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**GENERAL TERMS AND CONDITIONS SHIFT LOGISTICS BV**

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**FORWARDING, WAREHOUSING & CUSTOMS**

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## GENERAL TERMS AND CONDITIONS

### **TITLE I: GENERAL**

#### **1 Definitions and interpretation**

For the application of these Terms and Conditions the terms and expressions mentioned with a capital letter, have the meaning as set out in Attachment I.

#### **2 Application scope**

- 2.1 These General Terms and Conditions shall apply to each Service, each Order and/or each contract between Shift Logistics and her Principal that relate directly or indirectly to the Orders that Shift Logistics performs or is ought to perform for the Principal.
- 2.2 The Principal acknowledges and accepts that her general terms and conditions or other conditions, in whatsoever form or of whatsoever nature, shall not apply, even if they state that they are the only ones that apply, unless Shift Logistics would have accepted these conditions expressly and in writing.
- 2.3 These General Terms and Conditions replace all written or oral agreements, proposals and duties that relate to the same matter and that precede the date of the Order.
- 2.4 Shift Logistics reserves the right to alter the General Terms and Conditions unilaterally as a result of amended Laws or due to any other reason, upon prior notice to the Principal.
- 2.5 Depending on the Order to be performed by Shift Logistics, one or several Titles of these General Terms and Conditions apply: (i) Title I applies to each Order or Service, (ii) Title II applies if Shift Logistics acts as a Freight Forwarder, including Customs Representation, and (iii) Title III applies in the case of Custody by Shift Logistics, both before and after a transport, or separately from a transport order.
- 2.6 Insofar as several Titles apply to an Order or Service that is performed, or deemed to be performed by Shift Logistics the provision most favourable to Shift Logistics shall apply if several provisions regulate the same Order.
- 2.7 Derogations with regard to the General Terms and Conditions are possible only after prior and written consent of Shift Logistics.

#### **3 Payment terms**

- 3.1 All invoices of Shift Logistics need to be paid within thirty days of sending in the way defined in the invoice, unless the expiry date states otherwise.
- 3.2 The amount of each invoice that is not paid or not paid fully on the due date, the invoice shall be legally and without prior notice of default raised by (i) an interest rate equal to 1% per month of non-payment, each month started being considered as having expired, and (ii) a fixed compensation of 10% on the amount of the outstanding invoices, with a minimum of 140 EUR. Moreover, Shift Logistics shall be entitled to charge the costs for default notice and dunning ("reminder costs").
- 3.3 In the absence of payment on the due date of one or more invoices all outstanding but not yet due invoices shall be payable by the Principal without prior default notice. The Principal shall not be entitled to set-off invoices of Shift Logistics with own invoices or claims against Shift Logistics.
- 3.4 Any protest against invoices Shift Logistics needs to be notified within 14 days of receipt of the invoice by registered letter.

#### **4 Pledge and lien**

- 4.1 Insofar as the law of the country where this pledge and lien right is executed, the following applies:

Shift Logistics shall be able to exercise a lien or retention right on all material and/or Goods entrusted to it, either in the framework of an Order or held by it in any way, and this to cover all claims on its Principal, from any cause. The foreclosure of the property will, upon choice of Shift Logistics, be realised by public sale, private sale, lease or appropriation. These shall make up for both the main sum, interests, damage clause and any costs.

- 4.2 Insofar these rights are being exercised and the Goods are released by Shift Logistics, however not picked up by the Principal or no further arrangements hereto have been made, and this within 90 days of the release, Shift Logistics shall have the possibility to sell these Goods, and this by any means.

Insofar the due amounts are fixed and not contested, these rights cease to exist from the moment Shift Logistics is fully compensated, or the Principal has provided sufficient securities for the entire amount to be compensated.

- 4.3 Insofar as the rights are being contested, or cannot be precisely budgeted, the Principal can liberate the property only by payment to Shift Logistics of the amount of the guaranteed debt and the recovery costs incurred at that moment or as soon as the Principal has provided sufficient securities for the amount claimed by Shift Logistics and the Principal has undertaken to pay the amounts recovered within a certain timeframe, once they become fixed.

- 4.4 Insofar as the abovementioned provision would be excluded by the national law of the country where the Goods are situated, Shift Logistics shall exercise at least a retention / lien right according to the conditions of this applicable law.

#### **5 Set-off**

- 5.1 Notwithstanding any insolvency, any transfer of claims, any form of seizure and notwithstanding any concurrence Shift Logistics shall apply either set-off or debt renewal on all claims Shift Logistics or the Principal have towards its creditors, and that the latter have on Shift Logistics. This right shall in no way be affected by the notification or service of an insolvency, transfer of debt, any form of claim or any concurrence.

- 5.2 The claims mentioned in article 5.1 are to be understood as every claim and every liability that a Party has against another Party, be it on a contractual or extra-contractual basis, albeit a pecuniary one, or another obligation, including payment and delivery obligations, each debt, each obligation resulting from a guarantee, each obligation to give a pledge or maintain it and each other obligation, or requirement.

#### **6 Dissolution – Suspension**

- 6.1 In case the Principal fails to meet one or more contractual obligations or if the confidence in the Principal's creditworthiness is shaken or if Shift Logistics has no justified confidence in the fulfilment and proper execution of the obligations by the Principal, Shift Logistics reserves the right to suspend, even after partial performance of the Order, (i) the entire Order or part of it to obtain from the Principal sufficient securities of entire fulfilment of all obligations of the Principal either (ii) dissolve the contract without prior legal intervention and with immediate effect against the Principal. Shift Logistics shall not be liable in any way for possible damage the Principal or the Principal's customers would suffer as a result of the abovementioned dissolution or termination.

- 6.2 In case of termination of the Order in accordance with article 6.1 Shift Logistics shall be entitled to a (supplementary) compensation against the Principal, budgeted at a lump sum of 25% of the price mentioned in the Order, notwithstanding the right of Shift Logistics to prove and claim the existence of a more extensive damage.

- 6.3 The Principal shall renounce in any case its right to suspend its payment obligations partially or completely and waives set-off with respect to all amounts that Shift Logistics charges him.

## **7 Cross default**

- 7.1 All companies affiliated to Shift Logistics can make use of the payment securities enumerated in these General Terms and Conditions and may revoke a right of retention or lien exercised by an affiliated company with Shift Logistics for security of payment of her claim, regardless of the place where the Goods actually are, insofar as the right of the country where this lien and/or retention right is exercised does not forbid expressly.
- 7.2 A breach by the Principal in respect of an affiliated company connected to all members of Shift Logistics so that every member of Shift Logistics has the right to terminate the assignment or the Assignment, or make use of all securities and rights included in these General Terms and Conditions.
- 7.3 If a Principal is part of a group of Affiliated Companies, the breach of one of the Affiliated Companies in respect of Shift Logistics shall be considered a breach of the Principal under these General Terms and Conditions and Shift Logistics shall be entitled to use all securities and rights included in these General Terms and Conditions.

## **8 Guarantee**

- 8.1 The Principal guarantees that he is fully familiar with all Laws, Customs formalities and required Transport documents, and with all international or national transport and customs-related procedures in the EU and outside the EU that apply to the import, export or transit of the Goods and the execution of the Services by Shift Logistics with regard to the Goods.
- 8.2 The Principal guarantees that he is fully familiar with the new or adapted operational measures, the preparations and the logistic requirements that are applied by Shift Logistics and Third Parties, such as the minimum/maximum deadlines and the new information currents with regard to Customs documents, including the obligation to file declarations that are necessary for the timely execution of services by Shift Logistics and for the compliance with the Law.

## **9 Taxes– Customs duties, Excise Duties and Rates**

- 9.1 The Principal guarantees payment of all Taxes for or relating to the Goods, and shall be liable for each payment, clearance, Damage or loss incurred by Shift Logistics relating to these Taxes.
- 9.2 The Principal undertakes to indemnify Shift Logistics in the broadest sense against all claims of the Authorities and/or Third Parties with regard to Taxes for or relating to the Goods, even if these claims result from or relate to acts or shortcomings of the Recipient, the Sender and/or the Party interested by the Goods.
- 9.3 If necessary the Principal shall on first request and by choice of Shift Logistics, (i) provide sufficient guarantees or securities, such as to prevent or lift a seizure of the Goods or, pay to Shift Logistics (ii) all amounts, both in principal and in interest and costs that are claimed by the Authorities and/or Third Parties with regard to this and shall indemnify Shift Logistics for all Damage, costs and expenses (including fees) resulting from this or any delay incurred.
- 9.4 If the Principal does not comply with the definitions of article 9 of this Title, Shift Logistics shall be entitled to sell the Goods or dispose of them otherwise, without prior notice and for account and risk of the Principal to compensate for the Damage, costs (including fees) or delay.

## **10 Data protection and privacy**

- 10.1 The Parties undertake to comply with all Laws on data protection that apply to these General Terms and Conditions and the legal relationship between the Principal and Shift Logistics, including the General Data Protection Regulation (Regulation 2016/679).
- 10.2 The Principal accepts that Shift Logistics has the right to process personal data of information related to her directors, representatives, employees and other persons in the framework of and for the purpose of the Order the Principal gives to Shift Logistics. The Principal confirms its competence to supply these personal data to Shift Logistics as an agent of these .

## **11 Loss of right**

Notwithstanding any mandatory provisions Shift Logistics shall not be held to compensate the Principal for an Order if the Principal has not formally notified Shift Logistics of his claim by means of a bailiff notice within a period of 6 months from the date on which the Order has been performed or is ought to be performed.

## **12 Divisibility**

If any provision of these General Terms and Conditions is entirely or partially illegal under the applicable law or is declared void or unenforceable, this provision or the part of it concerned is considered as not taking part of these General Terms and Conditions and the other provisions of these General Terms and Conditions remain legal, valid and enforceable.

## **13 Applicable law and competent court**

- 13.1 These General Terms and Conditions, the contractual relationships and all non-contractual obligations that arise from or with regard to these General Terms and Conditions and Assignments, shall be governed by Belgian law.
- 13.2 All disputes arising from or relating to the Orders (including concerned non-contractual obligations arising from or in relation to these General Terms and Conditions) fall within the exclusive jurisdiction of the courts of Bruges.

## **TITLE II: FORWARDING & CUSTOMS ACTIVITIES**

### **1 Scope**

- 1.1 The conditions set out in this Title II "Forwarding & Customs activities" shall apply to all services provided by Shift Logistics, including the completion of Customs formalities, in her capacity as Freight Forwarder.
- 1.2 The services provided as a Freight Forwarder shall be governed by this Title II, as well as the Belgian Freight Forwarders Standard Trading Conditions, enclosed in Attachment II of these General Terms and Conditions. The Belgian Freight Forwarders Standard Trading Conditions constitute a supplement to these General Terms and Conditions. The provisions of the Titles of these General Terms and Conditions prevail over Attachment II, unless the relevant provisions from the Belgian Freight Forwarders Standard Trading Conditions are the most favourable to Shift Logistics.

### **2 Information obligation**

- 2.1 The Principal undertakes to document each Order completely and accurately and to provide all supporting documents, including the Transport documents, Customs documents and instructions, so that Shift Logistics and/or the assigned Transporter, the Customs representative can execute their Services timely and according to the Law.

- 2.2 The Principal shall provide Shift Logistics upon first request the data and/or information that would be required additionally to render the Services and, if applicable, within the set deadlines.

The Principal confirms and guarantees that all information, instructions and documents provided, including all Transport documents and Customs documents are complete, accurate, correct and sufficient for rendering the Services timely and complete the Customs formalities with regard to the Goods correctly.

- 2.3 If the Principal is not the Registered Exporter or/and the Registered Importer, the Principal shall make sure that the Registered Exporter and/or the Registered Importer meets all requirements to make sure that Shift Logistics can render her Services timely and according to the Law.
- 2.4 The Principal shall determine if a specific consent or permit for the import or the export is required for certain Goods and shall inform Shift Logistics of this. Shift Logistics shall not give advice about Customs formalities and requirements. All communication about this is merely indicative. Shift Logistics shall accept no liability for any declaration or mention about this.
- 2.5 Shift Logistics shall not be obliged to investigate whether the information, instructions and documents, including Customs documents, are complete, authentic, accurate and correct. The Principal shall in any case notify Shift Logistics immediately if he becomes aware that certain information and/or a certain document is not correct, insufficient or fraudulent.
- 2.6 All requests, disputes and questions of the Authorities to Shift Logistics shall be transferred on a one-to-one basis to the Principal, including mentions about inspections, requests to put the goods again available to the customs, notifications on changes to an element of a customs declaration, informal questions such as rejections of declaration or demands for more information to corroborate a statement in a declaration.
- 2.7 Shift Logistics shall be entitled to suspend or to cancel the execution of its Services without prior notification or compensation if she can reasonably assume that the Principal does not comply timely or appropriately with its information obligation, as set out in article 2.1 of this Title.

Shift Logistics shall also be entitled to suspend or cancel the execution of an Assignment without prior notification and compensation, if she can reasonably assume that its execution implies an increased risk of liability or is not reasonably or economically unjustifiable for any reason.

- 2.8 In any case, the performance of an Order can never be considered an exemption of his information obligation, as set in article 2.1 of this Title.

### **3 Mandate**

Upon first request, the Principal shall provide Shift Logistics with a signed mandate with a view of completing the Customs formalities according to the model provided in which Shift Logistics, or a Customs representative appointed by her, is mandated to complete the indicated Customs formalities. The mandate shall mention the capacity of direct or indirect representative for completing the Customs Formalities on behalf of the Principal.

### **4 Securities**

- 4.1 If necessary, the Principal shall on first request of Shift Logistics and at her choice provide a sufficient provision and/or security to cover all Taxes.
- 4.2 If the Principal wishes to make use of his security account or declares guarantee and guarantees the Principal that the Authorities have sufficient provision, guarantees and securities according to the Law, to enable a smooth completion of the Customs formalities. The Principal shall provide Shift Logistics the proof of and access to its security accounts and/or customs guarantee for the execution of his Order.

4.3 If the Principal fails to provide the required securities, as set out in this article 3 of this Title, the Principal shall pay to Shift Logistics on first request all amounts, both in principal and interest, that the Authorities and/or Third Parties claim from Shift Logistics. The Principal shall also compensate Shift Logistics for all damage, costs and expenses (including fees) or delay incurred.

## **5 Costs and expenses**

5.1 Shift Logistics shall be entitled to reclaim all reasonable costs and expenses that are connected to the execution of the specific instructions of the Principal, including all direct and indirect compensation and costs with regard to the verification of declaration documents and/or the inspection of Goods in accordance with the practices applicable at the point of entry or departure.

5.2 Where necessary and when possible the Authorities will claim all Taxes directly from the Principal, such as:

- (i) customs duties, anti-dumping duties, levies, contributions, additional contributions or reimbursements, additional amounts or components, additional duties, duties following the applicable customs tariff and other current or future duties relating to trade with third countries, contributions and other levies;
- (ii) excise duties, special energy levies, fees for the inspection of fuels, environmental levies and green taxes, tax on packaging;
- (iii) taxes on the added value;
- (iv) levies, fees and delay interests payable on Goods with a declaration obligation, duties arising from health inspections, local taxes, storage rights and all other contributions for which the government grants deferral according to the Law.

5.3 Shift Logistics shall have the right to compensate all payments, amounts and/or reimbursements that she receives from an Authority on the account of the Principal with each sum the Principal has to pay to Shift Logistics pursuant to the Assignment.

## **6 Sub-contracting**

Shift Logistics shall be allowed to sub-contract her Services completely or partially to professional Third Parties.

## **7 Liability**

7.1 Shift Logistics shall only be liable against the Principal for direct damage or loss that is exclusively due to a proven incorrect execution of the instructions given by the Principal.

7.2 The Principal acknowledges and agrees that Shift Logistics can in no case be held liable for any Damage, loss, delay or costs as a result of the non-compliance of the Principal of his obligations, as set out in this Title, or as a result of the incomplete or non-timely compliance of it and/or the results of it, toward the Forwarder, the Authorities and/or Third Parties.

7.3 If an error or omission has caused Damage to the Principal,, Shift Logistics shall have the right to limit its liability to € 5,00 per kilogram gross weight of the Goods which are the object of the services, with a maximum of € 10.000 per Order.

## **8 Safeguard**

The Principal undertakes to safeguard Shift Logistics and/or Third Parties completely against all claims of the Forwarder, the Authorities and/or another Third Party relating to Services and/or Taxes with regard to her Goods.

## **Title III: STORAGE AND HANDLING OF GOODS**

### **1 Scope**

The provisions under this Title III of the Terms are applicable on the Custody of the Goods by Shift Logistics, regardless whether such Custody occurs before or after an Order or such Custody occurs separately from each Order.

### **2 Custody**

- 2.1 Shift Logistics shall execute the Custody of the Goods by order of the Principal according to the rules of the trade. The obligations of Shift Logistics are qualified as a resource commitment and not as a result commitment.
- 2.2 Shift Logistics shall aim to maintain the quality of the Goods during the Custody and to maintain the optimal hygienic conditions in the Warehouse.

### **3 Information obligation**

- 3.1 The Principal undertakes to provide Shift Logistics with all information timely and in writing before the start of the Custody, so that Shift Logistics can execute the Storage assignment in accordance with article **Error! Reference source not found.** of this Title and the Law, including:
  - (i) the correct and accurate description of the Goods, type, number, weight, product information, European MSDS sheets, state, possible hazard class and the packaging characteristics;
  - (ii) information on storage and handling of the Goods, timetables for transport, stock management, product quality requirements,
  - (iii) all directions and restrictions relating to the protection, handling or the stay of the Goods and the performance of the Custody in general; and
  - (iv) all Customs documents required for the execution of the Custody.
- 3.2 If the Goods are submitted to customs and excise duties or other levies imposed by an Authority, the Principal shall have to provide Shift Logistics, at the start of the Custody, with all information that Shift Logistics, has to be able to provide to the Government in her capacity as a Custodian according to the Law.

### **4 Unloading - Acceptance**

- 4.1 The Principal is responsible for the delivery and the unloading of the Goods to the Warehouse from the vehicle in accordance to the Law, the information mentioned in article 3 of this Title and the rules of art.
- 4.2 If Shift Logistics is requested by the Principal or the transporter appointed by him, to unload the Goods from the vehicle, the unloading by Shift Logistics shall at any time occur under the supervision, the instructions, the surveillance and the liability of the Principal. Shift Logistics has the right to refuse the unloading of poorly stacked or non-compliant cargo.
- 4.3 Shift Logistics shall vouch for the Acceptance of the Goods at the Warehouse. The transfer of risks and liability takes place at the moment of the Acceptance of the Goods by Shift Logistics.
- 4.4 Shift Logistics has the right to refuse the Acceptance of the Goods on which Freight Charges, taxes, duties, levies, penalties and/or other charges or costs, of any kind have to be paid, unless sufficient securities have been provided by or on account of the Principal.
- 4.5 After unloading the Goods, Shift Logistics shall verify both (i) the mentions on the consignment note, (ii) the number of parcels, (iii) the marks and numbers and (iv) the exterior state of the Goods and their packaging.



In case of loss, damage, shortcomings or other defaults, Shift Logistics shall make a reservation on the consignment note and also mention the reason of the reservation.

## **5 Order after Custody Order**

- 5.1 If the Goods are the subject of an Order after the Custody Order, the Principal undertakes to document the Order for its execution completely and accurately in writing in accordance with article 3 of Title III, including all information that has to be given by a consigner and Consignor and Shipper according to the Law, so that Shift Logistics can perform the Order according to the Law.

## **6 State of the Goods**

- 6.1 The Principal undertakes to deliver the Goods in a good state in accordance with applicable hygiene rules and regulations.
- 6.2 The Principal guarantees that the Goods bear all necessary marks in connection with their characteristics. The Goods to be stored in a customs warehouse must always be correctly and clearly distinguishable marked.
- 6.3 The Principal undertakes to pack the Goods as required for the execution of the Storage Order and, possibly, the subsequent Assignment, unless it is common not to pack the Goods.
- 6.4 Shift Logistics reserves the right to refuse the Custody of the Goods if there would be a risk of product contamination of other Goods stored in the Warehouse.
- 6.5 In any event, the Principal shall be obliged to indemnify and compensate Shift Logistics for all Damages it suffers or threatens to suffer as a result of its failure or inadequate compliance with article 6 of this Title, including fines imposed by the Authorities, lawyers' costs and court fees.

## **7 Access to the Warehouse**

- 7.1 Before the start of the Custody by the Principal, the Warehouse can be checked for its suitability. In absence of such verification or any reasoned reservation the Warehouse shall be deemed by the Principal not to be suitable for the Custody of the Goods.
- 7.2 The Principal shall provide Shift Logistics with a list of its representatives who will inspect the Warehouse not later than 7 working days before the agreed inspection date.

## **8 Working hours**

- 8.1 Within the framework of Custody, Shift Logistics shall normally carry out its activities on Working Days and during Hours when the Warehouse is open.
- 8.2 If, due to government regulations or measures, due to unforeseen circumstances or in the interest of the Goods or Shift Logistics, work referred to in article **Error! Reference source not found.** of this Title must be carried out on other days or times, other than those specified in article 8.1 of this Title, Shift Logistics shall be entitled, if necessary without prior approval of the Principal, to carry out these works outside the normal Working Days and Hours.
- 8.3 If, in accordance with article 8.2, works in the framework of the Custody are being carried out outside the Working Days and/or Hours or if the Principal wishes so, all extra costs shall be on account of the Principal.

## **9 Volume change**

- 9.1 The Principal shall provide, prior to the first Storage Assignment, an estimate of the average storage volume per period agreed. If the provided average storage volumes would however increase or decrease by 15% or more, the Principal undertakes to notify Shift Logistics thereof no later than 30 days before the start of the modified Storage Assignment ("Volume change"). In such case, Shift Logistics reserves the right to revise the agreement (incl. rates).
- 9.2 Shift Logistics can in no case be held liable for damage suffered by the Principal as a result of the impossibility for Shift Logistics to handle the Volume Change mentioned in article 9.1 of this Title as usual.
- 9.3 The Principal undertakes to indemnify and compensate Shift Logistics against damage Shift Logistics would suffer as a result of a Volume Change, including loss of profit, insofar as the Principal has not notified Shift Logistics timely of this Volume Change, as set out in article 9.1 of this Title.

## **10 Stock differences**

- 10.1 Shift Logistics shall keep stock records of the Goods on the basis of stock-keeping units or references whereby the Stock differences will be evolved once a year.
- 10.2 In case of a negative difference of more than 5% of the total Annual Volume the Principal shall be entitled to a compensation corresponding to the proven Value of Arrival of the relevant Stock Differences for the percentage above the threshold of 5%.

## **11 Liability of Shift Logistics**

- 11.1 Without prejudice to the limitations set out in articles **Error! Reference source not found.** and 13 of this Title, Shift Logistics undertakes to compensate the Principal against each shortage, loss, damage to the Goods occurring between the moment on which Shift Logistics receives the Goods according to article 4.5 of this Title until the moment on which the Goods are transferred to a Freight Forwarder appointed with the post-transportation, insofar as the shortage, loss or damage has been caused by a fault of Shift Logistics.
- 11.2 The burden of proof that the shortage, loss or damage is due to a fault of Shift Logistics rests with the Principal.

## **12 Liability exemptions for Shift Logistics**

- 12.1 Shift Logistics shall be relieved of any liability for a shortage, loss or damage if the shortage, loss or damage is caused by the fault of the Principal, by an order of the latter, by its own defect on the good or due to circumstances which Shift Logistics was unable to avoid or the consequences of which it was unable to prevent.
- 12.2 Shift Logistics shall also be relieved of any liability if the loss or damage could have been the result of particular hazards, inherent to one or more of the following circumstances:
- (i) absence or inadequacy of packaging in case of the Goods, which by their nature are exposed to quality deterioration or damage, when they are unpackaged or poorly packaged;
  - (ii) handling, loading or stowage of the Goods by the Principal or by any appointee of the Principal, including any forwarder appointed by it;
  - (iii) the nature of certain Goods, which are exposed by items related to this nature itself, either to total or partial loss or to damage, in particular through breakage, rust, decay, desiccation, leakage, normal loss of quality or occurrence of vermin and rodents;

- (iv) incompleteness or inadequacy of marks or numbers of packages.

12.3 Finally, Shift Logistics shall be relieved of any liability if:

- (i) the loss of or the damage to the Goods is the result of or arises from the non-compliance by the Principal of the information obligation, such as set out in article 3 of this Title.
- (ii) the loss of or the damage to the Goods is the result of or arises from deliberate misbehaviour or a fault of the Principal, her representatives or any other agent on which services it calls for the transportation of Goods, their packaging or any other activity.
- (iii) the Stock Differences are less than 5% of the total Annual Volume in accordance with article 10 of this Title.

### **13 Liability limitations for Shift Logistics**

- 13.1 If Shift Logistics would be liable for complete or partial loss or for damage or a shortage of the Goods, the damage shall be estimated on the basis on the value of the Goods at the time and place of the Acceptance of the Goods by Shift Logistics in accordance with article 4 of this Title. The value will be determined on the basis of the proven Arrival Value of the relevant Goods.
- 13.2 The maximum amount to which Shift Logistics is liable under article 11 of this Title shall not exceed EUR 10,000 per claim or a series of claims with one and the same cause. The fees paid for the Storage Order, customs duties and other costs shall only be refunded in full in case of total loss and pro rata in case of partial loss.
- 13.3 For the avoidance of doubt, Shift Logistics shall not be liable for loss of profit, special, indirect or consequential damage of any kind (e.g. costs resulting from recalls) suffered by the Principal as a result of any fault of Shift Logistics within the framework of the contract.

### **14 Claims and reservations**

- 14.1 If, after Custody, the Principal, its representatives or agents take possession of the Goods without having established the condition of the Goods or without having notified Shift Logistics in writing of reservations indicating the general nature of the loss or damage, in case of any visible loss or damage no later than at the time of delivery, or in the event of invisible loss or damage, within seven days after delivery, including Sundays and public holidays, it shall be deemed, subject to proof to the contrary, to have received the Goods in the condition described in the waybill or consignment note.
- 14.2 Shift Logistics shall not be held to compensate the Principal for damage, loss or shortages if the Principal has not informed Shift Logistics thereof within a delay of 2 months after delivery of the Goods to the Principal.

### **15 Liability of the Principal**

- 15.1 The Principal shall be liable for all damage to the Warehouse, persons, equipment or other goods and for all costs related to the defective packaging of the Goods or a own defect, caused by himself, his agents and subcontractors.
- 15.2 The Principal is also liable for any Damage suffered by Shift Logistics as a consequence of or arising from a breach by the Principal of any obligations under these General Terms and Conditions.
- 15.3 The Principal shall indemnify and hold Shift Logistics harmless for all Damages, losses, costs, penalties and expenses (including court costs and attorneys' fees) that Shift Logistics suffers or bears as a result of or arising out of the Principal's failure or defective performance of its obligations under Title III.

- 15.4 The Principal shall also indemnify Shift Logistics for all freight charges, taxes, duties, fines, and/or other charges or costs, of any nature whatsoever, which must be paid in connection with the Goods, as well as for all costs arising from Government decisions at the expense of Shift Logistics.

## **16 Uncollected Goods**

- 16.1 The Principal undertakes to collect the Goods or have them collected within the agreed period or within a reasonable period of time.
- 16.2 If, in the opinion of Shift Logistics, the Goods remain in the Warehouse for an unreasonably long time, Shift Logistics shall give the Principal notice of default to collect the Goods or have them collected within the period stated in the notice of default ("Collection Date").
- 16.3 If the Goods have not been collected by the Collection Date, Shift Logistics shall be entitled to sell or otherwise dispose of the Goods, including their destruction, at the expense and risk of the Principal. The proceeds will be offset against any amounts that the Principal would owe to Shift Logistics.

## **17 Duration and termination of the Custody Agreement**

- 17.1 A Custody Agreement, which has been entered into for a specified period, terminates only by expiry of that specified period.
- 17.2 If a Custody Agreement was entered into for an indefinite period, Shift Logistics and the Principal shall be entitled to terminate the agreement, by registered letter with due observance of a notice period of one month, commencing on the first day of the month following the sending of the registered letter.
- 17.3 The Principal shall be obliged to take back its Goods no later than the last day of the period for which the Custody Agreement runs, after payment of all that, for whatever reason, it owes Shift Logistics. If the Principal fails to comply with this obligation, Shift Logistics shall be entitled to take all measures necessary for the clearance of the Warehouse, all at the expense and risk of the Principal. The Principal shall be obliged to reimburse Shift Logistics for all costs incurred and damages suffered by Shift Logistics as a result.
- 17.4 At all times, Shift Logistics shall be entitled to terminate a Custody Agreement, without compensation or legal intervention, regardless of whether the Custody Agreement was entered into for a definite or indefinite term if:
- (i) the Principal commits a breach of any of the Terms and Conditions; and
  - (ii) the presence of the Goods gives rise or threatens to give rise to loss of or damage to other goods of the Warehouse.
- 17.5 The Principal undertakes to take back the Goods no later than the last day of the period for which the Custody Agreement is in force. Shift Logistics is entitled to take all necessary measures it deems necessary for the clearance of the Goods from the Warehouse, including moving the Goods to another storage area at the expense and risk of the Principal.

## **18 Urgent measures**

Shift Logistics is entitled, at the expense and risk of the Principal, to take any measures he deems necessary, including the destruction of the Goods, if, according to standards of reasonableness and fairness, failure to take such measures would result in a risk of loss of or damage to the Goods themselves, to other Goods held by Shift Logistics (either by third parties or its own) or to the Warehouse.

## **19 Sale of the goods**

- 19.1 In the situations in which Shift Logistics is entitled to take urgent measures in accordance with article 18 and in situations in which Shift Logistics is entitled to proceed to clear the Warehouse, he shall also be entitled to proceed to private or public sale of the Goods, at the Principal's expense.
- 19.2 Shift Logistics shall transfer the proceeds of the sale to the Principal, after deducting all costs incurred on the Goods and any claims against the Principal, in principal, costs and interest. If the transfer is not possible, the proceeds will be consigned, after which the Principal not be able to claim any more interests than the sum consigned will actually have yielded.

## ATTACHMENT I: DEFINITIONS

For the purposes of these Terms and Conditions, the capitalised terms and expressions have the meanings set out below:

“**Offer**” means each proposal of services and/or prices by Shift Logistics, in any form whatsoever;

“**Arrival Value**” means the cost of production or purchase value of the Goods;

“**Delivery**” means the making available of the Goods to the Consignee, who will be responsible for docking the Goods, unstowing the Goods, physically removing the Goods from the feed vehicle, unloading and all related operations.

“**General Belgian Forwarding Conditions**” means the conditions as prepared by the National Confederation of Forwarders of Belgium VZW and published in the Annexes to the Belgian Official Gazette of June 24, 2005 including all amendments;

“**General Conditions**” means the terms, agreements and modalities contained in these general conditions, as well as all documents and Laws to which these general conditions refer;

“**Authority**” or “**Authorities**” means any Belgian, European or foreign governmental, quasi-governmental, multinational organisation or body, court, government or self-regulatory organisation, commission, court or regulatory, administrative or other institution or any political or other subdivision, department or branch thereof, including customs authorities and their officials.

“**Tax**” or “**Taxes**” means all forms of direct or indirect taxes, duties, levies, including customs and excise duties and other import duties, value-added tax, including value-added tax on importation, packaging tax, custodial charges, environmental taxes and charges and all other types of taxes or charges in any jurisdiction; as well as any interest, penalties, surcharges or fines relating thereto which are due, payable, levied, imposed or claimed in any jurisdiction.

“**Consignee**” means the person designated as such on the Transport Documents and/or to whom the Goods are deemed to have been delivered.

“**Custodian**” means the Principal or the person who has stepped into the Principal's rights in relation to storage and handling of Goods;

“**Custody**” means one or more of the following acts: (i) warehousing Goods in the Warehouse, provided and to the extent that the warehousing is done by Shift Logistics, (ii) keeping Goods in storage, (iii) handling and/or processing Goods (including VAL activities and services), and (iv) the Release of Goods from the Warehouse, provided and to the extent that the release is done by Shift Logistics;

“**Custody Agreement**” means a Custody agreement between the Principal and Shift Logistics;

“**Customs Documents**” means all documents, whether in paper or electronic format, relevant for the purpose of customs and excise formalities and/or required by the Law or the Authorities for the import, export or transit of the Goods and/or a change in the applicable customs procedure, such as commercial invoices, Transport Documents customs value declaration, cargo insurance documents, packing list, LRN, MRN, Entry Summary Declaration, Exit Summary Declaration and all other documents relating to import formalities for customs and/or excise, such as proofs of (preferential origin), inspection certificates, import and export licences, necessary VAT documents.

“**Customs Formalities**” means all Customs and Excise formalities required by the Law and/or the Authorities for e.g. import, export and transit of the Goods and/or storage in Customs warehouses, such as the processing of Customs documents, completion of declaration and clearance documents, payment of Taxes, duties, excise duties and/or tariffs and all other Taxes, as well as any orders or instructions given by an Authority in this regard.

“**Customs representative**” has the meaning set out in Article 18 of Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 adopting the Union Customs Code (DWU) and in all other applicable customs laws such as the UK Customs Act.

“**Consignee**” means the person named as such on the Transport Documents and to whom the Goods are deemed to ought to be delivered;

“**Registered Exporter**” means the entity officially involved in the export of a specific consignment of Goods from a country or customs union. The Registered Exporter status makes a company responsible for clearance for export and for compliance with export regulations.

“**Registered Importer**” means the entity responsible for (i) ensuring that the imported Goods comply with the laws in the country of import, (ii) submitting a completed Import Document and other necessary customs documents and (iii) paying any Taxes imposed on the Goods.

“**Goods**” means the Goods described or deemed to be described in Shift Logistics's Transport Documents or stock records;

“**Goods Interested Party**” means anyone who would suffer loss if the Goods were damaged or destroyed, if they were lost or their delivery delayed, or who would benefit from the safe arrival of the Goods or, in general, who has an economic interest in the Goods.

“**Acceptance**” means taking delivery of the Goods after unloading and signing the waybill by Shift Logistics or a Forwarder;

“**Storage of Goods**” means the entire process of Goods entering a Warehouse including unloading from the vehicle, docking and examination of the Goods and registration in the stock records and physical placement in the Warehouse and all associated administrative actions;

“**Annual Volume**” means the sum of the incoming, outgoing and handled quantities of Goods within Shift Logistics for the same Principal.

“**Cargo Interested Party**” means any person who has an interest in the timely and safe Delivery of the Goods;

“**Order**” means the order given by the Principal to Shift Logistics, whereby the latter will act as forwarder and/or Customs Representative, and/or custodian on behalf of the Principal in respect of the forwarding of Goods and/or subcontract these services on behalf of the Principal.

“**Order**” means Order and/or Storage Order that Shift Logistics performs or is deemed to perform on behalf of the Principal;

“**Principal**” means anyone who accepts an Offer from Shift Logistics, issues an Assignment to Shift Logistics or generally enters into a legal relationship with Shift Logistics;

“**Collection date**” has the meaning set out in article **Error! Reference source not found.** of Title III;

“**Storage of Goods**” means the short-term or long-term stay of Goods by order of a Principal in the Warehouse offered by Shift Logistics and all services provided in connection therewith;

“**Warehouse**” means any space in use by Shift Logistics in which the Custody takes place, as well as any equipment movable or immovable in that space;

“**Storage Order**” means any order of Custody requiring Shift Logistics to hold any Goods, whether before or after an Order, or separately from any transport, as well as on all VAL activities;

“**Government**” means any Belgian or foreign government agencies or semi-government bodies, multinational organisations, courts and tribunals, commissions, self-regulatory bodies and any other administrative services that is somehow linked to the government;

“**Force majeure**” means the following exceptional events or circumstances, which are unforeseeable and unavoidable, and not attributable to the party relying on them, and which make it wholly or partly impossible for that party to fulfil its obligations under the agreement: epidemic, fires, tsunamis, lightning strikes, earthquake, hurricanes, whirlwinds, volcanic activity, hostilities or acts of war, sabotage or riots by other than employees of the parties,

national or regional strikes and a decision of the Government ("fait du prince"), fire/explosion, problems that would arise with subcontractors or suppliers;

In this regard, the parties expressly agree that the following events and circumstances do not qualify as Force Majeure under these General Conditions: payment difficulties, insolvency or inability to provide satisfactory financing, shortages of subcontractors, employees, equipment or materials, or the failure thereof (unless such would be caused by a Force Majeure situation as defined above), inability to obtain or maintain any necessary permit, authorisation, approval, licence, visa, certificate or similar document (unless such would be caused by a Force Majeure situation as defined above), currency exchange rate changes, changes in applicable law.

**"Party"** means Shift Logistics and the Principal;

**"Damage"** means all direct, indirect and consequential damages, including losses of profit and losses;

**"Shift Logistics"** means the Private Company Shift Logistics with registered office at 8000 Bruges, Scheepsdalelaan 18 and with company number BE 0773.650.026

**"Stock differences"** means inexplicable differences between the physical stock and the stock as it should be according to the stock administration of Shift Logistics.

**"Titles"** means title I General, title II Forwarding and Customs Activities and/or title III Storage and Handling of Goods of these General Conditions;

**"Transport documents"** means all documents that have to accompany the Goods during the transport according to the Law, including CMR consignment note, packing lists, customs documents, let-follow, ADR, as well as any documents provided by the sender with the Order

**"Unloading of Goods"** means all activities performed in relation to the exit of the Goods from the Warehouse including picking, preparation at the loading dock and loading of the Goods into the means of transport, up to the time of acceptance by the transporter and all related administrative acts;

**"Hours"** means the hours between 8u30 and 16u30 on Working Days.

**"VAL activities"** means Value Adding Logistics activities in the supply chain including picking, (re)packing, (re)labelling, reconditioning, (re)sampling and all other physical and intellectual similar activities performed by Shift Logistics;

**"Affiliated Companies"** means an affiliated company as defined in the Companies Act.

**"Shipper"** means the legal entity or a natural or legal person named on the Transport Documents as shipper and/or sender and/or in whose name or on whose behalf a transport contract has been concluded;

**"Carrier"** means carrier whether or not appointed by Shift Logistics to carry out (part of) the transport;

**"Transport Costs"** means all costs, other than Freight Charges, related to the performance of the Transport Order, including costs associated with loading and unloading, waiting time surcharges, diesel surcharge, ADR, customs scan, mileage charges, tolls and all expenses and costs incurred in the interest of the Goods.

**"Shipper"** means the legal entity or the natural person indicated on the Transport Documents as forwarder and/or shipper and/or in whose name and/or on whose behalf the Order is accepted and/or executed.

**"Volume Change"** has the meaning set out in Article 9.1 of Title III;

**"Freight charges"** means the agreed price for transporting the Goods to the Consignee.

**"Working days"** means all days of the week except Saturdays, Sundays and public holidays.

**"Law"** means any national or international law, decree, decision, ordinance, regulation, rule, recommendation, guideline, custom, judgement, judgment, or any other regulation of any Government (including its legal and administrative interpretation) in force or made.



The Titles and headings in these General Terms and Conditions have no legal effect and shall not be taken into account in the interpretation of its provisions.

The words "including", "included", "includes", "encompasses", "encompassing" and all forms and derivations hereof shall mean "including, but not limited to".

Any reference in this Addendum to the General Terms and Conditions to obligations, commitments or liabilities of a Third Party, including the Assignee, the Shipper and/or the Goods Interest, shall also be deemed to be a reference to obligations, commitments and liabilities of the Customer. Joint and several liability will hereby apply.

As the case may be, the Principal shall warrant that such Third Parties, including the Consignee, the Shipper and/or the Interested Party in Goods shall comply with such obligations and commitments towards Shift Logistics and/or Third Parties pursuant to this Addendum to the General Terms and Conditions so that Shift Logistics can provide its services in a timely manner and in accordance with the Law. The Principal shall be fully responsible and liable for all acts or omissions of such Third Parties in this context.

## ATTACHMENT II: GENERAL BELGIAN FORWARDING CONDITIONS

### DEFINITION AND SCOPE OF THE CONTRACT

#### Article 1

Unless otherwise agreed, these Conditions shall be applicable to any form of service provided by the Freight Forwarder. They may be quoted as "Belgian Forwarding Conditions" and represent a trade custom.

#### Article 2

In these Conditions are:

- the customer: the Freight Forwarder's principal at the instructions of whom and on behalf of whom the Freight Forwarder provides services, information or advice, whether gratuitous or for reward.
- Freight Forwarder: a CEB member of each Freight Forwarder conducting business under these Conditions.
- the service: is any instruction to forward goods offered, accepted for performance, or performed by the Freight Forwarder, and any related act, any information or advice in respect hereof.
- the goods: all and any goods, including their packaging, entrusted to the Freight Forwarder by the Customer. Such goods include all and any merchandise as well as titles or documents that represent or may represent such goods.
- the owner: the owner of the goods to which the service provided by the Freight Forwarder pertains.
- third parties: any non-contracting parties, in particular any natural or legal persons whom the Freight Forwarder deals with in the performance of his duties.

#### Article 3

Where the performance of services is concerned, a distinction is made between the Freight Forwarder who acts:

- 1) as a forwarding agent under Belgian law (*commissionnaire-expéditeur*): his duties consist of, *inter alia*, forwarding goods either in his own name, or in his Principal's Name, but always on the Latter's behalf and pursuant thereto in providing all and any such services as may be necessary

in respect thereof, performing all and any required formalities and concluding any such agreements as are necessary for such purpose

- 2) as a principal under Belgian Law (*commissionnaire de transport*): in the following cases only and in no other cases, the Freight Forwarder shall be regarded as a principal
  - a) when he performs the carriage of goods in his own name and by his own means of transport,
  - b) when he issues a transport document in his own name,
  - c) when the instructions explicitly show that the Freight Forwarder assumes such obligation.

#### Article 4

These Conditions do not imply any waiver of any right by the Freight Forwarder and they cannot give rise to a more extensive liability than that to which he would be subject pursuant to any legislation or regulation applicable in addition to these Conditions.

#### Article 5

The Customer warrants that the Goods entrusted by him to the Freight Forwarder under his instructions are his property of that as an authorized agent of the owner he has the right of control of such goods, and that consequently he accepts these Conditions not only for himself but also on behalf of his Principal and for and on behalf of the owner.

### FORMATION AND PERFORMANCE OF THE CONTRACT

#### Article 6

Unless otherwise agreed, or unless an event constituting force majeure arises beyond the Freight Forwarder's control, an offer made by the Freight Forwarder shall be valid for 8 days.

Such an offer shall be based upon existing rates, remunerations, freight charges, currency rates and estimated dates, which are in force at the time when the offer is communicated to the Customers.

Should one or more of those elements be varied, the prices offered shall be adapted accordingly and retroactively.

The Freight Forwarder shall at any times be entitled to charge to the Customer all and any amounts charged to him by third parties as a result of improperly calculated freights, costs and rates.

#### **Article 7**

The Customer shall undertake to supply to the Freight Forwarder, in advance and not later than at the time of confirmation of the order, any usual information including, but not limited to, the nature of the goods, the method of shipment, the place of taking over and delivery, and the required route and procedure, and in particular any information or knowledge which the Principal may be presumed to have at his disposal as manufacturer, merchant, owner or consignor of the goods, and which may ensure their preservation, shipment, taking over at the place of departure and delivery at the place of destination.

#### **Article 8**

The Freight Forwarder shall not be presumed to examine the correctness of the particulars of the information given by the Customer or the authenticity or regularity of the documents furnished by the Customer. Such information shall be accepted in good faith.

#### **Article 9**

In the absence of precise instructions to the contrary or special agreements, the Freight Forwarder shall be at liberty in his choice of means to be used to organise and perform the services to the best of his abilities according to normal business practice, including the groupage of goods.

#### **Article 10**

The Freight Forwarder shall be entitled to charge any amounts or fees for his expenses and interventions on a fixed basis, i.e. as a lump sum or an exclusive price.

#### **Article 11**

In the performance of his duties, the Freight Forwarder may employ third parties, servants and agents who show normal professional qualifications.

#### **Article 12**

Unless instructed to the contrary, the Freight Forwarder shall be entitled to keep possession, control or custody of any goods that for some reason could not be delivered, or to take custody of them, and to store the goods at the Principal's cost and risk of at the expense and risk of the goods themselves. In accordance with the provision of the Act of May 5, 1872 on commercial premises, the Freight Forwarder may sell the Commercial Premises and apply the proceeds to discharge its trade debts.

In the case of dangerous, perishable, flammable, explosive goods or goods that may otherwise cause damage to persons, animals or property, subject to prior notification in writing to the Customer and subject to accountability the Freight Forwarder may destroy, remove or sell the goods on the Customer's behalf and at the Customer's risk.

#### **Article 13**

The Freight Forwarder shall be entitled to suspend the performance of his duties if the Customer fails to fulfil or insufficiently fulfils his obligations in any way

In the event of force majeure, the Contract shall remain in force. The Freight Forwarder's duties shall however be suspended for the duration of the event constituting force majeure.

In case of specific duties, or activities that are uncommon, particularly time-consuming or that require specific effort, additional fees may be charged at any time. All additional costs caused by force majeure shall also be borne by the Principal.

#### **Article 14**

Unless otherwise and previously agreed in writing, the Freight Forwarder shall not be under a duty to guard the goods to be forwarded, nor to have them guarded, nor to have them insured, wherever they are, even out in the open.

### **PAYMENT**

#### **Article 15**

The amounts or fees charged by the Freight Forwarder shall be payable in cash at the Freight Forwarder's registered office, within 8 days from the date of the invoice.

Any loss resulting from exchange rate fluctuations is for the Customer's account. Payments not allocated

by the Customer himself to the payment of a specific debt, may be applied at the Freight Forwarder's choice to the payment of any amount owed by the Customer to the Freight Forwarder.

#### **Article 16**

Any protest against the invoicing or any services and amounts charged must have been received by the Freight Forwarder in writing within 14 days from the date of invoice.

#### **Article 17**

The Customer waives any right to rely on any circumstance which might entitle him to suspend payment in whole or in part and waives any right to set-off or counterclaim with regard to all amounts charged to him by the Freight Forwarder.

#### **Article 18**

The Freight Forwarder shall not be required to provide security for the payment of freight, duties, levies and taxes or any liabilities whatsoever, should this be required by third parties. Where the Freight Forwarder has provided security, the Customer is under a duty, at the Freight Forwarder's first request in writing, to pay to the Freight Forwarder, by way of security, any amount for which the Freight Forwarder has provided security to third parties..

#### **Article 19**

Any debt not paid on its due date shall, without any prior notice, be increased with compensatory interests calculated at the statutory interest rate and increased by liquidated damages equal to 10% of the debt, so as to cover any economic and administrative loss, without prejudice to the Freight Forwarder's right to prove the existence of more extensive damage.

### **CUSTOMER'S DUTIES AND LIABILITY.**

#### **Article 20**

The Customer shall undertake and accept liability for the following:

- that his instructions and his description of the goods are complete, correct and accurate;
- that the goods to be entrusted by him to the Freight Forwarder shall be made available in time, completely and in a useful way, that they

are loaded, stowed, packed and marked in accordance with the nature of the goods, the place of receipt and destination, and for the purposes for which they are entrusted to the Freight Forwarder;

- that all documents submitted to the Freight Forwarder by the Customer are complete, correct, valid, authentic and not improperly prepared or used;
- that, unless the Freight Forwarder has been informed thereof previously and in writing, the good entrusted to him are not of a dangerous, perishable, flammable or explosive nature or liable to otherwise cause damage to third parties, persons or property;
- that he will examine all documents submitted by the Freight Forwarder upon receipt and that he will verify whether they are in accordance to the instructions given by the Freight Forwarder.

#### **Article 21**

The Customer shall be liable to the Freight Forwarder and he shall indemnify him at his first request:

- against any damage and/or loss resulting from the nature and the packaging of the goods, the incorrectness, inaccuracy or incompleteness of instructions and information, the non-delivery or untimely delivery of the goods to the Freight Forwarder at the agreed time and place of receipt, the failure to provide, or timely provide, documents and/or instructions, and the fault or negligence in general of the Customer and of the third parties employed by him;
- against any damage and/or loss, costs and expenditure which is claimed from the Freight Forwarder by authorities, third parties or servants and agents, for whatever reason, with regard to the goods, any damage, expenditure, costs, duties, claimed directly or indirectly as a result of the service provided on the instructions of the Customer, unless the Customer shows that such claim was directly used by a fault or negligent act or omission for which only the Freight Forwarder is liable;
- against any damage and/or loss, costs and expenditure which is claimed from the Freight Forwarder in case where, under Community or national laws and regulations, he is under any

personal and/or joint and several liability for the payment or settlement of customs duties and/or other taxes.

#### **Article 22**

If the claim for which the Freight Forwarder requires compensation or indemnity from the Customer pertains to a customs or other tax claim, and if it is based on instructions with regard to customs received from the Customer or on his behalf, the Customer shall undertake, at the Freight Forwarder's request, to provide a financial guarantee to unconditionally warrant the Customer's liability towards the Freight Forwarder, to the benefit of the Freight Forwarder or to the benefit of a third party designated by the Freight Forwarder.

#### **FREIGHT FORWARDER'S DUTIES AND LIABILITY.**

##### 1) Provisions common to Agents and Principals

#### **Article 23**

The Freight Forwarder shall not be liable for damage caused by an event constituting force majeure, including, but not limited to, war, riots, strikes, lockouts, boycotts, work congestion, scarcity of cargo or weather conditions.

#### **Article 24**

The Freight Forwarder shall not be liable for damage or loss as a result of theft of goods in his possession, custody or control, unless the Customer shows that the theft took place as a result of circumstances which the Freight Forwarder, in view of the contract with the Customer, should have avoided or which he should have foreseen, provided that the risk of theft is not for the account of the goods under local regulations or business practice.

#### **Article 25**

The Freight Forwarder shall not be liable for any indirect loss or damage, including economic loss or damage, consequential loss or damage and immaterial loss or damage.

#### **Article 26**

The Freight Forwarder shall not be responsible for the lack of or bad result of any instructions to collect money, unless this is proved to have been caused by gross negligence

##### 2) Liability of the Freight Forwarder acting as Agent (art.3.1).

#### **Article 27**

The Freight Forwarder shall perform his duties with reasonable care, dedication and perception and he shall be under a duty of normal professional performance of the instructions given to him.

#### **Article 28**

The Freight Forwarder's liability shall be limited to that for fault, negligence or omission in the performance of the instructions given to him.

To the extent that such fault, negligence or omission has caused any direct material damage or financial loss to the Customer or third parties, the Freight Forwarder shall be entitled to limit his liability to € 5 per kilogramme gross weight of the goods lost or damaged, with a maximum of € 25.000 euro per contract.

#### **Article 29**

The Freight Forwarder shall not be liable for the performance of any contract entered into by him and on behalf of his Customer with third parties, servants or agents, pertaining to storage, transport, customs clearance or the handling of goods, unless it is shown by the Customer that the defective performance thereof was directly caused by the Freight Forwarder's fault.

#### **Article 30**

The Freight Forwarder does not guarantee any fixed time or date for delivery, dates of arrival and departure, unless otherwise previously agreed in writing. The indication of a time or date for delivery by the Principal is not binding upon the Freight Forwarder.

##### 3) Liability of the Freight Forwarder acting as Principal (art 3.2).

#### **Article 31**

The Freight Forwarder shall be liable as a carrier in the cases provided for in article 3.2. His liability shall be

determined according to national law and the international conventions applicable to the mode of transport concerned.

#### **PRIVILEGE AND LIEN.**

##### **Article 32**

Any amounts charged by the Freight Forwarder shall be privileged in accordance with Belgian law and with these Conditions.

##### **Article 33**

Any claims of the Freight Forwarder as against his Principal shall be privileged under article 14 of the Act of May 5, 1872 on the Commercial Premises, Article 20,7° of the Mortgage Act and article 136 of the General Customs and Excise Act with regard to all goods, documents or monies currently or in the future in his possession, custody or control, regardless of the fact whether the claim pertains in whole or in part to the taking in charge or forwarding of other goods than those in his possession, custody or control.

##### **Article 34**

The Freight Forwarder shall have the right to retain the goods and he shall be entitled to sell or dispose of the goods and to apply the proceeds to his claim in full; they shall also serve as security, regardless of the fact whether the Principal is the owner of the goods.

#### **INSURANCE**

##### **Article 35**

The Freight Forwarder may make insurance (AREX 21) available to the Principal upon his request in writing, for any business related to international carriage at the Freight Forwarder's risk. The costs of such insurance shall be borne by the Principal.

#### **PRESCRIPTION AND EXTINCTION OF RIGHT.**

##### **Article 36**

The Freight Forwarder must be given notice in writing of any claim for damages as against him, with reasoned grounds, within 14 days from either the delivery of the goods or the sending of the goods. Any

potential liability of the Freight Forwarder shall be extinguished automatically and definitively when the Customer has retaken delivery of the documents pertaining to a specific operation within the framework or services after the performance thereof without having formulated a reasoned reservation not later than on the 10<sup>th</sup> day after the sending of these documents by the Freight Forwarder.

##### **Article 37**

Any liability action against the Freight Forwarder shall be time-barred as a result of prescription if it is not brought in the Court having jurisdiction within a period of 6 months. Prescription shall run from the day following the day on which the goods were delivered or should have been delivered, or, in the absence of delivery, from the day following the day the event giving rise to the action took place.

#### **JURISDICTION AND ADMINISTRATION OF JUSTICE.**

##### **Article 38**

Exclusive jurisdiction is deferred to the Courts of the Freight Forwarder's registered office, which is presumed to be the place of formation and performance of the Contract, without prejudice to the Freight Forwarder's right to bring the action before another Court.

##### **Article 39**

Legal and arbitration proceedings against third parties shall not be conducted by the Freight Forwarder unless he agrees to do so at the Principal's request and for and on the Principal's behalf.

##### **Article 40**

All legal relations governed by these Conditions shall exclusively be governed by the laws of Belgium.

#### **ENTRY INTO FORCE**

These Conditions were published in the Supplements to the Belgian Official Gazette (*Belgisch Staatsblad-Moniteur belge*) of June 24, 2005 under number 0090237 and replace all other General Terms and Conditions of the Belgian Freight Forwarders from the date of entry into force.