

# OCEAN BILL OF LADING

## Standard Terms of Carriage

### 1. DEFINITIONS AND INTERPRETATION.

(a) In this Bill of Lading, the following terms shall have the meaning ascribed to them below:

**“Carriage”** means the whole of the carriage, handling and storage of Goods, and other operations and services undertaken or performed by or on behalf of the Carrier in respect of the Goods.

**“Carrier”** means the company stated on the front of this Bill of Lading as being the Carrier and on whose behalf this Bill of Lading has been signed (whether Marine Shipp Fast Ltd or any of its respective subsidiaries jointly or severally operating as “Ship4WD”).

**“Charges”** includes freight, dead freight, demurrage, detention, and all expenses and other money obligations incurred and payable by the Merchant with respect to the Carriage or otherwise under the applicable tariffs or this Bill of Lading.

**“COGSA”** means the Carriage of Goods by Sea Act of the United States of America approved on 16th April 1936, as amended from time to time.

**“Container”** includes any container, trailer, transportation tank, pallet, or any similar article of transport used to hold or consolidate goods.

**“Freight Unit”** means any piece of cargo not shipped in a package, and includes the term “customary freight unit” as used in COGSA and the term “unit” as used in the Hague Rules, the Hague-Visby Rules, or any national legislation adopting the Hague Rules or the Hague-Visby Rules.

**“Goods”** means the cargo described on the face of this Bill of Lading and, if the cargo is on, in or otherwise Stuffed into Containers supplied or furnished by or on behalf of the Merchant, includes the Containers.

**“Goods Details”** shall mean any and all details and information regarding the Goods, including the description, kind, nature, content, weight, measure, quantity, condition, marks, numbers, and value.

**“Governmental Authority”** includes, any national, federal, state, provincial, local, and other governments and any government corporations, authorities, boards, commissions, ports, bodies, and entities.

**“Hague Rules”** means the provisions of the International Convention for Unification of Certain Rules Relating to Bills of Lading signed at Brussels on 25th August 1924.

**“Hague-Visby Rules”** means the Hague Rules as amended by the protocol signed at Brussels on 23rd February 1968.

**“Harter Act”** means 46 U.S.C. § 30702, et seq., as amended and recodified from time to time.

**“include”, “including”** and similar terms shall be construed as if followed by the words “but not limited to.”

**“Law”** means all present and future laws, statutes, codes, rules, regulations, ordinances, orders, decrees, judgments, directives or the equivalent, and all international conventions and treaties to the extent applicable by the terms of this Bill of Lading, including without limitation the SOLAS Rules.

**“Merchant”** includes, severally and jointly, the shipper, the consignor, the consignee, the receiver of the Goods, the holder of this Bill of Lading, any Person owning or entitled to the possession of the Goods or 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 Persons.

**“Participating Carrier”** means any other carrier by water, land or air, performing any stage of the Carriage.

**“Person”** includes any individual, corporation, partnership, joint venture, association, trust or Governmental Authority.

**“SOLAS Rules”** means the requirements established under the International Convention for the Safety of Life at Sea, 1 November 1974, 1184 UNTS 3 as codified or amended from time to time, including any national legislation adopting SOLAS Rules and the amendment to regulation VI/2 (requiring the mandatory provision of the verification of the gross mass of packed containers and the Guidelines regarding the verified gross mass of a container carrying cargo (MSC.1/Circ.1475).

**“Stuffed”** includes filled, consolidated, packed, loaded, or secured, and references to “Stuffed” include placing in or on the relevant Container.

**“Vessel”** means the vessel named on this Bill of Lading and any other vessel, ship, barge, lighter, watercraft, or other means of transport, which is or may be substituted, in whole or in part, for such vessel.

**(b)** Captions of sections of this Bill of Lading are inserted for convenience only and shall not be deemed a part hereof or affect the interpretation hereof.

**(c)** Whenever reference is made to Carrier’s approval, consent or any other arrangement involving Carrier, such agreement, approval, arrangement, or consent shall not be binding upon Carrier unless made in writing and, at Carrier’s sole discretion, signed by a duly-authorized representative thereof.

## **2. TARIFFS.**

The provisions of the Carrier’s applicable Tariff, if any, are incorporated herein. Copies of such provisions are obtainable from the Carrier upon request or, where applicable, from the Federal Maritime Commission or any other government body with whom the Carrier’s Tariff has been filed. Merchant is deemed to know and accept such Tariff. In the case of inconsistency between this Bill of Lading and the applicable Tariff, this Bill of Lading shall prevail.

## **3. MERCHANT WARRANTY.**

Merchant warrants to Carrier that he is the Person owning or entitled to the possession of the Goods or a Person who has a present or future interest in the Good, or is the agent of such person with full authority to act on behalf of such Person in connection herewith.

#### **4. CARRIER RESPONSIBILITY – GENERAL PROVISIONS.**

**(a)** If the Carriage is to or from the United States, or if a Law other than United States Law is not compulsorily applicable, COGSA shall govern before loading and after discharge and during the entire time between the time the Goods are received from the Merchant and until redelivered thereto, unless otherwise required by the Harter Act or by other applicable United States Law.

For Carriage that is not to or from the United States, the Hague Rules (or compulsorily applicable national Law implementing the Hague Rules) shall govern Carrier's liability, limits on liability, and exemptions for loss, damage, or delay related to or in connection with the Goods, except where the Hague-Visby Rules are compulsorily applicable Law, in which case the Hague-Visby Rules shall govern such liability, limits on liability, and exemptions.

**(b)** Merchant acknowledges and agrees that the Carrier is a non-vessel owning common carrier (NVOCC), that it does not own, lease, charter, or operate Vessels or other modes of transportation, or engage in cargo handling or storage. Accordingly, Carrier will, in its sole discretion and on any terms whatsoever, subcontract with other Persons to transport, handle or store cargo to accomplish all or part of the Carriage. Merchant agrees to be bound by the limitations on, and exemptions from, liability and all other terms that are contained in the tariffs, bills of lading, and other contractual documents by which such other Persons are engaged to perform all or part of the Carriage. Such other Persons shall enjoy the benefit of all of Carrier's rights with respect to the Goods and the Carriage. The Merchant authorizes Carrier to be deemed as a beneficiary of the tariffs, contracts of carriage, bills of lading, and other contractual documents of such other Persons and of all limitations of, and exemptions from, liability and all other terms therein contained even if the Carrier acts as agent of the Merchant in contracting with the actual Person for the Carriage of the Goods. Under no circumstances, including instances of neglect or default shall the Carrier be responsible for any damages to an extent greater than it can recover from the actual Person engaged to perform all or part of the Carriage or any beneficiaries of its bill of lading.

**(c)** Notwithstanding any other provision of this Bill of Lading, Carrier shall be entitled to the full benefit of, and rights to, all limitations of and exclusions from liability and all rights conferred or authorized by any applicable Law of any country and without prejudice to the generality of the foregoing also all Laws available to the owner of the Vessels on which the Goods are carried.

**(d)**The Carrier undertakes to procure such other Person services as necessary and shall have the right at its sole discretion to select the identity of land, sea, or air transport provider and to arrange, on any terms whatsoever, participation by other Persons who handle or store cargo, or provide other services, to accomplish the total or any part of the Carriage between the Place of Receipt and the Place of Delivery as shown on this Bill of Lading.

**(e)**If the stage of Carriage during which loss of or damage to the Goods occurred cannot be proved, but it is proven that such loss or damage occurred during Carriage, then the loss or damage shall be deemed occurred while the Goods were on the Vessel, and all obligations, rights, and immunities of Carrier and Merchant with respect to such loss or damage shall be determined accordingly.

**(f)**Without limitation to the provision of Clause 19, the rights, defenses, exemptions and limitations of liability of whatsoever nature provided for in this Bill of Lading shall apply in every action or proceeding against the Carrier, its agents or servants, Participating Carriers, independent contractors, or other Persons engaged to perform all or part of the Carriage, whether in tort, contract, or otherwise.

**(g)**Services performed by Carrier as to Goods before their receipt by or for Carrier at the Place of Receipt shown on this Bill of Lading or after their delivery by or for Carrier at the Place of Delivery shown on this Bill of Lading, were or shall be performed solely as agent for the Merchant, and Carrier shall have no responsibility or liability as a Carrier for any acts or omissions of any Persons or loss of or damage or delay to the Goods during such periods.

## **5. CARRIER RESPONSIBILITY – LIMITATIONS.**

### **(a) Customary Package and Freight Unit Limitations.**

**(i)**Where COGSA applies to this Bill of Lading, Carrier shall not be liable for loss or damage in an amount exceeding US \$500 per package, or in case of Goods not shipped in packages, per Freight Unit, unless a higher declared value has been made and noted, and extra Charges paid, in accordance with Clause 5(b) hereof.

**(ii)**Where COGSA does not apply, but where the Hague Rules, Hague-Visby Rules, or any legislation making such rules compulsorily applicable to this Bill of Lading, apply, Carrier shall not be liable for loss or damage to or in connection with the Goods in an amount exceeding the package or Freight Unit limitation as laid down by such Rules or legislation, unless a higher declared value has been made and noted, and extra

Charges paid, in accordance with Clause 5(b) hereof. If no limitation amount is applicable under such Rules or legislation, the limitation shall be US \$500 per Freight Unit.

**(iii)** Where neither COGSA, nor the Hague Rules, nor the Hague-Visby Rules, nor any legislation applying such Rules is compulsorily applicable, Carrier's liability shall not exceed US\$500 per Freight Unit or US\$2 per kilo of the gross weight of the Goods lost, damaged, or in respect of which the claim arises, or the value of such Goods, whichever is less.

**(iv)** Where a lesser monetary limitation is applicable, such as during handling by a Participating Carrier or independent contractor and damage occurs during its or their period of care, custody, control, and/or responsibility, the Carrier shall also be subject to such lesser limitation.

**(v)** Where a Container is used to consolidate Goods and such Container is Stuffed by Carrier, the number of packages or Freight Units stated on the face of this Bill of Lading shall be deemed the number of packages or Freight Units for the purpose of any limit of liability per package or Freight Unit provided herein or in applicable Laws to the Carriage of Goods by sea. Except as aforesaid the Container shall be considered the package or Freight Unit. As to Goods shipped in bulk the limitation applicable thereto shall be the limitation provided in such Law which may be applicable and in no event shall anything herein be construed to be a waiver of limitation as to Goods shipped in bulk.

**(b) Declared Value Goods Limitations.**

Merchant acknowledges that Carrier's regular rates and charges are based on the assumption that Carrier's responsibility for loss or damage to the Goods, will be limited to the limited value of the Goods as agreed herein.

If prior to the delivery of any certain Goods to Carrier, Merchant declares in writing that the value of such Goods is higher than the limited value agreed herein, such higher value is stated in the front of this Bill of Lading and all extra freight, premiums, and other Charges requested by Carrier in connection thereof ("ad valorem charges") are paid – then Carrier's liability may be increased to the higher value declared and stated in the front of the Bill of Lading as aforesaid. In such case, the value of the Goods shall be deemed to be the declared value and Carrier's liability, if any, shall not exceed the declared value (even if the actual value of the Goods shall exceed such declared value) and any partial loss or damage shall be adjusted pro

rata on the basis of such declared value.

Unless the Merchant so declares the value of the Goods and pays the ad valorem charges, the Merchant is deemed to have elected the regular, lower charges of Carrier, and to have agreed that, for purposes of computing any liability of Carrier, the limitations of liability set forth in Clause 5(a) hereof shall apply.

Without derogating from the generality of the foregoing, the Carrier shall not be liable to any extent for any loss or damage to or in connection with gold, silver, jewelry, precious stones or metals, currency, securities, documents, works of art, or any other valuable Goods whatsoever, including Goods having particular value only for the Merchant, unless the true nature and value of the Goods have been declared in writing by the Merchant as aforesaid and inserted in this Bill of Lading and the ad valorem charges in respect thereto have been paid.

**(c) Fire Exemption.**

Carrier shall not be liable for any loss or damage to Goods occurring at any time (including before loading on or after discharge from the Vessel) by reason or by means of any fire, wherever and howsoever occurring, unless such fire shall have been caused by willful misconduct of the Carrier or anyone on its behalf.

**(d) Third Party Custody of Goods.**

Any other provision hereof to the contrary notwithstanding, it is agreed that (i) Carrier shall not be liable in any capacity whatsoever for any delay, non-delivery, mis-delivery, loss, or damage to the Goods occurring while the Goods are not in the actual possession of Carrier or of Carrier's agents and (ii) if Merchant directs that any Goods be moved to a facility or the premises of any other third-party, and Goods are thereafter lost, stolen, or damaged, in whole or in part, while under the care, custody, or control of such third party or by a carrier that transports the Goods, Carrier shall have no liability for any such loss or damage whatsoever. If Merchant asserts a claim for such delay, non-delivery, mis-delivery, loss, damage, or any fault or negligence, and Carrier is required to defend against a claim or pay any claim related thereto, Merchant shall defend, indemnify and hold harmless the Carrier with respect thereto.

## **6. ROUTES AND DEVIATION.**

**(a)** Carrier does not warrant any specific route, Vessel, method of transport, or delivery date.

**(b)**Carrier, at its sole discretion, may carry the Goods on or under deck and choose or substitute the means, route, and procedure to be followed in the handling, stowage, storage, and transportation of the Goods, including deviations for purposes not directly necessary for a prompt accomplishment of the Carriage.

**(c)**Without derogating from the foregoing, in any case, whether or not existing or anticipated prior to or during Carriage of any Goods, in which Carrier or any Participating Carrier determines, at its sole discretion, that:

**(i)**Carriage of any Goods has given or is likely to give rise to danger, injury, loss, risk, or any nature to the Vessel, any vehicle or other means of transport, the Carrier, any other Person, the Goods, or any other property;

**(ii)**a Participating Carrier intended to be used for the Carriage suspends service for all or part of the intended Carriage;

**(iii)**the Carrier or the Carriage is adversely affected by a circumstance caused by: the existence or apprehension of war, hostilities, warlike or belligerent acts, riots, civil commotions, or other disturbances; blockade of port or place or prohibition of or restriction to commerce or trading; embargo; piracy; quarantine, sanitary, or other similar regulations or restrictions; strikes, lockouts, or other labor troubles whether or not involving employees of the Carrier or its subcontractors; congestions; epidemics, pandemics, or diseases; or bad weather, including shallow water, ice, landslip, or other obstacles in navigation;

**(iv)**any Person constituting the Merchant files or becomes subject to proceedings in bankruptcy, receivership, or insolvency, to an assignment for the benefit of creditors, or any other similar proceeding or transaction;

**(v)**Any representation or warranty given by Merchant pursuant hereto or information provided by Merchant in connection with this Bill of Lading, is found to be not fully true, accurate or complete;

**(vi)**any Person constituting the Merchant is a "blacklisted" entity or Person and/or is suspected to be in violation of certain International sanctions or, with business dealings with sanctioned countries.

**(vii)**Goods are seized, executed against, detained, or acquired by a Governmental Authority or pursuant to any order thereby; or



**(viii)** it is, or it is likely to become in any way unsafe, impracticable, unlawful, or against the interest of the Carrier or the Merchant to commence or continue the Carriage or to discharge the Goods at the intended port, or to transport the Goods by the route or in the manner originally intended by the Carrier; then the Carrier shall be entitled, at its sole discretion, without prior notice to Merchant to take any of the following steps: terminate the Carriage; store the Goods in any place; forward the Goods; unpack Goods from their Containers; or dispose of the Goods in such way as the Carrier may deem advisable (in the latter case, Carrier shall notify Merchant, to the extent reasonably possible, prior to disposal of Goods). Without limiting the foregoing, in any such case, carrier may:

**(A)** before the Goods are loaded on the Vessel or other mode of transport, to cancel this Bill of Lading without incurring liability to the Merchant or any other Person, and to require the Merchant to take delivery of the Goods, and upon Merchant's failure to do so, to store the Goods anywhere or dispose thereof;

**(B)** if the Goods are at a place awaiting for shipment, Carrier shall be entitled to terminate the Carriage there and to store the Goods at any place selected by the Carrier, transship or forward the Goods to an alternative destination, including to an alternative recipient designated by the relevant vendor;

**(C)** if the Goods are loaded on the Vessel or other mode of transport, Carrier shall be entitled to discharge the Goods or any part thereof at any port or place selected by the Carrier and there discharge them; and

**(D)** impose surcharges to cover all extra expenses (including extra insurance premiums and cost of diversion).

If any action is taken by Carrier pursuant to Clauses (A)-(D), then completion of such action shall constitute complete and final delivery and full performance of this Bill of Lading, and the Carrier thereafter shall be freed from any responsibility hereunder.

**(d)** If the Carrier makes arrangements to store, transship, or forward Goods, it shall do so at the sole risk and expense of the Merchant and the Merchant shall immediately reimburse the Carrier forthwith all extra freight Charges and other extra expenses thereby incurred.

**(e)** The Carrier shall be entitled to comply with orders or regulations (including voluntary ones) regarding the Carriage or any part thereof, given by any

Governmental Authority or by any other Person having, under the terms of any insurance on the Vessel or the Goods, the right to give such order or regulations.

**(f)** As soon as reasonably practicable after exercising, or becoming aware of any Person who fulfills any part of the Carriage exercising, any right pursuant to this Clause 6, Carrier shall give notice thereof to Merchant.

**(g)** Without limiting any of Merchant's obligations under this Bill of Lading or any Law, Merchant shall defend, indemnify, and hold harmless the Carrier against all losses and liabilities incurred by the Carrier as a result of the circumstances referred to in this Clause 6.

## **7. MERCHANT'S RESPONSIBILITY.**

**(a)** The Goods Details set forth on the front of this Bill of Lading and any Goods Details or other representation appearing on the Goods, Containers, or other packages or documents relating thereto, are furnished by the Merchant, and the Merchant warrants to the Carrier the accuracy and completeness of all such information including without limitation all verified gross mass requirements under the SOLAS Rules.

**(b)** Merchant warrants that it has complied, and will continue to comply, with all applicable Laws and requirements of ports and other authorities and shall bear and pay all duties, taxes, fines, imposts, expenses, and losses incurred or suffered by reason thereof or by reason of any illegal, incorrect, or insufficient marking, numbering, addressing, or any other Goods Details.

**(c)** Merchant warrants that the Goods are packed in a manner adequate to withstand the ordinary risks of carriage having regards to their nature and in compliance with all applicable Laws.

**(d)** Merchant shall be liable for the loss, damage, contamination or detention before, during, and after the Carriage of Goods (including Containers) of Carrier or any Person or Vessel that is caused by Merchant or any Person acting on Merchant's behalf or for which Merchant is otherwise responsible.

**(e)** Payment of any amounts due hereunder to a forwarder, broker, or any Person other than Carrier or its duly authorized agent shall not be deemed payment to Carrier and shall be made at the payer's risk. Unless specifically agreed otherwise in writing by Carrier, any amount payable by Merchant under this Bill of Lading or in

connection herewith, is due upon Carrier's demand. Any such amounts not paid when due, shall bear a late payment interest at a rate of the lower of: (i) one and one half percent (1.5%) per month (19.56% per annum); or (ii) the maximum late interest rate permitted under applicable law.

## **8. DANGEROUS GOODS.**

**(a)** Merchant warrants that any and all Goods are not, and shall not become, of an explosive, inflammable, radioactive, corrosive, hazardous, poisonous or any other dangerous nature, and agrees that such Goods shall be transported only upon the Carrier's prior express written consent (which consent may be withheld in Carrier's sole discretion). Without derogating from Carrier's sole discretion as aforesaid, such consent will not be given unless a written application for receipt thereof is received in advance by Carrier, which application must accurately state the nature, name, label, and classification of the Goods and all certificates and other documents required by Law for carriage of such Goods.

In any case, Merchant shall not tender for shipment any Goods which the holding or transporting thereof may be illegal pursuant to any Applicable Law.

**(b)** Merchant shall ensure that the nature of the Goods referred to in the preceding paragraph, if and to the extent approved by Carrier as aforesaid, is distinctly and permanently marked on the outside of their packages and Containers.

**(c)** If any Goods are discovered to have been received by the Carrier and the Merchant has not fully complied with Clauses 8(a) or 8(b) above, or if any Goods are found to be illegal or prohibited by any applicable Laws, the Carrier shall be entitled to have such Goods rendered innocuous, thrown overboard, discharged, or otherwise disposed of at the Carrier's discretion without liability, and the Merchant shall be liable for and shall indemnify the Carrier against all loss, damage, and liability, including general average and loss of freight and other Charges, and any other expenses directly or indirectly arising out of or resulting from such Goods or any action by Carrier authorized herein with respect to such Goods.

## **9. CONTAINERS.**

**(a)** Carrier shall not be liable for loss or damage to the Goods Stuffed in Containers, caused by: (i) the manner in which the Container has been Stuffed; (ii) in case of Containers not received from or on behalf of the Carrier – the unsuitability of the Goods for carriage in such Containers or the unsuitability or defective condition of

the Container itself; or (iii) the Container not being sealed at the commencement of the Carriage, except where Carrier has expressly agreed in writing to seal the Container.

**(b)**Regarding Containers Stuffed by Carrier – this Bill of Lading is prima facie evidence of the receipt only of the number of packages, Freight Units, or Containers as shown on the front hereof. As to Containers not stuffed by Carrier, this Bill of Lading is conclusive evidence of such matters. It is understood that in all cases, the nature, order, and condition of the contents and any Goods Details are unknown to the Carrier, who has no responsibility in respect thereof.

**(c)**If the Containers are delivered by the Carrier with seals intact, such delivery shall be deemed as full and complete performance of the Carrier's obligation hereunder and the Carrier shall not be liable for any loss of or damage to the contents of the Containers except to the extent that the Containers have been penetrated while in the custody of Carrier under circumstances for which it is liable. In case the seals of Containers are broken by Governmental Authorities or other authorities for inspection of the contents of the Containers, the Carrier shall not be liable for any loss, damage, expenses, or any other consequences arising or resulting therefrom.

**(d)**Carrier is hereby granted a right to open all Containers and inspect the contents of thereof without notice to the Merchant at such times and places as the Carrier may deem appropriate, and all expenses incurred therefrom shall be reimbursed to the Carrier or borne directly by the Merchant.

**(e)**Merchant shall promptly return all Containers received by or on behalf of Carrier, in the same order and conditions as handed over to Merchant (normal wear and tear excluded), with interiors clean, failing which, detention charges or other charges may apply.

## **10. SPECIAL SHIPPING REQUIREMENTS.**

**(a)**Carriage under this Bill of Lading of any Goods which require Containers with temperature, humidity, ventilation or any other sort of control ("Controlled Containers") is prohibited, unless approved in advance and in writing by Carrier and payment of additional freight fees is settled. If such approval is obtained, the exact nature of such Goods and the particulars of Carriage required (e.g. temperature) shall be inserted in the front of this Bill of Lading. If such approval from Carrier is not

obtained, Carrier may treat the Goods or Containers containing same, as ordinary Goods or Containers, respectively.

**(b)** If such Goods were Stuffed by or on behalf of Merchant in Controlled Containers, Merchant further warrants that such Containers have been delivered to the Carrier at the proper internal control conditions; and their controls have been properly set by Merchant before receipt of the Goods by Carrier.

**(c)** If the Goods have been packed into Controlled Containers by the Carrier and the particular temperature, humidity or other control range requested by the Merchant is inserted in the Bill of Lading, then Carrier will use due diligence to set the controls within the requested ranges but does not guarantee the maintenance of such conditions inside the Containers. The Carrier shall not be liable for any loss or damage caused in whole or in part by defects or insufficiency, breakdown or failure of any refrigeration, heating, cooling, humidity control, ventilation, or other control unit, including lack of fuel or other power or interruption in fuel or other power supply for any reason, unless shown to have been caused by the failure of the Carrier to exercise due diligence to set the controls of the controlled Containers as aforesaid.

**(d)** The Merchant should note that, in any case, refrigerated Containers are not designed

**(i)** to freeze down cargo which has not been presented for stuffing at or below its designated carrying temperature and the Carrier shall not be responsible for the consequences of Goods being presented at a higher temperature than that required for the Carriage; nor

**(ii)** to monitor and control humidity levels, albeit a setting facility exists, in that humidity is influenced by many external factors and the Carrier does not guarantee the maintenance of any intended level of humidity inside any Container.

**(e)** The term "apparent good order and condition" when used in this Bill of Lading with reference to goods which require refrigeration, ventilation or other specialised attention does not mean that the Goods, when received, were verified by the Carrier as being at the carrying temperature, humidity level or other condition designated by the Merchant.

## **11. STORAGE OF CARGO.**

**(a)**The Carrier has the right to carry the Goods in Containers under the deck or on deck, whether or not so stated herein.

**(b)**Goods may be stowed in deck house, shelter deck, passenger space, or any other covered space commonly used in the trade and suitable for the carriage of Goods, and when so stowed shall be deemed for all purposes to be stowed under deck.

**(c)**When the Goods are carried on deck, the Carrier shall not be required to specially note, mark, or stamp any statement of on deck stowage on the face hereof, any custom or usage to the contrary notwithstanding. Carrier shall not be liable in any capacity whatsoever for any non-delivery, mis-delivery, delay, or loss of or damage to Goods which are carried on deck and specially stated herein to be so carried, whether or not caused by Carrier's negligence, or other reasons.

## **12. LIVE ANIMALS AND PLANTS, PERISHABLES.**

The Carrier shall not be responsible for any accident, disease, mortality, loss, injury, or damage to live animals, birds, fish, plants (including fruits and vegetables), or other perishable Goods arising from any cause whatsoever.

## **13. DELIVERY.**

**(a)**Carrier may discharge the Goods direct as they come to hand, at or onto any dock, wharf, or place that the Carrier may select, on any day and at any time, as the Carrier may determine at its sole discretion.

Any landing and delivery Charges, pier dues and Charges incurred due to any lighterage or use of craft in loading or discharging shall be paid by Merchant in addition to freight.

**(b)**Delivery of the Goods shall be received by the consignee directly from the ship's tackle as the Goods come to hand in unloading or as soon as available if discharged on Carrier's dock or wharf.

If the Goods are not taken away by the proper recipient by the expiration of the next working day after the Goods are at Merchant's disposal, Carrier will be entitled to place the Goods in storage or leave them where landed. In any such case Merchant will be solely responsible for any risk to the Goods and for payment of all expenses related thereto.

**(c)** Any and all responsibility of the Carrier for Goods taken into custody of customs or other Governmental Authorities, shall automatically cease, and such Goods be deemed delivered, upon such taking into custody. The Carrier shall not be required to give any notification of delivery or disposition of the Goods.

**(d)** In case the Goods received by Carrier are in Containers Stuffed by or on behalf of the Merchant, the Carrier shall only be responsible for delivery of the total number of Containers shown on the face of this Bill of Lading, and shall not be required to unpack the Containers, unless agreed otherwise in writing by Carrier at least three days prior to the scheduled date of arrival of the Vessel at the port of discharge. Subject to such Carrier agreement and the terms thereof, Containers may be unpacked and the contents thereof may be delivered by the Carrier in accordance with the written instructions of Merchant, if approved by Carrier.

**(e)** In case the Goods have been stuffed into Containers by the Carrier, the Carrier may unpack the Containers and deliver the contents thereof. Goods may be delivered to the Merchant in Containers, in which case if the Containers are delivered by the Carrier with seals intact, such delivery shall be deemed as full and complete performance of the Carrier's obligations hereunder and the Carrier shall not be responsible for any loss of or damage to the contents of the Containers.

**(f)** The Merchant warrants to the Carrier that the marks on the Goods and Containers shall correspond to the marks shown on the face of this Bill of Lading and also in all respects comply with all the Laws in force at the place of discharge and place of delivery.

## **14. CHARGES.**

**(a)** Full freight to the port of discharge or place of delivery named on the face of this Bill of Lading, shall be prepaid or shall be collected at destination. In any event, the Carrier shall be entitled to all freight and other Charges due hereunder, including in case that the Vessel or the Goods are damaged or lost, or the Carriage is interrupted or abandoned. Full freight shall be paid for damaged, destroyed, or unsound Goods.

**(b)** Charges shall be deemed due and payable on receipt of the Goods by Carrier and shall be non-returnable in any event. At Carrier's option, Charges may be calculated on the basis of the Goods details furnished by the Merchant. In case of any missing, incorrect or incomplete declaration of any of the Goods Details, including all verified gross mass requirements for the Goods as required under the

SOLAS Rules, the Merchant shall be liable for and shall immediately pay to the Carrier the sum of: (i) the balance of freight between the freight charged and that which would have been due had the correct Goods Details been given; (ii) as and by way of liquidated and ascertained damages, a sum equal to the correct freight, and (iii) any additional costs or expenses incurred by Carrier including detention, demurrage and additional re-weighing or verification fees.

Without derogating from Merchant's responsibility for Goods Details as aforesaid, Carrier may request the commercial invoice(s) for the Goods or true copy thereof and to inspect, re-weigh, re-count, re-measure, and re-value the Goods, and if any Goods Details are found by Carrier to be incorrect, Merchant shall pay Carrier the correct Charges and reimburse it for all expenses incurred by Carrier in establishing the correct Goods Details.

**(c)** The payment of freight or other Charges shall be made in full, in cash without any offset, recoupment, abatement, counterclaim, or deduction. Where freight is payable at the Port of Discharge or Place of Delivery, such freight and all other Charges shall be paid in the currency named in this Bill of Lading or, at Carrier's request, in other currency.

**(d)** Goods received by the Carrier cannot be returned or transferred to Merchant or vendor of the Goods, unless agreed by Carrier and subject to payment of full freight and indemnification for any loss or expense sustained by the Carrier due to such return or transfer.

**(e)** If the Goods are not available for Carriage when the Vessel is ready to load, than the Carrier shall be deemed relieved of any obligation to load such Goods to the Vessel prior to its leaving port, and dead freight shall be paid by the Merchant.

**(f)** The Merchant shall be liable for, and indemnify the Carrier against any and all: (i) dues, duties, imposts, taxes, and charges on the Goods; (ii) fines and losses sustained or incurred by the Carrier in connection with the Goods; and (iii) expenses incurred by Carrier due to the seizure of Goods by judicial or nonjudicial means, by a Governmental Authority.

**(g)** The Merchant shall be liable for return freight and Charges on any Goods refused exportation or importation by any Governmental Authorities.



**(h)** If the Carrier, at its sole discretion, deems that any Goods need sorting, inspecting, bailing, repackaging or reconditioning or require other protection or care, the Carrier may carry out such actions at the expense of the Merchant.

**(i)** All Persons constituting the Merchant shall be jointly and severally liable to the Carrier for the payment of all Charges and for the payment and performance of the obligations and indebtedness of each of them hereunder.

## **15. LIEN.**

**(a)** Carrier shall have a continuing general lien – which shall survive delivery – upon all Goods and documents related to the Goods that are in its possession, custody, or control, or enroute, for all amounts now or hereafter owed to Carrier by Merchant, including: (i) all Charges and other amounts owed pursuant to, or in connection with this Bill of Lading or any agreement related hereto (including General Average and Merchant's indemnity obligations); and (ii) any amounts due to Carrier by Merchant under any other bill of lading, contract of carriage, or agreement of any type (the "Secured Amounts"). Without limiting the foregoing, Carrier may withhold delivery and store the Goods at Merchant's expense if Merchant is in default of any obligation to Carrier whether related to the Carriage, the Goods, or this Bill of Lading or not.

**(b)** Carrier's lien pursuant to this Clause 15 supplements Carrier's rights under any other agreements or applicable Law (including U.S. maritime law) and can be removed only by full payment of all Secured Amounts. If delivery of Goods is made prior to payment of all Secured Amounts, then notwithstanding the absence of any notice, Merchant acknowledges and agrees that Carrier retains constructive possession of the Goods until Carrier's lien is satisfied as aforesaid.

**(c)** If Merchant defaults in the payment of any Secured Amounts, then Carrier may sell the Goods, at its discretion, by public auction or private sale. Any notice required by Law to be given by Carrier of a sale or other intended action with respect to any Goods or documents, shall be deemed reasonable and adequate if sent to Merchant at least ten days prior to such action. Without derogating from Carrier's rights under any Law, no advance notice is required if the Goods to be sold are perishable or subject to rapid deterioration. For the avoidance of doubt, it is hereby clarified that if the proceeds from sale of Goods fail to cover the Secured Amounts, the Carrier shall be entitled to recover the deficit from the Merchant.

**(d)** Without limiting the foregoing, if the Goods are unclaimed for 14 days, or whenever in the Carrier's sole discretion the Goods are perishable or subject to deterioration, or are worthless, the Carrier may, sell, abandon, or otherwise dispose of such Goods solely at the risk and expense of the Merchant.

## **16. BOTH TO BLAME COLLISION.**

If the Vessel collides with another ship as a result of negligence of the other ship and any act, neglect, or default of the Vessel crew, the Merchant shall defend, indemnify, and hold harmless the Carrier against all loss or liability to the other ship or its owners, in so far as much loss or liability represents loss of, or damage to, or any claim whatsoever to the other ship or its owners as part of their claim against the carrying Vessel or the Carrier.

## **17. GENERAL AVERAGE.**

General average shall be adjusted according to the York/Antwerp Rules of 1974, as amended in 1990, at any port or place nominated by the Carrier.

Merchant shall defend, indemnify, and hold harmless the Carrier in respect of all claims of a "general average" nature which may be asserted against Carrier with respect to the Goods and prior to delivery of any Goods shall provide such security (including cash deposits) as may be required by the Carrier in this connection.

The Carrier shall be under no obligation to exercise any lien for general average contribution due to the Merchant.

## **18. NEW JASON CLAUSE.**

In any event of damage before or after commencement of the voyage, whether due to negligence or not, for which, or for the consequences of which, the Carrier is not responsible by Law, contract, or otherwise, the Merchant shall jointly and severally contribute with the Participating Carrier in "general average" to the payment of any loss or expenses of a "general average" nature that may be made or incurred, and shall pay salvage and special charges incurred in respect of the Goods. Merchant expressly renounces all Laws which might otherwise apply.

## **19. HIMALAYA CLAUSE.**

**(a)** Merchant undertakes that any claim or allegation related to this Bill of Lading, shall be made solely against Carrier and not against any Person or Vessel whatsoever, including any Participating Carrier, or any other Person acting for or on

behalf of Carrier or by whom any part of the Carriage is performed, whether directly or indirectly. If any claim or allegation is nevertheless made against any such Person or Vessel, then Merchant shall defend, indemnify, and hold harmless any such Person or Vessel against all consequences thereof.

**(b)** Without limiting the foregoing, every such Person and Vessel shall have the benefit of all provisions herein benefiting the Carrier as if such provisions were expressly for its benefit. The Merchant shall also defend, indemnify, and hold harmless the Carrier against all claims which may be made upon the Carrier by any such Person or Vessel in relation to any claim against any such Person or Vessel made by the Merchant.

**(c)** Every agent of the Carrier, Participating Carrier, Person or Vessel by whom any part of the carriage is performed shall also be entitled to enforce the covenant set out in Clause 19 (a) against the Merchant.

## **20. LEGAL COMPLIANCE.**

The Merchant represents and warrants that:

**(a)** Merchant and the Goods are in compliance with all applicable Laws and regulations, including anti-corruption, export control, and anti-terrorism Laws, including the U.S. Foreign Corrupt Practices Act, the U.K. Bribery Act, the International Traffic in Arms Regulations administered by the U.S. State Department's Directorate of Defense Trade Controls, U.S. Export Administration Regulations administered by the U.S. Commerce Department's Bureau of Industry and Security, the U.S. Anti-Boycott regulations, and the various U.S. economic sanctions programs administered by the U.S. Treasury Department's Office of Foreign Assets Control and any similar laws and regulations of any other country

**(b)** the information that Merchant provided to Carrier in connection with Merchant's compliance with all such applicable Laws is true and complete;

**(c)** Merchant shall comply with all applicable Laws of any other country to, from, through, or over which the Goods may be carried, including all applicable Laws relating to the packing, SOLAS Rules relating to the verified gross mass of containers, carriage, or delivery of the Goods;

**(d)**the export jurisdiction and classification of the Goods are precise and correct and Merchant shall immediately notify Carrier in writing of any changes to such information.

**(e)**Merchant shall furnish such information and attach such documents to this Bill of Lading as may be necessary to comply with all applicable Laws.

## **21. U.S. SECURITY.**

If the Vessel calls in the United States, including any United States territory, the following provisions shall apply with respect to applicable Law or measures:

**(a)**Each delay suffered or time lost in obtaining the entry and exit clearances from the relevant Governmental Authorities shall be counted as time of detention.

**(b)**All expenses or additional fees related to any of the Goods, even if levied against the Vessel, that arise out of security measures imposed at the loading or discharging port shall be for the Merchant's account.

## **22. LIMITATION OF LIABILITY.**

**(a)**All claims for which the Carrier may be liable shall be adjusted and settled on the basis of Merchant's net invoice cost, plus freight and cargo insurance premium, if paid.

**(b)**In no event shall the Carrier be liable for any indirect, incidental, delay, consequential, punitive, statutory or special damages, including lost profits, income or opportunity, even if Carrier is on notice of the possibility of such damages, or for the acts or omissions of any other person.

**(c)**If Carrier is found liable for delay, then liability shall be limited to the freight charges applicable to the relevant stage of the Carriage.

**(d)**The terms and conditions of this Bill of Lading, including all the rights, exemptions, defences and limitations of liability of whatsoever nature provided therein shall apply in any action against the Carrier for any loss or damage whatsoever and however occurring and whether the action be founded contract, bailment or in tort and even if the loss, damage or delay arose as a result of unseaworthiness, negligence or fundamental breach of contract.

## **23. INDEMNITY.**

**(a)** Without limiting any other indemnity obligations of Merchant pursuant to this Bill of Lading or any applicable law, Merchant agrees to indemnify and hold harmless the Carrier from and against all charges, claims, damages, liabilities, costs, expenses, or other payments or losses (including Carrier's litigation expenses and reasonable attorneys' fees) incurred by the Carrier in connection with or arising from any of the following: (i) any breach of any representation, warranty, indemnity, or covenant made by Merchant; (ii) any claim against Carrier arising from the Carriage, for liability of Carrier excluded under this Bill of Lading; (iii) any claim against Carrier arising from the Carriage for amounts exceeding Carrier's liability under this Bill of Lading; and (iv) any negligence, gross negligence, willful misconduct, or unlawful acts or omissions of Merchant.

**(b)** Throughout this Bill of Lading, where the Merchant has an obligation to defend, indemnify, or hold harmless the Carrier, the Carrier may tender defense of the matter to the Merchant, or may select counsel of Carrier's choosing, giving notice of the selection to the Merchant and any known holder of this Bill of Lading, and defend the matter, and the Merchant shall timely pay all expenses incurred thereby, including attorneys' fees and all other reasonable costs and expenses related thereto.

## **24. NOTICE OF CLAIM.**

Any notice of loss or damage to Goods and the general nature of such loss or damage, must be given in writing to the Carrier at the port of discharge or place of delivery, or at the Carrier's address shown on the Bill of Lading, before or at the time of delivery of the Goods or, if the loss or damage is not readily apparent, within three days after delivery. In any event the Carrier shall be discharged from all liability in relation to this Bill of Lading or the Goods, including liability in respect of non-delivery, mis-delivery, delay, loss, damage, or any fault or negligence, unless suit is filed against the Carrier within one year after the earlier of delivery or release of the Goods or the date when the Goods should have been delivered or released in accordance with this Bill of Lading.

## **25. OTHER AGREEMENTS.**

This Bill of Lading, together with terms set forth in Carrier's invoices (including Carrier's General Terms and Conditions, which can be viewed at <https://ship4wd.com/terms-and-conditions/>), supersede all agreements or engagements for the shipment of the Goods. If required by the Carrier, a signed

original Bill of Lading duly endorsed must be surrendered to the Carrier or its agent at the Port of Discharge prior to the release of any Goods.

## **26. AMENDMENTS AND WAIVERS.**

No amendment or waiver of any provision of any of this Bill of Lading and no consent to any departure therefrom shall be effective against Carrier except by means of a writing signed by a duly authorized representative of Carrier.

This Bill of Lading shall not be deemed amended, modified, qualified, or supplemented by any course of dealing or course of performance.

Carrier may from time to time change the terms of this Bill of Lading. The current and applicable terms of this Bill of Lading can be found on Carrier's website at [ship4wd.com](http://ship4wd.com) and may differ from the pre-printed terms for the Bill of Lading. In the event of any inconsistency between the terms of this pre-printed Bill of Lading and current Bill of Lading found on the website as aforesaid, the terms of the latter shall prevail.

## **27. DATA PROTECTION.**

Merchant represents and warrants that it complies with all applicable privacy and data protection laws with respect to personally identifiable information about individual contacts of Merchant and clients of Merchant that Merchant provides to Carrier to allow Carrier to perform services, including the receipt of proper consent from all data subjects to the disclosure and transfer of such Data to Carrier.

Merchant acts as a "data controller" or an equivalent term under applicable Law with respect to such data. In providing services to Merchant, Carrier may process Merchant Data and thus act as a "data processor" or an equivalent term under applicable Law with respect to such data and will process Merchant Data in accordance with lawful instructions from Merchant. Any personal identifiable information will be treated by Carrier in accordance with the Carrier's Privacy Policy, an updated version of which may be found at any time in Carrier's website at <https://ship4wd.com/ship4wd-privacy-policy/>.

## **28. FORCE MAJEURE.**

In any case, Carrier will not be liable for loss, damage, expense, delay, or nonperformance resulting in whole or in part from circumstances beyond the control of Carrier, including: (i) acts of God, including flood, earthquake, storm, hurricane, power failure or other natural disaster; (ii) war, hijacking, robbery, theft or terrorist activities; (iii) incidents or deteriorations to means of transportation, (iv) embargoes,

(v) civil commotions or riots, (vi) defects, nature or inherent vice of the goods; (vii) acts, breaches of contract or omissions by a Merchant or anyone else who may have an interest in the goods, (viii) acts by any Governmental Authority, including denial or cancellation of any import, export or other necessary license; (ix) epidemics, pandemics, quarantines, sanitary or other similar regulations or restrictions; or (x) strikes, lockouts, slowdowns or other labor conflicts.

## **29. LAW; DISPUTES; VENUE; SEVERABILITY**

**(a)** The validity, performance and construction of this Bill of Lading and all matters related hereto, shall be governed and interpreted in accordance with the laws of the country where the Carrier has its principal place of business.

Unless expressly agreed otherwise by the Carrier, actions against the Carrier may be instituted only in the place where the Carrier has his principal place of business.

The above rules shall only take effect to the extent that they are not contrary to the mandatory provisions of international conventions or national law applicable to this Bill of Lading.

**(b)** Notwithstanding the foregoing, Merchant irrevocably consents to the commencement and to the transfer of venue in any or all such actions to any other venue in which Carrier is party to a legal action brought by itself or a third party that arises from or is connected with the Goods, their carriage, loading, unloading, handling, or storage, or loss, damage, or delay related to any of the Goods. The Merchant waives all defenses based on inconvenience of forum in all actions commenced in the venues agreed to under this Bill of Lading. If any provision of this Bill of Lading, or the application to any circumstance, Person, or place, is held to be unenforceable, invalid, or void by a court of competent jurisdiction, such provision shall be severed therefrom or shall be reformed only to the extent necessary to be enforceable to such circumstance, Person, or place; and such provision as applied to other circumstances, Persons, or places, and the remainder of this Bill of Lading, shall remain in full force and effect.

**(c)** The Carrier's rights and remedies provided in this Bill of Lading or otherwise existing or arising by agreement, at law, in equity or admiralty, or otherwise, are cumulative. All of Carrier's rights and remedies may be exercised, wholly or in part, from time to time, as often, and in any order as Carrier chooses, and the exercise or the beginning of the exercise of any right or remedy shall not be construed to be an

election of rights or remedies, or a waiver of the right to exercise at the same time or thereafter any other right or remedy.

**(d)** No delay or omission by Carrier in the exercise of any right or remedy accruing upon any default shall impair any such right or remedy or be construed to be a waiver of any right to take advantage of any such future event or of any such past default.