JAPAN INTERNATIONAL FREIGHT FORWARDERS ASSOCIATION INC. (JIFFA)
TERMS AND CONDITIONS OF MULTIMODAL TRANSPORT BILL OF LADING (2013)

1. DEFINITIONS
(1) "Carrier" means the company mentioned on the face hereof by whom or in whose name the contract of carriage is concluded with a Merchant and who assumes responsibility for the performance of the Carriage hereunder.
(2) "Sub-Contractor" includes owners, charterers and operators of vessels, stevedores, terminal operators, warehousemen, road, rail, sea, water and air transport operators and independent contractors and their respective servants, agents and sub-contractors, whose services the Carrier procures for the performance of the whole or any part of the Carriage.
(3) "Carriage" means the whole or any part of the operations and services undertaken by the Carrier in respect of the Goods.
(4) "Container" includes any container (including any open top, flat rack or platform container), pallet or any other similar article of transport used to consolidate goods.
(5) "Goods" means the cargo described on the face hereof and, if the Goods are packed into a Container supplied or furnished by or on behalf of the Merchant, includes the Container as well.
(6) "Merchant" includes the Shipper, Consignor, Consignee, owner and receiver of the Goods and the holder of this Bill of Lading and anyone acting on behalf of any such person.
2. CLAUSE PARAMOUNT
(1) As far as this Bill of Lading covers the Carriage of the Goods by sea or inland waterways, this Bill of Lading shall have effect subject to the provisions of the International Carriage of Goods by Sea Act of Japan, enacted 13 June 1957, as amended 3 June 1992, (hereinafter called the Act), unless it is adjudged that any other legislation of a nature similar to the International Convention for the Unification of Certain Rules of Law relating to Bills of Lading done at Brussels on 25 August 1924 (hereinafter called the Hague Rules), or to the Protocol to amend the Hague Rules done at Brussels on 23 February 1968, or, where applicable, to the Protocol amending the Hague Rules as amended by the Protocol of 23 February 1968 done at Brussels on 21 December 1979, mandatorily applies to this Bill of Lading, in which case it shall have effect subject to the provisions of such similar legislation (hereinafter called the Hague-Rules Legislation), and the Act or the Hague-Rules Legislation shall be deemed to be incorporated herein.
(2) The Act or the Hague-Rules Legislation shall apply and govern before the Goods are loaded on and after they are discharged from the vessel and throughout the entire time the Goods are in custody of the Carrier and his servants or agents or the Sub-Contractor within the sea terminal at the Port of Loading or Port of Discharge.
(3) If any provision herein is held to be inconsistent with or repugnant to any extent of the Act, the Hague-Rules Legislation or any other laws, statutes or regulations mandatorily applicable to the contract evidenced by this Bill of Lading, such provision shall be null and void to the extent of such inconsistency or repugnancy but no further.
3. DESCRIPTION OF THE GOODS, NEGOTIABILITY AND TITLE TO THE GOODS
(1) This Bill of Lading is issued as to marks, number, quantity, weight and volume as furnished by the Shipper who shall be deemed to have guaranteed the accuracy and correctness of the contents and description of the Goods at the time they were taken in charge by the Carrier. The Shipper shall indemnify the Carrier against any loss, damage and expense arising or resulting from inaccuracy, inadequacy and/or insufficiency of such particulars. The right of the Carrier to such indemnity shall in no way limit his responsibility and liability under this Bill of Lading to any person other than the Shipper.
(2) By accepting this Bill of Lading, the Merchant and its transferee agree with the Carrier that, unless it is marked "Non-negotiable" on the face of this Bill of Lading, it shall be deemed to constitute the title to the Goods and the holder, by endorsement of this Bill of Lading, shall be entitled to receive or to transfer the Goods mentioned on the face hereof.
(3) This Bill of Lading shall be prima facie evidence of the taking in charge by the Carrier of the Goods as described on the face hereof, unless a contrary indication such as "shipper's weight, load and count", "shipper-packed container" or similar expressions has been made on the face hereof. However, proof to the contrary shall not be admissible when this Bill of Lading has been negotiated or transferred to a third party acting in good faith.
4. GOVERNING LAW AND JURISDICTION
The contract evidenced by or contained in this Bill of Lading shall be governed by Japanese law except as may be otherwise provided for herein, and any action against the Carrier thereunder shall be brought before the Tokyo District Court in Japan.
5. CARRIER'S TARIFF
The terms of the Carrier's applicable Tariff are deemed to be incorporated herein. Copies of the relevant provisions of the applicable Tariff are obtainable from the Carrier upon request. In the case of inconsistency between this Bill of Lading and the applicable Tariff, this Bill of Lading shall prevail.
6. LIMITATION STATUTES
Nothing in this Bill of Lading shall operate to limit or deprive the Carrier of any statutory protection or exemption or limitation of liability authorized by any applicable laws, statutes and regulations of any countries.
7. CARRIAGE COVERED BY MULTIMODAL TRANSPORT BILL OF LADING
(1) The Carrier, by the issuance of this Multimodal Transport Bill of Lading undertakes to perform and/or in his own name to procure the performance of the Carriage from the place at which the Goods are taken in charge to the place designated for delivery on the face hereof.
(2) Notwithstanding the heading "Multimodal Transport Bill of Lading" the provisions set out and referred to herein shall also apply when the Carriage is performed by one mode of transport only.
8. METHODS AND ROUTES OF CARRIAGE
(1) The Carrier may at any time and without notice to the Merchant:
(a) use any means of transport or storage whatsoever;
(b) transfer the Goods from one conveyance to another including transshipping or carrying the same on another vessel than that named on the face hereof;
(c) unpack and remove the Goods which have been packed into a Container and forward them in a Container or otherwise;
(d) load and unload the Goods at any place or port (whether or not being the port named as the Port of Loading or Port of Discharge on the face hereof) and store the Goods at any such place or port; or
(e) comply with any orders, directions or recommendations given by any government or authority, or any person or body acting or purporting to act as or on behalf of such government or authority, or having under the terms of any insurance on any conveyance employed by the Carrier the right to give orders or directions.
(2) The liberties set out in the preceding paragraph may be invoked by the Carrier for any purpose whatsoever whether or not connected with the Carriage of the Goods. Anything done in accordance with the preceding paragraph or any delay arising therefrom shall be deemed to be within the contractual Carriage and shall not be a deviation.
9. INSPECTION OF GOODS
(1) The Carrier shall be entitled, but under no obligation, to open any Container or package at any time and to inspect the contents. If it thereupon appears that the contents or any part thereof cannot safely or properly be carried or carried further, either at all or without incurring any additional expense or taking any measures in relation to such package or Container or its contents or any part thereof, the Carrier may abandon the Carriage thereof and/or take any measures and/or incur any additional expense to carry or to continue the Carriage or to store the same ashore or afloat under cover or in the open, at any place, which storage shall be deemed to constitute due delivery under this Bill of Lading. The Merchant shall indemnify the Carrier against any expense so incurred.
(2) If by order of the authorities at any place, a Container has to be opened for the contents to be inspected, the Carrier shall not be liable for any loss, damage or any other consequences as a result of any opening, unpacking, inspection or repacking. The Carrier shall be entitled to recover the cost of such opening, unpacking, inspection and repacking from the Merchant.
10. CONTINGENCIES
(1) If at any time the performance of the Carriage hereunder is or is likely to be affected by any hindrance, danger or disturbance of whatsoever kind which cannot be avoided by the exercise of reasonable endeavors, the Carrier may, whether or not the Carriage is commenced, without notifying the Merchant, treat the Carriage as terminated and discharge, land, store or take any other necessary means whatsoever on the Goods or any part thereof 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 cease. In such case, the discharge, landing and storing and any means whatsoever taken shall constitute complete and final delivery and full performance of the Carriage hereunder, and the Carrier shall be discharged from any further responsibility of the Goods.
(2) The situations referred to in the preceding paragraph shall include, but not limited to, those caused by the existence or apprehension of war, declared or undeclared, hostilities, warlike or belligerent acts or operations, riots, civil commotions or other disturbances; or interdict or prohibition of or restriction on commerce or trading; quarantine, sanitary or other similar regulations or restrictions; strikes, lockouts or other labor troubles whether partial or general and whether or not involving employees of the Carrier or any Sub-Contractor; congestion of port, wharf, sea terminal or any other place; shortage, absence or obstacles of labor or facilities for loading, discharge, delivery or other handling of the Goods; epidemics or diseases; bad weather or any other obstacles to the Carriage of the Goods.
(3) In case of the preceding paragraphs, the Carrier shall be entitled to all freight and other charges due and the Merchant shall be liable for payment of all freight to the Port of Discharge or place of landing or for any other expenses incurred at such port or place as a result of the discharge, landing, storing or other means whatsoever taken by the Carrier in relation to the Goods.
11. OPTIONAL STOWAGE AND DECK CARGO
(1) The Goods may be packed by the Carrier in any Container and consolidated with goods of other merchants for Carriage.
(2) Any Goods whether packed in Containers or not, may be carried on deck or under deck without notice to the Merchant unless on the face hereof it is specifically stipulated that the Containers or Goods will be carried under deck. If carried on deck, the Carrier shall not be required to note, mark or stamp on the Bill of Lading any statement of such on deck carriage. Subject to Paragraph (3) below, such Goods whether carried on deck or under deck and whether or not stated to be carried on deck shall participate in general average and shall be deemed to be within the definition of goods for the purpose of the Act or of the Hague-Rules Legislation as provided for in Clause 2 hereof.
(3) Any Goods which are stated herein to be carried on deck, whether or not carried on deck, are carried without responsibility on the part of the Carrier for loss or damage of whatsoever nature arising during Carriage by sea whether caused by unseaworthiness or negligence or any other cause whatsoever.
12. DANGEROUS GOODS AND CONTRABAND
(1) The Merchant undertakes not to tender for Carriage any goods which are of a dangerous, inflammable, radioactive or damaging nature without previously giving written notice of their nature to the Carrier and without the express consent in writing of the Carrier and without marking the Goods and the Container or other covering on the outside as required by any laws, regulations or by reason of international conventions relating to the carriage of goods of a dangerous nature.
(2) If the requirements of the preceding paragraph are not complied with, or if the Goods are found to be contraband or prohibited by any laws or regulations of the port of loading, discharge or call or any place during the Carriage, the Carrier shall be entitled to have such Goods rendered innocuous, thrown overboard or discharged or otherwise disposed of at the Carrier's discretion without compensaion to the Merchant and the Merchant shall be liable for and indemnify the Carrier against any kind of loss, damage or liability including loss of freight, and any expenses directly or indirectly arising out of or resulting from such Goods. Further, the Carrier shall be under no liability to make general average contribution in respect of such Goods.
(3) If the Goods of dangerous, inflammable, radioactive, or damaging nature, which were tendered in compliance with Paragraph (1) above, shall become a danger to the vessel, cargo or any other property or person, such Goods may in like manner be discharged, destroyed or rendered harmless without compensation to the Merchant.
(4) 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, or personal injury or death, arising in consequence of the Carriage of such Goods.
13. HEAVY LIFT
(1) The weight of a single piece or package exceeding one metric ton gross must be declared by the Merchant in writing before receipt by the Carrier and must be marked clearly and durably on the outside of the piece or package in letters and numbers not less than five centimeters high.
(2) In case of the Merchant's failure in its obligation under the preceding paragraph, the Carrier shall not be responsible for any loss of or damage to the Goods and the Merchant shall be responsible for loss of or damage to any property or for personal injury or death arising as a result of the Merchant's said failure and shall indemnify the Carrier against loss or liability suffered or incurred by the Carrier as a result of such failure.
14. AUTOMOBILE AND OTHER UNPACKED GOODS
The term apparent good order and condition with refereuce to any automobile, rolling stock, tractor, machinery and other unpacked goods does not mean that the condition of the Goods when received were free of any dent, scratch, hole, cut and bruise that could not have been found by ordinary care and diligence. The Carrier shall in no event be liable for such conditions.
15. IRON, STEEL AND METAL PRODUCTS
Superficial rust, oxidation, moisture or any like condition of any iron, steel or metal products in any condition of damage that is inherent to the nature of the Goods and acknowledgement of receipt of the Goods in apparent good order and condition does not mean that the Goods when received were free of visible rust, oxidation or moisture. The Carrier shall in no event be liable for loss or damage arising out of or resulting from such inherent nature of the Goods.
16. LIVE ANIMALS AND PLANTS
Live animals and plants, when accepted for Carriage, are received, loaded, tended, stowed, carried, discharged and delivered entirely and absolutely at the sole risk of the Merchant and without any warranty or undertaking whatsoever by the Carrier that the vessel and other means of transport are seaworthy, fitted, manned, equipped and supplied for their reception, carriage and preservation of such Goods.
17. TEMPERATURE CONTROLLED GOODS
(1) The Merchant undertakes not to tender any goods for Carriage which require temperature control without previously giving written notice of their nature and particular temperature range to be maintained and, in case of a temperature controlled Container packed by or on behalf of the Merchant, further undertakes that the Goods have been properly packed in the Container and that its thermostatic controls have been adequately set by the Merchant before receipt of the Goods by the Carrier. If the above requirements are not complied with, the Carrier shall not be liable for any loss of or damage to the Goods howsoever arising.
(2) The Carrier shall not be liable for any loss of or damage to the Goods arising from latent defect, derangement, breakdown, stoppage or malfunction of the temperature controlling machinery, plant, insulation or any apparatus of the Container, provided that the Carrier shall before or at the beginning of the Carriage exercise due diligence to maintain the temperature controlled Container in an efficient state.
18. VALUABLE GOODS
The Carrier shall not be responsible to any extent for any loss of or damage to platinum, gold, silver, jewelry, precious metals, radioisotope, precious chemicals, bullion, specie, currencies, negotiable instruments and securities, writing, documents, pictures, embroideries, works of art, curios, heirlooms, collections of every nature or any other valuable goods whatsoever including goods having particular value only for the Merchant unless the true nature and value of the Goods are declared in writing by the Merchant before receipt of the Goods and the same are inserted on the face hereof and ad valorem freight is prepaid thereon.
19. DELIVERY OF GOODS
(1) Any information of parties to be notified of the arrival of the Goods is solely for the information of the Carrier, and failure to give such notification shall not involve the Carrier in any liability nor relieve the Merchant of any obligation hereunder.
(2) If delivery of the Goods or any part thereof is not taken by the Merchant at the time and place when and where the Carrier is entitled to call upon the Merchant to take delivery thereof, the 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 the Merchant. Such storage shall constitute due delivery hereunder, and, thereupon, the liability of the Carrier in respect of the Goods or that part thereof stored as aforesaid shall wholly cease and the costs and expenses of such storage (if payable by the Carrier or his agent or any Sub-Contractor) shall forthwith be paid by the Merchant upon demand of the Carrier.
20. DELIVERY BY MARKS
(1) The Carrier shall not be liable for failure of or delay in delivery in accordance with marks unless such marks shall have been clearly and durably stamped or marked upon the Goods, packages or containers by the Merchant before the Goods are received by the Carrier in letters and numbers not less than five centimeters high together with the name of the Port of Discharge.
(2) In no circumstances shall the Carrier be responsible for delivery of the Goods in accordance with other than leading marks.
21. SPECIAL DELIVERY OF GOODS
(1) In case the Goods received by the Carrier are Containers into which contents have been packed by the Merchant, the Carrier shall only be responsible for delivery of the total number of Containers as shown on the face hereof; provided that, at the absolute discretion and on condition that the Carrier shall not be liable for any shortage, loss, damage or discrepancies of the Goods which are found upon unpacking the Containers, the Containers may be opened and the contents thereof delivered in accordance with the brands, marks, numbers, sizes or types of packages or pieces.
(2) In case the Goods have been packed into Containers by the Carrier, the Carrier shall unpack the Containers and deliver the contents thereof; provided that, at the absolute discretion of the Carrier the Goods may be delivered in Containers to the Merchant, in which case if the Containers are delivered with seals intact by the Carrier, such delivery shall be deemed as full and complete performance and the Carrier shall not be responsible for any loss of or damage to the contents of the Containers.
22. LIABILITY OF THE CARRIER
(1) The Carrier shall be liable for loss of or damage to the Goods occurring from the time when the Carrier receives the Goods for Carriage until the time of delivery, only to the extent set out below.
(2) The Carrier shall be relieved of liability for any loss or damage, if such loss, damage or delay in delivery was caused by:
(a) the wrongful act or neglect of the Merchant;
(b) compliance with the instructions of the person entitled to give them;
(c) inherent vice or nature of the Goods;
(d) insufficiency of packing or inadequacy of marks;
(e) defect of the Container used to consolidate the Goods if supplied by the Merchant;
(f) handling, loading, stowage into or discharge from Container by the Merchant;
(g) war, warlike operations, piracy, terrorism, riots, civil commotions and strikes or lockouts or stoppage or restraint of labor from whatever cause, whether partial or general; or
(h) any cause or event which the Carrier could not avoid and the consequence whereof the Carrier could not prevent by the exercise of due diligence.
(3) If the stage of the Carriage during which the loss or damage occurred is known, notwithstanding anything provided for otherwise herein, the liability of the Carrier shall be determined by the provisions contained in any international convention or mandatory national law which provisions:
(a) cannot be departed from by private contract to the detriment of the Merchant, or
(b) would have applied if the Merchant had made a separate and direct contract with the carrier in respect of the particular stage of the carriage during which the loss or damage occurred and received evidence thereof any particular document which must be issued in order to make such international convention or national law applicable.
(4) If it can be proved that the loss or damage occurred during inland carriage while the Goods were in custody of a Sub-Contractor, the liability of the Carrier and the limitation thereof shall be determined in accordance with the Sub-Contractor's contract of carriage or tariff. However, the liability of the Carrier shall in no event exceed the limits provided in Clause 23 hereunder.
(5) If it cannot be proved where the loss or damage occurred, the loss or damage shall be deemed to have occurred in the course of Carriage by sea and the Carrier shall be liable to the extent prescribed by the Act or applicable Hague-Rules Legislation, as the case may be, as provided for in Clause 2 hereof.
23. LIMITATION OF LIABILITIES
(1) When the Carrier is liable for compensation in respect of any loss of or damage to the Goods, it is agreed with the Merchant that such compensation shall be calculated by reference to the value of the Goods at the place and time they are delivered to the Merchant, or at the place and 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 presumed to be the Merchant's invoice value of the Goods plus freight, charges and insurance, if paid.
(2) The Carrier shall in no event be or become liable for any loss of or damage, whatsoever and howsoever arising, to the Goods in an amount exceeding the equivalent of 666.67 Units of Account per package or unit or 2 Units of Account per kilogram of gross weight of the Goods lost or damaged, whichever is the higher.
(3) Higher compensation may be claimed only when, with the consent of the Carrier, the value of the Goods declared by the Shipper prior to the commencement of the Carriage, which exceeds the limits laid down in this Clause, has been inserted on the face hereof in the space provided and extra freight paid, in which case such declared value shall be the limit and any partial loss or damage shall be adjusted pro rata on the basis of such declared value.
(4) The Units of Account mentioned in Paragraph (2) above is the Special Drawing Right (SDR) as defined by the International Monetary Fund. The amounts mentioned in Paragraph (2) above shall be converted into national currency on the basis of the value of that currency on a date to be determined by the law of the court seized of the case.
(5) When the Goods have been packed into a Container by or on behalf of the Merchant, and when the number of packages or units packed into the Container is not enumerated on the face hereof, each Container including the entire contents thereof shall be considered as one package for the purpose of application of the Carrier's limitation of liability.
(6) The Carrier does not undertake that the Goods shall arrive at the Port of Discharge or Place of Delivery at any particular time or in time to meet any particular market or use and the Carrier shall not be responsible for any direct, indirect or consequential loss or damage caused by delay or any other cause whatsoever and howsoever caused. Without prejudice to the foregoing, if the Carrier is found liable for delay, liability shall be limited to the freight applicable to the relevant stage of the Carriage.
24. DEFENSES
The defenses and limits of liability provided herein shall apply in any action against the Carrier for loss of or damage to the Goods or delay in delivery whether the action be founded in contract, in tort or otherwise.
25. LIABILITY OF SUB-CONTRACTORS, SERVANTS, AGENTS AND OTHER PERSONS
(1) If an action for loss of or damage to the Goods is brought against any servants or agents of the Carrier or other persons including, but not limited to, Sub-Contractors or their servants or agents whose services the Carrier procures for the performance of the Carriage evidenced by the terms and conditions herein, such servants, agents or other persons shall be entitled to avail themselves of the defenses and limits of liability which the Carrier is entitled to invoke hereunder, and in entering into this Contract, the Carrier, to the extent of those provisions, does so not only on his behalf but also as agent and trustee for such servants, agents or other persons. The aggregate of the amounts recoverable from the Carrier and such servants, agents or other persons and their servants and agents shall in no case exceed the limits provided herein.
(2) The Merchant shall indemnify the Carrier for any claim which may be made upon the Carrier by such servants, agents or other persons and their servants and agents in relation to the claims made against them by the Merchant.
26. NOTICE OF CLAIM AND TIME BAR
(1) Unless notice of loss of or damage to the Goods and the general nature of it is given in writing to the Carrier or his agent at the place of delivery before or at the time of removal of the Goods into the custody of the person entitled to delivery thereof under this Bill of Lading, or if the loss or damage is not apparent, within seven consecutive days thereafter, such removal shall be prima facie evidence of the delivery by the Carrier of the Goods as described in this Bill of Lading.
(2) The Carrier shall be discharged from all liability under this Bill of Lading unless suit is brought within nine months after delivery of the Goods or the date when the Goods should have been delivered. In the event such time period shall be found to be contrary to any international convention or mandatory national law, the period covered by such convention or mandatory national law shall then apply but in that circumstance only.
27. MERCHANT'S RESPONSIBILITY
(1) 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.
(2) All of 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.
(3) The Merchant shall comply with all regulations or requirements of customs, port and other authorities, and shall bear and pay all duties, taxes, fines, imposts, expenses or losses (including freight for any additional Carriage undertaken) incurred or suffered by reason of failure to comply, or by reason of any illegal, incorrect or insufficient marking, numbering or addressing of the Goods, and shall indemnify the Carrier in respect thereof.
28. MERCHANT PACKED CONTAINERS
(1) If a Container has not been packed by the Carrier, this Bill of Lading shall be a receipt only for the Container and the Carrier shall not be liable for any loss of or damage to the contents and the Merchant shall indemnify the Carrier against any injury, loss, damage, liability or expense incurred by the Carrier if such loss, damage, liability or expense has been caused by:
(a) the manner in which the Container has been filled, packed, stuffed or loaded;
(b) the unsuitability of the contents for carriage by Containers; or
(c) the unsuitability or defective condition of the Container which would have been apparent upon reasonable inspection by the Merchant at or prior to the time the Container was filled, packed, stuffed or loaded.
(2) The Merchant shall inspect any Container before packing the contents into the Container and the use of the Container shall be prima facie evidence of the Container being sound and suitable for use.
(3) If the Container is 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 Container.
29. CARRIER'S CONTAINER
(1) The Merchant shall assume full responsibility for and shall indemnify the Carrier against any loss of or damage to any Container or other equipment furnished or arranged by the Carrier for the Merchant which occurs while in the custody or control of the Merchant, its agent or its inland carrier engaged by or on behalf of the Merchant.
(2) The Carrier shall in no event be liable for and the Merchant shall indemnify and hold harmless the Carrier from and against any loss of or damage to the property of any other person or any injury to or death of any other person caused by any Container or other equipment furnished or arranged by the Carrier or by contents of the Container during handling by or while in the possession or control of the Merchant, its agent or its inland carrier engaged by or on behalf of the Merchant.
(3) If any Container furnished or arranged by the Carrier is unpacked at the Merchant's premises, the Merchant shall be responsible for returning the empty Container, with interior brushed and cleaned, to the point or place designated by the Carrier within the time prescribed. Should a Container not be returned within the time prescribed by the Carrier, the Merchant shall be liable for any detention charge, loss or expenses which may arise from such nonreturn.
30. FREIGHT AND CHARGES
(1) Full freight to the Place of Delivery mentioned on the face hereof shall be considered as completely earned on receipt of the Goods, whether the freight be stated to be prepaid or be collected at the destination and all charges due hereunder against the Goods shall be paid to the Carrier as soon as they have incurred.
(2) The Carrier shall be entitled to all freight and other charges due, whether actually paid or not, under any circumstances whatsoever, whether the vessel or other means of transport or the Goods be lost or not, or the voyage or the Carriage be broken up or frustrated or abandoned. The Merchant shall make payment of all freight and other charges in cash without any offset, counterclaim or deduction.
(3) The Merchant shall be liable for and indemnify the Carrier for any mending, baling, repairs or replacement of packages resulting from insufficiency of packing or from excepted perils, and expenses incurred in fumigating, protecting, caring for, regaining possession of or otherwise made for the benefit of the Goods.
(4) Any dues, duties, taxes and charges that may be levied on any basis such as the amount of freight, weight of the Goods or tonnage of the carrying vessel or on other means of transport shall be paid by the Merchant.
(5) The Merchant shall be responsible for all fines and losses which the Carrier may incur from the Merchant's failure to load the Goods or in part on the vessel or other means of transport from any cause whatsoever.
(6) The freight has been calculated on the basis of the 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 a sum equal to the double of the correct freight less the freight charged shall be payable as liquidated damages to the Carrier.
(7) The Shipper, Consignee, owner of the Goods and holder of this Bill of Lading shall be jointly and severally liable to the Carrier for the payment of all freight and charges and for the performance of the obligation of each of them hereunder.
31. LIEN
(1) 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/or any other contract and for general average contributions to whomsoever due and for the cost of recovering the same and the Carrier shall have the right to sell the Goods and documents by public auction or private treaty, without notice to the Merchant and at the Merchant's expense and without any liability towards the Merchant. If on sale of the Goods, the proceeds fail to cover the amount due and the cost incurred, the Carrier shall be entitled to recover the deficit from the Merchant.
(2) If the Goods are not claimed during a reasonable time, or whenever in the Carrier's opinion, the Goods will become deteriorated, decayed or worthless, the Carrier may, at his discretion and subject to his lien and without any responsibility attaching to him, sell, abandon or otherwise dispose of such Goods solely at the risk and expense of the Merchant.
32. GENERAL AVERAGE
(1) General average shall be adjusted, stated and settled at the port or place where the carrying vessel or other owner shall decide according to the York-Antwerp Rules of 1994 or any modification thereof, and any other rules, laws and usage of the port or place of the adjustment as may be stated in the ocean bill of lading issued for the Goods. Such cash deposit as the Carrier or the owner of the vessel may deem sufficient to cover the estimated contribution of the Goods and any salvage and special charges thereon shall be made by the Merchant to the Carrier or the owner of the vessel, if required, before delivery of the Goods.
(2) If the Carrier delivers the Goods without obtaining security for general average contributions, the Merchant, by taking delivery of the Goods, undertakes responsibility to pay such contributions and to provide such cash deposit or other security for the estimated amount of such contributions as the Carrier shall require.
33. BOTH-TO-BLAME COLLISION AND NEW JASON CLAUSE
The Both-To-Blame Collision Clause and New Jason Clause provided for in the ocean bill of lading issued for the Goods by the owner or the operator of the carrying vessel shall be available to the Carrier and be deemed to be incorporated herein and constitute a part hereof with the same force and effect as if fully set forth herein.
34. VARIATION OF THE CONTRACT
No servant or agent of the Carrier shall have the power to waive or vary any of the terms of this Bill of Lading, unless such waiver or variation is in writing and is specifically authorized or ratified in writing by the Carrier.
35. U.S.A. LOCAL CLAUSE
(1) If the Carriage covered by this Bill of Lading includes Carriage to or from or through a port or place in the United States of America, this Bill of Lading shall be subject to the Carriage of Goods by Sea Act of the United States of America approved 16 April 1936 (U.S. COGSA) of which terms shall be deemed to be incorporated herein and shall be paramount throughout Carriage by sea or inland waterways and the entire time that the Goods are in the actual custody of the Carrier or any Sub-Contractor at the sea terminal in the United States of America before loading on or after discharge from the Vessel, as the case may be.
(2) If U.S. COGSA applies, the liability of the Carrier shall not exceed U.S. $500 per package or customary freight unit, unless the nature and value of the Goods have been declared on the face hereof, in which case Clause 23 shall apply.
(3) The Carrier shall not be liable in any capacity whatsoever for loss, damage or delay to the Goods, while the Goods are in the United States of America away from the sea terminal and are not in the actual custody of the Carrier. The responsibility of the Carrier shall be to procure, as agent, transportation by inland carriers (one or more) and such transportation shall be subject to the inland carrier's contract of carriage and tariffs and any law mandatorily applicable. The Carrier guarantees the fulfillment of such inland carrier's obligation under their contracts and tariffs. If, for any reason, the Carrier is denied the right to act as agent only at these times, the Carrier's liability for loss, damage or delay to the Goods shall be determined in accordance with Clause 22 and Clause 23 hereof.