OMB Control No. 0551-0035

U.S. FOOD AID BOOKING NOTE Page 1 of 4

For Packaged Commodities – Part II Dated November 1, 2004

The terms and conditions contained herein have been reviewed and recommended by the U.S. Agency for International Development (hereinafter “USAID”) and the U.S. Department of Agriculture (hereinafter “USDA”) as the standard terms and conditions applicable to mark and count cargo bookings under U.S. Government funded food aid programs administered by these agencies. This document, when incorporated by reference or as an attachment to the U.S. FOOD AID BOOKING NOTE for Packaged Commodities Part I (hereinafter “PART I”), forms an integral part of the contract of carriage of the cargoes described in PART I. The terms and conditions contained herein apply to such shipments, except to the extend there are exemptions, modifications, or additional terms added in PART I, which supercede the terms and conditions contained herein.

# 1. LOAD/DELIVERY TERMS

1. Cargo to be loaded at Carriers time, risk and expense with no demurrage/ no
2. despatch/no detention in accordance with the following provisions. The
3. applicable load / delivery terms for each parcel are to be noted in PART I of
4. this booking note:
5. (A) FAS VESSEL NAMED PORT OF LOADING (POL)
6. Cargo will be delivered to the Carrier at the first point of rest within a USDA
7. approved transport terminal within the commercial limits of the named port of
8. loading free of expense to carrier including any wharfage assessed against
9. the cargo by the governing port authority and/or receiving terminal. The
10. Carrier is to nominate the transport terminal in writing within 3 business days
11. after the Carrier has received written notification from the Shipper or its agent
12. that all subjects on the booking have been lifted. Carrier is to be liable for all
13. costs incurred due to the failure to provide this information. The transport
14. terminal can be a freight station, a container terminal or yard, a multipurpose
15. cargo terminal, on the quay along side the vessel at the FAS port or any
16. similar receiving point.
17. (B) INTERMODAL – PLANT – POINT OF ORIGIN (POO)
18. (As designated by letter “R” preceding point of origin) — The cargo shall be
19. delivered to the Carrier and loaded on the Carrier supplied conveyance
20. accomplished; the Carrier will have 24 hours to inspect the replaced
21. commodity. The Carrier (or it’s agents or stevedores) shall sign non-
22. negotiable dock receipts, indicating acceptance of the cargoes in good order.
23. Upon this acceptance, cargo is deemed to be in a delivered position and
24. becomes the full responsibility of the contracted Carrier. The cargoes moving
25. directly from rail cars or trucks to the performing vessel or containers are
26. considered to be FAS cargoes.
27. For pre-position cargo loading in Lake Charles, LA the cargo will be made
28. available for loading from one to two safe berths with the following to apply:
29. Sheds 1, 2, 3, and 150 are to be considered as one berth. Sheds 4, 5, and 6
30. are to be considered as one berth. Shed 7 is to be considered as one berth.
31. Shed 8 and 9 are to be considered as one berth. Shed 15 is to be considered
32. as one berth.

# 2. DISCHARGE/DELIVERY TERMS

1. Cargo to be discharged at Carriers time, risk and expense with no
2. demurrage/ no despatch/no detention, with the cargo being delivered to
3. Receivers in accordance with the following provisions. The applicable
4. discharge / delivery terms for each parcel are to be noted in PART I of this
5. booking note:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| 21 | (containers, trucks, trailers or rail cars) at named point of origin, free of | 87 | (A) | Delivered to place of rest at discharge port: |
| 22 | expense to the Carrier. The Carrier shall be responsible for the costs of | 88 |  | (i) Breakbulk: The cargo is to be delivered to Receiver/Consignee at |
| 23 | transportation from said named point of loading to the U.S. port of export and | 89 |  | place of rest end of hook, along side vessel. If cargoes have been |
| 24 | the cost of loading the cargo on board the ocean going vessel. Carrier must | 90 |  | containerized for Carrier convenience, the containers are to be |
| 25 | provide suitable conveyances to comply with the loading capabilities and | 91 |  | discharged and moved to a shed designated by the port or the Carrier’s |
| 26 | capacity at the intermodal plant. Any costs incurred including but not limited | 92 |  | container freight station (CFS), where the Carrier is responsible to de- |
| 27 | to liquidated damages and storage, for failing to provide suitable | 93 |  | van the cargo and to make it available to the Receiver at a place of rest |
| 28 | conveyances will be for Carrier’s account. If containers are to be placed at | 94 |  | in the CFS. |
| 29 | the point of origin, Carrier must ensure that the containers are placed at the | 95 |  | (ii) Containerized: Containers are to be delivered to the |
| 30 | commencement of the shipping period and containers are supplied on a | 96 |  | Receiver/Consignee at place of rest at the Carrier’s or port’s container |
| 31 | continuous basis, or as otherwise mutually agreed between parties, until the | 97 |  | yard (CY), as applicable. Unless otherwise stipulated in PART I of this |
| 32 | contract quantity is fulfilled. | 98 |  | booking note, the amount of free time on containers is ten (10) |
|  |  | 99 |  | calendar days. |
| 33 | (C) INTERMODAL – BRIDGE – POINT OF ORIGIN (POO) |  |  |  |
| 34 | (As designated by Letter “B“ preceding point of origin) — Carrier is to provide | 100 | (B) | Delivered to port warehouse or CFS: |
| 35 | Shipper with the exact location for delivery of cargo at the named bridge | 101 |  | (i) Breakbulk: The cargo is to be placed into the warehouse(s) |
| 36 | point. Cargo shall be delivered to the Carrier on rail cars, trucks or Carrier | 102 |  | within the port area. |
| 37 | supplied conveyance at the named bridge point, free of expense to the | 103 |  | (ii) Containerized: Containers are to be discharged and moved to |
| 38 | Carrier. Carrier shall be responsible for all cargo handling and transportation | 104 |  | the Carrier’s CFS where the Carrier is responsible to de-van the cargo |
| 39 | expenses incurred to move the cargo from said bridge point of delivery to on- | 105 |  | and to make it available to the Receiver at a place of rest in the CFS. |
| 40 | board the nominated ocean going vessel at a USDA approved U.S. port of |  |  |  |
| 41 | export. If trucks are to be used to transport the cargo to the bridge point, then | 106 | (C) | Warehouse delivery (Breakbulk or Containerized): |
| 42 | the freight tender must provide this information. | 107 |  | Delivery will be made in accordance with 2.(C)(i) or 2.(C)(ii), as |
|  |  | 108 |  | specified in PART I, to the Receiver/’s/Consignee’s warehouse(s), |
| 43 | (D) INTERMODAL- LAKES – POINT OF ORIGIN (POO) | 109 |  | such warehouse(s) to be specified in PART I, or if the |
| 44 | (MSA Sec. 17 cargo and as designated by Letter “L” preceding point of | 110 |  | Receiver’s/Consignee’s warehouse(s) are not specified in PART I, then |
| 45 | origin) — Carrier is to nominate the marine cargo terminal at the named | 111 |  | such warehouse(s) are to be within a radius of 25 kilometers from the |
| 46 | Lakes Point. The Carrier’s named terminal must be approved by USDA for | 112 |  | center point of the city or town specified as the delivery point in the |
| 47 | handling MSA Section 17 Lakes cargo. The cargo shall be delivered to the | 113 |  | contract. Should a nominated warehouse exceed the distance limitation |
| 48 | Carrier in rail cars, trucks or trailers at the Carrier’s named marine cargo | 114 |  | as per above, Shippers may designate another warehouse within the |
| 49 | terminal free of cost to Carrier. The Carrier is responsible for unloading the | 115 |  | distance limitation without penalty or make arrangements with the |
| 50 | cargo from the conveyances at the named marine cargo terminal and loading | 116 |  | Carrier to deliver the cargo to the nominated warehouse with any |
| 51 | the cargo onto an oceangoing vessel or barge or trans-loading the cargo into | 117 |  | additional expenses incurred by the Carrier to be for the Shipper’s |
| 52 | oceangoing containers. If the cargo is trans-loaded into containers, then the | 118 |  | account and payable directly to the Carrier by the Shipper. After the |
| 53 | Carrier is also responsible for transporting the containers to the declared | 119 |  | warehouse(s) has been nominated, the Carrier must advise the |
| 54 | USA port of exit and the cost of loading the containers onto the oceangoing | 120 |  | Shipper within 3 working days if the warehouse is outside the distance |
| 55 | vessel or barge. | 121 |  | limitation. If the Carrier does not advise the Shipper in writing within 3 |
|  |  | 122 |  | working days, then Carrier forfeits its rights under this clause to request |
| 56 | (E) PRE-POSITIONED CARGO – PORT OF LOADING (POL) | 123 |  | an alternate warehouse(s) that is within the distance limitation or to be |
| 57 | (As designated by Letter “P “preceding pre-position port) Cargo to be made | 124 |  | paid for any additional expenses incurred there from. The terms |
| 58 | available to the Carrier at the location as specified in the freight tender (or in | 125 |  | contained in this paragraph apply to either of the delivery options listed |
| 59 | the case of Lake Charles as provided herein). Upon notification to | 126 |  | below. |
| 60 | USDA/KCCO of vessel contract award, carrier will be notified by the |  |  |  |
| 61 | Shipper’s Agent within (2) working days as to the exact location of all cargo | 127 |  | (i) Door Delivery: The cargo is to be delivered in Carrier’s |
| 62 | contracted for carriage. The Carrier will then have four (4) working days to | 128 |  | conveyance at the door of the Receiver’s/Consignee’s warehouse(s) |
| 63 | accept or reject the commodity as contracted giving reasons in writing, for | 129 |  | located outside the port area. The Receiver/Consignee is responsible |
| 64 | any rejections. The commodity parcels rejected shall be identified to the port | 130 |  | for the unloading of Carrier’s conveyance at the nominated |
| 65 | and to USDA/KCCO. Cargoes rejected by the Carrier will be subject to | 131 |  | warehouse(s). |
| 66 | inspection by FGIS to determine final disposition. Rejected cargo may be |  |  |  |
| 67 | replaced by USDA/KCCO and, upon notification that same has been |  |  |  |

132

133

134

135

136

137

138

139

140

141

142

143

144

145

146

147

148

149

150

151

152

153

154

155

156

157

158

159

160

161

162

163

164

165

166

167

168

169

170

171

172

173

174

175

176

177

178

179

180

(ii) Floor Delivery: The cargo is to be unloaded from Carrier’s conveyance and stacked into Receiver’s/Consignee’s warehouse(s) located outside of the port area at the Carrier’s expense.

# STOWAGE

Break bulk cargo shall be stowed and carried below deck unless otherwise provided herein or authorized in writing by the Shipper.

# PORT OF EMBARKATION

The cargo to be transported under this contract must be loaded on board the vessel in a United States port of embarkation, or as authorized by USDA/USAID, as applicable.

# FAILURE TO LIFT CARGO

In the event the vessel fails to lift all or part of the shipment as originally booked due to the fault or negligence of the Carrier, the carrier shall be responsible for all expenses resulting from such failure including but not limited to pier or warehouse storage, rail, truck and/or barge demurrage, inspection, fumigation and deterioration and re-procurement costs.

# CARGO DISPOSAL

The Carrier shall not dispose of the cargo in any manner except by delivery to receiver/consignee at the scheduled port(s) of discharge without the prior written approval of the Shipper.

# SUBSTITUTION

Vessel substitutions must be approved by the Shipper and USDA/USAID, as applicable, and cargo shall not be loaded onto unapproved substitute vessels.

# TRANSSHIPMENT

Goods shall be carried by named vessel, or approved substitute as per Clause 7, from loading port to destination and shall not be transshipped unless said service was contracted for under this booking note or prior written permission is received from the Shipper. If the cargo is to be transshipped, the originating Carrier shall issue a through bill of lading to cover the entire movement and agree to assume all risk and expense to final destination notwithstanding any provision of the bill of lading to the contrary.

# CARGO RE-LET

Carrier may re-let the cargo to other carriers or operators with the approval of the Shipper and USDA / USAID (as applicable).

# DEVIATION IN MODE OF DELIVERY

Any deviation in mode of delivery (direct, relay or transshipment), without the prior approval of the Shipper, may result in an ocean freight revision to the lowest rate offered for an acceptable mode of delivery complying with the freight tender under which this contract was made.

For U.S. flag vessels only: If service provided under this contract is deemed by the U.S. Maritime Administration not to be U.S. flag service for cargo preference purposes, the contracted rate to be reduced to the lowest responsive foreign flag rate complying with the freight tender under which this contract was made. Carrier also agrees to refund the reduction, or to permit the deduction from any sums remaining to be paid. In the event that a deviation is discovered after payment is made, in whole or in part reimbursement is to be made to USAID or USDA (as applicable).

200

201

202

203

204

205

206

207

208

209

210

211

212

213

214

215

216

217

218

219

220

221

222

223

224

225

226

227

228

229

230

231

232

233

234

235

236

237

238

239

240

241

242

243

244

245

246

247

248

249

accordance with any other schedule as the Shipper may otherwise direct in PART I of this Booking Note. Failure to provide such reports will be considered a breach of this contract, and may result in cancellation of the booking including application of clause 5 (in the case of the 14 and 7 day notices) at the Shipper’s sole discretion.

On completion of loading the contracted cargo and upon the vessel sailing from the load port, Carrier shall provide Shipper or Shipper’s agent a sailing notice, stating vessel’s name, commodity, quantity loaded, bill of lading date, load port and estimated date of arrival at discharge port. The sailing notice is to be followed by the following notices of vessel ETA at discharge port of 10, 7, 3 days and 24 hours.

For containerized shipments, Carrier is to provide Shipper with the container location information within twenty four (24) hours of the request made by the Shipper.

# 15. DELAY ASSESSMENTS

If the Carrier determines that the vessel originally scheduled, or a substitute vessel approved by the Shipper, will be unable to lift urgent cargo within five

(5) days of the contracted vessel’s ETA at load port as per PART I of this booking note, or for non-urgent cargo within ten (10) days, the Carrier shall promptly notify the Shipper and propose a later load date. If such notice is received not less than twenty-one (21) days before the contracted vessel ETA, the Shipper shall either accept the later ETA or cancel the booking without cost to the Carrier. If the notice is received less than twenty-one (21) days before the contracted vessel ETA, the shipper shall either cancel the booking with the Carrier and the Carrier shall be responsible for all charges in accordance with clause 5 of this contract or, the Shipper may accept the later vessel ETA and apply the loading delay assessment, if applicable as per PART I of the Booking Note.

The Shipper may impose a loading delay assessment (LDA) in the form of a

U.S. $ per metric ton per day reduction in the freight rate for each and every day beyond the contracted load date (the contracted load date is defined as the date that the vessel is estimated to arrive at the specified loading port), plus a ten (10) day grace period that the vessel fails to present at the first or sole loading port to load the cargo as specified in PART I of this Booking Note. If a LDA is to be imposed for any parcels under this booking note, then the LDA is to be specified in PART I of this Booking Note.

Fixed Day DDA – The Shipper may elect to impose a delivery delay assessment (DDA) in the amount stipulated in PART I of this Booking Note as a per metric ton reduction in the freight rate for each day (or pro-rata of a day) for that quantity of cargo which arrives at the discharge port or final delivery point, as applicable, beyond the latest delivery date specified in PART I of the Booking Note.

Transit Time DDA – Alternatively, the Shippers may elect to impose a DDA in the amount stipulated in PART 1 of this booking note, for all cargo which arrives at the first port within the discharge port range, beyond the allocated number of days for transit, as stipulated below from the time that the vessel has sailed foreign from the last U.S. load port.

In either the Fixed or Transit Time DDA’s, the DDA shall continue to be assessed until the cargo arrives at the discharge port or alternately at the final delivery point, whichever is applicable.

181

182

183

184

185

186

187

188

189

190

191

192

193

194

195

196

197

198

199

# AGENTS

Carriers are to have the right to appoint their own agents at both load and discharge ports.

# CUSTOM CLEARANCE AT DISCHARGE PORT

The Shippers/Receivers/Consignees are fully responsible for custom clearance of the cargo at the discharge port. If the cargo is to be delivered under a through bill of lading, the Carrier is to be responsible for any transit and/or cross border clearances; however, Shipper/Receiver/Consignee is to remain responsible for the final customs clearance of the cargo for the destination country.

# DELAY AT DESTINATION

Any expense which the Carrier may incur in connection with delivery of this shipment at destination as a result of delay to the vessel and/or Carrier’s equipment due to the receiver/consignee negligence shall be for the account of the receiver/consignee and the Carrier shall have no recourse against the Shipper on that account.

# NOTICES

The Carrier shall notify the Shipper of the vessels position, status and ETA 21, 14, 7, 5 days and 24 hours prior to the scheduled load date or in

250

251

252

253

254

255

256

257

258

259

260

261

262

263

264

265

266

267

268

The following transit times are to apply to Transit Time DDA: Discharge Port Range Transit Time

Central America and Caribbean 15 Days South America 25 Days

West Africa 40 Days

North Europe 25 Days

Mediterranean 25 Days

Black Sea 35 Days

Red Sea 40 Days

South/East Africa 45 Days Middle East and South Asia 45 Days Far East 40 Days

If the Shipper elects to impose a Fixed Day DDA, then no LDA can be imposed under this clause.

For non-urgent cargoes, the LDA and/or the DDA shall be U.S. $1.00 per metric ton per day or pro-rata and for urgent cargoes, the LDA and/or the DDA shall be U.S. $2.00 per metric ton per day or pro rata. Alternatively, the Shipper may assess a different amount provided the amount is specified in PART I of the Booking Note.

269

270

271

272

273

274

275

276

277

278

279

280

281

282

283

284

285

286

287

288

289

290

291

292

293

294

295

296

297

298

299

300

301

302

303

304

305

306

307

308

309

310

311

312

313

314

315

316

317

318

319

320

321

322

323

324

325

326

327

328

329

330

331

332

333

334

335

336

337

338

339

340

Any LDA and/or DDA will be deducted from the freight payment or reimbursed to USDA or USAID as applicable if the freight has already been paid.

# FUMIGATION

1. For any flour covered under this Booking Note, the provisions of USDA/KCCO Notice EOD-83 are to apply.
2. If Shippers require the cargo covered under this Booking Note to be fumigated, then the fumigation requirements must be specified in PART I of this Booking Note.
3. If the cargo and/or the vessel is found to be infested at the discharge port and provided clean bills of lading were issued, fumigation to be at Carriers time, risk and expense.

# FREIGHT

1. Except as stipulated in Clause 18, paragraph A. (v), freight is earned upon loading of cargo and Carrier signing/releasing to shipper or shipper’s agent, the relevant ocean bill of lading, vessel lost or not lost. The freight is payable as per the freight payment clause that follows, less any deductions that may apply under this Booking Note.
2. If there is any failure on the part of the Ocean Carrier to perform the contract after the vessel tendered at the loading port, the Shippers or their designated agent shall be entitled to incur all expenses which, in the judgment of the U.S. Department of Agriculture or USAID as applicable are required to enable the vessel to undertake and carry out her obligations under the booking note, including the expenses for any liens asserted against the vessel. Such expenses may be deducted from the freight earned under this booking note notwithstanding any prior assignments of freight made by the owners or operators.

# FREIGHT PAYMENT

1. FOR SECTION 416(b), Food for Progress and Food for Education Cargoes:
   1. For Delivery at Discharge Port: Payment will be made in accordance with the terms of the Booking Note upon presentation of the required documents stipulated in paragraph (iii) below.
   2. For Inland Destination Delivery or services provided after discharge:
2. Payment of not more than Eighty Five Percent (85%) of freight or as specified in the freight tender will be made in accordance with the terms of this Booking Note upon presentation of the required documents stipulated in paragraph (iii) below.
3. Payment of the balance of freight will be payable upon presentation of a confirmation from Shipper that inland destination delivery or services provided after discharge has been satisfactorily provided under this Booking Note.
   1. Documents required to receive payment for ocean freight:
      1. One (1) signed copy of completed Form CCC- 512
      2. Four (4) copies of the original clean, unclaused on-board bills of lading indicating the freight rate and signed by the originating carrier
      3. For all non-containerized grain cargoes:
         1. One (1) signed copy of the Federal Grain inspection Service (FGIS) Official Stowage Examination Certificate (Vessel Hold Certificate);
         2. One (1) signed copy of National Cargo Bureau (NCB) Certificate of Readiness (Vessel Hold inspection Certificate); and
         3. One (1) signed copy of the National Cargo Bureau (NCB) Certificate of Loading
      4. For all containerized grain and grain product cargoes: One (1) signed copy of the FGIS Container Condition inspection Certificate
      5. One signed copy of this liner booking note Parts I and II.
   2. Payment of freight is to be direct payment by USDA/CCC, all documents must be submitted to:

The Director/Operation Division Foreign Agricultural Service

* 1. Department of Agriculture

1400 Independence Ave., SW, Stop 1035

Washington DC 20250-1035

Telephone (202) 720-7736:

Accompanied by a four copies of a request for direct payment on the carriers letterhead. All direct payments by USDA/CCC will be by electronic transfer and must include on carrier’s letterhead, signed by an official or agent of their company:

341

342

343

344

345

346

347

348

349

350

351

352

353

354

355

356

357

358

359

360

361

362

363

364

365

366

367

368

369

370

371

372

373

374

375

376

377

378

379

380

381

382

383

384

385

386

387

388

389

390

391

392

393

394

395

396

397

398

399

400

401

402

403

404

405

406

407

408

409

410

411

* + 1. Payee’s email address to receive payment advice (SF1166);
    2. Payee‘s bank name, address, account number, type of account being used and ABA routing code number;
    3. Payee’s bank swift code number, as applicable;
    4. The company’s taxpayer identification number.
  1. To receive payment in cases where the General Sales Manager determines that circumstances of force majeure have prevented the vessel’s arrival at the first port of discharge, the Cooperating Sponsor and/or the Carrier shall submit all documents required by paragraph (iii) above of this section except that USDA/CCC will not pay any remaining balance where this booking note requires Inland Destination Delivery or services provided after discharge and circumstances of force majeur have prevented the vessel’s arrival at the first port of discharge or the completion of the services.

1. FOR PL 480 Title II Cargoes

Payment will be made against the documentation specified below. The Shipper will submit this documentation to USAID as promptly as is administratively feasible after receipt from the Carrier. Further, payment to the Carrier shall be as prompt as is administratively feasible following receipt by the Shipper or their forwarder of freight amounts from USAID.

* 1. Clean, dated, unclaused, rated, on-board bill of lading meeting the requirements of USAID Regulation 2, 22 CFR Part 202, Section 202.7;
  2. Copy of vessel hold and/or inspection certificate;
  3. Invoice for payment of commission to Carrier’s broker (if any) marked “paid” by Carrier’s broker;
  4. Invoice for payment of commission to Shipper’s agent marked “paid” by Shipper’s agent;
  5. Fully signed copy of the Booking Note/Contract of Carriage;
  6. Letter from the Shipper stating that the Carrier has paid (or made satisfactory arrangements to pay) all charges and expenses including Loading Delay Assessments (LDA) and/or Delivery Delay Assessments (DDA), if any, resulting from the Carrier’s failure to lift cargo as scheduled in accordance with this booking note or authorizing the shipper to deduct such expenses and charges from the freight amounts;
  7. Form AID 1550-1 signed by the carrier;
  8. Fumigation certificate when required;
  9. NCB Certificate of Cleanliness;
  10. One copy of Vessel Loading Observation Procedure (VLOP) Certificate;
  11. ) Copy of Carrier’s applicable tariff pages covering this shipment.

# U.S. CARRIAGE OF GOODS BY SEA ACT

It is mutually agreed that this contract is subject to all the terms and provisions of the Carriage of Goods by Sea Act (46 U.S.C. 1300 et seq.) unless otherwise provided in this contract. However, in case of claims for loss, damage or shrinkage in transit, or any other claims against the Carrier, the rules and conditions governing commercial shipments and provisions of the Carriage of Goods by Sea Act of 1936 shall not apply as to the period within which notice thereof shall be given to the Carriers or to the period within which the claim shall be made or suit instituted. Nevertheless any claim must be made or suite instituted within six (6) years of the bill of lading date of the subject shipment.

# GENERAL AVERAGE

Provided the Carrier has used due diligence to make the vessel seaworthy, then 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 consequences of which the Carrier is not responsible by statute, contract or otherwise, the goods, the shipper and/or consignees or owners of the goods will assign all rights and responsibilities for general average and marine salvage to the Commodity Credit Corporation (CCC), and CCC shall contribute with the Carrier in general average to the payment of any sacrifices, losses or expenses of a general average nature that may be made or incurred including salvage and special charges incurred in respect to the goods. If a salving ship is owned or operated by the carrier, salvage shall be paid for as fully as if the said salving ship or ships belonged to strangers. General Average shall be payable according to York/Antwerp Rules (1994). Cargo is to be released without requiring deposits, the posting of a bond or general average security.

412

413

414

415

416

417

418

419

420

421

422

423

424

425

426

427

428

429

430

431

432

433

434

435

436

437

438

439

440

441

442

443

444

445

446

447

448

449

450

451

452

453

454

455

456

457

458

459

460

461

462

463

464

# PROVISIONS OF US LEGISLATIVE ACTS

All the terms and conditions of this contract are subject to the applicable provisions of the Agricultural Trade Development and Assistance Act of 1954, as amended for PL 480 cargoes; Section 416 of the Agricultural Act of 1949, as amended for Sec 416(b) cargoes; Section 1110 of the Food Security Act of 1985, as amended for Food for Progress cargoes; McGovern- Dole International Food for Education and Child Nutrition Program, Section 3107 of the Farm Security and Rural Investment Act of 2002 for Food for Education cargoes and regulations issued there under, as amended.

# US CUSTOMS COMPLIANCE

In accordance with the enforced compliance program for outbound documentation of the U.S. Customs Service, Carrier is hereby informed that Carrier is responsible for the payment of any penalty assessed against the cargo due in whole or in part to delay by Carrier in verifying final load count and providing said final load count to the Freight forwarder/Shipping Agent concerned.

# ISM AND ISPS CODE COMPLIANCE

Carrier guarantees that this vessel, if required by the ISM (Non self-propelled barges are exempt), and ISPS code issued in accordance with International Convention for the Safety of Life at Sea (1974) as amended (SOLAS) complies fully with the International Safety Management (ISM) Code and the International Ship and Port Facilities Security (ISPS) Code and will remain so for the entirety of her employment under this booking note. Upon request, Carriers to provide Shippers with a copy of the relevant document of compliance (DOC) and Safety Management Certificate (SMC) in regard to the ISM Code and the International Ship Security Certificate (ISSC) in regard to the ISPS Code. Carriers are to remain fully responsible for any and all consequences from matters arising as a result of the Carrier or the vessel being out of compliance with the ISM and ISPS code.

# COMPLIANCE WITH SECTION 408 OF THE U.S. COAST GUARD AUTHORIZATION ACT OF 1998

Public Law 105-383 (46 U.S.C. Section 2302 (e), establishes, effective January 1, 1999, with respect to non-U.S. flag vessels and operators / owners, that substandard vessels and vessels operated by operators of substandard vessels are prohibited from the carriage of government impelled (preference) cargo(es) for up to one year after such substandard determination has been published electronically. As this cargo is preference cargo, carrier must warrant that vessel(s) and owner / operators are not disqualified to carry such cargo(es).

# 25 WAR RISK PREMIUM

The Carrier is to be fully responsible for any and all War Risk Insurance Premium that may be assessed against the vessel during the duration of this contract.

# 26. USDA / USAID NOTICES

The following USDA and USAlD “Notice to the Trade” are hereby incorporated into this booking note. The complete text of these Notices can be obtained at the USDA or USAID web site. In addition to the specific notices referenced below, any cargo booked under this booking note is subject to all relevant notices to the trade that have been issued by USDA and/or USAID prior to the date of this booking note as specified in PART I.

(A) The USDA Kansas City Commodity Office’s “Container, Barge, and Vessel Hold Inspection Requirements Title II, PL 480 and Section 416 Export Donations” is fully incorporated in this contract.

482

483

484

485

486

487

488

489

490

491

492

493

494

495

496

497

498

499

500

501

502

503

504

505

506

507

508

509

510

511

512

513

514

515

516

517

518

519

520

521

522

523

524

525

526

527

528

resolution procedures which is to be specified in PART I of this Booking Note. In the event that the Shipper does not select one of the following procedures, any dispute arising out of this Booking Note can be adjudicated by the Shipper or Carrier to any court of appropriate jurisdiction located in the United States.

1. Arbitration: All disputes arising out of this contract shall be arbitrated at New York in the following manner, and be subject to U.S. Law:

One Arbitrator is to be appointed by each of the parties hereto and a third by the two so chosen. Their decision or that of any two of them shall be final and for the purpose of enforcing any award, this agreement may be made a rule of the court. The Arbitrators shall be commercial men, conversant with shipping matters. Such Arbitration is to be conducted in accordance with the rules of the Society of Maritime Arbitrators Inc. (All World Food Program bookings will be subject to this arbitration clause)

1. Federal Acquisition Regulations procedure as defined under FAR: 52.233.
2. Mediation to be in accordance with the rules and procedures of the Society of Maritime Arbitrators or the American Arbitration Association as mutually agreed between Shipper and Carrier.

Disputes involving marine loss and damage claims and related matters are subject to the American Carriage of Goods by Sea Act.

# PERFORMANCE BOND

Shipper reserves the right to require the Carrier to post a Performance Bond. Said Bond to be in the form of a certified check only, drawn on a U.S. bank, equivalent to five (5) percent of the gross freight, in favor of the Agency for International Development or the United States Department of Agriculture. The Bond to be held until the vessel completes loading and the Carrier has released clean, un-claused original bills of lading or at the Shippers option until the vessel arrives at the discharge port. The Shipper has the right to cancel this booking in the event that the Carrier fails to post the Performance Bond within 2 working days after the cargo has been booked and all subjects lifted.

# BANNER CLAUSE

USAID require that all vessels transporting food assistance cargo display a banner and/or flag as follows:

For USAID Title II cargoes – Vessel is to display a USAID standard large size USAID flag and a USAID banner with the revised USAID emblem. The banner is approximately 16 feet wide by 16 feet tall and is to be displayed on vessels carrying USAID funded cargoes. Both the banner and flag are to be flown while the vessel enters the load/discharge ports and during cargo operations. Carriers are to ensure that any lightering vessel(s) employed is also to display the flag and banner during discharging operations. Carrier is to comply with this requirement at its expense.

# BOOKING NOTE CHANGES

Any terms or provisions inserted in or deleted from this contract by the Carrier or Shipper or their agents shall be null and void unless approved in writing by both the Shipper and Carrier.

----- End -----

465

466

467

468

1. USDA Kansas City Commodity Office Notice to the trade EOD-110 dated May 10, 2002 "Recoopering Packaged Commodities for Food Aid Programs" is incorporated herein. A copy of the notice can be obtained from the following FTP site: [www.fsa.usda.gov/daco/eod\_notices/eod110.pdf.](http://www.fsa.usda.gov/daco/eod_notices/eod110.pdf)

469

470

471

472

473

1. USDA Kansas City Commodity Office Notice to the trade EOD-68 dated May 5, 2000 “Change in VLO Requirements and Procedures” is incorporated herein. A copy of the notice can be obtained from the following FTP site: ftp://fsa.usda.gov/public/export/eod68txt. A copy of the VLO Certificate must be submitted as part of the freight payment package.

474

475

476

477

1. USDA Kansas City Commodity Office notice to the trade and USAID modifications to booking guidelines dated July 5, 1996, regarding changes in vessel loading observations procedure and clarification of FAS delivery are hereby incorporated into this booking note.

478

479

480

481

# 27. DISPUTE RESOLUTION

Except where USDA/CCC has retained the right to file or pursue claims, including but not limited to marine cargo loss and damage and General Average, Shippers to have the option of selecting one of the following dispute

The public reporting burden for this information collection is estimated to be 10 minutes. This burden estimate includes time for reviewing instructions, researching existing data sources, gathering and maintaining the needed data, and completing and submitting the information. Send comments regarding the accuracy of this burden estimate and any suggestions for reducing the burden to: U.S. Department of Agriculture, Foreign Agricultural Service, Office of Capacity Building and Development, Food Assistance Division, Attn: OMB Number (0551-0035), 1400 Independence Avenue., S.W., Washington, DC 20250-1034. You are not required to respond to this collection of information unless a valid OMB control number is displayed.