



C. Steinweg (USA) Inc.

Address

FTZ#74-1201 Wallace Street
Baltimore, MD 21230 - U.S.A.

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General Terms and Conditions of C. Steinweg (USA) Inc.

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General Terms and Conditions of C. Steinweg (USA) Inc.

Article 1 - Applicability

- 1.1 These General Terms and Conditions apply to C. Steinweg (USA) Inc. and its subsidiary companies as well as all its affiliated companies, hereinafter jointly referred to as "Steinweg". The request by any party or by its authorized agent (hereinafter, collectively, "the Contracting Party") for the services of Steinweg shall be deemed to be a consent to these General Terms and Conditions.
- 1.2 These General Terms and Conditions apply to all legal relationships of Steinweg arising out of or related to any form of service to be performed by Steinweg, regardless of whether this is effected pursuant to orders or on some other basis.
- 1.3 To the extent that these General Terms and Conditions apply to any single instance in which Steinweg renders services to a Contracting Party, they shall continue to apply without exception to any and all future services, to be performed by Steinweg for that Party and to future agreements for services concluded by that Party with Steinweg.
- 1.4 Failure by Steinweg on any occasion to invoke any of the provisions of the General Terms and Conditions shall not constitute a waiver by Steinweg of its right to invoke the said provisions of the General Terms and Conditions in other circumstances.

Article 2 - Terms and conditions applied by Steinweg for Specific Services

- 2.1 Unless specifically and in writing agreed otherwise, all services rendered by Steinweg are performed by Steinweg acting in its capacity of either forwarder (including but not limited to services such as chartering of trucks, barges, trains and/or vessels, even if these services are performed pursuant to a transport order), receiving agent, customs agent, warehouseman, shipbroker, stevedore, and/or provider of other logistic services.
- 2.2 Except as specifically and in writing provided otherwise, the most recent version of the following specific terms and conditions, with the exception of any choice of forum clause or arbitration clause included in such specific terms and conditions, shall apply in addition to these General Terms and Conditions. In the event of any conflict between these General Terms and Conditions and any of the specific terms and conditions identified below, except with respect to the choice of forum or arbitration clause, the specific terms and conditions shall govern.
 - a. Forwarding



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When acting in its capacity of forwarder as described in Article 2.1, the latest version of the NCBFAA Terms & Conditions of Service shall apply.

b. Warehousing

In case of warehousing services, the latest version of the General Terms and Conditions for the Provision of Warehousing Services of C. Steinweg (USA) Inc. shall apply.

c. Stevedoring

In case of stevedoring services, the latest version of the General Terms and Conditions for the Provision of Stevedoring Services of Baltimore Metal & Commodities Terminal, Inc. shall apply.

Article 3 - Applicability of Articles 3 - 13

Where Steinweg is performing other logistic services which are not covered by the scope of application of the specific terms and conditions listed in Article 2.2, or where any issue arises which does not fall under the specific terms and conditions declared applicable in Article 2.2 or where, for any reason whatsoever, the provisions of the aforesaid specific terms and conditions are deemed void or otherwise inapplicable, the provisions set out in the Articles below shall apply to these services.

Article 4 - Offers and agreement

Offers made by Steinweg and orders made to Steinweg are non-binding until an agreement with Steinweg has been concluded in writing. An agreement with Steinweg is only concluded by written confirmation of Steinweg or by performance by Steinweg, in the event that Steinweg has started the performance of an order. Any amendment to the agreement by Steinweg shall be deemed accepted by the Contracting Party if the Contracting Party does not reject such amendment within fourteen days after written notification of such amendment is given. Written notification may be given by e-mail, facsimile, or letter.

Article 5 - General provisions regarding the services

5.1 The Contracting Party (including any intended third party beneficiary of the agreement between Steinweg and its Contracting Party) shall ensure that all necessary permits are obtained, followed and maintained, and that all applicable International, Federal, State, and



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Local treaties, laws, rules, and regulations falling under the obligation of the Contracting Party are complied with.

- 5.2 To enable Steinweg to perform its services, the Contracting Party shall timely provide Steinweg with all relevant information with respect to the goods, including but not limited to information with regard to:
- The nature, type, quality, composition, temperature, weight, volume, source, origin, physical and/or chemical properties of the goods;
 - Hazardous properties and/or substances (whether or not generally known or recognized as such) of or within the goods;
 - Legal status of the goods (ownership, storage banned elsewhere, custom formalities etc.);
 - Whether a special method of storage is required or necessary due to the nature of the goods;
 - Special directions regarding the method of loading or unloading; and all other particulars of the goods that should be known by Steinweg prior to handling.
- 5.3 Should the vessel, container and/or cargo have been fumigated, then the Contracting Party is obliged to inform Steinweg well in advance, at least 7 days prior to its arrival at the port of discharge, the fumigant used and in which container(s), barge(s), hold(s) and/or packing any fumigation chemicals were applied. Degassing and/or aerating the vessel, container and/or cargo to safe levels will be at Contracting Party's risk and expense.
- 5.4 Steinweg has the right to refuse the goods in case the Contracting Party does not fulfil its obligations pursuant to Articles 5.1, 5.2 and 5.3 of these General Terms and Conditions or in case the goods arrive in a damaged or defective condition.
- 5.5 Steinweg may, without being obliged thereto, take measures for treatment and handling of the goods as it may deem necessary for preservation or protection of the goods or of its own or another's goods or property, all at Contracting Party's risk and expense.
- 5.6 If the Contracting Party sells or otherwise disposes of (all or any part of) the goods, this does not release the Contracting Party from any of its obligations to Steinweg until Steinweg has confirmed in writing to the Contracting Party that Steinweg has accepted both such transfer of the goods and the release of the goods.



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- 5.7 The Contracting Party is obliged to immediately notify Steinweg in writing of any transfer or other passing of ownership of goods or the transfer or passing of the right to take delivery of the goods, as the case may be.
- 5.8 The Contracting Party shall be obliged to notify Steinweg in writing of any claim by the Contracting Party or its agent or independent contractor, for damage to and/or loss of the vessel, vehicle or other means of transport of the Contracting Party and/or of such third party prior to the departure of the means of transport from the premises of Steinweg or its subcontractor. The failure to give such notice shall be deemed a waiver by the Contracting Party, its agent, or independent contractor of any claim against Steinweg for loss or damage to the aforesaid vessel, vehicle or other means of transport.
- 5.9 Steinweg shall determine the order of sequence in which vessels, trucks, barges or any other means of transport will be loaded or unloaded and shall determine time and place for berthing or parking. The non-availability of a berthing or parking place upon the arrival of any floating or rolling means of transport is considered to be a circumstance beyond Steinweg's control and for which Steinweg shall not be liable.
- 5.10 In performing its services hereunder, Steinweg shall be entitled to use its own equipment, the staff and equipment of its agents and independent contractors, or the staff and equipment of the Contracting Party, its agents and independent contractors, in Steinweg's sole discretion. In the event that Steinweg utilizes the staff and equipment of the Contracting Party, its agents or independent contractors, such staff and equipment shall be provided free of charge; HOWEVER, at all relevant times, such staff of the Contracting Party, its agents and independent contractors shall remain under the command and control of the Contracting Party and shall not be deemed borrowed servants, agents or employees of Steinweg for any purpose.
- 5.11 Save where specific agreements are made, Steinweg shall be free to determine the manner of executing its services. The Contracting Party shall comply with all general directives given by Steinweg relating to the performance of Steinweg's services.
- 5.12 The Contracting Party is obliged to take out adequate insurance, including but not limited to hull insurance or other insurance governing the means of transport, cargo insurance, liability insurance, Longshore and Jones Act insurance, and workers' compensation insurance, as necessary to protect its interests. Steinweg does not provide any insurance covering the interests of the Contracting Party, its agents, independent contractors or employees or its goods or other property.



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Article 6 - Rates and tariffs

- 6.1 Unless specifically in writing agreed otherwise, all rates and tariffs are in US Dollars and exclude V.A.T., or other taxes and charges levied by public authorities on particular goods, their transshipment and/or storage.
- 6.2 Steinweg shall be entitled to apply a surcharge or surcharges to the rates and tariffs of ongoing orders, in the event that its own costs for labor, services fuel, freights, import duties, insurance premiums or other similar expenses unexpectedly increase, and the Contracting Party agrees to pay such surcharges.
- 6.3 Unless otherwise specifically agreed in writing, Steinweg is entitled to yearly adjustments in rates and tariffs, to cover any increase in its costs, including, but not limited to, costs of labor, equipment and fuel.
- 6.4 The agreed rates and tariffs apply during regular working hours, which are Monday to Friday from 8:00 till 17:00 hours.
Services performed outside regular working hours and during U.S.A. public holidays (including the evening and night shifts preceding such days) are considered to be overtime services.
Special rates and tariffs apply in case of overtime services, and overtime services are subject to the availability of the workforce.

Article 7- Payment

- 7.1 The Contracting Party shall pay the amount invoiced by Steinweg to Steinweg within 14 days of invoice date. Payment to Steinweg must be effected in the manner specified by Steinweg. Payment to any person or entity other than Steinweg shall not release the Contracting Party from its payment obligations towards Steinweg.
- 7.2 If the Contracting Party does not dispute Steinweg's invoice in writing within 14 days of invoice date, the said invoice shall be deemed to be undisputed.
- 7.3 The Contracting Party shall not be entitled to set off any claim it may have against Steinweg against any invoice amounts charged by Steinweg nor may the Contracting Party suspend payment of all or any part of a Steinweg invoice pending resolution of a claim.



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- 7.4 In the event of failure by the Contracting Party to pay the invoice amount to Steinweg within the period for payment provided for in Article 7.1, the Contracting Party shall become in default without the requirement of any prior notice.
- 7.5 From the moment the Contracting Party is in default pursuant to Article 7.4, it shall owe interest on the unpaid amount of the Steinweg invoice at the rate of 10% per annum until such time as Steinweg receives payment of the amount in full. The Contracting Party shall also owe Steinweg the costs of collection and a reasonable attorneys fee if the invoice has to be referred for collection. For purpose of this Article 7.5, the Contracting Party agrees that a reasonable collection fee shall be 15% of the amount of the unpaid invoice. Until Steinweg's invoice is paid in full, Steinweg shall have all rights permitted by law as to the goods, including, but not limited to, the right to hold the goods under a possessory warehouseman's lien.
- 7.6 Payments by Steinweg or a subcontractor of Steinweg made on behalf of the Contracting Party, including but not limited to disbursements, import duties, ocean freights and costs relating to additional services, will be invoiced separately and must be paid immediately upon receipt of the invoice.
- 7.7 All costs and/or any damage borne by Steinweg on account of the non-availability of the means of transport used by or on behalf of the Contracting Party or on account of any defect in such means of transport are chargeable by Steinweg to the Contracting Party and must be paid on demand. Steinweg may suspend its services until such payment is made.
- 7.8 Steinweg is entitled at any time prior to, during and even after performance of its services to require an advance payment, a prepayment, an interim payment, or security from the Contracting Party for all existing or anticipated claims by Steinweg against the Contracting Party; in the event of failure to provide the aforesaid payment or security, Steinweg shall be entitled to terminate the agreement immediately and without any liability by Steinweg to the Contracting Party, for consequential damages or any other damages.
- 7.9 All outstanding invoices and/or claims of Steinweg shall become immediately payable if and as soon as the Contracting Party or its authorized agent 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 events Steinweg shall also be entitled to terminate immediately its legal relationship with the Contracting Party, without prejudice to the right of Steinweg to claim



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damages and without any liability by Steinweg to the Contracting Party, or its agent for consequential damages or any other damages .

- 7.10 To the extent permitted by law, Steinweg has a pledge and/or a right of retention and/or a lien on all goods, documents and funds of the Contracting Party in the current or future possession of Steinweg as security for, or as an offset against, all and any claims Steinweg may have against the Contracting Party. In the event of non-payment of the claim(s) for which such rights are exercised, to the extent permitted by law, Steinweg shall be entitled to sell the pledged goods, documents and funds in the manner prescribed by law.
- 7.11 Steinweg shall regard anyone who entrusts goods to Steinweg for performance of the services on the Contracting Party's behalf as the Contracting Party's authorized agent for the purpose of creating a pledge and/or a right of retention and/or a lien on such goods.

Article 8- Termination

- 8.1 In case circumstances occur that make it impossible for Steinweg to continue the performance of its services, including but not limited to circumstances beyond Steinweg's control which last for more than 48 consecutive hours, Steinweg has the right to immediately terminate its legal relationship with the Contracting Party without prior (written) notice, and Steinweg shall have no liability to the Contracting Party or to any other party as a consequence of such termination.
- 8.2 Notwithstanding Steinweg's other rights under these General Terms and Conditions, including the right to claim damages from the Contracting Party, in the event of any breach of the Contracting Party's obligations under these General Terms and Conditions, Steinweg may immediately terminate its legal relationship with the Contracting Party wholly or in part and/or suspend or interrupt its services, and without prior (written) notice, and Steinweg shall have no liability to the Contracting Party or any other party as a consequence of such termination.
- 8.3 If and as soon as the Contracting Party or its authorized agent 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, then notwithstanding Steinweg's other rights under these General Terms and Conditions or at law, including the right to claim damages from the Contracting Party, Steinweg is entitled to immediately terminate the legal relationship and/or to immediately suspend or interrupt its services, without the requirement of a prior (written)



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notice, and Steinweg shall have no liability to the Contracting Party or any other party as a consequence of such termination.

Article 9- Liability

- 9.1 Steinweg shall not be liable to any party for any damage, including but not limited to damage to the goods and/or damage caused by the goods or the handling thereof, except where the Contracting Party proves that the damage was caused as a result of Steinweg's gross negligence. Any liability of Steinweg for loss or damage to the goods shall in no event exceed a maximum of \$500 per package, or, for non-packaged goods, per customary freight unit, or such lesser maximum amount permitted by law. The Contracting Party agrees to indemnify and hold harmless Steinweg from all liability and damages, including but not limited to liability or damages for personal injury, property damage, or death, arising out of the legal relationship between the parties or Steinweg's services hereunder, except to the extent caused by Steinweg's gross negligence. In any case where it is proven that an occurrence was due to Steinweg's gross negligence, Steinweg's liability shall be limited to \$100,000.00 (one hundred thousand dollars) per occurrence or per series of occurrences having the same cause, unless otherwise required by law.
- 9.2 The Contracting Party shall be obliged to compensate Steinweg for any damage caused to Steinweg in the performance of its services, including but not limited to damage caused by material or goods provided by the Contracting Party to Steinweg for the purpose of executing the agreement and/or damage caused as a result of handling that material or those goods, save where the damage was caused as a result of an act or omission on the part of the board or management of Steinweg, done either with the intent to cause that damage or recklessly and with the knowledge that such damage would probably result therefrom. Damage shall also be understood to include damage to third parties which Steinweg is obliged to compensate; damage shall also be understood to include damage caused by death or injury and any form of financial loss.
- 9.3 Steinweg shall never be liable for consequential and/or incidental damages or loss of profits, incurred by the Contracting Party. Demurrage charges incurred by the Contracting Party or dispatch money are deemed to be consequential damages.
- 9.4 Except as otherwise provided under these General Terms and Conditions, Steinweg shall be discharged from all liability unless the Contracting Party notifies Steinweg in writing of any damage or loss, either within four weeks after the Contracting Party has become aware of such



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damage or loss, or within three months after the means of transport involved, the goods, or the person(s) involved has/have left the premises of Steinweg, whichever term is shorter. All and any claims against Steinweg shall become time barred if suit is not brought on the claim within one year after such claim has arisen. Suit shall not be deemed "brought" for purposes of this Article 9.3 until Steinweg is properly served with process under applicable law.

Article 10- Indemnification and Himalaya clause

10.1 In addition to the terms of Article 9.1, the Contracting Party also shall be obliged to indemnify and hold harmless Steinweg for all third party claims relating to damage caused as a result of the services performed by Steinweg, save where such damage is caused by Steinweg's gross negligence. Damage for the purpose of Article 10.1 shall be understood to include damage to third parties which Steinweg is obliged to compensate; as well as damage caused by death or injury and any other form of financial loss.

The Contracting Party shall be obliged to indemnify and hold harmless Steinweg at all times and in all cases against third-party claims exceeding the total sum of \$100,000.00 (one hundred thousand dollars) for each occurrence or series of occurrences having the same cause, unless otherwise required by law.

10.2 The provisions of Articles 9 and 10 hereunder shall also extend to any employees, agents or independent contractors of Steinweg engaged in the provision of services to the Contracting Party.

10.3 In addition, the Contracting Party shall indemnify and hold harmless Steinweg for any claims by whatever name, from whichever person, legal or private, concerning the latest version of:

- The U.S. Oil Pollution Act of 1990
- Any U.S. Customs, U.S.D.A., or Homeland Security laws or regulations
- Any Federal Motor Carrier Safety Administration Rules or Regulations
- Any other applicable Federal, state or local laws

Article 11 - Dangerous Goods

11.1 In the event that the goods handled by Steinweg in the performance of its services are deemed to be dangerous pursuant to the relevant laws or regulations for the carriage of dangerous



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substances on inland waterways, by road or by sea, such handling of the goods shall be governed by applicable U.S. law governing the handling of such goods and, if applicable, by the laws of Europe relating to the shipment of Dangerous Goods.

- 11.2 Should Steinweg suffer any damage as a result of a failure by the Contracting Party to comply with the obligations laid down in any of the applicable laws or regulations governing dangerous goods as stated in Article 11.1, the Contracting Party shall indemnify and hold Steinweg harmless in full for such damage, regardless of any fault of Steinweg contributing thereto.

Article 12 - Subcontracting

Steinweg is allowed to subcontract any of its services hereunder to third parties and to accept the (standard) terms and conditions of such third parties.

Article 13 - Miscellaneous

13.1 Non-applicability of the Contracting Party's terms and conditions

The general terms and conditions of the Contracting Party and/or its subcontractor(s), whether or not printed on the transport documents, are expressly agreed to be inapplicable to the services provided by Steinweg hereunder.

13.2 Invalidity

In case any of the terms, conditions and provisions of these General Terms and Conditions are found to be unenforceable, invalid or partially invalid, the remainder of these General Terms and Conditions shall remain unaffected, enforceable, and valid.

13.3 Amendments

Any amendment to these General Terms and Conditions must be made in writing.

13.4 Authentic text

These Conditions are in the English language. In case of any discrepancy between the English text and a translation, the English text shall prevail.



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Article 14 - Applicable law and competent court

- 14.1 The legal relationship between Steinweg and the Contracting Party shall be governed by U.S. law and the laws of the State of Maryland, as applicable, except for Maryland's conflict of laws rules.
- 14.2 Any disputes which may arise between the parties shall be settled exclusively by the competent Federal or State court in Maryland. For the purposes of this Article 14.2, the Contracting Party hereby consents to the personal jurisdiction of the Federal or State courts of the State of Maryland over it.

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NCBFAA Terms & Conditions of Service

©Approved by the National Customs Brokers and Forwarders Association of America, Inc. (Revised 02/13).

These terms and conditions of service constitute a legally binding contract between the “Company” and the “Customer”. In the event the Company renders services and issues a document containing other Terms and Conditions governing such services, the other Terms and Conditions set forth in such other document(s) shall govern those services.

1. Definitions.

- (a) “Company” shall mean C. Steinweg (Baltimore) Inc., its subsidiaries, related companies, agents and/or representatives
- (b) “Customer” shall mean the person for whom the Company is rendering services, as well as its agents and/or representatives, including, but not limited to shippers, importers, exporters, carriers, secured parties, warehousemen, buyers and/or sellers, shipper’s agents, insurers and underwriters, break-bulk agents, consignees, etc. It is the responsibility of the Customer to provide notice and copy(s) of these terms and conditions of service to all such agents or representatives;
- (c) “Documentation” shall mean all information received directly or indirectly from Customer, whether in paper or electronic form;
- (d) “Ocean Transportation Intermediaries” (“OTI”) shall include an “ocean freight forwarder” and a “non-vessel operating carrier”;
- (e) “Third parties” shall include, but not be limited to, the following: “carriers, truckmen, cartmen, lightermen, forwarders, OTIs, customs brokers, agents, warehousemen and other independent contractors to which the goods are entrusted for transportation, cartage, handling and/or delivery and/or storage or otherwise”.

2. Company as agent.

The Company acts as the “agent” of the Customer for the purpose of performing duties in connection with the entry and release of goods, post entry services, the securing of export licenses, the filing of export and security documentation on behalf of the Customer and other dealings with Government Agencies; as to all other services, Company acts as an independent contractor.

3. Limitation of Actions.

- (a) Unless subject to a specific statute or international convention, all claims against the Company for a potential or actual loss, must be made in writing and received by the Company,



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within Thirty (30) days of the event giving a rise to claim; the failure to give the Company timely shall be a complete defense to any suit or action commenced by Customer.

(b) All suits against Company must be filed and properly served on Company as follows:

- (i) For claims arising out of ocean transportation, within One (1) year(s) from the date of the loss;
- (ii) For claims arising out of air transportation, within Two (2) year(s) from the date of the loss;
- (iii) For claims arising out of the preparation and/or submission of an import entry(s), within Thirty (30) days from the date of liquidation of the entry(s);
- (iv) For any and all other claims of any other type, with One (1) year(s) from the date of the loss or damage.

4. No Liability For The Selection or Services of Third Parties and/or Routes.

Unless services are performed by persons or firms engaged pursuant to express written instructions from the Customer, Company shall use reasonable care in its selection of third parties, or in selecting the means, route and procedure to be followed in the handling, transportation, clearance and delivery of the shipment; advice by the Company that a particular person or firm has been selected to render services with respect to the goods shall not be construed to mean that the Company warrants or represents that such person or firm will render such services nor does Company assume responsibility or liability for any action(s) and/or inaction(s) of such third parties and/or its agents, and shall not be liable for any delay or loss of any kind that occurs while a shipment is in the custody or control of a third party or the agent of a third party; all claims in connection with the act or omission of a third party shall be brought solely against such party and/or its agents; in connection with any such claim, the Company shall reasonably cooperate with the Customer, which shall be liable for any charges or costs incurred by the Company.

5. Quotations Not Binding.

Quotations as to fees, rates of duty, freight charges, insurance premiums or other charges given by the Company to the Customer are for informational purposes only and are subject to change without notice; no quotation shall be binding upon the Company unless the Company in writing agrees to undertake the handling or transportation of the shipment at a specific rate or amount set forth in the quotation and payment arrangements are agreed to between the Company and the Customer.

6. Reliance On Information Furnished.

(a) Customer acknowledges that it is required to review all documents and declarations prepared and/or filed with U.S. Customs & Border Protection, other Government Agencies and/or third parties, and that it will immediately advise the Company of any errors,



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discrepancies, incorrect statements, or omissions on any declaration or other submission filed on Customer's behalf;

(b) In preparing and submitting customs entries, export declarations, applications, security filings, documentation and/or other required data, the Company relies on the correctness of all documentation, whether in written or electronic format, and all other information furnished by Customer; Customer shall use reasonable care to ensure the correctness of all such information and shall indemnify and hold the Company harmless from any and all claims asserted and/or liability or losses suffered by reason of the Customer's failure to disclose information or any incorrect, incomplete or false statement by the Customer or its agent, representative or contractor upon which the Company reasonably relied. The Customer agrees that the Customer has an affirmative non-delegable duty to disclose any and all information required to import, export or enter the goods.

7. Declaring Higher Value To Third Parties.

Third parties to whom the goods are entrusted may limit liability for loss or damage; the Company will request excess valuation coverage only upon specific written instructions from the Customer, which must agree to pay any charges therefor; in the absence of written instructions or the refusal of the third party to agree to a higher declared value, at Company's discretion, the goods may be tendered to the third party, subject to the terms of the third party's limitations of liability and/or terms and conditions of service.

8. Insurance.

Unless requested to do so in writing and confirmed to Customer in writing, Company is under no obligation to procure insurance on Customer's behalf; in all cases, Customer shall pay all premiums and costs in connection with procuring requested insurance.

9. Disclaimers; Limitation of Liability.

(a) Except as specifically set forth herein, Company makes no express or implied warranties in connection with its services;

(b) In connection with all services performed by the Company, Customer may obtain additional liability coverage, up to the actual or declared value of the shipment or transaction, by requesting such coverage and agreeing to make payment therefor, which request must be confirmed in writing by the Company prior to rendering services for the covered transaction(s).

(c) In the absence of additional coverage under (b) above, the Company's liability shall be limited to the following:

(i) where the claim arises from activities other than those relating to customs business, \$ 50.00 per shipment or transaction, or



C. Steinweg (USA) Inc.

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(ii) where the claim arises from activities relating to “Customs business,” \$ 50.00 per entry or the amount of brokerage fees paid to Company for the entry, whichever is less;

(d) to the extent permitted by applicable law, in no event shall Company be liable or responsible for consequential, indirect, incidental, statutory or punitive damages, or for the acts of third parties even if it has been put on notice of the possibility of such damages

10. Advancing Money.

All charges must be paid by Customer in advance unless the Company agrees in writing to extend credit to Customer; the granting of credit to a Customer in connection with a particular transaction shall not be considered a waiver of this provision by the Company.

11. Indemnification/Hold Harmless.

The Customer agrees to indemnify, defend and hold the Company harmless from any claims and/or liability, fines, penalties and/or attorneys’ fees arising from the importation or exportation of Customer’s merchandise and/or any conduct of the Customer, including but not limited to the inaccuracy of entry, or the export of security data supplied by Customer or its agent or representative, which violates any Federal, State and/or other laws, and further agrees to indemnify and hold the Company harmless against any and all liability, loss, damages, costs, claims, penalties, fines and/or expenses, including but not limited to reasonable attorney’s fees, which the Company may hereafter incur, suffer or be required to pay by reason of such claims; in the event that any claim, suit or proceeding is brought against the Company, it shall give notice in writing to the Customer by mail at its address on file with the Company.

12. C.O.D. or Cash Collect Shipments.

Company shall use reasonable care regarding written instructions relating to “Cash/Collect on Deliver (C.O.D.)” shipments, bank drafts, cashier’s and/or certified checks, letter(s) of credit and other similar payment documents and/or instructions regarding collection of monies but shall not have liability if the bank or consignee refuses to pay for the shipment.

13. Costs of Collection.

In any dispute involving monies owed to Company, the Company shall be entitled to all costs of collection, including reasonable attorney’s fees, and interest at 18 % per annum or the highest rate allowed by law, whichever is less unless a lower amount is agreed to by Company.



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14. General Lien and Right to Sell Customer's Property.

(a) To the extent permitted by applicable law, the Company shall have a general and continuing lien under this Paragraph on any and all property of Customer coming into Company's actual or constructive possession or control for monies owed to Company with regard to the shipment on which the lien is claimed, a prior shipment(s) and/or both;

(b) Company shall provide written notice to Customer of its intent to exercise such lien and the exact amount of monies due and owing, as well as any on-going storage or other charges; Customer shall notify all parties having an interest in its shipment(s) of Company's rights and/or the exercise of such lien.

(c) Unless, within thirty days of receiving notice of lien, Customer posts security in the form of cash or letter of credit at sight, or, if the amount due is in dispute, an acceptable bond equal to 110% of the value of the total amount due, in favor of Company, guaranteeing payment of the monies owed, plus all storage charges accrued or to be accrued, Company shall have the right to sell such shipment(s) at public or private sale or auction, and any net proceeds remaining thereafter shall be refunded to Customer.

15. No Duty To Maintain Records For Customer.

Customer acknowledges that pursuant to Sections 508 and 509 of the Tariff Act, as amended, (19 USC 1508 and 1509) it has the duty and is solely liable for maintaining all records required under the Customs and/or other Laws and Regulations of the United States; unless otherwise agreed to in writing, the Company shall only keep such records that it is required to maintain by Statute(s) and/or Regulation(s), but not act as a "recordkeeper" or "recordkeeping agent" for Customer.

16. Obtaining Binding Rulings, Filing Protests, etc.

Unless requested by Customer in writing and agreed to by Company in writing, Company shall be under no obligation to undertake any pre-or post Customs release action, including, but not limited to, obtaining binding rulings, advising of liquidations, filing of petition(s) and/or protests, etc.

17. Preparation and Issuance of Bills of Lading.

Where Company prepares and/or issues a bill of lading, Company shall be under no obligation to specify thereon the number of pieces, packages and/or cartons, etc., unless specifically requested to do so in writing by Customer or its agent, and unless Customer agrees to pay for weighing of cargo, Company shall rely upon and use the cargo weight supplied by Customer.

18. No Modification or Amendment Unless Written.

These terms and conditions of service may only be modified, altered or amended in writing signed by both Customer and Company; any attempt to unilaterally modify, alter or amend same shall be null and void.



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19. Compensation of Company.

The compensation of the Company for its services shall be included with and is in addition to the rates and charges of all carriers and other agencies selected by the Company to transport and deal with the goods, and such compensation shall be exclusive of any brokerage, commissions, dividends or other revenue received by the Company from carriers, insurers and others in connection with the shipment. On ocean exports, upon request, the Company shall provide a detailed breakout of the components of all charges assessed and a true copy of each pertinent document relating to these charges. In any referral for collection or action against the Customer for monies due the Company, upon recovery by the Company, the Customer shall pay the expenses of collection and/or litigation, including a reasonable attorney fee.

20. Force Majeure.

Company shall not be liable for losses, damages, delays, wrongful or missed deliveries or nonperformance, in whole or in part, of its responsibilities under the Agreement, resulting from circumstances beyond the control of either Company or its sub-contractors, including but not limited to: (i) acts of God, including flood, earthquake, storm, hurricane, power failure or other natural disaster; (ii) war, hijacking, robbery, theft or terrorist activities; (iii) incidents or deteriorations to means of transportation, (iv) embargoes, (v) civil commotions or riots, (vi) defects, nature or inherent vice of the goods; (vii) acts, breaches of contract or omissions by Customer, Shipper, Consignee or anyone else who may have an interest in the shipment, (viii) acts by any government or any agency or subdivision thereof, including denial or cancellation of any import/export or other necessary license; or (ix) strikes, lockouts or other labor conflicts.

21. Severability. In the event any Paragraph(s) and/or portion(s) hereof is found to be invalid and/or unenforceable, then in such event the remainder hereof shall remain in full force and effect. Company's decision to waive any provision herein, either by conduct or otherwise, shall not be deemed to be a further or continuing waiver of such provision or to otherwise waive or invalidate any other provision herein.

22. Governing Law; Consent to Jurisdiction and Venue.

These terms and conditions of service and the relationship of the parties shall be construed according to the laws of the United States and the State of Maryland, as applicable, without giving consideration to principles of conflict of law.



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Customer and Company

- a) irrevocably consent to the personal jurisdiction of the United States District Court and the State courts of Maryland over them.
- b) agree except as provided in Paragraph 22(c), that any action relating to the services performed by Company shall only be brought in said courts, and
- c) further agree that any action to enforce a judgment may be instituted in any jurisdiction.



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GENERAL TERMS AND CONDITIONS **FOR THE PROVISION OF WAREHOUSING SERVICES**

CHAPTER I: Ordinary Storage, Custody and Delivery

1. GENERAL PROVISIONS AND ACCEPTANCE

- A. This contract and rate quotation between C. Steinweg (USA) Inc. ("Warehouse") and the Depositor or Warrant Holder of the goods (hereafter, collectively, "Depositor"), including accessorial charges endorsed on or attached hereto ("Agreement"), must be accepted within 30 days from the proposal date by signature of Depositor. In absence of written acceptance, the act of tendering Goods to Warehouse for storage or the provision of other services by Warehouse in connection with the Goods shall constitute acceptance of this Contract and rate quotation by the Depositor. Depositor warrants that Depositor has had the opportunity to review and inspect the Warehouse facility ("Facility") prior to tendering the Goods and has no objections regarding that Facility as a suitable place for storage of the Goods.
- B. In the event that the Goods tendered for storage or other services do not conform to the requirements of Article 4 hereunder, or conforming Goods are tendered after 30 days from the proposal date without prior written acceptance by Depositor as provided in paragraph A of this Article, Warehouse may refuse to accept such Goods. If Warehouse accepts such Goods, Depositor agrees to pay all rates and charges as may be assigned and invoiced by Warehouse and agrees that terms and conditions contained herein are binding upon the Depositor.
- C. Any Goods accepted by the Warehouse shall constitute Goods under this Agreement. However, the Warehouse shall also have the right to refuse to accept the Goods for any reason.
- D. This Agreement may be cancelled by either party upon 30 days prior written notice and it will be deemed cancelled if no storage or other services are performed under this contact for a period of 180 days from the proposal date, unless such period is extended by mutual written consent.
- E. All general or standard terms and conditions of Depositor are wholly inapplicable to this Agreement.

2. DEFINITIONS

The following Definitions apply to this Agreement:

Last Warrant Holder: the party to whom a Warrant has been issued or a subsequent Warrant Holder whose written request to the Warehouse to be considered as such



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bears the most recent date; Provided, however, that the Warehouse shall have the right but not be obliged to regard some third party as the Last Warrant Holder upon receipt of proof of the same.

Last Known Warrant Holder: same as Last Warrant Holder.

Depositor: the party who instructs the Warehouse to store or deliver Goods, or the party for whom the Warehouse actually stores Goods.

Warrant: a document bearing that name, issued by the Warehouse and numbered and legally signed or stamped, stating that the bearer has the right to receive the Goods identified therein, including Partial Warrants as defined hereafter.

Warrant Holder: the party who identifies himself to the Warehouse as the holder of a Warrant by producing the Warrant or by establishing ownership in any other manner acceptable to the Warehouse.

3. SHIPPING

Depositor agrees that all Goods shipped to the Warehouse shall identify Depositor on the bill of lading or other contract of carriage as the named consignee, in care of Warehouse. Depositor agrees not to name Warehouse as the consignee on the bill of lading or other contract of carriage. If, in violation of this Agreement, Warehouse is named as consignee of the Goods, Depositor agrees to notify carrier in writing, prior to shipment to Warehouse, with copy of such notice to the Warehouse, that Warehouse is the "in care of party" only and has no beneficial title or interest in such property. Furthermore, Warehouse shall have the right to refuse any Goods for which it is improperly named as "consignee" and/or for which Depositor fails to notify carrier in writing that Warehouse is "in care of party" only, and shall not be liable for any loss, misconsignment or damage of any nature to or related to such Goods. Depositor further agrees to indemnify and hold harmless Warehouse from any and all claims for loss, damage or injury of any nature or related to such Goods or for unpaid transportation charges, including undercharges, demurrage, detention or charges of any nature, in connection with any Goods so shipped, and including all claims made against Warehouse by a third party in connection with such Goods. Depositor agrees that all promises contained in this section will be binding on the Depositor's heirs, successors and assigns.



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4. TENDER FOR STORAGE

- A. All Goods for storage shall be delivered at the Warehouse properly marked and packaged for handling. The Depositor shall furnish, at or prior to such delivery, a manifest or other exact and full written description of the Goods, showing all marks, numbers, weights, number of packages, brands, or sizes to be kept and accounted for separately, and the type of storage and other services desired.
- B. Right is reserved by the Warehouse, without any resultant responsibility for demurrage, loss, or damage, to refuse to accept, receive, or unload:
 - a. Goods for which previous arrangements for space, receiving, unloading or handling, have not been made by shipper, consignee or carrier.
 - b. Goods not packed in packages or containers suitable for withstanding the ordinary handling incidental to its transportation or storage. Such Goods, however, may be repacked or reconditioned at the discretion of the Warehouse, and all expenses, loss or damage incidental thereto will be for account of shipper, consignee, owner, assignor or carrier.
 - c. Notwithstanding the foregoing, the acceptance and handling of any Goods by Warehouse shall not be deemed an admission that the packaging of the Goods is suitable for withstanding the ordinary handling incidental to transportation or storage.
- C. All agreements, tenders, or instructions regarding storage, custody, handling and delivery of Goods shall be recorded in writing and shall be provided by Depositor to Warehouse prior to receipt of the Goods by Warehouse.

5. STORAGE PERIOD AND CHARGES

- A. All charges for storage are per metric ton or other agreed unit, per week, unless otherwise agreed.
- B. Storage charges become applicable upon the date that the Warehouse accepts care, custody and control of the Goods, regardless of the unloading date or date of issuance of the Warehouse receipt or storage confirmation.
- C. All storage charges are due and payable on the first day of the storage week, unless otherwise agreed. All other charges are due at the date the services are rendered.
- D. The Depositor of record is responsible for payment of all charges accruing under this Agreement. If Depositor requests Warehouse to bill a third party for any charges under this Agreement, Warehouse may do so at its sole option; however nothing herein shall relieve the Depositor of its primary obligation to pay all charges accruing under this Agreement.
- E. Rates and charges for work done by the Warehouse are based on the cost of labor prevailing at the time the instructions were given or the Agreement was made. In the event of an increase in the cost of labor, the current rates or the agreed rates and charges may be adjusted accordingly.



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- F. Current and agreed rates and charges for storage shall be based on the customary method of handling the relevant Goods unless otherwise agreed. If, at the Depositor's request or due to the condition of the Goods, the customary method of handling is not followed by the Warehouse, causing the Goods to occupy more warehouse floor space than customary, an increase in the rates shall be applied proportional to the additional floor space occupied compared to customary.

6. DUTIES, COSTS AND TAXES

- A. 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 Depositor and shall be paid or reimbursed by the Depositor whether or not in advance, at the Warehouse's first demand, irrespective of whether the goods are still on the premises or have since been removed. In the event that the Warehouse advances payment of any such amounts on the Depositor's behalf, Depositor agrees to indemnify and hold the Warehouse harmless for all such payments. The Depositor shall pay such amounts at the Warehouse's first demand, or shall, at the option of the Warehouse, arrange for sufficient security for these amounts by means of a bank acceptable to Warehouse, in favor of the Warehouse or, at the option of the Warehouse, in favor of such authority, organization, corporation or person claiming these amounts.
- B. When the Warehouse deems it necessary to file 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 Depositor requests the Warehouse to file such law suits or implement such legal steps and the Warehouse complies with such a request, the resulting work and costs, including the costs of legal and/or accounting and/or other advice or assistance deemed necessary by the Warehouse shall be for the account and risk of the Depositor.

7. TRANSFER, TERMINATION OF STORAGE, REMOVAL OF GOODS, AND WAREHOUSE LIEN

- A. Instructions to transfer ownership of the Goods on the books of the Warehouse are not effective until delivered to and accepted by Warehouse, and all charges up to the time transfer is made are chargeable to and paid by the Depositor of record. If a transfer involves re-handling the Goods, such will be subject to a charge. When Goods in storage are transferred from one party to another through issuance of a new Warehouse receipt, a new storage date is established on the date of transfer. The Depositor must immediately notify the Warehouse of any change in ownership of the Goods, or in the right to order release of the Goods. No transfer of ownership of the Goods on the books of the Warehouse shall take effect unless and until the new owner(s) explicitly accept in writing all of these Terms and Conditions and any other agreed terms between the Warehouse and the original Depositor. No transfer of ownership of the Goods shall relieve the original Depositor from its obligation to pay all



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amounts due in connection with the Goods, whether incurred before or after the transfer, unless the Warehouse otherwise agrees in writing. In the event of a transfer in ownership, the Warehouse reserves the right to hold the original Depositor and any subsequent owner(s) jointly and severally liable for all monies owed in connection with the Goods.

- B. Unless otherwise agreed, the Warehouse shall determine the storage location of the Goods, in its sole discretion, and shall have the right to remove the Goods to another place of storage during the storage period. The Warehouse shall attempt to give written notice to the Depositor of the transfer of the goods but shall have no liability for the failure to provide such notice. If such Depositor or other holder of the Warehouse receipt takes delivery of his Goods in lieu of transfer, no storage charges shall be assessed for the current storage week. Warehouse will store the Goods at, and may without notice move the Goods within and between, any one or more of the Warehouse buildings which comprise the Warehouse's Facility. The costs and risks of such removal shall be for account of the Warehouse unless such a transfer is made:
- At the request of the Depositor, or
 - Due to circumstances for which the Warehouse cannot reasonably be held liable, or
 - Due to law or instructions by authorities.
- C. The Warehouse may, upon written notice to the Depositor of record and any other person known by the Warehouse to claim an interest in the Goods, require the removal of any Goods by the end of the next successive storage month. Such notice shall be given to the last known place of business or abode of the person to be notified. If the Goods are not removed before the end of the next succeeding storage month, the Warehouse may deem them abandoned and sell them or otherwise dispose of them in accordance with applicable law. In the event of a sale of the Goods as aforesaid, Warehouse shall hold the balance of the proceeds, after having deducted all costs and all the Depositor's debts to Warehouse, at the Depositor's disposal for five years, after which period the balance, if not claimed, accrues to the Warehouse. The Warehouse is not liable to pay interest in connection with the aforementioned balance held at the Depositor's disposal.
- D. If Warehouse in its sole discretion believes that the Goods are about to deteriorate or decline in value to less than the amount of Warehouse's lien before the end of the next succeeding storage month, the Warehouse may specify on the notification any reasonable shorter time for removal of the Goods than that stated in Article 7(C) and, in case the Goods are not removed, may sell them at public sale held as soon as the law allows, and in the manner prescribed by law, or may otherwise dispose of them as permitted by law.



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- E. If, as a result of a quality or condition of the Goods of which the Warehouse had no notice at the time of deposit, the Goods are deemed by Warehouse, in its sole discretion, to be a hazard to other property or to the Warehouse or to persons, the Warehouse may sell the Goods at public or private sale or otherwise dispose of the Goods without advertisement or reasonable notification to all persons known to claim an interest in the Goods to the extent permitted by law. The Warehouse shall incur no liability by reason of any such disposition. Pending such disposition, sale or return of the Goods, the Warehouse may remove the Goods from the Warehouse and shall incur no liability by reason of such removal.
- F. Depositor agrees, and will not legally contest, that the Warehouse has a lien against the Goods or the proceeds thereof in the Warehouse's possession for all charges incurred by the Warehouse with respect to the Goods, including but not limited to, storage, handling of Goods, insurance, labor and all other costs and expenses present or future in relation to Goods, as well as for the unpaid balance due on Depositor's open account for charges and expenses in relations to other Goods, whether or not delivered. Depositor further agrees to reimburse the Warehouse for all collection fees, costs of perfecting a lien against the Goods, and all suits against the Goods or the Depositor, plus any attorney fees and court costs incurred in connection with unpaid past due accounts. Depositor agrees that the Warehouse may refuse to release any of Depositor's Goods or proceeds in Warehouse's possession until all past due accounts are paid.
- G. Notwithstanding the foregoing, the Warehouse shall have the right but is not obliged to take immediate action at the Depositor'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, all in the sole discretion of the Warehouse. The Warehouse shall use its best efforts to inform the Depositor of the measures taken, without the latter having any right to claim against the Warehouse for any of its actions or failures to act. The Depositor shall indemnify the Warehouse from any claims by third parties on account of damage caused by the Depositor's Goods to goods belonging to third parties.
- H. The Depositor may, upon payment of all that is due to the Warehouse (interpreted in the broadest sense) and subject to the provisions of these General Terms and Conditions, at any time remove the Goods placed in custody. If a fixed period of storage has been agreed, then subject to any provision to the contrary in these Terms and Conditions, the Warehouse cannot require the Depositor to remove the Goods prior to the expiration of the agreed period of time. Where no fixed period of storage has been agreed or where the agreed period of storage has expired, the Warehouse has the right to require the Goods to be removed with one month's prior notice, however not within three months of the commencement of storage. The Warehouse storage charges for the Goods, and, if the Goods have been insured through the



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Warehouse, the insurance premiums and costs shall always be charged in full months, with part of a month counting as a full month.

- I. The failure of the Depositor to comply with one or more of the provisions of these Terms and Conditions shall be deemed grounds for the Warehouse to demand immediate removal of the Goods, in its sole discretion. The Depositor shall remain liable to pay the Warehouse storage charges in full, up to and including the day of the removal of the goods

8. HANDLING

- A. Any handling charge assessed by Warehouse covers the ordinary labor involved in receiving Goods from delivery at Warehouse door, placing Goods in storage, and returning Goods to receiving vehicle during Warehouse normal business hours. Handling charges are due and payable on receipt of the Goods. Receiving carrier and/or shipper of record is responsible for ensuring that the carriage of the Goods to conform to applicable law. The Warehouse shall not be obliged to take any special measures in respect of the Goods or their packaging, including containers, as received into custody, other than that which is considered normal for the storage of the Goods concerned, except as otherwise expressly agreed in writing with Depositor.
- B. Unless otherwise agreed in writing, labor for unloading and loading Goods will be subject to a separate charge. Additional expenses incurred by the Warehouse in receiving and handling damaged Goods, and additional expense incurred in unloading from or loading into cars or other vehicles not at Warehouse door will be charged to the Depositor.
- C. Labor and material used in loading rail cars or other vehicles are chargeable to the Depositor.
- D. When Goods are ordered out in quantities less than that received, the Warehouse may make an additional charge for each delivery order or each item of a delivery order.
- E. The Warehouse shall not be liable for demurrage, delays in unloading inbound railcars and trucks, or delays in obtaining and loading vehicles for outbound shipments unless Warehouse has failed to exercise reasonable care and such failure is the proximate cause of such demurrage or delays.

9. INSPECTION OF GOODS

- A. At the time the Goods are first stored, the Warehouse shall not be obliged to weigh and/or measure the Goods without having received specific instructions to this effect, in respect of the manner of packaging or storage or storing, and neither shall the Warehouse be obliged to perform any other investigation into the nature and condition of the Goods, including investigation into the moistness of the Goods.
- B. At its own discretion, the Warehouse may at any time weigh and/or measure the goods in order to check and verify the specifications received, or may perform any other investigation. If, in such an event, the Warehouse ascertains that the weight or measure vary from the specification, the cost of weighing and/or measuring shall be for the account of the Depositor.



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However, the Warehouse shall only be responsible for the weights and/or measurements if the goods have been weighed and/or measured by the Warehouse on the Depositor's instructions, subject to the Liability and Limitation of Damages Terms below.

- C. Packages, including containers, may only be opened for inspection of the contents at the Depositor's request, however the Warehouse 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.
- D. If, on inspection, it appears that the contents differ from the specification given by the Depositor or any party acting for and/or on behalf of the Depositor, the costs of the inspection shall be for the Depositor's account. The Warehouse, however, shall never be liable for differences between the description and/or designation of the Goods taken into custody and their actual nature or condition

10. CONDITION OF THE GOODS ON ARRIVAL AND PERIOD OF RESPONSIBILITY

- A. The Warehouse shall not be liable for damage to Goods caused by or resulting from an event or process that took place or commenced prior to arrival of the Goods at the location agreed with or chosen by the Warehouse for storage.
- B. Unless the Warehouse is notified to the contrary, Goods must be delivered to the Warehouse in good condition and must be packaged with good and sufficient packaging, including the condition of containers used therefore.
- C. If the Goods sent to the Warehouse arrive in an outwardly visible damaged or defective condition, the Warehouse shall have the right, but not be obliged, to take any steps to protect the Depositor's interests against the carrier or others, at all times for the Depositor's account and risk, and shall provide evidence of such condition, without the Depositor, however, being able to make any claim against the Warehouse for the manner in which the Warehouse performed such tasks. The Warehouse shall notify the Depositor in case the goods are upon arrival in an outwardly visible damaged or defective condition, without the latter, however, having any right to claim against the Warehouse because of failure to notify, delay in notification, or because of the contents of such notification.
- D. The Warehouse shall determine the speed at which an order for storage or delivery of Goods is executed. The Depositor's wishes shall be taken into consideration as far as possible in this connection, but the Warehouse shall not be liable for costs incurred or damage suffered by the Depositor when the speed at which the instructions are carried out is slower than desired by the Depositor.
- E. If the Depositor has advised the Warehouse 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 Depositor or any third party then fails to deliver and/or collect in the agreed manner and/or at the agreed times, then the



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Depositor shall be obliged to pay the Warehouse any costs incurred for labor and/or equipment not utilised, or not fully utilised, which had been engaged and/or assigned to carry out the relevant instructions by the Warehouse.

11. DELIVERY REQUIREMENTS

- A. No Goods shall be delivered or transferred except upon receipt by the Warehouse of complete written instructions properly signed by the Depositor. Written instructions shall include, but are not limited to, FAX, EDI, E-Mail or similar communication. Depositor agrees that Warehouse has no liability when relying on the information contained in communications as received. Goods may be delivered upon instruction by telephone in accordance with Depositor's prior written authorization, but the Warehouse shall not be responsible for loss or error occasioned thereby.
- B. When a negotiable receipt has been issued, no Goods covered by that receipt will be delivered, or transferred on the books of the Warehouse, unless the receipt, properly endorsed, is surrendered for cancellation, or for endorsement of partial delivery thereon. If a negotiable receipt is lost or destroyed, delivery of the Goods may be made only upon order of a court of competent jurisdiction and upon the posting of security approved by the court, as provided by law.
- C. When Goods are ordered out, 24 hours prior notice (in the form of a letter or fax signed on company letterhead) shall be given the Warehouse to carry out instructions.
- D. If Warehouse is unable to carry out any delivery instructions because of acts of god, war, public enemies, seizure under legal process, strikes, lockouts, riots and civil commotions, terrorism or any reason beyond the Warehouse's control, or because of loss or damage to Goods for which Warehouse is not liable, or because of any other excuse provided by law, the Warehouse shall not be liable for failure to carry out such instructions, and Goods remaining in storage will continue to be subject to regular storage charges.
- E. When Depositor engages carrier, Warehouse will not be responsible for carrier's waiting time for loading, unloading or late deliveries.

12. EXTRA SERVICES

- A. Warehouse labor required for services other than ordinary handling and storage will be charged to the Depositor.
- B. All control services performed for the Depositor such as tallying, weighing, measuring, gauging, checking, sampling, sorting, etc., shall be exclusively performed by the Warehouse for a separate charge, unless the Warehouse and the Depositor expressly agree that such services shall be performed by an officially recognized third party control service company at the



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Depositor's sole expense. Notwithstanding the foregoing, any contractor engaged by Depositor is there at his own risk and/or the risk of Depositor. Depositor agrees to indemnify and hold Warehouse harmless for any personal injuries, property damage or violation of U.S. Homeland Security laws or regulations resulting from the access of the Depositor's contractor to Warehouse's premises, whether or not such injury or damage or violation of law is caused in whole or in part by the Warehouse's negligence.

- C. Dunnage, bracing, packing materials or other special supplies may be provided for the Depositor at a charge in addition to the Warehouse's cost.
- D. Any disposal of dunnage, bracing, packing materials or other special supplies will be at Depositor's expense.
- E. By prior arrangement, Goods may be received or delivered during other than usual business hours, subject to an extra charge.
- F. Any communication expense, including, but not limited to, postage, courier, telegram, or telephone, will be charged to the Depositor, if such communication concerns more than normal inventory reporting or if, at the request of the Depositor, communications are made by other than regular United States Mail.

13. FOREIGN TRADE ZONE STORAGE

- A. A surcharge will be applied for any Goods deposited in the Foreign Trade Zone.
- B. Warehouse shall have no liability for Goods seized or removed by U.S. Customs.

14. MINIMUM CHARGES

- A. A minimum handling charge per lot (where "lot" is defined as PBA) and a minimum storage charge per lot per week will be made. When a Warehouse receipt covers more than one lot, or when a lot is in assortment, a minimum charge for each lot will be made.
- B. A minimum weekly charge to one account for storage and/or handling will be made. This charge will apply also to each account when one customer has several accounts, each requiring separate records.

15. INSURANCE, LIABILITY AND LIMITATION OF DAMAGES

- A. The Warehouse shall not be liable for any loss or injury to Goods stored or handled, however caused, unless such loss or injury resulted from failure by the Warehouse to exercise such care in regard to them as a reasonably careful man would exercise under like circumstances and the loss or damage was proximately caused by Warehouse's lack of reasonable care, Warehouse shall not be liable for damages which could not have been avoided by the exercise of such care.

- 1.) In the case of theft or burglary or unexplained shortage of the Goods, the Warehouse shall be deemed to have used "reasonable care" if the place where



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the Goods were stored was locked or otherwise secured at the time of the burglary or theft or unexplained shortage.

- 2.) In the case of loss or damage caused by rats or mice or insects or other vermin, the Warehouse shall be deemed to have used "reasonable care" if it has used normal pest control in the place of storage.
- B. Goods are not insured by Warehouse against loss or injury, however caused. Depositors are responsible for maintaining insurance coverage for all Goods stored, and Warehouse reserves the right to demand that Depositor provide proof of adequate insurance coverage.
- C. The Depositor agrees that Warehouse's liability for loss or damage to the Goods is limited to \$2.00 USD per kilo of the Goods, up to a maximum liability of \$100,000.00 (USD) for each event constituting a loss. Such liability may, at the time of acceptance of this Agreement as provided in Article 1, be increased upon depositor's written request on part or all of the Goods hereunder, to declare a higher value for the Goods, in which event an additional monthly charge will be made based upon such increased valuation. At no time, however, shall the Warehouse's liability exceed the value of the Goods on the first day of storage or the value declared by the Depositor, hereunder, whichever is greater
- D. Where loss or damage occurs to tendered, stored or handled Goods, for which Warehouse is not liable, the Depositor shall be responsible for the cost of removing and disposing of such Goods and the cost of any environmental clean-up and site remediation resulting from the loss or damage to the Goods.
- E. The Depositor shall be liable to the Warehouse and/or third parties for any loss or damage resulting from incorrect and/or misleading and/or incomplete descriptions or indications or information pertaining to the Goods, 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 the Depositor. If the weight has been omitted or stated incorrectly, the Depositor shall be liable for all resulting loss and/or damage.
- F. Notwithstanding the foregoing, the Depositor shall fully indemnify the Warehouse against claims from third parties, as well as indemnify the Warehouse for damages paid or due to third parties, including employees of both the Warehouse and the Depositor, resulting from the nature or condition of the Goods stored, unless the damage is proximately caused by the gross negligence of the Warehouse.
- G. Notwithstanding the foregoing, in no event shall the Warehouse be liable for any damage and/or loss arising from the following causes, regardless of their origin:
 - 1) the natural quality of the Goods, change in quality, inner rot, dehydration, settling, pulverization, leaking, heating, seeping, sweating, condensation, fermenting, freezing, rusting, breakage, insufficient and/or defective packaging;



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- 2) force majeure, government measures, requisitioning, seizure, strike, lockout, sabotage, riot, looting, interruption of power supplies;
 - 3) fire, smoke, explosion, radiation, water damage, break of water pipes, floods, settling, storm, cloudburst and/or extreme precipitation and generally every external calamity;
 - 4) heat, cold, changes of temperature or humidity of the air, but only in case it was not agreed that the storage would take place in a location fitted to protect the Goods from such influences;
 - 5) incompleteness or incorrectness of the numbers, letters or marks of the Goods.
- H. If it has been agreed between the Warehouse and the Depositor that the Warehouse is to procure insurance of the Goods for account of the Depositor, then the Warehouse shall have the right in its discretion to procure the agreed insurance in the name of the Depositor, or to include such insurance in a warehousing policy.
The value to be insured shall be the value of the Goods as stated by the Depositor. The Warehouse shall in all cases be regarded exclusively as an intermediary, without any liability. The Warehouse shall not be held responsible for the terms of any such insurance or be responsible for the reliability or solvency of the insurer.
- I. In all cases where the Goods have been insured by the Warehouse, the Warehouse shall have the right to collect the insurance proceeds on behalf of the Depositor and shall furthermore have the right to deduct from those proceeds all money owed to the Warehouse under this Agreement. The balance remaining shall be paid to the Depositor.
- J. If in case of damage to or loss of Goods by fire or any other cause and the assistance of the Warehouse in assessing the damage or loss is required or requested, such assistance shall be rendered by the Warehouse for the costs involved plus an additional fee for the Warehouse's services. The Warehouse 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 in this Article by the Depositor to the Warehouse.
- K. When partial delivery of the Goods has been made by the Warehouse, the Depositor must inform the Warehouse of the value for which he wishes the remainder of the Goods to be insured. In the absence of such a declaration, the Warehouse shall have the right to reduce the insured value of the Goods, at its own discretion, in proportion to the decrease in number, weight, measure or contents of the Goods.
- L. 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 claim for depreciation in value of the remaining undamaged part or remaining undamaged M. Should the goods stored in the Warehouse be destroyed by fire or otherwise, the day of destruction shall count as the date of delivery, and the full Warehouse storage charges plus the insurance premium (if the Goods were insured



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through the Warehouse) together with all costs, calculated in full monthly periods, shall be due and payable up to and including such date.

- M. Any right to damages shall cease if no written notice of a claim is presented to the Warehouse by or on behalf of the Principal or the Warrant Holder receiving the goods within the shorter of 30 days after delivery of the goods or 30 days after the Warehouse has notified the Depositor or Warrant Holder that loss or damage to the goods has occurred, as provided in Article 22 of this Agreement.

16. LIABILITY FOR CONSEQUENTIAL DAMAGES

- A. Warehouse shall not be liable for any loss of profit or special, indirect or consequential damages of any kind, to the extent allowed by law.

17. LIABILITY FOR MISSHIPMENT

- A. If Warehouse negligently mis-ships Goods, the Warehouse shall pay the reasonable transportation charges incurred to return the mis-shipped Goods to the Warehouse. If the consignee fails to return the Goods, Warehouse's maximum liability shall be for the lost or damaged Goods as specified in Article 15 above, and Warehouse shall have no liability for damages due to the consignee's acceptance or use of the Goods, whether such Goods be those of the Depositor or another.

18. MYSTERIOUS DISAPPEARANCE

- A. Warehouse shall not be liable for loss of Goods due to inventory shortage or unexplained or mysterious disappearance of Goods, unless Depositor establishes such loss occurred because of Warehouse's failure to exercise the care required of Warehouse under Article 15 above. Depositor hereby waives any presumption of conversion that may be available to Depositor by law, and agrees that any claim by Depositor of conversion must be established by affirmative evidence that the Warehouse converted the Goods to the Warehouse's own use.

19. RIGHT TO STORE THE GOODS

- A. Depositor represents and warrants that Depositor is lawfully possessed of the Goods and has the right and authority to store them with Warehouse. Depositor agrees to indemnify and hold harmless the Warehouse from all loss, cost and expense (including reasonable attorney's fees and costs) which Warehouse pays or incurs as a result of any dispute or litigation, whether instituted by Warehouse or others, respecting Depositor's right, title or interest in the Goods. Such amounts shall be charges in relation to the Goods and subject to Warehouse's lien.

20. ACCURATE INFORMATION



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- A. Depositor will provide Warehouse with information concerning the stored Goods that is accurate, complete and sufficient to allow Warehouse to safely handle the Goods and to comply with all laws and regulations (including, but not limited to, customs and excise provisions and tax regulations) concerning the storage, handling and transporting of the stored Goods. Depositor will indemnify and hold Warehouse harmless from all loss, cost, penalty and expense (including reasonable attorney's fees and costs) that Warehouse pays or incurs as a result of Depositor failing to fully discharge this obligation.

21. HAZARDOUS MATERIALS OR GOODS WITH INHERENT VICE

- A. Depositor certifies to the Warehouse that none of the materials it has placed with the Warehouse for storage or handling can be considered unauthorized explosives, destructive devices or hazardous waste materials under any applicable DOT and/or FAA regulations, including but not limited to 49 CFR. Depositor acknowledges that Warehouse may be giving FAA Security endorsements for the shipment of the Depositor's Goods, as required, and, in doing so, Warehouse acts as Depositor's agent and is relying on the clarifications made by Depositor in this Article. Depositor further agrees that Warehouse is under no duty to make any independent investigation regarding the compliance of Depositor's Goods with such regulations prior to giving such certification. In the event that a claim is raised against Warehouse because of a certification it has given regarding Goods stored or handled on behalf of Depositor, Depositor agrees that it will defend and indemnify Warehouse, and its agents, successors and assigns against any and all such claims that may arise as a result of giving any such certification.
- B. Depositor agrees that the following additional provisions shall apply to all hazardous, extremely hazardous, toxic, flammable, explosive, destructive or otherwise hazardous Goods tendered for storage or shipment, and to all Goods that could become any of the foregoing upon suffering damage from any source (hereinafter termed Hazardous Goods).
- 1) Depositor agrees to provide Warehouse with a written response plan to be implemented in the event of a fire, spill, flood or other emergency, including, but not limited to the provision of telephone and fax numbers of those persons, representatives, services, government agencies and others that Depositor wishes to have notified; a description of all actions to be taken by Warehouse to minimize potential personal injury, property damage and environmental damage; and such other actions as Depositor wishes Warehouse to take.
 - 2) In the event of a release of Depositor's Goods, the Depositor shall pay and shall indemnify and save Warehouse harmless from the cost of implementing Depositor's response plan, and the cost of removal and disposal of the Depositor's Goods, debris, and contaminated material. Depositor shall be liable for environmental clean-up and restoration unless such release is attributable solely to Warehouse negligence.



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- C. Depositor agrees to indemnify and save Warehouse harmless from and against any and all charges, fines, assessments, liabilities or expenses (including reasonable attorney's fees and costs) incurred by Warehouse arising out of Depositor's failure to carry out its obligations under this Article 17 or under Article 2.
- D. Depositor shall be solely liable for all losses, costs and damages resulting from the inherent vice of the Goods, regardless of whether any negligence of Warehouse causes or contributes to said loss, cost or damage.

22. NOTICE OF CLAIM AND FILING SUIT

- A. Claims by the Depositor and all other persons relating to the Goods must be presented in writing to the Warehouse within a reasonable time, and in no event longer than either 30 days after delivery of the Goods by the Warehouse or 30 days after the Depositor of record or the Last Known Holder of a negotiable or non-negotiable Warehouse receipt is notified by the Warehouse that loss or damage to part or all of the Goods has occurred, whichever time is shorter.
- B. No lawsuit or other action may be maintained by the Depositor or others against the Warehouse for loss or damage to the Goods covered under this Agreement unless timely written claim has been given as provided in paragraph (A) of this Article and unless such lawsuit or other action is commenced within twelve months after the date of release or delivery by Warehouse or within twelve months after Depositor of record or the last known holder of a negotiable Warehouse receipt is notified that loss or injury to part or all of the Goods has occurred, whichever time is shorter.
- C. When Goods have not been delivered, Warehouse may give notice of known loss or damage to the Goods by mailing of a registered or certified letter to the Depositor or record or to the last known holder of a negotiable Warehouse receipt. Time limitations for presentation of claim in writing and maintaining of action after notice shall begin on the date of mailing of such notice by Warehouse.
- D. Depositor agrees that inventory overages or shortages will be averaged for claim purposes.
- E. For claim purposes, the value of the Goods shall be the value declared by depositor to Customs for entry purposes, unless otherwise agreed in writing by the parties under Article 15(C) of this Agreement.

23. DISPUTE RESOLUTION/ARBITRATION/LITIGATION

- A. Unless arbitration is agreed to in writing between the Warehouse and any person or entity subject to this Agreement such to the furnishing of any services by Warehouse hereunder, any disputes which may arise hereunder shall be settled exclusively by the competent Federal or State Court in Maryland and all persons or entities subject to this Agreement consent to the personal jurisdiction of the Federal or State Courts of the State of Maryland over him.



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- B. Unless otherwise agreed to in writing, any claim, dispute, difference or controversy between the Warehouse and any person or entity subject to this Agreement that is required to be arbitrated shall be submitted for arbitration under the rules of the American Arbitration Association (“AAA”) to the extent that such rules are not inconsistent with the provisions of this Article. Judgment upon the award of the arbitrators may be entered in any court having jurisdiction thereof or application may be made to such court for a judicial confirmation of the award and an order of enforcement, as the case may be. The demand for arbitration shall be made within a reasonable period after the claim or other matter in question has arisen and, in any event, shall not be made after the date when the institution of proceedings would be barred by Article 22 of this Agreement. The independent arbitration panel shall consist of three independent arbitrators, one of whom shall be appointed by each of the contract parties, with the third chosen by the two arbitrators thus appointed. In the event that either the Warehouse or claimant does not designate an arbitrator, the other may request a United States Federal Judge or the Executive Secretary of the AAA to designate an arbitrator for such party; and if the two arbitrators appointed by the parties are unable to agree on the appointment of a third arbitrator, either arbitrator may petition the AAA to make such an appointment. The place of arbitration shall be Baltimore, Maryland.

24. PAYMENT

- A. All amounts owing/due to the Warehouse by the Depositor however incurred, such as: Warehouse storage charges, insurance premiums and costs, rent, disbursements, fees for handling and delivery, outlays and charges for work done or to be done, costs of fire or other damage remediation extraordinary expenses, additional wages, taxes, duties, levies, fines, interest, etc. shall be immediately due when incurred and payable on demand.
- B. Without prejudice to the foregoing, the Depositor shall always pay the Warehouse storage charges due promptly; within the time agreed between the parties, but at least once per 12 months.
- C. Should the Depositor not immediately pay the amount due to the Warehouse upon demand, the Warehouse shall have the right to charge interest at the legal rate for prejudgment interest prevailing at the time.
- D. Payments received from the Depositor on account shall, in the first instance, be allocated towards the reduction of ordinary debts of the Depositor or the Goods, regardless of whether these monies were intended for other purposes when the payments were made.
- E. Whenever the amount due by the Depositor is collected by judicial or other means, including arbitration, this amount shall be increased by 10% to cover the Warehouse’s administrative



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costs, and by an additional 15% of the amount due to cover the Warehouse's attorney's fees and costs..

25. GENERAL

- A. Depositor agrees not to hire any of the Warehouse's employees or independent contractors for a period of one year after the date of termination of Warehouse's services to Depositor or the Goods, whichever is longer.
- B. This Agreement constitutes the entire contract between depositor and Warehousemen. Any changes or modifications to this Agreement must be in writing and signed by both Depositor and Warehouse.
- C. If the Agreement between the Depositor and the Warehouse is for material stored under LME (London Metal Exchange), CME (Chicago Mercantile Exchange) or ICE (Intercontinental Commodities Exchange) terms and conditions, then such conditions supersede the terms and conditions stated in this Agreement, but only to the extent inconsistent therewith.
- D. If the Agreement between the Depositor and the Warehouse is for material stored in the FTZ under terms and conditions published by the Foreign Trade Zone Board, the United States Customs Service and the Grantee of Foreign Trade Zone N.74, then such conditions supersede the terms and conditions stated in this Agreement, but only to the extent inconsistent therewith.
- E. The term "Warehouse" when used herein encompasses both inside and outside storage.
- F. This Agreement is made in Maryland and shall be construed and enforced solely in accordance with Maryland law, without regard to Maryland's conflict of laws provisions.
- G. This Agreement is severable. If any provision hereof is found to be invalid or unenforceable, such invalidity or unenforceability shall not affect the remainder of the Agreement. Warehouse's failure to require strict compliance with any provision of this Agreement shall not constitute a waiver or estoppel to later demand strict compliance with that or any other provision(s) of this Agreement. This Agreement shall be binding upon the Depositor's heirs, executors, successors and assigns.
- H. Nothing entered below or attached hereto shall be construed to extend the Warehouse's liability beyond the limits specified in Articles 14, 15, 21, and 22 above.
- I. The Warehouse may admit the Depositor and/or the persons designated by him to the place where his Goods are stored for the purposes of inspection or survey of the Goods, subject to compliance with Customs, Homeland Security and/or other laws, rules and regulations imposed by the Authorities or by Warehouse.
- J. The following conditions shall apply to all persons whom the Warehouse has granted admission:



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- (1) All persons visiting the place of storage, including the personnel of vessels and vehicles arriving at the Warehouse, shall observe the Warehouse's regulations;
- (2) Admittance shall be granted only during normal working hours and always under escort;
- (3) The cost of escorting visitors shall be paid to the Warehouse by the Depositor;
- (4) The Depositor shall be liable for any damage caused directly or indirectly by its visitors

CHAPTER II

PROVISIONS REGARDING THE WARRANT

26. ISSUANCE OF WARRANTS

- A. The Warehouse may issue a Warrant to the Depositor, at his request, describing the Goods given into the custody of the Warehouse by the Depositor, or the Warehouse may issue a number of Warrants, each specifying a certain amount stated by the Depositor of the Goods given by him into the custody of the Warehouse of the same sort and quality, in which case the total of these amounts may not exceed the total amount of the Goods of same sort and quality given into custody by the Depositor to the Warehouse ("Partial Warrants").
- B. The Warehouse shall have the right to refuse to issue a Warrant, if the Depositor has not paid all claims the Warehouse may have against him for whatever reason.
The Warehouse may furthermore refuse to issue a Warrant on any other grounds, in its sole discretion.
- C. Once a Warrant has been issued, all of the Warehouse's obligations towards the Depositor shall cease, and shall be replaced by the Warehouse's obligations towards the Warrant Holder, as set forth in this Chapter. The Depositor shall, even after the issue of the Warrant, remain liable to the Warehouse for the effects of any discrepancies between the Goods for which the Warrant was issued and their description on the Warrant.
- D. The Depositor agrees to indemnify and hold the Warehouse harmless from any claims of Warrant Holders in the event that the Warehouse accidentally delivers the Goods given into custody by the Depositor for which a Warrant was issued in exchange for a forged Warrant, unless such forgery should reasonably have been detected by the Warehouse at the moment of presentation of that document.
- E. The Depositor agrees to indemnify and hold the Warehouse harmless from any claims of holders of Partial Warrants or other third party involved in the Partial Warrant(s) in the event that a negative discrepancy occurs between the weight, volume and/or quality of the Goods described in those Partial Warrant(s) and the actual weight, volume and/or quality at the moment of delivery of these Goods to the Holder or third party involved in the Partial Warrant(s), irrespective of the cause of such discrepancy.



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27. APPLICABLE PROVISIONS

The legal relations between the Warehouse and (former) Warrant Holders shall be governed by the provisions of Chapter I of these Terms and Conditions, except when the provisions of Chapter II determine that a provision of Chapter I may not be applied. The duties resting upon the Depositor in accordance with Chapter I also rest upon the Warrant Holder, and the rights and defences to which the Warehouse is entitled under Chapter I can also be invoked against the Warrant Holder, unless otherwise provided under Chapter II.

28. RIGHT TO DELIVERY OF GOODS

- A. The Warrant awards to the Holder of the Warrant the right of delivery by the Warehouse of the Goods the Warehouse has received for storage and against which the Warrant has been issued. Except as provided in Article 26(E), the Warehouse shall be liable to the Warrant Holder for any discrepancy between the Goods stored by the Warehouse and their description on the Warrants, unless the discrepancy involved Goods whose identification or weighing requires expert knowledge and/or a thorough examination or analysis, as for example, but not limited to, Goods discharged in bulk.
- B. If the Warrant contains the clause:

"Content, quality, number, weight and measure unknown"

or a similar clause, the Warehouse shall not be bound by any statement in the Warrant regarding contents, quality, number, weight or dimensions of the Goods.

- C. The Warrant Holder shall have no right to delivery as long as the Warehouse has a lien or other claim on the Goods and/or until all Customs and other formalities prescribed by the Authorities and required for delivery have been fulfilled.

29. EXPIRATION OF THE WARRANT

- A. The Warrant shall be valid for three years from the date of issue, unless a shorter period of validity is indicated on the Warrant.
- B. Until its expiration, the Warrant may be replaced at the Warrant Holder's request by a new Warrant or by several Partial Warrants, against payment of all the costs involved. The Warehouse shall have the right to refuse the replacement of the Warrant and may require the Goods to be removed on the expiration date of the contract.
- C. If, on its expiration 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 by the expiration date, the Holder of the expired Warrant shall be deemed to agree to the Warehouse



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storage rates and to all provisions of these Terms and Conditions, and if the Goods have been insured through the Warehouse, the insurance premium and costs shall be determined by the Warehouse as from such date.

- D. If, on its expiration 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 by the expiration date against payment of the amount to which the Warehouse is entitled to under Article 30 below, the Warehouse shall have the right to dispose of the Goods as to which the expired Warrant refers, subject to any Warrant provisions relating thereto.
- E. For a period of five years after the expiration date of the Warrant, the Warehouse shall be obliged to deliver the Goods described on the expired Warrant. Or, should the Warehouse have exercised its right to dispose of the Goods during the aforesaid five year period, 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 Warehouse.

After the aforesaid five years have expired, the rights of the Holder of the expired Warrant shall cease, the Warehouse may consider the Goods or proceeds of the Goods abandoned and the Warehouse shall no longer be required to deliver the Goods, or to account for their proceeds, either to the Holder of the expired Warrant or to others.

30. DELIVERY OF GOODS AFTER PAYMENT

- A. Prior to effecting full or partial delivery of the Goods to which the Warrant gives title, the Warehouse shall have the right to demand payment of:
 - 1) Warehouse storage charges 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 rate noted on the Warrant, and with parts of months to count as full months;
 - 2) 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, and with parts of months to count as full months;
 - 3) the charges for delivery of the Goods at the current rate applicable;
 - 4) disbursements and other outlays made by the Warehouse on behalf of the Warrant Holder requesting delivery, whether in connection with Customs and/or other formalities as required by the appropriate authorities, for the Goods described on the Warrant;



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- 5) all costs incurred by the Warehouse after the date of issue stated on the Warrant:
 - (a) for preserving/retaining the Goods identified in the Warrant,
 - (b) for eliminating any dangers caused by the Goods identified in the Warrant to the Warehouse and/or to other goods stored therein,
 - (c) for measures taken in respect of the Goods identified on the Warrant as a result of circumstances for which the Warehouse cannot be held responsible.
 - 6) all other amounts due to the Warehouse in connection with the Warrant.
- B. Notwithstanding the provisions of the preceding paragraphs, the Warrant Holder shall be obliged to pay the Warehouse storage charges due, and, if the Goods have been insured through the Warehouse, also the insurance premiums and costs. Payment is due at the end of each 12 months of storage or at the end of such earlier period as has been agreed and is recorded on the Warrant, and shall include the costs incurred by the Warehouse referred to in Article 30(A)(5) above, as soon as the Warehouse has given notification of such costs to the Warrant Holder.
- C. If the Warrant Holder fails to meet his obligation to pay the storage charges at the end of each 12 monthly period or such earlier period as has been agreed and shown on the Warrant, and if the Goods have been insured through the Warehouse, to include the insurance premiums and costs, then monies due to the Warehouse accrued in this manner shall be increased, beginning on 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.

31. INDEMNIFICATION

- A. Notwithstanding to the provisions of Article 15 above, the compensation to be paid by the Warehouse for loss of goods shall be limited to the applicable value of the Goods on the day of issuance of the Warrant, and the Warehouse shall not be liable for any consequential loss or costs.
- B. In the case of damage, no greater sum shall be paid than the difference between the original value of the Goods applicable on the day of issue of the Warrant and the value of the same Goods after the damage, assuming the damage occurred on the date of issue of the Warrant.
- C. In any case, the Warehouse's liability can never exceed the value of the actual damage incurred, with a maximum of 2 SDR per kilogram damaged or gross weight lost or 100,000 SDR per event, or series of events arising from the one and the same cause, whichever is less.

32. 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.



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33. WORK IN CONNECTION WITH THE GOODS

- A. Services to be performed in connection with the Goods described on the Warrant as requested 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 Warehouse having the Goods in custody, at the appropriate fees and on the appropriate conditions applicable at that time.
- B. Such services requested by the Warrant Holder shall only be carried out by the Warehouse after surrender of the Warrant.
- C. Services that Warehouse does not wish to provide may, with the Warehouse's consent and after surrender of the Warrant, be performed by or on behalf of the Warrant Holder, under the supervision of the Warehouse and against payment of all costs involved, however without any liability on the part of the Warehouse.
- D. Partial deliveries, sampling and handling of the goods, causing a change, decrease, or change in the number, weight or volume 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.
- E. Payments due to the Warehouse for work performed in connection with the Goods identified in the Warrant or for supervising such work, shall be paid immediately upon demand. The Warehouse shall have the right to refuse to return the Warrant until settlement has been made.

34. NOTIFICATION OF SPECIAL METHOD OF HANDLING

Should the Warehouse agree to carry out any special work in connection with the Goods stored, as provided by Article 8(A), the Warehouse shall as soon as possible after this event use its best efforts to notify the Last Known Warrant Holder, without such Warrant Holder having any right to claim against the Warehouse for failing to give such notification.

35. THE WAREHOUSE'S RESPONSIBILITY TO INSURE THE GOODS

- A. When it is shown on the Warrant that the Goods are already insured, the Warehouse shall be deemed to have carried out any responsibility it may have to procure insurance for the Warrant Holder's account, in accordance with the provisions under Article 15.
- B. The insured value shall be the value of the Goods indicated on the Warrant.
- C. When the Warrant states that the insured value is the current market value, it shall be the Warehouse responsibility to use its best efforts to keep the Goods adequately insured.



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36. CHANGES IN, EFFECT AND TERMINATION OF INSURANCE

- A. Changes to the insured value of the Goods and/or termination of the insurance for the Goods can only take place after the Warrant is surrendered, so it can be endorsed accordingly.
- B. Only the insurance as stated on the Warrant shall be applicable.
- C. Insurance cover shall be terminated on delivery of the Goods.
- D. 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.

37. AMOUNTS OF CLAIM

Any claims collected by the Warehouse on account of the Goods shall be paid by the Warehouse against receipt of the Warrant, after having first deducted all amounts owed by the Warrant Holder to the Warehouse.

38. NOTIFICATION OF DESTRUCTION

In the case of destruction of the Goods described on the Warrant, by fire or otherwise, the Warehouse shall immediately use its best efforts to notify the Last Known Warrant Holder, without such Warrant Holder having any right of claim against the Warehouse for failure to notify.

39. MUTILATION OF THE WARRANT

- A. Any erasures and mutilations shall render the Warrant void; alterations shall not be valid unless initialled by the Warehouse.
- B. The Holder of a mutilated Warrant may request the issuance 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 Warehouse's records.

40. LOSS OR DESTRUCTION OF WARRANTS

- A. If a Warrant has been lost or destroyed, any person so entitled may apply to the Warehouse for nullification of the Warrant and request delivery of the Goods, or request the issuance 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.
- B. If the investigation made by the Warehouse affords no reason to doubt the truth of the reasons for the application, the Warehouse shall publish the application made, by inserting two



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announcements at intervals of at least 14 days each in at least two daily newspapers selected by the Warehouse, inviting all those who believe they have title to the Goods described on the missing Warrant to oppose the delivery of the Goods and/or the issuance of a duplicate Warrant by serving a notice to that effect.

- C. If, within 14 days of the last announcement, no one has opposed the delivery of the Goods or the issuance of a duplicate Warrant by service of a notice, the Warehouse may nullify the Warrant and effect delivery of the Goods or issue a duplicate Warrant to the applicant. For purposes of determining the nature and quantity of the Goods to be delivered or to be stated in the duplicate Warrant, the Warehouse's relevant records exclusively shall be regarded as the only true record. The nullification of the Warrant shall immediately thereafter be published in the above mentioned newspapers. As a result of such nullification the original Warrant shall lose its validity, and all the Warehouse's obligations under the original Warrant shall cease.
- D. In case of written opposition by a third party to delivery of the Goods or to the issuance of a duplicate Warrant, the Warehouse shall not proceed on the application until it has been determined by a Court Order or through some other final and conclusive ruling or award that the applicant is the person entitled to the Goods.
- E. The person who has obtained delivery of the Goods shown on a duplicate Warrant shall remain liable for all claims that may result against the Warehouse from this delivery and shall indemnify and hold harmless the Warehouse for claims of third parties, including Warrant Holders, for all damages and costs resulting from the delivery against a duplicate Warrant. The Warehouse may request security for such claims.
- F. Any costs, in the broadest sense, incurred by the Warehouse as a result of the application, shall be borne by the applicant. The Warehouse shall have the right to require an advance of money to be made before executing the application.

41. TERMINATION OF THE VALIDITY OF THE WARRANT

- A. If, after the termination of the validity of the Warrant, the Warehouse no longer wishes to store the Goods, the Warehouse shall notify the Last Known Warrant Holder to remove the Goods.
- B. If the Warrant Holder fails to comply with the notice within 14 days, or if he is no longer the owner of the expired Warrant, and does not within 14 days inform the Warehouse of the identity of the current Holder of the expired Warrant; and if the Holder of the expired Warrant does not appear within such period, the Warehouse shall have the right to sell the Goods described on the expired Warrant.
- C. Prior to taking such action, the Warehouse shall publish its 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, at least one of which must be published in the place where the Warehouse maintains its principal place of business, requesting the Holder of the



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expired Warrant to satisfy his obligations to the Warehouse or to notify any persons having acquired the expired Warrant.

- D. If after 14 days after the last announcement the Warrant Holder has not appeared himself, or if he has appeared but no agreement has been reached on the removal of the Goods, the Warehouse shall be at liberty to sell the Goods immediately. The sale shall take place in accordance with the provisions of Article 7.

42. COMMENCEMENT OF THE PERIOD OF EXPIRATION OF A WARRANT

The limitation on actions referred to in Article 22(B), shall, in case of total loss, commence at the end of the day on which the Warehouse 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 appeared, then such limitation period shall commence a week after the announcement of such loss in two daily newspapers, at least one of which must be published in the place where the Warehouse has its principal place of business.



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BALTIMORE METALS & COMMODITIES TERMINAL, INC.

GENERAL TERMS AND CONDITIONS

FOR THE PROVISION OF STEVEDORING SERVICES

ARTICLE 1- DEFINITIONS

1. The term *operations*, when used hereunder, refers to all acts and/or omissions of the stevedore.
2. The term *premises of the stevedore*, when used hereunder, refers to all real property and improvements on which or in which the stevedore's operations are performed, and includes, without limitation, all buildings, piers, structures, cranes, rails, roads, or bodies of water, whether on or adjacent to such property.
3. The term *stevedore*, when used hereunder, refers to Baltimore Metals & Commodities Terminal, Inc. and includes, without limitation, their agents, independent contractors and employees.
4. The terms *stevedoring or stevedoring services*, when used hereunder, includes the following services:
 - A. Vessel Loading Operations: Moving the cargo from its place of rest or from a transport unit (road, rail) within the terminal to the ship, at the direction of the ship or its principal, and excluding any lashing of the cargo or securing the cargo for ocean shipment.
 - B. Vessel Unloading Operations: Moving the cargo from the ship to an initial place of rest or to a transport unit (road, rail) within the terminal, excluding any unlashings of the cargo, truck loading operations, or other re-delivery of the cargo for onward shipment.
 - C. Extra Services: Subject to Article 4(4), the stevedore may, at its sole option, perform the following extra services, all of which shall be deemed to be stevedoring services if performed by stevedore: Line handling, cleaning of holds, opening and closing of hatches, rigging of derricks and/or winches, placing and removal of gangways, truck loading and unloading, and any other work which is necessary in order to commence, continue or complete the stevedoring services requested by the customer.



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5. The term *customer*, when used hereunder, refers to all parties engaging the services of the stevedore, all parties benefiting from the performance of the stevedore's services, and all parties to whom the stevedore's invoices for services are addressed, and includes, but is not limited to, the vessel for which such services are provided and the owner of the cargo as evidenced by documentation in the hand of the stevedore as of the date when the stevedore's services in connection with that cargo commence.
6. The term *principal*, when used hereunder, refers to the owner, mortgagor, mortgagee, operator, and charterer of the vessel to which services are provided, and includes all agents of the foregoing having actual or apparent authority to act on behalf of the principal.
7. The term *other party*, when used hereunder, refers to any other person or entity other than a customer or principal who is bound to these General Terms and Conditions by the acceptance of any services of the stevedore.
8. The headings and titles used hereunder are for convenience only and are not intended to be a precise summary of the contents of each article or other section of these General Terms and Conditions.

ARTICLE 2 - GENERAL PROVISIONS

1. These General Terms and Conditions apply to all operations of the stevedore, irrespective of their nature, regardless of whether or not such operations would be considered stevedoring operations under any common understanding or trade usage of that term and regardless of whether any charge is made or paid for such operations. These General Terms and Conditions apply to all operations performed directly by the stevedore, as well as to all operations performed by agents or independent contractors of the stevedore.
2. The acceptance by the customer, the principal or any other party of any services of the stevedore shall be deemed an agreement by the customer, the principal, or such other party to be bound to all of these General Terms and Conditions, whether or not a charge is made or paid for such services.
3. If the stevedore either directly or indirectly performs any services that are not commonly understood to be stevedoring services, including, but not limited to, the provision of tug services, warehousing services, or marine terminal services, then, by the acceptance of such services, the customer or



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principal shall be deemed to have agreed that the stevedore shall also have the benefit of all standard contracts or standard terms and conditions pertaining to such other services, as if the stevedore were a named party thereto, and such standard contracts and standard terms and conditions shall be deemed to be incorporated herein. In the event of any conflict between these General Terms and Conditions and such other standard contracts or standard terms and conditions, these General Terms and Conditions will prevail, but only to the extent of such conflict.

4. These General Terms and Conditions are also to be supplemented by, but not superceded by, the customs and practices of the Port of Baltimore, which are deemed to incorporated herein. In the event of any conflict between these General Terms and Conditions and such customs and practices, these General Terms and Conditions will prevail, but only to the extent of such conflict.
5. In addition to the rights and remedies provided under these General Terms and Conditions, the stevedore shall also be entitled to the benefit of any and all rights, remedies, defenses and limitations on liability provided at law, in admiralty or in equity, or contained in any applicable bills of lading, warehouse receipts, or tariffs, which are deemed to be incorporated herein.
6. The failure by the stevedore to exercise any right granted to it hereunder shall not be deemed a waiver of that right, nor shall the invocation by the stevedore of a particular provision hereunder be deemed to be a waiver of the stevedore's right to rely upon any other provision hereunder.
7. These General Terms and Conditions, and any contracts based thereon, are severable, so that if any single provision or part thereof is found to be invalid or unenforceable, such invalidity or unenforceability shall not affect the remainder of these General Terms and Conditions, which shall continue in full force and effect.

ARTICLE 3 - OFFERS, TARIFFS AND PAYMENT OF CHARGES

1. A quotation of rates or tariffs by the stevedore shall be deemed an offer to provide the quoted services, conditioned upon the express warranty made hereunder by the customer, principal or other party that the cargo will require ordinary handling by gangs of regular size during regular working hours, that the cargo is sound and has been packaged in a safe and customary manner, and that there are no other circumstances that would necessitate any special gear, additional personnel or extraordinary handling. The stevedore shall have the right to revoke its offer at any time prior to



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acceptance by the customer, principal or other party, in which case, the stevedore shall have no further obligation to the customer, principal or other party.

2. If the stevedore's offer is not expressly rejected by the customer, principal or other party, then the stevedore's offer will be deemed to be accepted by the customer, principal, or other party upon commencement of the provision of services by the stevedore.
3. If any of the pre-conditions stated in Article 3(1) cease to apply between the date of acceptance of the offer and the date when the provision of stevedore services has been completed, then the stevedore shall have the right to adjust the rates and tariffs contained in the offer accordingly, and the customer, principal or other party hereby agrees to accept all such adjustments.
4. The stevedore shall maintain documentation of the nature, scope and extent of services it has provided in the form of daily work logs and tally receipts of the cargo (when applicable) and shall make such documentation available upon request to the customer or principal. The stevedore's documentation shall be deemed conclusive and irrefutable evidence of the work actually performed by the stevedore.
5. At the request of the customer, principal or other party, the stevedore shall make a report on the condition of the cargo at discharge or prior to loading, to the best of its ability. However, the stevedore does not hold itself out to be a marine surveyor and makes no representations or warranties whatsoever regarding the accuracy or other character of its discharge condition report. By requesting such a report, the customer agrees to hold harmless and indemnify the stevedore for any liability in connection with any variance between the condition of the cargo as noted in the bills of lading and the condition of the cargo as noted by the stevedore at discharge or prior to loading.
6. The stevedore shall present the customer and/or principal and/or other party with an invoice for the stevedore's services. However, all customers, principals and other parties accepting the stevedore's services covered by said invoice shall be deemed to be jointly and severally liable for the payment of the invoice, regardless of the name of the party to which the invoice is addressed, including the owner of the cargo as evidenced by documentation in the hand of the stevedore as of the date when the stevedore's services in connection with that cargo commence. Payment of all invoices shall be due



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in full upon presentation, without any right of set-off, counterclaim or deduction whatsoever by the customer, principal or other party. Payment of invoices shall be by cash, wire transfer to the stevedore's designated account, or by certified funds, unless prior written permission is received from the stevedore for some other method of payment.

7. Interest shall accrue on all unpaid invoices from the date of the invoice at the annual prime rate applicable in the United States as of the invoice date, plus 4%.
8. Notwithstanding the foregoing, should the stevedore at any time deem itself insecure with respect to the payment for any services provided hereunder, whether past or present, the stevedore may exercise any or all of the following rights at any time:
 - A. Demand a down payment, advance, pre-payment in full, or other form of security before commencing, continuing or completing work;
 - B. Refuse to perform or suspend or terminate performance of work, without prior warning, until all unpaid invoices are paid;
 - C. Declare all claims of the stevedore against the customer, principal or other party to be immediately due and payable;
 - D. Exercise any other rights permitted at law, in admiralty, in equity, or elsewhere under these General Terms and Conditions.

Examples of the types of circumstances that might cause the stevedore to deem itself insecure are, without limitation, the lack of a prior commercial relationship between the stevedore and the customer and/or principal and/or other party, the voluntary or involuntary bankruptcy of the principal, customer or other party, the appointment of a receiver for the principal, customer or other party, the arrest of the vessel or any sister ship of the principal, customer or other party, the suspension of any payments by the principal, customer or other party, the cessation of any operations by the principal, customer or other party, the seizure of any goods of the principal, customer or other party or of any cargo, bunkers or earned or unearned freights of the vessel, or any other circumstance that causes the stevedore, in its sole discretion, to believe that it might not receive payment for its services, past or present.

The exercise of any rights under this section by the stevedore shall not be deemed a breach of contract by the stevedore, and the stevedore shall have no liability for any consequences to the cargo, customer, principal, other



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party or any third party that may be caused by the stevedore's exercise of any of its rights hereunder.

9. The stevedore shall have a maritime lien on the ship for all services furnished thereto. In addition to the extent permitted by applicable law, the stevedore shall have the right to retain any goods, documents, and/or money of the customer, principal or other party until payment is made for all services provided by the stevedore to the customer, principal or other party, whether past or present, or until other security for payment satisfactory to the stevedore has been furnished.
10. The stevedore shall have a right of set-off against all goods, documents, or monies of the customer, principal or other party in the hands of the stevedore for any unpaid claims that the stevedore may have against the customer, principal or other party.
11. In the event that the stevedore retains or asserts a right of set-off against any goods of the customer, principal or other party in the stevedore's hands, and the customer, principal or other party does not make payment, provide alternative security or otherwise satisfy the stevedore's claim within thirty days, the stevedore shall be entitled to sell the goods by public or private sale to the extent and in a manner permitted by law.
12. Payment to an agent of the customer, principal or other party shall not be deemed payment to the stevedore. Unless otherwise instructed in writing by the stevedore, all payments must be made to the stevedore directly.

ARTICLE 4- OPERATIONS

1. The stevedore shall be entitled to subcontract, on any terms, any or all of its operations to one or more third parties selected by the stevedore, at its sole discretion. However, said third parties shall at all times remain independent contractors of the stevedore and shall not be deemed at any time to be agents or borrowed servants of the stevedore.
2. The stevedore shall have the option of handling the cargo with its own equipment and gear or that of the principal, customer or other party. In the event that the stevedore chooses to handle the cargo with the equipment and/or gear of the principal, customer or other party, said principal, customer or other party shall provide such equipment or gear to the stevedore free of any charge and shall warrant to the stevedore that said



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equipment and gear is in good repair, has been certified according to applicable classification or other standards and is in a safe and workmanlike condition.

3. Except in those cases where the stevedore contractually agrees in writing to perform a certain service within a certain time, any information given by the stevedore to the customer, principal or other party regarding times for starting and completing loading, discharging or delivery are estimates only, and the stevedore shall have no liability if these estimates later prove to be inaccurate.
4. The following *extra services* are not customary stevedoring services and are generally performed by others: Line handling, cleaning of holds, opening and closing of hatches, rigging of derricks and/or winches, placing and removal of gangways, and any other work not directly related to stevedoring operations but necessary to its commencement, continuation or completion. However, if the stevedore deems such *extra services* necessary in order to commence, continue or complete its operations, and the principal, customer or other party fails to have such work performed within a reasonable time, then the stevedore may, but is not required to, perform any or all of these *extra services* itself, in its sole discretion, for the account of and at the sole risk of the customer, principal or other party.
5. If any services are required to be performed by the stevedore to the vessel or to the cargo by any governmental authority or agency, the customer, principal and other party agree that such services shall be provided by the stevedore for the account of and at the sole risk of the customer, principal or other party and without prior notice to or approval by the customer, principal or other party.
6. The principal, customer or other party shall take steps to ensure that the lighting in the holds of the vessel, oily surfaces, all causes for electric shock, safety rails against falls, and safe access to the vessel and cargo holds are sufficient to permit the stevedore to conduct its operations in the holds safely, and the principal, customer or other party shall be solely responsible for all personal injuries or property damage caused by its failure to ensure sufficient safety of persons working in the holds.
7. The stevedore may request that a vessel berthed at its facility leave that berth either temporarily or permanently whenever the stevedore, in its sole discretion, deems such a move desirable or necessary to its operations, and the customer or principal shall ensure that the vessel leaves that berth within



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4 hours of the stevedore's first request. If the vessel does not leave the berth by the requisite time, the stevedore shall be at liberty to take such measures as it may deem fit to ensure the vessel's departure or to otherwise protect its interests, all for the account of and at the sole risk of the customer or principal.

8. If a customer, principal or other party who has been notified that his goods are available for delivery from the stevedore's premises fails to take delivery of those goods within seven (7) calendar days after such notice is given, the stevedore may, but is not required to, store the goods for the account of and at the sole risk of the customer, principal or other party, subject to any applicable storage terms and conditions of the warehouseman with whom the goods are stored. The sale of the goods by the principal, customer or other party to a third party prior to delivery shall not relieve the customer, principal or other party from its obligation to the stevedore to pay storage charges or other charges and expenses incurred by the stevedore for the goods, unless the stevedore gives prior written consent to the substitution of one debtor for another.

ARTICLE 5- CONTROL SERVICES/OUTSIDE CONTRACTORS

1. The term "*control services*," when used hereunder, shall mean services used to assess the quantity or quality of the cargo, such as tallying, weighing, measuring, gauging, checking, sampling, sorting, etc.
2. Any necessary or requested control services shall be performed by the stevedore, for a separate charge, unless the customer, principal or other party and the stevedore mutually agree that such services shall be performed by an outside contractor or some other person or entity engaged by or designated by the customer, principal or other party. However, in the event that such control services are performed by agreement by an outside contractor or other third party, and the performance of such services requires the use of any gear or equipment of the stevedore, then such gear or equipment shall be operated only by the stevedore and for the account of the customer, principal or other party.
3. All agents, employees, outside contractors or other persons or entities of the customer, principal or other party, regardless of the purpose for which they have been engaged or designated, shall enter the stevedore's premises and/or attend the cargo at their own risk and at the risk of the customer,



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principal or other party requesting their attendance. The customer, principal and other party agree to indemnify and to hold the stevedore harmless for any personal injuries or property loss or damage or violation of U.S. Homeland Security laws or regulations resulting from the entry of any of their agents, employees, outside contractors, or other persons or entities onto the stevedore's premises, whether or not such injury or damage is caused in whole or in part by the negligence of the stevedore. The stevedore is entitled to impose any conditions it deems necessary upon the entry of such persons upon its premises, and the failure of such persons to abide by those conditions shall be grounds for their immediate expulsion from, or denial of entry to, the stevedore's premises.

4. Requests to the stevedore by the customer, principal or other party for the performance of control services by a party other than the stevedore shall be made on a timely basis and shall be contingent upon the payment by the customer, principal or other party of any charges by the stevedore for the use of the gear, facilities, premises or equipment of the stevedore by the control services contractor. The failure to make a timely request for outside control services and/or to guarantee payment of the stevedore's charges in connection therewith may result in the stevedore's refusal to allow the control service contractor entry onto the stevedore's premises.
5. In the event that the control services contractor agrees to pay the stevedore's charges directly, the customer, principal or other party engaging that contractor shall guarantee the payment of such charges and shall be jointly and severally liable with the contractor for the payment of such charges. The provisions of Article 3 of these General Terms and Conditions relating to payment shall also apply in such event.
6. If the customer, principal or other party declines to have the stevedore or an outside contractor weigh the goods prior to loading or upon discharge, then the customer, principal, or other party shall be deemed to accept, as conclusive and irrefutable evidence of the quantity and weight of the goods, the piece count of the goods made by the stevedore prior to loading or upon discharge and shall indemnify and hold the stevedore harmless for any discrepancies between any "said to weigh" or estimated weights for the goods contained in the shipping documents and the actual weight of the goods.



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ARTICLE 6- PACKAGING, MARKING AND DESCRIPTION OF THE GOODS

1. Notwithstanding any other term or provision herein, the customer, principal and other party shall ensure that the goods or cargo shall at all times be sufficiently packaged and marked for handling by stevedore, in accordance with United States and Maryland law.
2. The customer, principal, or other party expressly warrants the accuracy of any representation, written or oral, made by one or more of them to the stevedore as to the nature, weight, measurement, quantity, description, or other characteristics of the goods and shall indemnify and hold the stevedore harmless for any liability, including but not limited to personal injury and property loss or damage, resulting from any inaccurate representation of the characteristics of the cargo made to the stevedore, whether or not such injury or damage is caused in whole or in part by the negligence of the stevedore.
3. Dangerous Goods: Should any of the following conditions apply to the goods or cargo, the same must be clearly indicated and marked on the outside of the goods or cargo, using generally accepted wording (in English) or symbols, in such a way as to be readily visible to the stevedore: Goods susceptible to rust damage or otherwise requiring undercover storage; goods that are self-heating, flammable or explosive; goods that are fragile or require special handling; goods that are poisonous, radioactive, intoxicating or otherwise may be dangerous or injurious to man, animals, or the environment; goods weighing more than 1000 kg or having a center of gravity that varies from the dead center of the goods. In addition to markings on the outside of the cargo itself, the customer, principal or other party shall also take all other reasonable steps to give advance oral and written notice to the stevedore of the foregoing conditions, or of any other condition that the principal or customer believes requires special stowage or handling of the goods.
4. Whether or not a particular unit of cargo is marked in accordance with these General Terms and Conditions, the stevedore may refuse to perform, or suspend or terminate its performance or operations with respect to any goods that, in the stevedore's sole judgment, pose a serious danger to persons or property. The stevedore shall also have the right to take such measures in connection with such goods as the stevedore sees fit to protect persons or property, including but not limited to the destruction of those goods, if necessary, all for the account of, and at the sole risk of, the customer, principal or other party.



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ARTICLE 7- PERSONS ON THE STEVEDORE'S PREMISES

1. The stevedore's premises are not a public thoroughfare, and all persons entering thereon do so at their own risk. Such persons, by entering the stevedore's premises, agree to obey and be bound by all rules, regulations, directives, signs, policies and traffic control devices applicable thereto, including, but not limited to, speed limit, stop, and parking signs, hard hat policies, and other orders and directives of the stevedore, whether or not posted.
2. All persons and vehicles must stand clear of operating cranes and stevedore mobile equipment at all times.
3. Any persons, vessels, or vehicles that fail to comply with all rules, regulations, signs, policies, orders and directives, and traffic control devices applicable to the stevedore's premises, or any persons, vessels, or vehicles that are otherwise deemed by the stevedore, in its sole judgment, to pose a danger to persons or property or to interfere with or be disruptive to the stevedore's operations, may be immediately expelled from, or denied entry to, the stevedore's premises.
4. The stevedore at all times reserves the right to deny entry to its premises, for any reason, to any person, vessel, or vehicle, or to demand immediate departure from its premises, for any reason, of any person, vessel or vehicle.
5. All persons entering upon the stevedore's premises warrant that they are entering lawfully, in accordance with all U.S. Homeland Security laws and regulations, and will abide by all such laws and regulations while on the stevedore's premises. All persons entering upon the stevedore's premises agree to indemnify and hold the stevedore harmless for any liability, including but not limited to fines and penalties, resulting from their violation of any U.S. Homeland Security laws or regulations, whether or not such violations are caused in whole or in part by some action or inaction of the stevedore.

ARTICLE 8- LIABILITY

1. The stevedore shall not have any liability to cargo stored on its piers or in its sheds for damage caused by high tides or other high waters.
2. The stevedore may refuse to perform, or suspend or terminate its performance or operations whenever, in the stevedore's sole judgment, the



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commencement or continuance of such performance or operations might pose a risk of danger to persons or property. The stevedore shall also have the right to take such measures in connection with vessels, persons, cargo, vehicles or other property on or at its premises as the stevedore sees fit to protect other persons, vessels, cargo, vehicles or property or to safeguard or protect its operations, generally, and the stevedore shall not be liable for the consequences of such measures.

3. The stevedore shall not be liable for any damage to persons or property unless caused by the gross negligence of the stevedore or of the stevedore's employees or servants while acting within the scope of their employment. The stevedore shall not be liable for the intentional torts of its employees and servants. The stevedore shall not be liable for damages or accidents occurring when its equipment, facilities, operators and/or employees are furnished to perform work for others, except that caused by the stevedore's own gross negligence.
4. In no case shall the stevedore be liable for any loss or damage to cargo in an amount in excess of \$500 per package or per customary freight unit of cargo not shipped in packages unless:
 - A. The customer, principal, other party or other cargo claimant, prior to the commencement of the stevedore's operations with respect to the cargo, declares a higher value for the cargo greater than \$500, in writing to the stevedore, AND pays to the stevedore, in addition to other charges for its services, a premium computed at (1%) of the declared value of each packaged or non-packaged object.
 - 1) The term "*package*" shall include, without limitation, any container, van, trailer, pallet, bundle or any other type of cargo unitization whatsoever.
 - 2) The term "*customary freight unit*" shall mean the unit upon which ocean freight was or is to be calculated for items not shipped in packages.
 - OR
 - B. The ocean carrier's Bill of Lading applicable to the cargo contains a limitation upon liability in an amount greater than \$500 per package or per customary freight unit AND such amount is binding upon the stevedore by law or by contract.



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5. In no case shall the stevedore be liable for any loss or damage to persons or property other than cargo in an amount in excess of the following:
 - A. For losses or damages only to persons: Liability limit \$10,000 per person.
 - B. For losses or damages to only to personal property other than cargo: Liability limit \$10,000 per article lost or damaged.
 - C. For events in which there are losses or damages both to persons and to personal property other than cargo, the stevedore's aggregate liability for such event or occurrence shall not exceed \$40,000 per event or occurrence, and said amount shall be divided *pro rata* among all claimants according to the proportion of their losses or damages.
6. In no event shall the stevedore be liable for more than the amount of the loss or damage actually sustained.
7. The stevedore shall not be liable for any consequential damages, incidental damages or special damages in connection with its performance of services or provision of facilities, and it shall have the option, at its sole discretion, of replacing any lost property or cargo and/or replacing or repairing any damaged property or cargo.
8. The failure of the principal, customer or other party subject to these General Terms and Conditions to notify the stevedore in writing of any loss or damage to persons, cargo, or other property of the principal, customer or other party (except for vessels) within three business days after the loss or damage allegedly occurred or within three business days after the cargo or other property (except for vessels) has left the stevedore's premises, whichever is later, shall be deemed an admission by the principal, customer or other party that **no** such loss or damaged occurred on or at the stevedore's premises, and the customer, principal or other party shall be estopped from claiming otherwise. In the case of vessels, the failure of the principal, customer or other party to notify the stevedore in writing of any loss or damage to the vessel (other than latent damage) prior to the departure of the vessel from the stevedore's premises shall be deemed an admission by such principal, customer or other party that no such loss or damage occurred to the vessel at the stevedore's premises, and the customer, principal or other party shall be estopped from claiming otherwise.



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9. In the event that the stevedore incurs any costs, lost profits, damages, fines or any other liabilities in connection with the cargo or the stevedore's services for which the stevedore is not liable hereunder, the customer and/or principal and/or other party shall be jointly and severally liable to reimburse the stevedore for all such amounts incurred by the stevedore, upon request.
10. The customer, principal and other party shall indemnify and hold the stevedore harmless for any personal injuries or property loss or damage caused by the negligence of the customer, principal or other party, or caused by the negligence of any third party providing goods or services to the vessel, the customer, the principal or the other party at or on the stevedore's premises, whether or not the negligence of the stevedore causes or contributes to such injury or damage.
11. The stevedore shall not be liable for any delay, loss or damage arising from any cause that is unavoidable or beyond the control of the stevedore. The following are non-exclusive examples of causes of losses or damages that shall be deemed beyond the control of the stevedore:
 - A. Acts of God;
 - B. Inherent defects of any cargo or its packaging;
 - C. Latent or patent defects of any vessel, truck, rail or other means of transport employed for the cargo, regardless of whether the stevedore plays any role in the selection of the means of transport;
 - D. The insistence of the principal, customer or other party that cargo loading or discharge be accomplished at a speed greater than the stevedore deems prudent under the circumstances;
 - E. Improper handling or stowage of cargo, if the principal, customer or other party failed to provide the stevedore with sufficient handling or stowage instructions or information for the cargo or the principal, customer or other party failed to object in writing to the method of stowage or handling during stevedoring operations;
 - F. The breakage of hoisting devices, rope wires and other gear not the property of the stevedore or, where such gear is the property of the stevedore, the stevedore shall not be liable if it can prove that the gear was adequately maintained and was in compliance with generally accepted standards, or that the breakage was accidental;



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- G. The performance by the stevedore, at the request of the customer, principal or other party, or as necessitated by circumstances, of work normally performed by others, such as the ship's crew or ship's agent or customhouse broker, regardless of whether the stevedore was paid for such work;
- H. Strikes of any persons in the stevedore's employ or in the service of others, labor lockouts, work stoppages or slowdowns, sickouts, or any other labor trouble or delays of any nature, regardless of the cause;
- I. Wars, riots, civil disobedience, sabotage, seizure, detention or destruction by an outside group, terrorism or taking of hostages;
- J. Burglary, fire or explosion;
- K. The failure of persons not servants or employees of the stevedore to comply with these General Terms and Conditions, with any posted signs, or with any other directive of the stevedore or of any public authority;
- L. High water, wind, storms, lightening or similar natural perils;
- M. Latent defects in any gear or equipment or facilities of the stevedore not reasonably discoverable by the stevedore prior to the loss or damage;
- N. Accidents occurring during the stevedore's operations that are not caused by the negligence of the stevedore;
- O. Accidents of unknown cause or of a cause that could not reasonably be prevented by the stevedore.
- P. Accidents, delays or detentions caused by the actions of governmental agencies or authorities.
- Q. Accidents related to access to the vessel (gangway, D.O.T. ladders, etc)



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1. If the stevedore has expressly agreed to indemnify the principal, customer or other party for damages payable to third parties, by contract or other writing, then the amount of the damages to be paid to the third party by the principal, customer or other party in the first instance shall be determined in consultation with the stevedore. In no event shall the stevedore be required to indemnify the principal for an amount in excess of that actually paid by the principal, customer or other party to the third party, or for an amount in excess of the amount legally owed by the principal, customer or other party to the third party.
2. The charges of the stevedore for its services do not include insurance of any character, unless expressly stated to the contrary. All persons or entities using the gear, equipment, facilities or premises of the stevedore, by such use, warrant to the stevedore that such parties carry sufficient amounts of general liability, public liability, motor vehicle liability, worker's compensation, and other insurance to cover their activities at the stevedore's premises, with a waiver of subrogation against the stevedore.
3. In the event of any loss or damage sustained by the principal, customer or other party subject to these General Terms and Conditions, whether or not due to the fault of the stevedore, said principal, customer or other party shall in the first instance seek to recover said loss or damage under any policy or scheme of insurance available to it, and shall indemnify and hold the stevedore harmless for any failure to obtain a waiver of subrogation against the stevedore under such insurance.
4. In addition to any limitations, defenses or rights conveyed to the stevedore under these General Terms and Conditions, the stevedore also shall be entitled to the benefit of all limitations, defenses or rights conveyed to it through applicable bills of lading, dock receipts, warehouse receipts, or contracts or otherwise available to it under any applicable law.
5. All provisions contained in these General Terms and Conditions that relate to the rights, defenses, or limitations upon the liability of the stevedore for losses and damages, or to indemnification therefore, shall also inure to the benefit of all agents and independent contractors engaged by the stevedore or performing any of the stevedore's obligations to the cargo, as well as to all other persons or entities who may be deemed to be third party beneficiaries of the contract created by the acceptance of these General Terms and Conditions by the customer, principal or other party. In concluding agreements with customers, principals or other parties under these General



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Terms and Conditions, the stevedore shall be deemed to have acted as the agent for all persons benefited by this provision.

ARTICLE 10- LIMITATION OF ACTIONS

1. Except as provided in Article 10(2), the stevedore shall be discharged from any and all liability for any loss or damage or any claim of whatsoever kind, nature, or description unless suit under Article 11(1) or arbitration under Article 11(2) is commenced within one year after the delivery of the cargo or the date when the cargo should have been delivered, or, for losses or damages to persons or property other than cargo, within one year after the occurrence of the event giving rise to the claim.
2. In the event that the stevedore is entitled to the benefit of a bill of lading, dock receipt, warehouse receipt or contract containing a limitation on actions of less than one year, then the stevedore shall be entitled to assert that shorter limitation period as a defense to any claim.

ARTICLE 11- ARBITRATION AND LITIGATION

1. Unless arbitration is agreed to in writing between the stevedore and any person or entity subject to these General Terms and Conditions, prior to the furnishing of any services by stevedore hereunder, any disputes which may arise hereunder shall be settled exclusively by the competent Federal or State Court in Maryland and all persons or entities subject to these General Terms and Conditions consent to the personal jurisdiction of the Federal or State Courts of the State of Maryland over him.
2. Unless otherwise agreed to in writing, any claim, dispute, difference or controversy between the stevedore and any person or entity subject to these General Terms and Conditions, which is required to be arbitrated shall be submitted for arbitration under the rules of the American Arbitration Association ("AAA") to the extent that such rules are not inconsistent with the provisions of this Article. Judgment upon the award of the arbitrators may be entered in any court having jurisdiction thereof or application may be made to such court for a judicial confirmation of the award and an order of enforcement, as the case may be. The demand for arbitration shall be made within a reasonable period after the claim or other matter in question has



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arisen and, in any event, shall not be made after the date when the institution of proceedings would be barred by Article 10 of these General Terms and Conditions. The independent arbitration panel shall consist of three independent arbitrators, one of whom shall be appointed by each of the contract parties, with the third chosen by the two arbitrators thus appointed. In the event that either the stevedore or claimant does not designate an arbitrator, the other may request a United States Federal Judge or the Executive Secretary of the AAA to designate an arbitrator for such party; and if the two arbitrators appointed by the parties are unable to agree on the appointment of a third arbitrator, either arbitrator may petition the AAA to make such an appointment. The place of arbitration shall be Baltimore, Maryland.

ARTICLE 12- APPLICABLE LAW

1. The contract formed by the acceptance of these General Terms and Conditions by the customer, principal or other party shall be deemed to be made in Maryland and shall be construed and enforced solely in accordance with Maryland law, or in accordance with any provision of any Federal Law that supersedes Maryland Law, without regard to Maryland's conflict of laws provisions.

ARTICLE 13-EFFECTIVE DATE

The effective date of these terms and conditions is June 1, 2015.