

ALASKA MARINE LINES, INC.

Bill of Lading Terms and Conditions

1. DEFINITIONS.

- a. "Carrier" refers to ALASKA MARINE LINES, INC. as well as its affiliated business entities, subcontractors and agents, and their respective owners, directors, officers and employees.
- b. "Consignee" refers to the entity identified as such on the face of this Bill of Lading or otherwise by Shipper as the entity to receive the goods.
- c. "Goods" refers to those items of personal property with respect to which Carrier has been requested to or does perform services, including all packing and packaging of the goods as well as all other items or materials associated with the goods, including, without limitation, crates, cradles, pallets, tanks, platforms and containers. The term "goods" shall be synonymous with "shipments," "cargo," "cargoes," "pieces," "packages," "commodities" and "personal property."
- d. "Entity" refers to all forms of business entities as well as to natural persons.
- e. "Shipper" refers to the entity engaging Carrier with respect to the goods and, unless the context herein otherwise clearly indicates to the contrary, shall include the owner, consignor, consignee and all others who may have right of claim by, through or with respect to the goods.

2. FREIGHT AND OTHER CHARGES.

- a. **Freight and Storage.** Freight and storage charges shall be as identified by Carrier in its applicable rate quotation, transportation agreement, Bill of Lading and/or tariff, as applicable.
- b. **Other Charges.** Shipper shall also be responsible for all assessments, charges and/or expenses upon or against the goods pursuant to this Bill of Lading and/or Carrier's tariff, including, without limitation, all dues, taxes, duties, fines, penalties applicable to the goods, advances made by Carrier, additional expenses incurred by virtue of Shipper's actions, omissions or failure to comply with its obligations hereunder, and expenses incurred as a result of unforeseen or extraordinary circumstances. Freight, storage and/or other charges based upon inaccurate or incomplete instructions or particulars from Shipper may be recalculated by Carrier.
- c. **Payment.** Freight, storage and other charges shall be fully earned upon tender of the goods by Shipper or commencement of performance by Carrier, whichever shall first occur, and payable in advance and/or prior to delivery of goods unless otherwise agreed in writing by Carrier. All sums due shall be payable in U.S. dollars without deduction or offset. Interest on sums due but not paid shall accrue at the rate of one percent (1%) per month or the highest rate allowed by law. Shipper, specifically including all entities identified in the definition of that term above, shall be jointly and severally liable for payment of all sums due hereunder.
- d. **Lien.** Carrier shall have a lien upon all goods transported, which lien shall survive delivery, to secure payment of all sums due hereunder. Further, Shipper hereby grants Carrier a consensual lien upon all Shipper's personal property subsequently in the possession of Carrier to secure payment of all sums due hereunder. Carrier may assert said lien rights at any time, including withholding delivery until full payment is received and/or public or private sale of such goods and/or other personal property; sale proceeds shall be first applied to the costs of sale, then to sums due Carrier, with any balance remaining thereafter to be paid to Shipper.

3. **INFORMATION FROM SHIPPER.** Shipper warrants the accuracy and completeness of all information, instructions and particulars relating to the goods, including their nature, description, special characteristics, marks, number, weight, volume and quantity, etc., upon all of which Carrier shall rely. Shipper shall reimburse Carrier for any loss or expense (including additional charges) resulting from any such inaccurate or incomplete information, instructions or particulars.

4. **HAZARDOUS GOODS.** Shipper must identify to Carrier in writing prior to shipment any goods which require specialized handling or are dangerous or hazardous, and Carrier must specifically agree to transport the same. In such an event, Shipper shall provide complete and accurate handling instructions, including relevant safety procedures, and shall be solely responsible for the completion of all documentation required and otherwise for compliance with applicable regulations and laws relating to the goods and/or the transportation thereof. Should any such goods create a risk of harm to persons or property and/or make the transportation thereof impractical, in Carrier's opinion, Carrier may discharge, store and/or dispose of any or all of such goods at Shipper's risk and expense.

5. **REFRIGERATED, PERISHABLE AND VALUABLE GOODS.** Shipper must identify to Carrier in writing prior to shipment any perishable, temperature controlled, keep from freezing, chilled or frozen goods, and Carrier must specifically agree to transport the same. In such an event, Shipper shall identify in writing to Carrier the nature of the goods and the specialty conditions, temperature, humidity, etc. under which they are to be transported and shall also be responsible for tendering the goods to Carrier with a uniform core temperature below that at which the goods are to be transported. Carrier shall not be responsible for freezing down or reducing the core temperature of goods but, rather, only for maintaining an ambient temperature in the relevant conveyance within ten (10) degrees Fahrenheit of the temperature at which such goods were tendered to Carrier. Carrier shall not be responsible for stains, discolorations, holes, chafing, breakage or spilling of lumber, timber, plywood, wood products, etc., whether or not protected and/or covered. Shipper shall not tender for transportation any live animals, art objects, bank bills, coins, currency, drafts, notes, valuable papers, precious metals, precious stones, antiques or any other rare, old, precious or semi-precious articles of extraordinary value.

6. **TENDER OF GOODS TO CARRIER.** Shipper shall be responsible for tendering the goods to Carrier at the time and place identified, with all such goods to be in good order, count and condition, and packaged, protected, packed, stowed and/or shored sufficiently to withstand the rigors of storage and transportation, including without limitation transportation by uncovered barge and exposure to weather, moisture, humidity, heat, rolling, pitching and similar barge movements.

7. **ROUTES, METHODS, ETC.** Carrier shall perform with due diligence but does not warrant or guarantee any particular speeds or departure/arrival dates/times. Carrier shall have liberty with respect to the selection of conveyances, routes, procedures, modes and methods of transportation. Carrier shall not be responsible for any delay, inability to perform or failure to perform caused by events beyond its direct and reasonable control. In the event such a hindrance should occur, Carrier shall, if feasible, notify Shipper and request instructions or if insufficient time exists or instructions are not provided shall, at Shipper's risk and expense, store and/or dispose of the goods as it deems reasonable under the circumstances.

8. **LIBERTIES.** Carrier shall be at liberty to call at any port/place to replenish fuel, oil, stores or other necessities and/or make repairs. Carrier may deviate in attempt to save life or property at sea, and with respect thereto may leave the barge (and any cargoes thereon) in a position reasonably believed to be safe. Carrier may select any route, speed or towing arrangement believed reasonable under the circumstances, including towage in tandem. In the event of accident, danger, damage, disaster or other event occurring after departure on voyage which, in the opinion of Carrier, prevents or may prevent the safe completion of such voyage, the vessels may call at any port/place and cause cargoes to be discharged and/or stored ashore at Shipper's risk and expense.

9. **IN-TRANSIT STORAGE.** Carrier may store goods in-transit at its nominated facility and await further transportation and/or delivery instructions from Shipper. Upon notice to and approval from Carrier (which shall not be unreasonably withheld), Shipper shall be given access to goods stored in-transit during normal business hours for the facility, provided that Shipper is accompanied by a representative of Carrier and an additional access charge may apply. It is acknowledged and agreed that all storage of the goods shall be deemed in-transit and subject to these terms and conditions.

10. **SUBCONTRACTING.** Carrier shall be entitled to subcontract on any terms and/or conditions the whole or any part of the transportation services being provided hereunder, including without limitation to affiliated entities, with all such subcontractors including their respective employees, agents and subcontractors, entitled to the same rights, including limitations upon, defenses to and exemptions from liabilities, afforded Carrier.

11. **DELIVERY OF GOODS.** Carrier shall deliver or arrange for delivery of the goods to Consignee at the location identified on the face of this Bill of Lading. Consignee shall be obligated to receive and take the goods as promptly as they can be discharged/unloaded from the conveyance, with such discharge/unloading to be at Shipper's risk and expense. Goods received and taken by Consignee, tendered to Consignee and refused or otherwise not received and taken by Consignee, seized by government authority or under legal process, which cannot be delivered because of Shipper's fault or neglect, including inaccuracy/inadequacy of instructions or particulars, or which for any other reason beyond Carrier's control have not been received and taken, shall nonetheless be deemed fully delivered to Consignee and Carrier's responsibility with respect to such goods and this agreement shall thereupon cease. Any actions taken by Carrier with respect to the goods thereafter shall be performed as Shipper's agent and at Shipper's sole risk and expense.

12. **CLAUSE PARAMOUNT.** The U.S. Carriage of Goods By Sea Act is fully incorporated into this agreement and shall apply at all times the goods are in the custody, care and/or control of Carrier including before loading to the vessel, during all transportation, through and after discharge and otherwise until delivery. Neither Carrier nor vessel shall in any event be liable for loss/damage to or in connection with the goods in an amount exceeding \$500 U.S. per package (with single largest Shipper provided, stuffed, packed and/or loaded, etc. unit, such as a single container, trailer or pallet, whichever is largest, or entire machine or piece of equipment, as applicable, to be the relevant package, and not the individual contents, boxes or pieces thereof, or in or on such unit), or in case of goods not in packages per customary freight unit, unless a higher value for the goods has been declared in writing by Shipper to Carrier before shipment and inserted on the face hereof and Shipper has paid increased charges with respect thereto. Shipper hereby authorizes on deck or under deck transportation, and/or transportation by unmanned, open deck barge, at Carrier's option.

13. **EXCEPTIONS.** Carrier shall not be liable for any loss, damage, delay, shortage, misdelivery, failure to deliver or other result caused by: act of God; peril of the sea; act of terrorism; act of public enemy; act of war; act of public or government authority or other with apparent public or government authority; fire, unless caused by the actual fault or privity of Carrier; quarantine; act or omission of Shipper or its agent or representative; strike, lockout or other labor dispute; sabotage; riot or other civil commotion; wastage in bulk or weight or arising from the nature of the goods; inherent vice; improper or insufficient packing, securing, packaging, marking or addressing; latent defect not discoverable by due diligence; compliance with instructions from Shipper; goods loaded by Shipper into sealed containers or other packages, providing the seal remains unbroken and the container or other package is not physically damaged; errors in operation or navigation; and/or any other cause or event arising without the actual fault and privity of Carrier.

14. **CLAIM LIMITATIONS.** Delivery of the goods without written notification of damage on the front of Carrier's Bill of Lading or delivery receipt shall be *prima facie* evidence that the goods were delivered in the same good order, count and condition as when received by Carrier; if such loss/damage is not apparent at delivery, notice must be given within three (3) days of delivery. Carrier shall have an opportunity to inspect the goods, including their packing and packaging, in the same condition as upon delivery and before any alteration or destruction thereof. In any event, Carrier shall be discharged from all liability with respect to any loss/damage to or in connection with the goods and/or the transportation thereof unless suit is filed against Carrier within one (1) year of delivery or the date upon which the goods should have been delivered.

15. **NEW JASON/GENERAL AVERAGE.** General average shall be adjusted, stated and settled in accordance with York-Antwerp Rules 1994, excluding Rule B thereof, at a port/place selected by Carrier, and as to matters not provided for by said Rules according to the laws and usage of the Port of Seattle, with a tug and barge(s) not deemed involved in a common maritime adventure unless each such vessel is actually and directly exposed to a common peril: a vessel is not in common peril with another if it is in a position of safety or ceases to be actually and directly exposed to such peril. The parties hereby acknowledge the goods are carried in accordance with the recognized custom of the trade.

To the extent required by Carrier, average agreement, bond and additional security shall be furnished by Shipper prior to the discharge/release of the goods. Any cash deposit shall be payable in U.S. currency, remitted to an average adjuster of Carrier's choosing and held in a special account in the adjuster's name, with interest thereon to become a part thereof pending settlement of general average.

In the event of accident, danger, damage or disaster, before or after commencement of voyage, resulting from any cause whatsoever, whether due to negligence or not, for which or for the consequences of which Carrier is not responsible by statute, contract or otherwise, the goods and Shipper shall contribute with Carrier and the vessel(s) 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 with respect to the goods. If a saving ship is owned/operated by Carrier, salvage shall be paid for as if such saving ship belonged to strangers.

16. **BOTH-TO-BLAME COLLISIONS.** In the event of loss/damage to goods resulting from collision, if the vessels or either of them should collide or come into contact with another ship or object as a result of the negligence of the other ship or object and any act, neglect or default of master, mariners, pilot or servants of Carrier in the navigation, management or maintenance of the vessel(s), Shipper shall indemnify Carrier and the vessels from and against all loss and liability to the other or non-carrying ship, her owners and any third parties insofar as such loss and liability represents a loss of, damage to or any claim whatsoever of Shipper, the owners of the goods and/or their underwriters, paid or payable by the other or non-carrying ship, her owners or third parties to Shipper, the owners of the goods or their underwriters and set off, recouped or recovered by the other or non-carrying ship, her owners or any third parties as a part of their claim(s) against Carrier and/or the vessels. The foregoing shall apply when the owners, operators or those in charge of any ship or object other than or in addition to those colliding are at fault with respect to such collision or contact.

17. **NO CONSEQUENTIAL DAMAGES.** Carrier shall not be responsible or liable for any indirect, consequential or special damages of any type or nature whatsoever and howsoever arising, including without limitation loss of profits, loss of income, loss of business opportunity, business interruption, loss of use and/or loss of ability to use undamaged component or system parts, and whether resulting from negligence, breach of contract or otherwise, regardless of whether such damages may have been foreseeable.

18. **LIMITATION OF LIABILITY.** This agreement is not a personal contract, nor shall it otherwise operate to deny Carrier the benefit of all limitations upon and exemptions from liability afforded to vessel owners by statute or rule of law.

19. **EXTENSION OF BENEFITS.** All limitations upon, and exceptions and defenses to, liability granted to Carrier under this Bill of Lading or otherwise shall be automatically extended to all parent, subsidiary and affiliated entities of Carrier, all subcontractors of Carrier and all other entities performing under this Bill of Lading or otherwise with respect to the goods, and the respective owners, shareholders, members, directors, officers, employees and agents of each of the foregoing.

20. **GOVERNING LAW AND FORUM.** The federal laws of the United States shall be applicable to this Bill of Lading to the extent there is a specific federal statute or rule of law which is pertinent, but otherwise the laws of the State of Washington shall be applicable and govern. Any litigation whatsoever relating to the goods and/or this Bill of Lading must be filed in, and the parties hereby consent to the national jurisdiction and location convenience of, the state or federal court located in Seattle, Washington, U.S.A.; unless specifically prohibited by law, the substantially prevailing party in any such litigation shall be entitled to recover its reasonable legal fees and costs.

21. **COUNTERPARTS AND EXECUTION.** This Bill of Lading may be executed by the respective agents and representatives of the parties; upon Shipper's consent, verbal or otherwise, Carrier may complete and/or sign this Bill of Lading for and on behalf of Shipper, as its authorized agent for such limited purposes. Upon tender of goods to Carrier, Shipper shall be deemed to have consented to the terms and conditions of this Bill of Lading as well as those of Carrier's applicable tariff(s), regardless of whether this Bill of Lading shall have been actually issued to, or executed by or on behalf of, Shipper. This Bill of lading may be executed by the parties in counterparts and/or by facsimile or other electronic exchange, with all such counterparts deemed the same single agreement and execution by facsimile or other electronic exchange deemed an original execution and legal binding upon such party.

22. **INTEGRATION AND CONSTRUCTION.** This Bill of Lading, along with transportation agreement, rate quotation, load confirmation, delivery receipt, freight invoice and/or other document issued by Carrier with respect to the goods and/or the transportation thereof, as well as Carrier's applicable tariff(s), all of which are incorporated herein by reference, constitutes the entire agreement between the parties and supersedes all prior and contemporaneous agreements, whether oral or written. This Bill of Lading expressly supersedes any bill of lading or other document issued by any party other than Carrier with respect to the goods, including any bill of lading or other document from Shipper. The headings used above are for convenience of reference only and give no substantive meaning to the agreement between the parties. This Bill of Lading shall be construed neutrally, and as the mutual assent of both parties, rather than for or against either party. This Bill of Lading may not be amended without Carrier's prior written consent.