

1. Definitions

- "BIMCO"** means the Baltic and International Maritime Council.
- "Carriage"** means the whole or any part of the operations and services undertaken by Carrier in respect of the Goods covered by this Sea Waybill.
- "Carrier"** means the party named on page 2 of this Sea Waybill.
- "Container"** includes any container, trailer, transportable tank, flat, or any similar article used to consolidate Goods and any connected equipment.
- "Freight"** means the payable to Carrier in accordance with the applicable tariff and this Sea Waybill.
- "Goods"** means the whole or any part of the cargo received from the shipper and includes any equipment or Container not supplied by or on behalf of Carrier.
- "Hague Rules"** means the International Convention for the Unification of Certain Rules relating to Bills of Lading of 1924 only.
- "Hague-Visby Rules"** means the Hague Rules including the Visby amendments of 1968 and the amendments by the Protocol of 1979.
- "Merchant"** includes the booking party, the shipper and consignee, holder of the Sea Waybill, the person to whom the data has been forwarded as provided for in clause 2 (2) and the receiver of the Goods.
- "Servants or Agents"** includes the owners, managers and operators of any Vessel (other than Carrier), master, officers and crew of the Vessel(s), charterers, slot and space charterers, the Vessel, all underlying carriers, bailees, direct and indirect subcontractors, stevedores, terminal and groupage operators, road and rail transport operators, or any other party employed by or on behalf of Carrier or whose services or equipment have been used to perform this contract whether in direct contractual privity with Carrier or not.
- "US COGSA"** means the US Carriage of Goods by Sea Act 1936.
- "Vessel"** means any vessel (including but not limited to a main line vessel, feeder ship, barge or any other means of conveyance by water used for the carriage of the goods under this Sea Waybill).
- "VGM"** means the verified gross mass obtained by one of the permissible methods pursuant to ch. VI, part A, reg. 2, paragraph 4 of SOLAS 1974 (as amended from time to time) and the applicable regulations of the State of the loading port.

2. General Conditions

- (1) This Sea Waybill is issued for a contract of Carriage which is not covered by a Bill of Lading or similar document or title.
- (2) A signed Sea Waybill is returned to the shipper and a copy of it is applied as an input source document to a computerized system for data transmission of particulars as described on page 2 hereof to the country of destination. Upon receipt of the data so transmitted, Carrier or its agent in the country of destination will forward such data to the consignee and notify party.
- (3) Carrier shall not be liable for any loss or damage or delay to or in connection with the Goods or any consequential or indirect damage to Merchant arising unintentionally from erroneous input into the computer system or from wrongful data transmission.
- (4) This Contract of Carriage shall be subject to German law which would have been compulsorily applicable if a Bill of Lading rather than a Sea Waybill had been issued.
- (5) The terms and conditions of Carrier's applicable tariff are incorporated herein, including but not limited to the terms and conditions relating to demurrage and detention. The provisions relevant to the application of Carrier's applicable tariff are incorporated herein, including but not limited to the provisions relating to demurrage and detention. The provisions relevant to the application of Carrier's applicable tariff are incorporated herein, including but not limited to the provisions relating to demurrage and detention. The provisions relevant to the application of Carrier's applicable tariff are incorporated herein, including but not limited to the provisions relating to demurrage and detention.

3. Right of Control, Delivery of Goods

- (1) The shipper shall be the only party entitled to give Carrier instructions in relation to the contract of Carriage. Shipper shall be entitled to change the name of the consignee at any time up to the consignee claiming delivery of the Goods after their arrival at destination, provided it gives Carrier unambiguous notice in writing, or by some other means acceptable to Carrier, and thereby undertaking to indemnify Carrier against any additional expense caused thereby.
- (2) (a) The Goods mentioned on page 2 will be delivered after payment of Freight and other charges to the consignee, or to such person who identifies itself as being a representative of the consignee, and such delivery shall constitute due performance of this contract.
- (b) Carrier shall be under no liability for wrong delivery if it can prove that it has exercised reasonable care to ascertain that the party claiming delivery is in fact entitled.

4. Sub-Contracting and Indemnity

- (1) Carrier shall be entitled to sub-contract on any terms whatsoever the whole or any part of the Carriage, including but not limited to loading, stowage, lashing and warehousing.
- (2) However, in the event that the Goods are damaged, Carrier shall be deemed to be liable with respect to the Goods or the Carrier, bailee or otherwise, and agrees not to file any claim against any Servant and Agent seeking to impose liability in connection with the Carriage. If any claim is made against any of the Servants or Agents, Merchant shall indemnify Carrier against all consequences thereof. Without prejudice to the foregoing, all rights, exemptions, defenses, and limitations of and exoneration from liability provided by law or by these Terms and Conditions, including the jurisdiction clause, shall be available to every Servant or Agent and Vessel which shall be entitled to enforce same against Merchant.
- (3) The provisions of Clause 4 shall extend to claims of whatsoever nature against other persons chartering space on the carrying Vessel.

5. Carrier's Responsibility

- (1) Port-to-Port Shipment
 - (a) When loss or damage has occurred to the Goods between the time of loading on the Vessel and the time of discharge from the Vessel, the responsibility of Carrier shall be determined in accordance with German law making the Hague Rules compulsorily applicable.
 - (b) The BIMCO Paramount Clause General shall be incorporated herein.
 - (c) However, in the event that the Goods are damaged, Carrier shall be deemed to be liable to the USA, US COGSA shall govern and apply from loading the Goods on the Vessel until discharge. US COGSA shall also be applicable during all times before the Goods are loaded on or after they are discharged from the Vessel.
 - (d) Carrier shall not be responsible for any fault of its personnel and of the Vessel's crew (as defined in § 478 German Commercial Code) in cases of damage or loss caused by fire or explosion on board the Vessel or caused by the navigation or management of the Vessel, in the latter case save for damage or loss caused when executing measures which were predominantly taken in the interest of the Goods ("Error in Navigation and Fire Defenses").
 - (e) Carrier shall not be liable for any loss or damage or delay to or in connection with the management of the Vessel, in particular pilots on board the Vessel or the crew of a tug boat assisting the Vessel, in cases of damage or loss caused by the navigation or the management of the Vessel, save for damage or loss caused when executing measures which were predominantly taken in the interest of the Goods.
- (2) Prior to loading and after discharge Carrier is not deemed to have custody of the Goods. Carrier is not responsible for acts or omissions of a terminal operator to which the Goods were submitted.
- (3) Unless notice of loss or damage is given in writing to Carrier or its agent at the port of discharge before or at the time of the removal of the Goods into the custody of the person entitled to delivery thereof under the contract of Carriage, or, if the loss or damage is not apparent, within three (3) days, such removal shall be *prima facie* evidence of the delivery by Carrier as described in this Sea Waybill and any such loss or damage which may have occurred to the Goods shall be deemed to be due to circumstances which are not the responsibility of Carrier. The notice must clearly specify the damage. Notwithstanding the aforesaid, if a Container has been delivered to Merchant, Merchant must prove that the damage to or loss of the Goods occurred during the period after delivery, when the Container was in the custody of Merchant.
- (4) Compensation shall be calculated by reference to the value of the Goods at the place and the time they are delivered to Merchant, or at the place and the time they should have been delivered. For the purpose of determining the extent of Carrier's liability for loss of or damage to the Goods, the sound value of the Goods is agreed to be the invoice value plus Freight and insurance if paid.
- (5) Multimodal Transport
 - (a) If the place of receipt or loss of the Goods is known, the responsibility of Carrier is determined by the law which applies to this leg of Carriage except in cases which are governed by Clause 5 (2) (d) below.
 - (b) If it is established that loss or damage occurred during the port-to-port leg the "Error in Navigation and Fire Defenses" as per Clause 5 (1) (b) apply.
 - (c) If it is established that loss or damage occurred during the port-to-port leg, Clause 5 (1) (c) shall apply.
 - (d) In the event that part of the multimodal transport involves a shipment to or from the USA, US COGSA shall govern and apply from loading the Goods on the Vessel until discharge. US COGSA shall also be applicable during all times before loading and after discharge of the Goods from the Vessel.
 - (e) With respect to road Carriage between countries in Europe liability shall be determined in accordance with the Convention on the Contract for the International Carriage of Goods by Road (CMR), dated May 19, 1956; and during rail Carriage between countries in Europe according to the International Agreement on Railway Transports (CIM), dated February 25, 1961 or any amendments to this Convention or Agreement.
 - (f) Unless notice of loss or damage is given in writing to Carrier or its agent at the port of discharge before or at the time of the removal of the Goods into the custody of the person entitled to delivery thereof under the contract of Carriage, or, if the loss or damage is not apparent within seven (7) days, such removal shall be *prima facie* evidence of the delivery by Carrier as described in this Sea Waybill. The notice must clearly specify the damage. Notwithstanding the aforesaid, if a Container has been delivered to Merchant, Merchant must prove that the damage to or loss of the Goods did not occur during the period after delivery, when the Container was in the custody of Merchant.
 - (g) Compensation shall be calculated by reference to the value of the Goods at the time they were delivered to Merchant.
- (6) **IN THE EVENT THAT THE LAW WHICH IS APPLICABLE UNDER CLAUSE 5 (2) (a) IS NOT MANDATORY AND PROVIDES FOR LIABILITY EXCEEDING 2 SDRs PER KILO, THE MAXIMUM LIABILITY SHALL BE 2 SDRs PER KILO OF THE GROSS WEIGHT OF THE GOODS LOST OR DAMAGED. SDRs MEANS SPECIAL DRAWING RIGHTS AS DEFINED BY THE INTERNATIONAL MONETARY FUND. THIS SUB-SECTION (h) DOES NOT APPLY IF THE LOSS OR DAMAGE TO THE GOODS OCCURRED ON A SEA LEG.**
- (7) **IF THE STAGE OF THE CARRIAGE DURING WHICH LOSS OR DAMAGE OCCURRED IS NOT KNOWN, CARRIER'S LIABILITY SHALL BE DETERMINED BY THE LAW WHICH APPLIES TO HOWSOEVER ARISING EXCEED 2 SDRs PER KILO OF GROSS WEIGHT OF THE GOODS LOST OR DAMAGED.**
- (8) **CARRIER SHALL NOT BE ENTITLED TO THE BENEFIT OF THE LIMITATION OF LIABILITY PROVIDED FOR IN CLAUSE 5 (2) (b) AND (c) IF IT IS PROVED THAT THE DAMAGE**

RESULTED FROM AN ACT OR OMISSION OF CARRIER OR ITS SERVANTS OR AGENTS DONE WITH INTENT TO CAUSE DAMAGE, OR RECKLESSLY AND WITH KNOWLEDGE THAT DAMAGE WOULD PROBABLY RESULT.

- (a) Subject to the applicable restrictions in statutory law and international conventions, Carrier shall not be liable for damage caused by error in navigating or handling the Vessel, including errors caused by the arrangement of a group of tugs or pushers.
- (3) Change of Destination by Merchant
 - (a) If the Goods are delivered to the Carrier to deliver the Goods at a port or place other than the port of discharge or the place of delivery originally designated in this Sea Waybill and Carrier in its absolute discretion agrees to such request, such further Carriage will be undertaken on the basis that the Sea Waybill Terms and Conditions are to apply to such Carriage as if the ultimate destination agreed with Merchant had been entered on page 2 of this Sea Waybill as the port of discharge or place of delivery.
- 6. Time for Suit**
 - (1) In any event, Carrier shall be discharged from all liability in respect of loss of or damage to the Goods, including, but not limited to, delivery, delay or any other loss or damage connected or related to the Carriage unless suit is brought within one (1) year after delivery of the Goods or the date when the Goods should have been delivered.
- 7. Sundry Liability Provisions**
 - (1) Hague Rules/Hague-Visby Rules
 - (a) Without prejudice to Clause 5 (2) hereof, in the event that suit is brought in a court other than the court as provided for in Clause 24, and Clause 24 is not enforced by Carrier or the court, then (a) if this Sea Waybill has been issued in a country where the Hague-Visby Rules are compulsorily applicable, Carrier's liability shall not exceed 2 SDRs per kilo of the gross weight or 666.67 SDRs per package of the Goods lost or damaged, whichever is higher, or (b) if this Sea Waybill has been issued in a country in which the Hague Rules apply, Carrier's liability shall not exceed GBP 100 per package or unit.
 - (2) US COGSA
 - (a) Notwithstanding Clause 7(1), if the Sea Waybill covers a shipment to or from the USA, and suit is brought in a court other than as provided for in Clause 24, and Clause 24 is not enforced by Carrier or the court, then US COGSA shall apply. The provisions of US COGSA shall also govern during all times before the Goods are loaded on and after they are discharged from the Vessel. Carrier's maximum liability in respect to the Goods shall not exceed USD 500 per package or, where the Goods are not shipped in packages, USD 500 per customary freight unit unless the nature and value of the Goods has been declared by Merchant and inserted in writing on page 2 of the Sea Waybill and said Merchant shall have paid the applicable *ad valorem* freight rate set forth in Carrier's tariff.
 - (3) Shipper's declared value
 - (a) Merchant agrees and acknowledges that Carrier has no knowledge of the value of the Goods and that compensation higher than that provided for herein may not be claimed unless the nature and value of the Goods has been declared by Merchant, agreed to by Carrier and inserted into the Sea Waybill before shipment. In addition the applicable *ad valorem* freight rate as set out in Carrier's tariff must be paid. Any partial loss or damage shall be adjusted pro rata on the basis of such declared value. If the declared value is higher than the actual value, Carrier shall in no event be liable to pay compensation higher than the net invoice value of the Goods plus Freight and insurance if paid. Any references, when shown on page 2 of this Sea Waybill, to letters of credit, import licenses, sales contracts, invoices or order numbers and/or details of any contract to which Carrier is not a party shall not be regarded as a declaration of value.
 - (b) Limitation of Liability
 - (i) It is hereby agreed by Merchant that Carrier qualifies as a person entitled to limit liability under any Convention or Act pertaining to limitation of liability on maritime claims, whichever is applicable. Carrier may be the ship-owner, charterer (including a slot- or space charterer), manager or operator of the Vessel, or salvor rendering services in connection with salvage operations. If any claims are made against the Servants or Agents, they are entitled to avail themselves of the same limitation available to Carrier.
 - (ii) Delay
 - (a) Unless expressly agreed, 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 Carrier shall not be liable for any direct, indirect or consequential loss or damage caused by delay.
 - (b) If Carrier will nevertheless be considered liable for loss or damage resulting from delay, such liability shall not exceed three (3) times the Freight.
 - (iii) Sub-section (b) shall not apply if the law governing a particular loss or damage resulting from delay provides for a lower limitation amount.
 - (c) Cl. 7 (3) (a) and (b) shall apply if the delay was caused by Carrier or its Servants or Agents, with the intention to cause damage, or recklessly and with knowledge that such damage would probably result.
 - (4) Scope of Application and Exclusions
 - (a) The rights, defenses, immunities, exemptions, limitations and liberties of whatsoever nature provided for in this Sea Waybill or under statute shall apply in any action against Carrier for loss or damage or delay, however occurring and whether the action be founded in contract or in tort.
 - (b) Save as otherwise provided herein, Carrier is not in circumstances whatsoever and wherever the Goods are lost or damaged or indirect or consequential loss or damage or loss of business or profits, unless it is established that Carrier himself acted with the intent to cause damage, or recklessly and with knowledge that damage would probably result.
- 8. Shipper-Packed Containers**
 - (1) If a Container has not been packed by or on behalf of Carrier:
 - (a) Carrier shall not be liable for loss of or damage to the Goods caused by:
 - (i) the manner in which the Container has been packed; or
 - (ii) the unsuitability of the Goods for Carriage in the Container supplied or
 - (iii) the failure of the Shipper to ensure that the Container has the correct setting of any refrigeration controls or ventilation settings thereof, provided that, if the Container has been supplied by or on behalf of Carrier, this unsuitability or defective condition would have been apparent upon inspection by Merchant at or prior to the time when the Container was packed; or
 - (iv) packing refrigerated Goods that are not at the correct temperature for Carriage.
 - (b) Merchant shall indemnify Carrier against any loss, damage, liability or expense whatsoever and however arising, caused by one or more matters referred to in Clause 8 (1).
 - (2) With regard to temperature- or atmosphere-controlled Goods, Carrier shall be deemed to have satisfied its obligations under the contract of Carriage and shall have no liability whatsoever if such Goods are carried in a range of plus or minus 2.5 degrees Celsius with regard to any temperature indicated on page 2 of this Sea Waybill. The term "apparent good order and condition" when used in this Sea Waybill with reference to the Goods which require refrigeration does not mean that the Goods when received were verified by Carrier as being at the temperature on page 2 of this Sea Waybill. Where a temperature is indicated Carrier undertakes that the Container is equipped to maintain the temperature set by Merchant. Merchant remains responsible for the consequences of any temperature irregularities, including but not limited to the Goods being at a higher temperature upon loading the Goods into the Container than that required for the Carriage (hot stuffing) prior to receipt or after delivery by Carrier.
 - (3) Container with Goods packed by Merchant shall be delivered to Carrier with an intact high security seal in place, and the seal number provided to Carrier by Merchant. In the event the Container is not so sealed, Carrier reserves the right, at Merchant's expense, to return the Container to Merchant for resealing, or to affix a seal.
- 9. Inspection of Goods**
 - (1) Any Servant or Agent or any other person authorized by Carrier shall be entitled, but under no obligation, to open any Container or package at any time and to inspect the Goods. If, by order of any person, a Container has to be opened for the Goods to be inspected, Carrier will not be liable for any loss or damage incurred as a result of such opening, unpacking, inspection or repacking. Carrier shall be entitled to recover the costs of such opening, unpacking, inspection and repacking from Merchant.
- 10. Carriage Affected by Condition of Goods**
 - (1) If it appears at any time that, due to their condition, the Goods cannot safely or properly be carried further or without incurring additional expense or taking any measure(s) in relation to the Container or the Goods, Carrier may, without notice to Merchant, take any measure(s) and/or incur any additional expense to carry or to continue the Carriage thereof, and/or sell or dispose of the Goods, and/or abandon the Carriage and/or store the Goods ashore or afloat, under cover or in the open, at any place, whichever Carrier, in its absolute discretion, considers most appropriate, without abandonment, storage, sale or disposal shall be deemed to constitute due delivery under this Sea Waybill. Merchant shall indemnify Carrier against any additional expense so incurred.
- 11. Description of the Goods and High Value Cargo**
 - (1) The Shipper warrants to Carrier that the particulars relating to the Goods as set out on page 2 have been checked by the shipper on receipt of this Sea Waybill and that such particulars, and any other particulars required by or on behalf of the Carrier, are adequate and correct. The Shipper warrants that the Goods are lawful Goods and contain no contraband.
 - (2) Carrier is neither prepared to enter into a contract of Carriage nor to issue a Sea Waybill regarding High Value Cargo without Carrier's prior written consent to perform such a carriage. High Value Cargo shall consist of Goods with an invoice value of USD 2,000,000 or above. Carrier shall be discharged from all liability in respect of loss of or damage to such Goods, non-delivery, delay or any other loss connected or related to the Carriage in case of failure to declare any High Value Cargo and seek Carrier's said consent.
- 12. Merchant's Responsibility**
 - (1) As per the definition of Merchant shall be jointly and severally liable to Carrier for the fulfillment of all obligations and warranties undertaken by Merchant either in this Sea Waybill, or required by law. Merchant shall indemnify Carrier against all claims, losses, damages, expenses, fines, costs and attorneys fees, arising or resulting from any breach of these obligations and warranties.
 - (2) It is the sole responsibility of the shipper to provide Carrier electronically or by any other means as agreed by the parties with the VGM of each Container prior to the deadline stipulated by Carrier for submission (VGM cutoff time). If VGM is not provided in time by the shipper or its representative, Carrier shall be under no obligation to commence or continue Carriage of that Container.
 - (a) Carrier may store/re-weigh or return the Container to the shipper or its representative in its discretion for Merchant's account if VGM is not provided in time.
 - (b) Any demurrage and storage fees resulting from breach of these obligations shall be for Merchant's account.
 - (c) Merchant shall also be liable for any resulting expenses, fines, delay, loss or damage.
 - (3) Merchant shall comply with all regulations or requirements of customs, ports and/or other authorities, including but not limited to those relating to VGM, and shall bear and pay all duties, taxes, fines, imposts, expenses or losses (including Freight for any additional carriage) incurred or suffered by reason of any failure to so comply, or by reason of any illegal, incorrect, or insufficient weighing, marking, number or addressing of the Goods or Containers or the discovery of any drugs, narcotics, stowaways or other illegal substances within

- Containers packed by Merchant or inside Goods supplied by Merchant, or stamp duty imposed by any country, and shall indemnify Carrier in respect thereof.
- (4) If Containers supplied by or on behalf of Carrier are unpacked at Merchant's premises, Merchant is responsible for returning the empty Containers (free of any dangerous goods placards, labels or markings), with interiors brushed and clean, to the port or place designated by Carrier, its Servants or Agents, within the time prescribed. Should a Container not be returned within the time prescribed in the tariff, Merchant shall be liable for any detention, loss or expenses which may arise from such non-return.
- 13. ISPS Code**
 - (1) Merchant shall comply with the requirements of the ISPS Code. If Carrier is held liable by any State Authority or any other third party Merchant shall indemnify and hold Carrier harmless from any damages resulting from the violation of the ISPS Code by Merchant.
 - (2) Merchant undertakes to pay Carrier any costs or expenses whatsoever arising out of or related to security regulations or measures required by the port authority or any relevant authority in accordance with the ISPS Code in relation to Merchant's Goods.
 - (3) Carrier is entitled to move the Vessel to a different port and/or to unload the Goods there if the authorities in the port of discharge have increased their level of security according to the ISPS Code after the Goods have been loaded.
 - (4) Merchant undertakes to compensate any costs and expenses suffered by Carrier because of a delay of the Vessel resulting from a violation of the ISPS Code by Merchant.
- 14. Freight**
 - (1) Freight shall be deemed fully earned on receipt of the Goods by Carrier and shall be paid and nonreturnable in any event.
 - (2) Freight has been calculated and shall be paid on the basis of particulars furnished by or on behalf of the shipper and the particulars furnished by or on behalf of the shipper are correct, liquidated damages shall be paid to Carrier, in accordance with the applicable tariff.
 - (3) All Freight shall be paid without any set-off or counterclaim unless the claim is not in dispute or confirmed by final court decision.
 - (4) If Merchant fails to pay the Freight when due, it shall be liable for all costs, liquidated damages in accordance with the applicable tariff and in particular interest which accrues until payment.
- 15. Lien**
 - (1) Carrier shall have a lien on the Goods and any documents relating thereto for all sums payable by Merchant to Carrier under this or any other contract and for general average and/or salvage contributions, to whomsoever due. Carrier may exercise its lien at any time and in any place at its sole discretion, whether the contractual Carriage is completed or not. Carrier's lien shall extend to cover the cost and attorneys fees of recovering any sums due. Carrier shall have the right to sell the Goods at public or private sale at the expense and without notice to Merchant. If the proceeds of this sale fail to cover the whole amount due, Carrier is entitled to recover the deficit from Merchant.
- 16. Optional Stowage and Deck Cargo**
 - (1) The Goods may be packed by Carrier in Containers and consolidated with other goods in Containers.
 - (2) The Goods, whether or not packed in Containers, may be carried on deck or under deck without notice to Merchant and Carrier shall not be required to note on the Sea Waybill any statement of on-deck Carriage. All such Goods whether carried on deck or under deck, shall participate in general average and the Carriage of such Goods is subject to all terms and conditions of the Sea Waybill.
- 17. Methods and Routes of Carriage**
 - (1) Carriage shall be at any time and without notice to Merchant:
 - (a) use any means of Carriage or storage whatsoever, including the utilization of railway, road vehicle or inland river services;
 - (b) transfer the Goods from one conveyance to another, including but not limited to transshipping or carrying on another Vessel or conveyance or by any other means of transport than that named on page 2;
 - (c) unpack and remove Goods which have been packed into a Container and forward them in a Container or otherwise;
 - (d) proceed by any route and without notice to the nearest or most direct or customary or advertised route(s), at any speed, and proceed to or stay at any port or place whatsoever, once or more often and in any order;
 - (e) load or unload the Goods at any place or port (whether or not such port is named on page 2 as the Port of Loading or Port of Discharge) and store the Goods temporarily at any place or port whatsoever, once or more often and/or
 - (f) comply with any orders or recommendations given by any government or authority.
 - (2) The liberties set out in this Clause 17 may be invoked by Carrier for any purpose whatsoever, whether in connection with the Carriage of the Goods, including loading or unloading other Goods, bunkering, undergoing repairs, adjusting instruments, picking up or landing any persons. Anything done in accordance with Clause 17 (1) or any delay arising therefrom shall be deemed to be: (i) within the contractual Carriage and shall not be a deviation and (ii) Carrier shall be entitled to full charges and any additional Freight, storage and all other expenses incurred by or on behalf of Carrier, all of which shall be due and owing from Merchant, and Carrier shall have a lien on the Goods for the same.
- 18. Matters Affecting Performance**
 - (1) At any time the Carriage is or is likely to be affected by any hindrance, risk, danger, delay, difficulty or expense of any kind including but not limited to labour disruption such as strike and lock-out, war, civil commotion, political unrest, piracy, act of terrorism and threat thereof and whatsoever arising (even though the circumstances giving rise to such hindrance, risk, danger, delay, difficulty or disadvantage existed at the time this contract was entered into or when the Goods were received for the Carriage), then Carrier (whether or not the Carriage is commenced) may, at its sole discretion and without prior notice to Merchant, either:
 - (i) carry the Goods to the contracted port of discharge or place of delivery, whichever is applicable, by an alternative route to that indicated on page 2 of this Sea Waybill or that which is used for the Goods consigned to that port of discharge or place of delivery and shall be entitled to charge such additional Freight; or
 - (ii) suspend the Carriage of the Goods and store them ashore or afloat and endeavor to forward them as soon as reasonably possible and shall be entitled to charge such storage costs and additional Freight; or
 - (iii) abandon the Carriage of the Goods and place them at Merchant's disposal at any place or port which Carrier may deem safe and convenient, whereupon the responsibility of Carrier in respect of such Goods shall cease. Merchant shall pay any additional costs of the Carriage, to whomsoever due, at such place or port.
- 19. Dangerous Goods**
 - (1) No Goods which are or may become dangerous, inflammable or damaging (including radioactive materials), shall be tendered to Carrier for Carriage without its express consent in writing, and without the Container as well as the Goods themselves being distinctly marked on the outside so as to indicate the nature and character of any such Goods and so as to comply with any applicable laws, regulations or requirements. If any such Goods are delivered to Carrier without such written consent and/or marking, or if in the opinion of Carrier the Goods are or are likely to become of a dangerous, inflammable or damaging nature, they may at any time be destroyed, disposed of, abandoned, or rendered harmless without compensation to Merchant.
 - (2) Merchant warrants that the Goods are sufficiently packed in compliance with all laws or regulations and requirements with regard to the nature of the Goods.
 - (3) Whether or not Merchant was aware of the nature of the Goods, Merchant shall indemnify Carrier against all claims, losses, damages or expenses, costs and fees, including attorneys fees, arising in consequence of the Carriage of such Goods.
 - (4) Nothing contained in this Clause shall deprive Carrier of any of its rights provided for elsewhere in this Sea Waybill.
- 20. Notification and Delivery**
 - (1) Carrier shall be notified of any give notification of the arrival of the Goods to Merchant hereunder.
 - (2) Merchant shall take delivery of the Goods within the time provided for in Carrier's applicable tariff.
 - (a) If Merchant fails to do so, Merchant shall either nominate an alternative receiver or accept a return shipment or organize the cargo disposal, failing which Merchant shall indemnify Carrier for all losses arising out of Merchant's refusal to remedy the situation. Furthermore, Carrier shall be entitled, without notice, to unpack the Goods if packed in Containers and/or to store the Goods ashore, afloat, in the open or under cover, at the sole risk of Merchant. Such storage shall constitute due delivery hereunder, and thereupon the liability of Carrier in respect of the Goods stored as aforesaid shall wholly cease.
 - (b) Merchant shall be responsible for the costs of such storage, as well as detention and demurrage.
 - (3) If Merchant fails to take delivery of the Goods within thirty days of delivery becoming due under Clause 20 (2), or if in the opinion of Carrier they are likely to deteriorate, decay, become worthless or incur losses whether or not storage or otherwise is effected in respect of the Goods, Merchant shall be deemed to have accepted the Goods and shall be liable for all losses and expenses incurred by or on behalf of Carrier, without notice, sell, destroy or dispose of the Goods and apply any proceeds of sale in reduction of the sums due to Carrier from Merchant.
 - (4) Without prejudice to an earlier termination by virtue of law or any other clause of this Sea Waybill the responsibility of Carrier shall cease and the Goods shall be considered to be delivered at their own risk and expense in every respect when taken into the custody of customs or other authorities.
- 21. General Average & Salvage**
 - (1) General average to be adjusted in any currency at any place selected by Carrier and according to the York/Ankara Rules 1994. Any claims and/or disputes relating to general average shall exclusively be subject to the laws and jurisdictions set out in Clause 24. The BIMCO New Jason Clause is hereby expressly incorporated and obtainable from Carrier or its agents upon request.
- 22. Both-to-Blame Collision**
 - (1) The BIMCO Both-to-Blame Collision Clause is hereby incorporated into this Sea Waybill and obtainable from Carrier or its agent upon request.
- 23. Validity and Carrier's Data Protection Policy**
 - (1) In the event that anything herein contained is inconsistent with any applicable international convention or national law which cannot be departed from by private contract, the provisions hereof shall to the extent of such inconsistency but not further be null and void. Unless otherwise specifically agreed in writing between Merchant and Carrier, the terms and conditions of this Sea Waybill supersede any prior agreements between Merchant and Carrier.
 - (2) Carrier's Data Protection Policy may be viewed at www.hilag.com.
- 24. Law and Jurisdiction**
 - (1) Except as otherwise provided specifically herein any claim, dispute, suit or proceeding arising under this Sea Waybill and/or the contract between Carrier and the booking party shall be governed by German law and determined exclusively in the Hamburg courts. Carrier shall have the option to file a suit at Merchant's place of business.

Sea Waybill · Not Negotiable

Sea Waybill · Not Negotiable

Shipper:



Carrier's Reference:

SWB-No.:

Page:

Export References:

Consignee:

Forwarding Agent:

Notify Address (Carrier not responsible for failure to notify):

Consignee's Reference:

Place of Receipt:

Vessel(s):

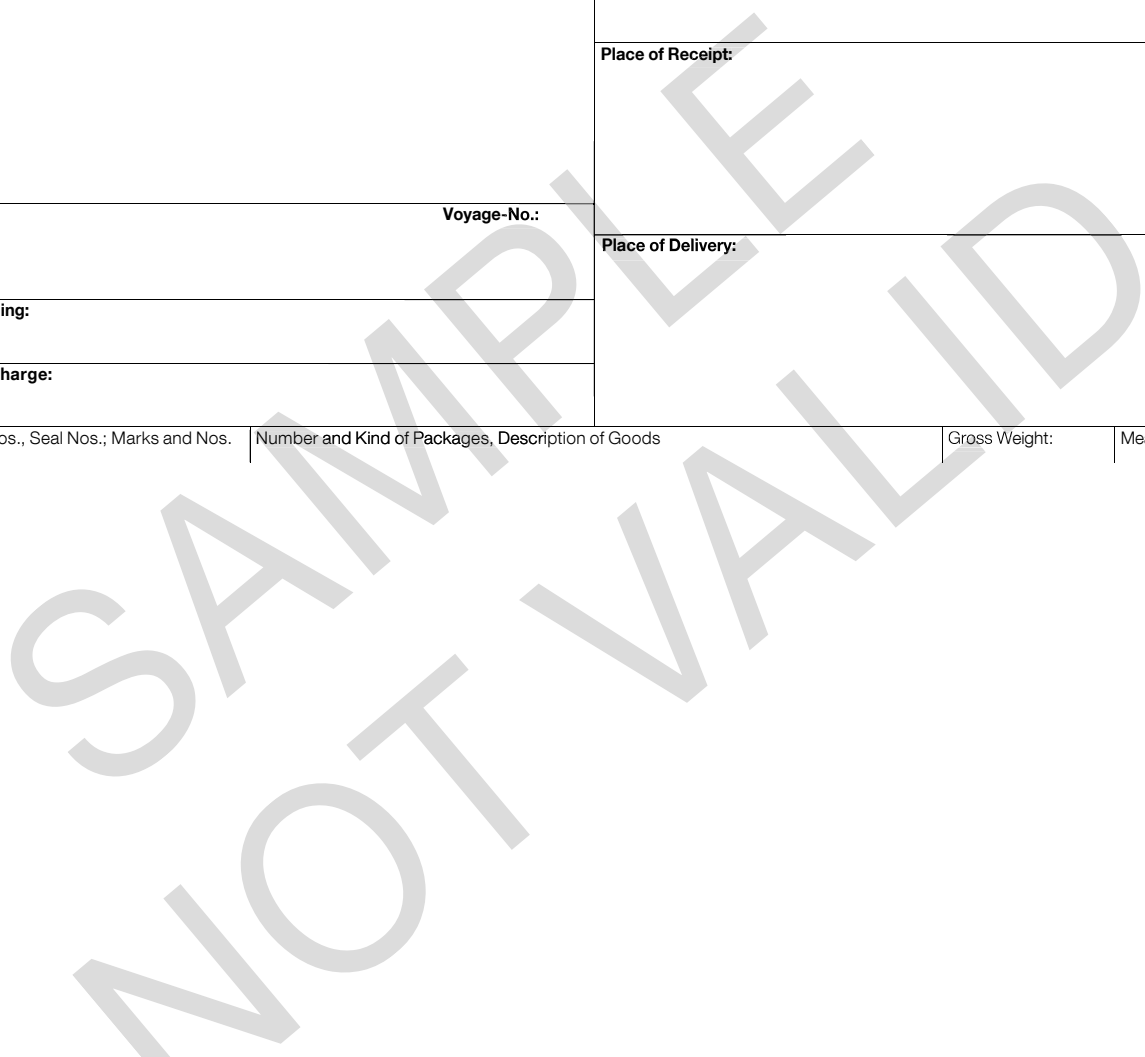
Voyage-No.:

Place of Delivery:

Port of Loading:

Port of Discharge:

Container Nos., Seal Nos.; Marks and Nos.	Number and Kind of Packages, Description of Goods	Gross Weight:	Measurement:
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Shipper's declared Value [see clause 7(2) and 7(3)]

Above Particulars as declared by Shipper. Without responsibility or warranty as to correctness by Carrier [see clause 11]

Total No. of Containers received by the Carrier:	Packages received by the Carrier:
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RECEIVED by the Carrier from the Shipper in apparent good order and condition (unless otherwise noted herein) the total number or quantity of Containers/ other packages or units indicated in the box opposite entitled "Total No. of Containers/ Packages received by the Carrier" for Carriage subject to all the terms and conditions hereof (INCLUDING THE TERMS AND CONDITIONS ON THE REVERSE HEREOF AND THE TERMS AND CONDITIONS OF THE CARRIER'S APPLICABLE TARIFF) from the Place of Receipt or the Port of Loading, whichever is applicable, to the Port of Discharge or the Place of Delivery, whichever is applicable. In accepting this Sea Waybill the Merchant expressly accepts and agrees to all its terms and conditions whether printed, stamped or written, or otherwise incorporated, notwithstanding the non-signing of this Sea Waybill by the Merchant.

Movement:	Currency:
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Charge	Rate	Basis	aWt/Vol/Val	P/C	Amount
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Place and date of issue:

Freight payable at:

Total Freight Prepaid	Total Freight Collect	Total Freight
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Sea Waybill - Not Negotiable

Sea Waybill - Not Negotiable

Internet Sea Waybill Transmission Agreement

between

"User"

and

Hapag-Lloyd Aktiengesellschaft, Ballindamm 25, 20095 Hamburg, Germany "HLAG"

The provisions of this Agreement shall be applicable for the printing of a Sea Waybill ("SWB") via the Internet at the User's premises.

§ 1 General Requirements

- 1.1 In order to print SWBs via the Internet ("Remote Printing"), the User has to first obtain the permission of HLAG. Upon execution of this Agreement and application, HLAG shall assign the User a login ID and password. The login ID and password shall be held strictly confidential.
- 1.2 HLAG bears no obligation to permit the User to participate in Remote Printing.
- 1.3 The User understands that the transmission of SWBs via the Internet and the general use of the Internet medium involves risks and agrees to bear such risks, particularly those caused by interference of unauthorised parties.

§ 2 Issuance of HLAG Sea Waybills

- 2.1 The User agrees to the transmission of SWBs by way of electronic data traffic via the Internet. HLAG shall transmit the relevant data of each SWB to the User for the booked and accepted cargo received for shipment/shipped together with the electronically-prepared SWB form in Adobe Acrobat Portable Document Format (PDF) without any signature. The User shall bear the obligation of printing out onto paper the respective data without undue delay and without making any changes to the data.
- 2.2 The User shall keep the transmitted SWB on file as paper. The User shall not store a copy of the transmitted SWB in his workstation. If it is under technical reasons necessary to store a copy as file the User shall not make any changes to the transmitted data. Once the User has printed the transmitted data the User shall immediately delete the stored copy.
- 2.3 Each transmitted SWB may only be requested and used once by the User. Only the SWB available for download from the HLAG homepage shall be deemed as the final, legally binding version.
- 2.4 The electronic SWB is only available in Adobe Acrobat Portable Document Format (PDF) to the User for transmission. If it is not requested within four weeks of being made available, a transmission will no longer be possible due to technical reasons; a claim for the issuance of an SWB shall expire.
- 2.5 A User request for the issuance of an SWB in a manner other than via the Internet must first have the agreement of HLAG.

§ 3 User's Obligations

- 3.1 The User shall ensure that its Internet terminal equipment and server work properly. The User may not raise claims against HLAG based on a malfunctioning or non-functioning of the User's Internet terminal equipment or server.
- 3.2 The User shall ensure that the login ID and the password are held strictly confidential at all times and that only authorised persons may use them. The User shall notify HLAG immediately upon knowledge or suspicion of the use or disclosure of the login ID and/or of the password to unauthorised parties. The User shall further notify HLAG in the event of suspicion of use by unauthorised parties of the communication facilities for data traffic with HLAG.
- 3.3 The User shall provide or procure at its own expense terminal communication equipment, printers, software, telecommunications and other hardware necessary for electronic data exchange with HLAG on the above mentioned basis.

§ 4 HLAGs Obligations

- 4.1 HLAG shall notify the User immediately if it reasonably and strongly suspects that unauthorised parties are using the User's terminal communications equipment or communicating with HLAG under the User's login ID or password. In such a case, HLAG shall be further entitled to stop transmission of data to the User immediately. The bar shall be removed as soon as the grounds for suspicion have been dispelled.
- 4.2 If the User's terminal communication equipment is disrupted HLAG shall transmit the SWB by different means, i.e. by fax.
- 4.3 HLAG shall ensure that no unauthorised parties can manipulate the HLAG's SWBs through HLAG's terminal communication facilities.

§ 5 Time Limitations

- 5.1 Planned standstill periods affecting the electronic exchange of messages shall be notified to the other contracting party in good time.
- 5.2 Unplanned standstill periods (e.g. owing to interference) shall also be notified, if possible, to the other contracting party immediately.

§ 6 Acknowledgement of Receipt

- 6.1 HLAG is entitled but not obligated to demand a separate confirmation of receipt of the SWB from the User. In such a case, the confirmation shall be sent immediately. HLAG may determine the means of transmission of the User's confirmation of receipt (fax, telex, Internet).

§ 7 Legal Validity of Electronically Exchanged Data, Probative Value

- 7.1 Neither party may assert that the sent data and received documents are legally invalid simply because they were produced and transmitted or called up electronically. This Agreement, however, shall apply only to the transmission of SWB data, including the SWB form.

7.2 The parties agree that the electronic documents which are transmitted under this Agreement shall have the same conclusive value as written documents. Therefore, the parties undertake not to dispute the probative value of the electronic documents under this Agreement before arbitration courts, courts of ordinary jurisdiction or out of court.

§ 8 Transmission Risk, Liability

8.1 The User shall bear the burden of proof for any inaccuracy of the data received by HLAG.

8.2 The User shall bear the risk of any inference by third parties with the data exchange affecting the accuracy of the received data. Both parties shall record all messages electronically in such a manner that they are complete, chronological, identifiable, protected from manipulation and safe from being deleted or overwritten. At the request of the other party, the contents of the recording must be made readable and available within a reasonable period of time.

8.3 HLAG's liability arising out of and in connection with this Agreement is limited to damage to the User's property caused intentionally or by gross negligence. Claims for indirect damages caused by the negligence of HLAG or its employees or agents are hereby excluded.

§ 9 HLAG Terms and Conditions of Business

9.1 Shipments shall be governed by HLAG's respective special terms and conditions of business; in particular the "Sea Waybill Terms and Conditions" attached which form part of this contract ([see Annex 1](#)).

9.2 Communication via the Internet shall be governed by the "TERMS AND CONDITIONS OF THE USE OF THE WEBSITE OF HAPAG-LLOYD AKTIENGESELLSCHAFT AND ITS GROUP COMPANIES" which can be viewed on www.hapag-lloyd.com Legal terms.

§ 10 Term, Termination

10.1 This Agreement shall take effect on the date of its signing.

10.2 The parties herewith acknowledge and agree that the Agreement shall run for an indefinite period of time. Each party shall have the right to terminate the Agreement upon thirty (30) days period of notice to the other party. The notice must be given in writing. The validity of the individual contract shall not be affected by the termination of this Agreement.

§ 11 Choice of Law, Place of Jurisdiction

11.1 This Agreement shall be governed by the laws of Germany.

11.2 If the User is a merchant, the courts of Hamburg shall have exclusive jurisdiction over claims arising from and in connection with this Agreement. In case HLAG intends to sue the User HLAG shall have also the option to file a suit at the Users place of business.

§ 12 Miscellaneous

- 12.1 Notices of termination, subsidiary agreements, supplements and amendments of this Agreement shall be made in writing.
- 12.2 Should any provision of this Agreement be or become invalid in whole or in part, the legal validity of the other provisions of this Agreement shall not be affected. The invalid provision shall be replaced by a provision, the economic result of which corresponds or comes as close as possible to the purpose pursued by the invalid provision.

Hapag-Lloyd**Customer**

(Place)

(Place)

(Date)

(Date)

Hapag-Lloyd Aktiengesellschaft

(Full Name of Customer)

(Or "For as agent")

(Signature)

(Print Name)

(Print Name)

(Position / Status)