Bills of Lading
Complexities, Liabilities and Responsibilities

CITT Webinar

William (Bill) Tackaberry, B.A., CCLP

September 28, 2016
Bills of Lading

- Bills of Lading are used in 4 of the 5 modes.
- Air
- Rail
- Trucking
- Water
- **Called Air Waybill (AWB)** which serves also as
  - Evidence of Contract of Carriage,
  - Receipt of Goods by the Carrier and
  - Delivery Instructions

- When shipment is international, defined terms and conditions as a result of submissions by IATA (International Air Transport Association, and ratified by member airlines at various meetings such as Montreal Convention 1999, Resolution 600b

- July 1, 2010 - amendment to Resolution 600b standardized the application of the 19 Special Drawing Rights (SDRs) per kilogram Montreal Convention liability limit to all routes worldwide. (approximately $10.50/kgs CAD)
WAYBILL CONTRACT-FOR-CARRIAGE TERMS

1. In this contract and the Notices appearing hereon: "Carrier" includes the air carrier issuing this air waybill and every carrier and agent who carries or undertakes to carry the cargo or perform any other service related to, or incidental to, such carriage.

2. Carriage is subject to most recent rates, rules, classifications, and declared value parameters and restrictions available for inspection on the website of United Parcel Service Co. at www.aircargo.ups.com which are incorporated into this contract to the same extent as if set forth verbatim herein. To request copies or receive a further explanation of this information, please call 1-902-380-3100 or your local sales office. In tendering the cargo described herein for carriage, shipper agrees to the conditions of this contract and that this Air Waybill is non-negotiable unless otherwise clearly marked. Shipper warrants it has the authority of all and parties having any interest in the cargo to enter this contract on their behalf.

3. All provisions herein shall govern to the full extent permissible under mandatory applicable national law or international convention by force of law. If one or more provisions shall be held invalid or unenforceable, such provision(s) shall be enforced to the maximum extent possible and the remaining provisions shall not be affected or impaired thereby. Nothing in this contract shall be considered a waiver of any defense available under applicable national law or international convention. No agent, employee or representative of Carrier has authority to alter, modify or waive any provision of this contract.

4. Unless packing is performed by Carrier, Shipper warrants the cargo is packed to withstand the ordinary rigors and exposures customary and inherent to air transportation. Prebuilt units (PBU's) are warranted by Shipper to be weather tight. In all events, in tendering the cargo to Carrier, shipper warrants the cargo and all parties having any interest in the cargo are compliant with all rules and regulations of this contract and applicable government regulation for air carriage. Shipper is responsible for accuracy and sufficiency of accompanying documents. Carrier shall have unrestricted liberty to, but shall be under no obligation to, inspect the packaging and contents of the cargo for any purpose and to inquire and verify the accuracy or sufficiency of information provided and to seek assurances. Discrepancies may result in shipment delay, cancellation and additional charges assessed by Carrier. Carrier may report, voluntarily or mandatory, regulatory non-compliance to authorities for which severe penalties or seizure may be assessed by such authorities.

5. As set forth herein, Carrier limits its liability to different release rates depending upon the service provided, unless a higher value is declared herein and commensurate charges paid. Certain commodities may have a maximum value which can be declared with the Carrier, including items of subjective / extraordinary value and / or fragility. Where a collective value is declared, the declared value for each package will be determined by dividing the total declared value by the number of packages on the waybill face, absent verifiable evidence to Carrier's satisfaction of alternative allocation. In no event shall Carrier be liable for an amount greater than the value of the affected cargo or for consequential, indirect, incidental, or punitive damages even if Carrier has been put on notice of the possibility of such damages. Carrier shall have no liability for loss of, or damage to, the cargo or any part of the cargo in circumstances of: (a) inherent defect of that cargo, quality or vice of that cargo; (b) defective packing not performed by the Carrier, to include failure of a prebuilt unit (PBU) to withstand the ordinary rigors and exposures customary and inherent to air transportation; (c) concealed damage or loss within a prebuilt unit (PBU); or (d) any force majeure event, to include but not be limited to natural disasters; strikes; riot; civil commotion; decisions, acts and seizures by public authorities; acts of war and armed conflicts; or acts or threatened acts of public enemies, hijackers or assailing thieves.

6. Shipment is subject to charges for actual or dimensional weight in accordance with applicable rates and rules. The shipper(s) and consignee(s), as identified on the waybill face, and their principals, shall be jointly and severally liable for all unpaid charges payable on account of this contract and also for indemnity payment to carrier for any claims, liabilities, fines, penalties, damages, costs, or other moneys which may be incurred by Carrier by reason of breach of this contract or other cause not exclusively attributable to Carrier. Claims for overcharges, duplicate billings, duplicate payments and overpayments must be made within 120 days from the date of the issue of the waybill. The claim amount may not be deducted from the air waybill charges. Instead, it will be refunded when the claim is validated and the claim amount is substantiated by the Carrier.

7. The liability of Carrier will be that of a warehouseman if the cargo is not picked up within 48 hours after notice of its arrival is issued. Notwithstanding, Carrier shall be entitled to all benefits conveyed under this Contract, with the additional rights to lien the cargo for storage charges and to sell the cargo at public or private sale not less than 30 days after having given written notice thereof to the shipper and consignee, as identified on the waybill face. Carrier also reserves all other rights allowed by law to recover unpaid amounts.

ADDITIONAL U.S. DOMESTIC CONDITIONS OF CONTRACT

1. NOTICE CONCERNING CARRIER'S LIMITATION OF LIABILITY: Carrier's liability is agreed to be USD$50.00 (fifty cents), per pound, multiplied by the number of pounds (or fraction thereof) of each piece of the shipment which may have been delayed, lost, damaged, or destroyed, unless a higher value is declared herein and applicable charges paid thereon for the actual value of such piece plus the amount of any transportation charges for which the shipper, consignee and bill-to-third party may be liable.

2. As a condition precedent for recovery, claims must be filed directly with the carrier issuing this waybill within, in the case of:

2.1.1 visible damage/loss — within 60 days from Carrier's delivery of the cargo;
2.1.2 non-visible damage/loss — within 15 days from Carrier's delivery of the cargo;
2.1.3 delay — within 60 days from Carrier's delivery of the cargo;
2.1.4 non-delivery — within 120 days from Carrier's delivery of the cargo.

3. Notwithstanding section (2), as a condition precedent to recovery, any damage or loss discovered after a clear receipt has been given to Carrier must be reported in writing to Carrier within 15 days after delivery to the consignee and Carrier must be given an opportunity to inspect the cargo and its packaging within 15 days after receipt of such notice. For perishable shipments, any damage or loss discovered after a clear receipt has been given to the carrier must be reported to Carrier within 24 hours after delivery to the Consignee.

4. Any action against the Carrier must be brought within two years from the date first written notice is given by the Carrier that a claim has been disallowed in whole or in part.

5. Any exclusion or limitation of liability applicable to Carrier shall apply to Carrier's agents, employees, and representatives and to any person whose aircraft or equipment is used by Carrier for carriage and such person's agents, employees and representatives. No agent, employee or representative of Carrier has authority to alter, modify or waive any provisions of this contract.

6. Carrier undertakes to complete the carriage with reasonable dispatch. Transportation of the cargo is subject to availability of equipment and space therein. Carrier shall be permitted to use alternative carriers, equipment or modes of transport without notice. Carrier shall exclusively determine the routing as it deems appropriate, and shall have the liberty to change or deviate from the routing shown on the face hereof.

7. Carrier shall have a general lien on the cargo for monies owed Carrier in any way relating to the cargo, a prior shipment, or both, subject to sale, notice and reservation of rights provisions in section (7) above.

8. Regardless of the service level requested or provided, shipper warrants domestic cargo is in any and all events be prepared and packed to withstand a minimum 48 hour transit time.
ADDITIONAL INTERNATIONAL CONDITIONS OF CONTRACT

NOTICE CONCERNING CARRIER’S LIMITATION OF LIABILITY>> If the carriage involves an ultimate destination or stop in a country other than the country of departure, the Montreal Convention or the Warsaw Convention may be applicable to the liability of the Carrier in respect of loss of, damage or delay to cargo. Carrier’s limitation of liability in accordance with those Conventions shall be as set forth in subparagraph 4 unless a higher value is declared.

1. In this contract and the Notices appearing herein: “CARRIER” includes the air carrier issuing this air waybill and every carrier and agent who carries or undertakes to carry the cargo or perform any other service related to, or incidental to, such carriage. SPECIAL DRAWING RIGHTS (SDR’S) is a Special Drawing Right, as defined by the International Monetary Fund. WARSAW CONVENTION means whichever of the following instruments is applicable to the contract of carriage: the Convention for the Unification of Certain Rules Relating to International Carriage by Air, signed at Warsaw, 12 October 1929; that Convention as amended at The Hague on 28 September 1955; that Convention as amended at The Hague 1964 and by Montreal Protocol No. 1, 2, or 4 (1975) as the case may be. MONTREAL CONVENTION means the Convention for the Unification of Certain Rules for International Carriage by Air, done at Montreal on 28 May 1999.

2. 2.1 Carriage is subject to the rules relating to liability established by the Warsaw Convention or the Montreal Convention unless such carriage is not “international carriage” as defined by the applicable Conventions.

2. 2.2 To the extent not in conflict with the foregoing, carriage and other related services performed by each Carrier are subject to:

2. 2.2.1 applicable laws and government regulations;

2. 2.2.2 provisions in the air waybill, Carrier’s conditions of carriage and related rules, regulations, and timetables (but not the times of departure and arrival stated therein) and applicable tariffs of such Carrier, which are made part hereof, and which may be inspected at any airports or other cargo sales offices from which it operates regular services. When carriage is to or from the USA, the shipper and the consignee are entitled, upon request, to receive a copy of the Carrier’s conditions of carriage. The Carrier’s conditions of carriage include, but are not limited to:

2. 2.2.2.1 limits on the Carrier’s liability for loss, damage or delay of goods, including fragile or perishable goods;

2. 2.2.2.2 claims restrictions, including time periods within which shippers or consignees must file a claim or bring an action against the Carrier for its acts or omissions, or those of its agents;

2. 2.2.2.3 if any, of the Carrier to change the terms of the contract;

2. 2.2.2.4 rules upon which Carrier’s right to refuse to carry;

2. 2.2.2.5 rights of the Carrier and limitations concerning delay or failure to perform service, including schedule changes, substitution of alternate Carrier or aircraft and rerouting.

3. The agreed stopping places (which may be altered by Carrier in case of necessity) are those places, except the agreed departure and the place of destination, set forth on the face hereof or shown in Carrier’s timetables as scheduled stopping places for the route. Carriage to be performed hereunder by several successive Carriers is regarded as a single operation.

4. Carrier’s liability limitation shall be the per kilogram monetary limit set out in any applicable Convention. In the course of any international carriage, where neither the Warsaw Convention nor the Montreal Convention applies, Carrier’s liability shall in no event exceed 19 SDRs per kilogram.

5. 3.1 Except when the Carrier has extended credit to the consignee without the written consent of the shipper, the shipper shall guarantee payment of all charges for the carriage (SDR is a Special Drawing Right, as defined by the Warsaw Convention and the Montreal Convention), government regulations, orders and requirements.

5. 5.2 When no part of the consignment is delivered, a claim with respect to such consignment will be considered even though transportation charges thereon are unpaid.

6. 6.1 For cargo accepted for carriage, the Warsaw Convention and the Montreal Convention permit shipper to increase the limitation of liability by declaring a higher value for carriage and paying a supplemental charge if required.

6. 6.2 In carriage to which neither the Warsaw Convention nor the Montreal Convention applies Carrier shall, in accordance with the procedures set forth in its general conditions of carriage and applicable tariffs, permit shipper to increase the limitation of liability by declaring a higher value for carriage and paying a supplemental charge if so required.

7. 7.1 In cases of loss of, damage or delay to part of the cargo, the weight to be taken into account in determining Carrier’s limit of liability shall be the weight of the package or packages from which the damage or delay occurred.

7. 7.2 Notwithstanding any other provisions, for “air transportation” as defined by the U.S. Transportation Code:

7. 7.2.1 in the case of loss of, damage or delay to a shipment, the weight to be used in determining Carrier’s limit of liability shall be the weight which is used to determine the charge for carriage of such shipment; and

7. 7.2.2 in the case of loss of, damage or delay to a part of a shipment, the weight in 7.2.1 shall be prorated to the packages covered by the same air waybill whose value is affected by the loss, damage or delay. The weight applicable in the case of loss or damage to one or more articles in a package shall be the weight of the entire package.

8. Any exclusion or limitation of liability applicable to Carrier shall apply to Carrier’s agents, employees, and representatives and to any person whose aircraft or equipment is used by Carrier for carriage and of such person’s agents, employees and representatives.

9. Carrier undertakes to complete the carriage with reasonable dispatch. Where permitted by applicable laws, tariffs and government regulations, Carrier may use alternate carriers, aircraft or modes of transport without notice but with due regard to the interests of the shipper. Carrier is authorized by the shipper to select the routing and all intermediate stopping places that it deems appropriate or to change or deviate from the routing shown on the face hereof.

10. Receipt by the person entitled to delivery of the cargo without complaint shall be prima facie evidence that the cargo has been delivered in good condition and in accordance with the contract of carriage.

10. 1. In the case of loss of, damage or delay to cargo a written complaint must be made to the Carrier by the person entitled to delivery. Such complaint must be made:

10. 1. 1. In the case of damage to the cargo, immediately after discovery of the damage and at the latest within 14 days from the date of receipt of the cargo.

10. 1. 2. In the case of delay, within 21 days from the date on which the cargo was placed at the disposal of the person entitled to delivery.

10. 1. 3. In the case of non-delivery of the cargo, within 120 days from the date of issue of the air waybill, or if an air waybill has not been issued, within 120 days from the date of receipt of the cargo for transportation by the Carrier.

10. 2. Such complaint may be made to the Carrier, whose air waybill was used, or to the first Carrier or to the last Carrier or to the Carrier, which performed the carriage during which the loss, damage or delay took place.

10. 3. Unless a written complaint is made within the time limits specified in 10.1 no action may be brought against Carrier.

10. 4. Any rights to damages against Carrier shall be extinguished unless an action is brought within two years from the date of arrival at the destination, or from the date on which the aircraft ought to have arrived, or from the date on which the carriage stopped.

11. Shipper shall comply with all applicable laws and government regulations of any country to or from which the cargo may be carried, including those relating to the packing, carriage or delivery of the cargo, and shall furnish such information and attach such documents to the air waybill as may be necessary to comply with such laws and regulations. Carrier is not liable to shipper and carrier shall indemnify Carrier for loss or expense due to shipper’s failure to comply with this provision.

12. No agent, employee or representative of Carrier has authority to alter, modify or waive any provisions of this contract.

UPS NOTE: Regardless of the service level requested or provided shipper warrants international cargo is in any and all events prepared and packed to withstand a minimum 72 hour transit time.
• **Rail** BOLs – As a general rule - Non-negotiable
  - which serves also as
    - Evidence of Contract of Carriage, and
    - Receipt of Goods

• Railways Liabilities

• In the past, rail limits of liability for cargo were not capped. s. 137(1) of the Canada Transportation Act, S.C. 1996 c. 10 reads:

  137 (1) The railway company’s liability, including to a third party, in respect of the movement of a shipper’s traffic shall be dealt with between the company and the shipper only by means of a written agreement that is signed by the shipper or by an association or other body representing shippers.
(2) If there is no agreement, the railway company’s liability to the shipper in respect of a loss of or damage to a shipper’s traffic in the company’s possession or for any delay in its movement shall be dealt with between the company and the shipper,

- (a) on the application of the company, by the Agency; or
- (b) if there is no application or, if there is an application but the Agency does not specify any terms or conditions with respect to the matter, in the manner set out in the regulations.

Let’s look at a typical rail BOL
COMBINATION SHORT FORM OF STRAIGHT BILL OF LADING-EXPRESS SHIPPING CONTRACT ADOPTED BY RAIL FREIGHT AND EXPRESS CARRIERS SUBJECT TO THE JURISDICTION OF THE CANADIAN TRANSPORT COMMISSION. ISSUED AT SHIPPER'S REQUEST.

Received, subject to the classifications and tariffs in effect on the date of issue of the Original Bill of Lading, or, received, subject to the Rules for the Carriage of Express and Non-Cardboard Freight Traffic and tariffs in effect on the date of issue of this original Shipping Contract (bill of lading), goods described below, in apparent good order, except as noted (contents and conditions of contents of packages unknown), marked, consigned and destined as indicated below, which said Company agrees to carry to its usual place of delivery at said destination, if on its road, otherwise to deliver to another carrier on the route to said destination.

It is mutually agreed, as to each carrier of all or any of said goods over all or any portion of said route to destination, and as to each party at any time interested in all or any of said goods, that every service to be performed hereunder shall be subject to all the terms and conditions (which are hereby incorporated by reference and have the same force and effect as if the same were severally, fully and specifically set forth herein):

1. approved by the Board of Transport Commissioners for Canada by General Order No. T-4, dated February 1, 1988 set forth in the Canadian Freight Classification and also available at all railway agency stations and freight offices upon request, when said goods are carried by a rail carrier, or
2. of the bill of lading of the water carrier as provided in its tariff of Rules and Regulations when said goods are carried by a water carrier, or
3. of the bill of lading set forth in or prescribed by the relevant tariffs, classifications, statutes and regulations pertaining to motor carrier's services when said goods are carried by a motor carrier, or
4. of the bill of lading form prescribed by O.C. 885-79, April 4, 1979, when the said goods originating in Quebec are to be carried by a motor carrier.
5. or approved by the Board of Transport Commissioners for Canada by General Order No. T-4, set forth in the Rules for the Carriage of Express and Non-Cardboard Freight Traffic and also available at all express and railway agency stations and express and freight offices upon request, when said goods are carried by a rail carrier and when are agreed to by the shipper and accepted for himself and his assigns.

<table>
<thead>
<tr>
<th>Name of Carrier</th>
<th>Point of Origin</th>
<th>Shipping Date</th>
<th>Carriers No.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Consignee</td>
<td>Shipper</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

MAIL ADDRESS – NOT FOR PURPOSES OF DELIVERY

<table>
<thead>
<tr>
<th>Destination (City or Town)</th>
<th>Country of Canada</th>
</tr>
</thead>
<tbody>
<tr>
<td>Route</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>PIECES/PACKAGES</th>
<th>DESCRIPTION OF ARTICLES AND SPECIAL MARKS</th>
<th>WEIGHT</th>
<th>RATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Car Initial</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

If charges are to be prepaid, write or stamp here, “TO BE PREPAID”

RECEIVED $ To apply in prepayment of the charges on the property
<table>
<thead>
<tr>
<th>FOR CARRIER’S USE CHARGES</th>
<th>AGENT OR CASHIER</th>
</tr>
</thead>
<tbody>
<tr>
<td>Advance and/or beyond</td>
<td>$</td>
</tr>
<tr>
<td>MISC.</td>
<td>$</td>
</tr>
<tr>
<td>BASIC</td>
<td>$</td>
</tr>
<tr>
<td>PIECE</td>
<td>$</td>
</tr>
<tr>
<td>VALUE</td>
<td>$</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>$</strong></td>
</tr>
</tbody>
</table>

**FOR MOTOR CARRIER SERVICE**
DECLARED VALUATION. Maximum liability of $4.41 Kg ($2.06/lb.), calculated on the total weight of the shipment, unless declared valuation states otherwise.

**NOTICE OF CLAIM:**
A. No carrier is liable for loss, damage or delay to any goods carried under the bill of lading unless notice thereof setting out particulars of the origin, destination and date of shipment of the goods and the estimated amount claimed in respect of such loss, damage or delay is given in writing to the originating carrier or the delivery carrier within sixty (60) days after the delivery of the goods, or in the case of failure to make delivery, within nine (9) months from the date of shipment.
B. The final statement of the claim must be filed within nine (9) months from the date of shipment together with a copy of the paid freight bill.

**DECLARED VALUE OF GOODS**

<table>
<thead>
<tr>
<th>TOTAL NUMBER OF PIECES/PACKAGES</th>
<th>WHERE REQUIRED BY THE TARIFF SHIPPER MUST COMPLETE THE FOLLOWING</th>
</tr>
</thead>
<tbody>
<tr>
<td>DIMENSIONS OF SHIPMENT</td>
<td>TOTAL CUBIC VOLUME</td>
</tr>
<tr>
<td>Shipper</td>
<td>Agent</td>
</tr>
<tr>
<td>Per</td>
<td>Per</td>
</tr>
<tr>
<td>PERMANENT POST OFFICE ADDRESS OF SHIPPER</td>
<td></td>
</tr>
<tr>
<td><strong>SHIPPER’S NUMBER</strong></td>
<td></td>
</tr>
</tbody>
</table>

**ORIGINAL**
NOT NEGOTIABLE (THIS BILL OF LADING-EXPRESS SHIPPING CONTRACT IS TO BE SIGNED BY THE SHIPPER AND CARRIER)
Now let’s look at a typical intermodal BOL
**BILL OF LADING**

**CONNAISSEMENT**

**NOT NEGOTIABLE**

**NON NEGOCIABLE**

1. Shipper or agent (name & address) / Expéditeur ou agent (nom & adresse)

2. B/L No. / N° de connaississement

3. P.O. No. / P.O. N° de commande

4. Date

5. Name of carrier / Nom du transporteur

6. Consignee (name & address) / Consignataire (nom et adresse)

7. R.I. to / Facturer à

CN Rail - Supply Mgmt, Account 71347

P.O. Box 8100, Montreal, QC, H3C 3N4

---

**PLACE BAR-CODE LABEL HERE**

**PLACER L'ÉTIQUETTE DE CODE À BARRES ICI**

---

8. Liability is limited to $2.00 per pound/$4.41 per kilogram

Notre responsabilité se limite à 2,00$ la livre/4,41$ par kilogramme

No responsibility accepted for unprotected/poorly packaged goods.

Aucune responsabilité est acceptée pour marchandise non-protégée/émballage inadéquat.

---

<table>
<thead>
<tr>
<th>Number and type of packages / Nombre et type de paquets</th>
<th>Particulars of goods, marks and exceptions / Description des marchandises, marques et particularités</th>
<th>Weight / Poids</th>
<th>FREIGHT CHARGES / FRAIS DE TRASPORT</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Lbs./ livre</td>
<td>Collect / A percevoir</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Kg</td>
<td>Prepaid / Payés d’avance</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Third Party / Tierce partie</td>
</tr>
</tbody>
</table>
**Cube Measurements / Dimensions cubique**

<table>
<thead>
<tr>
<th>Length / Longeur</th>
<th>Width / Largeur</th>
<th>Height / Hauteur</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**C.O.D. AMOUNT MONTANT P.S.L.**

$  

**Hazardous Goods**

<table>
<thead>
<tr>
<th>Matières dangereuses</th>
<th>Yes</th>
<th>Oui</th>
</tr>
</thead>
</table>

**Emergency Response Phone No.**

<table>
<thead>
<tr>
<th>Numéro de téléphone d’urgence</th>
<th></th>
</tr>
</thead>
</table>

**Heated Service Required**

<table>
<thead>
<tr>
<th>Service chauffé requis</th>
<th>Yes</th>
<th>Oui</th>
</tr>
</thead>
</table>

**Delivery Instructions / Instructions de livraison**

**NOTICE OF CLAIM**

a) No carrier is liable for loss or damage to any goods carried under the Bill of Lading unless notice thereof setting out particulars of the origin, destination and date of shipment of the goods and the estimated amount claimed in respect of such loss or damage is given in writing to the originating carrier or the delivering carrier within sixty (60) days after the delivery of the goods or, in the case of failure to make delivery, within nine (9) months from the date of shipment.

b) The final statement of the claim must be filed within nine (9) months from the date of shipment together with a copy of the paid freight bill.

c) will not accept liability for any costs or penalties arising from late deliveries or missed appointments.

d) Carrier will not be responsible for shipper prepared piece count of shrink wrap/banded skids, or pallets.

**AVIS DE RÉCLAMATION**

a) Le transporteur n’est pas responsable de pertes ou dommages aux marchandises transportées qui sont décrites au congédalement, qu’à la condition qu’un avis écrit précisant l’origine des marchandises, leur destination, leur date d’expédition et le montant approximatif réclamé en réparation de la perte ou dommages ne soit signifié au transporteur initial ou au transporteur de destination, dans les soixante (60) jours suivant la date de la livraison des marchandises ou dans les cas de non-livraison, dans un délai de neuf (9) mois suivant la date de l’expédition.

b) La présentation de la réclamation finale accompagnée d’une preuve du paiement des frais de transport doit être soumise au transporteur dans un délai de neuf (9) mois suivant la date de l’expédition.

c) n’acceptera aucune responsabilité pour les frais de pénalité venant de retard de livraison ou de rendez-vous manqué.

d) Le transporteur ne sera pas tenu responsable pour le montant de cartons contenus sur les palettes enveloppées et/ou attachées par l’expédition.

**N.B.** NOTE CAREFULLY CONDITIONS ON BACK HEREOF WHICH ARE HEREBY ACCEPTED. / 

**N.B.** VEUILLEZ PRENDRE CONNAISSANCE DES CONDITIONS AU VERSO, QUI SONT ACCEPTÉES PAR LES PRÉSENTES.

**Shipper / Expéditeur:**

<table>
<thead>
<tr>
<th>Date:</th>
</tr>
</thead>
</table>

**Per / Par:**

<table>
<thead>
<tr>
<th>Unit # / N° d’unité:</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Trailer # / N° de remorque:</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Driver to sign for pieces counted. Chauffeur doit signer pour les morceaux comptés</th>
</tr>
</thead>
</table>

**Carrier / Transporteur:**

<table>
<thead>
<tr>
<th>Date:</th>
</tr>
</thead>
</table>

**Per / Par:**

<table>
<thead>
<tr>
<th>Unit # / N° d’unité:</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Trailer # / N° de remorque:</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Driver to sign for pieces counted. Chauffeur doit signer pour les morceaux comptés</th>
</tr>
</thead>
</table>

**Consignee / Consignataire:**

<table>
<thead>
<tr>
<th>Date:</th>
</tr>
</thead>
</table>

**Per / Par:**

<table>
<thead>
<tr>
<th>Unit # / N° d’unité:</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Trailer # / N° de remorque:</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Driver to sign for pieces counted. Chauffeur doit signer pour les morceaux comptés</th>
</tr>
</thead>
</table>

**Received in good order**

<table>
<thead>
<tr>
<th>Reçu en bon état</th>
</tr>
</thead>
</table>

B/L 01/05
**Ocean Bill of Lading**: If a consignment is transported by sea, nationally or internationally, an Ocean Bill of Lading is used.

**Negotiable**

1. **To Order, Blank Endorsed**: not consigned to any named party but 'To Order' of the consignor with the intended consignee's name given under 'notify party.' The consignor must stamp and sign (endorse) this B/L so that its title can be transferred.

2. **To Order, Bank**: consigned to a bank with the intended consignee's name given under 'notify party.' The bank endorses the B/L to the intended consignee against payment of (or a pledge to pay) the amount of the accompanying bill of exchange. 'To Order' B/Ls are used commonly in letter of credit transactions, and may be bought, sold, or traded, or used as security for borrowing money from banks or other lenders.
OCEAN BOLS
Non-Negotiable

**Straight BOL** - similar to other modes, where the consignee is typically the purchaser, and credit is not an issue

**Other terms referring to BOLs**

**Inland Bill of Lading**: Inland Bill of Lading is the B/L which allows the shipping carrier to ship cargo, by road or rail, across domestic land, but not overseas.

**Multimodal/Combined Transport Bill of Lading**: This is a type of Through Bill of Lading that involves a minimum of two different modes of transport, land or ocean.
- **Direct Bill of Lading**: Direct Bill of Lading is used when you know the same vessel that picked up the cargo will deliver it to its final destination.

- **Clean Bill of Lading**: If a consignment with no apparent damage on packages, the carrier issues a B/L called Clean Bill of Lading.

- **Clean On Board Bill of Lading**: A consignment with no apparent damage on packages and if such consignment is loaded on board the vessel, a Clean On Board Bill of Lading is issued by carrier of goods.
Unclean Bill of Lading/Claused bill of lading/foul bill of lading/Dirty Bill of Lading/Soiled Bill of Lading. If ship owner or his agent does not agree with one or more of the statements mentioned in the B/L, he adds the said clause or clauses on the B/L. This B/L is called an Unclean Bill of Lading, Claused Bill of Lading or Foul Bill of Lading.

Shipped On Board Bill of Lading: A Shipped On Board Bill of Lading is issued when the cargo arrives at the port in good condition from the motor carrier and is then loaded onto the cargo ship for transport overseas.

Received Bill of Lading: Received for shipment B/L can be issued to shipper immediately upon receipt of goods by the carrier after necessary export customs clearance procedures of exporting country.
Through Bill of Lading: Under a Through Bill of Lading, the originating carrier can pass the cargo through several different modes of transportation and/or several different distribution centers. This Bill of Lading needs to include an Inland Bill of Lading and/or an Ocean Bill of Lading depending on its final destination.

Stale Bill of Lading: A Bill of Lading can be treated as ‘Stale’, if it is presented long after the sailing of vessel and pertains to a shipment at port of loading. Such presentation of Bill of Lading could be with the Supplier’s Bank, Discounting Bank, Negotiating Bank, Buyer’s Bank or buyer. The term ‘Stale Bill of Lading’ is also used when a bill of lading is presented with a bank after the expiry date of credit.
Transshipment bill of lading: Sometimes, the shipping company (carrier of goods) may not have direct service from shipper’s place to consignee’s destination. The cargo is transshipped at an intermediate port. In such cases, all transshipment expenses are covered by the ship owner, or his agent who accepted the goods at port of loading. When transshipping goods, a B/L is issued by the ship owner or his agent who transship the goods.

Charter Party Bill of Lading: If one shipper or a group of shippers arrange to charter their goods to final destination, a vessel is chartered. This chartered vessel is meant to move the goods exclusively for such shipper or shippers. In such cases, as a proof of receipt of goods, the charterer who charters the ship issues a document of title which is called Charter Party Bill of Lading.
House Bill of Lading: issued by a marine freight forwarder after booking with a freight forwarder by sea.

Master Bill of Lading: issued by the ship owner, with the freight forwarder being the shipper who delivers the cargo to ship owner, and the consignee being the overseas counterpart of the freight forwarder.

Express Release Bill of Lading: also known as a seaway bill, is the most expeditious form of B/L and is used in cases where the shipper has decided in advance to release their hold on the cargo immediately.
**Himalaya Clause** – Liability of Servants and Subcontractors

- Himalaya clause is a clause in a bill of lading or transportation contract purporting to extend liability limitations which benefit the carrier, and to others who act as agents for the carrier such as stevedores or longshoremen. Such a provision is for the benefit of a third party who is not a party to the contract.

- A modern Himalaya clause may read as follows:

  “It is hereby expressly agreed that no servant or agent of the carrier (including every independent contractor from time to time employed by the carrier) shall in any circumstances whatsoever be under any liability whatsoever to the shipper, consignee or owner of the goods or to any holder of this Bill of Lading for any loss, damage or delay of whatsoever kind arising or resulting directly or indirectly from any act, neglect or default on his part while acting in the course of or in connection with his employment and,
Himalaya Clause Law & Legal Definition

every right, exemption from liability, defense and immunity of whatsoever nature applicable to the carrier or to which the carrier is entitled hereunder, shall also be available and shall extend to protect every such servant or agent of the carrier acting as aforesaid and for the purpose of all the foregoing provisions of this clause, the carrier is or shall be deemed to be acting as agent or trustee on behalf of and for the benefit of all persons who are or might be his servants or agents from time to time (including independent contractors as aforesaid) and all such persons shall to this extent be or be deemed to be parties to the contract in or evidenced by this Bill of Lading.”
ROAD

- **Straight BOLs** - Non-negotiable
  - which serves also as
    - Evidence of Contract of Carriage,
    - Receipt of Goods and
    - Document of Title

- **Exempt BOLs** where certain commodities are exempt from the conditions of carriage. The exemption applies to different commodities including fresh fruit and fresh vegetables grown in continental United States of America or Mexico, and ready mixed concrete. (see Ont Reg 643/05 to the *Highway Traffic Act*, R.S.O. 1990)
ROAD

- **Short Form BOLs** – refers to any Straight BOL, where the reverse side of the BOL is not provided.

- **Uniform BOLs** – Canada
  - Road transport is primarily under provincial jurisdiction
  - Each province incorporates its own Conditions of Carriage.
  - Freight charges collect unless otherwise indicated
  - Specific time limits regarding filing of claims
  - Limits of Carrier liability for loss, damage or delay
BILL OF LADING  NOT NEGOTIABLE  CONNAISSANCE  NON NÉGOCIABLE

1. Received subject to the Rules for the Carriage of Express and Non-Carload Freight Traffic and tariffs in effect on the date of issue of this original shipping contract (bill of lading), goods described below, in apparent good order except as noted (contents and condition of contents of packaged unknown), marked, consigned and destined as indicated below, which said company agrees to carry to its usual place of delivery at said destination, if on its road, otherwise to deliver to another carrier on the route to said destination. It is mutually agreed, as to each carrier of all or any of said goods over all or any portion of said route to destination, and as to each party at any time interested in all or any of said goods, that every service “to be performed hereunder shall be subject to all conditions, whether printed or written, herein contained (including conditions on back hereof) and which are agreed by the shipper and accepted for himself as his assignee.”

Reçu sous réserve des règlements régissant le transport des messageries et marchandises de détail et tarifs en vigueur à la date de délivrance de ce contrat de transport (connaissance), les marchandises désignées ci-dessous, apparemment en bon état, sauf les remarques contenues aux présentes (le contenu et l’état du contenu des colis étant inconnus), marquées et consignées tel que ci-après indiqué, et que la compagnie s’engage à transporter à destination à son lieu habituel de livraison, pourvu que telle destination soit sur son parcours, sinon à les livrer à un autre volontaire faisant route vers cette destination. Il est de plus convenu, par tout volontaire transportant tout ou partie desdites marchandises sur tout ou partie du parcours, et par toute personne intéressée en aucun temps à tout ou partie desdites marchandises, que tous les services prévus aux présentes seront soumis à toutes les conditions, imprimées ou écrites, du connaissance (y compris les conditions énoncées au verso), que l’expéditeur accepte pour lui-même et ses ayants droit.

<table>
<thead>
<tr>
<th>SHIPPER / EXPÉDITEUR</th>
<th>CONSIGNEE / DESTINATAIRE</th>
<th>BILL CHARGES TO / FACTURATION À</th>
<th>DECLARED VALUATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>NAME / NOM</td>
<td>NAME / NOM</td>
<td>NAME / NOM</td>
<td>VALEUR DÉCLARÉE</td>
</tr>
<tr>
<td>ADDRESS / ADRESSE</td>
<td>ADDRESS / ADRESSE</td>
<td>ADDRESS / ADRESSE</td>
<td>$</td>
</tr>
<tr>
<td>CITY / VILLE</td>
<td>CITY / VILLE</td>
<td>CITY / VILLE</td>
<td>SPECIAL INSTRUCTIONS / INSTRUCTIONS SPÉCIALES</td>
</tr>
<tr>
<td>POSTAL CODE</td>
<td>POSTAL CODE</td>
<td>POSTAL CODE</td>
<td></td>
</tr>
<tr>
<td>CODE POSTAL</td>
<td>CODE POSTAL</td>
<td>CODE POSTAL</td>
<td></td>
</tr>
<tr>
<td>DATE</td>
<td>SHIPPER’S BOL. / N° DE RÉF. DE L’EXPÉDITEUR</td>
<td>RATE QUOTE NUMBER / NUMÉRO DE SOUMISSION DE TAUX</td>
<td></td>
</tr>
</tbody>
</table>
### Bill of Lading

<table>
<thead>
<tr>
<th>NO. OF PIECES</th>
<th>PURCHASE ORDER #</th>
<th>DESCRIPTION OF ARTICLES, MARKS &amp; EXCEPTIONS</th>
<th>WEIGHT POIDS</th>
<th>TOTAL NO. OF PIECES</th>
<th>TOTAL WEIGHT POIDS TOTAL</th>
<th>CUBE</th>
<th>TOTAL WEIGHT POIDS TOTAL</th>
<th>CUBE</th>
</tr>
</thead>
<tbody>
<tr>
<td>N° DE COLIS</td>
<td># BON DE COMMANDE</td>
<td>DESCRIPTION DES MARCHANDISES, MARQUES ET EXCEPTIONS</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**INTERMODAL SERVICE** – Western Canada & Atlantic, check here
**SERVICE INTERMODAL** – Ouest Canadien et Maritimes, veuillez l’indiquer ici

**STANDARD ROAD SERVICE** – All across Canada, check here
**SERVICE ROUTIER STANDARD** – à travers le Canada, veuillez l’indiquer ici

**PREMIER EXPEDITED ROAD SERVICE** – Western Canada, check here
**SERVICE ROUTIER EXPÉDITIF** – Ouest Canadien, veuillez l’indiquer ici

---

**PLEASE MARK WITH "X" IF FREIGHT CHARGES TO BE ENQUIER PAR UN X SI L’ENVOI EST EN**

**C.O.D. / C.R.**

<table>
<thead>
<tr>
<th>AMOUNT / MONTANT</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
</tbody>
</table>

**C.O.D. FEE / FRAIS D’ENVOI**

<table>
<thead>
<tr>
<th>CONTRE REMBOURSEMENT</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
</tbody>
</table>

**TOTAL NO. OF PIECES / TOTAL DE COLIS**

**INTERMODAL SERVICE** – Western Canada & Atlantic, check here
**SERVICE INTERMODAL** – Ouest Canadien et Maritimes, veuillez l’indiquer ici

**STANDARD ROAD SERVICE** – All across Canada, check here
**SERVICE ROUTIER STANDARD** – à travers le Canada, veuillez l’indiquer ici

**PREMIER EXPEDITED ROAD SERVICE** – Western Canada, check here
**SERVICE ROUTIER EXPÉDITIF** – Ouest Canadien, veuillez l’indiquer ici

---

**IF NO SERVICE LEVEL IS SELECTED DEFAULT SERVICE IS INTERMODAL TO WESTERN OR EASTERN CANADA AND ROAD SERVICE THROUGH ONTARIO AND QUEBEC.**

**TOUTEFOIS, SI AUCUN NIVEAU DE SERVICE EST SÉLECTIONNÉ, LE SERVICE POUR L’OUEST CANADIEN SERA EFFECTUÉ PAR DÉFAUT INTERMODAL ET LE SERVICE POUR L’ONTARIO ET LE QUÉBEC SERA ROUTIER.**

**SHRINK WRAPPED BY CUSTOMER / EMBALLÉ SOUS FILM PLASTIQUE PAR LE CLIENT**

**HEAT REQUIRED / CHALEUR REQUISE**

---

<table>
<thead>
<tr>
<th>NO. OF PCS</th>
<th>UNIT NO.</th>
<th>N° DE COLIS</th>
<th>DATE</th>
<th>N° DE REMORQUE</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**SHIPPER / EXPÉDITEUR**

**CARRIER / TRANSPORTEUR**

**SIGNATURE / SIGNATURE**

**SIGNATURE / SIGNATURE**

---

**THIS BILL OF LADING IS TO BE SIGNED BY THE SHIPPER AND THE CARRIER / L’EXPÉDITEUR ET LE TRANSPORTEUR DOIVENT SIGNER LE CONNAISSANCE.**
1. Liability of Carrier

The carrier of the goods described in this contract is liable for any loss of or damage to goods accepted by the carrier or the carrier’s agent except as provided in this Schedule.

2. Liability of Originating and Delivering Carriers

Where a shipment is accepted for carriage by more than one carrier, the originating carrier and the carrier who assumes responsibility for delivery to the consignee (called the delivering carrier in this Schedule), in addition to any other liability under this Schedule, are liable for any loss of or damage to the goods while they are in the custody of any other carrier to whom the goods are delivered and from which liability the other carrier is not relieved.

3. Recovery from Connecting Carriers

i. The originating carrier or the delivering carrier, as the case may be, is entitled to recover from any other carrier to whom the goods are delivered the amount that the originating carrier or delivering carrier, as the case may be, is required to pay for the loss of or damage to the goods while they were in the custody of such other carrier.
ii. If there is a concealed damage settlement and the goods were interlined between carriers so that it is not clear as to who had custody of the goods when they were damaged, the originating carrier or delivering carrier, as the case may be, is entitled to recover from each of the connecting carriers an amount prorated on the basis of each carrier’s revenue for carriage of the damaged goods.

4. Remedy by Consignor or Consignee

Nothing in Article 2 or 3 deprives a consignor or consignee of any rights the consignor or consignee may have against any carrier.

5. Exceptions from Liability

The carrier shall not be liable for loss, damage or delay to any of the goods described in the contract of carriage caused by an act of God, the Queen’s or public enemies, riots, strikes, a defect or inherent vice in the goods, an act or default of the consignor, owner or consignee, authority of law, quarantine or difference in weights of grain, seed or other commodities caused by natural shrinkage.

6. Delay

No carrier is bound to carry goods by any particular public truck or in time for any particular market or otherwise than with due dispatch, unless by agreement that is specifically endorsed in the contract of carriage and signed by the parties.
O. Reg. 643/05: CARRIAGE OF GOODS
under *Highway Traffic Act, R.S.O. 1990, c. H.8*

7. Routing by Carrier

If the carrier forwards the goods by a conveyance that is not a public truck, the liability of the carrier is the same as though the entire carriage were by public truck.

8. Stoppage in Transit

If goods are stopped and held in transit at the request of the party entitled to so request, the goods are held at the risk of that party.

9. Valuation

Subject to Article 10, the amount of any loss or damage for which the carrier is liable, whether or not the loss or damage results from negligence, shall be the lesser of,

i. the value of the goods at the place and time of shipment, including the freight and other charges if paid, and

ii. $4.41 per kilogram computed on the total weight of the shipment.

10. Declared Value

If the consignor has declared a value of the goods on the face of the contract of carriage, the amount of any loss or damage for which the carrier is liable shall not exceed the declared value.
11. Consignor’s Risk
   i. If it is agreed that the goods are carried at the risk of the consignor, that agreement covers only such risks as are necessarily incidental to the carriage and the agreement does not relieve the carrier from liability for any loss or damage or delay that results from the negligence of the carrier or the carrier’s agents or employees.
   ii. The burden of proving absence of negligence shall be on the carrier.

12. Notice of Claim
   i. No carrier is liable for loss, damage or delay to any goods carried under the contract of carriage unless notice of the loss, damage or delay setting out particulars of the origin, destination and date of shipment of the goods and the estimated amount claimed in respect of such loss, damage or delay is given in writing to the originating carrier or the delivering carrier within 60 days after delivery of the goods or, in the case of failure to make delivery, within nine months after the date of shipment.

   ii. The final statement of the claim must be filed within nine months after the date of shipment, together with a copy of the paid freight bill.
13. Articles of Extraordinary Value

i. No carrier is bound to carry any documents, specie or articles of extraordinary value unless by a special agreement to do so.

ii. If such goods are carried without a special agreement and the nature of the goods is not disclosed in the contract of carriage, the carrier shall not be liable for any loss or damage in excess of the maximum liability stipulated in Article 9.

14. Freight Charges

i. If required by the carrier, the freight and all other lawful charges accruing on the goods shall be paid before delivery.

ii. If upon inspection it is ascertained that the goods shipped are not those described in the contract of carriage, the freight charges must be paid upon the goods actually shipped with any additional charges lawfully payable on the freight charges.

iii. If a consignor does not indicate that a shipment is to move prepaid, or does not indicate how the shipment is to move, it will automatically move on a collect basis.
15. Dangerous Goods

Every person, whether as principal or agent, shipping dangerous goods without previous full disclosure to the carrier as required by law shall indemnify the carrier against all loss, damage or delay caused by the failure to disclose and such goods may be warehoused at the consignor’s risk and expense.

16. Undelivered Goods

i. If, through no fault of the carrier, the goods cannot be delivered, the carrier shall immediately give notice to the consignor and consignee that delivery cannot be made and shall request disposal instructions.

ii. Pending receipt of disposal instructions,

   A. the goods may be stored in the warehouse of the carrier, subject to a reasonable charge for storage, or

   B. if the carrier has notified the consignor of this intention, the goods may be removed to and stored in a public or licensed warehouse at the expense of the consignor, without liability on the part of the carrier, and subject to a lien for all freight and other lawful charges, including a reasonable charge for storage.

17. Return of Goods

If a notice has been given by the carrier pursuant to paragraph i of Article 16, and no disposal instructions have been received within 10 days after the date of such notice, the carrier may return to the consignor, at the consignor’s expense, all undelivered shipments for which such notice has been given.
18. Alterations

Subject to Article 19, any limitation in the contract of carriage on the carrier’s liability and any alteration to the contract of carriage shall be signed or initialled by the consignor and the originating carrier or their agents and, unless signed and initialled, shall be without effect.

19. Weights

i. It shall be the responsibility of the consignor to show correct shipping weights of the shipment on the contract of carriage.

ii. If the actual weight of the shipment does not agree with the weight shown on the contract of carriage, the weight shown on the contract of carriage may be corrected by the carrier.

20. C.O.D. Shipments

i. The carrier shall not deliver a C.O.D. shipment unless payment is received in full.

ii. The charge for collecting and remitting the amount of C.O.D. bills for C.O.D. shipments must be collected from the consignee unless the consignor has instructed otherwise on the contract of carriage.

iii. The carrier shall keep all C.O.D. money in a trust fund or account separate from the other revenues and funds of the carrier’s business.

iv. The carrier shall remit all C.O.D. money to the consignor, or person designated by the consignor, within 15 days after collection.
ROAD

- Uniform BOLs – US
  - Issued by the NMFCA, not prescribed by a regulatory body.
  - Major changes effective August 13, 2016
On July 14th, the National Motor Freight Traffic Association (NMFTA), publishers of the National Motor Freight Classification (NMFC), issued Supplement 2 to NMF 100-AP, effective August 13, 2016. This Supplement contains changes to the bill of lading forms - the Uniform Straight Bill of Lading, including the Terms and Conditions on the reverse side, and the Straight Bill of Lading- Short Form, as well as to the NMFC rules in Item 360 - Bills of Lading, Freight Bills and Statements of Charges.

Details of the Section 1 (b) of the "old" BOL

(b) No carrier shall be liable for any loss or damage to a shipment or for any delay caused by an Act of God, the public enemy, the authority of law, or the act or default of shipper. Except in the case of negligence of the carrier or party in possession, the carrier or party in possession shall not be liable for loss, damage or delay which results: when the property is stopped and held in transit upon request of the shipper, owner or party entitled to make such request; or from faulty or impassible highway, or by lack of capacity of a highway bridge or ferry; or from a defect or vice in the property; or from riots or strikes. *The burden to prove freedom from negligence is on the carrier or the party in possession.*
Section 1 (b) of the "new" bill of lading contains the most egregious of the changes, which change the legal burdens of proof:

(b) No carrier shall be liable for any loss or damage or for any delay caused by an Act of God, the public enemy, the authority of law, the act or default of the shipper, riots or strikes, or any related causes. Except in the case of negligence of the carrier, the carrier shall not be liable for loss, damage or delay which results: when the property is stopped and held in transit upon request of the shipper, owner or party entitled to make such request; or from faulty or impassible highway, or by lack of capacity of a highway, bridge or ferry; or from a defect or vice in the property. The burden to prove carrier negligence is on the shipper.

Source: Special Report August 19, 2016

Transportation and Logistics Council, 120 Main St., Huntington, NY 11743
Uniform BOLs – US

- Freight moves Prepaid unless otherwise marked.
- Limits of liability determined by Carmack – basically, full value unless LOL by classification
- Maximum limit per occurrence is $25/lbs USD to a maximum of $100,000 USD.
- “Non-recourse” or section 7: shipper by signing this box will be free of liability for freight charges. Shipper liable unless ‘non-recourse’ box signed
ROAD

- On cross-border traffic, what BOL and conditions of carriage apply? Canada or US?
  - Southbound – Canada
  - Northbound - US
• Does a BOL supercede a contract of carriage?
• No it doesn’t
• COCs are more common in US
• Incorporate more than just conditions of carriage, and generally cover a term of time rather than a per shipment contract.
GENERAL

- Can a carrier change the reverse side of a straight BOL?
- Apparently so, though not aware of any court challenges to date:

- Example –
1. UNIFORM TERMS OF CARRIAGE TO APPLY
This contract for carriage of goods includes all uniform terms of carriage enacted for the carriage of general freight pursuant to any statute, regulation or by any lawful authority, which is in force and effect in the jurisdiction of origin of this contract at the time of shipment.

2. NOTICE OF CLAIM
No Carrier is liable for loss, damage or delay to any goods carried under the Bill of Lading unless notice thereof setting out the particulars of the origin, destination and date of shipment of the goods and the estimated amount claimed in respect of such loss, damage or delay is given in writing to the originating Carrier or to the delivering Carrier within Sixty (60) days after delivery of the goods or partial delivery of the goods, or in the case of failure to make delivery, within Nine (9) months of the date of shipment.

The final statement of claim must be filed within Nine (9) months from the date of shipment together with a copy of the paid freight bill.

3. RECEIPT OF GOODS
The Carrier acknowledges receipt of the goods itemized on the face of the within Bill of Lading by the consignor in apparent good order and condition.

4. CONSIGNOR'S WARRANTIES AS TO PREPARATION OF SHIPMENT
The consignor warrants to the Carrier:
The cartons, containers and goods have been marked to identify the consignee, the consignee's address, number of pieces and any delivery instructions and that such markings are consistent with the markings and instructions of this Bill of Lading.
The goods have been properly packaged and prepared to withstand those risks of damage necessarily incidental to transportation.

If these goods are Dangerous Goods, the goods and this Bill of Lading have been prepared to comply with all Federal and Provincial Laws and Regulations applicable to the Transportation of Dangerous Goods.
5. LIMITATION OF LIABILITY

(1) The amount of any loss or damage for which the Carrier is liable, whether or not the loss or damage results from negligence, shall be subject to the following limitations of liability:

If the shipment originated in Canada, Carrier’s maximum liability for loss or damage to the goods, computed on the total actual weight of the shipment, shall be limited to the lesser of (i) CAD$2.00 per pound (or CAD$4.41 per kilogram), or (ii) the value of the goods at the place and time of shipment, including freight and other charges if paid, unless shipper or appropriate party has declared a higher value for the goods on the face of the Bill of Lading, in which case Carrier’s maximum liability shall be the declared value of the goods;

If the shipment originated in the United States, the lesser of (i) USD$25.00 per pound, based on actual weight, per piece, ii) a value otherwise provided in the current National Motor Freight Classification, or (iii) USD$100,000 per occurrence;

For shipments from the United States to Canada, or from Canada to the United States, the Carrier does not provide excess liability coverage (declared value) for amounts exceeding the limitations of liability indicated at Sections 5(1)(a) or (b), as applicable, and any declared value in excess of the applicable limitation of liability shall be null and void, and the parties agree that the limitation of liability indicated in Section 5(1)(a) or (b), as applicable, will apply; and .
Notwithstanding the above, the parties agree that all used goods and personal effects will be shipped at Shipper’s risk of damage, with no liability whatsoever to Carrier for any damages.

(2) The parties agree that the Carrier cannot reasonably be aware of the consequences of and the costs accruing to the consignor, consignee, owner or any other party in the event of the loss of use of the goods due to the late, delayed or non-delivery of the goods, the whole or partial destruction of all or any part of the goods however caused. Accordingly, the Carrier is not liable for any indirect, consequential or incidental loss occurring to any party because of the any delay or non-delivery, or damage to the goods.

6. DANGEROUS GOODS
a. Every person, whether as principal or agent, shipping dangerous goods without previous full disclosure to the Carrier as registered by law shall indemnify the Carrier against all loss, damage or delay caused by the failure to disclose and such goods may be warehoused at the consignor’s expense.

7. LIABILITY FOR PAYMENT
Regardless of any instructions provided for the payment of freight charges, the consignor shall, in the event the Carrier is unable to collect in accordance with those instructions, be responsible for all freight charges together with all costs incurred as a result of the inability to collect transportation charges in accordance with the consignor’s instructions.

8. ENTIRE CONTRACT
a. The Uniform Terms of Carriage and conditions herein form the entire contract between the parties, which shall not be modified without the written consent of the parties.
GENERAL

- What are electronically transmitted contracts of carriage?
- Fax, EDI, proprietary data exchange
- Covered by Statute
  - *Electronic Commerce Act, S.O. 2000 c.17*
Contracts for the Carriage of Goods

Acts related to contracts for the carriage of goods

(1) This section applies to anything done in connection with a contract for the carriage of goods, including, but not limited to,
(a) furnishing the marks, number, quantity or weight of goods;
(b) stating or declaring the nature or value of goods;
(c) issuing a receipt for goods;
(d) confirming that goods have been loaded;
(e) giving instructions to a carrier of goods;
(f) claiming delivery of goods;
(g) authorizing release of goods;
(h) giving notice of loss of, or damage to, goods;
(i) undertaking to deliver goods to a named person or a person authorized to claim delivery;
(j) granting, acquiring, renouncing, surrendering, transferring or negotiating rights in goods;
(k) notifying a person of terms and conditions of a contract of carriage of goods;
(l) giving a notice or statement in connection with the performance of a contract of carriage of goods; and
(m) acquiring or transferring rights and obligations under a contract of carriage of goods. 2000, c. 17, s. 23 (1).

Use of electronic documents

(2) A legal requirement that an act referred to in subsection (1) be done in writing or by using a written document is satisfied if the act is done electronically. 2000, c. 17, s. 23 (2).
Liabilities between parties to the BOL

Filing Claims:
   Depends on sales contract/purchase order

   If not specified, title transfers to consignee when goods delivered to carrier

Sale of Goods Act,
R.S.O. 1990, c.S.1
Sale of Goods Act, R.S.O. 1990, c. S.1

Delivery to carrier

- **31. (1)** Where in pursuance of a contract of sale the seller is authorized or required to send the goods to the buyer, the delivery of the goods to a carrier whether named by the buyer or not, for the purpose of transmission to the buyer, is, in the absence of evidence to the contrary, delivery of the goods to the buyer.

Seller’s contract with carrier

- **(2)** Unless otherwise authorized by the buyer, the seller shall make a contract with the carrier on behalf of the buyer that is reasonable having regard to the nature of the goods and the other circumstances of the case, and if the seller omits so to do and the goods are lost or damaged in course of transit, the buyer may decline to treat the delivery to the carrier as a delivery to the buyer or may hold the seller responsible in damages. R.S.O. 1990, c. S.1, s. 31.
2. Every consignee of goods named in a bill of lading, and every endorsee of a bill of lading to whom the property in the goods therein mentioned passes on or by reason of the consignment or endorsement, has and is vested with all rights of action and is subject to all liabilities in respect of those goods as if the contract contained in the bill of lading had been made with himself.
3. Nothing in this Act prejudices or affects

(a) any right of stoppage in transit;

(b) any right of an unpaid vendor under the Civil Code of the Province of Quebec;

(c) any right to claim freight against the original shipper or owner; or

(d) any liability of the consignee or endorsee by reason or in consequence of his being the consignee or endorsee, or of his receipt of the goods by reason or in consequence of the consignment or endorsement.
7. (1) Every consignee of goods named in a bill of lading and every endorsee of a bill of lading to whom the property in the goods therein mentioned passes upon, or by reason of the consignment or endorsement, has and is vested with all rights of action, and is subject to the same liabilities in respect of the goods as if the contract contained in the bill of lading had been made with the consignee or endorsee.
Mercantile Law Amendment Act (Ontario)

7. (2) Nothing in this section prejudices or affects any right of stoppage in the course of transit, or any right to claim freight against the original shipper or owner, or any liability of the consignee or endorsee, by reason or in consequence of being the consignee or endorsee, or of the receipt of the goods by reason of or in consequence of the consignment or endorsement.
CASE LAW CONSIDERATIONS

S.G.T. 2000 Inc. v. Molson Breweries of Canada

- Shipper fails to pay freight charges
- Molson Breweries purchased beer bottles from Consumers Glass.
- Consumers Glass contracted a carrier, S.G.T. 2000 Inc., to deliver the glass bottles from its facility to various Molson plants throughout Canada.
- Consumers Glass went bankrupt and did not pay carrier
- Carrier sought to recover the unpaid freight charges from Molsons (on basis of s. 2 of the Bills of Lading Act)
- BOL marked ‘freight prepaid’.
- Molson’s position: not fair, invoiced by Consumers Glass for freight already
- Quebec Court of Appeal ruled that property passed (title): Molson became the owner of the cargo when cargo tendered by Consumers Glass to carrier
CASE LAW CONSIDERATIONS (Molson – cont.)

- Molson named on BOL as Consignee: Molson had to show that Section 2 did not apply because carrier waived entitlement to protection.
- Need to show that “prepaid” notation was intentional and binding.
- Court ruled that the “prepaid” reference was not enough by itself to deprive the carrier of the protection of the statute.
- But merely disclosing carrier’s intent to initially look to the shipper for freight payments and not necessarily relinquishing right to fall back of going after the consignee for payment.
- Analysis and application is fact-sensitive: Need more than simple reference to ‘freight prepaid’ on BOL.
- Molson was found liable to pay carrier for freight charges.
Q&A

The following slides contain answers to questions that the speaker did not have time to respond to.
Q&A

Q: Do we need to have NIR and CVOR on our carrier BOL for trucking?

A: There is no legal requirement to indicate your NIR or CVOR number on bills of lading that you as a carrier, would provide. However, from a marketing standpoint, if you furnish BOLs to your customers, it might be advantageous to include them, as well as phone/fax/email address for your dispatch.
Q&A

**Q:** On a BOL if the receiver stamps "subject to count and claim" does it make it legal document?

**A:** Unless the carrier specifically endorses the receiver’s stamp, it is not an agreement or legal document. Commonly, I see “subject to inspection” or “subject to count verification”. For example, a consignee pursuing a concealed damage claim must establish:

1. Shipment in good order at time of pickup by carrier, and
2. Damage in transit

When packaged in such a way that the carrier cannot verify quantity at time of pickup, a consignee’s claim for shortage is not a strong case.

In the case of damage, should no other shipments in the unit experience damage, the carrier could defend by relying on the fact that no other damage occurred in transit.
Q&A

Q: Which type of BoL does not accept ENDORESEMNT?

A: An endorsement would only appear on a negotiable B/L such as a B/L consigned “To Order”. You should never see or require an endorsement on a non-negotiable B/L.

Follow up: Per vessel lines – they state that “To order” means that the bill of lading has been consigned to order of the shipper. This why I always have shipper sign the back of the bills

A: Correct – it is a further safeguard to ensure that the shipment is not released before payment settlement.
Q: If the freight is shipped with American Standard INCO FOB Terms vs. International 2010 INCO terms which body of law takes precedent

A: If the freight is only moving within North America, the NA terms would apply; otherwise, the International INCO 2010 terms would apply. Below is a comparison of Free On Board examples.

<table>
<thead>
<tr>
<th>North America</th>
<th>Incoterms</th>
</tr>
</thead>
<tbody>
<tr>
<td>FOB shipping point or FOB shipping point, freight collect</td>
<td>FCA shipping point</td>
</tr>
<tr>
<td>FOB shipping point, freight prepaid</td>
<td>CPT destination</td>
</tr>
<tr>
<td>FOB destination or FOB destination, freight prepaid</td>
<td>DAP destination</td>
</tr>
</tbody>
</table>
Questions??

William (Bill) Tackaberry, owner of TCRC Freight Legal Services, is a paralegal licensed by the Law Society of Upper Canada.

Contact Info:

416-556-0297 or email tcrclegal@hotmail.com
Please put “CITT BOL Question” in subject line.