

TERMS AND CONDITIONS - Windrose Line - APPENDIX C -

1. Definitions “Carrier“ means Windrose Line, a division of Rohde & Liesenfeld, Inc.

“Merchant“ includes the shipper, the consignee, the receiver of the goods, the holder of this Bill of Lading, the owner of the goods or the person entitled to the possession of the goods under this Bill of Lading, any person having a present or future interest in the goods or any person acting on their behalf.

“Goods“ means and includes the cargo received from the shipper and described on the face side hereof and any Container not supplied by or on behalf of the Carrier.

“Container“ means and includes any container, van, trailer, transportable tank, flat, pallet or any similar article of transport.

“Participating Carrier“ means and shall include other water, land or air carrier performing any stage of the Combined Transport.

“Carriage“ means the whole of the operation and services undertaken or performed by or on behalf of, the Carrier in respect of the goods.

2. Receipt of Goods Unless otherwise indicated this Bill of Lading, Carrier has received the goods listed on the reverse side of this Bill of Lading (Box 18) in apparent good order and condition.

3. Carrier’s Responsibility Carrier undertakes to procure the services necessary to effect the entire transport of these goods from the place where the goods are accepted as designated on the reverse side of this Bill of Lading (Boxes 13 or 15) to the place of final delivery as designated on the reverse side (Box 16 or 17). Carrier is responsible for the goods from the time they are received by Carrier until they are made available for Merchant to take delivery. The custody and carriage of the goods are subject to this bill of lading as well as Carrier’s published freight tariffs, rates and rules. At all times the custody and carriage of the goods are subject to the provisions of the Carriage of Goods by Sea Act of the United States of America approved April 16, 1936 (COGSA) which is incorporated herein as a part of this bill of lading, unless, and then only to the extent, the terms are preempted by law which is compulsorily applicable to that state of the transport at which such damage occurs. In that event, all other provisions of COGSA, this bill of lading and Carrier’s published tariff rates and rules remain in full force and effect, in the event of liability because of such a compulsorily applicable law, rule, contract or tariff provisions, then Carrier shall be liable on the same basis as any other carrier by land, water or air would be liable under those compulsorily applicable laws, contracts, rules, or tariffs.

4. Limitation of Liability Liability for loss or damage to the goods shall not exceed \$500 per package or in case of goods not shipped in a package per customary freight unit, unless the Merchant has declared a higher value (not to exceed the market value) of the goods than \$ 500 per package or per customary freight unit in writing upon delivery to the carrier, such higher value has been inserted on the reverse side of this bill of lading (Box 25) and extra freight is paid, if required, in that event, liability for loss shall not exceed the declared value and any partial loss or damage shall be adjusted pro rata on the basis of the declared value.

5. Defenses and Limitations Applicable to Third Parties Any participating carrier, master officer, servant, agent, independent contractor, sub-contractor, insurer or any other person engaged or employed by Carrier in connection with carriage under this bill of lading shall be entitled to all rights, privileges, liens, exonerations, defenses and limitations to which Carrier is entitled to under this bill of lading and the applicable law. For this purpose this contract shall be deemed to have been made on behalf of any such person and such person shall be a party to this contract. In no event shall the aggregate of the amounts recoverable from Carrier and any other person exceed the limits established in this bill of lading.

6. Notice of Loss or Damage Unless notice of loss or damage that is apparent, and the nature of such loss or damage, is given in writing to Carrier before or at the time of delivery of the goods, Carrier shall be deemed to have delivered the goods as described in the bill of lading. Notice of loss or damage that is not apparent must be given within three days of delivery. Notice of loss or damage must be sent to Windrose Line, One World Trade Center, Suite 3271, New York, N. Y. 10048.

7. Claims All claims for loss or damage of cargo must be filed with Carrier which will be solely responsible to process them to conclusion. Carrier shall be subrogated, automatically, to all rights of the Merchant as against all others including but not limited to underlying carriers, with respect to such claims. Notice of all claims must be sent to Windrose Line, One World Trade Center, Suite 3271, New York, N. Y. 10048.

8. Time Bar Carrier shall be discharged from all liability unless suit is brought within twelve months after the date of delivery of the goods, or after the date when the goods should have been delivered. Suit shall not be deemed brought against Carrier until jurisdiction shall have been obtained by service of process on Carrier.

9. Place of Suit Any lawsuit arising out of or related to carriage under this bill of lading shall be brought in the United States District Court for the Southern District of New York.

10. Consequential Loss and Delay Carrier does not accept responsibility for any direct or indirect or consequential loss or damage sustained to Merchant, through delay or any other cause, unless Carrier is responsible for consequences of delay or other cause under any law, statute, agreement or conventions of a mandatory nature. If Carrier is found liable for delay, its liability is limited to the freight charges of the shipment(s) involved. Carrier has the option of replacing lost goods or repairing damaged goods.

11. Failure to Notify Carrier does not accept consequential responsibility for failure to notify the Merchant or others concerned of the arrival of the goods.

12. Application of Defenses All defenses and limits of liability shall apply in any action against Carrier arising out of or related to carriage under this bill of lading whether the action be founded in contract or in tort.

13. Methods of Transportation, Stowage, Deck Cargo and Containerization

a) Carrier may, in its sole discretion and without notice to Merchant, use any means of transport or stowage whatsoever, load or arrange for the carriage of goods on any vessel whether named in this bill of lading or not.

b) Carrier shall have the right to arrange for carriage of the goods on deck without notice to Merchant.

c) Carrier is at liberty to stow the goods into containers together with other goods.

14. Route of Carriage: Matters Affecting Performance The intended carriage shall not be limited to the direct route but shall include any deviation for any purpose connected with the service, including maintenance of vessel and crew. 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 the condition of the goods), whenever and however arising (whether or not the carriage has commenced) Carrier may

a) without notice to Merchant abandon the carriage of the goods and where reasonably possible place the goods or any part of them at Merchant’s disposal at any place which Carrier may deem safe and convenient and the responsibility of Carrier in respect of such goods shall then cease.

b) without prejudice to the Carrier’s right subsequently to abandon the carriage under a) above, continue the carriage.

In any event the Carrier shall be entitled to full freight charges on goods received for carriage and Merchant shall pay any additional costs resulting from the above mentioned circumstances.

15. Freight Freight shall be deemed fully earned on receipt of the goods by Carrier and shall be paid whether or not the cargo was lost or damaged. Merchant shall be liable to Carrier for freight and all other charges regardless of whether the shipment was prepaid or freight collect. Merchant shall be liable to Carrier for freight and all other charges regardless of whether the shipment was prepaid or freight collected.

16. Carrier’s Lien The Carrier shall have a lien on the goods, or any part of the goods, and any documents relating thereto for all freight, demurrage, general average and other charges payable to the Carrier including attorneys fees and costs, and may enforce this lien by public or private sale of the goods and other property belonging to Merchant which may be in Carrier’s possession, without notice, and at Merchant’s expense. Any surplus from such sale shall be transmitted to Merchant and Merchant shall be responsible for any deficit.

17. Delivery of Goods If Merchant refuses or fails to take delivery of the goods upon their being discharged and made available at the point of discharge or place designated for delivery regardless of any free time prescribed by tariff or local regulations, Carrier has the right, without giving notice to Merchant, to unstuff the goods, if necessary, and/or to store them at the risk and expense of Merchant. Such storage shall constitute final delivery under this bill of lading and all liability of Carrier in respect of the goods shall terminate.

18. Description of Goods Merchant warrants the correctness of the declaration of contents, insurance, weight, measurement or value of the goods but Carrier reserves the right to have the contents inspected in order to verify the accuracy of the declaration. Merchant shall indemnify and hold Carrier harmless against any loss, damage and expenses, including attorneys fees, arising or resulting from misdescriptions or inadequacies of such descriptions.

19. Merchant’s Packing. Merchant shall be responsible for, and shall indemnify and hold carrier harmless from any loss, damage of expenses, including attorneys fees, caused by faulty packing or mixing of goods by Merchant in containers, or on trailers, or on flats, or for the count of the contents.

20. Hazardous Cargo Good of an inflammable, explosive, radioactive or dangerous nature may not be tendered for carriage unless written notice of their nature and the name and address of the sender and the receiver have been previously given to Carrier and it has given written consent. The nature of the goods must be distinctly marked on the outside of the package or packages as required by applicable statutes or regulations. Merchant shall be liable for all consequential damages and expenses arising out of its failure to comply with the foregoing provisions of this paragraph and shall indemnify and hold Carrier harmless from any resulting loss, damages, and expenses, including attorneys fees.

21. Temperature Controlled Cargo Merchant shall not tender for carriage any goods which require temperature control without previously giving written notice of their nature and the particular temperature range to be maintained to Carrier in writing. Carrier shall not be liable for any loss of or damage to the goods arising from Merchants failure to comply with these requirements or from defects, faults, breakdown, stoppage of the temperature controlling machinery, plant, insulation or any apparatus of the container.

22. General Average Merchant shall indemnify Carrier in respect of any claims of a general average nature which may be made on Carrier and shall provide security as may be required by Carrier in this connection. Deck cargo is to participate in general average.

23. Through and On Board Bills of Lading When used in or endorsed on this bill of lading words “ON BOARD“ shall mean on board the exporting vessel or on board another mode of transportation operated by or on behalf of the carrier or a participating carrier.

24. Validity

a) In the event that anything in this bill of lading is inconsistent with any applicable international convention or national law which cannot be departed from by private contract, the provisions hereof shall be null and void to the extent of such inconsistency, but no further.

b) The terms and conditions of this bill of lading supercede any other agreements with respect to carriage of the goods. No servant or agent of carrier shall have the power to waive or vary any of the terms hereof unless such waiver or variation is in writing and is specifically authorized or subsequently ratified in writing by Carrier.