Shipper/Exporter (complete name and address)

Bill of Lading No.

BILL OF LADING

KLN Freight (USA) Inc.
OTI License No. 022122NF

Consignee (complete name and address)

Received by the Carrier the Goods as specified herein in apparent good order and condition unless otherwise stated, to be transported to such place as agreed, authorized or permitted herein and subject to all terms and conditions appearing on the front and reverse of this Bill of Lading to which the Merchant agrees by accepting this Bill of Lading, any local privileges and customs notwithstanding.

The particulars given by the shipper and the weight, measure, quantity, condition, contents and value of the Goods are unknown to the Carrier.

Notify party (complete name and address)

IN WITNESS WHEREOF, the number of original bills of lading stated below have been signed. Whenever one original bill of lading has been surrendered, the others shall stand void.

One endorsed original of this bill of lading must be surrendered in exchange for the Goods or Containers or other Packages.

Place of receipt	Port of loading
Vessel/Voyage	
Port of discharge	Place of delivery

Final destination(for the Merchant's reference)

PARTICULARS FURNISHED BY SHIPPER

MKS&NOS/CONTAINER NOS	NO. OF PKGS	DESCRIPTION OF PACKAGES AND GOODS	GROSS WEIGHT	MEASUREMENT

COPY
NON-NEGOTIABLE

Carrier's liability is limited.
Excess Value Declaration:Refer to Clause 5 on reverse side

Freight and charges:	Prepaid	Collect
GRAND TOTAL		
Number of original B/L(s)	Shipper - reference S/O No.	

FOR DELIVERY OF GOODS PLEASE APPLY TO:

K-APEX
A member of KLN

PLACE AND DATE OF ISSUE

AS AGENTS FOR THE CARRIER

BILL OF LADING TERMS AND CONDITIONS

1. Definitions

A. “Carrier” means the company named on the face of this bill of lading.

B. “Merchant” means the shipper, consignee, receiver of the Goods, holder of this bill of lading and any other person who owns or is entitled to possession of the Goods, and any person acting by, on behalf of or through such persons.

C. “Goods” means articles of every kind or description including their packaging, containers, and/or other shipping units tendered to Carrier.

D. “Vessel” means the vessel named on the face of this bill of lading and any other vessel or conveyance used to transport the Goods.

E. “Package” means each article, piece, or shipping unit in which the Goods are tendered to the Carrier for transportation, the number of which is set forth on the face of this bill of lading in the box provided for “No. of Packages.”

2. Responsibilities of Carrier/Clause Paramount

A. Carrier undertakes responsibility for the Goods from the place of receipt if named on the face of this bill of lading or from the port of loading, to the port of discharge or place of delivery if named on the face of this bill of lading. Unless otherwise provided or another law is compulsorily applicable, Carrier’s liability for loss of or damage to the Goods shall be governed by the United States Carriage of Goods by Sea Act (COGSA) found at 46 U.S.C. § 30701, note and the provisions of COGSA shall be extended to apply to Goods stowed on deck of the Vessel and to all times when the Goods are in Carrier’s actual or constructive custody including all times when the Goods are in the custody of Carrier’s agents, servants and/or subcontractors as set forth in paragraph 3. If this bill of lading is issued in a locality where there is in force a compulsorily applicable act or statute substantially similar to COGSA, this bill of lading shall be subject to said act or statute. Carrier shall be entitled to the full benefit of and right to all limitations of or exemptions from liability authorized by the provisions of 46 U.S.C. §§ 30501-30511 inclusive.

B. The terms of this bill of lading, including but not limited to the limitations of liability specified in paragraph 5, shall apply to any liability determined to exist as a result of Carrier’s providing services or materials, including a container, to Merchant.

3. Subcontractors and Agents

A. Carrier shall be entitled, on any terms, to subcontract any or all duties Carrier has assumed in connection with the Goods.

B. Merchant undertakes and agrees that no claims shall be made and no suits shall be filed against any servant, agent or subcontractor of Carrier which seeks to impose upon them any liability whatsoever in connection with the Goods. The terms “servants, agents, and subcontractors” shall include every servant, agent, terminal operator, stevedore, delivery agent, connecting rail or motor carrier, sub-servant, sub-agent, and sub-contractor. In the event of a breach of this obligation, Merchant agrees to indemnify Carrier against all damages arising therefrom.

C. Without prejudice to the foregoing, each and every servant, agent, and subcontractor who is delegated any duty assumed by Carrier with respect to the Goods, including without limitation terminal operators, stevedores, delivery agents, connecting rail or motor carriers, sub-servants, sub-agents, and sub-contractors shall have the benefit of, and be entitled to enforce, all defenses, limitations, and exemptions set forth in this bill of lading, including the limitations of liability. In entering into this contract, Carrier does so not only on its own behalf, but also on behalf of all such servants, agents, and or subcontractors of Carrier.

4. Merchant Representations and Warranties

By tendering the Goods to Carrier, Merchant undertakes, represents, and warrants as follows:

A. It has read, understood, and agrees to these terms and conditions.

B. The person tendering the Goods to Carrier is entitled and authorized by any other person who owns or has an interest in the Goods or this bill of lading to tender the Goods to Carrier and to bind all other parties with an interest in the Goods or this bill of lading to these terms and conditions;

C. The amount and description of the Goods tendered to Carrier as set forth on the face of any shipper’s instructions, receipt, truck tag, bill of lading, or other document provided to Carrier are accurate and complete;

D. The Goods are not hazardous goods as described in paragraph 6;

E. The Goods have been properly packed, marked, and secured in a manner adequate to withstand the ordinary risks of transportation for the carriage shown on the face of this bill of lading having regard for the nature of the Goods;

F. Any shipping container or unit not provided by Carrier has been inspected and is physically suitable, sound, and structurally adequate to contain and support the Goods;

G. Merchant has complied with all governmental laws, regulations, and port authority requirements which pertain to the receipt, storage, transport, export, import, and/or delivery of the Goods.

H. Merchant acknowledges that it is required to provide the verified gross mass (VGM) obtained on calibrated, certified equipment of all cargo tendered to Carrier. Merchant agrees that Carrier is entitled to rely on the accuracy of such VGM provided by Merchant and to countersign or endorse it as Carrier’s own certified weight to any carrier providing transportation services for the Goods.

I. Merchant agrees to indemnify Carrier and hold Carrier harmless from any claims, liabilities, penalties, fines, and expenses which may arise as a consequence of any breach of the foregoing representations and warranties, including, without limitation, claims for personal injury or property damage, and/or penalties and fines resulting from an inaccurate VGM supplied by Merchant.

5. Value and Limitations of Carrier’s Liability

A. Merchant agrees that if Carrier is liable for loss of or damage to the Goods, Carrier’s liability shall be based on the invoice value of the Goods but in no case shall Carrier’s liability exceed US $500 per package or in the case of goods not shipped in packages, $500 per customary freight unit unless Merchant declares a higher value for the Goods before shipment and pays an ad valorem freight rate in accordance with Carrier’s tariff.

B. If loss of or damage to the Goods is known to have occurred during carriage by sea but not to or from the United States in foreign trade, the Merchant agrees that such carriage shall be governed by the International Convention for the Unification of Certain Rules Relating to Bills of Lading signed at Brussels on August 25, 1924 and as subsequently amended or any other law compulsorily applicable to such carriage.

C. In all cases in which paragraphs A. and B. above do not apply, unless Merchant declares a higher value for the Goods and pays an ad valorem freight rate in accordance with Carrier’s tariff, Carrier’s liability for the loss of or damage to the Goods shall be the lesser of (i) the invoice value of the Goods; or (ii) US$1/kg of the weight of the lost or damaged Goods; or (iii) US$1,000.

D. In no event shall Carrier be liable for damages caused by delay or for consequential or punitive damages even if Carrier has been put on notice by Merchant of the possibility of such damages.

E. If the limitations of liability set forth in this paragraph are determined to be invalid under any law, convention, or treaty which compulsorily applies, Carrier’s liability shall be limited to the lowest amount permitted under such law, convention, or treaty.

F. In no event shall Carrier be liable for more than the amount of damage actually sustained or for goods not described in this bill of lading.

6. Hazardous Goods

A. Merchant undertakes not to tender for transportation goods which are or may become flammable, radioactive, or in any other manner hazardous, without giving prior written notice to Carrier and marking the Goods and the container, package, and/or covering within which the Goods are contained, with all notations, labels, and warnings which are required by the applicable laws and regulations. Carrier may in its sole discretion refuse to transport the Goods if it deems them to be flammable, radioactive, or hazardous in any way.

B. If it is determined that the Goods have been tendered for transportation in violation of Paragraph 6A., Carrier may unload, destroy, or render the Goods harmless without compensation to Merchant, all freight for the Goods shall be deemed earned, and Merchant shall be liable for any loss, damage or expense incurred by Carrier in connection with the tender, unloading, destruction, or other handling of the Goods.

7. Goods Requiring Temperature Control

Carrier will not provide temperature-controlled, insulated, or ventilated stowage for the Goods unless agreed in writing before Carrier’s receipt of the Goods. If no request is made for temperature-controlled, insulated, or ventilated stowage, Merchant warrants such stowage is not required.

8. Rust

The term ‘apparent good order and condition’ when used in this bill of lading with reference to iron, steel or metal products does not mean the Goods, when received, were free of visible rust or moisture. If the shipper so requests, a substitute bill of lading will be issued omitting the above definition and setting forth any notations as to rust or moisture which may appear on the mates’ or tally clerks’ receipts.

9. Right to Inspect

Carrier is entitled, but shall have no obligation, to open any closed container or shipping unit to inspect the contents thereof to ascertain whether the description, amount, and/or value of the Goods described in any shipper’s instructions, receipt, truck tag, bill of lading or other document provided to Carrier is accurate and complete, and that the Goods have been properly packed.

10. Valuable Goods

Carrier will not accept for carriage or storage, and shall not be liable to any extent for loss of or damage to or in connection with the transportation of bullion and precious metal objects, bank notes, coins, checks, credit cards, bonds, cash, negotiable documents and securities, jewelry, works of art, antiques, artifacts, precious stones, precious metals, animal furs, plants, live animals, birds, reptiles and fish, and human remains.

11. Freight and Other Charges/Carrier’s Lien

A. Freight and other charges have been calculated based upon the particulars furnished by the Shipper. If at any time it is determined that the particulars furnished are incorrect or incomplete, it is agreed that a sum equal to the difference between the amounts charged and the amount due for the properly described goods, shall be payable by Merchant to Carrier. All quotations of freight charges are subject to change without notice and are based on prompt acceptance of the Goods by the Consignee and prompt return of Carrier’s equipment. No quotation shall be binding unless and until Carrier agrees in writing to undertake the handling, transportation, storage, or delivery of the Goods for the amount quoted and payment arrangements have been agreed upon. Freight and other charges shall be earned on receipt of the Goods by Carrier and are non-refundable.

B. Merchant agrees to pay all freight, storage, demurrage, detention, and other charges payable for transportation, handling, and/or storage of the Goods. All services rendered by a third party for the benefit of the Goods that are not included in Carrier’s quotation for freight and other charges, will be for the account of Merchant and will be charged to Merchant at the third party’s stated rates as of the date such services are rendered, or as shown in the third party’s standard terms and conditions or published tariffs, if any.

C. Carrier shall have a lien on the Goods and all documents relating thereto as well as on all other goods belonging to Merchant in Carrier’s possession for sums payable to the Carrier and for general average contributions to whomever due, whether such sums are due under this bill of lading or under any other bill of lading to which Carrier and Merchant are parties, which lien may be enforced by public or private sale of the Goods without notice or by all other lawful means. If the proceeds from the sale of the Goods and all other goods in Carrier’s possession are insufficient to cover the amount owed, Carrier shall be entitled to recover the balance from Merchant.

12. Other Provisions Regarding Performance

A. Carrier does not undertake that the Goods shall be transported by any particular route or that the Goods will arrive at any particular time or in time to meet any particular market or use.

B. Carrier may, in its discretion, transport the Goods as a single shipment or several shipments, by the Vessel or by any other means of transportation.

C. The Vessel may sail beyond the Port of Discharge named herein or in a direction contrary thereto, or may return to the Port of Loading. The Vessel may omit calling at any port whether scheduled or not. The Vessel may adjust compasses, dry dock with or without the Goods on board, suspend the voyage for repairs, shift berths, take on fuel or stores, remain in port, be on the bottom, aground or at anchor and all of the foregoing are included in the contract of carriage and shall not be considered an unreasonable deviation.

D. If, at any time, the performance of the contract evidenced by this bill of lading is likely to be affected by any hindrance, risk, delay, difficulty, or disadvantage of any kind whatsoever which cannot be avoided by reasonable endeavors, Carrier may, without notice to Merchant, treat the performance of the contract as terminated, and place the Goods or any part of them at Merchant’s disposal at any port or place Carrier considers safe and advisable under the circumstances, whereupon Carrier’s responsibility for the Goods shall cease. Carrier shall nevertheless be entitled to the full amount of the freight and other charges due upon the Goods, and Merchant shall be liable for any additional costs incurred in delivering and/or storing the Goods at such port or place.

E. The circumstances referred to in subparagraph 12D shall include, but are not limited to, those caused by the existence or apprehension of war whether declared or undeclared, hostilities, warlike or belligerent acts or operations, riots, civil commotions or other disturbances, closure of or obstacles in or danger to any canal or port, blockade of a port or interdiction, prohibition, or restriction on trade or commerce at a port or place, quarantine, sanitary or other regulation or restriction, strikes, riots, lockouts or other labor difficulties (whether or not involving Carrier or its sub-contractors or agents), congestion of port, wharf, sea terminal, or any other place, obstacles to the discharge, delivery, or handling of the Goods, epidemics or diseases, bad weather, shallow water, ice, landslide, or other obstacle in navigation or carriage.

F. The Goods may be stored in any space commonly used in the trade for the storage of goods.

G. Carrier shall not be liable in any respect for damage to or loss of live animals, plants, and cargo carried on deck and stated on the face hereof to be so carried, and all such carriage shall be at Merchant’s sole risk, unless it shall be proved that the loss or damage was caused by the actual fault of Carrier or its agent(s), servant(s), or subcontractor(s).

H. Carrier may with or without notice to Shipper, transship the Goods in whole or in part at any place by a substituted or connecting water carrier or other modes of transportation whether operated by Carrier or not.

13. General Average

In the event of accident, danger, damage, or disaster before or after commencement of the voyage resulting from any cause whatsoever, due to negligence or not, for which, or for the consequences of which, Carrier is not responsible by statute, contract, or otherwise, the Goods or Merchant shall contribute with the carrier in general average. A deposit as Carrier or his agents may deem sufficient to cover the estimated contribution of the Goods and any salvage and special charges thereon shall, if required, be made by the Goods or Merchant to Carrier before delivery. If a salving ship is owned or operated by Carrier, salvage shall be paid for as fully and in the same manner as if such salving ship or ships belonged to strangers.
General average shall be adjusted, stated and settled according to the York-Antwerp Rules 1994 at such port or places and by such general average adjuster as may be selected by Carrier.

14. Both To Blame Collision Clause

The Both to Blame Collision Clause currently published by the Baltic and International Maritime Conference is hereby incorporated into these terms and conditions as though fully set forth.

15. Jurisdiction and Law

A. To the extent permitted by law, Merchant agrees that in the event of any dispute concerning the rights and/or responsibilities of the parties with respect to this bill of lading, suit shall be brought in the United States District Court for the Northern District of California or in the Superior Court of the State of California for the City and County of San Francisco, or in a court in the state in which the destination agent listed on this bill of lading is located, and in no other jurisdiction.

B. To the extent not governed by the laws or treaties specified in paragraph 2, other treaties or conventions, or the federal common or maritime law of the United States, these terms and conditions and the relationship of the parties shall be governed by the laws of the State of California.

16. Notice of Damage

Unless notice of loss of or damage to the Goods and the general nature thereof is given in writing to Carrier or its agents at the port of discharge or place of delivery (as the case may be), before or at the time of removal of the Goods to the custody of the person entitled to delivery of them, such removal shall be prima facie evidence of the delivery by Carrier of the Goods as described in this bill of lading in good order and condition. If the loss or damage is not apparent, notice must be given within three calendar days after delivery of the Goods. In any event, the Carrier shall be discharged of all liability unless suit is brought and served on Carrier within one year after delivery of the Goods or, if the Goods are not delivered, within one year of the date on which the Goods should have been delivered.

17. Negotiability

This bill of lading shall be non-negotiable unless the named consignee is “To Order,” in which event it shall be negotiable and shall constitute evidence of title to the goods and the holder thereof shall be entitled to receive the Goods. Unless otherwise agreed by Shipper, one original of this bill of lading must be surrendered to Carrier to obtain delivery of the Goods, the others to stand void.

18. Modification of These Terms and Conditions

No servant or agent of Carrier has the right or power to waive or modify these terms and conditions unless the waiver or modification is in writing and is executed by Carrier’s authorized officer or agent.

19. Severability

In the event any paragraph and/or portion of these terms and conditions is found to be invalid or unenforceable, the remaining portions of these terms and conditions shall remain in force and effect.

20. Carrier’s Tariff

The provisions of Carrier’s applicable tariffs if any, are incorporated herein. Copies of Carrier’s tariff(s) may be obtained from Carrier upon request. In the event of any inconsistency between Carrier’s tariff and this bill of lading, this bill of lading shall prevail.