

Standard Conditions governing the
VTG MULTIMODAL TRANSPORT BILL OF LADING

Definitions

- „Carrier“ is VTG Tanktainer GmbH.
- “Actual Carrier” is the party who performs the contract by his own means of transport or other facilities;
- „Merchant“ includes the Consignor, the Shipper, the Consignee, the Holder of this BL, the Receiver and the Owner of the Goods;
- „Consignor“ is the person who concludes the contract of carriage with the Carrier;
- “Shipper” includes the person who has handed over the Goods to the Carrier at the Place of Receipt or Port of Loading, respectively, and who is named by the Consignor to be entered in the BL as shipper, or who is otherwise named by the Consignor;
- „Consignee“ means the person entitled to receive the goods from the Carrier;
- „Received for Shipment“ means that the goods have been handed over to and accepted for carriage by the Carrier at the Place of Receipt or Port of Loading, respectively, as evidenced in this BL;
- “Container” is any equipment into or onto which Goods are stowed to allow or facilitate the transport of the goods such as e.g. standard containers, flat racks, movable tanks, trailers, or pallets, irrespective of whether the equipment is provided by the Consignor or the Shipper or by the Carrier or any Other Person;
- “Other Person” includes all servants, agents, and sub-contractors of the Carrier including the Actual Carrier and the vessel’s crew;
- „Goods“ include any item to which the contract of carriage refers or which has been received for shipment including, inter alia, live animals as well as Containers not provided by the Carrier or any Other Person, irrespective of whether such item is to be or is carried on or under deck.
- “SDR” is the special drawing right as defined by the International Monetary Fund.

These Conditions shall apply to this Bill of Lading (BL) as well as to the contract of Carriage concluded by the Carrier.

1. The Carrier’s Obligations

The Carrier undertakes to carry the Goods from the Place of Receipt or the Port of Loading, respectively, to the Port of Discharge or the Place of Delivery, respectively, as stated on the front page of this Bill of Lading, and there to deliver the Goods to the Consignee.

2. Negotiability and Title to the Goods

This BL is issued in a negotiable form unless it is marked „non negotiable“. It shall constitute title to the goods and the holder shall be entitled to receive or to transfer the goods herein mentioned.

3. Dangerous Goods and Indemnity

- 3.1 The Merchant shall comply with all rules applicable to the carriage in relation to goods of a dangerous nature. The Consignor and the Shipper shall in any case inform the Carrier in writing of the exact nature of the danger, before the respective goods are received for shipment by the Carrier, and advise him, if necessary, on the safety precautions to be taken.
- 3.2 If the Carrier, the master of the vessel or the vessel’s local agent at the Place of Receipt or the Port of Loading, respectively, are unaware of or were not notified about the dangerous nature of the goods when they are received for shipment, the Carrier may discharge, store, return, or, as far as necessary, destroy the goods or render them harmless, in all cases without compensation. The Consignor and the Shipper shall be liable for all reasonable expenses incurred by the Carrier in respect of these steps, if the Consignor or the Shipper failed to duly inform the Carrier in accordance with 3.1.
- 3.3 If the Carrier, the master of the vessel or the vessel’s local agent at the Place of Receipt or the Port of Loading, respectively, were aware of or were notified about the dangerous nature of the goods when they are received for shipment, the Carrier may discharge, store, return, or, as far as necessary, destroy the goods or render them harmless, without compensation, if the dangerous goods are a hazard to the ship or other means of transport or the other cargo, and if the hazard was not caused by the Carrier’s negligence.
- 3.4 If the Consignor and the Shipper fail to duly inform the Carrier in accordance with 3.1, they shall be liable for all expenses and damages of the Carrier arising therefrom and will indemnify the Carrier from all claims brought against him by third parties.

4. Description of Goods

The Consignor and the Shipper, prior delivery of the goods to the Carrier, shall furnish him in writing all details relevant for the performance of the carriage, including but not limited to the number of packages or pieces, or the quantity, or weight, as well as the marks and the general nature of the goods. If the Consignor and the Shipper fail to duly inform the Carrier accordingly, they shall be liable for all expenses and damages of the Carrier arising therefrom and will indemnify the Carrier in respect of all claims brought against him by third parties.

5. Packing and Marking of Goods

- 5.1 The Consignor and the Shipper shall pack the Goods so as to protect them from loss and damage and to prevent damage to the Carrier and the Other Persons. In case the goods are stowed on or into a container or pallet or similar means to consolidate the goods, the Consignor and the Shipper shall properly secure the goods to allow a safe carriage. They shall be responsible to use only suitable and intact means of transport. The Consignor and the Shipper shall also, if necessary, mark the goods.
- 5.2 If the Consignor and the Shipper fail to duly pack and mark the goods as laid out in 5.1, they shall be liable for all expenses and damages of the Carrier arising therefrom and will indemnify the Carrier from all claims brought against him by third parties. Neither shall the Carrier in this case be liable for loss of or damage to the goods as well as delay in delivery.
- 5.3 In case the Container is loaded by the Consignor or Shipper, it is their duty to ensure that
- prior to loading the tank container is clean, dry, odor free and suitable for the product;
 - the tank container has the appropriate certifications;
 - the tank container is in test;
 - the container is labelled in accordance with local and international dangerous goods regulations after loading of hazardous products;
 - if the tank container was purged with nitrogen it will be labelled accordingly;
 - the required filling grade will be observed during loading;
 - the the Consignee, upon delivery and prior to de-stuffing of the Container, will check the container number against the blf.

6. Containers supplied by the Carrier

If a Container is supplied by or on behalf of the Carrier, the Consignor and the Shipper shall, before goods are stowed/filled into or onto the container, inspect the container to confirm its suitability for the carriage. The Carrier shall not be responsible for loss of or damage to the Goods as well as delay in delivery arising from defects which would have been detected upon a reasonable inspection of the container.

7. Delay in Delivery

- 7.1 Unless expressly agreed, the Carrier does not undertake or guarantee that the Goods shall arrive at the Port of Discharge or Place of Delivery at any particular time or to meet any particular market or use.
- 7.2 The Carrier shall only be liable for loss following from delay in delivery if the Consignor has made a declaration of interest in timely delivery which has been accepted by the Carrier and stated in this BL.
- 7.3 The Carrier’s liability is subject to Clauses 8, 9 and 11.2, 11.3.
- 7.4 If the Carrier is held responsible for the consequences of any delay in delivery, the Carrier’s liability is limited to an amount corresponding to three times the freight unless any lower limitation applies.

8. Carriage by Sea

In both unimodal and multimodal carriage, the Carrier shall not be liable for loss of or damage to the goods or delay in delivery in respect of goods carried by sea when such loss, damage or delay during such carriage has been caused by

a) act, neglect, or default of the master, crew, or pilot of the ship or of the Carrier’s servants in the navigation or the management of the ship; or

b) fire or explosion on board of the ship.

9. Carriage by Inland Waterway

In both unimodal and multimodal carriage, the Carrier shall not be liable for loss of or damage to the goods or delay in delivery in respect of goods carried by inland waterway, if the carriage is or would be subject to the Budapest Convention on the Contract for the Carriage of Goods by Inland Waterway (CMNI), when such loss, damage or delay during such carriage has been caused by

a) an act or omission of the master, pilot or other person in the service of the vessel, pusher or towler during navigation or in the formation or dissolution of a pushed or towed convoy, provided that the Carrier complied with his obligations concerning the crew, unless, however, that the act or omission of the Carrier did not result from an intention to cause damage, or

- b) from reckless conduct with the knowledge that damage probably would result; fire or explosion on board of the vessel, where it is not possible to prove that the fire or explosion resulted from the Carrier’s, the Actual Carrier’s or their servants’ or agents’ fault or a defect of the vessel; or
- c) a defect of the ship owned or chartered by the Carrier which existed at the outset of the voyage, if he proves that the defect could not be discovered prior to the outset of the voyage despite due diligence.

10. US Trade

- 10.1 In case this BL is issued in the United States of America (US), or if the Port of Loading or the Port of Discharge is located in the US, the Carriage of Goods by Sea Act of the United States of America (COGSA) shall apply to the carriage of goods by sea, in both unimodal and multimodal carriage, whether the goods are stowed on deck or under deck.
- 10.2 COGSA shall also apply to all overland carriage within the US.
- 10.3 In all cases where COGSA applies or is agreed to be applicable under 10.1 and 10.2, the Carrier’s liability for loss of or damage to the Goods is limited to US\$ 500 per package or customary freight unit.

11. Carrier’s Liability

- 11.1 The responsibility of the Carrier for the Goods covers the period from the time the Carrier has received the Goods for shipment to the time of their delivery in accordance with Clause 16.
- 11.2 The Carrier shall not be liable for loss of or damage to the Goods if the loss or damage is caused, inter alia, by perils of the sea; by acts of war or public enemies; by government or authorities’ orders or quarantine restrictions; by seizure under legal process; by strike, lock-out or any other disturbance of work; by act or omission of the Merchant including but not limited to insufficient packing or insufficient or inadequate marks; by wastage in bulk or weight or any other loss or damage arising from inherent defect, quality, or vice of the goods; by carriage of living animals; or by saving or attempting to save life or property at sea.
- 11.3 When the Carrier establishes that, in the circumstances of the case, the loss or damage could be attributed to one or more causes or events, specified in Clause 11.2, it shall be presumed that it was so caused.
- 11.4 In case of loss of or damage to the goods, the total amount recoverable from the Carrier shall be calculated by reference to the value of the goods at the place and time they are delivered to the Consignee or at the place and time when they should have been so delivered.
- 11.5 The value of the goods shall be determined according to the current commodity exchange price or, if there is no such price, according to the current market price or, if there are no such prices, by reference to the normal value of goods of the same name and quality.
- 11.6 The Carrier’s liability for any loss of or damage to or in connection with the goods does not exceed the equivalent of 666.67 SDR per package or 2 SDR per kilogram of gross weight of the goods lost or damaged, whichever is the higher. Where a Container is loaded with more than one package or unit, the packages or other shipping units enumerated in the BL as packed in such Container are deemed packages or shipping units. Except as aforesaid, the Container shall be considered the package or unit.

12. Notice

- 12.1 In case of loss of or damage to the Goods the Consignee shall notify the Carrier in writing, specifying the general nature of such loss or damage. The notice must be given when the Goods are delivered to the Consignee in accordance with Clause 16, or, where the loss or damage is not apparent, within 3 days.
- 12.2 Should the Consignee fail to notify the Carrier in accordance with 12.1, all claims against the Carrier for loss of or damage to the Goods will be excluded.

13. Non-Contractual Claims

All exclusions and limitations of liability available to the Carrier, as provided in the law applicable, in these conditions or agreed otherwise with the Carrier, shall apply irrespective of the nature of the claim, in particular to non-contractual claims.

14. Himalaya Clause

All Other Persons are entitled to invoke all defenses and exclusions and limitations of liability available to the Carrier. The aggregate liability of the Carrier and the Other Persons shall not exceed the Carrier’s liability.

15. Method and Route of Transportation

Without notice to the Merchant, the Carrier has the liberty to carry the Goods on or under deck and to choose or substitute the means, route and procedure to be followed in the handling, stowage, storage and transportation of the goods.

16. Delivery

- 16.1 The Goods shall be deemed to be delivered when they or, in case they are stowed on or into a Container, the Container has been handed over or placed at the disposal of the Consignee or his agent, or when the Goods have been handed over to any authority or other party to whom, pursuant to the law or regulation applicable at the place of delivery, the goods must be handed over, or such other place at which the Carrier is entitled to call upon the Merchant to take delivery.
- 16.2 Upon delivery and prior to de-stuffing of a Container, the Consignee shall check the container number against the blf.

17. Freight and Charges

- 17.1 Freight shall be paid in cash, without any deduction, whether prepaid or payable at destination. The freight is earned by the Carrier when the goods are received for shipment, and not to be returned in any event.
- 17.2 Freight and all other amounts due to the Carrier are to be paid in the currency named in this BL or in the contract of carriage or, at the Carrier’s option, in any other currency.
- 17.3 The Consignor shall be liable for all amounts the Carrier may claim from the Consignee, including, but not limited to, claims for container demurrage and for loss of or damage to the container.
- 17.4 The Carrier’s acceptance of instructions to collect freight, charges or other expenses does not relieve the Merchant from his liability in respect of these amounts. The Carrier shall use his best endeavors to collect the freight, charges or other expenses.

18. The Merchant’s Responsibility

The Merchant shall be liable for the freight and all dues, taxes and charges or other expenses in connection with the Goods.

19. Lien on the Goods

The Carrier shall have a lien on the Goods and any documents relating thereto for any amount due at any time to the Carrier from the Merchant including storage fees and the cost of recovering same, and may enforce such lien in any reasonable manner which he may think fit.

20. General Average and Salvage

The Merchant shall indemnify the Carrier in respect of any claims for General Average contribution or Salvage remuneration which may be raised against the Carrier. The Merchant shall provide security as may be required by the Carrier.

21. Time Limit

The Carrier shall be discharged of all liability under this BL and the contract of carriage unless suit is brought within one year after the Delivery of the Goods in accordance with Clause 16, or the date when the Goods should have been so delivered.

22. Partial Invalidity

If any clause or a part thereof is held to be invalid, the validity of these terms and the remaining clauses or a part thereof shall not be affected.

23. Clause Paramount

The Hague Rules contained in the International Convention for the Unification of Certain Rules relating to Bills of Lading, dated Brussels 25th August 1924, or in those countries where they are already in force, the Hague-Visby Rules contained in the Protocol of Brussels, dated 23rd February 1968, as enacted in the Country of Shipment, shall apply to all carriage of goods by sea and also to the carriage of goods by inland waterways, and such provisions shall apply to all goods whether carried on deck or under deck.

24. Jurisdiction and Law

- 24.1 All disputes arising under and in connection with this BL and the contract of carriage shall be exclusively decided (at first instance) by the courts of Hamburg, Germany. The Carrier, however, is entitled to commence proceedings against the Merchant in any other jurisdiction.
- 24.2 This BL and the contract of carriage are subject to German law.