

**TERMS AND CONDITIONS (Ed. 03/22)****1) Definitions:**

“**CARRIER**” means Ignazio Messina & C. S.p.A.

«**MERCHANT**» Merchant” includes the Shipper, Booking Party, Holder, Consignee, Receiver of the goods, any person owing or entitled to the possession of the goods or of this Bill of Lading and anyone acting on behalf of any such person including the freight forwarder, even if he is not mentioned as “Shipper” in this Bill of Lading and even in case he declared to act on behalf of the Shipper; in that connection it is specifically understood that Shipper and/or the appointed freight forwarder, as original Contracting Party, will remain severally responsible towards the Carrier for any liability/payment due by his assignees, as Consignee, Receiver, Bill of Lading Holder on their servants/agents.

“**HOLDER**” means any person for the time being in possession of the Bill of Lading to whom the property in the good is has passed on or by reason of the consignment of the goods or of the endorsement this Bill of Lading or otherwise.

“**GOODS**” means the whole or any part of the cargo received from the Shipper and includes any container not supplied by or on behalf of the Carrier.”

“**FREIGHT**” includes all charges payable to the Carrier in accordance with the applicable Tariff and this Bill of Lading.

“**VESSEL**” includes the vessel named on the face hereof and any ship, craft, lighter or other means of transport which is or shall be substituted, in whole or in part, for that vessel.

2) Law and jurisdiction.

a) This Bill of Lading shall have effect subject to any legislation making the United Nations convention on the Carriage of Goods by Sea 1978 (The Hamburg Rules) compulsorily applicable to this Bill of Lading and in such circumstance the said rules nullify any stipulation derogating therefrom to the detriment of the shipper or consignee. If any term of this Bill of Lading be repugnant to the legislation to any extent, such terms shall be void to that extent but no further.

b) Save where the Hamburg Rules compulsorily apply by reason of (a) above, the provisions of the Italian Navigation Code shall apply to the contract of carriage evidenced by this Bill of Lading unless the Hague Visby Rules as amended in art. 10 by letters (a), (b) of art. 5 of the protocol signed Bruxelles on the 23 Feb. 1968 and as further amended by the protocol signed Bruxelles on the 21 December 1979, are compulsorily applicable.

c) Any dispute arising under this Bill of Lading shall be determined exclusively by the Court of Genoa (where the Carrier has his principle place of business).

3) Period of responsibility.

The Carrier or his Agent shall not be liable for loss of or damage to the goods before the delivery of the same goods to Carrier or its servants at port of loading and after discharge from the vessel, also not for any risk on any cargo which may be required to be discharged and reloaded in ports and route under Port Authorities or Government requirements, howsoever such losses or damage arise. The Carrier shall under no circumstances be liable for any loss or detention of or damage to goods howsoever caused, arising at the time when the goods are no more in the actual custody of the Carrier or his Servants. 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 or use and the Carrier shall in no circumstances whatsoever and howsoever arising be liable for direct, indirect or consequential loss or damage caused by delay, unless caused by the Carrier personal gross negligence and in any event the liability of the Carrier for delay is limited to an amount equivalent



to two and a half times the freight payable for the goods delayed, but not exceeding the total freight payable under the Bill of Lading issued for the carriage of the delayed goods.

4) Methods and route of transportation.

- a. The Carrier may at any time and without notice to Merchant:
- i. use any means of transport or stowage whatsoever;
 - ii. transfer the goods from one conveyance to another including but not limited to transhipping or carrying the same on another vessel than that named on the face hereof or by any other means of transport whatsoever;
 - iii. unpack and remove goods which have been stowed into container and forward the same in other container/containers or otherwise;
 - iv. proceed by any route in his discretion (whether or not the nearest or most direct or customary or advertised route) and proceed to or stay at any place or port whatsoever once or more often and in any order;
 - v. load or unload the goods at any place or port (whether or not any such port is named overleaf as the port of loading or port of discharge) and store the goods at any such place or port;
 - vi. comply with any orders 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 having under the terms of the insurance on the conveyance employed by the Carrier the right to give orders or directions;
 - vii. permit the vessel to proceed with or without pilots, to tow or to be towed or to be drydocked.
- b. The liberties set out in sub-clause a) may be invoked by the Carrier for any purpose whatsoever, whether or not connected with the carriage of the goods, including loading or unloading other goods, bunkering, undergoing repairs, adjusting instruments, picking up or landing any person, including but not limited to people involved with the operation or maintenance of the vessel and assisting vessel in all situations. Anything done in accordance with sub-clause a) or any delay arising therefrom shall be deemed to be within the contractual carriage and shall not be a deviation.
- c. By tendering goods for carriage without any written request for carriage in a specialized container or for carriage otherwise than in a container, the Merchant accepts that the carriage may properly be undertaken in a general purpose container.

5) 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 (other than the inability of the goods or any part thereof to be safely or properly carried or carried further) and howsoever arising (even though the circumstances giving rise to such hindrance, risk, delay, difficulty or disadvantage existed at the time this contract was entered into or the goods were accepted for carriage) the Carrier (whether or not the carriage is commenced) may either:

- a. without notice to the Merchant abandon the carriage of the goods and place the goods or any part of 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. The Carrier shall nevertheless be entitled to full freight on goods received for carriage, and the Merchant shall pay any additional costs of carriage to and delivery and storage at such place or port; or
- b. without prejudice to the Carrier's right subsequently to abandon the carriage under a) upon notice to the Merchant suspend carriage of the goods or any part of them and store them ashore or afloat upon the terms of this Bill of Lading, against payment of such reasonable additional charges as the Carrier may determine. The Carrier undertakes; to use best



endeavours to forward goods, the carriage of which has been suspended, as soon as possible, after the cause of hindrance, risk, delay, difficulty or disadvantage has been removed but makes no representation as to the maximum period between such removal and the forwarding of the goods to the place of delivery named in the Bill of Lading.

6) Loading, discharging and delivery of the cargo shall be arranged by the Carrier's Agents unless otherwise agreed. Any lightering in or off ports of loading or ports of discharge to be for risks and expenses of the Merchant. Landing, storing and delivery shall be for the Merchant's account. Loading and discharging may commence without previous notice. The vessel may commence discharging immediately on arrival without notice to the Consignees, and discharge continuously irrespective of weather conditions, by day and by night, Sundays and Holydays included, notwithstanding any custom of the port to the contrary, on the quay, or into shed, warehouse, depot, hulk, lighter or any other vessel or craft as the Carrier or his Agents may consider appropriate. The Merchant or his assign shall tender the goods when the vessel is ready to load and as fast as the vessel can receive and but only if required by the Carrier also outside ordinary working hours notwithstanding any custom of the port. Otherwise the Carrier shall be relieved from any obligation to load such cargo and the vessel may leave the port without further notice and deadfreight is to be paid.

The Merchant or his assign shall take delivery of the goods and continue to receive the goods as fast as the vessel can deliver and but only if required by the Carrier also outside ordinary working hours, notwithstanding any custom of the port. Otherwise the Carrier shall be at liberty to discharge the goods at any place to be deemed a true fulfilment of the contract, or alternative to act under clause N. 5.

If the Merchant fails to take delivery of the goods within a reasonable time or if in the opinion of the Carrier goods 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 right which he may have against the Merchant, without notice and without any responsibility whatsoever attaching to him, sell or dispose of the goods according to the applicable law and apply the proceeds of the sale in reduction of the sums due to the Carrier from the Merchant in respect of this Bill of Lading.

7) Discharge without landing receipt.

Whenever by law, rule or custom of port of discharge, the goods are withdrawn by the Customs or by the Port Authorities or by a Monopoly and same do not issue the relative receipt to the Master at the time of unloading, the Merchant shall be obliged to be present by his own initiative during the unloading operations and should he have not evidenced in writing damages and/or shortages in contradictory with the Master, goods shall be deemed absolutely to have been delivered to the said Authorities or Monopoly in compliance with the indications given in the Bill of Lading and same is valid even if the Merchant was not present at unloading.

8) Optional stowage and deck cargo.

a. The goods may be stowed by the Carrier or his Agents or Servants in containers and/or trailers and/or vehicles and/or other means of transportation.

b. The Merchant agrees that vehicles, trucks, trailers, flats and other similar cargo and goods packed in containers may at the Carrier's option be carried on deck or under deck without notice to the Merchant who also acknowledges that the said cargo was loaded on Vessel specifically built and equipped for carrying such cargo both on and under deck. All such goods, whether carried on deck or under deck, shall participate in General Average and shall be deemed to be within the definition of goods for the purposes of the Hague Rules and shall be carried subject to those Rules unless the Hamburg Rules are compulsorily applicable.



c. In case the Merchant is furnished with containers or trailers or vehicles or other means of transportation by the Carrier, the Merchant shall inspect them before packing/loading/stuffing and stuffing into containers or loading on trailers and/or vehicles or using other means of transportation shall be conclusive evidence that the Merchant inspected the facilities furnished by the Carrier and was satisfied that such facilities were suitable for the carriage of the goods.

9) Valuable goods.

Master and Carrier are not liable for valuable and goods classed as such, whereas they are liable for the value thereof to the extent indicated in this Bill of Lading by the Merchant and the said value, compulsorily, must also be written into the boat note but under the condition of that freight has been paid in accordance with the value and the said valuable goods shall have been suitably packed as follows: when packed in cloth bags, same must be made on the inside and sealed by sealing wax or leads on opening; when packed in cases, same must be strongly rivetted, never screwed, iron strapped at ends and opening, whereas the seals must enter deeply into the wood.

10) Dangerous goods.

- a. No goods which are or may become dangerous, inflammable or damaging (including radioactive materials), or which are or may become liable to damage any property whatsoever shall be tendered to the Carrier for carriage without his express consent in writing and without the container or other covering in which the goods are to be transported and the goods being distinctly marked on the outside so as to indicate the nature and character of any such articles and so as to comply with the IMO Code and any other applicable laws, regulations or requirements. If any such articles are delivered to the Carrier without such written consent and marking or in the opinion of the Carrier the articles are or are liable to become of a dangerous, inflammable or damaging nature, the same may at any time be destroyed, disposed of, abandoned or rendered harmless without compensation to the Merchant and without prejudice to the Carrier's right to freight.
- b. The Merchant undertakes that the goods are packed in a manner adequate to withstand the ordinary risks of carriage having regard to their nature and in compliance with all laws and regulations which may be applicable during carriage.
- c. 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 any breach of the provisions of this clause.
- d. Nothing contained in this clause shall deprive the Carrier of any of his rights otherwise provided for.

11) Shipper-packed containers.

If a container has not been packed by or on behalf of the Carrier.

a) The Carrier shall not be liable for loss or for damage to the goods caused by:

I) the manner in which the container has been packed; or

II) the unsuitability of the goods for carriage in container; or

III) the unsuitability or defective condition of the container provided that where the container has been provided by or on behalf of the Carrier this paragraph III) shall only apply if the unsuitability or defective condition arose without any want of due diligence on the part of the Carrier or would have been apparent upon reasonable inspection by the Merchant at or prior to the time when the container was packed.

b) The Merchant shall indemnify the Carrier against any loss, damage, liability or expense whatsoever and howsoever arising caused by one or more of the matters referred to in paragraph a), I), II) or III) above, save that where the loss, damage, liability or expense was caused by a



matter referred to in paragraph a) III) the Merchant shall not be liable to indemnify the Carrier in respect thereof unless both the provisoes referred to in that paragraph apply.

12) Shipper's/Merchant's responsibility.

a) The Shipper warrants to the Carrier that the particulars relating to the goods as set out overleaf 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 correct.

b) The Shipper shall indemnify the Carrier against all loss, damage, fines and expenses arising or resulting from

inaccuracies in or inadequacy of such particulars or from any other cause in connection with the goods for which the Carrier is not responsible.

c) The Merchant shall comply with all regulations or requirements of Customs, port or any other Authorities and shall bear and pay all duties, taxes, fines, imposts, expenses or charges (including ad valorem wharfage) or losses incurred or suffered by reason thereof or by reason of any illegal, incorrect or insufficient marking, numbering or addressing of goods and indemnify the Carrier in respect thereof.

13) Inspections of goods.

If by order of the Authorities at any place a container has to be opened for the goods to be inspected, the carrier will not be liable for any opening, unpacking, inspection or repacking; moreover the Carrier shall be entitled to recover the cost of such opening, unpacking, inspection and repacking from the Merchant. The Carrier or any person to whom the Carrier has subcontracted the carriage or any person authorized by the Carrier shall be entitled, but under no obligation, to open any Container or package at any time and to inspect the goods.

14) Return of empty containers/trailers/vehicles.

Carrier is not responsible for damages to Merchants' equipments such as containers and/or trailers and/or other vehicles between discharge at destination and reloading on the return voyage as containers/trailers/vehicles are beyond Carrier's custody during such period. Carrier likewise is not responsible for damages ascertained on containers/trailers/vehicles on discharge at end of return voyage unless cargo interests and/or owners of containers/trailers/vehicles prove by documents issued by Master or signed by him that containers/trailers/vehicles were in good order and condition upon reloading on return voyage.

15) Refrigerated cargo.

b) Refrigerator vehicles/trailers/containers are subject to the safety rules imposed by the Ministry of Merchant Marine and Italian Naval Register, prohibiting the use on board of any source of energy from vehicles/trailers/containers. The vessel, upon written request of the Merchant, expressed at time of booking and consistently with the availability of electric taps, will allow the connection to her electric circuit (voltage/cycle to be always requested by the Merchant at time of booking) always provided that the vehicles/trailers/containers be fitted with special explosion- proof switch antidef type, tested by the qualified Authorities.

The connection is allowed at Merchant's risk and liability also towards a third party, and excluding any responsibility (howsoever and whatsoever caused) of the Carrier and/or the vessel, for lack and/or break of current changes of tension/voltage and any fault and breakdown of the current generator and distribution system of the vessel, even though attributable to Servants. If the electric, motor of the refrigerator vehicles/trailers/containers is sparking during the working, then the supply of the current shall be discontinued and disconnected.

b) (1) The Merchant undertakes not to tender for transportation any goods which require refrigeration without previously giving written notice of their nature and particular temperature



range to be maintained and in the case of a refrigerated container packed by or on behalf of the Merchant further undertakes that the goods have been properly stowed in the container and that its thermostatic controls have been adequately set by him before delivery of the goods to 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 defects, derangement, breakdown, stoppage of the refrigerating machinery, plant, insulation and/or any apparatus of the container, vessel conveyance and any other facilities, provided that the Carrier shall before or at the beginning of the transport exercise due diligence to supply the current to maintain the refrigerated container in an efficient state.

16) Freight and charges.

a. Freight, whether actually paid or not, shall be considered as fully earned on receipt of the goods by the Carrier and not returnable, in any event whether the vessel arrived at her destination or whether she is lost on the voyage or whether due to force majeure she must return for reaching her destination, either due to stranding, collision or causes whatsoever of force majeure which may cause her to discharge the goods in an intermediate port or also in the case of total or partial loss, or average to the goods.

b. Freight and charges of every nature must be prepaid but Carrier may consent to the freight and charges being assigned in the Bill of Lading for collection at destination against a 5% collecting commission. When freight and charges are payable at destination, same must be paid on the date of vessel's arrival in the currency shown in the Bill of Lading, and subject to prior authorization by the Carrier, in the currency of the Country of destination at the highest sight exchange rate on the said day. If within 30 days from the date of discharge Consignee/Receiver has not paid freight and charges, due at destination, Carrier, after a written notice to Shipper or his forwarding Agent, may issue a "correction freight" and debit them with freight and additional charges.

c. **Misdeclaration of cargo.** Should it result from a control made by the Carrier that the declared weight or measurement are less than that ascertained, or that the contents belong to a higher class or the value of the goods has been misstated by the Merchant, double the amount of correct freight shall, if required by the Carrier, be paid (as preliquidated damages) by the Merchant as would have been charged if the goods had been accurately described or valued as well as the full cost of the control, and a certificate signed by the Carrier or his Agents shall be conclusive evidence for all purposes of the amount that would have been so charged.

d. Carrier shall always have the right of privilege and lien on the goods loaded for freight, deadfreight, cargo demurrage and relevant extradetention due to the Carrier for containers, trailers, semitrailers etc. for all penalties and unloading charges as well as for any other amount due to him. The Carrier is entitled to sell the goods privately or by auction according to applicable law to cover any claim and to recover any amount due under the terms of this Contract. Failure by Carrier to exercise any of the rights contemplated under this clause will not amount to a waiver of any of the Carrier's rights, including the right to payment of demurrages/detentions for Container.

e. **Ad valorem:** higher compensation than that provided by clauses 2 and 17, whichever may be applicable, may be claimed only when, with the consent of the Carrier, the value of the goods declared by the Shipper, which exceeds the limits laid down in these clauses, has been stated in this Bill of Lading and extrafreight paid on such value in that case the amount of the declared value shall substitute those limits.



Any partial loss or damage shall be adjusted pro-rata on the basis of such declared value.

17) Cargo claims.

In case of damage to or loss of goods for which the Carrier may be liable he shall be obliged to pay only the actual value of the goods but in no case exceeding the invoiced value of the goods, with the maximum of 104,00 Euro per package or unit unless the value has been declared on the Bill of Lading and extra freight paid on such value. Carrier in any case will be liable only for the physical damages to the cargo and will have no responsibility for any consequential, indirect damage, with specific reference to the loss of profit, to the loss of production of a factory and so on.

18) Tracing of the goods.

The Carrier shall have six months time from date of vessel's arrival for the purpose of tracing goods which eventually did not reach their destination.

In the case of the Carrier having traced goods mislead, the Carrier shall have the right to redeliver same even if legal suits have been already commenced provided that the judgment has still to be concluded by final judgment. After receiving the said goods, the Merchant must abandon the legal suit without reimbursement of the legal expenses.

19) Prohibition to abandon the goods to the Carrier.

In no case the Merchant has the right to abandon the items loaded to the Carrier for any reason whatsoever and/or because same are damaged, spoiled and/or depreciated also for the partial loss of the goods and/or delay in redelivery.

20) General Average.

a. In the event of accident, danger, damage or disaster before or after the commencement of the voyage, resulting from any cause whatsoever, due to negligence or not, for which, or for the consequence of which, the Carrier is not responsible, by statute, contract, or otherwise, the Merchant shall contribute with the Carrier in General Average to the payment of any sacrifices, losses or expenses of a General Average nature that may be made or incurred and shall pay salvage and special charges incurred in respect of the goods.

b. Notwithstanding the provisions of any national law to the contrary General Average shall be adjusted according to the York/Antwerp Rules of 1994, by one or more Adjusters appointed by the Carrier, at any port or place at the option of the Carrier, whether declared by the Carrier or a subcontractor of the Carrier. The Merchant shall give such cash deposit or other security as the Carrier may deem sufficient to recover the estimated General Average contribution of the goods before delivery if the Carrier requires, or, if the Carrier does not so require, within three months of delivery of the goods whether or not at the time of delivery the Merchant had notice of the Carrier's lien. The Carrier shall be under no obligation to exercise any lien for General Average contribution due to the Merchant.

c. If a salving vessel is owned or operated by the Carrier, salvage shall be paid for as fully as if the salving vessel or vessels belonged to strangers.

21) Both to blame collision clause.

If the vessel comes into collision with another vessel as a result of the negligence of the other vessel and any act, neglect or default of the Master, Mariner, Pilot or the Servants of the Carrier in the navigation or in the management of the vessel, the owners of the goods carried hereunder will indemnify the Carrier against all loss or liability to the other or non-carrying vessel or her owners in so far as such loss or liability represents loss of, or damage to, or any claim whatsoever of the owners of said goods, paid or payable by the other or non-carrying vessel or her owners to the owners of said goods and set off, recouped or recovered by the other or non-carrying vessel or her owners as part of their claim against the carrying vessel or Carrier.



The foregoing provisions shall also apply where the Owners, Operators or those in charge of any vessel or vessels or objects other than, or in addition to, the colliding vessels or objects are at fault in respect to a collision or contract.

22) Himalaya Clause.

It is hereby expressly agreed that no Servant, Employee or Agent of the Carrier (including every independent contractor from time to time employed by the Carrier) shall in any circumstances whatsoever be under any liability whatsoever to the Shipper, Consignee or Owners of the goods or to any Holder of this Bill of Lading for any loss, damage or delay of whatsoever kind arising or resulting directly or indirectly from any act, neglect or default on his part while acting in the course of or in connection with his employment and, without prejudice to the generality of the foregoing provisions in this clause, every exemption, limitation, condition and liberty herein contained and every right, exemption from liability, defence and immunity of whatsoever nature applicable to the Carrier or to which the Carrier is entitled hereunder shall also be available and shall extend to protect every such Servant, Employee or Agent of the Carrier acting as aforesaid and for the purpose of all the foregoing provisions of this clause the Carrier is or shall be deemed to be acting as Agent or Trustee on behalf of and for the benefit of all persons who are or might be his Servants, employees or Agents from time to time (including independent contractors as aforesaid) and all such persons shall to this extent be or be deemed to be parties to the contract in or evidenced by this Bill of Lading.

23) Tariff.

All terms and conditions of the Carrier's applicable Tariff concerning delivery at the terminal, handling and stay of goods before loading on intended vessel etc. and after discharge are to be considered as fully incorporated herein. Particular attention is drawn to the terms therein relating to demurrages/detentions. Copies of the relevant provisions of the applicable Tariff are obtainable from the Carrier or his Agents upon request. In the case of inconsistency between this Bill of Lading and the applicable Tariff, this Bill of Lading shall prevail.

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 no further be null and void.