## Registration new relation

**Contact details**

Company name :

Contact person (general) :

Contact person (finance) :

Phone number :

Fax number :

Email (general) :

Email (finance) :

Website :

**Postal address**

Address  :

Zip code + City :

Country :

**Visit address**

Address :

Zip code + City :

Country :

**Other information**

Chamber of Commerce number :       (please attach a recent business extract of the Trade register)

VAT number :

VAT number at import (if different) :

VAT reversed (Art. 23) applicable

EORI number :       B IC-code(UK) :

(IBAN)Bank account :       BLZ(D) :

Payment Terms : 21 days after invoice date

Additional conditions (if applicable) :

Do the goods that need to be transported

contain any Dangerous Goods?

Do you have a transport insurance for your goods? Yes, at      % of the value of the goods

**Insurance**

Will the goods be insured when Base Logistics

manages the storage?

 At insurance company:

Version: WMS-GB201809

**Invoicing**

I would like to receive the invoices via/per: E-mail address :



By signing this document you declare to agree to our payment terms and the FENEX-conditions as referred to at the bottom of this document and sent to you with this form.

*For approval*

On behalf of Base Logistics B.V. On behalf of

……………………………. …………………………………

(signature) (signature of authorized person on behalf of new relation)

J. Klaassen, Finance Supervisor      ,

 (name, title) (date)

**DUTCH FORWARDING CONDITIONS**

Version: WMS-GB201605

**GENERAL CONDITIONS**

**OF THE**

**FENEX (Netherlands Association for Forwarding and Logistics)**

deposited at the Registry of the District Courts at Amsterdam,

Arnhem, Breda and Rotterdam on 1 July 2004

**Applicability**

Article 1.

1. These general conditions shall apply to any form of service which the forwarder shall perform. Within the framework of these general conditions the term forwarder must not be understood exclusively to mean the forwarder as contemplated in Book 8 of the Dutch Civil Code. The party ordering the forwarder to carry out operations and activities shall be considered the forwarder's principal, regardless of the agreed mode of payment.

2. With respect to the operations and activities, such as those of shipbrokers, stevedores, carriers, insurance agents, warehousing and superintending firms etc. which are carried out by the forwarder, the conditions customary in the particular trade, or conditions stipulated to be applicable, shall also be applicable.

3. The forwarder may at any time declare applicable provisions from the conditions stipulated by third parties with whom he has made contracts for the purpose of carrying out the orders given to him.

4. The forwarder may have his orders and/or the work connected therewith carried out by third parties or the servants of third parties. In so far as such third parties or their servants bear statutory liability towards the forwarder's principal, it is stipulated on their behalf that in doing the work for which the forwarder employs them they shall be regarded as solely in the employ of the forwarders. All the provisions (inter alia) regarding non-liability and limitation of liability and also regarding indemnification of the forwarder as described herein shall apply to such persons.

5. Instructions for delivery C.O.D., against banker's draft etc., shall be deemed to be forwarding work.

**Contracts**

Article 2.

1. All quotations made by the forwarder shall be without any obligation on his part.

2. All prices quoted and agreed shall be based on the rates, wages, costs incidental to social security and/or other provisions of law, freight and exchange rates applying at the time of quotation or contract.

3. Upon any Upon any change in any or more of these factors the quoted or agreed prices shall likewise be altered in accordance therewith and retroactively to the time such change occurred. The forwarder must be able to prove the change(s).

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Article 3.

1. If the forwarder charges all-in or fixed rates, as the case may be, these rates shall be deemed to include all costs that in the normal procedure of handling the order are for the account of the forwarder.

2. Unless provided otherwise, all-in or fixed rates shall not include at any rate: duties, taxes and levies, consular and attestation fees, cost of preparing bank guarantees and insurance premiums.

3. For work of a special nature, unusual job or work requiring a special amount of time or effort, an additional reasonable amount may at all times be charged.

Article 4.

1. In the event of loading and/or unloading time being inadequate - regardless of the cause thereof - all costs resulting therefrom, such as demurrage, etc., shall be borne by the principal, even when the forwarder has accepted the bill of lading and/or charter party from which the additional costs arise without protestation.

2. Expenses of an exceptional nature and higher wages arising whenever carriers by virtue of any provision in the shipping documents load or unload goods in the evening, at night, on Saturdays or on Sundays or public holidays, shall not be included in the agreed prices, unless specifically stipulated. Any such costs shall therefore be refunded by the principal to the forwarder.

Article 5.

1. Insurance of any kind shall be arranged only upon specific instructions in writing at the principal's expense and risk. The risks to be covered shall be clearly stated. A mere statement of the value is not enough.

2. If the forwarder has taken out any insurance in his own name he shall be bound - if so requested - only to transfer his claims against the insurer to his principal.

3. The forwarder shall not be responsible as regards the choice of the insurer and the latter's solvency.

4. When the forwarder uses derricks and any other such equipment for carrying out his orders he shall be entitled to take out insurance at his principal's expense to cover the forwarder's risk arising through the use of such equipment.

Article 6.

1. Unless agreed otherwise in writing, the supplying to the forwarder of data required for customs formalities shall imply an order to perform such formalities.

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**Performance of the contract**

Article 7.

1. If the principal has not given any specific instructions with his order, the mode and route of transport shall be at the forwarder's option and the forwarder may at all times accept the documents customarily used by the firms with which he contracts for the purpose of carrying out his orders.

Article 8.

1. The principal shall ensure that the goods are tendered at the agreed place and time.

2. The principal shall ensure that the documents required for receipt and for despatch, as well as the instructions, are in the forwarder's possession in proper time.

3. The forwarder shall not be obliged but shall be entitled to investigate whether the specifications stated to him are correct and complete.

4. In the absence of documents, the forwarder shall not be obliged to receive against a guarantee. Should the forwarder furnish a guarantee, he shall be saved harmless by his principal from and against all the consequences thereof.

Article 9.

1. All operations such as inspecting, sampling, taring, tallying, weighing, measuring etc., and receiving goods subject to appraisal by a court-appointed expert shall take place only on the principal's specific instructions and upon reimbursement of the costs thereof.

2. Nevertheless, the forwarder shall be entitled, but not obliged, on his own authority and at his principal's expense and risk to take all such action as he deems necessary in the principal's interest.

3. The forwarder shall not act as an expert. He shall in no way be liable for any notification of the state, nature or quality of the goods; nor shall he be under any obligation to ensure that the shipped goods correspond with the samples.

Article 10.

1. The addition of the word "approximately" shall allow the principal the freedom to supply 2.5% more or less.

**Liability**

Article 11.

1. All operations and activities shall be at the principal's expense and risk.

2. Without prejudice to the provisions of Article 16, the forwarder shall not be liable for any damage whatsoever, unless the principal shall prove that the damage has been caused by fault or negligence on the part of the forwarder or the latter's servants.

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3. The forwarder's liability shall in all cases be limited to 10,000 SDR per occurrence or series of occurrences with one and the same cause of damage, on the understanding that in the event of damaging, loss of value or loss of the goods comprised in the order, the liability shall be limited to 4 SDR per kilogram damaged or lost gross weight, the maximum being 4,000 SDR per consignment.

4. The loss to be indemnified by the forwarder shall never exceed the invoice value of the goods, to be proved by the principal, in default whereof the market value - to be proved by the principal - at the time when the damage has occurred shall apply. The forwarder shall not be liable for lost profit, consequential loss, and pain and suffering.

5. If during the execution of the order damage occurs for which the forwarder is not liable, the forwarder shall make efforts to recover the principal's damage from the party that is liable for the damage.

The forwarder shall be entitled to charge to the principal the costs incidental thereto. If so requested, the forwarder shall waive in his principal's favour his claims against third parties engaged by him for the purpose of carrying out the order.

6. The principal shall be liable towards the forwarder for any damage as a consequence of the (nature of the) goods and the packaging thereof, the incorrectness, inaccuracy or incompleteness of instructions and data, the failure to tender the goods or not doing so in time at the agreed place and time, as well as the failure to supply -- or to do so in time -- documents and/or instructions, and fault or negligence in general on the part of the principal and the latter's servants and third parties called in or engaged by him.

7. The principal shall indemnify the forwarder against third-party claims connected with the damage referred to in the foregoing paragraph, such third parties including servants of both the forwarder and the principal.

8. Even where all-in or fixed rates, as the case may be, have been agreed, the forwarder, who is not a carrier, shall be liable under the present conditions and not as a carrier.

Article 12.

1. To be regarded as force majeure are all circumstances which the forwarder could not reasonably avoid and the consequences of which the forwarder could not reasonably prevent.

Article 13.

1. In the event of force majeure, the contract shall remain in force; the forwarder's obligations shall, however, be suspended for the duration of the event of force majeure.

2. All additional costs caused by force majeure, such as carriage and storage charges, warehouse or yard rentals, demurrage for vessels or trucks, insurance, removal, etc., shall be borne by the principal and shall be paid to the forwarder at the forwarder’s initial request.

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Article 14.

1. The mere statement by the principal of a time for delivery shall not be binding upon the forwarder.

2. The forwarder does not guarantee arrival times, unless agreed otherwise in writing.

Article 15.

1. If the carriers refuse to sign for number or weight of pieces or items etc., the forwarder shall not be liable for the consequences thereof.

**Imperative law**

Article 16.

1. If the goods are not delivered without delay at the place of destination in the state in which they were tendered, the forwarder, in so far as he has carried out a contract of transport himself which he was to conclude with a third party, is obliged to notify this forthwith to the principal who has notified him of the damage.

2. If the forwarder fails to make notification as referred to in the first paragraph and if as a result thereof he has not been called upon as a carrier in time, he shall, in addition to being liable for payment of the further damage sustained by the principal as a result thereof, be liable to pay compensation equal to the damages he would have had to pay, if he had been called upon as a carrier in time.

3. If the goods are not delivered without delay at the place of destination in the state in which they were tendered, the forwarder, in so far as he has not carried out a contract of transport himself which he was to conclude with a third party, is obliged to inform the principal forthwith which contracts of transport he has entered into to fulfil his obligation. He is also obliged to put at the disposal of the principal all documents in his possession or which he can reasonably supply, at any rate in so far as they may be used to claim damages sustained.

4. As from the point of time at which he informs the forwarder unequivocally that he wishes to exercise such rights and powers, the principal shall obtain as against the party with whom the forwarder has conducted business the rights and powers to which he would have been entitled if as a shipper he had concluded the contract himself. He shall be free to take legal action in this matter if he submits a statement to be issued by the forwarder - or in case the forwarder has gone into compulsory liquidation, by the forwarder's liquidator - that between him and the forwarder with respect to the goods a contract for the carriage thereof was concluded.

5. If the forwarder fails to comply with an obligation as referred to in the third paragraph, he shall, in addition to being liable for payment of the further damage sustained by the principal as a result thereof, be liable to pay compensation equal to the damages which the principal would have received from him if he himself had carried out the contract concluded by him, less the damages which the principal may have received from the carrier.

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**Payment**

Article 17.

1. The principal shall pay to the forwarder the agreed remuneration and other resulting costs, freights, duties, etc., ensuing from the contract and/or these conditions, upon arrival or despatch of goods which are being received or forwarded respectively. The risk of exchange rate fluctuations shall be borne by the principal.

 The agreed remuneration and other resulting costs, freights, rights, etc., ensuing from the contract and/or these conditions, shall also be due if in the performance of the contract damage has occurred.

2. If, in contravention of paragraph 1 of this article, the forwarder allows deferred payment, the forwarder shall be entitled to make an additional credit limit charge.

3. If the principal does not pay the amount due immediately upon notice to that effect or, as the case may be, after lapse of the term of deferred payment, the forwarder shall be entitled to charge the legal interest in conformity with Articles 6:119 or 6:119a Dutch Civil Code.

4. In the event of cancellation or dissolution of the contract, all claims of the forwarder, with the inclusion of future claims, shall become due and payable forthwith and in full. All claims shall be due and payable forthwith and in full in any case, if:

- the principal is involuntarily wound up, the principal applies for suspension of payment or

 otherwise loses the unrestricted disposition over his assets;

- the principal offers a settlement to his creditors, is in default of fulfilling any financial

 obligation owed to the forwarder, ceases to trade or - where the principal is a legal entity or a corporate body - if the legal entity or the corporate body is dissolved.

5. The principal shall be reason of the forwarding contract and upon demand by the forwarder provide security in the form of a bond with sureties for any amount for which the principal is or may be indebted to the forwarder. The principal is also so obliged where he already has to provide or has provided security in the form of a bond with sureties in connection with the amount owed.

6. The forwarder shall not be obliged out of his own means to provide security in the form of a bond with sureties for the payment of freight, duties, levies, taxes and/or other costs should the same be demanded. All the consequences of non-compliance or of failure to comply forthwith with a demand to provide security in the form of a bond with sureties shall be borne by the principal.

 If the forwarder has provided security in the form of a bond with sureties out of his own means, he may demand that the principal pay the amount for which security has been provided security in the form of a bond with sureties.

7. The principal shall at all times be obliged to indemnify the forwarder for any amounts to be levied or additionally demanded by any authority in connection with the order, as well as any related fines imposed upon the forwarder.

 The principal shall also reimburse the said amounts to the forwarder if a third party called in by the forwarder demands payment within the framework of the forwarding contract.

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8. The principal shall at all times indemnify the forwarder for any amounts as well as for all additional costs that may be claimed or additionally claimed from the forwarder in connection with the order as a result of incorrectly charged freight rates and costs.

9. The principal shall not be entitled to apply any set-off in respect of sums charged by the forwarder to the principal under any contract existing between them.

Article 18.

1. Cash payments shall be deemed in the first place to have been made on account of non-preferential debts, regardless of whether any other instructions were given at the time of payment.

2. If legal proceedings or other means are resorted to in the event of overdue payment, the amount of the indebtedness shall be increased by 10% for clerical expenses, while the legal and other costs shall be borne by the principal up to the amount paid by or due from the forwarder.

Article 19.

1. With respect to all claims he has or may at any time have against the principal and/or the owner, the forwarder shall have a pledge and a lien on all goods, documents and moneys which he holds or will hold in his possession whatever the reason and the purpose thereof may be, as against any party requiring their delivery. If the goods are forwarded on, the forwarder shall be entitled to collect the sum due on subsequent delivery or draw a bill therefor with the shipping documents annexed.

2. The forwarder may also exercise the rights granted to him in paragraph 1 for that which the principal was owing to him with respect to previous orders.

3. The forwarder is also authorized to exercise the rights granted to him by virtue of paragraph 1 for any amount(s) payable by way of delivery C.O.D. in respect of the goods.

4. Failing payment of the amount due the security shall be sold as provided by statute or - if so agreed - by private sale.

**Final provisions**

Article 20.

1. No legal or arbitration proceedings shall be taken against third parties by the forwarder unless he states his readiness to take the same at the principal's request and expense.

Article 21.

1. Without prejudice to the provisions of paragraph 5 of this Article, all claims shall be barred by the mere lapse of a period of nine months.

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2. All claims against the forwarder shall be barred by the mere lapse of a period of eighteen months.

3. The terms mentioned in paragraphs 1 and 2 shall commence on the day following the day on which the claim has become due and payable or the day following the day on which the prejudiced party had knowledge of the loss. Without prejudice to the preceding provisions, the said terms shall commence on the day following the day of delivery with respect to claims regarding damage to, decrease in value or loss of the goods. The day of delivery shall be understood to be the day on which the goods are delivered from the means of transport or, if they have not been delivered, the day on which they should have been delivered.

4. In case any public authority or third parties as referred to in paragraph 7 of Article 17 claim payment from the forwarder, the term mentioned in paragraph 1 of this Article shall commence on the first of the following days:

● the day following the day on which payment is claimed from the forwarder by any public authority or third party;

● the day following the day on which the forwarder has settled the claim existing against him.

If the forwarder or a third party called in by the forwarder as referred to in Article 17, par. 7 has submitted an administrative objection and/or lodged an administrative appeal, the period specified in paragraph 1 shall commence on the day following the day on which the decision on the administrative objection and/or the administrative appeal has become final.

5. If after the term of prescription a third party claims payment of the amount due and payable by either parties, a new term of prescription - of three months - commences, unless the situation referred to in paragraph 4 of this Article occurs.

Article 22.

1. All contracts to which the present conditions apply shall be governed by Dutch law.

2. The place for settlement and adjustment of damage shall be that where the forwarder's business is situated.

**Disputes**

Article 23.

1. All disputes which may arise between the forwarder and the other party shall be decided by three arbitrators to the exclusion of the ordinary courts of law, and their decision shall be final. A dispute shall exist whenever any of the parties declares this to be so.

Without prejudice to the provisions of the preceding paragraph the forwarder shall be at liberty to bring before the competent Dutch court in the forwarder’s place of business claims for sums of money due [and] payable, the indebtedness of which has not been disputed in writing by the opposing party within four weeks after the invoice date. In the event of urgent claims, the forwarder shall equally be at liberty to institute interim relief proceedings (kort geding) before the competent Dutch court in the forwarder’s place of business.

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2. One arbitrator shall be appointed by the Chairman or the Vice-Chairman of the FENEX; the second shall be appointed by the Dean of the Bar Association of the district in which the aforesaid forwarder has registered office; the third shall be appointed by mutual agreement between the two arbitrators so appointed.

3. The Chairman of the FENEX shall appoint as such an expert on forwarding questions; the Dean of the Bar Association shall be asked to appoint a member of the legal profession; the third arbitrator shall preferably be an expert on the trade and industry in which the forwarder's opposite party is engaged.

4. The party desirous of having the dispute determined shall inform the Secretariat of the FENEX hereof by registered letter or fax letter, giving a brief description of the dispute and of his claim and at the same time remitting the amount of administrative costs to be determined by the Board of the FENEX, due as a compensation for the administrative work of the FENEX in an arbitration case.

A case shall be considered to be pending on the day of receipt of the said registered letter or fax letter by the Secretariat of the FENEX.

5. After receipt of the above-mentioned application for arbitration the Secretariat of the FENEX shall as soon as possible acknowledge receipt thereof and send a copy of the application to the other party, to the Chairman of the FENEX, to the Dean of the Bar Association, with a request to each of the latter two to appoint an arbitrator and to notify the FENEX Secretariat of the name and address of the person appointed.

Upon receipt of such notification the FENEX Secretariat shall as soon as possible notify the persons concerned of their appointment, send each of them a copy of the application for arbitration and a copy of these general conditions and request each of them to appoint a third arbitrator and notify the FENEX Secretariat of the person so appointed.

Upon receipt hereof the FENEX Secretariat shall forthwith notify the third arbitrator of his appointment, at the same time sending him a copy of the application for arbitration and a copy of these general conditions. The FENEX Secretariat shall also notify both parties as to who have been appointed arbitrators.

6. If all three arbitrators have not been appointed within two months of the application for arbitration having being lodged all of them shall be appointed by the President of the District Court within whose jurisdiction the forwarder's business is situated upon the application of whichever party shall first make the same.

7. The person appointed by the Dean shall act as Chairman of the arbitration board. If the arbitrators are appointed by the President of the District Court, the arbitrators shall themselves decide who is to function as chairman. The place of arbitration shall be the place where the chairman of the arbitrators is established.

The arbitrators shall make their award as good men in equity, subject to their liability to observe the applicable imperative legal stipulations. Where applicable, they shall also apply the provisions of the international transport treaties, among which, inter alia, the Convention on the Contract for the International Carriage of Goods by Road (CMR).

The arbitrators shall determine the procedure of the arbitration, subject to the parties being given opportunity to put forward their cases in writing and to elucidate the same orally.

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8. The arbitrators shall continue in office until the final award. They shall deposit their award at the Registry of the District Court within the district of which the seat of the arbitration is situated, while a copy thereof shall be sent to each of the parties and to the FENEX Secretariat.

The arbitrators may require the Plaintiff or both parties to deposit a sum beforehand in respect of the arbitration costs; during the proceedings they may require an additional amount to be deposited. If, within three weeks of the relevant request, the deposit required by the arbitrators of the plaintiff has not been paid in, it shall be deemed to have withdrawn the arbitration. In their award the arbitrators shall order which of the two parties shall bear the costs of arbitration or what proportion thereof each party shall bear. These costs shall comprise the arbitrators' fees and disbursements, the amount of administrative costs paid to the FENEX with the application and the costs incurred by the parties in so far as the arbitrators deem the same to be reasonably necessary.

The sums due to the arbitrators shall to the extent possible be taken from the amounts deposited.

Article 24.

1. These general conditions may be cited as the "Dutch Forwarding Conditions".

 In case the English translation differs from the Dutch text, the latter will prevail.

FENEX, Netherlands Association for Forwarding and Logistics

Seattleweg 7, Building 3, Portnumber 2801, 3195 ND Pernis-Rt

P.O. Box 54200, 3008 JE Rotterdam

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**TERMS AND CONDITIONS FOR VALUE ADDED LOGISTICS**

*deposited by the FENEX,*

*Netherlands Association for Forwarding and Logistics,*

*at the Registry of the District Court at Rotterdam*

*on 15 November 1995*

**Clause 1**

**Definitions**

In the terms and conditions it is understood by:

1. **logistic activities**: all activities like unloading, acceptance, storage, delivery, stock control, order handling, order picking, preparing for shipment, loading, invoicing, assembling, labelling, exchange and control of information with regard to goods, in the event that they have been agreed between the principal and the service provider.
2. **logistic centre**: the agreed space(s) where the logistic activities take place.
3. **service provider**: the party performing the said activities by order of the principal.
4. **principal**: the party ordering the service provider.
5. **agreement**: the agreement made between the principal and the service provider.
6. **terms and conditions**: the Terms and Conditions for Value Added Logistics applying to the agreement.
7. **force majeure**: all circumstances a conscientious service provider has reasonably been unable to avoid and whose consequences the service provider has reasonably been unable to prevent.
8. **working days**: all calendar days, except Saturdays, Sundays as well as public and national holidays.

**Clause 2**

**Scope**

1. The logistic activities shall commence with the unloading of the goods from the carrier in the logistic centre. The logistic activities shall cease after the goods have been loaded into the means of transport at the logistic centre, unless agreed otherwise in writing.
2. Even after termination of the agreement, the present terms and conditions shall apply to the legal relation between the principal and the service provider.

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**Clause 3**

**Prices and rates**

1. Changes in price resulting from movements in price and costs, customary or related to the nature of the activities, may be passed on, after consultation with the principal. The service provider shall propose changes in price established in reasonableness and fairness. Changes in price established in reasonableness and fairness by the service provider cannot produce grounds for dissolution of the agreement by the principal.
2. The agreed rates shall be considered to include all costs generally borne by the service provider in the ordinary performance of the agreement.
3. Unless agreed to the contrary, the rates shall at any rate not include: taxes and levies, cost of drawing up bank guarantees and insurance premiums.
4. For unforseen activities, including inter alia special performance, uncommon, extremely time-consuming or energy-requiring activities, an extra payment - established in fairness - may always be charged.

**Clause 4**

**Duties of the service provider**

The service provider shall be obliged:

1. to take delivery of the agreed goods, provided that the packing is sound, the proper documents are present and the goods are made available in the agreed place, time and manner;
2. to see to the loading and unloading, the acceptance and delivery of the goods;
3. to have the logistic activities performed in expressly agreed or suitable spaces.

If no specific spaces have been agreed, the service provider shall be free in the choice of the place of warehousing and shall have the right to move the goods.

If specific spaces have been agreed, the service provider shall have the right to move the goods, in consultation with the principal, if the proper conduct of their business so requires.

1. to notify the principal that the goods are being moved to a different place of warehousing.

The principal cannot lay any claim against the service provider on the basis of the absence of a notification.

1. to have the transfer take place for their account, unless the transfer must be made:
* in the interest of the principal or the order, or
* as a result of circumstances for which the service provider is not responsible, or
* as a result of circumstances that are reasonably not for the service provider's account and risk, or
* as a result of government rules.

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The transport related to the transfer for account of the service provider, shall take place on the customary transport conditions, provided that the limits of liability of clause 8 hereof shall apply, unless the relevant transport conditions would render a higher limit of liability.

The transport related to the transfer for the principal's account, is to be considered pre- and/or on-carriage in terms of the agreement and shall be made for the principal's risk.

1. to take all the necessary measures - even not directly resulting from the logistic activities - at the principal's expense and prior to proceeding thereto, to consult with the principal, if possible;
2. to insure, at the principal's written request on entering into the agreement, their liability under the terms and conditions;
3. to insure the goods, at the principal's written request and for the principal's account, stating the desired cover. A copy of the policy or of an insurance certificate shall be handed to the principal.
4. to admit the principal and the persons designated by him at the principal's risk, to the spaces where the goods are, provided always that
* it takes place in the presence of the service provider or someone in his name and behalf;
* it was announced beforehand;
* it is done in accordance with the service provider's house rules.

The resultant cost shall be for the principal's account.

1. to undertake auxiliary work in relation to the goods, in consultation with the principal, against a consideration to be agreed, if such work may reasonably be required from the service provider;
2. to guarantee the soundness and suitability of his equipment;
3. to make the goods available in the agreed condition;
4. to observe secrecy towards third parties in respect of the facts and data known to them on the basis of the agreement and which he understands to be confidential.

**Clause 5**

**Consequences of the service provider's non-performance**

If the service provider do not meet his obligations described in the paragraphs 1, 2, 3, 8 and 9 of clause 4, the principal may - without prejudice to his right to compensation of the loss suffered in accordance with clause 8 hereof - dissolve the agreement, after he has given the service provider a period of four weeks by registered letter and on the lapse thereof the service provider has not yet met his obligations.

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**Clause 6**

**The principal's obligations**

The principal shall be obliged:

1. to supply the service provider in good time with all such particulars on the nature and quality of the goods as well as their treatment and packing, and furthermore to give all such information and furnish such data as he knows or should know could be important to the service provider.

The principal shall be responsible for the accuracy of the data supplied.

1. if goods and/or activities are subject to government regulations, including inter alia customs and excise regulations or to tax regulations, the principal shall in good time provide all information and documents required therefor, in order to enable the service provider to comply with such rules or regulations.

Supplying the service provider with information required for performing formalities in relation to the above government regulations, shall imply an order thereto. The service provider shall have the right, but not be obliged to perform such formalities.

1. to make the agreed goods available to the service provider in sound packing in the agreed place, time and manner, together with the agreed documents and/or documentation and other documents required by or under the government rules and regulations.

The service provider shall have the right to refuse goods which do not meet the above provisions, or goods that are in apparent damaged condition.

1. to indemnify the service provider against third party claims for damage caused by the principal's acts or negligence, his instructions or the data supplied, his employees as well as all third parties engaged by him, by persons who under the order or with the principal's consent or on his behalf are present in the logistic centre, or by the principal's goods or goods of third parties engaged by the principal.

To indemnify the service provider against third party claims for damage caused by the nature of the goods and their packing.

1. to guarantee the goods and material made available to the service provider;
2. to pay, in addition to the agreed price, any other costs resulting from the agreement and/or the terms and conditions;
3. to pay the cost of clearance of the goods and to compensate the damage caused by the goods;
4. on the termination of the agreement, to take delivery of goods still held by the service provider and/or have them removed not later than the last working day of such agreement, after paying all he owes or will owe. For the amounts he will owe after termination of the agreement, the principal needs only issue a guarantee that is adequate in the service provider's opinion.
5. to take delivery of the goods and/or to have them removed immediately, if in the service provider's opinion the goods are so dangerous, or cause such aggravation that they cannot be required to keep them in storage any longer, subject to the provisions of paragraph 8 though. Contrary to the provisions of paragraph 2 of clause 4, the delivery and loading shall take place by or on behalf of the principal and for his account and risk.

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1. to observe secrecy towards third parties in respect of the facts and data known to him on the basis of the agreement and which he understands are confidential.

**Clause 7**

**Consequences of the principal's non-performance**

1. If the principal does not meet his obligations as described in the paragraphs 1, 2, 3, 4, 6 and 7 of clause 6, the service provider may - without prejudice to their right to compensation of the loss suffered - dissolve the agreement, after he has given the principal a period of four weeks by registered letter and on the lapse thereof the principal has not yet met his obligations. If, by giving such period, the service provider's interests in the undisturbed conduct of his business would be impaired disproportionately, the service provider may dissolve the agreement without observing a time limit.

2. If the principal does not meet his obligations described in paragraph 9 of clause 6, the service provider may dissolve the agreement with immediate effect.

1. If the principal does not meet his obligations described in paragraphs 8 and 9 of clause 6, the service provider shall have the right:
2. to transfer the goods to other spaces for the principal's account and risk;
3. to sell the goods privately or by auction for the principal's account after the lapse of one week after they informed the principal by registered letter of the intended sale, without the necessity of complying with any formality;
4. to abandon or destroy the goods if it is likely that in case of sale of the goods the costs will be higher than the benefits or if no buyer can be found despite the service provider's reasonable effort thereto, while the cost of abandonment or destruction shall be for the principal's account.

**Clause 8**

**The service provider's liability**

1. For the purpose of these terms and conditions the principal waives his recourse against third parties in case of damage, he shall only be able to hold the service provider liable; also in case the service provider has made use of third party services in the conduct of their business, subject to the following limitation.
2. Except for force majeure and other provisions hereof, the service provider shall be liable for damage caused during the logistic activities. The service provider shall not be liable for damage resulting from the principal's failure to meet any of his obligations under the agreement and/or these terms and conditions.
3. The service provider's liability shall be limited to 4 SDRs per kilogram gross weight missing or damaged goods with a maximum amount to be agreed by the parties when entering into the agreement. If such amount has not been agreed, a maximum amount of 100,000 SDRs per event or series of events with one and the same cause of damage shall apply.

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Subject to the provisions of the last sentence of paragraph 4 of clause 8 hereof, the service provider's liability for all other damage than to the goods themselves, shall be limited to 10,000 SDRs per event or series of events with one and the same cause of damage.

1. The damage to be compensated by the service provider shall never amount to more than the invoice value of the goods to be proved by the principal, in the absence of which the market value to be proved by the principal shall apply at the moment the damage was done. The service provider shall not be liable for lost profits, consequential damage and immaterial damage.
2. The service provider shall not be liable for damage to the goods, if such damage is caused by the special risks of open-air warehousing performed on the principal's instruction.
3. The service provider shall not be liable for any damage resulting from the performance of formalities described in paragraph 2 of clause 6, unless the principal proves that the damage was caused by the service provider's fault or negligence. In such case the service provider's liability shall be limited to 7500 SDRs per event or series of events with one and the same cause of damage.

**Clause 9**

**The principal's liability**

1. The principal shall be liable for all damage however caused by himself, his goods, his staff or by third parties engaged by him and their staff.
2. The principal shall be liable for all damage caused by not, or not punctually, or not properly meeting any of his obligations hereunder or under the separate agreement.

**Clause 10**

**Time bar**

1. All claims under the agreement shall be barred by the simple lapse of twelve months.
2. All claims shall become extinct by the simple lapse of two years.
3. The periods mentioned in paragraphs 1 and 2 shall commence, in case of total loss, damage or reduction, on the first of the following days:
* the day the goods were made available by the service provider or should have been made available;
* the day the service provider informed the principal of such event.
1. In case the service provider is held liable by third parties including any government, the periods of paragraphs 1 and 2 shall commence on the first of the following days:
* the day the service provider is held liable by the third party;
* the day the service provider paid the claim against them.
1. Without prejudice to the provisions of paragraphs 3 and 4, the periods of paragraphs 1 and 2 for all other claims shall commence on the day they become due and payable.

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**Clause 11**

**Complaints**

1. If the goods are made available by the service provider without the principal or someone else for him having established their condition in the presence of the service provider or without having informed the service provider of reserves, in case of visible loss or damage not later than the moment of availability, or in case of invisible loss or damage within five working days of the availability, indicating the general nature of the loss or damage, he shall be considered to have received the goods in good condition, unless there is proof to the contrary.

In case of invisible loss or damage, the above reserves shall be made in writing.

1. The day of availability shall not be counted in the determination of the above periods.

**Clause 12**

**Terms of payment**

1. All amounts owing to the service provider by the principal for whatever reason, shall be paid with due regard to the agreed time or, in the absence of an agreed time, within two weeks of the invoice date.
2. If the principal does not pay any amount due within the agreed time or, in the absence of an agreed time, within two weeks of the invoice date, he shall be obliged to pay the legal interest thereon from the day such payment should have been made until the day of payment.
3. If in case of overdue payment judicial or other means of collection is used, the amount of the claim shall be increased by 10% administrative costs, while the judicial and extrajudicial costs shall be for the principal's account.
4. The principal shall at all times refund the service provider amounts collected or additionally claimed or after-tax levied by any government in connection with the agreement and/or the terms and conditions, as well as the related fines imposed.
5. The principal shall at the service provider's first demand provide collateral security for all amount the principal owes or will owe the service provider.
6. Recourse to compensation of claims for payment of charges under the agreement and/or the terms and conditions, of amounts owing for other reasons related to the logistic activities, or of other costs falling on the goods, with claims for other reasons shall not be permitted.
7. At any rate, all amounts mentioned in paragraph 1 of this clause shall be immediately due and payable and notwithstanding paragraph 6 of clause 12, subject to compensation if:
	1. a bankruptcy petition is filed against the principal, the principal applies for a moratorium or otherwise loses the free disposal of his capital;
	2. the principal:

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1. offers his creditors a composition;
2. fails to meet any financial obligation towards the service provider;
3. discontinues carrying on his business or - in case of a corporation or partnership - if it is dissolved.

**Clause 13**

**Securities**

1. The service provider shall have a lien and a right of retention towards anyone requesting delivery thereof, on all goods, documents and monies the service provider hold or will hold for whatever reason and with whatever destination, for all claims they have or might have in future on the principal and/or the owner.
2. The service provider may also exercise the rights awarded to them in paragraph 1, for all amounts still owing to them by the principal in connection with earlier orders.
3. The service provider shall regard everyone who entrusts goods to them on behalf of the principal for performing activities, as the principal's agent for creating a lien and a right of retention on goods.
4. In case of non-payment of the claim, the sale of the security shall take place in the manner prescribed by law or - if there is consensus thereon - privately.

**Clause 14**

**Final provisions**

1. All agreements to which these terms and conditions apply, shall be subject to the Laws of the Netherlands.
2. The place of payment and settlement of claims shall be the service provider's place of business.
3. In case of divergences with translated terms and conditions, the Dutch version hereof shall prevail.

**Clause 15**

**Disputes**

1. All disputes arising from the terms and conditions shall be decided in the highest instance by three arbitrators, with the exclusion the ordinary court of law. There shall be a dispute when either party so declares.

Without prejudice to the above provisions the parties shall be free to submit claims of amounts due and payable, the indebtedness of which has not been challenged in writing by the opposite party within four weeks of the invoice date, to an ordinary court of law.

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1. One of the arbitrators shall be designated by the President of FENEX; the second by the President of the Bar Council of the judicial district where the said service provider's registered office is; the third shall be appointed by the two arbitrators so designated, in mutual consultation. The President of FENEX shall only designate an arbitrator if one of the parties to the dispute is a FENEX member. If the said President does not designate an arbitrator, the designation of arbitrators shall take place in accordance with paragraph 6 of this clause. Exclusively persons of Dutch nationality may be appointed arbitrators.
2. The FENEX President shall designate an expert on logistic activities; the President of the Bar Council shall be requested to appoint a lawyer; as third arbitrator shall preferably be elected an expert in the branch of trade or industry the opposite party of the service provider operates in.
3. The party wishing a decision of the dispute, shall inform the FENEX secretariat thereof by registered letter, briefly describing the dispute and his claim, simultaneously sending an amount for service charge fixed by the FENEX board, due in compensation of the administrative involvement of FENEX in an arbitration.
4. On receipt of the above registered letter the FENEX secretariat shall send a copy as soon as possible to the opposite party, to the President of FENEX, to the President of the Bar Council, requesting the latter two to designate an arbitrator each and to inform the FENEX secretariat of the name and address of the person designated.

On receipt of such information the FENEX secretariat shall inform the two persons designated of their appointment as soon as possible, sending them a copy of the application for arbitration and a copy of the terms and conditions and requesting them to designate a third arbitrator and to inform the FENEX secretariat who has been designated as such.

On receipt of the information the FENEX secretariat shall inform the third arbitrator as soon as possible of his appointment, sending him a copy of the application for arbitration and a copy of the terms and conditions. Then the FENEX secretariat shall inform both parties who have been appointed arbitrators.

1. If within 30 days of the application for arbitration the designation of all three arbitrators has not been made, all arbitrators shall - at the complainant's request by simple petition - be designated by the President of the District Court within whose jurisdiction the service provider's registered office is.
2. Chairman shall be the person designated by the President of the Bar Council. If designation is made by the President of the District Court, the arbitrators shall decide among themselves which of them will act as Chairman.

The Arbitrators shall make their award as good men in fairness and under obligation to observe the compulsory legal provisions, including the provisions of international transport treaties. They shall decide how the arbitration will be treated, provided always that the parties shall at any rate be given an opportunity to expound their views in writing and explain them orally.

1. The arbitrators' assignment shall continue until their final decision. They shall file their award with the Registrar of the District Court within whose jurisdiction the place of arbitration lies, sending copies to each of the parties and to the FENEX secretariat.

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Arbitrators may require the complainant or both parties to make a deposit for cost of arbitration; during the proceedings they may demand additional deposits. In their award the arbitrators shall decide which of the two parties or for what portion each of the parties shall bear the cost of arbitration. Such cost shall include the Arbitrators' fees and expenses, the amount paid to FENEX on application for service charge, as well as the expenses incurred by the parties, if the arbitrators deem them reasonably necessary. The amounts due to the arbitrators shall be recovered as far as possible from the deposit.

FENEX, Netherlands Association for Forwarding and Logistics

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