

**May 11, 2017**

## **Terms and Conditions Medov Logistics**

These terms and conditions of service constitute a legally binding contract between the “Company” or “Forwarder” and the “Customer” or “Principle”. In the event the Company renders services and issues a document containing Terms and Conditions governing such services, the Terms and Conditions set forth in such other document(s) shall govern those services.

### **1. Definitions**

**1.1 Company or Forwarder:** Shall mean Medov Logistics, its subsidiaries, related companies, agents and/or representatives.

**1.2 Customer or Principle:** Shall mean the person for which the Company is rendering service, as well as its agents and/or representatives, including, but not limited to, shippers, importers, exporters, carriers, secured parties, warehousemen, buyers and/or sellers, shipper’s agents, insurers and underwriters, break- bulk agents, consignees, etc. It is the responsibility of the Customer to provide notice and copy(s) of these terms and conditions of service to all such agents or representatives.

**1.3 Documentation:** shall mean all information received directly or indirectly from Customer, whether in paper or electronic form.

**1.4 Delivery:** The term of Delivery includes also the delivery in the warehouse business.

**1.5 Third parties:** Shall include, but not be limited to, the following: “carriers, truck-men, cart-men, lighter-men, forwarders, Other Transportation Intermediaries (OTI), customs brokers, agents, warehousemen and others to which the goods are entrusted for transportation, cartage, handling and/or delivery and/or storage or otherwise.

**1.6 Consignee:** Legal person to whom the goods shall be delivered according to the Freight Forwarding Contract or valid instruction of the Principal or other persons authorized to dispose of.

**1.7 Damage Case/Damage Event:** Damage Case means, when, due to an external process, a claimant raises a claim on the basis of a Freight Forwarding Contract or in lieu of a freight forwarding claim; Damage Event means, when, due to an external process, several claimants raise claims on the basis of several Freight Forwarding Contracts.

**1.8 Dangerous Goods:** Dangerous Goods are goods that have the potential to endanger people, vehicles or legal interests of third parties during the course of standard transportation, warehousing or other activities. In particular, hazardous goods are defined as goods that fall in the scope of application of statutes and regulations relating to hazardous goods, such as provisions covering dangerous materials, water or garbage.

**1.9 Other Transportation Intermediaries (OTI):** Shall include an “ocean freight forwarder” and a “non-vessel operating common carrier.

**1.10 NVOCC:** Non Vessel Operating Common Carrier.

**1.11 IAC:** Indirect Air Carrier

**1.12 Freight Forwarder:** Legal person, which concludes a Freight Forwarding Contract with the Principal. Freight Forwarders are NVOCC, IAC, and warehouse keeper.

**1.13 Freight Forwarding Contracts:** All Freight Forwarding Contracts undertaken by the Freight Forwarder as contractor for all activities, regardless of whether they are freight forwarding, carriage of goods (by sea), warehousing or other, typical services pertaining to the freight forwarding business, such as customs handling, tracking of goods or cargo handling. These terms and conditions also apply to all typical logistical services included in freight forwarding, if these are in relation to the transport or warehousing of goods, in particular to activities such as the creation of loading units, consignments, labeling, weighing of goods and returns processing. Contracts about the presentation of manned motor Vehicles for use on instruction by the Principal shall also be deemed as Freight Forwarding Contracts.

**1.14 Interfaces:** After acceptance and before Delivery of the goods by the Freight Forwarder, Interfaces are defined as any transition of the goods from one legal person to another, any transshipment from one Vehicle to another, any (temporary) storage.

**1.15 Loading Means:** Means for the aggregation of Packages and for the creation of loading units, such as pallets, container, swap trailers, bins.

**1.16 Material Contractual Obligations:** Material Contractual Obligations are defined as those that initially enable the contractually agreed fulfillment of the Freight Forwarding Contract and on which the contracting partner is entitled to reasonably rely on.

**1.17 Packages:** Single items or units formed by the Principal for the fulfillment of the order with or without Loading Means, which the Freight Forwarder must handle as one ensemble.

**1.18 Place of Loading/Discharge:** The postal address, if the parties have not agreed on a more precise location.

**1.19 Point of Time:** Agreed Point of Time for the arrival of the Freight Forwarder at the Place of Loading or Place of Discharge.

**1.20 Principal:** Legal person which concludes a Freight Forwarding Contract with the Freight Forwarder.

**1.21 Shipper:** Legal Person which hands over the goods for transportation according to the Freight Forwarding Contract or on a valid instruction.

**1.22 Theft-Sensitive Goods:** Theft-Sensitive Goods are those exposed to an increased risk of robbery and theft, such as money, precious metals, jewelry, watches, precious minerals, art, antiques, check books, credit cards and/or other payment means, stocks and security papers, documents, spirits, tobacco, entertainment electronic goods, telecommunications goods, IT equipment and accessories as well as smart cards.

**1.23 Time Frame Agreed:** Time Frame for the arrival of the Freight Forwarder at the Place of Loading or Place of Discharge.

**1.24 Time of Performance:** The time (date, time of day) up to a particular performance must be taken place, for example a Time Frame or Point of Time.

**1.25 Valuable Goods:** Goods, at the time and place of taking over, with an actual value of at least 100 Euro/kg.

**1.26 Vehicle:** Means of transport for the transportation of goods on traffic routes.

**2. Company as agent.**

The Company acts as the "agent" of the Customer for the purpose of performing duties in connection with the entry and release of goods, post entry services, the securing of export licenses, the filing of export and security documentation on behalf of the Customer and other dealings with Government Agencies, or for arranging for transportation services or other logistics services in any capacity other than as a carrier.

### **3. Instructions, transmission errors, contents, special type of goods**

**3.1 Forwarding instructions, other instructions, directives and communications are valid even if given informally. Subsequent modifications must be specifically identifiable as being amendments. The burden of proof for the correct and complete transmission lies with the party referring to it.**

**3.2 If statements must be made in writing, they are deemed to having been made in writing when using electronic data communication or any other machine readable form for as long as the originator of the message is identifiable.**

**3.3 The principal must inform the freight forwarder, at the time of giving the instructions, which the transport contract concerns:**

- dangerous goods
- live animals and plants
- perishables
- valuable goods and goods with an inherent risk of theft

**3.4 The principal must specify in his instructions addresses, marks, numbers, quantity, nature and contents of the packages as well as declaring the properties of the goods, as required by section 3.3, the goods value for insurance purposes and any other information relevant for the proper execution of the forwarding instructions.**

**3.5 In the case of dangerous goods, the principal must inform the freight forwarder in writing - at the time of giving the instructions - of the exact nature of the hazard and, if appropriate, about precautionary measures. In the case of dangerous goods subject to the law for the carriage of dangerous goods or other goods, the carriage of which is subject to specific regulations regarding dangerous goods, their handling or their disposal, the principal has to make the necessary declarations required for the proper execution of the forwarding instruction, especially the classification in accordance with the regulations for dangerous goods.**

**3.6 The principal must inform the freight forwarder about particularly valuable goods or goods with an inherent risk of theft (e.g., cash, precious metals, jewelry, clocks and watches, precious stones, works of art, antiquities, bank or credit cards, valid telephone cards or other means of payment, bonds, shares and similar, foreign currencies, documents, spirits, tobacco, entertainment electronics, telecommunications devices and accessories) and goods with an actual value of 100 Euro/kg or more well in advance to allow the freight forwarder to decide about acceptance of the goods and to take measures for a safe and secure execution of the forwarding job.**

**3.7 If a forwarding instruction does not comply with the terms stated in sections 3.3 to 3.6, the freight forwarder has the option to**

- refuse acceptance of the goods
- return goods already accepted or to make them available for collection
- ship, transport or store them without the need to notify the principal and to charge an extra, appropriate fee, if the safe and secure execution of the instruction causes extra costs.

**3.8 The freight forwarder is not obliged to check or supplement the statements made regarding sections 3.3 to 3.6.**

**3.9 The freight forwarder is not obliged to check the authenticity of signatures on any messages or documents relating to goods, or to check the authority of the signatories, unless there exist reasonable doubts concerning the authenticity or authority.**

**3.10 Quotations as to fees, rates of duty, freight charges, insurance premiums or other charges given by the Company to the Customer are for informational purposes only and are subject to change with-out notice; no quotation shall be binding upon the Company unless the Company in writing agrees to undertake the handling or transportation of the shipment at a specific rate or amount set forth in the quotation and payment arrangements are agreed to between the Company and the Customer.**

**3.11 The Customer/ Owner of the goods warrants that it has complied with all the laws & regulations stipulated in the Safety of Life At Sea (SOLAS) and its subsequent amendments. The Customer/ Owner further agreed to indemnify the Company for all cost related to the non-compliance of the SOLAS regulation directly or indirectly.**

#### **4. No Liability for the Selection or Services of Third Parties and/or Routes.**

**4.1 Unless services are performed by persons or firms engaged pursuant to express written instructions from the Customer, Company shall use reasonable care in its selection of third parties, or in selecting the means, route and procedure to be followed in the handling, transportation, clearance and delivery of the shipment; advice by the Company that a particular person or firm has been selected to render services with respect to the goods, shall not be construed to mean that the Company warrants or represents that such person or firm will render such services nor does Company assume responsibility or liability for any actions(s) and/or inaction(s) of such third parties and/or its agents, and shall not be liable for any delay or loss of any kind, which occurs while a shipment is in the custody or control of a third party or the agent of a third party; all claims in connection with the Act of a third party shall be brought solely against such party and/or its agents; in connection with any such claim, the Company shall reasonably cooperate with the Customer, which shall be liable for any charges or costs incurred by the Company.**

**4.2 A party using the services of a third party provider in the communication or processing of Messages shall be responsible for any acts, failures or omissions of that provider in the provisions of the said services.**

#### **5. Customs clearance**

**5.1 The instruction for shipment to a destination in another country includes instructions for customs clearance, if this is necessary for arranging the transport to the place of destination.**

**5.2 The freight forwarder is entitled to an extra fee for the customs clearance, over and above the actual costs incurred.**

**5.3 The instruction to forward bonded goods or to deliver them free house, authorizes the freight forwarder to effect the customs clearance and to advance customs and excise duties and fees.**

**5.4 Unless requested by Customer in writing and agreed to by Company in writing, Company shall be under no obligation to undertake any pre- or post Customs release action, including, but not limited to, obtaining binding rulings, advising of liquidations, filing of petition(s) and/or protests, etc.**

**5.5 Barring any contrary agreements, the Forwarder is not liable for information on freights, duties, taxes, charges, tariffs, etc... The Forwarder is not liable for the incorrect application of freight and customs duties, and cannot be held**

responsible for consequences arising from unexpected increases of custom duties, or from other authority's dispositions.

## **6. Packaging and marking obligation of the principal**

**6.1** The packages have to be clearly and durably marked by the principal to facilitate their proper handling, e.g. addresses, marks, numbers, symbols for handling and properties; old marks must be removed or made illegible.

**6.2** In addition, the principal is under obligation:

**6.2.1** to mark all packages belonging to the same consignment in such a way that they are easily recognized as forming one consignment,

**6.2.2** to prepare packages in such a way that they may not be accessed without leaving visible trace (adhesive tape, bands, etc. are only permissible when they are individually designed or otherwise difficult to imitate; foil wrapping must be thermally sealed);

**6.2.3** in case of a consignment being part of a forwarders consolidation, to group the individual packages or units of this consignment into larger units if their strap length (largest circumference plus longest side) is less than 1 meter;

**6.2.4** to combine a consignment of hanging garments consisting of several individual units into wrapped units for easier handling;

**6.2.5** to mark packing units with a gross weight of at least 1,000 kilograms with the weight specification as prescribed for heavy loads to be transported by ship.

**6.3** Packages are single packages or units of packages, formed by the principal for the purpose of being carried according to the forwarding instruction, e.g., boxes, wire-boxes, pallets, handling units, enclosed loading units such as covered wagons, wagons with tarpaulin covers, semi-trailers, swap bodies, containers or igloos.

**6.4** If the packages do not comply with the terms under 6.1 and 6.2, section 3.7 shall apply.

**6.5** The Forwarder is not liable for damages of any kind in relation to not packed or insufficiently packed goods. Goods which, on the basis of conditions or usages inherent to the pertinent contract of transport, are considered not packed or insufficiently packed, at the discretion of the Forwarder. Easily recognizable external damages or successively appeared damages can be repaired by the Forwarder at sender's expense, without any consequent liability for the Forwarder himself.

## **7. Securing cargo and supervisory duties of the Freight Forwarder**

**7.1** In all cases where loading and discharge occurs at more than one location, the Freight Forwarder takes care for the security of cargo until the last Place of Discharge and at all times, but not before the completion of loading in a transport safety manner.

**7.2** The Freight Forwarder shall conduct controls at all Interfaces. The Freight Forwarder shall check completeness and identity of the goods, their apparent good order and condition as well as all seals and locks and record any irregularities in the accompanying documents or via separate notification.

**7.3** If at any time the performance of the Company's obligations, in the sole opinion of the Company or any person whose services the Company makes use of, is or is likely to be affected by any hindrance, risk, delay, difficulty or disadvantage whatsoever and which cannot be avoided by reasonable endeavors by the Company or such other person, the Company may, on giving notice in writing to the Customer or Owner or without notice where it is not

reasonably possible to give such notice, treat the performance of its obligations as terminated and place the Goods or any part of them at the Customer's or Owner's disposal at any place which the Company may deem in its sole opinion safe and convenient, whereupon the responsibility of the Company in respect of the Goods shall wholly cease. The Customer shall pay on demand any additional costs of carriage and delivery to and storage at such places and all other expenses incurred by the Company.

## **8. Receipt**

**8.1** Upon request by the principal, the freight forwarder shall issue a certificate of receipt. With this certificate the freight forwarder confirms the quantity and type of packages, but not their contents, value or weight. In the case of bulk goods, full loads and such like the certificate of receipt does not state the gross weight or any other description of the quantity of the goods.

**8.2** As proof of delivery the freight forwarder requests from the consignee a receipt of the packages as named in the forwarding instruction or other accompanying transport documents. Should the consignee refuse to sign for the receipt of the goods, the freight forwarder must request further instructions. If the goods have already been unloaded at the consignee, the freight forwarder is entitled to regain possession.

## **9. Instructions**

**9.1** An instruction remains valid for the freight forwarder until revoked by the principal.

**9.2** In the case of insufficient or impractical instructions the freight forwarder may use his professional judgment.

**9.3** An instruction to hold goods at the disposal of a third party can no longer be revoked after instructions from the third party have been received by the freight forwarder.

## **10. Freight payment, cash on delivery**

**10.1** The statement by the principal that the instruction is to be executed freight unpaid or that the costs are to be paid by the consignee or a third party does not affect his liability for payment of all charges.

**10.2** The statement in section 10.1 does not concern cash on delivery instructions.

## **11. Deadlines**

**11.1** In the absence of specific agreements, neither loading or delivery deadlines are guaranteed, nor the sequence of the handling of goods of the same means of transport.

**11.2** This does not affect the freight forwarder's statutory liability with regard to missing deadlines.

## **12. Obstacles/ Force Majeure**

**12.1** Obstacles beyond the freight forwarder's control relieve him, for their duration, from the duties that are affected by these obstacles. In the case of such obstacles, the freight forwarder or the principal have the right to withdraw from the contract even if it has already been partially performed. If the freight forwarder or the principal withdraws from the contract, the freight forwarder is entitled to the costs which he deemed to be necessary to be incurred or which were incurred in the interest of the principal.

**12.2** The freight forwarder is only obliged within the framework of his ordinary professional care to advise the principal about legal or official restrictions concerning the shipment (e.g., import/export restrictions). If, however, the

freight forwarder, through public statements or in the course of negotiations, created the impression that he has expert knowledge about specific circumstances, he has to act appropriately to this knowledge and expertise.

**12.3 Governmental and/or official acts beyond the freight forwarder's control do not affect the rights of the freight forwarder towards his principal; the principal is liable towards the freight forwarder for all claims arising out of such acts. Claims of the freight forwarder against the state or third parties are not affected.**

**12.4 Force Majeure. Company shall not be liable for losses, damages, delays, wrongful or missed deliveries or nonperformance, in whole or in part, of its responsibilities under the Agreement, resulting from circumstances beyond the control of either Company or its sub-contractors, including but not limited to: (i) acts of God, including flood, earthquake, storm, hurricane, power failure or other natural disaster; (ii) war, hijacking, robbery, theft or terrorist activities; (iii) incidents or deteriorations to means of transportation, (iv) embargoes, (v) civil commotions or riots, (vi) defects, nature or inherent vice of the goods; (vii) acts, breaches of contract or omissions by Customer, Shipper, Consignee or anyone else who may have an interest in the shipment, (viii) acts by any government or any agency or subdivision thereof, including denial or cancellation of any import/export or other necessary license; or (ix) strikes, lockouts or other labor conflicts.**

### **13. Delivery**

**13.1 Delivery is deemed to have been affected when the goods are handed over to any person present on the premises of the consignee, unless there are apparent reasonable doubts about their authority to receive goods on behalf of the consignee.**

**13.2 With the exception of special arrangements previously made in writing, the Forwarder does not guarantee the delivery terms or a determinate order of priority in the carrying out of the forwarding. The simple indication of the time of delivery by the Customer does not constitute an obligation for the Forwarder. The Forwarder can never be liable for consequences of wrong information given by carriers or their agents about dates or terms of loading, unloading or delivery.**

**13.3 With the Exception of contrary orders in writing, the Forwarder can send back to the sender all goods refused by the consignee addressee or which, for any reason, cannot be delivered. All this, is at the risk and on behalf of the sender. During the demurrage, for any impediment of delivery, goods stay in deposit at sender's risk and the Forwarder is not bound to insure them. The Forwarder, moreover, is not liable for missing, damages, etc., nor for auction sales, confiscations, destructions or the like, which could occur to the goods and this in accordance with law in force in the country where the goods are undelivered.**

### **14. Right to information**

**14.1 The freight forwarder is obliged to provide the principal with all necessary information, to inform him, upon request, concerning the status of the transaction and to provide information on all transactions thus far, however, he is only obliged to reveal the costs incurred if he acted in the name of the principal.**

**14.2 The freight forwarder is obliged to pass everything he receives/obtains while acting for him to the principal.**

### **15. Warehousing**

**15.1 The Principal has the duty to pack and mark the goods, if required, and to make available all documents and information to the Freight Forwarder for an appropriate storage.**

**15.2** The Freight Forwarder decides in its sole discretion if warehousing takes place in its own facilities or, if not otherwise agreed, those of third parties. Whenever warehousing take place at third party warehouses, the Freight Forwarder must supply timely information regarding its name and location to the Principal or, whenever a warehouse receipt has been issued, to make a note of the information on the same.

**15.3** The Freight Forwarder takes care for the timely maintenance and care of the warehouse and storage space, the equipment on the premises and for securing the goods, in particular theft protection. Additional security measures, for example measures exceeding the statutory fire protection laws, must be explicitly agreed.

**15.4** Unless otherwise agreed:

**15.4.1** takeover of the goods for warehousing begins with the unloading of the goods from the Vehicle by the Freight Forwarder and ends with the completion of the Delivery by the Freight Forwarder.

**15.4.2** inventory management is via the Freight Forwarder's inventory accounting,

**15.4.3** there is one physical inventory inspection per year. On instruction of the Principal, the Freight Forwarder shall conduct further physical inventories against compensation.

**15.5** With taking over the goods and if appropriate examination means are available, the Freight Forwarder is obliged to conduct a receiving inspection on types, quantities, marks, numbering, quantities of Packages as well as outer visible damages.

**15.6** The Freight Forwarder shall conduct regular inspections with appropriate personnel for securing the goods.

**15.7** In case of stock shortfall and imminent changes of the goods, the Freight Forwarder shall immediately inform the Principal and ask for instructions.

**15.8** Additional service and information obligations require an explicit agreement.

**15.9** The Forwarder can withdraw from a storage contract at any time, at a 45 days' notice, by a registered letter to the last address communicated to him. A withdrawal without any notice is admitted in case of possible damage to other goods caused by the goods in question. The Forwarder, if he can think that his rights are not covered by the goods' value, is authorized to set to the sender a limit within which he has to cover the Forwarder's exposure: in lack of this, the Forwarder is authorized to sell the goods and to satisfy his exposure out of the proceedings.

## **16. Remuneration**

**16.1** The services according to the Freight Forwarding Contract are compensated with the agreed remuneration, if this remuneration includes the costs for transportation and warehousing. Supplemental claims for costs occurred during regular transportation or warehousing and which were not foreseeable at the time of the offer, can be claimed separately, unless otherwise agreed.

**16.2** In any dispute involving monies owed to Company, the Company shall be entitled to all costs of collection, including reasonable attorney's fees and interest at 12 % per annum or the highest rate allowed by law,

## **17. Compensation claims and right of recourse**

**17.1** The Freight Forwarder is, if not caused by him, entitled to ask for refund of expenses properly incurred, in particular those relating to average contributions, detention or demurrage charges, including additional packaging for protecting the goods.



**17.2** If the Principal instructs the Freight Forwarder to receive goods and if, on reception of the goods by the Freight Forwarder, freight, cash on delivery, customs duties, taxes, or other expenses and charges are demanded, the Freight Forwarder is entitled - but not obliged - to pay these costs according to the circumstances he has properly assessed, and to claim reimbursement from the Principal, unless otherwise agreed.

**17.3** On request, the Principal must immediately indemnify the Freight Forwarder for expenditures, such as freight, average contributions, customs duties, taxes and other fees demanded from the Freight Forwarder, in particular acting as a person authorized to dispose or as possessor of goods belonging to third parties, unless the Freight Forwarder is not responsible for their accrual.

## **18. Invoices, foreign currencies**

**18.1** Remuneration claims of the Freight Forwarder require the reception of an invoice or payment schedule in accordance to statutory requirements. If not otherwise agreed, the maturity is not dependent on presenting a delivery receipt in case of an uncontested Delivery.

**18.2** Regarding foreign Principals or Consignees, the Freight Forwarder is entitled to ask whether to receive payment in the relevant foreign currency, US dollars (USD) or in Euro (EUR).

**18.3** If the Freight Forwarder owes foreign currency or has advanced foreign currency amounts, the Freight Forwarder is entitled to ask for payment in either the relevant foreign currency, US dollar (USD) or in EUR (EUR). In case of US dollars (USD) or Euro (EUR), currency conversion is made according to the official exchange rate on the day of payment, which shall be evidenced by the Freight Forwarder.

**18.4** Payment according to a credit memo procedure must be expressly agreed. In case of doubt, all credit memos are to be issued immediately, upon completion of services.

## **19. Set-off, Retention**

In the case of claims arising from the freight forwarding contract and associated non-contractual claims, set-off or retention is only permitted when the claim is uncontested, ready for decision or legally established.

## **20. Lien and retention rights**

**20.1** The Freight Forwarder is entitled to secure its demands arising from freight forwarding services according to the legally permitted regulations regarding lien and retention rights.

**20.2** Lien rights can be exercised according to the legally established provisions, providing:

**20.2.1** the threat and the required notifications about the lien exercise and the sale of the pledged items by the carrier shall be forwarded to the Consignee,

**20.2.2** consignee will have a time limit of two weeks to claim the goods and compensate the Freight Forwarder for storage and other charges incurred.

**20.3** The Principal is entitled to prohibit the exercise of the lien by granting an equivalent security for its claims, such as a directly enforceable bank guarantee.

## **21. Insurance of goods**

**21.1** The Freight Forwarder arranges the insurance of the goods (goods in transit or warehousing insurance) with an insurer of its choice, when the Principal assigns the Freight Forwarder to do so prior to handing over the goods.

**21.2 The Freight Forwarder shall arrange insurance for the goods, if this is in the interests of the Principal. The Freight Forwarder can assume that insurance is in the interests of the Principal, in particular when:**

**21.2.1 the Freight Forwarder has arranged insurance for a previous Freight Forwarding Contract for the same Principal in the course of an ongoing business relationship,**

**21.2.2 the Principal has declared a value of the goods for the purpose of insurance.**

**21.3 The assumption that insurance is in the interest of the Principal can be discounted, in particular when:**

**21.3.1 the Principal has prohibited the purchase,**

**21.3.2 the Principal is a Freight Forwarder, carrier or warehouse keeper.**

**21.4 In case of purchasing insurance coverage, the Freight Forwarder shall observe instructions of the Principal, in particular the amount insured and risks to be covered. In the absence of such an instruction, the Freight Forwarder must assess the type and scope of insurance in its sole discretion and purchase insurance cover at the usual market conditions.**

**21.5 If, due to the nature of the goods to be insured, or for another reason, the Freight Forwarder is unable to purchase insurance coverage, the Freight Forwarder will notify the Principal immediately.**

**21.6 If the Freight Forwarder purchases an insurance after conclusion of the Freight Forwarding Contract and upon instruction of the Principal or recovers a claim or acts otherwise on behalf of the Principal regarding carrying out insurance claims or averages, the Freight Forwarder is entitled to a reasonable remuneration according to local standards, otherwise, an appropriate remuneration, in addition to the compensation of its expenses, even in the absence of a prior agreement.**

## **22. Liability of the Freight Forwarder, Subrogation of claims of reimbursement**

**22.1 The Freight Forwarder is liable for damages according to the statutory provisions. However, the following provisions shall apply, in as much as they do not contradict mandatory regulations, in particular the law of pre-formulated terms and conditions.**

**22.2 In all cases, where the Freight Forwarder is fault-based liable for losses or damages to the goods the Freight Forwarder must only pay the value and reimburse the costs instead of damage compensation.**

**22.3 In case of inventory divergences, the Freight Forwarder is entitled to balance the inventory with positive stock balance differences and stock shortfall of the same Principal for value evaluation in cases as set out in clause 24.**

**22.5 If the Freight Forwarder has claims, for which the Freight Forwarder is not liable for, against a third party in case of damages, or in cases when the Freight Forwarder has claims exceeding the sum for which the Freight Forwarder is liable, the Freight Forwarder must subrogate such claims to the Principal upon request, unless the Freight Forwarder has a separate agreement to pursue claims on behalf and at the expense of the Principal.**

## **23. Disclaimers; Limitation of Liability.**

**23.1 Except as specifically set forth herein, Company makes no express or implied warranties in connection with its services;**

**23.2 In connection with all services performed by the Company, Customer may obtain additional liability coverage, up to the actual or declared value of the shipment or transaction, by requesting such coverage and agreeing to make**

payment therefore, which request must be confirmed in writing by the Company prior to rendering services for the covered transaction(s).

**23.3** In the absence of additional coverage under (23.2) above, the Company's liability shall be limited to the following:

**23.3.1** where the claim arises from activities other than those relating to customs business, the liability of the Company shall not exceed U.S. \$500.00 per package or U.S. \$0.50 per pound gross weight of the Cargo lost or damaged, whichever is less.

**23.3.2** where the claim arises from activities relating to "Customs business," \$50.00 per entry or the amount of brokerage fees paid to Company for the entry, whichever is less;

**23.4** In no event shall Company be liable or responsible for consequential, indirect, incidental, statutory or punitive damages, even if it has been put on notice of the possibility of such damages, or for the acts of third parties.

#### **24 Limitations of Actions.**

**24.1** Unless subject to a specific statute or international convention, all claims against the Company for a potential or actual loss, must be made in writing and received by the Company, within 30 days of the event.

**24.2** giving rise to claim; the failure to give the Company timely notice shall be a complete defense to any suit or action commenced by Customer.

**24.3** All suits against Company must be filed and properly served on Company as follows: (i) for claims arising out of ocean transportation, within one year from the date of the loss;

**24.4** For claims arising out of air transportation, within one year from the date of the loss;

**24.5** For claims arising out of the preparation and/or submission of an import entry(s), within 90 days from the date of liquidation of the entry(s);

**24.6** For any and all other claims of any other type, within one year from the date of the loss or damage.

**24.7** The above mentioned liability exclusions and limitations also apply to non-contractual claims. Clause 23.4 applies accordingly.

#### **25. Liability insurance of the Freight Forwarder**

**25.1** The Freight Forwarder is obliged to purchase and maintain liability insurance at the usual market conditions with an insurer of his choice that, as a minimum, covers the ordinary liability amounts of its freight forwarding liability according to statutory provisions. The agreement of maximum insurance amounts per Damage Case, Damage Event and year is permitted as well as the agreement of reasonable deductibles for the Freight Forwarder.

**25.2** Upon request, the Freight Forwarder is obliged to provide evidence of the liability insurance and its validity by presentation of an insurance confirmation within a reasonable Time Frame. In absence of such a presentation, the Principal is entitled to terminate the Freight Forwarding Contract extraordinarily.

**25.3** The Freight Forwarder is only entitled to rely on the liability limitations of these Terms & Conditions, when the Freight Forwarder has in force the appropriate insurance coverage at the time of order.

#### **26. Indemnification/Hold Harmless**

The Principal agrees to indemnify, defend, and hold the Company harmless from any claims and/or liability, fines, penalties and/or attorneys' fees arising from the importation or exportation of customers merchandise and/or any conduct of the Customer, including but not limited to the inaccuracy of entry, export or security data supplied by Customer or its agent or representative, which violates any Federal, State and/or other laws, and further agrees to indemnify and hold the Company harmless against any and all liability, loss, damages, costs, claims, penalties, fines and/or expenses, including but not limited to reasonable attorney's fees, which the Company may hereafter incur, suffer or be required to pay by reason of such claims; in the event that any claim, suit or proceeding is brought against the Company, it shall give notice in writing to the Customer by mail at its address on file with the Company.

## **27. Applicable law, place of fulfillment, place of jurisdiction**

**27.1** The legal relationship between the Freight Forwarder and Principal is governed by the laws at the place of jurisdiction stipulated in 27.2 and 27.3.

**27.2** The place of fulfillment for all involved parties is the location of the Freight Forwarder's branch office dealing with the order or the enquiry.

**27.3** The place of jurisdiction for all disputes and all involved parties arising from the Freight Forwarding Contract, an enquiry or in relation to it, is the location of the Freight Forwarder's branch office dealing with the order or enquiry.

## **28. Confidentiality**

**28.1** Contractual parties are obliged to maintain confidentiality regarding all unpublished information received during the execution of the freight forwarding contract. This information can only be used for the exclusive purpose of contract fulfillment. The parties shall commit other legal persons with an equivalent confidentiality obligation, if these legal persons are deployed for contract fulfillment.

## **29. Severability**

**29.1** In the event any Paragraph(s) and/or portion(s) hereof is found to be invalid and/or unenforceable, then in such event the remainder hereof shall remain in Full force and effect. Company's decision to waive any provision herein, either by conduct or otherwise, shall not be deemed to be a further or continuing waiver of such provision or to otherwise waive or invalidate any other provision herein.

## **30. Charges, etc.**

**30.1** The Customer shall pay to the Company in cash or in such manner as the Company may agree all sums immediately when due without deduction or deferment on account of any claim, counterclaims or set-off and the Customer agrees to waive the right of set-off, if any, as against the Company.

**30.2** When the Company is instructed to collect freight, duties, charges or other expenses from any person other than the Customer, the Customer shall remain responsible and shall make payment of the same to the Company on receipt of evidence of demand and in the absence of evidence of payment for whatever reason by such other person.

**30.3** On all amounts overdue to the Company, the Customer shall pay to the Company interest, calculated from the date such amounts are overdue until payment thereof, at the rate of one (1) per cent per month.

**30.4** Notwithstanding and without prejudice to Clause 19, in the event that the Customer falls to pay any sum due to the Company within five (5) days from the date any such sum is due, the Company shall be entitled at any time thereafter by written notice to the Customer declare that:

**30.4.1** all credit terms in respect of all or any part of the Services rendered pursuant to these Conditions shall be cancelled, whereupon the same shall be cancelled; and

**30.4.2** all sums payable by the Customer to the Company in respect of all or any part of the Services rendered pursuant to these Conditions have become due and payable, whereupon the same shall immediately or in accordance with the terms of such notice become due and payable.

**30.5** Any dispute as to the amount or accuracy of any invoice issued by the Company shall be raised by the Customer within 30 days from the date of the invoice, failing which, the Customer is deemed to have conclusively accepted that the invoice is complete, accurate and final.

**30.6** Unless otherwise expressly agreed in writing, all invoices rendered by the Company are payable immediately on sight.

**30.7** Quotations are given on the basis of immediate acceptance and are subject to withdrawal or revision. Unless otherwise agreed in writing the Company shall be, after acceptance, at liberty to revise quotations or charges with or without notice in the event of changes beyond the Company's control including but not limited to charges in currency exchange rates, rates of freight, insurance premiums or any changes applicable to the "Goods".

### **31. No Modification or Amendment Unless Written.**

**31.1** These terms and conditions of service may only be modified, altered or amended in writing signed by both Customer and Company; any attempt to unilaterally modify, alter or amend same shall be null and void.

### **32. Country Specific Additions to the Medov Standard Terms and Conditions,**

#### **32.1 Italy,**

**32.1.1** Consular invoices are drawn up by the Forwarder or by his representative in the maritime harbour only after sender's explicit request, together with the necessary documents, and on the grounds of data resulting from the same documents.

**32.1.2** The Forwarder has the right to consolidate the goods entrusted to his care, except under a contrary order previously made in writing by the sender.

**32.1.3** Forwarder's offers and the agreement with him about prices and services are referred only and always to determinate services; if not differently specified, they are considered valid only for goods of normal volume, weight and qualities, in the following terms. RAILROAD FORWARDINGS: in accordance with conditions of transport issued by railroad authorities. ROAD kg. 300 per cubic meter. 1 Ton = 3 cm Kg. 1.900 = 1 linear meter MARITIME in accordance with conditions of transport issued by Shipping Companies. AIR, in accordance with I.A.T.A. regulations. Prices given on a "FORFAI T" (LUMP SUM) basis are considered as set only for the sake of facilitating the sender in these commercial computations and in his administrative practices, and it doesn't modify Forwarder's legal position.

**32.1.4** Loading and unloading are carried out in accordance with rules and local usages of ports, and norms set by carriers in virtue of clauses appearing in a bill of lading or charter agreement.

**32.1.5** Except contrary orders, prices agreed do not include supplementary expenses arising from embarkations, transshipments or disembarkations of goods during non operating hours, Saturdays, Sundays, or legal holidays, incumbent weather days, etc.

**32.1.6** When the Forwarder carries out the forwarding and the routing to ports of embarkation of goods entrusted to him for shipment, he is not liable for possible delay, nor, consequently, for any missing embarkation, demurrage, guardianship, and detention charge, unloading, damage or “empty for full” freight, required by Shipping Companies and or their agents, etc.

**32.1.7** The above said special expenses deriving from operations quoted at 32.1.4, 32.1.5 and 32.1.6 are at the sole responsibility of the sender.

**32.1.8** The Forwarder shall be not liable for carrier’s action, neither for other Forwarders, warehouse keepers, insurers, banks, whose services he has required in the carrying out of his commission: he is liable only for negligence in selecting or transmitting instructions, the Forwarder is only bound to save his sender’s rights of recourse action, and to transfer his right to him in accordance with the pertinent contracts, towards eventually liable third parties. When the forwarder issue a document for the Combined Transport FIATA Bill of Lading (FBL) recognized by the International Chamber of Commerce (I.C.C.), the forwarder will assume the liabilities foreseen on the back of the same document then the transport is intended to be done on the basis of these General Conditions.

**32.2** Germany,

**32.2.1** Contact person, electronic communication and documents

**32.2.1.1** Upon request of a contracting party, each side will nominate one or more contact persons to receive information, explanations and enquiries regarding the fulfillment of the contract and exchange names and addresses. This information needs to be updated in case of changes. If either contracting party fails to provide details for a contact person, then the relevant signatory to the contract shall be the designated contact person. Information obligations, which exceeds the obligation in statutory provisions, for example measures of the Freight Forwarder in case of disruptions, in particular, an imminent delay during takeover or Delivery, obstacles to carriage and Delivery, damages to the goods or other disruptions (emergency concept) needs to be agreed separately.

**32.2.1.2** In the absence of an expressed agreement, contractual statements by warehousing or transport personnel require approval from the respective party to be considered valid.

**32.2.1.3** The Principal takes care of the required declarations to be supplied by the Principal’s Shipper or Consignee during the fulfillment of the contract at the Place of Loading and Place of Delivery, and of real actions, such as Delivery and receipt of the goods.

**32.2.1.4** If agreed between the Principal and the Freight Forwarder, the parties will transmit and receive the shipping details, including the creation of the invoice, by electronic means (electronic data interchange / remote transmission). The transmitting party carries the responsibility for the loss, completeness and validity of any sent data.

**32.2.1.5** In case of an agreement according to clause 32.2.1.4, the parties ensure that their IT system is ready for operation and that data can be processed appropriately, including the usual safety and control measures, to protect the electronic data exchange and prevent unauthorized access, modification, loss or destruction by third parties. All parties are obliged to give timely notification of any changes to their IT systems that could affect the electronic data interchange.

**32.2.1.6** Electronic or digital documents, in particular proof of deliveries, shall be considered equal to written documents. Furthermore, each party is entitled to archive written documentation in exclusively electronic or digital format and to eliminate originals, the latter always in consideration of the legal regulations regarding the same.

**32.2.2** Exclusion of liability for carriage of goods by sea and inland waterway transportation

**32.2.2.1** The Freight Forwarder in its position as carrier is not responsible for any fault or neglect on the part of its servants or of the ship's company, insofar as the corresponding damage was caused in the course of steering or otherwise operating the ship, or was caused by fire or explosion on board the ship and the measures taken were not predominantly for the benefit of the cargo.

**32.2.2.2** The Freight Forwarder in its position as carrier or actual carrier is not liable for damages:

**32.2.2.21** caused by an act or omission by the master of the vessel, the pilot or any other person in the service of the vessel, pusher or tower during navigation or in the formation or dissolution of a pushed or towed convoy, provided that the Freight Forwarder complied with the obligations set out for the crew, unless the act or omission results from an intention to cause damage or from reckless conduct with the knowledge that such damage would probably result,

**32.2.2.22** caused by fire or an explosion on board the vessel, where it is not possible to prove that the fire or explosion resulted from a fault of the Freight Forwarder or the actual carrier or their servants or agents or a defect of the vessel,

**32.2.2.23** the defects existing prior to the voyage of his vessel or of a rented or chartered vessel if he can prove that such defects could not have been detected prior to the start of the voyage despite due diligence.

**32.2.3** Liability of the Principal

**32.2.3.1** The liability of the Principal is limited to EUR 200,000 per Damage Event.

**32.2.3.2** The aforementioned liability limitation does not apply in case of personal injuries, such as injury of life, body and health, if the damage was caused by gross negligence or willful intent of the Principal or its vicarious agents, or infringement of Material Contractual Obligations, whereas the latter is limited to predictable and typical damages.

**32.2.4** Compliance

**32.2.4.1** The Freight Forwarder shall comply with minimum wage provisions and minimum conditions for workplaces and confirms the compliance in text form upon request of the Principal. The Freight Forwarder indemnifies the Principal for its liability for minimum wages, if the Freight Forwarder, its subcontractor or hirer during the course of fulfillment of the Freight Forwarding Contract, does not pay the minimum wages and the Principal is demanded to pay.

**32.2.4.2** The Freight Forwarder shall ensure in case of transportation services, that its executing subcontractor possesses, within the scope of application of the Güterkraftverkehrsgesetz (GüKG) (Freight Motor Transportation Law), a permission according to section 3 GüKG, an entitlement according to section 6 GüKG or a community license or does not use such a permission, entitlement or license unlawfully.

**32.2.4.21** deploys driving personnel, which comply with the requirements of section 7b (1) sentence 1 GüKG, if applicable,

**32.2.4.22** upon request provides all documents, which must be carried during transportation according to statutory provisions, when the Principal or third parties must comply with statutory controlling obligations,

**32.2.4.3** In case of transportation, the Freight Forwarder or its executing subcontractor is obliged to organize the activities of its driving personnel according to the compulsory working, driving and recreation times. During the driving of Vehicles, alcohol and drugs are generally prohibited.

**32.2.4.4 Both contracting parties commit to carrying out their contractual duties and to act according to the legal regulations covering their business and to support and obey the principles of the United Nations Global Compact (UNGC), the United Nations Declaration of Human Rights, and the Declaration of the International Labor Organization regarding the 1998 Declaration on Fundamental Principles and Rights at Work, in accordance with national laws and customs. In particular, both parties will commit to:**

**32.2.4.41 no child or forced labor,**

**32.2.4.42 comply with the relevant national laws and regulations regarding working hours, wages, salaries and to comply with any other obligations for employers,**

**32.2.4.43 to comply with the current regulations on health and safety at work, and to provide a safe and healthy workplace to ensure the health of employees and to avoid accidents, injuries and work-related illness,**

**32.2.4.44 prohibit all discrimination based on race, religion, disability, age, sexual orientation or sex,**

**32.2.4.45 comply with international standards on corruption, such as those published in UNGC and to adhere to local anticorruption and bribery laws,**

**32.2.4.46 adhere to all current environmental protection laws and regulations,**

**32.2.4.47 engages its business partners and subcontractors according to the aforementioned principles.**

**32.3 Singapore,**

**32.3.1 Containers**

**32.3.1.1 If a Container has not been packed nor stuffed by the Company, the Company shall not be liable for loss of or damage to the contents thereof if caused by:**

**32.3.1.12 the manner in which the Container has been packed or stuffed;**

**32.3.1.13 the unsuitability of the contents for carriage in Containers;**

**32.3.1.14 the unsuitability or defective condition of the Container provided that where the Container has been supplied by or on behalf of the Company, this paragraph shall apply only if the unsuitability or defective condition (a) arose without any negligence on the part of the Company or (b) would have been apparent upon reasonable inspection by the Customer or Owner or person acting on behalf of either of them or (c) arose as a result of the peculiarity of the Goods and such peculiarity is not made known to the Company; or**

**32.3.1.15 the Container not being sealed at the commencement of any carriage.**

**32.3.1.2 The Customer shall defend, indemnify and hold harmless the Company against all liability, loss, damage, costs and expenses arising from one or more of the matters provided for in (a) above.**

**32.3.1.3 Where the company is instructed to provide a Container, in the absence of any specific request in writing, the Company is not under an obligation to provide a Container of any particular type or quality.**

**32.3.2 Both To Blame Collision Clause**

**32.3.2.1 The current Both-to-Blame Collision Clause as adopted by BICOM is incorporated in and deemed to form part of these Conditions. If the vessel comes into collision with another vessel as a result of the negligence of the other vessel and any act of negligence or default of the Master, Marines, Pilot or the servant of the carrier in the navigation**



or in the management of the vessel, the merchant will indemnify the carrier against all loss or liability to the other or non-carrying vessel or her Owner insofar as such loss or liability represents loss of or damage to or any claim whatsoever of the owner of the said goods paid or payable by the carrying vessel or her Owner as part of his claim against the carrying vessel or carrier. The foregoing provisions shall also apply where the Owner operator or those in charge of any vessels or objects other than or in addition to the colliding vessels or objects are at fault in respect of a collision or contract.

#### **32.4 United States of America,**

**32.4.1 Advancing Money.** All charges must be paid by Customer in advance unless the Company agrees in writing to extend credit to customer; the granting of credit to a Customer in connection with a particular transaction shall not be considered a waiver of this provision by the Company.

**32.4.2 No Duty to Maintain Records for Customer.** Customer acknowledges that pursuant to Sections 508 and 509 of the Tariff Act, as amended, (19 USC §1508 and 1509) it has the duty and is solely liable for maintaining all records required under the Customs and/or other Laws and Regulations of the United States; unless otherwise agreed to in writing, the Company shall only keep such records that it is required to maintain by Statute(s) and/or Regulation(s), but not act as a "record keeper" or "recordkeeping agent" for Customer.

**32.4.3 No Duty to Provide Licensing Authority.** Unless requested by Customer in writing and agreed to by the Company in writing, Company shall not be responsible for determining licensing authority or obtaining any license or other authority pertaining to the export from or import into the United States.

**32.4.4 Preparation and Issuance of Bills of Lading.** Where Company prepares and/or issues a bill of lading, Company shall be under no obligation to specify thereon the number of pieces, packages and/or cartons, etc.; unless specifically requested to do so in writing by Customer or its agent and Customer agrees to pay for same, Company shall rely upon and use the cargo weight supplied by Customer.

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#### **Annex 1**

#### **RULES GOVERNING ELECTRONIC DATA INTERCHANGE      Applicable for all Medov EDI transmissions World-Wide**

##### **1. Objective and Definitions**

**1.1** These Rules are intended to facilitate the provision of Services by the Company to its Customers through the use of Electronic Data Interchange by electronically sending and receiving data in agreed formats in substitution for conventional paper-based documents. These Rules seek to assure that such transactions are not legally invalid or unenforceable by reason only of their being effected by means of available electronic technologies for the benefit of the parties.

**1.2** Terms defined in the Standard Trading Conditions to which these Rules form an Annex but not specifically defined herein shall, unless the context otherwise requires, have the same meanings when used in these Rules.

**1.3** In these Rules, the following expressions, except where the context otherwise requires or where it is otherwise stated, shall have the following meanings:

### **“Adopted Protocol”**

Means the method for the interchange of Messages based on the [EDIFACT] standard for the presentation and structuring or the communication of Messages, or such other standard as may be specifically agreed upon in writing by the parties, and more particularly defined in the User Manual;

### **“Data Log”**

Means a complete and chronologically sequential record, automatically generated, of all the Messages sent and received by a party and maintained in accordance with the rules stipulated in the User Manual;

### **“Message”**

Means a communication relating to the provisions of the Services which is structured in accordance with the Adopted Protocol and includes, where the context permits, any part of such communication;

### **“User Manual”**

Means the edition currently in force of the manual on, inter alia, the operational, security and technical procedures and rules applicable to the transmission of Messages using the Adopted Protocol; and

### **“Writing”**

Includes a duly authenticated Message.

1.4 In these Rules, references to “electronic” include a reference to mechanical, electromechanical, optical, electro-chemical or other medium for the storage or conveyance of transmitted Messages.

## **2. Application**

2.1 These rules shall apply to all Messages between the Company and its Customers using the Adopted Protocol in relation to the provision by the Company of any Services to which the Standard Trading Conditions apply.

2.2 Except as expressly provided, these Rules do not apply to govern any other relationships (contractual or otherwise) in the context of which Messages are communicated and, in particular, do not apply to the underlying commercial transactions relating to the provision of the Services, which shall be governed by the Standard Trading Conditions.

## **3. Systems Operations and Confidentiality**

3.1 The Company and the Customer agree that each of them shall:

(a) At its own expense, test and maintain its equipment, software and services necessary to effectively and reliably transmit and receive Messages;

(b) ensure that no changes are made to the systems operations which impair the mutual capabilities of the parties to communicate as contemplated by these Rules without providing reasonable prior notice of the intended change;

(c) implement and maintain security procedures, including any specified in the User Manual, to protect Messages and their records against misuse, improper or unauthorized access, alteration or loss;

(d) that its Messages are correct and complete in form and secured in accordance with the provisions of the User Manual; and

(e) ensure that intermediaries employed to retransmit Messages are instructed not to make unauthorized change in the data content and that the data content of such Messages is not disclosed to any unauthorized person.

**3.2** No information contained in any Message communicated under these Rules shall be considered confidential unless by operation of law or by designation in the User Manual or in the Message.

**3.3** In the circumstances stipulated in the User Manual or if so agreed between the parties, the parties shall apply special protection (such as encryption or other means listed in the User Manual or agreed between the parties) to the Messages behind transmitted. Unless the parties otherwise agree, the recipient of Messages so protected shall ensure that at least the same level of protection used by the sender is applied for any further transmission.

#### **4. Verification of Messages**

**4.1** All Messages must identify the sender and recipient in accordance with the provisions of the User Manual and must include a means of verifying the formal completeness and authenticity of the Message by some means agreed upon in writing by the parties or by the means provided for in the Adopted Protocol.

#### **5. Integrity of Messages**

**5.1** Any Message transmitted in compliance with these Rules shall be deemed to have been received when accessible to the intended recipient in the manner designated in the User Manual. Subject to Rule 5.2, each party accepts the integrity of all Messages and agrees to accord these the same status as would be applicable to information sent via paper documents.

**5.2** Where there is evidence that a Message has been or is likely to have been corrupted, garbled, incomplete, incorrect, or not in good order, it shall not be acted upon by the recipient.

**5.3** If the sender has been able to identify the circumstances mentioned in Rule 5.2, he shall re-transmit the Message as soon as practicable with a clear indication that it is a corrected Message. In the absence of such re-transmission, the recipient's version of the Message shall prevail.

**5.4** If it is the recipient who is able to identify the circumstances mentioned in Rule 5.2, he shall inform the sender (if identifiable from the received Message) as soon as practicable and shall not act on the Message until he has received the correct Message or confirmation that the received Message is correct. In the absence of such notice to the sender by the recipient, the sender's version of the Message shall prevail.

**5.5** Notwithstanding that the sender is responsible and liable for the completeness and accuracy of a Message, the sender will not be liable for the consequences of an incomplete or incorrect Message if the error is or should be reasonably obvious to the recipient.

**5.6** If the recipient has reason to believe that the message is not intended for him, he should take reasonable action to inform the sender immediately and should delete the information contained in the Message from his system but not the Data Log.

#### **6. Acknowledgement of Receipt of Messages**

**6.1** Unless otherwise designated in the User Manual or the sender of a Message has expressly requested the recipient to acknowledge receipt of the Message, the receipt of the Message need not be acknowledged by the recipient.

**6.2** Where an acknowledgement of receipt of a Message is designated in the User Manual or the sender of a Message has expressly requested the recipient to acknowledge receipt of a Message, the following provisions shall apply:

**(a) any acknowledgement of receipt of such a Message shall be given in such form, by such method and within such time limit as may be specified in the User Manual or as may be expressly agreed between the parties;**

**(b) where the User Manual does not specify the form, method and/or time limit for the acknowledgement of receipt of a Message, or the sender has not agreed with the recipient that the acknowledgement is to be given in a particular form, by a particular method and/or by a certain time limit, the acknowledgement may be given as soon as practicable after receipt of the Message by the recipient by;**

**(i) any communication by the recipient, automated or otherwise; or**

**(ii) any conduct of the recipient, sufficient in the circumstances then existing to indicate to the sender that the Message has been received;**

**(c) if the sender has not received an acknowledgement within the time limit mentioned in the foregoing provisions of this Rule 6, he should take immediate action to obtain it. If, despite such action, an acknowledgement is not received within a further time stipulated by the sender, the sender should advise the recipient of the non-receipt in accordance with the procedures laid down in the User Manual. If he does so, he entitled to regard the Message as null and void upon giving notice to that effect to the recipient without undue delay;**

**(d) the recipient shall not act on such Message until the acknowledgement is sent in accordance with the foregoing provisions; and**

**(e) the costs incurred by the recipient in sending such an acknowledgement shall be borne by the sender.**

## **7. Confirmation of Content**

**7.1 The sender of a Message may, in addition to the acknowledgement, request the recipient to advise him whether the content of the Message has been received and the form it has been received in, without prejudice to any subsequent consideration or action that the contents may warrant. A recipient is not authorized to act on such a Message until he has complied with the request of the sender. The sender shall bear the cost of the recipient in sending the confirmation of content/form.**

**7.2 The confirmation referred to in Rule 7.1 above shall be given in such manner and within such time limit as the parties may expressly agree. Where the sender has not agreed with the recipient that the confirmation is to be given in particular form or by a particular method or by a particular time limit, confirmation may be given as soon as practicable after receipt of the Message by the Recipient by:**

**(a) any communication by the recipient, automated or otherwise; or**

**(b) any conduct of the recipient, sufficient to indicate to the sender that the contents/form of the Message has been received.**

**7.3 If the sender has not received the requested confirmation advice within the time limit mentioned in the foregoing provisions of this Rule 7, he should take action either to obtain the confirmation or to re-transmit the Message. If, despite such action, the recipient fails to confirm the contents/form of the Message as required, the sender shall treat the Message as null and void upon giving notice to that effect to the recipient.**

## **8. Validity and Enforceability**

**8.1** The parties agree that valid and enforceable obligations may be created by the communication of Messages in compliance with these Rules. The parties expressly waive all rights to object to the validity of a transaction solely on the ground that the communication between the parties occurred through the use of Electronic Data Interchange.

**8.2** Without regard to the absence of any writings and written signatures, to the extent permitted by law, the records of Messages maintained by the parties (including the Data Log) shall be admissible and may be used as evidence of the information contained therein. The parties agree not to contest the admissibility of the Data Log as evidence in any legal, administrative, judicial or other proceedings insofar as it has been maintained in accordance with the provisions of the User Manual.

**8.3** Unless otherwise agreed between the parties or required by law, a contract concluded through the use of Electronic Data Interchange under these Rules shall be deemed to be formed when the Message sent as acceptance of an offer has been received in accordance with Rule 5.1.

## **9. Storage of Data**

**9.1** Each party shall ensure that a Data Log is maintained without any modification in accordance with the provisions of the User Manual.

**9.2** The parties shall maintain the Data Log unchanged and protected from corruption for a period of seven years or for such other period as agreed upon by the parties or mandated by the law in the country where the Data Log is maintained.

**9.3** The Data Log may be maintained on computer media or other suitable means provided that the data can be easily retrieved and presented in readable form, whether as a print-out or in any other visible format.

**9.4** Each party shall ensure that the person responsible for the data processing system he relies on is available to certify that the Data Log and any reproduction made from it is correct.

## **10. Third Party Service Providers**

**10.1** Messages may be transmitted to each party directly or through any third party service provider (“Intermediary”) and processed, stored or logged by such Intermediary. A party is obliged to pay the costs of each service it requires from its own Intermediary and may change this Intermediary upon [two (2)] months’ prior notice in writing provided the other party accepts the change in writing.

**10.2** A party using the services of a third party provider in the communication or processing of Messages shall be responsible for any acts, failures or omissions of that provider in the provisions of the said services.

## **11. Force Majeure**

**11.1** A party shall not be deemed to be in breach of these Rules or otherwise liable by reason of any delay in performance or non-performance of any of its obligations under these Rules to the extent that such delay or non-performance is due to an act of God or any other cause beyond such party’s reasonable control (including but not limited to any mechanical, electronic or communications failure).

## **12. Invalidity and Severability**

**12.1 In the event of a conflict between any provisions of these Rules and any law, regulation or decree, the provision of these Rules so affected shall be null and void or shall, where practicable, be curtailed and limited to the extent necessary to bring it within the requirements of such law, regulation or decree. Such a provision shall be severable from and shall not render null and void other provisions of these Rules.**

### **13. Notices**

**13.1 Save in the case of communications by means of Electronic Data Interchange, the provisions of the Standard Trading Conditions relating to notices shall apply to any notices given by one party to another under or pursuant to these Rules.**

### **14. Law and Jurisdiction**

**14.1 These Rules and any claim or dispute arising out of or in connection with these Rules shall be governed by and construed in accordance with the law at the place of jurisdiction stipulated in 14.2 and 14.3.**

**14.2 The place of fulfillment for all involved parties is the location of the Freight Forwarder's branch office dealing with the order or the enquiry.**

**14.3 The place of jurisdiction for all disputes and all involved parties arising from the Freight Forwarding Contract, an enquiry or in relation to it, is the location of the Freight Forwarder's branch office dealing with the order or enquiry.**

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