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## **GENERAL TERMS AND CONDITIONS OF C.STEINWEG WAREHOUSING (F.E.) PTE. LTD.**

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## **CHAPTER 1 – GENERAL**

### **Article 1: Applicability**

- 1.1 These general terms and conditions (“these Conditions”) shall be applicable to all and any business undertaken, including any advice, information or service provided by C.Steinweg Warehousing (F.E.) Pte. Ltd. (“Company”) for a fee or otherwise. The Conditions shall be deemed to be incorporated in and form part of any contract made between the Company and any customer (“Customer”). For the avoidance of doubt, a Customer may refer to any one of the following:
- (a) a party who signs a contract with the Company;
  - (b) a holder of a warrant issued in accordance with Article 36.1 hereinbelow; and/or
  - (c) any party who has ownership of and/or title to the goods stored with the Company.
- 1.2 Chapters I, II, and VIII hereof apply to the legal relationship between the Company and all Customers in respect of the Company's forwarding or related work. Chapters I, III and VIII hereof apply to the legal relationship between the Company and all Customers in respect of the Company's warehousing or related work. Chapters I, IV and VIII hereof apply to the legal relationship between the Company and all Warrant Holders in respect of warrants issued by the Company. Chapters I, V and VIII hereof apply to the legal relationship between the Company and all Customers in respect of the Company's shipbroking work. Chapters I, VI, and VIII hereof apply to the legal relationship between the Company and all Customers in respect of the Company's Stevedoring Work. Chapters I, VII, and VIII hereof apply to the legal relationship between the Company and all Customers in respect of the Company's Escrow Work.
- 1.3 These Conditions apply to all Services (whenever applied for or provided to the Customer) in addition to any specific terms or contract between the Company and the Customer (“Specific Terms”) except to the extent, if any, expressly excluded in the Specific Terms Provided However That:
- (a) in the event of conflict or inconsistency between any provision of the Specific Terms and these Conditions, such conflict or inconsistency shall, in the absence of any express agreement to the contrary, be resolved in a manner most favorable to the Company and to the exercise of the Company's rights and options with respect to any matter or issue to which the inconsistency or conflict relates subject always to such restrictions, limitations and prohibitions under applicable laws;
  - (b) only to the extent that such conflict or inconsistency cannot be so resolved, the provision of the Specific Terms shall prevail over the provision of these Conditions; and
  - (c) all rights conferred on the Company under these Conditions with respect to any matter or event shall be additional to the rights conferred on the Company under the Specific Terms or any other agreement with the Customer with respect to that matter or event.
- 1.4 These Conditions may further be supplemented by other conditions stipulated by third party service providers with whom the Company has made contracts for the purpose of carrying out the Services required by the Customer in connection with the goods.
- 1.5 The use of the Customer's own forms is no derogation of these Conditions.
- 1.6 The Company is not a common carrier and only deals with goods subject to these Conditions.

### **Article 2: Sectoral Terms and Conditions applied by the Company**

- 2.1 Unless specifically and in writing agreed otherwise, all Services rendered by the Company are performed by the Company acting in its capacity of 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, Services performed as receiving agent and/or Services

performed as customs agent), warehouse keeper, shipbroker, and/or stevedore and/or provider of other logistic services.

### **Article 3: Definitions and Interpretation**

3.1 The following words shall have the meanings assigned to them unless the context otherwise requires:

- (a) “Escrow Work” means the receipt of documents from one party, holding the same, and releasing the same on behalf of that party to another.
- (b) “Forwarding Work” means the transport of goods from one place to another. Instructions for delivery C.O.D. against banker's draft etc. shall be deemed to be forwarding work.
- (c) “Means of Transport” means a construction designated for the transport of goods, and/or people regardless of whether such construction is self-propelled or not.
- (d) “Shipbroking Work” means the attending to and handling of ships and transportation matters by the Company acting as an intermediary for shipowners, carriers, time charterers and/or masters. This includes, but is not limited to the Company assisting in the concluding of contracts, and acting as customs agent, freight forwarder, or ship manager.
- (e) “Services” means all services performed by the Company at the request of the Customer including, but not limited to, Forwarding Work, Shipbroking Work, Stevedoring Work, and Warehousing Work.
- (f) “Stevedoring Work” means the loading and unloading of Means of Transports, including but not limited to the acceptance, temporary storage, shifting, weighing, repackaging, checking, ordering the checking, and/or delivery of goods, the execution of shipping activities and the use of floating cranes or other kinds of cranes.
- (g) “Warehousing Work” means the storage, delivery or holding in custody of goods for which no warrant is in circulation and includes the issuance or the agreement to issue a warehouseman's receipt, delivery order and/or release for similar purposes in respect of such goods.
- (h) “Warehouse Receipt” means a non-transferrable and non-negotiable instrument issued by the Company, confirming the receipt of the goods by the Company from the Customer or its agents, described in its heading as a receipt.
- (i) “Warrant” means a numbered, stamped and legally signed receipt, described in its heading as a warrant in which it is certified that the holder is entitled to receive a specific quantity of goods of a specific kind;
- (j) “Warrant Holder” means a person who makes himself known as such to the Company by producing the Warrant; and
- (k) “Last Warrant Holder” means a person to whom a warrant has been issued and subsequently, the Warrant Holder whose written request to the Company to be regarded as such bears the most recent date, on the understanding however that the Company shall be entitled, but not obliged, to regard any other person as such if it has reason to assume that such other person is the last Warrant Holder.

3.2 Words in the singular include the plural and visa versa and words imparting any gender (including the neutral gender) shall include any other gender. Article headings are for ease of reference only. “Person” and “party” include any company or association or body of persons, corporate or unincorporate.

### **Article 4: Warranty of Authority**

4.1 In entering into any contract with the Company, the Customer expressly warrants that he is:

- (a) either the owner, or authorised agent of the owner, of the goods to which the contract relates. If the consignment or any part thereof is not the Customer's own unencumbered property, he shall be deemed for the purposes of the contract and these Conditions to be

the agent of such owner or other interested party and warrants that he has the authority of all persons owning or having an interest in the consignment or any part thereof to enter into this contract and bind them as well as himself to these Conditions;

- (b) authorised to accept (and is accepting) these Conditions not only for himself but also as agent for and on behalf of all other persons who are or may thereafter become interested in the goods; and
- (c) not contracting or dealing as a consumer notwithstanding any statutory or other definition of whatsoever nature to the contrary.

4.2 The Customer shall indemnify the Company against any loss, damage or claims made upon the Company by virtue of any want of authority of the Customer to enter into any contract with the Company on behalf of any party having an interest in the goods or any part thereof.

4.3 Without prejudice to Article 4.1(a), the Company shall have the right to enforce its rights under these Conditions not only against the Customer but also if it thinks fit, against the sender and/or consignee and/or owner of the goods.

#### **Article 5: Quotes, Rates and Tariffs**

5.1 If requested, the Company shall provide a quotation to the Customer. Unless otherwise agreed, a quotation constitutes an invitation to treat only.

5.2 All quotations given by the Company may be withdrawn or revised by the Company prior to acceptance by the Customer.

5.3 After the Customer has accepted a quotation, the Company may still revise the quotation with or without notice to the Customer if there are cost increasing factors beyond the control of the Company. Such factors include but are not limited to changes in currency exchange rates, rates of freight, insurance premiums, general port charges, government charges, taxes, and any other rates or charges on which the quotation was based or which had not been taken into account during the provision of the quotation but which are relevant to it.

5.4 Where the prices charged by its suppliers or wages, social and/or other charges, freights and/or import duties and/or insurance premiums and other costs, under whatever title, are subject to increases or surcharges after the date on which the order is accepted, the Company shall be entitled to apply such surcharges accordingly to the rates and tariffs of ongoing orders; this shall be binding upon the Customer.

5.4A Where additional charges or taxes are imposed on the Services provided by the Company part way through performance of the contract or any Services, the Company shall be entitled to pass these additional costs to the Customer. This shall be binding on the Customer.

5.5 Unless specifically in writing agreed otherwise, the Company is entitled to yearly adjustments in rates and tariffs, pursuant to any increase of costs, such as but not limited to costs of labour, equipment and fuel.

5.5A Where the Company has been engaged to provide Shipbroking Work, and where such work is considered by the Company to be special, particularly time consuming, or exhaustive, an equitable extra remuneration may be charged at the discretion of the Company, unless agreed otherwise between the Company and the Customer.

#### **Article 6: Formation of Contract**

6.1 The Customer is required to issue to the Company all orders and instructions regarding the goods in writing. Verbal or telephone communications or arrangements shall only be binding on the Company if immediately followed by a written confirmation. The Company has absolute discretion whether or not to accept any order or instruction from the Customer. The Company is entitled to refuse to accept any order or instruction for any Services without any obligation to provide any reasons.

6.2 A contract between the Customer and the Company shall only come into effect on the date of the Company's written acceptance of any order or instruction from the Customer (incorporating these Conditions).

- 6.3 The Customer may not assign or transfer the benefit of, and rights under, any contract made with Company without the prior written consent of the Company. Such consent may be subject to such additional terms as the Company deems necessary, including the execution of a tripartite agreement with the third party.

#### **Article 7: Performance of Services**

- 7.1 Upon the request of any Customer and at the Customer's cost, the Company may issue Warrants, Warehouse Receipts, holding confirmations, releases and such other documents in respect of the goods stored or handled by the Company to the order of the Customer or such other person as may be instructed by the Customer. All such documents are issued in accordance with, and take subject to, these Conditions and any other terms and conditions imposed by the Company from time to time. Customers and Warrant Holders shall not refer to any other condition, regulation or stipulation insofar as the same conflicts with these Conditions.
- 7.2 The Customer shall be and remain responsible for any approval, review, registration or filing procedures required by any relevant laws applicable to the issuance or transfer of the Warrant, pledge or release of the goods. The Customer shall indemnify the Company for any losses and damages whatsoever and howsoever arising out of or in connection with the Customer's failure to execute any of the foregoing as required by the relevant and applicable laws.
- 7.3 Services which are not specifically part of Forwarding Work, Warehousing Work, Shipbroking Work, or Stevedoring Work (including work performed by carriers, insurance agents, and superintending firms) referred to in these Conditions may be governed by other conditions customary to the particular trade or stipulated to be applicable. In the event of any conflict between such other conditions and these Conditions, it shall be for the Company to decide which provisions it claims the benefit of.
- 7.4 Once an order or instructions has been accepted by the Company, the Customer may not change or terminate the order or instruction without the Company's prior written consent. If the Customer terminates such order or instruction unilaterally, the Company shall be entitled to claim against the Customer any expenses which it has incurred prior to the termination and all loss and damage arising from such termination.
- 7.5 The Company shall perform all orders and instructions in such manner as it deems fit and in accordance with these Conditions. Unless otherwise agreed with the Customer, the Company reserves the rights to determine the means, route and procedures to be followed in the handling, storage, custody, transportation, release, delivery and/or forwarding of any goods belonging to the Customer which have been delivered into the Company's possession.
- 7.6 Notwithstanding any specific order or instruction from the Customer, if the Company takes the view that it is necessary or desirable in the interests of the Customers to depart from the Customer's order or instruction, the Company shall be at liberty to do so. All costs and expenses reasonably incurred thereby shall be for the Customer's account.

#### **Article 8: Time is not of the Essence**

- 8.1 Time shall not be the essence of any contract in relation to the performance of Services by the Company under these Conditions. Any statement by the Customer in relation to time for delivery shall be an estimate only and shall not be binding on the Company.
- 8.2 The Company shall arrange, at its sole discretion, the rate of speed at which the Services shall be delivered. The rate of speed shall as much as possible commensurate with the Customer's requirements but the Company shall not be liable for any loss, damage or expense incurred for and on behalf of or by the Customer should the rate of speed at which the Services are delivered is slower than that required by the Customer.

#### **Article 9: Appointment of Subcontractors and Agents**

- 9.1 The Company may engage agents and/or subcontractors to carry out any Services which it has agreed to deliver to the Customer whether in accordance with these Conditions or any other contract between the Company and the Customer.

- 9.2 All such agents and/or subcontractors engaged by the Company in accordance with Article 9.1 above shall be under no liability to the Customer or any one claiming through the Customer under any contract between the Company and the Customer or otherwise, save to the extent provided for under these Conditions. Such agents and/or subcontractors engaged by the Company shall be entitled to enforce the rights and benefits of the Company under these Conditions.
- 9.3 Save as otherwise provided, any other person who is not a party to the contract between the Customer and the Company shall have no rights whether under the Contract (Rights of Third Parties) Act (Cap. 53B) or otherwise to enforce any provision of such contract or these Conditions.

**Article 10: General Payment Terms**

- 10.0 Unless agreed otherwise between the Customer and the Company, the Customer agrees and accepts that the Company shall have the discretion to charge the Customer the Company's prevailing rates for performing the Services to the Customer.
- 10.1 All monies due and owing to the Company by the Customer for work done or to be done in connection with any Services performed by the Company shall be payable in accordance with the Company's invoice or as may be agreed otherwise between the parties without any set-off, rebate, claim or counterclaim.
- 10.1A The Customer acknowledges and accepts that all invoices issued by the Company for Services rendered by the Company under these Conditions or any contract between the Company and the Customer shall be conclusive evidence of the amount of monies due and owing to the Company, save where there is a patent or manifest error in such invoices.
- 10.1B Payment must be effected in the manner specified by the Company and must be received either by the Company or by the Company's designated recipient as the Company may direct. Payment to a representative of the Company does not release the Customer from its payment obligations to the Company under these Conditions or any contract between the Company and the Customer.
- 10.2 Unless the contrary is stipulated, contract prices in any quotation given by the Company to the Customer exclude *inter alia*:
- (a) postage, printer, telegram and telephone charges, stamps;
  - (b) duties, taxes, imposts, levies, deposits or outlay of any kind levied by the authorities at any port or place for in connection with the goods;
  - (c) consular and attestation fees, customs formalities;
  - (d) cost of preparing shipping documents and bankers' guarantees;
  - (e) cost of freight;
  - (f) cost of stevedoring, superintending, weighing, measuring, tallying, taring, sampling and repairing;
  - (g) bundling or rebundling / packing or repacking / carriage;
  - (h) additional costs of handling heavy objects;
  - (i) insurance premiums;
  - (j) warehousing charges and/or quayside/wharfage charges due to consignments missing a connection;
  - (k) demurrage for detention or delay of vessels, trucks or other transport;
  - (l) hire of tarpaulins;
  - (m) overtime pay/cost due to working in evenings/night/Saturdays/Sundays/public holidays;



- (n) cost of providing watchmen;
- (o) brokerages, commissions, allowances and other remunerations;
- (p) payments, fines, expenses, loss or damage whatsoever incurred or sustained by the Company in connection therewith;
- (q) additional costs due to work of a special nature, unusual jobs or work requiring additional time and/or effort;
- (r) any other out-of-pocket expenses.

10.3 All costs in Article 10.2 above are to be borne by the Customer.

10.4 In the event of the non-availability of the means of transport used by or on behalf of the Customer or in the event of any defect of such means of transport, the Customer shall indemnify the Company for all costs and/or damages incurred by the Company therefrom, including but not limited to the costs of making provisions for such non-availability or defect of the means of transport and the Company's loss of expectation income from *inter alia* the rental of warehouse space. The Company is entitled to suspend its Services until such payment is received from the Customer by the Company.

10.5 When goods are accepted or dealt with upon instructions to collect freight, duties, charges or other expenses from the consignee or any other person, the Customer shall remain responsible for the same if they are not paid by such consignee or other person immediately when due.

10.6 The risk of fluctuations in foreign currency exchange shall be borne by the Customer.

10.7 If the Customer does not punctually pay any payment on its due date or upon notification by the Company, the Company may at its sole discretion impose late payment interest at the rate of 1% per month from due date up to and including date of receipt of payment by the Company, and/or for any an administrative charge and all related legal expenses incurred thereto at such sum as determined by the Company.

10.8 The Customer shall bear and pay all taxes (including goods and services taxes), duties, levies, and other similar charges (and any related interest and penalties) however designated, imposed under any applicable law in Singapore and any other jurisdiction outside Singapore with respect to the provision of any Services or on any fees and charges or payment due or payable to the Company ("Taxes"). If the Customer is required under any applicable law to deduct or withhold any sum as Taxes imposed on or in respect of any amount due or payable to the Company, the Customer shall make such deduction or withholding as required and the amount payable to the Company shall be increased by any such amount necessary to ensure that the Company receives a net amount equal to that which it would have received in the absence of such deduction or withholding.

10.9 The Customer shall accede to the Company's request at any time for prepayment from the Customer for any costs and expenses which may be incurred in relation to the Services. Such prepayment received from the Customer may be used to set off any sum payable by the Customer to the Company. If the Customer refuses to provide such prepayment upon request, the Company shall be entitled to refuse, suspend, interrupt, or terminate the services contracted for, without providing any written warning, notice of default, or judicial interposition. The Company shall at no time be under any obligation to make any payments whatsoever to perform any Services on behalf of the Customer until it has received the required prepayments.

10.9A Any challenge to an invoice from the Company shall not suspend the Customer's payment obligations to the Company under these Conditions or any contract between the Company and the Customer.

10.10 All sums incurred by the Customer and payable to the Company under these Conditions or any contract between the Company and the Customer shall become immediately due and payable to the Company on the Company's demand upon the occurrence of any of the following events:

- (a) the Customer cancels in whole or in part any of the Services it has requested the Company to perform;

- (b) the Customer ceases its activities in whole or in part;
  - (c) the Customer disposes or transfers its assets in whole or in part;
  - (d) in the event any contract between the Company and the Customer is terminated for any reasons; or
  - (e) the Customer becomes insolvent, goes into liquidation (voluntary or involuntary, or provisional or otherwise), enters into any composition or arrangement with its creditors generally, is unable to pay its debts or whose assets are placed in the hands of a receiver or receiver and manager or has a provisional liquidator appointed over it or its assets, or if any action is taken to wind up the Customer.
- 10.11 In such cases the Company shall also be entitled to terminate its legal relationship with the Customer with immediate effect, without prejudice to the Company's right to claim damages.
- 10.12 All sums payable by the Customer in accordance with this Article 10 shall not be subject to any set off by the Customer for any sums that may be due from the Company to the Customer.
- 10.13 All sums paid by the Customer to the Company shall be deemed to have been made on account of non-preferential debts, notwithstanding any instructions to the contrary from the Customer.

#### **Article 11: Security; Lien**

- 11.1 The Company may, at the expense and risk of the Customer:
- (a) require the Customer to furnish a deposit or guarantee for monies which the Customer is or may be indebted to the Company for Services rendered under these Conditions, or a security for the payment of freight, duties and/or other costs as required by any authority or third party (for which the Company shall not be obliged to furnish out of its own resources but if the Company has furnished security out of its own resources, it may demand from the Customer immediate payment of the amount for which security has been furnished); and/or
  - (b) retain goods, documents and moneys that the Company has or may have in its possession as security for all monies due and owing by the Customer or owner of the goods to the Company until all such monies have been paid in full; or if the goods are forwarded on, until after collection of any monies due on delivery; or until a bill (with the shipping documents annexed) is drawn.
- 11.2 In the event the Customer fails to provide the security stated in Article 11.1 above within 30 days of such request by the Company, the Company shall be entitled to refuse to perform or suspend the performance of any of the Services under these Conditions or in any agreement between the Company and the Customer or terminate any contract between them with immediate effect without judicial intervention and without any obligation upon the Company to pay any form of compensation. The Company shall at no time be under any obligation to make any payments whatsoever to perform any Services or on behalf of the Customer until it has received the required deposit or guarantee for monies.
- 11.3 If the Company has not been paid any outstanding monies due and owing to it by the Customer for Services rendered under any contract and these Conditions, or if the goods remain uncollected by the Customer, despite notice being given, the Company shall further be entitled to exercise its general right of lien over the affected goods in storage by the Company anywhere in this world.
- 11.4 Until the sums due and owing by the Customer have been received, during the currency of the lien, the Company is entitled to be paid storage charges at the same rate agreed prior to the exercise of the Company's right of lien, or at the rate in force immediately prior to termination.
- 11.5 In exercising its right of lien, the Company may sell or otherwise dispose the goods in any manner the Company deems fit including by way of a private treaty or auction and at such price determined solely by the Company. The proceeds from such sale shall then be applied towards satisfaction of all the outstanding monies, followed by the costs of conducting such sale, and any balance thereafter shall be paid to the Customer.

11.6 The Customer agrees and acknowledges that the lien ranks in priority to any other security right that it may give to any other person in relation to the goods sold or disposed hereunder.

**Article 12: Customer's Warranties**

12.1 The Customer warrants to the Company that:

- (a) the Customer shall not deliver to the Company any consignment containing dangerous, verminous, infested, contaminated or condemned goods unless he has given to the Company in writing full details of the same and obtained the written agreement of the Company to the delivery of such consignment;
- (b) except where the Company is instructed in writing to pack the goods, all goods to be delivered to the Company shall have been properly and sufficiently packed and/or prepared;
- (c) all descriptions, values and other particulars of the goods furnished to the Company (whether for customs, consular and any other purpose) are accurate and complete;
- (d) in the absence of written notice to the contrary given to the Company at the time of delivery of the goods, all goods (including the packaging thereof) shall be fit to be carried and stored; and
- (e) that the information it provides to the Company pursuant to Article 25.2 and 18.2 are true and accurate and shall continue to be true and accurate until such time the Company no longer requires such information for the performance of the Warehousing Work and Forwarding Work .

**Article 13 : Indemnity**

13.1 The Customer shall indemnify and hold harmless the Company from and against all and any losses, damages, costs, expenses and claims of whatsoever nature and howsoever arising suffered or incurred by the Company and its employees, agents and sub-contractors (including all legal costs calculated on an indemnity basis) suffered or incurred directly or indirectly from or in connection with:

- (a) the collection, carriage, storage and/or delivery of consignment which wholly or partly consists of dangerous, verminous, infested, contaminated or condemned goods; or
- (b) any defects in the goods and/or packing which have not been notified to the Company at the time of delivery to the Company; or
- (c) the Customer's instructions or implementation thereof, or inaccurate, incomplete, obscure and inadequate documents, information and/or instructions provided by the Customer, or delay on the part of the Customer in furnishing the relevant documents and instructions to the Company; or
- (d) negligent or wilful acts or omission on the part of the Customer, its employees, agents or subcontractors.

13.2 The Customer shall indemnify and hold harmless the Company for all third party claims relating to any damage caused as a result of the Services performed by the Company, save where such damage is caused as a result of an act or omission on the part of the Company, done either with the intent to cause that damage or recklessly and with the knowledge that such damage would probably result therefrom. The Customer shall be obliged to indemnify and hold harmless the Company at all times and in all cases against third-party claims exceeding the total sum of S\$100,000 for each occurrence or series of occurrences with the same cause. "Damage" shall also be understood to include damage to third parties which the Company is obliged to compensate and/or damage caused by death or injury and/or any form of financial loss.

13.2A The Customer shall pay to the Company all sums payable under Articles 13.1 and 13.2 above on demand by the Company. At the sole option of the Company, the Company may demand, and the Customer shall furnish to the Company, a bank guarantee to secure all sums payable by the Customer under Articles 13.1 and 13.2 above in such amount and such form as the Company may direct. Such bank guarantee shall be issued by a bank of the Company's choice.

- 13.3 The Customer shall indemnify and hold harmless the Company from any claim, loss or damage or expenses whatsoever and howsoever arising out of or in connection with the release of the goods to the Warrant Holder or any other person who appears to the Company to be entitled to the goods.
- 13.4 The Customer shall indemnify and hold harmless the Company from all costs and expenses incurred by the Company (including all legal costs calculated on an indemnity basis) in the event the Company is required to take any steps (including the commencement of legal proceedings or otherwise) against the Customer to recover any monies which are due and owing from the Customer to the Company under these Conditions.
- 13.5 The Customer shall further indemnify and hold harmless the Company from and against:
- (f) all and any losses, damages, costs, expenses and claims on account of any injury to or death of any person or damage to property caused by or resulting from any acts, whether such acts were negligent or otherwise, on the part of the Customer, its employees, agents or contractors in relation to any of the Services; and
  - (g) any fines, loss, damage or expense incurred by the Company in its performance of the Services or resulting from the Company's performance of its obligations owed under any contract between the Company and the Customer.

**Article 14: Exclusion of Liability**

- 14.1 The Company shall not be liable to the Customer or any other party claiming through the Customer whether in contract, tort (including negligence or breach of statutory duty) or otherwise for any loss, cost, expenses, claims, damages, injury or death whatsoever and howsoever caused except as may be caused by deliberate intent, gross negligence or willful default on the part of the Company.
- 14.2 All warranties, representations, conditions and other terms implied by statute or common law on the part of the Company are, to the fullest extent permitted by law, excluded from any contract entered into between the Company and the Customer.
- 14.3 Without prejudice to the generality of Article 14.1 above, the Company shall not be liable whether in contract, tort (including negligence or breach of statutory duty) or otherwise:
- (a) on account of errors in particulars of freight charges, duties and expenses notified to the Company by third persons, or wrongly charged and any demands and back demands arising there from shall be borne by the Customer;
  - (b) any loss or damage occurring through theft or burglary;
  - (c) any loss or damage in respect of goods which have been stored in the open or which the Company customarily stores in the open;
  - (d) for any consequences that may arise if the carriers refuse to sign or acknowledge details concerning the goods (including number of pieces of items, measurement and weight);
  - (e) on account of errors in any warrants, receipts, delivery orders, confirmations or any other similar documents;
  - (f) for any loss, damages, costs, claims and expenses howsoever incurred or sustained by the Customer as a result of or in any way due to any difference between the time in Singapore and in any other part of the world where the Customer may be located;
  - (g) for any loss or damage arising from loss of goods, non-delivery or inaccurate delivery, delay in delivery, non-compliance or inaccurate compliance with the Customer's instructions or otherwise unless it is proved that:
    - (i) such loss or damage occurred whilst the goods were in the actual custody and control of the Company and caused by the deliberate intent or willful neglect/default on the part of the Company, its servants or agents. If some of the factors causing the loss, non-delivery, inaccurate delivery, or delay are caused or contributed to by the Customer, the Company's liability shall be on a comparative fault basis; and

- (ii) there is fraud on the part of the Company;
  - (h) for any loss, damages, costs, claims and expenses howsoever incurred or sustained by the Customer where the loss or damage to the goods is due to improper packing or insufficient protection during packing by the Customer;
  - (i) any loss or damage to the goods occurring before receipt thereof, or while in custody, due to the following causes regardless of their origin: inherent nature, changes in quality or character, decay, drying out, powdering, heat, heating, melting, staining, sweating, fermenting, freezing, rusting, mildew, mould, dampness, dust, oil, colouration, evaporation, smell or taint from or contact with other goods or fuel, putrefaction, water of any kind, rain or spray, effects of climate, drainage, leakage, wastage, loss of weight, breakage, splitting, bending, chaffing, shrinkage, hook holes, rats, mice, insects and other vermin, explosion of the goods whether received with or without disclosure of its hazardous nature, insufficiency, soiling, injury to, distortion, pressing or bursting of packages, adherence or coverings, obliteration or errors in or insufficiency or absence of marks, numbers, address or description; and
  - (j) any consequential, special, indirect, incidental or exemplary damages, costs, expenses or losses (including loss of profits, opportunity costs, business or anticipated savings, loss of demurrage of any means of transport (floating or rolling), dispatch money or loss of market) whether in tort, contract, under statute or otherwise by reason or in connection with any Services performed in accordance with these Conditions.
- 14.4 Where the Company has not also been contracted to provide warehousing services, the Company shall never be liable in respect of damage or loss to goods that have been entrusted to it for handling or storage in the performance of any Services.
- 14.5 Without derogation to the generality of Article 9.2, all officers, representatives, and/or employees of the Company, and/or agents and/or subcontractors of the Company whose services the Company employs for the purpose of performing any contract between the Company and the Customer, shall be entitled to invoke any provision in this Article 14 as if all references to the Company refers to all such officers, representatives, and/or employees of the Company, and/or agents and/or subcontractors of the Company.

#### **Article 15: Limitation of Liability**

- 15.1 Subject always to Articles 14 above and Article 15.2 below, the Company's liability to the Customer whether in contract, tort (including negligence or breach of statutory duty) or otherwise for any and all loss, cost, expenses, claims, damages, injury or death whatsoever and howsoever caused or arising from any breach, failure or default of the Company in performing its obligations or duties to the Customer hereunder shall in any event not exceed a maximum amount of S\$100,000 for each occurrence or series of occurrences with the same cause.
- 15.2 Notwithstanding Article 15.1, the Company's liability to the Customer whether in contract, tort (including negligence or breach of statutory duty) or otherwise for any and all loss, cost, expenses, claims, damages, injury or death whatsoever and howsoever caused or arising from any breach, failure or default of the Company in performing its obligations or duties to the Customer shall be as follows:
- (a) where in performing Forwarding Work, loss or damage sustained is in respect of any consignment, whether in whole or in part, the aggregate amount of total damages recoverable from the Company shall be a sum calculated at the maximum rate of S\$7.80 per kilogram damaged or lost gross weight, subject always to the maximum liability of the Company in this regard being S\$7800 per consignment or the net value of the consignment at the time the Company took possession of the same, whichever is lower;
  - (b) where in performing Warehousing Work and in relation to the warrants, loss or damage sustained is in respect of the consignment, whether in whole or in part, the aggregate amount of total damages recoverable shall be limited to a sum calculated at the maximum rate of S\$5.00 per kilogram damaged or lost gross weight, subject always to the maximum liability of the Company in this regard being S\$100,000 per event or series of events resulting from one and the same cause or the net value of the consignment at the time the Company took possession of the same, whichever is lower;
  - (c) where in performing Shipbroker Work, the aggregate amount of total loss and damages recoverable from the Company shall not exceed the remuneration that the Company would be entitled to for the shipbroker activities; and

(d) where in performing Stevedoring Work:

(i) loss or damage sustained is in respect of the consignment, whether in whole or in part, the aggregate amount of total damages recoverable shall be limited to a sum calculated at the maximum rate of S\$5.85 per kilogram damaged or lost gross weight, subject always to the maximum liability of the Company in this regard being S\$1700 per event or series of events resulting from one and the same cause or the net value of the consignment at the time the Company took possession of the same, whichever is lower;

(ii) injury or the death of any person is caused, the aggregate amount of total damages recoverable shall be limited to a sum S\$1,000,000 per event or series of events resulting from one and the same cause.

- 15.3 For the avoidance of doubt, where the loss or damage sustained by the Customer is in respect of part of the consignment, whether in whole or in part, the aggregate amount of total damages recoverable shall be pro-rated based on the proportion which the actual value of that part of the consignment bears to the value of the whole consignment as calculated in accordance with Articles 15.2(a), (b), (c), and (d) above respectively.
- 15.4 For purposes of this Article, the Company is only required to refer to the inventory submitted by the Customer and for which the Company has expressly acknowledged the receipt and verified the contents thereof. The Company shall not be responsible for any property not comprised therein.
- 15.5 For purposes of this Article, the quantity of any goods stored with the Company shall be measured by weight on a metric tonnage basis in accordance with the Company's standard practice.
- 15.6 In case of damage to one or more of several items belonging together (e.g. household effects), any depreciation of other parts or the undamaged items shall not be taken into account.
- 15.7 The Company shall be entitled to require proof of the value of the consignment or any part thereof which is lost, inaccurately delivered or damaged.
- 15.8 Compensation calculated in accordance with Article 15.2 shall be the Customer's sole and exclusive remedy against the Company for any loss, damage or expense suffered by the Customer.
- 15.9 Without derogation to the generality of Article 9.2, all officers, representatives, and/or employees of the Company, and/or agents and/or subcontractors of the Company whose services the Company employs for the purpose of performing any contract between the Company and the Customer, shall be entitled to invoke any provision in this Article 15 as if all references to the Company refers to all such officers, representatives, and/or employees of the Company, and/or agents and/or subcontractors of the Company.

## **CHAPTER II - FORWARDING WORK CONDITIONS**

### **Article 16: Scope**

- 16.1 All goods delivered into the possession of the Company may be warehoused or otherwise held at any place or places at the discretion of the Company. The Customer may be subject to additional terms and conditions as may be imposed by the owner or operator of the warehouse, and any other applicable local laws and regulations in the relevant jurisdiction where the warehouse is located.
- 16.2 All operations such as, superintending, sampling, taring, tallying, weighing, measuring and receiving goods under judicial survey, shall be performed by the Company in accordance with the Customer's specific instructions and upon reimbursement of all the costs thereof and relating thereto.
- 16.3 If the Company provides transport for the carriage of goods, such Services shall be subject to these Conditions and the Company, in so doing, is not acting as a common carrier.
- 16.4 The Company is not and shall not act as an expert in performing any Services to the Customer. It shall in no way be liable for any notification of the state, nature or quality of the goods.

- 16.5 All services, operations and activities undertaken by the Company in respect of the goods shall be at the Customer's expense and risk.

**Article 17 : Documents Relating to Goods**

- 17.1 The Customer shall ensure that the documents required for receipt, despatch, and instructions, shall be delivered to the Company on or prior to delivery of the goods to the Company.
- 17.2 The Company may, upon the Customer's request, issue receipts intended to confirm the Company's possession of specified documents of title in respect of the goods. Such receipts are however not negotiable/transferable instruments and do not provide any confirmation that the goods specified in the holding confirmations are under the control, or possession, of the Company.
- 17.3 For the purpose of the Company carrying out forwarding work, the Customer hereby appoints and authorizes the Company to do and undertake the following for and on behalf of the Customer:
- (a) undertake, or appoint an agent to undertake, all the procedures required for compliance with customs formalities for the storage and/or release of Goods at the Warehouse Facilities; and
  - (b) act as the handling agent to receive, hold, and release, all documentation relating to the forwarding work.

**Article 18: General Provisions regarding Forwarding Services and Description of Goods**

- 18.1 The Customer (including the third party which becomes party to the contract between the Company and the Customer) shall see to it that all necessary permits are obtained and kept as well as that all the regulations falling under the obligations of the Customer are complied with.
- 18.2 To enable the Company to perform Forwarding Work, the Customer shall timely provide the Company with all relevant information such as but not limited to information with regard to:
- (a) the nature, type, quality, composition, temperature, weight, volume, source, origin, physical and/or chemical properties of the goods;
  - (b) hazardous properties and/or substances (whether or not generally known or recognized as such) of or within the goods;
  - (c) legal consequences (ownership, storage banned elsewhere, custom formalities etc);
  - (d) whether a special method of storage is required or necessary due to the nature of the goods;
  - (e) special directions regarding the method of loading or unloading; and
  - (f) all other particulars which are of importance to the Company.
- 18.2A The Customer warrants and represents that the information it provides to the Company pursuant to Article 18.2 above are true and accurate and shall continue to be true and accurate until such time the Company no longer requires such information for the performance of the Forwarding Services.
- 18.2B The Company makes no representation or warranty as to the availability of berths and the time of performance of the Forwarding Services.
- 18.3 The Customer shall ensure the accuracy and completeness of all descriptions, values and other particulars of the goods furnished to the Company for Customs, consular and other purposes.
- 18.4 Unless otherwise specifically instructed by the Customer in writing, the Company shall not be obliged to check whether samples are identical with the lot or check that the goods it handles correspond to the description provided by the Customer; or make any declaration for the purpose of any statute, convention or contract with regards to the nature/value/purpose of delivery of the goods.

- 18.5 Subject always to Article 18.4 above, the Company is entitled to, but not obliged to, examine the contents of the goods upon the delivery of the goods to the Company and at any time during the storage of the goods by the Company.
- 18.6 Should the vessel, container and/or cargo have been fumigated, then the Customer is obliged to inform the Company well in advance, at the latest 7 days prior to arrival in Singapore or any other designated harbour, of the fumigant used and in which container(s), barge(s), hold(s) and/or packing it was applied. Degassing and/or aerating the vessel, container and/or cargo to safety concentrations will be at the Customer's risk and expense.
- 18.7 The Company may, without being obliged thereto, take measures for treatment and handling as it may deem necessary for preservation or protection of the stored goods or of its own or other's goods or properties, all at the Customer's risk and expense.
- 18.7A The Customer shall not sell or otherwise dispose of (part of) the goods to any third parties, unless the Customer procures such third party's acceptance in writing of all the terms of all contracts between the Customer and the Company in respect of the goods that were valid at the time such third party acquires any interest in the goods. The Customer accepts that in the event it fails to satisfy any of its obligation in this Article 18.7A, the Customer shall continue to be bound to the Company of all of its obligations owed to the Company in all contracts between itself and the Company in respect of the Goods notwithstanding that any interest in the goods may have moved from the Customer to the third party.
- 18.8 If the Customer sells or otherwise disposes of (part of) the goods, this does not release the Customer of its previously assumed obligations to the Company until the Company has confirmed in writing to the Customer that the Company has accepted both such transfer and the release of the goods.
- 18.9 The Customer is obliged to immediately notify the Company in writing of transfer or passing of ownership of goods or transfer or passing of the right to take delivery of the goods, as the case may be.
- 18.10 The Customer shall be obliged to notify the Company in writing of any claim of the Customer and/or of a third party who acted on behalf of the Customer, for damage to and/or loss of the means of transport of the Customer and/or of such third party prior to the departure of the means of transport from the premises of the Company or its subcontractor failing which any such claim against the Company will be barred.
- 18.11 The non-availability of a berthing or parking place upon arrival of floating or rolling means of transport is considered to be a circumstance beyond the Company's control.
- 18.12 The Company shall not be liable to the Customer for any loss or damages, howsoever arising, in the event the carriers refuse to acknowledge the number or weight of the goods that are forwarded by the Company as part of its Services.

#### **Article 19: Perishable Goods**

- 19.1 The Company shall be entitled, at its sole discretion and without any further notice to the Customer, to sell or dispose of all perishable goods which are not taken up immediately upon arrival or which are insufficiently addressed or marked or otherwise not readily identifiable. All charges and expenses incurred by the Company in connection with such sale or disposal shall be borne by the Customer.
- 19.2 Payment or tender, at the Company's sole discretion, by the Company to the Customer of the net proceeds (if any) of such sale or disposal after deduction of all outstanding fees and charges and expenses shall be equivalent to delivery.

#### **Article 20: Non-perishable Goods**

- 20.1 Upon the expiry of 14 days' notice in writing to the Customer and the Customer has failed to provide the necessary instructions acceptable to the Company, the Company shall be entitled, at its sole discretion and without any further notice, to sell or dispose of all non-perishable goods which in the opinion of the Company cannot be delivered as they are insufficiently or incorrectly addressed or not collected/accepted by the consignee or for any other reason.



- 20.2 Payment or tender, at the Company's sole discretion, by the Company to the Customer of the net proceeds (if any) of such sale or disposal after deduction of all outstanding fees and charges and expenses shall be equivalent to delivery.

**Article 21: Dangerous Goods**

- 21.1 Except under special arrangements previously made in writing, the Company shall not accept or deal with any noxious, dangerous, hazardous or inflammable or explosive goods or any goods likely to cause damage ("Dangerous Goods"). The expression "goods likely to cause damage" includes goods likely to harbour or encourage vermin or other pests.
- 21.2 If the Company however agrees in advance to accept any Dangerous Goods under these Conditions, the Customer shall ensure that the Dangerous Goods are accompanied by a full declaration of their nature and contents, and properly and safely packed and labeled in accordance with applicable laws and regulations for the time being in force in the relevant jurisdiction(s) including ensuring that all such packages are clearly and indelibly marked to show the hazardous nature of their contents.
- 21.3 Notwithstanding that the Company may have accepted the Dangerous Goods under arrangement previously agreed between the parties in writing, the Customer agrees that the Dangerous Goods may be so destroyed or otherwise dealt with by the Company at its sole discretion and in any way deemed fit by the Company at the Customer's risk and expense on account of risk to other goods, property, life or health.
- 21.4 If the Customer delivers any Dangerous Goods to the Company or cause the Company to handle or deal with such goods otherwise than under special arrangements previously agreed between the parties in writing, the Customer shall be liable for all loss or damage whatsoever caused by or to or in connection with such goods howsoever arising, including such loss and damage caused to third parties which the Company is obliged to compensate and/or damage caused by injury and/or any form of financial loss. The Customer shall indemnify the Company against all penalties, liabilities, claims, damages, costs (including all legal costs calculated on an indemnity basis) and expenses whatsoever and howsoever arising in connection therewith.
- 21.5 In the event that the goods handled by the Company in the performance of the forwarding work are deemed to be dangerous pursuant to the relevant regulations for the carriage of dangerous substances on inland waterways, by road or by sea, such handling of the goods shall be governed in accordance with such laws and regulations applicable in the relevant jurisdiction(s).

**Article 22: Precious Goods**

- 22.1 Except under special arrangements previously agreed between the parties in writing, the Company shall not accept or deal with gold, coins, precious stones, jewellery, valuables, antiques, pictures, livestock or plants.
- 22.2 If any Customer nevertheless delivers such goods to the Company or cause the Company to handle or deal with such goods otherwise than under special arrangements previously agreed between the parties in writing, the Company shall be under no liability whatsoever for any loss, damage or claim however caused in connection with the goods.

**Article 23: Insurance**

- 23.1 The Customer is obliged to take out and maintain adequate insurance, including but not limited to cargo insurance and insurance covering damage that can be caused by the goods. Unless otherwise agreed between the parties and subject to Article 23.2, the Company shall not be obliged to arrange for any insurance in respect of the goods delivered into its custody.
- 23.2 If the Company has agreed with the Customer that it shall arrange for insurance:
- (a) all insurance effected shall be subject to the usual exceptions and conditions of the policies of the insurance company or underwriters;
  - (b) the Company shall not be responsible as regards the choice of the insurer and its ability to pay;

- (c) the risks to be covered shall be clearly stated by the Customer. A mere statement by the Customer of the value is not enough;
  - (d) the Company shall not be under any obligation to effect a separate insurance on each consignment but may declare it on any open or general policy;
  - (e) the Customer shall be liable for all insurance premiums calculated on the basis of one full calendar month such that part of a month shall count as one full calendar month unless otherwise agreed in writing by the Company; and
  - (f) if the Company has arranged an insurance policy in its own name, it may, at its sole discretion, transfer any claims against the insurer to the Customer. Should the insurers dispute their liability for any reason, the Customer's only recourse shall be against the insurers. The Company shall not be under any responsibility or liability in relation thereto.
- 23.3 If the Company uses derricks and any other such equipment for carrying out any Services, it shall be entitled to arrange for insurance at the Customer's expense to cover the risks arising from such use.
- 23.4 By giving instructions for effecting the insurance, the Customer shall be deemed to have authorized the Company as its agent to make all arrangements with the insurer, including those regarding the conditions of insurance and settlement of claims in respect of any damage.
- 23.5 The Company shall not be liable for any loss arising from the failure by the insurer to pay in full or in part or because a claim in respect of damage is being disputed as a result of circumstances for which the Company cannot be held liable irrespective of the manner in which the Company was concerned in effecting the insurance.

### **CHAPTER III - WAREHOUSING WORK CONDITIONS**

#### **Article 24: Delivery**

- 24.1 Delivery of the goods to, and receipt thereof by, the Company shall be effected by the goods being handed over to, and accepted in writing, by the Company at the place of storage determined in advance by the Company. In the event the Customer instructs the Company to take delivery of goods but the goods fail to arrive for delivery to the Company due to any reasons, the Customer undertakes to pay to the Company, on an indemnity basis, all costs and expenses incurred by the Company in taking steps in accordance with the Customer's instructions.
- 24.1A The Customer warrants to the Company that all goods delivered to the Company are not Dangerous Goods, are in good condition, and adequately packed with appropriate and secured packaging.
- 24.1B In the event there are any outwardly visible damage to the goods, or if the Company has any reasons to believe that there is any damage to the goods (whether at the time of delivery of the goods to the Company or at the time goods are stored with the Company), the Customer hereby authorizes the Company to take all steps the Company deems necessary, without prior notice to the Customer, to protect the Customer's interests in the goods at the Customer's costs and the Customer's risk.
- 24.2 All goods shall be delivered to and collected from the place of storage during the Company's ordinary working hours between 0900 hours and 1700 hours (Singapore Time) Mondays to Fridays. Even if the Customer requires work to be executed outside the stated working hours, the Company retains the sole discretion whether or not it accepts such instruction, and if it does, any charges incurred thereby shall be borne by the Customer.
- 24.3 Upon receipt of the goods by the Company, the Company may, upon request from the Customer, issue a Warehouse Receipt to the Customer.
- 24.4 In the event a Warehouse Receipt is issued, the Company is entitled to deny the release of any goods stored with the Company unless and until it has received the duly endorsed original Warehouse Receipt from the named party on the Warehouse Receipt.

- 24.5 If the Customer has instructed the Company to store the goods in a specified quantity, or that the goods shall be delivered to the Company at a specified time, or that the goods to be delivered in a certain quantity, or that the goods are to be collected at a certain time but the Customer fails to deliver or collect the goods as specified, the Customer shall be liable for all costs and expenses incurred by the Company as a result of any labour and equipment ordered and/or arranged for the execution of the specified order by the Company (whether used in full or otherwise).

**Article 25: General Provisions and Description of Goods**

- 25.1 The Customer (including the third party which becomes party to the agreement between the Company and the Customer) shall see to it that all necessary permits are obtained and kept as well as that all the regulations falling under the obligations of the Customer are complied with.
- 25.2 To enable the Company to perform Warehousing Work, the Customer shall timely provide the Company with all relevant information in writing such as but not limited to information with regard to:
- (a) the nature, type, quality, composition, temperature, weight, volume, source, origin, physical and/or chemical properties of the goods;
  - (b) hazardous properties and/or substances (whether or not generally known or recognized as such) of or within the goods;
  - (c) legal consequences (ownership, storage banned elsewhere, custom formalities etc);
  - (d) whether a special method of storage is required or necessary due to the nature of the goods;
  - (e) special directions regarding the method of loading or unloading; and
  - (f) all other particulars which are of importance to the Company.
- 25.2A The Company makes no representation or warranty as regards the availability of berths and the time of execution of the Warehousing Work under this Chapter.
- 25.3 The Company shall be entitled to rely upon particulars relating to the goods (e.g. content, measurement, nature, quality, weight, quantity, serial numbers, marks, and value) provided by the Customer even if the goods have been counted, weighed or measured in the presence of any of the Company's agents or servants and even if the Company may have known the nature, quality or other particulars thereof.
- 25.4 The description and/or specification of the goods and the particulars thereof as stated on a Warehouse Receipt, delivery order and/or release shall be based on the description as provided by the Customer, and the Company does not, by the issuance of any such document, confirm that the description is correct, or admit the existence, good order and condition of the goods described therein, or the contents thereof, except as may otherwise be provided by applicable statute or specifically confirmed in writing by the Company.
- 25.4A The expression "said to contain" in relation to any description and/or specification of the goods and the particulars thereof as stated on any document issued by the Company (including Warehouse Warrants, Warehouse Receipts, delivery order, and/or release), shall mean that such description, specification and/or particulars of such goods are as represented and furnished by the Customer and that the Customer further accepts that the Company does not represent or warrant the truth or accuracy of such description, specification and/or particulars of such goods.
- 25.5 Should the vessel, container and/or cargo have been fumigated, then the Customer is obliged to inform the Company well in advance, at the latest 7 days prior to arrival in Singapore or any other designated harbour, of the fumigant used and in which container(s), barge(s), hold(s) and/or packing it was applied. Degassing and/or aerating the vessel, container and/or cargo to safety concentrations will be at the Customer's risk and expense.
- 25.6 The Company may, without being obliged thereto, take measures for treatment and handling as it may deem necessary for preservation or protection of the stored goods or of its own or other's goods or properties, all at the Customer's risk and expense.

- 25.7 If the Customer sells or otherwise disposes of (part of) the goods, this does not release the Customer of its previously assumed obligations to the Company until the Company has confirmed in writing to the Customer that the Company has accepted both such transfer and the release of the goods.
- 25.8 The Customer is obliged to immediately notify the Company in writing of transfer or passing of ownership of goods or transfer or passing of the right to take delivery of the goods, as the case may be.
- 25.9 The Customer shall be obliged to notify the Company in writing of any claim of the Customer and/or of a third party who acted on behalf of the Customer, for damage to and/or loss of the means of transport of the Customer and/or of such third party prior to the departure of the means of transport from the premises of the Company or its subcontractor failing which any such claim against the Company will be barred.
- 25.10 The non-availability of a berthing or parking place upon arrival of floating or rolling means of transport is considered to be a circumstance beyond the Company's control.

#### Article 26: Condition

- 26.1 The Customer shall deliver the goods to the Company in a good condition, and if packed, properly packed.
- 26.2 If the goods delivered to the Company turn out to be in a damaged or defective condition and which is outwardly visible at the time of arrival, the Company shall be entitled, but not obliged, to protect the Customer's interest against the carrier or others at the Customer's risk and expense, and to arrange for the evidence regarding the condition of the goods, however, without the Customer being entitled to any right of account of the manner in which the Company has performed these duties. The Company shall immediately notify the Customer of the action taken, but failure to notify the Customer shall not give the Customer any right of claim against the Company.

#### Article 27: Weighing/Measuring

- 27.1 The Company shall not be obliged to weigh or measure the goods received by it if no instructions to that effect are given provided however that the Company shall have the liberty of weighing and measuring the goods if it is so required by any authority or third party and if the Company then discovers that the weight or measurement differs from the descriptions provided by the Customer, the cost of weighing and/or measuring involved shall be borne by the Customer.
- 27.2 The Company shall only be liable for ascertaining weight and/or measurement if the goods have been weighed and/or measured by the Company on the Customer's instructions.
- 27.3 The Company shall only be obliged to open packages for examination of the contents at the Customer's request, but the Company reserves the right to make such examination if it suspects that the contents have been wrongly described. If the examination reveal that the contents differ from those stated, the cost of the examination shall be borne by the Customer.

#### Article 28: Place of Storage & Access

- 28.1 Unless otherwise agreed upon, the Company shall be at liberty to decide where the goods are to be stored and shall at any time be entitled to transfer the goods to another storage place. In the event that the transfer has been effected in the interest of the goods or through circumstances beyond the Company's control, the cost of such transfer and the risk of transport shall be borne by the Customer.
- 28.2 If the goods are transferred to another storage place, the Company shall notify the Customer, but failure to notify the Customer shall not give the Customer any right of claim against the Company.
- 28.3 The Company shall give to the Customer and/or any persons authorised by the Customer access to the place of storage of the goods subject to the following conditions and any other formalities prescribed by the relevant authorities being complied with:
- (a) all persons visiting the place of storage must comply with the Company's regulations;

- (b) access is only provided during ordinary working hours and with attendance by an employee or agent of the Company; and
- (c) the Customer shall be liable for any cost of attendance incurred in relation to such visit and for any damage caused directly or indirectly by such persons.

**Article 29: Latest Time for Instructions**

29.1 Unless otherwise agreed upon, or unless prevented by special circumstances, the Company shall commence executing accepted orders for storage or delivery of goods, if possible, not later than the next working day after having accepted the order or after receipt by the Company of the necessary documents (e.g. bills of lading and delivery orders) on the understanding that if the necessary instructions and documents for executing orders are received after 1500 hours (Singapore time) on any working day (between Mondays to Fridays only), the next working day shall count as the day of receipt.

**Article 30: Dangerous Goods**

30.1 Except under special arrangements previously made in writing, the Company shall not accept or deal with any Dangerous Goods (as defined in Article 21.1).

30.2 If the Company however agrees in advance to accept any Dangerous Goods under these Conditions, the Customer shall ensure that the Dangerous Goods are accompanied by a full declaration of their nature and contents, and properly and safely packed and labeled in accordance with applicable laws and regulations for the time being in force in the relevant jurisdiction(s) including ensuring that all such packages are clearly and indelibly marked to show the hazardous nature of their contents.

30.3 Notwithstanding that the Company may have accepted the Dangerous Goods under arrangement previously agreed between the parties in writing, the Customer agrees that the Dangerous Goods may be so destroyed or otherwise dealt with by the Company at its sole discretion and in any way deemed fit by the Company at the Customer's risk and expense on account of risk to other goods, property, life or health.

30.4 If the Customer delivers any Dangerous Goods to the Company or cause the Company to handle or deal with such goods otherwise than under special arrangements previously agreed between the parties in writing, the Customer shall be liable for all loss or damage whatsoever caused by or to or in connection with such goods howsoever arising, including such loss or damage caused to third parties which the Company is obliged to compensate and/or damage caused by injury and/or any form of financial loss. The Customer shall further indemnify the Company against all penalties, claims, damages, costs (including all legal costs calculated on an indemnity basis) and expenses whatsoever and howsoever arising in connection therewith.

30.5 In the event that the goods handled by the Company in the performance of the Warehousing Services are deemed to be dangerous pursuant to the relevant regulations for the carriage of dangerous substances on inland waterways, by road or by sea, such handling of the goods shall be governed in accordance with such laws and regulations applicable in the relevant jurisdiction(s).

**Article 31 : Perishable Goods**

31.1 Except under special arrangements previously made in writing, the Company shall not accept or deal with any perishable goods.

31.2 If the Customer nonetheless delivers any perishable goods to the Company or cause the Company to handle or deal with such goods otherwise than under special arrangements previously agreed between parties in writing, the Company shall be entitled, at its sole discretion and without any further notice to the Customer, to sell or dispose of all such perishable goods. All charges and expenses incurred by the Company in connection with such sale or disposal shall be borne by the Customer.

31.3 Payment or tender, at the Company's sole discretion, by the Company to the Customer of the net proceeds (if any) of such sale or disposal after deduction of all outstanding fees and charges and expenses shall be equivalent to delivery.

**Article 32 : Precious Goods**

- 32.1 Except under special arrangements previously agreed between the parties in writing, the Company shall not accept or deal with gold, coins, precious stones, jewellery, valuables, antiques, pictures, livestock or plants.
- 32.2 If any Customer nevertheless delivers such goods to the Company or cause the Company to handle or deal with such goods otherwise than under special arrangements previously agreed between the parties in writing, the Company shall be under no liability whatsoever for any loss, damage or claim however caused in connection with the goods.

**Article 33 : Insurance**

- 33.1 The Customer is obliged to take out and maintain adequate insurance, including but not limited to cargo insurance and insurance covering damage that can be caused by the goods. Unless otherwise agreed between the parties and subject to Article 33.2, the Company shall not be obliged to arrange for any insurance in respect of the goods delivered into its custody. Upon request, the Customer shall give the Company access to the insurance policy concerned for inspection and to make copies of the same.
- 33.2 If the Company has agreed with the Customer that it shall arrange for insurance:
- (a) all insurance effected shall be subject to the usual exceptions and conditions of the policies of the insurance company or underwriters;
  - (b) the Company shall not be responsible as regards the choice of the insurer and its ability to pay;
  - (c) the risks to be covered shall be clearly stated by the Customer or the Company's estimate of the current value of the goods. A mere statement by the Customer of the value is not enough;
  - (d) the Company shall not be under any obligation to effect a separate insurance on each consignment but may declare it on any open or general policy; and
  - (e) the Customer shall be liable for all insurance premiums calculated on the basis of one full calendar month such that part of a month shall count as one full calendar month unless otherwise agreed in writing by the Company.
- 33.3 By giving instructions for effecting the insurance, the Customer shall be deemed to have appointed the Company as its agent to make all arrangements with the insurer, including those regarding the conditions of insurance and settlement of claims in respect of any damage. When acting as an agent of the Customer by virtue of this Article, the Company shall be entitled to collect the amount of any claims but shall only be obliged to pay the compensation received by it to the Customer after deducting all monies due and owing to the Company.
- 33.4 The Company shall not be liable for any loss arising from the failure by the insurer to pay in full or in part or because a claim in respect of damage is being disputed as a result of circumstances for which the Company cannot be held liable irrespective of the manner in which the Company was concerned in effecting the insurance.
- 33.5 If the goods in the Company's custody are destroyed by fire or any other causes (regardless of whether the insurance was effected through the intermediary of the Company):
- (f) the date of destruction shall count as the date of delivery and all charges payable to the Company shall be due up to and including such date; and
  - (g) if the Company's assistance for assessment of the damage is desirable or necessary, the Company may render such assistance in return for payment by the Customer at a rate fixed by the Company and provided that all other monies due and owing to the Company have been paid in full.
- 33.6 If the Company uses derricks and any other such equipment for carrying out any Services, it shall be entitled to arrange for insurance at the Customer's expense to cover the risks arising from such use.

**Article 34: Removal of Goods**

- 34.1 The Company shall, after receiving full payment of all monies due and owing to the Company, allow the goods stored with the Company to be released to the Customer or its agent. All costs and expenses in connection therewith shall be borne by the Customer.
- 34.2 The Company shall only be bound to any assignment or transfer made by the Customer with any third party in respect of any goods stored with the Company only if:
- (a) the Company has received in full all monies due and owing to it and prior written notice of the assignment or transfer; and
  - (b) the Customer procures that the third party enters into a new contract with the Company in respect of the storage of the goods with the Company until the release of the cargo to such third party in accordance with these Conditions. Upon the new contract taking effect, the existing contract between the Company and the Customer in respect of the goods or part thereof so transferred shall automatically terminate.
- 34.3 The Company may at any time remove the goods received for storage prior to the expiry of the storage period, if in the opinion of the Company, there is a valid and/or urgent reason for such removal, e.g.:
- (c) if the Customer has consistently failed to comply with one or more provisions of these Conditions;
  - (d) if the Company is of the opinion that the goods are or are likely to cause loss and/or damage to other goods, storage place and equipment, or harm or injury to person(s); or
  - (e) if the goods are perishable or liable to inherent changes which in the Company's opinion is or is likely to cause a decrease in value of the goods, and/or the Customer has neglected to give instructions for preventing or coping with such situation.
- 34.4 The Customer shall remain liable for payment of the warehouse rent up to and including the date the goods are released from the place of storage by the Company. If the goods in the Company's custody are destroyed by fire or other causes, the date of destruction shall count as the date of release.

**Article 35: Special Measures**

- 35.1 Unless otherwise agreed between the parties, the Company is not obliged to take any measures in respect of the goods stored by the Company or on its behalf or their packing save for such measures which are considered to be customary for the goods. All costs and risks arising out of or in connection with any special measures taken by the Company pursuant to this Article shall be borne by the Customer.
- 35.2 However, the Company shall be entitled at its sole discretion to take immediate special measures action (including destruction) in respect of the goods stored by the Company or on its behalf if the Company is of the opinion that failure to take any such measures may lead to loss and/or damage to the goods or other goods, storage place or equipment, or cause harm or injury to persons. All costs and risks arising out of or in connection with any special measures taken by the Company pursuant to this Article shall be borne by the Customer. .
- 35.3 The Company shall notify the last known Customer of any special measures taken pursuant to this Article but failure to give notification shall not give the latter any right of claim against the Company.

**CHAPTER IV - WARRANT PROVISIONS**

In the event that a Warehouse Receipt is issued in accordance with Articles 24.3 and 24.4, all Articles under Chapter IV hereinbelow will similarly apply (save for Articles 36.1(c) and 36.3) and all references to the Warrant Holder will refer to the Customer and all references to the warrant will refer to the Warehouse Receipt.

**Article 36 : Issue**

- 36.1 Upon request by the Customer, the Company may (but is not obliged to) issue a warrant. For purposes of these Conditions, a warrant includes:
- (a) a warrant issued by the Company;
  - (b) a warrant issued by the Company's related corporations; or
  - (c) a warrant issued by the Company or its related corporations in accordance with the rules of the London Metal Exchange ("LME").
- 36.2 The Company shall be entitled to refuse to issue a warrant if the Customer has not paid all monies due and owing to the Company, or there appears to be other grounds for the refusal. If at any time prior to the Customer's request under Article 36.1, the Company has already issued a Warehouse Receipt covering the same goods in the Customer's request ("Existing Warehouse Receipt"), the Company shall not be obliged to issue any warrant until the Customer presents such Existing Warehouse Receipt to the Company for the Company's nullification.
- 36.3 The Customer shall have the right to transfer the title of all of the goods stored with the Company and appearing on a warrant to any entity/individual by endorsing on the original warrant and delivering possession of the same to a third party, whereupon all obligations owed by the Company to the Customer in respect of the transferred goods shall immediately cease, and shall be transferred to the Warrant Holder in accordance with these Conditions.
- 36.4 The warrant issued by the Company in accordance with these Conditions confers on the Warrant Holder a right to delivery of the goods covered under the warrant except that such right to delivery is subject to the Company's claim/lien over the goods or all customs and all formalities prescribed by the authorities for delivery being complied with. Notwithstanding anything to the contrary in these Conditions and in any contract entered between the Warrant Holder and the Company, the Company shall not be obliged to deliver any goods covered under any warrant when such warrant is presented to the Company unless:
- (a) the Company is satisfied as to the authenticity of the warrant covering such goods as a warrant issued by the Company;
  - (b) and, where applicable, such warrant is duly endorsed in accordance with these Conditions.
- 36.5 The Customer remains liable for any discrepancy between the goods for which the warrant has been issued and the description of such goods as stated on the warrant.
- 36.5A (a) Unless the Customer gives notice in writing to the Company of any errors in the truth or accuracy of the description and/or specification of the goods and the particulars thereof as stated on any warrant issued by the Company within three days from the date of the issuance of such warrant, such description, specification and/or particulars of the goods as stated on such warrant shall be deemed to be true and accurate and the Customer agrees that the Company shall not be liable for any controversy that may arise between such description, specification and/or particulars of the goods as they appear on the warehouse warrant and the actual physical quantity and/or quality of such goods.
- (b) Notwithstanding Article 36.5A(a) above, where the Customer receives a warrant endorsed in accordance with these Conditions, unless the Customer gives notice in writing to the Company of any errors in the truth or accuracy of the description and/or specification of the goods and the particulars thereof as stated on any warrant issued by the Company within three days from the date of the endorsement of such warrant, such description, specification and/or particulars of the goods as stated on such endorsed warrant shall be deemed to be true and accurate and the Customer agrees that the Company shall not be liable for any controversy that may arise between such description, specification and/or particulars of the goods as they appear on the warehouse warrant and the actual physical quantity and/or quality of such goods.
- (c) Upon the Company's receipt in writing of any errors in accordance with Articles 36.5A(a) or 36.5A(b) above, the Company shall be entitled to deal with such warrant in accordance with Article 38 of these Conditions.
- 36.6 In the event a warrant is issued, the Company is entitled to deny the release of any goods stored with the Company unless and until it has received the duly endorsed original warrant from the Warrant Holder.



**Article 37: Validity**

- 37.1 Unless otherwise specified in the warrant, the warrant shall have a validity of 3 years from the date of issue.
- 37.2 On the expiry of the warrant, the Company may, if requested by the warrant holder, either:
- (a) agree to replace the expired warrant with a new warrant against payment by the Warrant Holder to the Company of all fees due and payable then and any charges due for the issue of a new warrant; or
  - (b) refuse to issue a new warrant to replace the expired warrant and/or stop the goods covered under the expired warrant from being removed from the stated place of storage unless all monies due and owing to the Company by the Warrant Holder have been settled in full.
- 37.3 If (a) the warrant was not presented for replacement on the expiry date; or (b) after the Company has refused to replace an expired warrant, and the goods have not been removed on the expiry date with outstanding unpaid monies due and owing to the Company, then the holder of the said warrant shall be deemed to have agreed to pay all outstanding monies and the Company shall have the right to sell or dispose off the goods covered under the expired warrant in accordance with these Conditions.
- 37.4 The Company shall use all reasonable efforts to deliver to the last known holder of the expired warrant the goods covered under the warrant within 4 years after the expiry of the warrant, or (as the case may be) the net proceeds from the sale of the goods (without payment of interest and after deduction of the outstanding monies due and owing to the Company and costs incurred in relation to the sale) if the Company has exercised its right of lien in accordance with these Conditions.
- 37.5 The Company shall no longer be obliged to deliver the goods or account for the proceeds of sale of the goods to the last known holder of the expired warrant or any other person after the expiry of the said 4 years. Upon the expiry of the said 4 years, the last known holder of the expired warrant shall cease to have any rights or title to such goods.

**Article 38: Mutilations and Any Errors**

- 38.1 All modifications or amendments to any parts of the contents of a warrant (including all erasures, deletions, insertions, mutilations), and any apparent errors on the warrant shall render the warrant invalid. For purpose of this Article 38, an "apparent error" shall mean any information on the warrant that the Company has any reasons to believe is inaccurate, wrong or false in any respect of the goods covered under the warrant.
- 38.2 Where the warrant is rendered invalid by any of the reasons set out in Article 38.1, the Company shall be entitled to demand from the last known Warrant Holder of such invalidated warrant, and such Warrant Holder shall be obliged to surrender to the Company such invalidated warrant. Upon delivery of such invalidated warrant, the Company shall be entitled to cancel the same. Upon cancellation of such invalidated warrant, the invalidated warrant shall become null and void, and all of the Company's obligations under such nullified warrant shall cease.
- 38.3 If the last known Warrant Holder fails to deliver the warrant to the Company as demanded by the Company in accordance with Article 38.2 above within 14 days of such demand, the Company may, at the expense of the last known Warrant Holder, make an announcement in any 2 daily newspapers or other periodical publications selected by the Company at its discretion and without reference to the Warrant Holder to unilaterally declare that such warrant is invalidated in accordance with these Conditions and the invalidated warrant shall become null and void, and all of the Company's obligations under such nullified warrant shall cease.
- 38.4 The Warrant Holder whose warrant has been rendered invalid by any of the reasons set out in Article 38.1 may, on surrendering the same, apply to the Company for a new warrant to be issued by the Company upon payment of the charges involved. Upon receiving such application, the Company may (but is not obliged to) issue a new warrant. In issuing the new warrant, the Warrant Holder agrees that the Company shall rely on the description, specification and/or particulars of the goods to be covered under the new warrant furnished by the Warrant Holder and such description, specification and/or particulars of such goods shall be deemed to be

conclusive evidence of the physical quantity and/or quality of such goods covered under the new warrant.

#### **Article 39: Loss/Destruction**

- 39.1 If a warrant is lost, damaged or destroyed, the person entitled to it may make an application to the Company for either a nullification of the warrant or issue of a new copy of the warrant. The application must set out in full the cause of the loss (including where applicable, enclosing a copy of the police report in relation to such loss) or damage/destruction, and the grounds on which the applicant proves his title over the goods. The Company may demand an advance of money as security in connection with the application.
- 39.2 If enquiries made by the Company give no reason to doubt the truth of the grounds of the application, the Company may, at the expense of the applicant, make an announcement in any 2 daily newspapers or other periodical publications selected by the Company to invite persons who believe they have title to the goods mentioned in the said warrant to oppose, within 14 days of the publication of the announcement and by means of a writ, the application to nullify the warrant, or issue a new warrant, for the said goods.
- 39.3 If the Company does not receive any opposition within 14 days after the announcement, it may forthwith approve the application to nullify the warrant before delivering the goods covered under the warrant, or issuing a new warrant for the goods, to the applicant:
- (a) The nullification of any warrant shall be published immediately in the newspaper or periodical publications referred to in Article 39.2. Upon such nullification, the warrant shall become null and void, and all of the Company's obligations under such nullified warrant shall cease.
  - (b) In issuing a new warrant, the Company shall only look to its records as valid evidence in relation the description and quantity of the goods covered under the warrant and such information shall, save for manifest error, be deemed to be definitive and conclusive.
- 39.4 If the Company receives any opposition within 14 days after the announcement, the Company shall not approve the application received under Article 39.1 until it shall have been established by a final and conclusive decision or decree that the applicant is the person entitled to the goods.
- 39.5 The person who is the beneficiary of the nullified/new warrant or the goods covered under the nullified/new warrant shall indemnify and hold harmless the Company from any claim, cost, expense and loss suffered or incurred by the Company on account of such delivery. The Company may further require security to be given in this respect.
- 39.6 All costs and expenses howsoever incurred by the Company in any legal proceedings or intended legal proceedings effected by or against the Company in connection with the nullification of any warrant, or issue of a new warrant, in accordance with this Article shall be borne by the applicant.

#### **Article 40: Storage/Transfer of Goods**

- 40.1 The Company shall be entitled to decide the place of storage for the goods covered under the warrant, or whether the goods should be transferred to another storage place. In the event that the transfer has been effected in the interest of the goods or through circumstances beyond the Company's control, the cost of such transfer and the risk of transport shall be borne by the Customer. If the goods are transferred to another storage place, the Company shall notify the Warrant Holder but failure to notify shall not give the Warrant Holder any right of claim against the Company.

#### **Article 41: Access to Goods**

- 41.1 The Warrant Holder and/or any persons authorised by him shall be given information and access to the place of storage of the goods covered under the warrant in accordance with these Conditions. Such access shall be subject to the following:
- (a) compliance with security, conditions and other formalities prescribed by the Company, or its agents/subcontractors or any relevant authorities;

- (b) access is provided only during the Company's ordinary working hours and in the presence of an authorised representative of the Company; and
- (c) any cost incurred, and/or any damage caused, directly or indirectly, by the Company as a result of the Warrant Holder's access to the goods shall be borne by the Warrant Holder.

#### **Article 42: Execution of Work**

- 42.1 The Company shall charge the Warrant Holder for any services to be carried out in respect of the goods covered under the warrant. Work shall only commence after the warrant has been lodged.
- 42.2 Work which the Company does not wish to undertake may, after the Company's approval has been obtained and after the warrant has been lodged with it, be executed by or on behalf of the Warrant Holder, subject to the conditions to be laid down by the Company, under the supervision of the Company and against payment of the cost involved, but without any liability for the Company.
- 42.3 The Company shall use reasonable endeavour to record any alteration, decrease or change in the number of items of the goods covered under the warrant caused by part delivery, sampling and handling of the goods. If there is no space left on the warrant for such recording, the warrant shall be replaced at the Warrant Holder's expense.

#### **Article 43: Special Measures**

- 43.1 Unless otherwise agreed between the parties, the Company is not obliged to take any measures in respect of the goods covered under the warrant or their packing save for such measures which are considered to be customary for the goods. All risks in any special measures taken by the Company pursuant to this Article shall be borne by the Warrant Holder.
- 43.2 However, the Company shall be entitled at its sole discretion to take immediate special measures action (including destruction) in respect of the goods covered under the warrant if the Company is of the opinion that failure to take any such measures may lead to loss and/or damage to the goods or other goods, storage place or equipment, or cause harm or injury to persons. All risks in any special measures taken by the Company pursuant to this Article shall be borne by the Warrant Holder.
- 43.3 The Company shall notify the last known Warrant Holder of any special measures taken pursuant to this Article but failure to give notification shall not give the latter any right of claim against the Company.

#### **Article 44: Removal**

- 44.1 If the Company no longer wishes to keep the goods covered under the warrant (a) on or after the expiry of the warrant or (b) in the event any contract between the Company and the Customer is terminated in accordance with Article 56, the Company shall summon the last known Warrant Holder to remove the goods. The Warrant Holder is required to present to the Company the duly endorsed original warrant, failing which the Company is entitled to deny the removal of the goods. If the last known Warrant Holder fails to respond to the summons within 14 days, the Company shall be entitled to dispose of the goods covered under such warrant (including the sale of such goods at such price to be determined absolutely by the Company) at its absolute discretion and the Customer accepts that it shall not have any claims against the Company for any such disposal on the basis of law or equity or otherwise.
- 44.2 Before proceeding with such disposal provided in Article 44.1, the Company shall make 2 announcements at intervals of at least 14 days in 2 daily newspapers, one of which is published in the place where the Company has its registered office. In each announcement, the Company shall state its intention to dispose of the goods and unilaterally declare that any warrant covering such goods intended to be sold shall become null and void, and all of the Company's obligations under such nullified warrant shall cease on the 14<sup>TH</sup> day from the date of the announcement. If the Warrant Holder fails to respond within 14 days from the date of the second announcement or if he has come forward and no agreement has been reached as to removal of the goods, the Company shall be at liberty to dispose of the goods, whether by private contract or otherwise.
- 44.3 Notwithstanding the expiry of any warrant, the holder of such expired warrant shall continue to be

liable to the Company for all charges due and owing to the Company in respect of the goods, and all costs incurred by the Company in making the relevant announcements and conducting the sale, all of which shall be recoverable from the proceeds of the sale. If after such deductions there is a balance, such balance shall be treated in accordance with Articles 37.4 and 37.5.

**Article 45: Demand/Set off**

45.1 Without prejudice to any other provisions in these Conditions (including Article 10), the Company shall be entitled to demand or set off (in full or in part) the following charges prior to delivery of the goods covered under the warrant:

- (a) storage charges for so many months as the warrant shows to have elapsed and which has not been recorded therein as already having been paid prior to delivery, to be calculated on the basis of the monthly charges stated to be payable in the warrant together with increases of rent, if any, (parts of months shall count as full months);
- (b) insurance premium for so many months as the warrant shows to have elapsed and which has not been recorded therein as already having been paid prior to delivery;
- (c) costs incurred in the delivery of the goods covered under the warrant to be calculated at the then existing rate and all disbursements incurred by the Company in respect of customs or any other formalities prescribed by the relevant authorities for the delivery of such goods;
- (d) all costs and expenses incurred by the Company after the date of issue in order to preserve the said goods covered under the warrant or to eliminate any dangers caused by such goods to any equipment, persons or any other goods stored in the same warehouse; and in respect of the costs of any measures taken in respect of such goods which are necessitated by circumstances beyond the Company's control;
- (f) all penalties, claims, damages, costs and expenses whatsoever arising in connection with the goods covered under the warrant and any other amounts due to the Company as evidenced by the warrant.

**Article 46: Insurance**

46.1 The Customer is obliged to take out adequate insurance, including but not limited to cargo insurance and insurance covering damage that can be caused by the goods. Unless otherwise stated in the warrant that the goods are insured and subject to Article 46.2, the Company shall not be obliged to insure the goods covered under the warrant.

46.2 If the Company has agreed with the Customer that it shall arrange for insurance:

- (a) all insurance effected shall be subject to the usual exceptions and conditions of the policies of the insurance company or underwriters;
- (b) the Company shall not be responsible as regards the choice of the insurer and its ability to pay;
- (c) the insured value shall be the value as mentioned in the warrant or the Company's estimate of the current value of the goods covered under the warrant;
- (d) the risks to be covered shall be clearly stated by the Warrant Holder. A mere statement by the Customer is not enough; and
- (e) the Customer shall be liable for all insurance premiums calculated on the basis of one full calendar month such that part of a month shall count as one full calendar month unless otherwise agreed in writing by the Company.

46.3 By giving instructions for effecting the insurance, the Warrant Holder shall be deemed to have appointed the Company as its agent to make all arrangements with the insurer, including those regarding the conditions of insurance and settlement of claims in respect of any damage. When acting as an agent of the Warrant Holder by virtue of this Article, the Company shall be entitled to

collect the amount of any claims but shall only be obliged to pay the compensation received by it to the Warrant Holder after deducting all monies due and owing to the Company.

- 46.4 The Company shall not be liable for any loss arising from the failure by the insurer to pay in full or in part or because a claim in respect of damage is being disputed as a result of circumstances for which the Company cannot be held liable irrespective of the manner in which the Company was concerned in effecting the insurance.
- 46.5 If the goods covered under the warrant and which are in the Company's custody are destroyed by fire or any other causes (regardless of whether the insurance was effected through the intermediary of the Company):
- (a) the Company shall use reasonable endeavours to notify the last known Warrant Holder of such destruction but such person shall have no rights to claim against the Company for failure to give such notification;
  - (b) the date of destruction shall count as the date of delivery and all charges (including any insurance premium due for so many months as have elapsed and have not been recorded in the warrant as already paid, parts of months to count as full months) payable by the Customer to the Company shall be due up to and including such date; and
  - (c) if the Company's assistance for assessment of the damage is desirable or necessary, the Company may render such assistance in return for payment by the Customer at a rate fixed by the Company and provided that all other monies due and owing to the Company have been paid in full.
- 46.6 If the Company uses derricks and any other such equipment for carrying out any services, it shall be entitled to arrange for insurance at the Customer's expense to cover the risks arising from such use.

#### Article 47: Alteration of Insured Value

- 47.1 Alteration of the insured value and termination of the insurance shall be possible only if the warrant is lodged for endorsement thereof. In all other cases the insurance shall terminate upon delivery of goods covered under the warrant.
- 47.2 Upon the delivery of part of the goods, the insured value shall be reduced by the corresponding number of units if the insured value per unit is stated in the warrant. Upon delivery of part of the goods if the warrant does not show the insured value per unit and a proportionate decrease is not apparent from the warrant, the insured value of the goods to be delivered shall be stated separately and recorded in the warrant. In the absence of such a statement, the Company shall be entitled to reduce the insured value at its option in the same proportion as the goods have decreased in number, weight, size and/or contents of packages.

### CHAPTER V - SHIPBROKING WORK CONDITIONS

#### Article 47A: General Provisions

- 47A.1 To enable the Company to carry out the Shipbroking Service, the Customer shall:
- (a) appoint the Company as its agent to act for and on its behalf to carry out all the Shipbroking Services; and
  - (b) in such appointment of the Company as the Customer's agent, confer on the Company all necessary power, authority, and license in order that the Company may perform the Shipbroking Services, including but not limited to, the power to enter into contracts with third parties on the Customer's behalf and for the Customer's benefit.
- 47A.2 If in the case of any contract of affreightment between charterer and shipowner, it is agreed that the shipbroker appointed by the charterer is to act as the ship's agent, and where the Company is the said shipbroker, the charterer and shipowner shall be jointly and severally liable as principals vis-à-vis the Company according to the terms envisaged by these Conditions.

- 47A.3 The Company shall be at liberty to contract out aspects of its Shipbroking Work to third parties for the benefit of the Customer. The Company shall also make use in the execution of its obligations of goods / equipment of third parties, on the conditions that are customary in the branch of trade of these third parties concerned or that the third parties themselves have laid down for their business. The Company shall then also be entitled though not obliged to, vis-à-vis, the Customer, rely on those conditions, inclusive of conceivable arbitration, jurisdiction and/or choice of law clauses therein.
- 47A.4 The Customer (including the third party which becomes party to the contract between the Company and the Customer) shall see to it that all permits necessary in the performance of the Shipbroking Services are obtained and kept as well as that all the regulations falling under the obligations of the Customer are complied with.
- 47A.5 In all instances where the Company receives cargo for shipment or transport, it shall be deemed to have this cargo in its charge and render its services concerning these goods as authorised agent of the Customer / shipper / sender until such time as when it has been taken over by or on behalf of the ship / the carrier. This does not apply if, at taking over of the goods, the Company has explicitly stated that it is acting on behalf of the carrier. In the aforesaid instances, the cargo remains entirely at the risk and expenses of the Customer / shipper / sender and all costs such as berth dues, demurrage charges in respect of barges, demurrage on wagons, discharging of barges and wagons, superintendence, weighing, expenses for work at night or overtime shall be at the expense of the Customer / shipper / sender.
- 47A.6 The Company does not represent or warrant the accuracy or correctness of the information it receives from third parties and which is communicated to the Customer. Such aforesaid information includes but is not limited to, information concerning port facilities, dispatch of cargo, cost and expenses for related services quoted by third parties, the status and progress of loading and unloading of cargo, the status of arrival and departure of vessels or cargo.
- 47A.7 In all contracts that the Company enters into with third parties in pursuance of the Shipbroking Services, the Customer agrees to be personally liable to such third parties for all of the Company's obligations thereunder, including but not limited to all laycan obligations.
- 47A.8 The Company is never responsible for the proper collection or holding of monies for anyone's behalf due on delivery of goods shipped on cash-on-delivery terms.
- 47A.9 The Company shall be entitled to do all of the following:
- (a) where the Company holds any cargo or things in its custody on behalf of the Customer:
    - (i) withhold delivery of such cargo or things to any third parties without giving any reasons whatsoever;
    - (ii) cease to hold in custody such cargo or things by giving the Customer written notice of its intention to do so; and
  - (b) in the event the Customer does not take delivery of such cargo or things pursuant to any Company's notice given in accordance with Article 47A.9(a)(ii), for whatsoever reasons, by the deadline stipulated by the Company:
    - (i) the Customer fully, forever, and irrevocably waive any and all rights that it has, whether now or in the future, in such cargo or things;
    - (ii) the Customer fully, forever, and irrevocably releases and discharges the Company from all claims that it may have against the Company, whether now or in the future, in respect of such cargo or things; and
    - (iii) the Customer authorizes the Company to dispose of such cargo or things at the Company's sole discretion; and
    - (iv) where the Company disposes of such cargo or things by way of a sale of such cargo or things pursuant to Article 47A.9(b)(iii), the Customer hereby authorizes the Company to set off from the proceeds of the sale of such cargo or things against all monies at any time due and owing from the Customer to

the Company.

- (c) where the Customer instructs the Company to deliver such cargo or things to any third party and where such third party does not possess the bills of lading entitling such third parties to such cargo or things, the Company may proceed to deliver up the cargo or things to such third party by taking into possession or acquiring appropriate security from the third party. The appropriateness of any security taken by the Company in this Article 47A.9 (c) shall be at the discretion of the Company.

47A.10 The Company shall not, under any circumstances, be obliged to do any of the following:

- (a) provide any security in its own name to any third party for the benefit of the Customer, unless agreed otherwise between the Company and the Customer;
- (b) take out any insurance in its own name for the benefit of the Customer, unless agreed otherwise between the Company and the Customer;

47A.11 The Company is authorised by the Customer, but is not obliged to, demand payment in the Company's own name of amounts outstanding and to institute proceedings against any third parties for sums due and owing to the Customer.

47A.12 Where the Company names the Customer or adequately identifies the Customer amongst parties interested in the shipping and transportation industry by the use of abbreviations or otherwise or by giving the name of the ship, the Company shall not on its own account be liable for the payment of orders or instructions which it has placed or given on behalf of the Customer to third parties. Any payment in respect of such order or instruction made by Company shall be considered an advance which at all times can be claimed back as long as the Company has not itself received the amount concerned from the Customer.

47A.13 The Customer shall be liable to the Company in respect of all obligations entered into vis-à-vis the Company by the Master of the Ship to which the Company renders its services on behalf of the Customer, and in respect of any and all instructions whether emanating from the Master or from the Customer or from their subordinates, or written on their stationery. This is notwithstanding instances where the Master, or the person by whom such instruction has been given on behalf of the Customer, has exceeded his authority, unless the Customer proves that the Company had knowledge of such lack of authority, or that this could reasonably have been established by the Company.

47A.14 Notwithstanding the generality of Article 13, the Customer shall hold the Company harmless in all cases where the Company is itself liable to third parties (including the authorities and/or departments or services of the authorities) in respect of its actions or omissions carried out on behalf of the Customer vis-à-vis such third parties which shall include all fines as may be imposed upon the Company, and in particular but not exclusively, where the Company has acted as licensed customs agent, except for instances where there has been wilful misconduct or negligence tantamount thereto on the part of the Company.

47A.15 The Company makes no representation or warranty as to the availability of berths and the time of performance of the Shipbroking Services.

47A.16 The Company is entitled to rely on the information it receives as set out in Article 47A.6 in the performance of the Shipbroking Services. The Company is not obliged to ensure the correctness of such information.

## **CHAPTER VI - STEVEDORING WORK CONDITIONS**

### **Article 47B: General Provisions**

47B.1 In carrying out its Stevedoring Work, the Company is entitled to:

- (a) have its Stevedoring Work carried out in whole or in part by staff and equipment of third parties as well as, at the discretion of the Company, with the help of the loading and unloading equipment and/or drive power of the Means of Transport to be made available by the Customer free of charge;

- (b) rely on the custom, rules and regulations of the relevant port or ports (where applicable). The Company shall not be liable to the Customer for anything done by the Company in accordance with the custom, rules and regulations of such port or ports (where applicable).
- 47B.2 The Customer shall do all things necessary to allow the Company to carry out the services under this Chapter in a safe and responsible manner and without delay, including but not limited to, the loading and unloading of the goods and/or consignment
- 47B.3 The Customer (including the third party which becomes party to the agreement between the Company and the Customer) shall see to it that all necessary permits are obtained and kept as well as that all the regulations falling under the obligations of the Customer are complied with. In the event that the Customer is uncertain as to whether the obtaining of a particular permit or compliance with a particular regulation falls on it, it is to seek clarification from the Company within a reasonable period of time.
- 47B.4 The Company makes no representation or warranty as to the availability of berths and the time of execution of the services under this Chapter.
- 47B.5 The Customer must prepare the Means of Transport and the goods to be loaded or unloaded from it at its own expense and risk such that the Company is able to carry out the work safely, in a responsible manner and without delay.
- 47B.6 In case of refusal, suspension, interruption or termination of the Stevedoring Work, the Customer must ensure that the Means of Transport and corresponding items shall be removed at the first request thereto by the Company. If this is not done, the Company shall be entitled to take appropriate measures at the expense and risk of the Customer.
- 47B.7 The stevedoring work does not entail inspection or insurance of the goods unless this has been explicitly agreed in writing, in which case, the cost of inspection and insurance shall be borne by the Customer.
- 47B.8 The Customer warrants that all packaging of the goods forming the subject of the Stevedoring Services is sea-proof, in good order, secure and appropriate for the mode of transportation chosen by the Customer (including but not limited to containers in which the goods are stowed) and is appropriately and adequately labeled. The Customer further warrants that such aforesaid labeling of the goods comply with all applicable laws and regulations.
- 47B.9 The Customer shall notify the Company in writing, at least 14 business days in prior to the commencement of Stevedoring Work, of the possibly special or dangerous nature, scale and treatment of the goods as well as, in general, provide the Company with all instructions and information of which the Customer is aware of, or ought to be aware of, that the Company will need to carry out the Stevedoring Work safely, in a responsible manner, and without any delay. Any additional work in connection with the non-fulfilment of this shall be at the expense of the Customer.
- 47B.10 The Customer warrants that all persons entering onto the premises where the Company carries out the Stevedoring Work shall comply with all safety rules and regulations applicable to such premises (whether imposed by law or otherwise). The Company at all times reserves the right to remove from such premises all persons who do not comply with such safety rules and regulations applicable to such premises
- 47B.11 The Customer shall ensure that all contracts it enters into with all third parties in connection with the services to be provided by the Company under this Chapter ("Third Party Contracts") shall contain a clause to the effect that the Company will be entitled to rely on all rights and benefits made in favour of the Customer in the Third Party Contracts, including but not limited to provisions excluding and/or limiting the Customer's liability to the third party, and which are enforceable against such aforesaid third parties ("Himalaya Clause").
- 47B.12 Notwithstanding the generality of Article 13, the Customer shall hold the Company harmless in all cases where the Company is itself liable to third parties (including the authorities and/or departments or services of the authorities) in respect of its actions or omissions carried out on behalf of the Customer vis-à-vis such third parties which shall include all fines as may be



imposed upon the Company, except for instances where there has been wilful misconduct or negligence tantamount thereto on the part of the Company.

**Article 47C: Electronic data interchange**

- 47C.1 The interchange of messages between the Customer and the Company may take place via electronic interchange of structured and standardized messages between information systems (also known as “EDI”) if agreed in writing.
- 47C.2 If data interchange via EDI has been agreed between the Company and the Customer, this must be effected in accordance with internationally applicable messaging standards and recommendations.

**Article 47D: Dangerous Goods**

- 47D.1 Except under special arrangements previously made in writing, the Company shall not accept or deal with any Dangerous Goods (as defined in Article 21.1).
- 47D.2 If the Company however agrees in advance to accept any Dangerous Goods under these Conditions, the Customer shall ensure that the Dangerous Goods are accompanied by a full declaration of their nature and contents, and properly and safely packed and labeled in accordance with applicable laws and regulations for the time being in force in the relevant jurisdiction(s) including ensuring that all such packages are clearly and indelibly marked to show the hazardous nature of their contents.
- 47D.3 Notwithstanding that the Company may have accepted the Dangerous Goods under arrangement previously agreed between the parties in writing, the Customer agrees that the Dangerous Goods may be so destroyed or otherwise dealt with by the Company at its sole discretion and in any way deemed fit by the Company at the Customer's risk and expense on account of risk to other goods, property, life or health.
- 47D.4 If the Customer delivers any Dangerous Goods to the Company or cause the Company to handle or deal with such goods otherwise than under special arrangements previously agreed between the parties in writing, the Customer shall be liable for all loss or damage whatsoever caused by or to or in connection with such goods howsoever arising, including such loss or damage caused to third parties which the Company is obliged to compensate and/or damage caused by injury and/or any form of financial loss. The Customer shall further indemnify the Company against all penalties, claims, damages, costs (including all legal costs calculated on an indemnity basis) and expenses whatsoever and howsoever arising in connection therewith.
- 47D.5 In the event that the goods handled by the Company in the performance of the Warehousing Services are deemed to be dangerous pursuant to the relevant regulations for the carriage of dangerous substances on inland waterways, by road or by sea, such handling of the goods shall be governed in accordance with such laws and regulations applicable in the relevant jurisdiction(s).

**Article 47E: Perishable Goods**

- 47E.1 Except under special arrangements previously made in writing, the Company shall not accept or deal with any perishable goods.
- 47E.2 If the Customer nonetheless delivers any perishable goods to the Company or cause the Company to handle or deal with such goods otherwise than under special arrangements previously agreed between parties in writing, the Company shall be entitled, at its sole discretion and without any further notice to the Customer, to sell or dispose of all such perishable goods. All charges and expenses incurred by the Company in connection with such sale or disposal shall be borne by the Customer.
- 47E.3 Payment or tender, at the Company's sole discretion, by the Company to the Customer of the net proceeds (if any) of such sale or disposal after deduction of all outstanding fees and charges and expenses shall be equivalent to delivery.

**Article 47F: Precious Goods**

- 47F.1** Except under special arrangements previously agreed between the parties in writing, the Company shall not accept or deal with gold, coins, precious stones, jewellery, valuables, antiques, pictures, livestock or plants.
- 47F.2** If any Customer nevertheless delivers such goods to the Company or cause the Company to handle or deal with such goods otherwise than under special arrangements previously agreed between the parties in writing, the Company shall be under no liability whatsoever for any loss, damage or claim however caused in connection with the goods.

**Article 47G: Insurance**

- 47G.1** The Customer is obliged to take out and maintain adequate insurance, including but not limited to cargo insurance and insurance covering damage that can be caused by the goods. Unless otherwise agreed between the parties and subject to Article 33.2, the Company shall not be obliged to arrange for any insurance in respect of the goods delivered into its custody. Upon request, the Customer shall give the Company access to the insurance policy concerned for inspection and to make copies of the same.
- 47G.2** If the Company has agreed with the Customer that it shall arrange for insurance:
- (a) all insurance effected shall be subject to the usual exceptions and conditions of the policies of the insurance company or underwriters;
  - (b) the Company shall not be responsible as regards the choice of the insurer and its ability to pay;
  - (c) the risks to be covered shall be clearly stated by the Customer or the Company's estimate of the current value of the goods. A mere statement by the Customer of the value is not enough;
  - (d) the Company shall not be under any obligation to effect a separate insurance on each consignment but may declare it on any open or general policy; and
  - (e) the Customer shall be liable for all insurance premiums calculated on the basis of one full calendar month such that part of a month shall count as one full calendar month unless otherwise agreed in writing by the Company.
- 47G.3** By giving instructions for effecting the insurance, the Customer shall be deemed to have appointed the Company as its agent to make all arrangements with the insurer, including those regarding the conditions of insurance and settlement of claims in respect of any damage. When acting as an agent of the Customer by virtue of this Article, the Company shall be entitled to collect the amount of any claims but shall only be obliged to pay the compensation received by it to the Customer after deducting all monies due and owing to the Company.
- 47G.4** The Company shall not be liable for any loss arising from the failure by the insurer to pay in full or in part or because a claim in respect of damage is being disputed as a result of circumstances for which the Company cannot be held liable irrespective of the manner in which the Company was concerned in effecting the insurance.
- 47G.5** If the goods in the Company's custody are destroyed by fire or any other causes (regardless of whether the insurance was effected through the intermediary of the Company):
- (a) the date of destruction shall count as the date of delivery and all charges payable to the Company shall be due up to and including such date; and
  - (b) if the Company's assistance for assessment of the damage is desirable or necessary, the Company may render such assistance in return for payment by the Customer at a rate fixed by the Company and provided that all other monies due and owing to the Company have been paid in full.
- 47G.6** If the Company uses derricks and any other such equipment for carrying out any Services, it shall be entitled to arrange for insurance at the Customer's expense to cover the risks arising from such use.

## **CHAPTER VII - ESCROW WORK PROVISIONS**

### **Article 47H: General Provisions**

- 47H.1 Upon the request of the Customer, the Company may agree to carry out Escrow Work for a fee that shall be agreed between the Customer and the Company prior to the Company carrying out the Escrow Work.
- 47H.2 Where the Company and the Customer have agreed that the Company shall carry out the Escrow Work, it shall be a condition precedent the Customer shall forward to the Company the documents that are to be held in escrow by the Company ("Documents") before the Company is obliged to carry out the Escrow Work.
- 47H.3 The Customer acknowledges and accepts that in performing the Escrow Work, the Company does not now or in the future owe the Customer or any other persons any duties at law in respect of an escrow agent or a stakeholder or otherwise, including any fiduciary duties or otherwise.
- 47H.4 The authorize the Company holds and to release the Documents ("Authority") conditioned upon the occurrence of certain events that shall be specified by the Customer and agreed by the Company ("Events").
- 47H.5 In the event the Events do not occur by the deadline specified by the Customer ("Deadline"), the Authority shall be fully and finally revoked with immediate effect from the Deadline. Upon revocation in accordance with this Article, such Authority shall cease to have any further force or effect.
- 47H.6 The Customer warrants and undertakes to the Company that it shall not unilaterally revoke the Authority prior to the Deadline.
- 47H.7 In the event the Authority is revoked in accordance with this Article, the Company shall not be obliged to hold the Documents for more than 30 days after the Deadline. In such event, on the 31<sup>st</sup> day after the Deadline, the Company shall be entitled to dispose off the Documents in any manner it deems fit without any recourse against it by the Customer. Provided always that prior to the expiry of 30 days after the Deadline, the Customer may instruct the Company to return the Documents to it at the Customer's costs and risk.
- 47H.8 The Customer agrees that:
- (a) without derogation to the generality of Articles 14 and 15 above, the Company shall not be liable for the authenticity, validity, contents and/or any defects in any of the documents the Company is requested by the Customer to receive and to hold in accordance with the Escrow Work.
  - (b) without derogation to the generality of Article 13 above, the Customer shall fully indemnify the Company against all loss, damages, expenses and claims of whatsoever nature and howsoever arising suffered or incurred by the Company (including all legal costs calculated on an indemnity basis) in connection with or arising out of the Company carrying out the Escrow Work at the Customer's request and instructions.
- 47H.9 Notwithstanding the generality of Article 13, the Customer shall hold the Company harmless in all cases where the Company is itself liable to third parties (including the authorities and/or departments or services of the authorities) in respect of its actions or omissions carried out on behalf of the Customer vis-à-vis such third parties which shall include all fines as may be imposed upon the Company, except for instances where there has been wilful misconduct or negligence tantamount thereto on the part of the Company.

## **CHAPTER VIII - CONCLUDING PROVISIONS**

### **Article 48: Extinction of Claims**

- 48.1 Unless a written notice of loss, damage or inaccurate delivery in respect of any parcel, package, container, consignment (packed or otherwise) or any part thereof and the general nature of such loss, damage or inaccuracy is given to the Company on or before the removal of the goods into

the custody of the Customer or the person entitled to delivery thereof, such removal shall be prima facie evidence of the delivery by the Company of the goods as described in the relevant instruction to, or under the contract with, the Company. If the loss, damage or inaccuracy is not apparent, the notice must be given within 7 days of the delivery.

48.2 Subject to Article 48.1, the Company shall be discharged from all liability in respect of loss, damage, inaccurate delivery, misdelivery or in respect of any other breach of contract or of any terms hereof whatsoever and howsoever incurred if a claim by way of a Writ of Summons is not instituted either within four weeks after the Customer has become aware of such loss, damage, inaccurate delivery, misdelivery or in respect of any other breach of contract or of any terms hereof whatsoever and howsoever incurred, or within 3 months from the date the goods departs from the premises of the Company, whichever term is earlier.

48.3 For purposes of Article 48.2:

- (a) in the case of damage or inaccurate delivery, the said period of 3 months shall commence on the day immediately following the date of delivery; and
- (b) in the case of total loss of the goods, the said 3 months period shall commence on the day immediately following the date of notification of such loss by the Company to the Customer or the last known Warrant Holder of the goods, or where he no longer have the warrant in his possession and no new holder has notified the Company of his possession of the warrant, such period shall commence on the day immediately following the expiry of 7 days from the date of announcement of the loss in at least 2 daily newspapers, one of which is published in the place where the Company has its registered office.

#### **Article 49: Non-applicability of the Customer's Terms and Conditions**

49.1 The applicability of any of the general terms and conditions of the Customer and/or its subcontractor(s), whether or not printed on any documents, is explicitly rejected by the Company.

#### **Article 50: Notices**

50.1 Any notice required to be given pursuant to these Conditions shall be deemed to have been validly given if addressed to the party to whom the notice is given and sent by prepaid registered post or delivered by hand to the address of such party above given, or to its last known address, and such notice shall be deemed to have been served on the recipient on date of service if delivered by hand, or upon the expiry of 48 hours after the date of posting if sent by prepaid registered post. Whether or not the Customer expressly acknowledges receipt, the Customer shall be bound thereby so long as the Company can show that same has been forwarded by ordinary despatch, facsimile, electronic mail, or post.

#### **Article 51: Severability**

51.1 If any part of these Conditions is found to be invalid, illegal or unenforceable under any enactment or rule of law or by a competent court or tribunal in any jurisdiction, such part shall be held ineffective to the extent of such invalidity, illegality or unenforceability without invalidating or otherwise affecting the other provisions and these Conditions shall be construed as if such invalid, illegal or unenforceable part had never been contained herein.

51.2 Each provision hereof is to be construed as a separate limitation applying and surviving even if for any reason, one or more of the said provisions is held inapplicable or unreasonable in any circumstances.

#### **Article 52: Assignment**

52.1 Subject to Article 36.3, the Customer shall not assign or transfer any rights and obligations under any contract made with the Company or pursuant to these Conditions to any third party without the Company's prior written consent.

52.2 The Company may assign its rights or transfer its obligations under any Contract made with the

Customer pursuant to or any Contract made with the Customer incorporating these Conditions to its related corporations (as defined in the Companies Act, Cap. 50) without the Customer's prior written consent.

**Article 53: Entire Agreement**

- 53.1 The contract made between the Company and the Customer which incorporates these Conditions shall constitute the entire agreement between them, and supersedes all previous oral and written agreements between them, in relation to the subject matter hereof.
- 53.2 If any legislation is compulsorily applicable to any services performed by the Company pursuant to these Conditions, then the applicable provisions of these Conditions shall be read subject to such compulsory legislation. Nothing in these Conditions shall be construed as a surrender by the Company of any rights or immunities or as an increase of any responsibilities or liabilities under such legislation. If any provision hereof shall be repugnant to such legislation, the affected provision of these Conditions shall be void to that extent but no further.

**Article 54: Variation**

- 54.1 The Company may amend, vary or supplement these Conditions at any time and from time to time. The Company shall make available the latest version of these Conditions containing all amendments, variations, and/or supplements to the same made in accordance with this Article 54 at <http://www.steinweg.com/conditions/foreast/>. The latest version of these Conditions containing all such amendments, variations, and/or supplements shall take effect on such date determined by the Company.
- 54.2 The Customer shall be deemed to have taken notice of all amendments, variations or supplements to these Conditions on the date the Company makes available the latest version of these Conditions containing all such amendments, variations, and/or supplements made available at <http://www.steinweg.com/conditions/foreast/>. The Customer undertakes to keep itself apprised and updated on all such amendments, variations or supplements in the latest version of these Conditions made available at <http://www.steinweg.com/conditions/foreast/>.

**Article 55: Force Majeure**

- 55.1 No party shall be liable for any delay or other non-performance resulting from circumstances or causes beyond its reasonable control, including the following events which shall, *inter-alia*, be regarded as *force majeure* events:
- (a) war, threat of war, official action, quarantine, civil disturbance, sabotage, strike, lock-out, interference with communications, lack of transport, labour and/or storage accommodation;
  - (b) storm, fog, lightning, flood, high and low tide, frost, freezing, ice, heat;
  - (c) fire, explosions, water used against fires, smoke, burglary, theft, loss, subsidence, collapse, water, seepage, damp odour, stench, worms and rodents, damage through rats, mice, insects and other creatures;
  - (d) the natural properties of goods, changes in quality, spontaneous deterioration, self-generated heat, combustion, explosion, drying, mould, yeasts, leaks, rot and mildew, rust and sweating;
  - (e) breakage of glass, wickered bottles and flasks, cast-iron and other brittle articles, inadequate packing; and
  - (f) all other things which the Company could not reasonably prevent.
- 55.2 If any *force majeure* event prevents, hinders, or delays the Company's performance of any service for a period exceeding 48 hours, the Company may, notwithstanding any provisions herein and at its sole option, terminate any agreement for the provision of any service with immediate effect and without any further liability to the Customer, the Warrant Holder or any other person entitled to the goods.

55.3 Notwithstanding anything to the contrary in this Article 55, the Customer shall continue to be liable to the Company for all charges and expenses incurred by the Company at its discretion arising out of or in connection with any force majeure event, and whether under the Customer's instructions or otherwise, until such time the Company ceases to provide any of the services to the Customer,

#### Article 56: Termination

56.1 Either party may forthwith terminate any contract made between them if the other party shall be bankrupt, make an assignment for the benefit of its creditors, enter into any arrangement or composition with its creditors, or goes into liquidation.

56.2 All payments that the Customer is obliged to pay to the Company under any contract between the Company and the Customer shall become immediately due and owing and shall become immediately payable to the Company in the event that the Customer becomes bankrupt, make an assignment for the benefit of its creditors, enter into any arrangement or composition with its creditors, or goes into liquidation.

56.3 Without prejudice to Articles 56.1 and 56.4, the Company may terminate any contract between the Company and the Customer upon giving the Customer 7 days' prior written notice if the Customer defaults in the prompt performance and observance of any of the terms of such contract (including those terms relating to the payment of any sums due thereunder) and such default shall continue unremedied to the satisfaction of the Company for 14 days from the date of a written notice by the Company requiring an immediate rectification of such breach. In the event of such termination, the Customer shall not be entitled to claim for any damages or costs from the Company.

56.4 Notwithstanding any provision herein, the Company reserves the right to terminate any contract at any time by serving prior written notice of at least 30 days on the Customer. In the event of such termination with notice, the Customer shall not be entitled to claim for any damages or costs from the Company.

#### Article 57: Confidentiality & Right to Disclose Customer Information

57.1 The Customer shall not use (other than for the purpose of utilising the Service) or disclose to any person any information relating to the Company or any Services provided by the Company or its agents/sub-contractors pursuant to these Conditions (the "Company's Information") other than information which is or has become publicly available otherwise than through a breach of any obligation of the Customer.

57.2 The Customer hereby consents that the Company shall be entitled, to use in any manner and for any purpose whatsoever or to disclose information or data provided by or relating to the Customer to any other person in connection with the Company's performance of obligations under these Conditions and/or compliance with applicable laws.

57.3 Upon the termination of any contract between the Company and the Customer and/or at the Company's request, the Customer shall promptly return to the Company or destroy all such Company's Information and all copies thereof (including both physical and electronic copies).

57.4 The Customer shall take all steps necessary to protect and preserve the confidentiality of the Company's Information.

#### Article 58: Waiver

58.1 No failure on the part of the Company to exercise, and no delay on its part in exercising, any right, remedy, power or privilege under these Conditions will operate as a waiver thereof, nor will any single or partial exercise of any right, remedy power or privilege preclude the Company from any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

#### Article 59: Governing Law & Dispute Resolution Forum

59.1 These Conditions shall be governed by, and construed in accordance with the laws of Singapore.

- 59.2 Parties hereto submit to the exclusive jurisdiction of the courts of Singapore.
- 59.3 Notwithstanding Article 59.2 above, only in the event that the Customer is a Chinese party, all disputes arising out of or in connection with any contract made with the Customer which cannot be settled by discussion and mutual accord between the parties shall be referred by either party to be finally resolved by arbitration in Singapore in accordance with the Arbitration Rules of the Singapore International Arbitration Center (“SIAC”) for the time being in force, which are deemed to be incorporated by reference into these Conditions. Unless otherwise agreed by the parties in writing, the arbitration tribunal shall comprise three arbitrators, i.e. one to be appointed by the Company, one to be appointed by the Customer and the third arbitrator to be appointed by the Chairman of SIAC. The arbitration shall be conducted in the English language.

**Article 60: Online Services**

- 60.1 The Customer shall be bound by such terms and conditions (“Online T&Cs”), including but not limited to the Company’s General Terms and Conditions of Use of the Company’s website at [www.steinwegonline.com](http://www.steinwegonline.com) (“Website”) annexed hereto as Annex A, and the Company’s Privacy Policy annexed hereto as Annex B, or any other terms or conditions as may be imposed by C.Steinweg Warehousing (F.E.) Pte. Ltd. (or such other person as may be designated by the Company) (“Website Operator”) in connection with the Customer’s use of any online services provided via the Website. In using the Website, the Customer hereby agrees with the Company that the Company may provide access to all data collected from, or in relation to, the Customer to be processed, transferred, stored and used by the Company and the Website Operator.
- 60.2 No variation, waiver, breach or termination under the Online T&Cs or any other arrangement made between the Customer and the Website Operator shall affect the obligations of the Customer under these Conditions or any other applicable conditions in relation to the goods which shall continue in full force and effect.

## Annex A

### GENERAL TERMS AND CONDITIONS OF USE OF COMPANY'S WEBSITE [www.steinwegonline.com](http://www.steinwegonline.com)

C.Steinweg Warehousing (F.E.) Pte. Ltd. ("The Company") maintains all information, communications, compilations, images, software, text, graphics and other materials offered on [www.steinwegonline.com](http://www.steinwegonline.com) ("Website") from time to time for use by its Customers or the general public and only for the lawful purposes described therein.

The Company reserves all rights to revise, amend, and/or withdraw these terms and conditions and the Website, whether in whole or in part, at any time and without notice. In consideration of the right to access the Website, view the contents in the Website, and to utilize online services provided via the Website ("Online Services"), the Customer agrees to be bound by these terms and conditions and any other terms, policies, rules and regulations from time to time required by or issued by the Company in respect of any specific Online Services provided via the Website. The Customer further agrees that it shall regularly visit the Website to keep itself up to date and understand all prevailing terms, rules, regulations or policies relating to the use of the Website.

1. **Copyright and Trademark Notice:** The Customer acknowledges and accepts that all content located on the Website is copyrighted and protected by international copyright and trademark laws. The Customer may download materials displayed on the Website for his/her own personal and non-commercial use only provided the Customer retains in its possession at all times all copyright and proprietary notices on downloaded and/or copied material. Save as specifically permitted in these terms and conditions, no material contained within the website may be reproduced, modified, distributed, published, displayed, posted or hyperlinked in any form or by any means without the prior written permission of the Company.
2. **Privacy:** The Customer agrees to be bound by the terms of the Company's Privacy Policy which may from time to time be revised, amended, and/or withdrawn without notice to the Customer.
3. **Security:** Certain data transmissions between the Customer and the Website are conducted through secure servers and protected by Secure Socket Layer (SSL) technology. Certain Online Services provided via the Website may require the Customer to use passwords and digital signatures. While the Company will use reasonable endeavours to provide reasonable precautions to protect confidential information received from the Customer, the Company shall not be liable to the Customer for any loss or damage arising out of or in connection with the transmission of information over the internet. The Company does not represent, warrant, or undertake that any transmission of information over the internet is secure or that such transmissions will be free from any delays, interruptions, interceptions or errors.
4. **Disclaimer of Warranty:** The Company provides the Online Services on an "as is where is" basis. THE COMPANY, ITS EMPLOYEES, SUBSIDIARIES, AFFILIATES, ASSOCIATES AND RELATED CORPORATIONS MAKE NO WARRANTY AND HEREBY DISCLAIM ALL AND ANY WARRANTY, EXPRESS OR IMPLIED, (TO THE FULLEST EXTENT PERMITTED BY LAW) (1) IN RESPECT OF THE USE, SECURITY, ACCURACY, RELIABILITY, TIMELINESS, NON-INFRINGEMENT, SATISFACTORY QUALITY OR FITNESS FOR ANY PARTICULAR PURPOSE OF THE CONTENT OR OF THE USE OF THE SITE; (2) IN RESPECT OF HARM ARISING FROM DOWNLOADING OR ACCESSING ANY INFORMATION OR MATERIAL THROUGH THE SITE, INCLUDING WITHOUT LIMITATION, HARM CAUSED BY VIRUSES OR SIMILAR CONTAMINATION OR DESTRUCTIVE FEATURES; AND (3) THAT THE CONTENT AND ANY FUNCTIONS ASSOCIATED THEREWITH WILL BE UNINTERRUPTED OR ERROR-FREE OR THAT THE SITE AND ITS SERVER WILL BE FREE OF ALL VIRUSES AND/OR OTHER HARMFUL ELEMENTS.
5. **Exclusion of Liability:** IN NO EVENT SHALL THE COMPANY, ITS EMPLOYEES, SUBSIDIARIES, AFFILIATES, ASSOCIATES AND RELATED CORPORATIONS BE LIABLE TO ANY PARTY FOR ANY DAMAGES, EXPENSES, CLAIMS, COSTS OR LOSSES OF ANY KIND (OTHER THAN FOR DEATH OR PERSONAL INJURY RESULTING DIRECTLY FROM THE USE OF THE SITE CAUSED IN WHOLE OR IN PART BY THE COMPANY'S NEGLIGENCE) ARISING OUT OF ANY LEGAL CLAIM (WHETHER IN CONTRACT, TORT OR OTHERWISE), CUSTOMER USE OF OR INABILITY TO USE THE WEBSITE, THE CONTENT OR THE HYPERLINKS, INCLUDING BUT WITHOUT LIMITATIONS, SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES.
6. **Governing Law and Jurisdiction:** This Agreement shall be governed by the laws of Singapore and all disputes arising out of or in connection with the use of this Website shall be deemed to have taken place in Singapore. Where any dispute arising out of or in connection with the use of this Website cannot be resolved by discussion and mutual accord between the Parties, such dispute shall be submitted to the exclusive jurisdiction of the Courts of Singapore.



## Annex B

### Privacy Policy

1. C.Steinweg Warehousing (F.E.) Pte. Ltd. ("The Company") is committed to safeguard the Customer's privacy. The terms of this Privacy Policy shall govern the treatment of the Customer's personal information on [www.steinwegonline.com](http://www.steinwegonline.com) ("Website") when the Customer utilizes the online services provided *via* the Website ("Online Services").
2. During the Customer's registration for use of the Online Services, the Company will ask for the name, and email address of the Customer. Upon successful completion of the registration process, the Customer shall become a registered user of the Website and shall be given access to the Online Services. Whenever the Company seeks and obtains to obtain personal information from the Customer, it will make an effort to bring to the Customer's attention this Privacy Policy on that page.
3. The purpose of collecting personal information about the Customer is to provide the Customer, with a customized experience while utilizing the Online Services. Such customized experience includes, but is not limited to personalized services, interactive communications and many other services. By having the personal information about the Customer, the Company believes it would be able to deliver more relevant content, and hence provide improved services, to the Customer.
4. By transmitting any personal information about itself to the Company, the Customer consents the Company to disclose such personal information to the Company's associated corporations ("Steinweg Group of Companies") without the Customer's prior consent. The Customer further accepts and agrees that:
  - a. the Company and the Steinweg Group of Companies may disclose such personal information about the Customer to any third party without the Customer's prior consent :
    - (i) where to the extent necessary to facilitate any negotiations between the Company and any third party relating to transactions to buy or sell cargo through the Online Services; and
    - (ii) where required by law, any regulatory body or any recognised stock exchange;
    - (iii) where the Company has reasons to believe that disclosure of such information is necessary to identify, contact or bring legal action against a person who may be violating the Company's General Terms and Conditions of Use of the Website or may cause (either intentionally or unintentionally) injury to and/or interfere with the Company's rights and/or property and/or the rights of other users of the Online Service.
  - b. the Company and the Steinweg Group of Companies may utilize any personal information about the Customer that is transmitted to the Company in any manner and for any purpose at its discretion to the extent allowed at law.
5. Access to the Customer's user account shall be subject to a password. Such password shall be held by the Customer and shall be the Customer's sole duty to keep such password secure. The Customer shall not divulge its password to anyone. The Customer shall remember to sign out of its user account and close its browser window when it wishes to disengage the Online Services and if the Customer is using a shared computer or a publicly accessible computer, the Customer acknowledges that it has been advised by the Company to ensure that the cache memory on such computer is emptied when it closes the browser on which the Online Services were accessed in order that the contents of the HTML screens may not be viewed by subsequent users of such computer.
6. If the Customer is registered as a user of the Website, the Company may provide the Customer with information related to the Online Services (e.g. the availability of specific commodities which Customer has indicated an interest in receiving notices concerning specific types of cargo in any auctions, spotsells or other trading services offered on the Website) via email or short message system (SMS) technology. The Customer may opt out of this information service by sending an email to notify the Company accordingly.

7. All information relating to the Customer is channeled through a secure internet server using encryption technology that seeks to ensure that Customer's information is protected when being sent over the Internet. Notwithstanding anything to the contrary in this Privacy Policy and the General Terms and Conditions of Use of the Website, the Company does not represent or warrant that data transmission over the internet is 100% secure. While the Company strives to protect the Customer's personal information, the Customer acknowledges and accepts that it cannot ensure or warrant that the security of any information that the Customer transmits to the Company over the Internet. The Customer accepts and agrees that it transmits any information over the internet whether in relation to or in connection with the Website or the Online Services shall be at the Customer's own risk. Upon the Company's receipt of any information from the Customer, the Company endeavours to take all reasonable efforts to ensure that, but shall not be liable for, the information from the Customer is secure on and over the Company's systems.
8. If there are any queries about the Company's Privacy Policy or any Online Services, please send such queries via email to the administrator at [administrator@steinwegonline.com](mailto:administrator@steinwegonline.com).