

These Standard Conditions shall apply to every contract concluded with Transfennica Logistics whether evidenced by the issuance of a document or not.

1. Definitions

The following defined terms, in either the plural or the singular, appear with a capital letter in these Standard Conditions; otherwise the word is used with its ordinary meaning in the trade:

"Combined Transport": Arises if the Place of Receipt and/or the Place of Delivery are indicated in the Proposal as accepted by the Merchant.

"Contract": Shall mean the Proposal as accepted by the Merchant and includes these Standard Conditions, the "Transfennica Standard Container Leasing Terms", if applicable and any other addenda. **"CMR"** means the provisions of the Geneva Convention concerning the International Carriage of Goods by Road, dated 19th May 1956 as amended by the Protocol amending that Convention, dated 5 July 1978.

"FENEX": Shall mean the latest version of the Dutch Forwarding Conditions of the Netherlands Association for Forwarding and Logistics.

"Goods": Shall mean the whole or any part of the cargo received from or through the Merchant and includes but is not limited to any equipment and/or Unit (including its contents) not supplied by or on behalf of Transfennica.

"Costs": Shall be deemed to include any and all costs, expenses and charges incurred, including reasonable attorney's fees.

"Hague-Visby Rules": Shall mean the provisions of the International Convention for the Unification of Certain Rules of Law relating to Bills of Lading, signed at Brussels on 25 August 1924 and includes the amendments to the Convention by the Protocol signed at Brussels on 23 February 1968 as well as the amendments to the SDR Protocol signed at Brussels on 21 December 1979 (It is expressly provided that nothing in the Contract shall implement Article X(c) of said Rules as amended by said Protocol).

"Merchant": Shall include the Shipper, Receiver, Consignee, and any Person who owns or is entitled to the possession of the Goods or any Person acting on behalf of any such Person, all of whom are jointly and severally liable to Transfennica for payment of any and all charges, and for the performance of the Merchant's obligations under the Contract.

"Person": includes an individual, group, company or other entity.

"Port of Loading": Shall mean any port at which the Goods are loaded from any Vessel for carriage under this Contract.

"Port of Discharge": Shall mean any port at which the Goods are discharged from any Vessel after carriage under this Contract.

"Port-to-Port Shipments": Arises if the carriage under this Contract is not Combined Transport.

"Place of Receipt": Shall mean any location at which the Goods are provided to Transfennica for transport as a set out in the Proposal.

"Place of Delivery": Shall mean the final destination of the Goods as set out in the Proposal.

"Servants": Shall include any of Transfennica's and/or Vessel's respective, registered owners, agents, sub-agents, servants, crew, employees, charterers, sub-charterers, road and rail transport operators and independent contractors and sub-contractors of any tier whether or not employed directly or indirectly by or on behalf of Transfennica in performance of the Services.

"Services": means the whole or any part of the operations and services undertaken by Transfennica in respect of the Goods covered by these terms and conditions.

"Transfennica": The Transfennica Logistics company named in the Proposal as principal carrier or agent under the Contract is, to the exclusion of any other party or Person, the company named as carrier in the Proposal.

"Vessel": Shall mean any means of transport or any craft used in the performance of Services under this Contract which may be, without limitation, a river barge, an ocean vessel a truck or train.

"Unit": Shall include but is not limited to any single unit vehicle, articulated-unit vehicle, container, trailer, semi trailer, secu-box, cassette, huckepack trailer, van, swap body, train wagon, transportable tank, flat or pallet or any other unit or similar article to consolidate goods and any equipment thereof or connected thereto.

"Terminal": Shall mean the port or terminal indicated in the Contract where the Goods are received for shipment by Transfennica and where the Goods are delivered after shipment by Transfennica to the Merchant.

2. Warranty

The Merchant warrants to be empowered to represent the Person owning or entitled to the possession of the Goods.

3. Transfennica's Tariff

The terms and conditions of Transfennica's applicable tariff are incorporated herein. Particular attention is drawn to the terms and conditions therein relating to the Transfennica Standard Container Leasing Terms. Copies of the relevant provisions of the applicable tariff are always obtainable from Transfennica or his agents upon request and free of charge. In the case of inconsistency between this Contract and the applicable tariff, this Contract shall prevail.

4. Package limitation

For the purpose of Transfennica's rights of limitation as are or would be available under the international conventions or national laws, the Merchant agrees that any and all Goods shipped in/on one Unit including such Unit itself shall be deemed to be one package notwithstanding any further enumeration of the weight/contents/quantity of any such Unit in the Contract. Such further enumeration is made merely for the Merchant's convenience and the contents of any such Unit is entirely unknown to Transfennica.

5. Carrier as Principal or as Agent

(a) Carrier as Principal:

(i) To the extent that Transfennica acts as principal for the performance of the Services, Transfennica undertakes to perform or in its own name to procure the Services, and Transfennica shall, subject to these standard terms and conditions, have no liability whatsoever in contract, bailment, tort, negligence or otherwise for any loss of or damage to the Goods, howsoever arising, until the Goods have been loaded in the Unit at the Place of Receipt (or if applicable onto the Vessel at the Port of Loading) and after the Goods have arrived at the Place of Delivery (or if applicable onto the Vessel at the Port of Discharge), but in any event before unloading.

(ii) Notwithstanding the foregoing, in case and to the extent that any applicable law provides for any additional period of responsibility, Transfennica shall be entitled to every right, defence, exception, liberty or limitation provided elsewhere in this Contract.

(b) Carrier as Agent:

(iii) To the extent that Transfennica acts as a freight forwarder within the meaning of Article 8:60 of the Dutch Civil Code, Transfennica does not make or purport to make any contract with the Merchant for the carriage, storage or handling of the Goods nor for any other physical service in relation to them and acts solely on behalf of the Merchant in securing such services by establishing contracts with third parties so that direct contractual relationships are established between the Merchant and such third parties (making such contracts for such services on the terms and subject to the limitation of liability in use by such third parties).

(iv) Transfennica shall not be liable for any acts or omissions of such third parties as referred to in sub-clause (iii) above.

(v) Transfennica when acting as an agent has the authority of the Merchant to enter into contracts on Merchant's behalf and to do such acts so as to bind the Merchant by such contracts and acts in all respects notwithstanding any departure from the Merchant's instructions.

(vi) Except to the extent caused by Transfennica's negligence, the Merchant shall defend, indemnify and hold harmless Transfennica in respect of any liabilities, loss, damage, costs, expenses, fines or penalties (incl. VAT debts) arising out of any contracts made in the procurement of the Merchant's requirements in accordance with this clause 5(b).

(vii) All activities of Transfennica acting as the Merchant's forwarding agent are performed subject to the FENEX.

6. Delay

Transfennica does not undertake to deliver the Goods at the Port of Discharge or Place of Delivery at any particular time or to meet any particular market or use. All departure, arrival and voyage times given by or on behalf of Transfennica are estimates only and cannot be guaranteed. Transfennica without prior notice may change sailing schedules and timetables. Transfennica shall in no circumstances whatsoever be liable for any direct, indirect or consequential loss or damage caused by delay. In the event Transfennica nevertheless is held liable for delay, its liability shall be limited to a maximum of five (5) per cent of the freight (including the freight forwarding fee, if applicable) paid or payable for the delayed carriage.

7. Combined Transport

(a) If the carriage is Combined Transport, Transfennica undertakes to perform and/or to procure in its own name the performance of the carriage from the agreed Place of Receipt or the Port of Loading, whichever is applicable, to the agreed Port of Discharge or the Place of Delivery, whichever is applicable. Save as is otherwise provided for in the Contract, the non-maritime part of carriage shall be governed either by the provisions contained in any international convention or national law applicable to the means of transport utilised or by the law of the Netherlands applicable as to means of transport utilised. Contrary to Port-to-Port Shipments, Transfennica shall be liable for loss or damage occurring during the performance of the Services to the extent set out below:

(b) **If the stage of the carriage during which loss or damage occurred is not known:** Transfennica shall be relieved of liability for any loss or damage if such loss or damage was caused by:

- (i) an act or omission of the Merchant or Person;
- (ii) insufficiency of or defective condition of packing or marking;
- (iii) handling, loading, stowage or unloading of the Goods by or on behalf of the Merchant;
- (iv) inherent vice of the Goods;
- (v) strike, lockout, stoppage or restraint of labour;
- (vi) nuclear incident;
- (vii) any cause or event which Transfennica could not avoid and the consequences whereof he could not prevent by the exercise of reasonable diligence;
- (viii) any cause or omission of Transfennica the consequences of which he could not reasonably have foreseen;
- (ix) compliance with instructions of any Persons entitled to give them;
- (x) persons who illegally (attempt to) enter a Vessel or Unit.

(c) Burden of Proof:

The burden of proof that the loss or damage was due to one or more of the causes or events specified in clause 7(b) shall rest upon Transfennica, save that if Transfennica establishes that, in the circumstances of the case, the loss or damage could be attributed to one or more of the causes or events specified in clause 7(b) (ii), (iii) or (iv) it shall be presumed that it was so caused. The Merchant or Person shall, however, be entitled to prove that the loss or damage was not, in fact, caused either wholly or partly by one or more of these causes or events.

(d) **If the stage of the carriage during which the loss or damage occurred is known:**

Notwithstanding anything provided for in clause 7(b), if it is known during which stage of the carriage the loss or damage occurred, the liability of Transfennica in respect of such loss or damage shall be determined:

(1) by the provisions contained in any international convention or national law which provision: (i) cannot be departed from by private contract to the detriment of the Merchant or Person and (ii) would have applied if the Merchant or Person had made a separate and direct contract with Transfennica in respect of the particular stage of the Services during which the loss or damage occurred and received as evidence thereof any particular document which must be issued in order to make such international convention or national law applicable, except that under no circumstances the liability of Transfennica shall extend to live animals and/or Goods that are stated to be carried on deck and are so carried, or (2) if international convention or national law would not apply by virtue of clause 7(d)(1) by the Hague Visby Rules if the loss or damage is known to have occurred during waterborne carriage, or (3) by the provisions of clause 7(2) if the provisions of clause 7(d)(1) and (2) do not apply. For the purpose of clause 7(d) references in the Hague Visby Rules to carriage by sea shall be deemed to include references to all waterborne carriage and the Hague Visby Rules shall be construed accordingly.

(e) If the place of receipt or place of delivery is not agreed in the Contract Transfennica shall be under no liability whatsoever for loss, damage or delay to the Goods, howsoever occurring. If the place of delivery is not named in the Contract, Transfennica shall be under no liability whatsoever for loss, damage or delay to the Goods, howsoever occurring, prior the Goods have been loaded, during transport and after the Goods have been delivered.

(f) Transfennica shall be deemed prima facie to have effected timely delivery of the Goods unless notice of loss damage or delay to the Goods, indicating the general nature of such loss, damage or delay, shall have been given in writing to Transfennica or his representative at the Place of Delivery (or the Port of Discharge if no place of delivery is named in the Contract) before or at the time of removal of the Goods into the custody of the Person entitled to delivery thereof, or, if the loss or damage is not apparent at the time of delivery, within three days thereafter.

(g) Transfennica shall be discharged of all liability unless suit is brought and notice thereof is given to Transfennica within twelve months of delivery of the Goods or the date when the Goods should have been delivered, unless otherwise provided by mandatory applicable law or conventions.

(h) It is expressly agreed that all Services undertaken by Carrier on its own behalf, from a place of departure to a port or onwards or from an inland place of departure to a port or onwards shall be considered Combined Transport as defined in clause 1 and as elaborated on in this Clause 7. The part of this Services, during which the Goods are carried by sea and/or inland waterways, is subject to the provisions of the Hague Rules notwithstanding that the Goods may be carried on deck and/or that no Bill of Lading or similar document will be issued by Transfennica. In respect of all Services undertaken by Transfennica it is furthermore expressly agreed that Transfennica will not issue any CT document as mentioned in Article 8:44 of the Dutch Civil Code.

(i) In case of deviations between the Contract (including these Standard Conditions) and any mandatory rules provided for in laws or conventions applicable by virtue of law and/or the Contract, the mandatory rules shall prevail.

8. Amount of Compensation

(a) Compensation shall be calculated by reference to the value of the Goods at the place and time they have been delivered to the Merchant, or at the place and time they should have been delivered. For the purpose of determining the extent of the liability of Transfennica for loss or damage to the Goods the sound value of the Goods is agreed to be the invoice value.

(b) In the event of Combined Transport, where the stage of carriage where loss or damage occurred is not known, or is known, but no international convention or national law is applicable by virtue of clause 7, compensation for loss of or damage to Goods shall in no event exceed 666.67 SDRs per package or unit.

(c) The Merchant agrees and acknowledges that Transfennica has no knowledge of the value of the Goods, and that higher compensation than that provided above may not be claimed, unless with the written consent of Transfennica, the value of the Goods declared by the shipper prior to the commencement of the Services is stated in the Contract and extra freight is paid, if required. In that case, the amount of the declared value shall be substituted for the limits laid down in this Contract. Any partial loss or damage shall be adjusted pro rata on the basis of such declared value.

(d) Transfennica does not undertake that the Goods shall arrive at the Port of Discharge or Place of Delivery at any particular time or to meet any particular market or use and Transfennica shall in no circumstances whatsoever and howsoever arising be liable for direct, indirect or consequential loss or damage caused by delay. However, unless a latest date of delivery is stated in the Contract and any required premium paid, timely delivery shall be considered to have been made if the Goods are made available to the Merchant at the Port of Discharge or Place of Delivery, as the case may be, within 60 days after the date published in Transfennica inbound sailing schedule against the Port of Discharge nominated therein for the relevant Vessel. Transfennica shall be entitled to all defenses, exceptions and limitations provided in the applicable international convention or national law and this Contract.

(e) Unless specifically agreed to the contrary, Transfennica will not be liable for any damage or fines resulting from incorrect or incomplete information and/or documents provided to the Merchant or others by Transfennica and/or its Servants.

(f) Scope of Application:

This Contract shall, at all times, govern all responsibilities of Transfennica in connection with or arising out of the supply of Goods to the Merchant, not only during the performance of the Services, but also during the period prior to and/or subsequent to the performance of the Services. The rights, defenses, limitations and liberties, of whatsoever nature, provided for in this Contract shall apply in any action against Transfennica for loss, damage tort and even if the loss, damage or delay arose as a result of unseaworthiness, negligence or breach of a fundamental term of this Contract. Save as is otherwise provided for in this Contract, Transfennica shall, in no circumstances whatsoever and howsoever arising, be liable for direct or indirect or consequential loss or damage or loss of profit.

- (g) Without prejudice to any other limitation of liability provided for in this Contract or the mandatory applicable laws or Conventions, Transfennica's liability shall in all cases be limited to SDR 10,000 per occurrence or series of occurrences with the same cause of damage.

9. Indemnity

- (a) The Merchant undertakes that no claim or allegation, whether arising in contract, bailment, tort, negligence or otherwise, shall be made against the Servants which imposes or attempts to impose upon them or any vessel owned or chartered by the Servants any liability whatsoever in connection with the Goods or the carriage of the Goods whether or not arising out of negligence on the part of the Servants. If any such claim or allegation should nevertheless be made, Merchant undertakes to defend, indemnify and hold Transfennica harmless from all consequences thereof, including Transfennica's or Servants' costs. Without prejudice to the foregoing, Servants shall have the benefit of all the terms, conditions, exceptions and limitations of this Contract as if these terms, conditions etc. were expressly for their benefit; and in entering into this Contract, Transfennica, to the extent of these terms, conditions etc., does so not only on its own behalf but also as agent and trustee for the Servants.
- (b) The provisions of clause 9(a), including but not limited to the undertakings of the Merchant contained therein, shall extend to claims or allegations of whatsoever nature against other Person chartering space on the carrying vessel.
- (c) The Merchant further undertakes that no claim or allegation which imposes or attempts to impose upon Transfennica any liability whatsoever in connection with the Goods or the carriage of the Goods shall be made against Transfennica by any Person other than in accordance with the Contract, whether or not arising out of negligence on the part of Transfennica. If any such claim or allegation should nevertheless be made, Merchant undertakes to defend, indemnify and hold Transfennica harmless from and against all consequences thereof, including Transfennica's or Servants' costs.
- (d) The Merchant shall comply with all regulations or requirements of Customs, port and other authorities, and shall bear and pay all duties, taxes, fines, imposts, expenses or losses (including without prejudice to the generality of the foregoing, freight for any additional Services undertaken) incurred or suffered in respect of the Goods, and shall indemnify Transfennica in respect thereof.
- (e) The Merchant shall indemnify and hold Transfennica harmless from and against any and all claims for payment of compensation not concerning loss or damage to the Goods.

10. Exemptions and Immunities of all Servants of Transfennica

It is expressly agreed that no Servants of Transfennica shall in any circumstances whatsoever be under any liability whatsoever to the Merchant for any loss, damage or delay howsoever arising or resulting directly or indirectly from any act, fault, neglect or default on his part while acting in the course of or in connection with his employment. Without prejudice to the generality of the foregoing provisions in this clause, every exemption, limitation, condition and liberty herein contained and every right, exemption from liability, defence and immunity of whatsoever nature applicable to Transfennica or to which Transfennica is entitled hereunder shall also be available and shall extend to protect every Servants of Transfennica acting as aforesaid. For the purpose of all the foregoing provisions of this clause Transfennica is or shall be deemed to be acting as agent or trustee on behalf of and for the benefit of each Person who is or might be his Servants and such Person shall to this extent be or be deemed a party to this Contract. Transfennica shall be entitled to be paid by the Merchant on demand any sum recovered or recoverable by the Merchant or any other from such Servants of Transfennica for any such loss, damage, delay or otherwise.

11. Packing of Cargo, Seals

- (a) The Merchant warrants that the Goods are in every respect fit for carriage by sea, road and by rail and that the cargo in or on the Units is properly loaded, stowed, lashed and secured for carriage by sea and in accordance with European Standard for "Load Restraint Assemblies on Road Vehicles" (EN 12 195-1:2004) and the IMO/ILO/JUN ECE "Guidelines for Packing of Cargo Transport Units". The Units shall be fitted with adequate and sufficient (minimum eight per Unit) lashing points. Failure to comply with this sub-clause 11(a) entitles Transfennica at all times and at its sole discretion, to either make additional arrangements for the account of the Merchant, or suspend its obligations under this Contract without releasing the Merchant from all its obligations under this Contract, including the payment of the full freight stated in the Contract.
- (b) If a Unit has been loaded, packed, stowed or stuffed by the Merchant, its agent, servants or independent contractors, Transfennica shall not be liable for any loss of or damage to its contents or to property belonging to others howsoever caused and the Merchant shall defend, indemnify and hold Transfennica harmless from and against any and all loss, damage, delay, liability and Costs caused by:
- complete or partial failure to comply with clause 11(a) above, or
 - the unsuitability of the Goods for Services in the Unit supplied; or
 - the unsuitability of the Units/Goods for sea carriage, or
 - the opening of a Unit and inspection of the Goods by Transfennica or by order of authorities at any place, or
 - The unsuitability or defective condition of the Unit provided that, where the Unit has been provided by or on behalf of Transfennica, this sub-paragraph (iv.) shall only apply if the unsuitability or defective condition arose without any want of due diligence on the part of Transfennica or would have been apparent upon reasonable inspection by the Merchant at or prior to the time when the Unit was packed or loaded.
- (c) Transfennica shall not be responsible for checking Unit seals or seal numbers and shall not be required by the Merchant to carry out any seal check or to note seal numbers on any document at any time whatsoever. Where seal numbers are noted for whatever reason by Transfennica then no representation whatsoever is made by Transfennica as to the accuracy of the number noted nor the condition of the seal.
- (d) Transfennica shall not be liable for any loss or damage, howsoever arising, to overlength or overwidth parts of Units that are outside the standard dimensions of the ISO frame. The Merchant shall defend, indemnify and hold Transfennica harmless from and against any and all consequences thereof, including, without limitation, delays, fines, pollution and costs.
- (e) If Units supplied by or on behalf of Transfennica are unpacked at the Merchant's premises, the Merchant is responsible for returning the empty Units, with interiors clean, to the point or place designated by Transfennica or his Servants within the time prescribed in the Contract. Should a Unit not be returned within the time prescribed in the Contract, the Merchant shall pay the Unit demurrage in accordance with the "Transfennica Spain's Standard Container Leasing Terms".

12. Utilization, Optional Stowage and Deck Cargo during Seatransport

- (a) The Goods may be stowed on the Vessel by Transfennica as received, or, at Transfennica's option, by means of a Unit.
- (b) The Goods, whether stowed as aforesaid or not, are to be carried on or under deck of the Vessel at Transfennica's option with or without notice to the Merchant, and if they are so carried, they shall be carried subject to the Hague-Visby Rules, which are applicable in the event of transport by sea as set out in Article 30 of this Contract notwithstanding carriage on or under deck, and they shall contribute to general average, whether carried on or under deck. In the event the carriage of the Goods on deck has been agreed in the Contract and they are so carried, Transfennica shall not be liable for any and all loss or damage to the Goods of whatsoever nature, howsoever caused and howsoever arising, even if caused by unseaworthiness, and the Merchant shall defend, indemnify and hold Transfennica harmless from and against any and all claims with respect to damage to the Goods.

13. Methods and Routes of carriage

Transfennica, and/or the carrier instructed by Transfennica, is allowed at any time and under any circumstances:

- use any means of carriage whatsoever;
- transfer the Goods from one conveyance to another, including but not limited to transshipping or carrying them on a Vessel other than that named on the face hereof;
- unpack and remove the Goods which have been packed into a Unit and forward them in a Unit or otherwise;
- proceed by any route in his discretion (whether or not the nearest or most direct or customary or advertised route), at any speed, and proceed to or stay at any place or port whatsoever, once or more often and in any order;
- load or unload the Goods at any place or port and store the goods at any such place or port;

- (f) comply with any order or recommendations given by any government or authority, or any Person acting or purporting to act as or on behalf of such government or authority, or having under the terms of any insurance on any conveyance employed by Transfennica the right to give orders or directions;
- (g) permit the Vessel to proceed with or without pilots, to tow or be towed and to be dry-docked, with or without Goods and/or Units on board.

14. Loading, Discharging and Delivery

- (a) The Goods are to be loaded and discharged by Transfennica, or the carrier instructed by Transfennica, unless otherwise stated in the Contract. Any and all Costs incurred before receiving the Goods and/or after delivery at the place of delivery shall be for Merchant's account.
- (b) The Merchant or his assign shall tender the Goods at the place of receipt latest at the time indicated in the Contract, which includes outside ordinary working hours notwithstanding any custom of the port. Failure to comply with this sub-clause 14(b) shall relieve Transfennica from any obligation to load Merchant's Goods.
- (c) The Merchant or his assign shall take delivery of the Goods immediately upon arrival of the Goods at the Place of Delivery whether during or outside ordinary working hours, notwithstanding any custom of the port, if so required by Transfennica. Otherwise Transfennica, or the carrier or service provider instructed by Transfennica, shall be at liberty to discharge and store the Goods at any place and any such discharge or storage, including into custody of customs or any other authority, to be deemed a true fulfillment of this Contract. Failure to take immediate delivery of the Goods shall make the Merchant liable for Costs incurred by Transfennica, unless otherwise stated in the Contract.
- (e) If the Goods are not claimed within 21 days of delivery, as described in clause 5(a) of this Contract, or if in the opinion of Transfennica they are likely to deteriorate, decay, become worthless or incur charges whether for storage or otherwise in excess of their value, Transfennica may, without prejudice to any other rights which he may have against the Merchant, without notice and without any responsibility whatsoever attaching to him, destroy, dispose of or sell the Goods privately or by auction and recover all his Costs there from.

15. Freight and Charges

- (a) Freight (including commission in case of clause 5(b)), whether prepayable, payable at destination or otherwise, shall be deemed fully earned, due and immediately payable upon concluding the Contract and non-returnable in any event, Vessel and/or Goods lost or not lost. Transfennica's claim for any demurrage, charges, surcharges, dues, tolls or levies etc. under this Contract shall be considered payable in like manner as soon as those have been incurred. Interest at eleven (11) per cent, per annum, compounded annually, shall run from the date when Freight and charges are due.
- (b) The Merchant shall be liable for all expenses of any fumigation and of gathering and sorting loose cargo and of weighing and all costs incurred in repairing damage to the Goods and for any and all costs caused by extra handling of the Goods for any of the aforementioned or other reasons.
- (c) Any and all dues, tolls, levies, excises, duties, taxes, VAT, charges and surcharges which under any denomination may be levied on any basis such as but not limited to weight/measurement of the Goods, tonnage of the Vessel or amount of Freight including agency commission assessed on the basis of the amount of freight shall be paid by the Merchant prior to the delivery of the Goods.
- (d) The Merchant shall be liable for any and all excises, duties, taxes, fines, penalties, VAT debts, expenses or losses which Transfennica, Vessel or Goods may incur through non-observance of Custom House or import or export regulations or any anti-drug abuse act or otherwise. Transfennica is not liable towards the Merchant or any third party for any such excises, duties, taxes, fines, penalties, VAT debts, expenses or losses.
- (e) The freight and/or freight forwarder fees due to Transfennica is calculated on the basis of particulars furnished by or on behalf of the Merchant. The Merchant shall be liable for any and all consequences in case of incorrect declaration of contents, weights, measurements or value of the Goods and the Merchant shall pay, as liquidated damages, a sum equal to double the correct freight less the freight charged. For the purpose of ascertaining the actual facts, Transfennica reserves the right to obtain from the Merchant the original invoice and to have the contents inspected and the weight, measurement or value verified.
- (f) Transfennica reserves the right to adjust the agreed freight and/or freight forwarder fees at any time in order to compensate Transfennica for any increase in costs including but not limited to fuel prices, duties, taxes, charges, ISPS costs etc.
- (g) Payments shall be made in the currency in which the freight and/or freight forwarder fees have been agreed and/or invoiced.
- (h) All freight and/or freight forwarder fees shall be paid without any set-off, counter claim, deduction or stay of execution before delivery of the Goods.

16. Demurrage

Transfennica shall be paid demurrage by the Merchant at the daily rate of EUR 15,000 (fifteen thousand) if any delay to the Vessel is caused by the Merchant. The demurrage shall be pro rata for any part of a day and payable day by day. Each Merchant shall be liable towards Transfennica for a proportionate part of the demurrage due, based upon the total Freight on the Goods to be loaded or discharged at the port in question. No Merchant shall be liable in demurrage for any delay arising or in connection with Goods belonging to other Merchants.

17. Lien

Transfennica shall have a lien (which includes a right of retention) on the Goods and any documents relating thereto for any and all sums, including but not limited to freight, dead freight, demurrage, detention, costs, dues, taxes, tolls, fines, penalties or claims for damages or indemnity payable to Transfennica or related with the Services under this Contract or any previous Services by the Merchant and for general average and/or salvage contributions to whom due, and for the cost of recovering the same, and for that purpose Transfennica shall have the right to sell the Goods by public auction or private treaty and recover all his costs there from without notice to the Merchant. Whether or not the lien can be enforced at the loading or discharging port, the Master may discharge and lien the Goods at any other convenient port or place. Such discharge of any of the Goods shall be deemed due fulfillment of this Contract and shall not be deemed to be a contractual deviation. Transfennica shall be entitled to claim from the Merchant the difference between the total amount due to him including any extra expenses (including Costs) incurred under the provisions of this clause and the net proceeds of the Goods.

18. Person(s) Accompanying the Goods

Transfennica may, at its sole discretion, allow any person on board to accompany the Goods during the carriage after signing Transfennica's indemnity form. The Merchant warrants that any such person is fully authorised to do so and has all the documentation on him required by immigration, customs, health and other regulations and authorities. Such person shall be considered to be an employee of the Merchant and the Merchant shall defend, indemnify and hold Transfennica and its Servants harmless from any whatsoever loss, damage, liability and costs they may incur arising or resulting from such person being on board the Vessel. Any person accompanying the Goods shall at all times follow and carry out all lawful directions or instructions given by Transfennica and/or the crew of the Vessel, relating but not limited to the personal safety issues. In the interest of safety and security of the Vessel, its crew and the Goods, Transfennica reserves the right to refuse or to remove any such person on or from board, irrespective of any prior permission granted to board the Vessel. Transfennica shall not be liable for any loss, damage or Costs suffered by the Merchant or any such person following Transfennica's decision to refuse or remove such person.

19. Hazardous and Noxious Substances

- (a) The Merchant warrants that the Goods are safe and fit for the performance of the Services, properly packed and marked in all respects and are not of a damaging, dangerous, hazardous or noxious nature. No hazardous and/or noxious substances (including Goods) which are or may become dangerous, inflammable or damaging (including radio-active materials), or which are or may become liable to damage any property whatsoever, shall be tendered to Transfennica for the performance of the Services without his written consent and without the Unit, in or on which the substances are carried, and the substances being distinctly marked on the outside so as to indicate the nature and character of any such substances so as to comply with any applicable laws, regulations or requirements. If any such substances are delivered to Transfennica without such written consent and marking or if in the opinion of Transfennica the substances are or are liable to become of a dangerous, inflammable or damaging nature, the same may at any time be discharged at any port, destroyed, disposed of, abandoned or rendered harmless without compensation to the Merchant and without prejudice to Transfennica's right to freight and/or freight forwarder fees.
- (b) Whether or not the Merchant was aware of the nature of the substances, the Merchant shall defend, indemnify and hold Transfennica harmless from and against all claims, losses, damages or

expenses arising out of the performance of Services with respect to dangerous, hazardous and noxious substances.

- (c) Nothing contained in this clause shall deprive Transfennica of any of its rights provided for elsewhere.

20. Contraband

The Merchant warrants that there will be no arms, stowaways, contraband or any other illegal drugs, cigarettes, alcohol or other unlawful merchandise stowed in the Goods or in/on the Units or carried by any person referred to in clause 18 of this Contract. The Merchant shall indemnify and hold harmless Transfennica and its Servants for any and all costs, liabilities, fines, penalties Transfennica may suffer as a result of the Merchant breaching its warranty hereunder and irrespective whether the Merchant acted in good faith or not.

21. Notification

Any reference stated in the Contract or anywhere else to names or parties who desire to be notified of the Vessel's arrival at the port of loading, departure there from, or arrival at destination, is solely for the information of the Vessel's agents and failure to notify shall not involve Transfennica in any responsibility, or relieve the Merchant from any obligation hereunder.

22. General Average

General average shall be adjusted at any place or port in Transfennica's option according to the York-Antwerp Rules, 1994 (with the addition that in all cases when the Vessel is grounded all expenditure made and damage sustained by the Vessel in endeavoring to refloat her will be allowed in general average, even if the Vessel and the Goods were not in immediate or prospective peril). The Merchant expressly waives and renounces article 148, part II of the Belgium Commercial Code. Transfennica shall be under no obligation to exercise any lien and/or to collect any security in respect of general average sacrifice of the Goods. If Transfennica delivers the Goods to the Merchant without claiming any security for contribution to general average the Merchant, by receiving the Goods, becomes personally liable for contribution up to the C.I.F. value of the Goods provided Transfennica notifies the Merchant within three (3) months after receipt by the Merchant of the Goods of his intention to declare general average.

23. Government Directions, War, Epidemics, Ice, Strikes, etc.

- (a) For the purpose of this clause, the words:
- "Risks" shall include any war (whether actual or threatened and whether or not existing or anticipated at the commencement of the voyage), acts of terrorists, acts of piracy, acts of hostility or malicious damage, seizure, blockades (whether imposed against all vessels or imposed selectively against vessels of certain flags or ownership or otherwise howsoever), by any person, body, organisation, terrorist or political group, or the Government of any state whatsoever, which, in the reasonable judgement of Transfennica, may be dangerous or are likely to be or to become dangerous to the Vessel, the Goods, crew or other persons on board the Vessel or may cause delay; and
 - "Orders" shall include any orders or directions or recommendations as to departure, arrival, routes, ports of call, stoppages, destination, zones, waters, discharge, delivery or any other matter involving the navigation or management of the Vessel or the prosecution of her voyages (including any direction or recommendation not to go to the port of destination or to delay proceeding thereto or to proceed to some other port) given by any Government or any department thereof, or by any belligerent or by any organised body, hostilities or warlike operations, or by any Committee or person having, under the terms of any insurance or mortgage on the Vessel, the right to give any such orders or directions or recommendations.
- (b) Transfennica shall at any time have liberty to comply with any Orders given. If by reason of or in compliance with any such Orders anything is done or is not done, the same shall not be deemed a deviation and delivery in accordance with such Orders shall be due fulfillment of this Contract and the full Freight shall be payable.
- (c) If at any time before the Vessel commences loading or being en route to the port of loading or during loading it appears that, in the reasonable judgment of Transfennica, performance of this Contract, or any part of it, may expose or is likely to expose the Vessel, her cargo, crew or any other persons on board the Vessel to Risks, Transfennica may give notice to the Merchant cancelling this Contract or may refuse to perform such part of it as may expose, or may be likely to expose, the Vessel, her cargo, crew or any other persons on board the Vessel to Risks.
- (d) Should it appear that epidemics, quarantine, ice, bad weather, swell, labour troubles, labour obstructions, blockades, port congestion, strikes, lockouts, any of which on board on shore or elsewhere, difficulties in loading or discharging would prevent the Vessel from reaching, entering, using or leaving the port of loading or there loading or reaching the port of discharge or there discharging in the usual manner and leaving again, all of which safely and without delay, or the performance of this Contract would expose the Vessel or any cargo on board to risk of seizure, damage, delay, to Risks or any person on board to Risks, Transfennica may discharge the cargo at port of loading or any other safe and convenient port and this shall constitute complete and final delivery and due fulfillment of this Contract and the full freight shall be payable.
- (e) If in connection with the exercise of any liberty under this clause 23 any extra expenses, including any extra insurance costs in respect of Vessel, blocking and trapping, loss of hire, ice risks, crew and crew war bonus, are incurred, they shall be paid by the Merchant in addition to the full Freight, together with return Freight if any and a reasonable compensation for any extra services rendered to the Goods all for which Transfennica shall have a lien on the Goods.
- (g) If any situation referred to in this clause may be anticipated, or if for any such reason the Vessel cannot safely and without delay approach, reach or enter the loading port or must undergo repairs or is likely to prejudice the interest of the Vessel including her future engagements whether by delay or otherwise, Transfennica may cancel this Contract without any liability towards the Merchant. The Merchant shall be informed if possible.

24. Heavy Lift

In case of sea carriage; Single Units, pieces or packages exceeding 10.000 kilograms gross weight, shall be carried on Free In Out (Stowed) basis (F.I.O.(S.)) which shall mean, even if not expressly agreed, that the loading, discharging, stowing and other handling of the Goods shall be for the risk and account of the Merchant, who, if so required by Transfennica, shall provide the necessary and certified lifting gear.

25. Special Requirements

- (a) The Goods, including goods of a perishable nature, shall be carried without special protection, services or other measures unless it is expressly stated in the Contract that the Goods will be carried in a refrigerated, heated, electrically ventilated or otherwise specifically equipped Unit and are to receive special attention in any way. Transfennica shall not be liable for the consequences of any and all malfunctioning (including shortage of fuel supply) of the refrigerating, heating, electrically ventilating or any other machinery, plants or apparatus (collectively "Machinery") attached to or fit in any Unit used for carriage. The Merchant releases and indemnifies Transfennica and its Servants from and against any claims, losses and expenses whatsoever in respect of any loss, deterioration or damage to the Units, its machinery or to the Goods which arises from or as a consequence of:
- Failure by the Merchant to provide or delay in providing a suitable electricity supply to operate the Unit's machinery or failure to provide suitable electrical or other equipment to enable the electricity supply of the Vessel or the terminal to be connected to the Unit's machinery; or;
 - refusal to connect the Vessel's or terminal's electricity supply to the Unit's machinery and Transfennica shall in this respect have an absolute right to refuse to permit such a connection if Transfennica considers, at its sole discretion, that the Unit or its machinery is unsuitable for connection with electricity supply of the Vessel or the terminal or would be unsafe if so connected; or;
 - failure by the Merchant to timely provide Transfennica with clear and adequate written instructions including but not limited to temperature settings, operating instructions and accurate details regarding the electrical or fuel supply connections of the machinery, irrespective of Transfennica having asked for such instructions or not; or;
 - failure by the Merchant to check the ,machinery and that it is properly and exactly set before receipt of the Unit(s) by Transfennica. .
- (b) Transfennica shall have no liability whatsoever if such refrigerated or heated Goods are carried in a range of plus or minus two and a half (2,5) degrees centigrade in regard to any carrying temperature designated in writing by the Merchant in this Contract or otherwise.
- (c) Whenever Transfennica provides any Machinery attached to a Unit with fuel, in order to allow it to keep operating during the Services, and/or checks the temperature data as they appear from the setting and the thermostat of the said Machinery, then this shall be done at the sole responsibility of the Merchant. Transfennica shall thus not be liable for any damage resulting from the fact that

Transfennica does not provide such fuel or provides not enough fuel and/or does not check such temperature data or checks them incorrectly and/or does not provide the Merchant with the results of such check.

26. ISPS Code and Weight

- The Merchant shall provide Transfennica with its full style contact details and any other information Transfennica deems necessary in order to comply with the International Code for the Security of Ships and of Port Facilities and the relevant amendments to Chapter XI of SOLAS (ISPS Code) in relation to the Vessel. Any delay resulting from Merchant's failure to comply with this clause shall count as demurrage rate as referred to in clause 16 of this Contract.
- The Merchant must provide the verified gross weight of each packed container to Transfennica and/or its agents prior to loading the container on board of an ocean vessel in accordance with SOLAS Chapter VI Regulation 2. If the verified gross weight is not provided to Transfennica 48 hours prior to the scheduled loading time, the container shall not be loaded. The Merchant shall assume liability for and shall indemnify, defend and hold harmless Transfennica from and against any loss or damage (including consequential loss or damage), costs, fines, penalties and all other claims of whatsoever nature arising from the Merchant's failure to comply with above requirement. In addition, the freight deemed earned upon concluding this booking shall be payable to Transfennica even if the container could not be loaded due to Merchant's failure to comply with above requirement and any delay of the vessel resulting from Merchant's failure shall count as time on demurrage at the rate referred to in Clause 16 of this Contract.

27. Currency Clause

Transfennica has the liberty to charge freight, freight forwarder fees, detention, demurrage and any other charges due under this Contract in EURO's at the mean rate of exchange prevailing at the European Central Bank on the date the Contract was concluded.

28. Non-Waiver and Validity

Nothing in this Contract shall operate to deprive Transfennica from any statutory protection or any defence, right, liberty, immunity, exemption or limitation provided elsewhere in this Contract and irrespective whether any action against Transfennica be founded in contract or in tort and even if the loss, damage or delay arose as a result of unseaworthiness, negligence or fundamental breach of contract. Insofar as any (part of a) provision contained in this Contract is inconsistent with mandatory law, the (parts of) the provisions of this Contract shall to the extent of such inconsistency but no further be null and void.

29. Limitation of Liability

For the avoidance of doubt, it is hereby agreed by the Merchant that Transfennica qualifies and shall be regarded as a Person entitled to limit liability under the relevant Convention on Limitation of Liability for Maritime Claims, notwithstanding that Transfennica may have procured space on board the Vessel by means of a Slot Charter party, Bill of Lading or some other Contract of carriage. Except to the extent that mandatory law to the contrary applies in the appropriate jurisdiction (in which case said law shall apply), the size of the fund to which Transfennica may limit liability shall be identical to that proportion of the limitation fund by which the actual carrier is entitled to limit which is (or would be) available for Transfennica's claim against the actual carrier.

30. General Paramount Clause

- The Contract is not a Bill of Lading or a similar document of title to the Goods. At Merchant's request, no Bill of Lading will be issued and no document issued in connection with the carriage performed shall be treated as if it were a Bill of Lading. However, it is agreed that in the event of carriage by sea the Hague-Visby Rules shall apply to the Contract between the Merchant and Transfennica or the carrier instructed by Transfennica. Transfennica reserves all its rights under said Convention, including the period before loading and after discharging and while the Goods are in the charge of a(n)other carrier, and to deck cargo and live animals. In determining the liability of Transfennica, the liability shall in no event exceed 666.67 SDR per package or unit. Transfennica shall in no event be liable for any loss of use/hire of the Goods or Units or for any loss of profit or for any consequential damages, whether foreseeable or not.
- The Merchant shall be deemed to have guaranteed to Transfennica the accuracy, at the time the Goods were delivered to Transfennica, of the description of the Goods, marks numbers, quantity and weight, as furnished by the shipper and the Merchant shall defend, indemnify and hold Transfennica harmless from any and all loss, damage, liability and costs arising or resulting from inaccuracies in or inadequacy of such particulars.
- It is agreed that whenever the Hague-Visby Rules or statutes incorporating same use the words "Bill of Lading" they shall be read and interpreted as meaning this Contract.

31. Law and Jurisdiction

- This Contract will be governed by, and all disputes, claims, controversies or disagreements in relation to or arising out of this Contract (including the formation, existence, validity, enforceability, performance, or termination of this Contract and, in particular, the validity and applicability of the arbitration clauses under clause 31(c) and (d)) shall be resolved in accordance with, the laws of the Netherlands.
- All disputes, claims, controversies, and disagreements in relation to or arising out of this Contract, or the subject matter of this Contract, shall be subject to the exclusive jurisdiction of the Court of Amsterdam, the Netherlands, with the exception of those disputes which are specifically excluded under clause 31(c) and (d) below.
- All disputes, claims, controversies, and disagreements in relation to or arising out of carriage by road, including actions with regard to indemnity, shall be exclusively submitted to arbitration in Rotterdam, the Netherlands, under the TAMARA Arbitration Rules. The arbitration tribunal shall apply the provisions of (Book 8 of) the Dutch Civil Code and/or the CMR, depending on the nature of the carriage by road (inland or international). The Dutch Civil Code and/or the CMR shall be interpreted by the arbitration tribunal in accordance with the settled case-law of the Dutch regular courts.
- All disputes, claims, controversies, and disagreements in relation to or arising out of all activities of Transfennica acting as the Merchant's forwarding agent, including actions with regard to indemnity, shall be exclusively submitted to arbitration as described in the FENEX.
- In the event that mandatory statutory provisions directly applicable to the Contract are incompatible with the exclusive nature of clause 31(b), the exclusive jurisdiction of clause 31(b) converts into an additional jurisdiction for the Court of Amsterdam, the Netherlands.