

TRADING CONDITIONS

1. DEFINITIONS AND GENERAL CLAUSES

1.1 Unless the context otherwise requires:

- “Authority” means any duly constituted legal or administrative person or entity acting within his or its legal powers and exercising jurisdiction within any nation, state, municipality, port or airport.
- “Company” means SCHENKER SINGAPORE (PTE) LIMITED.
- “Conditions” means the Trading Conditions contained herein.
- “Customer” means any person at whose request or on whose behalf the Company provides any Services.
- “Dangerous Goods” includes the following:
- (i) any Goods which are or may become dangerous, noxious, hazardous, inflammable, explosive, radioactive, damaging or injurious or likely to cause damage;
 - (ii) any Goods so packed that they are or may become dangerous, noxious, hazardous, inflammable, explosive, radioactive, damaging or injurious to itself or other property;
 - (iii) any receptacles which were previously used for the carriage of Dangerous Goods unless such receptacles have been rendered safe;
 - (iv) any Goods which harbour or encourage or likely to harbour or encourage vermin or other pests;
 - (v) any Goods which are considered to be dangerous or hazardous by any Authority; and
 - (vi) any Goods which owing to legal, administrative or other obstacles as to their carriage, discharge or otherwise

may be detained or cause any other property or person to be detained.

- “Goods” means all or any part of the goods (including any packing, containers or equipment supplied by the Customer or the Owner) in respect of which any Services is or is to be provided by the Company, or to which these Conditions otherwise relate.
- “Instructions” means statements of the Customer’s specific requirements, whether oral or in writing.
- “Liabilities” includes any and all claims, demands, loss, damage, liabilities, fines, penalties, costs and expenses (including legal costs and expenses) of whatsoever nature.
- “Logistics Services” includes warehousing, distribution, stock control or management, order handling, receiving / delivering of Goods, preparing invoices and other documents, labelling, packing, repacking, consolidation, palletisation, and other processing of Goods; and services ancillary or incidental thereto.
- “Owner” means the owner of the Goods and any other person who is or may become interested in them whether by assignment or otherwise, and includes, without limitation, any shipper, consignee and other receiver of the Goods.
- “Perishable Goods” means Goods of a perishable nature, or Goods which have perished, or altered, or are in immediate prospect of doing so in a manner which has caused or may reasonably be expected to cause any loss or damage to the Company, or third parties, or to contravene any applicable laws, regulations, rules, orders or requirements of any Authority, and includes Goods which require temperature control or Goods with short shelf-life.
- “Rights and Defences” includes all rights, remedies, defences, exemptions and limitations of liabilities, liberties, immunities and benefits of whatsoever nature which accrue to the Company or any other party, as the case may be.

“SDRs”	means the unit of account used by the International Monetary Fund and known as Special Drawing Rights.
“Services”	means all or any business undertaken by the Company for the Customer, including the provision of any advice, information and services whatsoever (including without limitation forwarding or transportation (international, regional, cross-border or domestic), storage, loading, unloading, packing, unpacking, and other handling of goods and Logistics Services); and services ancillary or incidental thereto.
“Transport Unit”	includes any container, trailer, flat, tank, packing case, pallet and any other device used for and in connection with the carriage and/or consolidation of Goods, and any equipment forming part thereof or connected or ancillary thereto.
“Valuable Goods”	means Goods of a valuable nature, including without limitation bullion, bank notes, cash money, coins, travellers cheques, drafts, credit cards, documents of all kinds, computer data in any medium, precious stones, jewellery, antiques, works of art and valuables of all kinds.

- 1.2 Unless the context otherwise requires, words importing the singular include the plural and vice versa; words importing a gender include every gender; references to persons include any individual, body corporate or unincorporated and any other entity. References to Clauses are to clauses of these Conditions. Clause headings are for convenience only and do not affect construction of these Conditions. References to “third party”, “third party contractor” or “third party service provider” include any company which is a holding, subsidiary, related or affiliated company of the Company.
- 1.3 Any references to statutory provisions shall be construed as references to those provisions as respectively amended or re-enacted or as their application is modified from time to time, or any statutory instrument, order, rule or regulation made thereunder or under such amendment or re-enactment.
- 1.4 Where the Customer is itself not the Owner:
- (a) all representations, warranties, undertakings, agreements, obligations (including obligations to pay), liabilities, and indemnities expressed or implied to be made, given or assumed by the Customer in or under these Conditions shall be deemed to have been made, given and

assumed by the Customer jointly and severally with each and every person included in the definition of “Owner”;

- (b) all and any Rights and Defences available to the Company may be enforced or raised by it against the Customer and the Owner (and each and any of them); and
 - (c) unless otherwise expressly provided, any agreement by the Customer to indemnify the Company shall be construed as an agreement to indemnify the Company, its servants, agents and sub-contractors (and each and any of them).
- 1.5 If any legislation (which includes but is not limited to laws, regulations, rules or orders) is compulsorily applicable to any Services, these Conditions shall as regards such Services be read as subject to such legislation and nothing in these Conditions shall be construed as a surrender by the Company of any of its Rights and Defences or as an increase of any of its responsibilities or liabilities under such legislation and if any part of these Conditions be repugnant to such legislation to any extent such part shall as regards such Services be void to that extent but no further.
- 1.6 No servant or agent of the Company has any authority whatsoever to waive, vary or cancel any provision of these Conditions, and no such waiver, variation or cancellation shall be valid or binding on the Company unless it is in writing, expressly refers to this Clause 1.6 and is signed by an authorised officer of the Company.
- 1.7 Any right or remedy conferred on the Company by these Conditions shall be in addition to and without prejudice to all other rights and remedies available to it (whether contained in these Conditions or under statute or otherwise available in law).
- 1.8 The Rights and Defences of the Company provided in these Conditions shall apply in any action against the Company, whether founded in contract, tort, bailment, trust or howsoever founded.
- 1.9 All notices required to be given to the Company under these Conditions shall be in writing delivered to or sent by mail (postage prepaid) to the Company’s registered office for the time being in Singapore, or such other address as the Company may notify the Customer in writing.

2. APPLICATION

- 2.1 Subject to Clauses 1.5 and 2.2 all and any Services, whether gratuitously or otherwise, are provided subject to these Conditions, which are deemed to be incorporated in any agreement between the Company and the Customer, and which are also deemed to prevail over any conditions of contract of the Customer.

- 2.2 Where the Company issues its own bills of lading or waybills (air or sea) for any carriage of Goods, or otherwise enters into any separate contract in writing for any Services, the terms and conditions (“Separate Terms”) embodied in such bill of lading, waybill or separate contract shall be paramount and prevail in respect of the Services contracted for, to the extent that these Conditions are inconsistent with the Separate Terms; where the provisions of these Conditions are not inconsistent with the Separate Terms, those provisions shall continue to apply and be operative. (For avoidance of doubt, the signing or issue of a bill of lading or waybill by the Company as agent of a third party is not the issue by the Company of its own bill of lading or waybill).
- 2.3 The Company is not a common service provider and (subject to Clauses 1.5 and 2.2) only deals with the Customer and the Goods, and provides the Services subject to these Conditions.

3. ROLE AND STATUS OF THE COMPANY

- 3.1 The Company reserves to itself the discretion to provide any Services as a principal or to procure as an agent of the Customer the provision of the Services by any third party. The Company further reserves to itself the right to act as the agent or sub-contractor of any third party in respect of any contract, transaction, business or service relating to or affecting the Customer or the Owner.
- 3.2 The Company acts as a principal in respect of any Services (to the Customer) if and to the extent that one or more of the following is applicable:
- (a) the Services are performed by the Company itself and the Goods are in its actual custody and control;
 - (b) Clause 2.2 is applicable and under the Separate Terms, the Company contracts as a principal;
 - (c) under any compulsorily applicable laws, regulations, rules or orders, the Company is or is deemed to be providing the Services as a principal;
 - (d) where Clause 4.5 is applicable.
- 3.3 The Company shall not be taken to be acting as a principal in respect of any Services by reason only of any one or more of the following:
- (a) the Company charging an all-inclusive price;
 - (b) the Company supplying equipment and/or facilities owned or leased by the Company itself;

- (c) the Company arranging for the Goods to be forwarded, carried, transported, stored or otherwise handled together, or in consolidation with, any other goods.
- 3.4 Save as provided in Clause 3.2, all Services to the Customer are provided by the Company as the Customer's agent. Without prejudice to the generality of the foregoing, the Company always acts as an agent:
- (a) where the Company procures the issue of a third party bill of lading or waybill (air or sea) or other document containing or evidencing a contract of carriage between a third party and the Customer (whether or not the same is signed or issued by the Company as agent for the third party);
 - (b) when the Company provides any Services in respect of or relating to customs requirements, taxes, licences, consular documents, certificates of origin, inspection, certificates and other services similar or incidental thereto; and
 - (c) where Clause 11 or Clause 12.2 applies.
- 3.5 The Customer hereby expressly consents that the Company may act as the agent or sub-contractor of any third party in respect of any contract, transaction, business or service affecting the Customer or the Owner. Where the Company acts as such agent or sub-contractor, Clause 6, without prejudice to the Company's other Rights and Defences, shall apply.

4. COMPANY ACTING AS AGENT

- 4.1 When the Company acts as an agent of the Customer, the Company shall be entitled, and the Customer hereby expressly authorises the Company, to:
- (a) enter into all and any contracts with any third party on any terms (whether in the name of the Customer, or the Company, or otherwise, and whether or not such contracts are subject to the trading conditions of the third party); and
 - (b) do all and any other acts on behalf of the Customer as may be necessary or desirable to fulfil the Customer's instructions.
- 4.2 The Company shall be entitled to delegate its authority in whole or in part.
- 4.3 In entering into any contract or doing any act as referred to in Clause 4.1, the Company does not itself make or purport to make any contract with the Customer for provision of the Services by itself and acts solely on behalf of the Customer in procuring the Services by any third party so that the contractual relationship is between the Customer and the third party. The Company shall not be liable for any acts or omissions of the third party and the Customer shall defend, indemnify and hold harmless the Company from

and against any liabilities which the Company may incur arising out of and/or in connection with such contracts or acts.

- 4.4 Without prejudice to the generality of Clause 4.3, the Company shall not be under any liability to the Customer or the Owner by reason of having entered into any contract on behalf of the Customer, whereby the extent or degree of liability assumed by any third party is in any respect excluded or limited, unless such contract is entered into contrary to prior written Instructions given by the Customer and accepted by the Company in writing.
- 4.5 Unless otherwise requested by the Customer in writing and agreed by the Company in writing prior to or at the time of acceptance of the Customer's Instructions, the Customer shall be deemed to have waived all rights of enquiry of the terms and conditions and other particulars of the contracts or arrangements entered into by the Company pursuant to Clause 4.1. To the extent that the Company has agreed to provide such information as aforesaid and has failed to do so within 28 days, the Company shall be deemed to have contracted with the Customer as principal for the performance of the Services in respect of which the Company has failed to provide the information requested.

5. COMPANY ACTING AS PRINCIPAL

- 5.1 Where and to the extent the Company acts as a principal in respect of any Services, and subject to Clause 1.5 and any Separate Terms (defined in Clause 2.2), these Conditions in general, and this Clause 5 in particular, shall apply.
- 5.2 The Company will perform or in its own name procure the performance of the Services, and subject to the Conditions herein, accepts responsibility to the Customer for any loss of or damage to Goods occurring between the time when the Company takes the Goods into its charge and the time when the Goods are delivered or deemed delivered by or on behalf of the Company.
- 5.3 The Company shall have full liberty to perform the Services itself, or to sub-contract the whole or any part of the Services on any terms whatsoever as the Company deems fit. In respect of any Services or part thereof so sub-contracted, the Company shall (subject to Clauses 1.5 and 5.4(a)) have full benefit of the Rights and Defences available to the sub-contractors (whether in contract or under statute or otherwise in law), as if such Rights and Defences were expressly incorporated herein for the benefit of the Company, and the liability of the Company, if any, shall be limited to the amount recoverable by the Company from the sub-contractor.
- 5.4 The Company's liability for any loss or damage shall be determined as follows:
- (a) Notwithstanding any other provisions to the contrary in these Conditions, if any international conventions or national laws (if any) are compulsorily applicable to determine the liability of the Company, then the Company's liability shall be so determined, and the Company shall be entitled to all Rights and Defences under or pursuant to such

international conventions or national laws, as well as all other Rights and Defences under these Conditions which are not repugnant to such international conventions or national laws.

(b) In any other case, in accordance with Clause 18.

5.5 The applicable international conventions may include:

(a) in relation to carriage by sea, the Hague Rules or the Hague-Visby Rules; and

(b) in relation to carriage by air, the Warsaw Convention.

5.6 The Customer is hereby notified that international conventions do usually contain provisions limiting or exempting liability of carriers. In respect of carriage by air, the following notice is hereby given:

IF THE CARRIAGE INVOLVES AN ULTIMATE DESTINATION OR STOP IN A COUNTRY OTHER THAN THE COUNTRY OF DEPARTURE, THE WARSAW CONVENTION OR THE MONTREAL CONVENTION MAY BE APPLICABLE, AND IN MOST CASES, LIMIT THE LIABILITY OF THE CARRIER IN RESPECT OF LOSS OF, DAMAGE TO, OR DELAY OF, THE CARGO. DEPENDING ON THE APPLICABLE CONVENTION, AND UNLESS A HIGHER VALUE IS DECLARED BY THE SHIPPER AND A SUPPLEMENTARY CHARGE PAID, IF REQUIRED, THE LIABILITY OF THE CARRIER MAY BE LIMITED TO 250 FRENCH GOLD FRANCS PER KILOGRAMME, OR 17 SPECIAL DRAWING RIGHTS (OR 250 MONETARY UNITS, IF APPLICABLE) PER KILOGRAMME, CONVERTED INTO THE NATIONAL CURRENCY UNDER THE APPLICABLE LAWS. THE CARRIER WILL TREAT 250 FRENCH GOLD FRANCS TO BE THE CONVERSION EQUIVALENT OF 17 SPECIAL DRAWING RIGHTS (OR 250 MONETARY UNITS, IF APPLICABLE), UNLESS A GREATER AMOUNT IS SPECIFIED BY THE CARRIER.

5.7 “Hague Rules” means the International Convention for the unification of certain rules relating to bills of lading made at Brussels on 25 August 1924;

“Hague-Visby Rules” means the International Convention for the Unification of certain Rules of Law Relating to Bills of Lading made at Brussels on 25 August 1924, as amended by the Protocol made at Brussels on 23 February 1968 and the Protocol signed at Brussels on 21 December 1979;

“Warsaw Convention” means the Convention for the Unification of Certain Rules Relating to International Carriage by Air made at Warsaw on 12 October 1929, or that Convention as amended by the Protocol done at the Hague on 28 September 1955, or that Convention as amended by the said Protocol and Protocol No. 4 done at Montreal on 25 September 1975, whichever may be applicable;

6. COMPANY AS AGENT OR SUB-CONTRACTOR OF THIRD PARTY

6.1 Where the Company acts as an agent or sub-contractor of a third party, then, without prejudice to the Company’s other rights or remedies, in respect of any

act or omission committed by the Company in the course of such agency or sub-contracting, the Company (subject to Clause 1.4) shall be entitled (as against the Customer, the Owner and any other parties as may be relevant) to all Rights and Defences available to such third party (or its agents or sub-contractor and whether contained in a separate contract, or under statute, or otherwise available in law) notice of which the Customer, the Owner and any other parties as may be relevant hereby expressly waives, as if such third party Rights and Defences were expressly incorporated in these Conditions for the benefit of the Company and made applicable to all such acts or omissions.

- 6.2 Without prejudice to its general applicability, Clause 6.1 shall apply where the Company is an agent or sub-contractor of a third party and makes or arranges for collection (before loading) or delivery (after discharge) of goods on behalf of or on the instructions of such third party.

7. CUSTOMER'S WARRANTIES AND OBLIGATIONS

- 7.1 The Customer expressly warrants that the Customer is either the Owner or authorised agent of the Owner, and that it is authorised to accept and accepts these Conditions not only for itself, but also for and on behalf of the Owner. Where the Customer acts as agent, the Customer also accepts liability under these Conditions to the Company concurrently and jointly and severally with the Owner, as provided in Clause 1.4(a).
- 7.2 The Customer warrants to the Company as follows:
- (a) Instructions given to the Company (or any person on its behalf) are lawful, reasonable, sufficient and executable.
 - (b) The Goods are lawful goods and contain no contraband or prohibited items or any item which infringes or may infringe intellectual property or other rights of any other person.
 - (c) When presented to the Company (or any person on its behalf), the Goods are in such condition so as not to cause loss, damage or injury or likely to cause loss, damage or injury to any property of the Company or any other goods or any persons, for any reason whatsoever.
 - (d) Prior to presentation of Goods to the Company (or any person on its behalf), the Customer shall have notified the Company in writing of any special nature of the Goods which require special or specific precaution, attention or handling.
 - (e) Particulars of the Goods given to the Company (or any person on its behalf) are complete, accurate and include all data necessary to accomplish the required Services safely and effectively.
 - (f) Without prejudice to (e) above, where Goods are for carriage to, through or from the U.S.A., all information relating to the Goods is

complete, accurate and true and in all respects in conformity and compliance with all cargo declaration requirements of the U.S. Customs or U.S. Customs regulations, and all other related laws, regulations, rules and orders.

- (g) The Goods have been properly, securely and sufficiently packed and prepared (including proper labelling and marking) in compliance with all applicable laws, regulations, rules, orders, and any official or recognised standards, and such packing and preparation are appropriate for all operations affecting the Goods and in particular, to withstand the ordinary risks of handling, storage and carriage.
- (h) Where the Goods are received from the Customer already packed in or on a Transport Unit not provided by the Company, that:
 - (i) the Goods have been properly and competently packed into/onto the Transport Unit;
 - (ii) the Goods are suitable for handling or carriage in or on the Transport Unit being utilised; and
 - (iii) the Transport Unit is in a suitable condition to carry the Goods packed therein or thereon to the intended destination.
- (i) Where the Company receives the Goods packed by the Customer in a Transport Unit provided by the Company, that:
 - (i) prior to and at the time of packing, the Customer has inspected the Transport Unit and has found the same to be in good repair and condition suitable for the packing of the Goods and for the carriage and other handling;
 - (ii) the Goods have been properly and competently loaded into/onto the Transport Unit;
 - (iii) the Goods are suitable for handling or carriage in/on the Transport Unit being utilised.
- (j) The Customer has complied with all applicable laws, regulations, rules and orders relating to the Goods as regards, *inter alia*, their nature, condition, packing, labelling, marking, description, handling, storage and carriage.
- (k) The Customer is knowledgeable about its business and matters relating thereto and is able, prepared and willing to use all reasonable endeavours to co-operate with the Company for efficient execution of the Services.

7.3 A Customer for Logistics Services shall also be responsible to provide the Company on a continuing basis with:

- (a) realistic rolling forecasts of cargo throughput at such intervals, and such other information as the Company may reasonably require;
- (b) all necessary product data, including physical characteristics, packing details, pallet stacking method, and any special logistics requirements; and
- (c) compatible computer links (including hardware and software) connecting to the Company's computer system, and to maintain the same at its own cost and expense.

8. CUSTOMER'S INDEMNITIES

- 8.1 The Customer undertakes that no claim shall be made against any officer, employee, servant, agent or sub-contractor of the Company which imposes or seeks to impose upon such person any liability in connection with any Services and/or Goods, whether or not arising from negligence on the part of such person (except where such person is a third party providing any Services as an independent contractor to the Customer through the agency of the Company, in which case the Customer may proceed against such third party under the terms of the contract procured on its behalf from such third party by the Company acting as the Customer's agent, without any liability on the Company's part). Subject to the aforesaid exception, if any such claim is made, the Customer shall indemnify, defend and hold harmless the Company and such person from and against any and all consequences thereof.
- 8.2 Without prejudice to Clause 8.1, every officer, employee, servant, agent and sub-contractor (unless trading directly with the Customer under its own conditions through the agency of the Company) of the Company shall have the benefit of the Company's Rights and Defences under these Conditions as if the same were expressly included for their benefit; and in entering into this contract, the Company, to the extent of such Rights and Defences, does so not only for itself, but also as agent for such persons.
- 8.3 The Customer shall indemnify, defend and hold harmless the Company from and against:
- (a) any and all Liabilities arising out of, or in connection with, or as a direct or indirect result of, the Company acting in accordance with the Customer's Instructions, or arising from any breach of any warranty, representation or undertaking set out herein by the Customer, or from any act or omission on the part of the Customer or the Owner, or their respective servants, agents or sub-contractors;
 - (b) any and all claims, costs and demands of whatsoever nature and by whomsoever made or preferred in excess of the liability of the Company, if any, under these Conditions; and

- (c) any and all claims of a general average or salvage nature which may be made on the Company, and the Customer shall on demand provide such security as may be required by the Company in that regard.
- 8.4 Any and all advice and information, in whatever form given, is provided by the Company (or its agent) for the Customer's sole use only, and the Customer shall indemnify, defend and hold harmless the Company from and against any and all Liabilities that may be accrued by the Company arising out of, or in connection with, or as a direct result of, any claim by any other person relying upon such advice and information. Except under special arrangements previously made in writing, any and all advice and information not related to the Instructions given by the Customer and accepted by the Company is provided gratuitously, and without any liability whatsoever on the part of the Company.

9. DANGEROUS, VALUABLE, PERISHABLE AND OTHER GOODS

- 9.1 Except pursuant to special arrangements previously agreed in writing by the Company, the Customer warrants that it shall not tender, or cause to be tendered, any Dangerous Goods, Valuable Goods or Perishable Goods, live animals or plants, or any other Goods which may require any special handling or attention whatsoever, for the purposes of the Services.
- 9.2 Should the Customer nevertheless tender, or caused to be tendered, any Goods, in breach of Clause 9.1:
- (a) no Liability howsoever arising will be accepted by the Company in relation to, or connection with, such Goods;
 - (b) the Customer shall be liable for all loss and damage whatsoever and howsoever caused thereby, and shall indemnify, defend and hold harmless the Company from and against any and all Liabilities arising out of or in connection therewith; and
 - (c) such Goods may, without prior notice to the Customer or the Owner or any other person, be destroyed or disposed of or otherwise dealt with at the sole discretion of the Company or any other person in whose custody they may be at the relevant time, without any Liability on the party of the Company.
- 9.3 If any Dangerous Goods or Perishable Goods or live animals or plants are accepted for Services, pursuant to arrangements previously made in writing, they may nevertheless be so destroyed or disposed of or otherwise dealt with if, in the opinion of the Company or of any person in whose custody the Goods may be in at the relevant time, they pose a risk to other goods, property, life or health, without any Liability on the part of the Company.
- 9.4 If the Company agrees to accept any Goods which require temperature control for Services, it is upon the Customer's warranty, over and above the warranties set out in Clause 7.2, that it shall not tender, or cause to be

tendered, any such Goods without having previously given written notice of their nature and particular temperature range to be maintained; and in the case of a temperature controlled Transport Unit packed by or on behalf of the Customer, the Customer further warrants that:

- (a) the Transport Unit has been properly pre-cooled or pre-heated, as required;
- (b) the Goods have been properly stuffed in the Transport Unit; and
- (c) the Transport Unit thermostatic controls have been properly set.

9.5 If the requirements of Clause 9.4 are not complied with, the Company shall not be liable for any loss of or damage to the Goods caused by or arising from such non-compliance.

10. QUOTATIONS AND CHARGES

10.1 All quotations are given for immediate acceptance and are subject to withdrawals or revisions. Unless otherwise agreed in writing by the Company, the Company may, notwithstanding any acceptance, revise quotations or charges with or without notice in the event of changes outside its control, including without limitation any changes in currency exchange rates, fuel costs, rates of freight, insurance premiums or any other charges applicable to the Goods.

10.2 Charges relative to Goods are usually quoted and charged on “chargeable weight” basis. Chargeable weight is the higher of actual gross weight or volume weight. Charges expressed by reference to “per kilogramme” or “per ton” refer to the higher of actual gross weight or volume weight. Details relating to computation of charges will be provided upon request.

10.3 Customs duties, taxes and other government charges are in addition to any charges quoted. The Customer shall be liable for any and all duties, taxes, imposts, levies, deposits or outlays of any kind levied by any Authority at any port or place for or in connection with the Goods, and for any payments, fines, expenses, loss or damage whatsoever incurred by the Company its servants or agents or sub-contractors in connection therewith.

10.4 Charges for the Services shall be deemed fully earned by the Company on receipt of the Goods or commencement of Services by the Company (whichever is the earlier) and shall be paid and non-refundable in any event, notwithstanding any loss of or damage to the Goods or any claim or any other matter whatsoever.

10.5 Unless otherwise agreed by the Company in writing, the Company’s invoices are due for payment immediately upon presentation. Invoices tendered shall be deemed to be accurate and complete and accepted by the Customer, unless written notice of dispute is received by the Company within 14 days of the invoice date as provided in Clause 1.9.

- 10.6 The Customer shall pay to the Company in cash, or as otherwise agreed, all sums immediately when due, without any deduction or deferment on account of any claim, dispute, counterclaim, set-off (equitable or otherwise), or any other matter whatsoever.
- 10.7 The Customer shall, upon request, make immediate (advance) payment to the Company to cover any sum for which Customer is or may become liable to pay under Clause 10.3. The Company shall not be under any obligation to advance any sum to the Customer for such purpose.
- 10.8 On all amounts overdue, the Company (without prejudice to its other rights or remedies) shall be entitled to interest at the rate of 2% per month or part thereof during the period that such amounts are overdue, and until such time that the such overdue amounts are paid in full (applicable before and after any Judgment if obtained by the Company in connection with the recovery of such overdue amounts).
- 10.9 Without prejudice to the generality of Clause 1.4 above, the Company shall have the right to enforce any liability of the Customer under these Conditions or to recover any sums to be paid by the Customer under these Conditions against or from the Customer, as well as the Owner.
- 10.10 If any sum owing to the Company is not paid when due, the Company, without prejudice to its other rights or remedies, may at any time thereafter by notice in writing to the Customer (or without notice if the Customer cannot reasonably be traced) and without any liability whatsoever immediately, terminate:
- (a) the provision of any or all Services, whether or not such Services relate to the overdue amount; and/or
 - (b) all or any credit facilities to the Customer, whereupon all moneys owing by the Customer that are not otherwise due for payment shall become due and payable immediately.
- 10.11 No extension of time or other indulgence for payment purportedly given by or for the Company shall be binding on the Company, unless it is in writing and signed by the Company's authorised officers. If the Company in its sole discretion agrees to the payment of any sum owing to it by instalments, and the Customer defaults in paying any such instalment, the entire balance outstanding at the time of default shall become due and payable immediately.
- 10.12 When Goods are accepted or dealt with upon Instructions to collect freight, duties, charges or other expenses from the consignee or any other person(s), the Customer shall remain responsible for the same if they are not paid by such consignee or other person(s) immediately when due.
- 10.13 The Company shall be entitled to retain and be paid all brokerages, commissions, allowances and other remunerations customarily retained by or paid to freight forwarders.

11. INSURANCE

- 11.1 No insurance will be arranged or effected, except on express written Instructions given by the Customer and accepted by the Company in writing. All insurance arranged or effected by the Company are subject to the usual exceptions and conditions of the policies of the insurance company or underwriters taking the risk. The Company shall not be under any obligation to arrange or effect a separate insurance on each consignment, but may declare it on any open or general policy. Should the insurers dispute their liability for any reason, the Customer shall have recourse against the insurers only, and the Company shall not be under any responsibility or liability whatsoever in relation thereto, notwithstanding that the premium upon the policy may not be at the same rate as that charged by the Company, or paid by the Customer to the Company.
- 11.2 Insofar as the Company agrees to arrange or effect any insurance, the Company acts solely as an agent of the Customer. The Company does not warrant or undertake that any such insurance will be accepted by the insurance company or underwriter.

12. SPECIAL DELIVERY

- 12.1 Unless otherwise agreed by the Company in writing, the Company will not accept Instructions (and any liability therefore) relating to delivery or release of Goods in special circumstances such as, without limitation, against payment or against surrender of a particular document.
- 12.2 Where the Company engages any third party to effect such delivery or release of Goods pursuant to such Instructions, the Company shall be deemed to always act as an agent of the Customer. The Company shall in no circumstances be responsible for any act, omission, default, suspension, insolvency, negligence or fault of such third party, nor for any delay in remittance, loss in exchange, loss during transmission, loss in the course of collection, or any other loss, howsoever caused.
- 12.3 In any event, the liability of the Company if any arising out of or in connection such delivery or release of Goods shall be governed by Clause 18 and shall not, in any event, exceed the limit for mis-delivery of Goods as set out in Clause 18.7(a).

13. LIEN

- 13.1 The Company shall have a particular and general lien and right of detention on all Goods (and documents relating thereto) and other property of the Customer or the Owner in its possession, custody or control, for any and all sums due at any time from the Customer and/or the Owner to the Company on any account whatsoever, and whether or not relating to any Goods or Services or otherwise). Storage charges, if any, shall continue to accrue on any Goods detained under this Clause 13.1, and shall form part of such sums due to the Company.

- 13.2 The Company shall be entitled, by prior written notice to the Customer, to sell, dispose of or otherwise deal with such Goods, documents or property (by auction or private treaty or otherwise) as an agent for and at the risk and expense of the Customer and/or the Owner, and apply the proceeds thereof in or towards payment of such indebtedness. Upon accounting to the Customer for any balance remaining after payment of sums due to the Company and the cost of sale and/or disposal and/or dealing with the Goods, the Company shall be discharged of any liability whatsoever in respect of such Goods, documents or property. In the event of any shortfall, the Customer shall pay the same to, and indemnify, the Company on demand.

14. NO DUTY TO DECLARE / PRESERVE RIGHTS

- 14.1 The Company shall not be obliged to make any declaration for the purpose of any convention, laws, regulations, rules or orders or contract as to the nature or value of any Goods or as to any special interest in delivery or to make any declaration as to specific stowage or storage requirements of any Goods, unless express written instructions had been given by the Customer and accepted by the Company in writing.
- 14.2 Where there is a choice of rates according to the extent or degree of liability assumed by carriers, warehouseman or other service providers and no rate is stipulated by the Customer, the Goods will be handled, stored, carried, forwarded, dealt with, etc., at the Customer's risk and at such charges, including the lowest charges, as the Company may in its absolute discretion decide.
- 14.3 No statement or declaration of the value or nature of the Goods for insurance, export, customs, documentary credit, invoicing or any other purpose shall constitute Instructions to the Company to make any declaration for the purposes of Clause 14.1 or Clause 14.2.
- 14.4 The Company shall have no obligation to give any notice of claim, or notify the Customer or the Owner or any other person to give any notice of claim, or otherwise take any action to preserve or protect any right or potential right which the Customer or the Owner or any other person may have against any third party.

15. LIBERTIES AND RIGHTS OF THE COMPANY

- 15.1 Subject to express written instructions accepted by the Company in writing, the Company reserves to itself the absolute discretion as to the means, routes, methods, and procedures to be followed in the provision of Services and the handling, storage, transportation or other dealings of the Goods.
- 15.2 If, in the opinion of the Company, it is at any stage necessary or desirable in the Customer's interest to depart from the Customer's instructions, the Company may (but is not obliged to) do so, and the Customer hereby authorises such departure and agrees to indemnify the Company for any and all cost, expenses, loss, damage or liability thereby incurred.

- 15.3 The Company may at any time comply with the orders or recommendations given by any Authority. The responsibility and liability of the Company in respect of the Goods shall cease on delivery or other disposition of the Goods in accordance with such orders and/or recommendations.
- 15.4 Pending forwarding or delivery, the Goods may be warehoused or otherwise held at any place(s), at the absolute discretion of the Company, and at the cost and risk of the Customer.
- 15.5 The Company may (but is not obliged to) open any package or Transport Unit at any time, without notice to the Customer, to inspect, examine, weigh or measure the Goods. Any cost, expenses, loss, damage or liability resulting therefrom shall be borne by the Customer, and the Customer agrees to indemnify the Company for any and all such cost, expenses, loss, damage or liability.
- 15.6 In the event that:
- (a) delivery of the Goods is not taken within the time and at the place as provided in Clause 16.1, and not less than 14 days written notice has been given to the Customer (such notice to be dispensed with if the Customer cannot reasonably be traced); or
 - (b) in the opinion of the Company (or person in whose custody the Goods are at the relevant time) the Goods are insufficiently addressed or marked; or are likely to deteriorate, decay, become worthless or incur charges in excess of their value; or may cause loss or damage to other Goods or goods or its surroundings, or injury to persons; or the condition of the Goods are or will likely become such that they cannot safely or properly be serviced, carried, stored or otherwise handled; or
 - (c) there is, or the Company reasonably considers that there is, any breach by the Customer of any of the warranties contained in Clause 7.2 and such breach is not remedied by the Customer within 14 days (or such shorter time as the circumstances may require) after being required so to do by the Company by written notice to the Customer (such notice to be dispensed with if the Customer cannot reasonably be traced);

THEN in each and every of the aforesaid cases, the Company may at any time in its sole discretion, and without liability and without notice (or further notice in the case of Clause 15.6(a) or 15.6(c) to the Customer or any other person where applicable), do or arrange to be done any one or more of the following in the Company's absolute discretion, and at the risk of the Customer and the Owner:

- (i) store the Goods or any part thereof ashore or afloat, under cover or in the open, at any place;
- (ii) sell, dispose of or abandon the Goods or any part thereof, whether or not any action has been taken pursuant to 15.6(c)(i) above.

- 15.7 Without prejudice to the Company's other rights or remedies, upon such storage, sale, disposal or abandonment, the Goods shall be deemed:
- (a) to be delivered pursuant to Clause 16.1 where Clause 15.6(a) is applicable; and
 - (b) to be delivered to the Customer or the Owner or their nominees in proper performance of the Services contracted for, and the Company shall have no further liability in respect of the Goods, where Clause 15.6(b) or 15.6(c) is applicable.
- 15.8 All charges and expenses arising from or in connection with the storage, dealing, handing, sale, disposal or abandonment of such Goods, or in connection with any effort undertaken to preserve or save the Goods, shall be paid by the Customer on demand. The Customer and the Owner shall indemnify the Company from and against all and any Liabilities incurred or suffered by the Company by reason any action taken in pursuance of Clause 15.6.
- 15.9 If at any time, in the opinion of the Company (or any person in whose custody the Goods are at the relevant time), performance of the Services contracted for is or is likely to be affected by any hindrance, risk, delay, difficulty or disadvantage of any kind (whatsoever and howsoever arising) occurring before or after commencement of the Services or conclusion of the contract for the Services, the Company may, without prior notice to the Customer or any other person, and at its sole discretion, treat the performance of the contract for the Services as terminated and place the Goods at the Customer's disposal at any place which the Company may reasonably deem safe and convenient, whereupon all the responsibilities of the Company for performance of the contract and all responsibilities in respect of the Goods shall cease absolutely, and the Goods shall be deemed to have been duly delivered in proper performance of the Services (but without prejudice to any of the Company's other rights or remedies). The Company shall be entitled, notwithstanding any other provisions herein contained, to full charges for the Services contracted for and any additional charges, costs and expenses consequential to or resulting from the circumstances referred to above.

16. DELIVERY

- 16.1 The Customer or the Owner shall take delivery of the Goods (notwithstanding any loss or damage or any other matter whatsoever) within the time when and at the place where the Company is entitled to deliver the same. If delivery is not so taken, then upon expiration of the time for taking delivery, the Goods shall be deemed to have been delivered to the Customer or the Owner or their nominees in proper performance of the Services contracted for. For the purposes of this Clause 16.1, unless otherwise specified by the Company or agreed between the Company and the Customer and/or the Owner, the time for taking delivery shall be 7 days from the date of the Company's written notice to the Customer or the Owner that delivery of the Goods may be obtained.

- 16.2 If in accordance with the applicable custom, practices, laws, regulations, rules or orders the Goods are handed over into the custody of any Authority or customs, port or other authority or any other person having authority at the port or place for delivery, such hand-over shall be deemed to be delivery of the Goods to the Customer or the Owner or their nominees in proper performance of the Services contracted for.
- 16.3 Delivery of the Goods to any person presenting any forged or fraudulent document purporting to be an original part of a bill of lading, waybill (sea or air) or other original document entitling such person to delivery or possession of the goods shall be deemed to be delivery to the Customer or the Owner or their nominees in proper performance of the Services contracted for, provided that the person delivering the Goods did not actually know that:
- (a) such document was forged or fraudulent; and
 - (b) the person to whom the Goods were delivered or released in fact had no right or authority to take possession of the Goods.
- 16.4 Upon delivery or deemed delivery of the Goods, all liabilities of the Company in respect of the Goods shall cease absolutely and immediately, without prejudice to any of its rights hereunder, including without limitation its right to any lien.
- 16.5 The rights of the Company under this Clause 16 are in addition and without prejudice to its other rights including those under Clause 15.

17. EXCLUSION

Subject to Clause 1.5 and (where applicable) Clause 5.4, the Company, whether acting as agent or principal, shall not be liable for any destruction, loss or damage to the Goods or any matter whatsoever if and to the extent the same was caused by or resulted from any of the following:

- (a) acts or omissions of the Customer, or the Owner, or any person (other than the Company) acting on behalf of the Customer or the Owner;
- (b) compliance with Instructions given by or on behalf of the Customer, or instructions given by or on behalf of the Owner;
- (c) insufficient or defective packing, marking, labelling and/or numbering of the Goods, unless the Company had undertaken to carry out the same by itself;
- (d) handling, loading, stowing, unloading of the Goods by the Customer or the Owner or any person (other than the Company) on behalf of the Customer or the Owner;
- (e) inherent defect, quality or vice of the Goods;
- (f) acts of war or armed conflict;

- (g) acts of any Authority carried out in connection with the entry, exit or transit of the Goods;
- (h) rights, civil commotions, strikes, lock outs, stoppage or restraint of labour;
- (i) fire, flood, storm, explosion or theft;
- (j) any cause or event which the Company was unable to avoid, and the consequences whereof the Company was unable to prevent by the exercise of reasonable diligence;
- (k) any act or omission of the Company the consequences of which it could not reasonably have foreseen;
- (l) compliance with the instructions of any person entitled to give them.

18. LIABILITY AND LIMITATION

Subject to Clause 1.5 and (where applicable) Clause 5.4, the following provisions shall apply as they relate to any liability of the Company.

- 18.1 Notwithstanding any negligence of the Company, its servants, agents, sub-contractors or other persons for whom the Company is responsible, the Company shall not be responsible or liable for any damage, loss, non-delivery, mis-delivery or mishandling of the Goods, or deviation of the Goods, or failure to monitor the Goods, or other errors or omissions, unless it is proved that such damage, loss, non-delivery, mis-delivery or mishandling of the Goods, or deviation of the Goods, or failure to monitor the Goods, or errors or omissions, occurred whilst the Goods were in the actual custody of the Company and under its actual control, and was due to an act or omission of the Company or its own servants, done with the intent to cause damage or recklessly, and with the knowledge that damage would probably result, and provided at all times that the servant was acting within the scope of his employment.
- 18.2 Notwithstanding any negligence of the Company, its servants, agents, sub-contractors or other persons for whom the Company is responsible, the Company shall not be liable for any non-compliance or mis-compliance with instructions given to it, unless it is proved that such non-compliance or mis-compliance was caused by an act or omission of the Company or its own servants, done with the intent to cause damage or recklessly, and with the knowledge that damage would probably result, and provided at all times that the servant was acting within the scope of his employment.
- 18.3 The Company does not undertake that the Services will be completed or the Goods (or documents relating thereto) will be delivered or made available within a particular time.
- 18.4 The Company shall not be liable for any delay, unless, and then only to the extent that, such liability is imposed by any compulsorily applicable law. If the

Company is so liable, it is entitled to and may invoke all Rights and Defences it has under such applicable law; and unless prohibited by such law, the provisions of Clause 18.1 and Clause 18.2 shall apply mutatis mutandis. The liability, if any, of the Company for any delay shall in no circumstances exceed an amount equal to the charges actually paid by the Customer for the Goods (or part thereof, as the case may be) delayed, or a sum at the rate of two (2) SDRs per kilogramme of the gross weight of Goods (or part thereof, as the case may be) delayed, whichever is the lower, provided that where any compulsorily applicable law or convention provides a higher limitation which cannot be varied by private contract, that higher limitation shall apply.

18.5 Save as provided in Clause 18.1 or Clause 18.2, the Company shall be under no liability whatsoever and howsoever caused, and whether or not there is any negligence on the part of the Company, its servants or agents or sub-contractors or other persons for whom the Company is responsible.

18.6 Subject to Clause 1.5 and (where applicable) Clause 5.4, the Company shall not in any event be under any liability whatsoever for:

- (a) any special, incidental, indirect, consequential or economic loss or damage, including without limitation any loss of market, profit, revenue, business, goodwill, delay (subject to Clause 18.3 and Clause 18.4) or deviation; or
- (b) any loss, damage or expense arising out of or in any way connected with fire or theft or a consequence of fire or theft;

howsoever caused, and whether or not such loss or damage or expense resulted from any act, default or neglect of the Company or its servants, agents, sub-contractors or other persons for whom the Company is responsible.

18.7 Subject to Clause 1.5, 5.4 and 18.9, in no case whatsoever, including without limitation any damage, loss, non-delivery, mis-delivery or mishandling of the Goods, or deviation of the Goods, or failure to monitor the Goods, or other errors or omissions, shall the liability of the Company, howsoever arising, and whether or not there is any negligence on the part of the Company, its servants or agents or sub-contractors or other persons for whom the Company is responsible, and notwithstanding any lack of explanation, exceed:

- (a) In the case of any claim for any loss of, damage to, mis-delivery, non-delivery or mishandling of the Goods, or deviation of the Goods, or failure to monitor the Goods, or other errors or omissions, the lesser of:
 - (i) the value of the Goods (or part thereof, as the case may be) lost, damaged, mis-delivered, not delivered, mishandled, deviated, not monitored, or the subject matter of the error or omission; or
 - (ii) a sum at the rate of two (2) SDRs per kilogramme of the gross weight of the Goods (or part thereof, as the case may be) lost,

damaged, mis-delivered, not delivered, mishandled, deviated or not monitored, or the subject matter of the error or omission.

- (b) In the case of any claim for delay, the liability for which is not excluded by Clause 18.3 or Clause 18.4, the limit set forth in Clause 18.4; and
- (c) In the case of any other claim howsoever arising, but not falling within Clauses 18.7(a) or 18.7(b); an amount equal to the charges actually paid to the Company by the Customer for the Services (or part of the Services, as the case may be);

provided that where any compulsorily applicable law or convention provides a higher limitation which cannot varied by private contract, that higher limitation shall apply.

- 18.8 The value of the Goods shall be the bona fide FOB invoice value plus the freight and insurance, if paid. If there is no bona fide invoice value of the Goods, the value of the Goods shall be such value as at the place and time they are delivered to the Customer or person nominated by the Customer, or at the place and time they should have been delivered, calculated by reference to the market value of goods of the same kind and quality.
- 18.9 By special arrangement agreed by the Company in writing, the Company may accept alternative limits of liability in excess of the limits set out in these Conditions, if the Customer agrees to pay and has paid the Company's additional charges for accepting such increased liability prior to such damage, loss, mis-delivery, non-delivery or mishandling of the Goods, or deviation of the Goods, or failure to monitor the Goods, or other errors or omissions. In that event, such alternative limits as may be agreed between the Company and the Customer shall be substituted for the limits laid down in these Conditions. Details of the Company's additional charges will be provided upon request. In the event of any doubt or ambiguity as to the scope or interpretation of such alternative limits, the limits of the Company's liability if any, shall be governed by Clause 18.

19. NOTICE OF CLAIM AND TIME BAR

Subject to Clause 1.5 and (where applicable) Clause 5.4, the following shall apply in respect of any claim (howsoever caused and of whatsoever nature) against the Company:

- 19.1 Any claim against the Company must be made in writing and notified to the Company within 14 current days from:
 - (a) in the case of damage to the Goods, the date of delivery of the Goods;
 - (b) in the case of loss, non-delivery, mis-delivery or delay (if liability for delay is not excluded by Clause 18.3 and 0) of the Goods, the date the Goods should have been delivered; and

- (c) in any other case, the date of the occurrence of the event giving rise to the claim.

Provided that if any compulsorily applicable law or international convention provides for a shorter time for giving notice of claim, then, subject to reasonable time being given to allow the Company to reserve its claims against its sub-contractors or any third party, such shorter time shall apply.

- 19.2 If no notice of claim is given within the times provided in Clause 19.1, no action or claim shall lie against the Company.
- 19.3 Subject to Clauses 1.5 and 0, all rights of claims against the Company shall be extinguished and the Company shall be discharged of all liability whatsoever, unless suit is brought in the proper forum and notice thereof is given to the Company within 12 months from the applicable date, as specified in Clauses 19.1(a), 19.1(b) and 19.1(c).

20. CONTRACTS (RIGHTS OF THIRD PARTIES) ACT

Save as otherwise expressly provided in these Conditions and other applicable agreement or terms, nothing herein shall be considered or construed as conferring any right or benefit on any person not a party to any agreement between the Company and the Customer, nor is it intended that any term herein should be enforceable, by virtue of the Contracts (Rights of Third Parties) Act (Cap 53B) or otherwise, by any person who is not a party to the said agreement or agreements.

21. APPLICABLE LAW AND JURISDICTION

- 21.1 These Conditions and any Services performed or to be performed or contract to which they apply shall be governed by and construed according to the laws of Singapore.
- 21.2 The Customer (for itself and the Owner) and the Company hereby irrevocably agree that the Courts of Singapore shall have exclusive jurisdiction in respect of any and all disputes, claims or differences arising out of or in connection with the Services or these Conditions or any contract to which they apply, save that as such agreement conferring jurisdiction is for the benefit of the Company only, the Company shall retain the right to bring any legal proceedings against the Customer or the Owner in any other jurisdiction or jurisdictions, whether concurrent or otherwise.