

SECTION 3
OCEAN RULES
(For application, see Item 3100)

ITEM 3350

BILL(S) OF LADING - OCEAN

1. DEFINITIONS

For the purpose of this Contract of Carriage:

"Carrier" means Old Dominion Freight Line, Inc. and/or Associated and/ subsidiary companies on whose behalf this Bill of Lading has been signed.

"Merchant" includes the shipper, the consignee, the receiver of the Goods, the holder of this Bill of Lading, any person having a present or future interest in the Goods or any person acting on behalf of any of the above mentioned persons.

"Holder" means any person for the time being in possession of this Bill of Lading to whom the property in the Goods has been passed on or by reason of the Consignment of the Goods or the endorsement of this Bill of Lading or otherwise.

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

"Combined Transport" means the Carriage of goods by at least two different modes of transport, such as transport by sea, inland waterway, air rail or road, from a place at which the Goods are taken in charge (Place of Receipt) situated in one country to a place designated for delivery (Place of Delivery) situated in another country as indicated on the face hereof.

"Combined Transport Bill of Lading" means the same as a Combined Transport Document, which is a document evidencing contract for the performance and/or procurement of Combined Transport of goods and bearing on its face the term "Negotiable" or "Non-negotiable" "Combined Transport Document issued subject to Uniform Rules for a Combined Transport Document (ICC Publication No. 298)".

"Goods" means the cargo, accepted from the Shipper and includes any Container not supplied by or on behalf of the Carrier.

"Container" includes any container, trailer, transportable tank, flat or pallet or any similar article of transport used to consolidate goods.

"Port to Port Shipment" arises where the Place of Receipt and the Place of Delivery are not indicated on the front of this Bill of Lading or if both the Place of Receipt and the Place of Delivery indicated are ports and the Bill of Lading does not in the nomination of the Place of Receipt or the Place of Delivery on the front hereof specify and place or sport within the area of the port so nominated.

"Freight" includes all charges payable to the Carrier in accordance with the applicable Tariff.

"Hague Rules" means the provisions of the international Convention for Unification of certain Rules relating to Bills of Lading signed at Brussels on 23rd August 1924.

"Hague-Visby Rules" means the Hague Rules as amended by the Protocol signed at Brussels on 23rd February 1968.

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1. DEFINITIONS

"ICC" means the International Chamber of Commerce.

"Charges" includes freight and all expenses and money obligations incurred and payable by the Merchant.

"Shipping Unit" includes freight unit and term "unit" as used in the Hague Rules and Hague-Visby Rules.

2. CARRIER'S TARIFF

The terms of the Carrier's applicable Tariff are incorporated herein.

Copies of the relevant provision of the applicable Tariff are obtainable from the Carrier or his agents upon request. In the case of inconsistency between this Bill of Lading and the applicable Tariff, this Bill of Lading shall prevail.

3. WARRANTY

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

4. SUB-CONTRACTING AND INDEMNITY

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

(2) The Merchant undertakes that no claim or allegation shall be made against any person whomsoever by whom the Carriage or any part of the Carriage is performed or undertaken (other than the Carrier) which imposes or attempts to impose upon any such person or any vessel owned by any such person any liability whatsoever in connection with the Goods whether or not arising out of negligence on the part of such person and if any such claim or allegation should nevertheless be made to indemnify the Carrier against all consequences thereof. Without prejudice to the foregoing every such person shall have the benefit of all provisions herein benefiting the Carrier as if such provisions were expressly for his benefit, and in entering into this contract, the Carrier, to the extent of these provisions, does so not only on his own behalf, but also as agent and trustee for such persons.

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5. CARRIER'S RESPONSIBILITY

(A) Port to Port Shipment

Where the Carriage called for by this Bill of Lading is Port-to-Port Shipment, then:

- (1) The liability (if any) of the Carrier for loss of or damage to the Goods occurring from and during loading onto any sea-going vessel up to and during discharge from that vessel or from another sea-going vessel into which the Goods shall have been transshipped shall be determined in accordance with any national law making the Hague Rules or the Hague Visby Rules compulsorily applicable this Bill of Lading including the U.S. Carriage of Goods by Sea Act 1936. The Canadian Water Carriage of Goods Act 1936, the Australian Sea Carriage of Goods Act 1924, the New Zealand Sea Carriage of Goods Act 1940 and the United Kingdom Carriage of Goods by Sea Act 1971, or, if there be no such national law in accordance with the Hague Rules. All the terms of this Bill of Lading (except (B) below) shall apply to such Carriage, save that if any term in this Bill of Lading is inconsistent with or repugnant to the Hague Rules or the Hague-Visby Rules as the case may be it shall to the extent of such inconsistency or repugnance and no further be null and void. Notwithstanding the above, the Carrier's liability, if any, shall be limited to loss of or damage to the Goods occurring from and during loading on to any sea-going vessel up to and during discharge from that vessel, and the carrier shall have no liability whatsoever for any loss or damage to the Goods while in its actual or constructive possession before loading or after discharge howsoever caused. In any situation where the exemption contained in the previous sentence may not be valid, the Carrier's liability shall be governed during the periods or the Carrier's actual or constructive possession before loading on to and after discharge from the sea-going vessel by the provisions of the Carriage of Goods by Sea Act of the U.S. (1936) which shall be deemed to be incorporated herein and to apply to such periods.
- (2) For the purpose of determining the extent of the Carrier's liability for loss of or damage to the Goods, the sound value of the Goods is agreed to the invoice value plus freight and insurance if paid.

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5. CARRIER'S RESPONSIBILITY

(B) Multimodal Transport

Where the Carriage called for by this Bill of Lading is Combined Transport then, save as is otherwise provided in this Bill of Lading, the Carrier shall be liable for loss or damage occurring during Carriage to the extent set out below.

- (1) Where the stage of Carriage where the loss or damage occurred is not known

(a) Exclusions

Where the stage of Carriage where the loss or damage occurred is now known the Carrier shall be relieved of liability for any loss or damage if such loss or damage was caused by:

- (i) an act or omission of the Merchant
- (ii) insufficiency of or defective condition of packing or marking:
- (iii) handling, loading, stowage or unloading of the Goods by or on behalf of the Merchant:
- (iv) inherent vice of the Goods;
- (v) strike, lockout, stoppage or restraint of labor the consequences of which the Carrier could not avoid by the exercise of reasonable diligence:
- (vi) a nuclear incident if the operator of a nuclear installation or person acting for him is liable for this damage under an applicable international convention or national law governing liability in respect of nuclear energy:
- (vii) any cause or event which the Carrier could not avoid the consequence whereof he could not prevent by the exercise of reasonable diligence.

(b) Burden of Proof

The burden of proving that the loss or damage was due to one or more of the causes or events specified in this sub-clause (B) (1) shall rest upon the Carrier. Save that, when the Carrier establishes that in the loss or damage could be attributed to one or more of the causes or events specified in paragraphs (a), (ii), (iii), or (iv) above, it shall be presumed that it was so caused. The Merchant, shall, however, be entitled to prove that the loss or damage was not, in fact, caused either wholly or partly by one or more of these causes or events.

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Where the Carriage called for by this Bill of Lading is Combined Transport then, save as is otherwise provided in this Bill of Lading, the Carrier shall be liable for loss or damage occurring during Carriage to the extent set out below.

(1) Where the stage of Carriage where the loss or damage occurred is not known

(c) Amount of Compensation

(i) Compensation shall be calculated by reference to the value of such Goods at the place and time when they should have been delivered.

(ii) The Value of the Goods shall be determined according to the current commodity exchange price or if there is no such price, according to the current market price, or, if there is no commodity exchange price or current market price, by reference to the normal value of goods of the same kind and quality.

Compensation shall in no circumstances whatsoever and how-so-ever arising exceed U.S. \$2.00 per kilo, gross weight or U.S. \$500 per package or shipping unit, whichever is the less of the goods lost or damaged unless it is proved that the loss or damage resulted from an act or omission of the Carrier done with the intent to cause damage or recklessly and with the knowledge the damage would probably result.

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(B) Multimodal Transport

Where the Carriage called for by this Bill of Lading is Combined Transport then, save as is otherwise provided in this Bill of Lading, the Carrier shall be liable for loss or damage occurring during Carriage to the extent set out below.

(2) Where the stage of Carriage where the loss or damage occurred is known. Notwithstanding anything provided for in sub-clause (B) (1) above and subject to Clause 13 (Deck Cargo and Livestock), where it is known during which stage of Carriage the loss or damage occurred the liability of the Carrier in respect of such loss or damage shall be determined.

- (a) by the provisions contained in any international Convention or national law, which provisions
- (i) cannot be departed from by private contract to the detriment of the Merchant: and
 - (ii) would have applied if the Merchant had made a separate and direct contract with the Carrier in respect of the particular stage of Carriage where the loss or damage occurred and received as evidence thereof any particular document which must be issued in order to make international convention or national law applicable.

Provided that an international convention or national law will determine the Carrier's liability as aforesaid only if it would have been applicable if contract referred to in (ii) above were governed.

- A. Where the loss or damage occurred between the time that the Goods were accepted by the Carrier and the time that the Goods were loaded at the port of loading, by the internal law of the state of the place of acceptance; or
 - B. Where the loss of damage occurred between the time that the Goods were discharged at the final port of discharge and the time that the Goods were delivered to the Merchant, by the internal law of the state of the place of delivery, or
- (b) where no international convention or national law would apply by virtue of (a) above by the Hague Rules, if the loss or damage is known to have occurred at sea or in inland waterways, or

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(B) Multimodal Transport

Where the Carriage called for by this Bill of Lading is Combined Transport then, save as is otherwise provided in this Bill of Lading, the Carrier shall be liable for loss or damage occurring during Carriage to the extent set out below.

(2) Where the stage of Carriage where the loss or damage occurred is known. Notwithstanding anything provided for in sub-clause (B) (1) above and subject to Clause 13 (Deck Cargo and Livestock), where it is known during which stage of Carriage the loss or damage occurred the liability of the Carrier in respect of such loss or damage shall be determined.

(c) by the provisions of sub-clause (B) (1) in cases where the provisions of paragraphs (a) and (b) above do not apply. Where under the provisions of this sub-clause (B) (2) the liability of the Carrier shall be determined by the provisions of any international law, this liability shall be determined as though the Carrier were the carrier referred to in any such convention or national law: References in this sub-clause (B) (2) to the internal law of a State shall be deemed to exclude all principles of private international law applied by that State:
For the purposes of this sub-clause (B) (2) references in the Hague Rules to carriage by sea shall be determined to include references to carriage by inland waterways and the Hague Rules shall be construed accordingly.

(d) Not with standing the other provisions in clause 5 (B) (2) when under this Bill of Lading either the place of acceptance or the place of delivery is an inland point in Canada or in the United States the responsibility of the Carrier with the respect to the transportation inland in Canada or in the United States should be as follows:

(A) The Carrier shall procure transportation by carriers (one more) authorized by a competent authority to engage in transportation inland in Canada or in the United States such transportation should be subject to the inland Carrier's contracts of carriage tariffs. The Carrier guarantees the fulfillment of such inland carriers obligations under their contracts and tariffs.

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Where the Carriage called for by this Bill of Lading is Combined Transport then, save as is otherwise provided in this Bill of Lading, the Carrier shall be liable for loss or damage occurring during Carriage to the extent set out below.

(2) Where the stage of Carriage where the loss or damage occurred is known. Notwithstanding anything provided for in sub-clause (B) (1) above and subject to Clause 13 (Deck Cargo and Livestock), where it is known during which stage of Carriage the loss or damage occurred the liability of the Carrier in respect of such loss or damage shall be determined.

(d) Not with standing the other provisions in clause 5 (B) (2) when under this Bill of Lading either the place of acceptance or the place of delivery is an inland point in Canada or in the United States the responsibility of the Carrier with the respect to the transportation inland in Canada or in the United States should be as follows:

(B) As to the services incident to transportation under (A) the Carrier undertakes to procure such service as necessary. All such services will be subject to the usual contracts of persons providing the services. The Carrier guarantees fulfillment of the obligations of such persons under pertinent contracts.

(C) General (applicable to both Port and Port Shipment and Combined Transport).

(1) Negotiability and title to the Goods By accepting this Bill of Lading the Merchant and his transferees agree with the Carrier that unless it is marked "non-negotiable", it shall constitute title to the Goods and the Holder, by endorsement of this Bill of Lading, shall be entitled to receiver or to transfer the Goods described on the face thereof.

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(B) Multimodal Transport

Where the Carriage called for by this Bill of Lading is Combined Transport then, save as is otherwise provided in this Bill of Lading, the Carrier shall be liable for loss or damage occurring during Carriage to the extent set out below.

(2) Where the stage of Carriage where the loss or damage occurred is known. Notwithstanding anything provided for in sub-clause (B) (1) above and subject to Clause 13 (Deck Cargo and Livestock), where it is known during which stage of Carriage the loss or damage occurred the liability of the Carrier in respect of such loss or damage shall be determined.

(d) Not with standing the other provisions in clause 5 (B) (2) when under this Bill of Lading either the place of acceptance or the place of delivery is an inland point in Canada or in the United States the responsibility of the Carrier with the respect to the transportation inland in Canada or in the United States should be as follows:

(C) General (applicable to both Port and Port Shipment and Combined Transport).

(2) Delay

The Carrier does not undertake that the Goods shall arrive at the port of discharge or place of delivery at any particular time or to meet any particular market or use and save as provided in sub-clause (B) (2) above the Carrier shall in no circumstances be liable for direct, indirect, or consequential loss or damage caused by delay.

(3) Supply of Containers

The terms of this Bill of Lading Shall govern the Carrier in connection with or arising out of the supply of a Container to the Merchant, whether supplied before or after the Goods are received by the Carrier or delivery to the Merchant.

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Where the Carriage called for by this Bill of Lading is Combined Transport then, save as is otherwise provided in this Bill of Lading, the Carrier shall be liable for loss or damage occurring during Carriage to the extent set out below.

(2) Where the stage of Carriage where the loss or damage occurred is known. Notwithstanding anything provided for in sub-clause (B) (1) above and subject to Clause 13 (Deck Cargo and Livestock), where it is known during which stage of Carriage the loss or damage occurred the liability of the Carrier in respect of such loss or damage shall be determined.

(d) Not with standing the other provisions in clause 5 (B) (2) when under this Bill of Lading either the place of acceptance or the place of delivery is an inland point in Canada or in the United States the responsibility of the Carrier with the respect to the transportation inland in Canada or in the United States should be as follows:

(C) General (applicable to both Port and Port Shipment and Combined Transport).

(4) Ad Valorem-Declaration of Value

The Liability of the Carrier, if any, shall not exceed the limits prescribed in any applicable national law or international convention unless the nature and value of the goods have been described by the Merchant before shipment and inserted in this bill of lading and extra freight paid on such declared value if required, in that event the declared value shall be the basis for calculating the Carrier's liability, if any, provided such declared value does not exceed the true value of the Goods at destination. Any partial or damage shall be adjusted pro rata on the basis of such declared value.

(5) Hague's Rules Limitation

Subject to (4) above, whenever Hague Rules are applicable otherwise than by national law, in determining the liability of the Carrier, the liability, shall in no event exceed U.S. \$500 per package or shipping unit.

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Where the Carriage called for by this Bill of Lading is Combined Transport then, save as is otherwise provided in this Bill of Lading, the Carrier shall be liable for loss or damage occurring during Carriage to the extent set out below.

(2) Where the stage of Carriage where the loss or damage occurred is known. Notwithstanding anything provided for in sub-clause (B) (1) above and subject to Clause 13 (Deck Cargo and Livestock), where it is known during which stage of Carriage the loss or damage occurred the liability of the Carrier in respect of such loss or damage shall be determined.

(d) Not with standing the other provisions in clause 5 (B) (2) when under this Bill of Lading either the place of acceptance or the place of delivery is an inland point in Canada or in the United States the responsibility of the Carrier with the respect to the transportation inland in Canada or in the United States should be as follows:

(C) General (applicable to both Port and Port Shipment and Combined Transport).

(6) Scope of Application

Save as otherwise provided herein, the Carrier shall in no circumstances whatsoever, or howsoever arising be liable for direct or indirect or consequential loss or damage. The defenses and limits of liability provided for in this Bill of Lading shall apply in any action against the Carrier for loss or damage or delay whether the action be founded in Contract or in tort.

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Where the Carriage called for by this Bill of Lading is Combined Transport then, save as is otherwise provided in this Bill of Lading, the Carrier shall be liable for loss or damage occurring during Carriage to the extent set out below.

(2) Where the stage of Carriage where the loss or damage occurred is known. Notwithstanding anything provided for in sub-clause (B) (1) above and subject to Clause 13 (Deck Cargo and Livestock), where it is known during which stage of Carriage the loss or damage occurred the liability of the Carrier in respect of such loss or damage shall be determined.

(d) Not with standing the other provisions in clause 5 (B) (2) when under this Bill of Lading either the place of acceptance or the place of delivery is an inland point in Canada or in the United States the responsibility of the Carrier with the respect to the transportation inland in Canada or in the United States should be as follows:

(C) General (applicable to both Port and Port Shipment and Combined Transport).

(7) Notice of loss or damage

The Carrier shall be deemed prima facie to have delivered the Goods as described in this Bill of Lading unless notice of loss of, or damage to, the Goods, indicating the general nature of such loss or damage, shall have been given in writing to the Carrier or to his representative at the place of delivery before or at the time of removal of the Goods into the custody of the person entitled to delivery thereof under this Bill of Lading, or, if the loss or damage is not apparent, with three consecutive days thereafter. The Carrier shall not be liable upon any claim for loss or damage unless written particulars of such claim shall be received by the Carrier within thirty days after receipt of the notice herein provided for.

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(B) Multimodal Transport

Where the Carriage called for by this Bill of Lading is Combined Transport then, save as is otherwise provided in this Bill of Lading, the Carrier shall be liable for loss or damage occurring during Carriage to the extent set out below.

(2) Where the stage of Carriage where the loss or damage occurred is known. Notwithstanding anything provided for in sub-clause (B) (1) above and subject to Clause 13 (Deck Cargo and Livestock), where it is known during which stage of Carriage the loss or damage occurred the liability of the Carrier in respect of such loss or damage shall be determined.

(d) Not with standing the other provisions in clause 5 (B) (2) when under this Bill of Lading either the place of acceptance or the place of delivery is an inland point in Canada or in the United States the responsibility of the Carrier with the respect to the transportation inland in Canada or in the United States should be as follows:

(C) General (applicable to both Port and Port Shipment and Combined Transport).

(8) Time-Bar

Subject to any provision of this clause 5 to the contrary the Carrier shall be discharged of all liability under this Bill of Lading unless suite brought and notice thereof give to the Carrier with nine months after delivery of the Goods or the date when the Goods should have been delivered.

6. CONTAINERS

(1) Goods may be stowed by the Carrier in or on Containers and Goods may be stowed with other Goods.

(2) The terms of this Bill of Lading shall govern the responsibility of the Carrier in connection with or arising out of the supply of a Container to the Merchant, whether supplied before or after the Goods are received by the Carrier or delivered to the Merchant.

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6. CONTAINERS

(3) If a Container has been stuffed by or on behalf of the Merchant.

(a) the Carrier shall not be liable for loss of or damage to the Goods

(i) caused by the manner in which the Container has been stowed;

(ii) caused by the unsuitability of the Goods for carriage in Containers;

(iii) caused by the unsuitability or defective condition of the Container provided that where the Container has been supplied by or on behalf of the Carrier, this paragraph (iii) shall only apply if the unsuitability or defective condition arose

(a) without any want of due diligence on the part of the Carrier or

(b) would have been apparent upon reasonable inspection by the Merchant at or prior to the time when the Container was stowed;

(iv) if the Container is not sealed at the commencement of the Carriage except where the Carrier has agreed to seal the Container.

(b) the Merchant shall defend, indemnify and hold harmless the Carrier against any loss, damage, claim, liability or expense whatsoever arising from one or more of the matters covered by (A) above except for (A) (iii) (a) above.

(4) Where the Carrier is instructed to provide a Container, in the absence of a written request to the contrary, the Carrier is not under an obligation to provide a written request to the contrary, the Carrier is not under an obligation to provide a Container of any particular type or quality.

7. INSPECTION OF GOODS

The Carrier or any person to whom the Carrier has sub-contracted the Carriage of any person authorized by the Carrier, shall be entitled, but under no obligation, to open any Container or package at any time and to inspect the Goods.

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8. CARRIAGE AFFECTED BY CONDITIONS OF GOODS

If it appears at any time that the Goods or any part thereof cannot safely or properly be carried or carried further, either at all or without incurring any additional expense or taking any measure(s) in relation to the Container or the Goods or any part thereof, the Carrier may without notice to the Merchant take any measure(s) and/or incur and additional expense to carry or to continue the Carriage thereof, and/or abandon the Carriage and/or store the same ashore or afloat under cover or in the open, at any place, which abandonment or storage shall be deemed to constitute due delivery under this Bill of Lading. The Merchant shall indemnify the Carrier against any reasonable additional expense so incurred.

9. DESCRIPTION OF GOODS

- (1) This Bill of Lading shall be prima facie evidence of the receipt by the Carrier in apparent good order and condition, except as otherwise noted, of the total number of Containers, packages or other units of weight or other cargos specified on the face hereof. Proof to the contrary shall not be admissible when this Bill of Lading has been transferred to a third party acting in good faith.
- (2) Except as provided in sub-clause 9 (1) above, no representation is made by the Carrier as to the weight, contents, measure, quantity, quality, description, condition, marks, numbers of value of Goods and the Carrier shall be under no responsibility whatsoever in respect of such description of particulars.

10. MERCHANTS RESPONSIBILITIES

- (1) The description and particulars of the Goods set out on the face hereof are furnished by the Merchant and the Merchant warrants to the Carrier that the description and the particulars including, but not limited to, of weight, content, measure, quantity, quality, condition, marks, numbers and value are correct.
- (2) The Merchant undertakes that the Goods are packed in a manner adequate to withstand the ordinary risks of Carriage having regard to their nature and in compliance with all laws, regulations and requirements which may be applicable.
- (3) The Merchant shall be liable for the loss, damage, contamination, soiling, detention or demurrage before, during and after the Carriage of property (including, but not limited to, Containers) of the Carrier or any person or vessel (other than the Merchant) referred to in 4 (2) above caused by the Merchant or any person acting on his behalf or for which the Merchant is otherwise responsible.
- (4) The Merchant shall defend, indemnify and hold harmless the Carriage against any loss, damage, claim, liability or expense whatsoever arising from any breach of the provisions of this clause or from any cause in connection with the Goods for which the Carrier is not responsible.

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11. FREIGHT AND CHARGES

- (1) Freight shall be deemed fully earned on receipt of the Goods by the Carrier and shall be paid and non-returnable in any event.
- (2) The Merchant's attention is drawn to the stipulations concerning currency in which the Freight to be paid, rate of exchange, devaluation and other contingencies relative to Freight in the applicable tariff.
- (3) The Freight has been calculated on the basis of particulars furnished by or on behalf of the Shipper. The Carrier may at any time open any Container or other package or unit in order to reweigh, re-measure or revalue the contents; and if the particulars furnished by or on behalf of the Shipper are incorrect, it is agreed that a sum equal to either five times the difference between the correct Freight and The Freight charged or to double the correct Freight less the Freight charged, whichever sum is the smaller, shall be payable as liquidated damages to the Carrier.
- (4) Except as may be provided to the contrary in the applicable Tariff all unpaid charges shall be paid without any set-off, counter-claim, deduction or stay of execution.
- (5) Freight and liquidated damages under sub-clause 11 (3) above may be recovered by the Carrier from any person falling within the definition of Merchant in Clause 1 whether or not such person is the Shipper.

12. LIEN

The Carrier shall have a lien on the Goods and any documents relating thereto for all sums payable to the Carrier under this contract and for general average contribution to whomsoever due and for the cost of recovering the same, and for the purpose shall have the right to sell the Goods by public auction or private treaty without notice to the Merchant. The merchants shall indemnify the carrier against all and any extra costs incurred for any reason whatsoever.

13. DECK CARGO AND LIVESTOCK

- (1) Goods (not being Goods stowed in Containers) which are stated herein to be carried on deck and livestock, whether or not carried on deck, are carried without responsibility on the part of the Carrier for loss or damage or whatsoever nature arising during Carriage by sea whether caused by unseaworthiness or negligence or any other cause what-so-ever.

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13. DECK CARGO AND LIVESTOCK

- (2) Livestock are carried at the sole risk of the Merchant. The Carrier shall be under no liability whatsoever for any injury, illness, death, delay or destruction howsoever arising even though caused or contributed to by the act, neglect or default of the Carrier or by the unseaworthiness or unfitness of any vessel, craft, conveyance, container or other place existing at any time. In the event of the Master in his sole discretion, considering that any livestock is likely to be injurious to the health of any other livestock or of any person on board or to cause the vessel to be delayed or impeded in the prosecution of the voyage, such livestock may be destroyed and thrown overboard without any liability attaching to the Carrier. The Merchant shall indemnify the Carrier against all and any extra cost incurred for any reason whatsoever in connection with the carriage of such livestock.

14. METHODS AND ROUTE OF TRANSPORTATION

- (1) The Carrier may at any time and without notice to the Merchant-
- (a) use any means of transport, stowage or storage whatsoever;
 - (b) transfer the Goods from one conveyance to another including transshipping or carrying the same on another vessel than that named on the face hereof or by any other means of transport whatsoever.
 - (c) unpack and remove Goods which have been stowed into a Container and forward the same in a Container or otherwise;
 - (d) proceed by any route in his discretion (whether or not the nearest or most direct or customary or advertised route) and proceed to or stay at any place or port whatsoever once or more often and in any order;
 - (e) load or unload the Goods at any place or port; (whether or not any such port is named overleaf as the Port of Loading or Port of Discharge) and store the Goods at any such place or port;
 - (f) comply with any order; or recommendations given by any government or authority or any person or body acting or purporting to act as or on behalf of such government or authority or having under the terms of the insurance on the conveyance employed by the Carrier the right to give orders or directions;
 - (g) permit the vessel to proceed with or without pilots.
- (2) The liberties set out in sub-clause (1) may be invoked by the Carrier for any purpose whatsoever whether or not connected with the Carriage of the Goods including undergoing repairs, towing or being towed, adjusting instruments, dry docking and assisting vessels in all situations. Anything done in accordance with sub-clause (1) or any delay arising there-from shall be deemed to be within the contractual carriage and shall not be a deviation.

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14. METHODS AND ROUTE OF TRANSPORTATION

- (3) By tendering Goods for Carriage without any written request for Carriage in a specialized Container or for Carriage otherwise than in a Container the Merchant accepts that the Carriage may properly be undertaken in a general purpose Container.

15. MATTERS AFFECTING PERFORMANCE

If at any time the Carriage is or is likely to be affected by any hindrance, risk, delay, difficulty or disadvantage of any kind (other than the ability of the Goods or any part thereof safely or properly to be carried further) and howsoever arising (even though the circumstances giving rise to such hindrance, risk, delay, difficulty or disadvantage existed at the time this contract was entered into or the Goods were accepted for Carriage) and which cannot be avoided by the exercise of reasonable endeavors the Carrier (whether or not the Carriage is commenced;) may either-

- (a) Without notice to the Merchant abandon the Carriage of the Goods and place Goods or any part of them at the Merchant's disposal at any place or port which the Carrier may deem safe and convenient, whereupon the responsibility of the Carrier in respect of such Goods shall cease. The Carrier shall nevertheless be entitled to full Freight on Goods received for Carriage, and the Merchant shall pay any additional costs of Carriage to and delivery and storage at such place or port; or
- (b) Without prejudice to the Carrier's right subsequently to abandon the Carriage under (a) upon notice to the Merchant suspend Carriage of the Goods or any part of them and store them ashore or afloat upon the terms of this Bill of Lading, against payment of such reasonable additional charges as the Carrier may determine. The Carrier undertakes to use best endeavors to forward Goods, the Carriage of which has been suspended, as soon as possible after the cause of hindrance, risk, delay, difficulty or disadvantage has been removed but make no representations as to the maximum period between such removal and the forwarding of the Goods to the Place of Deliver named in the Bill of Lading.

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16. DANGEROUS GOODS

- (1) No goods which are or may become dangerous, (including radioactive materials), or which are or may become liable to damage any property whatsoever shall be tendered to the Carrier for Carriage without his express consent in writing and without the Container or other covering in which the goods are to be transported and the goods being distinctly marked on the outside so as to indicate the nature and character of any such articles and so as to comply with any applicable laws, regulations or 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 Freight.
- (2) Whether or not the Merchant was aware of the nature of the goods the Merchant shall indemnify the Carrier against all claims, losses, damage or expenses arising in consequence of any breach of the provisions of this clause.
- (3) Nothing contained in this Clause shall deprive the Carrier of any of his right otherwise provided for.

17. REGULATIONS RELATING TO GOODS

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 incurred or suffered by reason thereof or by reason of any illegal, incorrect or insufficient marking, numbering or addressing of the Goods, and shall indemnify the Carrier in respect thereof.

18. NOTIFICATION AND DELIVERY

- (1) Any mention herein of parties to be notified of the arrival of the Goods is solely for information of the Carrier, and failure to give such notification shall not involve the Carrier in any liability nor relieve the Merchant or any obligation hereunder.
- (2) Delivery of the Goods may be demanded only from the Carrier or his representative, and against surrender of an original Bill of Lading duly endorsed where necessary. The Carrier shall be discharged of his obligation to deliver the Goods if, where a Bill of Lading has been issued in a set of more than one original, the Carrier, or his representative, has in good faith delivered the Goods against surrender of one of such originals.

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18. NOTIFICATION AND DELIVERY

- (3) Where the Carriage called for by this Bill of Lading is a Port to Port Shipment the Carrier shall be at liberty to discharge the Goods or any part thereof without notice directly they come to hand or on to any wharf, craft, or place, on any day and at any time, whereupon the liability of the liability of the Carrier (if any) in respect of the Goods or that part thereof discharged as aforesaid shall wholly cease notwithstanding any custom of the port to the contrary and notwithstanding that any charges, dues or other expenses may be or become payable. If craft are used, other than at the request of the Merchant, in circumstances where the Goods or that part thereof so discharged could have been discharged ashore without additional delay, the Goods (or that part thereof, as the case may be) shall nevertheless not be deemed to be discharged for the purposes of this Clause and of Clause 5 until they are discharged from such craft. The Merchant shall take delivery of the Goods upon discharge. All expenses, incurred by reason of the Merchant's failure to take delivery of the Goods as aforesaid shall be for the Merchant's account.
- (4) Where the Carriage called for by the Bill of Lading is Combined Transport, the Merchant shall take delivery of the Goods within the time provided for in the Carrier's applicable Tariff (see Clause 2).
- (5) If delivery of the Goods or any part thereof is not taken by the Merchant at the time and place when and where the Carrier is entitled to call upon the Merchant to take delivery thereof, whether the carriage called for by this Bill of Lading is a Port to Port Shipment or Combined Transport, the Carrier shall be entitled without notice to un-stow the Goods or that part, thereof if stowed in Containers and or to store the Goods or that part thereof ashore, afloat in the open or under cover at the sole risk of the Merchant. Such storage shall constitute due delivery hereunder and thereupon the liability of the Carrier in respect of the Goods or that part thereof stored as aforesaid (as the case may be) shall wholly cease and the cost of such storage (if paid or payable by the Carrier or any agent or sub-contractor of the Carrier) shall forthwith upon demand be paid by the Merchant to the Carrier.

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18. NOTIFICATION AND DELIVERY

(6) If the Merchant fails to take delivery of the Goods within thirty days of its becoming due under sub-clause (2) or (3) above or if in the opinion of the Carrier they are likely to deteriorate, decay, become worthless or incur charges whether for storage or otherwise in excess of their value, and whether the Carriage is a Port to Port Shipment or Combined Transport, the Carrier may, without prejudice to any other right which he may have against the Merchant, without notice and without any responsibility whatsoever attaching to him, sell or dispose of the Goods and apply the proceeds of the sale in reduction of the sums due to the Carrier from the Merchant in respect of this Bill of Lading.

19. BOTH-TO-BLAME COLLISION

If the vessel on which the Goods are carried (the carrying vessel) comes into collision with any other vessel or object (the non-carrying vessel or object) as a result of the negligence of the non-carrying vessel or object or the owner of, charterer of or person responsible for the non-carrying vessel or object, the Merchant undertakes to defend, indemnify, and hold harmless the Carrier against all claims by or liability to (and any expense arising there-from) any vessel or person in respect of any loss of, or damage to or, any claim whatsoever of the Merchant paid or payable to the Merchant by the non-carrying vessel or object or the owner of, charterer of or person responsible for the non-carrying vessel or object and set-off, recouped or recovered by such vessel, object or person(s) against the Carrier, the carrying vessel or her owners of charterers.

20. GENERAL AVERAGE

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

21. VARIATION OF THE CONTRACT, ETC.

No servant or agent of the Carrier shall have power to waive or vary any of the terms hereof unless such waiver or variation is in writing and is specifically authorized or ratified in writing by the Carrier.
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22. MULTIMODAL TRANSPORT AND ON BOARD BILLS OF LADING

When used in or endorsed on this Bill of Lading "ON BOARD" shall mean on board the exporting vessel or on board another mode of transport operated by or on behalf of the carrier and en route to the port of loading for loading aboard the carrier's vessel.

23. LAW AND JURISDICTION

Disputes arising under this Bill of Lading shall be determined at the option of the merchant either by U.S. District Court in accordance with the laws of the U.S.A. or by Canadian courts in accordance with the laws of Canada or by courts of Australia in accordance with Australian laws or by the court of New Zealand in accordance with the laws of New Zealand or by United Kingdom courts in accordance with the laws of the United Kingdom of Great Britain. If anything in this Bill of Lading is inconsistent with or repugnant to the laws stipulated in this Bill of Lading it shall only be null and void to the extent of such inconsistency or repugnance.

ITEM 3360

FREIGHT FORWARDER COMPENSATION - OCEAN

Applicable only on shipments exported from the United States.

A. Compensation to licensed Ocean Freight Forwarder will be paid in connection with any shipment dispatched on behalf of others when, such Forwarder is licensed with the Federal Maritime Commission under section 19(a) of the Shipping Act of 1984, as amended, and has certified in writing that it holds a valid FMC issued Forwarder License (including the number thereof) and has performed the following services.

(i.) Engaged, booked, secured, reserved, or contracted directly with the Carrier or its agent for Carrier's service or confirmed availability of that service.

(ii) Prepared and processed the Bill of Lading, Dock Receipt, or other similar document with respect to the shipment.

B. Carrier will not pay compensation for services described in paragraph A above more than once on a single shipment.

C. Carrier will not knowingly pay compensation on a shipment in which the Forwarder has a direct or indirect beneficial interest.

D. Compensation will not be paid on any per-carriage, on carriage or advanced charges. The amount of compensation will be a percentage of the Basic Ocean Freight (exclusive of additional charges, arbitraries or surcharges) as specified below.

1.25% of Basic Ocean Freight

E. Brokerage commissions may be paid to a bonafide ocean freight broker as defined in 46 CFR Section 510.21(F) for the performance of the service described in such section. Freight forwarder compensation and brokerage commissions may not be paid on the same shipment.

F. Invoices for Compensation MUST be presented for payment within 6 (six) months of sailing date of transporting vessel.

For explanation of abbreviations, notes and reference marks, see Item 15000.