



FORWARDING AND WAREHOUSING CONDITIONS

CWT Commodities (USA) LLC

Effective as of February 2014

Customer acknowledges and agrees that the Company may amend this Forwarding and Warehousing Conditions from time to time and without notice. The Forwarding and Warehousing Conditions can be found at <http://www.cwtcommodities.com/fwtc.html>. Customer covenants and agrees to regularly visit the referenced website and read all such Forwarding and Warehousing Conditions. Customer's use of the Company's services expressly confirms Customer's intent to be bound by all Forwarding and Warehousing Conditions, as the same may be modified from time to time.

FORWARDING CONDITIONS

1. Definitions

“Agreement” shall mean any agreement, whether express, implied, written or oral, by which the Company offers and the Customer accepts the provision of the Services, and shall include without limitation any written contract and correspondence by fax and/or email between the Company and the Customer;

“Company” shall mean CWT Commodities (USA) LLC ;

“Customer” shall mean the party to whom the Company shall provide the Services pursuant to the Agreement and “Customer” shall mean one or any of them;

“Forwarding Conditions” shall mean the forwarding conditions of the Company stipulated herein and “Forwarding Condition” shall mean one or any of them;

“Goods” shall mean the goods in respect of which the Services shall be provided by the Company pursuant to the Agreement;

“Laws” shall mean all federal, state and local laws, statutes, codes, ordinances, rules, and regulations, including by way of example, but not of limitation, all laws and requirements of all governmental and quasi-governmental authorities, applicable to, or having jurisdiction over, the Services and/or the Goods, and “Law” shall mean one or any of them.

“Person” shall mean any individual, sole proprietorship, partnership, joint venture, limited liability company, trust, unincorporated organization, association, corporation, institution, entity or government (whether national, federal, state, county, city, municipal or otherwise, including, without limitation, any instrumentality, division, agency, body or department thereof);

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

“Services” shall mean any and all services provided or to be provided by the Company to the Customer pursuant to the Agreement, including the provision of any advice or information whatsoever;

“Working Hours” shall mean 8:30a.m. to 5:30p.m. New York time or other applicable local time on Mondays through Fridays, except those days designated as holidays by the Company.

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

2. Incorporation of Forwarding Conditions

2.1 These Forwarding Conditions shall apply to the Agreement and shall be deemed to be incorporated in and form part of the Agreement. The Customer shall be deemed to have received these Forwarding Conditions so long as the Company is able to provide evidence that these Forwarding Conditions have been sent or delivered to the Customer by ordinary dispatch, electronic mail, telex, ordinary or

prepaid post or fax or that these Forwarding Conditions have been drawn attention to or made reference to and/or otherwise made available to the Customer, including by way of example, but not of limitation, by internet access, regardless of whether the Customer expressly acknowledges receipt of these Forwarding Conditions.

- 2.2 Any variation to these Forwarding Conditions (including any special terms and conditions agreed between the parties) shall be inapplicable unless agreed to in writing by the Company. **THESE FORWARDING CONDITIONS EXPRESSLY LIMIT ACCEPTANCE TO THE FORWARDING CONDITIONS STATED HEREIN, AND ANY ADDITIONAL OR DIFFERENT TERMS OR CONDITIONS, WHETHER IN A PROPOSAL, PURCHASE ORDER, ACKNOWLEDGMENT, ACCEPTANCE OR OTHERWISE ARE REJECTED AND SHALL NOT APPLY UNLESS EXPRESSLY ASSENTED 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.**
 - 2.3 No agent or employee of the Company has the Company's authority to alter or vary these Forwarding Conditions. The Company is not a common carrier and the Company handles the Goods subject to these Forwarding Conditions.
 - 2.4 If any legislation is compulsorily applicable to any business or Services undertaken by the Company or the Services, these Forwarding Conditions shall, as regards such business or Services, be read as subject to such legislation and nothing in these Forwarding 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 these Forwarding Conditions shall to any extent be repugnant to such legislation, such part of these Forwarding Conditions shall as regards such business or Services be void to that extent but no further.
- 3. Owner of Goods, Title and Claims to Goods**
- 3.1 The Customer expressly warrants that they are either the owners or the authorized agents of the owners of the Goods and further warrants that they are authorized to accept and are accepting these Forwarding 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.
 - 3.2 Without prejudice to Clause 3.1, the Company shall have the right to enforce these Forwarding 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.
 - 3.3 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.

4. Sub-contracting

- 4.1 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.
- 4.2 Where the transportation, storage or other Services in respect of the Goods shall be 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.

5. Methods, Procedures and Routes

- 5.1 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.

6. Warehousing/Storage/Packing of the Goods/Containers

- 6.1 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.
- 6.2 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 insufficiency of the packing of the Goods.
- 6.3 If a container has not been packed or stuffed by the Company, the Company shall 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, provided, however, that the Company may be liable for loss or damage to the contents thereof, if, and only if, the container was supplied by or at the direction of the Company, and it is proven that, the unsuitability or defective condition (i) arose as a result of the negligence of the Company or (ii) would not have been apparent upon reasonable inspection by the Customer or Owner or any Person acting on behalf of either of them or (iii) arose as a result of the peculiarity of the Goods and such peculiarity was made known to the Company in advance; or
 - (d) the container not being sealed at the commencement of any transportation.
- 6.4 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, in the absence of any specific request in writing, the Company is not under an obligation to provide a container of any particular type or quality.

- 6.5 The Customer warrants that it has complied with all Laws relating to the nature, condition, packing, handling, storage and transportation of the Goods. The Customer further warrants that it will be responsible for any restriction or penalties which may be imposed by any authority for the Goods, for instance, limit of bonded storage not more than one year as may be imposed by the customs, or any other applicable rules; and Customer shall bear the responsibility for failure to comply with the laws or rules of such customs which may result in fines, penalties or confiscation.

7. Documents to be provided to the Company

- 7.1 The Customer shall ensure that all instructions, information and documents required to be provided to the Company for the receipt and dispatch of the Goods by the Company are accurate and adequate and are promptly provided to the Company sufficiently in advance of the date by which the Services are to be performed.
- 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 guarantee for the receipt of the Goods in the absence of a requirement to do so set forth in any of the instructions, information and documents referred to in Clause 7.1 above that have been accepted by the Company, as evidenced in or by the Company's provision of such guarantee.

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 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. Tallying/Weighing/Measuring of the Goods

- 9.1 All operations such as superintending, sampling, taring, tallying, weighing, measuring, etc., and receiving the Goods under judicial survey, shall be undertaken only on the Customer's specific instructions to the extent accepted by the Company, as evidenced in writing or by the Company's performance thereof, and all costs thereof and relating thereto shall be payable by the Customer and, if first paid by the Company, shall be reimbursed to the Company by the Customer

forthwith upon demand.

- 9.2 Notwithstanding Clause 9.1 above, the Company shall be entitled, but not obliged, and the Customer hereby authorizes the Company to take any action with respect to the Goods which the Company considers to be necessary in the Customer's interest, at the Customer's expense and risk.

10. Delivery/Loading/Unloading

- 10.1 A statement by the Customer on the time of delivery of the Goods shall not be binding on the Company and the Company shall not be taken to guarantee the arrival time of the Goods.

- 10.2 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 limitation, 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 the aforesaid costs arise.

- 10.3 Any additional expenses of an exceptional nature, including without limitation, any higher wages arising from the loading and/or unloading of the Goods outside the Working Hours shall not be included in the Price, unless specifically stipulated in writing and agreed to by the Company, and shall be borne by the Customer.

11. Payment of Price, Freight, Duties, etc.

- 11.1 The Customer shall pay the Price to the Company within fourteen (14) days from the date of invoice in respect of the Price from the Company.

- 11.2 The Company shall be entitled to charge the Customer a reasonable amount in addition to the Price for any operations of an unusual nature and/or which requires additional time or effort to carry out.

- 11.3 Unless otherwise stipulated in writing and agreed to by the Company, the Price shall not include 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, crantage, 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 from the Company.

- 11.4 The Company shall be entitled to retain and be paid all brokerage fees, commissions, allowances and other remunerations received in connection with the Agreement, these Forwarding Conditions and/or the Services.

- 11.5 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.

- 11.6 The Customer shall be liable for any duties, taxes, imposts, levies, deposits or outlay of any kind whatsoever which shall be 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").
- 11.7 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.
- 11.8 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 same is not paid by such consignee or other Person forthwith on the due date for payment or upon demand by the Company.
- 11.9 The Company shall not be obliged to furnish or to procure any third party to furnish security for the payment of any freight, duties and/or other costs and expenses relating to the Goods should the same be demanded. 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 upon demand by the Company. Any and all consequences arising from the failure to comply with a demand to furnish security shall be borne by the Customer.
- 11.10 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, or the maximum rate of interest permitted by Law, whichever is less.
- 11.11 The Customer shall upon demand by the Company furnish security for any amount which the Customer is or may be indebted to the Company.
- 11.12 All sums 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.
- 11.13 All payments made by the Customer for any monies due and payable hereunder shall be deemed in the first place to have been made on account of non-preferential debts, regardless of any instructions which may have been given by the Customer to the Company at the time of payment.
- 11.14 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 11.10, 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.

12. Insurances

- 12.1 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 risks as may be notified by the Customer. The Company shall not incur any liability whatsoever to Customer or to any other Person 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 authorizes 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.
- 12.2 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, in its sole 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 to be covered.
- 12.3 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.
- 12.4 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 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.
- 12.5 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.
- 12.6 The Company shall not be responsible whatsoever as regards the choice of the insurer and/or its ability to pay under the insurances.
- 12.7 Where the Company utilizes 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.

13. Liability of the Parties

- 13.1 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.

- 13.2 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.
- 13.3 The Company shall not be liable to the Customer or to any other Person in respect of any damage to the Goods unless such damage is proven to have been caused by the gross negligence or willful misconduct of the Company.
- 13.4 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 while 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 willful misconduct of the Company.
- 13.5 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 the willful misconduct of the Company.
- 13.6 Without prejudice to the generality of the other provisions in these Forwarding Conditions, the Company shall not be liable for:
- (a) 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;
 - (b) 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;
 - (c) 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;
 - (d) 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;
 - (e) 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 New York or other applicable domicile and in any other parts of the world where the Customer is located. For the avoidance of doubt, the Company shall not be obliged to provide or perform any Services outside the Working Hours.
- 13.7 Where the Company carries out the transportation of the Goods, its obligations shall be governed by these Forwarding Conditions and not by any other agreements, enactments, legislations, rules or regulations whatsoever as may be applicable to a carrier.

13.8 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.

14. Warranty; No Consequential Damages; Limitation of Liability; Time Bar

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

14.2 **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.**

14.3 **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), (b) THE AGGREGATE PRICE PAID UNDER THE AGREEMENT, or (c) \$100,000.**

14.4 The Company may, by a written agreement with the Customer, accept liability in excess of the limits set out in Clause 14.3 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 will be provided upon request.

- 14.5 Notwithstanding anything set forth herein to the contrary, the Company shall have no liability to Customer or to any other Person whatsoever and the Company shall be discharged from any and all such liability to Customer whatsoever unless:
- (a) 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;
 - (b) 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.
- 14.6 Notwithstanding the provisions of Clause 14.4 above, in no event shall the Company be liable to the Customer or to any other Person with respect to any Service provided to the Customer whatsoever or howsoever arising, or with respect to any Service 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.
- 14.7 The defenses and limits for liability set forth in these Forwarding Conditions shall apply in any action against the Company whether such action is based on warranty, contract, negligence, strict liability, tort or otherwise.

15. Declaration

- 15.1 The Company shall be under no obligation whatsoever to make any declaration which may be required under any Law, convention or contract as to the nature or value of the Goods or as 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.

16. Force Majeure

- 16.1 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) war, terrorism, threat of war, declared, or undeclared, hostilities, warlike operations, civil war or civil commotion, terrorism, 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 sabotage, strike, lock-out, interference with communications, lack of transport, labor and/or storage accommodation;
 - (b) storm, fog, lightning, fire, 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) all other causes which the Company could not reasonably prevent.

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

16.3 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 11 hereof on which interest shall be chargeable.

17. Sale or Disposal of Goods

17.1 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.

17.2 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. Customer acknowledges and agrees that the notice provided for herein is commercially reasonable within the meaning of any applicable Law, including by way of example, but not of limitation, the Uniform Commercial Code in effect in the State of New York, as the same may be amended from time to time. All charges and expenses arising in connection with the storage, sale or disposal of the Goods shall be borne by the Customer.

18. Hazardous and other Goods

18.1 Except under special arrangements previously agreed to in writing by the

Company, the Company will 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 harbor or encourage vermin or other pests.

18.2 Except under special arrangements previously made in writing between the parties, the Company will not accept or handle any bullion, corns, precious stones, jewelry, 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 or in connection with the goods.

19. Lien and Right of Retention of Goods, Documents, etc.

19.1 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 Price 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.

19.2 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 rights are afforded by Law, these Forwarding Conditions, or otherwise, for money due to the Company whether in respect of the Price or for other expenses, charges or costs payable to the company by the Customer and/or the owner of the Goods. Such 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.

19.3 In the event that the Customer fails to make payment of the Price 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 utilize 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 shall be paid to the Customer.

20. Indemnity

- 20.1 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 6.3 above, (x) the Company's furnishing of a guarantee for the receipt of the Goods pursuant to Clause 7.1, (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).
- 20.2 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.
- 20.3. 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 Indmenitee.

- 20.4 This indemnity shall survive the expiration, termination, or cancellation of the Agreement.

21. Governing Law and Jurisdiction

- 21.1 The Agreement shall be governed by and shall be construed in accordance with the Laws of the State of New York, unless otherwise provided in the Agreement or required compulsorily in applicable Law.

- 21.2 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 commercial arbitration rules of the American Arbitration Association ('AAA') for the time being in force;
- (b) consent to service of process by registered mail or in any other manner permitted by New York Law; and
- (c) be bound by any award delivered by the arbitration in Nassau County, New York where the Company may take proceedings in.

- 21.3 Without prejudice to the generality of Clause 21.2, shall any applicable Law stipulate otherwise, causing the submission to arbitration in Nassau County, New York 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.

22. Miscellaneous

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

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

- 22.3 If any provision of the Agreement or these Forwarding 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 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 Conditions.

- 22.4 Customer shall comply with all Laws pertaining to the Goods.
- 22.5 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 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.
- 22.6 In the event of any conflict between the terms of the Agreement and these Forwarding Conditions, the terms of the Agreement shall govern and control.
- 22.7 The headings used herein are for convenience only and do not form a substantive part of these Forwarding Conditions.
- 22.8 By requesting that the Company perform the Services and/or by executing the booking confirmation and/or other documentation to which these Forwarding 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.

23. Termination

- 23.1 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 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.
- 23.2 In the event that the Customer terminates the Agreement unilaterally, the Company will be entitled to a reasonable compensation for the loss it suffers as a result of the termination of the Agreement.

WAREHOUSING CONDITIONS

1. Applicability of The Warehousing Conditions

Chapter I of the Warehousing Conditions (hereinafter referred to as the “Warehousing Conditions”) shall apply to and be deemed to be incorporated into the Agreement (hereinafter defined) when such agreement is between CWT Commodities (USA) LLC or any of its subsidiaries, affiliates or associates (hereinafter referred to as “the Company”), and its Customers (hereinafter referred to as “the Customer” or collectively as “Customers”) only. Chapter II of the Warehousing Conditions shall apply to and be deemed to be incorporated into the Agreement when such agreement is between CWT Commodities (USA) LLC as the Company and the LME Warrant Holder; provided that the LME Warrant shall state that these Warehousing Conditions are applicable. Notwithstanding anything set forth herein or in any Law to the contrary and to the extent permitted by Law, these Warehousing Conditions take precedence over any Law and these Warehousing Conditions, together with the Agreement, govern the transactions between the applicable Company on one hand and the Customer or LME Warrant Holder, as applicable, on the other.

2. Definitions and Interpretation

2.1 In the Warehousing Conditions, the following words and expressions shall have the meanings respectively assigned to them unless there is something in the subject or context inconsistent with such constructions:-

“Agreement” shall mean any agreement, whether express, implied, written or oral, by which the Company offers and the Customer accepts the provision of the Services, and shall include without limitation any written contract and correspondence by fax and/or email between the Company and the Customer;

“Customer” shall mean a Person with whom the Company has agreed to store or deliver the Goods or to arrange storage or delivery of Goods, or for whom the Company holds in custody the Goods, for which no warrant or Warehouse Receipt is in circulation and also includes a Person to whom the Company has issued or with whom the Company has agreed to issue a Warehouse Receipt, delivery order and/or release instructions for similar purposes in respect of such Goods;

“Goods” shall mean the goods to which the Warehouse Receipt or the LME Warrant (as the case may be) refers;

“Laws” shall mean all federal, state and local laws, statutes, codes, ordinances, rules, and regulations, including by way of example, but not of limitation, all laws and requirements of all governmental and quasi-governmental authorities, applicable to, or having jurisdiction over, the Services and/or the Goods, and “Law” shall mean one or any of them.

“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 shall be construed to be a document of title;

“LME Warrant Holder” shall mean a person who makes himself known as the holder of a LME Warrant to the Company by producing the LME Warrant;

“Person” & “party” shall mean any individual, sole proprietorship, partnership, joint venture, limited liability company, trust, unincorporated organization, association, corporation, institution, entity or government (whether national, federal, state, county, city, municipal or otherwise, including, without limitation, any instrumentality, division, agency, body or department thereof).

“Price” shall mean the price which shall be chargeable by the Company to the Customer for the provision of the Services;

“Services” shall mean any and all services relating to the receipt, storage and release of the Goods and arrangements related thereto that are provided, or to be provided, by the Company;

“Warehouse Receipt” shall mean a warehouse receipt issued or to be issued by the Company upon receipt of the Goods, and which is not and shall not be construed to be a document of title;

“Working Hours” shall mean 8:30a.m. to 5:30p.m. New York time or other applicable local time on Mondays through Fridays, except those days designated as holidays by the Company;

“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 shall 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.

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

CHAPTER I

1. Incorporation of the Chapter I of the Warehousing Conditions

- 1.1 Chapter I of the Warehousing Conditions herein shall apply to the Agreement and shall be deemed to be incorporated in and form part of the Agreement. The Customer shall be deemed to have received Chapter I of the Warehousing Conditions so long as the Company is able to provide evidence that Chapter I of the Warehousing Conditions have been sent or delivered to the Customer by ordinary dispatch, telex, ordinary or prepaid post or fax or that the Conditions have been drawn attention to or made reference to and/or otherwise made available to the Customer, including by way of example, but not of limitation, by internet access, regardless of whether the Customer expressly acknowledges receipt of Chapter I of the Warehousing Conditions.
- 1.2 Any variation to the Warehousing Conditions (including any special terms and conditions agreed between the parties) shall be inapplicable unless agreed to in writing by the Company. **THESE WAREHOUSING CONDITIONS EXPRESSLY LIMIT ACCEPTANCE TO THE WAREHOUSING CONDITIONS STATED HEREIN, AND ANY ADDITIONAL OR DIFFERENT TERMS OR CONDITIONS, WHETHER IN A PROPOSAL, PURCHASE ORDER, ACKNOWLEDGMENT, ACCEPTANCE OR OTHERWISE ARE REJECTED AND SHALL NOT APPLY UNLESS EXPRESSLY ASSENTED 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.** No agent or employee of the Company has the Company's authority to alter or vary these Warehousing Conditions.
- 1.3 If any legislation is compulsorily applicable to any business or Services undertaken by the Company, Chapter I of the Warehousing Conditions shall, as regards such business or Services, be read as subject to such legislation and nothing in Chapter I of the 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 Chapter I of the Warehousing Conditions shall to any extent be repugnant to such legislation, such part of Chapter I of the Warehousing Conditions shall as regards such business or Services be void to that extent but no further.

2. Owner of Goods, Title and Claims to Goods

- 2.1 The Customer expressly warrants that they are either the owners or the authorized agents of the owners of the Goods to which the transaction relates. 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 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. The Customer further warrants that they are authorized to accept and are accepting Chapter I of the 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.

- 2.2 Transfer of title to 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. Any transfer of title to the Goods or part thereof shall be binding on the Company only if the Company has recognized in writing to the third party to whom transfer of title is being made and a new agreement has been made between the Company and such third party, at which point, the Agreement with the original Customer in respect of the Goods or part thereof which is transferred shall be deemed to be terminated.
- 2.3 The Warehouse Receipt is not and shall not be construed to be a document of title. Subject to Clause 2.4 below, the Company will not recognize any other party as a party entitled to the Goods by reason only of any transfer and/or endorsement of or on a Warehouse Receipt relating to such Goods.
- 2.4 The Customer may not transfer, assign or otherwise dispose of the Warehouse Receipt or any right or obligation in connection therewith without the prior written consent of the Company, unless Warehouse Receipt was issued to the order of the bearer, in which case the same may be transferred, assigned or otherwise disposed without the prior written consent of the Company.
- 2.5 The Company will not proceed with any full or final Release under any Warehouse Receipt unless and until the **original** Warehouse Receipt is delivered to the Company.

3. Instructions, Tenders, etc.

- 3.1 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.
- 3.2 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.

4. Sub-Contracting

- 4.1 The Company shall be entitled to sub-contract its obligations to perform the Services, in whole or in part, on such terms and conditions the Company deems appropriate, in its sole discretion.
- 4.2 Where the storage or other Services in respect of the Goods shall be 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.

5. Methods and Procedure

- 5.1 Subject to express written instructions by the Customer, the Company shall be entitled at its sole and absolute discretion to decide on the means and procedure to be followed in the handling, storing and custody 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.

6. Accuracy of Description of the Goods and Quality of the Goods

- 6.1 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 Agreement is entered into.
- 6.2 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 does not, by the issuance of any such document, agree that such description, specification and/or particulars are correct or accurate, or admit the existence, good order and condition of the Goods described therein, or of the contents of any package or other shipping unit, except as may be otherwise provided by applicable statute, or specifically admitted in writing by the Company. 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 being unknown to it, even if the Goods should have been counted, weighed or measured in the presence of any of the Company's agents or servants and even if such agents or servants could have known the contents, weight, measurement, nature, quality or other particulars of the Goods.
- 6.3 The Company 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.

7. Weighing / Measuring of the Goods

- 7.1 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.

- 7.2 Without prejudice to the provisions of Clause 12, the Company shall be liable for any loss and/or damage to the Goods which may arise from the weighing and/or measurements of the Goods only if such weighing or measurements have been carried out by the Company on the Customer's instructions.
- 7.3 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.

8. Delivery of the Goods to Company

- 8.1 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.
- 8.2 Unless otherwise stated, 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.

9. Commencement of Services and Speed of carrying out the Services

- 9.1 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 3:00p.m. hours New York time or applicable local time, the next Business Day shall 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 New York are not authorized to close.
- 9.2 The Company shall determine the rate of speed at which orders for storage or delivery of Goods will be executed. The Company shall 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 requested by the Customer.

10. Times for Delivery and Collections of the Goods

- 10.1 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.

- 10.2 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 labor 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.

11. Place of Storage of the Goods

- 11.1 Unless otherwise agreed upon in writing by the Company, the Company shall be at liberty to decide where the Goods shall be 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 in the interest of the Goods, or by reason of circumstances beyond the Company's control, whereby such transfer shall be effected at the sole and absolute discretion of the Company and at the sole risk and expense 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.

12. Liability for Loss of or Damage to the Goods / Force Majeure

- 12.1 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 gross negligence or wilful misconduct of the Company, including by way of example, but not of limitation, 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 which have been 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) any loss, damage 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, terrorism, 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) any damage, loss 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.

12.2 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.

12.3 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 Customer and will form part of the debt due and owing to the Company by the Customer mentioned in Clause 20 hereof on which interest will be chargeable.

13. No Warranty; No Consequential Damages; Limitation of liability

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

13.2 **Limitation of Liability. NOTWITHSTANDING ANYTHING SET FORTH HEREIN, IN ANY WAREHOUSE RECEIPT 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 OTHER DAMAGES WHATSOEVER RELATING TO OR RESULTING FROM THE TRANSACTIONS CONTEMPLATED BY THE AGREEMENT AND/OR**

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 THESE 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.

- 13.3 **NOTWITHSTANDING ANYTHING SET FORTH HEREIN, IN ANY WAREHOUSE RECEIPT 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 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), (b) THE AGGREGATE PRICE PAID UNDER THE AGREEMENT, or (c) \$100,000.**
- 13.4 The Company may, by a written agreement with the Customer, accept liability in excess of the limits set out in Clause 13.3 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 will be provided upon request.

14. Admittance to place of storage

- 14.1 Provided prior written notice is given to the Company, the Company will admit the Customer and/or any Person authorized by the Customer to the place of storage of the Goods, subject to the compliance by the Customer or by such Person(s) authorized by the Customer with all formalities prescribed by the relevant authorities and subject to all conditions as stated in Clause 14.2 below.
- 14.2 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 the Company's regulations;
 - (ii) admittance shall be granted only during the Working Hours on three (3) days prior notice and with the attendance of the Company's employees;
 - (iii) the cost of attendance during the visit shall be paid to the Company by the Customer;

- (iv) in any events of Force Majeure as provided in Clause 12 above, the duty of the Company under Clause 14.1 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.

15. Services

- 15.1 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 Price and arranging of the aforementioned as agreed to and based on Chapter I of 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.
- 15.2 Notwithstanding any other provisions of Chapter I 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.

16. Hazardous and other Goods

- 16.1 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 are likely to 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. The packages containing such Goods shall be clearly and indelibly marked to show the hazardous nature of their contents. The attention of the Customer is directed to the Laws imposing criminal or civil penalties for failure to properly declare, mark and package such Goods. 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 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. The expression "goods likely to cause damage" includes goods likely to harbor 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.
- 16.2 The Company shall not be liable to Customer or any other Person, or have any

obligation to reimburse Customer or any other Person, for any loss or damage to the Goods occurring at any time by reason or by means of fire unless such fire shall have been caused by the gross negligence or wilful misconduct of the Company.

17. Insurances

- 17.1 The Company shall not be obliged to take out any insurance on the Goods for any risk 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 risks as may be notified by the Customer. The Company shall not incur any liability whatsoever to Customer or to any other Person in the event it elects not to procure any such insurance. All insurances on the Goods shall be taken out at the Customer's expense and risk and all insurances shall be subject to the usual exceptions and conditions of the policies of the relevant insurance company or underwriter. By requesting the Company to effect insurance, the Customer authorizes 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. The insured value shall be the value stated in writing by the Customer or the Company's estimate of the current value of the Goods. 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 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 to be covered.
- 17.2 When acting as authorized agent by virtue of Clause 17.1 hereof, 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.
- 17.3 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.

18. Damage or Destruction of the Goods

- 18.1 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 12.1 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.

18.2 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 12.1 hereof or otherwise, the date of destruction of the Goods shall count as the date of delivery to the Customer and the Price, 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.

19. Removal of the Goods by the Customer

19.1 Upon payment of all sums whatsoever owing to the Company and subject to the provisions of Chapter I of the Warehousing Conditions, the Customer may at any time remove the Goods from the custody of the Company. The Price, 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.

19.2 Notwithstanding the aforesaid, the Company shall have the right, at any time, to require the removal of the Goods received for storage 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 Chapter I of the Warehousing Conditions;
- (ii) it appears that due to the presence of the Goods, loss and/or damage to other goods, to the storage place or to equipment or harm or injury to person(s) is to be feared;
- (iii) if the Goods are perishable or liable to inherent changes which in the Company's opinion would result in a decrease in value of the Goods and the Customer has failed to provide instructions for the prevention of such events.

19.3 The Customer shall remain liable for payment of the Price, including warehouse rent plus any increases therein up to and including the date of the removal of the Goods.

19.4 Notwithstanding anything set forth in this clause, the Customer will be responsible for any restriction or penalties which may be imposed by any authority for the Goods, for instance, limit of bonded storage of not more than one year as imposed by the customs, or any other applicable rules; and Client shall bear the responsibility for failure to comply with the laws or rules of such customs which may result in fines, penalties or confiscation.

20. Prices, Rates and Payment Terms

20.1 The Price, 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, shall 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.

- 20.2 The Price and all other applicable costs and all verbal or written agreements between the Company and the Customer regarding rates and remunerations for work shall 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 shall be adjusted accordingly and become effective immediately.
- 20.3 Unless otherwise expressly agreed upon, the agreed rates for storage shall 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, an increase in the rates shall be effected in proportion to the additional floor space occupied as compared with that for the normal stacking of the Goods.
- 20.4 All payments by the Customer shall be made without any deduction, set-off, counterclaim or rebate whatsoever and shall 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.
- 20.5 In the event that the Customer fails to pay any amounts which are due and payable hereunder or immediately upon notification thereof by the Company, interest shall be payable on such amounts at the rate of 2% per month, or the maximum amount permitted by Law, whichever is less.
- 20.6 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 20.5, be liable to the Company for a further amount equivalent to 10% of the Indebtedness, or the maximum amount permitted by Law, whichever is less, on account of all clerical expenses which may be incurred by the Company in resorting to such proceedings or other means.
- 20.7 The Company may at any time require pre-payment of their expenses and such expenses shall be due and payable by the Customer forthwith.

21. Lien

- 21.1 All Goods received for storage by the Company shall be held by it subject to a general lien and right of retention for money due to the Company whether in respect of the storage of such Goods or other goods or for other charges or costs payable by the Customer and/or the owner of the Goods, whether such lien and rights are afforded by Law, including by way of example, but not of limitation, any lien or security interest arising under Section 7-209 of the Uniform Commercial Code in effect in the State of New York, as the same may be amended from time to time, the "New York UCC") or otherwise, and if the general lien is not satisfied within fourteen (14) days from the day when the expenses become payable, the

Goods will be sold by auction or otherwise at the Company's sole discretion and at the expense of the Customer and the proceeds of sale shall be applied to the satisfaction of the lien and expenses. Any balance of the proceeds from the sale of the Goods after the proceeds have been applied in or towards the satisfaction of such lien and expenses shall be paid to the Customer. 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. Storage fees shall be charged for the Goods detained under the lien.

22. Sale or Disposal of the Goods

22.1 Without prejudice to the provisions of Clause 21 of Chapter I 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.

22.2 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. Customer acknowledges and agrees that the notice provided for herein is commercially reasonable within the meaning of any applicable Law, including by way of example, but not of limitation, the New York UCC. The sale shall be effected by auction or private contract or otherwise at the sole and absolute discretion of the Company.

22.3 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.

23. Time bar

23.1 In no event shall the Company be liable to the Customer or to any other Person 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.

24. Governing Law and Jurisdiction

24.1 The Agreement shall be governed by and shall be construed in accordance with the Laws of the state of New York, unless otherwise provided in the Agreement or required compulsorily in applicable Law.

- 24.2 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:
- (i) submit to the commercial arbitration rules of the American Arbitration Association ('AAA') for the time being in force;
 - (ii) consent to service of process by registered mail or in any other manner permitted by Law; and
 - (iii) be bound by any award delivered by the arbitration in Nassau County, New York where the Company may take proceedings in.
- 24.3 Without prejudice to the generality of Clause 24.2, shall any Law stipulate otherwise, causing the submission to arbitration in Nassau County, New York inapplicable or unenforceable, the Customer agrees that the legal action or proceedings shall be brought in the competent court where the Company is domiciled.

25. Indemnity

- 25.1 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 Warehousing 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 by 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 Indemnatee following the instructions of any Customer Party or implementing such instructions, (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 and all claims by any Person that its title to the Goods are superior to that of the Customer, (x) arising under or pursuant to Clause 6.1 above, (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) arising under or pursuant to Clause 16.1 above, (xiii) failure by any Customer Party to pay any indebtedness, or (xiv) any injury to or death of persons or damage to property caused by or resulting from the Goods and/or the action or inaction on the part of any Customer Party. 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).
- 25.2 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.

25.3. To the extent permitted by Law, if 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.

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

26. Miscellaneous

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

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

26.3 If any provision of the Agreement or these 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 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 Warehousing Conditions.

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

26.5 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 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.

26.6 In the event of any conflict between the terms of the Agreement and these Warehousing Conditions, the terms of the Agreement shall govern and control.

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

26.8 By requesting that the Company perform the Services and/or by executing the booking confirmation and/or other documentation to which these 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.

27. Termination

- 27.1 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 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.
- 27.2 In the event that the Customer terminates the Agreement unilaterally, the Company will be entitled to a reasonable compensation for the loss it suffers as a result of the termination of the Agreement.

CHAPTER II
APPLICABLE TO LME WARRANT HOLDERS

1. Applicability of Chapter II of the Warehousing Conditions

1.1 The provisions of this Chapter II shall apply only to the legal relationship existing between CWT Commodities (USA) LLC as the Company and the LME Warrant Holder. The moment the LME Warrant Holder for any reason whatsoever surrenders the LME Warrant to the Company, the provisions of this Chapter II shall 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 hereof shall be applicable.

2. Right to Delivery

2.1 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.

2.2 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 Chapter II of these Warehousing Conditions 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.

3. Validity of the LME Warrant

3.1 The LME Warrant shall be and remain valid until it is presented to the Company for cancellation.

4. Price and Payments

4.1 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, extraordinary 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.

4.2 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 any Person 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 costs, stamp fees, legal fees (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.
- 4.3 All payments shall be made without any deduction, set-off, rebate or counterclaim whatsoever and shall 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 LME Warrant Holder to the Company at the time of payment.
- 4.4 In the event that the LME Warrant Holder 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 or the maximum amount allowed by Law, whichever is less.
- 4.5 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 shall, in addition to the Indebtedness and interest payable under Clause 4.4 above, be liable to the Company for a further amount equivalent to 10% of the Indebtedness or the maximum amount allowed by Law, whichever is less, on account of all clerical expenses which may be incurred by the Company in resorting to such proceedings or other means.

5. Liability for Loss of or Damage to the Goods / Force Majeure

- 5.1 The Company shall 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. 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 which have been 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.
- 5.2 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.
- 5.3 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.
- 6. No Warranty; No Consequential Damages; Limitation of Liability**
- 6.1 **THE COMPANY MAKES NO REPRESENTATION OR WARRANTY WITH RESPECT TO THE GOODS OR SERVICES.**
- 6.2 **Limitation of Liability. NOTWITHSTANDING ANYTHING SET FORTH HEREIN, IN ANY LME WARRANT 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 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 THESE 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.**
- 6.3 **NOTWITHSTANDING ANYTHING SET FORTH HEREIN, IN ANY WAREHOUSE RECEIPT 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 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), (b) THE AGGREGATE PRICE PAID UNDER THE AGREEMENT, or (c) \$100,000.

6.4 The Company may, by a written agreement with the Customer, accept liability in excess of the limits set out in Clause 6.3 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 will be provided upon request.

7. Place of Storage of the Goods

7.1 Unless otherwise agreed in writing by the Company, the Company shall be at liberty to decide where the Goods shall be 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 in the interest of the Goods, or by reason of circumstances beyond the Company's control, whereby such transfer shall be effected at the sole discretion of the Company. The Company shall 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.

8. Admittance to place of storage

8.1 Provided prior written notice is given to the Company, the Company will admit the LME Warrant Holder and/or any Persons authorized 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) authorized by the LME Warrant Holder with all formalities prescribed by the relevant authorities and subject to all conditions as stated in Clause 8.2 and 8.3 below.

8.2 Access to and information about the Goods to which the LME Warrant refers shall be given only on production of the relevant 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.

8.3 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 the Company's regulations;
- (ii) admittance shall be granted only during Working Hours on three (3) days prior notice and with the attendance of the Company's employees;
- (iii) the cost of attendance during the visit shall be paid forthwith to the Company by the LME Warrant Holder;
- (iv) in any event of Force Majeure as provided in Clause 5 above, the duty of the Company under Clause 8.1 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.

9. Services

- 9.1 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 Chapter II of the Warehousing Conditions.
- 9.2 Work required by the LME Warrant Holder shall only be executed by the Company after the LME Warrant has been lodged with the Company.
- 9.3 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 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 LME Warrant Holder in carrying out such work.
- 9.4 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 in writing and that are considered to be customary for the Goods.
- 9.5 The Company shall be obliged to take such other measures referred to in Clause 9.4 as being excluded only if they have been agreed upon in writing by the Company, and shall only be undertaken at the sole risk and expense of the LME Warrant Holder.
- 9.6 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.
- 9.7 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.

10. Insurances

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

11. Damage or Destruction of the Goods

- 11.1 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 5.1 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 shall be rendered by the Company in its sole and absolute discretion, and Customer shall pay the Company any and all costs and expenses incurred by the Company 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.

- 11.2 In the event that the Goods to which the LME Warrant refers are destroyed while the Goods are in the custody of the Company resulting from any of the causes set forth in Clause 5.1 hereof or otherwise, the date of such destruction of the Goods shall count as the date of delivery to the Last 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 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.

12. Mutilation, destruction or loss of LME Warrant

- 12.1 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. In ascertaining the nature and quantity of the Goods to be stated on the duplicate LME Warrant, the Company shall rely on its own records as valid evidence thereof.
- 12.2 If a LME Warrant has been lost, stolen, damaged or has been destroyed, the party entitled to the LME Warrant may 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 12.3, 12.4 and 12.5 and/or such other relevant procedures as the Company may determine and provided that the party applying for a replacement LME Warrant indemnifies the Company for any all Losses (as defined in Clause 15.1) it may suffer as a result to the issuance of a replacement LME Warrant and upon the said party making payment of the expenses involved. Such party shall, if possible, 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.
- 12.3 If inquiries 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 by means of a writ.

- 12.4 If within fourteen (14) days after the second announcement, no party opposes by means of a writ or other order, 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 duplicate 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 shall cease.
- 12.5 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.
- 12.6 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 Losses as a result of the delivery of the Goods to such party. The Company shall be entitled to require security to be given by such party in this respect prior to the delivery of the Goods to such party.

13. Time Bar

- 13.1 In no event shall the Company be liable to the Customer or to any other Person with respect to any 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 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.
- 13.2 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.
- 13.3 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.

14. Company's Liability to LME Warrant Holders

- 14.1 The Company has complied with all applicable regulations, including but not limited to clause 2.1 of the Agreement between the Company and The London Metal Exchange Limited (the "LME Agreement") in receiving the Goods and placing it on the LME Warrant.
- 14.2 The Company will comply with the requirements of the LME Agreement concerning the storage of the Goods.
- 14.3 The Company is not aware of any latent defects in the Goods.

15. Indemnity

- 15.1 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 Warehousing 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 by 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 Customer Party, (vi) an Indemnatee following the instructions of any Customer Party or implementing any such instructions, (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 and all claims by any Person that its title to the Goods are superior to that of the Customer, (x) any claims by third parties on account of damage caused to their goods by the Goods to which the LME Warrant refers including, (xi) failure Customer Party to pay any indebtedness, or (xii) any injury to or death of persons or damage to property caused by or resulting from the Goods and/or the action or inaction on the part of any Customer Party. 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).
- 15.2 The indemnification provided for herein is without prejudice to any other rights or remedies any Indemnatee 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 Indemnatee as a result of any claim for indemnification hereunder.

- 15.3. 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.
- 15.4 This Indemnity shall survive the exportation, termination or cancellation of the Agreement.

16. Miscellaneous

- 16.1 Customer is duly authorized to enter into the Agreement and these Warehousing Conditions and to perform its obligations under the Agreement and these 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.
- 16.2 No course of prior dealings and no usage of trade will be relevant to supplement or explain any terms used in the Agreement or in these Warehousing Conditions. The Agreement and these Warehousing Agreement will be binding upon Customer and its successors and permitted assigns.
- 16.3 If any provision of the Agreement or these 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 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 Warehousing Conditions.
- 16.4 Customer shall comply with all Laws pertaining to the Goods.
- 16.5 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 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.
- 16.6 In the event of any conflict between the terms of the Agreement and these Warehousing Conditions, the terms if the Agreement shall govern and control.
- 16.7 The headings used herein are for convenience only and do not form a substantive part of these Warehousing Conditions.
- 16.8 By requesting that the Company perform the Services and/or by executing the booking confirmation and/or other documentation to which these 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.

17. Termination

- 17.1 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 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.

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