

CONDITIONS

1. DEFINITIONS

"Carrier" means GEEST BANANAS LIMITED

"Merchant" means the shipper, consignee, notify party, any holder of the bill of lading, the receiver, any person entitled to possession of the goods or bill of lading, any owner of the goods and any person acting on behalf of any such person.

2. WARRANTY

The merchant warrants that in agreeing to the terms, conditions and exceptions hereof he has the authority of the owner of the goods and the person entitled to possession of the goods or this bill of lading.

3. SUB CONTRACTING

The carrier shall be entitled to sub contract on any terms whatsoever the whole or part of the carriage, loading, unloading, storing, warehousing, handling or any other duties whatsoever which the carrier may have undertaken in respect of the goods.

4. INDEMNITY

The merchant undertakes that no claim or allegation shall be made against any subcontractor, agent or servant of the carrier which claims or alleges that any such person or the carrier or any vessel owned or demise chartered by any such person or the carrier is liable in any way whatsoever in connection with the goods or carriage of the goods covered by this bill of lading, whether or not the claim or allegation raises negligence of any such person or the carrier. If any such claim or allegation is made the merchant shall indemnify the carrier against all consequences (direct or indirect) thereof.

Without prejudice to the above every subcontractor, agent or servant of the carrier shall have the benefit of every term, condition, exception, limitation, defence or immunity whatsoever applicable to the carrier as if they were expressly for his benefit and to this extent the carrier is agent and trustee for every such person.

5. METHOD AND ROUTE OF TRANSPORTATION AND SCOPE OF VOYAGE

The carrier may for any purpose whatsoever in performing the contract and as part of the contractual voyage:

- (1) carry the goods by any means of transportation;
- (2) unpack the goods from any container or package and repack the goods in any container or package;
- (3) transfer the goods from one conveyance to another, including transhipping the goods from the vessel named herein or any other vessel as many times as the carrier chooses;
- (4) carry the goods by any route (whether contrary or not to the most direct, shortest, usual, customary, scheduled or advertised route);
- (5) land, unload or store the goods in any port or place;
- (6) allow any vessel to proceed with or without the goods by any route, calling or omitting to call once or more than once at any port whether named in the contract or not, in or out of the direct, shortest, advertised, scheduled, geographical, usual, customary or ordinary route, beyond the port or place of discharge or delivery, or backwards or forwards;
- (7) allow the vessel with or without the goods at any time to adjust compasses, dry dock, go on ways or to repair yards, shift berths, take fuel or stores, embark passengers, crew, workmen or other persons, remain in port, sail with or without pilots, tow or be towed, and save or attempt to save life or property.

6. PORT TO PORT SHIPMENT

Where the carriage called for by this bill of lading is from port to port the contract evidenced by this bill of lading shall be subject to any national law making the Hague or Hague Visby Rules compulsorily applicable.

Where there is no such national law the contract evidenced by this bill of lading and all obligations of the carrier shall be subject to the provisions of the Hague Rules as contained in the convention relating to bills of lading dated Brussels 25th August 1924. Notwithstanding anything herein neither the Hague nor Hague Visby rules shall apply to carriage of goods covered by this bill of lading where goods are live animals or are stated herein to be carried on deck and are so carried.

In any event the carrier shall be under no liability or responsibility whatsoever for loss of or damage to goods, however occurring before loading or after discharge from the vessel, provided that if the carriage or this bill of lading is subject to the US Carriage of Goods by Sea Act then the provisions in the said Act shall govern before loading and after discharge and throughout the time when the goods are in the custody of the carrier.

7. COMBINED TRANSPORT

Where the carriage called for by this bill of lading is combined transport the carrier shall carry the goods from the place of receipt or port of loading, as applicable, to the port of discharge or place of delivery, as applicable, subject to the terms of this bill of lading.

(1) Sea Carriage

The carriage of goods from the loading port to the discharge port or on any inland waterway shall be subject to any national law making the Hague Visby Rules compulsorily applicable.

Where there is no such national law such carriage shall be subject to the Hague Rules as contained in the convention relating to Bills of Lading dated Brussels 25th August 1924.

Notwithstanding anything herein neither the Hague nor the Hague Visby rules shall apply to such carriage covered by this bill of lading where goods are live animals or are stated to be carried on deck and are carried on deck.

(2) Other carriages etc.

The carriage of goods other than from the loading to the discharge port or in any inland waterway and all other obligations of the carrier in respect of the goods shall be governed by the provisions of any international convention or national law which (a) cannot be departed from by contract and (b) would have applied if the merchant had made a separate and direct contract with the carrier in respect of the relevant stage of carriage or other obligation.

Where there is no such international convention or national law such carriage and all other such obligations of the carrier shall be subject to the following provisions:-

- (i) The carrier shall not be liable for any loss or damage caused or contributed to directly or indirectly by
 - (a) act, neglect, or default of the merchant;
 - (b) compliance with lawful instructions given by or on behalf of the merchant or by any government or other de facto or de jure authority;
 - (c) insufficiency, inadequacy or defect of packing, marks or numbers;
 - (d) handling, loading, stowing or unloading of the goods by or on behalf of the merchant or by or on behalf of any person other than the carrier;
 - (e) inherent vice of the goods;
 - (f) strikes, lockouts, stoppages or restraint of labour or any industrial action;
 - (g) any nuclear incident;
 - (h) any cause or event whatsoever which the carrier could not avoid and the consequences of which he could not avoid by the exercise of reasonable diligence;
- (ii) If the carrier establishes that loss or damage could be attributed to one or more of the causes in sub paragraph (i) it shall be presumed that it was so caused.
- (iii) The carrier shall in no circumstances whatsoever be liable for any sum in excess of US \$2.50 per kilo of the gross weight of the goods lost or damaged.

(3) Time of loss or damage unknown

Where the stage of carriage or other performance during which any loss or damage occurred is not known the obligations and liability of the carrier shall be governed by the provisions in sub paragraph (2) above.

8. NOTICE OF LOSS OR DAMAGE

Unless notice of loss of or damage to goods and notice of the nature of the loss or damage is given in writing to the carrier at the place of delivery before or at the time of removal of goods into the custody of the person entitled to delivery thereof under the bill of lading or, if the loss or damage is not apparent, within 6 days thereafter, such removal shall be prima facie evidence of the delivery by the carrier of the goods as described in the bill of lading.

9. TIME BAR

The carrier shall be discharged from all liability whatsoever unless suit is brought and notice thereof given within 12 months after delivery of the goods or the time when the goods should have been delivered.

10. COMPENSATION

Whenever the Hague Rules are applicable, other wise than by the reason of compulsory national law, the liability of the carrier shall in no event exceed £100 sterling per package or unit and Article IX of the Hague Rules shall not apply.

11. DELAY OR CONSEQUENTIAL LOSS

The carrier does not undertake that the goods shall arrive or be delivered at the point 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 be liable for any loss or damage howsoever caused for delay, or arising directly or indirectly out of delay. In no circumstances whatsoever shall the carrier be liable for consequential loss howsoever caused.

12. SHIPPER PACKED CONTAINERS

If a container has not been packed by or on behalf of the carrier the carrier shall not be liable for any loss or damage caused by or contributed to directly or indirectly by the manner in which the container has been packed, the

unsuitability of the goods for carriage in the container or the unsuitability, inadequacy or defective condition of the container. The merchant shall indemnify the carrier against any loss, liability, damage or expense whatsoever caused or contributed to directly or indirectly by any such matter.

13. INSPECTION OF GOODS

The carrier or any person to whom the carrier has sub-contracted the carriage or any person authorised 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. DESCRIPTION OF GOODS

The shipper warrants to the carrier the correctness of the particulars of the goods in box 9 hereof.

The merchant shall indemnify the carrier against all loss or expense caused or contributed to directly or indirectly by incorrectness of the particulars of the goods in box 9 hereof.

15. STOWAGE AND DECK CARGO

The goods may be packed by the carrier in containers. Goods, whether packed in containers or not, may be carried on deck or under deck without notice to the merchant. All goods carried on any ship, whether carried on deck or not shall participate in general average and shall be deemed to be goods within the Hague and Hague Visby Rules. Notwithstanding the foregoing the Hague and Hague Visby Rules shall not apply to goods which are stated on the face hereof as being carried on deck and which are carried on deck, and the carrier shall be under no liability whatsoever for loss, damage or delay howsoever caused to such goods.

16. LIVE ANIMALS

The Hague and Hague Visby Rules shall not apply to the carriage of live animals. The carrier shall be under no liability whatsoever for any matter howsoever arising in connection with live animals. The merchant shall indemnify the carrier against any and all liability, additional cost or expense whatsoever in connection with the carriage of any live animal.

17. CONDITION OF GOODS

If at any time it appears that the goods cannot safely or properly be carried further either at all or without incurring additional expense the carrier may with or without notice to the merchant take any step or steps whatsoever in relation to the goods including, but not limited to, abandonment, destruction or storage of the goods at any place. Any such abandonment, destruction or storage shall be deemed to be delivery under this contract. The merchant shall indemnify the carrier against any loss, damage, liability or expense whatsoever in connection with any such step or steps.

18. MATTERS AFFECTING PERFORMANCE

If at any time, performance by the carrier is or appears to be affected by any hindrance, risk, delay or difficulty whatsoever, whether or not circumstances giving rise thereto existed at the time this contract was made or the goods received, the carrier shall be under no obligation to carry the goods or carry them further. The carrier may abandon the goods or store the same at any place whatsoever, and any such abandonment or storage be deemed to be delivery of the goods in accordance with this contract.

19. DANGEROUS GOODS

If any goods, in the opinion of the carrier, are or are liable to become dangerous or damaging to any person, any conveyance or vessel in which they are carried or to any other goods, the carrier may destroy, abandon, render harmless or dispose of the same. Any such destruction, abandonment or disposal shall be deemed to be delivery of the goods in accordance with this contract.

The merchant undertakes that all goods are adequately packed.

The merchant shall indemnify the carrier against all claims, liabilities, loss, damage or expense arising out of the carrying of dangerous or damaging goods.

20. LOADING, DISCHARGE AND DELIVERY

(1) Port to port shipment

All goods must be ready for loading alongside the vessel when the vessel arrives at the port of shipment.

The merchant must be ready to take delivery of the goods as soon as the vessel is ready to discharge and must take delivery when called on to do so by the carrier.

If the merchant is not ready or does not so take delivery the carrier shall be at liberty to discharge, land, move, store, sell, dispose of or deal with the goods in any way whatsoever, and the same shall be deemed to be delivery to the merchant. The merchant shall indemnify the carrier against all loss, damage, liability or expense arising out of the merchant's failure to be ready or to take delivery. The carrier is under no obligation to give any notice of arrival of the vessel at loading or discharging port.

(2) Combined Transport

All goods must be ready for receipt by the carrier at the port of loading or place of receipt at any time stipulated by the carrier.

The merchant must be ready to take delivery of the goods as soon as the carrier is ready to deliver at the port of discharge or place of delivery and must take delivery when called on to do so by the carrier.

If the merchant is not ready or does not so take delivery the carrier is at liberty to discharge, land, store, sell, dispose of or deal with the goods in any way whatsoever, and the same shall be deemed delivery to the merchant. The merchant shall indemnify the carrier against any and all loss, damage, liability or expense arising out of the merchant's failure to be ready or to take delivery.

The carrier is under no obligation to give notice of arrival of the goods at the port of discharge or place of delivery.

21. FREIGHT AND CHARGES

- (1) Freight and all charges shall be deemed earned in full on receipt of the goods by the carrier or on shipment (whichever is earlier) and shall be non-refundable in any event.
- (2) Freight and all charges shall be paid in full without any discount, set off, deduction, abatement, counterclaim or stay of execution whatsoever.
- (3) The shipper, notify party, receiver and all holders of the bill of lading or persons entitled to possession or delivery of the bill of lading or the goods shall be jointly and severally liable for all freight and charges.

22. LIEN

The carrier shall have a lien on all goods and documents for all freight, charges or other sums due to the carrier under this contract and/or any other contract and for any and all general average contributions. The carrier shall be entitled to sell the goods privately or in auction in order to recover freight, charges or other sums due.

23. BOTH TO BLAME COLLISION

If the vessel comes into collision with another vessel as a result of the negligence of the other vessel and of any act, neglect or default of the Master, Mariner, Pilot or other servants of the carrier in the navigation or in the management of the vessels, the merchant will indemnify the carrier against all loss or liability to the other or non-carrying vessel or her Disponent Owner in so far as such loss or liability represents loss of or damage to or any claim whatsoever of the merchant paid or payable by the other or non-carrying vessel or her Disponent Owner to the merchant and set-off, recouped or recovered by the other non-carrying vessel or her Disponent Owner as part of his claim against the carrying vessel or carrier. The foregoing provisions shall also apply where the Disponent Owner, operator 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 of a collision or contact.

24. GENERAL AVERAGE AND SALVAGE

General average to be adjusted at any port or place at carrier's option and to be settled according to the York-Antwerp Rules 1974 as amended 1990. 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 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 sacrifice, 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. 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 belong to strangers.

25. LAW AND JURISDICTION

English Law shall govern and any claims against the carrier shall be decided in the English Courts.

26. SEVERABILITY

If any provision herein contained is inconsistent with any applicable international convention or national law which cannot be departed from by contract, then to the extent of any such inconsistency, but no further, any such provision shall be null and void.