GENERAL RO-RO TERMINAL TRADING AND OPERATING CONDITIONS

The Customer’s attention is drawn to the clauses hereof which exclude or limit the Company’s liability and those which require the Customer to indemnify the Company in certain circumstances. In view of these Conditions the Customer is advised to effect its own cargo and liability insurance.

1. GENERAL CLAUSES

1. Definitions, Interpretation and Applicability

1.1. Definitions

In these conditions (the Conditions) the following words and phrases shall have the meanings set out below:

(a) “Company” means any ro-ro terminal which from time to time will be part of the CLdN Terminals. S.A. group of companies including the following:
   - C.RO Ports London Ltd, London Road, Purfleet, Essex RM19 1RP, UK
   - C.RO Ports Killingholme Ltd, Clasping Lane, North Killingholme, North Lincolnshire, DN40 2UP, UK
   - C.RO Ports Sedgemoor Ltd, West Bank, Sedgemoor, Taunton, Somerset, TA5 1AW, UK
   - C.RO Ports Dartford Ltd, Clipper Boulevard, Crossways, Dartford, Kent DA2 6ZQ
   - C.RO Ports Ipswich Ltd, West Bank Terminal, Westreath Road, Ipswich, Suffolk IP2 8BN
   - C.RO Ports Netherlands BV (Rotterdam Terminal), Merwezijl 70 (Havenr. 3235), NL-3187 KG Rotterdam
   - C.RO Ports Nederland BV (Dartford Terminal), Vlissingenstraat 447 (Havenr. 1125), NL-4389 PA Vlissingen
   - C.RO Ports Zeebrugge NV, Alfred Ronsestraat 100, B - 8330 Zeebrugge
   - Any other terminal joining the CLdN Terminals S.A. group of companies at any time in the future.

(b) “Customer” shall include the owner, consignor, haulier, shipper and consignee, and their agents, of Goods in respect of which activities or services are carried out or provided by the Company and any other person having an interest therein and the agents of such persons.

(c) “Contract” means the contract between the Company and the Customer for the performance of services and incorporating the Conditions (both the general and particular clauses).

(d) “Goods” includes all cargo, containers, packing, trailers, chassis, vehicles and other equipment connected with the transport of the cargo, including trains (but not: Vessels).

(e) “Gross” means damage or loss either wholly or partially caused, or acting with such a high degree of recklessness, that it was evident that damage or loss had to occur as an obvious result of this recklessness.

(f) “Incident” means damage or loss occurring on the same and resulting from the same cause.

(g) “Incoterms” refers to the latest version of the International Commercial Terms created by the International Chamber of Commerce.

(h) “Operations Manager” means the person designated as such by the Company from time to time.

(i) “Terminal” includes all docks, quays, wharfs, jetties, harbours, land and buildings forming part of or connected with the CLdN Terminals S.A. group of companies and used by the Company.

(j) “Services” means all services of unloading, loading and handling Goods at the terminals of the CLdN Terminals S.A. group of companies without qualifying these services or part of them as an agreement of deposit in accordance with the Conditions.

(k) “CLdN Groups” means the group CLdN Logies Regulieres S.A. and/or the group CLdN Terminals S.A. and all of their direct and indirect Subsidiaries.

(l) “Subsidiary” A subsidiary for the purposes of these Conditions, is to be understood according to the “Loi du Grand-Duché de Luxembourg du 17 décembre 2010 concernant les organismes de placement collectif”. The list of subsidiaries can be consulted in the consolidated accounts of CLdN LOGIES REGULIERES and CLdN Terminals S.A. at Centre administratif Pierre Werner, 13, rue Ernest L-1445 Luxembourg or at www.cluo.lu and also at www.lux.lu.

(m) “Vessels” includes all seawaging ships or inland barges, pontoons, tugboats, bunker boats, pilot boats, floating cranes and generally all marine craft.

1.2. Interpretation

The commercial terms used in these Conditions and in all other documents drafted between the Company and the Customer are to be interpreted and specified in accordance with the Incoterms.

The headings set out in these Conditions are provided for convenience only and they shall not limit, control or affect the meaning of the provisions to which they refer.

1.3. Applicability

(a) The terms and conditions of the Customer are hereby expressly considered as not applicable. The latter, and different provisions than the present ones, may only apply if, for each individual case, the Company has expressly accepted them in writing.

(b) The Customer who has once contracted under the present Conditions, is reputed to accept the applicability of these Conditions in all future agreements to intervene.

2. Scope of Contract

(a) These Conditions apply to all services provided by the Company or by its employees or agents at its CLdN Terminals terminals.

(b) These Conditions do not apply to freight forwarding services or to services of a general agency nature carried out by the Company, such services being carried out under separate conditions applicable only to those services.

If however the services of the Company would be qualified (either in common agreement or by a competent court of law) as being in the nature of “freight forwarding”, then the services will be governed by the (latest edition of):

- for UK based terminals: BIFA;
- for Belgium based terminals: Algemene Voorwaarden der Expeditieën van Belgie; and
- for Netherlands based terminals: FENEX.

(c) The Company does not act as a Carrier under this Contract and does not undertake any liability as such. Notwithstanding this, even if held to be a Carrier, these Conditions still apply.

(d) Save as otherwise appears herein all other Customer’s terms and conditions are hereby excluded.

(e) If the Company at any time decides not to invoke these Conditions or any part thereof, this departure will not constitute a precedent and will not apply to any other matter past or present other than the one for which these Conditions were departed from.

(f) In so far as these Conditions do not provide for certain cases or situations, the customary local port practices shall apply in a complementary manner.

3. Content of Contract, intellectual and industrial property rights

3.1. Content of Contract

By delivering the Goods to the Company, the Customer acknowledges that the Contract between the Customer and the Company shall be governed by these Conditions, which shall override and exclude any other Conditions stipulated or incorporated or referred to by the Customer and any course of dealings between the Customer and the Company, is not in accordance with these Conditions. Any addition or variation to these Conditions must be made in writing and signed on behalf of the Company by a Director.

3.2 Intellectual and industrial property rights

(a) The Company remains the only possessor of the rights pertaining to the documents and specifications, in whatever form they might be transferred to the Customer within the context of the issue of an offer and/or the execution of a contract, whatever the way they might be handled or stocked. The Customer is required to give this documentation and specifications back to the Company at first request and in any case at the end of the contract. The risks related to the documentation and specifications are assumed by the Customer until the documents are returned to the Company.

(b) The Company will, before the execution of the contract, check the correctness and the consistency of the documents and specifications and signal to the Company any discrepancies and incompleteness he might find, otherwise the (the Customer) will be held responsible for all damages and loss that the Company might encounter as a result.

(c) The Customer is required to clearly mark the documentation and specifications as being the property of the Company and inform third parties of this property. The Customer must immediately inform the Company if the documentation and specifications are seized or have become unavailable to him in any way.

(d) The Customer shall not use the documentation and specifications for other purposes than the ones he has received them for, and shall not, either totally or partially, in any way whatsoever, reproduce them, transfer them to third parties, or inform third parties of their content.

4. Warranty of Authority by Customer

The Company expressly warrants to the Company that he is either the owner or the authorised agent of the owner of the Goods, and further warrants that he accepts these Conditions not only for himself but also as a duly authorised agent for and on behalf of every other person, firm or corporation who is or may hereafter become interested in the Goods.

5. Various Operational Aspects

5.1. Company’s Discretion over Handling and Delivery Methods

Subject to specific written instructions given to the Company by the Customer and accepted by the Company in writing, the Company reserves to itself complete freedom in respect of the means and procedure to be employed in the receipt, collection, unloading, storing, stopping, storage, packing, carrying, handling, loading, unloading, discharging or delivery of Goods. In the Company’s opinion the interests of the Customer so require, the Company may deviate from the Customer’s instructions (whether or not accepted by the Company) in any respect and any expenses reasonably incurred thereby shall be for the Customer’s account.

Delivery Procedure

The Customer authorizes the Company to deliver the Goods to the representative of the Consignor or to any person whom the Company reasonably believes to be authorized to take delivery on behalf of the Consignor. It shall be the responsibility of such person and of the Consignor to the exclusion of any liability of the Company on any nature whatsoever and howsoever (including by the negligence of the Company) to identify and collect the Goods in respect of which delivery has been demanded. Such delivery shall constitute due fulfillment of the Company’s obligations as to delivery of the Goods. The Customer is fully acquainted with the physical and documentary delivery procedure applicable at the terminal, and he agrees that the level of security offered by this procedure is adequate for his needs.

The Company is exempt from liability if - applying this delivery procedure correctly - cargo is nevertheless delivered to a wrongful or incorrect receiver.

C-PIN-SYSTEM

The Company promotes and advocates the use of a system generated unique “C-PIN-SYSTEM”. This system warrants the highest possible degree of safe delivery.

If the Customer elects not to make use of the “C-PIN-SYSTEM”, then the Company is exonerated from liability for wrongful delivery, and the Customer takes full responsibility for not making use of this system. Details “C-PIN-SYSTEM” please see our website www.cluo.com.
5.2. Prompt Shipping and Removal of Goods, Uncollected Goods

All Goods deposited upon any of the quays or wharfs, or in any of the sheds or premises of the Company shall be shipped or removed therefrom within 72 hrs from time of final discharge of the Vessel for incoming traffic or 72 hrs from the time of their being first brought or deposited therein for outgoing traffic. Any Goods remaining beyond the statutory period (specified in the Tariff), shall incur charges in accordance with the Tariff applicable for the relevant terminal and may be removed and dealt with by the Company in accordance with these Conditions. Terminal tariffs and schedules for storage and services are available on our website www.cldn.com.

5.3. Uncollected Goods

(a) Without prejudice to the right of the Company to levy storage charges, the Customer will ensure that the Goods are collected from the terminal within a reasonable period of time of their deposit there.

(b) If, in the Company’s absolute discretion the Goods have remained at any of the terminals for an unreasonable period, then the Company shall, without prejudice to give notice to the Customer requiring the removal of the Goods by the date stated in the notice the removal date.

(c) If the Goods remain uncollected after the removal date then the Company may at its discretion, and without any responsibility or liability attaching to them, sell or otherwise dispose of the Goods at the sole risk and expense of the Customer. The proceeds of any such sale shall be used:
   i. to define the expenses of the sale including any commissions the Company required to pay.
   ii. to pay any unpaid storage charges.
   iii. to pay any other overdue charges or freight incurred in connection with the Goods sold or any other Goods owned by the Customer and stored or owned by the Company.

The balance if any shall be held for the benefit of the Customer.

5.4. Arrival of Vessels, Vehicles, Self drivers, Trains

The Company will not be bound to admit vehicles to its premises or to allow vessels to berth there, or trains to enter, except by prior arrangement with the Customer.

Provided on the Company’s premises, or loading and/or discharging manœuvres performed by selfdrivers, will be at their own risk, and they will be responsible for any loss or damage caused to the Company’s premises, or to other premises, vehicles and goods.

5.5. Sequence of Handling Vessels and Vehicles

(a) Vessels received and vehicles arriving at the Company’s premises will be dealt with in the order determined by the Company at its absolute discretion.

(b) The Company shall not be liable to pay or refund damages or any other compensation for the use of vessels or vehicles or for their not being ready in time, nor to make good any other loss or damages suffered as a result of delay in the handling of vessels or vehicles or in receiving Goods into or delivering them out of the Company’s premises.

5.6. Destruction or Disposal of Harmful Goods

Where any goods are, or become noxious, hazardous, inflammable, explosive or in any way dangerous or otherwise likely to cause damage (which includes goods which are infectious, diseased or verminous or likely to harbour or encourage infection or disease or vermin or other pests) whether alone or in combination with other goods and which may be of benefit if destroyed (or in any way rendered harmless, in which case the Customer shall indemnify and hold harmless the Company in respect of any loss, damage, liability, costs, and expenses arising directly or indirectly from breach by the Customer of this condition. Any breach by the Customer/the Customer’s group towards any entity of the CLdN Groups will automatically

7. Obligations of the Customer

(a) The Customer shall be liable for, and shall hold the Company harmless for all damages, losses, consequences or other charges, costs and expenses arising from the unlawful, negligent or improper storage, as well as with respect to damage caused by theft or loss or other events.

(b) The Customer shall take all reasonable steps and measures to ensure that the Goods are not damaged, lost, stolen, destroyed or otherwise lost or removed.

(c) The Company will not be liable for any loss, damage or expense incurred by the Customer or by any other person who may suffer such loss, damage or expense.

(d) The Customer further warrants and undertakes to the Company that it will procure that no such ship shall lay-by or be detained beyond such tide and date (in relation to which time shall be of essence) and the Customer shall indemnify and hold harmless the Company in respect of any loss, damage, liability, costs, and expenses arising directly or indirectly from breach by the Customer of this condition.

(e) The Customer shall be liable for, and shall hold the Company harmless for all damages, losses, consequences or other charges, costs and expenses arising from the unlawful, negligent or improper storage, as well as with respect to damage caused by theft or loss or other events.

(f) The Customer shall be liable for, and shall hold the Company harmless for all damages, losses, consequences or other charges, costs and expenses arising from the unlawful, negligent or improper storage, as well as with respect to damage caused by theft or loss or other events.

(g) The Customer shall be liable for, and shall hold the Company harmless for all damages, losses, consequences or other charges, costs and expenses arising from the unlawful, negligent or improper storage, as well as with respect to damage caused by theft or loss or other events.

(h) The Customer shall be liable for, and shall hold the Company harmless for all damages, losses, consequences or other charges, costs and expenses arising from the unlawful, negligent or improper storage, as well as with respect to damage caused by theft or loss or other events.

(i) The Customer shall be liable for, and shall hold the Company harmless for all damages, losses, consequences or other charges, costs and expenses arising from the unlawful, negligent or improper storage, as well as with respect to damage caused by theft or loss or other events.

(j) The Customer shall be liable for, and shall hold the Company harmless for all damages, losses, consequences or other charges, costs and expenses arising from the unlawful, negligent or improper storage, as well as with respect to damage caused by theft or loss or other events.

(k) The Customer shall be liable for, and shall hold the Company harmless for all damages, losses, consequences or other charges, costs and expenses arising from the unlawful, negligent or improper storage, as well as with respect to damage caused by theft or loss or other events.

(l) The Customer shall be liable for, and shall hold the Company harmless for all damages, losses, consequences or other charges, costs and expenses arising from the unlawful, negligent or improper storage, as well as with respect to damage caused by theft or loss or other events.

(m) The Customer shall be liable for, and shall hold the Company harmless for all damages, losses, consequences or other charges, costs and expenses arising from the unlawful, negligent or improper storage, as well as with respect to damage caused by theft or loss or other events.

(n) The Customer shall be liable for, and shall hold the Company harmless for all damages, losses, consequences or other charges, costs and expenses arising from the unlawful, negligent or improper storage, as well as with respect to damage caused by theft or loss or other events.

(o) The Customer shall be liable for, and shall hold the Company harmless for all damages, losses, consequences or other charges, costs and expenses arising from the unlawful, negligent or improper storage, as well as with respect to damage caused by theft or loss or other events.

(p) The Customer shall be liable for, and shall hold the Company harmless for all damages, losses, consequences or other charges, costs and expenses arising from the unlawful, negligent or improper storage, as well as with respect to damage caused by theft or loss or other events.

(q) The Customer shall be liable for, and shall hold the Company harmless for all damages, losses, consequences or other charges, costs and expenses arising from the unlawful, negligent or improper storage, as well as with respect to damage caused by theft or loss or other events.

(r) The Customer shall be liable for, and shall hold the Company harmless for all damages, losses, consequences or other charges, costs and expenses arising from the unlawful, negligent or improper storage, as well as with respect to damage caused by theft or loss or other events.

(s) The Customer shall be liable for, and shall hold the Company harmless for all damages, losses, consequences or other charges, costs and expenses arising from the unlawful, negligent or improper storage, as well as with respect to damage caused by theft or loss or other events.

(t) The Customer shall be liable for, and shall hold the Company harmless for all damages, losses, consequences or other charges, costs and expenses arising from the unlawful, negligent or improper storage, as well as with respect to damage caused by theft or loss or other events.

(u) The Customer shall be liable for, and shall hold the Company harmless for all damages, losses, consequences or other charges, costs and expenses arising from the unlawful, negligent or improper storage, as well as with respect to damage caused by theft or loss or other events.

(v) The Customer shall be liable for, and shall hold the Company harmless for all damages, losses, consequences or other charges, costs and expenses arising from the unlawful, negligent or improper storage, as well as with respect to damage caused by theft or loss or other events.

(w) The Customer shall be liable for, and shall hold the Company harmless for all damages, losses, consequences or other charges, costs and expenses arising from the unlawful, negligent or improper storage, as well as with respect to damage caused by theft or loss or other events.

(x) The Customer shall be liable for, and shall hold the Company harmless for all damages, losses, consequences or other charges, costs and expenses arising from the unlawful, negligent or improper storage, as well as with respect to damage caused by theft or loss or other events.

(y) The Customer shall be liable for, and shall hold the Company harmless for all damages, losses, consequences or other charges, costs and expenses arising from the unlawful, negligent or improper storage, as well as with respect to damage caused by theft or loss or other events.

(z) The Customer shall be liable for, and shall hold the Company harmless for all damages, losses, consequences or other charges, costs and expenses arising from the unlawful, negligent or improper storage, as well as with respect to damage caused by theft or loss or other events.
9.2. Sub-contracting

(d) Require for their safekeeping no special protection (other than as may be agreed in writing between the Company and customer) arising from vulnerability to heat, cold, natural or artificial light, micro-fare, salt, pilferage, vandalism, jarring by intruders, or proximity to other goods or from their inflammability.

(h) Are properly and sufficiently marked, documented and labelled for all shipping, cargo handling, dispatch, customs and like purposes, lashed and secured, in accordance with all of the relevant regulations applicable nationally and internationally the Company shall indemnify the Company for all the consequences, liabilities, costs and expenses including the cost of cleaning, removal or disposal and fines or penalties of whatsoever nature and consequence arising from the failure to properly label the Goods.

(i) Are properly marked with warnings as to the hazardous nature of any contents and the precautions to be taken in handling the same and with such warnings as may be necessary for ensuring the safety and health of all persons likely to handle or come into contact with the Goods or their contents in the event of the escape of any injurious matter therefrom.

shall not contain any clandestine entrants and the Customer bears all liability for damages, claims, fines and expenses that may arise from the presence of illegal immigrants in his Goods. The Company shall be exempt from any liability in respect of illegal persons.

7.4. Duty of the Customer to Assist Operations

The Company shall make every effort to facilitate the operations of the Company, whether by permitting the Company to use all or any structure or forms of equipment owned or used by the Company (whether on the vessel or otherwise) for lashing or lightening thereof as appropriate at all times without charge. No responsibility shall attach to the Company for any accident howsoever arising out of or caused by or contributed to by any default in the structure or equipment hereby supplied and the Customer shall indemnify the Company against any claims in relation to any such accidents.

8. Responsibility for Seals

The Company shall not be responsible for checking container, tender or cargo seals or seal numbers and shall not be required by the Customer to carry any such seal check or to note seal numbers on any document at any time whatsoever. Where seal numbers are noted for whatever reason by the Company then, notwithstanding anything to the contrary in these Conditions, no representation whatsoever is made by the Company as to the accuracy of the number noted nor to the condition of the seal. No representation neither is made by the Company as to the condition of the container nor its contents.

9. Company’s Duties: Limitation of Scope, Sub-contracting

9.1. Company’s Duties: Limitation of Scope

(a) The Company undertakes no responsibility for the maintenance or repair of any part of the Goods nor for the provision of power, fuel or other supplies therefore nor for maintaining the same at any particular temperature or in any other particular state or condition nor for the feeding or lighting of livestock.

(b) Notwithstanding the foregoing, the Customer shall indemnify the Company any expense reasonably incurred by the Company in taking such action as aforesaid below with a reasonable charge for so doing.

(c) The Company will not take out cargo insurance on behalf of the Customer, and will only insure its liability in conformity with these Conditions.

The Customer is strongly advised to insure the goods among others against all risks, fire, lightning, explosion, collision of vessels, strikes, damage, war, damage, floods and a burglary including waiver of recourse by the insurer.

9.2. Sub-contracting

Financial claims that the Customer might have against the Company are non-transferable to other parties, without a prior written authorisation from the Company.

10. Company’s liability under contract or in tort for Damage or Loss: Principles of liability

Goods that are the property of, or otherwise are handled to the order of the Customer are not insured by the Company against any peril and are handled by the Company entirely at the Customer’s own risk nor otherwise than appears hereafter.

At all times, the standard of duty of the Company is to use reasonable endeavours and not to guarantee a specific result. The Company shall perform its duties with a reasonable degree of care, diligence, skill and judgment.

(a) Act of God clause / Burden of Proof: Neglect or Default to be Proved by the Customer.

The Company shall be liable for loss of or misdelivery of, or damage to goods or any deficiency therein, if such loss is proved by the Company to arise from force majeure, war, delay, maladministration, or negligence or of or for the Goods when the Company’s possession or power) has been caused by either the Company’s act or its failure to act, misconduct, or Gross negligence. Gross breach or Gross default of the Company or its directly employed servants.

Without prejudice to the foregoing the Company shall not be liable for any damages, or losses, or any consequences of whatsoever nature arising from breach of the agreed services, which is caused by an Act of God or Force Majeure, or government or regulatory authority, of fire, hail, snowfall, flood, inundation or other unusual atmospheric circumstances, circumstances or industrial fall-out, air contamination, ordinary wear and tear and deterioration inherent to open air storage, bird droppings, by war, terrorism, vandalism, riot, or any other civil commotion, strikes or labour disputes or breakdown in or interruption on communications or, in general terms, by any other event, event or circumstance beyond the Company’s control or which the Company cannot prevent by the exercise of reasonable diligence.

The Company shall not be liable for loss of or damage to the Goods or for failure to ship the Goods or make them available for collection punctually or at all unless it is proved that such loss or damage or failure was due to the Gross negligence or Gross default of the Company or its own servants.

In case of Force Majeure affecting the obligations of the Customer, the latter is required to keep the Company informed by written means of the details and of the development of the situation giving rise to Force Majeure.

If the Company is of opinion that the Force Majeure affecting the Customer shall delay the execution of the contract by too an extent, or that this execution shall be too heavy to carry out shall cause unreasonable difficulties for the Company, he is entitled to break the contract, either totally or partially, by means of a written declaration and without further notice.

(b) The Company shall only be liable for any non-compliance or mis-compliance with the instructions given to it, if it is proven that the instructions were given in writing in due time, and the non-compliance or mis-compliance was caused by the proven neglect or default of the Company or its own servants. The burden of proof in respect of negligence or default is upon the Customer.

Save as aforesaid the Company shall be under no liability in connection with any Goods or the handling thereof, or provision of services, advice or information in connection therewith.

(c) The Company’s liability is limited to direct damages and losses only and there is no liability for delay, consequential and indirect damages or losses is accepted by the Company.

Further and without prejudice to the generality of the preceding sub-condition, the Company shall not in any event be under any liability for any delay in the movement of any vessel or deviation thereof or generally for any consequences of whatsoever nature or loss of profit.

(d) The Company shall not be liable for personal injury or loss of life of seafarers, drivers, escorts or passengers of vehicles, or other persons who are or whose presence is connected with the Goods or for loss or damage in or delay in connection with their baggage howsoever caused (including the negligence of the Company).

(e) The principles of the present Conditions, and the liability scheme contained in the clauses 10 and 11, also apply to the liability the Company might incur as a consequence of breach of contract.

(f) Theft: The Company shall be under no liability for loss or damage caused by theft or wilful damage, unless it is proved by the Customer to have been committed by the personnel or the servants of the Company.

(g) Access to the Premises: Exclusion of Liability Indemnity

i. All persons entering the terminal or mooring vessels thereof do so at their own risk and the Company shall not be liable to the Customer in any way whatever for any injury to any such person or for any loss or damage suffered by them or any vessels or property brought by them to the premises other than for personal injury arising out of any Gross negligence on the part of the Company or its servants or agents.

ii. The Customer shall indemnify the Company against all loss, damage, claims, demands, actions, costs, charges, and expenses arising out of any injury to loss, or damage suffered or caused by any servant, agent or independent contractor of the Customer or any person for whom the Customer is an agent or by any property of any such person.

iii. All persons entering the terminal shall obey the regulations and instructions of the Company, which may at its sole discretion and without giving any reason refuse admission to any person and require any person to leave the premises at any time.

iv. The Customer shall indemnify the Company against all loss, damage, claims, demands, actions, costs, charges, and expenses arising out of any failure to obey the Company’s regulations or instructions on the part of the Customer, his servants, agents, independent contractors, customers, or persons for whom the Customer acts as agent.

11. Company’s liability under contract or in tort for Damage or Loss: Assessment of damage and loss: Amount of compensation - Monetary Liability

(a) Assessment of damage and loss to Goods

If the Company is liable to pay compensation for damage to or loss of the Goods, the value of the Goods shall be calculated according to the market value or the current value of such goods of the same kind and condition at the time when the damage or loss occurred (unless another measure of indemnity was stipulated in particular clauses).

(b) Amount of compensation Goods: compensation for damage to or loss of the Goods is limited to 2 Special Drawing Rights as defined by the International Monetary Fund (SDR) per kilo of the lost goods, or partially lost or damage.

(c) Maximum liability for damage or loss to Goods / Vessels per event: in any event, the liability of the Company, unless otherwise expressly agreed, limited that no compensation shall be paid for lost or damage exceeding 50,000 SDR per damage to Goods / Vessels, 500,000 SDR respectively, for each single event, if such damage or loss has been incurred by several customers and the compensation amount exceeds 50,000 SDR or 500,000 SDR respectively in their totality, it shall be distributed between the various claimants in proportion to the amounts to which each customer’s damage or loss has been assessed according to article 11 (a) above.

(d) Exemption from or limitation of liability according to these Conditions shall be applied to every claim against the Company for compensation according to the contract for Services irrespective of whether such claim is based on contract or on tort.

12. Company’s Liability for Damage or Loss: Time Bar for Notifying Claims and Limiting Suit

(a) Notification period: without prejudice to any exclusion of liability in these Conditions, any claim by the Customer or the owner of the Goods in respect of any alleged loss, damage, destruction, mis-delivery, delay, detention or otherwise of any kind whatever shall be deemed to be notified in writing to the Company on:

i. within 30 days from the date of shipment from or arrival at the terminal (as the case may be) in the case of loss or damage to the Goods; or

ii. within 30 days from the date when the goods should have been shipped from or have arrived at the terminal (as the case may be) in the case of delay in delivery or non-delivery; and
The Customer has offered any advantage, bribe, or benefit in relation with the conclusion or the execution of the contract for specific, enumerated reasons. The Company is entitled to terminate the contract at the Company's sole discretion, but the Company's offer to make arrangements with or for the benefit of its creditors or commits any act of bankruptcy, or as a result of the Customer's agreement, any defences or limits of liability normally included in the contract of carriage do not apply, the liability of the Company will be limited as if such defences or limits of liability did apply.

The Customer warrants and undertakes to the Company that the exclusions and limitations of liability conferred by these Conditions for the benefit of the Company are and shall be binding upon all persons who have or acquire any interest in the Goods and the Customer hereby agrees to hold harmless and indemnify the Company against all claims or demands whatsoever by whomever made in excess of the liability of the Company under these Conditions in respect of any loss or damage however caused, whether or not caused by the negligence of the Company, its servants, agents, sub-agents or sub-contractors.

14. Company’s Liability Limits Available to Third Parties

By delivering the Goods to the Company pursuant to the Contract, the Customer shall be deemed to confer severally upon the Company, the employees and agents of the Company, and upon its or their independent contractors, and upon any other persons whether or not seawarders who may be required to render services in relation to the Goods in connection with the Contract, the benefit of all the warranties, representations, limitations and exclusions of or exemption from liability, indemnities, defences, warranties and rights herein provided for the benefit of the Company, upon any such person as alter ego providing any services whether or not of a seawarder nature in relation to the Goods. This condition also constitutes a separate contract made by the Company on its own behalf and as agent for all persons who are its servants or agents from time to time or any person whether or not an seawarder providing services as alter ego in relation to the Goods.

If notwithstanding this condition any such person is sued in respect of such injury, loss, damage, delay, seizure or loss of the Goods, the Customer shall indemnify and keep the Company free and harmless against all claims and demands in respect of such injury, loss, damage, delay, seizure or loss of the Goods, and shall upon demand pay to the Company the whole of any amount recovered by such person from the Company, or as a result of the Customer's agreement, any defences or limits of liability normally included in the contract of carriage do not apply, the liability of the Company will be limited as if such defences or limits of liability did apply.

The Customer agrees to indemnify and hold harmless the Company against any payment which the Company in its sole discretion may make to such person in respect of such proceedings and its liability if any thereafter.

15. Miscellaneous provisions

(a) Transfer of employment / TUIPE

Any proposed and/or quotation or the Company submits, is based on the express condition that our calculated labour cost will not be adversely affected by labour cost increases as they might result from the safeguarding of employees' rights. Such effects and costs, resulting in higher labour cost levels being incurred and thus affecting our tariff/cost calculation, will be for the account of the customer.

(b) The non-applicability of one or several provisions of these Conditions shall not affect the applicability of the other provisions.

(c) Both parties will immediately take the action necessary to replace the provision concerned by a valid provision which approximates the original intention of both parties as closely as possible.

(d) The fact that one of the parties failed to react against the non-compliance of the contractual stipulations by the other party can never be considered by the other party to be a permanent waiver of the stipulation(s) under consideration.

(e) Sarcos

The Customer is required to regard as confidential all he has come to know concerning the Company in the scope of the offer, the conclusion and the execution of the contract, including the claims handling and to require the same of his personnel and of eventual third parties intervening in the same framework. This article aims at, but not exclusively, the data and the information regarding machines, installations, and parts of machines and installations which were developed by the Company.

All communications and conversations between the Customer and the Company, whether by telephone call, e-mail correspondence or any other electronic information exchange medium, might be recorded, monitored, read out by others than the intended recipient and/or archived to ensure compliance with regulatory procedures and the Company’s quality standards and where relevant to provide evidence of business transactions between the Customer and Carrier.

(a) Anti-bribery Clause

i. No offer, gift, payment, consideration or benefit whatsoever, which constitutes an illegal and/or corrupt practice and/or which is in connection with the conclusion and/or performance of services covered by these Conditions and provided that suit is served upon the Company within that same period of time.

ii. Within 30 days of the event giving rise to the claim, in any other case.

(b) If notwithstanding this condition any such person is sued in respect of such injury, loss, damage, delay, seizure or loss of the Goods, the Customer shall indemnify and keep the Company free and harmless against all claims and demands in respect of such injury, loss, damage, delay, seizure or loss of the Goods, and shall upon demand pay to the Company the whole of any amount recovered by such person from the Company.

(c) The Customer agrees to indemnify and hold harmless the Company against any payment which the Company in its sole discretion may make to such person in respect of such proceedings and its liability if any thereafter.

(d) No offer, gift, payment, consideration or benefit whatsoever, which constitutes an illegal and/or corrupt practice and/or which is in connection with the conclusion and/or performance of services covered by these Conditions and provided that suit is served upon the Company within that same period of time.

(e) If notwithstanding this condition any such person is sued in respect of such injury, loss, damage, delay, seizure or loss of the Goods, the Customer shall indemnify and keep the Company free and harmless against all claims and demands in respect of such injury, loss, damage, delay, seizure or loss of the Goods, and shall upon demand pay to the Company the whole of any amount recovered by such person from the Company.

(f) Any order is made or a resolution is passed or analogous proceedings are taken for the winding up of the Customer (save for the purpose of reconstruction or amalgamation without insolvency and previously approved by the other party can never be considered by the other party to be a permanent waiver of the stipulation(s) under consideration.

(g) The Company is required to safeguard the Company against and bear the losses coming from complaints from third parties resulting, directly or indirectly from the formation of the contract. If the Company makes no objections against the Company's proposal regarding the choice of the company assistance, the principal implicitly accepts the conditions lodged on which this company operates.

The Customer is liable as a stevedore, shall include a clause providing that all defences and limits of liability conferred in these Conditions and provided in any action against the Company. If due to the negligence or default of the Customer, or as a result of the Customer’s agreement, any defences or limits of liability normally included in the contract of carriage do not apply, the liability of the Company will be limited as if such defences or limits of liability did apply.

The Customer warrants and undertakes to the Company that the exclusions and limitations of liability conferred by these Conditions for the benefit of the Company are and shall be binding upon all persons who have or acquire any interest in the Goods and the Customer hereby agrees to hold harmless and indemnify the Company against all claims or demands whatsoever by whomever made in excess of the liability of the Company under these Conditions in respect of any loss or damage however caused, whether or not caused by the negligence of the Company, its servants, agents, sub-agents or sub-contractors.

16. Early termination

Early termination by the Company for specific, enumerated reasons The Company is entitled to terminate the contract at the Company's sole discretion, but the Company's offer to make arrangements with or for the benefit of its creditors or commits any act of bankruptcy, or as a result of the Customer's agreement, any defences or limits of liability normally included in the contract of carriage do not apply, the liability of the Company will be limited as if such defences or limits of liability did apply.

The Customer agrees to indemnify and hold harmless the Company against any payment which the Company in its sole discretion may make to such person in respect of such proceedings and its liability if any thereafter.

17. Applicable Law and Jurisdiction

The contract between the Company and the Customer is governed by Belgian law, and generally any legal or factual relationship between the Company and the Customer, either in contract or in tort, shall be governed by and interpreted in accordance with Belgian law.

The Customer accepts and renounces for all risks inherent to storage of unpacked vehicle on an open-air compound, in an industrial environment and will take out proper cargo insurance.

The company accepts no liability for deterioration of wax- or wrap-guard protection.

For new vehicles, the basis for calculating a claim is the production cost of the vehicle.

II PARTICULAR CLAUSE FOR HANDLING AND STORAGE OF NEW / USED COMMERCIAL VEHICLES

The Customer has duly examined the properties and characteristics of the terminals, and he agrees and accepts that these suit his needs and expectations for vehicle handling and storage purposes.

The Customer is satisfied with the level and quality of fencing, protection and surveillance.

The Customer accepts and renounces for all risks inherent to storage of unpacked vehicle on an open-air compound, in an industrial environment and will take out proper cargo insurance.

The company accepts no liability for deterioration of wax- or wrap-guard protection.

For new vehicles, the basis for calculating a claim is the production cost of the vehicle.

III PARTICULAR CLAUSE FOR HANDLING AND STORAGE OF TRAILERS AND CONTAINERS

1. Containers

(a) The Company has no liability for cosmetic damages and ordinary wear and tear inherent to container handling.

(b) Storage: The Customer agrees that containers can be stored up to 5 tiers high at the sole responsibility of the customer.

(c) Under further reference to clause 5.1, the Customer is aware of and allows the Company to load / move / discharge containers in the “double-stacked-modes”, and agrees this is customary in its terminal practice.

2. Trailers

The Customer warrants that the loading and securing of goods within the trailers shall be adequate and suitable for both road and sea transport, and shall comply with:

Due diligence principles for the intended transport modus, and all national and international applicable regulations (such as, e.g., for the Common-European Market, the European Standard “EN 12195-1:2007” 6th December 2003).

IV PARTICULAR CLAUSE FOR HANDLING AND STORAGE OF TEMPERATURE CONTROLLED / REFRIGERATED CARGO

Unless otherwise agreed, the handling and storage of temperature controlled/refrigerated cargo will be as follows:

(a) Upon written request by the Customer the Company will endeavour to connect any Unit to a supply of electricity but the Company shall not be liable for any loss or damage to the Goods arising from any failure, however caused and whether or not caused by the negligence of the Company to make such connection. A check will be done on terminal on a regular basis, but the Company does not accept responsibility for maintaining the Goods at any required or specific temperature whether on the terminal or not and shall not be liable for any loss or damage to the Goods arising from any failure, however caused and whether or not caused by the negligence of the Company, to maintain such temperature. Nor shall the company accept responsibility for any failure, however caused and whether or not caused by the negligence of the company, to plug, to refuel, to monitor the unit or to take any other action with regard to the unit.

(b) Upon written request by the Customer a Unit running on its own supply of electricity can be checked by the Company on a regular basis. The Company does not accept responsibility for maintaining the Goods at any required or specific temperature whether on the terminal or not and shall not be liable for any loss or damage to the Goods arising from any failure, however caused and whether or not caused by the negligence of the Company, to maintain such temperature. Nor shall the company accept responsibility for any failure, however caused and whether or not caused by the negligence of the Company, to plug, to refuel, to monitor the unit or to take any other action with regard to the unit.

V PARTICULAR CLAUSE FOR ADDITIONAL SERVICES

If and insofar as part of the order additional services (towing, pushing, transportation of persons or objects, repairs irrespective of the fact as to whether these additional services are carried out by the Company itself or by third parties on its behalf) are rendered by or on behalf of the Company as part of the order, equipment and personnel shall be made available on the conditions laid down (in the most recent version), as applied by the Companies concerned. If the Company makes no objections against the Company's proposal regarding the choice of the company assistance, the principal implicitly accepts the conditions lodged on which this company operates.

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

26.10.2012