

# TERMS AND CONDITIONS

## 1. DEFINITIONS.

“Carrier” means the party named on page 1 on whose behalf this Bill of Lading has been signed

“Merchant” includes the shipper, the consignee, the receiver of the Goods, the holder, any person owing or entitled to the possession of the Goods or of this Bill of Lading and anyone acting on behalf of any of the above mentioned persons.

“Goods” includes the cargo supplied by the Merchant and includes any Container not supplied by or on behalf of the Carrier.

“Package” or “Cargo Unit” shall include any machine, liquid tank, dry bulk container, container, van trailer, boats, rolling equipment, autos, vehicles, cargoes shipped in a crate, skid, pallet, box or unitized load, group or assemblage, including cargoes shipped under a lump sum tariff basis, including containers, vans, or trailers used to ship household goods an/or freight all kinds.

“Container” includes any container, trailer, transportable tank, lift van flat, pallet or any similar article of transport used to consolidate goods.

“Carriage” means the whole of the operations and services undertaken or performed by or on behalf of the Carrier in respect of the Goods.

“Combined Transport” arises where the Carriage called for by this Bill of Lading is not a Port to Port Shipment.

## 2. CARRIER’S TARIFF.

The provisions of the Forwarder’s applicable Tariff, if any, are incorporated herein. Copies of such provisions are obtainable from the Forwarder upon request. In the case of inconsistency between this Bill of Lading and the applicable Tariff, this Bill of Lading shall prevail.

## 3. TIME BAR.

Carrier shall be discharged from all liability for loss of or damage to goods unless suit is brought within six months after delivery of the goods or the date when the goods should have been delivered.

## 4. LAW AND JURISDICTION.

Except as specifically provided elsewhere herein, Brazilian law shall apply to the terms and conditions of this bill of lading and French law shall also be applied in interpreting the terms and conditions hereof.

All actions against Carrier shall be brought before the Belo Horizonte Court and no other Court shall have jurisdiction with regards to any such action. Actions against the Merchant under the contract of Carriage evidenced by this Bill of Lading may be brought before the Belo Horizonte Court or, in Carrier’s sole discretion, in another court of competent jurisdiction.

## 5. SUBCONTRACTING.

Carrier shall be entitled to subcontract directly or indirectly on any terms the whole or any part of the handling, storage, or carriage of the goods. Every servant or agent or subcontractor (including sub-subcontractors) of Carrier shall be entitled to the same rights, exemptions from liability, defenses and immunities to which Carrier is entitled. For these purposes, Carrier shall be deemed to be acting as agent or trustee for such servants or agents or subcontractors, who shall be deemed to be parties to the contract evidenced in this Bill of Lading.

## 6. ROUTE OF TRANSPORTATION.

Carrier is entitled to perform the transport in any reasonable manner and by any reasonable means, methods and routes. The Ship shall have the liberty, either with or without the goods on board, to at any time, adjust navigational instruments, make trial trips, dry dock, go to repair yards, shift berths, take in fuel or stores, embark or disembark any persons, carry contraband and hazardous goods, sail with or without pilots and save or attempt to save life or property. Delays resulting from such activities shall not be deemed a deviation.

## 7. HINDRANCES AFFECTING PERFORMANCE.

Carrier shall use reasonable endeavors to complete transport and to deliver the goods at the place designated for delivery.

If at any time the performance of this contract as evidenced by this Bill of Lading in the opinion of Carrier is or will be affected by any hindrance, risk, delay, injury, difficulty or disadvantage of any kind, including strike, and if by virtue of the above it has rendered or is likely to render it in any way unsafe, impracticable, unlawful, or against the interest of Carrier to complete the performance of the contract, Carrier, whether or not the transport is commenced, may without notice to Merchant elect to: (a) treat the performance of this contract as terminated and place the goods at Merchant’s disposal at any place Carrier shall deem safe and convenient, or (b) deliver the goods at the place of delivery.

## 8. BASIC LIABILITY.

Carrier shall be liable for loss of or damage to the goods occurring between the time when it takes goods into its custody and the time of delivery but shall not be liable for any consequential or special damages arising from such loss or damage.

Carrier shall, however, be relieved of liability for any loss or damage if such loss or damage arose or resulted from:

(a) an act or omission of Merchant or person other than

Carrier acting on behalf of Merchant from whom Carrier took the goods in charge,

(b) compliance with the instructions of any person authorized to give them,

(c) handling, loading, stowage or unloading of the goods by or on behalf of Merchant,

(d) inherent vice of the goods,

(e) lack or insufficiency of or defective condition of packing in the case of goods, which by their nature are liable to wastage or damage when not packed or when not properly packed,

(f) insufficiency or inadequacy of marks or numbers on the goods, coverings or unit loads,

(g) fire, unless caused by actual fault or privity of Carrier,

(h) strikes, or lock-outs or stoppage or restraints of labor from whatever cause whether partial or general,

(i) any cause or event which Carrier could not avoid and the consequences of which he could not prevent by the exercise of due diligence.

When any claims are paid to Merchant by Carrier, Carrier shall automatically be subrogated to all rights of Merchant against all others, including Inland Carriers, on account of the losses or damages for which such claims are paid.

The defenses and limits of liability provided for in this Bill of Lading shall apply in any action or claim against Carrier relating to the goods, or the receipt, transportation, storage or delivery thereof, whether the action be founded in contract, tort or otherwise.

## 9. AMOUNT OF COMPENSATION.

When the carrier is liable for compensation in respect of loss, damage to the goods, shall not exceed \$500.00 lawful money of the United States, per package, or in case of goods not shipped in packages, per shipping unit, the value of the goods shall be deemed to be \$500.00 per package or unit, unless the nature and higher value of goods have been declared by the shipper herein and extra charges paid as provided in Carrier’s tariff. However, Carrier’s liability shall not exceed the invoice value of goods. The word “package” shall include a container used to ship household container, van or trailer, and cargo shipped on a skid, cradle, pallet or unitized load, group or assemblage

## 10. DELAY, CONSEQUENTIAL LOSS.

Arrival times are not guaranteed by the carrier. The Carrier is not liable for delay, consequential loss and loss or damage other than loss of or damage to goods, all of which howsoever occurring.

## 11. NOTICE OF LOSS.

Unless notice of loss of or damage to the goods and the general nature of it be given in writing to the Carrier at the place of delivery before or at the time of the removal of the goods into the custody of the person entitled to delivery thereof under this B/L, or if the loss or damage be not apparent, within three consecutive days thereafter, such removal shall be prima facie evidence of the delivery by the Carrier of the goods as described in this B/L.

## 12. DEFENSES AND LIMITS FOR THE CARRIER.

The defenses and limits of liability provided for in this B/L shall apply in any actions against the carrier for loss or damage to the goods whether the action be founded in contract, in tort or otherwise.

Carrier shall not be liable for any loss, damage, delay or failure in performance hereunder occurring at any time, including before loading on or after discharge from the Vessel or during any voyage, arising or resulting from the happening and/or threat and/or after effects of one or more of the following: act of God, act of war, force majeure, quarantine restrictions, embargo, acts of public enemies, thieves, pirates, assailing thieves, hijacking arrest or restraint of princes, rulers or people, seizure under legal process, act or omission of Shipper, its agent or representative, strikes or lockout or stoppage or restraint of labor from whatever cause, partial or general, riots or civil commotions.

The Carrier or the ship shall not be responsible for stain, discoloration, shakes, holes, chafage, breakage or splitting of lumber, timber, plywood or wood products, whether or not unprotected or partly covered.

Carrier shall not be liable for any loss or damage to goods occurring at any time, even though before loading on or after discharge from the vessel, by reasons or by means of any fire whatsoever, unless such fire shall be caused by the actual fault or privity of Carrier.

## 13. PACKING OF CONTAINERS – SHIPPERS GUARANTY – INDEMNITY.

Carrier shall not be responsible for the safe and proper stowing of cargo in containers if such containers are packed by the shipper or shipper’s agent and no responsibility shall attach to Carrier for any loss or damage caused to contents by shifting, overloading, or failure to label or properly check, lash or pack the goods in the container or within their individual packages. The shipper or shipper’s agent shall properly seal containers loaded by them. The shipper or its agent shall carefully inspect and clean containers, if necessary, before packing them. Acceptance and packing of the containers shall be prima facie evidence that containers were sound, clean and suitable for use and shall relieve the Carrier for any damage to goods carried resulting from the condition of the container used. Shipper by packing or loading the cargo unit and/or by allowing the cargo unit to be so packed or loaded, represents and warrants:

(1) That the contents are properly described, marked, secured and packed in their respective cargo units, that such cargo units are physically suitable, sound and structurally adequate properly to contain and support the goods during handling and on the voyage and that the cargo unit may be handled in the ordinary course without damage to themselves or to their contents, or to the vessel or her other cargo, property or persons and

(2) That all particulars with regard to the cargo units and their contents and the weight of each cargo unit are in all respects correct and

(3) The shipper has ascertained and disclosed in writing to the carrier on or prior to shipment any condition, ingredient or characteristic of the goods which might indicate that they are of flammable, explosive, corrosive, radioactive, noxious, hazardous or dangerous nature, or which might cause damage injury or detriment to the goods or to the vessel or other cargo or property or person, and packed in their respective cargo units, that such cargo units are physically suitable, sound and structurally adequate properly to contain and support the goods during handling and on the voyage and that the cargo unit may be handled in the ordinary course without damage to themselves or to their contents, or to the vessel or her other cargo, property or persons and

(4) That shipper has property packed, loaded, classified, described, marked and labeled all hazardous material in accordance with applicable regulation of the Department of Transportation, or other governmental agencies or intergovernmental bodies and that all such goods are in proper condition for transportation by carrier. The shipper, consignee, holder hereof and owner of the goods agree to be liable for and shall hold harmless and indemnify Carrier for any injury, loss or damage, including fines, penalties, and reasonable attorney’s fees arising from the shipper’s failure to properly describe, label, stow or secure the goods in containers or to clean containers and also for damage or expense caused by the goods to the containers, other property, or for injury or death to persons.

Without undertaking and duty to do so, Carrier reserves the right at its sole discretion and at any time, to open any container in order to inspect contents and the stowage, or packing thereof, or verification of contents and at the expense of the goods, to re-stow or repack the contents whenever in it’s judgment such re-stowing or re-packing is necessary for the safety of the goods or of the cargo unit., Any exercise of this right shall be without liability or responsibility on the part of the Carrier.

## 14. RUST.

It is agreed that superficial rust, oxidation, or any like condition due to moisture, is not a condition of damage, but is inherent in the nature of the goods, and acknowledgement of receipt of the goods in apparent good order and condition is not representation that such conditions of rust and the like did not exist on receipt.

## 15. STOWAGE ON DECK.

Goods stowed in any covered-in space or loaded in a container, van or trailer carried on deck shall be deemed to be stowed under deck for all purposes, including General Average and the Carriage of Goods by Sea Act, the Hague Rules or other compulsorily applicable legislation. If the goods are shipped on deck not in containers, they will be carried solely at the risk and responsibility of the goods, and without any liability whatsoever of the Carrier for loss or damage resulting from such carriage.

## 16. TRANSHIPMENT.

If the goods are destined for a port or destination not served by Seaboard Marine Limited or other carriers serving through routes, then the goods will be transhipped or forwarder at the port of discharge served by Carrier’s (‘) vessel(s) or other mode of transport. In such case, Seaboard Marine Limited or participating carriers will have no further duty or responsibility whatsoever as Carrier, this bill of lading operating only as a document of title thereafter.

## 17. DELIVERY AND STORAGE.

Except as to ports where Carrier delivers goods directly to the consignee, delivery shall take place and Carrier shall have no further responsibility when the goods are landed upon a safe dock lighter, or other craft and delivery is made to port or government authorities, terminal operators and/or warehouses. At ports where Carrier delivers

goods to consignee if the consignee does not take delivery as soon as the goods are ready, the goods shall thereafter be at their own risk, responsibility and expense. Carrier shall have the right but not the duty to store containers in the open before loading or after discharge.

## 18. EXPENSES, FINES.

The shipper, consignee, holder hereof and owner of the goods shall be liable for, and shall indemnify the Carrier and vessel and hold them harmless against, and the Carrier shall have a lien on the goods, for all expenses and charges of mending, repairing, fumigating, devanning, restowing, storing or reconditioning and all expenses incurred for the benefit or protection of the goods also for any payment, duty, fine or other expenses, including but not limited to court cost, expenses, and reasonable attorney’s fees incurred or levied upon Carrier or the vessel in connection with the goods because of shipper’s failure to comply with any laws or regulations.

## 19. FREIGHT, LINENS, QUANTITY.

Freight shall be payable, at Carrier’s option, on gross weight, measurement ton, or a value as set forth in Carrier’s tariff. Carrier shall have the right, but not the duty to open packages or containers and, if shipper’s particulars are found to be erroneous, the shipper, consignee and the goods shall be liable for the correct freight charge and any expenses incurred in examining, within, measuring or valuing the goods. Full freight to the port of discharge named on the face of this document and all advance charges against the goods shall be considered completely earned on receipt of the goods by Carrier, even though the vessel or goods are damaged or lost or the voyage is frustrated or abandoned.

All sums payable to Carrier are due when incurred and shall be paid in full, in United States currency, or, at Carrier’s option, in its equivalent in the currency of the port of loading or the port of discharge, or as specified in tariffs or conference agreement.

The shipper, consignee, holder hereof, and owner of the goods shall be jointly and severally liable to Carrier for the payment of all fright, demurrage. General Average and other charges, including but not limited to court cost, expenses and reasonable attorney’s fees incurred in collecting sums due Carrier. Payment of ocean freight and charges to a freight forwarder, broker, or anyone other than Seaboard Marine Limited or its authorized agent, shall not be deemed payment to Carrier and shall be made at payer’s sole risk.

Carrier shall have a lien on the goods, which shall survive delivery, for all charges due and may, without notice, enforce this lien by public or private sale of the goods and other property belonging to the shipper, consignee, holder hereof or owner of the goods, which may be in Carrier’s possession.

## 20. BOTH TO BLAME COLLISION CLAUSE.

If the vessel comes into collision with another ship as a result of the negligence of the other ship and any act, neglect or default of the master, mariner, pilot or of the servants of Carrier in the navigation or in the management of the vessel, the owners of the goods carried hereunder will indemnify Carrier against all loss or liability to the other or non-carrying ship of her owners insofar as such loss or liability represents loss of, or damage to, or any claim whatsoever of the owner’s of said goods, paid or payable by the other or non-carrying ship or her owners of said goods and set-off, recouped or recovered by the other or non-carrying ship of 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 ship or ships or objects other than or in addition to the colliding ships or objects are at fault in respect of a collision, contract, stranding or other accident.

## 21. GENERAL AVERAGE.

General average shall be adjusted, stated and settled according to York Antwerp Rules 1974, except Rule XXII thereof at the place selected by Carrier, and as to matters not provided for by these Rules according to the laws and usage at the port of New York. Average agreement or bond and such additional security as may be required by Carrier, must be furnished before delivery of the cargo.

In the event of accident, danger, damage, or disaster, before or after commencement of the voyage resulting from any cause whatsoever, whether due to negligence or not, for which or for the consequence of which, Carrier is not responsible, by statute, contract or otherwise, the goods, the shipper and consignee shall contribute with 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 goods. If a salvaging ship is owned or operated by Carrier salvage shall be paid for as fully and in the same manner as if the salvaging ship belonged to strangers. Cargo shall pay its contribution to General Average even when such average is the result of fault, neglect or error of the master, pilot or crew. The shippers and consignees expressly renounce all codes, statutes, laws or regulations which might otherwise apply.

## 22. FINAL AGREEMENT.

All prior agreements, written or verbal, for shipment of the goods, and all other arrangements are superseded by this Bill of Lading and Freight Tariff. Dock receipt and Equipment Interchange Agreements are considered appendages to the Bill of Lading.

## 23. SHIPPER’S WARRANTIES.

The shipper warrants that he is the owner of and entitled to possession of the goods or has the authority of the owner and all persons entitled to possession of the goods to agree to the terms hereof.

## 24. THROUGH AND ON BOARD BILLS OF LADING.

When used in or endorsed on this bill of lading the words “ON BOARD” shall mean on board the exporting vessel or on board another mode of transportation operated by or on behalf of the originating Carrier and enroute to the port of loading for loading aboard the participating carrier’s ship.

Copies of said bill of lading form are available from such participating carrier or its agents on request. At all times when goods are in care, custody or control of a participating land carrier such carrier shall be entitled to all right privileges, liens, limitations of and exonerations from liability, optional or discretionary right, or rights of indemnity granted to any carrier hereunder to the full extent permitted to participating carriers under any rules and regulations and laws relating to carriers.

## 25. RECONSIGNMENT/DIVERSIONS.

On shipments where the beneficial owner provides the carrier written instructions to Reconsign or Divert a shipment, in the event the shipment is refused or abandoned, all applicable expenses, including reasonable legal fees, will be the responsibility of the beneficial owner.

## 26. DEMISE CLAUSE.

If the ship is not owned or chartered by demise to Seaboard Marine Limited, this bill of lading shall with respect to the carriage, custody and care of the goods while aboard the ship or on her tackle have effect only as a contract between the shipper, consignee, or the owners of ship or demise charterer as the case may be as principal made through the agency of said company. The shipper warrants he knows the name of the owner and / or demise charterer of the ship and waives any non-disclosure of the owner or charterer’s name