

Combined Transport Bill of Lading – Standard Conditions

1. Definitions

- “Bill of Lading”** means this Combined Transport Document
- “Carrier”** means the party named on this Bill of Lading.
- “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.
- “Crew”** means the vessel’s master, her officers, seamen and other persons directly or indirectly employed in the operation of the vessel as defined in section 478 of the German Commercial Code.
- “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 without 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 including the amendments by the Protocol signed at Brussels on 23rd February, 1968.
- “US COGSA”** means the US Carriage of Goods by Sea Act 1936.
- “Merchant”** includes the shipper, consignor, consignee, holder of this Bill of Lading, the receiver and the owner of the Goods or of this Bill of Lading, and any person owning or entitled to the possession of the Goods or this Bill of Lading.
- “Servants or Agents”** includes the master, officers and Crew of the vessel, owners, managers and operators of vessels (other than the Carrier), underlying carriers, whether acting as sub-carrier, connecting carrier, substitute carrier or bailee, 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 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.
- “Freight”** includes all charges payable to the Carrier in accordance with the applicable Tariff and this Bill of Lading.

2. Applicability

Notwithstanding the Heading “Combined Transport Bill of Lading”, the provisions set out and referred to in this document shall also be applicable to the transport of Goods carried or to be carried by one mode of transport only.

3. Warranty

The Merchant warrants that 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 undertakes to perform or in his own name to procure the performance of the entire transport from the place at which the Goods are taken into his custody to the place designated for delivery in this Bill of Lading.
- (2) Subject to clause 4 (1) the Carrier has the right to sub-contract on any terms whatsoever the whole or any part of the Carriage.
- (3) The Merchant hereby agrees that no Servants or Agents are, or shall be deemed to be liable with respect to the Goods or the Carriage as Carrier, bailee or otherwise. If, however, it shall be adjudged that any Servants or Agents are a carrier or bailee of the Goods or under any responsibility with respect thereto, all exemptions and limitations of and exoneration from liability provided by law or by the Terms and Conditions including the jurisdiction clause shall be available to such Servant or Agent. If any claim is made against any of the Servants or Agents, the Merchant shall indemnify the Carrier against all consequences thereof.
- (4) The provisions of Clause 4 (2) shall extend to claims of whatsoever nature against other persons chartering space on the carrying vessel.

5. Applicable law and 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 and the courts of Hamburg shall have exclusive jurisdiction. In case the Carrier intends to sue the Merchant the Carrier has also the option to file a suit at the Merchant’s place of business.
- (2) Port to port shipment
 - (a) In the case that loss or damage has occurred between the time of loading of the Goods by the Carrier at the port of loading and the time of discharge by the Carrier at the port of Discharge (tackle to tackle), the responsibility of the Carrier shall be determined in accordance with German law. In the event that the Bill of Lading has been issued in Germany or a country in which the Hague Rules are compulsorily applicable and this Bill of Lading covers a shipment from or to Germany and such aforesaid country or between such aforesaid countries, the responsibility of the Carrier shall be determined in accordance with German law.
 - (b) Save as otherwise provided herein, German law shall be applicable prior to loading or after discharge.
 - (c) In the event that the Bill of Lading covers a shipment from or to the USA US COGSA shall apply. US COGSA shall also be applicable before the Goods are loaded on or after they are discharged from the vessel in the USA.
- (3) 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 law which applies to this leg of Carriage.
 - (b) 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, US COGSA shall apply. US COGSA

also applies before the Goods are loaded on or after they are discharged from the vessel in the USA.

- (c) With respect to road Carriage between at least two countries and if at least either place of loading or the place of discharge/delivery of the road transport is situated in a contracting country, the liability shall be determined in accordance with the Convention on the Contract for the International Carriage of Goods by Road (CMR), dated May 19, 1956, In case of a conflict between these conditions and the compulsory conditions of the CMR, the compulsory conditions of the CMR shall apply. With respect to rail Carriage between at least two contracting countries the liability shall be determined according to the International Agreement on Railway Transports (CIM), dated February 25, 1961 [or any amendments to this Convention or Agreement]. With respect to international air Carriage the liability shall be determined in accordance with the Convention for the Unification of Certain Rules Relating to International Carriage by Air dated October 12, 1929 (Warsaw Convention) [or any amendments to this Convention or Agreement], or the Convention for the Unification of Certain Rules for International Carriage by Air dated 28 May 28, 1999 (Montreal Convention) [or any amendments to this Convention or Agreement] if the requirements for the application of those Conventions are met. The terms and provisions of this Bill of Lading shall not be considered as an extension of liability under the Warsaw Convention or the Montreal Convention.
- (4) The merchant is not entitled to change the destination (other port or place than the port of discharge or the place of delivery as originally designated in this Bill of Lading). However should the Merchant request the Carrier to do so and the Carrier in its absolute discretion agrees to such request, the further Carriage will be subject to this Terms and Conditions as if the ultimate destination agreed with the Merchant had been entered on reverse side of this Bill of Lading as the port of discharge or place of delivery.
- (5) In the event that suit is brought in a court other than the courts of Hamburg and such court contrary to Clause 4 (1) 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. In this case the Carrier's liability shall not exceed 2SDRS per kilo of gross weight of the Goods lost or damaged. If this Bill of Lading has been issued in a country in which the Hague Rules apply, the Carrier's liability shall not exceed GBP 100 per package or unit.
- (6) Notwithstanding any of the foregoing to the contrary, in the event that suit is brought in a court in the USA and such court, contrary to Clause 4 (1), accepts jurisdiction, then US 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 US 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 customary freight unit unless the nature and value of the Goods has been declared by the Merchant and inserted in writing on the reverse side of the Bill of Lading and said Merchant shall have paid the applicable *ad valorem* freight rate.

6. Exclusions and limitations of liability

- (1) General exclusions
- (a) Prior to loading or after discharge the Carrier is not deemed to have custody of the Goods. The Carrier is not responsible for acts or omissions of a terminal operator to which the Goods were submitted either by the Carrier or the Merchant.
- (b) The Carrier shall not be responsible for any fault or neglect of his personnel and/or the vessel's Crew in cases of damage or loss caused by fire or explosion on board the vessel or caused by the navigation or management of the vessel, in the latter case save for damage or loss caused when executing measures which were predominantly taken in the interest of the Goods ("Error in Navigation and Fire Defenses").

- (c) The Carrier shall not be responsible for any fault of other persons involved in the navigation or management of the vessel, in particular pilots on board of the vessel or the Crew of a tug boat assisting the vessel, in cases of damage or loss caused by the navigation or the management of the vessel, save for damage or loss caused when executing measures which were predominantly taken in the interest of the Goods.
 - (d) Unless expressly agreed in writing, the Carrier shall not be liable for any loss of or damage to the cargo caused by delay. Any times provided by the carrier are an estimate of arrival at the port of discharge and/or the place of delivery. No such times shall be binding. Unless expressly agreed in writing, any such times do not constitute an agreed time of delivery as set out in § 511 HGB. 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 of the Freight unless any lower limitation applies. The limitation does not apply if it is proven that the delay in delivery resulted from an act or omission of the Carrier or of his Servants or Agents done with the intent to cause damage, or recklessly and with knowledge that damage would probably result.
- (2) specific exclusions and limitations for port to port shipment
- (a) Unless notice of loss or damage be given in writing to the Carrier or his agent at the port of discharge before or at the time of the removal of the Goods into the custody of the person entitled to delivery thereof under the contract of Carriage, or, if the loss or damage is not apparent, within three (3) days, such removal shall be *prima facie* evidence of the delivery by 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 has been delivered to the Merchant, the Merchant must prove that the damage to or loss of the Goods did not occur during the period after delivery, when the Container was in custody of the Merchant.
 - (b) Compensation shall be calculated by reference to the value of the Goods at the place and the time of delivery, 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 agreed to be the invoice value.
- (3) Specific exclusions and limitations for multimodal transport
- (a) Unless notice of loss or damage be given in writing to the Carrier or his agent at the port of discharge before or at any 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 has been delivered to the Merchant, the Merchant must prove that the damage to or loss of the Goods did not occur during the period after delivery, when the Container was in the custody of the Merchant.
 - (b) Compensation shall be calculated by reference to the value of the Goods at the time they were delivered to the Carrier for Carriage.
 - (c) IN THE EVENT THAT THE LAW WHICH IS APPLICABLE UNDER CLAUSE 4 (3)
 - (a) IS MANDATORY, THE MANDATORY PROVISIONS APPLY. IF HOWEVER THE APPLICABLE LAW UNDER CLAUSE 4 (3) IS NOT MANDATORY AND PROVIDES FOR LIABILITY EXCEEDING 2 SDRS PER KILO, THE MAXIMUM LIABILITY SHALL BE 2 SDRS PER KILO OF THE GROSS WEIGHT OF THE GOODS LOST OR DAMAGED. SDRS MEANS SPECIAL DRAWING RIGHTS AS DEFINED BY THE INTERNATIONAL MONETARY FUND.
 - (d) IF THE STAGE OF THE CARRIAGE DURING WHICH LOSS OR DAMAGED OCCURRED IS NOT KNOWN, THE CARRIER'S MAXIMUM LIABILITY SHALL IN NO EVENT WHATSOEVER AND HOWSOEVER ARISING EXCEED 2 SDRS PER KILO OF GROSS WEIGHT OF THE GOODS LOST OR DAMAGED.

- (e) THE CARRIER SHALL NOT BE ENTITLED THE BENEFIT OF THE LIMITATION OF LIABILITY PROVIDED FOR IN CLAUSE 5 (3) (c) AND (d) IF IT IS PROVEN THAT THE DAMAGE RESULTED FROM AN ACT OR OMISSION OF THE CARRIER OR HIS SERVANTS OR AGENTS DONE WITH INTENT TO CAUSE DAMAGE, OR RECKLESSLY AND WITH KNOWLEDGE THAT DAMAGE WOULD PROBABLY RESULT.

7. Additional provisions of liability

- (1) The Merchant agrees and acknowledges that the Carrier has no knowledge of the value of the Goods and that compensation higher than that provided herein may not be claimed unless the nature and value of such Goods have been declared by the Merchant, agreed to by the Carrier and inserted into the Bill of Lading before shipment. In addition the applicable *ad valorem* freight rate as set out in the Carrier's Tariff must be paid. Any partial loss or damage shall be adjusted pro rata. If the declared value is higher than the actual value, the Carrier shall in no event be liable to pay compensation higher than the net invoice value of the Goods. Any references to letters of credit, important licenses, sales contracts, invoices or order number and/or details of any contract to which the Carrier is not a party when shown on reverse side of this Bill of Lading shall not be regarded as a declaration of value.
- (2) It is hereby agreed by the Merchant that the Carrier qualifies as a person entitled to limit liability under any Convention or Act pertaining to limitation of liability on maritime claims, whichever is applicable. The Carrier may be the ship-owner, charterer (including a slot-charterer), manager or operator of the vessel, or salvor rendering services in connection with salvage operations. If any claims are made against the Servants or Agents, they are entitled to avail themselves of the same limitation available to the Carrier.
- (3) Scope of Application and Exclusions
- (a) The rights, defenses, limitations and liberties are 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 not be liable for indirect or consequential loss or damage or loss of profits.

8. Shipper packed containers

If a Container 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 the way the Container has been packed; the unsuitability of the Goods for Carriage; any possible defects of the container or its lacking fitness for Carriage; packing Goods for Carriage that are not at the instructed temperature for Carriage; the wrong setting and/or function of any ventilation or refrigeration controls thereof. However the aforementioned exclusions shall only apply, if the Container has been supplied by or on behalf of the Carrier, and the unsuitability or defective condition would have been apparent upon inspection by the Merchant at or prior to the time when the Container was packed.
- (2) the Merchant shall indemnify the Carrier against any loss, damage, liability or expense whatsoever and howsoever arising caused by one or more matters referred to in Clause 7 (1).
- (3) With regard to refrigerated Goods, the Carrier shall be deemed to have carried the Goods in accordance with his obligations under the contract of Carriage and shall have no liability whatsoever if such refrigerated Goods are carried with a temperature deviation of no more than plus or minus 2.5 degrees Celsius in regard to any temperature indicated on this Bill of Lading. Where a temperature is indicated the Carrier undertakes that the Container is equipped to maintain the temperature set by the Merchant. The Merchant

remains responsible for the consequences of any temperature irregularities prior to receipt or after delivery by the Carrier.

- (4) In the event that the Goods are packed by the Merchant, the Container shall be delivered to the Carrier with an intact high security seal in place, and seal number noted in writing on this Bill of Lading by the Merchant. In the event the Container is not sealed, the Carrier reserves the right, at Merchant's expense, to return the Container to Merchant for resealing, or to affix a seal.

9. Inspection of Goods

The Carrier or any person to whom the Carrier has sub-contracted the Carriage or any person authorized by the Carrier shall have the right but be under no obligation, to open any Container or package at any time and to inspect the Goods. In case the Container has to be opened for inspection by order of the authorities at any place, the Carrier shall not be liable for any loss or damage incurred as a result of such 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 and 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 take any measure(s) and/or incur any additional expense to carry or to continue the Carriage thereof, and/or sell or dispose of the Goods, and/or abandon the Carriage and/or store them ashore or afloat, under cover or in the open, at any place, whichever the Carrier, in his absolute discretion, considers most appropriate, which abandonment, storage, sale or disposal shall be deemed to constitute due delivery under this Bill of Lading. The Merchant shall indemnify the Carrier any additional expense so incurred.

11. Description of the Goods

The shipper warrants to the Carrier that the particulars relating to the Goods as set out on reverse side have been checked by the shipper on receipt of this Bill of Lading and that such particulars, and any other particulars furnished by or on behalf of the shipper, are adequate and correct. The shipper also warrants that the Goods are lawful Goods and contain no contraband.

12. Merchant's responsibility

- (1) All persons coming within the definition of Merchant in Clause 1 shall be jointly and severally liable to the Carrier for the fulfillment of all obligations and warranties undertaken by the Merchant either in this Bill of Lading, or required law. The Merchant shall indemnify the Carrier against all loss, damage, expenses and fines, arising or resulting from any breach of these obligations and warranties.
- (2) The Merchant shall comply with all regulations or requirements of customs, ports and/or other authorities and shall bear and pay all duties, taxes, fines, imposts, expenses or losses (including Freight for any additional Carriage) incurred or suffered by reason of any failure to so comply, or by reason of any illegal, incorrect, or insufficient marking, number or addressing of the Goods or the discovery of any drugs, narcotics, stowaways or other illegal substances within Containers 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.
- (3) If Containers supplied by or on behalf of the Carrier are unpacked at the Merchant's premises, the Merchant is responsible for returning the empty Containers (free of any dangerous goods placards, labels or markings), with interiors brushed and clean, to the

point or place designated by the Carrier, his Servants or Agents, within the time prescribed. Should a Container not be returned within the time prescribed in the Tariff, the Merchant shall be liable for any detention, loss or expenses which may arise from such non-return, unless the Merchant proves that such detention, loss or expense is not reasonable.

13. Freight and Charges

- (1) Freight and Dead Freight (Fautfracht) shall be paid in cash, without any set-off or counterclaim unless the claim is not in dispute or confirmed by final court decision.
- (2) Freight shall be deemed fully earned on receipt of the Goods by the Carrier and shall be paid and non-returnable in any event.
- (3) Freight and all other amounts mentioned in this Bill of Lading are to be paid in the currency named in this Bill of Lading or, at the Carrier's option, in the currency of the country of dispatch or destination at the highest rate of exchange for bankers sight bills current for prepaid freight on the day of dispatch and for freight payable at destination on the day when the Merchant is notified on arrival of the goods there or on the date of withdrawal of the delivery order, whichever rate is the higher, or at the option of the Carrier on the date of this Bill of Lading.
- (4) All dues, taxes and charges or other expenses in connection with the goods shall be paid by the Merchant. Where equipment is supplied by the Carrier, the Merchant shall pay all demurrage and charges which are not due to all fault or neglect of the Carrier.
- (5) The Merchant shall reimburse the Carrier in proportion to the amount of freight for any costs for deviation or delay or any other increase of costs of whatever nature caused by war, warlike operations, epidemics, strikes, government directions or force majeure.
- (6) The Merchant warrants the correctness of the declaration of contents, insurance, weight, measurements or value of the goods but the Carrier has the Liberty to have the contents inspected and the weight, measurements or value verified. If on such inspection it is found that the declaration is not correct it is agreed that a sum equal either to five times the difference between the correct figure and the freight charged, or to double the correct freight less the freight charged, whichever sum is the smaller, shall be payable as liquidated damages to the Carrier for his inspection costs and losses of freight on other goods notwithstanding any other sum having been stated on this Bill of Lading as freight payable.
- (7) Despite the acceptance by the Carrier of instructions to collect freight, charges or other expenses from any other person in respect of the transport under this Bill of Lading, the Merchant shall remain responsible for such monies on receipt of evidence of demand and the absence of payment for whatever reason.

14. Lien

The Carrier shall have a lien on the Goods and any documents relating thereto for all sums payable by the Merchant to the Carrier under this or any other contract and for general average contributions, to whomsoever due. The Carrier may exercise his lien at any time and in any place at his sole discretion, whether the contractual Carriage is completed or not. The Carrier's lien shall extend to cover the cost of recovering any sums due. The Carrier shall have the right to sell the Goods at public or private sale without notice to the Merchant. If the proceeds of this sale fail to cover the whole amount due, the Carrier is entitled to recover the deficit from the Merchant.

15. Methods and Routes of Transportation and for any purpose

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

- (1) pack the Goods in Containers and consolidate with other goods in Containers.

- (2) unpack and remove Goods which have been packed into a Container and forward them in a Container or otherwise.
- (3) carry the Goods, whether or not packed in Containers, on deck or under deck.
- (4) choose or substitute the means, route and procedure to be followed in the handling, stowage, storage and transportation of the goods.

16. Dangerous Goods

- (1) No Goods which are or may become dangerous, inflammable or damaging (including radioactive materials), shall be tendered to the Carrier for Carriage without his express consent in writing, and without the Container as well as the Goods themselves being distinctly marked on the outside so as to indicate the nature and character of any such Goods and so as to comply with any applicable laws, regulations or requirements. If any such Goods are delivered to 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 the Goods are sufficiently packed in compliance with all laws or regulations and requirements with regard to the nature of the Goods.
- (3) Whether or not 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 his rights provided elsewhere.

17. Delivery

- (1) Unless expressly agreed in writing, the Carrier shall have the right to deliver the Goods at any time.
- (2) Goods shall be deemed to be delivered when they have been handed over or placed at the disposal of the Consignee or his agent in accordance with this Bill of Lading, or when the goods have been handed over to any authority or other party to whom, pursuant to the law or regulation applicable at the Place of delivery, the goods must be handed over, or such other place at which the Carrier is entitled to call upon the Merchant to take delivery.
- (3) The Carrier shall also be entitled to store the goods at the sole risk of the Merchant, and the Carrier's liability shall cease, and the cost of such storage shall be paid, upon demand, by the Merchant to the Carrier.
- (4) If at any time the carriage under this Bill of Lading is or is likely to be affected by any hindrance or risk of any kind (including the condition of the goods) not arising from any fault or neglect of the Carrier or a person referred to in Clause 2.2. and which cannot be avoided by the exercise of reasonable endeavours the Carrier may: abandon the carriage of the goods under this Bill of lading and, where reasonably possible, Place the goods or any part of them at the Merchant's disposal at any place which the Carrier may deem safe and convenient, whereupon delivery shall be deemed to have been made, and the responsibility of the Carrier in respect of such goods shall cease. In any event, the Carrier shall be entitled to full freight under this Bill of Lading and the Merchant shall pay any additional costs resulting from them above mentioned circumstances.

18. 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 claims and/or disputes relating to general average shall exclusively subject to the laws and jurisdictions set out in Clause 4.

19. Both-to-Blame Collision

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

20. 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.

21. Time for Suit

In any event, the Carrier shall be discharged from all liability in respect of loss or damage on the Goods, non-delivery, mis-delivery, delay or any other loss or damaged 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.