

Bill of Lading · Terms and Conditions (L.V. 04/17-1)

1. Definitions

“**Carrier**” means RZ Carrier GmbH & Co. KG, Bremen, Germany.
“**Carriage**” means the whole or any part of the operations and services undertaken by the Carrier in respect of the Goods covered by this Bill of Lading.

“**Hague Rules**” means the provisions of the International Convention for the Unification of Certain Rules relating to Bills of Lading signed at Brussels on 25th August, 1924 together with the amendments by the Protocol signed at Brussels on 23rd February, 1968.

“**Hague-Visby Rules**” means the provisions of the International Convention for the Unification of Certain Rules relating to Bills of Lading signed at Brussels on 25th August, 1924 and includes the amendments by the Protocol signed at Brussels on 23rd February, 1968.

“**Merchant**” includes the Shipper, Consignor, Receiver of the Goods or this Bill of Lading, any Person owning or entitled to the possession of the Goods under this Bill of Lading.

“**Servants or Agents**” includes the Master, Officers and Vessel’s Crew, owners, managers and operators of vessels (other than the Carrier), underlying carriers, sub-contractors, stevedores, terminal and groupage operators, road and rail transport operators and any independent contractors employed by the Carrier in the performance of the Carriage.

“**Goods**” means the whole or any part of the cargo received from the Shipper and includes any equipment or Container or Case/Package Unit not supplied by or on behalf of the Carrier.

“**Container**” includes any container, trailer, transportable tank, flat, or any similar article used to consolidate Goods and any equipment thereof or connected thereto.

“**Case/Package Unit**” includes any case, crate, box or any similar article and any other article used to consolidate Goods as cargo unit and any equipment thereof or connected thereto.

“**Freight**” includes the amount payable to the Carrier in accordance with the agreed freight plus any applicable surcharges and any Bill of Lading.

“**COGSA**” means the United States Carriage of Goods by Sea Act.

“**USA**” includes the United States of America and the territories where COGSA is applicable.

“**Vessel’s Crew**” means the master of the vessel, its officers, its seaman and any other person used directly or indirectly as part of the operation of the vessel as defined in Section 478 of the German Commercial Code.

2. Carrier’s Surcharges

The terms and conditions of the Carrier’s surcharges applicable at the time the Goods are received for shipment are incorporated herein. Copies of the applicable surcharges are obtainable from the Carrier or its agents upon request. They are also obtainable under www.rickmers-line.com.

3. Warranty

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

4. Sub-Contracting and Indemnity

(1) The Carrier shall be entitled to sub-contract the Carriage.

(2) It is hereby expressly agreed that no Servants or Agents are, or shall be deemed to be liable with respect to the Goods as carrier, bailee or otherwise. Without prejudice to the foregoing the Servants or Agents are intended as beneficiaries of all terms and conditions including the arbitration and jurisdiction clause. If, it shall be adjudged that any other than the Carrier is carrier or bailee of the Goods or under any responsibility with respect thereto, all exemptions and limitations of and exonerations from liability provided by law or by the terms hereof shall be available to such Servant or Agent. No claim shall be made against any of the Servants or Agents in connection with the Carriage and, if any such claim is made, the Merchant shall indemnify the Carrier against all consequences thereof.

(3) The provisions of Clause 4 (2) shall extend to claims of whatsoever nature against other parties chartering space on the carrying vessel.

(4) Agents and Servants are not entitled to waive any terms and/or exemptions and/or limitations contained herein unless authorized in writing by an officer or director of the Carrier itself to bind the Carrier.

5. Carrier’s Responsibility and Liability

(1) Port to Port Shipment

(a) When loss or damage has occurred between the time of acceptance of the Goods into its custody by the Carrier at the Port of Loading and the time of release from its custody by the Carrier at the Port of Discharge as per the provisions on page 2 and its attachments – if any – , the responsibility of the Carrier shall be determined in accordance with German law, making the Hague-Visby Rules compulsorily applicable to bills of lading and contracts of carriage. In the event the Bill of Lading has been issued in a country in which the Hague Rules are compulsorily applicable (with the exception of Germany), the responsibility of the Carrier shall be determined in accordance with German law, making the Hague Rules compulsorily applicable. In the event the Bill of Lading has been issued in Germany and covers a shipment to or from a port in a country in which the Hague Rules are compulsorily applicable (including Germany), the responsibility of the Carrier shall be determined in accordance with German law, making the Hague Rules compulsorily applicable.

(b) The Carrier shall neither be responsible for loss or damage arising or resulting from an act, neglect or default of its people and the Vessel’s Crew if such loss or damage is caused by an error in navigation or in the management of the vessel unless such error, neglect or default is primarily effected in the interest of the Goods nor shall the Carrier be responsible for any loss or damage caused by fire or explosion on board the vessel (“Error in Navigation and Fire Defenses”).

(c) The Carrier shall also not be responsible for any act, neglect or default of third parties involved in the navigation or in the management of the vessel, such as pilots or the crew of tugs assisting the vessel, for any loss or damage arising or resulting from an error in navigation or in the management of the vessel unless such act, neglect or default is primarily effected in the interest of the Goods.

(d) The Carrier shall not be deemed to have custody of the Goods, prior to loading on or subsequent to the discharge from the vessel.

Notwithstanding the above, in the event that the applicable compulsory law provides the contrary, the Carrier shall have the benefit of every right, defence, limitation and liberty in the Hague-Visby Rules or the Hague Rules, even if the loss or damage did occur prior to loading on or subsequent to the discharge from the vessel. In the event that the Bill of Lading covers a shipment to or from the USA however, COGSA shall be applicable before the Goods are loaded on and after they are discharged from the vessel.

(e) Unless notice of loss or damage be given in written form to the 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 from the time of such removal, such removal shall be prima facie evidence of the delivery by the Carrier as described in this Bill of Lading 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 the Carrier. The notice must clearly specify the damage. Notwithstanding the aforesaid, if a Container or a closed Case/Package Unit has been delivered to the Merchant, the Merchant has to prove that the damage to or loss of the Goods has occurred during the period of the Carrier’s custody of the Container or the closed Case/Package Unit.

(f) Compensation shall be calculated by reference to the value of the Goods at the place and the time they are delivered to the Merchant, or at the place and the time they should have been delivered. For the purpose of determining the extent of the Carrier’s liability for loss of or damage to the Goods, the sound value of the Goods is agreed to be the invoice value plus freight if paid, less any customs duties per, saved due to the loss or damage.

(g) In the event that this Bill of Lading has been issued in the USA or in a country making the Hague Rules applicable and this Bill of Lading covers a shipment from or to the USA COGSA shall apply. COGSA shall also be applicable before the Goods are loaded on and after they are discharged from the vessel.

(2) Multimodal Transport

(a) If the place of damage to or loss of the Goods is known, the responsibility of the Carrier is determined by the provisions of German law applicable to this part of the carriage.

(b) If the place of damage as per (a) above falls under the port to port shipment provisions, the exclusion of liability for errors in navigation and for fire on board the vessel under clause 5 (1) (b) and (c) shall apply.

(c) In the event that part of the multimodal transport is a shipment to or from the USA and the damage to or loss of the Goods occurs at the time between the loading at the Port of Loading and the discharging at the Port of Discharge the responsibility of the Carrier shall be determined in accordance with German law making the Hague Rules compulsorily applicable. COGSA however applies before the Goods are loaded on and after they are discharged from the vessel.

(d) 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 19th May, 1956, and during rail Carriage between countries in Europe according to the Uniform Rules concerning the Contract of International Carriage of Goods by Rail (CIM or Appendix B to COTIF), dated 3rd June 1999 or any amendments to this Convention or Appendix.

(e) Unless notice of loss or damage be given in written form to the 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 the Carrier as described in this Bill of Lading. The notice must clearly specify the damage. Notwithstanding the aforesaid, if a Container or closed Case/Package Unit has been delivered to the Merchant, the Merchant has to prove that the damage to or loss of the Goods has occurred in the period of the Carrier’s custody of the Container or the closed Case/Package Unit.

(f) Compensation shall be calculated by reference to the value of the Goods at the time they were delivered to the Carrier for Carriage.

(g) THE LIABILITY PROVIDED FOR IN CLAUSES 5 (2) (a) IS NOT MANDATORY AND PROVIDES FOR A HIGHER LIABILITY THAN 2 SDRs. THE CARRIER’S 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.
(h) IF THE STAGE OF THE CARRIAGE DURING WHICH LOSS OR DAMAGE OCCURRED IS NOT KNOWN, THE CARRIER’S MAXIMUM LIABILITY SHALL NOT EXCEED 2 SDRs PER KILO OF GROSS WEIGHT OF THE GOODS LOST OR DAMAGED.
(i) THE CARRIER SHALL NOT BE ENTITLED TO THE BENEFIT OF THE LIMITATION OF LIABILITY PROVIDED FOR IN CLAUSE 5 (2) (g) AND (h) IF IT IS PROVEN THAT THE DAMAGE RESULTED FROM AN ACT OR OMISSION OF THE CARRIER OR ITS SERVANTS OR AGENTS DONE WITH INTENT TO CAUSE SUCH DAMAGE OR RECKLESSLY AND WITH THE KNOWLEDGE THAT DAMAGE WOULD PROBABLY RESULT. HOWEVER, IF THE LOSS OR DAMAGE HAS OCCURRED DURING THE CARRIAGE OF GOODS BY SEA TO WHICH MARITIME LAW APPLIES, THE CARRIER IS ENTITLED TO THE BENEFIT OF LIMITATION AS PROVIDED FOR IN CLAUSE 5 (2) (g), I.E. MAXIMUM LIABILITY OF 2 SDRs PER KILO, EXCEPT WHERE A LAW APPLIES WHICH MAKES THE HAGUE-VISBY RULES COMPULSORILY APPLICABLE OR GERMAN LAW AND IT IS PROVEN THAT THE DAMAGE RESULTED FROM AN ACT OR OMISSION OF THE CARRIER ITSELF DONE WITH INTENT TO CAUSE DAMAGE, OR RECKLESSLY AND WITH KNOWLEDGE THAT DAMAGE WOULD PROBABLY RESULT.

6. Time for Suit

In any event, the Carrier shall be discharged from all liability in respect of loss of or damage to the Goods, non-delivery, mis-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. Claims for delay shall be time-barred 6 months after the delivery of the Goods.

7. Sundry Liability Provisions

(1) Hague Rules/Hague-Visby Rules

In the event that suit is brought in a venue other than provided for in Clause 25 and such court accepts jurisdiction, then the Hague-Visby Rules are compulsorily applicable, if this Bill of Lading has been issued in a country where the Hague-Visby Rules are compulsorily applicable and the Carrier’s liability shall not exceed 666,67 SDRs per package or unit or 2 SDRs per kilo of gross weight of the Goods lost or damaged, whichever is higher; if this Bill of Lading has been issued in a country in which the Hague Rules apply the Carrier’s liability shall not exceed 666,67 SDRs per package or unit.

(2) U.S. Carriage of Goods by Sea Act Limitation

Notwithstanding any of the foregoing to the contrary, in the event that suit is brought in a court in the USA and such court accepts jurisdiction, then COGSA shall be compulsorily applicable to this contract of carriage if this Bill of Lading covers a shipment to or from the USA. The provisions set forth in COGSA shall also govern before the Goods are loaded on and after they are discharged from the vessel. The 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 the Merchant and inserted in writing on the face of the Bill of Lading and said Merchant shall have paid the applicable ad valorem freight rate as agreed with the Carrier or stipulated in the applicable Carrier’s Tariff.

(3) Shipper’s declared value

The Merchant agrees and acknowledges that the Carrier has no knowledge of the value of the Goods, and higher compensation than that provided herein may be claimed only when, with the consent of the Carrier, the Shipper declares the value of the Goods on the reverse of this Bill of Lading and extra freight is pre-paid, in all cases including when U.S. inland Carriage is undertaken in multimodal shipments from the U.S. where the Merchant desires to avoid any liability limitation provided herein and opt for full liability under the Carmack Amendment. The amount of the declared value shall be substituted for the limits laid down in this Bill of Lading, and 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, the Carrier shall not be liable to pay compensation in excess of the actual value of the Goods plus freight. The reference on the face of the Bill of Lading to letters of credit, import licenses, sales contracts, invoices or order number and/or details of any contract to which the Carrier is not a party does not constitute a declaration of value.

(4) Limitation of Liability Conventions

It is hereby agreed by the Merchant, that the Carrier qualifies as an entity entitled to limit liability under any applicable Convention or Act concerning the limitation of liability on maritime claims. The Carrier may be shipowner, charterer (including a slot-charterer), manager or operator of the ship, or sailor rendering services connected with salvage operations. If any claims are made against the Servants or Agents, they shall be entitled to rely on the same limitation available to the Carrier.

(5) Delay

(a) Unless expressly agreed, the Carrier does not undertake that the Goods shall arrive at the Port of Discharge or Place of Delivery at any particular time or to meet any particular market use, and the Carrier shall not be liable for direct, indirect or consequential loss or damage caused by delay unless the delay is caused by intent or recklessness, with the knowledge that damage would probably result, of the Carrier or its Servants or Agents.
(b) All defenses and limitations available to the Carrier in case of loss or damage, especially Clause 5 (1) (b) and (c) shall further apply accordingly for claims based on delay.
(c) If notwithstanding the foregoing the Carrier is held responsible for the consequences of any delay, the Carrier’s liability is limited to an amount equal to three times the Freight under the Contract of Carriage unless caused by intent or recklessness, with the knowledge that damage would probably result, of the Carrier or its Servants or Agents.
(d) In so far as dates are expressly agreed upon between the Merchant and the Carrier, such agreed dates are made on the basis that no unforeseen circumstances occur and are further subject to all going well and weather permitting.

(6) Scope of Application and Exclusions

(a) The rights, defenses, limitations and liberties of whatsoever nature provided for in this Bill of Lading shall apply in any action against the Carrier for loss or damage or delay, howsoever occurring and whether the action be founded in contract or in tort.
(b) Save as otherwise provided herein, the Carrier shall in no circumstances be liable for indirect or consequential loss or damage or direct or indirect loss of profits unless it is proven that the Carrier itself acted with intent or reckless with the knowledge that damage would probably result.
(c) The Merchant shall indemnify the Carrier for any customs liabilities even if caused by the loss of the Goods.
(d) The Merchant shall also indemnify the Carrier if the Carrier is sued in tort by any party not entitled under this Bill of Lading in regard of a cargo claim for which it would be able to limit or exclude its liability under this Bill of Lading vis-à-vis the Merchant for any amount which may be awarded to be payable by the Carrier to such party not entitled under this Bill of Lading.

8. Shipper-Packed Containers and/or Cases/Package Units

If a Container and/or a Case/Package Unit has not been packed by or on behalf of the Carrier:

(1) The Carrier shall not be liable for loss of or damage to the Goods caused by:
(a) the unsuitability of the Goods for Carriage in the Container and/or a Case/Package Unit supplied, or
(b) the unsuitability of the Goods for Carriage in the Container and/or a Case/Package Unit supplied, or
(c) the unsuitability or defective condition of the Container and/or the Case/Package Unit or the incorrect setting of any refrigeration controls thereof, provided that, if the Container and/or the Case/Package Unit has been supplied by or on behalf of the Carrier, this unsuitability or defective condition would have been apparent upon inspection by the Merchant at or prior to the time when the Container and/or the Case/Package Unit was packed, or
(d) packing refrigerated Goods which are not at the correct temperature for Carriage.
(2) The Merchant shall indemnify the Carrier against any loss, damage, liability or expense caused by one or more matters referred to in Clause 8 (1).

(3) In regard to refrigerated Goods, the carrying temperature needs to be designated in writing by the Merchant in this Bill of Lading. In regard of Merchant’s own Containers for refrigerated Goods, the Carrier shall be obliged to control the carrying temperature. The seal at the designated carrying temperature. The term “apparent good order and condition” when used in this Bill of Lading with reference to the Goods which require refrigeration does not mean that the Goods when received were verified by the Carrier as being at the designated carrying temperature. Under no circumstances shall the Carrier be responsible for or required to carry out repairs to refrigeration units of Merchant’s own Containers. The Merchant shall in any case remain responsible for the consequences of any temperature irregularities prior to receipt or after delivery by the Carrier.
(4) Containers with Goods packed by the Merchant shall be supplied with an intact high security seal by the Merchant, and the seal number noted in writing on this Bill of Lading by the Merchant.

9. Inspection of Goods

The Carrier or any person to whom the Carrier has sub-contracted the Carriage or any person authorized by the Carrier shall be entitled, but under no obligation, to open any Container, Case/Package Unit or package at any time and to inspect the Goods. If, by Order of the authorities at any place, a Container or Case has to be opened for the Goods to be inspected, the Carrier will not be liable for any loss or damage incurred as a result of opening, unpacking, inspection or repacking. The Carrier shall be entitled to recover the costs of such opening, unpacking, inspection and repacking from the Merchant.

10. Carriage Affected by Condition of Goods

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, the Carrier may without notice to the Merchant as agent or in its own name take any measure(s) and/or incur any additional expense to carry or to continue the Carriage thereof, and/or seal or dispose of the Goods, and/or abandon the Carriage and/or store them ashore or afloat, under cover or in the open, at any place, whichever the Carrier, in its absolute discretion, considers most appropriate, which abandonment, storage, seal or disposal shall be deemed to constitute due delivery under this Bill of Lading. The Merchant shall indemnify the Carrier against any additional expense so incurred.

11. Description of the Goods

(1) The Shipper warrants to the Carrier that the particulars relating to the Goods as set out overall have been checked by the Shipper on receipt of this Bill of Lading and that such particulars, and any other particulars furnished by the Shipper, are true, correct and complete and accurate. The Shipper also warrants that the Goods are lawful Goods and contain no contraband.

(2) The Shipper warrants further that the Goods and the Carriage thereof comply with and do not violate any applicable embargo or similar regulations.

12. Merchant’s Responsibility

(1) All the persons coming within the definition of Merchant in Clause 1 shall be jointly and severally liable to the Carrier for the due fulfillment of all obligations undertaken by the Merchant in this Bill of Lading and/or required by law.

(2) The Merchant shall indemnify the Carrier against all loss, damage, fines and expenses, arising or resulting from any breach of obligations and/or warranties of the Merchant or of any cause in connection with the Goods for which the Carrier is not responsible.

(3) The Merchant shall comply with all regulations or requirements of customs, ports and/or other authorities and/or any applicable embargo or similar regulations and shall bear and pay all duties, taxes, charges, import duties and other charges and expenses, including the general rate of the foregoing, Freight (with any additional carriage undertaken) incurred or suffered by reason of any failure to so comply, or by any other of any illegal, incorrect, or insufficient marking, number or addressing of the Goods or the discovery of any drugs, narcotics, stowaways or other illegal substances within Containers or Cases/Package Unit packed by the Merchant or inside Goods supplied by the Merchant, or stamp duty imposed by any country, and shall indemnify the Carrier in respect thereof.

13. ISPS Code

(1) The Merchant must comply with the requirements of the ISPS Code. If the Carrier is held liable by any State Authority or any other third party because of a violation of the ISPS Code by Merchant, the Merchant will indemnify and hold the Carrier harmless from any damages and/or consequences resulting therefrom.

(2) The Merchant undertakes to pay the Carrier any costs or expenses whatsoever arising out of or related to security regulations or measures required by the port facility or any relevant authority in connection with the ISPS Code in relation to the Merchant’s Goods.
(3) The Carrier is entitled to deviate the vessel to a different port and to unload the Goods there if the authorities in the port of discharge have increased its level of security according to the ISPS Code after the Goods have been loaded.
(4) The Merchant undertakes to compensate any costs and expenses and loss and damage suffered by the Carrier because of a failure of the vessel resulting from a violation of the ISPS Code by the Merchant.

14. Freight

(1) Freight shall be deemed fully earned on receipt of the Goods by the Carrier and shall be paid and non-returnable in any event.

(2) Payment of the Freight is to be made in accordance with the applicable agreement, in particular with respect to the currency in which the Freight is to be paid, rate of exchange, devaluation and other contingencies relative to Freight.

(3) Freight has been calculated on the basis of particulars furnished by or on behalf of the Shipper. If the particulars furnished by or on behalf of the Shipper are incorrect, it is agreed that liquidated damages shall be payable to the Carrier, to be calculated on the basis of the originally agreed freight plus a surcharge of 10 % of this amount.

(4) All Freight shall be paid without any set-off or counterclaim unless the claim is not in dispute or confirmed by final court decision.

(5) If the Merchant fails to pay the Freight when due, he shall be liable for all costs and consequences arising out of delay, in particular interest which accrue until payment.

15. Lien

The Carrier shall have a lien on the Goods and any documents relating thereto for all sums payable to the Carrier under this contract and for general average contributions, to whomsoever due. The Carrier shall also have a lien against the current holder on the Goods and documents relating thereto for all sums due to the Carrier under any contract for transport related services with the shipper. In any event, any lien shall extend to cover the cost of recovering the sums due and for that purpose the Carrier shall have the right to sell the Goods by public auction or private sale.

16. Optional Storage and Deck Cargo

(1) The Goods may be packed by the Carrier in Containers and consolidated with other goods in Containers.

(2) Goods, whether or not packed in Containers, may be carried on deck or under deck if deck option has been agreed with the shipper and the actual shipper mentioned on page 2 without notice to the Merchant.

(3) Goods shipped on deck are subject to the same liability regime for loss and damage and delay as Goods shipped under deck.

(4) In the event that the Bill of Lading is subject to COGSA, then COGSA shall apply to such deck cargo.

(5) All such Goods whether carried on deck or under deck, shall participate in general average.

17. Methods and Routes of Carriage

(1) The Carrier may at any time and without notice to the Merchant:

- use any means of carriage whatsoever,
 - transfer the Goods from one conveyance to another, including but not limited to transshipping or carrying them on another vessel than that named on the face hereof,
 - proceed by any route in its discretion (whether or not the nearest or most direct or customary or advantageous route) at any speed, and whether to stay at any place or port whatsoever, once or more often and in any order,
 - load or unload the Goods at any place or port (whether or not such port is named overseas 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 in any order,
 - comply with any orders or recommendations given by any government or authority, or any person acting or purporting to act as or on behalf of such government or authority, or giving orders in the form of any insurance on any conveyance employed by the carrier the right to have orders or directions,
 - perform the vessel to proceed, to tow or be towed, or to be dydrocked.
- (2) Anything done in accordance with Clause 17 (1) or any delay arising therefrom shall be deemed to be within the contractual Carriage and shall not be a deviation.

18. Matters Affecting Performance

If at any time the Carriage is or is likely to be affected by any hindrance, risk, delay, difficulty or disadvantage of any kind (including war, civil commotion, political unrest, acts of terrorism, piracy and/or threats thereof (even though the circumstances giving rise to such hindrance, risk, delay, difficulty or disadvantage existed at the time this contract was entered into or when the Goods were received for Carriage)), the Carrier (whether or not the Carriage is commenced) may, without prior notice to the Merchant and at the sole discretion of the Carrier, either:

- carry the Goods to the contracted Port of Discharge or Place of Delivery, whichever is applicable, by an alternative route to that indicated in this Bill of Lading or that which is usual for Goods consigned to that Port of Discharge or Place of Delivery and it shall be entitled to charge additional reasonable Freight calculated on the basis of the originally agreed freight; or
- suspend the Carriage of the Goods and store them ashore or afloat and endeavour to forward them as soon as possible and it shall be entitled to charge such additional Freight calculated on the basis of the originally agreed freight; or
- abandon the Carriage of the Goods and place them at the Merchant’s disposal at any place or port which the Carrier may deem safe and convenient, whereupon the responsibility of the Carrier in respect of such Goods shall terminate. The Merchant shall pay any additional costs of the Carriage to, and delivery and storage at, such place or port.

19. Dangerous Goods

(1) No Goods which are or may become dangerous, inflammable or damaging (including radioactive material), or which are or may become liable to damage any property whatsoever, shall be tendered to the Carrier for Carriage without its express consent in writing, and without the Container and/or Case/Package Unit 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 the Carrier without such written consent and/or marking, or if in the opinion of the 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 the Merchant.

(2) The Merchant warrants that such Goods are packed in a manner adequate to withstand the risks of Carriage having regard to their nature and in compliance with all laws or regulations which may be applicable during the Carriage.

(3) Whether or not the Merchant was aware of the nature of the Goods, the Merchant shall indemnify the Carrier against all claims, losses, damages or expenses arising in consequence of the Carriage of such Goods.

(4) Nothing contained in this Clause shall deprive the Carrier of any of its rights provided for elsewhere.

20. Iron and Steel

The Carrier is not responsible for correct delivery and all expenses incurred at the Port of Discharge consequent upon insufficient securing, lashing or marking will be payable by consignee unless

- every piece is distinctly and permanently marked with oil paint; or
 - every bundle is securely fastened, distinctly and permanently marked with oil paint or metal tagged, so that each piece or bundle can be distinguished at Port of Discharge.
- Any statement hereon that iron, steel or metal Goods of any description have been shipped in apparent good order and condition does not involve any admission by the Carrier as to the absence of rust, or fresh water damage, or deterioration between tin plates, galvanised iron or metal sheets, for which the Carrier accepts no responsibility.

21. Notification and Delivery

(1) Any failure to notify of the arrival of the Goods shall not involve the Carrier in any liability nor relieve the Merchant of any obligation hereunder.

(2) The Merchant shall take delivery of the Goods within the time agreed, i.e. directly as fast as vessel can deliver or indirectly via the terminal according to the rules of such terminal, whichever may be the fastest, and the Merchant shall be obliged to control the carrying temperature. The Merchant shall be obliged to recover the costs of such opening, unpacking, inspection and repacking from the Merchant.
(3) If the Merchant fails to take delivery of the Goods within thirty days of delivery becoming due under Clause 21 (2), or if in the opinion of the Carrier they are likely to deteriorate, decay, become worthless or incur charges whether for storage or otherwise in excess of their value, the Carrier may, without prejudice to any other rights which he may have against the Merchant, sell, destroy or otherwise dispose of the Goods and the Merchant shall be liable to indemnify the Carrier for the loss from the Merchant in respect of this Bill of Lading.
(4) Without prejudice to an earlier termination by virtue of law or any other clause of this Bill of Lading the responsibility of the 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.

22. General Average & Salvage

General average to be adjusted in any currency at any place selected by the Carrier and according to the York/Antwerp Rules 1974 as amended in 1990 and 1994. Any period of time bar shall start to run from the date of the general average adjustment. Any claims and/or disputes relating to general average shall exclusively be subject to the laws and arbitration/jurisdiction set out in Clause 25. The Merchant shall give such cash deposit or other security as the Carrier may deem sufficient to cover the estimated general average contribution of the Goods before delivery of the Goods.

23. Both-to-Blame Collision

The Both-to-Blame Collision clause published by the Baltic and International Maritime Council and obtainable from the Carrier or its agents upon request is hereby incorporated into this Bill of Lading.

24. Validity

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 the Merchant and the Carrier, the Terms and Conditions of this Bill of Lading supersede any prior agreements between Merchant and Carrier.

25. Law and Arbitration/Jurisdiction

(1) Except as otherwise provided specifically herein any claim or dispute arising under this Bill of Lading shall be governed by the law of the Federal Republic of Germany.

(2) Any dispute arising out of or in connection with this Bill of Lading or its validity shall exclusively and finally be settled by arbitration in Hamburg in accordance with the Arbitration Rules of the German Maritime Arbitration Association (GMAA) current at the time when the arbitration proceedings are commenced and according to German Law. The arbitral award is final and binding upon both parties. This arbitration clause shall be deemed accepted by the Merchant if no objection is made to the Carrier at the time of receiving this Bill of Lading.

(3) In the event that the arbitration clause as per (2) above is inapplicable under local law then the matter shall be determined in the Hamburg courts to the exclusion of the jurisdiction of the courts of any other place.

(4) In the event that (1) to (3) above is inapplicable under local law then jurisdiction and choice of law shall lie in either the Port of Loading or Port of Discharge at Carrier’s option.