1. Definition – "Carrier" means the party named on the face of this document has been signed and issued and also its servants and agents.
"Merchant" includes the shipper, consignee, the receiver of the goods, any person owning or entitled to the possession of the goods or this bill of lading and anyone acting on behalf of any such persons.
"Carriage" means the whole of the operations and services undertaken by the Carrier in respect of the goods.
"Holder" means any person for the time being in possession of this bill of lading consignment of the goods has passed on or by reason of the "Goods" means the cargo accepted from the shipper and includes any container not supplied by or on behalf of the Carrier.
"Container" includes any container, trailer, transportable tank, flat, or pallet or any similar article of transport used to consolidate goods.
"Freight" includes all charges payable to the Carrier.
"Vessel" means the ocean vessel named on the face side hereof, and any substitute vessel, feedership, barge or any other means of conveyance by water used in whole or in part by the Carrier.
"Hague Rules" means the provisions of the International Convention for the Unification of Certain Rules relating to the Bills of Lading signed at Brussels on 25 August 1924, and includes the amendments by Protocols signed at Brussels on 23 February 1968 and on 21 December 1979, if such amendments are compulsory applicable to this bill of lading. It is expressly provided that nothing in this bill of ladings shall be construed as contractually applying the said Rules as amended by the said Protocols.
2. Warranty– The Merchant warrants that in agreeing to the terms hereof he is, or has the authority of the persons owning or entitled to the possession of the goods and this bill of lading.
3. Sub-contracting and Indemnity – (1) The Carrier shall be entitled to sub-contract on any terms the whole or any part of the carriage, loading, unloading, storing, warehousing, handling, and any and all duties whatsoever undertaken by the Carrier in relation to the goods.
(2) The Merchant undertakes that no claim or allegation shall be made against any servant, agent or sub-contractor of the Carrier which imposes or attempts to whatsoever in connection with the goods, and, if any such claim or allegation should nevertheless be made to indemnify the Carrier against all consequences thereof. Without prejudice to the foregoing, every such servant agent and sub-contractor shall have the benefit of all provisions contained herein benefiting the Carrier as if such provisions were expressly for their benefit, and in entering into this contract, the Carrier, to the extent of these provisions, does so not only on its own behalf, but also as agent and trustee for such servants agents and sub-contractors.
(3) The expression "sub-contractor" in this clause shall include direct and indirect sub-contractors and their respective servants and agents.
4. Carrier's Responsibility– (1) The liability if any of the Carrier for loss of or damage to the goods occurring during and from loading onto any sea-going vessel up to and during discharge from that vessel or from another sea-going vessel into which the goods have been trans-shipped shall be determined in accordance with any national law which makes compulsorily applicable the Hague Rules. In the absence of such national law, liability shall be determined in accordance with
Article 1 - V111 of the Hague Rules.
(2) If the port of loading is in Australia this bill of loading will have effect subject to the Hague Rules as applied by the Australian Carriage of Goods by Sea Act 1991.
(3) If the goods are delivered to the Carrier for vanning or devanning by the Carrier at a packing station, terminal or wharf area in or immediately adjacent to the sea terminal the liability of the Carrier in respect of such goods prior to loading on and subsequent to discharge from the vessel shall be determined in accordance with the provisions of the Hague Rules applicable by virtue of paragraph (1) of this clause.
(4) **Delay** – The Carrier does not undertake that the goods shall arrive at the port of discharge or place of delivery at any particular time or to meet any particular market for use and the Carrier shall in no circumstances be liable for direct, indirect or consequential loss or damages cause by delay.
(5) **Ad Valorem**– Higher compensation than that provided for by the Hague Rules applicable by virtue of paragraph (1) of this clause may be claimed only when, with the Carrier, the value of the goods declared by the shipper, which exceeds the limits otherwise laid down, has been stated in this bill of lading and extra freight paid if required. In that case the amount of the declared value shall be substituted for those limits. Any partial loss or damage shall be adjusted pro rata on the bases of such declared value.
(6) Hague Rules Limited – Subject to paragraph (5) of this clause above, whenever articles I – VIII of the Hague Rules are applicable, otherwise than by national law, in determining the liability of the Carrier, the liability shall in no event exceed the limit provided for in the Rules.
(7) Scope of Application – (a) Save as otherwise provided herein the Carrier shall in no circumstances whatsoever or howsoever arising be liable for direct or indirect or consequential loss or damage. The defences and limits of liability provided for in this bill of lading shall apply in any action against the Carrier for loss or damage or delay whether the action be founded in contract, in tort, or otherwise.
(b) If any provision of this bill of lading is held to be repugnant to any extent to any international convention, or national law which is applicable to this bill of lading such provision shall be null and void to that extent but no further.
5. Carrier's Container(s)– (1) The terms of this bill of lading shall govern the responsibility of the Carriers in connection with or arising out of the supply of a container to the Merchant whether before or alter the goods are received by the Carrier for transport or delivered to the Merchant.
(2) The Merchant shall assume full responsibility for and shall indemnify the Carrier against loss of or damage to the Carrier's container(s) and other equipment which occurs while in the possession or control of the Merchant or any inland Carrier engaged by the Merchant.
(3) The Carrier shall in no event be liable for and the Merchant shall indemnify and hold the Carrier harmless from and against any loss or damage to property of other persons or injuries to other persons caused by the Carrier's container(s) or the contents thereof during handling by or while in the possession or control of the Merchant or any inland Carrier engaged by the Merchant.
6. Merchant – Packed Containers- If a container has been vanned by or on behalf of the Merchant.
(1) Such container shall be deemed shipped as "shippers weight, load and count". The Merchant agrees that the Carrier has no reasonable means of checking the quantity, weight, condition, identity or existence of the contents of such container or the manner in which the goods are stuffed, stowed and secured within the container and the Carrier does not represent the quantity weight, condition, identity or existence of such contents inserted in this bill of lading to be accurate or the stuffing, stowing and the securing to be proper.
(2) The Carrier shall be under no liability in the event of loss, delay, detention or damage of or to the contents directly or indirectly caused by the manner in which the contents have been packed or stowed inside the container or by the unsuitability of the contents for carriage by container or by the unsuitability of the container or by incorrect setting of any temperature controls on the container.
(3) The Merchant shall indemnify the Carrier against any loss which the Carrier may suffer, or liability to any person which the Carrier may incur on account of death or personal injury, or loss, delay, detention or damage of or to any property due to the manner in which the contents have been packed or stowed inside the container or due to the unsuitability of the container.
7. Inspection of Goods – 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 of any part thereof cannot safely be carried or carried further, either at all or without incurring any additional expense or taking any measure in relation to her container or the goods or any part thereof. The Carrier may without notice to the Merchant abandon the transport of or to store the same ashore or afloat under cover or in the open, at any place. This abandonment or storage shall be deemed to constitute due delivery under this bill of lading. The Merchant shall indemnity the Carrier against any reasonable expense so incurred.
8. Description of Goods – (1) This bill of lading shall be prima facie evidence of the receipt by the Carrier in apparent good order and condition, except as otherwise noted, of the total number of containers or other packages or units shown on the face hereof.
(2) No representation is made by the Carrier as to the weight, contents, measure, quantity, quality, description, condition, marks, numbers or value of the goods and the Carrier shall be under no responsibility whatsoever in respect of such description or particulars.
(3) The Merchant warrants to the Carrier that the particulars relating to the goods as set out on the face hereof have been checked by the Merchant on receipt of this bill of lading and that such particulars and any other particulars furnished by or on behalf of the Merchant are correct.
(2) The freight has been calculated on the basis of particulars furnished by or on behalf of the Merchant. The Carrier may at any time open any container or other package or unit in order to re-weigh, re-measure, or re-value the contents and if the particulars furnished by or on behalf of the Merchant are incorrect, it agreed that a sum equal to either five times the value between the correct freight charged, or double the correct freight less the freight charged, whichever sum is the smaller shall be payable as liquidated damages to the Carrier.
(3) Freight and liquidated damages under sub-clause (3) of this clause may be recovered by the Carrier form any person falling within the definition of Merchant in clause 1 above.
10. Lien – (1) The Carrier shall have a lien on the goods and any documents relating thereto for all sums payable to the carrier under this contract and for general average contributions to whomsoever due and for the cost of recovering the same, and for that purpose shall have the right to sell the goods by public auction or private treaty without notice to the Merchant. If on sale of the goods the proceeds fail to cover the amount due and the cost incurred the Carrier shall be entitled to recover the deficit form the Merchant.
(2) IF the goods are unclaimed during a reasonable time or whenever in the Carrier's opinion the goods will become deteriorated, decayed or worthless, the Carrier may, at his discretion and without notice to the Merchant and without notice to the Merchant and without prejudice to any other rights which he may hereunder and without any responsibility attaching to him, sell, abandon or otherwise dispose of such goods solely at the risk and expense of the Merchant.
11. Optional Stowage – (1) The goods may be stowed by or on behalf of the Carrier in the containers.
(2) Goods stowed in containers whether by or on behalf of the carrier or by the Merchant may be carried on deck or under deck without notice to he Merchant. Such goods whether carried on deck or under deck shall participate in general average and such goods (other than live animals) shall be deemed to be within the definition of goods for the purpose of the applicable Hague Rules.
12. Deck Cargo and Live Animals– (10) The applicable Hague Rules shall not apply to goods (not being goods stowed in containers) which are stated herein to be carried on deck and are so carried or to live animals, whether or not carried on deck.
(2) The Carrier shall have no responsibility for loss or damage of whatsoever nature arising during carriage by sea whether caused by unseaworthiness or negligence or any other cause whatsoever for goods which are stated herein to be carried on deck and are so carried.
(3) Live animals are carried at he sole risk of the Merchant. The Carrier shall be under no liability whatsoever for any injury, illness, death, delay or destruction howsoever arising even though caused or contributed to by the act, neglect or default of the Carrier or by the unseaworthiness or unfitness of any vessel, craft, conveyance, container or other place existing at any time. In the event of the master, in his sole discretion, considering that any live animal is likely to be injurious to the health of any person on board or to cause the vessel to be delayed or impeded in the prosecution of he voyage such live animal may be destroyed and thrown overboard without any liability attaching to the Carrier. The Merchant shall indemnify the Carrier against all and any extra costs incurred for any reason whatsoever in connection with the carriage of such live animals.
13. Refrigerated Cargo– (1) The Merchant undertakes not to tender for carriage any goods which require refrigeration without previously giving written notice of their nature and particular temperature range to be maintained and in the case of a refrigerated container packed by the Merchant further undertakes that the goods have been properly stowed in the container and that its thermostatic controls have been adequately set by him before receipt of the goods by the Carrier. If the above requirements are not complied with the Carrier shall not be liable for any loss of or damage to the goods howsoever arising.
(2) The Carrier shall not be liable for any loss of or damage to the goods arising from latent defects, derangement, breakdown, stoppage of the refrigerating machinery, plant insulation and/or any apparatus of the container, vessel, conveyance, or any other facilities, provided that he Carrier shall before or at the beginning of the carriage exercise due diligence to maintain the refrigerated container in an efficient state.
14. Methods and Routes of Transportation – (1) The Carrier may at any time and without notice to the Merchant.
(a) use any means of transport or storage whatsoever;
(b) transfer or trans-ship the goods from one conveyance to another or carry the same on another vessel than that named on the face hereof or by any other means of transport whatsoever;
(c) unpack and remove the goods which have been stowed into a container and forward the same in a container or otherwise;
(d) proceed by any route in his discretion (whether or not the nearest or most direct or customary or advertised route) and proceed to or stay at any place or port whatsoever once or more often and in any order;
(e) load or unload the goods at any place or port (whether or not any such port is named on the face hereof as the port of loading or port of discharge) and store the goods at any such place or port;
(f) comply with any order or recommendations given by any government or authority or any person or body acting or purporting act as or on behalf of such government or authority or having under the terms of the insurance on the conveyance employed by the carrier the right to give order or directions;
(g) permit the vessel to proceed with or without pilots.
(2) The liberties at out on sub-clause (1) may be invoked by the Carrier for any purpose whatsoever whether or not connected with the carriage of goods including (but not limited to) bunkering, undergoing repairs, towing or being towed, adjusting instruments, dry docking and assisting vessels in all situations, and any thing done in accordance with sub-clause (1) or any delay arising therefrom shall be deemed to be within the contractual carriage and shall not be a deviation.
(3) By tendering goods for carriage without any written request for carriage in a specialised container or for carriage otherwise than in a container the Merchant accepts the carriage may be properly undertaken in a general purpose container.
15. Matters Affecting Performance- (1) If at any time the carriage is or is likely to be affected by any hindrance, risk, delay, difficulty or disadvantage or any other kind (other than the inability of the goods or any part thereof safely or properly to be carried or carried further) and howsoever arising (even though the circumstances giving rise to such hindrance, risk, delay, difficulty or disadvantage existed at the time this contract was entered into or the goods were accepted for carriage) and which cannot be avoided by the exercise of reasonable endeavors, the Carrier (whether or not the carriage is commenced) may either:
(a) without notice to the Merchant abandon the carriage of the goods and place the goods of any part of them at the Merchant's disposal at any place or port which the Carrier may deem safe and convenient, whereupon the responsibility of the Carrier in respect of such goods shall cease. The Carrier shall nevertheless be entitled to full freight on goods accepted foe carriage, and the Merchant shall pay any additional costs of carriage to and delivery and storage at such place or port; or
(b) without prejudice to the Carriers right subsequently to abandon the carriage under (a), upon notice to the Merchant suspend carriage of the goods or any against payment of such reasonable endeavors to forward goods the carriage of which has been suspended, as soon as possible after the cause of the hindrance, risk, delay, difficulty or disadvantage has been removed but makes no representation as to the maximum period between such removal and the forwarding of the goods to the place of delivery or port or discharge, as the case may be, named in the bill of lading.
16. Dangerous Goods – (1) No goods which are or may become dangerous, inflammable or damaging (including radioactive material(s), or which are or may become liable to damage any property whatsoever shall be tendered to the Carrier for carriage without his express consent in writing and without the container or other covering in which the goods are to be transported and the goods being distinctively marked on the outside so as to indicate he nature and character of any such articles and so as to comply with any applicable laws, regulations or requirements. If any such articles are delivered to the Carrier without such written consent and marking or if in the opinion of the Carrier the articles are or are liable to become of a dangerous, inflammable or damaging nature, the same may at any time be destroyed; disposed of, abandoned, or rendered harmless without compensation to the Merchant and without compensation to the Merchant and without prejudice to the Carrier's right to freight.
(2) The Merchant undertakes that the goods are packed in a manner adequate to withstand the ordinary risks of carriage having regard to the Merchant shall indemnify the Carrier against all claims, losses, damage expenses arising in consequence of any breach of the provisions of this cla
(4) Nothing contained in this clause shall deprive the Carrier of any of his rig otherwise provided for
17. Regulations Relating to Goods– The Merchant shall comply with regulations or requirements of customs, port and other authorities and shall and pay all duties, taxes, fines, imposts, expenses or losses incurred or suff by reason thereof or by reason of any illegal, incorrect or insufficient packi marking, numbering or addressing of the goods and shall indemnify the Car in respect thereof
18. Notification and Delivery– (1) Any mention in this bill of lading of partie to be notified of the arrival of the goods is solely for information of the Carri and failure to give such notification shall not involve the Carrier in any liabil nor receive the Merchant of any obligation hereunc
(2) The Merchant shall take delivery of the goods at the port of discharge wit customary receiving times at such port, and in any event without cost, whet by the way of storage, wharfage, demurrage or howsoever otherwise, to Carrier. In any case where there has been made between the Carrier and th Merchant the arrangement that the Merchant shall directly take delivery of t goods form alongside or on board a sea-going vessel at the port of discha the Merchant shall do so as the vessel is ready to discharge them at any wh place in that port on any day and at any tim
(3) If the Merchant fails to take delivery of the goods or any part of them in accordance with sub-clause (2), the Carrier may without notice unstow goods or that part thereof and/or store the same ashore, afloat, in the open undercover. Such storage shall constitute due delivery hereunder and hereu all liability whatsoever of the Carrier in respect of such goods shall cease.
19. Special Delivery- (1) The Special arrangements for receiving the Good as Full Container Load and delivering them as less that Container L (FCL/LCL) and/or for split delivery of the Goods to more than one receiver sl be undertaken by the Carrier at his absolute discretion and on condition tha Carrier shall not be liable for any shortage, loss, damage or discrepancies o Goods, which are found upon unpacking the container. The Merchant shall liable for an appropriate adjustment of Freight and shall pay any additional c incurred.
(2) The special arrangement for receiving the Goods as Less than Contai Load and delivering them as Full Container (LCL/FCL) shall be undertaken the Carrier at his absolute discretion an don condition that he Carrier shall be liable for any shortage, loss, damage or discrepancies of the Goods, wh are not apparent at the time of such delivery, provided that he Carrier shall h exercised ordinary care in packing the contain
20. Both To Blame Collision – If the carrying ship comes into collision wi another ship as a result of the negligence of the other ship and any act, neg or default in the navigation of the management of the carrying ship, t Merchant undertakes to pay the Carrier, or, where the Carrier is not the own and/or demise charterer of the carrying ship a sum sufficient to indemnify t Carrier and/or the owner and/or demise charterer of the carrying ship agains loss or liability to he other or non-carrying ship or her owners in so far as su loss or liability represents loss of or damage to his goods or any cla whatsoever of the Merchant, paid or payable by the other or non-carrying shi her owners to her Merchant and set-off recouped or recovered by the other non-carrying ship or her owner or demise charterer of the Carrier. The forego provisions shall also apply where the owners, operators, or those in charge any ship or ship or objects, other then or in addition to the colliding ships objects, are at fault in respect of a collision, contact, standing or other acci
21. General Average– (1) General Average shall be adjusted at any port place at the option of the Carrier in accordance with the York-Antwerp Rule 1974 as amended 1990
(2) In the event of accident, danger or disaster before or after commencem the voyage, resulting from any cause whatsoever, whether due to negligenc not, for which, or for the consequence of which the Carrier is not responsibl statute, contract or otherwise, the goods and the Merchant shall jointly severely contribute with the carrier in general average nature that may be m or incurred and shall pay salvage and special charges incurred in respect of goods. If a salving ship is owned or operated by the Carrier, salvage shall paid for as fully and in the same manner as if such salving ship belonged strangers.
(3) If the Carrier delivered the goods without obtaining security for ge average contributions, the Merchant, by taking delivery of the goods, underta personal responsibility to pay such contributions and to provide such deposit or other security deposit or other security of the estimated amount such contributions as the Carrier shall reasonably require.
22. Fire – Save as provide otherwise herein the Carrier shall not be respons for any loss of or damage the goods arising or resulting from fire occurring any time, unless caused by the actual fault or privity of the Ca
23. Iron or Steel – The terms "apparent good order and condition" when us on this bill of lading with reference to iron, steel or metal products doe mean that the goods, when received were free of visible rust or moisture. If Merchant so requests a substitute bill of lading will be issued omitting the al definition and setting forth any notations as to rust and moisture which appear on the mates or tally clerks receip
24. Notice of Loss or Damage, Time Bar– (1) Unless notice of loss damage to the Goods and the general nature of it will be given in writing to Carrier or his agent at the port of discharge or the place of delivery before o the time or removal of the Goods into the custody of the person entitle delivery thereof under this Bill of Lading, or if the loss or damage be apparent, with seven (7) consecutive days thereafter, such removal sha prima facie evidence other than delivery by the Carrier of the Goods described in this Bill of Ladi
(2) The Carrier shall be discharged from all liability under this Bill of L unless suit is brought within one year after delivery of the Goods or the dat when the Goods should have been delivere
25. Law and Jurisdiction– Any suit to recover on any claim or loss or dama to he Goods carried hereunder shall be brought only in the country where t Goods are received for carriage or in the country where this contract calls f delivery, provide that nothing in this bill of lading shall operate to deprive t carrier of any statutory protection or any defense, immunity, exemptio limitation of or exoneration from liability contained in the laws of New Zeala any other country whose laws may be compulsorily applicable alternatively, the parties agree, the claim may be referred to arbitration at a place to agreed by the parties.