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## **THE GENERAL TERMS AND CONDITIONS OF C. STEINWEG DISTRI PARK BUSAN CO., LTD**

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**CHAPTER I – GENERAL**

**Article 1: Applicability**

1.1 Unless otherwise expressly provided in Specific Terms (as defined under Article 1.3 below), these general terms and conditions (“these Conditions”) shall be applicable to all and any business or activities undertaken, including any advice, information or service provided, by C. Steinweg Distripark Busan Co.,Ltd for a fee or otherwise, regardless of whether this is effected pursuant to orders or on other grounds. These 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, which includes any bank, 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;
- (c) any party who becomes party to the contract between the Company and the Customer;
- (d) any party who has ownership of and/or title to the goods stored with the Company; and/or
- (e) any party who has security interest over the goods stored with the Company.

To the extent that these Conditions apply to any single agreement, they shall continue to apply without exception to any and all future Services to be performed by the Company and to future agreements concluded with the Company.

1.2 These Conditions shall apply to the Services as follows:

- (a) Chapters I, II and VIII hereof apply to the legal relationship between the Company and all Customers in respect of the Company’s Forwarding Work or related work.
- (b) Chapters I, III and VIII hereof apply to the legal relationship between the Company and all Customers in respect of the Company’s Warehousing Work or related work.
- (c) Chapters I, IV and VIII hereof apply to the legal relationship between the Company and all Warrant Holders and between the Company and all Customers (as applicable) in respect of Warrants issued by the Company.
- (d) 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.
- (e) 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.
- (f) 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.
- (g) Chapters I and VIII (collectively, the “General Provisions”) hereof apply to the legal relationship between the Company and all Customers in respect of the Company performing other Services which are not covered by Chapter II, III, IV, V, VI or VII (collectively, the “Specific Service Provisions”).

1.2A In the event of conflict or inconsistency between any provision of these Conditions, the provisions shall be interpreted according to the following order of priority:

- (a) in respect of a specific Service, the Specific Service Provisions applicable to that specific Service, if any; and
- (b) the General Provisions.

1.3 Subject to Article 1.2, 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 favourable 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.

1.3A The Steinweg Digital Services Terms and Conditions and the Privacy Policy of the Company (the "Privacy Policy"), each of which may be amended, varied, supplemented or updated from time to time, are deemed incorporated by reference into these Conditions. The latest version of the Steinweg Digital Services Terms and Conditions is made available at [https://www.steinweg.com/uploads/steinweg/conditions/digital\\_services\\_terms\\_and\\_conditions/singapore\\_dstc.pdf](https://www.steinweg.com/uploads/steinweg/conditions/digital_services_terms_and_conditions/singapore_dstc.pdf) and the version of the Steinweg Digital Services Terms and Conditions in effect as of the date of these Conditions is attached hereto as an Annex. The latest version of the Privacy Policy is made available at [https://www.steinweg.com/uploads/steinweg/privacy\\_policy/singapore\\_privacy\\_policy.pdf](https://www.steinweg.com/uploads/steinweg/privacy_policy/singapore_privacy_policy.pdf).

1.4 These Conditions may further be supplemented by other conditions stipulated by third party service providers (including Sub-Contractors) with whom the Company has made contracts for the purpose of carrying out the Services required by the Customer in connection with the goods. In the event of conflict or inconsistency between any provision of these Conditions and other conditions stipulated by third party service providers (including Sub-Contractors), such conflict or inconsistency shall, in the absence of any express agreement to the contrary, be resolved in a manner most favourable to the Company.

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, without prejudice to Article 1.4.

#### 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, railway wagons, aircrafts and/or vessels, even if these Services are performed pursuant to a transport order) and/or acting in its capacity of receiving agent and/or customs agent and/or warehouse keeper and/or shipbroker and/or stevedore and/or provider of other logistic services.

2.2 Subject to Article 1.2, Services which are not specifically part of Forwarding Work, Warehousing Work, Shipbroking Work, Stevedoring Work or Escrow Work (including but not limited to work performed by carriers, insurance agents' surveyors, inspectors 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.

#### Article 3: Definitions and Interpretation

3.1 In these Conditions, the following words shall have the meanings assigned to them below unless the context otherwise requires:

- (a) "**Commodities Exchange Warrant**" means a numbered, stamped and legally signed receipt issued by the Company (including through its Related Corporation), in a form approved by and in accordance with the applicable rules and regulations of the London Metal Exchange ("LME") or other listed commodities exchanges, 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.
- (b) "**Escrow Work**" means the receipt of documents from one party, holding the same, and releasing the same on behalf of that party to another.
- (c) "**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.
- (d) "**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.

- (e) **“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.
- (f) **“Related Corporation”** means an affiliate of the Company designated by the Company to perform any function in respect of or in connection with the Services.
- (g) **“Services”** means all services performed or to be performed by the Company at the request of or for the benefit of the Customer including but not limited to, Forwarding Work, Warehousing Work, Warrants-related work, Shipbroking Work, Stevedoring Work, Escrow Work and Steinweg Digital Services (as defined in Article 60 of these Conditions), regardless of whether such service is effected pursuant to orders or on other grounds.
- (h) **“Shipbroking Work”** means the attending to and handling of ships and transportation matters by the Company acting as an intermediary for shipowners, carriers, voyage charter party, time charterers and/or masters of seagoing vessels. This includes but is not limited to the Company assisting in the concluding of chartering contracts and acting in its capacity as ship manager.
- (i) **“Stevedoring Work”** means the loading and unloading of Means of Transports, including but not limited to the acceptance, temporary storage, shifting, weighing, repackaging, visual checking, ordering the visual checking and/or delivery of goods, the execution of shipping activities and the use of floating cranes, shore cranes or other kinds of cranes.
- (j) **“Sub-Contractor”** means any of the following third parties which the Company or a Related Corporation directly appoints or engages to perform any part of the Services: (i) companies providing the services of forklift drivers, temporary labourers and security guards working at the Warehouse Facilities; and/or (ii) logistics companies providing trucking services for transferring goods to and from the Warehouse Facilities.
- (k) **“Warehouse Facilities”** means the warehouses which are operated by the Company or a Related Corporation or such other warehouses operated by third parties whose services the Company or a Related Corporation may engage from time to time.
- (l) **“Warehouse Receipt”** means a non-transferable and non-negotiable instrument issued by the Company (including through its Related Corporation) in accordance with these Conditions, confirming the receipt of goods by the Company or a Related Corporation from the Customer or its agents or representatives, described in its heading as a warehouse receipt.
- (m) **“Warehouse Warrant”** means a certificate of the holder of goods delivered by or on behalf of the Customer to the Company, to be issued by the Company (including through its Related Corporation), in favour of the Customer or any other entity or individual as required by the Customer in respect of each consignment of goods delivered to the Company for the provision of Services.
- (n) **“Warehousing Work”** means the storage, delivery or holding in custody of goods, including the issuance or the agreement to issue a warehouse receipt, delivery order and/or release for similar purposes and extending to all other value added services in respect of such goods in the Warehouse Facilities and/or on the site of the Warehouse Facilities.
- (o) **“Warrant”** means (i) a Warehouse Warrant; or (ii) a Commodities Exchange Warrant; or (iii) a Warehouse Receipt.
- (p) **“Warrant Holder”** means a person who makes himself known as such to the Company by producing a Warrant.

3.2 Unless the context otherwise requires, words in the singular include the plural and vice 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. The words “include”, “including”, “such as” and similar expressions shall be interpreted to be illustrative only and are not used as, nor are intended to be interpreted as, words of limitation or exclusive enumerations.

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

4.1 In entering into any contract with the Company, the Customer expressly warrants that it 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, the Customer 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 it 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 itself to these Conditions;
- (b) authorised to accept (and is accepting) these Conditions not only for itself 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 by written confirmation of the Company or by the Company starting with the execution of the orders or instructions, 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. For the avoidance of doubt, the acceptance by the Customer of a quotation shall not in itself constitute a binding contract between the Customer and the Company. A contract between the Customer and the Company shall only come into effect in accordance with Article 6.2.

5.3 After the Customer has accepted a quotation, the Company may still revise the quotation and be entitled to additional payment, with notice to the Customer, if there are cost-increasing factors beyond the control of the Company or which are based on circumstances of such a nature that when concluding the contract with the Customer, it was not deemed necessary to take into account the risk that they could occur. Such factors include but are not limited to changes in currency exchange rates, rates of freight, insurance premiums, labour or energy rates, 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, freight, import duties, insurance premiums and/or other costs, under whatever title, are subject to increases or surcharges or in cases where the authorities introduce or increase charges imposed on the Services after the date on which the order is accepted, the Company shall be entitled to apply such increases or surcharges accordingly to the rates and tariffs of ongoing orders. This shall be binding upon the Customer.

5.5<sup>1</sup> 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 upon the Customer.

5.6 Current and agreed rates for storage shall be based on the customary method of stacking or dumping the relevant goods unless otherwise specifically agreed in writing. If at the Customer's request or due to the condition of the goods or government regulation the customary method of stacking or dumping is not followed, an increase in the rates shall be applied proportional to the additional floor space occupied compared to the customary method of stacking or dumping.

5.7<sup>2</sup> Unless otherwise specifically agreed in writing, 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.

5.8<sup>3</sup> 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

<sup>1</sup> Formerly Article 5.4A of version 1.6 of these Conditions

<sup>2</sup> Formerly Article 5.5 of version 1.6 of these Conditions

<sup>3</sup> Formerly Article 5.5A of version 1.6 of these Conditions

may be charged at the sole and absolute discretion of the Company, unless agreed otherwise between the Company and the Customer.

- 5.9 Where the Company has been engaged to provide Stevedoring Work, it is entitled to adjust any already accepted rates in all fairness if after the conclusion of the agreement cost-increasing factors occur that are beyond the control of the Company. Non-exhaustive examples are (government) measures in the area of safety, quality, the environment and taxation aspects and market developments in the area of labour and energy that had not been taken into account upon entering into the legal relationship with the Company. If in the reasonable opinion of the Company the circumstances have changed after the conclusion of the agreement such that it is unfair to expect that the Company shall (continue to) carry out the Stevedoring Work even against the rates that have been adjusted in accordance with this Article, the Company shall have the right to dissolve the agreement if and insofar as this refers to the Stevedoring Work not yet carried out, without becoming liable to pay damages as a result.

#### **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 deemed received by the Company if immediately followed by a written confirmation from the Company, unless otherwise agreed. The Company has sole and 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 earlier of the following: (a) the date of the Company's written acceptance of any order or instruction from the Customer; (b) the date on which the Company starts performing the Customer's order or instruction; or (c) after 2 working days from the Company's receipt of the Customer's order or instruction, if the Company failed to inform the Customer of its decision to accept or reject such order or instruction, and in each case these Conditions are deemed incorporated in and form part of such order or instruction which is accepted or deemed accepted.
- 6.2A Any amendment to the contract by the Company shall be deemed accepted by the Customer if the Customer does not reject such amendment within 14 days after notification of such amendment. This provision shall not apply to the Company's right to adjust rates and tariffs under Article 5 above.
- 6.3 The Customer may not assign or transfer the benefit of, and rights under, any contract made with the 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 written request of the 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 are taken subject to, these Conditions and any other terms and conditions imposed by the Company from time to time. The Customers, holders of Warehouse Receipts 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 any Warrant, pledge or release of goods. The Customer shall indemnify the Company for any losses, damages, costs, expenses and claims 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<sup>4</sup> The Customer (including the third party which becomes a party to the contract between the Company and the Customer) shall see to it that all permits and/or licences necessary for the conduct of the Customer's business and for the Company to carry out the Customer's instructions as per applicable laws are obtained and kept as well as that all the regulations applicable to the obligations of the Customer are complied with. In the event that the Customer is uncertain as to whether the obligation of obtaining a particular permit or compliance with a particular regulation falls on it, it shall seek clarification from the Company before delivering any instruction to the Company.

<sup>4</sup> Formerly Articles 18.1, 25.1, 47A.4 and 47B.3 of version 1.6 of these Conditions



- 7.3A** The provision of information to the Company, that is reasonably provided to enable customs formalities to be carried out, shall imply an order, unless otherwise agreed in writing. The Company is never obliged to accept an order to carry out customs formalities and unless the Company expressly agrees to carry out customs formalities, the Customer shall be and remain responsible for carrying out all customs formalities, including obtaining and delivering to the Company all customs clearances and other import/export declarations and procedures in respect of the goods.
- 7.4<sup>5</sup>** To enable the Company to perform the Services, the Customer shall timely provide the Company with all relevant information and documents such as but not limited to information and documents 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 recognised as such) of or within the goods;
  - (c) legal consequences (ownership, storage banned elsewhere, customs formalities, etc.);
  - (d) whether a special method of storage is required or necessary due to the nature of the goods;
  - (e) whether the goods are subject to governmental provisions, including customs and excise regulations and tax rules;
  - (f) special directions regarding the method of loading and/or unloading; and
  - (g) all other particulars which are of importance to the Company.
- 7.5<sup>6</sup>** If the vessel, truck, railway wagon, container and/or goods have been fumigated, then the Customer is obliged to inform the Company well in advance, at the latest 7 days prior to arrival in Korea or any other designated harbour, of the fumigant used and in which container(s), barge(s), hold(s), truck(s), wagon(s) and/or packing it was applied. Degassing and/or aerating the vessel, truck, railway wagon, container and/or goods to safety concentrations will be at the Customer's risk and expense.
- 7.6** The Company has the right to refuse goods in case the Customer does not fulfil its obligations pursuant to Articles 7.3, 7.3A, 7.4 and 7.5 of these Conditions or in case the goods arrive in a damaged or defective condition. However, the Company's acceptance of goods does not constitute the Company's acknowledgement that the Customer has fulfilled its obligations pursuant to Articles 7.3, 7.3A, 7.4 and 7.5 of these Conditions or that the goods did not arrive in a damaged or defective condition, nor does it waive any of the Company's rights in those respects.
- 7.7<sup>7</sup>** 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, properties or safety, all at the Customer's risk and expense.
- 7.8<sup>8</sup>** The Customer shall not sell or otherwise dispose of (the whole or 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 obligations in this Article 7.8, the Customer shall continue to be bound to the Company for 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.
- 7.9<sup>9</sup>** If the Customer sells or otherwise disposes of (the whole or 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.
- 7.10<sup>10</sup>** The Customer is obliged to immediately notify the Company in writing of any 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. However, the Company's receipt of such a notice does not waive or affect any of the Company's rights under these Conditions with respect to the Company or the goods that are the subject of the notice.

<sup>5</sup> Formerly Articles 18.2 and 25.2 of version 1.6 of these Conditions

<sup>6</sup> Formerly Articles 18.6 and 25.5 of version 1.6 of these Conditions

<sup>7</sup> Formerly Articles 18.7 and 25.6 of version 1.6 of these Conditions

<sup>8</sup> Formerly Article 18.7A of version 1.6 of these Conditions

<sup>9</sup> Formerly Articles 18.8 and 25.7 of version 1.6 of these Conditions

<sup>10</sup> Formerly Articles 18.9 and 25.8 of version 1.6 of these Conditions

- 7.11<sup>11</sup> 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 at least 7 days prior to the departure of the Means of Transport from the premises of or premises designated by the Company or its Related Corporation, failing which any such claim against the Company will be barred.
- 7.12<sup>12</sup> The Company determines the order of sequence in which vessels, trucks, barges or any other Means of Transport will be loaded or unloaded and determines time and place for berthing or parking. 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.
- 7.13<sup>13</sup> The Company is entitled to have the Services carried out in whole or in part by staff and equipment of third parties as well as, at the discretion of the Company and free of charge, 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.
- 7.14<sup>14</sup> Once an order or instruction 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.
- 7.15<sup>15</sup> 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 right 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.
- 7.16<sup>16</sup> Notwithstanding any specific order or instruction from the Customer, if the Company takes the view in its sole and absolute discretion that it is necessary or desirable in the interests of the Customer to depart from the Customer's order or instruction, the Company shall be at liberty to do so and the Customer shall comply with all general directives and specific instructions given by the Company in this regard. All costs and expenses reasonably incurred thereby shall be for the Customer's account.
- 7.17 The agreed rates and tariffs apply during official working hours between 09:00 hours and 16:00 hours (Korean time) Mondays to Fridays, excluding lunch and coffee break and public holidays. Services performed outside official working days and hours (including the evening and night shifts preceding such days) are considered to be overtime services. The rendering of overtime services is subject to applicable special rates and tariffs and to the availability of the Company's workforce.
- 7.18 The Customer accepts that based on applicable laws and regulations to prevent money laundering, terrorist financing, bribery and corruption, the Company is required to report unusual/suspicious transactions to the relevant competent authorities. The Customer accepts that the Company may be obliged by the applicable laws and regulations to identify the Customer and verify the identification. The Customer must afford its full cooperation in this matter. The Company will record the required data and keep them in accordance with applicable laws and regulations. The Customer accepts that the aforementioned disclosure obligation prevails over the Privacy Policy.

#### **Article 7A: Insurance**

- 7A.1<sup>17</sup> The Customer is obliged to take out and maintain adequate insurance, including but not limited to cargo insurance, insurance covering damage that can be caused by the goods and insurance covering its possible liabilities towards the Company. Unless otherwise agreed in writing with the Customer and subject to Article 7A.2, the Company shall not be obliged to arrange for any insurance in respect of the goods or documents 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.
- 7A.2<sup>18</sup> If the Company has expressly agreed in writing with the Customer that it shall arrange for insurance:

<sup>11</sup> Formerly Articles 18.10 and 25.9 of version 1.6 of these Conditions

<sup>12</sup> Formerly Article 18.11 of version 1.6 of these Conditions

<sup>13</sup> Formerly Article 47B.1(a) of version 1.6 of these Conditions

<sup>14</sup> Formerly Article 7.4 of version 1.6 of these Conditions

<sup>15</sup> Formerly Article 7.5 of version 1.6 of these Conditions

<sup>16</sup> Formerly Article 7.6 of version 1.6 of these Conditions

<sup>17</sup> Formerly Articles 23.1, 33.1, 46.1 and 47G.1 of version 1.6 of these Conditions

<sup>18</sup> Formerly Articles 23.2, 33.2, 46.2 and 47G.2 of version 1.6 of these Conditions

- (a) all insurance effected shall be subject to the usual exceptions and conditions of the policies of the insurance company or underwriters and the Company shall not be responsible for the condition(s) negotiated with the insurance company or underwriters;
- (b) the Company shall not be responsible as regards the choice of the insurer and its ability to pay or be responsible for their reliability or their solvency;
- (c) the risks to be covered shall be clearly described and enumerated by the Customer. A mere general statement of risks by the Customer is not enough;
- (d) the value to be insured shall be the amount stated by the Customer or, if there is a value mentioned in a Warrant, the value mentioned in the Warrant;
- (e) the Company shall in all cases exclusively be regarded as intermediary without any liability;
- (f) 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;
- (g) 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;
- (h) if the Company has arranged an insurance policy in its own name, it may, at its sole and absolute 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; and
- (i) if it has been agreed between the Company and the Customer that the Company is to effect insurance of the goods for account of the Customer, then the Company shall have the right in its sole and absolute discretion to effect the agreed insurance in the name of the Customer, or to include such insurance in a policy of the Company.

**7A.3<sup>19</sup>** 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 (without prejudice to Article 7A.2), 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.

**7A.4<sup>20</sup>** 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.

**7A.5<sup>21</sup>** 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) if the goods are covered under a Warrant, the Company shall use reasonable endeavours to notify the Last 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 of such goods shall count as their date of delivery and all charges (including any insurance premium due for so many months as have elapsed and have not been recorded as already paid, parts of months to count as full months) payable to the Company shall be due up to and including such date; and
- (c) if the Company's assistance for assessment of the damage or loss is desirable or necessary, the Company may render such assistance in return for payment by the Customer of all associated costs, plus all fees for the Company's efforts (at a rate fixed by the Company), and provided that all other monies due and owing to the Company have been paid in full.

<sup>19</sup> Formerly Articles 23.4, 33.3, 46.3 and 47G.3 of version 1.6 of these Conditions

<sup>20</sup> Formerly Articles 23.5, 33.4, 46.4 and 47G.4 of version 1.6 of these Conditions

<sup>21</sup> Formerly Articles 33.5, 46.5 and 47G.5 of version 1.6 of these Conditions

- 7A.6<sup>22</sup> If the Company uses equipment such as derricks, cranes, forklift trucks and/or 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 7B: Electronic Data Interchange**

- 7B.1<sup>23</sup> The interchange of messages between the Customer and the Company may take place via electronic interchange of structured and standardised messages between information systems ("EDI") if agreed in writing.
- 7B.2<sup>24</sup> 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 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 or performance shall be an estimate only and shall not be binding on the Company.
- 8.2 The Company shall arrange, at its sole and absolute discretion, the rate of speed at which the Services shall be delivered. The rate of speed shall as much as possible be 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 Related Corporations and Sub-Contractors**

- 9.1 The Company is allowed to engage the services of Related Corporations and/or Sub-Contractors to carry out any Services which the Company 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 Related Corporations and/or Sub-Contractors shall be entitled to enforce the rights and benefits of the Company (including any limitation of and/or exemption from liability) under these Conditions or any other statutory or contractual provision.
- 9.2A The Customer agrees that it shall not institute any claim against any Related Corporation arising out of or in connection with any breach of contract between the Company and the Customer or in the performance of any function related to or in connection with the Services under any circumstances whatsoever.
- 9.3 Save as otherwise provided in these Conditions or otherwise agreed by the Company and the Customer, 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**

- 10.1<sup>25</sup> Unless agreed otherwise between the Customer and the Company, the Customer agrees and accepts that the Company shall have the sole and absolute discretion to charge the Customer the Company's prevailing rates for performing the Services for the Customer.
- 10.2<sup>26</sup> 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 (including any suspension of payment).
- 10.3<sup>27</sup> 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 and such error is brought to the attention of the Company within 14 days of receipt, failing which the said invoice shall be considered to be undisputed.

<sup>22</sup> Formerly Articles 23.3, 33.6, 46.6 and 47G.6 of version 1.6 of these Conditions

<sup>23</sup> Formerly Article 47C.1 of version 1.6 of these Conditions

<sup>24</sup> Formerly Article 47C.2 of version 1.6 of these Conditions

<sup>25</sup> Formerly Article 10.0 of version 1.6 of these Conditions

<sup>26</sup> Formerly Article 10.1 of version 1.6 of these Conditions

<sup>27</sup> Formerly Article 10.1A of version 1.6 of these Conditions

- 10.4<sup>28</sup>** 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 Related Corporation as the Company may direct. Payment to an alleged 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.
- 10.5<sup>29</sup>** Unless the contrary is agreed in writing, 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 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, shore cranes or other equipment;
  - (m) overtime pay/cost due to working outside the Company's official working hours or on Saturdays/Sundays/public holidays;
  - (n) cost of providing watchmen;
  - (o) brokerages, commissions, allowances and other remuneration;
  - (p) expenses incurred in connection with the remittance of monies from, to or on behalf of the Customer;
  - (q) payments, fines, expenses, loss or damage whatsoever incurred or sustained by the Company in connection therewith;
  - (r) additional costs due to work of a special nature, unusual jobs or work requiring additional time and/or effort; and
  - (s) any other out-of-pocket expenses.
- 10.6<sup>30</sup>** All costs in Article 10.5 above are to be borne by the Customer.
- 10.7** Payments by the Company, a Related Corporation or a Sub-Contractor made on behalf of the Customer, such as but not limited to disbursements, import duties, ocean freights and costs relating to additional services, will be invoiced separately and have to be paid directly by the Customer upon receipt of the invoice.
- 10.8<sup>31</sup>** In the event of the loading and/or unloading time being inadequate in respect of any Means of Transport, the non-availability of the Means of Transport used by or on behalf of the Customer or any defect of such

<sup>28</sup> Formerly Article 10.1B of version 1.6 of these Conditions

<sup>29</sup> Formerly Article 10.2 of version 1.6 of these Conditions

<sup>30</sup> Formerly Article 10.3 of version 1.6 of these Conditions

<sup>31</sup> Formerly Article 10.4 of version 1.6 of these Conditions

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 demurrage and waiting times for the Means of Transport, 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 even when the Company has accepted the bill of lading and/or the charter party from which such additional costs arise. The Company is entitled to suspend its Services until such payment is received from the Customer by the Company.

- 10.9<sup>32</sup> When goods are accepted or dealt with upon instructions to collect freight, duties, taxes, 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.
- 10.10<sup>33</sup> The risk of fluctuations in foreign currency exchange shall be borne by the Customer.
- 10.11<sup>34</sup> 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 and absolute discretion, impose late payment interest at the rate of 1% per month from the due date up to and including the date of receipt of payment by the Company and/or require payment of all administrative charges and all related legal expenses incurred in connection therewith at such sum as determined by the Company.
- 10.12 If the Company allows deferred payment, it shall be entitled to make a credit limit charge pursuant to any term credit limit agreed with the Customer.
- 10.13<sup>35</sup> The Customer shall bear, pay and indemnify the Company for all taxes (including goods and services taxes), duties, levies, fines and other similar charges (and any related interest and penalties) however designated, imposed under any applicable law in Korea and any other jurisdiction outside Korea with respect to the provision of any Services or on any fees and charges or payment due or payable to the Company (collectively, "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.
- 10.14 When the Company deems it necessary to conduct a legal action or take other legal steps with regard to Taxes imposed by any government or regulatory authority, whether in Korea or elsewhere, or if the Customer requests the Company to conduct such legal action or implement such other legal steps and the Company complies with such a request, the resulting work and costs, including the costs of legal and/or fiscal and/or other advice or assistance deemed necessary by the Company (including all legal costs calculated on an indemnity basis) shall be for the account and risk of the Customer.
- 10.15 In the event of the Company acting or having acted as fiscal agent, all Taxes of whatever nature or indemnifications shall be for the account of the Customer, without prejudice to the provisions of Article 10.13. The Customer shall pay such amounts at the Company's first demand, or, at the 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 10.13 and 10.14 above in such amount and such form as the Company may direct. Such bank guarantee shall be issued by a first-class bank of the Company's choice.
- 10.16<sup>36</sup> The Customer shall accede to the Company's request at any time (whether prior to, during or after performance of any Services and whether or not the goods are in the Company's possession) 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 or if the Customer fails to perform any other obligation it owes towards the Company, the Company shall be entitled to refuse, suspend, interrupt or terminate the Services contracted for, without providing any written warning, notice of default and/or any form of compensation and/or without judicial interposition, and without any liability to the Customer due to such refusal, suspension, interruption or termination of the Services. The Company shall at no time be under any obligation to make any payments whatsoever or to perform any Services on behalf of the Customer until it has received the required prepayments.

<sup>32</sup> Formerly Article 10.5 of version 1.6 of these Conditions

<sup>33</sup> Formerly Article 10.6 of version 1.6 of these Conditions

<sup>34</sup> Formerly Article 10.7 of version 1.6 of these Conditions

<sup>35</sup> Formerly Article 10.8 of version 1.6 of these Conditions

<sup>36</sup> Formerly Article 10.9 of version 1.6 of these Conditions

- 10.17<sup>37</sup> 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.
- 10.18<sup>38</sup> To the fullest extent permitted by applicable law, 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 of 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 reason; 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.
- 10.19<sup>39</sup> Upon the occurrence of any of the events under Article 10.18(e), to the fullest extent permitted by applicable law, 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.
- 10.20<sup>40</sup> 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.
- 10.21<sup>41</sup> 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; Pledge/Retention Right/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, Taxes and/or other costs as required by any government or regulatory 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 (i) demand from the Customer immediate payment of the amount for which security has been furnished and/or (ii) charge the Customer a fee of 1% per month on any such deposit, guarantee or security furnished by the Company, and the Customer shall indemnify the Company from all consequences of its providing such deposit, guarantee or security); and/or
  - (b) retain goods, documents and monies that the Company has or may have in its possession regardless of the grounds and its designated use, as security for all monies due and owing by the Customer or owner of the goods to the Company, whether in connection with claims owed previously, at present or in the future (including in respect of all claims which do not relate to those goods, documents or monies), 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. For this purpose, the Company shall regard anyone who entrusts goods to the Company for performing any Service as the Customer's agent for delivering those goods to, and creating a pledge and/or a right of retention and/or a lien in favour of, the Company.
- 11.2 In the event the Customer fails to provide the security stated in Article 11.1(a) 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 written notice, without judicial intervention and without any obligation upon the Company to pay any form of compensation. The Company

<sup>37</sup> Formerly Article 10.9A of version 1.6 of these Conditions

<sup>38</sup> Formerly Article 10.10 of version 1.6 of these Conditions

<sup>39</sup> Formerly Article 10.11 of version 1.6 of these Conditions

<sup>40</sup> Formerly Article 10.12 of version 1.6 of these Conditions

<sup>41</sup> Formerly Article 10.13 of version 1.6 of these Conditions

shall at no time be under any obligation to make any payments whatsoever to perform any Services for 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/or these Conditions, or if the goods remain uncollected by the Customer, despite notice being given, the Company shall further be entitled to exercise its rights as pledgee and/or right of retention and/or 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 pledge/retention right/lien, the Company is entitled to be paid storage charges at the same rate agreed prior to the exercise of the Company's rights as pledgee and/or right of retention and/or right of lien, or at the rate in force immediately prior to termination.
- 11.5 In exercising its rights as pledgee and/or right of retention and/or right of lien, the Company may sell or otherwise dispose of 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 pledge/retention right/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 Representations and Warranties; Compliance and Sanction Rules**

12.1 The Customer represents and 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, safely 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/or 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 properly and safely stowed/packed and fit to be carried and stored; and
- (e) the information it provides to the Company pursuant to Article 7.4 is 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 Services.

12.2 The Customer represents and warrants that:

- (a) it will comply with all applicable sanctions and restrictions laid down in and ensuing from all relevant US, UN, EU, Singapore, Korea or other relevant authorities' sanctions and export control regulations in force at the conclusion of its contract with the Company and during its performance;
- (b) it will not directly or indirectly pay, offer, give, promise to pay or give, or authorise the payment or giving of, any money or anything of value to any person or entity for the purpose of illegally or improperly including a decision or retaining business or any advantage in connection with its contract with the Company; and
- (c) it will comply with all applicable country laws relating to anti-corruption or anti-bribery, including the Singapore Prevention of Corruption Act, the UK Bribery Act, the US Foreign Corrupt Practices Act, the Korean Anti-Corruption Act and the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions as well as legislation implementing this OECD Convention.

The Customer will fully indemnify and hold harmless the Company against any claim, fine, penalty or other damage to the Company arising from or related to any breach by the Customer of its representations and warranties under this Article 12.2.



- 12.3 Without prejudice to Article 56, the Company is entitled to immediately terminate any contract it has with the Customer if it reasonably suspects that:
- (a) the goods are directly or indirectly intended for any country subject to a sanction pursuant to US, UN, EU, Singapore, Korea or other relevant authorities' regulations for the goods in question, without an exemption or licence having been obtained for this purpose by a competent authority; or
  - (b) the Customer intends to violate or violates the obligations and/or legislation relating to anti-corruption or anti-bribery as mentioned in Article 12.2.
- 12.4 Following the termination of the contract between the Company and the Customer under Article 12.3, any and all obligations of the Company under such contract will lapse immediately. The Customer will fully indemnify and hold harmless the Company against any claim, fine, penalty or other damage to the Company arising from or related to such termination.

### 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, Related Corporations, Sub-Contractors and other representatives (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 or contraband goods; or
  - (b) any defects in the goods and/or packaging, improper stowage, deficient dunnage, inadequate load securing and/or insufficient protection during 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, misleading, 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) any act or omission of the Customer, its employees, affiliates, agents, contractors or representatives (including third parties whose services the Customer engages and/or third parties that work on behalf of the Customer), whether or not such loss, damage, cost, expense or claim was as a result of deliberate intent, negligence, wilful default or otherwise.
- 13.2 The Customer shall indemnify and hold harmless the Company for all third party claims (including all legal costs calculated on an indemnity basis) relating to any damage caused or damage paid or due to third parties (including employees of both the Company and the Customer) resulting from the nature or condition of the goods stored or as a result of the Services performed by the Company (including damage caused by goods provided by the Customer to the Company for the purpose of performing the Services or as a result of handling those goods or caused by the Customer's goods to goods belonging to third parties), save where such damage is directly caused as a result of (a) gross negligence on the part of the Company or (b) an act or omission on the part of the board or management of the Company, done either (i) with the intent to cause that damage or (ii) recklessly and with the knowledge that such damage would result therefrom. Notwithstanding the foregoing, to the fullest extent permitted by applicable law, 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.
- 13.3 In case the Company defends itself legally against claims of third parties as mentioned in Article 13.2, or in case the Company deems it necessary to lodge proceedings or any other legal measures regarding such claims, or in case the Customer requests the Company to lodge such proceedings or take legal measures and the Company agrees to such request, the work and costs, including costs regarding legal and/or tax and/or other forms of advice or assistance deemed necessary by the Company, will be for the risk and account of the Customer. However, the Customer is allowed to take over such legal measures or proceedings with the prior written approval of the Company, using reputable counsel acceptable to the Company and after payment of the costs incurred by the Company up to that moment regarding legal and/or tax and/or other advice and assistance deemed necessary by the Company (including all legal costs calculated on an indemnity basis).
- 13.4 If the Customer is liable towards third parties for damage for which the Customer wishes to have recourse against the Company, the Customer shall enable the Company to be present or represented during the

investigation into the cause and scale of such damage. The Customer must also prove that it has conducted all entitled defences in its legal relationship towards such third party in order to turn down or limit liability, unless the Company has agreed explicitly and in writing to the acceptance of liability by the Customer or has come to a settlement in this respect with such third party. If the Customer still fails to fulfil said obligations, then to the fullest extent permitted by applicable law, the Company shall be discharged from all liability.

- 13.5<sup>42</sup> The Customer shall pay to the Company all sums payable under Articles 13.1, 13.2 and 13.3 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, 13.2 and 13.3 above in such amount and such form as the Company may direct. Such bank guarantee shall be issued by a first-class bank of the Company's choice.
- 13.6<sup>43</sup> The Customer shall indemnify and hold harmless the Company from any claim, loss, damage and expenses (including all legal costs calculated on an indemnity basis) 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.
- 13.7<sup>44</sup> 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 takes 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.
- 13.8<sup>45</sup> The Customer shall further indemnify and hold harmless the Company from and against:
- (a) all and any losses, damages, costs, expenses and claims (including all legal costs calculated on an indemnity basis) on account of any injury to or death of any person or damage to property caused by or resulting from any act or omission of the Customer, its employees, affiliates, agents, contractors or representatives (including third parties whose services the Customer engages and/or third parties that work on behalf of the Customer), whether or not such loss, damage, cost, expense or claim was as a result of deliberate intent, negligence, wilful default or otherwise; and
  - (b) any fines, penalties, confiscation, interest, losses, damages, costs or expenses (including but not limited to material and immaterial damage, consequential damage, damage on account of non-clearance or tardy clearance of customs documents and claims due to product liability and/or intellectual property rights) suffered directly or indirectly by the Company as a result of (amongst other things) (i) its performance of the Services; (ii) the Company's performance of its obligations owed under any contract between the Company and the Customer; and (iii) the non-compliance by the Customer, its employees, affiliates, agents, contractors or representatives (including third parties whose services the Customer engages and/or third parties that work on behalf of the Customer) of any obligation it owes under any contract between the Company and the Customer or pursuant to applicable national and/or international legislation, including in connection with the failure of the Customer, its employees, affiliates, agents, contractors or representatives (including third parties whose services the Customer engages and/or third parties that work on behalf of the Customer), to comply with laws or regulations governing (1) the classification, labelling, packaging of substances, mixtures or chemicals, (2) tax and social security contributions, (3) environment or (4) other laws or regulations.
- 13.9 For purposes of this Article 13, "damage" shall also be understood to include damage to third parties which the Company is obliged to compensate and damage shall also be understood to include damage caused by death or injury and/or any form of financial loss.

#### **Article 14: Exclusion of Liability**

- 14.1 To the fullest extent permitted by applicable law, 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 losses, costs, expenses, claims, damages, injury or death whatsoever and howsoever caused (including but not limited to damage to the goods and/or damage caused by the goods or the handling thereof), save where the Customer proves that the damage was directly caused as a result of (a) gross negligence on the part of the Company or (b) an act or omission on the part of the board or management of the Company, done either (i) with the intent to cause that damage or (ii) recklessly and with the knowledge that such damage would result therefrom. If some of the factors causing the loss,

<sup>42</sup> Formerly Article 13.2A of version 1.6 of these Conditions

<sup>43</sup> Formerly Article 13.3 of version 1.6 of these Conditions

<sup>44</sup> Formerly Article 13.4 of version 1.6 of these Conditions

<sup>45</sup> Formerly Article 13.5 of version 1.6 of these Conditions

cost, expense, claim, damage, injury or death are caused or contributed to by the Customer, its employees, affiliates, agents, contractors or representatives (including third parties whose services the Customer engages and/or third parties that work on behalf of the Customer), the Company's liability shall be on a comparative fault basis. Any liability of the Company shall in any event be subject to Articles 14.4 and 15.

- 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 applicable 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 therefrom 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 losses, 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 Korea 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;
  - (h) for any losses, damages, costs, claims and expenses howsoever incurred or sustained by the Customer where the loss or damage to the goods is due to improper stowage, deficient dunnage, inadequate load securing and/or insufficient protection during packing by the Customer, including third parties whose services the Customer engages and/or its suppliers; and
  - (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, condensation, 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.
- 14.4<sup>46</sup>** The Company shall not be liable whether in contract, tort (including negligence or breach of statutory duty) or otherwise for any:
- (a) consequential, special, indirect, incidental, punitive or exemplary damages, costs, expenses or losses;
  - (b) loss of profits, income, revenue, data or data use, interest, utility, opportunity costs, or business or anticipated savings;
  - (c) loss of demurrage of any Means of Transport (floating or rolling) or dispatch money; or
  - (d) loss of market, whether in tort, contract, under statute or otherwise, by reason of or in connection with any Services performed in accordance with these Conditions.

<sup>46</sup> Formerly Article 14.3(j) of version 1.6 of these Conditions

- 14.5<sup>47</sup> Notwithstanding Article 14.1 and to the fullest extent permitted by applicable law, where the Company has not also been contracted to provide Warehousing Work, 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.
- 14.6 Without prejudice to Articles 14.3 and 55.1:
- (a) in the case of damage and/or loss because of theft by burglary, the Company shall be considered to have applied adequate care if it provided a proper enclosure for the storage place; and
  - (b) in the case of damage and/or loss caused by rats, mice, insects or other vermin, the Company shall be considered to have applied adequate care if it provided the normal pest control in the place of storage.
- 14.7<sup>48</sup> Without derogation to the generality of Article 9.2, all officers, representatives and/or employees of the Company, and all Related Corporations and/or Sub-Contractors of the Company whose services the Company engages 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 Related Corporations and/or Sub-Contractors of the Company.
- 14.8 Notwithstanding Articles 9.2, 14.1 and 14.7, and to the fullest extent permitted by applicable law, (a) 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 in respect of any fines and penalties imposed by any government or regulatory authority as a result of any act or omission whatsoever of any Sub-Contractor, whether due to gross negligence, an act or omission done either (i) with the intent to cause that damage or (ii) recklessly and with the knowledge that such damage would result therefrom, or otherwise and (b) nothing in these Conditions shall be construed as imposing any liability on the Company for any loss, cost, expense, claim, damage or injury whatsoever and howsoever arising which is caused by any act or omission of any person other than the Company, a Related Corporation or a Sub-Contractor, whether due to gross negligence, an act or omission done either (i) with the intent to cause that damage or (ii) recklessly and with the knowledge that such damage would result therefrom, or otherwise.

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

- 15.1 Subject always to Article 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 losses, costs, 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 never 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 losses, costs, expenses, claims (including any third party 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\$7,800 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 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;

<sup>47</sup> Formerly Article 14.4 of version 1.6 of these Conditions

<sup>48</sup> Formerly Article 14.5 of version 1.6 of these Conditions

- (c) where performing Shipbroking 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 shipbroking 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\$1,700 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; and
  - (ii) injury or the death of any person is caused, the aggregate amount of total damages recoverable shall be limited to a sum S\$500,000 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 15, 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 15, 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.

15.5A For purposes of this Article 15, "damage" shall also be understood to include damage to third parties which the Company is obliged to compensate and damage shall also be understood to include damage caused by death or injury and/or any form of financial loss.

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 all Related Corporations and/or Sub-Contractors 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 Related Corporations and/or Sub-Contractors 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 sole and absolute 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.

- 16.3A** If and to the extent that the Company in the course of performing Forwarding Work for the Customer, deals with goods that are, in whole or in part, subject to any import or export regulations (whether in Korea or elsewhere), the Company will perform such Forwarding Work only on the condition that it shall not be regarded as the importer or exporter thereof, and the Customer shall render all required assistance to enable the Company to substantiate to the authorities that the Company is not the importer or exporter of the goods.
- 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.
- 16.4A** The Company has the right to refuse the delivery of goods, documents and monies that the Company has or will obtain in connection with the Forwarding Work, for whatever reason and with whatever destination, in respect of another party.
- 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 or 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 authorises 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 Work and Description of Goods**

- 18.1<sup>49</sup>** The Customer warrants and represents that (a) the information and documents it provides to the Company are true and accurate and shall continue to be true and accurate until such time as the Company no longer requires such information or documents for the performance of the Forwarding Work and (b) all instructions and goods that are provided to the Company comply with applicable law. If the Company has reason to suspect that the Customer has not complied with this Article, the Company is entitled to terminate and not to carry out the Customer's instructions, whether or not such termination is set out in an additional agreement and/or authorisation, without any obligation to pay any compensation or damages to the Customer.
- 18.2<sup>50</sup>** The Company makes no representation or warranty as to the availability of berths and parking places and the time of performance of the Forwarding Work.
- 18.3<sup>51</sup>** 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** The Customer is obliged to deliver the goods to the Company in good condition, adequately packed with suitable and secured packaging to the agreed location, at the agreed time and in the manner agreed.
- 18.5<sup>52</sup>** 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 regard to the nature/value/purpose of delivery of the goods.

<sup>49</sup> Formerly Article 18.2A of version 1.6 of these Conditions

<sup>50</sup> Formerly Article 18.2B of version 1.6 of these Conditions

<sup>51</sup> Formerly Article 18.3 of version 1.6 of these Conditions

<sup>52</sup> Formerly Article 18.4 of version 1.6 of these Conditions

- 18.6<sup>53</sup> Subject always to Article 18.5 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.
- 18.7<sup>54</sup> The Company shall not be liable to the Customer for any losses 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 and absolute 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 and absolute 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 failing to provide the necessary instructions acceptable to the Company, the Company shall be entitled, at its sole and absolute 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 and absolute 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 are properly and safely packed and labelled 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 and absolute discretion and in any way deemed fit by the Company and 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 causes the Company to handle or deal with such goods otherwise than under special arrangements previously agreed between the parties in writing, such goods may at any time be removed, destroyed, rendered harmless or otherwise dealt with by the Company, at its sole and absolute discretion and in any way deemed fit by the Company and at the Customer's risk and expense and 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, loss or damage caused by death or injury and/or any form of financial loss. The Customer shall indemnify the Company against all fines, 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

<sup>53</sup> Formerly Article 18.5 of version 1.6 of these Conditions

<sup>54</sup> Formerly Article 18.12 of version 1.6 of these Conditions

inland waterways, by road, by sea or by other Means of Transport, such handling of the goods shall be governed in accordance with such laws and regulations applicable in the relevant jurisdiction(s).

- 21.6 If the Company is required to undertake safety measures to deal with the Dangerous Goods, the agreement between the Company and the Customer for the storage of the Dangerous Goods shall cease to apply with immediate effect from the time the Company commences such safety measures. However, if the Company and the Customer have agreed in writing that the Dangerous Goods are to be delivered to a designated disposal site, the agreement for the storage of the Dangerous Goods shall terminate upon completion of their delivery to the designated disposal site.

**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 causes 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: [DELETED]**

**CHAPTER III – WAREHOUSING WORK CONDITIONS**

**Article 24: Delivery and Receipt**

- 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 (a) are not Dangerous Goods, (b) are in safe and good condition (including the containers used to pack those goods), (c) are adequately packed with appropriate and secured packaging and (d) fit to be carried and stored.
- 24.2 All goods shall be delivered to and collected from the place of storage during the Company's official working hours between 09:00 hours and 16:00 hours (Korean time) Mondays to Fridays, excluding lunch and coffee break and public holidays. Even if the Customer requires work to be executed outside the stated working hours, the Company retains the sole and absolute discretion whether or not to accept such instruction, and if it does, any extra 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 are 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<sup>55</sup> The Company makes no representation or warranty as regards the availability of berths and parking places and the time of execution of the Warehousing Work under this Chapter.

<sup>55</sup> Formerly Article 25.2A of version 1.6 of these Conditions



- 25.2<sup>56</sup> 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 Related Corporations or agents or servants and even if the Company may have known the nature, quality or other particulars thereof. The Company shall never be liable for differences between the description and/or designation of the goods taken into custody and their actual nature, condition, weight, volume and/or any other particulars thereof.
- 25.3<sup>57</sup> The description and/or specification of the goods and the particulars thereof as stated on a Warehouse Receipt, Warrant, delivery order, delivery note and/or release or confirmation document 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.
- 25.4<sup>58</sup> 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 orders, delivery notes and/or any release or confirmation documents) 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.

#### Article 25A: Execution of Work

- 25A.1 The execution of the work required by the Customer, such as sampling, handling, servicing, repacking, restacking, lotting, weighing, etc., as well as delivery, shall be entrusted to the Company having the goods in custody at the appropriate fees and on the appropriate conditions.
- 25A.2 Any work the Company does not wish to undertake may, with the Company's consent, be carried out by or on behalf of the Customer, subject to the conditions laid down by the Company, under the supervision of the Company and against payment of the costs involved, however without any liability to the Company.

#### Article 26: Condition of Goods

- 26.1 The Customer shall deliver the goods to the Company (including the containers used to pack those goods) in good condition, and if packed, are adequately packed with appropriate and secured packaging. The Company shall not be obliged to, but may in its sole and absolute discretion opt to, perform any check or verification whatsoever relating to the nature and condition of the goods.
- 26.2 If any goods are delivered to the Company in an outwardly visible damaged or defective condition or if the Company has any reason to believe that any goods are damaged or defective, whether at the time of delivery of the goods to the Company or at the time goods are stored with the Company, the Company shall be entitled, but not obliged to, protect the Customer's interests in the goods against any third party 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, as soon as practicable, 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.
- 26.3 The Company is not liable for damage to goods caused by or resulting from an event or process that took place or commenced prior to arrival and readiness for discharge of the goods at the location agreed with or chosen by the Company, at which location they will be stored by or on behalf of the Company pursuant to the conditions of a contract entered into with the Company, or after removal of these goods from the place of storage agreed with or chosen by the Company. In case of goods carried in containers, "ready for discharge" means the moment at which the container(s), in all aspects and in full compliance with the safety regulations and laws in force, can safely be entered. "Removal" means the moment of commencement of loading of the goods on or in a specific Means of Transport, including containers.

#### Article 27: Weighing/Measuring

- 27.1 The Company shall not be obliged to weigh or measure the goods received by it if no specific instructions to that effect are given, in respect of the manner of packing or storage or storing, neither shall the Company be obliged to perform any other research regarding the nature and condition of the goods, including

<sup>56</sup> Formerly Article 25.3 of version 1.6 of these Conditions

<sup>57</sup> Formerly Article 25.4 of version 1.6 of these Conditions

<sup>58</sup> Formerly Article 25.4A of version 1.6 of these Conditions

research into their natural moisture content, provided however that the Company shall have the liberty of weighing and measuring the goods if it is so required by any regulatory authority or third party and if the Company then discovers that the weight or measurement differs from the descriptions provided by the Customer or any party acting for and/or on behalf of 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 their contents at the Customer's request, but the Company reserves the right, but shall not be obliged, to make such examination if it suspects that the contents have been wrongly described. If the examination reveals that the contents differ from those stated or given by any party acting for and/or on behalf of the Customer, 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, due to law or instructions of any government or regulatory authority, or due to circumstances beyond the Company's control, the cost of such transfer (including any insurance therefor) 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 regulations of the Company, port authority and/or free zone authority;
  - (b) access is only provided during official working hours and with attendance by an employee or designated agent of the Company or a Related Corporation; and
  - (c) the Customer shall be liable for any and all costs of attendance incurred by the Company in relation to such access/visit and for any damage caused directly or indirectly by the Customer or its representatives.

#### **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 15:00 hours (Korean 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 labelled 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 and absolute discretion and in any way deemed fit by the Company and 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 causes the Company to handle or deal with such goods otherwise than under special arrangements previously agreed between the parties in writing, such goods may at any time be removed, destroyed, rendered harmless or otherwise dealt with by the Company, at its sole and absolute discretion and in any way deemed fit by the Company and at the Customer's risk and expense and 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, loss or damage caused by death, injury and/or any form of financial loss. The Customer shall further indemnify the Company against all fines, 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 Work are deemed to be dangerous pursuant to the relevant regulations for the carriage of dangerous substances on inland waterways, by road, by sea or other Means of Transport, such handling of the goods shall be governed in accordance with such laws and regulations applicable in the relevant jurisdiction(s).
- 30.6 If the Company is required to carry out safety measures to deal with Dangerous Goods, the agreement between the Company and the Customer for the storage of the Dangerous Goods shall cease to apply with immediate effect from the time the Company commences such safety measures. However, if the Company and the Customer have agreed in writing that the Dangerous Goods are to be delivered to a designated disposal site, the agreement for the storage of the Dangerous Goods shall terminate upon completion of their delivery to the designated disposal site. These provisions relating to dangerous goods shall not prejudice Article 35 of these Conditions.

#### 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 causes 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 entitled, at its sole and absolute 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 and absolute 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 causes 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 If the Company has expressly agreed in writing to effect insurance for account of the Customer and when partial delivery of the goods has been made by the Company, the Customer must inform the Company of the value for which it wishes the remainder of the goods to be insured. In the absence of such a declaration, the Company shall have the right to reduce the insurance value at its own discretion, in proportion to the decrease in number, weight, measure or contents of the goods.

#### 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 if:

- (a) the Company has received in full all monies due and owing to it and prior written notice of the assignment or transfer or transition of ownership; 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.

**34.2A** The Company is not required to recognise the assignment, transfer or transition of ownership or the right to release the goods, and shall even have the right to revoke a previous recognition made, and may furthermore refuse to release the goods, if in the Company's opinion there are flaws in the legal title regarding any assignment, transfer or transition of ownership of goods, or any assignment, transfer or transition of the right to release; and if the new owner(s) claim(s) not to have entered into a new contract with the Company, or not to have accepted these Conditions (or not to be bound by them).

**34.3** The Company may, at any time, remove the goods received for storage prior to the expiry of the storage period, without observing any period of notice where there is a compelling reason for such removal. Without limiting the generality of the foregoing, a compelling reason for removal shall be deemed to exist:

- (a) if the Customer has consistently failed to comply with one or more provisions of these Conditions;
- (b) 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/or equipment, or danger or harm or injury to person(s); or
- (c) if the goods are perishable and/or liable to inherent changes which in the Company's opinion is or is likely to cause a decrease in value of the goods due to deterioration, and/or the Customer has neglected to give instructions for preventing or coping with such situation.

**34.3A** If a fixed period of storage has been agreed and save for any clauses to the contrary in these Conditions, the Company cannot require the Customer to remove the goods prior to the expiration of the agreed period of time. Where no fixed period of storage has been agreed or where the agreed period of storage has expired, the Company has the right to require the goods to be removed at one month's notice.

**34.4** The Customer shall remain liable for payment of the storage rent and all charges (including insurance premium and costs, if the goods were insured through the Company) and shall always pay such rent and charges in full months such that part of a month shall count as a full month, up to and including the date the goods are released or removed from the place of storage by the Company. If goods in the Company's custody are destroyed by fire or other causes, the date of destruction shall count as the date of release of those goods.

**34.5** Notwithstanding anything in this Article 34, the Company is entitled to withhold the release of the goods to a third party if the Company at its sole and absolute discretion considers that such release to the third party could prejudice the Company's rights or interests.

#### **Article 34A: Public Sale**

**34A.1** Should the Customer fail to remove the goods entrusted to the Company for storage, on expiry of the storage period covered in the agreement between the Company and the Customer; or fail to remove the goods after the agreed or specified time for storage or at any other point of time in the case of a compelling reason as mentioned under Article 34.3 above, the Company shall have the right, without prejudice to the provisions of Article 11 above, to sell the goods entrusted to it, or to have them sold, without observance of any formalities, in the place and in the manner and on the conditions the Company may see fit, publicly or in any other manner the law may permit, at the expense of the Customer, and furthermore shall have the right to recover from such proceeds all amounts the Customer owes the Company.

**34A.2** If it is probable that the cost of selling the goods will be higher than the proceeds or if no buyer is found, despite a reasonable attempt to do so, the Company shall have the right to remove the goods, to have them removed or to have them destroyed. The Customer shall remain liable for all amounts due, increased by the cost of removal and/or destruction.

**34A.3** In the event of sale, the Company shall hold the balance of the proceeds after having deducted all costs and all the Customer's debts, at the Customer's disposal for 4 years, after which period the balance if not claimed, accrues to the Company. The Company is not liable to pay interest over the mentioned balance held at the Customer's disposal.

#### **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 (including containers) save for such measures which are considered by the Company 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 and absolute discretion to take immediate special measures action (including clearance, removal, destruction or rendering harmless in any way) 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, or when such a measure is required or indicated for some other reason. 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

All Articles under this Chapter IV, shall apply to all Warrants, save that Article 36.3 shall not apply to a Warehouse Receipt.

##### Article 36: Issue

- 36.1 Upon request by the Customer, the Company may (but is not obliged to) issue a Warrant. The Company may issue a number of Warrants, each specifying the amount stated by the Customer of the goods given by it in custody to the Company of the same sort and quality, in which case the total of these amounts shall not exceed the total amount of the goods of same sort and quality given in custody by the Customer to the Company ("Partial Warrants").
- 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 Warrant covering the same goods in the Customer's request, the Company shall not be obliged to issue a new Warrant until the Customer presents the original existing Warrant to the Company for the Company's nullification and pays all the costs involved.
- 36.3 The Customer shall have the right:
- (a) to transfer the title, or to transfer the possession, 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; and
  - (b) to transfer the title, or to transfer the possession, of all of the goods stored with the Company and appearing on a Commodities Exchange Warrant to any entity/individual in accordance with the applicable rules and regulations of the listed commodities exchange,
- 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. For all transferred Warehouse Warrants (including transfers to the Customer or any other Person designated by the Customer), the Customer shall keep complete records of the dates of transfer and full names of the endorsees.
- 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 pledge/retention right/lien over the goods and all customs and other 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; and
  - (b) where applicable, such Warrant is duly endorsed in accordance with these Conditions.

- 36.5 The Customer shall, even after the issue of the Warrant, remain 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.
- 36.6<sup>59</sup> (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 3 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 or discrepancy that may arise between such description, specification and/or particulars of the goods as they appear on the Warrant and the actual physical quantity and/or quality of such goods.
- (b) Notwithstanding Article 36.6(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 7 days from the date of receipt of such endorsed 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 or discrepancy that may arise between such description, specification and/or particulars of the goods as they appear on the Warrant and the actual physical quantity and/or quality of such goods.
- (c) Upon the Company's receipt in writing of notice of any errors in accordance with Article 36.6(a) or 36.6(b) above, the Company shall be entitled to deal with such Warrant in accordance with Article 38 of these Conditions.
- 36.7 If the Warrant contains the clause:  
 "Content, quality, number, weight and measure unknown"  
 or a similar clause, the Company shall not be bound by any statement in the Warrant regarding contents, quality and the number, the weight or the dimensions of the goods.
- 36.8<sup>60</sup> 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.
- 36.9 Without derogation to the generality of Article 13 above, the Customer indemnifies and will hold the Company harmless from:
- (a) claims of Warrant Holders in case the Company delivers the goods given in custody by the Customer for which a Warrant was issued in exchange for a forged Warrant, unless such forgery should reasonably have been detected by the Company at the moment of presentation of that document; and
- (b) claims of holders of Partial Warrants or any other party involved therein, in case a negative difference occurs between the weight, volume and/or quality of the goods described in these Partial Warrant(s) and the actual weight, volume and/or quality at the moment of delivery of these goods to the holder or third party involved in the Partial Warrant(s), irrespective of the cause of such difference.

#### 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 unless a shorter period of validity is indicated on the Warrant.
- 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.

<sup>59</sup> Formerly Article 36.5A of version 1.6 of these Conditions

<sup>60</sup> Formerly Article 36.6 of version 1.6 of these Conditions

- 37.3 If (a) the original Warrant is 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 (including storage charges and, if the goods have been insured through the Company, all insurance premiums and costs) and the Company shall have the right to sell or dispose of the goods covered under the expired Warrant in accordance with these Conditions.
- 37.4 The Company shall use commercially reasonable endeavours to deliver to the last known holder of the expired Warrant the goods covered under the Warrant within 5 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 rights as pledgee and/or right of retention and/or 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 5 years. Upon the expiry of the said 5 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 such invalidated Warrant from its Last Warrant Holder, 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 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 Warrant Holder, make an announcement in any 2 daily newspapers or other periodical publications selected by the Company at its sole and absolute discretion and without reference to the Last 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 in the original Warrant issued by the Company 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 replacement 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 rights or 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 rights or 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 replacement Warrant, for the said goods.

- 39.3 If the Company does not receive a writ in opposition to the nullification of the Warrant or issue of a replacement Warrant 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 replacement 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 replacement 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 court decision or decree that the applicant is the person entitled to the goods.
- 39.5 The person who is the beneficiary of the nullified/replacement Warrant or the goods covered under the nullified/replacement 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, including claims of Warrant Holders and other third parties. The Company may further require security to be given in this respect.
- 39.6 All costs and expenses howsoever incurred by the Company in connection with the nullification of any Warrant, or issue of a replacement Warrant, in accordance with this Article shall be borne by the applicant. The Company shall have the right to require an advance of money to be made before executing the application.

#### **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 Related Corporations, Sub-Contractors and/or any relevant authorities;
  - (b) access is provided only during the Company's official working hours and in the presence of an authorised representative of the Company; and
  - (c) the Warrant Holder shall be liable for any and all costs of attendance incurred by the Company in relation to such visit/access and for any damage caused directly or indirectly by the Warrant Holder or its representatives.

#### **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 with the Company. The Company shall have the right to refuse to return the Warrant until all payments due to the Company have been settled.
- 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 on the Company.



- 42.3 The Company shall use commercially reasonable endeavours to record any alteration, decrease or change in the number of items of the goods covered under the Warrant caused by partial 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 by the Company 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 and absolute discretion to take immediate special measures (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 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 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 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 sole and 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, 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 full or partial 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 full or partial 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 full or partial delivery at the monthly insurance premium rate stated on the Warrant, parts of months shall count as full months);

- (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, including 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; and
- (e) all fines, 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: [DELETED]**

**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 with the Company for endorsement thereof. In all other cases the insurance shall terminate upon delivery of the 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 Work, the Customer shall:
- (a) appoint the Company as its agent to act for and on its behalf to carry out all the Shipbroking Work; 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 Work, 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 and the power to perform such work and services as are customary in a shipbroker's trade.
- 47A.2 If in 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, goods / equipment of third parties on 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 (notwithstanding Articles 59.1 to 59.3 of these Conditions).
- 47A.4 If and to the extent that the Company, in the course of performing Shipbroking Work for the Customer, deals with goods that are, in whole or in part, subject to any import or export regulations (whether in Korea or elsewhere), the Company will perform such Shipbroking Work only on the condition that it will not be regarded as the importer or exporter thereof, and the Customer shall render all required assistance to enable the Company to substantiate to the authorities that the Company is not the importer or exporter of the goods.

- 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 expense 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, costs 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 Work, 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:
- (a) the proper collection or holding of monies for anyone's behalf due on delivery of goods shipped on cash-on-delivery terms; or
  - (b) any loss on exchange in respect of monies which it has or is keeping on the Customer's behalf or which it is to collect or pay on the Customer's behalf. Freights or other monies expressed in a foreign currency which are to be collected or paid by the Company on the Customer's behalf may be accepted or paid by the Company in Korean Won at the exchange rate of the Company's designated bank which is prevailing on the date of payment.
- 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; or
    - (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 waives 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;
    - (iii) the Customer authorises the Company to dispose of such cargo or things at the Company's sole and absolute 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 authorises 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; and
  - (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 sole and absolute discretion of the Company.
- 47A.10** The Company shall not, under any circumstances, be obliged to do any of the following:

- (a) provide advance payment for the Customer or provide any security in its own name to any third party for the benefit of the Customer, unless otherwise agreed in writing between the Company and the Customer; or
- (b) take out any insurance in its own name for the benefit of the Customer, unless otherwise agreed in writing 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. The Customer shall bear all costs and expenses in connection therewith.
- 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 the 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 and/or penalties as may be imposed upon the Company, and in particular but not exclusively, where the Company has acted as licensed customs agent, except where such fines and/or penalties are directly caused as a result of (a) gross negligence on the part of the Company or (b) an act or omission on the part of the board or management of the Company, done either (i) with the intent to cause that damage or (ii) recklessly and with the knowledge that such damage would result therefrom.
- 47A.15 The Company makes no representation or warranty as to the availability of berths and the time of performance of the Shipbroking Work. The Company may change the date and/or time of performance, including due to unforeseen circumstances and/or changes in the sailing or transportation schedule.
- 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 Work. 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 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 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.
- 47B.4 The Company makes no representation or warranty as to the information it supplies to the Customer, including in relation to the availability of berths and parking places 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.5A The Company has the right to refuse loading or unloading of goods, delivery of documents and monies that the Company has or will obtain in connection with the Stevedoring Work, for whatever reason and with whatever destination, in respect of another party.
- 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 thereof 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 Work 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 labelled. The Customer further warrants that such aforesaid labelling of the goods comply with all applicable laws and regulations (including but not limited to safety and environment and/or in the absence thereof, comply with applicable standards under prevailing market practices and behaviour).
- 47B.8A The Customer warrants the material made available by it to the Company during the execution of the Stevedoring Work is safe and fit for use in connection with and for the purposes of facilitating Stevedoring Work including but not limited to loading operations.
- 47B.9 The Customer shall notify the Company in writing, at least 14 business days 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 obligation shall be at the expense of the Customer.
- 47B.10 The Customer warrants that all persons entering the port premises where the Company carries out the Stevedoring Work shall strictly comply with all safety rules and regulations applicable to such port premises (whether imposed by law or otherwise). The Company at all times reserves the right to remove from such port premises all persons who do not comply with, or threaten to act in breach of, such safety rules and regulations applicable to such port premises or who are unwelcome otherwise in the sole and absolute opinion of the Company.
- 47B.10A The Company shall make an effort to take the necessary measures in order to limit the risk of stowaways or access of other unwanted people to the Means of Transport of the Customer. If nevertheless stowaways or other unwanted people are discovered in the Means of Transport of the Customer, the Company shall not be liable for any possibly resulting damage, expenses and fines.
- 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 and/or penalties as may be imposed upon the Company, except where such fines and/or penalties are directly caused as a result of (a) gross negligence on the part of the Company or (b) an act or omission on the part of the board or management of the Company, done either (i) with the intent to cause that damage or (ii) recklessly and with the knowledge that such damage would result therefrom.

**Article 47C: [DELETED]**

**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 labelled 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 and absolute 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 causes the Company to handle or deal with such goods otherwise than under special arrangements previously agreed between the parties in writing, such goods may at any time be removed, destroyed, rendered harmless or otherwise dealt with by the Company, at its sole and absolute discretion and in any way deemed fit by the Company and at the Customer's risk and expense and 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, loss or damage caused by injury and/or any form of financial loss. The Customer shall further indemnify the Company against all fines, 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 Stevedoring Work are deemed to be dangerous pursuant to the relevant regulations for the carriage of dangerous substances on inland waterways, by road, by sea or by other Means of Transport, such handling of the goods shall be governed in accordance with such laws and regulations applicable in the relevant jurisdiction(s).
- 47D.6 If the Company is required to undertake safety measures to deal with the Dangerous Goods, the agreement between the Company and the Customer for the storage of the Dangerous Goods shall cease to apply with immediate effect from the time the Company commences such safety measures. However, if the Company and the Customer have agreed in writing that the Dangerous Goods are to be delivered to a designated disposal site, the agreement for the storage of Dangerous Goods shall terminate upon completion of their delivery to the designated disposal site.

#### **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 causes 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 entitled, at its sole and absolute 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 and absolute 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 causes 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: [DELETED]**

## 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 that 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 Company’s authority to hold and to release the Documents (“Authority”) is 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”) and notified to the Company in writing, 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 of 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; and
  - (b) without derogation to the generality of Article 13 above, the Customer shall fully indemnify the Company against all losses, 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 and/or penalties as may be imposed upon the Company, except where such fines and/or penalties are directly caused as a result of (a) gross negligence on the part of the board or management of the Company or (b) an act or omission on the part of the Company, done either (i) with the intent to cause that damage or (ii) recklessly and with the knowledge that such damage would result therefrom.

## 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 any damage or loss or in respect of any general claim against the Company if a claim by way of a Writ of Summons is not instituted either within 4 weeks after the Customer has become aware of such damage or loss or within 3 months from the date the Means of Transport or the goods involved depart from the premises of the Company, whichever term is earlier. All and any claims against the Company shall become time barred for any Services, by the mere expiry of 3 months since the claim has arisen.

48.3 For purposes of Article 48.2:

- (a) in the case of damage to or decrease in the goods, where the Company has not informed the Customer of the damage or decrease, the period shall commence on the day immediately following the day the goods are delivered;
- (b) in the case of total loss and where notice of damage or decrease has been given, the period shall commence on the day immediately following the day the Company notified the Customer; and
- (c) in the case of total loss of goods under a Warrant, the period shall commence on the day immediately following the day on which the Company informs the Last Warrant Holder of such loss, or where he no longer has the Warrant in his possession and no subsequent Warrant Holder has presented himself to the Company, 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) and/or third parties that work on behalf of the Customer, whether or not printed on any documents, is expressly precluded.

#### Article 50: Notices

50.1 Any notice required to be given pursuant to these Conditions shall be in English and deemed to have been validly given if addressed to the party to whom the notice is given and (a) sent by prepaid registered post or delivered by hand to the address of such party above given, or to its last known address, or (b) sent by electronic mail from the sender's corporate electronic mail address to the recipient's last known corporate electronic mail address, and such notice shall be deemed to have been served on the recipient: (i) on the date of service, if delivered by hand; (ii) upon the expiry of 48 hours after the date of posting, if sent by prepaid registered post; or (iii) on the next business day immediately following the date of successful transmission, if sent by electronic mail. 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.

50.2 The risk of errors in, interruption in transmission or loss of communications by any means (whether or not in writing) shall be borne by the Customer. The Company shall not be liable for any misunderstanding arising from or in connection with the use of a language other than English.

#### 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 these Conditions 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 and Annex attached 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 and/or any rules and regulations of listed commodities exchanges are 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 and/or applicable rules and regulations of listed commodities exchanges. 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 conflict with such compulsory legislation or applicable rules and regulations of listed commodities exchanges, 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/busan>. 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 and/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/busan>. The Customer undertakes to keep itself apprised and updated on all such amendments, variations and/or supplements in the latest version of these Conditions made available at <http://www.steinweg.com/conditions/busan> or at request, will be sent to the Customer free of charge.

**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, pandemic/epidemic/disease, outbreak, civil disturbance, sabotage, strike, lock-out, interference with communications, lack of transport, labour and/or storage accommodation;
  - (b) extreme weather conditions/water circumstances, natural disasters, storm, fog, lightning, flood, high and low tide, frost, freezing, ice, heat and/or acts of God;
  - (c) fire, explosions, radiation, nuclear response, water used against fires, smoke, burglary, theft, loss, subsidence, collapse, water, seepage, damp odour, stench, worms and rodents and/or damage through rats, mice, insects and other creatures;
  - (d) government measures;
  - (e) computer breakdown and power outage/interruption;
  - (f) the natural properties of goods, changes in quality, spontaneous deterioration, self-generated heat, combustion, explosion, drying, mould, yeasts, leaks, rot and mildew, rust and/or sweating;
  - (g) breakage of glass, wickered bottles and flasks, cast-iron and other brittle articles, and/or inadequate packing;
  - (h) latent defects in the equipment used by the Company; and
  - (i) 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 consecutive 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 payable to the Company under these Conditions and all charges and expenses incurred by the Company at its sole and absolute 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 To the fullest extent permitted by applicable law, 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 To the fullest extent permitted by applicable law, 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 Notwithstanding the Company's other rights under these Conditions and its contracts with the Customer, including the right to claim damages from the Customer, 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.
- 56.5 If the use of all or part of the Warehouse Facilities in which the goods are stored shall be restrained or enjoined by judicial process, terminated by any government or regulatory authority (including by right of eminent domain) or terminated by the owner of the warehouse or a listed commodities exchange, the Company shall immediately notify the Customer of the same ("Restraint Notice"), whereupon the Company may transfer the goods to another Warehouse Facility or location agreed by the Customer; or the Company may terminate its contract with the Customer on the date of the Restraint Notice.
- 56.6 Upon expiration or termination of any contract between the Company and the Customer for any reason, the Company's obligation to provide the Services shall immediately cease and the Customer shall immediately become liable to pay all amounts due and payable to the Company (including any late payment interest) incurred up to and including the date of expiration or termination. The expiration or termination of any contract between the Company and the Customer shall not affect any accrued rights or liabilities of any party nor shall it affect the continuance in force of any provision thereof and of these Conditions which is expressly or by implication intended to continue after such expiration or termination. The remedies provided under such contract and these Conditions shall not be exclusive but are cumulative and in addition to all other remedies, at law or in equity.

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

- 57.1 The Customer shall not, and shall ensure that its employees, affiliates, agents, contractors and representatives 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 Related Corporations or Sub-Contractors or other representatives 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 or its employees, affiliates, agents, contractors or representatives to any other person in connection with the Company's performance of obligations under these Conditions, in accordance with the Privacy Policy and/or in 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, and shall ensure that its employees, affiliates, agents, contractors and representatives shall, take all steps necessary to protect and preserve the confidentiality of the Company's Information.
- 57.5 The Customer shall, and shall ensure that its employees, affiliates, agents, contractors and representatives shall, keep confidential and shall not disclose any and all information or data relating to the Company's employees, affiliates, agents, contractors or representatives collected in connection with its contract with the Company, unless the Company has given prior written permission for such disclosure or when a statutory regulation obliges the Company to do so.

#### **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.
- 58.2 Any release, waiver or compromise by the Company shall be expressly stated and in writing.

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

- 59.1 The validity, construction, interpretation and enforcement of these Conditions (including the Steinweg Digital Services Terms and Conditions and the Privacy Policy) and all rights, remedies, powers, obligations and liabilities hereunder shall be governed by, and construed in accordance with, the laws of Korea, save that local mandatory laws of the site of the Warehouse Facilities outside of Korea shall apply to the performance by the Company of any affected Services but shall not apply to the interpretation or construction of these Conditions or any contract between the Company and the Customer.
- 59.2 The parties hereto submit to the exclusive jurisdiction of the courts of Korea.
- 59.2A All disputes arising out of or in connection with any contract made between the Company and the Customer shall be settled in the first instance through amicable consultation and negotiations in good faith between the parties.

#### **Article 60: Steinweg Digital Services**

- 60.1 The use which includes accessing, browsing or registering to use any form of digital services employed by C. Steinweg Warehousing (F.E.) Pte. Ltd. in the course of its services such as our mobile application (i.e., Steinweg Online), the Steinweg Online website at [www.online.steinweg.com](http://www.online.steinweg.com), electronic data interchange ("EDI") and/or other digital services (collectively, the "Steinweg Digital Services") is subject to the applicability of the Steinweg Digital Services Terms and Conditions.
- 60.2 No variation, waiver, breach or termination under the Steinweg Digital Services Terms and Conditions or any other arrangement made between the Customer and the operator of the Steinweg Digital Services shall

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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**STEINWEG DIGITAL SERVICES TERMS AND CONDITIONS****1. Introduction**

- 1.1 These terms and conditions (“Steinweg Digital Services Terms and Conditions”) shall apply to any form of digital services employed by C. Steinweg Warehousing (F.E.) Pte. Ltd. (“Steinweg”, “Company”, “we”) in the course of its services such as but not limited to our mobile application Steinweg Online, our website [www.online.steinweg.com](http://www.online.steinweg.com) or any other websites we might use to offer digital services, electronic data interchange (“EDI”) and/or other digital services (collectively, the “Steinweg Digital Services”). By making use of our Steinweg Digital Services, you, whether as a guest or a registered owner, confirm that you accept these Steinweg Digital Services Terms and Conditions.
- 1.2 The General Terms and Conditions of C. Steinweg Warehousing (F.E.) Pte. Ltd. (“Steinweg Singapore”) or, if the specific country terms and conditions of the subsidiary of Steinweg Singapore are applicable between you and that Steinweg Singapore subsidiary, those specific country terms and conditions, whichever the case may be, shall also apply to any issue which has not been dealt with by these Steinweg Digital Services Terms and Conditions, such as, but not limited to, applicable law and competent court, rates and tariffs, and/or payment conditions.

**2. Changes to terms and Steinweg Digital Services**

- 2.1 We may revise these Steinweg Digital Services Terms and Conditions. We shall make available the latest version of these Steinweg Digital Services Terms and Conditions containing all amendments, variations and/or supplements to the same made in accordance with this paragraph 2.1 at [https://www.steinweg.com/uploads/steinweg/conditions/digital\\_services\\_terms\\_and\\_conditions/singapore\\_dstc.pdf](https://www.steinweg.com/uploads/steinweg/conditions/digital_services_terms_and_conditions/singapore_dstc.pdf). The latest version of these Steinweg Digital Services Terms and Conditions containing all such amendments, variations and/or supplements shall take effect on such date determined by us. You shall be deemed to have taken notice of all amendments, variations and/or supplements to these Steinweg Digital Services Terms and Conditions on the date we make available the latest version of these Steinweg Digital Services Terms and Conditions containing all such amendments, variations and/or supplements made available at [https://www.steinweg.com/uploads/steinweg/conditions/digital\\_services\\_terms\\_and\\_conditions/singapore\\_dstc.pdf](https://www.steinweg.com/uploads/steinweg/conditions/digital_services_terms_and_conditions/singapore_dstc.pdf). You undertake to keep itself apprised and updated on all such amendments, variations and/or supplements in the latest version of these Steinweg Digital Services Terms and Conditions made available at [https://www.steinweg.com/uploads/steinweg/conditions/digital\\_services\\_terms\\_and\\_conditions/singapore\\_dstc.pdf](https://www.steinweg.com/uploads/steinweg/conditions/digital_services_terms_and_conditions/singapore_dstc.pdf) or at request, will be sent to you free of charge.
- 2.2 We may update the Steinweg Digital Services from time to time, and may change the content at any time. While we will use reasonable endeavours to ensure that the Steinweg Digital Services remain up to date, we do not guarantee that the Steinweg Digital Services, or any content on it, will be up to date at all times or free from errors or omissions.
- 2.3 In addition to these Steinweg Digital Services Terms and Conditions, other terms and conditions may apply to a Steinweg Digital Service, as set out in the respective document or additional correspondence, as the case may be. In the event of a conflict between any provision of these Steinweg Digital Services Terms and Conditions and these other terms and conditions, the other terms and conditions shall prevail.

**3. Accessing the Steinweg Digital Services**

- 3.1 We do not guarantee that the Steinweg Digital Services, or any content on it, will always be available or be uninterrupted.
- 3.2 We (including our officers, directors, agents, employees, affiliates and related corporations) will not be liable to you if for any reason the Steinweg Digital Services are unavailable at any time or for any period, or if any claim, loss, damage, expense or cost is suffered by you by reason of your inability to access the Steinweg Digital Services at any time or for any period.
- 3.3 You will not be entitled to any refund of any fees (or any portions thereof) paid by you for the use of the Steinweg Digital Services during such period of interruption.

#### 4. Your account and password

- 4.1 If you choose, or you are provided with, a user identification code, password or any other piece of information as part of our security procedures, you must treat such information as confidential. You must not disclose it to any third party.
- 4.2 We have the right to disable any user identification code or password, whether chosen by you or allocated by us, at any time, if in our reasonable opinion you have failed to comply with any of the provisions of these Steinweg Digital Services Terms and Conditions or any other written agreement entered into with us relating to the use of the Steinweg Digital Services.
- 4.3 You agree to accept responsibility for all activities on the Steinweg Digital Services that occur under your user account. You agree to bear all liability and fully indemnify us against all actions, claims, proceedings, costs and damages and all legal costs or other expenses arising out of any activity that occurs under your user account.

#### 5. Intellectual property rights

- 5.1 We are the owner or the licensee of all intellectual property rights in the Steinweg Digital Services, and in the material published on it. Those works are protected by copyright laws and treaties around the world. All such rights are reserved.
- 5.2 You agree not to copy, reproduce, modify, create derivative works from, distribute, or publicly display any content from the Steinweg Digital Services without our expressed written permission. In the event that such permission is given, our status as the author of the content on the Steinweg Digital Services must always be acknowledged.

#### 6. Prohibited uses

- 6.1 You may use the Steinweg Digital Services only for lawful purposes. In using the Steinweg Digital Services, you will not:
- (a) breach any applicable local, national or international law or regulation;
  - (b) engage in activity that is unlawful or fraudulent, or has any unlawful or fraudulent purpose or effect;
  - (c) use them for the purpose of harming or attempting to harm minors in any way;
  - (d) send, knowingly receive, upload, download, use or re-use any material which does not comply with our content standards as set out in paragraph 13;
  - (e) interfere with any other user's use of the Steinweg Digital Services;
  - (f) take any action that may undermine the Steinweg Digital Services's feedback or ratings systems;
  - (g) harvest or otherwise collect information about any other users, including email addresses, without their consent;
  - (h) use them to transmit, or procure the sending of, any unsolicited or unauthorised advertising or promotional material or any other form of similar solicitation; or
  - (i) knowingly transmit any data, send or upload any material that contains viruses, Trojan horses, worms, keystroke loggers, spyware, adware or any other harmful programmes designed to adversely affect the operation of any computer software or hardware.
- 6.2 You agree not to access without authority, interfere with, damage or disrupt:
- (a) any part of the Steinweg Digital Services;
  - (b) any equipment or network on which the Steinweg Digital Services is stored;
  - (c) any software used in the provision of the Steinweg Digital Services; or
  - (d) any equipment or network or software owned or used by any third party.

#### 7. Services

- 7.1 We will use reasonable efforts to make the Steinweg Digital Services available 24 hours a day, 7 days a week, except for planned downtime for maintenance and unforeseen circumstances as mentioned in paragraph 7.2.
- 7.2 You understand and agree that from time to time the Steinweg Digital Services may be inaccessible or inoperable during normal business hours in the event of periodic maintenance procedures or repairs which Steinweg deems necessary and may undertake.
- 7.3 In the event of discovery of any material defect, you agree to provide Steinweg with sufficient detail to allow us to verify and reproduce the error and we shall use commercially reasonable diligence to endeavour to correct such defect.

7.4 In the event of a software system failure we will ensure that the services offered by means of the Steinweg Digital Services will be executed by the operational team regardless of any limitations this may entail. Continuity of the services provided by us will be safeguarded as usage of the Steinweg Digital Services is not mandatory to fulfill our logistical obligations.

## 8. No warranties

8.1 Although we make reasonable efforts to update the information and content on the Steinweg Digital Services, we make no representations, warranties or guarantees, whether express or implied, that the content on the Steinweg Digital Services is accurate, complete or up-to-date. Nor do we make representations, warranties or guarantees, whether express or implied, that the Steinweg Digital Services will meet your specific requirements or that the Steinweg Digital Services will be uninterrupted, timely, secure or error-free.

8.2 We (including our officers, directors, agents, employees, affiliates and related corporations) will not be liable for any claim, loss, damage, expense or cost caused by your reliance on information obtained through the Steinweg Digital Services. It is your responsibility to evaluate the accuracy, completeness and usefulness of any content provided before taking, or refraining from, any action on the basis of any content on the Steinweg Digital Services.

## 9. Instructions

9.1 You or your Authorised Users may from time to time, and in the course of accessing the Steinweg Digital Services, provide certain Electronic Instructions to us.

9.2 You agree to be bound by any access or use of the Steinweg Digital Services (whether such access or use is authorised by you or not) which are referable to your Security Codes or those of your Authorised Users. You agree and acknowledge that any use of or access to the Steinweg Digital Services referable to your Security Codes or those of your Authorised Users and any Electronic Instructions shall be deemed to be, as the case may be:

- (a) use of or access to the Steinweg Digital Services by you or your Authorised Users; or
- (b) Electronic Instructions transmitted or validly issued by you or your Authorised Users. For the avoidance of doubt, any such Electronic Instructions issued shall be deemed to have been validly issued by persons who have the authority and capacity to issue such Electronic Instructions.

You further agree that we (including our officers, directors, agents, employees, affiliates and related corporations) and the Providers shall be entitled (but not obliged) to act upon, rely on or hold you solely responsible and liable in respect thereof as if the same were carried out or transmitted by you or your Authorised Users and you waive all rights and remedies against us (including our officers, directors, agents, employees, affiliates and related corporations) and the Providers in respect of any claim, loss, damage, expense or cost thereby arising. You will be responsible and shall be liable for all Electronic Instructions.

9.3 We (including our officers, directors, agents, employees, affiliates and related corporations) and the Providers are under no obligation to investigate the authenticity or authority of persons effecting the Electronic Instructions or to verify the accuracy and completeness of the Electronic Instructions. Accordingly, we (including our officers, directors, agents, employees, affiliates and related corporations) and the Providers may (a) treat the Electronic Instructions as valid and binding on you; and/or (b) reveal your information to such persons notwithstanding any unauthorised access to the Steinweg Digital Services (including your user account), error, fraud, forgery, lack of clarity or misunderstanding in the terms of the Electronic Instructions. Any claim, loss, damage, expense or cost resulting from the use of the Steinweg Digital Services by you or your Authorised Users is entirely at your own risk and we (including our officers, directors, agents, employees, affiliates and related corporations) shall not be liable therefor.

9.4 All Electronic Instructions will be deemed to be irrevocable and unconditional upon transmission through the Steinweg Digital Services and we shall be entitled (but not obliged) to effect, perform or process such Electronic Instruction(s) without your further consent and without any further reference or notice to you. Nevertheless, in certain circumstances you may request to cancel or amend the Electronic Instructions which we will endeavour to give effect to on a commercially reasonable efforts basis. However, notwithstanding the foregoing, we are not obliged to give effect to any request to cancel or amend any Electronic Instruction.

9.5 Electronic Instructions sent through the Steinweg Digital Services may not have been received by us and accordingly, may not be carried out or processed, and we are not liable for any claim, loss, damage, expense or cost which thereby arises or which otherwise arises as a result of any glitch, malfunction or fault within the Steinweg Digital Services. You are therefore advised to check on the status of such Electronic Instructions via the Steinweg Digital Services or otherwise. Unless otherwise stated or

determined in our sole and absolute discretion any Electronic Instruction received by us after 3.00 p.m. (local time at the receiving warehouse) on a business day or on a non-business day will be treated as an Electronic Instruction received on the next business day.

- 9.6 You acknowledge and agree that we may at any time at our sole and absolute discretion and without stating reasons:
- (a) require that you identify yourself by alternative means;
  - (b) require any Electronic Instructions to be confirmed through alternative means (in writing given in person at a branch, by fax, etc.);
  - (c) refrain from acting promptly upon any Electronic Instructions in order to verify the authenticity of any Electronic Instructions or your identity; and/or
  - (d) decline to act on any Electronic Instructions at any time without prior notice or giving any reason, where:
    - (i) the Electronic Instructions are ambiguous, incomplete or inconsistent with your other Electronic Instructions or instructions, information and/or data;
    - (ii) the Electronic Instructions have lapsed or have been rendered or declared invalid or cancelled (1) due to failure to comply with applicable conditions; (2) due to failure to obtain the applicable approvals from any relevant regulatory authority or governmental body; (3) by any relevant regulatory authority or governmental body; or (4) pursuant to any order of any competent court or other authority or tribunal, in each case, wherever situated;
    - (iii) the Electronic Instructions cannot be processed due to any disruptions that are beyond our reasonable control; or
    - (iv) in our sole opinion, there are any other grounds to decline to act or to act promptly on the Electronic Instructions, without incurring any responsibility for loss, liability or expense arising out of so declining to act.
- 9.7 You agree and acknowledge that Electronic Instructions may not be processed immediately, around the clock or in a timely manner, and that we will not thereby be liable for any claim, loss, damage, expense or cost suffered by you as a result of any delay by us or by any Provider through whom your Electronic Instruction is transacted.
- 9.8 You shall be solely responsible for ensuring the accuracy, adequacy and completeness of the Electronic Instructions and that we shall not be obliged to verify the accuracy, adequacy and completeness of such instructions. You agree that we (including our officers, directors, agents, employees, affiliates and related corporations) shall not be liable for any claim, loss, damage, expense or cost suffered by you as a result of any Electronic Instructions being inaccurate, inadequate or incomplete in any way.
- 9.9 Where we choose to act on Electronic Instructions, we act on a commercially reasonable efforts basis and are not responsible for any acts and omissions while acting in a reasonable manner in discharging the Electronic Instructions.
- 9.10 You agree and acknowledge that you shall not dispute the admissibility of your Electronic Instructions and of our electronic data as evidence in the event of a mutual conflict. Your Electronic Instructions and our electronic data have the same evidential value as written documents.
- 9.11 For the purposes of these Steinweg Digital Services Terms and Conditions:
- (a) "Authorised User" means any person that you have authorised or are deemed to have authorised to access and/or use the Steinweg Digital Services in relation to your user account;
  - (b) "Electronic Instructions" means any communication, instruction, order, message, data, information or other materials received by us via the Steinweg Digital Services and referable to your Security Codes or those of your Authorised Users (including use of your Security Codes or those of your Authorised Users by any person, whether authorised or unauthorised by you or your Authorised Users), from you or purporting to come from you or from your Authorised Users or purporting to come from your Authorised Users;



- (c) "Provider" means:
- (i) any person, firm, broker, company or organisation, including any third party, which, from time to time, participates or is involved, directly or indirectly, in providing services or products through the Steinweg Digital Services;
  - (ii) any person or organisation to whom we outsource certain functions or activities or who provide administrative, telecommunication, computer, payment, collection, security, clearing, credit reference or checking, or other services or facilities to us relating to the operation of our business;
  - (iii) any digital certification authority, regulatory authority, electronic, computer, telecommunication, financial or card institution, data centre, facilities management or hosting service provider, call centre, outsourced service provider, Internet service provider, equipment and software providers and other service provider and/or network provider involved in operating the Steinweg Digital Services or providing any other ancillary or supporting service from time to time; and
  - (iv) our agents or storage or archival service providers (including but not limited to any provider of any electronic storage, archival or recording facility) for the purpose of making, printing, mailing, storage, and/or filing any documents or items on which your name and/or other particulars appear, or any data or records or any documents whatsoever; and
- (d) "Security Codes" means personal or log-on identification numbers, biometric data and other codes and access procedures for use in connection with access to and use of the Steinweg Digital Services issued by us from time to time.

## **10. Authorised Users**

- 10.1 You acknowledge and confirm that any Authorised Users are, subject to any restrictions that we may impose, severally empowered and authorised to give orders or instructions through the Steinweg Digital Services on your behalf and shall act, without prejudice to any other capacity which such person may be transacting under, as your agent when accessing and/or using the Steinweg Digital Services, in relation to your user account.
- 10.2 You acknowledge and agree that all use and/or access of the Steinweg Digital Services by the Authorised Users shall be deemed your use. All references to your use of the Steinweg Digital Services shall be deemed to include the Authorised User's use and/or access where applicable. You shall procure and ensure that each of your Authorised Users is aware of and complies with these Steinweg Digital Services Terms and Conditions and the Privacy Policy of the Company (which may be amended, varied, supplemented or updated from time to time and is made available at [https://www.steinweg.com/uploads/steinweg/privacy\\_policy/singapore\\_privacy\\_policy.pdf](https://www.steinweg.com/uploads/steinweg/privacy_policy/singapore_privacy_policy.pdf)) (the "Privacy Policy") in relation to your user account.
- 10.3 If the authorisation of the Authorised User to access and/or use the Steinweg Digital Services in relation to your user account has been withdrawn, you are obliged to inform us immediately and you shall be liable for any loss, damage, expense or costs resulting from the unauthorised access and/or use of the Steinweg Digital Services by such user. You will fully indemnify and hold us (and our officers, directors, agents, employees, affiliates and related corporations) harmless from any claim, loss, damage, expense or costs suffered due to or arising out of the unauthorised access and/or use of the Steinweg Digital Services by such user.
- 10.4 Where you are using or accessing the Steinweg Digital Services as an Authorised User, you agree that:
- (a) these Steinweg Digital Services Terms and Conditions and the Privacy Policy shall apply to any such use; and
  - (b) you shall be bound by and shall comply with all other terms and conditions or restrictions applicable to you in connection with such use.

## **11. Uploading content to the Steinweg Digital Services**

- 11.1 You warrant that any content you upload to the Steinweg Digital Services (including descriptions, reviews, comments and photos) complies with our content standards as set out in paragraph 13 below. You will be liable to us and indemnify us against all actions, claims, proceedings, costs and damages and all legal costs or other expenses arising out of your breach of this warranty.
- 11.2 If you do upload content, you are deemed to have granted us a non-exclusive, royalty-free, perpetual, irrevocable, and fully sublicensable right to use, reproduce, modify, adapt, publish, translate, create derivative works from, distribute, and display such content throughout the world in any media.

- 11.3 We have the right to disclose your identity to any third party who is claiming that any content posted or uploaded by you to the Steinweg Digital Services constitutes a violation of their intellectual property rights, or any other legal rights.
- 11.4 You represent and warrant that you own or otherwise control all of the rights to the content that you post, that the content is accurate, that use of the content you supply does not violate these Steinweg Digital Services Terms and Conditions and will not cause injury to any person or entity. We (including our officers, directors, agents, employees, affiliates and related corporations) will not be responsible or liable for the content or accuracy of any content posted by you on the Steinweg Digital Services and you agree to bear all liability and fully indemnify us against all actions, claims, proceedings, costs and damages and all legal costs or other expenses arising out of your breach of this warranty.
- 11.5 We have the right to remove any content that you upload to the Steinweg Digital Services if, in our opinion, the content does not comply with our content standards as set out in paragraph 13.

## 12. Linking to the Steinweg Digital Services

- 12.1 You may link to the Steinweg Digital Services, provided you do so in a way that is fair and legal and does not damage our reputation or take advantage of it. When linking to the Steinweg Digital Services, the Steinweg Digital Services must not be framed on any other site.
- 12.2 You must not establish a link in such a way as to suggest any form of association, approval or endorsement on our part where none exists.

## 13. Content standards

- 13.1 All content that you upload on the Steinweg Digital Services must:
- (a) be accurate (where they state facts);
  - (b) be genuinely held (where they state opinions); and
  - (c) comply with applicable law in any country from which they are posted.
- 13.2 All content that you upload on the Steinweg Digital Services must not:
- (a) contain any material which is defamatory of any person;
  - (b) contain any material which is obscene, offensive, hateful or inflammatory;
  - (c) promote sexually explicit material;
  - (d) promote violence;
  - (e) promote discrimination based on race, sex, religion, nationality, disability, sexual orientation or age;
  - (f) infringe any copyright, database right or trade mark of any other person;
  - (g) be likely to deceive any person;
  - (h) be made in breach of any legal duty owed to a third party, such as a contractual duty or a duty of confidence;
  - (i) promote any illegal activity;
  - (j) be threatening, abuse or invade another's privacy, or cause annoyance, inconvenience or needless anxiety;
  - (k) be likely to harass, upset, embarrass, alarm or annoy any other person;
  - (l) be used to impersonate any person, or to misrepresent your identity or affiliation with any person;
  - (m) give the impression that they emanate from us, if this is not the case; or
  - (n) advocate, promote or assist any unlawful act such as copyright infringement or computer misuse.

## 14. Suspension and termination

- 14.1 We will determine, in our sole and absolute discretion, whether there has been a breach of these Steinweg Digital Services Terms and Conditions through your use of the Steinweg Digital Services.
- 14.2 When a breach of these Steinweg Digital Services Terms and Conditions has occurred, we may take such action as we deem appropriate, including:
- (a) the immediate, temporary or permanent withdrawal of your right to use the Steinweg Digital Services;
  - (b) the immediate, temporary or permanent removal of any posting or material uploaded by you to the Steinweg Digital Services;
  - (c) the issue of a warning to you;
  - (d) legal action against you; and
  - (e) the disclosure of such information to law enforcement authorities as we reasonably deem necessary.

- 14.3 In the event of any termination or suspension pursuant to this paragraph 14, you will not be entitled to any refund of any fees (or any portions thereof) paid by you in advance for the use of the Steinweg Digital Services.

## 15. Limitation of our liability

- 15.1 To the fullest extent permitted by applicable law and without prejudice to any other limitations in these Steinweg Digital Services Terms and Conditions and unless otherwise directly caused by (a) gross negligence on our part or (b) an act or omission on the part of our board or management, done either (i) with the intent to cause that damage or (ii) recklessly and with the knowledge that such damage would result therefrom, we (including our officers, directors, agents, employees, affiliates and related corporations) will not be liable to you or anyone claiming under or through you whether in contract, tort (including negligence or breach of statutory duty) or otherwise for:
- (a) any claim, loss, damage, expense or cost arising from any material or data sent or received or not sent or received or any transactions entered into through the Steinweg Digital Services;
  - (b) any threatening, defamatory, obscene, offensive or illegal content or conduct of any other party or any infringement of another party's rights, including intellectual property rights;
  - (c) any (i) consequential, special, indirect, incidental, punitive or exemplary damages, costs, expenses or losses, (ii) loss of profits, income, revenue, data or data use, interest, utility, opportunity costs, or business or anticipated savings (iii) loss of demurrage of any means of transport (floating or rolling) or dispatch money or (iv) loss of market, whether in tort, contract, under statute or otherwise, by reason of or in connection with the use of, or inability to use the Steinweg Digital Services;
  - (d) any claim, loss, damage, expense or cost caused by a virus, distributed denial-of-service attack, or other technologically harmful material that may infect your computer equipment, computer programmes, data or other proprietary material due to your use of the Steinweg Digital Services or to your downloading of any content on it, or on any website linked to it;
  - (e) any claim, loss, damage, expense or cost arising from the use of, or inability to use, the Steinweg Digital Services;
  - (f) any claim, loss, damage, expense or cost arising from the use of or reliance on any content displayed on the Steinweg Digital Services;
  - (g) any claim, loss, damage, expense or cost arising from the content of websites linked on the Steinweg Digital Services;
  - (h) any claim, loss, damage, expense or cost arising out of or in connection with our reliance on your or your Authorised Users' Electronic Instructions or our failure to act or delay in acting on any of your or your Authorised Users' Electronic Instructions for reasons set out herein; or
  - (i) any claim, loss, damage, expense or cost arising from the failure or malfunction of any of the services, applications or systems provided on the Steinweg Digital Services by a third party service provider.
- 15.2 Subject always to paragraph 15.1 above, our (including our officers, directors, agents, employees, affiliates and related corporations) liability to you whether in contract, tort (including negligence or breach of statutory duty) or otherwise for any and all losses, costs, expenses, claims or damages whatsoever and howsoever caused or arising from any breach, failure or default by us (including our officers, directors, agents, employees, affiliates and related corporations) in performing our obligations or duties to you 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.

## 16. Indemnity and Himalaya

- 16.1 You will fully indemnify and hold us (and our officers, directors, agents, employees, affiliates and related corporations) harmless from any claim, loss, damage, expense or cost suffered due to or arising out of your breach of these Steinweg Digital Services Terms and Conditions, or your violation of any law or the rights of any third party. We reserve the right, at our own expense, to assume the exclusive defence and control of any matter otherwise subject to indemnification by you, in which event you will cooperate with us in asserting any available defences.
- 16.2 To the fullest extent permitted by applicable law, you undertake and warrant that you will not bring or allow to be brought any legal claim whether directly or indirectly arising in connection with your use of the Steinweg Digital Services or a breach of these Steinweg Digital Services Terms and Conditions, against us (or our officers, directors, agents, employees, affiliates and related corporations).
- 16.3 Should our employees and/or subcontractors whose services we employ for the use of and the access to the Steinweg Digital Services be held liable, such persons shall be entitled to invoke any limitation of and/or exemption from liability included in these Steinweg Digital Services Terms and Conditions or any other statutory provision or contractual provision.

**17. Viruses**

- 17.1 We will exercise best endeavours to keep the Steinweg Digital Services secure, we do not guarantee that the Steinweg Digital Services will be secure or free from bugs or viruses at all times. We (including our officers, directors, agents, employees, affiliates and related corporations) will not be liable to you or any other party for any claim, loss, damage, expense or cost arising out of any bugs or viruses originating from the Steinweg Digital Services.
- 17.2 You are responsible for configuring your information technology, computer programmes and platform in order to access the Steinweg Digital Services. You should use your own virus protection software.
- 17.3 You must not carry out the following activities against the Steinweg Digital Services:
- (a) misuse the Steinweg Digital Services by knowingly introducing viruses, Trojans, worms or other material which is malicious or technologically harmful;
  - (b) gain, or attempt to gain, unauthorised access to the Steinweg Digital Services, the server(s) on which the Steinweg Digital Services is/are stored or any server, computer or database connected to the Steinweg Digital Services; or
  - (c) attack the Steinweg Digital Services via a denial-of-service attack or a distributed denial-of service attack.

**18. Security**

- 18.1 Certain data transmissions between you and the Steinweg Digital Services are conducted through secure servers and protected by Secure Socket Layer (SSL) technology. Certain services provided via the Steinweg Digital Services may require you to use passwords and digital signatures. While we will use reasonable endeavours to provide reasonable precautions to protect confidential information received from you, we (including our officers, directors, agents, employees, affiliates and related corporations) shall not be liable to you for any claim, loss, damage, expense or cost arising out of or in connection with the transmission of information over the Internet. We do 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.
- 18.2 You acknowledge the following Internet-related risks:
- (a) Insufficient technical knowledge and lack of safety precautions can make it easier for unauthorised third parties to access your systems or devices (for example, insufficiently protected storage of data on the hard disk, file transfers and monitor emissions), and it is your responsibility to take the necessary security precautions.
  - (b) Your usage patterns may be monitored by third parties.
  - (c) Third parties could gain unnoticed access to your computer system and detect your access to the Steinweg Digital Services and your communications with us.
  - (d) Viruses and other malicious code may interfere with your use or access to the Steinweg Digital Services, the web browser or any relevant telecommunication device or computer systems.

**19. Third party links and resources in the Steinweg Digital Services**

Where the Steinweg Digital Services contains links to other sites and resources provided by third parties, these links are provided for your information only. We have no control over the contents of those sites or resources and we make no representations, warranties or guarantees that the content contained therein is accurate, complete or up-to-date. We (including our officers, directors, agents, employees, affiliates and related corporations) will not be liable for any claim, loss, damage, expense or cost caused by your reliance on such third party content.

**20. Data protection**

Each party shall comply with any laws and regulations in the relevant jurisdiction relating to privacy or the use or processing of personal data. For the purpose of providing the Steinweg Digital Services or other services agreed upon with you, personal data will be processed as described in the relevant privacy policy of the particular services.

We (including our officers, directors, agents, employees, affiliates and related corporations) will not be liable for any claim, loss, damage, expense or cost arising out of the collection, use, disclosure or any other kind of processing in relation to your personal data, if we have complied with our data protection obligations under applicable laws and regulations.

**21. No agency**

No agency, partnership, joint venture, employer-employee or franchisor-franchisee relationship is intended, exists or is created between us and you or any other party using the Steinweg Digital Services.

**22. Severance**

If any part of these Steinweg Digital Services Terms and Conditions is determined to be invalid or unenforceable pursuant to applicable law, the invalid or unenforceable provision will be deemed superseded by a valid, enforceable provision that most closely matches the intent of the original provision and the remainder of these Steinweg Digital Services Terms and Conditions will continue in effect.

**23. Waivers/rights and remedies**

No failure or delay by us in exercising any right or remedy provided by law under or pursuant to these Steinweg Digital Services Terms and Conditions will impair such right or remedy or operate or be construed as a waiver or variation of it or preclude its exercise at any subsequent time and no single or partial exercise of any such right or remedy will preclude any other or further exercise of it or the exercise of any other right or remedy. Our rights and remedies under these Steinweg Digital Services Terms and Conditions will not be affected, and your liabilities under these Steinweg Digital Services Terms and Conditions will not be released, discharged or impaired by any event or matter whatsoever, other than a specific and duly authorised written waiver or release given by us.