

## **CARGO PLUS LTD**

### **STANDARD TRADING CONDITIONS**

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#### **PART I – GENERAL CONDITIONS**

##### **1. Application**

**(A)** Subject to sub-clause **(B)** below, all services of the Company whether gratuitous or not are subject to these Conditions.

**(i)** The provisions of Part I shall apply to all such services.

**(ii)** The provisions of Part II shall only apply to the extent that such services are provided by the Company as agents.

**(iii)** The provisions of Part III shall only apply to the extent that such services are provided by the Company as principals.

**(B)** Where a document bearing a title of or including “bill of lading” (whether or not negotiable), or “way bill” is issued by or on behalf of the Company and provides that the Company contracts as carrier, the provisions set out in such document shall be paramount in so far as such provisions are inconsistent with these Conditions.

**(C)** Every variation, cancellation or waiver of these Conditions must be in writing signed by a Director of the Company. Notice is hereby given that no other person has or will be given any authority whatsoever to agree to any variation, cancellation or waiver of these Conditions.

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##### **2. Agency and Principal**

All services are provided by the Company as agents except in the following circumstances where the Company acts as principals:

**(A)** Where the Company performs any carriage, handling or storage of Goods but only to the extent that the carriage is performed by the Company itself or its servants and the Goods are in the actual custody and control of the Company; or

**(B)** Where prior to the commencement of the carriage of Goods the Customer in writing demands from the Company particulars of the identity, services or charges of persons instructed by the Company to perform part or all of the carriage, the Company shall be deemed to be contracting as a principal in respect of that part of the carriage in respect of which the Company fails to give such particulars demanded within 28 days of the Company’s receipt of such demand; or

**(C)** To the extent that the Company expressly agrees in writing to act as a principal; or

**(D)** To the extent that the Company is held by a court of law to have acted as a principal.

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### **3. Clarification**

Without prejudice to the generality of clause 2:

**(A)** The charging by the Company of a fixed price for a service or services of whatsoever nature shall not in itself determine or be evidence that the Company is acting as an agent or a principal in respect of such services.

**(B)** The supplying by the Company of their own or leased equipment shall not in itself determine or be evidence that the Company is acting as agent or a principal in respect of any carriage, handling or storage of Goods.

**(C)** The Company acts as an agent where the Company procures a bill of lading or other document evidencing a contract of carriage between a person other than the Company and the Customer or Owner.

**(D)** The Company acts as an agent and never as a principal when providing services in respect of or relating to customs requirements, taxes, licences, consular documents, certificates of origin, inspection, certificates and other similar services.

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### **4. Definitions**

In these Conditions:

**(A)** “Company” is Cargo Plus Ltd and/or its subsidiary companies.

**(B)** “Customer” means any person at whose request or on whose behalf the Company provides a service.

**(C)** “Person” includes persons or any body or bodies corporate.

**(D)** “Owner” includes the owner, shipper and consignee of the Goods and any other person who is or may become interested in the Goods and anyone acting on their behalf.

**(E)** “Authority” means a duly constituted legal or administrative person acting within its legal powers and exercising jurisdiction within any nation, state, municipality, port or airport.

**(F)** “Goods” includes the cargo and any container not supplied by or on behalf of the Company in respect of which the Company provides a service.

**(G)** “Container” includes any container, flexitank, trailer, flat, pallet or any article of transport used to carry or consolidate goods and any equipment of or connected thereto.

**(H)** “Dangerous Goods” includes goods which are or may become of a dangerous, inflammable, radioactive or damaging nature and goods likely to harbour or encourage

vermin or other pests.

**(I)** “Hague Rules” means the provisions of the International Convention for the Unification of Certain Rules Relating to Bills of Lading signed at Brussels on 25 August 1924.

**(J)** “Instructions” means a statement of the Customer’s specific requirements.

**(K)** “Valuable Cargoes” means cigarettes, spirits, precious metal objects, precious jewellery, valuable works of art and thoroughbred horses.

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## **5. Obligations of the Customer**

1. The Customer warrants that he is either the Owner or the authorised agent of the Owner of the Goods and that he is authorised to accept and is accepting these Conditions not only for himself but also as agent for and on behalf of the Owner of the Goods.
2. The Customer warrants that he has reasonable knowledge of matters affecting the conduct of his business, including but not limited to the terms of sale and purchase of the Goods and all other matters relating hereto.
3. The Customer shall give sufficient and executable instructions.
4. The Customer warrants that the description and particulars of the Goods are complete and correct.
5. The Customer warrants that the Goods are properly packed and labelled, except where the Company has accepted instructions in respect of such service.

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## **6. Special Instructions, Goods and Services**

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**(A)** Unless otherwise previously agreed in writing, the Customer shall not deliver to the Company or cause the Company to deal with or handle Dangerous Goods.

**(B)** If the Customer is in breach of sub-clause (A), he shall be liable for all loss or damage whatsoever caused by or to or in connection with the Goods howsoever arising and shall defend, indemnify and hold harmless the Company against all penalties, claims, damages, costs and expenses whatsoever arising in connection therewith, and the Goods may without notice be destroyed or otherwise dealt with at the sole discretion of the Company or any other person in whose custody they may be at the relevant time.

**(C)** If the Company agrees to accept Dangerous Goods and then in the opinion of the Company or any other person they constitute a risk to other goods, property, life or

health, they may without notice be destroyed or otherwise dealt with at the expense of the Customer or Owner.

1. The Customer undertakes not to tender for transportation any Goods which require temperature control without previously giving written notice of their nature and particular temperature range to be maintained and further undertakes that the Container has been properly pre-cooled or pre-heated as appropriate, that the Goods have been properly stuffed in the Container and that its thermostatic controls have been properly set by the Customer. If these requirements are not complied with the Company shall not be liable for any loss of or damage to the Goods caused by such non-compliance.
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## **7. Insurance**

1. No insurance shall be effected except upon express instructions given in writing by the Customer and all insurances effected by the Company are subject to the exceptions and conditions of the policies of the insurance company or underwriters taking the risk. The Company acts as an agent in respect of the effecting of insurance and shall not be under any responsibility or liability whatsoever in relation thereto.
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## **PART II – COMPANY AS AGENT**

### **Special Liability and Indemnity Conditions**

#### **38. Agency Services**

**(A)** To the extent that the Company acts as an agent, the Company does not make or purport to make any contract with the Customer 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 Customer in securing such services by establishing contracts with third parties so that direct contractual relationships are established between the Customer and such third parties.

**(B)** The Company shall not be liable for the acts or omissions of such third parties referred to in sub-clause (A).

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#### **39. Authority and Indemnity**

**(A)** The Company when acting as an agent has the authority of the Customer to enter into contracts on the Customer's behalf and to do such acts so as to bind the Customer

by such contracts and acts in all respects notwithstanding any departure from the Customer's instructions.

**(B)** Except to the extent caused by the Company's negligence, the Customer shall defend, indemnify and hold harmless the Company in respect of all liability, loss, damage, costs or expenses arising out of any contracts made in the procurement of the Customer's requirements in accordance with clause 38.

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#### **40. Choice of Rates**

Where there is a choice of rates according to the extent or degree of liability assumed by persons carrying, storing or handling the Goods, no declaration of value where optional will be made unless otherwise agreed in writing.

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### **PART III – COMPANY AS PRINCIPALS**

#### **Special Liability Conditions**

##### **41. Principal Responsibility**

To the extent that the Company contracts as principal for the performance of the Customer's instructions, the Company undertakes to perform or in its own name to procure the performance of the Customer's instructions and subject to the provisions of these Conditions shall be liable for the loss of or damage to the Goods occurring from the time that the Goods are taken into its charge until the time of delivery.

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##### **42. Sub-Contracting**

Where the Company contracts as a principal and sub-contracts the performance of the Company's services and it can be proved that the loss of or damage to or in respect of the Goods arose or was caused whilst the Goods were in the care or custody of the sub-contractor, the Company shall have the full benefit of all rights, limitations and exclusions of liability available to such sub-contractor and the liability of the Company shall not exceed the amount recovered, if any, by the Company from such sub-contractor.

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##### **43. Mandatory Law and Conventions**

Notwithstanding other provisions in these Conditions, if it can be proved where the loss of or damage to the Goods occurred, the Company's liability shall be determined by the

provisions contained in any international convention or national law the provisions of which cannot be departed from by private contract to the detriment of the claimant.

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#### **44. Carriage by Sea or Inland Waterway**

The Company's liability shall be determined by the Hague-Visby Rules where loss or damage occurred at sea or inland waterways.

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#### **45. Limitation Fund**

If a limitation fund is established, the liability of the Company shall be limited to the proportion allocated to the Goods.

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#### **46. Air Carriage**

If the Company acts as a principal in respect of carriage of Goods by air and the carriage involves an ultimate destination or stopping place in a country other than the country of departure, the Warsaw Convention may be applicable and governs and, in most cases, limits the liability of carriers in respect of loss or damage to cargo.

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#### **47. Both-to-Blame Collision Clause**

The current Both-to-Blame Collision Clause as adopted by BIHCO is incorporated.

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#### **48. Transportation within USA or Canada**

**(A)** With respect to transportation within USA or Canada the responsibility of the Company shall be to procure transportation by carriers and such transportation shall be subject to such carriers' contracts and tariffs and any law compulsorily applicable. The Company guarantees the fulfilment of such carriers' obligations.

**(B)** If and to the extent that the provisions of the Harter Act of the USA 1893 would otherwise be compulsorily applicable, responsibility shall be determined by these Conditions or, if invalid, by the Carriage of Goods by Sea Act of the USA approved 1936.