ANL Container Line Pty Limited - Bill of Lading

1. (DEFINITION)

In this Bill of Lading.

"Carrier" means ANL Container Line Pty Limited trading as ANL.

"Goods" means the articles or other cargo accepted from the Shipper for transportation and/or forwarding and includes any Container(s) not supplied by or on behalf of the Carrier.

"Hague-Visby Rules" means the provisions of the International Convention for the Unification of Certain Rules relating to Bills of Lading signed at Brussels on 25th August, 1924 and as amended by the Protocol signed at Brussels on 23rd February, 1968.

"Vessel" means the Intended Ocean Vessel (if any) and any vessel, craft, lighter or other means of conveyance by water which may be substituted in whole or in part for such Intended Ocean Vessel or onto which Goods may otherwise be loaded for the purpose of being transported thereon in furtherance of the carriage covered by this Bill of Lading or any part thereof;

"Conveyance" means any vehicle, rail truck, aircraft, conveyance or other means of transportation by land or air onto which Goods may be loaded for the purpose of being transported in furtherance of the carriage covered by this Bill of Lading;

"Merchant" includes the Shipper, Holder, Consignee, Freight Forwarder, receiver of the Goods, any Person owning or entitled to the possession of the goods or of this Bill of Lading and anyone acting on behalf of such Persons and where the context so requires means those persons jointly and severally.

"Container" means any Container, flat, pallet or other form of cargo carrying unit or equipment referred to on the face hereof or in or on which any Goods may be unitised or otherwise packed or stowed either when received by the Carrier for carriage hereunder or at any subsequent time prior to delivery in accordance with Clause 19(3);

"place of receipt" means the Carrier's sea terminal at the Port of Loading (Ocean Vessel) unless a Place of Receipt is nominated in the space provided for that purpose on the front hereof in which case "place of receipt" shall mean the Place of Receipt so nominated.

"place of delivery" means the Port of Discharge (Ocean Vessel) unless a Place of Delivery is nominated in the space provided for that purpose on the front hereof in which case "place of delivery" shall mean the Place of Delivery so nominated, subject however to Condition 6.

"Combined Transport" arises if the Place of Receipt and/or the Place of Delivery are indicated on the face hereof in the relevant spaces and may include carriage by more than one mode of transport.

"Port to Port" arises if the Carriage is not Combined Transport.

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

"Person" includes an individual, group, company or other entity.

"Bill of Lading" means where the face of this document is described as "Bill of Lading", the Carrier's Bill of Lading including the terms and conditions of same; and where the face of this document is described as "Non Negotiable Sea Waybill" the term "Bill of Lading" herein means the Carrier's Non Negotiable Sea Waybill including the terms and conditions of same.

2. (CONTRACTING PARTIES)

In agreeing to and accepting the terms of this Bill of Lading the Shipper acts for himself and on behalf of each Merchant. The Shipper Warrants to the Carrier that he is entitled and is duly authorised by every other person who owns or is entitled to possession of the Goods or this Bill of Lading to agree to and accept this Bill of Lading and to deliver the Goods to the Carrier on the terms hereof. Without prejudice to the foregoing each Merchant who accepts this Bill of Lading from the Carrier or accepts endorsement or delivery hereof from the Shipper, Consignee or any other prior endorsee or holder or presents this Bill of Lading to the Carrier or receives delivery of any Goods from the Carrier hereunder by such action on his part accepts and shall be deemed to confirm, ratify and agree irrevocably with the Carrier to be bound by all of the stipulations, exceptions and conditions stated herein whether written, printed, stamped or otherwise incorporated on the front or back hereof including the provisions of the Carrier's applicable tariff which are referred to in Clause 21 (3) and that the contract contained or evidenced herein shall be fully binding between the Carrier and such Merchant in all respects as though it had been made between them. All agreements and freight arrangements previously made for the carriage of the Goods are superseded by this Bill of Lading and the contract contained or evidenced herein.

3. (HAGUE-VISBY RULES, GOVERNING LAW AND JURISDICTION)

(1) This Bill of Lading shall have effect subject to the provisions of any legislation giving effect to the Brussels Convention for the Unification of Certain Rules relating to Bills of Lading dated 25th August 1924 as amended by the Protocol made at Brussels on 23rd February 1968 (which rules are herein called "the Hague-Visby Rules") or to similar effect which is compulsorily applicable to the contract contained or evidenced herein (including the Carriage of Goods By Sea Act 1936 of the United States of America where so applicable).

(2) In performing the contract contained or evidenced in this Bill of Lading insofar as it relates to the carriage of goods by sea within the meaning of the Hague-Visby Rules the Carrier shall be subject to the responsibilities and liabilities and entitled to the rights and immunities set forth in the Hague-Visby Rules.

(3) Subject to Clause 3(5),

(a) This Bill of Lading and the contract contained or evidenced in this Bill of Lading shall be construed and applied according to and be governed by the laws in force in the State of Victoria, Australia.

(b) No action or proceeding in respect of a dispute or claim arising under or in connection with this Bill of Lading or the contract contained or evidenced herein (including a claim against the Carrier for loss or damage to or in connection with Goods) shall be brought before any court or tribunal except an Australian court save that the Carrier alone may at its option bring any such action or proceeding in some other jurisdiction.

(4) No provision of this Bill of Lading shall in any way deprive the Carrier of or derogate from rights, immunities or protection, or increase the responsibilities or liabilities which, in the absence of such provision, the Carrier would have under laws made applicable by the foregoing provisions or any other applicable laws in force in any place where any action or proceeding is brought by or against the Carrier in respect of a dispute or claim arising as aforesaid, or elsewhere;

(5) If any provision of this Bill of Lading be to any extent repugnant to legislation hereby made applicable or other applicable laws in force in a place where any such action or proceeding is brought that provision shall to the extent only to which it is repugnant to such legislation and not further, be deemed not to form part of this Bill of Lading or the contract contained or evidenced herein, but in all other respects this Bill of Lading and such contract shall continue in full force and effect.

4. (SUB-CONTRACTORS, SUB-AGENTS AND AGENTS)

(1) In addition to all other liberties given to the Carrier hereunder, the Carrier shall be entitled to sub-contract on any terms to any person (hereinafter called a "sub-contractor") and/or to entrust to any servant or agent (including any independent contractor employed at any time by the Carrier) the whole or any part of the carriage covered by this Bill of Lading, including any loading, unloading, storing, warehousing, and handling of Goods, and/or any and all duties and functions whatsoever in relation to Goods undertaken or authorised to be undertaken by the Carrier under the terms hereof or otherwise expedient in the Carrier's opinion for or in connection with the carrying out of the contract contained or evidenced herein.

In Clauses 4(2), (3), (4) and (5) "Carrier's employee" means any person who is a sub-contractor, servant or agent of the Carrier (including any independent contractor at any time employed by the Carrier) and any servant or agent of any such person and includes, without affecting the generality of the foregoing, every person to whom any part of the carriage covered by this Bill of Lading or any duties or functions are sub-contracted or entrusted by the Carrier pursuant to this Clause.

(2) It is hereby expressly agreed that no Carrier's employee shall in any circumstances whatsoever be under any liability whatsoever to the Shipper, Consignee or any other Merchant for any loss or damage or delay of whatsoever kind arising or resulting directly or indirectly from any act neglect or default on his part in connection with the Goods or otherwise howsoever in connection with the carriage covered by this Bill of Lading.

(3) Without prejudice to the generality of Clause 4(2), every exception, limitation, condition and immunity of whatsoever nature applicable to the Carrier or to which the Carrier is entitled under the provisions of this Bill of Lading shall also be available and shall extend to protect every Carrier's employee.

(4) For the purpose of all of the provisions of Clauses 4(2) and (3), the Carrier in making the contract contained or evidenced herein is and 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 Carrier's employees and all such persons shall to this extent be or be deemed to be parties to the contract contained or evidenced in this Bill of Lading.

(5) In consideration of the Carrier accepting the liabilities and responsibilities provided under the terms of this Bill of Lading, each Merchant hereby undertakes to the Carrier to make no claim of any description against any Carrier's employee for or in respect of any loss of or damage to or in connection with Goods or any other loss damage or delay whatsoever which occurs during or by reason of any act neglect or default whatsoever on the part of any Carrier's employee in connection with the Goods or otherwise howsoever in connection with the carriage covered by this Bill of Lading, and to indemnify the Carrier against and pay to the Carrier any amount which the Carrier may pay to any Carrier's employee upon a demand made upon the Carrier by that Carrier's employee for indemnity against or reimbursement of any amount recovered by that Merchant under a claim brought against that Carrier's employee contrary to the undertaking hereinbefore contained (whether or not the Carrier was legally liable to make such payment upon such demand being made upon it).

5. (SCOPE OF CARRIAGE AND CARRIER'S LIBERTIES)

(1) Goods may be transported and/or forwarded by the Carrier from the place of receipt to the place of delivery by any route or routes whatsoever (whether or not the customary or intended or advertised or shortest route or routes) via any place or places whatsoever (whether or not including the Port of Loading (Ocean Vessel) if that is not the place of receipt, or the Port of Discharge (Ocean Vessel) if that is not the place of delivery).

Any Vessel or Conveyance may at any time and for any reason and without any notice to any Merchant proceed and carry Goods to and call and remain for any length of time at any place or places whatsoever (whether in or out of the advertised or customary or shortest route or order and although in proceeding thereto such Vessel or Conveyance may proceed and carry Goods beyond the place of delivery or in a direction contrary thereto or back to the place of receipt or any other place) once or more often in any order. Any Vessel may before or after proceeding towards its intended destination or port of discharge adjust compasses and other navigational instruments, dry dock, go on ways or repair yards, shift berths, take fuel or stores, embark or disembark any person, carry contraband, explosives, munitions, warlike stores, hazardous goods, remain in port, sail with or without pilots, tow and be towed, and save or attempt to save life or property.

(2) Whether arranged beforehand or not, and without limiting the generality of Clause 5(1), the Carrier shall be at liberty without notice to any Merchant to perform the whole or any part of the carriage covered by this Bill of Lading by transporting and/or forwarding the whole or any part of the Goods at any time or place by the Intended Ocean Vessel or any other vessel(s), craft, lighter(s) and/or other means of water transportation and/or any means of transportation by land or air, whether owned or operated by the Carrier or others and whether departing, arriving or scheduled to depart or arrive at any place before or after the Intended Ocean Vessel.

The Carrier may also at any time and from time to time without notice to any Merchant and as may be considered by Carrier in its absolute discretion to be necessary or expedient in connection with the carriage covered hereby trans-ship, land or otherwise unload Goods at any port or place for any purpose and store Goods by any means of storage either on shore or afloat at any port or place for any purpose.

(3) The Carrier shall have liberty to comply with any directions or recommendations as to loading, departure, arrival routes, ports of call, stoppages, discharge, destination, delivery or otherwise howsoever given by any person acting or purporting to act with the authority of any government, international organisation or any department thereof, or by any committee or person having, or purporting to have, under the terms of any insurance on a Vessel or Conveyance the right to give such directions or recommendations.

(4) Anything done or occurring within the terms of the rights, powers and liberties provided in Clauses 5(1), (2) and (3) (which rights, powers and liberties shall not be deemed to be restricted by any provision appearing elsewhere in this Bill of Lading or by any other matters or circumstances whatsoever) and any delay arising therefrom shall be deemed to form part of the carriage covered by this Bill of Lading and shall not constitute a deviation or otherwise render the Carrier liable for any resulting loss or damage suffered by any Merchant or other person.

6. (ALTERNATIVE DISCHARGE)

(1) If by reason of or in compliance with, any directions or recommendations as aforesaid in Clause 5(3) a Vessel or Conveyance does not proceed to any port or place to which it was originally intended to proceed the Vessel or Conveyance may proceed to any other port or place which the Carrier or the Master of the Vessel or person in charge of the Conveyance at its or his discretion may select and there discharge the Goods.

(2) If in the opinion of the Carrier or Master of a Vessel or person in charge of a Conveyance the performance of the carriage covered hereby or any voyage or journey undertaken or proposed to be undertaken in furtherance thereof is or threatens to be unsafe, unlawful, impracticable or inadvisable by the imminence or existence of war, warlike operations or hostilities, or sanctions imposed by or against any Government or State or cessation or prohibition of intercourse commercial or otherwise between any nations, Container(s) may be devanned and/or Goods may be discharged at any port or place whatsoever (including the port or place of loading of such Vessel or Conveyance) at the discretion of the Carrier or of such Master or person, at the risk of Merchant.

(3) If on account of actual or threatening epidemics, blockade, quarantine, ice, riots, strikes, lockouts, labour troubles, interdict, port congestion, civil commotions, difficulties in loading or discharge, need of repair of a Vessel or disability and/or unseaworthiness of a Vessel, or any other cause or event whatsoever, the Carrier or the Master at any time is in doubt as to whether such Vessel can safely and without delay or detention, reach, enter or leave, its intended port of loading or reach or enter its intended destination or port of discharge or there discharge in the usual manner, or proceed thence on its intended voyage safely or without delay or detention, Container(s) may be devanned and/or Goods may be discharged at such Vessel's intended port of loading or at any other port or place whatsoever at the Carrier's or Master's discretion, at the risk of the Merchant.

(4) In any of the events referred to in Clauses 6(1), (2) and (3) the Carrier may retain the Goods at the port or place at which they are discharged and postpone the carriage of the whole or any part thereof hereunder until some later date. Whilst Goods are so retained they shall be entirely at the Merchant's risk and the Carrier shall not be responsible for them in any way.

(5) The Carrier shall be entitled to reasonable extra compensation in the event of diversion, delay or detention of a Vessel carrying Goods under any of the circumstances hereinbefore provided, and in respect of discharge and/or retention of Goods as hereinbefore provided and any services rendered thereto during or in connection with any such diversion, delay, detention, discharge and/or retention, and shall have a lien on such Goods for such compensation.

In addition the Carrier may, upon Goods being discharged as hereinbefore provided or at any time thereafter, elect without notice to any Merchant to treat the contract contained or evidenced herein as at an end, whereupon the port or place at which such Goods have been discharged or are situated when such election is made shall be deemed to be the place of delivery and the Merchant shall take delivery of such Goods thereat and pay all additional costs and expenses of such delivery and all of the Carrier's obligations and responsibilities in respect of such Goods shall be discharged upon the Carrier making such election and delivering or making such Goods available for delivery at such port or place as aforesaid.

In the event that after making such election the Carrier makes arrangements to store any of the Goods at and/or trans-ship and/or forward any thereof to the place of delivery or the Port of Discharge (Ocean Vessel), it shall do so as agent only for and at the sole risk of the Merchants without any liability whatsoever in respect of such agency and each Merchant shall be liable to recompense the Carrier forthwith upon demand for all extra freight charges and extra expenses thereby incurred.

7. (MISLAID GOODS)

In case Goods cannot be found at the place of delivery or if they be mis-carried, they, when found, may be forwarded to the place of delivery at the Carrier's expense but the Carrier shall not be responsible for any loss, delay, depreciation or damage arising from such mis-carriage and/or forwarding.

8. (CARRIER'S RESPONSIBILITY)

(1) The Carrier is not a common carrier and reserves the right to accept or refuse articles for carriage in its sole discretion.

(2) Except as otherwise provided herein, the Carrier's responsibility for Goods shall commence at the time when such Goods are received by the Carrier at the sea terminal at the Port of Loading and shall terminate when such Goods are delivered by or on behalf of the Carrier in accordance with Article 19 at the intended Port of Discharge.

(3) Notwithstanding the preceding paragraph, where the space(s) entitled "Place of Receipt" and/or "Place of Delivery" on the face hereof are completed, the contract contained in or evidenced by this Bill of Lading is for through transportation from and/or to the place(s) so named and the Carrier's responsibility shall then commence at the time when the Goods are received at the Place of Receipt so named (if any) and/or terminate when the Goods are delivered in accordance with Article 19 at the Place of Delivery so named (if any).

(4) The Carrier shall not under any circumstances be liable for loss or damage arising or resulting from fire, unless caused by the actual fault or privity of the Carrier, Act of God, act of war, act of public enemies, arrest or restraint of princes rulers or people or seizure under legal process, quarantine restrictions, act or omission of a Merchant or the agent or representative of a Merchant, strikes or lock-outs or stoppage or restraint of labour from whatever cause, whether partial or general, riots and civil commotions, saving or attempting to save life or property, wastage in bulk or weight or any other loss or damage arising from inherent defect, quality or vice of Goods, insufficiency of packing, insufficiency or inadequacy of marks, latent defects in any vessel, vehicle, conveyance, Container, cargo carrying equipment or other plant or equipment, terminal, store or premises whatsoever, not discoverable by due diligence. The Carrier shall not be responsible for any direct or indirect loss or damage which is caused through delay.

(5) Subject to paragraph (4) above, the Carrier shall be liable for loss or damage of whatsoever nature and howsoever arising to the extent following but no further:

(i) Upon proof that the loss or damage arose out of a part of the carriage covered by this Bill of Lading which is subject to the Hague-Visby Rules, in which case the Hague-Visby Rules shall apply, or

(ii) Upon proof that loss or damage to Goods not falling within (i) above, arose out of the handling or carriage of the Goods by a sub-contractor or agent of the Carrier in which case the liability of the Carrier shall be limited to that amount at the time of such proof recoverable by the Carrier from the sub-contractor or agent in respect of such loss or damage, provided that if such loss or damage to Goods is proved to have arisen in the course of inland transportation by the sub-contractor or agent, the Carrier shall not in any event have any greater liability to any Merchant(s) than that which such sub-contractor or agent would have had if it had made a separate and direct contract with such Merchant(s) in respect of such inland transportation, except that if any part of such inland transportation is by water, the liability of the Carrier in respect thereof shall be in accordance with the Hague-Visby Rules, or

(iii) In case of any loss or damage to Goods not falling within (i) or (ii) above in which case the loss or damage shall be deemed to have arisen at sea and the Carrier shall be responsible according to the Hague-Visby Rules.

9. (CONTAINER PACKED BY MERCHANT)

(1) Where any Goods are received by the Carrier in or on any Container(s) the contract or evidenced herein, so far as it relates thereto, is and shall be deemed to be for the carriage of such Container(s) and the contents thereof and the following provisions of this Conditions shall apply.

(2) The acknowledgment of receipt by the Carrier on the front hereof is confined to the number and apparent order and condition of the Container(s) received, and any statements on this Bill of Lading relating to marks and numbers, number and kind of packages or pieces, description, quantity, condition, weight, measure, nature, kind, value or other particulars of the contents of the Container(s) are as furnished by the Shipper and are unknown to the Carrier and the Carrier accepts no liability in respect thereof.

Each Merchant shall be deemed to have warranted to the Carrier the accuracy of those particulars and undertakes to indemnify the Carrier on demand against all loss, damage, expenses, penalties and fines arising or resulting from any inaccuracy thereof.

(3) Each Merchant accepts complete responsibility for the packing and stuffing of the contents of the Container(s) the closing and sealing thereof and the fitness of the Container(s) and the contents thereof for carriage in accordance with the terms of this Bill of Lading including Condition 13. Each Merchant shall be liable and hereby undertakes to indemnify the Carrier against any kind of loss, damage, expenses, liabilities, penalties, and fines directly or indirectly suffered by the Carrier arising from any improper or inadequate packing, stuffing, closing or sealing or unfitness of the Container(s) or the contents thereof.

(4) The Carrier shall be entitled (but under no obligation) to open any of the Container(s) and to inspect the contents or any part thereof without notice and at any time or place.

(5) Each Container shall be properly sealed and the seal identification reference as well as the Container reference shall be shown herein. In case the seal of any Container is broken by the customs or other authorities for inspection of such Container or the contents or any part thereof, the Carrier shall not be liable for any loss or damage or any other consequences arising or resulting therefrom.

10. (CONTAINER PACKED BY CARRIER)

(1) Where Goods are received by the Carrier not in or on any Container(s) the following provisions of this Condition apply.

(2) The Carrier shall be at liberty to pack and transport and/or forward the Goods in or on any Container(s).

(3) Any statements on this Bill of Lading relating to marks, numbers, description, quantity, quality, weight, measure, nature, kind, value or other particulars of the Goods including particulars of a contract of sale or letter of credit furnished by the Shipper and are unknown to the Carrier and the Carrier accepts no responsibility therefor. Such particulars are not to be regarded as a declaration of the value of the goods unless specified by ANL to be the value of the goods. Each Merchant shall be deemed to have warranted to the Carrier the accuracy of those particulars and shall indemnify the Carrier against all loss, damage, expenses, penalties and fines arising and resulting from inaccuracy thereof.

11. (CARRIER'S CONTAINERS)

(1) The Shipper shall inspect Container(s) which are lent, leased or howsoever otherwise furnished by or on behalf of the Carrier before packing Goods into or onto them, and any such Container(s) packed by the Shipper shall be deemed to have been accepted by the Shipper as being in sound and suitable condition for the purpose of the carriage covered by this Bill of Lading and no Merchant shall have any rights whatsoever against the Carrier for or in respect of any loss of or damage to Goods due to insufficient or unsound condition of Container(s) howsoever arising.

(2) Each Merchant shall assume full responsibility and indemnify the Carrier for any loss of or damage to any Container(s) furnished by or on behalf of the Carrier which occurs during the period between furnishing the Container(s) to the Shipper or his servants or agents and receipt of the Container by the Carrier for shipment at the Port of Loading or, in the case of Combined Transport, the Place of Receipt; and between the period from the delivery of the Container(s) to the Merchant at the Port of Discharge, or in the case of Combined Transport, at the Place of Delivery and the return of the empty Container to the Carrier at the Place of Empty Return or such other place as nominated by the Carrier.

(3) The Carrier shall not in any event be liable for and each Merchant shall be jointly and severally liable to indemnify and hold the Carrier harmless from and against any loss of or damage to property or other persons or injuries to other persons caused by Container(s) furnished by or on behalf of the Carrier or contents thereof during the period between furnishing the Container(s) to the Shipper or his servants or agents and receipt of the Container by the Carrier for shipment at the Port of Loading or, in the case of Combined Transport, the Place of Receipt; and between the period from the delivery of the Container(s) to the Merchant at the Port of Discharge, or in the case of Combined Transport, at the Place of Delivery and the return of the empty Container to the Carrier at the Place of Empty Return or such other place as nominated by the Carrier.

(4) The Merchant is responsible for returning the empty Container(s), in the same order and condition as lent, leased or howsoever otherwise furnished to the Shipper, his servants or agents, with interiors clean and in every respect fit for immediate reuse, to the point or place designated by the Carrier, his servants or agents within the time prescribed in the Carrier's tariff or elsewhere. If the Merchant fails to return the Container(s) within the time prescribed, the Merchant shall be liable for the payment of Container demurrage at the rates prescribed in the Carrier's tariff or elsewhere until the Container(s) is returned to the Carrier.

(5) Container(s) lent, leased or howsoever otherwise furnished to the Shipper, his servants or agents, for packing shall be returned to the Port of Loading or, in the case of Combined Transport, the Place of Receipt within the time prescribed in the Carrier's tariff or elsewhere. If the Shipper, his servants or agents, fail to return the Container(s) within the time prescribed, the Merchant shall be liable for the payment of Container demurrage at the rates prescribed in the Carrier's tariff or elsewhere until the Container(s) is returned to the Carrier.

12. (SPECIAL CONTAINER)

(1) The Carrier shall not undertake to carry Goods in refrigerated, insulated, ventilated and other special Container(s) (hereinafter called "special Containers") and all Goods (including Goods received in special Containers packed by or on behalf of the Shipper) shall be treated and carried as ordinary Goods, unless special arrangements for the carriage of those Goods as special cargo have been previously agreed to between the Carrier and the Merchant and the Carrier's undertaking to carry the said Goods as special cargo is stated on the face hereof and extra freight as required by the Carrier has been paid.

(2) Where the Carrier agrees to the carriage of Goods as special cargo and the Shipper requests in writing a particular temperature range and it is accepted by the Carrier, the Carrier will if requested by the Shipper to do so, set thermostatic controls within the requested temperature range, but the Carrier does not undertake that such temperature will be maintained within the special Container(s) and shall not be liable for any loss or damage to or in connection with Goods resulting from failure to carry Goods at the requested temperature range. The Shipper warrants that the Goods have been properly stowed in the Container and that the thermostatic controls have been set correctly and in accordance with its instructions before receipt of the Goods by the Carrier and that, as required, the Goods have been properly pre-chilled and/or frozen (as the case may be) before loading into the Container. The Merchant acknowledges and agrees that special Containers are not designed to freeze or chill cargo.

(3) Where the Carrier agrees to the carriage of Goods as special cargo, all of the provisions of this Bill of Lading shall continue to apply and have full effect with respect to such carriage except only to the extent that the contrary is specifically provided in the special arrangements agreed as aforesaid and such contrary provision is expressly stated on the face hereof.

13. (STOWAGE, DECK CARGO, LIVE ANIMALS)

(1) Unless prior to or at the time of booking the Goods the Carrier receives a written instruction from the Shipper to carry Goods below deck, the Carrier has the right to stow and carry Goods under this Bill of Lading on or above the deck of any Vessel.

(2) When Goods are or are intended by the Carrier to be carried on or above the deck of any Vessel the Carrier shall not be required to note, mark or stamp hereon any statement of "on deck carriage", any custom to the contrary notwithstanding. When Goods not being live animals are carried on deck and this Bill of Lading contains no note, mark or stamp stating such "on deck carriage", such Goods shall be deemed to be stowed under deck for all purposes including general average, and the Hague-Visby Rules and legislation applicable as provided in Condition 3 hereof shall apply accordingly.

(3) The Carrier shall not under any circumstances be liable in any capacity whatsoever for any non-delivery, mis-delivery, loss, delay or damage of whatsoever nature arising howsoever to or in connection with Goods which are carried on or above deck on any Vessel and herein stated to be so carried, subject to any legislation applicable as provided in Condition 3 hereof.

(4) Any live animals received by the Carrier hereunder shall remain at all times at the sole risk of the Merchants, and may be carried on above or under deck as the Carrier determines, and the Carrier shall not under any circumstances be liable in any capacity for any non-delivery, mis-delivery, loss, delay or damage of whatsoever nature arising howsoever to or in connection with such live animals.

14. (DANGEROUS GOODS AND CONTRABAND)

Goods of an inflammable, explosive, radioactive, corrosive, damaging, noxious, hazardous, poisonous, injurious, or dangerous nature must not be tendered for carriage hereunder unless written notice of their nature, name, label, classification and the method of rendering such Goods innocuous, with the names and addresses of the Shipper and Consignee, has been previously given to the Carrier and the nature of the Goods is distinctly marked on the outside of the Container(s), package(s) or piece(s) as required by applicable statutes or regulations. Every such written notice shall bear the certificate required by applicable statutes or regulations to certify that the Goods are properly described, packed and marked, and in proper condition for transportation according to the regulations prescribed by the competent authority. If any Goods tendered for carriage without previous written declaration and arrangement are or at any time become of the above mentioned nature or are or become contraband or prohibited by any law or regulations of any place or port of loading discharge or call during transit, whether any Merchant is aware thereof or not, such Goods, upon discovery of their nature or at any time thereafter, may be rendered innocuous, thrown overboard or discharged or left at any port or place, or be otherwise surrendered or disposed of at the discretion of the Carrier or of the Master of the Vessel or person in charge of the Conveyance without any liability attaching thereto and without prejudice to the Carrier's right to freight and any other charges payable hereunder. The foregoing provisions shall also apply to any such Goods tendered for carriage with such previous declaration and arrangement and which in the opinion of the Carrier or any servant, agent or sub-contractor of the Carrier have or are likely to become dangerous to the Carrier, or any Vessel, Conveyance, or cargo or property or person. Each Merchant shall be separately liable to indemnify the Carrier against any kind of loss, damage, expenses, fines or liability directly or indirectly incurred by the Carrier which may be caused by or result from such Goods or arising out of the same being tendered. The Carrier reserves the right but shall have no obligation, to devan Container(s) in which any such Goods have been packed by or on behalf of a Merchant and examine the contents thereof and arrange for re-stowage, recooperage or reconditioning at the discretion of the Carrier or any Master or person in charge as aforesaid but at Merchant's risk and expense.

15. (VALUABLE GOODS)

The Carrier shall not be liable to any extent for any loss or damage howsoever arising to or in connection with platinum, gold, silver, jewellery, radioisotypes, precious metals, precious stones, precious chemicals, bullion, specie, currency, securities, negotiable instruments, writings, documents, pictures, embroideries, works of art, curios, heirlooms, collection of every nature or any other valuable Goods whatsoever including goods having particular value only for the Merchant, unless the true nature and value thereof have been declared in writing by a Merchant before receipt of the Goods hereunder by the Carrier and inserted in this Bill of Lading, and unless ad-valorem freight has been fully prepaid thereon.

16. (GENERAL AVERAGE, NEW JASON CLAUSE)

In respect of any part or parts of the carriage covered by this Bill of Lading which are or may be intended by the Carrier to be performed by sea on board any Vessel general average shall be adjusted, stated and settled at Melbourne, Australia, or any other port or place at the Carrier's option, according to the York-Antwerp Rules 1974 as amended, and as to matters not provided for by those Rules according to laws and usages of the port or place of adjustment, and in the currency selected by the Carrier. The general average statement shall be prepared by the adjusters appointed by the Carrier. Average agreement or bond and such cash deposit as the Carrier may deem sufficient to cover the estimated contribution of the Goods, and any salvage and special charges thereon, and any other additional securities as the Carrier may require shall be furnished to the Carrier by the Merchant to whom Goods are to be delivered hereunder before delivery thereof is made to such Merchant by the Carrier. In the event of accident, danger, damage or disaster, before or after commencement of a voyage, resulting from any cause whatsoever, whether due to negligence or not, for which or for the consequence of which the Carrier is not responsible by statute, contract or otherwise, the Goods and the owners thereof shall contribute with the Carrier in general average to the payment of any sacrifices, losses or expenses of a general average nature that may be made or incurred and shall pay salvage and special charges incurred in respect of the Goods. If a salving ship is owned or operated by the Carrier, salvage shall be paid for as fully and in the same manner as if such salving ship or ships belonged to strangers. Each Merchant shall be separately liable for the whole of the contribution of the Goods and the owners thereof under the foregoing provisions.

17. (BOTH TO BLAME COLLISION)

If a Vessel comes into collision or contact with another ship as a result of the negligence of the other ship, and any act, neglect or default of the Master, mariner, pilot or the servants of the Carrier or of the owner of the Vessel in the navigation or in the management of the Vessel each Merchant will be separately liable to pay to the Carrier or where the Carrier is not the owner of the Vessel, to pay to the Carrier (as trustee for itself and the owners or demise charterer of the Vessel) a sum sufficient to indemnify the Carrier and the owners or demise charterer of the Vessel against all loss or liability incurred directly or indirectly by the Carrier the Vessel and/or the owners or demise charterer thereof to the other or non-carrying ship or her owners insofar as such loss or liability represents loss of or damage to or any claim whatsoever of any Merchant paid or payable by the other non-carrying ship or her owners to such last mentioned Merchant and set-off, recouped or recovered by the other or non-carrying ship or her owners as part of any claim by them against the Carrier or the Vessel or owners or demise charterer thereof.

The foregoing provisions shall also apply where the owners, operators or those in charge of any ship or ships or objects other than, or in addition to, the colliding ships or objects are at fault in respect of a collision or contact.

18. (MARKS, SWEEPINGS AND SEPARATION)

Each Container, package, piece or unit comprised in the Goods shall be clearly and durably marked or stamped in letters and numbers not less than five centimetres high, together with the name of the Port of Discharge (Ocean Vessel) and such marks shall correspond with the particulars appearing on the front of this Bill of Lading and shall also in all respects comply with all laws and regulations in force at either that port or the place of delivery. Otherwise the Carrier shall not be liable for delay in or failure of delivery in accordance with marks. In no circumstances will the Carrier accept responsibility for delivery in accordance with other than leading marks. All goods and cargo which cannot be identified as to leading marks, goods out of or separated from their Containers or packages, cargo sweepings, liquid residue and any unclaimed goods and cargo not otherwise accounted for shall be allocated for completing delivery to the various consignees and deliveries of goods and cargo of like character. In proportion to any apparent shortage loss of weight or damage and such goods and cargo or parts thereof shall be accepted as good delivery. Loss of or damage to Goods in bulk without separation from other goods or cargo in bulk of like quality, shipped by either the same or another Merchant, shall be divided in proportion among the several shipments. If any bagged or baled Goods are discharged slack or torn the Merchant to whom delivery is made shall accept his proportion of the sweepings. The Carrier shall not be responsible for loss of weight in bags or bales torn, mended or with sample holes.

19. (NOTIFICATION AND DELIVERY)

(1) The Carrier shall have a right to deliver Goods at any time from or at a Vessel's side, Conveyance, craft, custom-house, warehouse, wharf, quay or other place or point designated by the Carrier at or in the vicinity of the place of delivery.

(2) Any mention herein of parties to be notified of the arrival of Goods is solely for information of the Carrier and failure to give such notification shall not involve the Carrier in any liability nor relieve any Merchant of any obligation hereunder.

(3) Delivery of Goods to a holder of this Bill of Lading duly presenting the same or another person assuming or entitled to possession of such Goods of this Bill of Lading or to an agent, servant, inland carrier or other designee of such holder or other person at the Carrier's terminal or elsewhere designated by the Carrier at or in the vicinity of the place of delivery as provided in Clause 19(1) shall constitute complete and final discharge of the Carrier's obligations hereunder and the Carrier's liability and responsibility for and in respect of such Goods shall thereupon cease entirely.

(4) If Goods are delivered to or taken into the custody of customs or other government officials, such action shall constitute complete and final discharge of the Carrier's obligations hereunder.

(5) If Goods are not claimed immediately upon being made available by the Carrier at the place at which they are to be delivered hereunder, the Carrier shall not thereafter have any further responsibilities or liability in respect of those Goods. However, the Carrier shall be entitled to recover from the Merchant all storage charges becoming due under the Carrier's applicable tariff in respect of any time for which such Goods may be held by the Carrier at such place for delivery and shall also be entitled at its absolute discretion, and subject to the Carrier's lien, to store, sell by public auction or private treaty, abandon, or otherwise dispose of or deal with such Goods as it thinks fit at the sole risk at all times of the Merchant(s) owning and/or entitled to possession of such Goods. If any such Goods are delivered into store, storage costs shall be to the Merchant's account and the Carrier shall be under no liability therefor but the Carrier shall be entitled to recover from any Merchant on demand any costs of such storage which it may elect to pay on the Merchant's behalf.

(6) If Goods have been packed or stowed into Container(s) by any Merchant(s) or any agent(s) servant(s) or consolidator(s) or inland carrier(s) on behalf of the Merchant(s), the Carrier shall not be required to separate or deliver according to brands, marks, number, sizes or types of articles or pieces contained in such Container(s) but only to deliver the total number of Container(s) shown on the face hereof.

(7) Optional delivery shall only be granted if arranged at the time of receipt of the Goods by the Carrier and expressly provided for herein and a Merchant entitled and desiring to avail himself of any option so arranged and provided for must exercise the same by notice in writing given to the Carrier or its agent at the first optional port or place of delivery named herein at least 48 hours prior to the arrival of the Goods thereat, otherwise the Goods may be landed at any of the optional ports or places of delivery at the Carrier's option and the Carrier's responsibility shall then cease.

(8) The Merchant irrevocably authorises the Carrier to enter upon any property owned or occupied by the Merchant for the purpose of recovering any equipment, including but not limited to Containers, leased or licensed to the Merchant by the Carrier.

20. (EXPENSES)

Each Merchant shall be severally liable for and to indemnify the Carrier and hold it harmless against all expenses for coopering, repairing, fumigating, repacking or reconditioning Goods, any payment, expense, fine, dues, toll, duty, tax or impost, loss, damage, detention, demurrage or liability of whatsoever nature sustained or incurred by or levied upon the Carrier in connection with Goods or because of failure by any Merchant to procure consular, Board of Health or other permits or any papers that may be required at any port or place in connection with Goods or to supply information or otherwise to comply with all laws and regulations in connection with Goods, or from any other act or omission of any Merchant, and also all damages, charges, legal fees and other expenses which the Carrier may incur in connection with attachments, seizures, executions, claims or legal proceedings of any description against Goods by third parties or any proceedings by way of interpleader or otherwise which the Carrier may bring to determine the right of ownership or possession in or to Goods and also any expenses or charges for regaining or attempting to regain possession of Goods. Each Merchant authorises the Carrier to pay and/or incur all such charges, expenses and to do any matters mentioned above at his expense and as his agent and engage other persons to regain or seek to regain possession of Goods and do all things deemed advisable for the benefit of Goods. Every Merchant and the Goods shall be separately liable for the payment of any sums due to the Carrier hereunder by any Merchant.

21. (FREIGHT AND CHARGES)

(1) The freight payable hereunder has been calculated and based on particulars of the Goods furnished by or on behalf of the Shipper. The Carrier shall be entitled at any time to reweigh, remeasure or revalue Goods and for this purpose to open and remove and examine the contents of any Container(s) and if the particulars furnished are found to be incorrect, the freight shall be adjusted accordingly and the Shipper and every other Merchant shall be severally liable for and bound to pay to the Carrier all expenses incurred in examining, reweighing, remeasuring or revaluing the Goods together with the excess (if any) of the adjusted freight over the amount previously paid.

(2) Freight shall be deemed earned on receipt of the Goods by the Carrier and shall be paid and retained by the Carrier under all circumstances whether any Goods, Vessel and/or Conveyance be lost or not lost. Full freight shall be paid on damaged or unsound Goods.

(3) Except to the extent (if any) to which they are inconsistent with any of the express terms of this Bill of Lading, the provisions of the Carrier's applicable tariff current at the time when the Goods were received by the Carrier for transportation and/or forwarding under this Bill of Lading which relate to freight contingencies, demurrage and charges payable in respect of the carriage covered hereby and matters associated therewith are incorporated into this Bill of Lading and form part of the contract contained or evidenced herein. Details of the relevant provisions of the applicable tariff may be obtained by any Merchant from the Carrier on request.

22. (LIEN)

The Carrier, its servants or agents shall have a lien on the Goods and any documents related thereto and a right to sell the Goods whether privately or by public auction for all Freight (including additional Freight payable under Clause 21), primage, deadfreight, pre-Carriage and/or inland Carriage whatsoever, demurrage, Container demurrage and storage charges, detention charges, salvage, general average contributions and all other charges and expenses whatsoever which are for the account of the Goods or of the Merchant and for the costs and expenses of exercising such lien and of such sale and also for all previously unsatisfied debits whatsoever due to the Carrier by the Merchant.

The Carrier, its servants or agents shall also have a lien on the Goods carried under this Bill of Lading and any document relating thereto for all sums including Freight and charges as above mentioned due and outstanding on any other contracts for the carriage of Goods concluded between the Carrier, its servants or agents and the Merchant, at any time where such sums or Freights remains due and unpaid.

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 its sole discretion and subject to its lien and without responsibility, auction, sell, abandon or otherwise dispose of such Goods solely at the risk and expense of the Merchant. Nothing in this Clause shall prevent the Carrier from recovering from the Merchant the difference between the amount due to the Carrier by the Merchant and the amount realised by the exercise of the rights given to the Carrier under this Clause.

23. (LIMITATION OF LIABILITY)

(1) All claims for which the Carrier may be liable shall be adjusted and settled on the basis of the Shipper's net invoice cost plus freight and insurance premium if paid, and in no event shall the Carrier be liable for delay or for any loss of possible profit or consequential loss of any description, subject to any legislation applicable as provided in Condition 3 hereof.

(2) Subject to any contrary provisions of the Hague-Visby Rules or any legislation applicable as provided in Condition 3 and Clause 10(3):

(a) the Carrier shall not under any circumstances whatsoever be liable for any loss or damage to or in connection with Goods in an amount exceeding Two hundred Australian dollars, or the equivalent of that amount in any other currency, for each Container, package, piece or unit of Goods received hereunder by the Carrier as shown in the space marked † on the front hereof unless a value of the Goods higher than this amount has been declared in writing by the Shipper before receipt of the Goods by the Carrier and expressly stated in this Bill of Lading by ANL and extra freight has been paid; and

(b) if the actual value of any such Container, package, piece or unit exceeds any value so declared, the value shall nevertheless be deemed to be the declared value and the Carrier's liability, if any, in respect thereof shall not exceed the declared value and any partial loss or damage shall be adjusted pro rata on the basis of such declared value, provided however that the Carrier shall not be liable or responsible in any event to pay any compensation for loss or damage to or in connection with Goods if a declared value thereof is shown herein which has been knowingly mis-stated by the Shipper.

Where Goods have been packed or stowed into Container(s) by or on behalf of any Merchant(s) it is expressly agreed that the number of Container(s) shown on the face hereof shall be considered as the number of packages, pieces or units for the purposes of application of limitation of liability under the Hague-Visby Rules legislation applicable as aforesaid, and/or the provisions of this Bill of Lading.

This Condition applies in addition to and shall not be construed as derogating from any defence or exclusion, restriction or limitation of liability available to the Carrier under the terms of this Bill of Lading or otherwise.

24. (PERIOD OF CLAIMS)

Subject to the Hague-Visby Rules, any claim by any Merchant in respect of loss or damage against the Carrier must be notified in writing to the Carrier within seven days from the delivery of the Goods or the date when the Goods should have been delivered and any claim not so notified shall be deemed to be waived and absolutely barred. Further all liability whatsoever of the Carrier shall in any event cease unless suit is brought within one year after delivery of the Goods or the date when the Goods should have been delivered.

25. ("ON BOARD" ENDORSEMENT)

The words "Shipped on Board" appearing on the front hereof have no force or effect, and shall not be construed as an acknowledgment or endorsement by or on behalf of the Carrier, unless they are or have been dated and signed by a person duly authorised by the Carrier in that behalf. Where the said words are so dated and signed they shall stand as an acknowledgment on behalf of the Carrier of the Goods having been received on board a Vessel on the date shown, upon and subject always to all of the terms and conditions appearing on the front and back hereof.

26. (TIMBER)

Any statement hereon that timber has been shipped in apparent good order and condition does not involve any admission by the Carrier as to the absence of stains, warps, shakes, splits, holes or broken pieces, and this clause shall be deemed to constitute express notice to all persons taking delivery of the terms of this Bill of Lading that such timber does or may contain pieces so affected.

27. (USA AND CANADA)

(1) If the Carriage covered by this Bill of Lading includes Carriage to, from or through a port or place in the United States of America, this Bill of Lading shall be subject to the United States Carriage of Goods by Sea Act 1936 (US COGSA) or if this Bill of Lading governs Carriage to or from Canada, it shall have effect subject to the provisions of the Carriage of Goods by Water Act of Canada (COGWA), the terms of which are incorporated herein and shall be paramount throughout Carriage by sea and the entire time that the Goods are in the actual custody of the Carrier or his Sub-contractor at the sea terminal in the United States of America or Canada before loading onto the vessel or after discharge therefrom, as the case may be. As thus applied other than at sea, US COGSA or COGWA is applied to determine the liability of the Carrier who shall be entitled to the benefits of the defences and limitations therein, notwithstanding that loss did not occur at sea.

(2) The Carrier shall not be liable in any capacity whatsoever for loss, damage, delay, non-delivery or misdelivery of or to the Goods while the Goods are in the United States of America or Canada away from the sea terminal and are not in the actual custody of the Carrier. At these times the Carrier acts as agent only to procure Carriage by Persons (one or more) under the usual terms and conditions of those Persons. If, for any reason, the Carrier is denied the right to act as agent only at these times, his liability for loss, damage, delay, non-delivery or misdelivery of or to the Goods shall be determined in accordance with Clause 8 hereof.

(3) If this Bill of Lading is accepted by a groupage agent acting as a non vessel operating common carrier (NVOCC), who has in turn issued other contracts of Carriage to third parties, said NVOCC hereby warrants that all contracts of Carriage issued by him in respect of Goods the subject of this Bill of Lading shall incorporate the terms and conditions of this Bill of Lading. Said NVOCC further agrees to indemnify the Carrier, his servants, agents and sub-contractors against all consequences of his failing so to incorporate.

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