BILL OF LADING CMA CGM Terms and conditions

1. DEFINITIONS

In this Bill of Lading the terms :

"Bill of Lading"	Means the present document whether called Bill of Lading or Waybill.
"Carriage"	means the whole or any part of the operations and services undertaken by the Carrier in respect of the Goods.
"Carrier"	means the Party on whose behalf this Bill of Lading is issued.
"Clean"	means for Shipper's packed and sealed containers, a container received in apparent good order and condition. In no circumstances is a representation been made as to the weight, contents, measure, quantity, quality, description, condition, marks or value of the Goods.
"Combined Transport"	arises if the Place of Receipt and/or the Place of Delivery are indicated on the back hereof in the relevant spaces.
"Container"	includes any Container, trailer, transportable tank, flat or pallet, or any similar article used to consolidate Goods and any equipment thereof or connected thereto.
"Freight"	means all charges payable to the Carrier in accordance with Applicable Tariff and this Bill of Lading, including storage and demurrage.
"Goods"	means the whole or any part of the cargo received from the Shipper and includes any equipment or Container not supplied by or on behalf of the Carrier.
"Hague 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 includes the amendments by the Protocol signed at Brussels on 23rd February, 1968 and 21st December, 1979, but only if such amendments are compulsorily applicable to this Bill of Lading.
"Holder"	means any Person for the time being in possession of this Bill of Lading by reason of the consignment of the Goods or the endorsement of this Bill of Lading or otherwise.
"Indemnify"	includes defend, indemnify and hold harmless.
"Merchant"	includes the Shipper, Holder, Consignee, 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 any such Person.
"On board"	on the back of this bill of lading means on board any of the first mode of transportation used or procured by the Carrier, including rail, road, water and air transport.
"Person"	includes an individual, group, company or other entity.
"Port to Port"	arises if the Carriage is not Combined Transport.
"Sub-contractor"	includes owners and operators of any vessels (other than the Carrier), stevedores, terminal and groupage operators, Underlying Carriers, road and rail transport operators and any independent contractor employed by the Carrier in performance of the Carriage.
"Underlying Carrier"	includes any water, rail, motor, air or other Carrier utilised by the Carrier for any part of the transportation covered by the Bill of Lading.
"US COGSA"	means the United States Carriage of Goods by Sea Act, 46 U.S.C. App. § 1300 et seq. as enacted 1936 and any subsequent recodification thereto.
"Vessel"	means the intended vessel named on the back hereof and any ship, craft, lighter, barge or other vessel which is or shall be substituted, in whole or in part, for that vessel.

2. CARRIER'S TARIFF
Where the Carrier has set up applicable tariff (hereinafter the "Applicable Tariff") to the Carriage, the terms and conditions of the Carrier's Applicable Tariff are incorporated herein. Particular attention is drawn to the terms and conditions therein relating to Container and vehicle demurrage. Copies of the relevant provisions of the Applicable Tariff are obtainable from the Carrier or his agents upon request. In the case of inconsistency between this Bill of Lading and the Applicable Tariff, this Bill of Lading shall prevail.

3. REMITTANCE AND ACCEPTANCE OF THE BILL OF LADING
The Bill of Lading shall be sent or released to the Merchant at its sole risk, expense and responsibility and shall be construed remitted to the Merchant upon sending. In accepting this Bill of Lading, the Merchant agrees to be bound by all stipulation, exceptions, terms and conditions on the face and back hereof, whether written, typed, stamped or printed, as fully as if signed by the Merchant, any local custom or privilege to the contrary notwithstanding, and agrees that all agreements or freight engagements for and in connection with the carriage of the Goods are superseded by the Bill of Lading, including any previous engagements between the Merchant and the Carrier, its agents, Subcontractors, employees, captains or vessels.

4. WARRANTY
The Merchant warrants that in accepting this Bill of Lading he is, or has the authority of, the Person owning or entitled to the possession of the Goods and this Bill of Lading.

5. NON VESSEL OPERATING COMMON CARRIER
If the Merchant is a Non Vessel Operating Common Carrier (NVOCC), and has issued,or intends to issue, other contracts of carriage to third parties covering the Goods, or part of the Goods, transported by this Bill of Lading, said NVOCC hereby warrants and guarantee that all contracts of Carriage issued by him in respect of the Goods under this Bill of Lading shall incorporate the terms and conditions of this Bill of Lading. Should the said NVOCC fail to incorporate those terms and conditions, the NVOCC shall indemnify the Carrier, his servants, agents and Sub-contractors against all resulting consequences.

6. CARRIER'S RESPONSIBILITY AND CLAUSE PARAMOUNT
(1) Port-to-Port Shipment
When loss or damage has occurred between the time of loading of the Goods by the Carrier, or any Underlying Carrier, at the Port of Loading and the time of discharge by the Carrier, or any Underlying Carrier, at the Port of Discharge, the responsibility of the Carrier shall be determined in accordance with the Hague Rules or any national law incorporating or making the Hague Rules, or any amendments thereto, compulsorily applicable to this Bill of Lading. The Carrier shall be under no liability whatsoever for loss of or damage to the Goods, howsoever occurring, if such loss or damage arises prior to loading on to or subsequent to the discharge from the Vessel carrying the Goods. Notwithstanding the foregoing, where any applicable compulsory law provides to the contrary, the Carrier shall have the benefit of every right, defence, limitation and liberty in the Hague Rules as applied by this Clause during such additional compulsory period of responsibility, notwithstanding that the loss or damage did not occur at sea. Notwithstanding anything else in this Bill of Lading to the contrary, on shipments to or from the United States, the rights and liabilities of the parties shall be subject exclusively to COGSA which shall also govern before the Goods are loaded on and after they are discharged from the vessel provided, however, that the Goods at said times are in the custody of the Carrier or any Sub-Contractor.

(2) Combined Transport
(a) With respect to rail or road Carriage within a State other than the United States, then liability shall be determined in accordance with the internal law of such State and/or any International Convention which is compulsorily applicable by the laws of such State. In the absence of such laws or convention then the provisions of Clause 6 (2) (f) will apply.
(b) With respect to road Carriage between countries in Europe liability shall be determined in accordance with the Convention on the Contract for the International Carriage of Goods by Road (CMR), dated May 19, 1956 ; and during rail Carriage between countries in Europe according to the International Agreement on Railway Transports (CIM), dated February 25, 1961 (or any amendments to this Convention or Agreement).
(c) With respect to Combined Transportation from, to or within the United States when the Goods are in the custody of the Carrier, or any Underlying Carrier, such Combined Transport will be governed by the provisions of Clause 6 (1).
(d) In the event Clause 6 (1) is held inapplicable to such Combined Transportation from, to or within the United States, then Carrier's liability will be governed by, and be subject to, the terms and conditions of the Underlying Carriers Bill of Lading and/or, where applicable, the ICC Uniform Bill of Lading together with the Underlying Carrier's Tariff which shall be incorporated herein. Notwithstanding the foregoing, in the event there is a private contract of Carriage between the Carrier and any Underlying Carrier, such Combined Transportation will be governed by the terms and conditions of said contract which shall be incorporated herein as if set forth at length and copies of said contract(s) shall be available to the Merchant at any office of the Carrier upon request.
(e) Except as provided in Clause 6 (2) (a) to 6 (2) (d) supra, the Hague Rules as per Clause 6 (1) shall apply to Combined Transport outside the United States where COGSA is not compulsory applicable.
(f) The Carrier shall nevertheless be relieved of liability for loss or damage occurring during the Carriage if such loss or damage was caused by any cause or event which Carrier could not have avoided and the consequences of which he could not have reasonably prevented. Carrier's maximum liability under this Sub-Section 6 (2) (f) shall be One Euro per kilo of the Goods lost or damaged.

(3) Agency
Whenever the Carrier undertakes to accomplish any act, operation or service not initially agreed or mentioned on this Bill of Lading, he shall act as Merchant's agent and shall be under no liability whatsoever for any loss or damage to the Goods or any direct, indirect or consequential loss arising out or resulting from such act, operation, or service. If, for any reason whatsoever, the carrier is denied the right to act as agent as mentioned above, its liability for loss, damage or delays shall be determined in accordance with this Bill of lading.

(4) Subrogation
When any claims are paid by the Carrier to the Merchant, the Carrier shall be automatically subrogated to all rights of the Merchant against all other third party, including Underlying Carriers and sub contractors, on account of such loss or damage.

7. NOTICE OF CLAIM AND TIME FOR SUIT
Unless notice of loss or damage to the Goods specifying or describing the exact nature of such loss or damage is given in writing to the Carrier at the port of discharge or place of delivery before or at the time of delivery of the Goods or, if the loss or damage is not apparent, within three (3) consecutive days after delivery, the Goods shall be deemed to have been delivered as described in this Bill of Lading. In any event the Carrier and its Sub-Contractors shall be discharged from all liability in respect of non-delivery, mis-delivery, delay, loss or damage unless suit is brought within one (1) year after delivery of the Goods or the date when the Goods should have been delivered.

8. LIABILITY PROVISIONS
(1) Basis of Compensation
Without prejudice to any applicable limitation of liability in accordance with the provision set forth in sub-clause 6 hereof, the basis of compensation shall be limited to the sound value of the goods so damaged or lost (excluding insurance, custom fees or taxes) and the Freight on a pro-rata basis, if paid. In no circumstance whatsoever, the Carrier shall be responsible for indirect damage, loss of profit or consequential damage.

(2) Ad Valorem Liability
The Merchant agrees and acknowledges that the Carrier has no knowledge of the value of the Goods, and that compensation higher than that provided for in this Bill of Lading may not be claimed unless, with the consent of the Carrier, the value of such Goods is declared by the Shipper prior to the commencement of the Carriage and is stated in writing on this Bill of Lading and extra Freight is paid. In such a case, the amount of the declared value shall be substituted for the limits laid down in this Bill of Lading. Any partial loss or damage shall be adjusted pro rata on the basis of such declared value. In any event, the compensation shall not exceed the actual commercial value of the Goods as defined in Clause 8 (1).

(3) Delay
The Carrier does not undertake that the Goods shall arrive at the port of discharge or place of delivery at any particular time or to meet any particular market or use and the Carrier shall in no circumstances whatsoever, and however arising be liable for direct, indirect or consequential loss or damage caused by delay. If notwithstanding the foregoing the Carrier is held responsible of any delay, it is hereby expressly agreed that the Carrier's liability shall be limited to the ocean freight paid under this Bill of Lading for the delayed Goods, exclusive of local charges and/or demurrage.

(4) COGSA limitation to US carriage
When the Carriage is to or from the United States of America as stipulated in Clause 6 (1), and unless the nature and value of the Goods is declared on the back of the Bill of Lading in the condition set out in Clause 8 (2), the Carrier's limitation of liability in respect of the Goods, shall not exceed US$ 500.00 per container, package, bundle, pallet, or other unit, or when the Goods are not shipped per container, package, bundle, pallet or other unit, US$ 500.00 per customary freight units.

9. METHODS AND ROUTES OF CARRIAGE
(1) The Carrier may at any time and without notice to the Merchant,
(a) use any means of Carriage whatsoever,
(b) transfer the Goods from one conveyance to another, including but not limited to transhipping or carrying them on another vessel than that named on the back hereof,
(c) unpack and remove the Goods which have been packed into a Container and forward them in a Container or otherwise,
(d) proceed by any route, place, or port, in his discretion (whether or not the nearest or most direct or customary or advertised route), at any speed, and proceed to or stay at any place or port whatsoever, once or more often and in any order,
(e) load or unload the Goods at any place or port (whether or not such port is named overleaf as the Port of Loading or Port of Discharge) and store the Goods at any such place or port,
(f) comply with any orders or recommendations given by any government or authority, or any Person acting or purporting to act as or on behalf of such government or authority, or having under the terms of any insurance on any conveyance employed by the Carrier the right to give orders or directions.
(g) permit the vessel to proceed with or without pilots, to tow or be towed or to be dry-docked.
(2) The liberties set out in Clause 9 (1) may be invoked by the Carrier for any purpose whatsoever, whether or not connected with the Carriage of the Goods, including loading or unloading other Goods, bunkering, undergoing repairs, adjusting instruments, picking up or landing any Persons, including but not limited to persons involved with the operation or maintenance of the Vessel and assisting vessels in all situations. Anything done in accordance with Clause 9 (1) or any delay arising therefrom shall be deemed to be within the contractual Carriage and shall not be a deviation.
(3) By tendering the Goods for Carriage without any written request for Carriage in a specialised Container, or for Carriage otherwise than in a Container, the Merchant accepts that the Carriage may properly be undertaken in a general-purpose Container.

10. MATTERS AFFECTING PERFORMANCE
If at any time the Carriage is or likely to be affected by any hindrance, risk, delay, difficulty or disadvantage of any kind (other than the inability of the Goods safely or properly to be carried or carried further which is provided for in Clause 24 infra) and howsoever arising (even though the circumstances giving rise to such hindrance, risk, delay, difficulty or disadvantage existed at the time this contract was entered into or the Goods were received for Carriage), the Carrier (whether or not the Carriage is commenced) may, without prior notice to the Merchant and at the sole discretion of the Carrier, either :
(a) carry the Goods to the contracted Port of Discharge or Place of Delivery, whichever is applicable, either by the intended or the alternative route to that indicated in this Bill of Lading or that which is usual for Goods consigned to that Port of Discharge or Place of Delivery. If the Carrier elects to invoke the terms of this Clause 10 (a) hereof, he shall be entitled to charge such additional Freight, including extra war risk charge as the Carrier may determine, or
(b) suspend the Carriage of the Goods and store them ashore or afloat upon the terms of this Bill of Lading and endeavour to forward them as soon as possible, but the Carrier makes no representations as to the maximum period of suspension. If the Carrier elects to invoke the terms of this Clause 10 (b) then, he shall be entitled to charge such additional freight as the Carrier may determine, or
(c) abandon the Carriage of the Goods and place the Goods at the Merchant's disposal at any place or port which the Carrier may deem safe and convenient, whereupon the responsibility of the Carrier in respect of such Goods shall cease. The Carrier shall nevertheless be entitled to full Freight on the Goods received for Carriage, and the Merchant shall pay any additional costs of the Carriage to, and delivery and storage at, such place or port.
If the Carrier elects to use an alternative route under Clause 10 (a) or to suspend the Carriage under Claude 10 (b) this shall not prejudice his right subsequently to abandon the Carriage.

11. NOTIFICATION AND DELIVERY
(1) Any mention herein of parties to be notified of the arrival of the Goods is solely for information of the Carrier, and failure to give such notification shall not involve the Carrier's liability nor relieve the Merchant of any obligation hereunder.
(2) The Merchant shall take delivery of the Goods within the time provided for in the Carrier's Applicable tariff (see Clause 2). If the Merchant fails to do so the Carrier shall be entitled, without notice, to unpack the Goods if packed in Containers and / or to store the Goods ashore, afloat, in the open or under cover, at the sole risk of the Merchant. Such storage shall constitute due delivery hereunder, and thereupon the liability of the carrier in respect of the Goods stored as aforesaid shall cease, and the costs of such storage (if paid or payable by the Carrier or any agent or Sub-contractor of the Carrier) shall forthwith upon demand be paid by the Merchant to the Carrier.
(3) If, whether by act or omission, the Merchant directly or indirectly prevents, delays or hinder the discharge or the delivery of the Goods, any costs, expenses or liability so resulting shall be for his full account.
(4) If the Merchant fails to take delivery of the Goods within ten days of delivery becoming due under Clause 11 (2), or if in the opinion of the Carrier they are likely to deteriorate, decay, become worthless or incur charges whether for storage or otherwise in excess of their value, the Carrier may, without prejudice to any other rights which he may have against the Merchant, without notice and without any responsibility whatsoever attaching to him, sell, destroy or dispose of the Goods and apply any proceeds of sale in reduction of the sums due to the Carrier from the Merchant in respect of this Bill of Lading.
(5) Refusal by the Merchant to take delivery of the Goods in accordance with the terms of this Clause and/or to mitigate any loss or damage thereto shall constitute a waiver by the Merchant to the Carrier of any claim whatsoever relating to the Goods or the Carriage thereof.
(6) In the event the Carrier agrees, at the request of the Merchant to amend the Place of Delivery stated herein, the terms and conditions of this Bill of Lading shall continue to apply, only to the extent provided by the Applicable Tariff, until the Goods are delivered by the Carrier to the Merchant at the amended Place of Delivery. If the Applicable Tariff does not explicitly provide for the continued application of the terms and conditions of the Bill of Lading then the Carrier shall act as agent only to the Merchant in arranging for delivery of the Goods to the amended Place of Delivery but shall then be under no liability whatsoever for loss, damage or delay to the Goods, howsoever arising.

12. FREIGHT
(1) Freight shall be deemed fully earned upon booking of the Goods for the carriage and shall be paid and non-returnable in any event. Should the Merchant cancel the booking of the Goods for the carriage, at any time and for any reason whatsoever, he shall be liable for the payment to the Carrier its agents, successors, or assignee, of a penalty equal to the value of the Freight, including all charges, costs and expenses deriving from the cancellation of the booking.
(2) The Merchant's attention is drawn to the stipulations concerning the currency in which the Freight is to be paid, rate of exchange, devaluation and other contingencies relative to Freight in the Applicable Tariff.
(3) Freight has been calculated on the basis of particulars furnished by or on behalf of the Shipper. If the particulars furnished by or on behalf of the Shipper are incorrect, it is agreed that liquidated damages shall be payable to the Carrier in accordance with the Applicable Tariff.
(4) The Merchant shall be responsible for the full payment to the Carrier, its agent, representatives, successors or assignees, of the entire Freight due pursuant to this bill of lading on the agreed date and for its full amount, without possible deduction or set off of any sort. Merchant irrevocably agrees to waive any right of set-off between the freight and any amount due under a contractual or tortious claim, which he has or may have against the Carrier and/or its Sub-contractors, agents, officers, employees or assignees, whether or not the claim is related to the carriage under this Bill of Lading and without prejudice to his right to file such claim subsequently.
(5) Any Person engaged by the Merchant to perform forwarding services in respect of the Goods shall be considered to be the exclusive agent of the Merchant for all purposes and any payment of Freight to such Person shall not be considered payment to the Carrier in any event. Failure of such Person to pay any part of the Freight to the Carrier shall be considered a default by the Merchant in the payment of Freight.
(6) If the Merchant fails to pay the Freight when due, he shall be liable to carrier for the payment of all freight, demurrage, and other charges and expenses without discount together with any Court costs, expenses and reasonable attorney fees incurred in collecting any sums due to the Carrier, and with immediate accruing interest at 2% over the Libor rate.

13. LIEN
The Carrier his 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 12), 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 him by the Merchant.
The Carrier, his 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 Freights and charges as above mentioned due and outstanding on any other contracts for the carriage of goods concluded between the Carrier, his 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 are likely to become deteriorated, decayed or worthless, the Carrier may, at his discretion without responsibility whatsoever, 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 him by the Merchant and the amount realised by the exercise of the rights given to the Carrier under this Clause.

14. GENERAL AVERAGE AND SALVAGE
(1) In the event of accident, danger, damage or disaster before or after the commencement of the voyage, resulting from any cause whatsoever, due to negligence or not, for which, or for the consequences of which, the Carrier is not responsible, by statute, contract or otherwise, the Merchant 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. All expenses in connection with a general average or salvage act to avoid damage to the environment shall always be considered general average expenses.
(2) Any general average on a vessel operated by the Carrier shall be adjusted according to York Antwerp Rules 1994, at any port or place at the option of the Carrier and in any currency at the option of the Carrier.
Any general average on a vessel not operated by the Carrier (whether a seagoing or inland waterways vessel) shall be adjusted according to the requirements of the operator of that vessel, in either case the Merchant shall give such cash deposit or other security as the Carrier or the operator may deem sufficient to cover the estimated general average contribution of the Goods before delivery if the Carrier or the operator requires, or, if the Carrier or the operator does not so require, within three months of the delivery of the Goods, whether or not the Merchant had notice of the Carrier's or the operator's lien at the time of delivery. The Carrier shall be under no obligation to exercise any lien for general average contribution due to the Merchant.
(3) Conversion into the currency of the adjustment shall be calculated at the rate prevailing on the date of payment for disbursements and on the date of completion of discharge of the vessel for allowances,
(4) If a salving vessel is owned or operated by the Carrier, salvage shall be paid for as fully as if the salving vessel or vessels belonged to strangers.
(5) In the event of the Master considering that salvage services are needed, the Merchant agrees that the Master may act as his agent to procure such services to Goods and that the Carrier may act as his agent to settle salvage remuneration.
(6) If the Merchant contests payment of contribution to General Average, salvage, salvage charges and/or special charges to Goods on any grounds whatsoever or fails to make payment of contribution within three months of the issue of the adjustment thereof, whether or not prior security has been provided, the Merchant shall pay interest for the period in excess of three months on the contribution due at two percent per annum above the base lending rate of the central bank of the country in whose currency the adjustment is issued, in addition to the contribution due.

15. BOTH-TO-BLAME COLLISION
If the Vessel comes into collision 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 in the navigation or in the management of the Vessel, the Merchant hereunder will indemnify the Carrier against all loss or liability to the other or non-carrying ship or her Owners in so far as such loss or liability represents loss of, or damage to, or any claim whatsoever of the Merchant, paid or payable by the other or non-carrying ship or her Owners to the Merchant and set-off, recouped or recovered by the other or non-carrying ship or her Owners as part of their claim against the carrying Vessel or Carrier. 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.

16. FCL MULTIPLE BILLS OF LADING
(1) Goods will only be delivered in a Container to the Merchant if all Bills of Lading in respect of the contents of the Container have been surrendered authorising delivery to a single Merchant at a single Place of Delivery. In the event that this requirement is not fulfilled the Carrier may unpack the Container and, in respect of Goods for which Bills of lading have been surrendered, deliver them to the Merchant on a LCL basis. Such delivery shall constitute due delivery hereunder, but will only be effected against payment by the Merchant of LCL Service Charges and any charges appropriate to LCL Goods (as laid down in the Tariff) together with the actual costs incurred for any additional services rendered.
(2) If this is an FCL multiple Bill of Lading (as evidenced by the qualification of the tally acknowledged overleaf to the effect that it is "One of … part cargoes in the Container"), then the Goods detailed overleaf are said to comprise part of the contents of the Container indicated. If the Carrier is required to deliver the Goods to more than one Merchant and if all or part of the total Goods within the Container consists of bulk Goods or inappropriate Goods or is or becomes mixed or unmarked or unidentifiable, the Holders of Bills of Lading relating to Goods within the Container shall take delivery thereof (including any damaged portion) and bear any shortage in such proportions as the Carrier shall in his absolute discretion determine, and such delivery shall constitute due delivery hereunder.

17. DESCRIPTION OF GOODS AND NOTIFICATION
The Carrier, his Agents and servants shall not in any circumstances whatsoever be under any liability for insufficient packing or inaccuracies, obliteration or absence of marks, numbers, addresses or description, nor for misdelivery due to marks or countermarks or numbers, nor for failure to notify the Consignee of the arrival of the Goods, any custom of the port to the contrary notwithstanding.

18. OPTIONAL STOWAGE AND DECK CARGO
(1) The Goods may be packed by the Carrier in Containers and consolidated with other Goods in Containers.
(2) Goods, whether or not packed in Containers, may be carried on deck or under deck without notice to the Merchant. In the absence of the mention "under deck" of the back hereof, or any similar mention, the goods shall be presumed carried on ship's deck. All such Goods whether carried on deck or under deck, shall participate in general average and shall be deemed to be within the definition of Goods for the purposes of The Hague Rules or US COGSA and shall be carried subject to those Rules.
(3) In the even the Goods which are stated on the back hereof as being carried on deck (or in the event of the absence of the mention "under deck" or any similar mention), and which are so carried, the Hague Rules shall not apply and the Carrier shall be under no liability whatsoever for loss, damage or delay, howsoever arising, and whether or not caused by the negligence on the part of the Carrier, his servants, Agents or sub-contractors. If Carrier's liability is anyway implicated, the liability of the Carrier shall be limited according to the terms of this contract and otherwise to the Hague Rules, Hague and Visby Rules or the US COGSA rules, whichever is applicable under the article 6 of the Bill of Lading.

19. LIVE ANIMALS
The Hague Rules shall not apply to the Carriage of live animals, which are carried at the sole risk of the Merchant. The Carrier shall be under no liability whatsoever for any injury, illness, death, delay or destruction howsoever arising. Should the Master in his sole discretion consider that any live animal is likely to be injurious to any other live animal or any Person or property on board, or to cause the vessel to be delayed or impeded in the prosecution of the Carriage, such live animal may be destroyed and thrown overboard without any liability attaching to the Carrier. The Merchant shall indemnify the Carrier against all or any extra costs incurred for any reason whatsoever in connection with the Carriage of any live animal.

20. DANGEROUS GOODS
(1) No Goods which are or may become dangerous, inflammable or damaging (including radio-active materials), or which are or may become liable to damage any property whatsoever, shall be tendered to the Carrier for Carriage without his express consent in writing, and without the Container as well as the Goods themselves being distinctly marked on the outside so as to indicate the nature and character of any such Goods and so as to comply with any applicable laws, regulations or requirements. If any such Goods are delivered to the Carrier without such written consent and/or marking, or if in the opinion of the Carrier the Goods are liable or deemed liable to become of dangerous, inflammable or damaging nature, they may at any time be destroyed, disposed of, abandoned, or rendered harmless without compensation to the Merchant and without prejudice to the Carrier's right to Freight.
(2) The Merchant undertakes to provide the Carrier with all accurate and up to date detailed information related to the nature, dangerousness, and stowage, storage and transportation of such Goods and that such Goods are packed stowed and stuffed in a manner adequate to withstand the risks of Carriage having regard to their nature and in compliance with all laws or regulations which may be applicable during the Carriage.
(3) Whether or not the Merchant was aware of the nature of the Goods, the Merchant shall indemnify the Carrier against all claims, losses, damages or expenses arising in consequence of the Carriage of such Goods.
(4) Nothing contained in this Clause shall deprive the Carrier of any of his rights provided for elsewhere.

21. PERISHABLE GOODS
(1) Goods of a perishable nature shall be carried in ordinary Containers without special protection, services or other measures unless there is noted on the reverse side of this Bill of Lading that the Goods will be carried in a refrigerated, heated, electrically ventilated or otherwise specially equipped Container or are to receive special attention in any way. The Merchant undertakes not to tender for transportation any Goods which require refrigeration without giving written notice of their nature and the required temperature setting of the thermostatic controls before receipt of the Goods by the Carrier in case of refrigerated Container(s) packed by or on behalf of the Merchant. The Merchant undertakes that the Goods have been properly stowed in the Container and that the thermostatic controls have been adequately set by him before receipt of the Goods by the Carrier and, if necessary, that the Goods have been pre-chilled before the loading into the Container. The Merchant's attention is drawn to the fact that refrigerated Containers are not designed to freeze down Goods which have not been presented for stuffing at or below its designated carrying temperature and the Carrier shall not be responsible for the consequences of cargo presented at a higher temperature than that required for the transportation. If the above requirements are not complied with the Carrier shall not be liable for any loss of or damage to the Goods howsoever arising.
(2) The term "apparent good order and condition" when used in this Bill of Lading with reference to Goods which require refrigeration does not mean that the Goods, when received were verified by the Carrier as being at the designated carrying temperature.
(3) The Carrier shall in no event be held liable for damage to Goods due to condensation.
(4) The Merchant is free to use his own temperature recording device. In no circumstance shall the Carrier be under any obligation to release the extracted data log records of the Container itself to the Merchant or any other Person.

22. INSPECTION OF THE GOODS
(1) If by order of the authorities at any place, a Container has to be opened for the Goods to be inspected, the Carrier will not be liable for any loss or damage incurred as a result of any opening, unpacking, inspection or re-packing. The Carrier shall be entitled to recover the cost of such opening, unpacking, inspection and re-packing from the Merchant.
(2) By tendering the Goods for Carriage, the Merchant authorise the Carrier to open the container at his sole discretion and to proceed with the inspection of the Goods. Should the Goods be misdeclared, the Carrier reserves its right to stop the transport at anytime according to clause 10 of the Bill of Lading.
(3) In no circumstance whatsoever, the Carrier shall be liable for any loss, damage or delay howsoever arising from any action taken under this clause.

23. SHIPPER-PACKED CONTAINERS
If a Container has not been packed by or on behalf of the Carrier :
(1) The Carrier shall not be liable for loss of or damage to the Goods caused by :
(a) the manner in which the Goods has been packed, stowed, stuffed or secured, or
(b) the unsuitability of the Goods for Carriage in the Container supplied, or
(c) the unsuitability or defective condition of the Container or the incorrect setting of any refrigeration controls thereof, provided that, if the Container has been supplied by or on behalf of the Carrier, this unsuitability or defective condition would have been apparent upon inspection by the Merchant at or prior to the time when the Container was packed, or
(d) packing refrigerated Goods that are not at the correct temperature for Carriage.
(2) The Shipper is responsible for the packing and sealing of all Shipper-packed Containers and, if a Shipper-packed Container is delivered by the Carrier with its original seal as affixed by the Shipper intact, the Carrier shall not be liable for any shortage of Goods ascertained at delivery.
(3) The Merchant shall indemnify the Carrier against any loss, damage, liability or expense whatsoever and howsoever arising caused by one or more of the matters referred to in Clause 23 (1), save that, if the loss, damage liability or expense was caused by a matter referred to in Clause 23 (1) (c), the Merchant shall not be liable to indemnify the Carrier in respect thereof unless the proviso referred to in that Clause applies.

24. CARRIAGE AFFECTED BY CONDITION OF GOODS
If it appears at any time that, due to their condition, the Goods cannot safely or properly be carried (or carried further), either at all or without incurring any additional expense or taking any measure(s) in relation to the Container or the Goods the Carrier may without notice to the Merchant (but as his agent only) take any measure(s) and/or incur any additional expense to carry or to continue the Carriage thereof, and/or sell or dispose of the Goods, and/or abandon the Carriage and/or store them ashore or afloat, under cover or in the open, at any place, whichever the Carrier, in his absolute discretion, considers most appropriate, which abandonment, storage, sale or disposal shall be deemed to constitute due delivery under this Bill of Lading. The Merchant shall indemnify the Carrier against any additional expense and liability so incurred.

25. DESCRIPTION OF GOODS
(1) This Bill of Lading shall be prima facie evidence of the receipt by the Carrier from the Shipper in apparent good order and condition, except as otherwise noted, of the total number of Containers or other packages or units indicated in the box on the back hereof entitled "Total No of Containers/Packages received by the Carrier".
(2) Except as provided in Clause 25 (1), no representation is made by the Carrier as to the weight, contents, measure, quantity, quality, description, condition, marks, numbers or value of the Goods, and the Carrier shall be under no responsibility whatsoever in respect of such description or particulars.
(3) If any particulars of any Letter of Credit and/or Import Licence and/or Sale Contract and/or Invoice or order number and/or details of any contract to which the Carrier is not a party are shown on the back of this Bill of Lading, such particulars are included solely at the request of the Merchant for his convenience. The Merchant agrees that the inclusion of such particulars shall not be regarded as a declaration of value and in no way increases the Carrier's liability under this Bill of Lading. The Merchant further agrees to indemnify the Carrier against all consequences of including such particulars in this Bill of Lading.
The Merchant acknowledges that, except when the provisions of Clause 8 (2) apply, the value of the Goods is unknown to the Carrier.

26. SHIPPER'S/MERCHANT'S RESPONSIBILITY
(1) All of the Persons coming within the definition of Merchant in Clause 1 shall be jointly and severally liable to the Carrier for the due fulfilment of all obligations undertaken by the Merchant in this Bill of Lading, and remain so liable throughout Carriage notwithstanding their having transferred this Bill of Lading and/or title to the Goods to any third party. Such liability shall include but not be limited to court costs, expenses and attorney's fees incurred in collecting charges and sums due to the Carrier.
(2) The Shipper warrants to the Carrier that the particulars relating to the Goods as set out overleaf have been checked by the Shipper on receipt of this Bill of Lading and that such particulars, and any other particulars furnished by or on behalf of the Shipper, are adequate and correct. The Shipper also warrants that the Goods are lawful Goods and contain no contraband.
(3) The Merchant shall indemnify the Carrier against all loss, damage, fines and expenses arising or resulting from any breach of any of the warranties in Clause 26 (2) hereof or from any other cause in connection with the Goods for which the Carrier is not responsible.
(4) The Merchant shall comply with all regulations or requirements of customs, port and other authorities, and shall bear and pay all duties, taxes, fines, imposts, expenses or losses (including, without prejudice to the generality of the foregoing, Freight for any additional Carriage undertaken) incurred or suffered by reason of any failure to so comply, or by reason of any illegal, incorrect or insufficient marking, numbering or addressing of the Goods, or the discovery of any drugs, narcotics or other illegal substances within Containers packed by the Merchant or inside Goods supplied by the Merchant or any stowaways discovered inside the container and shall indemnify the Carrier in respect thereof.
(5) The Merchant is responsible for returning any empty container, with interior clean, at the designated place and within 60 days following to the date of delivery, failing which the container can be construed as lost by the Carrier. The Merchant shall be liable to indemnify the Carrier for any loss or expense whatsoever arising out of the foregoing, including but not limited to liquidated damages equivalent to either the sound market value or the depreciated value due by the Carrier to a container lessor. The Carrier is entitled to collect a deposit from the Merchant at the time of release of the container which shall be remitted as security for payment of any sums due to the Carrier, in particular for payment of all freight detention and demurrage and/or container indemnity as referred above and may be kept by the Carrier fully or partially. In no case shall this deposit accrue any interest.
(6) Containers released into the care of the Merchant for packing, unpacking or any other purpose whatsoever are at the sole risk of the Merchant until redelivered to the Carrier. The Merchant shall indemnify the Carrier of all loss, damage, injury, fines or expenses caused or incurred by to such Containers whilst in Merchant control and/or until redelivery to the Carrier. Merchants are deemed to be aware of the dimensions of any Containers released to them.

27. SUB-CONTRACTING AND INDEMNITY
(1) The Carrier shall be entitled to sub-contract the Carriage on any terms whatsoever.
(2) The Merchant undertakes that no claim or allegation shall be made against any Person whomsoever by whom the Carriage is performed or undertaken (including all Sub-Contractors of the Carrier), other than the Carrier, which imposes or attempts to impose upon any such Person, or any vessel owned by any such Person, any liability whatsoever in connection with the Goods or the Carriage of the Goods, whether or not arising out of negligence on the part of such Person and, if any such claim or allegation should nevertheless be made, to indemnify the Carrier against all consequences thereof. Without prejudice to the foregoing every such Person shall have the benefit of every right, defence, limitation and liberty of whatsoever nature herein contained or otherwise available to the Carrier as if such provisions were expressly for his benefit ; and in entering into this contract, the Carrier, to the extent of these provisions, does so not only on his own behalf but also as agent and trustee for such Persons.
(3) The provisions of Clause 27 (2), including but not limited to the undertakings of the Merchant contained therein, shall extend to claims or allegations of whatsoever nature against other Persons chartering space on the carrying vessel.
(4) Nothing herein contained shall be construed to limit or to relieve any beneficiaries of this Clause from liability to the Carrier for damage, loss and liability arising or resulting from their fault or neglect.
(5) The Merchant further undertakes that no claim or allegation in respect of the Goods shall be made against the Carrier by any Person other than in accordance with the terms and conditions of this Bill of Lading which imposes or attempts to impose upon the Carrier any liability whatsoever in connection with the Goods or the Carriage of the Goods, whether or not arising out of negligence on the part of the Carrier and, if any such claim or allegation should nevertheless be made, to indemnify the Carrier against all consequences thereof.

28. VARIATION OF THE CONTRACT
No servant or agent of the Carrier shall have the power to waive or vary any of the terms of this Bill of Lading, unless such waiver or variation is in writing and is specifically authorised or ratified in writing by the Carrier.

29. VALIDITY
In the event that anything herein contained is inconsistent with any applicable international convention or national law which cannot be departed from by private contract, the provisions hereof shall to the extent of such inconsistency but no further be null and void.

30. LAW AND JURISDICTION
(1) Law of application
Except as specifically provided elsewhere herein, **French law** shall apply to the terms and conditions of this bill of lading, and **French law** shall also be applied in interpreting the terms and conditions hereof.
(2) Jurisdiction
All actions against Carrier under the contract of Carriage evidenced by this Bill of Lading shall be brought before the Court duly designated on the Bill of Lading and no other Court shall have jurisdiction with regards to any such action. Actions against the Merchant under the contract of Carriage evidenced by this Bill of Lading may be brought before this Court or, in Carrier's sole discretion, in another court of competent jurisdiction.