

1. APPLICABILITY

- 1.1 These General Conditions apply to all agreements concluded by Marcor Stevedoring B.V. (hereinafter called 'MARCOR') in the performance of its business, to quotes, offers, negotiations and correspondence aimed at procuring such agreements and to actions, services and activities carried out in connection with the company's business operations.
- 1.2 Any variations from these conditions are only valid if these have been expressly agreed in writing.
- 1.3 The applicability of any of the Client's purchasing or other conditions is specifically excluded.
- 1.4 If one or more provisions in these General Conditions are null and void or are voided, the other provisions of these General Conditions will remain in effect. MARCOR and the Client will be obliged to agree new provisions to replace the void or voided provisions; in doing so the purpose and meaning of the void or voided provisions will be taken into account as far as possible.

2. OFFERS AND QUOTES

- 2.1 All offers are free of obligation, unless the offer specifies a term for acceptance.
- 2.2 The quotes made by MARCOR are free of obligation and are valid for a period of 15 business days, unless otherwise indicated. MARCOR is only bound to the quotes if MARCOR confirms the Client's acceptance of the quotes in writing within 5 days, unless otherwise indicated.
- 2.3 Assignments and acceptance of offers by the Client will be considered irrevocable.
- 2.4 MARCOR will not be bound by a deviating acceptance by the Client of the offer included in the quote. The Agreement will not be concluded in accordance with the deviating acceptance unless MARCOR agrees to the deviating acceptance in writing.
- 2.5 A composite quotation will not oblige MARCOR to perform part of the assignment against a corresponding part of the given quotation.
- 2.6 Offers or quotes do not apply to future assignments.

3. PERFORMANCE OF THE AGREEMENT AND INDEMNIFICATION

- 3.1 MARCOR will perform the Agreement to the best of its knowledge and ability. The Client is aware of the fact that MARCOR uses floating storage and offloading facilities for its operations. Unless otherwise agreed, MARCOR may structure its operations and choose the storage location at its own discretion. MARCOR is entitled at all times to relocate (temporarily or otherwise) the floating facilities and to bring the goods to a different storage location.
- 3.2 The Client will leave it to MARCOR to engage third parties in the performance of the Agreement, as is the case when hiring push tugs and towboats, for instance, and to accept the (general) conditions of those third parties. The Client agrees to have such third-party conditions apply to it, including in its mutual relationship with MARCOR, and the Client will indemnify MARCOR against claims arising from such agreements with third parties.

- 3.3 The Client is obliged to provide MARCOR in a timely manner with all the data MARCOR needs to perform the Agreement. If the data required by MARCOR to perform the Agreement have not been provided in a timely manner, MARCOR is entitled to suspend performance of the Agreement and/or to charge the Client for the costs connected to the delay at the standard rates.
- 3.4 MARCOR is not liable for any damage whatsoever resulting from MARCOR applying incorrect and/or incomplete data supplied by the Client, unless MARCOR should have been aware of such inaccuracy or incompleteness.
- 3.5 The Client guarantees that every person who accesses the facilities, sites or operating equipment of MARCOR in connection with activities for or on behalf of the Client will strictly comply with the applicable safety and other regulations. MARCOR is entitled to deny access to or remove anybody who does not comply with or threatens not to comply with these regulations.
- 3.6 If it has been agreed that the Agreement will be performed in stages, MARCOR can postpone components that belong to a subsequent stage until the Client has approved the results of the preceding stage in writing at MARCOR's request.
- 3.7 If MARCOR or third parties engaged by MARCOR carry out activities at the Client's location or a location specified by the Client in connection with the assignment, the Client will provide such facilities as are reasonably required by those employees, at no cost.
- 3.8 The Client indemnifies MARCOR, its personnel and the third parties it engages against claims by third parties that incur damage through the performance of the Agreement and against whom MARCOR cannot invoke these General Conditions or the applicable Standard Conditions.

4. UNKNOWN QUALITY AND/OR COMPOSITION

- 4.1 The quality and/or composition (including water content, contamination with components that are foreign or belong to a separate class, carbon or other chemical content, etc.) of the goods that are placed in MARCOR's care in connection with agreements concluded with MARCOR or a Client's activities to be conducted by MARCOR are unknown on delivery. MARCOR is not obliged to control or carry out an inspection of the quality and/or composition. The burden of proof that the quality and/or composition of the goods has changed in the period that the goods were in MARCOR's care lies at all times with the Client, even if MARCOR carries out a (general) inspection or control of those goods on delivery by the Client.
- 4.2 The Client guarantees that the goods are suitable for handling by the equipment at MARCOR's disposal. The Client must notify MARCOR in a timely manner before commencement of the activities of any extraordinary or dangerous properties, size and treatment of the goods, and in general to provide MARCOR in a timely manner with all instructions and information it knows or should know that MARCOR will need to carry out the activities safely, reliably and without delay. Additional work in connection with extra measures required in this regard or with non-observance of the provisions in this paragraph will be at the Client's expense.

5. STANDARD CONDITIONS

- 5.1 Depending on the nature of the assignment, activities or other performance, or any part thereof that can be reasonably considered an independent component, in addition to the

General Conditions the following Standard Conditions will also apply, on the understanding that these General Conditions will prevail:

- 5.1.1 For operations connected in the broadest sense with the loading and unloading as well as with the acceptance, temporary storage, shifting, weighing, repackaging, checking or ordering the checking and/or delivery of containers, general cargo and/or other conventional cargo: the General terms and Conditions of the Rotterdam Terminal Operators' Association (VRTO terms), filed at the Office of the District Court of Rotterdam on 2 September 2009.
 - 5.1.2 For stevedoring operations relating to bulk cargo: The Conditions of Bulk Cargo Stevedores Rotterdam 1991 (*Voorwaarden Massagoed-stuwadoors Rotterdam 1991*) of the Association of Rotterdam Mechanised Transhipment Companies (*Vereniging van Rotterdamse Machinale Opslagbedrijven*) filed at the Office of the District Court of Rotterdam on 8 May 1991;
 - 5.1.3 For warehousing operations: the Amsterdam-Rotterdam Warehouse Conditions (*Veemcondities Amsterdam-Rotterdam*) as laid down by the General Stevedoring Department of the Shipping Association North (*Vakgroep veem-opslag- en controlebedrijven van de Scheepvaart Vereniging Noord*) in Amsterdam as well as the Association of Accredited Warehousing Companies (*Vereniging van Geaccrediteerde Vemen*) in Amsterdam, as filed with the Offices of the District Courts of Amsterdam and Rotterdam on 1 March 1994.
 - 5.1.4 All other operations, including organising transport from the dock to the warehouse or from the warehouse to the next destination ('transporting'), loading lorries from the warehouse, packaging goods e.g. in crates, big bags or barrels or performing customs duties in the broadest sense: the Dutch Forwarders' Conditions (*Nederlandse Expeditievoorwaarden*) filed by the FENEX with the Offices of the District Courts of Amsterdam, Rotterdam, Breda and Arnhem, most recent version at the time of concluding the Agreement.
- 5.2 In the event of doubt or uncertainty as to which of the Standard Conditions mentioned above apply, MARCOR will decide.
- 6. AMENDING THE AGREEMENT**
- 6.1 The parties will amend the Agreement if it appears during the performance of the Agreement that the substance or meaning of the Agreement must be amended or supplemented in order to warrant proper performance of the Agreement.
 - 6.2 If the parties agree that the Agreement will be amended or supplemented and this will influence the completion date of its performance, MARCOR will notify the Client as soon as possible about the date of completion, which will be an indicative date unless the parties expressly agree on a firm date.
 - 6.3 The parties are obliged to make agreements regarding the financial and/or qualitative consequences of the supplements and/or amendments referred to in this article.
 - 6.4 The Client is in any case obliged to pay the additional costs connected to the supplements and/or amendments referred to in this article.

7. DELIVERY DATES AND TERMS

7.1 Delivery dates and terms relating to the performance of the Agreement are always indicative, unless a firm date has been agreed. Except in the case of firm dates, the Client is obliged to give MARCOR notice of default in writing if any delivery date or term is exceeded and to grant MARCOR a reasonable term within which to fulfil its obligations under the Agreement.

8. PRICE

8.1 Prices are net, exclusive of VAT and based on the rates, taxes, etc. that apply on the date of the quote, the conclusion of the Agreement or the performance of the agreed service. If the parties have agreed a fixed price, MARCOR will nevertheless be entitled to increase the price in the cases mentioned below.

8.2 MARCOR may pass on price increases if there have been price changes relating e.g. to fuel, exchange rates and wages between the time of concluding the Agreement and the time of performing it.

8.3 Price increases resulting from any measure under or pursuant to the law do not entitle the Client to dissolve the Agreement.

8.4 Where possible, MARCOR will notify the Client of price increases in writing, stating the amount of the price increase and the effective date of the price increase.

9. PAYMENT, INTEREST, COSTS, SETTLEMENT AND SECURITY

9.1 Payment must be effected within 14 days of the invoice date unless otherwise agreed, without any deduction or offsetting, in the manner specified by MARCOR and in the currency of the invoice. An objection against the amount of the invoices does not suspend the obligation to pay.

9.2 In case of failure to pay within the due term the Client will be in default by operation of law without requiring notice of default. The Client will in that case owe interest of 1.5% per month, unless the statutory interest is higher, in which case the statutory interest pursuant to Section 119a of the Dutch Civil Code will apply. The interest over the amount due and payable will be calculated from the time the Client is in default until the time of payment of the full amount. MARCOR reserves the right, in case of late payment, to charge 10% of the invoice amount, with a minimum of € 250.00 to cover its administration costs.

9.3 MARCOR is entitled at all times to request an advance payment, interim payment or form of security from the Client for all existing or future amounts payable to MARCOR by the Client. If the Client does not immediately honour such request MARCOR will be entitled to refuse, suspend, interrupt or end the activities without any warning, notice of default or judicial intervention being required. The same applies if the Client defaults in any other obligation to MARCOR. MARCOR will never be liable for any loss arising from this, no matter how it is called.

9.4 All of MARCOR's claims will be immediately due and payable if and as soon as the Client or its representative applies for a suspension of payments or files for bankruptcy, is declared bankrupt, ceases all or part of its operations or transfers these to third parties, or loses the free disposal of its assets, in whole or in part, through seizure or similar measures. In those cases MARCOR is also entitled to terminate its legal relationship

with the Client with immediate effect, without prejudice to MARCOR's right to claim compensation.

- 9.5 MARCOR has a right of pledge and/or retention on all goods, documents and monies which MARCOR has or will have in possession from the Client for any reason or destination whatsoever, for all claims which it has or may have on the Client. MARCOR may also exercise these rights in respect of amounts the Client still owes MARCOR in connection with previous legal relationships or previous assignments.

10. **COLLECTION COSTS**

- 10.1 If the Client defaults in the (temporary) performance of its obligations, all reasonable costs incurred for out of court collection of payment will be at the Client's expense. The Client will in any event owe collection costs in the event of a monetary claim. The out of court collection costs amount to a minimum of 5% of the claim. If MARCOR has incurred higher costs, these will also qualify for repayment. Legal and execution costs will also be at the Client's expense.

11. **MARCOR'S LIABILITY**

- 11.1 MARCOR is always entitled to limit its liability based on the Standard Conditions referred to in Article 5. MARCOR's liability is in any event limited to € 250.00 per thousand kg or remaining part thereof if there has been damage to or loss of unpackaged bulk goods, or to € 1.00 per kg of damaged or lost gross weight in the event of packaged goods, and in all cases up to a maximum amount of €500,000.00 per assignment.
- 11.2 If MARCOR is liable on account of defaulting on the performance of this Agreement, MARCOR will not be obliged to pay more than the lowest costs of replacing or repairing the lost goods, with due observance of the limitation of liability as set out in article 11.1.
- 11.3 MARCOR will never be liable for consequential loss.
- 11.4 Any liability of MARCOR will lapse if MARCOR has not been notified in writing of the alleged damage or loss as soon as it has become known, or – if earlier notification is not possible – not later than on termination of the Agreement or its performance.
- 11.5 All limitation of MARCOR's liability applies in a corresponding manner to MARCOR's personnel and auxiliary persons, third-parties engaged by MARCOR and their personnel insofar as the limitation of such liability is not set aside by mandatory provisions.

12. **CLIENT'S LIABILITY**

- 12.1 The Client is liable for all damage caused by the Client, its subordinates, auxiliary persons and third parties it engages, including their personnel. The Client is also liable for damage caused by its goods (such as hazardous substances, whether or not under IMO classification, and consequences of gassing) and/or equipment used by it, as well as damage caused by goods and/or the equipment used by third parties engaged by it, including their personnel or auxiliary persons.
- 12.2 The Client is liable for all damage, both direct and indirect damage, caused by non-performance, late performance or improper performance of any obligation under the Agreement.

12.3 The Client is liable for all damage resulting from the use of unsafe and/or unsuitable loading and/or unloading locations, or locations at which MARCOR carries out activities on instructions from the Client.

13. **INSURANCE**

13.1 MARCOR will never provide any insurance of any kind for the goods in connection with which agreements have been concluded, assignments issued or activities carried out. Any insurance desired should be taken out by the Client.

13.2 The Client should, at its discretion and its own expense and risk, take out one or more insurance policies with reliable insurers against loss, destruction or damage of all goods (including goods of third parties) which the Client places in MARCOR's care. Recourse on MARCOR is excluded with regard to insured events, as well as in the event no insurance has been taken out but the loss in question would have been covered if such insurance had been taken out.

14. **FORCE MAJEURE**

14.1 The parties will not be obliged to perform any of their obligations if they are hindered in this due to a circumstance through no fault of their own and which cannot be attributed to them pursuant to the law, a legal action or generally accepted practice.

14.2 For the purposes of this Agreement force majeure is understood to include but is not limited to any shortcoming in the performance of this Agreement on the part of MARCOR due to (the consequences of): earthquake, landslide, subsidence, flooding, fire, (over)heating (including smouldering and singing), explosion, government measures, civil disobedience, riot, looting, theft, acts of war, disorderly conduct, terrorism, sabotage, trade conflicts, strikes, selective strikes, staff illness, occupation, radioactive emission, power failure and fuel shortage.

14.3 MARCOR is also entitled to invoke force majeure if the circumstance that hinders (further) performance of the Agreement begins after MARCOR should have performed its obligations.

14.4 The parties may suspend the obligations under the Agreement for the period during which the force majeure persists. If this period is longer than two months, either party is entitled to dissolve the Agreement without being obliged to compensate the other party for damages.

14.5 If and insofar as MARCOR has performed or will be able to perform part of its obligations under the Agreement at the time the force majeure begins, and if the part performed or to be performed has an independent value, MARCOR will be entitled to invoice separately the part already performed or to be performed. The Client is obliged to settle this invoice as if it were a separate agreement.

15. **DISPUTES, APPLICABLE LAW AND PRESCRIPTION**

15.1 All legal relationships between MARCOR and the Client are subject to Dutch law. All disputes between the parties will in the first instance be settled by the District Court of Rotterdam to the exclusion of other courts and/or arbitrators, in derogation from the provisions that may be contained in the Standard Conditions referred to in Article 5 of these General Conditions.

15.2 All claims against MARCOR will in any event prescribe through the mere expiry of 12 months after the claim arises.

16. **DEPOSIT**

16.1 These General Conditions have been filed with the Office of the District Court of Rotterdam in the Dutch language. In the event of a variance between the Dutch text of the General Conditions and a translation into a foreign language, the Dutch text will prevail.

General terms and conditions of the Rotterdam Terminal Operators' Association (VRTO)

Filed at the Registry of the District Court of Rotterdam on 2 September 2009

Article 1 - Definitions

EDI	Electronic Data Interchange: the electronic interchange of structured and standardized messages between information systems
Principal	the counterparty of the Terminal Operator
SDR	Special Drawing Right: a unit of account set by the International Monetary Fund
Terminal	All sites, buildings and waters where the Terminal Operator is based or where it carries out the Work, including any quays, railways, crane tracks, waterways, roads (whether adjacent or not)
Terminal Operator	The user of the General Terms and Conditions
Means of Transport	A construction designated for the transport of goods and/or people regardless of whether such construction is self-propelled or not
General Terms and Conditions	The general terms and conditions of the Rotterdam Terminal Operators' Association (VRTO)
Work	All factual and legal acts of the Terminal Operator connected in the broadest sense with the loading and unloading of Means of Transports, including but not limited to the acceptance, temporary storage, shifting, weighing, repackaging, checking / ordering the checking and/or delivery of goods (for the purpose of these General Terms and Conditions also including livestock), the execution of shipping activities and the use of floating cranes or other kinds of cranes

Article 2 - Applicability

- 2.1 **ANY GENERAL TERMS AND CONDITIONS APPLIED BY THE PRINCIPAL ARE EXPRESSLY PRECLUDED.**
- 2.2 The General Terms and Conditions are applicable to all legal relationships of the Terminal Operator under which the Work is carried out, regardless of whether this is effected on orders, on other grounds, against payment or free of charge.
- 2.3 The Principal leaves it at the discretion of the Terminal Operator to engage third parties within the scope of the Work or other activities and to accept the (general) terms and conditions of such third parties. The Principal agrees to let such general terms and conditions apply against the Principal.
- 2.4 In the event of incompatibility between the General Terms and Conditions and the general terms and conditions stated in article 2.3 the most favourable provision for the Terminal Operator by right shall be applied.

2.5 The Terminal Operator is entitled to rely on the custom of the port in addition to this.

Article 3 - Quotations, rates, payment, suspension, security, et cetera

- 3.1 All offers made by the Terminal Operator are non-binding until an agreement has been concluded. An agreement is concluded by written confirmation of the Terminal Operator or by the Terminal Operator's starting with the execution of the Work.
- 3.2 The Terminal Operator is entitled to adjust any already accepted rates in all fairness if after the conclusion of the agreement cost-increasing factors occur that are beyond the control of the Terminal Operator. (Non-exhaustive) Examples are (government) measures in the area of safety, quality, the environment and taxation aspects and market developments in the area of labour and energy that had not been taken into account upon entering into the legal relationship with the Terminal Operator.
- 3.3 If in the reasonable opinion of the Terminal Operator the circumstances have changed after the conclusion of the agreement such that it is unfair to expect that the Terminal Operator shall (continue to) carry out the Work even against the rates that have been adjusted in accordance with article 3.2, the Terminal Operator shall have the right to dissolve the agreement if and insofar as this refers to the Work not yet carried out, without becoming liable to pay damages as a result.
- 3.4 All invoices of the Terminal Operator must be paid by the Principal by the payment deadline set in this respect, but at the latest within 30 days, without any deduction or set-off. Challenging an invoice shall not suspend the payment obligation.
- 3.5 In the event of a dispute about what the Principal owes the Terminal Operator by virtue of the Work carried out, the documentation to be submitted by the Terminal Operator shall provide full evidence of the nature, contents and scale of the Work carried out, except for any proof of the contrary. The documentation of the Terminal Operator has preference over any documentation drawn up by the Principal or by third parties.
- 3.6 In the event of late payment of any claim of the Terminal Operator payable on demand, the Principal owes statutory commercial interest in this respect pursuant to Section 119a Dutch Civil Code from the due date until the date of full payment.
- 3.7 The Terminal Operator is at all times entitled to demand an advance payment from the Principal, a prepayment, an interim payment or a security that is adequate in its opinion for all claims by the Terminal Operator against the Principal now or in the future. If the Principal fails to fulfil such a request immediately, the Terminal Operator shall be entitled to refuse, suspend, interrupt or terminate the Work without requiring any written warning, notice of default or judicial interposition. The same applies if the Principal fails to perform any other obligation towards the Terminal Operator. The Terminal Operator shall never accept any liability for any resulting damage whatsoever.
- 3.8 All claims of the Terminal Operator shall become immediately payable if and as soon as the Principal or its representative applies for an administration order, files a bankruptcy petition, is declared bankrupt, ceases its activities in whole or in part or transfers them to third parties, or loses control of its assets in whole or in part due to attachment or similar measures. In such cases the Terminal Operator shall also be entitled to terminate the legal relationship with the Principal with immediate effect, without prejudice to the right of the Terminal Operator to claim damages.
- 3.9 The Terminal Operator has a pledge and/or a lien over all goods, documents and funds of the Principal in the possession of the Terminal Operator now or in the future regardless of the grounds and regardless of its designated use, for all and any claims against the Principal now or in the future. The Terminal Operator is also entitled to exercise such rights concerning what the Principal still owes the Terminal Operator in connection with previous legal relationships or previous assignments. In the event

of non-payment of the claim(s) for which such rights are exercised the Terminal Operator shall be entitled to sell the pledge in the manner prescribed by law.

- 3.10 Payment to the Terminal Operator must be effected in the manner specified by the Terminal Operator. Payment to a representative of the Principal shall not release the Principal from its obligation.
- 3.11 Payment by the Principal to the Terminal Operator shall serve first of all for the payment of the costs, subsequently for the payment of the outstanding interest and finally for the payment of the portion of the principal amount and the accrued interest specified by the Terminal Operator, despite any direction to the contrary by the Principal.
- 3.12 If the Principal fails to pay the claim(s) of the Terminal Operator in time, the amount of the claim(s) shall be increased by at least 10% handling fees to cover collection via legal proceedings or otherwise, unless the expenses turn out higher, in which case the Terminal Operator shall also be entitled to the extra amount.

Article 4 - General provisions regarding the Work

- 4.1 The Terminal Operator is entitled to have the Work carried out in whole or in part by staff and equipment of third parties as well as, at the discretion of the Terminal Operator, with the help of the loading & unloading equipment and/or drive power of the Means of Transport to be made available by the Principal free of charge.
- 4.2 If and insofar as it concerns them, the Terminal Operator and the Principal shall each see to obtaining and keeping all necessary permits as well as to compliance with all applicable regulations. They guarantee compliance with said obligations by their staff, assistants and subcontractors.
- 4.3 All information supplied by the Terminal Operator, such as the availability of berths and the time of execution of the Work, is not binding.
- 4.4 The Terminal Operator and the Principal warrant the material made available by them during the execution of the Work.
- 4.5 The Principal must prepare the Means of Transport and the goods to be loaded or unloaded from it at its own expense and risk such that the Terminal Operator is able to carry out the Work safely, in a responsible manner and without any delay.
- 4.6 In case of refusal, suspension, interruption or termination of the Work, the Principal must ensure that the Means of Transport and corresponding items shall leave the Terminal upon first request thereto by the Terminal Operator, for lack of which the Terminal Operator shall be entitled to take appropriate measures at the expense and risk of the Principal.
- 4.7 The Work does not entail inspection or insurance of the goods unless this has been explicitly agreed in writing, in which case the cost of inspection and insurance shall be borne by the Principal.
- 4.8 The Principal guarantees packing respectively packaging that is sea-proof or appropriate for the transport modality concerned (including but not limited to containers in which the goods are stowed) and clearly readable labelling of the goods in accordance with the applicable regulations (concerning safety and the environment), and for lack thereof, in accordance with the applicable standards under current market practices and behaviour.
- 4.9 Well in time before the start of the Work, the Principal must notify the Terminal Operator in writing of the possibly special or dangerous nature, scale and treatment of the goods as well as, in general, provide the Terminal Operator well in time with all instructions and information of which the Principal is aware or ought to be aware that the Terminal Operator needs them in order to carry out the Work safely, in a

responsible manner and without any delay. Any additional work in connection with non-fulfilment of the aforementioned shall be at the expense of the Principal.

- 4.10 The Principal guarantees that anyone who enters the Terminal from the water or from the shore within the scope of the Work for or on behalf of the Principal shall strictly adhere to the safety regulations and other regulations applicable to the Terminal. The Terminal Operator is entitled to remove from the Terminal - or to order the removal of - anyone who does not adhere to - or threatens to act in breach of - such regulations or who is unwelcome otherwise in the opinion of the Terminal Operator.
- 4.11 In its legal relationships with third parties, the Principal shall include a third-party clause in favour of the Terminal Operator, such as a so-called Himalaya clause, which entitles the Terminal Operator to rely (also) on jurisdiction clauses and all limitations and exclusions of liability in favour of the Principal, including a "before-and-after" clause, for damage, loss and/or delay of the goods (to be) transported by the Principal, which preferential treatment is accepted by the Terminal Operator beforehand.

Article 5 - Electronic data interchange

- 5.1 The interchange of messages between the Principal and the Terminal Operator may take place via EDI if agreed in writing.
- 5.2 If data interchange via EDI has been agreed this must be effected in accordance with the internationally applicable messaging standards and recommendations.

Article 6 - Liability and indemnification

A. The Terminal Operator

- 6.1 Without prejudice to the articles 3.3, 3.7, 6.6, 6.9 and 7.1, the Terminal Operator is liable for:
- a. any damage to or loss of a Means of Transport that is operated by the Principal in ownership, charter, lease or otherwise, during the time when the Means of Transport is located on or at the Terminal within the scope of the Work;
 - b. any damage to or loss of goods that the Work refers to, from the moment of physical receipt until the moment of physical delivery by the Terminal Operator;
 - c. personal injury or damage caused by death of any person who is involved for or on behalf of the Principal during the execution of the Work, if and insofar as such damage was caused on or at the Terminal.

The Terminal Operator does not accept liability for the damage or loss stated if the Terminal Operator is able to prove that such damage or loss was not caused by negligence on the part of the Terminal Operator or people or parties for whom the Terminal Operator is responsible within the scope of the Work.

The Terminal Operator does not accept liability whatsoever for the damage or loss stated if the Terminal Operator is able to prove that such damage or loss was caused by gross negligence or wilful intent on the part of people or parties for whom the Terminal Operator is responsible within the scope of the Work.

- 6.2 If damage or loss stated becomes evident after the Means of Transport, the goods or the person involved has/have left the terminal, the Terminal Operator shall only be liable if the Principal proves that such damage or loss was caused by negligence on the part of the Terminal Operator or on the part of the people or parties for whom the Terminal Operator is responsible under article 6.1.
- 6.3 The Terminal Operator shall never accept any liability for loss of profit, production loss, delay or any other form of consequential damage.

- 6.4 The Terminal Operator shall be discharged from all liability unless the Principal notifies the Terminal Operator in writing of damage or loss as set forth in article 6.1, either within four weeks after the Principal has become aware of the damage, or within three months after the Means of Transport involved, the goods or the person involved has/have left the Terminal, whichever term is shorter. All and any claims against the Terminal Operator shall become time-barred by the mere expiry of twelve months since said claim has arisen.
- 6.5 The Terminal Operator shall never accept any liability for claims below € 500 (five hundred Euro). In all events the liability of the Terminal Operator shall be limited to the sum insured that is actually paid out to the Terminal Operator increased by the deductible. For damage or loss referred to in article 6.1 the liability of the Terminal Operator is limited as follows:
- a. for damage or loss referred to in article 6.1 subsection (a) the liability of the Terminal Operator is limited to € 1,000,000 (one million Euro) per insured event;
 - b. for damage or loss referred to in article 6.1 subsection (b) the liability of the Terminal Operator per insured event is limited to 875 SDR (eight hundred and seventy-five special drawing rights) per package or unit, or 3 SDR (three special drawing rights) per kilo of gross weight of the goods lost or damaged, whichever amount is the higher;
 - c. for damage or loss referred to in article 6.1 subsection (c), the liability of the Terminal Operator is limited to € 1,000,000 (one million Euro) per insured event.

In case of several claims per insured event together exceeding the maximum amounts stated, such maximum shall be allocated pro rata to the value of such claims mutually agreed or determined in court.

- 6.6 The Terminal Operator shall make an effort to take the necessary measures in order to limit the risk of stowaways or access of other unwanted people to the Means of Transport of the Principal. If nevertheless stowaways or other unwanted people are discovered in the Means of Transport of the Principal, the Terminal Operator shall not be liable for any possibly resulting damage, expenses and fines.
- 6.7 Upon first request thereto the Principal shall indemnify the Terminal Operator against all and any claims by third parties in connection with the Work where exceeding the liability of the Terminal Operator under the General Terms and Conditions.
- 6.8 All limitations and exclusions of liability in the General Terms and Conditions in favour of the Terminal Operator shall also apply to its staff, independent assistants and subcontractors.

B. The Principal

- 6.9 Apart from its liability under ordinary law, the Principal is also liable for all claims by whatever name concerning customs duties or similar duties and charges, fines, (negative) expenses and interest, including import duties, excise duties and expenses for removal and destruction referring to or in connection with goods that the Terminal Operator possesses, has possessed or shall possess by virtue of the Work. Upon first request thereto the Principal shall fully indemnify the Terminal Operator against said claims and shall also furnish adequate security upon first request thereto in favour of the Terminal Operator or the customs authority involved, including the reasonable costs of defence.
- 6.10 If the Principal is liable towards third parties for damage for which the Principal wishes to have recourse against the Terminal Operator, the Principal shall enable the Terminal Operator to be present or represented during the investigation into the cause and scale of such damage. The Principal must also prove that it has conducted all entitled defences in its legal relationship towards such third party in order to turn down or limit liability, unless the Terminal Operator has agreed explicitly and in writing to the acceptance of liability by the Principal or has come to a settlement in this respect with such third party. If the Principal still fails to fulfil said obligations, the Terminal Operator shall be discharged from all liability.

- 6.11 The Principal shall take out and maintain an appropriate insurance policy to cover its possible liabilities towards the Terminal Operator. Upon request thereto the Principal shall give the Terminal Operator access to the insurance policy sheet(s) concerned.

Article 7 - Force majeure

- 7.1 The Terminal Operator is entitled to suspend the Work in the event of force majeure. The Terminal Operator shall never accept liability for the consequences of force majeure and/or of such suspension of the Work.
- 7.2 Force majeure includes but is not limited to:
- strikes or work stoppage, lockouts, go-slow actions, lightning strikes and all other forms of industrial unrest
 - extreme weather conditions or water circumstances and natural disasters / Acts of God
 - burglary, fire, explosion and nuclear response
 - government measures
 - war, uproar, uprising, terrorism, hijacking, sabotage, vandalism and similar unrest
 - computer breakdown and power outage
 - latent defects in the equipment used by the Terminal Operator
 - all other circumstances that cannot be blamed on the Terminal Operator and that are not the responsibility of the Terminal Operator pursuant to the law, legal act or current market practices and behaviour.
- 7.3 In the event of force majeure the Terminal Operator shall notify the Principal in writing as soon as possible and take all reasonable measures in order to terminate the force majeure situation as soon as possible and limit the consequences thereof.
- 7.4 All and any extra expenses caused by force majeure shall be at the expense and risk of the Principal.

Article 8 - Applicable law and settlement of disputes

- 8.1 All legal relationships of the Terminal Operator and the interpretation thereof are governed by Dutch law.
- 8.2 All disputes under or in connection with the legal relationships aforementioned shall be subject to arbitration in Rotterdam in accordance with the TAMARA Arbitration Regulations. The arbitration tribunal shall consist of three arbitrators unless parties agree to one single arbitrator after all. The proceedings shall be conducted in the Dutch language. Each of the parties is obliged to report the request for arbitration and the result thereof to the secretariat of the Rotterdam Terminal Operators' Association and to file the award of the arbitrators there.
- 8.3 The Terminal Operator is entitled to waive arbitration for the collection of monetary claims, in which case the court of competent jurisdiction in Rotterdam shall have exclusive jurisdiction.

Article 9 - Official title and authentic text

- 9.1 These General Terms and Conditions may be quoted as the "VRTO General Terms and Conditions". They are deemed to be the most recent version of the General Terms and Conditions of the Association of Rotterdam Stevedoring Companies 1976 (Vereniging van Rotterdamse Stuwadoors) ("Rotterdamse Stuwadoors Conditities").
- 9.2 In the event of any differences between the Dutch text of the General Terms and Conditions and a translation thereof into a foreign language, the Dutch text shall prevail.

TERMS AND CONDITIONS ROTTERDAM
BULK CARGO STEVEDORES
ROTTERDAM 1991

OF THE

ASSOCIATION OF ROTTERDAM BULK CARGO STEVEDORES

Lodged with the office of district court
in Rotterdam under no 505 and with the
Chamber of Commerce in Rotterdam
on May 8th, 1991

Terms and Conditions Massagoed—stuwadoors Rotterdam 1991

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Article 1 Stevedore

1. In these terms and conditions the term 'stevedore' shall mean a company which is engaged in the unloading, loading, moving, treatment, blending, screening, storage, administrating as well as reloading of bulk cargo and/or other cargo, the foregoing with the help of mechanical equipment, auxiliaries and systems, fixed, floating or rolling for grabbing, lifting, carrying and storing, all in the widest sense of the word.

Article 2 Principal

1. In these terms and conditions the term 'principal' shall mean a natural person or company which has granted for its own account and risk an order to the stevedore and who/which shall implicitly represent to the stevedore the owner of the goods as well as the ship owner or the owner of the means of transport involved in the execution of the order and shall accept all liability to the stevedore for all said persons.
2. During the execution of an order the stevedore shall not accept any liability for parties other than the principal, unless the principal has declared in writing and in advance, that this other represents him and that the principal guarantees any obligation assumed by the said other vis-à-vis the stevedore. Where there is no such declaration the principal shall not hold the stevedore liable for any claims from third parties who are involved, directly or indirectly, in the execution of the order.

Article 3 Order

1. In these terms and conditions order shall mean all ordered work, irrespective of the goods involved and irrespective of the means of transport - floating, fixed or rolling - and or methods of operation involved. The order shall include all work connected therewith or arising therefrom, irrespective of whether or not the stevedore is obliged to carry out this work.
2. Without prior consultation with the principal, the stevedore shall be empowered to carry out the order or to have the order carried out, in whole or in part, by third parties and/or personnel and/or equipment of third parties. The stevedore shall be deemed to have negotiated for the benefit of this third party the same rights as set forth in these terms and conditions, also if the stevedore, for whatever reason, should transfer the order in its entirety to this third party and the principal simultaneously releases the stevedore from his liabilities vis-à-vis himself.

Article 4 Execution of the Order

1. The stevedore undertakes to carry out the order with due care and diligence as is customary in the stevedoring practice in the Rotterdam port area.
2. The stevedore shall designate the berth or parking place of the means of transport, which shall be wholly and exclusively at the risk of the principal after acceptance by the principal or the captain, master or driver of the means of transport concerned.
3. The equipment (fixed, floating and rolling) in use by the stevedore shall be used at the risk of the principal. The stevedore shall only accept liability if the principal should prove that the said equipment was not in a good state of repair and did not meet government requirements, if any, at the time the damage was sustained and that the sustained damage was caused by these circumstances.
4. Insofar as not excluded pursuant to these terms and conditions, the responsibility for the goods or part thereof and the liability arising therefrom, shall as regards the stevedore always commence at the time that the part concerned has left the means of transport or terminates when said part has been loaded into the means of transport, as the case may be.
5. The storage of the goods shall be effected exclusively for the account and risk of the principal. With due observance of the other provisions in these terms and conditions, the stevedore shall not be liable for any damage and/or loss caused by defects to, in or of the equipment used for the storage, including silos, sheds, partitions, tarpaulins etc., unless the principal proves that said damage or loss has been caused by gross negligence on the part of the stevedore.
6. Payment for transshipment, unloading, storage and reloading shall be owed by the principal on the basis of the

conditions agreed with him (weight, number of in³ or m² etc.).

The stevedore shall not be liable for any established difference between the quantities of unloaded and of reloaded goods, unless the difference has been caused by acts on the part of the stevedore for which and insofar under the present terms and conditions he has accepted liability.

If at any moment there appears to be a difference between the quantities of stored and yet to be shipped goods, the payment due for the storage of the remaining part shall be recalculated according to the actually stored quantity as from the date that the difference has been established.

Said recalculation shall only apply to the quantity at that time in storage without any retroactive effect to the advantage or disadvantage of the stevedore or principal.

Without prejudice to the provision in article 4.7, the principal shall be deemed to have voluntarily and unconditionally resigned his right of ownership to the goods (including an established surplus, if any) which are not shipped in time as agreed between the stevedore and the principal in favour of the stevedore. The stevedore shall be entitled to freely dispose of these goods.

7. The principal shall be obliged to collect stored goods (have the goods collected) by the last day of the agreed period or, in case of storage for an indefinite period of time, by the last day of a term of at least 15 days to be set by the stevedore. In case of non—compliance with this obligation the principal shall be liable for all costs, damage and interest which may arise therefrom to the stevedore. Furthermore, the stevedore shall in that case be empowered to have the goods removed for the account and risk of the principal and to store the said goods or have the goods stored elsewhere for the latter's account and risk.
8. If the goods (to be stored or stored) have been sold or the ownership has been transferred to third parties, in part or in whole, by or on behalf of the principal before the agreed date of termination of the storage, the principal shall remain fully liable vis-à-vis the stevedore for the transferred part, unless the new owner has acknowledged in writing the same obligations and liabilities as those of the principal vis-à-vis and to the satisfaction of the stevedore.
9. The principal shall ensure and guarantee vis-à-vis the stevedore:
 - a. that the means of transport with all and any accessories are fully suitable for the goods and for the working method applied in general and for the use of grabs in particular.
 - b. that the work on the means of transport can start immediately and that said work can be continued and completed without delay, which implies that any means of transport, if required by the stevedore, shall be shifted or moved immediately.
 - c. that at all times aboard the vessels that are being loaded or unloaded the winches needed for shifting are ready for use.
 - d. that there is sufficient lighting for carrying out the work aboard the vessels where the work is carried out.
 - e. that during the work or after completion thereof the means of transport shall be shifted or removed upon the stevedore's first request.
10. The stevedore shall reserve the right to terminate the order prematurely if:
 - the principal does not comply with his obligations or it is foreseeable that he may not want to or is unable to comply with his obligations, as the case may be.
 - the stevedore finds himself in a position that completion of the order cannot in reasonably be expected from him.
11. In both cases the principal and the stevedore shall settle the amounts due on the basis of the work carried out up to that moment without prejudice to the right of each of them to claim damages from the other with due observance of the provisions in these terms and conditions.
12. Delay of the commencement, the execution and/or the completion of the order, due to whoever or whatever,

does not release the principal from his obligation to pay on time to the stevedore the incurred additional costs as a result thereof for the waiting time of equipment and personnel, port charges, demurrage.

13. The principal as described in Article 2 shall not (and shall cause every person in his employment not to) file a claim for damages on any account whatsoever, other than against the stevedore, such by exclusion of claims against any person in the employment of the stevedore or his subcontractors.

Article 5 General Liability

1. On the penalty of exclusion of any liability on the part of the stevedore, the principal shall inform any third party who is involved in the execution of the order in conjunction with him of these general terms and conditions and conclude agreements with any such third party in accordance therewith. In case of non-compliance with the foregoing, the principal shall hold the stevedore free of all claims by third parties.
2. The stevedore shall only be liable for damage caused to the goods, to the means of transport of, or working on the orders of, the principal or to persons in his employment or otherwise working for him if and insofar as there is proof that this damage is the result of gross negligence or intent on the part of the stevedore or of one of his subordinates.
3. The stevedore's liability for damage as referred to in the second paragraph of this article, insofar as this has not been excluded according to the cause or the party interested, shall be limited to a maximum of Dfl. 50,000.- per order, irrespective of the duration of the order, the number of times the damage is sustained, the nature or the cause of the damage and irrespective of whether said damage concerns only one or several parties. One and the same damage occurring during the execution of two or more different orders shall remain limited up to the same maximum of Dfl. 50,000.-, but shall be divided among the joint principals pro rata.
4. Any liability on the part of the stevedore shall cease if the stevedore has not been notified in writing by the principal of the damage sustained before termination of the order or before the departure of the means of transport related to the order or of the good to which damage has been caused, as the case may be, and has been given the opportunity to satisfy himself of the damage sustained. If notification of damage before the termination of the fixed terms was not reasonably possible but the damage was indeed already known to the principal, the expiration date shall be the first following date on which the principal could have notified the stevedore, such however with a maximum of three days after termination of the order. The damage shall be determined as per the date on which the damage was established or should or could have been notified at the latest pursuant to the first sentence of this article.
5. The principal shall be sufficiently insured against the risks which have been excluded from the stevedore's liability by virtue of these terms and conditions (according to the nature or to the amount).
6. Payments of damages made by the stevedore to the principal shall only imply fault and liability on the part of the stevedore, if and insofar as the latter has acknowledged this expressis verbis.

Article 6 Liability Exclusions

1. Damage for which the stevedore has excluded liability according to nature or amount by virtue of these general provisions and which are recovered by third parties (including the insurers of the principal) on the stevedore, shall be compensated by the principal to the stevedore. The principal shall (where possible and when allowed) join the stevedore as co—defendant in any action to be defended by the stevedore, at the latter's request.
2. With due observance of article 5 paragraph 2 the stevedore shall never be liable for:
 - a. Damage to goods which is, wholly or partly, attributable to the nature and/or the condition of said goods.
 - b. Damage to goods which is foreseeable or unavoidable when the equipment used and/or working method used (in all aspects of the order) are applied, unless the principal has, within reason, made objections beforehand.

- c. Damage to goods caused by loss of weight, loss of quality, pollution, mixing (including damage by dusting) or the presence of alien objects in the goods.
- d. Damage caused by the goods, either due to their nature or as a result of any act or neglect by the stevedore or a third party, which damage may be (jointly) recoverable from the stevedore according to present or future legislation by third parties, including also pollution of soil, water and air, product liability, dust and unbearable smell.
- e. Damage caused during the execution of the order to means of transport (floating or rolling) or to persons who are used or employed, as the case may be, and are not the property or in the employment, as the case may be of the stevedore for, on the orders of or on behalf of the principal.
- f. Damage caused during the execution of the order to other cargo aboard the means of transport as referred to under e and which, when the damage occurs, is not subject to the order.
- g. Damage to the means of transport due to or as a result of preparatory and additional activities beyond the scope of the order such as installment of lights, repairs, manipulating hatches, shifting/moving etc.
- h. Any damage directly or indirectly arising and resulting from a damage for which the stevedore has acknowledged liability.
- i. Damage in the form of loss of dispatch money or demurrage to be paid, demurrage of inland vessels and demurrage of wagons or cars or trucks, irrespective of the cause as well as any form of loss of time or after completion of the order as a result of repairs under the stevedore's responsibility.

Article 7 Force Majeure

1. The stevedore shall never be liable for damage caused by or to be attributed to occurrences of force majeure, including among others:

- war
- riots
- government acts
- sabotage
- organized or unorganized strike
- exclusion of workers
- labour unrest
- burglary
- fire
- explosion
- nuclear reactions
- electricity and/or water supply failures
- acts of God
- high or low tide

irrespective of the way in which and where they have occurred.

2. The force majeure with respect to the stevedore shall also include the breakdown and repair or replacement of equipment and/or other appliances used or to be used by or on behalf of the stevedore which are necessary for the execution of the order or to which replacement or repair should reasonably be preferred to execution of the order.
3. The force majeure with respect to the stevedore shall also include the circumstance that upon arrival there is no berth or parking place immediately available for means of transport to be loaded or unloaded.
4. In all cases of force majeure the loss of time and the demurrage and/or costs of recovery arising therefrom shall

be for the account of the principal.

Article 8 Principal's Liability

1. The principal shall be obliged to inform the stevedore of all properties of the goods and of the means of transport as a result of which the goods, either spontaneously or due to certain influences or conditions, may cause a danger to other goods or objects, including equipment and storage areas, or to persons or to the environment such as soil, water or air.
2. The principal shall be obliged to compensate all damage to the stevedore which occur or may occur as a direct or indirect result of the properties mentioned above, irrespective of the fact whether he has informed the stevedore, or which occur or may occur as a direct or indirect result of any defect of the goods or of the means of transport, known or unknown, including the presence in the goods of alien objects or goods.
3. The principal shall be obliged to hold the stevedore free of all claims by third parties (including the stevedore's employees) as regards the damage referred to above.
4. The principal shall be obliged to compensate the stevedore for all damage, both direct and indirect, sustained by the stevedore as a result of the fact that, on or near the stevedore's territory, means of transport which according to the order must be, are being or have been loaded or unloaded, become defective, sink, ask for assistance and/or in any way obstruct, hinder, cause difficulties or danger in any way to the operation of the stevedore or to the continuation of the execution of the order. The damage referred to in this paragraph shall include all costs incurred by the stevedore to prevent or reduce imminent damage as well as the costs necessary to eliminate a condition causing damage.
5. The principal shall owe the stevedore additional payment for the execution of the order if during the execution it appears that the goods or the means of transport have such properties or characteristics that the work as regards time, manpower or use of equipment comprises more than could be foreseen within reason at the time of acceptance of the order. Such additional payment shall apply in any case if the loading and unloading with grabs is considered impossible by the stevedore, and/or there is not sufficient manpower aboard the means of transport to carry out the order in the usual manner.
6. The principal shall be liable for any damage which is a direct or indirect result of non-compliance or partial compliance with directives or rules issued by the stevedore's employees and/or non-compliance with government regulations.

Article 9 Payment

1. The payment of amounts owed to the stevedore on account of or connected with the order shall be made promptly after completion of the order. Payment of expenses to be calculated periodically shall be made immediately upon expiration of the period concerned. Legal interest shall be due on claims payable to the stevedore in case of non—payment as from the date the claim becomes payable. Furthermore, the stevedore shall be entitled to charge to the principal all costs connected with the collection of the outstanding claim, both judicial and extra-judicial. In this connection the extra-judicial collection costs shall amount to at least 15% of the outstanding and payable claim. The amounts owed to the stevedore shall never be set off against claims the principal has against the stevedore which have not been acknowledged by the latter.
2. Irrespective of the foregoing, the stevedore shall have the right to retain goods, either by refusing to load the means of transport or by preventing the departure of the loaded means of transport, until the principal has paid the stevedore all he owes on account of this article.

Article 10 Additional Services

1. If and insofar as part of the order additional services (towing, pushing, transportation of persons or objects,

repairs etc. irrespective of the fact as to whether these additional services are carried out by the stevedore himself or by third parties on his behalf) are rendered by or on behalf of the stevedore as part of the order, equipment and personnel shall be made available on the terms and conditions laid down in the most recent version and lodged with the District Court or the Chamber of Commerce in Rotterdam, as applied by the companies concerned. If the principal makes no objections against the stevedore's proposal regarding the choice of the company providing assistance, the principal impliedly accepts the terms and conditions lodged on which this company operates.

2. Costs for additional services shall be invoiced separately and shall not be part of the price of the contracted order, unless otherwise agreed.

Article 11 Disputes

1. All disputes arising or resulting from these terms and conditions shall be subject to arbitration in Rotterdam and governed by the laws of the Netherlands, in accordance with the TAMARA rules (to be obtained from the Chambers of Commerce in Amsterdam and Rotterdam and from the Stichting TAMARA, Post Office box 4222, 3006 AE Rotterdam). The principal and the stevedore hereby agree in future to submit their dispute to three arbitrators.
2. As regards the collection of payable claims the stevedore shall be empowered to waive the provisions laid down in this article, in which case the competent judge in Rotterdam shall be exclusively competent to hear and determine the claim concerned.

Article 12 Final Clauses

1. These terms and conditions shall be issued by the stevedore to the principal for inspection. Insofar as these terms and conditions do not provide for certain cases, the customary port practices shall apply. These terms and conditions shall be referred to as "1991 Terms and Conditions Rotterdam Bulk Cargo Stevedores". These terms and conditions have been lodged on behalf of the stevedore for general inspection with the office of the District Court in Rotterdam under no 505 and with the Chamber of Commerce in Rotterdam. The stevedore shall ensure that a copy of these terms and conditions is always available at or near the place where the work is being carried out.
2. Unauthorized translations of these terms and conditions in English, French and German have been lodged with the bodies mentioned above in clause 1.
In the event of any disputes arising between parties, only the Dutch version shall be binding.

**WAREHOUSING CONDITIONS
AMSTERDAM-ROTTERDAM**

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WAREHOUSING CONDITIONS AMSTERDAM - ROTTERDAM

The present conditions have been compiled under the auspices of:

- (1) Vakgroep Veem-, opslag- en Controlebedrijven van de Scheepvaart Vereniging Noord te Amsterdam,

(The Section Warehousing, Storage and Superintending Companies of the Shipping Association North at Amsterdam)
- (2) Vereniging van Geaccrediteerde vemen te Rotterdam.

(The Association of Accredited Warehousing Companies at Rotterdam)

GENERAL PROVISIONS

Section 1 Terms of Reference of the General Conditions

- 1.1 These conditions shall apply to all legal relations between warehousing companies and their Principals, even after the termination of the agreement to the extent that the provisions of Chapter I hereof are concerned, and to the legal relation between warehousing companies and warrant holders, to the extent that the provisions of Chapter II hereof are concerned, where the warrant indicates that these conditions - referred to by the name “Warehousing Conditions Amsterdam-Rotterdam” - are applicable.
- 1.2 The agreement between the Principal and the warehousing companies shall explicitly exclude any general conditions to which the Principal might wish to refer or may deem to be applicable.
- 1.3 Neither the Principal nor the warrant holder may appeal to regulations and provisions where they are contrary to these conditions.
- 1.4 Where the warehousing company performs or supplies other services and acts in the capacity of forwarding agent, shipbroker, stevedore, carrier, insurance broker, superintending company or whatever, the conditions customary to that relevant branch of the specific trade shall be enforceable in addition to which other terms and conditions which have been specifically agreed between the parties shall also apply.

Section 2 Definitions

In these conditions it is understood by:

- warehousing company:** The party which - apart from the possibility of wider terms of reference as physical distributor – accepts instructions for the storage or custody or delivery of goods (Chapter I) or the party who has goods in custody against which a warrant issued by him is in circulation (Chapter II).
- Principal:** The party who instructs the warehousing company to store or deliver goods, or the party for whom the warehousing company stores goods for which no warrant is in circulation.
- Warrant:** A numbered and legally signed or stamped receipt entitled “Warrant”, stating that the bearer has the right to receive the goods mentioned therein.

Warrant Holder: The party who identifies them self to the warehousing company as the holder of a warrant by producing the warrant or who establishes ownership in any other manner acceptable to the warehousing company.

Last warrant holder known

to the warehousing company : The party to whom a warrant has been issued and subsequently the warrant holder whose written request to the warehousing company to be considered as such bears the most recent date, provided, however, that the warehousing company shall have the right but not be obliged to regard someone else as such, if they have reason to assume that the latter is the last warrant holder.

Section 3 Applicable Law

All agreements between the warehousing company and the principal shall be subject to the laws of the Netherlands and if not otherwise specified in these conditions the provisions of Civil Lay concerning the custody of goods, shall apply in general and according to circumstances.

Section 4 Disputes

- 4.1 All disputes which may arise between the warehousing company and the principal or the warrant holder shall be decided in the last instance either by three arbitrators or by the District Court of Rotterdam or Amsterdam, at the option of the party wishing to submit a dispute for decision. A dispute shall be deemed to exist whenever either party states that such is the case. Section 4.2 to 4.9. shall apply when a dispute is adjudicated by arbitration.
- 4.2 One of the arbitrators shall be appointed by the Chairman of the organization of which the warehousing company in question is a member; the second arbitrator shall be appointed by the Chairman of the Judicial Council in the district where the warehousing company have their registered office; the third arbitrator shall be appointed in mutual consultation by the arbitrators thus appointed. The Chairman of the said organization shall only proceed with appointing an arbitrator if one of the parties to the dispute is a member of one of the employer's associations who have adopted these Warehousing Conditions. If the said Chairman shall not appoint an arbitrator, appointment shall be made in accordance with the provisions of Section 4.7. Exclusively persons of Dutch nationality may be appointed arbitrators.
- 4.3 The Chairman of the organization referred to in Section 4.2 shall appoint an expert on warehousing; the Chairman of the Judicial Council shall be requested to appoint a lawyer; the third arbitrator to be elected should preferably be a person who is an expert in that particular trade or branch of industry in which the party opposing the warehousing company operates.
- 4.4 The party desiring adjudication of the dispute shall inform the Arbitration Secretariat (the "Secretariat") by registered letter, giving a brief description of the dispute and his claims as well as simultaneously enclosing a sum to cover service charges as required by the Secretariat to compensate for the administrative cost of the Secretariat in relation to the arbitration.
- 4.5 On receipt of the said registered letter the Secretariat shall as soon as possible send copies to the opposing party; to the Chairman of the relevant organization and to the Chairman of the Judicial Council, requesting the two Chairmen to each appoint an arbitrator and inform the Secretariat of the names and addresses of the persons thus nominated.

On receipt of such information the Secretariat shall as soon as possible inform the two nominees of their appointment, sending them a copy of the application for arbitration and a copy of these

General Conditions, and requesting them to appoint the third arbitrator and to inform the Secretariat who has been appointed as such.

On receipt thereof the Secretariat shall as soon as possible inform the third arbitrator of his appointment, sending him a copy of the application for arbitration and a copy of these General Conditions. The Secretariat shall subsequently inform both parties who have been appointed arbitrators.

4.6 The Secretariat is established in Amsterdam:

Vakgroep Veem-, Opslag- en Controlebedrijven

van de Scheepvaart Vereniging Noord

“ Havengebouw ” (11th Floor)

De Ruyterkade 7 (1013 AA Amsterdam)

PO Box 19405

1000 GK Amsterdam

Telephone: 020-6222111 Fax: 020-6203133 as well as in Rotterdam:

Vereniging van Geaccrediteerde vemen

Adriaan Volker Huis

Oostmaaslaan 71 (3063 AN Rotterdam)

PO Box 4222

3006 AE Rotterdam

Telephone: 010-4020324 Fax: 010-4120687

4.7 In the event that all three arbitrators have not been appointed within 30 days of filing the application for arbitration, all arbitrators shall be appointed by the President of the District Court within whose jurisdiction the warehouse have their registered office, on application by means of a simple petition of the willing parties.

4.8 Chairman of the arbitrators shall be the arbitrator appointed by the Chairman of the Judicial Council. In the event that the arbitrators have been appointed by the President of the District Court, the arbitrators shall determine among themselves which of them is to act as Chairman. Arbitrators shall deliver their award as good men in fairness and under obligation to comply with the applicable imperative legal provisions, including the provisions of international transport treaties. They shall determine in what manner the arbitration is to be treated, provided that the opposing parties shall have been given an opportunity to expound their views in writing and explain them orally.

- 4.9 The arbitrators shall continue their deliberations until they reach a final decision. They shall file their award with the Registrar of the Court within whose jurisdiction the place of arbitration is situated, whilst they shall send copies thereof to each of the parties and to the Secretariat. Arbitrators may require an advance deposit from the claimant or from both parties to cover the costs of arbitration. During the hearing they may require this to be supplemented. In their award the arbitrators shall decide which of the two parties shall bear the cost of the arbitration or shall set the proportion of the costs either party is to bear. Such costs are to include the arbitrators' fees and expenses, the amount paid to the Secretariat for service charges as well as the costs incurred by the parties involved, if the arbitrators reasonably think such costs necessary. The monies paid on deposit shall as far as possible be taken to cover the arbitrators' fees with the balance due to be paid as set out in the arbitration decision.

Section 5 Filed Conditions

- 5.1 These conditions have been filed with the Registrars of the District Courts of Amsterdam and Rotterdam. They will be sent on request.
- 5.2 In case of difference between the Dutch text and the text in any other language of these Warehousing Conditions, the Dutch text shall be decisive.

CHAPTER 1

PROVISIONS RELATING TO STORAGE, CUSTODY AND DELIVERY

Section 6 Written Procedures

- 6.1 All agreements, tenders, instructions regarding storage, custody, handling and delivery of goods, shall be recorded in writing.
- 6.2 Verbal or telephone communications or arrangements shall only be binding on the warehousing company if immediately confirmed in writing, unless otherwise agreed.

Section 7 Description of Goods and Supply of Information

- 7.1 Tendering of goods and instructions on storage, custody and handling shall be effected or supplied providing the exact and full written description of the goods, such as inter alia their value, the number of packages, the gross weight and furthermore all particulars of such nature that the agreement would not have been made or not on the same conditions if the warehousing company had been acquainted with the true state of affairs.
- 7.2 If goods are subject to customs and excise provisions or to tax regulations, the Principal shall timely supply all information and documents required in this connection, in order to enable the warehousing company to comply with such provisions or regulations.

Section 8 Rates/Payments/Taxes

- 8.1 Current rates and payments for work done and all verbal or written agreements between the warehousing company and the Principal regarding rates and payments for work done shall be based on the cost of labour prevailing at the time the instructions were given or the agreement was made. In the event of an increase in the cost of labour, the current rates or the agreed rates and payments may be adjusted accordingly. The warehousing company shall also have the right to adjust the rates in cases where the Authorities introduce or increase charges imposed on the services rendered by the warehousing company.
- 8.2 Current and agreed rates for storage shall be based on the customary method of stacking the relevant goods unless otherwise agreed. If at the Principal's request or due to the condition of the goods the customary method of stacking is not followed, an increase in the rates shall be applied proportional to the additional floor space occupied compared to normal stacking.

Section 9 Duties, Costs and Taxes

- 9.1 All freight, disbursements, taxes, duties, contributions, levies, fines and/or other charges or costs of whatever nature, incurred by or relating to the goods and payable on arrival or charged forward, shall be for the account of the Principal and shall be paid or reimbursed by the Principal whether or not in advance, at the warehousing company's first demand, irrespective of whether the goods are still on the premises or have since been removed.
- 9.2 When the warehousing company deems it necessary to conduct law suits or take other legal steps with regard to taxes, duties, contributions, levies, fines and/or other charges or costs of whatever nature, imposed by the Authorities; or if the Principal requests the warehousing company to conduct such law suits or implement such legal steps and the warehousing company complies with such a request, the resulting work and costs, including the costs of legal and/or fiscal and/or other advice or assistance deemed necessary by the warehousing company shall be for the account and risk of the Principal.

Before the warehousing company proceeds to implement law suits or takes legal measures within the terms of this Section 9, the warehousing company shall try to consult on the matter with, or to obtain instructions from the Principal or the party directly concerned.

- 9.3 In the event of the warehousing company acting or having acted as fiscal agent, all taxes, duties, contributions and other levies as well as fines, interest, costs of whatever nature, or indemnifications shall be for the account of the Principal, without prejudice to the provisions of Section 9.1. The Principal shall pay such amounts at the warehousing company's first demand.

Section 10 The Principal's Liability

- 10.1 The Principal shall be liable to the warehousing company and/or third parties for any loss or damage resulting from incorrect and/or misleading and/or incomplete descriptions or indications or information, as well as for the loss and/or damage resulting from defects of the goods and/or the packaging, even when such loss or damage was caused through no fault of his. If the weight has been omitted or stated incorrectly, the Principal shall be liable for all resulting loss and/or damage.
- 10.2 Notwithstanding the above provisions the Principal shall indemnify the warehousing company against claims from third parties as well as indemnify the warehousing company for damages paid or due to third parties, including employees of both the warehousing company and the Principal, resulting from the nature or condition of the goods stored, unless the damage has resulted directly from wilful or gross negligence by the warehousing company themselves.

Section 12. Refusing an Order

The warehousing company shall have the right to refuse an instruction for storage and/or custody without having to give any reasons therefore. In the event of the warehousing company having accepted the instructions, the agreement may only be broken by mutual consent of the parties concerned, subject to the provisions below.

Section 12 Inspection of Goods

- 12.1 When the goods are stored the warehousing company shall not be obliged to weigh and/or measure the goods without having received specific instructions to this effect.
- 12.2 At its own discretion the warehousing company may weigh and/or measure the goods in order to check and verify the specifications received. If in such an event the warehousing company ascertains that the weight or measure vary from the specification, the cost of weighing and/or measuring shall be for the account of the Principal. However, the warehousing company shall only be responsible for ascertaining the weights and/or measurements, if the goods have been weighed and/or measured by the warehousing company on the Principal's instructions and without prejudice to the provisions of Section 20 of the warehousing company's liability.
- 12.3 Packages may only be opened for inspection of the contents at the Principal's request, however the warehousing company shall at all times have the right, but not be obliged, to open the packages in order to verify the contents, should they have reason to suspect that the contents have been incorrectly declared.
- 12.4 If on inspection it appears that the contents differ from the specification, the costs of the inspection shall be for the Principal's account. The warehousing company, however, shall never be responsible for the description and/or designation of the goods taken into custody.

Section 13 Delivery and Receipt

Delivery to and receipt by the warehousing company shall be made by the Principal's delivery of the goods and their acceptance by the warehousing company at the place of storage.

Section 14 Condition of the Goods on arrival

- 14.1 Unless otherwise stated, goods shall be delivered to the warehousing company in good condition and if packed, shall be properly packed.
- 14.2 If the goods sent to the warehousing company arrive in outwardly visible damaged or defective condition, the warehousing company shall have the right, but not be obliged, to take any steps to protect the Principal's interests against the carrier or others, at all times for the Principal's account and risk, and shall provide evidence of such condition, without the Principal however being able to make any claim against the warehousing company for the manner in which the warehousing company have performed such tasks. The warehousing company shall notify the Principal without delay, without the latter however having any right to claim against the warehousing company because of failure to notify.
- 14.3 Goods received for storage may at any time be removed, or destroyed or rendered harmless in any other manner by the warehouse-keeper, when as a diligent warehouse-keeper, had he known that they could be dangerous after receipt, would not have accepted the goods for storage.
- 14.4 With regard to the storage of goods of which the warehouse-keeper was aware of their danger, the same shall apply, but only when such goods present an immediately imminent danger.
- 14.5 The warehouse-keeper shall not be liable for any claim for damages in such events and the Principal shall be liable to cover all costs and damages to the warehouse-keeper resulting from the delivery for storage, from the storage itself or from the measures taken, unless such costs and damages or the need for taking such action are exclusively due to faults on the part of the warehousing company.
- 14.6 As a result of the measures taken the agreement for the storage of goods stated therein shall cease to apply, but in the event that the goods are still delivered, the agreement shall only be terminated after their delivery. The provisions relating to dangerous goods shall not prejudice Section 22.

Section 15 Commencement of Execution of Order for Storage

The warehousing company shall commence to action the agreed instructions for storage or delivery as soon as possible after accepting these instructions and on receipt of the required documentation and particulars and handling instructions, unless agreed otherwise or prevented from doing so by special circumstances.

Section 16 Speed of Execution of Order

The warehousing company shall determine the speed at which an order for storage or delivery of goods is executed. The Principal's wishes shall be taken into consideration as far as possible in this connection, but the warehousing company shall not be liable for costs incurred by the Principal where the speed at which the instructions are carried out are slower than desired by the Principal.

Section 17 Late or Irregular Delivery or Removal

If the Principal has advised the warehousing company that goods are to be delivered for storage in a certain quantity and/or at a specified time, or that goods to be removed, are to be collected in a certain quantity and/or at a specified time; and if the said Principal then fails to deliver and/or collect in the agreed manner

and/or at the agreed times, then the Principal shall be obliged to pay the warehousing company any costs incurred for labour and/or equipment not utilised, or not fully utilised, which had been engaged and/or assigned to carry out the relevant instructions by the warehousing company.

Section 18 Working Hours

Delivery of goods to and removal of goods from the place of storage shall be carried out during the official working hours of the warehousing staff. Should the Principal require work to be carried out outside the official working hours, the warehouse may at its own discretion comply or not comply with this request. Extra costs incurred for working outside of official working hours shall be borne by the Principal.

Section 19 Place of Storage, Moving of Goods

- 19.1 Unless otherwise agreed, the warehousing company shall have sole discretion of where the goods are to be stored.
- 19.2 The warehousing company shall at all times have the right to remove the goods to another place of storage.
- 19.3 The costs of such transfer and insurance or normal transport risk, shall be for account of the warehousing company, unless such a transfer is made in the interests of the goods or due to circumstances beyond the control and/or responsibility of the warehousing company.
- 19.4 When the goods are moved to another place of storage, the warehousing company shall notify the Principal, however without the latter being able to lodge any claim against the warehousing company because of failure to notify.

Section 20 Damage/Loss of Goods

- 20.1 By accepting these warehousing conditions, the Principal renounces any right to lodge claims or recover damages from third parties in the case of loss or damage of the goods. The Principal will only be able to hold the warehousing company liable, even when the warehousing company has employed the services of these third parties in the course of their business. The following limitations shall apply to the warehousing company's liability.
- 20.2 In the case of damage and/or loss because of theft by burglary, the warehousing company shall be considered to have applied adequate care, if they have provided a proper closure for the storage place.
- 20.3 In the case of goods stored on open ground or which can only be stored on open ground or for which it is customary for the warehousing company to store them on open ground, any liability of the warehousing company for damage, possibly in connection with such storage, shall be excluded.
- 20.4 In the case of damage and/or loss caused by rats or mice or insects or other vermin, the warehousing company shall be considered to have applied adequate care if they have provided the normal pest control in the place of storage.
- 20.5 The warehousing company shall not be liable for any damage and/or loss arising from the following causes, regardless of their origin:
 - a. The natural quality of the goods, change in quality, inner rot, dehydration, pulverization, leaking, heating, seeping, sweating, fermenting, freezing, rusting, breakage, insufficient and/or defective packaging.

- b. Force majeure, government measures, requisitioning, seizure, strike, lockout, sabotage, riot, looting, interruption of power supplies.
 - c. Fire, smoke, explosion, radiation, water damage, break of water pipes, floods, storm and generally every external calamity.
- 20.6 The compensation payable by the warehousing company for the loss of the goods shall be limited to the value of the goods applicable on the day of storage.
- 20.7 In the case of damage the highest indemnification shall be the difference between the actual value and the value the goods would have had after the damage on the day of storage.
- 20.8 The warehousing company indemnity shall only cover the actual value of the goods and shall exclude damages for loss of earnings or any other indirect loss.
- 20.9 When damage is caused to only part of the goods, which can be classified as having a value of its own (e.g. machine parts) or where damage is caused to one or more items of several goods belonging together (e.g. furniture), any depreciation of the remaining part or of the undamaged goods shall be excluded and not be considered.
- 20.10 In no event shall more than the actual cost of the damage be paid, and then only to a maximum amount of 2 SDR per kilogram damaged or lost gross weight, provided that in all cases the warehouse's liability is limited to SDP 100,000 per event or series of events resulting from one and the same cause.
- 20.11 Any right to damages shall cease if no complaint is filed on receipt by or on behalf of the Principal receiving the goods.
- 20.12 The Principal shall be liable for any loss or damage caused by the non/late/improper execution of any obligation under these Warehousing Conditions, or under the separate agreement made between the warehousing company and the Principal, if these Warehousing Conditions do not already contain an arrangement.

Section 21 Admittance to the Premises

- 21.1 The warehousing company shall be obliged to admit the Principal and/or the persons designated by him to the place where his goods are stored, subject to the requirement to comply with customs and/or other formalities/restrictions imposed by the Authorities.
- 21.2 The following conditions shall apply to all persons whom the warehousing company has granted admission:
- a. All persons visiting the place of storage, including the personnel of vessels and vehicles arriving at the warehouse, shall observe the warehousing company's regulations.
 - b. Admittance shall be granted only during normal working hours and always under escort.
 - c. The cost of escorting visitors shall be paid to the warehousing company by the Principal.
 - d. The Principal shall be liable for any damage caused directly or indirectly by the visitors.

Section 22 Execution of Proceedings

- 22.1 The execution of the work required by the Principal, such as sampling, handling, servicing, repacking, restacking, lotting, weighing, etc., as well as delivery, shall be entrusted to the warehousing company having the goods in custody at the appropriate fees and on the appropriate conditions.
- 2.2 Any work the warehousing company does not wish to undertake may, with the warehousing

company's consent, be carried out by or on behalf of the Principal, subject to the conditions laid down by the warehousing company, under the supervision of the warehousing company and against payment of the costs involved, however without any liability to the warehousing company.

Section 23 Special Method of Handling Goods

- 23.1 The warehousing company shall not be obliged to take any measures in respect of the goods or their packing received into custody, other than such which are considered normal for the storage of the goods concerned.
- 23.2 The warehousing company shall only be obliged to take special measures if such measures have been agreed.
- 23.3 However, the warehousing company shall have the right to take immediate action at the Principal's cost and risk, including the clearance or removal, or destruction, or rendering harmless in any other way, if it is feared that failure to take such action may cause loss and/or damage to the goods themselves or to other goods, or to the warehouse or to equipment, or cause harm to persons, or when such a measure is required or indicated for some other reason, such in the discretion of the warehousing company. The warehousing company shall immediately inform the Principal of the measures taken, without the latter having any right to claim against the warehousing company for failure to meet this obligation.
- 23.4 Without prejudice to the provisions of the preceding subsection, the Principal shall indemnify the warehousing company against any claims by third parties on account of damage caused by the Principal's goods to goods belonging to third parties.

Section 24 Insurance of Goods

- 24.1 Unless expressly agreed in writing with the Principal, the warehousing company shall not be obliged to effect any insurance on the goods.

If it has been agreed between the warehousing company and the Principal that the warehousing company is to effect insurance of the goods for account of the Principal, then the warehousing company shall have the right in the discretion to effect the agreed insurance in the name of the Principal, or to include such insurance in warehousing policy.

The value to be insured shall be the amount stated by the Principal. The warehousing company shall in all cases exclusively be regarded as intermediary without a liability. The warehousing company shall not be held responsible for the condition(s) negotiated with the insurers or be responsible for their reliability or the solvency.

- 24.2 In all cases where the goods have been insured through the intervention of the warehousing company, the warehouse company shall have the right to collect the sum claim for and on behalf of the parties interested in the goods and shall furthermore have the right to deduct all not owed to them for whatever reason by the Principal from the insurance settlement.

The balance remaining shall be paid to the Principal.

- 24.3 If in case of damage to or loss of goods by fire or any other cause and the assistance of the warehousing company for assessing the damage or loss is desirable necessary, such assistance shall be rendered by the warehousing company against payment of the costs involved plus additionally a fee for their efforts. The warehousing company may make such assistance conditional on the Cash payment of, or the provision of security for all sums owing for whatever reason and all costs referred to this Section by the Principal to the warehousing company.

- 24.4 When partial delivery of the goods has been made by the warehouse, the Principal must inform the warehouse of the value for which he wishes the remainder of the goods to insured.

In the absence of such a declaration the warehouse company shall have the right to reduce the insurance value at their own discretion, in proportion to the decrease number, weight, measure or contents of the goods.

Section 25 Charging Warehouse Rent in Case of Destruction of Goods

Should the goods stored in the warehouse be destroyed by fire otherwise, the day of destruction shall count as the date delivery, and the full warehouse rent plus the insurance premium (if the goods were insured through the warehousing company) all costs, calculated in full monthly periods, shall be due payable up to and including such date.

Section 26 Removal of Goods

- 26.1 The principal may, upon payment of all that is due to the warehousing company (taken in the broadest context) and subject to the provisions of these General Conditions, at any time remove the goods placed in custody.
- 26.2 The warehouse rent and if the goods have been insured through the warehousing company, the insurance premiums and costs shall always be charged in full months, part of a month counting as a full month.
- 26.3 If a fixed period of storage has been agreed, the warehousing company cannot require the principal to remove the goods prior to the expiration of the agreed period of time.
- 26.4 Where no fixed period of storage has been agreed or where the agreed period of storage has expired, the warehousing company has the right to require the goods to be removed at one month's notice, however not within three months of the commencement of storage.

Section 21 Premature Removal of Goods for Urgent Reasons

- 27.1 The warehousing company shall, however, at all times have the right to require the goods received for storage to be removed prior to the expiration of the storage period, without observing any period of notice, where there is a compelling reason to do so.
- 27.2 Compelling reasons shall be understood to be circumstances of such nature that applying sensible standards of fair judgment, the Principal could not reasonably expect continuity of storage.
- 27.3 A compelling reason for removal shall be deemed to exist inter alia, 'if the Principal fails to comply with one or more of the provisions of these General Conditions'. If for instance it appears that owing to the presence of the goods, the hazard of loss and/or damage to other goods, or to the storage place or to equipment or danger or harm to personnel is to be suspected or feared; and further more if the goods are of a perishable nature and/or liable to inherent changes, which in the opinion of the warehousing company justifies the assumption of deterioration, and the Principal has neglected to give instructions for preventing or controlling same.
- 27.4 The Principal shall remain liable to pay the warehouse rent in full up to and including the day of the removal of the goods.

Section 28 Payment

- 28.1 All amounts owing/due to the warehousing company by the principal however incurred, such as: warehouse rent, insurance premiums and costs, rent, disbursements, fees for storage and delivery,

outlays and charges for work done or to be done, costs of cleaning work and such like during or after a fire or otherwise, extraordinary expenses, additional wages, taxes, duties, levies, fines, interest, etc. shall be immediately due and payable on demand.

- 28.2 Without prejudice to the provisions of the preceding subsection, the Principal shall always pay the warehouse rent due promptly within the term agreed between the parties, but at least once per 12 months.
- 28.3 Should the Principal not immediately pay the amount due to the warehousing company, the warehousing company shall have the right to charge interest at the official rates prevailing at the time.
- 28.4 Payments received on account shall in the first instance be allocated towards the reduction of ordinary debts, regardless of whether these monies were intended for other purposes when the payments were made.
- 28.5 When in the case of late payment the debt is collected by judicial or other means, the amount of the debt shall be increased by 10% to cover administrative costs, while the judicial and extra-judicial costs shall be for account of the Principal up to the amount due or paid by the warehousing company.

Section 29 Lien and Pledge

- 29.1 As security for the payment of all that the Principal owes or will owe the warehousing company for whatever reason, the warehousing company shall have a lien on all goods, monies, documents, and/or bonds or securities belonging to or on behalf of the principal.
- 29.2 Such right of lien shall be extended to also include sums from insurance claims the warehousing company has collected or will collect on behalf of the Principal.
- 29.3 The warehousing company shall regard anyone who, on behalf of the Principal, entrusts goods to the warehouse for performing work, authorized by the Principal to create a pledge on such goods.

Section 30 Public Sale

- 30.1 Should the Principal fail to remove the goods entrusted to the warehousing company for storage, on expiry of the rental period covered in the agreement; or fail to remove the goods after the agreed or specified time for storage or at any other point of time in the case of a compelling reason as mentioned under Section 28 above, the warehousing company shall have the right, without prejudice to the provisions of Section 29 above, to sell the goods entrusted to them, or to have them sold, without observance of any formalities, in the place and in the manner and on the conditions the warehousing company may see fit, publicly or in any other manner the law may permit, at the expense of the Principal, and furthermore shall have the right to recover from such proceeds all amounts the Principal owes the warehousing company.
- 30.2 If it is probable that the cost of selling the goods will be higher than the benefits or if no buyer is found, despite a reasonable attempt to do so, the warehousing company shall have the right to remove the goods, to have them removed or to have them destroyed. The Principals shall remain liable for all amounts due, increased by the cost of removal and/or destruction.
- 30.3 In the event of sale, the warehousing company shall hold the balance of the proceeds after having deducted all costs and all the Principal's debts, at the Principal's disposal for five years, after which period the balance if not claimed, accrues to the warehousing company.

Section 31 Expiration of Claims

- 31.1 Claims against the warehousing company for loss, damage or decrease of stored goods or general claims against the warehousing company for failure to meet their obligations, shall expire after 12 months.
- 31.2 In cases of damage to or decrease in the goods, where the warehousing company have not informed the Principal of such damage or decrease, the period of expiry shall commence at the end of the day the goods are delivered. In cases of total loss and where notice of damage or decrease has been given, the expiry date shall commence at the end of the day the warehousing company have notified the Principal.

Section 32 Transfer or Transition of Goods

- 32.1 Transfer or transition of ownership of warehoused goods, or the transfer or transition of the right to take delivery of the goods, by a Principal to a third party, shall not be accepted by the warehousing company and be without legal effect as far as the warehousing company is concerned neither shall the warehousing company recognise such transfer or transition of title, unless all claims the warehousing company may have, for whatever reason, against the original and/or transferring Principal have been paid in full.
- 32.2 The Principal shall be obliged to inform the warehousing company instantly in writing of any transfer or transition of ownership of goods, or transition or transfer of the right to release the goods.
- 32.3 Without prejudice to the provisions above the transfer or transition has no legal implications for the warehousing company nor shall the warehousing company recognize them, unless the new owner(s) has explicitly accepted in writing all provisions of the agreement between the warehousing company and the original and/or transferring Principal as well as the present Conditions.
- 32.4 The warehousing company is not required to recognize the transfer or transition of ownership or the right to release the goods and shall even have the right to revoke a previous recognition made, and may furthermore refuse to release the goods, if in the warehousing company's opinion there are flaws in the legal title regarding any transfer or transition of ownership of goods, or any transfer or transition of the right to release; and if the new owner(s) claim(s) not to have accepted these present Conditions or not to be bound by then.
- 32.5 The original and/or transferring Principal shall remain liable to the warehousing company for all the warehouse's claims for or in connection with the storage, and/or work done in connection with such goods, even though they were performed after the transfer or transition of ownership, or after transfer or transition of the right to delivery.

After transfer or transition of ownership, or the right to delivery of the goods, the new owner shall be regarded as the Principal and shall, in addition to his legal predecessor, be severally liable for all the above claims, even though they may have arisen prior to the transfer or transition.

Section 33 Issue of Warrants

- 33.1 The warehousing company may issue a warehouse warrant to the Principal at his request, describing the goods given into custody to the warehousing company by the Principal.
- 33.2 The warehousing company shall have the right to refuse to issue a warrant, if the principal has not paid all claims the warehousing company may have on him for whatever reason.

The warehousing company may furthermore refuse to issue a warrant if they believe they have grounds to do so.

- 33.3 Once a warrant has been issued, all the warehousing company's obligations towards the Principal shall cease, and shall be replaced by the warehousing company's obligations towards the warrant holder, these regulations being detailed in Chapter II of these Conditions. The Principal shall, even after the issue of the warrant remain liable towards the warehousing company for the effects of any discrepancies between the goods for which the warrant was issued and their description on the warrant.

CHAPTER II

PROVISIONS REGARDING THE WARRANT

Section 34 Applicable Provisions

The legal relations between warehousing companies and warrant holders shall be governed by the provisions of Chapter I, except when the provisions of Chapter II determine that a provision of Chapter I may not be applied.

Section 35 Right to Delivery of Goods

35.1 The warrant awards the right of delivery by the warehouse of the goods they have received for storage and against which the warrant has been issued. The warehousing company shall be liable towards the warrant holder for any discrepancy between the stored goods and their description on the warrants (because the warrant holder would have been unaware of any discrepancy existing when he acquired the warrant), unless it concerns goods which identification requires expert knowledge and/or a thorough examination or analysis.

35.2 If the warrant contains the clause:

“Content, quality, number, weight and measure unknown”

or a similar clause, the warehousing company shall not be bound by any statement in the warrant regarding contents, quality and the number, the weight or the dimensions of the goods.

35.3 The right to delivery shall not exist as long as the warehousing company have a claim on the goods resulting from these present Conditions and/or until all customs and other formalities prescribed by the Authorities, required for the delivery, have been fulfilled.

Section 36 Expiry of the Warrant

36.1 The warrant shall be valid for three years from the date of issue, unless a shorter period of validity is indicated on the warrant.

36.2 Until its expiry the warrant may be replaced at the warrant holder’s request by a new warrant, against payment of all the costs involved. The warehousing company shall have the right to refuse the replacement of the warrant and may require the goods to be removed on the expiry date of the contract.

36.3 If on its expiry date the warrant has not been presented for replacement, or if after refusal to replace the warrant the goods have not been removed from the warehouse on the expiry date, the holder of the expired warrant shall be deemed to agree to the warehouse rent, and if the goods have been insured through the warehousing company, the insurance premium and costs shall be determined by the warehousing company as from such date.

36.4 If on its expiry date, the warrant has not been presented for replacement, or if after refusal to replace the warrant the goods have not been removed from the warehouse on the expiry date, against payment of the amount the warehousing company are entitled to under Section 36 above, the warehousing company shall have the right to dispose of the goods to which the expired warrant refers, subject to applying the provisions relating thereto.

36.5 For a period of five years after the expiry date of the warrant, the warehousing company shall be obliged to deliver the goods described on the expired warrant — or should the warehousing company have exercised their right to dispose of the goods, the net proceeds of the goods, without payment of interest, shall be paid to the holder of the expired warrant, after having deducted all the amounts due to the warehousing company.

After these five years have expired, the rights of the holder of the expired warrant shall cease and the warehousing company shall no longer be required to deliver the goods, or to account for their proceeds, neither to the holder of the expired warrant nor to others.

Section 37 Delivery of Goods after Payment

37.1 The warehousing company shall prior to effecting full or partial delivery of the goods to which the warrant gives title, have the right to demand payment of:

- a. The warehouse rent due since the date when the last payment was made, as shown on the warrant and not having been otherwise paid prior to delivery, at the monthly rent noted on the warrant, parts of months to count as full months.
- b. Insurance premiums due since the date when the last payment was made, as shown on the warrant and not having been recorded as otherwise having been paid prior to delivery, at the monthly insurance premium rate stated on the warrant, parts of months to count as full months.
- c. The charges for delivery of the goods at the current rate applicable.
- d. Disbursements and other outlays made by the warehousing company on behalf of the warrant holder requesting delivery, in connection with customs and/or other formalities as required by the appropriate authorities, for the goods described on the warrant.
- e. All costs incurred by the warehousing company after the date of issue mentioned on the warrant:
 - e.1 for preserving/retaining the goods mentioned on the warrant,
 - e.2 for eliminating any dangers caused by the goods mentioned on the warrant to the warehouse and/or to other goods stored therein,
 - e.3 for measures taken in respect of the goods mentioned on the warrant as a result of circumstances for which the warehousing company cannot be held responsible.
- f. all other amounts due to the warehousing company apparent from the warrant.

37.2 Notwithstanding the provisions of the preceding paragraphs the warrant holder shall be obliged to pay the warehouse rent due - and if the goods have been insured through the warehousing company, also the insurance premiums and costs at the end of each 12 months of storage or such earlier period as has been agreed and is recorded on the warrant, plus the costs incurred by the warehousing company referred to in e.4 and e.5 above, as soon as the warehousing company have given notification of this to the warrant holder.

37.3 If the warrant holder fails to meet his obligation to pay the rent after each 12 monthly period or an earlier period as has been agreed and shown on the warrant - and if the goods have been insured through the warehousing company, additionally the insurance premiums and costs - the monies due to the warehousing company accrued in this manner shall be increased as from the day the 12 months storage has elapsed by a penalty of 1% of the amount due for each month in excess of the 12 month period.

Section 38 Indemnification

- 38.1 contrary to the provisions of Section 20 above the compensation to be paid by the warehousing company for loss of goods shall be limited to the applicable value of the goods on the day of issue of the warrant.
- 38.2 In the case of damage no greater sum shall be paid than the difference between the value referred to in the previous paragraph and the value after the damage which the goods would have had on the day of issue of the warrant.
- 38.3 In any case compensation shall only be paid on the actual damage incurred with a maximum of 2 SDR per kilogram damaged or gross weight lost, always on the understanding that the warehousing company's liability shall in all cases be limited to 100,000 SDR per event, or series of events arising from the one and the same cause.

Section 39 Access to and Information about Goods

Access to and information about goods for which warrants have been issued shall only be given on production of the said warrant.

Section 40 Work in Connection with the Goods

- 40.1 Tasks to be carried out on the goods described on the warrant as desired by the warrant holder, such as sampling, handling, servicing, packing, repacking, restacking, lotting, weighing, splitting into smaller consignments, etc., as well as delivery, shall be carried out by the warehousing company having the goods in custody, at the appropriate fees and on the appropriate conditions applicable at that time.
- 40.2 Such tasks as required by the warrant holder, shall only be carried out after surrender of the warrant.
- 40.3 Tasks the warehousing company does not wish to undertake may, with the warehousing company's consent and after surrender of the warrant, be performed by or on behalf of the warrant holder, under the supervision of the warehousing company and against payment of all costs involved, however without any liability on the part of the warehousing company.
- 40.4 Partial deliveries, sampling and handling of the goods, causing a change, decrease or change in the number of the goods shall be inserted on the warrant in the space allocated for these remarks. When there is no space left on the warrant for further statements regarding deliveries, changes, decreases, etc., the warrant shall be replaced at the expense of the warrant holder.
- 40.5 Payments due to the warehousing company for work performed in connection with the goods mentioned on the warrant or for supervising such work, shall be paid immediately. The warehousing company shall have the right to refuse to return the warrant until settlement has been made.

Section 41. Notification of Special Method of Handling

Should the warehousing company carry out any work in connection with the goods stored covered under Section 22, the warehousing company shall as soon as possible after this event notify the last known warrant holder, without the warrant holder having any right to claim against the warehousing company for failing to give such notification.

Section 42 The Warehousing Company's Responsibility to Insure the Goods

- 42.1 When it is shown on the warrant that the goods are insured, the warehousing company shall thereby have carried out their responsibility to effect insurance for the warrant holder's account in accordance with the provisions under Section 23.
- 42.2 The insured value shall be the value indicated on the warrant.
- 42.3 When the warrant states that the insured value is the current market value, it shall be the warehousing company's responsibility to keep the goods adequately insured.

Section 43 Chances in, Effect and Termination of Insurance

- 43.1 It will only be possible to change the insured value and/or terminate the insurance when the warrant is surrendered to be endorsed accordingly.
- 43.2 Only the insurance as stated on the warrant shall be applicable.
- 43.3 Insurance cover shall be terminated on delivery of the goods.
- 43.4 On delivery of part of the goods, the insured value of the part consignment to be delivered shall be quoted separately and entered on the warrant where the warrant does not indicate the insured value per unit and where it is not possible to deduce a proportionate decrease from the value indicated on the warrant.

Section 44 Amounts of Claim

Compensation amounts for claims collected by the warehousing company shall be paid by the warehousing company against receipt of the warrant, after having deducted all amounts owed by the warrant holder to the warehousing company.

Section 45 Notification of Destruction

In the case of destruction of the goods described on the warrant, by fire or otherwise, the warehousing company shall immediately notify the last known warrant holder, without the warrant holder having any right of claim against the warehousing company for failure to notify.

Section 46 Mutilation of the Warrant

- 46.1 Any erasures and mutilations shall render the warrant void; alterations shall not be valid unless initialled by the warehousing company.
- 46.2 The holder of a mutilated warrant may request the issue of a duplicate, on surrender of the original warrant and on payment of the charges involved. The details regarding the nature and quantity of the goods to be shown on the duplicate warrant shall be exclusively determined from the relevant details as shown in the warehousing company's records.

Section 47 Loss or Destruction of Warrants

- 47.1 If a warrant has been lost or destroyed, the person so entitled may apply to the warehousing company for nullification of the warrant and request delivery of the goods, or request the issue of a duplicate warrant. Such applications shall, where possible, state the cause for the loss of the warrant and detail the grounds on which the applicant bases his claim to title.
- 47.2 If the investigation made by the warehousing company afford no reason to doubt the truth of the reasons for the application, the warehousing company shall publish the application made, by inserting two announcements at intervals of at least 14 days each in at least two daily newspapers selected by the warehousing company, inviting those who believe they have title to the goods described on the missing warrant to oppose the delivery of the goods and/or the issue of a duplicate warrant by serving a writ/summons to that effect.
- 47.3 If within 14 days of the last announcement, no one has opposed the delivery of the goods or the issue of a duplicate warrant by service of a writ, the warehousing company may nullify the warrant and effect delivery of the goods or issue a duplicate warrant to the applicant. For determining the nature and quantity of the goods to be delivered or to be stated in the duplicate warrant, the warehousing company's relevant records shall exclusively be regarded as the only true record. The nullification of the warrant shall immediately after the event be published in the above mentioned newspapers. As a result of such nullification the original warrant shall lose its validity and all the warehousing company's obligations under the original warrant shall cease.
- 47.4 In case of opposition by a third party the application shall not be complied with, until it has been determined from a Court Order or through other final and conclusive ruling or award that the applicant is the person entitled to the goods.
- 47.5 The person who has obtained delivery of the goods shown on a duplicate warrant, shall indemnify the warehousing company against all claims that might result from such a delivery. The warehousing company may require an official indemnity to cover this to be issued.
- 47.6 Any costs in the widest sense, incurred by the warehousing company as a result of the application, shall be borne by the applicant. The warehousing company shall have the right to require an advance of money to be made before executing the application.

Section 48 Termination of the Validity of the Warrant

- 48.1 If after the termination of the validity of the warrant, the warehousing company no longer wishes to keep the goods in storage, they shall summons the last known warrant holder to remove the goods.
- 48.2 If the warrant holder fails to comply with the summons within 14 days, or if he is no longer the owner of the expired warrant, and does not within 14 days inform the warehousing company who the current holder of the expired warrant is; and if the holder of the expired warrant does not present himself within such period, the warehousing company shall have the right to sell the goods described on the expired warrant.
- 48.3 Prior to taking such action, the warehousing company shall publish their intention to sell the goods for which an expired warrant is in circulation, by inserting two announcements at intervals of at least 14 days in at least two daily newspapers each, one of which at least is to appear in the place where the warehousing company have their registered office, requesting the holder of the expired warrant to as yet meet his obligations or to notify any persons having acquired the expired warrant.
- 48.4 If after 14 days after the last announcement the warrant holder has not presented himself, or if he has presented himself but no agreement has been reached on the removal of the goods, the

warehousing company shall be at liberty to sell the goods immediately.

The sale shall take place in accordance with the provisions of Section 30.

Section 49 Commencement of the Period of Expiry of a Warrant

The period of expiry as referred to in Section 31, shall in case of total loss commence at the end of the day on which the warehousing company informs the last known warrant holder of such loss, or if he is no longer the owner of the warrant and no subsequent warrant holder has presented himself to the warehousing company, a week after the announcement of such loss in two daily newspapers, at least one of which appearing in the place where the warehousing company have their registered office.

Section 50 Terms of Reference of the Provisions of this Chapter

- 50.1 The provisions of this second Chapter shall exclusively apply to the legal relationship between the warehousing company and the warrant holder as such.
- 50.2 The moment the warrant holder for whatever reason surrenders the warrant to the warehousing company the provisions of the present Chapter II shall cease to apply. From such time on the provisions of Chapter I, regulating the legal relationship between the warehousing company and the Principal, shall apply, provided always that the warehousing company may enforce all their rights under the terms of the issue of the warrant.

DUTCH FORWARDING CONDITIONS

**GENERAL CONDITIONS
OF
FENEX (Netherlands Association for Forwarding and Logistics)**

deposited at the Registry of the District Courts at Amsterdam and Rotterdam on 1 May 2018

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Definitions

Article 1. Definitions

In these Conditions, the following terms shall have the following meanings:

1. **Third party/parties:** all of those persons, who are not employees, with whom the Freight Forwarder has an undertaking on behalf of the Client, irrespective of whether the Freight Forwarder has the undertaking in its own name or in the name of the Client;
2. **Services:** all activities and work, in any form and by whatever name, including those performed by the Freight Forwarder for or on behalf of the Client;
3. **Freight Forwarder:** the natural or legal person who performs Services on behalf of the Client and who uses these Conditions; this person is not exclusively understood to be the Freight Forwarder referred to in Book 8 of the Dutch Civil Code;
4. **Client:** every natural or legal person who provides the Freight Forwarder with an order to perform Services and concludes to that effect the Agreement, irrespective of the agreed method of payment;
5. **Agreement:** the agreement entered into by the Freight Forwarder and Client in respect of the Services to be performed by the Freight Forwarder, of which these Conditions form part;
6. **Force majeure:** all circumstances that the Freight Forwarder has reasonably been unable to avoid and in respect of which the Freight Forwarder has reasonably been unable to prevent the consequences.;
7. **Conditions:** these Dutch Forwarding Conditions.
8. **Good/Goods:** the goods to be made available or made available to the Freight Forwarder, its agent or Third Parties by or on behalf of the Client, for the purpose of executing the Agreement.

Scope

Article 2. Scope

1. These Conditions govern all offers, agreements, legal acts and actual acts relating to Services to be performed by the Freight Forwarder, insofar as these are not subject to imperative law. These Conditions apply to the legal relationship between the parties, including once the Agreement has ended.
2. Insofar as any provision in these Conditions is void or otherwise unenforceable, this does not affect the validity of the other provisions in these Conditions. Furthermore, considered to be

applicable is such a stipulation (legally permissible) that is the closest to the purport of the void or voided stipulation.

Article 3. Third Parties

The Client gives the Freight Forwarder free rein to engage the services of Third Parties to execute the Agreement, and to accept the (general) terms and conditions of those Third Parties at the Client's expense and risk, unless agreed otherwise with the Client. At the Client's request, the Freight Forwarder is obliged to provide (a copy of) the (general) terms and conditions under which it has entered into a contract with those Third Parties.

Conclusion of the Agreement

Article 4. Conclusion of the Agreement

1. All offers made by the Freight Forwarder are non-binding.
2. Agreements, as well as amendments of and additions to these agreements, shall only become effective if and insofar as the Freight Forwarder has confirmed these in writing or the Freight Forwarder has started to perform the Services.

Customs work

Article 5. Customs work

1. The provision of information to the Freight Forwarder, that is reasonably provided to enable customs formalities to be carried out, shall imply an order, unless otherwise agreed in writing.
2. This order is accepted by the Freight Forwarder by means of an explicit written confirmation or by the Freight Forwarder starting to carry out the customs formalities. The Freight Forwarder is never obliged to accept an order to carry out customs formalities.
3. If the Freight Forwarder becomes familiar with information or conditions which would indicate that the Client has not complied with article 9 paragraph 3 of these Conditions (has provided incorrect and/or incomplete information and/or documents) and on the basis of which the Freight Forwarder has not accepted the order to carry out customs formalities, the Freight Forwarder is at all times entitled to end this order and not carry this out (any further), which may or may not be set out in an additional agreement and/or authorisation, without any obligation to pay damages.

Remunerations and other costs

Article 6. Remunerations

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1. All prices quoted shall be based on the prices that apply at the time of the offer (quotation). If between the time of the offer and the time of execution of the Agreement, one or more of the cost factors (including fees, wages, the cost of social measures and/or laws, freight prices and exchange rates, etc.) increase, the Freight Forwarder is entitled to pass on this increase to the Client. The Freight Forwarder must be able to prove the changes.
2. If the Freight Forwarder charges all-in or fixed rates, these rates shall be deemed to include all costs that, in the normal process of handling the order, are for the account of the Freight Forwarder.
3. Unless provided otherwise, all-in or fixed rates shall not include at any rate: duties, taxes and levies, consular and attestation fees, costs of preparing bank guarantees and insurance premiums.
4. In the event of circumstances that are of such a nature that when concluding the Agreement it was not deemed necessary to take into account the risk that they could occur, that cannot be attributed to the Freight Forwarder and that significantly increase the costs of the Services being performed, the Freight Forwarder is entitled to an additional payment. Where possible, the Freight Forwarder shall consult in advance with the Client. In such a case, the additional payment shall consist of the additional costs that the Freight Forwarder has had to incur in order to perform the Services, plus an additional payment - deemed fair and equitable - for the services to be performed by the Freight Forwarder.
5. Expenses of an exceptional nature and higher wages arising whenever Third Parties, by virtue of any provision in the relevant agreements between the Freight Forwarder and Third Parties, load or unload goods in the evening, at night, on Saturdays or on Sundays or public holidays in the country where the Service is being carried out, shall not be included in the agreed prices, unless specifically stated. Any such costs shall therefore be remunerated by the Client to the Freight Forwarder.
6. Other than in cases of intent or deliberate recklessness on the part of the Freight Forwarder, in the event of the loading and/or unloading time being inadequate, all costs resulting therefrom, such as demurrage, waiting times, etc. shall be borne by the Client, even when the Freight Forwarder has accepted the bill of lading and/or the charter party from which the additional costs arise without protestation. The Freight Forwarder must make every effort to avoid these costs.

Insurance

Article 7. Insurance

1. Insurance of any kind shall only be arranged at the Client's expense and risk following acceptance by the Freight Forwarder of the Client's explicit written order, in which the Client clearly specifies the goods to be insured and the value to be insured. A mere statement of the value or the interest is not enough.
2. The Freight Forwarder will take out the insurance (or arrange for this to be taken out) through an insurer / insurance broker / insurance intermediary. The Freight Forwarder is neither

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responsible nor liable for the solvency of the insurer / insurance broker / insurance intermediary.

3. When the Freight Forwarder uses equipment, such as derricks, cranes, fork-lift trucks and other machines to perform the Services that do not form part of its usual equipment, the Freight Forwarder shall be entitled to take out insurance at the Client's expense to cover the Freight Forwarder's risks arising from the use of such equipment. Where possible, the Freight Forwarder shall consult in advance with the Client about the use of such equipment. If no timely prior consultation is possible, the Freight Forwarder will take the measures that seem to it to be in the best interests of the Client and shall inform the Client of that.

Execution of the Agreement

Article 8. Delivery date, method of delivery and route

1. The mere statement by the Client of a time for delivery shall not legally bind the Freight Forwarder. Arrival times are not strict deadlines and are not guaranteed by the Freight Forwarder, unless agreed otherwise in writing.
2. If the Client has not given any specific instructions about this with its order, the method of delivery and route shall be at the Freight Forwarder's discretion and the Freight Forwarder may at all times accept the documents customarily used by the firms it contracts for the purpose of carrying out its orders.

Article 9. Commencement of the Services

1. The Client is obliged to deliver the Goods to the Freight Forwarder or a Third Party in suitable packaging to the agreed location, at the agreed time and in the manner agreed.
2. In respect of the Goods, as well as in respect of the handling thereof, the Client is obliged to supply the Freight Forwarder in good time with any details and documents that it knows or ought to know, are of importance to the Freight Forwarder. If the Goods and/or activities are subject to governmental provisions, including customs and excise regulations and tax rules, the Client must provide all information and documents, in good time, that are required by the Freight Forwarder in order to comply with those provisions.
3. The Client guarantees that the information and documents that it provides are correct and complete and that all instructions and Goods that are made available comply with current legislation. The Freight Forwarder shall not be obliged but shall be entitled to investigate whether the information provided is correct and complete.

Article 10. Goods Handling

1. All operations such as inspecting, sampling, taring, tallying, weighing, measuring, etc. and receiving goods subject to appraisal by a court-appointed expert, shall take place only on the Client's specific instructions and upon remuneration of the costs thereof.

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2. Notwithstanding the provisions in paragraph 1, the Freight Forwarder shall be entitled, but not obliged, on its own authority and at the Client's expense and risk, to take all such actions as it deems necessary in the Client's interest. Where possible, the Freight Forwarder shall consult in advance with the Client. If this is not possible, the Freight Forwarder shall take the measures that seem to it to be in the best interests of the Client and shall inform the Client of the measures taken and the associated costs, as soon as this is reasonably possible.
3. The Freight Forwarder is not an expert with respect to the Goods. The Freight Forwarder shall therefore in no way be liable for any damage that arises from or that is related to any notification by the Freight Forwarder with regard to the state, nature or quality of the Goods; nor shall the Freight Forwarder be under any obligation to ensure that the shipped Goods correspond with the samples.

Liability

Article 11. Liability

1. All Services shall be at the Client's expense and risk.
2. Without prejudice to the provisions in Article 17, the Freight Forwarder shall not be liable for any damage whatsoever, unless the Client can prove that the damage has been caused by fault of negligence on the part of the Freight Forwarder or the latter's employees.
3. The Freight Forwarder's liability shall in all cases be limited to 10,000 SDR per occurrence or series of occurrences with one and the same cause of damage. Taking into account the aforementioned limit, in the event of damage, loss of value or loss of the Goods in the Agreement, the liability shall be limited to 4 SDR per kilogram of damaged or devalued Goods or lost gross weight.
4. The loss to be indemnified by the Freight Forwarder shall never exceed the invoice value of the Goods, to be proved by the Client, in default whereof the market value, to be proved by the Client, at the time when the damage occurred, shall apply.
5. The Freight Forwarder shall never be liable for lost profit, consequential loss and immaterial damage, however that occurred.
6. If during the execution of the Agreement damage occurs for which the Freight Forwarder is not liable, taking into account the provisions in Article 19 of these Conditions, the Freight Forwarder shall make efforts to recover the Client's damage from the party that is liable for the damage. The Freight Forwarder shall be entitled to charge to the Client the costs incidental thereto. If so requested, the Freight Forwarder shall waive in the Client's favour its claims against Third Parties whose services it engaged for the purpose of executing the Agreement.
7. The Client shall be liable vis-a-vis the Freight Forwarder for any damage - including but not

limited to material and immaterial damage, consequential damage, fines, interest, as well as penalties and confiscation, including damage on account of non-clearance or tardy clearance of customs documents and claims due to product liability and/or intellectual property rights – suffered directly or indirectly by the Freight Forwarder as a result of (amongst other things) the non-compliance by the Client of any obligation pursuant to the Agreement or pursuant to applicable national and/or international legislation, as a result of any incident that is within the control of the Client, as well as a result of the fault or negligence in general of the Client and/or its employees and/or Third Parties whose services the Client engages and/or Third Parties that work on behalf of the Client.

8. The Client shall indemnify the Freight Forwarder at all times against third-party claims, including employees of both the Freight Forwarder and the Client, connected with or ensuing from the damage referred to in the previous paragraph.
9. Even where all-in or fixed rates, as the case may be, have been agreed, the Freight Forwarder that is not a carrier but always a party that arranges transportation in accordance with title 2, section 3 of Book 8 of the Dutch Civil Code, shall be liable, whereby the liability is governed by these Conditions.
10. If a claim is made against the Freight Forwarder by the Client outside of the Agreement in respect of the damage that occurs during the execution of the Services, then the Freight Forwarder's liability shall be limited to the liability under the Agreement.
11. If to defend its liability for conduct of a Third Party or employee the Freight Forwarder derives a defence from the Agreement vis-a-vis the Client, then if it is held liable by the Client under this defence, a Third Party or employee can invoke this defence as if the Third Party or employee were also party to the Agreement.
12. In the event a Freight Forwarder is held liable outside of the Agreement with regard to damage to or loss of a Good or delay in delivery by someone who is not party to the Agreement or a transport agreement entered into by or on behalf of the Freight Forwarder, then the Freight Forwarder has no further liability than it would have under the Agreement.

Article 12. Force majeure

1. In the event of Force Majeure, the Agreement shall remain in force; the Freight Forwarder's obligations shall, however, be suspended for the duration of the Force Majeure.
2. All additional costs caused by Force Majeure, such as transport and storage charges, warehouse or yard rental, demurrage and standing fees, insurance, removal, etc., shall be borne by the Client and shall be paid to the Freight Forwarder at the latter's first request.

Article 13. Refusal of carriers

1. If the carriers refuse to sign for quantity, weight, etc., the Freight Forwarder shall not be liable for the consequences thereof.

Imperative law

Article 14. The Agreement to organise transportation of goods

1. These Conditions shall not affect articles 8:61 paragraph 1, 8:62 paragraphs 1 and 2 and 8:63 paragraphs 1,2 and 3 of the Dutch Civil Code.

Payment

Article 15. Payment conditions

1. The Client shall pay to the Freight Forwarder the agreed remunerations and other costs, freights, duties, etc. ensuing from the Agreement upon commencement of the Services, unless agreed otherwise.
2. The risk of exchange rate fluctuations shall be borne by the Client.
3. The amounts referred to in paragraph 1 shall also be due if damage has occurred during the execution of the Agreement.
4. If, in contravention of paragraph 1 of this article, the Freight Forwarder allows deferred payment, the Freight Forwarder shall be entitled to make a credit limit charge.
5. In the event of termination or dissolution of the Agreement, all claims of the Freight Forwarder - including future claims - shall be due and payable forthwith and in full. All claims shall be due and payable forthwith and in full in any case, if:
 - the bankruptcy of the Client is announced, the Client applies for suspension of payment or otherwise loses the unrestricted disposition over a significant part of its assets;
 - The Client offers a settlement to his creditors, is in default of fulfilling any financial obligation owed to the Freight Forwarder, ceases to trade or - where the Client is a legal entity or corporate body - if the legal entity or the corporate body is dissolved.
6. Upon first demand by the Freight Forwarder, the Client must provide security for the amount owed or that shall be owed by the Client to the Freight Forwarder. This obligation remains if the Client also has to provide or has provided security in relation to the amount owed.
7. The Freight Forwarder shall not be obliged, from its own means, to provide security for the payment of freight, duties, levies, taxes and/or other costs should the same be demanded. All the consequences of non-compliance or of failure to comply forthwith with a demand from the Freight Forwarder to provide security shall be borne by the Client.

If the Freight Forwarder has provided security from of its own means, it may demand that the Client immediately pays the amount for which security has been provided.

Where possible, the Freight Forwarder shall consult in advance with the Client. If no timely prior consultation is possible, the Freight Forwarder will take the measures that seem to it to be in the best interests of the Client and shall inform the Client of that.

8. The Client shall at all times be obliged to indemnify the Freight Forwarder for any amounts to be levied or additionally demanded by any authority in connection with the Agreement, as well as any related fines imposed upon the Freight Forwarder.

The Client shall also reimburse the said amounts to the Freight Forwarder if a Third Party brought in by the Freight Forwarder demands payment for the said amounts within the framework of the Agreement.

9. The Client shall at all times indemnify the Freight Forwarder for any amounts, as well as for all additional costs that may be claimed or additionally claimed from the Freight Forwarder in connection with the order, as a result of incorrectly levied freight and costs.
10. It shall not be permissible for claims receivable to be set off against payment of remunerations arising from the Agreement on any other account in respect of the Services owed by the Client or of other costs chargeable against the Goods with claims of the Client or suspension of the aforementioned claims by the Client.

Article 16. Allocation of payments and judicial and extrajudicial costs

1. Cash payments shall be deemed in the first place to have been made on account of non-preferential debts.
2. The Freight Forwarder shall be entitled to charge to the Client extrajudicial and judicial costs for collection of the claim. The extrajudicial collection costs are owed as from the time at which the Client is in default and these amount to 10% of the claim, with a minimum of € 100.00.

Article 17. Sureties

1. The Freight Forwarder has the right to refuse the delivery of Goods, documents and monies, that the Freight Forwarder has or will obtain, for whatever reason and with whatever destination, in respect of another party.
2. The Freight Forwarder has a right of retention in respect of all Goods, documents and monies that the Freight Forwarder holds or will hold for whatever reason and with whatever destination, for all claims the Freight Forwarder has or might have in future on the Client and/or the owner of the Goods, including in respect of all claims which do not relate to those Goods.
3. The Freight Forwarder has a right of lien in respect of all Goods, documents and monies that the Freight Forwarder holds or will hold for whatever reason and with whatever destination, for all claims the Freight Forwarder has or might have in future on the Client and/or the owner of the Goods.

4. The Freight Forwarder shall regard anyone who, on behalf of the Client, entrusts Goods to the Freight Forwarder for performing Services, as the Client's agent for creating a lien on those Goods.
5. If when settling the invoice a dispute arises over the amount due or if there is need for a calculation to be made for the determination of what is due that cannot be made quickly, then at the discretion of the Freight Forwarder, the Client or the party that demands delivery at the request of the Freight Forwarder is obliged to pay forthwith the part which the parties agree is due and to furnish security for the part in dispute or for the part for which the amount has not yet been established.
6. The Freight Forwarder can also exercise the rights outlined in this article (right of lien, right of retention and right to refuse delivery) for what is still owed to it by the Client in relation to previous orders and for any amounts payable by way of delivery C.O.D. in respect of the Goods.
7. The sale of any security shall take place at the account of the Client in the manner prescribed by law or - if there is consensus thereon - privately.
8. At the Freight Forwarder's first request, the Client shall furnish security for costs paid or to be paid by the Freight Forwarder to Third Parties or government authorities and other costs that the Freight Forwarder incurs or anticipates incurring, on behalf of the Client, including freight, port costs, duties, taxes, levies and premiums.
9. In the absence of documents, the Freight Forwarder is not obliged to give indemnities or furnish securities. If the Freight Forwarder has given indemnification or furnished security, the Client is obliged to indemnify the Freight Forwarder from all consequences thereof.

Final provisions

Article 18. Termination of the Agreement

1. The Freight Forwarder can terminate the Agreement with immediate effect in the event the Client:
 - discontinues its profession or business largely or in full;
 - loses the power to dispose of its assets or a substantial part thereof;
 - loses its legal personality, is dissolved or effectively liquidated;
 - is declared bankrupt
 - offers an agreement excluded from the bankruptcy proceedings;
 - applies for moratorium on payment;
 - loses the power to dispose of its goods or a substantial part thereof as a result of seizure.
2. If the Freight Forwarder consistently imputably fails to fulfil one or more of its obligations under the Agreement, without prejudice to its right to compensation for any damage that

may have been suffered in accordance with article 11, the Client can dissolve the Agreement with immediate effect in full or in part after:

- it has notified the Freight Forwarder by registered letter with reasons how the Freight Forwarder has failed to comply, stipulating a period of time of at least thirty days for fulfilment of the obligations, and;
 - on expiry of that deadline, the Freight Forwarder has not yet fulfilled the obligations.
3. If the Client consistently imputably fails to fulfil one or more of its obligations under the Agreement, without prejudice to its right to compensation for any damage that may have been suffered, the Freight Forwarder can dissolve the Agreement with immediate effect in full or in part after, by registered letter, it has stipulated a deadline to the Client of at least fourteen days for fulfilment of the obligations and upon expiry of that deadline, the Client has not yet fulfilled its obligations. If, by stipulating such a period, the Freight Forwarder's interests in the undisturbed conduct of its business would be impaired disproportionately, the Freight Forwarder may dissolve the Agreement without observing a time limit.
4. Neither of the Parties may dissolve the Agreement if, considering its special nature or limited significant, the failure does not justify dissolution with all implications thereof.

Article 19. Proceedings against Third Parties

1. Legal and arbitration proceedings against Third Parties shall not be conducted by the Freight Forwarder unless it agrees to do so at the Client's request and at the latter's expense and risk.

Article 20. Prescription and limitation

1. Notwithstanding the provisions in paragraph 5 of this article, every claim is subject to prescription by the expiry of a period of nine months.
2. Every claim vis-a-vis the Freight Forwarder shall be time-barred by the mere expiry of a period of 18 months.
3. The periods of time stated in paragraphs 1 and 2 commence on the day following the day on which the claim has become due and payable, or the day following the day on which the prejudiced party had the knowledge of the loss. Notwithstanding the foregoing provisions, the aforementioned periods of time for claims with regard to damage, value depreciation or loss of the Goods, commence on the day following the day on which the Goods are delivered by the Freight Forwarder or should have been delivered.
4. In the event that the Freight Forwarder is held liable by Third Parties, including any public authority, for damages, the periods of time stated in paragraphs 1 and 2 commence as from the first of the following days:
- the day following the day on which the Third Parties have brought action against the Freight Forwarder;
 - the day following the day on which the Freight Forwarder has settled the claim brought against it.

If the Freight Forwarder or the Third Party whose services it has engaged objects and/or

appeals, the periods of time stated in paragraphs 1 and 2 commence on the day following the day on which a final ruling has been given on the objections and/or appeal.

5. Unless the situation referred to in paragraph 4 of this article occurs, if following the term of prescription a claim is brought against one of the parties for that payable by that party to a Third Party, a new term of prescription of three months commences.

Article 21. Choice of law

1. All Agreements to which these Conditions apply are governed by Dutch law.
2. The place of payment and settlement of claims shall be the Freight Forwarder's place of business.

Article 22. Reference title

1. These general terms and conditions can be cited as "Dutch Forwarding Conditions".

Disputes

Article 23. Arbitration

1. All disputes which may arise between the Freight Forwarder and its Other Party shall be decided by three arbitrators to the exclusion of the ordinary courts of law, in accordance with the FENEX Rules of Arbitration. The FENEX Rules of Arbitration and the current fees for the arbitration process can be read and downloaded from the FENEX website. A dispute shall exist whenever either of the parties declares that this will be so.
Without prejudice to the provisions of the preceding paragraph, the Freight Forwarder shall be at liberty to bring before the competent Dutch court in the Freight Forwarder's place of business, claims for sums of money due and payable, the indebtedness of which has not been disputed in writing by the Other Party within four weeks after the invoice date. The Freight Forwarder is also at liberty to institute interim relief proceedings for claims of an urgent nature at the competent Dutch court in the Freight Forwarder's place of business.
2. The arbitration shall be settled by three arbitrators, unless neither of the parties has submitted a request for arbitrators to be appointed and the parties have jointly informed the FENEX secretariat in writing that they wish to have the arbitration settled by an arbitrator who they have appointed jointly, appending the written declaration of the arbitrator who they have appointed jointly containing his/her acceptance of the appointment and the force and validity of the FENEX Arbitration Rules.
3. One arbitrator shall be appointed by the Chairman or the Vice-Chairman of the FENEX; the second shall be appointed by the Dean of the Bar Association of the district in which the aforesaid Freight Forwarder has its registered office; the third shall be appointed by mutual agreement between the two arbitrators so appointed.
4. The Chairman of the FENEX shall appoint an expert on forwarding and logistics; the Dean of

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the Bar Association shall be asked to appoint a specialised lawyer in forwarding and logistics; the third arbitrator shall preferably be an expert in the branch of trade or industry in which the Freight Forwarder's Other Party is engaged.

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