

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 extent there are exemptions, modifications, or additional terms added in PART I, which supercede the terms and conditions contained herein.

**1. LOAD/DELIVERY TERMS**

Cargo to be loaded at Carriers time, risk and expense with no demurrage/ no despatch/no detention in accordance with the following provisions. The applicable load / delivery terms for each parcel are to be noted in PART I of this booking note:

**(A) FAS VESSEL NAMED PORT OF LOADING (POL)**

Cargo will be delivered to the Carrier at the first point of rest within a USDA approved transport terminal within the commercial limits of the named port of loading free of expense to carrier including any wharfage assessed against the cargo by the governing port authority and/or receiving terminal. The Carrier is to nominate the transport terminal in writing within 3 business days after the Carrier has received written notification from the Shipper or its agent that all subjects on the booking have been lifted. Carrier is to be liable for all costs incurred due to the failure to provide this information. The transport terminal can be a freight station, a container terminal or yard, a multipurpose cargo terminal, on the quay along side the vessel at the FAS port or any similar receiving point.

**(B) INTERMODAL – PLANT – POINT OF ORIGIN (POO)**

(As designated by letter "R" preceding point of origin) — The cargo shall be delivered to the Carrier and loaded on the Carrier supplied conveyance (containers, trucks, trailers or rail cars) at named point of origin, free of expense to the Carrier. The Carrier shall be responsible for the costs of transportation from said named point of loading to the U.S. port of export and the cost of loading the cargo on board the ocean going vessel. Carrier must provide suitable conveyances to comply with the loading capabilities and capacity at the intermodal plant. Any costs incurred including but not limited to liquidated damages and storage, for failing to provide suitable conveyances will be for Carrier's account. If containers are to be placed at the point of origin, Carrier must ensure that the containers are placed at the commencement of the shipping period and containers are supplied on a continuous basis, or as otherwise mutually agreed between parties, until the contract quantity is fulfilled.

**(C) INTERMODAL – BRIDGE – POINT OF ORIGIN (POO)**

(As designated by Letter "B" preceding point of origin) — Carrier is to provide Shipper with the exact location for delivery of cargo at the named bridge point. Cargo shall be delivered to the Carrier on rail cars, trucks or Carrier supplied conveyance at the named bridge point, free of expense to the Carrier. Carrier shall be responsible for all cargo handling and transportation expenses incurred to move the cargo from said bridge point of delivery to on-board the nominated ocean going vessel at a USDA approved U.S. port of export. If trucks are to be used to transport the cargo to the bridge point, then the freight tender must provide this information.

**(D) INTERMODAL- LAKES – POINT OF ORIGIN (POO)**

(MSA Sec. 17 cargo and as designated by Letter "L" preceding point of origin) — Carrier is to nominate the marine cargo terminal at the named Lakes Point. The Carrier's named terminal must be approved by USDA for handling MSA Section 17 Lakes cargo. The cargo shall be delivered to the Carrier in rail cars, trucks or trailers at the Carrier's named marine cargo terminal free of cost to Carrier. The Carrier is responsible for unloading the cargo from the conveyances at the named marine cargo terminal and loading the cargo onto an oceangoing vessel or barge or trans-loading the cargo into oceangoing containers. If the cargo is trans-loaded into containers, then the Carrier is also responsible for transporting the containers to the declared USA port of exit and the cost of loading the containers onto the oceangoing vessel or barge.

**(E) PRE-POSITIONED CARGO – PORT OF LOADING (POL)**

(As designated by Letter "P" preceding pre-position port) Cargo to be made available to the Carrier at the location as specified in the freight tender (or in the case of Lake Charles as provided herein). Upon notification to USDA/KCCO of vessel contract award, carrier will be notified by the Shipper's Agent within (2) working days as to the exact location of all cargo contracted for carriage. The Carrier will then have four (4) working days to accept or reject the commodity as contracted giving reasons in writing, for any rejections. The commodity parcels rejected shall be identified to the port and to USDA/KCCO. Cargoes rejected by the Carrier will be subject to inspection by FGIS to determine final disposition. Rejected cargo may be replaced by USDA/KCCO and, upon notification that same has been

accomplished; the Carrier will have 24 hours to inspect the replaced commodity. The Carrier (or it's agents or stevedores) shall sign non-negotiable dock receipts, indicating acceptance of the cargoes in good order. Upon this acceptance, cargo is deemed to be in a delivered position and becomes the full responsibility of the contracted Carrier. The cargoes moving directly from rail cars or trucks to the performing vessel or containers are considered to be FAS cargoes.

For pre-position cargo loading in Lake Charles, LA the cargo will be made available for loading from one to two safe berths with the following to apply: Sheds 1, 2, 3, and 150 are to be considered as one berth. Sheds 4, 5, and 6 are to be considered as one berth. Shed 7 is to be considered as one berth. Shed 8 and 9 are to be considered as one berth. Shed 15 is to be considered as one berth.

**2. DISCHARGE/DELIVERY TERMS**

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

**(A) Delivered to place of rest at discharge port:**

(i) Breakbulk: The cargo is to be delivered to Receiver/Consignee at place of rest end of hook, along side vessel. If cargoes have been containerized for Carrier convenience, the containers are to be discharged and moved to a shed designated by the port or the Carrier's container freight station (CFS), where the Carrier is responsible to de-van the cargo and to make it available to the Receiver at a place of rest in the CFS.

(ii) Containerized: Containers are to be delivered to the Receiver/Consignee at place of rest at the Carrier's or port's container yard (CY), as applicable. Unless otherwise stipulated in PART I of this booking note, the amount of free time on containers is ten (10) calendar days.

**(B) Delivered to port warehouse or CFS:**

(i) Breakbulk: The cargo is to be placed into the warehouse(s) within the port area.

(ii) Containerized: Containers are to be discharged and moved to the Carrier's CFS where the Carrier is responsible to de-van the cargo and to make it available to the Receiver at a place of rest in the CFS.

**(C) Warehouse delivery (Breakbulk or Containerized):**

Delivery will be made in accordance with 2.(C)(i) or 2.(C)(ii), as specified in PART I, to the Receiver's/Consignee's warehouse(s), such warehouse(s) to be specified in PART I, or if the Receiver's/Consignee's warehouse(s) are not specified in PART I, then such warehouse(s) are to be within a radius of 25 kilometers from the center point of the city or town specified as the delivery point in the contract. Should a nominated warehouse exceed the distance limitation as per above, Shippers may designate another warehouse within the distance limitation without penalty or make arrangements with the Carrier to deliver the cargo to the nominated warehouse with any additional expenses incurred by the Carrier to be for the Shipper's account and payable directly to the Carrier by the Shipper. After the warehouse(s) has been nominated, the Carrier must advise the Shipper within 3 working days if the warehouse is outside the distance limitation. If the Carrier does not advise the Shipper in writing within 3 working days, then Carrier forfeits its rights under this clause to request an alternate warehouse(s) that is within the distance limitation or to be paid for any additional expenses incurred there from. The terms contained in this paragraph apply to either of the delivery options listed below.

(i) Door Delivery: The cargo is to be delivered in Carrier's conveyance at the door of the Receiver's/Consignee's warehouse(s) located outside the port area. The Receiver/Consignee is responsible for the unloading of Carrier's conveyance at the nominated warehouse(s).

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

135 **3. STOWAGE**

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

138 **4. PORT OF EMBARKATION**

139 The cargo to be transported under this contract must be loaded on board the  
140 vessel in a United States port of embarkation, or as authorized by  
141 USDA/USAID, as applicable.  
142

143 **5. FAILURE TO LIFT CARGO**

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

149 **6. CARGO DISPOSAL**

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

153 **7. SUBSTITUTION**

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

157 **8. TRANSSHIPMENT**

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

165 **9. CARGO RE-LET**

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

168 **10. DEVIATION IN MODE OF DELIVERY**

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

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

181 **11. AGENTS**

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

184 **12. CUSTOM CLEARANCE AT DISCHARGE PORT**

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

191 **13. DELAY AT DESTINATION**

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

197 **14. NOTICES**

198 The Carrier shall notify the Shipper of the vessels position, status and ETA  
199 21, 14, 7, 5 days and 24 hours prior to the scheduled load date or in

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

205 On completion of loading the contracted cargo and upon the vessel sailing  
206 from the load port, Carrier shall provide Shipper or Shipper's agent a sailing  
207 notice, stating vessel's name, commodity, quantity loaded, bill of lading date,  
208 load port and estimated date of arrival at discharge port. The sailing notice is  
209 to be followed by the following notices of vessel ETA at discharge port of 10,  
210 7, 3 days and 24 hours.

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

214 **15. DELAY ASSESSMENTS**

215 If the Carrier determines that the vessel originally scheduled, or a substitute  
216 vessel approved by the Shipper, will be unable to lift urgent cargo within five  
217 (5) days of the contracted vessel's ETA at load port as per PART I of this  
218 booking note, or for non-urgent cargo within ten (10) days, the Carrier shall  
219 promptly notify the Shipper and propose a later load date. If such notice is  
220 received not less than twenty-one (21) days before the contracted vessel  
221 ETA, the Shipper shall either accept the later ETA or cancel the booking  
222 without cost to the Carrier. If the notice is received less than twenty-one (21)  
223 days before the contracted vessel ETA, the shipper shall either cancel the  
224 booking with the Carrier and the Carrier shall be responsible for all charges  
225 in accordance with clause 5 of this contract or, the Shipper may accept the  
226 later vessel ETA and apply the loading delay assessment, if applicable as  
227 per PART I of the Booking Note.

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

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

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

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

250 The following transit times are to apply to Transit Time DDA:

251 Discharge Port Range	Transit Time
252 Central America and Caribbean	15 Days
253 South America	25 Days
254 West Africa	40 Days
255 North Europe	25 Days
256 Mediterranean	25 Days
257 Black Sea	35 Days
258 Red Sea	40 Days
259 South/East Africa	45 Days
260 Middle East and South Asia	45 Days
261 Far East	40 Days

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

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

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

272 **16. FUMIGATION**

273 (A) For any flour covered under this Booking Note, the provisions of  
274 USDA/KCCO Notice EOD-83 are to apply.

275 (B) If Shippers require the cargo covered under this Booking Note to be  
276 fumigated, then the fumigation requirements must be specified in PART I of  
277 this Booking Note.

278 (C) If the cargo and/or the vessel is found to be infested at the discharge  
279 port and provided clean bills of lading were issued, fumigation to be at  
280 Carriers time, risk and expense.

281 **17. FREIGHT**

282 (A) Except as stipulated in Clause 18, paragraph A. (v), freight is earned  
283 upon loading of cargo and Carrier signing/releasing to shipper or shipper's  
284 agent, the relevant ocean bill of lading, vessel lost or not lost. The freight is  
285 payable as per the freight payment clause that follows, less any deductions  
286 that may apply under this Booking Note.

287 (B) If there is any failure on the part of the Ocean Carrier to perform the  
288 contract after the vessel tendered at the loading port, the Shippers or their  
289 designated agent shall be entitled to incur all expenses which, in the  
290 judgment of the U.S. Department of Agriculture or USAID as applicable are  
291 required to enable the vessel to undertake and carry out her obligations  
292 under the booking note, including the expenses for any liens asserted  
293 against the vessel. Such expenses may be deducted from the freight earned  
294 under this booking note notwithstanding any prior assignments of freight  
295 made by the owners or operators.

296 **18. FREIGHT PAYMENT**

297 (A) FOR SECTION 416(b), Food for Progress and Food for Education  
298 Cargoes:

299 (i) For Delivery at Discharge Port: Payment will be made in accordance  
300 with the terms of the Booking Note upon presentation of the required  
301 documents stipulated in paragraph (iii) below.

302 (ii) For Inland Destination Delivery or services provided after discharge:  
303 (a) Payment of not more than Eighty Five Percent (85%) of freight or as  
304 specified in the freight tender will be made in accordance with the  
305 terms of this Booking Note upon presentation of the required  
306 documents stipulated in paragraph (iii) below.

307 (b) Payment of the balance of freight will be payable upon presentation  
308 of a confirmation from Shipper that inland destination delivery or  
309 services provided after discharge has been satisfactorily provided  
310 under this Booking Note.

311 (iii) Documents required to receive payment for ocean freight:

312 (a) One (1) signed copy of completed Form CCC- 512  
313 (b) Four (4) copies of the original clean, unclaused on-board  
314 bills of lading indicating the freight rate and signed by the  
315 originating carrier

316 (c) For all non-containerized grain cargoes:  
317 (1) One (1) signed copy of the Federal Grain inspection  
318 Service (FGIS) Official Stowage Examination Certificate  
319 (Vessel Hold Certificate);  
320 (2) One (1) signed copy of National Cargo Bureau (NCB)  
321 Certificate of Readiness (Vessel Hold inspection  
322 Certificate); and  
323 (3) One (1) signed copy of the National Cargo Bureau  
324 (NCB) Certificate of Loading

325 (d) For all containerized grain and grain product cargoes:  
326 One (1) signed copy of the FGIS Container Condition inspection  
327 Certificate

328 (e) One signed copy of this liner booking note Parts I and II.

329 (iv) Payment of freight is to be direct payment by USDA/CCC, all  
330 documents must be submitted to:

331 The Director/Operation Division  
332 Foreign Agricultural Service  
333 U.S Department of Agriculture  
334 1400 Independence Ave., SW, Stop 1035  
335 Washington DC 20250-1035  
336 Telephone (202) 720-7736:

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

- 341 (a) Payee's email address to receive payment advice  
342 (SF1166);  
343 (b) Payee's bank name, address, account number, type of  
344 account being used and ABA routing code number;  
345 (c) Payee's bank swift code number, as applicable;  
346 (d) The company's taxpayer identification number.

347  
348 (v) To receive payment in cases where the General Sales Manager  
349 determines that circumstances of force majeure have prevented the  
350 vessel's arrival at the first port of discharge, the Cooperating Sponsor  
351 and/or the Carrier shall submit all documents required by paragraph (iii)  
352 above of this section except that USDA/CCC will not pay any remaining  
353 balance where this booking note requires Inland Destination Delivery or  
354 services provided after discharge and circumstances of force majeure  
355 have prevented the vessel's arrival at the first port of discharge or the  
356 completion of the services.

357 (B) FOR PL 480 Title II Cargoes  
358 Payment will be made against the documentation specified below. The  
359 Shipper will submit this documentation to USAID as promptly as is  
360 administratively feasible after receipt from the Carrier. Further, payment  
361 to the Carrier shall be as prompt as is administratively feasible  
362 following receipt by the Shipper or their forwarder of freight amounts  
363 from USAID.

- 364 (i) Clean, dated, unclaused, rated, on-board bill of lading meeting the  
365 requirements of USAID Regulation 2, 22 CFR Part 202, Section 202.7;  
366 (ii) Copy of vessel hold and/or inspection certificate;  
367 (iii) Invoice for payment of commission to Carrier's broker (if any)  
368 marked "paid" by Carrier's broker;  
369 (iv) Invoice for payment of commission to Shipper's agent marked  
370 "paid" by Shipper's agent;  
371 (v) Fully signed copy of the Booking Note/Contract of Carriage;  
372 (vi) Letter from the Shipper stating that the Carrier has paid (or made  
373 satisfactory arrangements to pay) all charges and expenses including  
374 Loading Delay Assessments (LDA) and/or Delivery Delay Assessments  
375 (DDA), if any, resulting from the Carrier's failure to lift cargo as  
376 scheduled in accordance with this booking note or authorizing the  
377 shipper to deduct such expenses and charges from the freight  
378 amounts;  
379 (vii) Form AID 1550-1 signed by the carrier;  
380 (viii) Fumigation certificate when required;  
381 (ix) NCB Certificate of Cleanliness;  
382 (x) One copy of Vessel Loading Observation Procedure (VLOP)  
383 Certificate;  
384 (xi) Copy of Carrier's applicable tariff pages covering this shipment.

385 **19. U.S. CARRIAGE OF GOODS BY SEA ACT**

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

396 **20. GENERAL AVERAGE**

397 Provided the Carrier has used due diligence to make the vessel seaworthy,  
398 then in the event of accident, danger, damage or disaster before or after  
399 commencement of the voyage resulting from any cause whatsoever, whether  
400 due to negligence or not, for which, or for the consequences of which the  
401 Carrier is not responsible by statute, contract or otherwise, the goods, the  
402 shipper and/or consignees or owners of the goods will assign all rights and  
403 responsibilities for general average and marine salvage to the Commodity  
404 Credit Corporation (CCC), and CCC shall contribute with the Carrier in  
405 general average to the payment of any sacrifices, losses or expenses of a  
406 general average nature that may be made or incurred including salvage and  
407 special charges incurred in respect to the goods. If a salving ship is owned or  
408 operated by the carrier, salvage shall be paid for as fully as if the said salving  
409 ship or ships belonged to strangers. General Average shall be payable  
410 according to York/Antwerp Rules (1994). Cargo is to be released without  
411 requiring deposits, the posting of a bond or general average security.

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412 **21. PROVISIONS OF US LEGISLATIVE ACTS**

413 All the terms and conditions of this contract are subject to the applicable  
414 provisions of the Agricultural Trade Development and Assistance Act of  
415 1954, as amended for PL 480 cargoes; Section 416 of the Agricultural Act of  
416 1949, as amended for Sec 416(b) cargoes; Section 1110 of the Food  
417 Security Act of 1985, as amended for Food for Progress cargoes; McGovern-  
418 Dole International Food for Education and Child Nutrition Program, Section  
419 3107 of the Farm Security and Rural Investment Act of 2002 for Food for  
420 Education cargoes and regulations issued there under, as amended.

421 **22. US CUSTOMS COMPLIANCE**

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

428 **23. ISM AND ISPS CODE COMPLIANCE**

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

441 **24. COMPLIANCE WITH SECTION 408 OF THE U.S. COAST GUARD  
AUTHORIZATION ACT OF 1998**

442 Public Law 105-383 (46 U.S.C. Section 2302 (e)), establishes, effective  
443 January 1, 1999, with respect to non-U.S. flag vessels and operators /  
444 owners, that substandard vessels and vessels operated by operators of  
445 substandard vessels are prohibited from the carriage of government impelled  
446 (preference) cargo(es) for up to one year after such substandard  
447 determination has been published electronically. As this cargo is preference  
448 cargo, carrier must warrant that vessel(s) and owner / operators are not  
449 disqualified to carry such cargo(es).  
450

451 **25. WAR RISK PREMIUM**

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

455 **26. USDA / USAID NOTICES**

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

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

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

469 (C) USDA Kansas City Commodity Office Notice to the trade EOD-68  
470 dated May 5, 2000 "Change in VLO Requirements and Procedures" is  
471 incorporated herein. A copy of the notice can be obtained from the following  
472 FTP site: <ftp://fsa.usda.gov/public/export/eod68txt>. A copy of the VLO  
473 Certificate must be submitted as part of the freight payment package.

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

478 **27. DISPUTE RESOLUTION**

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

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

487 (A) Arbitration: All disputes arising out of this contract shall be arbitrated at  
488 New York in the following manner, and be subject to U.S. Law:  
489 One Arbitrator is to be appointed by each of the parties hereto and a third by  
490 the two so chosen. Their decision or that of any two of them shall be final and  
491 for the purpose of enforcing any award, this agreement may be made a rule  
492 of the court. The Arbitrators shall be commercial men, conversant with  
493 shipping matters. Such Arbitration is to be conducted in accordance with the  
494 rules of the Society of Maritime Arbitrators Inc. (All World Food Program  
495 bookings will be subject to this arbitration clause)

496 (B) Federal Acquisition Regulations procedure as defined under FAR:  
497 52.233.

498 (C) Mediation to be in accordance with the rules and procedures of the  
499 Society of Maritime Arbitrators or the American Arbitration Association as  
500 mutually agreed between Shipper and Carrier.

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

503 **28. PERFORMANCE BOND**

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

514 **29. BANNER CLAUSE**

515 USAID require that all vessels transporting food assistance cargo display a  
516 banner and/or flag as follows:  
517 For USAID Title II cargoes – Vessel is to display a USAID standard large size  
518 USAID flag and a USAID banner with the revised USAID emblem. The  
519 banner is approximately 16 feet wide by 16 feet tall and is to be displayed on  
520 vessels carrying USAID funded cargoes. Both the banner and flag are to be  
521 flown while the vessel enters the load/discharge ports and during cargo  
522 operations. Carriers are to ensure that any lightering vessel(s) employed is  
523 also to display the flag and banner during discharging operations. Carrier is  
524 to comply with this requirement at its expense.

525 **30. BOOKING NOTE CHANGES**

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

----- End -----