

# TERMS AND CONDITIONS

**1. Receipt of Goods.** Unless otherwise noted on the face of the Bill of Lading, the goods listed on the ace hereof have been provided for shipment in external apparent good order and condition by shipper or shipper's agent.

**2. Definitions.** "Carrier" means GFS-Guam Freight Service, "Merchant" includes the shipper, the consignee, the receiver of the goods, the holder of the Bill of Lading, any person owning or entitled to possession of the goods under this Bill of Lading, any person having a present or future interest in the goods or any person acting on their behalf. "Carriage" means the whole of the operation and services undertaken or performed by or on behalf of the Carrier with respect to the goods. "On Board" means on board a vessel or watercraft in the case of combined or through transport shipments. "Port to Port" means transport only from the port of loading to the port of discharge. "Combined Transport" arises when the Place of Receipt and/or Place of Delivery are indicated on the face hereof.

**3. Carrier's Responsibility.** Carrier undertakes to procure the services necessary to effect the entire transport of these goods from the place where the goods are first accepted for carriage (either Place of Receipt or Port of Loading), to the place where the goods are to be delivered (either the Port of Discharge or Place of Delivery), as indicated on the face hereof. Carrier is responsible for the goods from the time they are received by Carrier until they are made available for merchant to take delivery. The custody and carriage of the goods are subject to the terms and conditions of this Bill of Lading, as well as Carrier's published freight tariffs, rules and regulations. At all times the custody and carriage of the goods are subject to the provisions of the Carriage of Goods by Sea Act of the United States of America approved April 16, 1936 (COGSA) which is incorporated herein as a part of this Bill of Lading, unless and then only to the extent, the terms are preempted by law which is compulsorily applicable to the stage of the transport at which such damage occurs. In that event all other provisions of COGSA, this Bill of Lading, and Carrier's published freight tariffs, rules and regulations, shall remain in full force and effect.

**4. Scope of Carriage.** The intended carriage shall not be limited to the direct route, but shall also include and deviation for any purpose connected with the service, including maintenance of vessel and/or crew. If at any time the carriage is or is likely to be affected by any hindrance, risk, delay, difficulty or disadvantage of any kind (including the condition of the goods) whenever and however arising (whether or not the carriage has commenced) carrier may:

(a) Without notice to merchant abandon the carriage of the goods and where reasonably possible place the goods or any part of them at Merchant's disposal at any place the Carrier may deem safe and convenient, and the responsibility of Carrier with the respect to such goods shall then cease.

(b) without prejudice to the Carrier's right subsequently to abandon the carriage under a) above continue the carriage. In any event Carrier shall be entitled to full freight charges on goods received for carriage, and Merchant shall pay any additional costs resulting from the above mentioned circumstances.

**5. Freight.** Freight charges shall be deemed fully earned upon receipt of the goods by Carrier's, and shall be paid whether or not the cargo was lost or damaged. Merchant shall be liable to Carrier for freight and all other charges regardless of whether the shipment was prepaid or freight collect.

**6. Carrier's Lien.** Carrier shall have a lien on the goods, or any part of the goods, and any documents relating thereto for all freight, demurrage, general average and other charges payable to the Carrier including attorney's fees and costs, and may enforce this lien by public or private sale of the goods or other property belonging to the Merchant which may be in Carrier's possession, without notice, and at Merchant's expenses. Any surplus from such sale shall be transmitted to Merchant and Merchant's shall be responsible for any deficit.

**7. (a)** The consignor or consignee shall be liable for the freight and other lawful charges accruing on the shipment, as billed or corrected, except that collect shipments may move without recourse to the consignor when the consignor so stipulates by signature or endorsement in the space provided on the face of the bill of lading. Nevertheless, the consignor shall remain liable for transportation charges where there has been an erroneous determination of the freight charges assessed, based upon incomplete or incorrect information provided by the consignor.

(b) Notwithstanding the provisions of subsection (a) above, the consignee's liability for payment of additional charges that may be found to be due after delivery shall be as specified by 49 U.S.C. 13706, except that the consignee need not provide the specified written notice to the delivering carrier if the consignee is a for hire carrier.

(c) Nothing in this bill of lading shall limit the right of the carrier to require the prepayment or guarantee of the freight charges at the time of shipment or prior to delivery. If the description of articles or other information on this bill of lading is found to be incorrect or incomplete, the freight charges must be paid based upon the articles actually shipped.

**8. Delivery of Goods.** If Merchant refuses or fails to take delivery of the goods upon their being discharged and made available at the Port of discharge or Place of Delivery as designated, regardless of any free time prescribed by tariff or local regulations, Carrier may, without notice to Merchant, unstuff the goods if necessary, and/or store them at the risk and expense of the Merchant. Such storage shall constitute final delivery under this Bill of Lading, and all liability of Carrier with respect to the goods shall cease.

**9. Description and Stowage of Goods.** Merchant warrants the correctness of the declaration of contents, insurance, weight, measurement, and value of the goods, but Carrier reserves the right to have the contents inspected in order to verify the accuracy of said declarations. Merchant shall indemnify and hold carrier harmless against any loss, damages, and expenses, including attorney's fee, arising or resulting from misdeclaration or inadequacies of such declarations. Carrier shall not be responsible for the safe and proper packing and stowing of the goods in containers, if such containers are packed by the Merchant or Merchant's agent, and no responsibility shall attach to Carrier for any loss or damage caused to contents by such improper or inadequate packing and stowing. Merchant or Merchant's agent shall properly seal containers. Acceptance and packing shall be prima facie evidence that the containers were sound, clean, and suitable for use and shall relieve Carrier of responsibility for and damage to the goods resulting from the

condition of the containers used. Merchant shall indemnify and hold Carrier harmless for any injury, loss or damage, including attorney's fees arising from Merchant's failure to properly describe, label, stow or secure the goods in containers, and also for damage or expense caused by the goods to the containers, other property or for injury or death to persons.

**10. Hazardous Cargo.** Goods of an inflammable, explosive, radioactive, corrosive, toxic, or other dangerous nature may not be tendered for carriage unless written notice of their nature and proper hazardous classifications sufficient to provide carrier with all information necessary to evaluate the risk of carriage has been given to Carrier, and Carrier has given written consent. The nature and risk of the Goods must be clearly marked on the outside of the packages. The goods must be properly packed to prevent any damage to the carrier, persons and the environment. All notices, disclosures, marks and packing shall, at a minimum, meet all applicable regulations or statutes. Merchant shall be responsible for all damages, including consequential damages and expenses arising out of its failure to comply with the foregoing provisions of this paragraph, and shall indemnify and hold Carrier harmless from any resulting loss, damage and expenses, including attorney's fees.

**11. Temperature Controlled Cargo.** Merchant shall not tender for carriage any goods which require temperature control without previously giving written notice of their nature, and the particular temperature range to be maintained to Carrier (An indication on the Bill of Lading will not be sufficient for these purposes). Carrier shall not be liable for any loss or damage to these goods arising from Merchant's failure to comply with these requirements, or from defects, faults, breakdown, stoppage of the temperature controlling machinery, plant, insulation, or any apparatus of the container. Carrier does not handle less than container load quantities.

**12. General Average.** Merchant shall indemnify Carrier in respect to any claims of a general average nature which may be on Carrier and shall provide security as may be required by Carrier in this connection. On deck cargo is to participate in general average.

**13. Limitation of Liability.** Liability for loss or damage to the goods shall not exceed \$1,000 per package, or in case of goods not shipped in package, per customary freight unit, unless the Merchant has declared a higher value of the goods than \$1,000 per package or per customary freight unit (not to exceed the market value) upon delivery to the Carrier, and such higher value has been inserted on the face hereof and extra freight/ insurance has been requested and paid. In that event, liability for loss shall not exceed the declared value and any partial loss or damage shall be adjusted pro rate on the basis of the declared value. The word "package" shall include, without limit, a container used to ship household goods, or freight all kinds shipped under a lumpsum tariff, a liquid tank or a dry bulk container, van or trailer, and cargo shipped on a skid, cradle, pallet or unitized load, group or assemblage. Personal effects liabilities will be limited to a release value of \$.10 per pound.

**14. Third Parties Defenses and Limitations.** Any participating carrier, master, servant, agent, independent contractor, subcontractor, insurer or any other person engaged or employed by Carrier in connection with carriage under this Bill of Lading shall be entitled to all defenses and limitations to which Carrier is entitled under this Bill of Lading and the applicable law. For this purpose this contract shall be deemed to have been made on behalf of any such person and such person shall be a party to this contract. In no event shall the aggregate of the amounts recoverable from Carrier and any other persons exceed the limits established in this Bill of Lading.

**15. Notice of Loss or Damage.** Unless notice of loss or damage is apparent, and the nature of such loss or damage is given in writing to Carrier before or at the time of delivery of the goods, Carrier shall be deemed to have delivered the goods as described in the Bill of Lading. Notice of loss or damage that is not apparent must be given within three days do delivery. Notice of loss or damage must be sent to GFS-Guam Freight Service, 2964 Alvarado Street, Unit H, San Leandro, CA 94577.

**16. Claims.** All claims for loss or damage of cargo must be filed with Carrier who will be solely responsible to process them to conclusion. Carrier shall be subrogated automatically to all rights of the Merchant as against all others, including but not limited to underlying carriers, with respect to such claims. Notice of all claims must be sent to GFS-Guam Freight Service, 2964 Alvarado Street Unit H, San Leandro, CA 94577.

**17. Time Bar.** Carrier shall be discharged from all liability unless claim filed within nine months after the date of delivery of the goods, or after the date when the goods should have been delivered.

**18. Place of Suit.** GFS-Guam Freight Service reserve the right the right to pick the Court venue of any lawsuit arising out of or related to carriage under this Bill of Lading.

**19. Consequential Loss or Delay.** Carrier does not accept responsibility for any direct, indirect or consequential loss or damage sustained by Merchant through delay, or for indirect or consequential loss or damage through any other cause. If Carrier is found liable for delay, its liability is limited to the freight charges of the shipment(s) involved.

**20. Failure to Notify.** Carrier does not accept responsibility for failure to notify the Merchant or others concerned with the arrival of the goods.

**21. Application of Defenses.** All defenses and limits of liability shall apply in any action against Carrier arising out of or related to carriage under this Bill of Lading whether the action be founded in contract or its tort.

**22. Validity.** The terms of this agreement are intended to be separate and if, for any reason, anyone or more of them shall be held invalid or unenforceable, in whole or in part, it is agreed that the same shall not be held to effect the validity or enforceability of any other covenant in this Bill of Lading. The terms and conditions of this Bill of Lading supersede any other agreement with respect to carriage of the goods. No servant or agent of Carrier shall have power to waive or alter any of the terms herein unless such waiver or alteration is in writing and is specifically authorized or subsequently ratified in writing by carrier.

**23. Full Container load (FCL) movement** are subject to additional Standard Business Terms and Conditions. (Copy available upon requests).