

## COMBINED CARGO TERMINALS – GENERAL CONDITIONS

### 1. Definitions

In these general conditions (hereinafter called: Conditions) the following terms shall have the following meanings:

- a. CCT: The user of these Conditions, Combined Cargo Terminals B.V., established in Moerdijk (4782 PM), at Middenweg 35;
- b. Client: every natural or legal entity by whose order CCT performs work, or with whom CCT enters into an Agreement or with whom CCT (is purporting to have or) has negotiations about the conclusion of an Agreement and/or his representative;
- c. Agreement: any and all agreement that is concluded between CCT and the Client, as well as any amendment or supplement thereto and also all (legal) acts to prepare and perform that agreement;
- d. Work: all services, in any form and by any name, that CCT performs for or for the benefit of a Client.

### 2. Applicability

- 2.1. These Conditions apply to every offer, quotation, communication and Agreement between CCT and the Client and to all Work that CCT performs by order of the Client, whether or not for profit.
- 2.2. The applicability of any purchase or other general conditions of the Client and/or third parties is explicitly excluded.
- 2.3. Any deviations from these Conditions shall only apply if they have been agreed with CCT explicitly and in writing.
- 2.4. The Dutch wording of these Conditions shall prevail over any translation of these Conditions.
- 2.5. In the event of contradictions between the provisions of these Conditions and other conditions declared applicable to the Work by CCT the provisions of these Conditions shall prevail.

### 3. Offer and Acceptance

- 3.1. All offers and quotations of CCT shall be without engagement and shall be valid during thirty (30) days from the

date of the offer or quotation, unless explicitly stipulated otherwise.

- 3.2. In connection with the price offered or quoted no rights may be derived from the pricelists, catalogues and other documentation of CCT supplied at the time of an offer.
- 3.3. The Agreement between CCT and the Client shall be concluded and will only be binding upon CCT if it has been confirmed by CCT in writing, or if CCT is actually performing the Agreement.

### 4. Performance of the Agreement

- 4.1 In the performance of orders of the Client CCT depends on the correctness and completeness of the order given by the Client and the data and information supplied in order to be able to perform such an order correctly. If in connection with an Agreement between CCT and the Client a difference of opinion arises about the question whether CCT has performed the order correctly, the onus of proof with regard to the contents of the order given and the completeness and correctness of the information and data supplied by the Client shall rest on the Client.
- 4.2. Within the framework of the Work or other activities CCT shall be permitted to engage third parties and to accept (general) conditions of those third parties. The Client agrees the (general) conditions of subcontractors of CCT may be invoked by CCT towards the Client.

### 5. Prices

- 5.1. Unless agreed otherwise the prices shall be:
  - based on the amount of the purchase prices, wages, wage costs, special and government charges, insurance premiums and other costs in force or in place at the time of offer or quotation;
  - exclusive of VAT;
  - mentioned in Euros
- 5.2. CCT may increase the offered or agreed prices if after the conclusion of the Agreement increases a cost increase occurs, including but not limited to an increase of the price of

raw materials, exchange rate differences, increase of taxes/levies and collective wage increases. If the price increase does not exceed 10% compared to the offered or agreed price, the Agreement shall remain in force and the Buyer shall be obliged to pay the increased price. If the price increase exceeds 10%, the Buyer shall be entitled to dissolve the Agreement with observance of a notice period of thirty (30) calendar days, counting from the date of notification of the price increase.

- 5.3. A discount on the agreed price shall only be valid after its written confirmation by CCT.

## **6. Payment**

- 6.1. Payment of CCT's invoices by the Client must be made within the term of payment mentioned on the invoice. If the invoice does not mention a term of payment, the Client must pay the invoice within fourteen (14) days after the invoice date.
- 6.2. Complaints about the invoice amount shall not suspend the Client's duty to timely pay.
- 6.3. In no event shall the Client be permitted to set off any (alleged) claim of any nature whatsoever with CCT's claim on payment, or to suspend the obligation of payment of CCT's claim on payment because of its own (alleged) claim.
- 6.4. If the Client does not pay CCT's invoices within the set term of payment, the Client shall be deemed to be in default by operation of the law and from the final date of payment CCT shall be entitled, without further notice of default, to charge the Client the statutory commercial interest on the strength of section 6:119a of the Civil Code on the outstanding amount .
- 6.5. All reasonable judicial and extrajudicial (collection) expenses that CCT has incurred as a result of the Client's non (timely) fulfilment of his payment obligation shall be for account of the Client. The extrajudicial expenses are 15% of the invoice amount with a minimum of EUR 500.00.
- 6.6. CCT shall always be entitled to require an advance, advance payment, interim payment, or security that is proper to the discretion of CCT from the Client for every claim that CCT has or will get on the Client. If the Client does not comply with a request as aforesaid

within due time, CCT shall be entitled to refuse, suspend, interrupt or terminate the Work without reminder, notice of default or judicial interposition. The same shall apply if the Client fails in the fulfilment of any other obligation in respect of CCT. CCT shall never be liable for any damage resulting from this..

- 6.7. In the event of liquidation of, (an application for) suspension of payments, of bankruptcy, of (conservatory) arrest measures against the Client, of application of the statutory debt restructuring scheme or another circumstance as a result of which the Client cannot dispose of its property anymore, all the Client's obligations in respect of CCT shall be immediately claimable. Under these circumstances CCT shall also be entitled to terminate the legal relationship with the Client with immediate effect, without prejudice to CCT's right to compensation.
- 6.8. CCT shall be entitled to keep goods, documents and moneys in its possession at the expense and risk of the Client and/or any interested party/parties, until any and all claim of CCT has been paid or proper security (to the discretion of CCT) has been provided in the matter. . CCT shall have a pledge on all goods, documents and moneys that it has in its possession or will get into its possession, on whatever ground, for all claims on the strength of its work or otherwise. If in respect of any claim no payment has been made or no proper security has been provided within 14 days after the invoice date, CCT shall be entitled to sell the goods or documents on which it has a pledge privately or in public auction without judicial authorization. CCT shall always be entitled to set off any claims with any money that it has in its possession or will get into its possession.

## **7. Termination of agreement**

- 7.1. CCT is entitled to terminate or suspend the performance of its obligations following from the Agreement if the Client does not fulfil an obligation following from this Agreement or these General Conditions, or if CCT has a reason to presume that the Client will not be able to fulfil those obligations. In such a case CCT shall never be liable

for damages resulting from such suspension or termination.

- 7.2. In the event of liquidation, (an application for) suspension of payment or bankruptcy, of (conservatory) arrest measures against property of the Client, of debt restructuring or another circumstance as a result of which the Client cannot freely dispose of his capital anymore, CCT shall be free to terminate the Agreement immediately and with immediate effect without any obligation on its part to pay any compensation. The aforementioned shall also apply in the event of any change in the management of Client's company.

### **8. Force majeure**

- 8.1. CCT is entitled to suspend the Work in the event of force majeure. CCT shall never be liable in the event of force majeure or suspension of Work because of force majeure.
- 8.2. Force majeure shall be all circumstances that CCT has not reasonably been able to avoid and whose consequences CCT has not reasonably been able to prevent. This includes inter alia – but is not limited to – acts, including wilful misconduct or gross negligence of persons or third parties whom CCT makes use of in the performance of the Agreement; unsuitability of goods that CCT uses in the performance of the Agreement; strike, lock-out; sickness; any import, export and/or transit prohibition; transport problems; non-fulfilment of the obligations of suppliers; fire; explosion; riot; decrees; natural and/or nuclear disasters; war and/or threats of war; and measures of the competent authorities.

### **9. Liability**

- 9.1. CCT shall not be liable for any damage that the Client suffers, unless the Client proves that the damage is directly resulting from wilful misconduct or deliberate recklessness of CCT's management board.
- 9.2. If, despite the foregoing, CCT is found to be liable, CCT's liability shall be limited to the amount of the payment made by CCT's liability underwriter, increased by the deductible. If in any case underwriters do for whatever reason not proceed to payment –or in the event the damage is not covered

by any insurance, CCT's liability shall be limited to the amount agreed and invoiced for the Work (excluding VAT).

- 9.3. CCT's liability for indirect loss, consequential loss, loss of profit, economies lost, reduced goodwill, damage as a result of business stoppage and damage as a result of claims of customers of the Client, and also any other consequential loss of any nature whatsoever and irrespective of the manner in which it arose, shall be excluded and shall not qualify for compensation.
- 9.4. Any claim on CCT, except for the claim that has been recognized explicitly and in writing by CCT, shall lapse by the mere expiry of six months counting from the date of the claim came into existence. The claim shall be deemed to come into existence at the time that the Client is aware of the event or the circumstance that has led to the occurrence of damage or disadvantage or of which it was clear that it could lead to such damage or disadvantage.
- 9.5. In the event CCT is held liable by a third party, whereas under the Agreement CCT would not be liable towards the Client, the Clients shall indemnify and hold harmless CCT for any amounts CCT would have to pay to such third part. In CCT is found liable towards a third party for an amount exceeding the limitations applicable to the Contract, the Client shall hold harmless and compensate CCT for the amount payable by CTT to such third party in excess of the limitations under the Contract.

### **10. General**

- 10.1. Should individual provisions from these General Conditions be void because of conflict with any provision of mandatory law, the other provisions shall remain in force in full. The parties shall enter into consultation about possible void provisions in order to make an alternative arrangement, having as starting-point that the legal consequence of the void provision, had it remained in force, shall be respected as much as possible.

### **11. Applicable law and jurisdiction**

- 11.1. Dutch law shall apply exclusively to any Agreement between CCT and the Client.
- 11.2. Any disputes that should arise between CCT and the Client in connection with an Agreement shall be settled in

accordance with the TAMARA arbitration rules.

- 11.3. Subject to the provisions in article 11.2. CCT shall be at liberty to submit claims for payment of CCT's invoices to the District Court of Rotterdam.