DEFINITIONS

1. Carrier: Except as otherwise modified by the applicable law of any country or jurisdiction under which the goods are being transported, or as otherwise agreed by Carrier and Shipper, “Carrier” refers to the entity providing transportation services with respect to the goods.

2. Consignee: “Consignee” refers to the entity identified by Shipper and agreed by Carrier as the entity to receive the goods.

3. Goods: “Goods” refers to those items transported, cargoes, commodities and other personal property with respect to which Carrier has been requested to provide transportation services, whether contained in a package, container, or as any other material associated with the goods, such as an item, boxes, crates, pallets, tanks, platforms, flatracks and/or containers.

4. Entity: “Entity” refers to all forms of business entities as well as to natural persons.

5. “Loss” refers to the loss, theft, damage, shortage, non-delivery, delay in delivery or any other reason beyond Carrier’s direct and reasonable ability to control, while in its direct and reasonable ability to control, while in its care and control, which results in the destruction, loss or damage of the goods.

6. Package: “Package,” for purposes of COGSA and as otherwise applicable herein, shall mean: i) the entire contents (including all individual packages, boxes, cases, crates, pallets, tanks, platforms, flatracks and/or containers) of any single container or cargo unit; or ii) the entire contents of a single container or cargo unit if the goods consist of a single commodity.

7. Consignee: “Consignee” refers to the entity engaging Carrier with respect to the goods as such, or any other party to whom the goods are to be delivered, or any other party to whom the goods shall be shipped, delivered, or delivered otherwise, which consignee becomes by agreement or otherwise the entity claiming by, through or with respect to the goods, and whether for loss, damage, delay, shortage, non-delivery, delay in delivery, or any other reason beyond Carrier’s control.

8. Delivery: “Delivery” shall mean: i) the entire contents (including all individual packages, boxes, cases, crates, pallets, tanks, platforms, flatracks and/or containers) of any single container or cargo unit; or ii) the entire contents of a single container or cargo unit if the goods consist of a single commodity.

9. Contract: “Contract” shall mean any agreement or contract in writing or otherwise for the transportation of goods or otherwise, whether for hire or reward, whether or not for money consideration.

10. Shipment: “Shipment” means the delivery by Carrier to the vessel, through transportation, after loading to the vessel, subject to the applicable transportation methods. In the event that transportation is otherwise provided, then the applicable transportation methods shall be deemed to be loading to the vessel.

11. Bill of Lading: “Bill of Lading” shall mean the written receipt for the goods, or any other document issued by Carrier which contains the terms and conditions employed in the transportation of goods and which is signed by the Carrier or its authorized agent, and which shall be issued in connection with the transportation of goods and which provides evidence of the carrier’s receipt of the goods.

12. Compensation: “Compensation” means all charges, costs, expenses, penalties, dissolved interest, and damages, as well as any other harm, losses or expenses, incurred by or on behalf of the entity claiming by, through or with respect to the goods, and whether for loss, damage, delay, shortage, non-delivery, delay in delivery, or any other reason beyond Carrier’s control.

13. LOSS/DAMAGE TO GOODS: Carrier’s liability with respect to the goods, and/or Shipper, Consignee and/or any other person or entity identified by Carrier and/or to the goods, and whether for loss, damage, delay, shortage, non-delivery, failure to deliver or otherwise, shall be only as follows:

   a. Exceptions: Carrier shall not be liable for any loss, damage, delay, shortage, non-delivery, failure to deliver or other result caused by any of the following:

      i. Act of God or the perils of the sea or air;
      ii. War or civil commotion;
      iii. Act of any government or other public authority;
      iv. Strike or other labor disturbance;
      v. Act of any public enemy or other similar public enemy or any other act of any other public authority or any act of any public authority,
      vi. Any act of God, war, strikes, lockouts, riot, or any other cause beyond Carrier’s control or beyond its direct and reasonable ability to control.

      Exceptions to the above include those acts or omissions which are not of the nature of the perils referred to above, which may be of such a nature or quality as to be specifically included in the list of exceptions, or as otherwise agreed by Carrier and Shipper, or as otherwise provided herein.

   b. Authority to Waive: The provisions of this Agreement may be amended or modified from time to time by written agreement of Carrier and Shipper.

   c. Limitation of Liability and Option to Declare Higher Value. Subject to section 11 (international transportation by air) and section 12 (international transportation by water), above, as applicable, Carrier’s liability with respect to the goods, and whether for loss, damage, delay, shortage, non-delivery, delay in delivery, or any other reason beyond Carrier’s control, shall be limited in accordance with the rules and limitations applicable to the goods as notified in accordance with subsection (a) above and as modified below such that the notified content is defined as that portion of the content being transported for transportation services.

14. FREIGHT CHARGES AND OTHER CHARGES: Freight, storage and other charges of Carrier shall be limited in accordance with said Convention and shall be as agreed by Carrier and Shipper, or as otherwise provided herein.

15. INDEMNIFICATION AND INTEGRATION: Upon tender of goods to Carrier, Shipper shall be deemed to have consented and agreed to the terms and conditions, which shall be applicable to all services provided by Carrier and/or any agent or representative of Carrier, and/or any subcontractors, stevedores, managers, agents and other carriers and/or entities which may be employed or utilized by any of the parties to the Agreement from time to time, and the parties agree that any other agreements and/or documents which may be signed or issued in connection with the transportation of goods shall be superseded by reference, constitute the entire agreement between the parties, and supersede all prior and contemporaneous agreements, regarding the goods or their transportation, or otherwise, which may have existed or been otherwise created by any other person or entity.

16. TERMINATION: This Agreement shall be effective upon agreement of all of the parties hereto and any changes or modifications shall be by mutual consent of all of the parties, subject to the terms and conditions herein provided.

17. Governing Law: The parties to this Agreement agree to submit to the jurisdiction of the State of Louisiana and to the venue of the United States District Court for the Eastern District of Louisiana, in connection with any claims or disputes which may arise under this Agreement, and the parties hereby irrevocably consent to the jurisdiction of said court and comply with the venue, service of process, and other laws of the State of Louisiana. The parties also agree to submit to the jurisdiction of the State of Alaska and to the venue of the Superior Court of the State of Alaska, in connection with any claims or disputes which may arise under this Agreement, and the parties hereby irrevocably consent to the jurisdiction of said court and comply with the venue, service of process, and other laws of the State of Alaska.

18. Governing Law, Dispute Resolution and Legal Fees: The laws of the United States shall govern this Agreement to the extent that they are not inconsistent with the laws of the State of Louisiana which shall govern any disputes not so governed by the laws of the United States.