



# **FORWARDING AND WAREHOUSING TERMS AND CONDITIONS**

## **CWT Commodity Logistics Pte Ltd and its subsidiaries**

CWT Commodity Logistics (S) Pte Ltd  
CWT Commodity Logistics (Malaysia) Sdn Bhd  
CWT Commodity Logistics (Vietnam) Co Ltd  
CWT Commodity Logistics Rotterdam B.V.

Last updated and effective from 1.1.2023

*Customer acknowledges and agrees that the Company may amend this Forwarding and Warehousing Conditions from time to time and without notice. Customer undertakes to keep itself apprised and updated with the latest Forwarding and Warehousing Conditions available at <http://www.cwtcomlog.com/fwtc.html>.*

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## **CHAPTER I GENERAL PROVISIONS**

### **1. Definitions**

“Agreement” means any contract formed between the Company and Customer as stipulated in Clause 3 herein;

“Company” means companies listed in Attachment 1 of this Forwarding and Warehousing Conditions herein;

“Customer” means:

(a) Any party who signs a contract with the Company including any third party which becomes a party to the contract between the Company and the Customer; and/or

(b) Any holder of Warehouse Receipt to whom such Warehouse Receipt is issued to by the Company or any subsequent legitimate holder of such Warehouse Receipt obtained in accordance with Clause 26 herein below; and/or

(c) Any subsequent legitimate party who has the relevant legitimate right to the Goods stored with the Company; and/or

(d) A Person with whom the Company has agreed to provide or provided with Forwarding and/or Warehousing Services as per clause 3 herein “Formation of Contract”;

“Forwarding and Warehousing Conditions” means the forwarding and warehousing conditions of the Company stipulated in Chapter 2 and 3 herein, reading together with Chapter 1 General Provisions;

“Forwarding Conditions” means the forwarding conditions of the Company stipulated in Chapter 2 herein, reading together with Chapter 1 General Provisions;

“Warehousing Conditions” means the warehousing conditions of the Company stipulated in Chapter 3 herein, reading together with Chapter 1 General Provisions;

“Goods” means the goods in respect of which the Services are provided by the Company or are to be provided by the Company pursuant to the Agreement and/or the goods to which the Warehouse Receipt refers to;

“Person(s) means any individual, company, firm, partnership, joint venture, association, sole proprietorship, or other business entity;

“Fees” means the Fees which shall be chargeable by the Company to the Customer for the provision of the Services as agreed to in the Agreement;

“Services” means any and all services provided or to be provided by the Company to the Customer pursuant to the Agreement or as instructed by Customer in writing, including but not limited to the scope of services as stated in Chapter 2 “Forwarding Conditions” and Chapter 3 “Warehousing Conditions”;

“Warehouse Receipt” means a warehouse receipt issued by the Company subject to Clause 26 herein;

“Working Hours” means 0830hrs to 1730hrs Singapore or other applicable local time on Mondays to Fridays, except those days designated as holidays.

Words in the singular include the plural and words in the plural include the singular, as the context requires.

## **2. Application of Forwarding and Warehousing Conditions**

- 2.1 The Forwarding and Warehousing Conditions shall be applicable to all and any business, including but not limited any advice, information or Services, provided or to be provided by the Company to any Customer, for a fee or otherwise. The Forwarding and Warehousing Conditions shall be deemed to be incorporated in and form as an integral part of any Agreement made between the Company or any Customer as per Clause 3 (“Formation of Contract”) herein.
- 2.2 Any other terms and conditions (howsoever called) or forms used by the Customer shall not be applicable to or be deemed incorporated into the Agreement.
- 2.3 Any variation to the Forwarding and Warehousing Conditions (including any special terms and conditions agreed between the parties) shall be inapplicable unless agreed to in writing by the Company. Forwarding and Warehousing Conditions expressly limit to the Forwarding and Warehousing Conditions stated herein only. Any additional or variation of terms or conditions, whether in a proposal, purchase order, acknowledgement, acceptance or otherwise, are rejected and shall not apply unless expressly agreed to in writing by an authorized representative of the Company, notwithstanding any contrary language proposed by Customer that any act or failure to act by the Company, constitutes acceptance of any different or additional terms or conditions.
- 2.4 The applicability of general terms and conditions of the Customer and/or its subcontractor(s), whether or not printed on its documents, is explicitly rejected by the Company.
- 2.5 The Customer acknowledges that the Company is not a common carrier and the Company handles the Goods subject to these Forwarding and Warehousing Conditions.
- 2.6 No agent or employee of the Company has the Company’s authority to alter or vary these Forwarding and Warehousing Conditions.

2.7 If any legislation is compulsorily applicable to any business or Services undertaken by the Company, the Forwarding and Warehousing Conditions shall, as regards such business or Services, be read as subject to such legislation and nothing in the Forwarding and Warehousing Conditions shall be construed as a surrender by the Company of any of its rights or immunities or as an increase of any of its responsibilities or liabilities under such legislation and if any part of the Forwarding and Warehousing Conditions shall to any extent be repugnant to such legislation, such part of the Forwarding and Warehousing Conditions shall as regards such business or Services be void to that extent but no further.

### **3. Formation of Contract**

3.1 The Customer is required to issue to the Company all orders and instructions regarding the Goods in writing. Verbal or telephone communications or arrangements shall only be binding on the Company if immediately followed by a written confirmation. The Company has absolute discretion whether or not to accept any order or instruction from the Customer. The Company is entitled to refuse to accept any order or instruction for any Services without any obligation to provide any reasons. Instruction received by the Company after 3 p.m. on a Business Day shall be considered receiving on the next Business Day.

3.2 A contract between the Customer and the Company shall only come into effect on the date of the Company's written acceptance of any order or instruction from the Customer (incorporating these Forwarding and Warehousing Conditions).

3.3 Customer shall not assign or transfer the benefit of and rights under any Agreement made with the Company without prior written consent of the Company. Such consent may be subject to such additional terms as the Company may deem necessary

### **4. Owner of Goods, Title and Claims to Goods**

4.1 The Customer expressly warrants that they are either the owners or the authorised agents of the owners of the Goods and further warrants that they are authorised to accept and are accepting these Forwarding and Warehousing Conditions not only for themselves but also as agents for and on behalf of all other Persons who are or may thereafter become interested in the Goods.

4.2 Without prejudice to Clause 4.1 the Company shall have the right to enforce the Forwarding and Warehousing Conditions not only against the Customer but also against the sender and/or consignee and/or owner of the Goods to the extent permitted by Law.

4.3 All rights of ownership and title over the Goods shall be established and verified by the Customer, or between Customer and its client or other third party, and it is acknowledged and understood that the Company has no responsibility or liability with respect to any conflicting claims arising out of a dispute contesting rights of ownership or title to the Goods.

### **5. Sub-contracting**

- 5.1 The Company shall be entitled to sub-contract its obligations to perform the Services, in whole or in part, on such terms and conditions as the Company deems appropriate in its sole discretion.
- 5.2 Where the transportation, storage or other Services in respect of the Goods are sub-contracted to third parties by the Company, the Company reserves the right to appoint such sub-contractor to provide the service on behalf of the Company, and the Customer shall bear all risk relating thereto.

## **6. Methods, Procedures and Routes**

- 6.1 Subject to the express written instructions by the Customer, the Company shall be entitled at its absolute discretion to decide on the means, route and procedure to be followed in the handling, storing, transporting and/or forwarding of the Goods. Notwithstanding the foregoing, the Company shall be at liberty to depart from the Customer's instructions if, in the opinion of the Company, it is at any stage necessary or desirable in the Customer's interest to do so.

## **7. Documents to be provided to the Company**

- 7.1 The Customer shall ensure that all instructions, information and documents are provided promptly to the Company to enable the Company to perform its Services. The Customer shall ensure that all such instructions, information and documents provided are true and accurate till the termination of Agreement.
- 7.2 The Customer shall be liable for all consequences arising from the provision of inaccurate, obscure and inadequate instructions, information and/or documents; any failure to furnish any instructions, information and/or documents; or any failure to furnish any instructions, information and/or documents in time.
- 7.3 The Company shall not be obliged to furnish a confirmation for the receipt of such instructions, information and documents provided by the Customer.
- 7.4 The Company is under no obligation to enquire into the genuineness, authenticity or accurateness of any such instructions provided by the Customer to the Company.

## **8. Accuracy of Descriptions of the Goods and Quality of the Goods**

- 8.1 The Customer warrants and is bound by the accuracy of all descriptions, values and other particulars and/or information furnished to the Company in respect of the Goods for the purposes of customs clearance or any other purposes whatsoever.

- 8.2 The Company shall not be considered to be and shall not act as an expert in relation to the nature or quality of the Goods and shall not be required or be obliged to provide any notification to any party whatsoever in relation to the state, nature or quality of the Goods.
- 8.3 The Company shall be under no obligation to ensure that the samples of the Goods are identical with or match the Goods as described by the Customer or that the Goods conform with the description of the Goods provided by the Customer.

## **9. General Term for Payment of Fees**

- 9.1 The Customer shall pay the Fees to the Company within fourteen (14) days from the date of invoice in respect of the Fees by the Company.
- 9.2 The Company shall be entitled to charge the Customer a reasonable amount in addition to the Fees for any operations of an unusual nature and/or which requires additional time or effort to carry out.
- 9.3 All quotations are valid during the time of offer by the Company and are subject to withdrawals or revisions before acceptance by the Customer. Unless otherwise agreed to in writing by the Company, the Company shall be at liberty to revise a quotation after its acceptance by the Customer with or without prior notice to the Customer, in the event of any changes in the currency exchange rates, rates of freight, insurance premiums, general port charges and any other rates or charges on which the quotation to the Customer was based, regardless of the cause of such changes.
- 9.4 The Company may at any time require pre-payment from the Customer for any costs and expenses which may be incurred in relation to the Services. Refusal of Customer to provide such pre-payment may render the Company to be entitled to refuse, suspend, interrupt, or terminate the Services without providing any written notification. The Company shall at no event be under any obligation to make any payments whatsoever to perform any Services on behalf of the Customer until the Company has received the required pre-payment.
- 9.5 The Customer shall be liable for any duties, taxes, imposts, levies, deposits or outlay of any kind whatsoever which are levied or imposed by the authorities at any port or place in connection with the Goods and for any payments, fines, expenses, loss or damage whatsoever incurred or sustained by the Company in connection therewith (collectively, "Taxes and Other Payments").
- 9.6 In the event that the Customer fails to pay any amounts which are due and payable hereunder or upon notification thereof by the Company, interest shall be payable on such amounts at the rate of 2% per month.
- 9.7 The Customer shall upon demand by the Company furnish a deposit or security for any amount which the Customer is or may be indebted to the Company.
- 9.8 All monies owed to the Company by the Customer shall be paid to the Company immediately when due without deduction and payment shall not be withheld or deferred on account of any claim, counterclaim or set-off.



9.9 In the event that the Company resorts to any legal proceedings or other means for the recovery of any amounts due and payable by the Customer hereunder (the “Indebtedness”), the Customer shall, in addition to the Indebtedness and interest payable under Clause 9.6, be liable to the Company for a further amount equivalent to 10% of the Indebtedness on account of all clerical expenses which may be incurred by the Company in resorting to such proceedings or other means.

## **10. Insurances**

10.1 The Company shall not be obliged to take out any insurance on the Goods for any risks whatsoever. In the event that the Customer requires the assistance of the Company to take out any insurance on the Goods for and on behalf of the Customer, the Company may upon the written request by the Customer and at its sole and absolute discretion, take out insurances on the Goods against such insurable risks as may be notified by the Customer. The Company shall not incur any liability to Customer or to any other Persons in the event it elects not to procure any such insurance. All insurances on the Goods shall be taken out at the Customer’s sole expense and risk, and shall be subject to the usual exceptions and conditions of the policies of the relevant insurance company or underwriters. By requesting the Company to take out any insurances, the Customer authorises the Company to make all arrangements with the insurer at the Company’s sole discretion, including arrangements regarding the conditions of insurance and settlement of claims in respect of any damage.

10.2 The insured value of the Goods shall be the value stated in writing by the Customer or the Company’s estimate of the current value of the Goods, as determined by the Company, at its own discretion. The risks required to be covered shall be clearly stated in writing by the Customer to the Company. A mere statement by the Customer of the value of the Goods is not sufficient and the Company shall not be obliged to take out any insurance on the Goods where it is not sufficiently informed of the risks or the insured value to be covered.

10.3 The Company shall not be under any obligation to effect a separate insurance on each consignment but may declare any open or general policy to be applicable to the entirety of the goods.

10.4 In the event that any insurer disputes its liability under any insurance relating to the Goods for any reason, the Company shall not be under any obligation, responsibility or liability whatsoever in relation thereto notwithstanding that the Company may have charged the Customer any arrangement fees in taking out such insurances on behalf of and/or at the request of the Customer.

10.5 In the event that the Company arranges insurance on the Goods in its own name, it shall, if so requested by the Customer, transfer or assign its rights to claim under such insurance to the Customer.

10.6 The Company shall not be responsible whatsoever as regards the choice of the insurer and/or its ability to pay under the insurances, nor shall the Company be liable for any inability to take out insurances requested by the Customer, by reason of an insurer’s requirements which the Company considers, in its sole opinion, to be unreasonable.

- 10.7 Where the Company utilises derricks and/or any other such equipment for carrying out the instructions given by the Customer, it shall be entitled to arrange insurance at the Customer's sole expense to cover the Company's risks arising from the use of such equipment.
- 10.8 When acting as authorised agent by virtue of Clause 10.1 herein, the Company shall be entitled to collect the amount of any claims paid out by any insurer. The Company shall be entitled to deduct any amounts that are due and payable by the Customer to the Company from any amounts received by the insurer before paying the balance to the Customer.
- 10.9 The Company shall not be liable for any loss arising from the failure or refusal by any insurer to pay in full or in part any amounts under any insurance as a result of any circumstance for which the Company cannot be held liable regardless of the manner in which the insurance was effected by the Company and notwithstanding that the Company may have charged the Customer any arrangement fees in taking out such insurances on behalf and/or at the request of the Customer.

## **11. Liability of the Parties**

- 11.1 All operations and activities relating to the Goods carried out by the Company in the provision of the Services shall be at the Customer's sole expense and risk.
- 11.2 The Customer shall be liable for all losses, damage and expenses suffered or incurred by the Company as a result of any action or inaction on the part of the Customer, its employees, agents and/or contractors or which may in any way be caused by the Goods entrusted by the Customer to the Company.
- 11.3 The Company shall not be liable to the Customer in respect of any damage to the Goods unless such damage is proven to have been caused intentionally by the deliberate act of any employee of the Company.
- 11.4 The Company shall not be liable for any loss of the Goods or any part thereof, for any non-delivery or misdelivery of the Goods or any part thereof unless such loss, non-delivery or misdelivery is proven to have occurred whilst such Goods or part thereof were in the actual custody of the Company and under its actual control and that such loss, non-delivery or misdelivery was due to the gross negligence or wilful misconduct of the Company.
- 11.5 The Company shall not be liable for the non-compliance with any instructions given to it unless it is proven that the same was due to gross negligence or wilful misconduct of the Company.

## **12. No Warranty; No Consequential Damages; Limitation of Liability and Time Bar**

- 12.1 **THE COMPANY MAKES NO REPRESENTATION OR WARRANTY WITH RESPECT TO THE GOODS OR SERVICES.**

- 12.2 **Limitation of Liability. NOTWITHSTANDING ANYTHING SET FORTH HEREIN OR IN ANY OTHER DOCUMENT TO THE CONTRARY, TO THE EXTENT PERMITTED BY LAW, THE COMPANY SHALL NOT BE LIABLE TO THE CUSTOMER OR ANY OTHER PERSON FOR ANY CONSEQUENTIAL, EXEMPLARY, INCIDENTAL, OR SPECIAL DAMAGE, COVER DAMAGES OR LOST PROFITS, DIMINUTION IN VALUE, OR ANY OTHER DAMAGES WHATSOEVER RELATING TO OR RESULTING FROM THE TRANSACTIONS CONTEMPLATED BY THE AGREEMENT AND/OR THESE FORWARDING CONDITIONS, REGARDLESS OF WHETHER THE LIABILITY RESULTED FROM ANY GENERAL OR PARTICULAR REQUIREMENT OR NEED WHICH THE COMPANY KNEW OR SHOULD HAVE KNOWN OF AND REGARDLESS OF WHETHER THE CLAIM IN QUESTION IS BASED ON WARRANTY, CONTRACT, NEGLIGENCE, STRICT LIABILITY, TORT OR OTHERWISE. IN THE EVENT THAT ANY TERM OF THE AGREEMENT OR OF THESE FORWARDING CONDITIONS IS FOUND UNCONSCIONABLE OR UNENFORCEABLE FOR ANY REASON, OR ANY EXCLUSIVE REMEDY FAILS OF ITS ESSENTIAL PURPOSE, THIS PROVISION OF THIS WAIVER SHALL NEVERTHELESS CONTINUE IN FULL FORCE AND EFFECT.**
- 12.3 **NOTWITHSTANDING ANYTHING SET FORTH HEREIN OR IN ANY OTHER DOCUMENT TO THE CONTRARY, TO THE EXTENT PERMITTED BY LAW, IN THE EVENT THE COMPANY IS PROVEN TO BE LIABLE TO CUSTOMER FOR ANY AMOUNTS, IN EACH CASE, REGARDLESS OF WHETHER THE CLAIM GIVING RISE TO SUCH AMOUNT(S) IS BASED ON WARRANTY, CONTRACT, NEGLIGENCE, STRICT LIABILITY, TORT OR OTHERWISE, THE MAXIMUM AGGREGATE LIABILITY OF THE COMPANY ARISING OUT OF OR RELATING TO THE AGREEMENT OR THESE FORWARDING CONDITIONS OR THE TRANSACTIONS CONTEMPLATED HEREBY SHALL NOT EXCEED THE LESSER OF (a) THE ACTUAL VALUE OF THE DAMAGED OR LOST GOODS (AS EVIDENCED BY THE RELEVANT INVOICE(S) RELATING TO THE GOODS), UP TO A LIMIT OF S\$5.00 PER GROSS KILOGRAM OF THE SAID GOODS, (b) THE AGGREGATE FEESPAID UNDER THE AGREEMENT, or (c) S\$100,000.**
- 12.4 The Company may, by a written agreement with the Customer, accept liability in excess of the limits set out in Clause 12.3 above provided that the Customer agrees to pay the Company's additional charges for accepting such increased liability. Details of the Company's additional charges shall be provided upon request.
- 12.5 Notwithstanding anything set forth herein to the contrary, the Company shall have no liability to Customer or to any other Persons and the Company will be discharged from any and all liability whatsoever to the Customer unless:
- (i) in respect of any damage to the Goods or any part thereof, a notice in writing by the Customer is received by the Company within seven (7) days after the Customer takes delivery of the Goods;

(ii) in respect of any loss or non-delivery of the Goods or any part thereof, a notice in writing by the Customer is received within fourteen (14) days of the date when the Goods or such part thereof should have been delivered.

12.6 Notwithstanding the provisions of Clause 12.4 above, in no event shall the Company be liable to the Customer or to any other Persons with respect to any Services provided to the Customer whatsoever and howsoever arising, or with respect to any Services which the Company has undertaken to provide, unless written notice thereof is given to the Company and suit is brought against the Company within twelve (12) months from the date of the event or occurrence alleged to give rise to a cause of action against the Company.

12.7 The defenses and limits for liability set forth in these Forwarding and Warehousing Conditions shall apply in any action against the Company whether such action is based on warranty, contract, negligence, strict liability, tort or otherwise.

### **13. Declaration**

13.1 The Company shall be under no obligation whatsoever to make any declaration which may be required under any statute, convention or contract as with regards to the nature or value of the Goods or with regards to any special requirements relating to the delivery of the Goods unless expressly instructed by the Customer in writing and the Company agrees in writing to make such declaration or expresses such agreement by making such declaration.

13.2 The Customer warrants that the Customer shall be responsible for any restriction or penalties which may be imposed by relevant authorities or any other jurisdiction for the Goods, for instance, limit of bonded storage as may be imposed by such authorities or any other applicable rules; and Client shall bear the responsibility for any cost and/or failure to comply with the laws or rules of such authorities which may result in fines, penalties or confiscation.

### **14. Force Majeure**

14.1 The Company shall not be liable for any loss, damage to or destruction of the Goods, or for any delay in the performance or non-performance of any of the terms set forth herein that arise in whole or in part to any cause not within the control of the Company, whether now or hereafter existing, including without limitation, the following:

(a) terrorism, threat of war, declared or undeclared war, hostilities, warlike operations, civil war or civil commotion, terrorism, revolution or the operations of international law, governmental decree, requisitioning, legislation or expropriation, confiscation orders, court orders, injunctions or third party claims, official action, quarantine, civil disturbance, sabotage, strike, lock-out, power breakdown, interference with communications, lack of transport, labour and/or storage accommodation;

(b) storm, fire, fog, lightning, flood, high and low tide, frost, freezing, ice, heat, smoke, explosion, water used for extinguishing fire, burst water piping, tempest, earthquake, typhoon or other extraneous calamity or Acts of God;

(c) subsidence and/or collapse of the ground and/or any storage facility, water leakage or seepage, dampness, odour, stench, worms and rodents, damage through rats, mice, insects and other creatures;

(d) the natural properties of the Goods, inherent changes in quality, spontaneous deterioration, self-generated heat, combustion, explosion, drying, mould, yeasts, leaks, rot and mildew, rust and sweating;

(e) breakage of glass, wickered bottles and flasks, cast-iron and other brittle articles, inadequate packing;

(f) hardship or any other circumstances making performance unreasonably burdensome all other causes which are beyond the control of the Company.

14.2 In the event of force majeure which prevents, hinders or delay the performance of the Company pursuant as required under any Agreement, and which persist exceeding six (6) months or cannot be permanently removed, the Company may terminate such Agreement with Customer with immediate effect without any further liability to the Customer, except that the Customer remains liable for any fees incurred up to and including the date of termination.

14.3 All additional costs which may be incurred as a result of a force majeure event, including but not limited to transportation and storage charges, warehouse or yard rentals, demurrage for vessels or trucks, insurance premium, charges in respect of delivery from warehouses, bonded or otherwise, shall be borne by the Customer and shall form part of the debt due and owing to the Company by the Customer mentioned in Clause 9 “General Term for Payment of Fees” hereof on which interest shall be chargeable.

## **15. Hazardous and other Goods**

15.1 Except under special arrangements previously agreed to in writing by the Company, the Company shall not accept or handle any noxious, dangerous, hazardous or inflammable or explosive goods or any goods which, in the opinion of the Company, is likely to cause damage to any person or property whatsoever, as determined by the Company in its sole and absolute discretion. Should the Customer nevertheless deliver any such goods to the Company or cause the Company to handle any such goods otherwise than under special arrangements previously made in writing between the parties, the Customer shall be liable for all losses, damage or expenses whatsoever caused, suffered or incurred by the Company or any losses or damage caused to or in connection with the goods however arising. Such Goods may be destroyed or otherwise dealt with at the Customer’s sole risk and expense and at the sole and absolute discretion of the Company or any other Person in whose custody the goods may be at the relevant time. If such goods are accepted under any arrangement previously made in writing, they may nevertheless be destroyed or dealt with in any manner at the sole and absolute discretion of the Company on account of risk to other goods, property, life or health. The expression “goods likely to cause damage” includes goods which are likely to harbour or encourage vermin or other pests.

15.2 Except under special arrangements previously made in writing between the parties, the Company shall not accept or handle any bullion, corns, precious stones, jewellery, valuable, antiques, pictures, livestock or plants. Should the Customer nevertheless deliver any such goods to the Company or cause the Company to handle any such goods otherwise than under special arrangements previously made in writing between the parties and agreed to in writing by the Company, the Company shall be under no liability whatsoever for any loss and/or damage to the goods.

**16. Lien and Right of Retention of Goods, Documents, etc.**

16.1 The Company shall be entitled to retain the Goods, any document relating to the Goods and moneys which the Company may hold on behalf of the Customer at the Customer's sole expense and risk until the Fees and all other charges, costs and expenses which are due and payable to the Company has been paid to the Company or, if the Goods are to be forwarded on to other parties, to collect the sum due on the subsequent delivery or draw a bill therefore with the shipping documents annexed.

16.2 All such Goods, documents and/or moneys shall be held by the Company subject to a general lien and right of retention whether such lien and right are afforded by law, the Forwarding and Warehousing Conditions or otherwise, for money due to the Company whether in respect of the Fees or for other expenses, charges or costs payable to the company by the Customer and/or the owner of the Goods. The lien and right of retention shall also extend to any insurance claims collected on behalf of the Customer by the Company, and as far as necessary, the right shall be deemed to have been transferred to the Company for further security.

16.3 In the event that the Customer fails to make payment of the Fees or any other moneys whatsoever due to the Company within fourteen (14) days after notice has been given to the Customer to make payment, the Company shall be entitled to utilise any and all such moneys held by the Company and/or sell the Goods by auction, private sale or otherwise at the Company's sole and absolute discretion and at the expense of the Customer and the net proceeds (after deduction of sale expenses, storage charges, etc.) may be applied by the Company in or towards satisfaction of such indebtedness by the Customer to the Company. Provided that in the case of perishable goods, the Company need not await the expiry of the aforesaid fourteen (14) days and may exercise such rights of sale earlier at the Company's sole and absolute discretion. Any balance of the proceeds from the sale of the Goods and/or any balance of the moneys held by the Company after the proceeds of sale and/or the moneys have been applied in or towards the satisfaction of such indebtedness by the Customer to the Company will be paid to the Customer.

16.4 The Customer shall still be responsible for storage fees and any other applicable fee for the Goods as per Agreement during detention under the lien.

## **17. Indemnity**

- 17.1 The Customer covenants and agrees to indemnify, defend (with counsel acceptable to the Company), save and hold harmless the Company, its subsidiaries and affiliates, and their respective officers, directors, agents, employees, successors and assigns (collectively, the “Indemnitees”), from and against any and all Losses (as hereinafter defined) of whatsoever kind and nature, whether incurred by the Company or alleged by others, in warranty, contract, negligence, strict liability, tort or otherwise, arising in whole or in part as a result of, or in connection with, any of the following: (i) any breach of any representation or warranty set forth in the Agreement or these Forwarding Conditions by Customer, its directors, officers, employees, agents, subcontractors or parties on whose behalf Customer is acting and entering into the Agreement (collectively, the “Customer Parties”), (ii) negligence of any Customer Party, (iii) any defect of any kind in the Goods, (iv) any act or omission of any Customer Party, (v) violation of any Law by any Customer Party, (vi) an Indemnitee following the instructions of any Customer Party or implementing any such instruction, (vii) any servant, agent or subcontractor or any hauler, carrier, warehousemen, or other Person or party whomsoever who may at any time be involved with the Goods, (viii) any insufficiency of the packing of the Goods, (ix) any one or more of the matters provided for in Clause 23.3 below, (x) the Company’s furnishing of a confirmation for the receipt of the Goods pursuant to Clause 7.3, (xi) inaccuracy of any descriptions, particulars and/or information concerning the Goods that is furnished by a Customer Party or on its behalf, even if such inaccuracy is not due (whether in whole or in part) to any negligence or fault on the part of a Customer Party, (xii) any and all Taxes and Other Payments, (xiii) failure any Customer Party to pay any indebtedness, (xiv) any injury to or death of any Person or damage to property caused by or resulting from the Goods and/or the action or inaction on the part of any Customer Party, (xv) in connection with Clause 18.1, and (xvi) any general average (voluntary sacrifice) or any claims of general average (claims for extra-ordinary expenditures incurred). As used herein “Losses” means any and all liabilities, obligations, suits, claims, losses, damages, judgments, awards, penalties, injuries, actions, costs, fees and expenses (including attorneys’ fees and disbursements and costs of investigation, litigation, alternative dispute resolution, settlement, judgment, interest and penalties)**
- 17.2 The indemnification provided for herein is without prejudice to any other rights or remedies any Indemnitee may have under any Law. Matters covered by the foregoing indemnity including by way of example, but not of limitation: (i) damages for personal injury, disease or death; (ii) damages for injury to personal or real property; (iii) natural resource damages; (iv) any and all costs or recalls of such Goods or products, including by way of example, but not of limitation, costs incurred in transportation, labor, removal, installation, fines, penalties and attorneys’ fees, and (v) all expenses, costs and fees incurred by any Indemnitee as a result of any claim for indemnification hereunder.**

**17.3 To the extent permitted by Law, if any Customer Party enters upon any premises owned, leased or controlled by any Indemnitee, such Customer Party hereby waives, and hereby agrees to indemnify, defend and hold the Indemnitees harmless from, any and all Losses that any such Customer Party may have or incur as a result of their presence on said premises, whether or not arising out of any act or omission (whether or not negligent) of any Indemnitee.**

**17.4 This indemnity shall survive the expiration, termination or cancellation of the Agreement.**

## **18. Time bar**

18.1 In no event shall the Company be liable to the Customer or to any other Persons with respect to any loss, damage or decrease in quantity of the Goods or in general, on account of failure by the Company to comply with any of its obligations whatsoever or howsoever arising, unless written notice thereof is given to the Company and suit is brought against the Company within twelve (12) months from the date of the event or occurrence alleged to give rise to a cause of action against the Company. In relation to any loss, damage or decrease in quantity of the Goods in so far as the Company has not notified the Customer of such loss, damage or decrease in quantity, the said period of twelve (12) months shall commence on the day after which the Company notifies the Customer of such loss, damage or decrease in quantity.

## **19. Governing Law and Jurisdiction**

19.1 The Agreement shall be governed by and shall be construed in accordance with the laws of Singapore, unless otherwise provided in the Agreement or required compulsorily in applicable national law.

19.2 Unless otherwise provided in the Agreement, the Customer agrees that any claim, dispute or matter arising under or in connection with the Agreement or its enforceability, including without limitation, any contractual claim, dispute or matter shall be discussed and resolved amicably between the Company and the Customer, and if not resolved, the Customer irrevocably agrees to:

(a) submit to the Arbitration Rules of the Singapore International Arbitration Centre (“SIAC”) for the time being in force;

(b) consent to service of process by registered mail or in any other manner permitted by relevant law; and

(c) be bound by any award delivered by the arbitration in Singapore where the Company may take proceedings in.



19.3 Without prejudice to the generality of the Clause 19.2, in the event any applicable national law stipulate otherwise, causing the submission to arbitration in Singapore inapplicable or unenforceable, the Customer agrees that any legal action or proceedings arising out of or in connection with the Agreement shall be brought in the court where the Company is domiciled.

## **20. Miscellaneous**

20.1 Customer is duly authorized to enter into the Agreement and these Forwarding and Warehousing Conditions and to perform its obligations under the Agreement and these Forwarding and Warehousing Conditions and possesses all licenses, permits, consents and approvals required by Law to conduct all business which it conducts with respect to the Goods.

20.2 No course of prior dealings and no usage of trade shall be relevant to supplement or explain any terms used in the Agreement or in these Forwarding and Warehousing Conditions. The Agreement and these Forwarding and Warehousing Conditions shall be binding upon Customer and its successors and permitted assigns.

20.3 If any provision of the Agreement or these Forwarding and Warehousing Conditions, or the application thereof, becomes or is declared by a court of competent jurisdiction to be illegal, invalid, void or unenforceable, the remainder of the Agreement and Forwarding and Warehousing Conditions shall continue in full force and effect and the application of such provision to other Persons or circumstances shall be interpreted so as reasonably to effect the intent of these Forwarding and Warehousing Conditions.

20.4 Customer shall comply with all Laws pertaining to the Goods.

20.5 The failure by the Company to insist, in any one or more instances, upon the performance of any of the terms or conditions of the Agreement or these Forwarding and Warehousing Conditions, or to exercise any right or remedy hereunder, shall not be construed as a waiver of the future performance of any such terms or conditions or the future exercise of such right or remedy.

20.6 The Forwarding and Warehousing Conditions shall be deemed to be incorporated in and form part of the Agreement. All transactions between the Company and the Customer shall be governed by this Forwarding and Warehousing Conditions together with the Agreement. In the event of any conflict between the terms of the Agreement and this Forwarding and Warehousing Conditions, the terms of the Agreement shall prevail. In the event of anything not mentioned in the Agreement, the Forwarding and Warehousing Conditions shall govern.

20.7 The headings used herein are for convenience only and do not form a substantive part of these Forwarding and Warehousing Conditions.

20.8 By requesting that the Company perform the Services and/or by executing the booking confirmation and/or other documentation to which these Forwarding and Warehousing Conditions are attached, Customer covenants and agrees to be bound by the terms hereof and represents and warrants the truth and accuracy of the matters set forth herein to be represented and/or warranted by Customer.

## **21. Termination**

21.1 The Company shall have the right to terminate the Agreement by written notice to the Customer. The Company's obligation under the Agreement shall end and terminate in any event from the last day of service of such termination.

21.2 Notwithstanding anything herein to the contrary, the Company may at any time terminate the Agreement by written notice to the Customer, effective immediately if:

(a) the Customer commits a material breach of any of the terms of these Forwarding and Warehousing Conditions and such breach is not cured within thirty (30) days after the Customer being notified by the Company; or

(b) the Customer goes into liquidation or is unable to pay its debts or commits an act of bankruptcy under the laws of its relevant jurisdiction of incorporation, or if a receiver is appointed over any of its assets; or

(c) the Customer fails to pay the Fees payable to the Company as per clauses 9 and 41 of these Forwarding and Warehousing Conditions

21.2 In the event that the Customer terminates the Agreement unilaterally, the Company shall be entitled to a reasonable compensation for the loss it suffers as a result of the termination of the Agreement.

## **CHAPTER II FORWARDING CONDITIONS**

### **Scope**

Scope of Services covered by Forwarding Conditions includes but is not limited to arranging for transportation, delivery, loading, unloading, packing of the Goods, arranging for container, weighing, tallying, customs declaration/clearance or any other disposal of Goods, pursuant to Agreement or as per written instruction of Customers.

### **22. Transportation**

22.1 In all instances where the Company receives Goods for shipment or transport, Company shall be deemed to take the Goods as an authorised agent of the Customer and the Goods remain entirely at the risk and expenses of the Customer and all costs shall be at the account of the Customer.

22.2 The Company is entitled but not obliged to examine or inspect or take any further action to check the Goods which are landed or discharged from any vessel, aircraft, vehicle, or transport unit.

22.3 The Company shall not be liable to the Customer for any loss or damages howsoever arising, in the event the carriers refuse to acknowledge the number or weight of the Goods that are forwarded by the Company as part of its Services.

22.4 The non-availability of a berthing or parking place or storage space, upon arrival of transport of the Company or the Customer, is considered to be a circumstance beyond the Company's control and no responsibility shall attach to the Company for failure to secure such place or space.

22.5 The Company is not responsible for any collection or holding of monies for the Customer or any third party's behalf in any event, for instance monies due on delivery of Goods shipped on cash-on-delivery terms.

### **23. Delivery / Loading / Unloading**

23.1 A statement by the Customer as to the time of delivery of the Goods will not be binding on the Company and the Company will not be taken to guarantee the arrival time of the Goods as the Company shall arrange at its sole discretion at rate of speed at which Services shall be delivered.

- 23.2 In the event that the loading and/or unloading time under any bill of lading and/or charter party in respect of the Goods is inadequate regardless of the cause thereof, all costs resulting therefrom, including without limited to any demurrage charges shall be borne by the Customer, notwithstanding that the Company was the party that accepted or entered into the bill of lading and/or charter party from which such aforesaid costs arise.
- 23.3 Any additional expenses of an exceptional nature, including without limited to any higher wages arising from the loading and/or unloading of the Goods outside the Working Hours shall not be included in the Fees, unless specifically stipulated in writing and agreed to by the Company, and all such expenses will be borne by the Customer.
- 23.4 Unless otherwise stipulated in writing and agreed to by the Company, the following expenses shall be charged to the Customer and shall be payable by the Customer and are not included in the Fees: postage expenses, facsimile, teleprinter, telegram and telephone charges, stamp fees, import duties and excise, statistical duties, consular and attestation fees, customs formalities, costs of preparing shipping documents and obtaining bankers' guarantees (if any), cost of weighing, measuring, tallying, taring, sampling and repairing, bundling or rebundling, packing or repacking, cranage, additional costs of handling heavy objects, insurance premiums, all extra costs such as warehousing charges and quayside charges or wharfage charges for consignments missing a connection, demurrage for detention or delay of vessels, trucks or other transport, hire of tarpaulins, overtime pay, the cost of working outside the Working Hours, cost of providing watchmen and all other out-of-pocket expenses whatsoever. The Company shall issue a separate invoice in respect of such aforesaid expenses, fees, duties whatsoever and the Customer shall pay all such expenses, fees, duties whatsoever to the Company within fourteen (14) days of its receipt of the invoice by the Company.
- 23.5 Unless otherwise agreed to by the Company in writing, the Customer shall pay to the Company immediately all freight, duties, and all other costs and expenses relating to the transportation of the Goods and/or customs requirements upon arrival or dispatch of the Goods which are being received or forwarded by the Company respectively. Any risk of currency exchange fluctuations shall be borne by the Customer.
- 23.6 Where the Goods are accepted or dealt with upon instructions to collect freight, duties, charges or other expenses from the consignee of the Goods or any other persons, the Customer shall remain liable for the same if the relevant charges are not paid by such consignee or other person forthwith on the due date for payment or upon demand by the Company.

- 23.7 The Company shall not be obliged to furnish or advance any deposit or guarantee for monies which the Customer is responsible, including but not limited to, for the payment of any freight, duties and/or other costs and expenses relating to the Goods in the event the same is required by the relevant authority or party. In the event that the Company furnishes security out of its own resources, the Customer shall make payment to the Company of the amount for which security has been furnished immediately upon demand by the Company. Any and all consequences arising from the failure to comply with a demand to furnish such security shall be borne by the Customer.
- 23.8 Without prejudice to the generality of the other provisions in the Forwarding Conditions, the Company shall not be liable for:
- (i) any errors in the particulars relating to the freight, duties and any other costs and expenses relating to the Goods which are stated to be payable and which are notified to the Company by third parties;
  - (ii) any errors in the amount of freight, duties and any other costs and expenses which are charged to the Customer. In this regard, any demand for payment of the shortfall of any such freight, duties and any other costs and expenses shall be charged to and be payable by the Customer;
  - (iii) any consequences arising from the refusal by any carrier to sign for the number of pieces or items, weight, or any other particulars relating to the Goods;
  - (iv) any error in the particulars of the Goods as stated in any warrants, receipts, delivery orders, confirmations, release instructions or any other similar documents notwithstanding that such error is due to the want of care or negligence on the part of the Customer's employees;
  - (v) any loss, damage or expense whatsoever suffered or incurred by the Customer as a result of or in any way due to any difference between the time in Singapore or other applicable domicile and in any other parts of the world where the Customer is located. The Company shall not be obliged to provide or perform any Services outside the Working Hours.
- 23.9 Where the Company carries out the transportation of the Goods, its obligations shall be governed by the Forwarding Conditions and not by any other agreements, enactments, legislations, rules or regulations whatsoever as may be applicable to a carrier.
- 23.10 Except as herein provided, the Company shall not be liable for any matters whatsoever and however arising, whether in respect of or in connection with the Goods, the Services, any instructions, business, advice, information or otherwise. Advice and information, in whatever form it may be given, are provided by the Company for the Customer only and the Customer shall defend, indemnify and hold harmless the Company for all liability, loss, damage, costs and expenses arising out of any other Person relying on such advice or information.

## **24. Warehousing / Storage / Packing of the Goods / Containers**

- 24.1 The Company may warehouse or store the Goods at any place at the sole discretion of the Company pending the forwarding or delivery of the Goods, and all expenses incurred in the warehousing or storage of the Goods shall be payable by the Customer.
- 24.2 Except where the Company is instructed in writing to pack the Goods, the Customer warrants that all the Goods have been properly and sufficiently packed and the Company shall not be liable for any loss, damage or expenses incurred or suffered by the Customer as a result of the flawed, faulty and/or insufficient packing of the Goods.
- 24.3 If a container has not been packed or stuffed by the Company, the Company will not be liable for loss of or damage to the contents thereof if caused by:
- (a) the manner in which the Container has been packed or stuffed;
  - (b) the unsuitability of the contents for transportation in containers;
  - (c) the unsuitability or defective condition of the container, or arose as a result of the peculiarity of the Goods; or
  - (d) the Container not being properly sealed at the commencement of any transportation.
- 24.4 Where the Company is instructed to provide a container and such instructions are accepted by the Company, as evidenced in writing or by the Company's shipment of the Goods in a container, the Company is not under an obligation to provide a container of any particular type or quality.
- 24.5 The Customer warrants that it has complied with all laws and regulations relating to the nature, condition, packing, handling, storage and transportation of the Goods.

## **25. Tallying / Weighing / Measuring of the Goods**

- 25.1 All operations such as superintending, sampling, taring, tallying, weighing, measuring, etc., and receiving the Goods under judicial survey, will be undertaken only on the Customer's specific instructions and all costs thereof and relating thereto will be payable by the Customer and, if first paid by the Company, will be reimbursed to the Company by the Customer forthwith upon demand.
- 25.2 Notwithstanding Clause 25.1 above, the Company will be entitled, but not obliged, and the Customer hereby authorizes the Company to take any action with respect to the Goods that the Company considers to be necessary in the Customer's interest, at the Customer's expense and risk.

## **26. Sale or Disposal of Goods**

- 26.1 Any Goods which are perishable which are not taken up immediately upon arrival or which are insufficiently addressed or marked or otherwise not readily identifiable, may be sold or otherwise disposed of without any notice to the Customer and payment or tender of the net proceeds of any sale of such perishable Goods after deduction of any charges and expenses due to the Company shall be equivalent to delivery of such perishable Goods. All charges and expenses arising in connection with the storage, sale or disposal of such perishable Goods shall be borne by the Customer.
- 26.2 The Company shall be entitled to sell or dispose of all non-perishable Goods which in the opinion of the Company cannot be delivered either because they are insufficiently or incorrectly addressed or because they are not collected or accepted by the Customer or the consignee of the Goods or for any other reason, upon giving 14 days' notice in writing to the Customer. For the avoidance of doubt, the aforesaid 14 days' notice in writing shall not apply in respect of perishable Goods and the Company shall be entitled to exercise such rights of sale at any time at the Company's sole and absolute discretion. All charges and expenses arising in connection with the storage, sale or disposal of the Goods shall be borne by the Customer.

## **CHAPTER III**

### **WAREHOUSING CONDITIONS**

#### **Scope**

Scope of services covered by Warehousing Conditions includes but is not limited to issuance of Warehouse Receipt, storage, release of Goods pursuant to Agreement or as per written instruction of Customers.

#### **27. Warehouse Receipt & Release of Goods**

- 27.1 There shall only be ONE original Warehouse Receipt issued by the Company only. A valid Warehouse Receipt shall be signed by authorised signatory of the Company only. The Company shall not be liable for any and all losses arising out of any unauthorized use of this Warehouse Receipt.
- 27.2 Any copy, photocopy or scanned copy of Warehouse Receipt shall not have any legal force or binding effect with regard to the entitlement of Goods under any Warehouse Receipt. Any amendment, erasure and/ or any form of tempering with any Warehouse Receipt shall render such Warehouse Receipt null and void.
- 27.3 Upon receipt of the Goods by the Company, the Company may issue a Warehouse Receipt to the Customer as per written instruction of the Customer. The Company shall be entitled to refuse such issuance if the Customer has not paid all monies due and owing to the Company, or there appear to be other grounds for the refusal.
- 27.4 Transfer of the Goods or part thereof by the Customer to a third party shall not be recognized by the Company unless all moneys owing by the Customer to the Company and all claims which the Company may have against the Customer shall have been paid and/or settled. Until and unless a new agreement has been made between the Company and such third party otherwise the Agreement with the original Customer in respect of the Goods or part thereof which is transferred shall always remain applicable.
- 27.5 Warehouse Receipt is not and shall not be construed to be document of title. The Company will not recognize any other party as a party entitled to the Goods by reason of any mode of transfer and/or endorsement on the Warehouse Receipt.
- 27.6 The Company shall only proceed with any Release as per written instruction of Customer unless and until the original Warehouse Receipt is delivered to the Company AND provided the Customer has fully settled all the Fees and/or any other applicable payment which is due and payable to the Company.
- 27.7 Should the Customer wishes to make a partial release, the Warehouse Receipt is no longer valid, transferable or endorsable and the ORIGINAL Warehouse Receipt must be returned to the Company for cancellation and to proceed with the partial release instruction, and a new Warehouse Receipt shall be issued as per written instruction of the Customer, for the remaining Goods.



27.8 If a Warehouse Receipt is lost, damaged or destroyed, the person entitled to it may apply to the Company for either a nullification of the Warehouse Receipt or issuance of a new Warehouse Receipt; where such application must set out in full cause of the loss (including where applicable, enclosing a copy of the police report in relation to such loss) or damage/destruction, and the ground on which the applicant proves his entitlement over the Goods. The Company may demand a letter of indemnity and/or impose such other requirements at the absolute discretion of the Company, and to decide whether to reissue such Warehouse Receipt.

## **28. Instructions, Tenders, etc.**

28.1 All agreements, tenders, instructions relating to the Services shall be recorded in writing. Verbal or telephonic communications shall be binding on the Company only if such communication is immediately followed by a written confirmation. Only the Company may plead the absence of a written confirmation.

28.2 All tendering of the Goods and instructions regarding storage, custody and handling of the Goods and arrangement related thereto must be accompanied by a statement of the description, value, number of packages and gross weight of the Goods and all other particulars, including such terms, which if the Company had been aware of, the Company would not or might not have entered into the Agreement or would or might have entered into the Agreement on different terms and conditions. The Customer shall separately state the weight of any package which exceeds 1000 kilograms.

## **29. Accuracy of Description of the Goods and Quality of the Goods**

29.1 The Customer shall ensure that all instructions, information and documents in relation to the Goods as required to be provided to the Company are accurate and adequate and are promptly provided to the Company as and when required by the Company. The Customer warrants and is bound by the accuracy of all descriptions, particulars and/or information furnished to the Company in respect of the Goods. The Customer shall be liable to the Company and/or any third parties for any injury, loss or damage arising from the incorrect and/or misleading and/or incomplete description, particulars, indication or information in respect of the Goods including but not limited to inaccuracies or omissions in the leading marks, numbers, quantity, weight, gauge, measurement, contents, nature, quality or value of the Goods as well as for any damage arising from defects in the Goods and/or packing, which have not been notified to the Company before the parties enter into an Agreement.

29.2 The description and/or specification and/or particulars of the Goods and/or in respect of the packages as stated on the face of any Warehouse Receipt, delivery order and/or release instructions shall be treated as the description, specifications and/or particulars provided by the Customer. The Company is not liable for the correctness or accuracy of such description, specification and/or particulars or admit the existence, good order and condition of the Goods described therein, or of the contents of any package or other shipping unit. The Company shall be entitled to rely on such particulars as to the contents, measurements, nature, quality, weight, number, serial numbers, marks, value in respect of the Goods, even if the Goods should have been counted, weighed or measured in the presence of any of the Company's agents or servants.

### **30. Weighing / Measuring of the Goods**

30.1 The Company shall not be obliged to weigh or measure the Goods in storage if no instructions to carry out weighing or measurement of the Goods are given to, and accepted by, the Company, as evidenced in writing or by performance. Notwithstanding the foregoing, the Company shall be at liberty to effect weighing and/or measurement of the Goods in order to ascertain whether the weight and/or measurement of the Goods comply with the specifications of the Goods received from the Customer. In the event that the weight and/or measurement of the Goods determined by the Company differ from those specified by the Customer, the cost of carrying out the weighing and/or measurement of the Goods by the Company shall be borne by the Customer.

30.2 Packages may be opened for examination of the contents thereof at the Customer's request only, but the Company shall at all times be entitled, but not obliged, to do so if it suspects that the contents have been wrongly described by the Customer. Should the examination reveal that the contents differ from those described, the cost of the examination shall be borne by the Customer.

### **31. Delivery of the Goods to Company**

31.1 Delivery to and receipt by the Company of the Goods shall be effected by the Customer handing over the Goods to the Company and the Company taking over the Goods at the place of storage.

31.2 Unless otherwise stated, the Customer warrants that the Goods shall be in good condition, and if packed, be properly packed when delivered to the Company. If the Goods appear to be in a damaged or defective condition upon delivery to the Company, the Company shall be entitled but not obliged to take such steps as may be necessary to protect the Customer's interest against the carrier or any other party at the Customer's sole risk and expense. The Customer shall not be entitled to question the manner in which the Company has carried out such steps as aforesaid to protect the Customer's interest. The Company shall immediately notify the Customer of any action taken, but failure to notify the Customer shall not give the Customer any right of claim against the Company.

### **32. Commencement of Services and Speed of carrying out the Services**

- 32.1 Unless otherwise agreed upon or unless prevented by special circumstances, the Company shall commence executing accepted orders for storage or delivery of the Goods, if possible, not later than the Business day following the day on which it has accepted the order or on which it has received the necessary documents (including but not limited to bills of lading, delivery orders, official documents), whichever is later. If the necessary orders are accepted and/or the necessary documents are received after 1500 hours Singapore or applicable local time, the next Business Day will count as the day of acceptance of such orders and/or receipt of such documents. As used herein, "Business Day" means any day on which banks in Singapore are not authorized to close.
- 32.2 The Company shall determine the rate of speed at which orders for storage or delivery of Goods shall be executed. The Company will as much as possible pay regard to the instructions of the Customer in this respect, but shall not be liable for any expenses, loss or damage incurred or suffered for and on behalf of or by the Customer should the rate of speed at which the order is executed be slower than that required by the Customer.

### **33. Times for Delivery and Collections of the Goods**

- 33.1 Goods shall be delivered to and collected from the place of storage during the Working Hours and the Company shall not be obliged to provide or perform any Services outside the Working Hours. If the Customer requires any Services to be executed outside the Working Hours, the Company shall be at liberty to decide whether to do so or not. The Customer shall bear any extra charges which may be incurred as may be notified by the Company for any Services provided outside the Working Hours.
- 33.2 In the event that the Customer instructs the Company that Goods for storage in a certain quantity will be delivered to the Company at a certain time, or that Goods for re-delivery in a certain quantity will be collected at a certain time and the Company arranges for labour and equipment to carry out such instructions of the Customer, the Customer shall reimburse the Company for any and all costs and expenses incurred by the Company if the Customer fails to deliver or collect the Goods or any part thereof or fails to deliver or collect the Goods or part thereof at the time stipulated by the Customer.

### **34. Place of Storage of the Goods**

- 34.1 Unless otherwise agreed upon in writing by the Company, the Company shall be at liberty to decide where the Goods are stored. The Company shall at any time be entitled to transfer the Goods to another storage place. The cost of any transfer and the risk of such transfer shall be borne by the Company, unless the transfer has been effected by the Company in its sole discretion in the interest of protecting the Goods, or by reason of circumstances beyond the Company's control in which case, whereby such transfer shall be effected at the sole and absolute discretion of the Company and at the sole risk and expenses of the Customer. The Company shall notify the Customer of any transfer of the Goods to any other storage place, but failure to notify the Customer shall not give the latter any right of claim against the Company.

### **35. Liability for Loss of or Damage to the Goods**

35.1 The Company shall not be liable for any loss, damage and/or deterioration of the Goods unless such loss, damage or deterioration is proven to have been caused by the deliberate intent on the part of any employee of the Company. In any event, the Company shall not be liable for any loss, damage and/or deterioration of the Goods, in the following cases:-

(i) any damage and/or loss through theft or burglary;

(ii) any loss, damage and/or deterioration of any Goods stored in the open, or which can only be stored in the open, or which the Company customarily stores in the open;

(iii) any loss, damage and/or deterioration occurring while the Goods are in the custody of the Company or occurring before receipt by the Company of the Goods and due to the following causes, regardless of their origin: -

the natural quality of the Goods, changes in quality or character, inherent vice, decay, drying out, powdering, heat, heating, melting, staining, sweating, fermenting, freezing, rusting, mildew, mould, dampness, dust, oil, discolouration, evaporation, smells or stains from or contact with other goods or fuel, putrefaction, water of any kind, rain or spray, effects of climate, drainage, leakage, wastage, loss of weight, breakage, splitting, bending, chaffing, shrinkage, hook holes, rats, mice, insects and other vermin, explosion of any of the Goods whether received with or without disclosure of its nature, insufficiency, soiling, injury to, distortion, pressing or bursting of packages, adherence or coverings, failure to protect the Goods or inaccuracy, obliteration or errors in or insufficiency or absence of marks, numbers, address or description of the Goods;

(iv) all other causes which are beyond the control of the Company.

### **36. Admittance to place of storage**

36.1 Provided prior written notice is given to the Company, the Company shall admit the Customer and/or any Persons authorised by the Customer to the place of storage of the Goods, subject to the compliance by the Customer or by such Person(s) authorised by the Customer with all formalities prescribed by the relevant authorities and subject to all conditions as stated in Clause 36.2 below.

36.2 The following conditions shall be applicable to Persons granted admittance to the place of storage by the Company:-

(i) all Persons visiting the place of storage including the personnel of vessels and vehicles reporting to the warehouse, shall observe and fully comply with the Company's regulations;

(ii) admittance shall be granted only during the Working Hours and with the attendance of the Company's employees;

(iii) all expenses incurred in relation to visit shall be paid to the Company by the Customer;

(iv) in any events of Force Majeure as provided in Clause 14 above, the duty of the Company under Clause 36.1 shall be suspended;

(v) the Customer shall be liable for any damage caused directly or indirectly by any Persons who are granted admittance to the place of storage including but not limited to any damage caused to the place of storage, the Goods and/or other goods stored at the place of storage.

### **37. Services**

37.1 The Company shall carry out such Services in respect of the Goods as may be required by the Customer that are accepted by the Company, as evidenced in writing or by performance, such as sampling, handling, servicing, packing, re-packing, bundling, re-bundling, piling, re-piling, lotting, weighing, etc., as well as re-delivery of the Goods at the Fees and arranging of the aforementioned as agreed to and based on the Warehousing Conditions. Any other work which the Company does not wish to undertake may, after the prior approval of the Company, be executed by or on behalf of the Customer, subject to any conditions which may be laid down by the Company, under the supervision of the Company and Customer shall pay any and all costs and expenses incurred by the Company. The Company shall not be liable for any loss, damage or expenses incurred or suffered by the Customer in carrying out such work.

37.2 Notwithstanding any other provisions of the Warehousing Conditions, the Company shall be entitled, without providing any reasons whatsoever, to refuse to accept any instructions which may be given by the Customer in relation to the provision of the Services.

### **38. Hazardous and other Goods**

38.1 The Customer shall notify the Company in writing before delivery to the Company of any Goods of an explosive, flammable, corrosive, noxious or dangerous nature or any Goods which may possibly cause damage or be detrimental to the warehouse or to other goods stored in the warehouse, or which are classified as dangerous or hazardous goods by any laws or regulations. The packages containing such Goods shall be clearly and indelibly marked to show the hazardous nature of their contents and the Customer shall indemnify the Company from and against any and all fines, penalties, expenses, loss or damages suffered or incurred by the Company by reason of the Customer's failure to so declare and mark the nature of such Goods. The attention of the Customer is directed to the laws and regulations imposing criminal or civil penalties for failure to properly declare, mark and package such Goods.

- 38.2 Should any Customer nevertheless deliver any such Goods to the Company or cause the Company to handle or deal with any such Goods otherwise than under special arrangements previously made in writing, the Customer shall be liable for all expenses, loss or damage whatsoever caused by or to or in connection with the Goods however arising and the Customer shall indemnify the Company from and against all penalties, claims, damages, costs (including all legal costs on a full indemnity basis) and expenses whatsoever arising in connection therewith, and the Goods may be destroyed or otherwise dealt with at the Customer's risk and expense at the sole discretion of the Company or any other Person in whose custody they may be at the relevant time if it is feared that failure to take such action might cause loss and/or damage to the Goods themselves, to other goods, to the warehouse or equipment or may cause harm or injury to any Person. If such Goods are accepted under arrangement previously made in writing between the parties, they may nevertheless be destroyed or otherwise dealt with on account of risk to other goods, property, life or health.
- 38.3 The expression "goods likely to cause damage" includes goods likely to harbour or encourage vermin or other pests. The Company shall immediately notify the Customer of the measures taken, but failure to notify the Customer shall not give the latter any right of claim against the Company. Without prejudice to the provisions of the preceding paragraph, the Customer shall indemnify the Company from and against any claims of third parties on account of damage caused by the Customer's goods to goods of third parties.
- 38.4 The Company shall not be liable to Customer or any other Persons, or have any obligation to reimburse Customer or any other Persons, for any loss or damage to the Goods occurring at any time by reason or by means of fire.

### **39. Damage or Destruction of the Goods**

- 39.1 If in the event of damage to the Goods while the Goods are in the custody of the Company, whether resulting from any of the causes set forth in Clause 35.1 hereof or other causes which are covered by insurance, regardless of whether the insurance was effected through the Company or not, and the assistance of the Company for assessment of the damage is desirable or necessary, such assistance shall be rendered by the Company at its sole and absolute discretion and Customer shall pay the Company any and all costs and expenses incurred by the Company and such remuneration to be fixed by the Company for its assistance and services. The Company may make such assistance conditional upon payment of all amounts that are due to the Company by the Customer.
- 39.2 In the event that the Goods are destroyed while the Goods are in the custody of the Company whether resulting from any of the causes set forth in Clause 35.1 hereof or otherwise, the date of destruction of the Goods shall count as the date of delivery to the Customer and the Fee, including warehouse rent plus any increases therein and any other applicable costs, charged in full months, together with insurance premium and cost (if the goods are insured through the Company), plus any increases therein, shall be calculated up to and including the date of destruction and shall be due and payable forthwith by the Customer.

#### **40. Removal of the Goods**

- 40.1 Upon payment of all sums whatsoever owing to the Company and subject to the provisions of the Forwarding and Warehousing Conditions, the Customer may at any time remove the Goods from the custody of the Company. The Fee, including warehouse rent plus any increases therein and any other applicable costs, and, if the Goods have been insured through the Company, the insurance premium and cost plus any increases therein shall always be charged on the basis of full months and part of a month shall count for a full month.
- 40.2 Notwithstanding the aforesaid, the Company shall have the right, at any time, to require the removal of the Goods prior to the expiration of the storage period as agreed, without having to provide the Customer any period of notice, if in the discretion of the Company there is an urgent reason to do so. An urgent reason shall, inter alia, be deemed to exist if:
- (i) the Customer fails to comply with one or more provisions of the Warehousing Conditions;
  - (ii) it appears that the presence of the Goods may cause loss and/or damage to other goods, to the storage place or to equipment or harm or injury to Person(s);
  - (iii) if the Goods are perishable or liable to inherent changes which in the Company's opinion may result in a decrease in value of the Goods and the Customer has failed to provide instructions for the prevention of such events.
- 40.3 The Customer shall remain liable for payment of the Fee, including warehouse rent plus any increases therein up to and including the date of the removal of the Goods.

#### **41. Fees, Rates and Payment Terms**

- 41.1 The Fees including warehouse rent plus increases therein, if any, and all other amounts due and owing to the Company by the Customer on any account whatsoever, including but not limited to insurance premium and cost plus increases therein if any (if the Goods have been insured through the Company), rent, disbursements, remunerations for storage and delivery, outlays and charges for work done or to be done, the cost of any clearance work and the like during or after a fire and all extra-ordinary expenses, extra wages whatsoever will be payable by the Customer within fourteen (14) days from the date of invoice for such amounts by the Customer or upon demand by the Company.
- 41.2 The Fees and all other applicable costs and all verbal or written agreements between the Company and the Customer regarding rates and remunerations for work will be based on the wages and charges imposed by the relevant authorities (where applicable) on the services rendered by the Company in force at the time the Agreement was concluded. In the event that there is an increase in the said wages and charges imposed by such authorities, the rates and remunerations which have been agreed upon will be adjusted accordingly and become effective immediately.

41.3 Unless otherwise expressly agreed upon, the agreed rates for storage will be based on the customary method of stacking the Goods. If at the Customer's request, or owing to the condition of the Goods, the customary method is departed from, and increase in the rates will be effected in proportion to the additional floor space occupied as compared with that for the normal stacking of the Goods.

41.4 All payments by the Customer will be made without any deduction, set-off, counterclaim or rebate whatsoever and will be deemed in the first place, to the extent permitted by law, to have been made on account of non-preferential debts, regardless of any instructions which may be given by the Customer to the Company at the time of payment.

## **42. Sale or Disposal of the Goods**

42.1 Without prejudice to the provisions of Clause 40 "Removal of the Goods" of the Warehousing Conditions hereof, the Company shall be entitled to sell the Goods:

(i) if the Customer fails to remove the Goods given to the Company for storage when requested by the Company to do so;

(ii) if the Customer fails to pay any amount owed by it to the Company, without prejudice to the Company's right to satisfy its lien.

42.2 The Company shall be entitled to sell or dispose of all non-perishable Goods upon giving 14 days' notice in writing to the Customer. The aforesaid 14 days' notice in writing shall not apply in respect of perishable Goods and the Company shall be entitled to exercise such rights of sale at any time at the Company's sole and absolute discretion. The sale shall be effected by auction or private contract or otherwise at the sole and absolute discretion of the Company.

42.3 All expenses connected with the sale and any other amounts owed by the Customer to the Company shall be recoverable from the proceeds of sale of the Goods.



## **CHAPTER IV**

### **CONDITIONS FOR LME WARRANT HOLDERS**

#### **Scope**

Scope of services of this Chapter IV will apply to and be deemed to be incorporated into the agreement between CWT Commodity Logistics (S) Pte Ltd, CWT Commodity Logistics Rotterdam BV, as the Company and the LME Warrant Holder;

#### **43. Applicability of Chapter I, II & III of the Forwarding & Warehousing Conditions**

43.1 The provisions of this Chapter IV will apply only to the legal relationship existing between CWT Commodity Logistics (S) Pte Ltd, CWT Commodity Logistics Rotterdam BV as the Company and the LME Warrant Holder. Provided that the LME Warrant will state that the Forwarding and Warehousing Conditions are applicable. Neither the Customer nor the LME Warrant Holder can refer to any enactment, legislation, rules or regulation whatsoever in so far as they are at variance with the Forwarding and Warehousing Conditions save in accordance with the provisions herein.

43.2 The moment the LME Warrant Holder for any reason whatsoever surrenders the original LME Warrant to the Company or London Agent for cancellation and upon the removal of cancelled-warrant goods from the Warehouse, the provisions of this Chapter IV will cease to apply, without prejudice to the Company's rights to enforce any and all of its rights, to which it is entitled by the LME Warrant. From such time onwards, all the provisions of Chapter I, II and III hereof will be applicable.

#### **44. Definitions and Interpretation**

44.1 Under this Chapter IV, undefined words used shall bear the same meaning ascribed in the Forwarding and Warehousing Conditions and the following words and expressions will have the meanings respectively assigned to them unless there is something in the subject or context inconsistent with such constructions:-

“Goods” shall mean the goods in respect of which the Services are provided by the Company or are to be provided by the Company pursuant to the Agreement and/or the goods to which the LME Warrant (as the case may be) refers to;

“LME Warrant” shall mean a transferable numbered, stamped and signed receipt, described in its heading as a London Metal Exchange warrant and on which it is certified that the holder is entitled to receive a specific quantity of goods of a specific kind and which is and will be construed to be a document of title;

“LME Warrant Holder” will mean any holder of a LME Warrant by producing the original LME Warrant to the Company or London Agent;

“Last LME warrant holder known to the Company”/ “Last known LME warrant holder” shall mean a person to whom the LME Warrant has been issued or such person who at the most recent date makes a written request to the Company to be regarded as the LME warrant holder provided, that the Company will be entitled, but not obliged, to regard any other person as such if it has reason to assume that such other person is the last LME warrant holder.

“London Agent” shall mean a London agent appointed by the Company for the purposes of issuing LME Warrant;

“Services” shall mean all services relating to the receipt, storage and release of the Goods and arrangement related thereto that are provided or to be provided by the Company including the provision of advice or information whatsoever;

#### **45. Right to Delivery**

45.1 The LME Warrant confers on the LME Warrant Holder a right to delivery by the Company of the Goods which the Company has received into custody and against which the LME Warrant has been issued. The Company shall not be liable for any discrepancy between the Goods which have been taken into custody and the description thereof in the LME Warrant. The Company is not aware of and is not liable for any latent defects in the Goods.

45.2 The right to delivery of the Goods shall not exist as long as the Company shall have a lien and/or a claim on the Goods as a result of the provisions of LME Warrant Chapter or as long as all customs and other formalities prescribed by the authorities as being required for delivery of the Goods have not been complied with.

#### **46. Validity of the LME Warrant**

46.1 The LME Warrant shall be and remain valid until the original is presented to the Company for cancellation. The Company and/or London Agent shall be entitled to apply its normal procedures prior to cancelling the LME Warrant. On satisfactory completion of those procedures, the Company and/or London Agent shall proceed with the necessary cancellation steps.

#### **47. Fees and Payments**

47.1 All amounts due and owing to the Company by the LME Warrant Holder on any account whatsoever, including warehouse rent plus increases therein, if any, rent, disbursements, remunerations for storage and delivery, outlays and charges for work done or to be done, the cost of clearance work and the like during or after a fire, extra-ordinary expenses, extra wages, etc. shall be due and payable by the LME Warrant Holder within fourteen (14) days from the date of invoice in respect of such amounts issued by the Company.

47.2 The Company shall be entitled to demand, deduct or set off the following charges prior to full or part delivery of the Goods to which the LME Warrant gives title:

(i) the warehouse rent for so many months as the LME Warrant shows to have elapsed and which has not been recorded therein as having been paid prior to delivery of the Goods, calculated on the basis of the amount of rent per day stated to be payable in the LME Warrant, together with increase in rent, if any;

(ii) the remuneration for the delivery of the Goods at the applicable rate;

(iii) all disbursements made by the Company in respect of customs and/or any other formalities prescribed by the relevant authorities for the Goods mentioned in the LME Warrant on behalf of the LME Warrant holder requiring delivery of the Goods;

(iv) all expenses and costs incurred by the Company after the date of the issuance of the LME Warrant and/or all charges incurred by the Company:

(a) in order to preserve the Goods to which the LME Warrant refers;

(b) in order to eliminate any dangers caused by the Goods to which the LME Warrant refers, to the warehouse and/or to other goods stored therein, to equipment, to persons and/or to the Goods themselves;

(c) in relation to any measures taken in respect of the Goods to which the LME Warrant refers, and which are necessitated by circumstances beyond the Company's control;

(v) all penalties, claims, damages, costs and expenses whatsoever arising in connection with the Goods to which the LME Warrant refers, including all court charges, stamp fees, legal costs (on a full indemnity basis) and disbursements incurred by the Company in respect of any legal proceedings or any intended legal proceedings effected by or against the Company in relation to such Goods;

(vi) all other amounts due and owing to the Company as evidenced by the LME Warrant.

47.3 All payments shall be made without any deduction, set-off, rebate or counterclaim whatsoever and shall be deemed in the first place to have been made on account of non-preferential debts, regardless of any instructions which may be given by the LME Warrant Holder to the Company at the time of payment.

47.4 In the event that the LME Warrant Holder fails to pay any amounts which are due and payable hereunder or upon notification thereof the Company, interest shall be payable on such amounts at the rate of 2% per month.

47.5 In the event that the Company resorts to any legal proceedings or other means for the recovery of any amounts due and payable by the LME Warrant Holder hereunder (the "Indebtedness"), the LME Warrant Holder will, in addition to the Indebtedness and interest payable under Clause 47.4 above, be liable to the Company for a further amount equivalent to 10% of the Indebtedness on account of all clerical expenses which may be incurred by the Company in resorting to such proceedings or other means.

47.6 The LME Warrant Holder will bear all the court charges, stamp fees, legal costs (on a full indemnity basis) and disbursements incurred by the Company in respect of any legal proceedings or intended legal proceedings for recovery of any payments due and owing to the Company.

#### **48. Liability for Loss of or Damage to the Goods / Force Majeure**

48.1 The Company will not be liable for any loss, damage and/or deterioration of the Goods unless such loss, damage and/or deterioration is proven to have been caused by the gross negligence or wilful misconduct of the Company, provided that the Company will not be liable for loss or damage or deterioration of the Goods, where, for example, but without limitation, such loss or damage or deterioration occurs in the circumstances such as:

(i) any damage and/or loss through theft or burglary;

(ii) any loss, damage and/or deterioration of any Goods stored in the open, or which can only be stored in the open, or which the Company customarily stores in the open;

(iii) any loss, damage and/or deterioration occurring while the Goods are in the custody of the Company or occurring before receipt by the Company of the Goods and due to the following causes, regardless of their origin:

the natural quality of the Goods, changes in the quality or character, inherent vice, decay, drying out, powdering, heat, heating, melting, staining, sweating, fermenting, freezing, rusting mildew, mould, dampness, dust, oil, discolouration, evaporation, smell or stains from contact with other goods or fuel, putrefaction, water of any kind, rain or spray, effects of climate, drainage, leakage, wastage, loss of weight, breakage, splitting, bending, chaffing, shrinkage, hook holes, rats, mice, insects and other vermin, explosion of any of the Goods whether received with or without disclosure of its nature, insufficiency, soiling, injury to, distortion, pressing or bursting of packages, adherence or coverings, failure to protect the Goods or inaccuracy, obliteration or errors in or insufficiency or absence of marks, numbers, address or description of the Goods;

(iv) any loss, damage and/or deterioration of the Goods caused directly or indirectly by existing or threatened war declared or undeclared, hostilities, warlike operations, civil war or civil commotion, revolution or the operations of international law, official action, quarantine, civil disturbance, governmental decree, requisitioning, legislation or expropriation, confiscation orders, court orders, injunctions or third party claims, strikes, lockout, sabotage or power breakdown, interference with communications, lack of transport, labour and/or storage accommodation;

(v) loss, damage and/or deterioration of the Goods caused directly or indirectly by storm, fog, lightning, high and low tide, frost, freezing, ice, heat, fire, smoke, explosion, water used for extinguishing fires, burst water piping, flood, tempest, earthquake, typhoon or any other extraneous calamity or Acts of God.

(vi) any damage, loss or deterioration of the Goods caused directly or indirectly by breakage of glass, wickered bottles and flasks, cast-iron and other brittle articles, inadequate packing, the natural properties of the Goods, inherent changes in quality, spontaneous deterioration, self-generated heat, combustion, explosion, drying, mould, yeasts, leaks, rot and mildew, rust and sweating, subsidence and/or collapse of the ground and/or any storage facility, water leakage or seepage, dampness, odour, stench, worms and rodents, damage through rats, mice, insects and other creatures

(vii) all other causes which are beyond the control of the Company.

48.2 In the event of force majeure, the Agreement will remain in force. The Company's obligations will, however, be suspended for so long as the force majeure event subsists.

48.3 All additional costs which may be incurred as a result of a force majeure event, including but not limited to transportation and storage charges, warehouse or yard rentals, demurrage for vessels or trucks, insurance premium, charges in respect of delivery from warehouses, bonded or otherwise, will be borne by the LME Warrant Holder and will form part of the debt due and owing to the Company by the LME Warrant holder on which interest will be chargeable.

#### **49. No Warranty; No Consequential Damages; Limitation of Liability**

49.1 **THE COMPANY MAKES NO REPRESENTATION OR WARRANTY WITH RESPECT TO THE GOODS OR SERVICES.**

49.2 **Limitation of Liability. NOTWITHSTANDING ANYTHING SET FORTH HEREIN, IN ANY WAREHOUSE RECEIPT, THE LME WARRANT OR IN ANY OTHER DOCUMENT TO THE CONTRARY, TO THE EXTENT PERMITTED BY LAW, THE COMPANY SHALL NOT BE LIABLE TO THE LME WARRANT HOLDER OR ANY OTHER PERSON FOR ANY CONSEQUENTIAL, EXEMPLARY, INCIDENTAL, OR SPECIAL DAMAGE, COVER DAMAGES OR LOST PROFITS, DIMINUTION IN VALUE, OR OTHER DAMAGES WHATSOEVER RELATING TO OR RESULTING FROM THE TRANSACTIONS CONTEMPLATED BY THE AGREEMENT AND/OR CHAPTER II OF THESE WAREHOUSING CONDITIONS, REGARDLESS OF WHETHER THE LIABILITY RESULTED FROM ANY GENERAL OR PARTICULAR REQUIREMENT OR NEED WHICH THE COMPANY KNEW OR SHOULD HAVE KNOWN OF AND REGARDLESS OF WHETHER THE CLAIM IN QUESTION IS BASED ON WARRANTY, CONTRACT, NEGLIGENCE, STRICT LIABILITY, TORT OR OTHERWISE. IN THE EVENT THAT ANY TERM OF THE AGREEMENT OR OF THE CONDITIONS OF CHAPTER II OF THE WAREHOUSING CONDITIONS IS FOUND UNCONSCIONABLE OR UNENFORCEABLE FOR ANY REASON, OR ANY EXCLUSIVE REMEDY FAILS OF ITS ESSENTIAL PURPOSE, THIS PROVISION OF THIS WAIVER SHALL NEVERTHELESS CONTINUE IN FULL FORCE AND EFFECT.**

49.3 **NOTWITHSTANDING ANYTHING SET FORTH HEREIN, IN ANY WAREHOUSE RECEIPT, THE LME WARRANT OR IN ANY OTHER DOCUMENT TO THE CONTRARY, TO THE EXTENT PERMITTED BY LAW, IN THE EVENT THE COMPANY IS PROVEN TO BE LIABLE TO THE LME WARRANT HOLDER FOR ANY AMOUNTS, IN EACH CASE, REGARDLESS OF WHETHER THE CLAIM GIVING RISE TO SUCH AMOUNT(S) IS BASED ON WARRANTY, CONTRACT, NEGLIGENCE, STRICT LIABILITY, TORT OR OTHERWISE, THE MAXIMUM AGGREGATE LIABILITY OF THE COMPANY ARISING OUT OF OR RELATING TO THE AGREEMENT OR CHAPTER II OF THE WAREHOUSING CONDITIONS OR THE TRANSACTIONS CONTEMPLATED HEREBY SHALL NOT EXCEED THE LESSER OF (a) THE ACTUAL VALUE OF THE DAMAGED OR LOST GOODS (AS EVIDENCED BY THE RELEVANT INVOICE(S) RELATING TO THE GOODS) , UP TO A LIMIT OF S\$5.00 PER GROSS KILOGRAM OF THE SAID GOODS, (b) THE AGGREGATE PRICE PAID UNDER THE AGREEMENT, or (c) S\$100,000.**

## **50. Place of Storage of the Goods**

50.1 Unless otherwise agreed upon by the Company, the Company shall be at liberty to decide where the Goods are stored. The Company will at any time be entitled to transfer the Goods to another storage place. The cost of any transfer and the risk of such transfer will be borne by the Company, unless the transfer has been effected by the Company in its sole discretion in the interest of protecting the Goods, or by reason of circumstances beyond the Company's control, in which case such transfer will be effected at the sole discretion of the Company. The Company will notify the LME Warrant Holder of any transfer of the Goods to any other storage place, but failure to notify the LME Warrant Holder shall not give the latter any right of claim against the Company.

## **51. Admittance to place of storage**

51.1 Provided prior written notice is given to the Company, the Company will admit the LME Warrant Holder and/or any Persons authorised by the LME Warrant Holder to the place of storage of the Goods to which the LME Warrant refers, subject to the compliance by the LME Warrant Holder or such Person(s) authorised by the LME Warrant Holder with all formalities prescribed by the relevant authorities and subject to all conditions as stated in Clause 51.2 and 51.3 below.

51.2 Access to and information about the Goods to which the LME Warrant refers shall be given only on production of the relevant original LME Warrant. Notwithstanding the aforesaid, the Company shall have the right to allow access to and to furnish information about the Goods stored with the Company to any other party should this be necessary in connection with the verification of LME Warrants by any relevant banking institution or authority.

51.3 The following conditions shall be applicable to Persons granted admittance to the place of storage by the Company: -

(i) all Persons visiting the place of storage including personnel of vessels and vehicles reporting to the warehouse shall observe and fully comply with the Company's regulations;

(ii) admittance shall be granted only during Working Hours and with the attendance of the Company's employees;

(iii) all expenses incurred in relation to the visit shall be paid forthwith to the Company by the LME Warrant Holder;

(iv) in any events of Force Majeure as provided in Clause 48 above, the duty of the Company under Clause 51.1 shall be suspended;

(v) the LME Warrant Holder shall be liable for any damage caused directly or indirectly by any Persons who are granted admittance to the place of storage including but not limited to any damage caused to the place of storage, the Goods and other goods stored at the place of storage.

## **52. Services**

52.1 The Company shall carry out such work in respect of the Goods to which the LME Warrant refers, as may be required by the LME Warrant Holder, that are accepted by the Company, as evidenced in writing or by performance, such as sampling, handling, servicing, packing, re-packing, bundling, re-bundling piling, re-piling, lotting, weighing, etc. including delivery of the Goods at the remunerations agreed to and based on this LME Chapter.

52.2 Work required by the LME Warrant Holder shall only be executed by the Company after the LME Warrant has been lodged with the Company.

52.3 Any other work which the Company does not wish to undertake may, after the prior approval of the Company and after the LME Warrant has been lodged, be executed by or on behalf of the LME Warrant Holder, subject to any conditions laid down by the Company, under the supervision of the Company and against payment of the applicable charges. The Company shall not be liable for any loss, damage or expenses incurred or suffered by the LME Warrant Holder in carrying out such work.

52.4 The Company shall not be obliged to take any measures in respect of the Goods to which the LME Warrant refers, including but not limited to packing of the Goods, other than those which have been agreed to and which are considered to be customary for the Goods.

52.5 The Company shall be obliged to take such other measures referred to in Clause 52.4 only if they have been agreed upon and at the sole risk and expense of the LME Warrant Holder.

- 52.6 The Company shall be entitled, however, to take immediate action at the LME Warrant Holder's sole risk and expense if it is feared that failure to take such action might lead to the loss and/or damage to the Goods themselves or to other goods, to the storage place or to equipment, or harm or injury to any person, such action to be taken at the sole and absolute discretion of the Company.
- 52.7 The Company shall immediately, through the LME, notify the LME warrant holder of the action taken, but failure to give notification shall not give the latter any right of claim against the Company.
- 52.8 Without prejudice to the provisions of the preceding paragraph, the LME Warrant Holder shall indemnify the Company from and against any claims by third parties on account of damage caused to their goods by the Goods to which the LME Warrant refers including all court charges and legal costs (calculated on a full indemnity basis) in respect of all legal proceedings or intended proceedings pertaining thereto.

### **53. Insurances**

- 53.1 The Goods shall be insured by the LME Warrant Holder and the Company will not be under any duty or obligation whatsoever to take out any insurance in respect of the Goods or any part thereof.

### **54. Damage or Destruction of the Goods**

- 54.1 If in the event of damage to the Goods to which the LME Warrant refers while the Goods are in the custody of the Company, whether resulting from any of the causes set forth in Clause 48.1 hereof or any other causes which are covered by insurance and the assistance of the Company for assessing such damage is desirable or necessary, such assistance will be rendered by the Company in its sole and absolute discretion against payment of such costs and expenses which may be involved and or such remuneration to be fixed by the Company for its assistance and services. The Company may make such assistance conditional upon payment of all amounts that are due to the Company by the LME Warrant Holder.
- 54.2 In the event that the Goods to which the LME Warrant refers are destroyed while the Goods are in the custody of the Company, whether resulting from any of the causes set forth in Clause 48.1 hereof or otherwise, the date of such destruction of the Goods shall count as the date of delivery to the LME Warrant Holder and the warehouse rent plus any increases therein and any other applicable costs shall be calculated up to and including this date regardless for so many months as have elapsed and have not been recorded in the LME Warrant as already paid, parts of months to count as full months. The Company shall notify, through the LME, the LME Warrant Holder of such destruction but without such LME Warrant Holder having any right of claim against the Company for any failure to give such notification. All warehouse rent plus any increases therein and any other applicable costs shall be payable forthwith by the Last known LME Warrant Holder.

### **55. Mutilation, destruction or loss of LME Warrant**



- 55.1 Erasures, deletions and amendments on or to the LME Warrant shall render the LME Warrant invalid. If the details which are the subject of any erasures, deletions and/or amendments on the LME Warrant are capable of being erased, deleted or amended (as the case may be) under the relevant regulations, including but not limited to the SWORD Regulations and Operating Procedures, the LME Warrant holder may apply for a replacement LME Warrant and a replacement LME Warrant may be issued in accordance with the relevant regulations and upon the LME Warrant holder surrendering the LME Warrant with the erasures, deletions and/or amendments and making payment of the expenses involved.
- 55.2 If a LME Warrant has been lost, stolen, damaged or has been destroyed, the party entitled to the LME Warrant shall make an application to the Company for nullification of the lost, stolen, damaged or destroyed LME Warrant and for delivery of the Goods or for a replacement LME Warrant to be issued. A replacement LME Warrant may be issued upon the completion of the procedures set out in Clauses 55.3, 55.4 and 55.5 and/or such other relevant procedures as the Company may determine and against the delivery by the party applying for a replacement LME Warrant of an indemnity in favour of the Company and upon the said party making payment of the expenses involved. Such party shall, mention in its application to the Company the cause of the loss, damage or destruction of the LME Warrant and the grounds on which the applicant bases his title to the Goods.
- 55.3 If enquiries made by the Company give no reason to doubt the truth of the grounds of the application, the Company may, at the expense of the applicant, publish such application by inserting two announcements at intervals of at least fourteen (14) days, each time in two (2) daily newspapers selected by the Company, inviting parties who believe they have a title to the Goods mentioned in the missing LME Warrant to oppose the delivery of the Goods or the issuance of a replacement LME Warrant to the applicant.
- 55.4 If within fourteen (14) days after the second announcement, no party opposes the said delivery of the Goods or issuance of a replacement LME Warrant, the missing LME Warrant may be nullified by the Company and delivery of the Goods or issuance of a replacement LME Warrant to the applicant may be effected. In ascertaining the nature and quantity of the Goods to be stated on the replacement LME Warrant, the Company shall rely on its own records as valid evidence thereof. The nullification of the missing LME Warrant shall immediately thereafter be published in the above-mentioned newspapers. By such nullification, the original LME Warrant shall have lost its value and all the Company's obligations arising from the original LME Warrant will cease.
- 55.5 In the event that an opposing claim to the Goods by a third party is made, the application shall not be granted until it shall have been established by a final and conclusive judgment, decision or decree of the Court that the applicant is the party entitled to the Goods.
- 55.6 The party who acquires delivery of the Goods shown on the replacement LME Warrant shall keep the Company indemnified from and against any and all claims which may be made against the Company as a result of the delivery of the Goods to such party. The Company will be entitled to require security to be given by such party in this respect prior to the delivery of the Goods to such party.

55.7 Any costs and expenses howsoever incurred by the Company in relation to the application including, but not limited to, court charges, stamp fees, legal costs (on a full indemnity basis) and disbursements incurred by the Company in respect of any legal proceedings or intended legal proceedings effected by or against the Company shall be borne by the applicant. The Company may demand an advance of money before considering the application.

## **56. Time Bar**

56.1 The Company shall be discharged from all liability in respect of any claims against the Company on account of loss, damage or decrease in quantity of the Goods to which the LME Warrant refers, or in general, on account of failure by the Company to comply with any of its obligations unless proceedings will have been commenced in respect of such claims within twelve (12) months of the occurrence of such loss, damage, decrease in quantity or failure by the Company to comply with its obligations.

56.2 In the event of any loss, damage or decrease in quantity of the Goods, the said period of twelve (12) months shall commence on the day after delivery of the Goods takes place.

56.3 In the event of total loss of the Goods, such period of twelve (12) months shall commence on the day after the Company has notified the Last known LME warrant holder of the loss or, if the Last known LME warrant holder no longer has the LME Warrant in its possession and should no subsequent holder come forward, the period of twelve (12) months shall commence one (1) week after the announcement of the loss in two (2) daily newspapers at least one of which is being published in the place where the Company has its registered office.

**ATTACHMENT 1**

CWT Commodity Logistics Pte Ltd

CWT Commodity Logistics (S) Pte Ltd

CWT Commodity Logistics (Malaysia) Sdn Bhd

CWT Commodity Logistics (Vietnam) Co Ltd

CWT Commodity Logistics Rotterdam B.V.