

CONTRACT TERMS AND CONDITIONS

- Sec. 1. (a) The carrier or party in possession of any of the property herein described shall be liable as at common law for any loss thereof or damage thereto, except as hereinafter provided.
- (b) No carrier or party in possession of all or any of the property herein described shall be liable for any loss thereof or damage thereto or delay caused by the Act of God, the public enemy, the authority of law, or the act or default of the shipper or owner, or of natural shrinkage. The carrier's liability shall be that of warehouseman, only, for loss, damage, or delay caused by fire occurring after the expiration of the free time (if any) allowed by tariffs lawfully on file (such free time to be computed as therein provided) after notice of the arrival of the property at destination or at the port of export (if intended for export) has been duly sent or given, and after placement of the property for delivery at destination, or tender of delivery of the property to the party entitled to receive it, has been made. Except in case of negligence of the carrier or party in possession (and the burden to prove freedom from such negligence shall be on the carrier or party in possession), the carrier or party in possession shall not be liable for loss, damage, or delay occurring while the property is stopped and held in transit upon the request of the shipper, owner, or party, entitled to make such request, or resulting from a defect or vice in the property, or for country damage to cotton, or from riots or strikes. Except in case of carrier's negligence, no carrier or party in possession of all or any of the property herein described shall be liable for delay caused by highway obstruction, faulty or impassable highway, or lack of capacity of any highway, bridge or ferry, and the burden to prove freedom from such negligence shall be on the carrier or party in possession.
- (c) In case of quarantine the property may be discharged at risk and expense of owners into quarantine depot or elsewhere, as required by quarantine regulations or authorities, or for the carrier's dispatch at nearest available point in carrier's judgment, and in any such case carrier's responsibility shall cease when property is so discharged, or property may be returned by carrier at owner's expense to shipping point, earning freight both ways. Quarantine expenses of whatever nature or kind upon or in respect to property shall be borne by the owners of the property or be a lien thereon. The carrier shall not be liable for loss, or damage occasioned by fumigation or disinfection or other acts required or done by quarantine regulations or authorities even though the same may have been done by carrier's officers, agents, or employees, nor for detention, loss, or damage of any kind occasioned by quarantined or the enforcement thereof. No carrier shall be liable, except in case of negligence, for any mistake or inaccuracy in any information furnished by the carrier, its agents, or officers, as to quarantine laws or regulations. The shipper shall hold the carriers harmless from any expense they may incur, or damages they may be required to pay, by reason of the introduction of the property covered by this contract into any place against the quarantine laws or regulations in effect at such place.
- Sec. 2. (a) No carrier is bound to transport said property by any particular schedule, train, vehicle or vessel, or in time for any particular market or otherwise than with reasonable dispatch. Every carrier shall have the right in case of physical necessity to forward said property by any carrier or route between the point of shipment and the point of destination. In all cases not prohibited by law, where a lower value than actual value has been represented in writing by the shipper or has been agreed upon in writing as the released value of the property as determined by the classification or tariffs upon which the rate is based, such lower value plus freight charges if paid shall be the maximum amount to be recovered, whether or not such loss or damage occurs from negligence.
- (b) As a condition precedent to recovery, claims must be filed in writing with the receiving or delivery carrier, or carrier issuing this bill of lading, or carrier on whose line the loss, damage, injury or delay occurred, or carrier in possession of the property when the loss, damage, injury or delay occurred, within nine months after delivery of the property (or, in the case of export traffic, within nine months after delivery at port of export) or, in case of failure to make delivery, than within nine months after a reasonable time for delivery has elapsed, and suits shall be instituted against any carrier only within two years and one day from the day when notice in writing is given by the carrier to the claimant that the carrier has disallowed the claim or any part or parts thereof specified in the notice. Where claims are not filed or suits are not instituted thereon in accordance with the foregoing provisions, no carrier shall be liable, and such claims will not be paid.
- (c) Any carrier or party liable on account of loss of or damage to any of said property shall have the full benefit of any insurance that may have been effected upon or on account of said property, so far as this shall not avoid the policies or contracts of insurance. PROVIDED, That the carrier reimburse the claimant for the premium paid thereon.
- Sec. 3. Except where such service is required as the result of carrier's negligence, all property shall be subject to necessary cooperage and baling at owner's cost. Each carrier over whose route cotton and cotton linters is to be transported hereunder shall have the privilege, at its own cost and risk, of compressing the same for greater convenience in handling or forwarding, and shall not be held responsible for delay on unavoidable delays in procuring such compression. Grain in bulk consigned to a point where there is a railroad, public or licensed elevator may (unless otherwise expressly noted herein, and then if it is not promptly unloaded) be there delivered and placed with other grain of the same kind and grade without respect to ownership (and prompt notice thereof shall be given to the consignor), and if so delivered shall be subject to a lien for elevator charges in addition to all other charges hereunder.
- Sec. 4. (a) Property not removed by the party entitled to receive it within the free time (if any) allowed by tariffs lawfully on file (such free time to be computed as therein provided), after notice of the arrival of the property at destination or at the port of export (if intended for export) has been duly sent or given, and after placement of the property for delivery at destination has been made, or property not received, at time tender of delivery of the property to the party entitled to receive it has been made, may be kept in vessel, vehicle, car, depot, warehouse or place of business of the carrier, subject to tariff charge for storage and to carrier's responsibility, as warehousemen, only, or at the option of the carrier, may be removed and stored in a public or licensed warehouse at the point of delivery or other available point, or if no such warehouse is available at point of delivery or other available point, then in other available storage facility; at cost of the owner, and there held without liability on the part of the carrier, and subject to a lien for all freight and other lawful charges, including a reasonable charge for storage. In the event consignee cannot be found at address given for delivery, then in that event, notice of the placing of such goods in warehouse shall be mailed to the address given for delivery and mailed to any other address given on the bill of lading for notification, showing the warehouse in which such property has been placed, subject to the provisions of this paragraph.
- (b) Where nonperishable property which has been transported hereunder to destination is refused by consignee or the party entitled to receive it upon tender of delivery, or said consignee or party entitled to receive it fails to receive or claim it within 15 days after notice of arrival shall have been duly sent or given, the carrier may sell the same at public auctions to the highest bidder, at such place as may be designated by the carrier. PROVIDED, That the carrier should have first mailed, sent, or given to the consignor notice that the property has been refused or remains unclaimed as the case may be, and that it will be subject to sale under the terms of the bill of lading if disposition be not arranged for, and shall have published notice containing a description of the property, the name of the party to whom consigned, or, if shipped order notify, the name of the party to be notified, and the time and place of sale, once a week for two successive weeks, in a newspaper of general circulation at the place of sale or the nearest place where such newspaper is published, PROVIDED, That 30 days shall have elapsed before publication of notice of sale after said notice that the property was refused or remains unclaimed was mailed, sent or given.
- (c) Where perishable property which has been transported hereunder to destination is refused by consignee or party entitled to receive or shall fail to receive it promptly, the carrier may, in its discretion, to prevent deterioration or further deterioration, sell the same to the best advantage at private or public sale. PROVIDED, That if time serves for notification to the consignor or owner of the refusal of the property or the failure to receive it and request for disposition of the property, such notification shall be given in such manner as the exercise of due diligence requires, before the property is sold.
- (d) Where the procedure provided for in the two paragraphs last preceding is not possible, it is agreed that nothing contained in said paragraphs shall be construed to abridge the right of the carrier at its option to sell the property under such circumstances and in such manner as may be authorized by law.
- (e) The proceeds of any sale made under this section shall be applied by the carrier to the payment of freight, demurrage, storage, and any other lawful charges and the expense of notice, advertisement, sale, and other necessary expense and of caring for and maintaining the property if proper care of same requires special expense, and should there be a balance it shall be paid to the owner of the property sold hereunder.
- (f) Property destined to or taken from a station, wharf, landing or other place at which there is no regularly appointed freight agent shall be entirely at risk of owner after unloaded from cars, vehicles or vessels or until loaded into cars, vehicles or vessels, and except in case of carrier's negligence, when received from or delivered to such stations, wharfs, landings, or other places, shall be at owner's risk until the cars are attached to and after they are detached from locomotive or train or until loaded into and after unloaded from vessels, or if property is transported in motor vehicles trailers or semi-trailers, until such trailers or semi-trailers are attached to and after they are detached from power units. Where a carrier is directed to unload or deliver property transported by motor vehicle at a particular location where consignee or consignee's agent is not regularly located, the risk after unloading, or delivery, shall be that of the owner.
- Sec. 5. No carrier hereunder will carry or be liable in any way for any documents, specie, or for any articles of extraordinary value not specifically rated in the published classifications or tariffs unless a special agreement to do so and a stipulated value of the articles are endorsed hereon.
- Sec. 6. Every party, whether principal or agent, shipping explosives or dangerous goods, without previous full written disclosure to the carrier of their nature, shall be liable for and indemnify the carrier against all loss or damage caused by such goods, and such goods may be warehoused at owner's risk and expense or destroyed without compensation.
- Sec. 7. The owner or consignee shall pay the freight and average, if any, and all other lawful charges accruing on said property, but, except in those instances where it may lawfully be authorized to do so, no carrier shall deliver or relinquish possession at destination of the property covered by this bill of lading until all tariff rates and charges thereon have been paid. The consignor shall be liable for the freight and all other lawful charges, except that if the consignor stipulates, by signature, in the space provided for that purpose on the face of this bill of lading that the carrier shall not make delivery without requiring payment of such charges, and the carrier, contrary to such stipulation shall make delivery without requiring such payment, the consignor (except as hereinafter provided) shall not be legally liable for such charges. PROVIDED, That a consignee shall not be liable for transportation charges (beyond those billed against him at the time of delivery for which he is otherwise liable) which may be found to be due after the property has been delivered to him subject to all of the following conditions:
- (a) The shipper or consignor has instructed the carrier to deliver the property to a consignee other than the shipper or consignor, and
- (b) The consignee is an agent only and has no beneficial title in the property, and
- (c) Prior to delivery, the consignee has notified the delivering carrier in writing that he is only an agent and has no beneficial title in the property, and
- (d) In cases where the shipment has been reconsigned, diverted or to a point other than that specified in the bill of lading, the consignee has also notified the delivering carrier in writing of the name and address of the beneficial owner of said property. Where the consignee is not liable for certain transportation charges in accordance with this provision and the preceding conditions, the shipper or consignor, or, in the case of a shipment so reconsigned or diverted as specified in condition (d), the beneficial owner shall be liable for such additional charges.
- Sec. 8. If this bill of lading is issued on the order of the shipper, or his agent, in exchange or in substitution for another bill of lading, the skipper's signature to the prior bill of lading as to the statement of value or otherwise, or election of common law or bill of lading liability, in or in connection with such prior bill of lading, shall be considered a part of this bill of lading, as if the same were written or made in or in connection with this bill of lading.
- Sec. 9. (a) If all or any part of said property is carried by water over any part of said route and loss, damage or injury to said property occurs while the same is in the custody of a carrier by water the liability of such carrier shall be determined by the bill of lading of the carrier by water (this bill of lading being such bill of lading if the property is transported by such water carrier thereunder) and by and under the laws and regulations applicable to transportation by water, and of other statutes of the United States according to carriers by water the protection of limited liability as well as the following subdivisions of this section, and to the conditions contained in this bill of lading not inconsistent therewith or with this section when this bill of lading becomes the bill of lading of the carrier by water.
- (b) No such carrier by water shall be liable for any loss or damage resulting from any fire happening to or on board the vessel, or from explosion, bursting of boilers or breakage of shafts, unless caused by the design or neglect of such carrier.
- (c) If the owner shall have exercised due diligence in making the vessel in all respects seaworthy and properly manned, equipped and supplied, no such carrier shall be liable for any loss or damage resulting from the perils of the lakes, seas, or other waters, or from latent defects in hull, machinery, or appurtenances whether existing prior to, at the time of, or after sailing, or from collision, stranding, or other accidents of navigation, or from prolongation of the voyage. And, when for any reason it is necessary, any vessel, carrying any or all of the property herein described shall be at liberty to call at any port or ports, in or out of the customary route, to tow and be towed, to transfer, tranship, or lighten, to load and discharge goods at any time, to assist vessels in distress, to deviate for the purpose of saving life or property, and for docking and repairs. Except in case of negligence such carrier shall not be responsible for any loss or damage to property if it be necessary or it is usual to carry the same upon deck.
- (d) General Average shall be payable according to the York-Antwerp Rules of 1924, Sections 1 to 15, inclusive, and Sections 17 to 22, inclusive, and as to matters not covered thereby according to the laws and usages of the Port of New York. If the owners shall have exercised due diligence to make the vessel in all respects seaworthy and properly manned, equipped and supplied, it is hereby agreed that in case of danger, damage or disaster resulting from faults or errors in navigation, or in the management of the vessel, or from any latent or other defects in the vessel, her machinery or appurtenances, or from unseaworthiness, whether existing at the time shipment or at the beginning of the voyage (provided the latent or other defects or the unseaworthiness was not discoverable by the exercise of due diligence), the shippers, consignee's and/or owners of the cargo shall nevertheless pay salvage and any special charges incurred in respect of the cargo, and shall contribute with the shipowner in general average to the payment of any sacrifices, losses or expenses of a general average nature that may be made or incurred for the common benefit or to relieve the adventure from any common peril.
- (e) If the property is being carried under a tariff which provides that any carrier or carriers party thereto shall be liable for loss from perils of the sea, then as to such carrier or carriers the conditions of this section shall be modified in accordance with the tariff provisions, which shall be regarded as incorporated into the provisions of this bill of lading.
- (f) The term "water carriage" in this section shall not be construed as including lightering or in across rivers, harbors, or lakes, when performed by or on behalf of carriers other than water.
- Sec. 10. Any alteration, addition, or erasure in this bill of lading which shall be made without the special notation hereon of the agent of the carrier issuing this bill of lading, shall be without effect, and this bill of lading shall be enforceable according to its original tenor.