

PART 1: General Conditions

1. Application

1.1 Subject to Clause 1.2, all services of the Company whether gratuitous or not are undertaken subject to these Conditions and not otherwise and:
(a) The provisions of Part I shall apply to all such services.
(b) The provisions of Part II shall only apply to the extent that such services are provided by the Company as agents.
(c) The provisions of Part III shall only apply to the extent that such services are provided by the Company as principal.

1.2 Where a document is issued by or on behalf of the Company and bears the title of, or includes the words, "bill of lading" (whether or not negotiable), or sea or air "waybill" and provides that the Company contracts as carrier, the provisions set out in that document, if inconsistent with these Conditions, shall be paramount and prevail over these Conditions to the extent of such inconsistency but no further. In no event shall the provisions of these Conditions (or any of them) be of no effect unless in writing signed by a Director of the Company.

2. Provision of Services

2.1 All services are provided by the Company as agents only, except in the following circumstances where the Company acts as principal:
(a) Where the Company performs any carriage, handling or storage of Goods, but only to the extent that the carriage is performed by the Company itself or its servants and the Goods are in the actual custody and control of the Company or
(b) Where, prior to the commencement of the carriage of Goods, the Customer in writing demands from the Company particulars of the identity, services, charges of persons instructed by the Company to perform part or all of the carriage, and the Company fails to give the particulars demanded within 28 days. However, for the purposes of this subclause, the Company shall only be deemed to be contracting as a principal in respect of that part of the carriage which the Company fails to give the particulars demanded within 28 days.
(c) To the extent that the Company expressly agrees in writing to act as a principal, or
(d) To the extent that the Company is held by a court of law to have acted as a principal.

2.2 Without prejudice to the generality of Clause 2.1,
(a) Where the Company provides services for any services whatsoever shall not in itself determine or be evidence that the Company is acting as a principal in respect of those services.
(b) The supplying by the Company of its own or leased equipment shall not in itself determine or be evidence that the Company is acting as agent or a principal in respect of any carriage, handling or storage of Goods.
(c) The Company acts as an agent where the Company procures a bill of lading, sea or air waybill or other document evidencing a contract of carriage between a person, other than the Company, and the Customer or Owner.

(d) The Company acts as an agent and never as a principal when providing services as a Customs Broker, including but not limited to customs requirements, taxes, licences, consular documents, certificates of origin, inspection, certificates and other similar services or when obtaining insurances for or on behalf of the Customer or relating to the Goods (other than where by law the Company is deemed to be an agent of the insurer) or when providing any other services whatsoever for or on behalf of the Customer.

2.3 The Company is not a common carrier and will accept no liability as such and it reserves the right to accept or refuse the carriage of any Goods or any other Service at its discretion. **3. DEFINITIONS**

In these conditions:
(a) "Incoterms" means Incoterms as published by the International Chamber of Commerce.

(b) "Customer" means any person at whose request or on whose behalf the Company provides a service;

(c) "Person" includes persons and bodies corporate;

(d) "Owner" includes the consignee of the Goods and any other person who is or may be interested in the Goods and anyone acting on their behalf;

(e) "Authority" means a duly constituted legal or administrative person, acting within its legal powers and exercising jurisdiction within any nation, state, municipality, port or airport;

(f) "Goods" includes the cargo and any container not supplied by or on behalf of the Company, in respect of which the Company provides services;

(g) "Container" includes any container, flexitank, trailer, transportable tank, flat, pallet or any article of transport used to carry or consolidate goods and any equipment of or connected thereto;

(h) "Dangerous Goods" includes goods which are or may become of a dangerous, inflammable, radioactive or damaging nature and goods likely to be dangerous or otherwise harmful;

(i) "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 as amended by the Visby Protocol of 23rd February 1968 and the SDRC Protocol of 21st December 1979;

(j) "Warehouse" means any place used for the storage of Goods or the provision of any services ancillary to the Goods including but not limited to moving, storing or leaving the Goods at any warehouse, terminal, yard, wharf or other place or area, loading or unloading the Goods from any vehicle, vessel or other conveyance, stowing or packing the Goods or fumigating, transhipping, inspecting or otherwise handling the Goods or anything done in relation thereto.

(k) "Incoterms" means the Incoterms as published by the International Chamber of Commerce;

(l) "Services" means the whole of the Services provided by the Company to the Customer and all incidental matters.

(m) "Warsaw Convention" means the Convention for the Unification of Certain Rules Relating to International Carriage by Air 1924 as amended by the Hague, 1955 and by Additional Protocols 1, 2 and 4, and the Montreal Convention 1999, supplemented by the Guadalajara Convention 1961 as applied by the law of New Zealand.

4. Obligations of Customer

4.1 The Customer warrants that it is either the Owner or the authorised agent of the Owner of the Goods and that it is authorised to accept and accepts these Conditions, not only for itself, but also as agent for and on behalf of the Owner.

4.2 The Customer warrants that it has reasonable knowledge of matters affecting the conduct of its business including, but not limited to, the terms of sale and purchase of the Goods and all other matters relating thereto.

4.3 The Customer shall give sufficient and executable instructions.

4.4 The Customer warrants that the description and particulars of the Goods are complete and correct.

4.5 The Customer warrants that the Goods are properly packed and labelled, except where the Customer has indicated otherwise in writing on the packing and/or labelling.

5. Special Instructions, Goods and Services

5.1 Unless agreed in writing, the Customer shall not deliver to the Company, or cause the Company to deal with or handle dangerous Goods.

5.2 If the Customer is in breach of Clause 5.1:
(a) The Customer shall be liable for all loss or damage whatsoever caused by or to in connection with the Goods whatsoever arising;
(b) The Customer shall defend, indemnify and hold harmless the Company against all penalties, claims, damages, costs and expenses of or in connection with the carriage, handling, storage or use of the Goods;
(c) The Company (or any other person in whose custody the Goods may be in at the relevant time) may, at the Customer's sole discretion, have the Goods destroyed or otherwise dealt with. For the purposes of this sub-clause, notice is not required to be given to any person of the intention to destroy or otherwise deal with the Goods.

5.3 If the Company agrees to accept Dangerous Goods and then it (or any other person) reasonably forms the view that those Goods constitute a risk to other goods, property, life or health, it may (without notice and without liability) have the Goods destroyed or otherwise dealt with at the expense of the Customer or the Owner.

5.4 The Customer undertakes not to tender for transportation any Goods which require temperature control without previously giving written notice of their nature and the particular temperature range to be maintained and, in the case of a temperature controlled Container stuffed by or on behalf of the Customer, the Customer further undertakes that:
(a) The Container has been properly pre-cooled or pre-heated as appropriate;
(b) The Goods have been properly stuffed in the Container; and
(c) The Container's thermostatic controls have been properly set by the Customer.

5.5 If the requirements of Clause 5.4 are not complied with the Company shall not be liable for any loss or damage whatsoever caused by or to in connection with the Goods.

5.6 Unless agreed in writing, the Company shall not be obliged to make any declaration for the purposes of any statute, convention or contract as to the nature or value of any Goods or as to any special interest in delivery or to make any declaration as to specific storage requirements of any Goods.

5.7 Unless agreed in writing or otherwise provided for under the provisions of a document signed by the Company, instructions relating to the delivery or release of Goods against payment or against surrender of a particular document shall be in writing and the Company's liability shall not exceed that provided for in such document.

6. Insurance

6.1 Insurance is the responsibility of the Customer.

6.2 The Company will arrange insurance of the Goods as the agent of the Customer only if there is an express written agreement to do so between the Customer and the Company. Any such insurance:
(a) Will be placed by the Company on the terms of the marine cargo open policy held by the Company. The full policy wording is available on request. The Company makes no representations and gives no advice regarding any aspect of the policy, including as to the suitability or appropriateness of the policy for the Customer's requirements, the policy's terms, conditions and exclusions, or as to the competitiveness of the premium. The Customer warrants that it relies solely on its own skill and judgment in accepting the policy on the terms offered.

(b) The insurer's liability for loss or damage to the insured shall have recourse against the insurers only and the Company shall not be under any responsibility or liability whatsoever in relation thereto, (c) The Customer acknowledges and agrees that the Company may pay the insurer an annual premium for its marine cargo policy, the effect of this being that the premium charged to the Customer may not be payable to the insurer. The Customer further acknowledges and agrees that in any event the premium policy may not be at the same rate as that charged by the Company or paid to the Company by the Customer; and that it will include a fee component for the service the Customer provides in securing insurance for the Customer. The Company shall be under no obligation to separately identify the fee component.

7. General Indemnities and Liabilities of the Customer and Owner

7.1 The Customer and Owner shall defend, indemnify and hold harmless the Company against all liability, loss, damage, costs and expenses whatsoever arising:
(a) From the nature of the Goods, other than to the extent caused by the negligence of the Customer or the Owner acting in accordance with the Customer's or Owner's instructions, or
(b) From a breach of warranty or obligation by the Customer or arising from the negligence of the Customer or Owner.

7.2 Except to the extent caused by the Company's negligence, the Customer and Owner shall be liable for their own defence and costs in connection with the Company in respect of all duties, taxes, imposts, levies, deposits and outlays whatsoever levied by any Authority and for all payments, fines, costs, expenses, loss and damage whatsoever incurred or sustained by the Company in connection therewith.

7.3 Advice and information, in whatever form it may be given, is provided by the Company for the Customer only and the Customer shall defend, indemnify and hold harmless the Company for all liability, loss, damage, costs and expenses arising out of any other person relying on such advice or information.

7.4 The Customer shall be liable for the loss, damage, contamination, soiling, detention or demurrage before, during and after the Carriage of property of:
(a) The Customer (including its servants and agents);
(b) The Company's servants, sub-contractors or agents;
(c) Independent contractors engaged by the Company for performance of part or all of the Services;
(d) Any person;
(e) Any person acting in accordance with the Customer's or Owner's instructions, or
(f) Any person acting as the Customer or Owner or any person acting on behalf of either of them or for which the Customer is otherwise responsible.

7.5 Instructions to collect payment on delivery in cash or otherwise are accepted by the Company upon an express condition that the Company shall be liable for the loss of such collection with the exercise of reasonable diligence and care only. Unless express written instructions are received that the Goods are not to be delivered without payment, the Company accepts no liability if, upon delivery of the goods, payment is not made.

8. Subcontractors

8.1 The Customer undertakes that no claim will be made against any servant, sub-contractor or agent of the Company which imposes or attempts to impose upon any of them any liability whatsoever in connection with the Goods. If any such claim should nevertheless be made, the Customer undertakes to indemnify the Company against all consequences thereof.

8.2 Without prejudice to the generality of Clause 8.1, every servant, sub-contractor or agent of the Company shall have the benefit of all provisions herein as if such provisions were expressly for their benefit. The Company enters into this contract not only on its behalf, but as agent and trustee for such servants, sub-contractors and agents.

8.3 The Customer shall defend, indemnify and hold harmless the Company from and against all claims, costs and demands whatsoever and by whomsoever made or preferred, in excess of the liability of the Company (howsoever arising) under these Conditions.

8.5 "Sub-contractors" includes direct and indirect sub-contractors and their respective employees, agents, servants and other agents.

9. Charges etc.

9.1 The Customer shall pay to the Company in cash, or as agreed, all sums immediately when due without deduction or deferment on account of any claim, counterclaim or set-off.

9.2 The Customer shall pay to the Company for container freight, duties, charges or other expenses from any person other than the Customer, the Customer:
(a) shall remain responsible for those amounts; and
(b) shall pay these amounts to the Company on demand where these amounts have become due and have not been paid by such other person.

9.3 On all accounts overdue to the Company, the Company shall be entitled to liquidated damages, calculated at 4 per cent above the base interest rate of the Company's bank applicable during the periods that such amounts are overdue.

9.4 The Customer shall be liable for and pay to the Company any additional costs or expenses the Company is reasonably entitled to incur in connection with the carriage, handling, storage or use of the Goods as a result of the Company relying upon the description and particulars provided by the Customer or by any other person, incorrect or insufficient marking, numbering or addressing of the Goods.

9.5 The Customer acknowledges that the Company has a pecuniary interest in all contracts entered into by the Company and that the Company, in respect of these Conditions and agrees that the Company may receive and retain all brokerage, commission, discounts, allowances and other remuneration paid by the other party to the contract and customarily received or retained by forwarding agents in addition to the sums referred to in paragraph 9.1, and need not disclose to the Customer the nature or amount thereof.

9.6 The Customer further acknowledges and agrees that where any amount charged by the Company in respect of any such services (or similar expression), such amount will include the Company's handling and administration fee in respect of the same and the fee is not required to be separately disclosed.

10. Liberties and Rights of the Company

10.1 Unless otherwise agreed in writing, the Company shall be entitled to enter into contracts on behalf of the Customer and without notice to the Customer:
(a) for the carriage of Goods by any route, means or person,
(b) for the carriage of Goods of any description, whether containerised or not, on or under the deck of any vessel,
(c) for the storage, packing, transhipment, loading, unloading or handling of Goods by any person at any place whether on shore or afloat and for any length of time,
(d) for the carriage or storage of Goods in containers or with other goods of whatever nature,
(e) for the performance of its own obligations, and to do such acts as the Company reasonably considers may be necessary to perform its obligations as a result of the Customer's instructions.

10.2 The Company shall be entitled (without incurring any additional liability), but shall be under no obligation, to depart from the Customer's instructions in any respect if the Company considers there is good reason to do so in the Customer's interest.

10.3 The Company may at any time cancel the orders or recommendations given by any Authority. The responsibility for liability of the Company in respect of the Goods shall cease on the delivery or other disposition of the Goods in accordance with such orders or recommendations.

10.4 The Company shall be entitled (but under no obligation) at any time and from time to time to inspect the Goods and for this purpose to open or remove any Containers.

10.5 If at any time the Company reasonably considers that the carriage of the Goods should not be undertaken or continued or only continued after effecting any necessary incidental matters or incurring additional expense or risk, the Company shall be entitled to:
(a) abandon the carriage of such cargo or to effect such additional incidental matters and incur such additional expense as may be reasonably necessary in order to enable the carriage to be effected or further effected; and
(b) be reimbursed by the Customer for the cost of all such additional incidental matters and all such additional expense incurred.

10.6 The Company (or any person whose services the Company makes use of) considers:
(a) the performance of the Company's obligations are likely to be affected by any hindrance, risk, delay, difficulty or disadvantage whatsoever; and
(b) the hindrance, risk, delay, difficulty or disadvantage cannot be avoided by reasonable endeavours of the Company or such other person, the Company may (upon giving notice in writing to the Customer or Owner) treat the performance of its obligations as terminated and may, at the Customer's expense, place the Goods or any part of them at the Customer's or Owner's disposal at any place which the Company deems safe and convenient.

10.7 The notice in writing referred to in Clause 10.6 is not required where it is not reasonably possible to give such notice.

10.8 Where the Customer exercises its rights and obligations under Clause 10.6, responsibility and liability of the Company in respect of the Goods shall terminate upon such termination.

10.9 Where the Company (or any person whose services the Company makes use of) is entitled to call upon the Customer to place the Goods at the designated time and place and delivery of the Goods, or any part thereof, is not taken by the Customer or Owner at the designated time and place the Company (or such other person) shall be entitled to store the Goods in the open or under cover at the sole risk and expense of the Customer.

10.10 If at any time the Company shall be entitled (but under no obligation) to sell or dispose of:
(a) all Goods which the Company considers cannot be delivered as instructed, but only upon giving 21 days' notice in writing to the Customer, and
(b) without notice, Goods which have perished, deteriorated or altered, or are in immediate prospect of damage, or which are or may be reasonably expected to cause loss or damage to any person or property or to contravene applicable regulations.

10.11 Where the Company sells or disposes of Goods pursuant to Clause 10.10 the Customer shall be responsible for any costs and expenses of the sale or disposal.

Both-Party-Blame

10.13. The Company shall have the right to enforce against the Owner and the Customer jointly and severally any liability of the Customer under these Conditions or to recover from them any sums to be paid by the Customer which upon demand have not been paid.

11.1 The Company shall have a particular and general lien on all Goods or documents relating to Goods in its possession the property of the Customer or Owner for all sums due at any time from the Customer or Owner (whether those sums are due from the Customer on those Goods or documents or otherwise) in respect of the Goods.

11.2 Where any sum due to the Company from the Customer or Owner remains unpaid, the Company, on giving 28 days notice in writing to the Customer, shall be entitled (without liability to the Customer and Owner) to sell or dispose of such Goods or documents by public auction or by private treaty at the risk and expense of the Customer or Owner and to apply the proceeds of any such sale or disposal in or towards the payment of the sums due.

12. Containers

12.1 If a Container has not been packed or stuffed by the Company, the Company shall not be liable for loss or damage to the contents if caused by:
(a) the unsuitability of the contents for carriage in Containers, unless the Company has approved the suitability,
(b) the unsuitability or defective condition of the Container, provided that where the Container has been supplied by or for the use of the Company this paragraph (c) shall only apply if the unsuitability or defective condition arose:
(i) without any negligence on the part of the Company; or
(ii) would have been apparent upon reasonable inspection by the Customer or Owner or person acting on behalf of either of them;
(c) the fact that the Container is not sealed at the commencement of the Carriage, except where the Company has agreed to seal the Container.

12.2 The Customer shall defend, indemnify and hold harmless the Company against all liability, loss, damage, costs and expenses arising from one or more of the matters referred to in Clause 12.1.

12.3 Where the Company is instructed to provide a Container, in the absence of a written request to the contrary, the Company is not under an obligation to provide a Container of any particular type or quality.

13. General Liability

13.1 The Customer and Owner shall, to the maximum extent permitted by law, the Company shall not be liable for any loss or damage whatsoever arising from:
(a) the act or omission of the Customer or Owner or any person acting on their behalf,
(b) compliance with the instructions given to the Company by the Customer, Owner or any other person acting on behalf of either of them,
(c) insufficiency of the packing or labelling of the Goods, except where such service has been provided by the Company,
(d) handling, loading, stowage or unloading of the Goods by the Customer or Owner or any person acting on behalf of either of them, where the Container has been packed or stuffed,
(e) inherent vice of the Goods,
(f) riots, civil commotions, strikes, lockouts, stoppage or restraint of labour from whatsoever cause,
(g) fire, flood, storm, explosion or theft or similar cause, or any other cause which the Customer could not avoid and the consequences whereof it could not prevent by the exercise of reasonable diligence.

13.2 To the maximum extent permitted by law the Company shall not be liable for loss or damage howsoever caused and whether or not as the result of negligent, negligent advice or howsoever otherwise. Under no circumstances shall the Company be liable for any loss or damage which is caused by or to the Goods themselves and in particular shall not be liable for any pure economic loss or loss of profit, loss of market, delay or deviation howsoever arising.

14. Amount of Compensation

14.1 Where the Customer or the Company has not effectively contracted out of its liability, the amount of any such liability of the Company, howsoever arising, shall not exceed the following:
(a) in respect of all claims other than those subject to the provisions of Clause 14.4 whichever is the lesser of:
(i) the value of the Goods or
(ii) NZ\$100 per package or unit of the goods lost or damaged, misdirected, misdelivered, delayed or in respect of which a claim arises.

14.2 In any case where the Carriage of Goods Act 1979 applies, the Company's liability shall be calculated in accordance with the limited carrier's risk provisions of that Act.

14.3 The limitation of liability referred to in Clause 14.1 shall apply notwithstanding that the cause of the loss or damage is unexplained.

14.4 If agreed in writing prior to receipt of the Goods, the Company may accept liability in excess of the limits set out in these Conditions upon the Customer agreeing to pay the Company's additional charges for accepting such increased liability. Details of the Company's additional charges will be provided upon request.

14.4 Compensation shall be calculated by reference to the invoice value of the Goods plus freight and insurance if paid.

14.5 If there is no invoice value for the Goods, the compensation shall be calculated by reference to the value of such Goods at the place and time when they were delivered to the Customer or Owner or should have been so delivered. The value of the Goods shall be fixed according to the current market price, or, if there be no commodity exchange price or current market price, by reference to the normal current market price for such Goods.

14.6 Unless agreed in writing prior to receipt, the Company will not accept or deal with bullion, coin, precious stone, jewellery, antiques, works of art or other valuable Goods. Should any Customer nevertheless deliver any such Goods to the Company or cause the Company to handle or deal with

any such Goods other than in accordance with prior written agreement, the Company shall be under no liability whatsoever for or in connection with such Goods howsoever arising.

15. Notice of Loss, Timebar

15.1 The Company shall be discharged of all liability unless:
(a) notice in writing of any claim is received by the Company or its agent in writing within three days after the date the Goods were delivered or ought to have been delivered, as the case may be, and
(b) suit is brought in the proper office of the appropriate Court in New Zealand and served on the within 9 months when the goods were delivered or ought to have been delivered, as the case may be. The Company expressly contracts out of section 19(2) Carriage of Goods Act 1979.

16. General Average

16.1 The Customer shall defend, indemnify and hold harmless the Company in respect of any claims of a General Average nature, including any claims or demands for General Average security which may be made against the Customer or the Company, and the Customer shall forthwith provide such security as may be required by the Company in this connection.

17. Miscellaneous

17.1 Notice
Any notice served by post shall be deemed to have been given on the third day following the day on which it was posted to the address last known to the Company to be the address of the recipient of the notice.

17.2 Defences and Limits of Liability
The defences and limits of liability provided in these Conditions shall apply in any action against the Company whether founded in contract or in tort or howsoever otherwise founded.

17.3 Legislation
If any legislation is compulsorily applicable to any business undertaken, these Conditions shall, as regards such business, be read as subject to such legislation and nothing in these Conditions shall be construed as limiting or excluding the Company's liability in respect of its rights or immunities or as an increase of any of its responsibilities or liabilities under such legislation and if any part of these Conditions is held to be repugnant to such legislation to any extent such part shall as regards such business be over-riden to that extent and no further.

17.4 Headings

Headings of clauses or groups of clauses in these Conditions are for indicative purposes only.

18. Governing Law and Jurisdiction

18.1 These Conditions and any claim or dispute arising out of or in connection with the services of the Company shall be subject to the laws of New Zealand.

PART II: Company As Agent

19. Special Liability and Indemnity Conditions

19.1 To the extent that the Company acts as an agent, the Company does not make or purport to make any contract with the Customer in respect of the carriage, storage or handling of the Goods or any other physical service in relation to them and acts solely on behalf of the Customer in securing such services by establishing contracts with third parties so that direct contractual relationships are established between the Customer and such third parties.

19.2 The Company shall not be liable for the acts and omissions of third parties referred to in Clause 19.1.

19.3 The Company, when acting as an agent, has the authority of the Customer to enter into contracts on the Customer's behalf and to do such acts which bind the Customer in all respects notwithstanding any limitation on the authority of the Customer.

19.4 Except to the extent caused by the Company's negligence, the Customer shall defend, indemnify and hold harmless the Company in respect of all liability, loss, damage, costs or expenses arising out of any contracts made in the procurement of the Customer's requirements in accordance with Clause 19.1.

20. Choice of Rates

20.1 Where there is a choice of rates according to the extent or degree of liability assumed by persons carrying, storing, or handling the Goods, no declaration of value (where available) will be made by the Company unless previously agreed in writing between the Customer and the Company.

21. Special Liability Conditions

21.1 Where the Company contracts as principal for the performance of the Customer's instructions, the Company undertakes to perform, or in its own name to procure, the performance of the Customer's instructions to the proportion of such limitation fund as is allocated to the Goods.

21.2 Notwithstanding other provisions in these Conditions, if it can be proved where the loss of damage to the Goods occurred, the Company's liability shall be determined by the provisions contained in any international convention or national law, the provisions of which:
(a) cannot be invoked by the claimant, and
(b) would have applied if the claimant had made a separate and direct contract with the actual provider of the particular service in respect of that service or stage of carriage where the loss or damage occurred and received as evidence thereof any particular document which must be issued if such international convention or national law shall apply.

21.4 Notwithstanding other provisions in these Conditions, if it can be proved that the loss of or damage to the Goods occurred at sea or on inland waterways and the provisions of Clause 21.2 do not apply, the Company's liability shall be determined by the Hague-Visby Rules. Reference is made to the proportion of such limitation fund as is allocated to the Goods.

21.5 Notwithstanding the provisions of Clauses 21.2, 21.3 and 21.4, if the loss of or damage to the Goods occurred at sea or on inland waterways, and the Owner, Charterer or operator of the carrying vessel is entitled to limit its liability at law and establishes a limited fund, the liability of the Company shall be limited to the proportion of such limited fund as is allocated to the Goods.

21.6 In the event of any inconsistency between these Conditions and the conditions of any Bill of Lading or Air Waybill issued by or on behalf of the Company as Principal, the conditions of any such Bill of Lading or Air Waybill shall prevail to the extent of such inconsistency but no further.

Both-Party-Blame

22.1. The Both-To-Blame Collision Clause as recommended by BIMCO as at the time of the provision of Services is incorporated into and forms part of these Conditions.

23. USA and/or Canada and Additional Responsibility Clause

23.1 Where the Goods are transported to or from the USA, the responsibility of the Company shall be to procure transportation by carriers (one or more) and such transportation shall be subject to such carrier's contracts and tariffs and any law compulsorily applicable. The Company guarantees the fulfilment of such carrier's obligations under their contracts and tariffs.

23.2 If the Goods are transported to or from the USA, the Company shall be deemed to have otherwise been compulsorily applicable to regulate the Company's responsibility for the Goods during any period prior to loading on or after discharge from the vessel on which the Goods are to be or have been carried, the Company's responsibility shall instead be determined by these Conditions. If such provisions are found to be invalid such responsibility shall be determined by the provisions in the Carriage of Goods by Sea Act of the USA 1924.

24. Air Carriage

24.1 Where the Company acts as a principal in respect of a carriage of Goods by air, the following notice is hereby given:
(a) The Warsaw Convention shall apply to the carriage of Goods by air, and the Warsaw Convention may be applicable and the Convention governs and in no case limits the liability of carriers in respect of loss of or damage to Goods. Agreed stopping places are those places (other than the places of departure and destination) shown under requested routing and/or those places shown under the routing as scheduled stopping places for the route. The address of the first carrier is the airport of departure.

24.2 Notwithstanding any other provision in these Conditions, where the Company acts as a principal in respect of a carriage of Goods by air, the Company's liability in respect of loss of or damage to such Goods shall be determined in accordance with the Warsaw Convention.

25. PERSONAL PROPERTY SECURITIES ACT 1999

25.1 Without limiting anything else in these terms and conditions, the Customer acknowledges that:
(a) these terms and conditions create, in favour of the Company, a security interest in all present and after-acquired property of the Customer, and
(b) after-acquired property except for any item of personal property which has not or which is exclusively the proceeds of any item of personal property which has not) been supplied by the Company to (or for the account of) the Customer) to secure the payment by the Customer to the Company of the Amount Owed by the Customer to the Company.

(b) these terms and conditions will apply notwithstanding anything, express or implied, to the contrary contained in any purchase order (or its equivalent, whatever called) of the Customer; and
(c) the Security Interest shall continue until the Company gives the Customer a final release.

(d) promptly do all things, sign any further documents and/or provide any information which the Company may reasonably require to enable the Company to perfect and maintain the perfection of its Security Interest (including by registration of a financing statement);

(e) the Customer warrants its right to receive a verification statement not less than 14 days' prior written notice of any proposed change in the Customer's name and/or any other change in the Customer's details (including, but not limited to, changes in the Customer's address, facsimile number, trading name or business practice);

25.2 The Customer undertakes to:
(a) take possession of and/or remove them, and being responsible for any damage caused in doing so. The Customer agrees to procure all other rights (including consents) necessary to enable, and to indemnify the Company (and its employees and agents) against any liability incurred in connection with, such entry, taking of possession and removal. The Company may resell any of the Goods and apply the proceeds of sale in reduction of the Amount Owed.

26. DEFAULT

26.1 If an Event of Default occurs:
(a) the Company may suspend or terminate any contract;
(b) the Amount Owed shall immediately become due and payable notwithstanding that the due date has not arisen;

(c) the Company may enforce the Security Interest; and
(d) the Company (or the Company's agent) appoint a receiver in respect of any Goods and any receiver is authorised to do anything referred to in these terms and conditions and otherwise to exercise all rights and powers conferred on a receiver by law.

26.2 The Customer agrees that, at any time after an Event of Default has occurred and is continuing or at any time if any Goods are at risk, the Company may:
(a) take possession of any Goods and/or
(b) sell or otherwise dispose of any Goods.

In each case in such manner and generally on such terms and conditions and conditions as it thinks fit, and, in each case, otherwise doing anything the Customer could do in relation to those Goods. The Customer shall be deemed to have authorised the Company to do anything necessary to exercise its rights and powers conferred on a receiver by law.