

GENERAL CONDITIONS APPLICABLE TO THE HANDLING, STORING AND WAREHOUSING OF GOODS BY HES Wilhelmshaven Tank Terminal GmbH ("HES WHV") ("Conditions")

DEFINITIONS

Article 1

In these conditions the following terms are defined as follows:

- a. **Company:** -HES Wilhelmshaven Tank Terminal GmbH.
- b. **Customer:** -the holder of a Warehouse Warrant/Delivery Order or anyone who, whether or not on his own behalf, places an order with the Company for Handling, storing and/or warehousing of any Goods as.
- c. **Business Day:** -a day (other than Saturday or Sunday) on which banks are generally open in London for normal business.
- d. **Premises:** -storage spaces, office(s), quays, jetties and all other areas owned or leased by the Company on or in which Goods are handled, stored or warehoused by the Company.
- e. **Storage Space(s):** -any space made available to the Customer by the Company, designed for warehousing, including tanks, containers, container tankers, container trucks and all other places and shall include any pipeline(s), pumps and other component parts of the same.
- f. **Goods:** -all products which are handled, stored or warehoused by the Company on behalf of the Customer, to handle but not limited to animal oils, vegetable oils, fats and derivatives thereof, molasses, mineral oils, oil products, chemicals and any other liquids.
- g. **Separate Warehousing:** -storage and/or warehousing of Goods in Storage Space(s) used solely by a Customer. Such storage and/or warehousing may or may not result in contact and/or mixing with other Goods of a similar specification.
- h. **Mixed Warehousing:** -storage and/or warehousing of Goods in Storage Space(s) shared by more than one Customer. Such storage and warehousing may or may not result in contact and/or mixing with other Goods of a similar specification.
- i. **Handling:** -the handling of all Goods by the Company other than storing or warehousing, including unloading, pumping and shipment by whatever means or operation.
- j. **Pipeline(s):** -the pipeline(s) used for the transport of Goods to, from and via the Premises, including pipeline bore connections.
- k. **Warehouse Warrant/Delivery Order:** - a document numbered, stamped and signed by or on behalf of the Company with the words "Warehouse Warrant" or Delivery Order which shall entitle the holder of the same, subject to these conditions, any other agreement between the parties and any applicable order, to delivery of the Goods as described therein.
- l. **Warehouse Warrant Holder:** -anyone who declares themselves as such by presenting the Company with a Warehouse Warrant or Delivery Order.

APPLICABILITY

Article 2

Each contract ("**Contract**") for the supply of Handling, storing and warehousing services ("**Services**") for Goods by the Company is deemed to incorporate these Conditions. These Conditions are also applicable to all offers and orders for the same and to all other agreements or correspondence with the Company with respect thereto. Provisions, which deviate from these Conditions, can be relied upon by the Customer only if and to the extent that these are accepted by the Company in writing.

These Conditions supersede, replace and override any representations, estimates or terms made or agreed prior to the date of the Contract.

These Conditions apply to the exclusion of any terms of business of the Customer except to the extent expressly repeated herein. The Customer who has once contracted on the basis of these conditions, agrees to the applicability of these Conditions to all future agreements the Customer enters into with the Company.

OFFERS AND AGREEMENTS

Article 3

All orders for Services from the Customer shall, if given orally, be confirmed in writing within two Business Days. Any order for Services accepted by the Company shall be irrevocable and subject to these Conditions or the provisions of the Contract. If the Customer wishes to cancel a Contract before it has been accepted by the Company in writing, the Company may charge the Customer a cancellation fee equivalent to one month's provision of the Services under the cancelled Contract. The Company is only bound to these Conditions and those in any Contract either upon acceptance of an order for Services from the Customer or, if earlier, when performance of the Contract has begun. The provision of the Services shall take place on the basis of a Contract between the Customer and the Company, regardless of whether or not a rental agreement pertaining to one or more Storage Space(s) or any other agreement has also been entered into between the Customer and the Company. The Company is entitled to refuse to enter into any agreement without stating the reasons for such refusal.

DURATION OF THE AGREEMENT

Article 4

The Contract may be entered into for a definite or an indefinite period. If the Contract is entered into for a definite period, it shall terminate on the expiry of the agreed definite period. If the Contract is entered into for an indefinite period, each of the parties to the Contract is entitled to terminate the Contract on one month's written notice. If Warehouse Warrants have been issued under the Contract, these must be sent to the Company within 24 hours of receipt of the termination notification, so that the fact of the termination can be noted thereon. The absence of such a note on the Warehouse Warrant will however not adversely affect any action taken by the Company.

Article 5

Without prejudice to Article 6 (below), after termination of the Contract the Customer is obliged to take immediate receipt of the stored Goods, and to return the Warehouse Warrant to the Company unless the Company consents to an extension of the term of the Contract. Any such extension shall be on the same terms as the terminated Contract. Any failure to comply with this obligation is subject to the applicability of Article 43 of these Conditions, without prejudice to the Company's right to demand compensation for all direct and indirect costs and losses and the Company's right to charge storage fees in respect of the Goods at its then current rate.

PREMATURE TERMINATION OF THE AGREEMENT FOR URGENT REASONS

Article 6

The Company is at all times entitled to terminate the Contract at any time with immediate effect by written notice to the Customer for an urgent reason and, if the Contract has been entered into for a definite period, to demand that the Customer takes receipt of the Goods within a reasonable time. An urgent reason includes but is not limited to:

- in relation to the Customer, the appointment of a receiver or administrative receiver, the passing of a resolution for winding up (other than for the purpose of a bona fide scheme of amalgamation or reconstruction) or a court of competent jurisdiction makes an order to that effect, the application to the court for an administration order, the giving of a notice of appointment or intention to appoint an administrator or liquidator, the entering into of a voluntary arrangement with the Customer's creditors or a Customer's request for the temporary cessation of payments;
- the non performance by the Customer of one or more of its obligations under the Conditions or the Contract;
- a danger that in the opinion of the Company the Goods will cause damage to or loss of other Goods or the Premises or harm to persons;
- Goods being susceptible to deterioration or changes to the Goods which in the opinion of the Company are likely to lead to loss of value of the Goods or Storage Space(s) and upon notification from the Company the Customer's failure to provide instructions to prevent or address the same;
- the Storage Space(s) used being entirely or partly destroyed by fire or any other cause or being rendered unsuitable for the performance of the Contract in any other way; or
- the Goods causing or threatening to cause an environmental hazard.

SPECIAL MEASURES

Article 7

Without prejudice to Article 6 (above), the Company is entitled, at the cost and risk of the Customer, to take such reasonable measures as the Company deems necessary (including without limitation the destruction of the Goods) if in the Company's opinion there is a danger that the failure to take such measures will result in loss of or damage to the Goods themselves or to other Goods or to the Premises or the Storage Space(s) or harm to any person. If reasonably practicable, the Company shall inform the Customer immediately of the measures taken however failure to so notify shall not constitute a basis for any claim against the Company.

APPROVAL OF THE STORAGE SPACE

Article 8

Subject to reasonable notice, the Customer is entitled at its cost to inspect the Storage Space(s) made available by the Company with regard to their suitability for the Handling, storing and/or warehousing of the Goods prior to the arrival of the Goods. Such inspection shall be in the presence of representatives of the Company. If the Customer fails to carry out such inspection the Customer thereby waives the right to make any claim on these grounds at a later stage.

MAINTENANCE OF THE STORAGE SPACE(S)

Article 9

Barring invisible defects and an event of force majeure as set out in Article 46 (below), the Company undertakes to maintain the Storage Space(s) in an operationally safe condition and to the extent necessary for the Company to fulfil this obligation the Customer shall:

- a) give the Company the opportunity to carry out an inspection at a time to be agreed between the parties in order to determine whether the Storage Space(s) require maintenance and/or repair; and
- b) give the Company free access to the Storage Space(s) for the time required for any maintenance and/or repairs that the Company deemed necessary.

The Customer shall continue to pay the agreed price for the Storage Space(s) during the period that the Customer is deprived of the use of all or part of the Storage Space(s) due to any inspection, maintenance and/or repairs as contemplated by this Article 9. Should, however, the Customer's loss of use of such Storage Space(s) last for more than 10 days, the Customer shall be refunded a pro rated amount of the fee paid to the Company, unless suitable alternative Storage Space(s) is/are made available by the Company, in which case the Storage Space(s) shall be offered to the Customer free of charge, on the understanding that the fee payable for the unavailable Storage Space(s) shall continue unchanged.

The Company shall not be liable to the Customer for damage caused directly or indirectly by the Company's inspection, maintenance and/or repairs and/or temporary loss of the Storage Space(s) unless this damage is caused by the fault or wilful default, intent or negligence on the part of the Company and/or its personnel, agents or sub-contractors.



If the Storage Space(s) is/are entirely or partly destroyed or is/are rendered unsuitable for storage, by any cause or event of force majeure, as set out in Article 46 (below), the Company shall not be liable for any associated loss to the Customer, nor shall the Company be obliged to provide alternative Storage Space(s) for the Customer, even if other Storage Space(s) is/are available.

NOTIFICATION

Article 10

All applications, orders, notifications, requests and communications to the Company must be made in writing, without the customer being able to invoke the absence of any such written documentation. The Company's administration is decisive in this respect. Facsimiles and e-mail are considered a suitable form of written communication in this context.

DESCRIPTION OF THE GOODS - INCORRECT AND INCOMPLETE STATEMENTS

Article 11

In advance of entering into a Contract, the Customer shall provide the Company with a written description of the Goods and warrants that any Goods which it delivers shall correspond to the written description and meet the properties of any relevant European Standards Specifications and any Material Specification Data Sheet providing information in accordance with the Chemicals (Hazards Information and Packaging for Supply) Regulations and shall not contain any substances or be in such a state which may cause loss of or damage to other Goods or to the Company's storage facilities or to any person when stored in normal conditions. If the properties of the Goods change at any time, the Customer shall notify the Company immediately. The Customer shall be liable for all damage and shall indemnify the Company against all claims of third parties resulting from inadequate, incorrect and/or incomplete descriptions, specifications and other communications, as well as from defects in the Goods not communicated to the Company in writing in advance of the Goods' delivery to the Premises.

USE OF STORAGE SPACE FOR DIFFERENT TYPES OF GOODS

Article 12

If a Contract is entered into for the storage of Goods of a certain specified type, the Customer shall not use the Storage space(s) offered by the Company in respect of those Goods for the Handling, storing and/or warehousing of Goods of a different type than those specified without the express consent of the Company.

If the Customer reasonably considers it necessary that in view of the Handling, storing and/or warehousing of Goods other than as originally agreed or originally Handled, stored and/or warehoused, sweepings, pump remnants or sealments should be removed or that the Storage Space(s) or the Pipelines be cleaned, steam-cleaned, oiled or painted, the Customer may request that the Company perform such tasks. The Company shall have the option of accepting or refusing to undertake such tasks and, if accepted, the work shall be at the sole risk and expense of the Customer.

CONDITION OF THE GOODS ON ARRIVAL

Article 13

If, on arrival at the Premises, and in the Company's opinion, the Goods are visibly damaged or are in a faulty condition, the Company shall be entitled, at the Customer's risk, to protect the interests of the Customer by acting as agent for the Customer in refusing to take delivery of the Goods and/or refusing to endorse any delivery documents. The Company shall inform the Customer of this matter, however the Customer shall have no claim in respect of a failure to do so by the Company or in respect of the manner in which the Company has acted with respect to the Goods.

TITLE

Article 14

The Customer shall retain title to all Goods owned by it delivered to the Company at the Premises.

MEANS OF TRANSPORT

Article 15

The Customer shall ensure that all means of transport in connection with the Goods shall be clean, and that the Goods are kept in a sealed condition. If the means of transport in question does not meet these requirements, the Company may refuse to grant the means of transport or the Goods access to the Premises and if the means of transport or Goods are already on the Premises, the Company may request their removal, or remove the same at the Customer's cost.

GOODS SUBJECT TO CHARGES

Article 16

The Company shall be under no obligation to admit to the Premises any Goods, which remain subject to freight costs. All costs in connection with the transportation of the Goods to the Premises, which are due either upon arrival or at any time thereafter, shall be paid in advance by the Customer.



The Customer will be responsible for and shall indemnify the Company against all taxes, assessments, duties, freight costs, C.O.D. charges or other charges or impositions whatsoever at any time levied against or in connection with the Goods or any part or parts thereof.

PERIOD DURING WHICH THE GOODS ARE ON THE PREMISES

Article 17

The Goods are deemed to be on the Premises:

- if they are pumped out of tankers, ship or other vessels, as soon as they have passed the connection of that tankers/ships/vessels' manifold;
- if they are brought packaged by ship, after the goods or the goods or the material with which these are unloaded have been unhooked from the crane on the jetty or on the premises; and
- if they are brought by container truck/train, after they have been unloaded from the truck/train at the Premises.

The Goods are deemed to have left the Premises:

- if they are shipped out via tankers, ships or tanks or other vessels after they have passed the connection of that tankers', ship's or other vessel's manifold;
- if they are taken away packaged by ship, after they are hooked on the crane on the premises.
- if they are taken away by container truck/train, after they have been loaded onto the truck/train at the Premises.

TRANSPORT TO AND FROM THE PREMISES

Article 18

The Goods shall be conveyed to and from the Premises in accordance with the terms set out in the Contract.

LATE TRANSPORT TO AND FROM THE PREMISES

Article 19

The Customer shall inform the Company reasonably in advance (and in accordance with Article 21) of the time certain stated quantities of Goods will be transported to or from the Premises. If the Customer fails to transport the Goods to or from the Premises at a time which approximates to that notified to the Company and in a manner customarily used for such transportation, the Customer shall compensate the Company for any costs incurred as a consequence.

ARRIVAL OF VESSELS AND VEHICLES

Articles 20

The Company may refuse to allow the mooring of vessels at the Premises and the arrival of vehicles at the Premises unless the transport of Goods to and from the Premises has been arranged with the Company at a reasonable time in advance (and in accordance with Article 21) and there are no legal restrictions or impediments which would hinder the delivery or taking of receipt of the Goods.

ORDER IN WHICH VESSELS AND VEHICLES ARE HANDLED

Article 21

The Customer or its agent shall nominate every vessel or vehicle required to load or unload Goods at the Premises to the Company at least seventy two hours prior to the estimated time of arrival at the berth or jetty or the Premises and no vessel shall berth alongside unless such nomination has been accepted by the Company. Where nominations are received by the Company less than seventy two hours prior to the estimated time of arrival, the Company may accept such nominations at its discretion but shall not be bound to and shall not be liable for any loss caused to the Customer.

The Company shall in ordinary circumstances load or unload (as the case may be) vessels, craft, vehicles or wagons in the order of arrival at the Premises or quay. At its sole discretion, the Company shall nevertheless be entitled to depart from such order for the purpose of complying with the regulations or directions of the Customs of Harbour or other authorities for ensuring the safety or smooth or economic working of the Company's operations or for any other purpose whatsoever.

INSPECTION OF THE GOODS UPON ARRIVAL

Article 22

The Company is not obliged but it may at any time, at its sole option, weigh, measure or investigate the condition of any Goods delivered in order to confirm the nature and condition of those Goods delivered. Should the Company ascertain from an inspection of the Goods that any of the number, weight, size or condition has been incorrectly indicated, the Company may make a reasonable charge to the Customer for the cost of this inspection.

DEMURRAGE AND DELAY

Article 23



The Company accepts no responsibility whatsoever for delay incurred by vessels, craft, vehicles or wagons and shall not at any time be bound to make payment or reimbursement of demurrage, fees for waiting time or for any consequential loss, loss of profits, economic

loss, or loss of business, profit or goodwill arising from delay, whether the same shall result from the negligence of the Company, its servants or otherwise howsoever.

RELOCATION OF STORED GOODS

Article 24

Unless explicitly agreed otherwise, the Company may choose the location of the Storage Space(s) for the Goods. The Company may move the Goods from one Storage Space(s) to another suitable for the Goods concerned unless a Warehouse Warrant has been issued for these Goods which contains a specific Storage Space(s) location. Before moving Goods in this way, the Company shall notify the Customer of the intended move. If the Company considers it necessary for the proper performance of the Contract, the Company may transfer the Goods to Storage Space(s) of a third party without the prior consent of the Customer.

MIXED/SEPARATE WAREHOUSING

Article 25

If the Company receives an order to store Goods, it is entitled to store the Goods in Mixed Warehousing, unless Separate Warehousing of the Goods has been explicitly agreed.

In the event of Mixed Warehousing, the Customer is entitled only to those Goods of the same type, quantity and grading that the Customer has supplied to the Company for storage.

If, according to the Company's reasonable judgement, it considers that because of type, grading or characteristics, the Goods are not suitable for Mixed Warehousing irrespective of whether such warehousing has been requested or agreed, the Company is entitled to store those Goods in Separate Warehousing and to charge the Customer the applicable price therefore.

NOT PERMITTED TO SUBLET

Article 26

The Customer shall not permit any third party to use the Storage Space(s), either by subletting or any other contract, agreement or licence without the express prior written consent of the Company.

QUANTITY

Article 27

In the absence of manifest error, the Customer shall accept the accuracy of the Company's statement of the volumes and/or weights of the Goods (or any part or parts thereof) received into and/or delivered out of storage provided that the Customer shall have the right at any time and at its own cost to call for an independent measurement of the Goods delivered into or withdrawn from storage by a third party approved by both parties (which independent measurement shall then become binding upon both parties) and provided that the Company shall provide such safe and accurately calibrated metering equipment, tanks, containers and/or other reception vessels as may from time to time be required.

PERFORMANCE OF THE WORK

Article 28

Any work the Customer wishes to be carried out with respect to the Goods must be assigned to the Company for implementation to be carried out on the terms and conditions of the Company as the Company may specify from time to time unless agreed otherwise. The Company shall charge a fee for any such work at the rate specified by the Company from time to time. Activities the Company does not wish to undertake can be carried out by the Customer or on his behalf after having obtained permission from the Company and under the supervision of the Company. The Customer shall pay the Company any costs incurred in respect of such work. The Company shall have no liability in respect of such work.

INFORMATION REGARDING THE GOODS

Article 29

The Company shall only provide information regarding the Goods to the Customer or its authorised agent.

FEES

Article 30

Storage and all other work to be carried out by the Company shall be charged at the current prices and/or rates of the Company from time to time in respect of that type of work unless explicitly agreed otherwise.

ISSUANCE OF WAREHOUSE WARRANTS

Article 31

Once the Goods are contained in Storage Space(s) and the condition, the weight and the size of the Goods has been ascertained, the Company may issue a Warehouse Warrant at the Customer's request. The Company is however under no obligation to comply with the request for the issuance of a Warehouse Warrant until the Customer has satisfied all claims the Company has against the Customer on any basis whatsoever. Furthermore, the Company may refuse to issue a Warehouse Warrant if it has reasonable cause to believe that the Customer will be unable to meet such claims.

The Customer may specify whether the Warehouse Warrant should be registered by name or as a bearer warrant. Provided the Company consents thereto, a Warehouse Warrant registered by name may be exchanged for or converted to a bearer warrant and vice versa. The Company bears no responsibility for the correctness or accuracy of information concerning the nature and quality of the Goods stated on any Warehouse Warrants or on any proofs of receipt whatsoever. Should the Company wish to communicate with a Warehouse Warrant Holder, this shall be deemed to be done if an announcement is made in two daily national newspapers. A Warehouse Warrant is valid for a maximum period of one year after issuance, unless the Company itself has indicated otherwise on the Warehouse Warrant.

LOSS OF WAREHOUSE WARRANT

Article 32

In the event a Warehouse Warrant is lost or destroyed and this is communicated to the Company in accordance with Article 10 together with a description of the contents of the Warehouse Warrant, the Company shall, if requested and if it has no reason to reasonably doubt the grounds for the said request, at the Customer's cost publish an announcement in two daily national newspapers twice within fourteen days of the request which shall invite any parties with an interest in the Goods in question to notify the Company immediately. If no notification has been made to the Company within fourteen days of the second announcement, the Company may issue the applicant with a duplicate Warehouse Warrant, bearing the word "duplicate", [subject to a guarantee if and insofar as it deems this necessary]. The Company's decision as to the determination of the type, grading, quantity and weight of the Goods shall be stated on the duplicate Warehouse Warrant and shall be final.

The issuing of a duplicate Warehouse Warrant replaces the old Warehouse Warrant and renders it void. If a third party claims entitlement to the Goods to which the Warehouse Warrant relates, the Company is not obliged to hand over the Goods unless otherwise ordered to do so by an irrevocable judicial decision of a court of competent jurisdiction. The party which has applied to the Company for a replacement Warehouse Warrant shall indemnify the Company against any damage which may arise from the issuance thereof and compensate the Company in full for any costs and liabilities that it incurs (including without limitation legal costs and disbursements).

TRANSFER OF STORED GOODS

Article 33

The Customer shall not transfer its ownership of Goods stored at the Premises to a third party without the prior written consent of the Company, which shall only be given if all claims which the Company has against that Customer on any grounds whatsoever have been satisfied. The Customer shall inform the Company immediately in writing of any intended transfer of the Goods. Without prejudice to that provided above, the Company shall only consent to the transfer of the Goods if the new owner agrees to be bound by the provisions of the Contract and these Conditions and has informed the Company about its VAT details. The Company shall not be required to recognise any transfer of the title to the Goods and, in addition, the Company is also entitled to refuse to release the Goods if it is of the reasonable opinion that legal title of the person claiming the Goods is defective. If a dispute has arisen with respect to the title or entitlement to delivery of the Goods, the Company may retain possession of the Goods until it has been agreed between the Company and those claiming title to the Goods or a decision has been taken by a court of competent jurisdiction as to which party is entitled to have the Goods delivered and the Company has received confirmation of this decision from the parties. If a Warehouse Warrant has been issued, however, the Company may retain the Goods at all times until the Warehouse Warrant has been returned to the Company. After the transfer of the Goods has been approved by the Company, the transferee will be regarded as the customer and the Customer together with the transferee will be jointly and severally liable for all claims referred to in Article 41 (below), insofar as these already existed before the transfer. On the transfer of the Goods, these Conditions and the Contract shall apply unamended to the transferee. The Customer shall hold harmless and indemnify the Company against any loss or damage suffered by the Company and all claims brought by any third party against the Company as a result of the Company exercising its rights under this Article 33.

RISK AND INSURANCE

Article 34

Subject to the Conditions set out herein, all risk of loss or damage in connection with the Handling, storing and/or warehousing of Goods received by the Company remains with the Customer for the duration of the Contract unless and save to the extent caused by the wilful

misconduct or negligence of the Company. Risks contemplated by this Article include but are not limited to the risk of shrinkage, pulverisation, change in the quality or deterioration of Goods due to any cause whatsoever.

Unless explicitly agreed with the Customer, the Company shall not be responsible for any insurance of the Goods. If the Company and the Customer agree that the Company shall arrange appropriate insurance for the Goods, the Customer shall give a clear indication of



the risks to be covered and the value of the Goods to be insured and the Company will be entitled, at its own discretion, to take out the policy in the name of the Customer or in its own name or to have it added to any policy already taken out. If the Company and Customer agree that the Company shall arrange insurance of the Goods, the Company shall determine the conditions of insurance with the insurer, including those pertaining to the insurance terms and the settlement of any damage at its own discretion. However, the Company shall at all times be regarded as an intermediary between the insurer and the Customer, without any liability.

Article 35

In all circumstances in which the Goods have been insured by the Company, the Company may recover any claims it has against the Customer from payments made to the Company by an insurer in respect of the Goods' insurance. The remaining amount shall be paid to the Customer.

Article 36

In the event that the Company's co-operation is required with respect to a claim regarding damage to the Goods due to any cause, the Company shall give such reasonable assistance as is required, subject to being fully reimbursed by the Customer in respect of any expenses and/or costs incurred by the Company and the payment of a reasonable fee as specified by the Company. The Company may make its co-operation conditional on cash payment of all outstanding claims against the Customer.

Article 37

Insurance of the Goods shall terminate, unless agreed otherwise, upon its cancellation or if the Goods are removed from the Storage Space(s) by the Customer or by the Company. In the event that part of the Goods only are removed, the insured value of the remaining part shall be notified to the Company and the insurer by the Customer. In the absence of such notification, the Company may reduce the insured value at its own discretion in proportion to its estimate of the number, weight, size or contents by which the Goods have been reduced. The insurance of the Goods shall run from month to month and shall be subject to review at any time.

RELEASE OF THE STORED GOODS BY THE COMPANY

Article 38

Subject to the Contract and these Conditions, the Customer may collect the Goods, which have been stored by the Company only if all the Company's claims against that Customer have been settled (to include, without limitation, the payment of any fee or charge under any Contract). The Company shall only release Goods on the presentation of the appropriate Warehouse Warrant or, if no Warehouse Warrant was issued by the Company, in exchange for a proof of receipt issued by and signed by an authorised signatory of the Company. The Company may at its discretion require the claimant of the Goods to furnish further proof of identity. In advance of the Company releasing the Goods, the Company may verify whether the signatures on the Warehouse Warrants or the proofs of receipt are genuine but it is not obliged to carry out such verification. Without prejudice to Article 42, the Company shall be entitled to demand payment of all its claims against the Customer before full or partial release of the Goods. In the event that less than all of the Goods are released to the Customer, the Company shall be entitled to assert any outstanding claims against the remaining part of the Goods. The remaining part of the Goods shall remain attached to the uncollected amount. In the event that only part of the Goods is released, a record of this release shall be noted on the relevant Warehouse Warrant, which subsequently will be returned to the Customer, alternatively, at the Company's option, the Company may issue a new Warehouse Warrant for the remaining part.

On termination of the Contract, the Customer shall return the Storage Space(s) to the Company in no worse condition than at the commencement of the Services, as confirmed by the inspection carried out by the Customer under Article 8. If the Customer fails to do so, the Company may take any necessary action and invoice the Customer for the costs incurred. If the Customer has not approved the Storage Space(s) under Article 8, the opinion of the Company as to the condition of the Storage Space(s) shall, in the absence of manifest error, be binding on the Customer.

DESTRUCTION OF GOODS

Article 39

In the event the Goods are destroyed entirely or in part by any means, as well as in the event of destruction of the Goods by the Company pursuant to Article 7, the date of this loss or destruction shall be deemed to be the date on which the Goods were released.

DISTRIBUTION IN THE EVENT OF JOINT OWNERSHIP

Article 40

If the Goods belong to more than one Customer, the Company shall, at its own discretion and having considered the quantity of the Goods, the duration of the storage, any possible operations, dehydration, evaporation, shrinkage and redistribution losses, as well as the sweepings, sediments, condensation and discharges which have formed during storage, divide the Goods among the various entitled parties. The costs connected with the division shall be borne by the various entitled parties and shall be apportioned between the parties in accordance with the proportion of the Goods received by each party.

PAYMENT CONDITIONS

Article 41

Any amounts payable to the Company by the Customer are exclusive of all customs and excise duties, taxes and other levies imposed on the Goods, which shall be paid by the Customer, are due and payable immediately and may be enforced against the Goods without the Customer having any right of set-off. Rent, storage fees, insurance premiums and fees will be payable monthly in advance and amounts owing in respect of part of a month shall be charged as a full month. Without prejudice to the provisions in the remainder of this



Article and unless otherwise agreed under the Contract, the customer shall pay amounts due to the Company without discount or compensation and at the Company's direction, within fourteen days of the date of the invoice. In the event the customer remains in default, the Company shall be entitled to charge interest for any invoices not paid within the specified time at an annual rate of 4% above the base lending rate for HES WHV applicable bank on the amounts outstanding from the date of invoice until payment. The Customer acknowledges that the Company may request security for any payment to which it is entitled. All amounts due from Customer to the Company are exclusive of V.A.T. which shall be payable by the Customer in addition. Despite the terms of Article 42 the Company is not bound to release all Goods, unless all amounts due to the Company have been paid by the Customer. The Company may require the Customer to provide a bank guarantee for such sum as the Company may specify and on terms acceptable to the Company to cover the Customer's payment obligations under the Contract.

PLEDGE AND LIEN

Article 42

Company shall have a lien on all Goods without reference to the time value of the Goods of the Customer that are in the Company's possession in connection with the Services until payment is made in full by the Customer of all sums due. This lien shall also extend to the insurance benefits that the Company may collect on behalf of the Customer in accordance with Article 35 and in addition, the Company shall have the right to sell all Goods of the Customer in accordance with the terms of Article 43.

PROCEEDING WITH SALE ON ITS OWN AUTHORITY IN THE EVENT THE CUSTOMER REMAINS IN DEFAULT

Article 43

Without prejudice to Article 42, the Company is entitled to sell the Goods stored at the Storage Space(s) however it should choose, whether privately or publicly or at an auction via a broker or otherwise without further formalities and at the expense of the Customer, and may use the proceeds to settle any claims it has against the Customer, if:

- (a) within a reasonable time, the Customer fails to reclaim the Goods given to the Company for storage, either on the basis of Article 5 after termination of the Contract or at some other time in the event of one of the urgent reasons set out in Article 6; or
- (b) the Customer remains in default with respect to satisfying the Company's claims pursuant to these Conditions.

In the event of (a) or (b) above, no further notification or notice of default is required before such a sale may proceed.

ACCESS TO THE PREMISES

Article 44

Subject to the remainder of this Article 44, the Company shall grant the Customer and persons designated by it reasonable access to the Premises in accordance with the provisions of the Contract and these Conditions, subject to due observance of the formalities prescribed by public authorities or by or on the part of the Company. Access to the Premises shall only be granted under the supervision of persons designated for that purpose by the Company. The Customer is responsible for all damage originating from failure to observe the provisions of this Article and shall indemnify the Company for any possible claims instituted in this context against the Company by third parties. The Company is at all times entitled to refuse access to the Premises to any person or request that any person leaves its Premises at its sole option.

Article 45

Anyone entering the Premises and/or vessels moored at the Premises do so at their own risk and, subject to Articles 47 and 48, the Company accepts no liability for damage, of any kind whatsoever, arising therefrom.

FORCE MAJEURE

Article 46

The Company shall not be in breach of these Conditions or any Contract to the extent that it is prevented from or delayed or hindered in complying with what would otherwise be its obligations under the Contract or these Conditions by any circumstances which it could not reasonably be expected to control including but not limited to:

- a. any Act of God, the natural state of the Goods, changes in the quality of the Goods due to passage of time, internal deterioration, formation of sediments and the like, diminishment, mould, fermentation, mildew, freezing, evaporation, shrinkage, reduction, leakage, deterioration, consumption by rats, mice, insects, worms and other vermin, damage caused by other Goods, hidden defects of the storage spaces, pipes and foundations;
- b. war, armed hostilities, act of terrorism, civil commotion, government measures, mobilisation, seizure, quarantine measures, epidemics, obstruction of access to the harbours or berths where the Goods are due to be delivered or the harbours or berths

where the Goods are due to leave, import and export bans and restrictions, attachments, strikes and work stops, lock-outs and blockades, abnormal costliness, sabotage, riots, revolts, plunder, theft; and

- c. fire, smoke, explosion, fire extinguishing water, burst water mains, flooding, bursting of dikes, perils of the sea, tidal conditions, accidents, snow, floating ice and danger of ice, as well as other shipping disruptions or obstructions of the transport connections to the Premises by water or geological disturbance, faults in the means of transport, delay in the delivery of the stored Goods, non-appearance or late delivery of packaging material or means of transport, delayed delivery or execution by third parties, whether or not engaged by the Company, business disruptions of any kind whatsoever, irrespective of whether these originated on or outside the Premises.

LIABILITY AND INDEMNIFICATION

Article 47

The Company will supervise the Handling, storing and/or warehousing of Goods with all reasonable skill and care. The Company shall not be liable for any damage, loss and/or costs incurred by Customer as a result of its Handling, storing and/or warehousing of the Goods, unless it is evidenced that the aforementioned damage, loss and/or costs were caused by the wilful intent or negligence of the Company or its employees. The Company's liability for consequential or indirect loss is wholly excluded, as is the Company's liability in respect of loss of business profits or goodwill except in the case that such loss results from the intent or negligence of the board of directors of the Company.

Each claim in connection with damage to or loss of Goods lapses if it is not notified by the Customer to the Company at the latest at the moment of the release of the Goods from the Premises. Unless legal proceedings are commenced against the Company by that time, any claim against the Company lapses after a period of six months from the time the claim arose.

Liability for all damage to the Company and to third parties with respect to whom the Company is liable in connection with the Handling, storing and/or warehousing of the Goods, shall accrue to the Customer and the Customer shall, in the event of damage to the detriment of the Company, or in the event of claims against the Company by third parties with respect to the Handling, storing and/or warehousing of the Goods indemnify the Company against these claims or damage and compensate it in full (including legal fees and disbursements).

SPECIFICATIONS, WARRANTIES, LIMITATIONS AND EXCLUSIONS

Article 48

In all cases in which the Company is obligated to pay damages, these shall never exceed, at its options, either the current value of the damaged or lost goods on the day the damage or loss occurred or, if the damage is covered by an insurance policy of the Company, the amount that is actually paid out by the insurer with respect thereto.

The Company shall only accept liability for losses in excess of 0.5%, as defined as the difference between the physical opening stock plus receipts, less issues and the physical closing stock over the Contract period, measured in standard litres.

In any event, damages to be paid by the Company shall never exceed an amount of €1,000,000.00 (in words one million Euro). If more than one party entitled to damages files a claim, the amount of the damages will be divided among the entitled parties in proportion to the amount of the damage sustained by each of them.

NON-COMPLIANCE WITH OBLIGATIONS BY THE CUSTOMER

Article 49

If the Customer is prevented for a certain period from complying with its obligations under the Contract or these Conditions due to any of the events set out in Article 46 (above) the Customer shall immediately notify the Company and the Company is entitled to demand compliance when both parties agree (such agreement not to be unreasonably withheld) that the event(s) is/are no longer preventing the performance of the Contract or these Conditions.

FORWARDING, TRANSPORT AND OTHER ACTIVITIES

Article 50

When the Company carries out any forwarding or transport, such will be performed with all reasonable care and skill. If the Company carries out any work other than the Services for which it or its employees are responsible towards third parties, including but not limited to the Company acting as a customs forwarder, the Customer shall bear all duties, levies, penalties, costs or damages incurred by the Company in connection with such additional work. The Customer shall reimburse any such amounts to the Company on request and indemnify and compensate the Company in full in the event of any claims by third parties resulting in loss to the Company.

LIQUIDATED DAMAGES

Article 51

- a. If the Customer does not meet the minimum guaranteed financial commitment in respect of monthly storage charges or minimum guaranteed throughput in any Contract then the Customer shall pay to the Company the minimum monthly storage charge or throughput charge, which shall be calculated as the difference between the then current monthly storage charge or the guaranteed minimum throughput multiplied by the applicable storage charge per tonne and the amount already paid by the Customer to the Company as storage charges in that Contract, such minimum storage charge or throughput charge representing the genuine pre-estimate by the parties of the losses or damages likely to arise to or be incurred by the



Company as a result of such failure by the Customer and not by way of a penalty or similar charge (and the Customer hereby acknowledges that the storage charges agreed are predicated on the basis of the Customer's guaranteed commitment).

- b. In the event of the premature determination of the Contract (whether by repudiation or in any other way whatsoever involving a breach of contract on the part of the Customer), the Customer agrees to pay the Company by way of liquidated damages a sum equivalent to the minimum guaranteed storage charges or throughput charges in respect of each Contract year to the end of the relevant minimum contracted period (and the Customer acknowledges the difficulty which the Company would face in obtaining replacement custom in the event of such premature determination and that liquidated damages as above are a genuine pre-estimate of the loss which would be suffered by the Company as a result of premature determination).
- c. The Customer hereby indemnifies and shall hold the Company fully indemnified from and against any and all losses, damages, liabilities, obligations, costs, charges and expenses suffered or incurred by the Company of whatsoever nature arising out of or in connection with a breach by the Customer of its obligations under Conditions a. and b. above and the Customer hereby agrees and acknowledges that common law remedies may not be adequate or appropriate to remedy or compensate for a breach of its obligations under such Conditions and that consequently the parties expressly contemplate and acknowledge that in the event of a breach of such obligations the Company shall be entitled to seek injunctive relief (including specific performance) in addition to any other available remedy, including damages, from a Court of competent jurisdiction.

DISPUTES AND APPLICABLE LAW

Article 52

The Contract and any non-contractual obligations arising out of or in connection with the Agreement shall be governed by and construed in accordance with the laws of Germany. The provisions of the UN Convention on the International Sale of Goods (1980) are hereby excluded from the Agreement. Any dispute arising out of or in connection with the Contract, including any question regarding its existence, validity or termination or any non-contractual obligations arising out of or in connection with the Contract ("the Dispute") shall be referred to the exclusive jurisdiction of the Commercial Court of the Regional Court of Frankfurt am Main (Landgericht Frankfurt am Main). Each party agrees to appoint a process agent to accept service of proceedings commenced in support of or in connection with the Dispute within fourteen (14) calendar days of a written request from the other side to do so. If such a process agent is not or ceases to be effectively appointed to accept service of proceedings on behalf of a party ("Party A"), the other party shall be entitled to appoint a process agent at an address in Germany to accept service on behalf of Party A by written notice to Party A.

GENERAL

Article 53

These Conditions replace all previous agreements between the Company and the Customer and is the entire agreement between the Company and the Customer for the Services.

If a court or administrative organisation with competent jurisdiction decides that a provision in these Conditions is not valid this will not affect the rest of the Conditions. The Company and the Customer shall try to agree on a suitable provision to replace the one which is not valid. The new provision should, as far as possible, achieve the same economic, legal and commercial aims as the invalid one.