

## Waybill 裏面約款

### 1. (Definitions)

(1) "Carrier" means the company mentioned on the face hereof by whom or in whose name the contract of carriage is concluded with a Shipper and who assume responsibility for the performance of the Carriage hereunder.

(2) "Actual Carrier" includes owners and operators of vessels, stevedores, terminal operators, road, rail and air transport operators, and independent contractors and their respective servants and agents of whose services the Carrier procures for the performance of the whole or any part of the Carriage hereunder.

(3) "Carriage" means the whole or any part of the operations and services undertaken by the Carrier in respect of the Goods.

(4) "Container" includes any container (including any open top, flat rack or platform container), pallet or any other similar article of transport used to consolidate the Goods.

(5) "Goods" means the cargo described on the face hereof and, if the Goods are packed into a Container supplied or furnished by or on behalf of the Shipper or Consignee, includes the Container as well.

(6) "Consignee" means the party named in or identified as such from the contract of Carriage under this Waybill, or any party substituted as consignee in accordance with clause 7(1) of this Waybill.

(7) "Vessel" means the vessel named overleaf, and includes the vessel, ship, craft, lighter or other means of transport which is or shall be substituted, in whole or in part, for the vessel named on the face hereof.

(8) "Shipper" means the party named in or identified as such from the contract of Carriage under this Waybill.

### 2. (Clause Paramount)

(1) As far as this Waybill covers the Carriage of the Goods by sea or inland waterways, this Waybill shall have effect subject to the provisions of the International Carriage of Goods by Sea Act of Japan, enacted 13 June 1957, as amended 3 June 1992 (hereinafter called the Act), unless it is adjudged that any other legislation of a nature similar to the International Convention for the Unification of Certain Rules of Law Relating to Bills of Lading done at Brussels on 25 August 1924 (hereinafter called the Hague Rules), or by the Protocol amending the Hague Rules done at Brussels on 23 February 1968, or, where applicable, by the Protocol amending the Hague Rules as amended by the Protocol of 23 February 1968 done at Brussels on 21 December 1979, mandatorily applies to this Waybill, in which case

this Waybill shall have effect subject to the provisions of such similar legislation (hereinafter called the Hague-Rules Legislation), and the Act or the Hague-Rules Legislation shall be deemed to be incorporated herein.

(2) The Act or the Hague-Rules Legislation shall apply and govern before the Goods are loaded on and after they are discharged from the Vessel and throughout the entire time the Goods are in custody of the Carrier and his servants or agents or the Actual Carrier within the sea terminal at the port of loading or place of discharge.

(3) If any provision herein is held to be inconsistent with or repugnant to any extent of the Act, the Hague-Rules Legislation or any other laws, statutes or regulations mandatorily applicable to the contract evidenced by this Waybill, such provision shall be null and void to the extent of such inconsistency or repugnance but no further.

### 3. (Governing Law and Jurisdiction)

The contract evidenced by or contained in this Waybill shall be governed by Japanese law, except as may be otherwise provided for herein, and any related legal action shall be brought before the Tokyo District Court in Japan.

### 4. (Limitation Statute)

Nothing in this Waybill shall operate to limit or deprive the Carrier of any statutory protection or exemption or limitation of liability authorized by any applicable law, statute or regulation of any country.

### 5. (Agency)

(1) The Shipper on entering into the contract of carriage does so, not only on his own behalf, but also as an agent for and on behalf of the Consignee, and warrants to the Carrier that it has the authority to do so.

(2) This provision shall apply only if it is necessary under the law applicable to the contract of carriage so to enable the Consignee to sue and be sued thereon. The Consignee shall be under no greater liability than he would have been had the contract for carriage been covered by a Waybill or similar document of title.

### 6. (Inspection of Goods)

(1) The Carrier shall be entitled, but under no obligation, to open any Container or package at any time and to inspect the contents. If it thereupon appears that the contents or any part thereof cannot safely or properly be carried or carried further, either at all or without incurring any additional expense or taking any measures in relation to such package or Container or

its contents or any part thereof, the Carrier may abandon the Carriage thereof and/or take any measure and/or incur any additional expense to carry or to continue the Carriage or to store the same ashore or afloat under cover or in the open, at any place, which storage shall be deemed to constitute due delivery under this Waybill. The Shipper and Consignee shall indemnify and hold the Carrier harmless from and against any expense so incurred.

(2) If by order of the authorities at any place, a Container has to be opened for the contents to be inspected, the Carrier shall not be liable for any loss, damage or any other consequences as a result of any opening, unpacking, inspection or repacking. The Carrier shall be entitled to recover the cost of such opening, unpacking, inspection and repacking from the Shipper and Consignee.

#### 7. (Right of Control)

(1) Unless the Shipper has exercised his option under (2) below, he shall be the only party entitled to give the Carrier instructions in relation to the contract of carriage. Unless prohibited by applicable law, the Shipper shall be entitled to change the name of the Consignee at any time up to when the Consignee claims delivery of the Goods after their arrival at the port of discharge or place of delivery, provided that he gives the Carrier reasonable notice thereof in writing, or by some other means acceptable to the Carrier, and indemnifies the Carrier against any additional expense caused thereby.

(2) The Shipper shall have the option, to be exercised no later than the time of the receipt of the Goods by the Carrier, to transfer the right of control to the Consignee. The exercise of this option must be noted on this Waybill. When such option has been exercised, the Consignee shall have such rights as are referred to in (1) above, and the Shipper shall cease to have such rights.

#### 8. (Route of Transport)

(1) The Goods may, at the Carrier's absolute discretion, be carried as a single shipment or as several shipments by the Vessel and/or any other means of transport by land and by any route whatsoever, whether or not such route is direct, advertised or customary.

(2) The Carrier may at any time and without notice to the Shipper and Consignee unpack and remove the Goods which have been packed into a Container and forward them in a different Container or otherwise.

(3) The Vessel shall have the liberty to call and/or stay at any port(s) or place(s) in or out of the direct, advertised or customary route, one or more times and in any order backwards or forwards, and/or to omit calling at any port(s) or place(s) whether scheduled or not.

(4) The Vessel shall have the liberty to, either with or without the Goods on board, and

before or after proceeding toward the port of discharge, adjust compasses and other navigational instruments, make trial trips or tests, drydock, go to repair yards, shift berths, take in fuel or stores, embark or disembark any person, carry contraband, explosives, munitions warlike stores and hazardous cargo, sail with or without pilots, tow or be towed, and save or attempt to save life or property.

(5) Any action taken by the Carrier under this Article shall be deemed to be included within the contract of carriage, and such action or delay resulting therefrom shall not be deemed to be a deviation. Should the Carrier be held liable in respect of such action, the Carrier shall be entitled to the full benefit of all privileges, rights and immunities contained in this Waybill.

#### 9. (Transshipment and Forwarding)

(1) Whether arranged beforehand or not, the Carrier shall be at liberty without notice to carry the Goods wholly or partly by the named or any other vessel(s), craft or other means of transport by water or land, whether owned or operated by the Carrier or others. The Carrier may under any circumstances discharge the Goods or any part thereof at any port or place for transshipment, and store the same afloat or ashore, and then forward the same by any means of transport.

(2) In case the Goods herein specified cannot be found at the port of discharge or place of delivery, or if miscarried, the Goods, when found, may be forwarded to their intended port of discharge or place of delivery at the Carrier's expense, but the Carrier shall not be liable for any loss, damage, delay or depreciation arising from such forwarding.

#### 10. (Liberties)

(1) In any situation, whether or not existing or anticipated before the commencement of or during the transport, which in the judgment of the Carrier (including for the purpose of this Article any person charged with the transport or safekeeping of the Goods) (i) has given or is likely to give rise to danger, injury, loss, delay or disadvantage of any nature to the Vessel, a vehicle, the Carrier, any person, the Goods or any property; or (ii) has rendered or is likely to render it in any way unsafe, impracticable, unlawful or against the interest of the Carrier or Shipper or Consignee to commence or continue the transport or to discharge the Goods at the port of discharge, or to deliver the Goods at the place of delivery by the route and in the manner originally intended by the Carrier, the Carrier (a) at any time shall be entitled to unpack the Container, or otherwise dispose of the Goods in such way as the Carrier may deem advisable at the risk and expense of the Shipper and Consignee; and/or (b) before the Goods are loaded on the Vessel, a vehicle or other means of transport at the place of receipt or port of loading, shall be entitled to cancel the contract of carriage without compensation

and require the Shipper and Consignee to take delivery of them, and upon his failure to do so, to warehouse or place them anywhere at the risk and expense of the Shipper and Consignee; and/or (c) if the Goods are at a place awaiting transshipment, shall be entitled to terminate the transport there and store them at any place selected by the Carrier at the risk and expense of the Shipper and Consignee; and/or (d) if the Goods are loaded on the Vessel, a vehicle or other means of transport, whether or not approaching, entering or attempting to enter the port of discharge or to reach the place of delivery, or attempting or commencing to discharge, shall be entitled to discharge the Goods or any part thereof at any port or place selected by the Carrier or to carry them back to the port of loading or place of receipt and there discharge them. Any actions under (c) or (d) above shall constitute complete and final delivery and full performance of this contract, and the Carrier thereafter shall be released from any responsibility under this Waybill.

(2) If, after storage, discharge or any action under the preceding paragraph, the Carrier makes arrangements to store and/or transship and/or forward the Goods, it is agreed that he shall do so as an agent only for and at the sole risk and expense of the Shipper and Consignee without any liability in respect of such agency, and the Shipper and Consignee shall reimburse the Carrier forthwith upon demand all extra freight, charges and extra expenses thereby incurred.

(3) The situations referred to in paragraph (1) above shall include, but shall not be limited to, those caused by the existence or apprehension of war declared or undeclared, hostilities, warlike or belligerent acts or operations, riots, civil commotion or other disturbances; closure of, obstacle in or danger to any canal; blockade of port or place or interdict or prohibition of or restriction on commerce or trading; quarantine, sanitary or other similar regulations or restrictions; strikes, lockouts or other labor troubles whether partial or general and whether or not involving employees of the Carrier or his sub-contractors; congestion of port, wharf, sea terminal or any other place; shortage, absence or obstacles of labor or facilities for loading, discharge, delivery or other handling of the Goods; epidemics or diseases; bad weather, shallow water, ice, landslide or other obstacles in navigation or haulage.

(4) The Carrier, in addition to all other liberties provided for in this Article, shall have the liberty to comply with orders, directions, regulations, recommendations or suggestions as to departure, arrival, route, ports of call, stoppage, loading, discharge, handling, destinations, delivery, quarantine or otherwise, howsoever given by any government, public authority or department thereof, or any person acting or purporting to act with authority of such government, public authority or department thereof, or by any committee or person having, under the terms of any insurance on the Vessel, the right to give such order, direction, regulation, recommendation or suggestion. If by reason of and/ or in compliance with any

such order, direction, regulation, recommendation or suggestion anything is done or not done, the same shall be deemed to be included within the contract of carriage, and shall not be deemed to be a deviation therefrom.

11. (Issuance of Waybill)

(1) The Carrier, by the issuance of this Waybill undertakes to perform and/or in his own name to procure the performance of the Carriage from the place at which the Goods are taken in charge to the place designated for delivery on the face hereof.

(2) The provisions set out and referred to herein shall also apply when the Carriage is performed by one mode of transport only.

(3) Any reference on the face hereof to marks, numbers, description, quality, quantity, gauge, weight, measure, nature, kind, value or any other particulars of the Goods is as furnished by the Shipper, and the Carrier shall not be responsible for the accuracy thereof. The Shipper warrants to the Carrier that the particulars furnished by him are correct, and shall indemnify the Carrier against all loss, damage expenses, liability, penalties and fines arising or resulting from any inaccuracy thereof.

12. (Use of Container) Where the Goods, the receipt of which is acknowledged on the face of this Waybill, are not already packed into the Container at the time of the receipt thereof, the Carrier shall have the liberty to pack and carry them in any type of Container.

13. (Carrier's Container)

(1) The Shipper and Consignee shall assume full responsibility for and shall indemnify and hold the Carrier harmless from and against any loss of or damage to any Container or other equipment furnished or arranged by the Carrier for the Shipper and Consignee which occurs while in the possession or control of the Shipper and Consignee, its agent or its inland carrier engaged by or on behalf of the Shipper and Consignee.

(2) The Carrier shall in no event be liable for and the Shipper and Consignee shall indemnify and hold the Carrier harmless from and against any loss of or damage to any Container or equipment or property of any third party, or injury to or death of any third party caused by the Carrier's Container or the contents thereof during the handling by or while in the possession or control of the Shipper and Consignee, its agent or inland carrier engaged by or on behalf of the Shipper and Consignee.

(3) If any container furnished or arranged by the Carrier is unpacked at the Consignee's premises, the Consignee shall be responsible for returning the empty Container, with interior brushed and cleaned, to the point or place designated by the Carrier within the time

prescribed. Should a Container not be returned within the time prescribed by the Carrier, the Consignee shall be liable for any detention, loss or expense that may arise from such non-return.

#### 14. (Shipper's Packed Containers)

(1) If a Container has not been packed by the Carrier, this Waybill shall be a receipt only for the Container, and the Carrier shall not be liable for any loss of or damage to the contents, and the Shipper shall indemnify and hold the Carrier harmless from and against any injury, loss, damage, liability or expense incurred by the Carrier if such loss, damage, liability or expense has been caused by: (a) the manner in which the Container has been filled, packed, stuffed or loaded; (b) the unsuitability of the contents for carriage by Containers; or (c) the unsuitability or defective condition of the Container which would have been apparent upon a reasonable inspection by the Shipper at or prior to the time the Container was filled, packed, stuffed or loaded.

(2) The Shipper shall inspect any Container before packing the contents into the Container, and the use of the Container shall be prima facie evidence of the Container being sound and suitable for use.

(3) If the Container is delivered by the Carrier with the seals intact, such delivery shall be deemed to be full and complete performance of the Carrier's obligation under this Waybill, and the Carrier shall not be liable for any loss of or damage to the contents of the Container.

#### 15. (Special Container)

(1) The Carrier shall not undertake to carry the Goods in refrigerated, heated, insulated, ventilated or any other special container, nor to carry a special container packed by or on behalf of the Consignee as such; but the Carrier will treat such Goods or container only as ordinary goods or as a dry container respectively, unless special arrangements for the carriage of such Goods or container have been agreed to in writing between the Carrier and the Shipper, and unless such special arrangements are noted on the face of this Waybill and unless special freight as required has been paid. The Carrier shall not accept responsibility for the functioning of any special container supplied by or on behalf of the Shipper.

(2) Regarding the Goods which have been agreed to be carried in a special container, the Carrier shall exercise due diligence to maintain the facilities of such special container while they are in his actual custody and control, and shall not be liable for any kind of loss of or damage to the Goods caused by latent defects, derangement or breakage of the facilities of such special container.

(3) If the Goods have been packed into a refrigerated container by the Carrier, and the

particular temperature range requested by the Shipper or Consignee is included in this Waybill, the Carrier will set the thermostatic controls within the requested temperature range, but does not guarantee the maintenance of the intended temperature inside such container.

(4) If the cargo received by the Carrier is a refrigerated container into which the contents have been packed by or on behalf of the Shipper, it is the obligation of the Shipper to stow the contents properly and set the thermostatic controls exactly. The Carrier shall not be liable for any loss of or damage to the Goods arising out of or resulting from the Shipper's failure to meet such obligations, and further does not guarantee the maintenance of the intended temperature inside such container.

#### 16. (Dangerous Goods, Contraband)

(1) The Carrier shall carry Goods of an explosive, flammable, radioactive, corrosive, damaging, noxious, hazardous, poisonous, injurious or dangerous nature only upon the Carrier's acceptance of a prior written application by the Shipper for the carriage of such Goods. Such application must accurately state the nature, name, label and classification of the Goods, as well as the method of rendering them innocuous, with the full names and addresses of the Shipper and Consignee.

(2) The Shipper shall ensure that the nature of the Goods referred to in the preceding paragraph is distinctly and permanently marked and manifested on the outside of the package(s) and Container, and shall also submit all documents or certificates required by any applicable statutes or regulations or by the Carrier.

(3) If the Goods are discovered to have been received by the Carrier in violation of paragraphs (1) or (2) above, or if the Goods are found to be contraband or prohibited by any law or regulation of the port of loading, discharge or call or any place or waters during the transport, the Carrier shall be entitled to have such Goods rendered innocuous, thrown overboard, discharged or otherwise disposed of at the Carrier's discretion without compensation, and the Shipper and Consignee shall be liable for and indemnify and hold the Carrier harmless from and against any loss, damage or liability, including the loss of freight, and any expenses directly or indirectly arising or resulting from such Goods.

(4) The Carrier may exercise or enjoy the right or benefit conferred upon the Carrier under the preceding paragraph when it is determined that the Goods received in compliance with paragraphs (1) and (2) above have become dangerous to the Carrier, Vessel, and/or any cargo, person or other property.

(5) The Carrier has the right to inspect the contents of the package(s) or Container at any time and place without the Shipper's and Consignee's agreement, but only at the risk and expense of the Consignee.



17. (Deck Cargo)

(1) The Carrier has the right to carry the Goods in a Container either under deck or on deck.

(2) When the Goods are carried on deck, the Carrier shall not be required to specially note, mark or stamp any statement of 'on deck stowage' on the face hereof, any custom to the contrary notwithstanding. The Goods so carried shall be subject to the applicable Hague Rules Legislation, as provided for in Article 2 hereof, and the stowage of such Goods shall constitute under deck stowage.

(3) The Carrier shall not be liable in any capacity for any non-delivery, misdelivery, and delay or loss of or damage to the Goods which are carried on deck and specially stated herein to be so carried, whether or not caused by the Carrier's negligence or the Vessel's unseaworthiness.

18. (Live Animals and Plants)

The Carrier shall not be responsible for any accident, disease, mortality, loss of or damage to live animals, birds, reptiles and fish and plants arising or resulting from any cause, including the Carrier's negligence or the Vessel's unseaworthiness, and shall have the benefit of all the provisions of this Waybill, except those inconsistent with the provisions of this Article.

19. (Valuable Goods)

The Carrier shall not be liable to any extent for any loss of or damage to platinum, gold, silver, jewelry, precious stones, precious metals, radioisotopes, precious chemicals, bullion, specie, currency, negotiable instruments, securities, writings, documents, pictures, embroideries, works of art, curios, heirlooms, collections of any nature or any other valuable Goods, including Goods having particular value only for the Shipper and Consignee, unless the true nature and value of the Goods have been declared in writing by the Shipper before receipt thereof by the Carrier, and the same is inserted in this Waybill and ad valorem freight has been prepaid thereon.

20. (Heavy Lift)

(1) The weight of a single piece or package exceeding one metric ton gross must be declared by the Shipper in writing before receipt thereof by the Carrier, and must be marked clearly and durably on the outside of the piece or package in letters and figures not less than five centimeters high.

(2) In the event that the Shipper fails to perform his obligations under the preceding

paragraph, the Carrier shall not be responsible for any loss of or damage to the Goods, and at the same time, the Shipper shall be liable for any loss of or damage to any property or for personal injury arising or resulting from the Shipper's said failure, and shall indemnify and hold the Carrier harmless from and against any loss or liability suffered or incurred by the Carrier as a result of such failure.

21. (Delivery)

(1) The Carrier shall have the right to deliver the Goods at any time from or at the Vessel's side, custom-house, warehouse, wharf, quay or any other place designated by the Carrier within the geographic limits of the port of discharge or place of delivery shown on the face hereof.

(2) The Carrier shall deliver the Goods to the Consignee or inland carriers or any other person entitled to receive the Goods on his behalf upon the production of proper identification.

(3) The Carrier shall not be liable for misdelivery if he can prove that he has exercised reasonable care to ascertain that the party claiming to be the Consignee or inland carriers or any other person entitled to receive the Goods on his behalf is in fact that party.

(4) In any case, the Carrier's responsibility shall cease when the Goods have been delivered to the Consignee or inland carriers or any other person entitled to receive the Goods on his behalf at the place designated by the Carrier. Delivery of the Goods to the custody of customs or any other authorities shall constitute final discharge of the Carrier's responsibility hereunder.

(5) In a situation where the cargo received by the Carrier involves a Container into which the contents have been packed by or on behalf of the Shipper, the Carrier shall only be responsible for delivery of the total number of Containers shown on the face hereof, and shall not be required to unpack the Container and deliver the contents thereof in accordance with the brands, marks, numbers, sizes or types of packages or pieces; provided, however, that at the Carrier's absolute discretion and upon the Shippers or Consignee's demand in writing received by the Carrier at least three days prior to the scheduled date of arrival of the Vessel at the port of discharge concerned, Container may be unpacked and the contents thereof may be delivered by the Carrier to one or more receivers in accordance with the written instructions, in which case if the seal of the Container is intact at the time of unpacking, all the Carrier's obligations hereunder shall be deemed to have been discharged, and the Carrier shall not be responsible for any loss of or damage to the contents arising or resulting from such delivery, and the Shipper or Consignee shall be liable for an appropriate adjustment of the freight and any additional charges incurred.

(6) In a situation where the Goods have been packed into a Container by the Carrier, the Carrier shall unpack the Container and deliver the contents thereof, and shall not be required to deliver the Goods in the Container; provided, however, that at the Carrier's absolute discretion and subject to prior arrangement between the Shipper and the Carrier, Goods may be delivered to the Consignee in a Container, in which case if the Container is delivered by the Carrier with the seals intact, such delivery shall be deemed to be full and complete performance of the Carrier's obligations hereunder, and the Carrier shall not be responsible for any loss of or damage to the contents of the Container.

(7) Optional delivery shall be granted only when arranged prior to the time of receipt of the Goods and so expressly provided herein. The Consignee desiring to avail himself of the option so expressed must give notice in writing to the Carrier at the first port of call of the Vessel named in the option at least 48 hours prior to the Vessel's arrival there, otherwise the Goods shall be landed at any of the optional ports at the Carrier's option, and the Carrier's option and the Carrier's responsibility shall then cease.

(8) In a situation where the Goods are stored by the Carrier on behalf of and at the request of the Shipper and/or Consignee at any time during the Carriage, the Carrier shall not be liable for the cost of such storage or for any loss of or damage to the Goods arising or resulting from such storage or any Carriage thereafter, and the Shipper and/or Consignee shall be liable for any additional charges incurred in connection therewith.

## 22. (Delivery by Marks)

(1) The Carrier shall not be liable for failure of or delay in delivery in accordance with any marks unless such marks shall have been clearly and durably stamped or marked upon the Goods, package(s) and Container by the Shipper before they are received by the Carrier in letters and numbers not less than five centimeters high, together with the names of the port of discharge and place of delivery.

(2) Under no circumstances shall the Carrier be responsible for delivery in accordance with other than the leading marks.

(3) The Shipper warrants to the Carrier that the marks on the Goods, package(s) and Container correspond to the marks shown on this Waybill, and also in all respects comply with all laws and regulations in force at the port of discharge or place of delivery, and shall indemnify and hold the Carrier harmless from and against any loss, damage, expenses, penalties or fines arising or resulting from any incorrectness or incompleteness thereof.

(4) Goods which cannot be identified as to marks and numbers, cargo sweepings, liquid residue and any unclaimed Goods not otherwise accounted for shall be allocated for the purpose of completing delivery to the various Consignees of goods of like character, in

proportion to any apparent shortage, loss of weight or damage, and such goods or parts thereof shall be accepted as full and complete delivery.

### 23. (Freight and Charges)

(1) Freight may be calculated on the basis of the particulars of the Goods furnished by the Shipper who shall be deemed to have guaranteed to the Carrier the accuracy of the contents, weight, measure or value as furnished by him, at the time of receipt of the Goods by the Carrier, but the Carrier may, at any time, for the purpose of ascertaining the actual particulars, open the Container and/or package(s) and examine contents, weight, measure and value of the Goods at the risk and expense of the Shipper and Consignee. In case of incorrect declaration of the contents, weight, measure or value of the Goods, the Shipper and Consignee shall be liable for and bound to pay to the Carrier (a) the balance of freight between the freight charged and that which would have been due had the correct details been given, plus (b) as and by way of liquidated and ascertained damages, a sum equal to the correct freight.

(2) Full freight to the port of discharge or place of delivery named herein shall be considered as completely earned on receipt of the Goods by the Carrier, whether the freight is stated or intended to be prepaid or to be collected at the port of discharge or place of delivery. The Carrier shall be entitled to all freight and other charges due hereunder, whether actually paid or not, and to receive and retain them irrevocably under any circumstances, whether the Vessel and/or the Goods are lost, or the voyage is broken up, frustrated or abandoned during any stage of the entire transit. Full freight shall be paid on damaged or unsound Goods.

(3) The payment of freight and/or charges shall be made in full and in cash without any offset, counterclaim or deduction. Where freight is payable at the port of discharge or place of delivery, such freight and all other charges shall be paid in the currency named in this Waybill, or at the Carrier's option, in another currency subject to the regulations of the freight conference concerned or custom at the place of payment.

(4) Goods once received by the Carrier cannot be taken away or disposed of by the Shipper and Consignee except upon the Carrier's consent and against payment of full freight and compensation for any loss sustained by the Carrier through such taking away or disposal. If the Goods are not available when the Vessel is ready to load, the Carrier is relieved of any obligation to load such Goods, and the Vessel may leave the port without further notice, and the dead freight shall be paid by the Shipper and/or Consignee.

(5) The Shipper and/or Consignee shall be liable for, and indemnify and hold the Carrier harmless from and against any dues, duties, taxes or charges, including consular fees

levied on the Goods, or any fines or losses sustained or incurred by the Carrier in connection with the Goods however caused, including the Shippers and/or Consignee's failure to comply with any law or regulation of any government or public authority in connection with the Goods or to procure consular, Board of Health or other certificate to accompany the Goods. The Shipper and/or Consignee shall be liable for return freight and charges on the Goods refused exportation or importation by any government or public authority. If, at the Carrier's discretion, the Goods need sorting, inspecting, mending, repairing, or reconditioning or otherwise require protecting or caring for, the Carrier may carry out such work at the cost and expense of the Shipper and/or Consignee. The Shipper and/or Consignee authorize the Carrier to pay and/or incur all such charges and expenses, do any thing mentioned above at the expense of and as agents for the Shipper and/or Consignee, and engage other parties to regain or seek to regain possession of the Goods and do any thing deemed advisable for the benefit of the Goods.

(6) The Shipper, Consignee, owner of the Goods and holder of this Waybill shall be jointly and severally liable to the Carrier for the payment of all freight and charges and for the performance of their respective obligations hereunder.

#### 24. (Lien)

(1) The Carrier shall have a lien on the Goods, which shall survive delivery, for all freight, dead freight, demurrage, damages, loss, charges, expenses and any other sums payable by or chargeable to or for the account of the Shipper and/or Consignee under this Waybill and any contract preliminary hereto, and for the cost and expense of recovering the same, and may sell the Goods privately or by public auction without notice to the Shipper and Consignee. If on sale of the Goods, the proceeds fail to cover the amount due and the cost and expense incurred in connection therewith, the Carrier shall be entitled to recover the deficit from the Shipper and/or Consignee.

(2) If the Goods are unclaimed during a reasonable time, or if, at the Carrier's discretion, the Goods have become deteriorated, decayed or worthless, the Carrier may, at his discretion and subject to his lien and without any liability attaching to him, sell, abandon or otherwise dispose of such Goods solely at the risk and expense of the Shipper and/or Consignee.

#### 25. (Fire)

The Carrier shall not be responsible for any loss of or damage to the Goods arising or resulting from fire occurring at any time, even before loading on or after discharge from the Vessel, unless caused by the actual fault or privity of the Carrier.

## 26. (Liability of Carrier)

(1) The Carrier shall be liable for loss of or damage to the Goods occurring from the time when the Carrier receives the Goods for Carriage until the time of delivery only to the extent set forth below.

(2) The Carrier shall be relieved of liability for any loss or damage, if such loss, damage or delay in delivery was caused by: (a) the wrongful act or neglect of the Shipper and/or Consignee; (b) compliance with the instructions of the person entitled to give them; (c) the inherent vice or nature of the Goods; (d) the insufficiency of the packing or inadequacy of marks; (e) a defect of the Container used to consolidate the Goods if supplied by the Shipper or Consignee; (f) the handling, loading, stowage into or discharge from a Container by the Shipper or Consignee; (g) war, warlike operations, riots, civil commotion, strikes, lockouts, or stoppage or restraint of labor for any reason, whether partial or general; or (h) any cause or event which the Carrier could not avoid, and the consequence thereof the Carrier could not prevent by the exercise of due diligence.

(3) If the stage of the Carriage during which the loss or damage occurred is known, notwithstanding anything provided for otherwise herein, the liability of the Carrier shall be determined by the provisions contained in any international convention or mandatory national law under which such provisions: (a) cannot be departed from by private contract to the detriment of the Shipper and/or Consignee, or (b) would have applied if the Shipper and/or Consignee had made a separate and direct contract with the carrier in respect of the particular stage of the Carriage during which the loss or damage occurred, and received as evidence thereof any particular document which must be issued in order to make such international convention or national law applicable.

(4) If it can be proved that the loss or damage occurred during inland Carriage while the Goods were in custody of an Actual Carrier, the liability of the Carrier and the limitation thereof shall be determined in accordance with the Actual Carrier's contract of carriage or tariff, or where such contract or tariff does not exist, the limit shall be as set forth in Clause 27 hereunder.

(5) If it cannot be proved where the loss or damage occurred, the loss or damage shall be deemed to have occurred during the course of Carriage by sea, and the Carrier shall be liable to the extent prescribed by the Act or applicable Hague-Rules Legislation, as the case may be, as provided for in Clause 2 hereof.

## 27. (Limitation of Liabilities)

(1) When the Carrier is liable for compensation in respect of any loss of or damage to the Goods, it is agreed by the Shipper and Consignee that such compensation shall be

calculated by reference to the value of the Goods at the place and time they are delivered to the Consignee, or at the place and time they should have been delivered. For the purpose of determining the extent of the Carrier's liability for loss of or damage to the Goods, the sound value of the Goods is presumed to be the Shipper's invoice value of the Goods plus freight, charges and insurance, if paid.

(2) The Carrier shall in no event be or become liable for any loss of or damage, however arising, to the Goods in an amount exceeding the equivalent of 666.67 Units of Account per package or unit or 2 Units of Account per kilogram of gross weight of the Goods lost or damaged, whichever is higher.

(3) Higher compensation may be claimed only when, with the consent of the Carrier, the value of the Goods is declared by the Shipper prior to the commencement of the Carriage, which exceeds the limits laid down in this Clause, has been inserted on the face hereof in the space provided and extra freight has been paid, in which case such declared value shall be the limit, and any partial loss or damage shall be adjusted pro rata on the basis of such declared value.

(4) The Unit of Account mentioned in Paragraph 2 above is the Special Drawing Right (SDR) as defined by the International Monetary Fund. The amounts mentioned in Paragraph 2 above shall be converted into the national currency on the basis of the value of such currency on a date to be determined by the law of the court seized of the case.

(5) When the Goods have been packed into a Container by or on behalf of the Shipper, and when the number of packages or units packed into the Container is not enumerated on the face hereof, each Container, including the entire contents thereof, shall be considered to be one package for the purpose of the application of the Carrier's limitation of liability. (6) The Carrier does not undertake that the Goods shall arrive at the port of discharge or place of delivery at any particular time or in time to meet any particular market or use, and the Carrier shall not be liable for any direct, indirect or consequential loss or damage caused by delay or any other cause. Without prejudice to the foregoing, if the Carrier is found liable for delay, liability shall be limited to the freight applicable to the relevant stage of the Carriage.

## 28. (Defense and Limit for Carrier)

The defenses and limits of liability provided in this Waybill shall apply in any action against the Carrier for loss of or damage to the Goods, whether the action is based in contract or tort.

## 29. (Liability of Servants, Agents and Other Persons)

(1) If an action for loss of or damage to the Goods is brought against any servants or agents

of the Carrier or other persons, including, but not limited to, Actual Carriers or their servants or agents, of whose services the Carrier procures for the performance of the Carriage evidenced by the terms and conditions herein, such servants, agents or other persons shall be entitled to avail themselves of the defenses and limits of liability which the Carrier is entitled to invoke hereunder, and in entering into this Contract the Carrier, to the extent of those provisions, does so not only on his behalf, but also as an agent and trustee for such servants, agents or other persons. The aggregate of the amounts recoverable from the Carrier and such servants, agents or other persons and their servants and agents shall in no case exceed the limits provided herein.

(2) The Shipper and Consignee shall indemnify the Carrier for any claim which may be made upon the Carrier by such servants, agents or other persons and their servants and agents in relation to the claims made against them by the Shipper or Consignee.

### 30. (Notice of Claim and Time for Suit)

(1) Unless notice of loss or damage and the general nature of such loss or damage is given in writing to the Carrier at the port of discharge or place of delivery before or at the time of delivery of the Goods or, if the loss or damage is not apparent, within three days after delivery, the Goods shall be deemed to have been delivered as described in this Waybill.

(2) In any event, the Carrier shall be discharged from all liability in respect of non-delivery, misdelivery, delay, loss or damage unless a legal action is commenced within nine months after the delivery of the Goods or the date when the Goods should have been delivered.

### 31. (General Average)

(1) General average shall be adjusted, stated and settled at the port or place where the carrying vessel and/or her owner shall decide according to the York-Antwerp Rules of 1974, as amended in 1990 or any modification thereof, and any other rules, laws and usage of the port or place of the adjustment, as may be stated in the ocean bill issued for the Goods. Such cash deposit as the Carrier or the owner of the vessel may deem sufficient to cover the estimated contribution of the Goods and any salvage and special charges thereon shall be made by the Shipper and/or Consignee to the Carrier or the owner of the vessel, if required, before delivery of the Goods.

(2) If the Carrier delivers the Goods without obtaining security for general average contributions, the Consignee, by taking delivery of the Goods, undertakes responsibility to pay such contributions and to provide such cash deposit or other security for the estimated amount of such contributions as the Carrier shall require.



32. (Both-to-Blame Collision Clause and New Jason Clause)

The Both-to-Blame Collision Clause and New Jason Clause provided for in the ocean Waybill issued for the Goods by the owner or the operator of the carrying Vessel shall be available to the Carrier, and be deemed to be incorporated herein and constitute a part hereof with the same force and effect as if fully set forth herein.

33. (U.S.A. Local Clause)

(1) If the Carriage covered by this Waybill includes Carriage to or from or through a port or place in the United States of America, this Waybill shall be subject to the Carriage of Goods by Sea Act of the United States of America approved 16 April 1936 (U.S. COGSA), the terms of which shall be deemed to be incorporated herein, and shall be paramount throughout the Carriage by sea or inland waterways and the entire time that the Goods are in the actual custody of the Carrier or any Actual Carrier at the sea terminal in the United States of America before loading on or after discharge from the Vessel, as the case may be.

(2) If the U.S. COGSA applies, the liability of the Carrier shall not exceed U.S.\$500 per package or customary freight unit, unless the nature and value of the Goods have been declared on the face hereof, in which case Clause 27 shall apply.

(3) The Carrier shall not be liable in any capacity for loss, damage or delay to the Goods while the Goods are in the United States of America away from the sea terminal and are not in the actual custody of the Carrier. The responsibility of the Carrier shall be to procure, as agent, transportation by inland carriers (one or more) and such transportation shall be subject to the inland carrier's contract of carriage and tariffs and any law mandatorily applicable. The Carrier guarantees the fulfillment of such inland carrier's obligation under their contracts and tariffs. If, for any reason, the Carrier is denied the right to act as agent only at these times, the Carrier's liability for loss, damage or delay to the Goods shall be determined in accordance with Clause 26 and Clause 27 hereof.