goods.

At ports or places where by local law, authorities or custom, the Carrier is required to discharge cargo to lighters or other craft or where it has been so agreed or where wharves are not available which the Vessel can get to, be at, 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 Vessel at the risk and expense of the Merchant and 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 Merchant and 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.

**15. CHARGES, INCLUDING FREIGHT.**

The Charges payable hereunder have been calculated on the basis of particulars furnished by or on behalf of the Merchant. The Carrier shall, at any time, be entitled to inspect, reweigh, remeasure or revalue the contents and, if any of the particulars furnished by the Merchant are found to be incorrect, the Charges shall be adjusted accordingly, and the Merchant shall be responsible to pay the correct Charges and all expenses incurred by the Carrier in checking said particulars or any of them.

Charges shall be deemed earned on acceptance of the Goods or Containers or other packages for shipment by or on behalf of the Carrier and shall be paid by the Merchant in full, without any offset, counterclaim or deduction, cargo and/or vessel or other conveyance lost or not lost, and shall be non-returnable in any event. The Merchant shall remain responsible for all Charges, regardless whether the Bill of Lading states, in words or symbols, that it is "Prepaid," "To be Prepaid" or "Collect." In arranging for any services with respect to the Goods, the Carrier shall be considered the exclusive agent of the Merchant for all purposes, and any payment of Charges to other than the Carrier shall not, in any event, be considered payment to the Carrier.

The Merchant shall defend, indemnify and hold the Carrier, any Participating carrier, independent contractor, their agents and servants, harmless from and against all liability, loss, damage and expense which may be sustained or incurred relative to the above.

**16. CARRIER'S LIEN.**

The Carrier shall have a lien on the Goods, inclusive of any Container owned or leased by the Merchant, as well as on any Charges due any other person, and any documents relating thereto, which lien shall survive delivery, for all sums due under this contract or any other contract or undertaking to which the Merchant was party or otherwise involved, including, but not limited to, General Average contributions, salvage and the cost of recovering such sums, inclusive of attorney's fees. Such lien may be enforced by the Carrier by public or private sale at the expense of and without notice to the Merchant.

The Merchant agrees to defend, indemnify and hold the Carrier, any Participating carrier, independent contractor, their agents and servants, harmless from and against all liability, loss, damage or expense which may be sustained or incurred by the Carrier relative to the above and the Merchant agrees to submit to the jurisdiction of any court, tribunal or other body before whom the Carrier may be brought, whether said proceeding is of a civil or criminal nature.

**17. BULK CARGO.**

The weight or quantity of any bulk cargo inserted in this Bill of Lading is the weight or quantity as ascertained by a third party other than the Carrier, and Carrier makes no representation with regard to the accuracy thereof. This Bill of Lading shall not be deemed evidence against the Carrier of receipt of bulk cargo of the weight or quantity so inserted in the Bill of Lading.

**18. GOLD, SILVER, ETC.**

Gold, silver, specie, bullion or other valuables, including those named or described in Sec. 4281 of the Revised Statutes of the United States, will not be received by the Carrier unless their true character and value are disclosed to the Carrier and a special written agreement therefor has been made in advance, and will not, in any case, be loaded or landed by the Carrier. No such valuables shall be considered received by or delivered to the Carrier until brought aboard the ship by the shipper and put in the actual possession of, and a written receipt therefor is given by, the Master or other officer in charge. Such valuables will only be delivered by the Carrier aboard the ship on presentation of proper documentation and upon such delivery the Carrier's responsibility shall cease. If delivery is not so taken promptly after the ship's arrival at Port of Discharge, said valuables may be retained aboard or landed or carried on, solely at the risk and expense of the valuables and Merchant.

**19. RUST.**

It is agreed that superficial rust, oxidation or any like condition due to moisture, is not a condition of damage but is inherent to the nature of the Goods. Acknowledgement of receipt of the Goods in apparent good order and condition is not a representation that such conditions of rust, oxidation or the like did not exist on receipt.

**20. GENERAL AVERAGE.**

- a) If General Average is declared, it shall be adjusted according to the York/Antwerp Rules of 1994 and all subsequent amendments thereto from time to time made, at any place at the option of any person entitled to declare General Average, 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 in this connection.
- b) Notwithstanding a) above, the Merchant shall defend, indemnify and hold harmless the Carrier and any Participating carrier, their agents and servants, in respect of any claim (and any expense arising therefrom) of a General Average nature which may be made against the Carrier and/or any Participating carrier and shall provide such security as may be required in this connection.
- c) Neither the Carrier nor any Participating carrier shall be under any obligation to take any steps whatsoever to collect security for General Average contributions due to the Merchant.

**21. LIMITATION OF LIABILITY.**

Except as otherwise provided in this Clause or elsewhere in this Bill of Lading, in case of any loss or damage to or in connection with cargo exceeding in actual value the equivalent of \$500 lawful money of the United States, per package, or in case of cargo not shipped in packages, per shipping unit, the value of the cargo shall be deemed to be \$500 per package or per shipping unit. The Carrier's liability, if any, shall be determined on the basis of a value of \$500 per package or per shipping unit or pro rata in case of partial loss or damage, unless the nature of the cargo and valuation higher than \$500 per package or per shipping unit shall have been declared by the Merchant before shipment and inserted in this Bill of Lading, and extra freight paid if required. In such case, if the actual value of the cargo per package or per shipping unit shall exceed such declared value, the value shall nevertheless be deemed to be declared value and the Carrier's liability, if any, shall not exceed the declared value.

The words "shipping unit" shall mean each physical unit or piece of cargo not shipped in a package, including articles or things of any description whatsoever, except cargo shipped in bulk, and irrespective of the weight or measurement unit employed in calculating freight and related charges.

As to cargo shipped in bulk, the limitation applicable thereto shall be the limitation provided in Section 1304(5) of COGSA, or such other legislation, convention or law as may be compulsorily applicable, and in no event shall anything herein be construed as a waiver of limitation as to cargo shipped in bulk.

Where a Container is not stuffed by or on behalf of the Carrier or the parties characterize the Container as a package or a lump sum freight is assessed, in any of these events, each individual such Container, including in each instance its contents, shall be deemed a single package and Carrier's liability limited to \$500 with respect to each such package, except as otherwise provided in this Clause or elsewhere in this Bill of Lading with respect to each such package. In the event this provision should be held invalid during that period in which compulsory legislation shall apply of its own force and effect, such as during the tackle-to-tackle period, it shall nevertheless apply during all non-compulsory periods such as, but not limited to, all periods prior to loading and subsequent to discharge from the Vessel for which the Carrier remains responsible. Where compulsorily applicable legislation provides a limitation less than \$500 per package or shipping unit, such lesser limitation shall apply and nothing herein contained shall be construed as a waiver of a limitation less than \$500.

Further, where a lesser monetary limitation is applicable, such as during handling by a Participating carrier or independent contractor and damage occurs during its or their period of care, custody, control and/or responsibility, the Carrier shall be entitled to avail itself of such lesser limitation.

## **22. NOTICE OF CLAIM: TIME FOR SUIT.**

As to any loss or damage presumed to have occurred during the Carrier's period of responsibility, the Carrier must be notified in writing of any such loss or damage or claim before or at the time of discharge/removal of the Goods by the Merchant or, if the loss or damage is not then apparent, within 3 consecutive days after discharge/delivery or the date when the Goods should have been discharged/delivered. If not so notified, discharge, removal or delivery, depending upon the law applicable, shall be prima facie evidence of discharge/delivery in good order by the Carrier of such Goods.

In any event, the Carrier shall be discharged from all liability of whatsoever nature unless suit is brought within 1 year after delivery of the Goods or the date when the Goods should have been delivered, provided however, that if any claim should arise during a part of the transport which is subject by applicable law and/or tariff and/or contract to a shorter period for notice of claim or commencement of suit, any liability whatsoever of the Carrier shall cease unless proper claim is made in writing and suit is brought within such shorter period.

Suit shall not be deemed "brought" unless jurisdiction shall have been obtained over the Carrier by service of process or by an agreement to appear. In the event this provision should be held invalid during that period in which compulsory legislation apply of its own force and effect, such as during the tackle-to-tackle period, it shall nevertheless apply during all non-compulsory periods during which the Carrier remains responsible for the Goods.

## **23. LAW AND JURISDICTION.**

- a) Governing Law shall be in accordance with Clause 4. hereof.
- b) Jurisdiction

All disputes in any way relating to this Bill of Lading shall be determined by the United States District Court and the State courts of Missouri to the exclusion of the jurisdiction of any other courts in the United States or the courts of any other country PROVIDED ALWAYS that the Carrier may in its absolute and sole discretion invoke or voluntarily submit to the jurisdiction of any other court which, but for the terms of this Bill of Lading, could properly assume jurisdiction to hear and determine such disputes, but such shall not constitute a waiver of the terms of this provision in any other instance.

## **24. NON-WAIVER AND SEPARABILITY.**

Nothing in this Bill of Lading shall operate to deprive the Carrier of any statutory protection or any defense, immunity, exemption, limitation of or exoneration from liability contained in the laws of the United States, or of any other country whose laws may be applicable. The Terms and Conditions of this Bill of Lading (including all the terms and conditions of the carrier's applicable tariff or tariffs, incorporated herein by virtue of Clause 2 above) shall be separable, and if any part or term hereof shall be held invalid, such holding shall not affect the validity or enforceability of any other part or term hereof.