



Standard Terms and Conditions of Business* of MSC Gate Bremerhaven GmbH & Co. KG

In effect as of June 1st, 2015

*English translation: in cases of dispute, the German text shall be binding

Contents

		Page
I.	GENERAL TERMS	3
Sec. 1	Scope of Applications	3
Sec. 2	Data Transfer . Performance Period . Third Parties	3
Sec. 3	Safety Rules	4
Sec. 4	Domestic Authority/Non Smoking Rule	5
II.	HANDLING OF CARGO	5
1.	GENERAL	5
Sec. 5	Handling Procedures	5
Sec. 6	Docking . Shifting	6
Sec. 7	Checking the description and weight of goods	6
Sec. 8	Special characteristics of goods . Taking back of goods	7
Sec. 9	Dangerous goods	8
Sec. 10	Availability of Goods. Intermediate Storage	9
Sec. 11	Inspection of goods	9
2.	CARGO	10
Sec. 12	Necessary Information	10
Sec. 13	Loading onto the Vessel	11
Sec. 14	Stoppage of loading . Return of goods	12
3.	GOODS TO BE DISCHARGED	12
Sec. 15	Discharge list	12
Sec. 16	Discharge	13
Sec. 17	Taking over . Acknowledgement of receipt	13
Sec. 18	Delivery against Declaration of Release from the Customer	13



III.	STORAGE	14
Sec. 19	Storage	14
Sec. 20	Information . Special and Dangerous Goods	14
Sec. 21	Acknowledgement of Receipt	15
Sec. 22	Duration of Storage	15
Sec. 23	Sale	15
IV.	LIABILITY	16
1.	LIABILITY OF THE COMPANY	16
Sec. 24	Liability during handling of cargo	16
Sec. 25	Liability towards third parties	17
Sec. 26	Liability during storage	17
Sec. 27	Declaration of value	18
Sec. 28	Notice of Damage	18
Sec. 29	Damage to transport vehicles/objects owned by the customer or a third party	19
Sec. 30	Limitation Period	19
2.	LIABILITY OF THE CUSTOMER	20
Sec. 31	Liability of the customer	20
V.	COMMON TERMS	21
Sec. 32	Lien and Right of Retention. Set-Off	21
Sec. 33	Termination	21
Sec. 34	Applicable law . Place of Performance. Jurisdiction	22
Sec. 35	Partial Invalidity	22



I. GENERAL TERMS

Section 1 Scope of Application

- (1) These conditions apply to the handling of cargo, storage and all other services carried out by MSC Gate Bremerhaven GmbH & Co. KG (in the following: "Company") for its customer. These conditions do not apply towards consumers in the meaning of section 14 BGB (German Civil Code).
- (2) Agreements deviating from these conditions must be made in writing to be valid. Conflicting terms and conditions of business of the customer will not be accepted and are deemed to have been waived.
- (3) Apart from these conditions, the customer shall observe the regulations under public law regarding the use of harbours, especially the Bremische Hafенordnung, and the customs handling.
- (4) If nothing else has been agreed, the remuneration for services carried out by the Company shall be determined according to the "Price and Condition List" of the Company, latest edition, which can be inspected on the internet site www.msccgate.eu

Section 2 Data Transfer . Performance Period . Third Parties

- (1) For the exchange of information the customer shall use the methods of data transfer implemented by the Company, especially forms and Electronic Data Interchange (EDI).
- (2) The Company has the right, but is not obliged, to check the authenticity of signatures on orders and messages, as well as the authorization of the signatory.
- (3) The Company may demand the customer to accept its services at any time at a point of time fixed by it, also outside regular working hours.
- (4) The Company may for the performance of the order at any time engage a third party and/or somebody else's equipment. The Company is free in the choice of the third party/the equipment. The provision in § 19 (2) remains unaffected.



- (5) If the customer uses the services of a third party regarding the conclusion or performance of the contractual relationship with the Company, the third party is not entitled to make binding declarations or accept payment on behalf of the Company unless the Company has given an express power of attorney in writing.

Section 3 Safety Rules

- (1) On all facilities of the Company the provisions of the ISPS-Code (International Ship and Port Facilities Security Code) are applied. The Company may take all measures that are necessary for the fulfilment and execution of the provisions of the ISPS-Code. The customer has to bear the costs which are incurred hereby in form of a safety fee which is charged per container / means of transport. The amount of the safety fee is listed in the Price and Condition List (see sec. 1 sub-section (4)).

- (2) The customer warrants:

- a) that it is not a terroristic, criminal or anti-constitutional association, organisation, union of people or person (hereinafter together called "Terrorist") and that it does not have any commercial or other relationships to Terrorists; and
- b) that it will take appropriate measures in its business operation to secure compliance with the regulations of the Council (EC)-Regulations for the Combating of Terrorism and the applicable US-American Anti-Terrorism Laws, each in the latest valid and applicable version; and
- c) to check according to the laws and provisions mentioned in sub-section (b) above according to the laws and provisions mentioned in sub-section (b) above its employees, contractual partners and all other associations, organisations, unions of people and persons which directly or indirectly receive economic resources from it and to immediately inform the Company in writing of any positive inspection results.

- (3) The Company may at any time deny persons and/or means of transport access to the facilities if objections as to safety exist and/or refuse acceptance or delivery of stored or handled or delivered goods and/or take measures which it deems necessary to prevent risks for the safety and public order on and at the facilities of the Company. Every measure requested by authorities in this respect is a



"necessary measure" in the sense of this provision. The customer has to bear the costs incurred thereby to the extent it has contributed by its negligent acts or omissions to the taking of these measures.

- (4) Should goods and/or means of transport (e.g. containers) be confiscated by authorities on the premises or at the facilities of the Company and/or should otherwise – for whatever reason – the delivery of goods and/or means of transport (e.g. containers) to the customer or any third party be refused by authorities and should the customer, its customers, servants or agents have contributed to the authority's order by a negligent act or omission, the customer shall bear the storage costs listed in the Price and Condition List or otherwise agreed for the time during which the goods and/or means of transport (e.g. containers) remain on the terminal. The customer has further to reimburse the Company for all costs incurred by the authority's measures.

Section 4 Domestic Authority/Non Smoking Rule

- (1) The Company has the exclusive domestic authority on all its premises.
- (2) Smoking is prohibited at all facilities of the Company, also in particular on board of vessels, on the quays, in sheds, storage rooms and warehouses. The customer is expressly referred to this interdiction.

II. HANDLING OF CARGO

1. General

Section 5 Handling Procedures

- (1) The Company acts for the customer only upon a written order in the required form. The Company may at any time refuse the acceptance of an order for good reason.
- (2) Orders may only refer to contents provided for in the forms and specimens and may only contain declarations and references by the customer which are generally admitted or have been expressly consented to by the Company.
- (3) The goods will generally be handled by employees of the Company and with its equipment.



- (4) The customer and its servants and agents are obliged, as far as necessary, to assist with the handling.
- (5) Also ancillary works relating to the handling of goods are generally performed by employees of the Company and with its equipment. The Company may, however, allow the customer to perform such works under its supervision.
- (6) Working with a vessel's equipment in the area of the facilities of the Company needs the consent of the Company.
- (7) The Company will carry out the orders in a sequence decided at its discretion. Performance within a certain period of time can only be demanded when explicitly confirmed in writing.
- (8) The Company is entitled to reject an order from the customer for direct transfer.

Section 6 Docking . Shifting

Vessels have to dock at the berth allocated by the Company. They shall immediately be shifted at the demand of the Company if this is necessary to ensure a smooth operation procedure or for other essential reasons; the Company is entitled to take all necessary action at the expense and risk of the customer if this demand is not complied with.

Section 7 Checking the description and weight of goods

- (1) The Company is entitled to check the contents of the packages/means of transport if there is reason to question the correctness of the description of goods.
- (2) The Company is entitled, but under no circumstances obliged, to weigh the goods at the expense of the customer if weight information is missing or there is any reason to question the correctness. The customer shall bear the costs of weighing.



Section 8

Special characteristics of goods . Taking back of goods

- (1) If goods require special treatment during handling and/or storage due to their special characteristics (for example precious objects, fragile, bulky or loose goods, measures, unusual centre of gravity) the customer shall inform the Company in detail and in good time of these characteristics. The customer shall take or arrange the necessary measures for the safe handling of refrigerated containers or goods requiring a certain temperature, as well as of perishable goods.
- (2) If delivered or discharged goods may not be made available, loaded or delivered due to legal regulations or official orders, the customer is obliged to immediately take back these goods. If the customer does not immediately comply with the demand to take the goods back, the Company is entitled to destroy the goods at the expense of the customer or to dispose of them in other ways in its free discretion.
- (3) The Company is entitled to refuse acceptance of goods or demand taking back of goods if it is not proven that on-carriage has been arranged.
- (4) If, after acceptance of the goods, it appears that they endanger persons, assets or the environment , the customer at the demand of the Company has to remove the cause of danger (e.g. to repair the goods , to transfer them into other containers or to remove them from the premises). Should the customer not immediately comply with a respective demand, the Company is entitled to take necessary measures at the expense and risk of the customer (without being obliged hereto). In case of imminent danger, the latter may be done also without prior demand to the customer.

Section 9

Dangerous goods

- (1) Prior to the delivery of goods which due to their specific characteristics can be dangerous while being handled, being prepared for further transport or being stored, the Company shall be informed in writing or in any other readable form about the precise nature of the danger and, if necessary, about the precautionary measures to be taken.
- (2) If the handling of dangerous goods is subject to special legal or official regulations



the customer is obliged to ensure compliance with these regulations. Packages, containers or trailers containing dangerous goods must meet the regulations for the transport of dangerous goods.

(3) The Company shall be given in writing or in other readable form all necessary information regarding legal and local safety regulations required for the handling and making available of dangerous goods. This information comprises in particular the details to be stated in the declaration of the responsible person or in the dangerous goods list in accordance with the German Regulation on the Carriage of Dangerous Goods at Sea (GGVSee). With respect to containerised dangerous goods, the container number must be stated additionally. The information must at least contain the following details without being restricted hereto (for containerised goods and general cargo):

- Correct technical name of dangerous goods
- gross mass, in case of explosive substance and objects with explosive material also the net mass of the explosive material
- kind of packages, and in case of substances that are carried under N.O.S. or collective name, the packing group
- number of packages
- IMO Dangerous Goods Declaration according to § 8 GGVSee
- IMDG Code
- class, sub-class according to dangerous goods regulation (sea)

(4) The Company is entitled to destroy or otherwise render harmless any dangerous goods handed over to it without the information in accordance with the above sub-sections without becoming liable to indemnify the customer, provided that the goods present a danger. The customer has to bear the costs of such measures.

(5) The Company may at any time refuse the handling or the storage of dangerous goods or to make it dependent on special conditions.



Section 10

Availability of Goods . Intermediate Storage

- (1) The goods taken over by the Company will be made available at the Company's facilities until they are being taken over by the consignee in case of incoming transports or by the vessel or other means of transport in case of outgoing transports.
- (2) If goods are made available for more than 4 days, they shall be treated as goods put in store (section 19 et seq.).
- (3) After elapse of the period mentioned in sub-section (2) the Company may at its discretion require that the goods be collected by the entitled person. If this demand is not complied with within a period set by the Company, which must be at least 3 days, or if the entitled person is not known or cannot be found, the Company may at the expense of the entitled person place the goods into alternative storage or store the goods with a third party. Should the market value of the goods presumably not cover any more the storage and other costs, the Company may have the goods sold or destroyed at the expense and risk of the customer or the entitled person.

Section 11

Inspection of goods

- (1) Unless expressly agreed otherwise in writing, the Company will inspect containers / means of transport / other cargo units at the time of delivery only by a simple visual control at the accessible parts as to any recognisable serious defects impacting their transportability. Only such defects are considered to be serious which are straight away perceptible to have a direct impact on the transportability and functional capability of the means of transport / containers or other cargo unit. Should goods be accepted without any special means of transport / container / cargo unit, they are at the time of acceptance inspected by simple visual control only at the accessible parts as to serious defects to the packaging or – in case of unpacked goods – the outward condition.
- (2) Any inspection of means of transport / containers / cargo units / goods upon delivery by the Company exceeding the measures according to sub-section (1) needs to be agreed upon separately by the parties in writing.



- (3) Any complaints have to be made in writing by the customer or the receiving third party immediately upon delivery on a standard form of the Company. This form has to be signed. The claimed defects have to be documented by appropriate details by the customer or the receiving third party.
- (4) Should in view of the Company the means of transport / containers / cargo units / goods not be fit for transport, the Company may refuse their acceptance.
- (5) The Company is entitled, without being obliged thereto, to inspect the contents of the means of transport / containers / cargo units before their delivery or acceptance if there are indications that the statements made in the accompanying documentation are not correct, that the correctness of the statements has not been proven by sound documents or if the means of transport / containers / cargo units have not been sealed or a seal has been damaged. The customer has to bear the costs incurred by such measures of the Company except in case that a seal had been damaged by the Company after acceptance.

2. Cargo

Section 12 Necessary Information

- (1) Prior to delivery of cargo, the customer and the deliverer are obliged to state the following in electronic format (see sec. 2 sub-section 1):
 - a) name and address of the customer
 - b) name of the vessel
 - c) port of discharge
 - d) vessel's voyage number
 - e) container number
 - f) size and type of the container (according to ISO-Code) and eventual over-height, -breadth, -length
 - g) contents, including dangerous goods description according to GGVSee
 - h) gross and net weight
 - i) required temperature in case of refrigerated containers
 - j) booking number
- (2) In case of non-containerised goods the details as per sub-section (1) have to be stated, however instead of those of lit. e) to h) the following:



- e) number, mark and identification number of the parcels
 - f) type of packaging
 - g) weight; for items weighing more than 1,000 kg: individual weights; for goods based on size (measuring more than five times): volume
 - h) contents (precious objects, inflammable or otherwise dangerous goods, anaesthetics, arms; goods that are subject to export and transit bans or restrictions have to be marked as such)
- (3) Prior to the take-over of the goods by the vessel, the customer is obliged to carry out in time all procedures with regard to the goods as required by law or the authorities.
- (4) If the information in accordance with sub-sections (1) and (2) is given by the customer too late or not at all, or if the customer does not fulfil his obligations in accordance with sub-section (3), the loading might not be carried out; the customer is liable for the costs suffered by the Company thereby.
- (5) The loading of containers and other goods onto the vessel will be carried out in accordance with the CAL (Container Announcement List). Prior to the loading of containers containing dangerous goods the Company shall be informed in writing about the correct stowage location.
- (6) Concerning the inspection of delivered goods, section 11 is applicable.

Section 13 Loading onto the Vessel

- (1) The goods will be handed over to the vessel named according to section 12 sub-section 1 lit. (b) in accordance with the stowage plan agreed between the parties. The goods shall be regarded as having been taken over by the vessel when they have been set down on the vessel. Apparent external damage shall be notified in writing to the Company by the ship's command while the goods are being handed over; failing this, the goods are deemed to have been taken over according to the contract.
- (2) The ship's command shall be informed in writing about the dangerous goods to be loaded. The ship's command has to return the signed document to the Company.



Section 14

Stoppage of loading . Return of goods

- (1) Goods accepted for shipment will be held back if the customer or the deliverer demands this in writing or in the form requested by the Company. Costs incurred by and consequences following from these measures are to be borne by the customer.
- (2) The deliverer is entitled to take back the goods after payment of all costs incurred.

3. Goods to be discharged

Section 15

Discharge list

- (1) The customer shall provide a discharge list to the Company at least 48 hours prior to commencement of discharge.
- (2) The discharge list shall contain for containerised cargo the following information:
 - a) name and address of the customer and the consignee
 - b) name of the vessel
 - c) vessel's voyage number
 - d) number of the container and statement whether it is full/empty
 - e) size and type of the container (according to ISO-Code) and eventual over-height, - breadth, -length
 - f) gross and net weight
 - g) contents, including dangerous goods description according to GGVSee
 - h) required temperature in case of refrigerated containers
 - i) stowage place
- (3) In case of non-containerised goods the details as per sub-section (2) have to be stated, however instead of those of lit. e) to h) the following:
 - e) number, mark and identification number of the parcels
 - f) type of packaging
 - g) weight; for items weighing more than 1,000 kg: individual weights; for goods



based on size (measuring more than five times): volume
h) contents (precious objects, inflammable or otherwise dangerous goods, anaesthetics, arms; goods that are subject to export and transit bans or restrictions have to be marked as such)

Section 16 Discharge

The vessel has to deliver the goods in accordance with the discharge list.

Section 17 Taking over . Acknowledgement of receipt

The goods shall be regarded as having been taken over by the Company when being tackled on board. At the demand of the customer, the Company shall issue an acknowledgement of receipt for all goods received. As regards an inspection of the goods, section 11 will be applied.

Section 18 Delivery against Declaration of Release from the Customer

- (1) The Company is entitled to decline delivery of goods until the vessel has been completely discharged if, at the Company's discretion, this would otherwise impair the proper execution of the handling operation and the necessary overview over the consignments to be delivered.
- (2) The discharged goods will be delivered to the person who presents a document for release in electronic form (see section 2 sub-section 1) or in other readable form from the customer in his favour. The consignee shall prove his identity at the demand of the Company, the latter is however not obliged to check same. To feeder services, section 12 sub-section (5) is applicable.
- (3) Reception of goods shall be confirmed to the Company by the consignee or the customer.
- (4) Delivery of goods will only be carried out after payment of all expenses and costs incurred by the Company.



III. STORAGE

Section 19 Storage

- (1) The Company is obliged to store and to keep the goods if storage was agreed and in cases provided for in section 10 sub-section (2). They shall be guarded in the customary way.
- (2) The Company is entitled to place the stored goods in alternative storage on its premises; the new place of storage will be communicated to the depositor. The Company is only authorized to store the goods in a third party's warehouse if explicit or tacit approval has been given by the depositor.
- (3) Against payment of a fee, the depositor is entitled to inspect the goods or have them inspected by an authorized person during working hours upon agreement of the Company and in compliance with the Company's safety regulations.
- (4) Without special agreement, the Company will not carry out work in order to maintain or improve the goods. The Company is not obliged, but entitled to carry out such measures at the expense of the depositor if they seem to be necessary in order to prevent damage to the environment, the goods, to other goods or the storerooms.

Section 20 Information . Special and Dangerous Goods

- (1) The depositor shall specify the nature of goods in a way that enables proper storage.
- (2) If the goods require special treatment during storage due to their special characteristics (see Section 8 sub-section 1), the customer shall inform the Company about these characteristics in precise detail prior to the storage. Prior to the delivery of the goods the Company shall be informed in good time in writing or any other readable form about the exact nature of the danger and, if necessary, about precautionary measures to be taken. Sections 7, 8 and 9 apply mutatis mutandis.



Section 21 Acknowledgement of Receipt

The Company may issue an acknowledgement of receipt after storage. Apparent external damage to the goods or their packaging shall be noted therein.

Section 22 Duration of Storage

- (1) The storage contract can be terminated by either party under observance of a termination period of one month. In case of a material reason ("wichtiger Grund"), the contract can be terminated without observance of the period of notice. It is considered to be a material reason in particular if the customer is in arrear with the payment of the storage charges by more than 2 months or if the Company's claim exceeds the sale value of the goods.
- (2) After termination of the contract, the Company is entitled to request the depositor or, if a warehouse warrant was issued, the last legitimate holder of the warehouse warrant known to the Company, to take back the goods. If the person obliged does not comply with this request within one month, the Company has the rights as stated in section 23.

Section 23 Sale

- (1) If goods are stored on the premises or as arranged by the Company with a third party for more than two months, the Company is entitled to have the goods sold in public auction or - if the goods have a market value - by private sale, if due payments have not been made despite reminders and threats to sell the goods, or if the entitled person is not known and not to be found.
- (2) The intended sale will be announced to the entitled person. If the entitled person is not known and cannot be found, the intended sale will be announced in the Official Gazette. The sale must not be carried out until one week has passed since the announcement was made.
- (3) The Company is not bound by the period of notice mentioned above and not obliged to threaten with sale, if the goods are perishable or of low value and, at the Company's discretion, the payment due would not be covered by the proceeds.



- (4) If a buyer for the goods for sale cannot be found, the Company is entitled to dispose of them or to destroy the goods at the expense and risk of the entitled person.
- (5) The Company is entitled to satisfy its claims regarding storage charges and other expenses for the goods from the sales proceeds. Furthermore, the Company has a lien on the goods and on the proceeds; section 32 is applicable. If the entitled person is not known, its claim for payment of the amount of the proceeds exceeding the amount claimed by the Company in accordance with sentence (1) and (2) will be time barred after one year from the date of the sale.

IV. LIABILITY

1. Liability of the Company

Section 24

Liability during handling of cargo

(1) The Company is liable in case of a breach of its duties during the handling of cargo and all connected services (apart of those during storage) in accordance with the legal provisions of sections 425 to 439 HGB (German Commercial Code) concerning the liability of the carrier. This also applies to a service connected with the handling of the goods which is not as such a carrier service.

(2) However, the following special agreements apply to the liability of the Company which differ from the legal provisions:

1. Compensation for loss of or damage to goods is limited to an amount of two units of account for each kilogram of the gross weight of the goods.

2. if only individual parts of a consignment have been lost or damaged, the liability is limited to an amount of 2 units of account for each kilogram of the gross weight

- of the devalued part of the consignment, if only part of the consignment was devalued.**
- of the whole consignment, if the entire consignment was devalued.**



- (3) The unit of account mentioned in sub-section (2) is the Special Drawing Right of the International Monetary Fund. The compensation will be paid in Euro in the equivalent value of the Euro to the Special Drawing Right on the day of acceptance of the goods by the Company.
- (4) Should the delivery time have been exceeded, the Company is liable at maximum for the triple amount of the handling charges of the goods in question. For the liability of other financial damage § 433 HGB is applicable.
- (5) The limitation amounts according to the provisions of this section are also applicable for claims in tort or other cause of liability.

Section 25 **Liability towards third parties**

The customer is obliged to hold the Company harmless from any liability – exceeding the Company's liability according to section 24 - towards a third party with whom the customer has entered into a contract of carriage, contract of affreightment or forwarding contract.

Section 26 **Liability during storage**

- (1) When storage is agreed (section 10 sub-section 2, sections 19 et seq.), the Company is liable in accordance with the legal provisions.
- (2) However, liability for loss or damage is limited to the common value of the stored goods, as well as to the maximum amounts mentioned in section 24 sub-section (2). Further financial losses, especially loss of profits, and consequential losses will not be compensated.
- (3) If the damage can be attributed to
 - the nature of the goods,
 - lack of or insufficient packaging,
 - ordinary atmospheric humidity or fluctuations in temperature,
 - pest infestation, inherent vice, shrinkage, rust, mould or decay,
 - the agreed method of storage in special warehouses or in the open or
 - directions given by the customer/depositor or any third party acting on their behalf,



it will be presumed that it was caused thereby.

- (4) Sections 433, 434 HGB (German Commercial Code) apply to the liability of the Company, section 436 HGB applies to the liability of the servants and agents of the Company.
- (5) The limitations mentioned above do not apply if the damage was caused with intent or recklessly and with knowledge that damage would probably result by
 - a) the managing body or executive employees of the Company
 - or
 - b) in case of essential duties under the contract ("Kardinalpflichten") also by other employees of the Company.

Section 27 Declaration of value

- (1) An increased liability of the Company, especially in case of stating a higher value of the goods, will be applicable only if agreed by the Company in writing.
- (2) The Company's agreement to an increased liability in excess of the amounts according to sections 24 to 26 may be made subject to an additional fee to the usual remuneration.

Section 28 Notice of Damage

- (1) Where the loss of or damage to the goods is externally apparent and the consignee or the customer fails to notify the Company of the loss or damage on delivery of the goods at the latest, it is presumed that the goods have been delivered in a condition conforming with the contract. The notice of damage must specify the damage sufficiently clearly.
- (2) The presumption referred to in sub-section (1) shall also apply where the loss or damage was not externally apparent, provided it has not been notified within seven days after delivery.



- (3) Claims due to delay in delivery shall expire if the consignee or the customer does not notify the Company of the delay in delivery in a readable form within twenty-one days after delivery.
- (4) Any notice of damage after delivery shall be given in writing; the transmission of the notice may be effected by telecommunication. A signature is not required if the notice identifies the author in some other way. Dispatch within the applicable notification period is sufficient.
- (5) If loss, damage or delay in delivery is notified on delivery, it is sufficient to give the notice to the person delivering the goods.

Section 29

Damage to transport vehicles/objects owned by the customer or a third party

- (1) The Company is liable for damage to watercraft or road vehicles or other objects owned by the customer or a third party engaged by the customer for handing over or collecting goods only if negligence on the part of the Company or one of its servants during performing the duties is proven. The liability is limited to physical damage and to a maximum liability amount of 5 (five) million Euros.
- (2) The above stated limitations of liability do not apply if the preconditions in section 26 sub-section 5 are applicable.

Section 30

Limitation Period

- (1) All claims against the Company are time-barred after one year. In case of intent or negligence considered to be equivalent to intent in accordance with section 435 HGB (German Commercial Code) the limitation period shall be three years, however in case of liability under a storage contract only if the claimant is a consumer.
- (2) The limitation period begins to run at the end of the day on which the goods were delivered. If the goods have not been delivered, the limitation period begins to run at the end of the day on which the goods should have been delivered. In derogation of sentences 1 and 2 hereof the limitation period applicable to claims of recourse begins to run on the day on which the judgement against the recourse claimant becomes legally binding and non-reviewable or, if there is no such



judgement, on the day on which the recourse claimant satisfies the claim; this does not apply if the recourse debtor was not informed of the damage within three months after the recourse claimant gained knowledge of the damage and of the identity of the recourse debtor.

- (3) With regard to damage to an object owned by the customer or a third party engaged by the customer according to section 29, the period of limitation under sub-section (1) shall commence to run on the day the damage occurred. The period of limitation of other claims than those mentioned in the sub-sections (1) and (3) commences to run with the occurrence.
- (4) The period of limitation of a claim against the Company shall be suspended by a declaration of claim from the claimant in readable form until the time the Company rejects the claim by notification in readable form. A further notice of claim having the same object shall not suspend the period of limitation again.

2. Liability of the customer

Section 31

Liability of the customer

- (1) The customer shall be liable towards the Company – even if not being at fault – for all damage and expenses which are caused by insufficient packaging or marking of the goods by incorrect, unclear or incomplete details in accordance with sections 9, 12, 15, 20 or in other communications or by the omission to communicate the dangerous nature of the goods. Section 414 HGB (German Commercial Code) applies correspondingly.
- (2) If a certain time has been agreed for services of the Company and if the customer does not accept the services at this time due to reasons for which he is responsible or if the Company is not in a position to perform the service as agreed due to a reason for which the customer is responsible,, the customer shall be liable to the Company for all costs and expenses resulting therefrom, especially for expenses caused by futile provision and non-utilisation of staff and equipment.
- (3) The customer is liable for damage to terminal installations and other objects belonging to the Company or a third party having been engaged by the Company caused by the customer's vehicles or staff/servants/vicarious agents, unless caused without negligence.



V. COMMON TERMS

Section 32

Lien and Right of Retention . Set-Off

- (1) The Company shall have a lien and a right of retention on the goods or other objects in its possession with respect to all claims to which it is entitled for the services rendered in connection with these goods or other objects, including all documents pertaining thereto, such as accompanying documents, customs documents, bills of lading, warehouse receipts, consignment notes, waybills. However, these rights do not exceed the rights provided by law.
- (2) The Company is allowed to exercise a right of lien or retention regarding these goods or other objects in its possession in respect of claims under or in connection with other cargo handling or storage contracts concluded with the same debtor only as far as these claims are uncontested or confirmed by a court decision or if the financial situation of the debtor puts the Company's claims at risk.
- (3) In all cases, the period of notice of one month mentioned in section 1234 BGB (German CivilCode) shall be replaced by a notice period of two weeks.
- (4) A right of off-set or retention against claims of the Company regarding the cargo handling contract or the storage contract and against non-contractual claims associated therewith is only permissible with counterclaims confirmed by a final court decision or counterclaims which are due and against which objections are not being raised.

Section 33

Termination

In the case of a price having been agreed that is lower than the price stated in the "Price and Condition List", this special agreement may be terminated by the Company without observance of a period of notice if a justified danger becomes known that the customer will not be able to meet his financial obligations as stipulated in the contract.



Section 34
Applicable law . Place of Performance. Jurisdiction

- (1) The legal relationship between the Company and its customers shall be governed by German law.
- (2) Place of performance is the seat of the Company.
- (3) The courts at the Company's place of registration shall have jurisdiction for all disputes arising out of or in connection with the contractual relationship or with the services rendered by the Company. For claims against the Company, this jurisdiction shall be exclusive.

Section 35
Partial Invalidity

Should one of the provisions contained in these Standard Terms and Conditions be partly or completely void, the other provisions shall remain unaffected. The invalid provision shall be replaced by the corresponding legal provision; if such does not exist, the parties are obliged to agree a valid provision which corresponds as far as possible with economic aim of the invalid provision.
