

General Terms and Conditions of netcon int. GmbH

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A. General provisions

§ 1 Scope of application

- 1.1 All offers and contracts between the Customer and netcon int. GmbH - ("NETCON") are exclusively based on these General Terms and Conditions ("T&Cs"). NETCON does not recognise any deviating terms and conditions of the Customer unless NETCON has expressly agreed to their validity. These T&Cs also apply if NETCON performs services without reservation while being aware of conflicting or differing terms and conditions from the Customer.
- 1.2 These T&Cs also apply to future offers and contracts within the context of the business relationship with the Customer, even if NETCON does not explicitly draw reference thereto.
- 1.3 Section A of these T&Cs applies to all offers and contracts from NETCON. Sections B - G contain additional provisions for specific services which can be applied cumulatively if required (e.g. cargo handling as a prior or subsequent activity with respect to a transportation of goods or multimodal transportation).

§ 2 Contract conclusion, third party claims and initial non-binding nature of offers with respect to the Customer

- 2.1 NETCON's offers are non-binding until the Customer has declared their acceptance. If a Customer's order is not based on a NETCON offer, the contract with NETCON only comes into force once NETCON's explicit order confirmation has been sent to the Customer, or NETCON commences performance of the services.
- 2.2 In the case of services connected to hazardous goods within the meaning of respectively applicable hazardous good legislation (e.g. laws concerning the transportation of hazardous goods or IMDG code), the Customer is obliged to promptly notify NETCON in writing of the exact type of goods (e.g. classification in accordance with applicable hazardous goods legislation).
- 2.3 In the case of goods which are not subject to regulations concerning the transportation of hazardous goods, but which may be hazardous due to their specific properties during transportation, transshipment or storage; the Customer must make explicit reference to such properties in their orders/enquiries.

2.4 Should NETCON be acting as a subcontractor to the Customer (e.g. a substitute carrier), no third parties claims shall arise from the contract between NETCON and the Customer (e.g. the consignee). Clause 1 does not apply to the statutory claims of a third party. Should claims be asserted against NETCON by a third party (e.g. during the course of third party damage liquidation), NETCON may assert all pleas and objections which the Customer has against the third parties. If requested, the Customer is to impart to NETCON without delay information on existing pleas and objections. Should NETCON be liable for a larger sum than the Customer in the event of a third party lodging a claim (excessive liability), the Customer is obliged to indemnify NETCON from this excessive liability upon first request by NETCON.

§ 3 Prices, payment and price changes

3.1 The prices indicated in an offer from NETCON refer solely to performed own services and/or third party services performed for NETCON, to goods of normal scope, weight and properties, as well as to the information provided by the Customer. Fees, duties and charges for the use of port facilities (e.g. port/quay fees) are invoiced separately to the Customer at the time at which the service was performed for the respective amount or, if requested by the Customer, can be listed separately in the offer.

3.2 The offers from NETCON basically doesn't include the following costs, as long as not otherwise agreed in writing: Loading/Unloading at origin/destination, export declaration, final import clearance, costs for customs inspections, transport or cargo insurance (as per §4), demurrage, detention, storage, waiting time, terminal handling charges, import sales tax, customs duties.

3.3 NETCON is entitled to increase their prices in line with actual costs incurred in the event that information provided by the Customer concerning the goods or the service to be performed were inaccurate.

3.4 Should costs incurred by NETCON increase or, should freight charges, taxes, duties or fees be introduced or increased following contract conclusion, NETCON shall be entitled to adjust the price accordingly in so far as NETCON is not responsible for said increase. The same shall apply to increases in costs following contract conclusion based on changes to tariff agreements for the personnel

deployed by NETCON or their vicarious agents, or on the basis of other obstructions or impediments for which NETCON is not responsible.

- 3.5 The regulations of the ISPS code (International Ship and Port Facility Security Code) apply to the port operating facilities used by NETCON. NETCON is entitled to take all required safety measures required for implementation of the ISPS code. The costs of this are to be borne by the Customer or, if applicable, will be listed separately in the offer.
- 3.6 All prices are net, i.e. do not include sales tax. Should sales tax be applicable, it will be separately referenced in the invoice at the amount applicable on the day of invoicing.
- 3.7 Unless otherwise explicitly referenced in the contract, the Customer is obliged to pay invoice amounts within 14 calendar days of the invoice date to one of NETCON's accounts without deduction for chargeless bank transfer.
- 3.8 Should there be a recognisable endangerment to NETCON's payment request due to the Customer's inability to perform, NETCON shall be entitled to immediately make payable and due all claims arising from the business relationship which would otherwise not yet be due, and demand advance payment from the Customer. An endangerment to a payment request of NETCON shall be particularly constituted if information from a bank or credit agency states that the Customer is close to being unworthy of credit, or if the Customer is in arrears for at least two invoices.
- 3.9 Bills of exchange and cheques will only be accepted following prior agreement between the parties and only on account of payment. All costs incurred for the processing of bills of exchange and cheques shall be borne by the Customer.
- 3.10 The Customer can only offset or assert a right of retention or a right to refuse performance if their counterclaim is legally established or undisputed. Offsetting or asserting a right of retention or a right to refuse performance on the basis of a counterclaim to compensation for defect rectification or additional costs incurred through completion from the same legal relationship is always possible notwithstanding Clause 1.

§ 4 Insurance

- 4.1 NETCON is only obliged to arrange for transportation or storage insurance for the goods in so far as this has been expressly requested by the Customer. If the Customer requests NETCON to insure the goods, the parties shall come to an agreement concerning which insurance provider to choose. The Customer must themselves procure insurance cover for all insurable risks.
- 4.2 The Customer is obliged to agree to a waiver of recourse with their cargo insurer in favour of NETCON. If requested by NETCON, the Customer is to provide evidence to NETCON of the existence of an insurance policy and a waiver to recourse.

§ 5 Customer obligations concerning labelling, provision of information, and cooperation

- 5.1 The Customer is to promptly and completely inform NETCON of all information required for proper performance of services; this particularly includes:
- a) Number of goods;
 - b) Full packing lists;
 - c) Mass (in kilograms or tonnes);
 - d) Position of centre of gravity;
 - e) Dimensions (LxHxW in metres)
 - f) Attachment and support points;
 - g) Presentation of special transshipment notices.
- 5.2 In the case of carriage by sea (includes multimodal transportation which features carriage by sea), the Customer – unless otherwise agreed – is to promptly forward to NETCON all data required in accordance with legal maritime safety provisions (e.g. SOLAS). In the case of container transportation, this particularly includes the verified gross mass (VGM) of said container(s).
- 5.3 The goods are to be clearly and permanently labelled by the Customer with the following information,
in so far as the parties have not agreed otherwise:
- a) Goods designation
 - b) Dimensions (LxHxW in metres)
 - c) Mass (in kilograms or tonnes);
 - d) Attachment and support points;
 - e) Centres of gravity.

- 5.4 Should NETCON assume the Customer's goods from a ship (within these T&Cs, 'ship' refers to the water-based transportation vessel used for the journey, irrespective of whether it is a ship, pontoon, barge or towed convoy), or loads goods onto such a ship, the Customer is to promptly advise NETCON in advance of the arrival time of the ship. The finalised/up-to-date ship arrival times are to be communicated by the Customer to NETCON in writing one week in advance of the planned arrival. This point is omitted when NETCON is responsible for the charter.
- 5.5 NETCON is not obliged to verify documents, documentation and information received by NETCON from the Customer, their vicarious agents or other third parties contracted by the Customer with regard to consistency, completeness and accuracy compared to the information which is to be reported in accordance with this section, unless NETCON is aware of obvious indications of discrepancies. This particularly applies to the container VGMS communicated by the Customer.
- 5.6 Should the Customer breach their obligations with regard to labelling, provision of information, and cooperation - particularly due to inaccurate, inexact, insufficient or delayed provision of information; or defects relating to the goods or their packaging, he is required to reimburse the resulting costs to NETCON unless he is not responsible for the breach of duty. Upon first request by NETCON, the Customer is obliged to indemnify NETCON from all third party claims, in so far as these exist.

§ 6 Loading aids

- 6.1 The Customer is obliged to return free of charge to NETCON the same quantity and quality of loading aids to which they have been entrusted, unless otherwise agreed between the parties. Should the Customer not satisfy this obligation, including non-performance during a suitable statutory time period, the Customer shall be liable to NETCON for the costs incurred procuring the same number and quality of loading aids.
- 6.2 Should NETCON take possession of loading aids, NETCON shall only be obliged to return said aids in so far as this has been separately agreed with the Customer. This especially refers to loading aids which do not remain in NETCON's custody based on the transportation chain.

§ 7 Contract execution

- 7.1 NETCON is entitled to perform partial deliveries in so far as this is reasonable to the Customer and provided that the parties have not agreed otherwise.
- 7.2 Should nothing to the contrary have been agreed with the Customer, loading and delivery deadlines will not be guaranteed.
- 7.3 Under due consideration of the circumstances and the interests of the Customer, NETCON is entitled to interrupt a service at their own discretion and to continue said service a later point in time.
- 7.4 NETCON is entitled but not obliged to verify and determine whether the type and properties of the goods to be handled correspond to the information provided by the Customer. However, NETCON may request evidence from the Customer pertaining to the accuracy of information provided at their own discretion. Verification costs are to be borne by the Customer – unless otherwise agreed – in so far as there is proof that the information provided is incorrect.
- 7.5 In the case of goods which have been handed over on pallets or within/on another loading aid for the purposes of aggregating freight packages, NETCON is only obliged to determine the number of pallets or containers.
- 7.6 Should it become apparent after accepting goods that said goods, at the reasonable discretion of NETCON, pose a risk to people, facilities or other objects due to their type or condition; the goods concerned are to be promptly repaired upon request of the Customer and at their cost and risk, or reloaded into other containers, or removed from the means of transport and production equipment used by NETCON. Any further statutory claims of NETCON remain unaffected.

§ 8 Temporary storage of goods

Unless agreed otherwise between NETCON and the Customer, NETCON is entitled to place goods entrusted to them for handling into temporary storage. Such temporary storage also permits storage in unfenced open areas unless the cargo is not suitable for outdoor storage.

§ 9 Force majeure

- 9.1 In cases of force majeure (unforeseeable circumstances and events for which NETCON is not responsible, such as industrial action, war, fire, transport hindrances, lack of raw materials, official measures, road blocks or natural

events), NETCON's performance obligations shall be suspended for the duration of such cases of force majeure plus an appropriate start-up period commensurate with the scope of their effects. This shall also apply should NETCON be in arrears. NETCON shall inform the Customer without delay of the occurrence of a case of force majeure and the predicted duration of the impediment and take arrangements for evasion, if possible – in consultation with the customer.

- 9.2 Should the impediment (stagnation) last for more than one week, is NETCON entitled to demand advanced payments. The remuneration for services performed prior to termination remains unaffected thereby.

§ 10 Customs clearance and liaising with authorities

- 10.1 Compliance with customs, tax or other statutory and regulatory regulations for the import and export of the goods into the Federal Republic of Germany or, where applicable, the EU, is the responsibility of the Customer, in so far as nothing to the contrary has been agreed to between NETCON and the Customer; this particularly applies to obtaining the corresponding permits.

- 10.2 Should NETCON assume responsibility for handling the goods with respect to customs clearance or other regulatory aspects following express agreement, NETCON shall solely act as a vicarious agent of the Customer. The Customer remains under an obligation until such a time as all customs duties, taxes, contributions or similar have been settled. Should the aforementioned amounts be claimed, the Customer is obliged to release NETCON from this payment obligation upon first request.

§ 11 Loading and unloading

Ensuring that the goods are loaded and unloaded in a way safe for transport or operation is the responsibility of the Customer, unless otherwise stipulated in these T&Cs or other arrangements have been agreed between NETCON and the Customer. In the case of goods which have been handed over for shipment in containers, on pallets or within/on another loading aid for the purposes of aggregating freight packages, the Customer must store and secure the goods in or on the loading aid in a way safe for transportation.

§ 12 Damage assessment, notice of damage and obligation to immediately report defects

- 12.1 When accepting and expediting the goods (including direct transshipment), NETCON shall only determine defects which are externally visible.

- 12.2 When acquiring goods from ships, NETCON bears no responsibility towards the Customer with respect to the rights of the consignee regarding bills of lading or certificates of shipment. In particular, it is not incumbent on NETCON to provide notice of damage in accordance with § 510 HGB (German Commercial Code). NETCON is entitled but not obliged to participate in inspections of goods on board ships. Those involved in loading goods must provide NETCON with the opportunity to participate in such inspections.
- 12.3 Should it appear that a loss of goods has occurred, or there is visible external damage, the Customer or consignee must report the loss or damage to NETCON by no later than the delivery of the goods, otherwise it will be assumed that the goods were delivered in a complete and undamaged state. The preceding assumption shall also apply if the loss was not apparent, the damage was not visible externally, and if written notification of such occurrences was not submitted within seven calendar days or, in the case of maritime transportation, if notification was not submitted within three calendar days. The loss or damage is to be identified as exactly as possible when submitting notification. Formulaic phrases such as "dirty", "lost" or "damaged" are insufficient.

§ 13 Liability of NETCON

- 13.1 Unless stipulated otherwise in these T&Cs, NETCON is liable to the extent of the law.
- 13.2 NETCON assumes unlimited liability for damage arising from loss of life, personal injury or illness, as well as intentional acts. In the event of gross negligence, NETCON shall - irrespective of legal basis - only be liable to an extent limited to damages that are foreseeable upon the commencement of the contract and those which are contractually typical.
- 13.3 In the event of purely negligent violations of essential rights or obligations which arise from the content and purpose of the contract, NETCON shall - irrespective of legal basis - only be liable to an extent limited to damages that are foreseeable upon the commencement of the contract and those which are contractually typical.
- 13.4 The liability of NETCON pursuant to § 13.2 (2) and § 13.3 is additionally limited to 50,000 EUR per damage event and 1,000,000 EUR per calendar year.

13.5 The limitations of liability provided for in Section 13.4 do not apply unless the Customer notified NETCON of the value of the goods before delivery in a separate written communication. The same shall apply in the case of loss or damage to the goods if the Customer notified NETCON of the amount of a special interest in writing prior to delivery of the goods.

13.6 In the case of value declarations in accordance with Section 13.5, the highest level of liability shall be determined by the declared value of the goods and/or the special interest. NETCON shall insure the value-declared goods and the value-declared special interest for the time period in which the goods/special interests are in their custody to extent of the declared value for the purposes of protecting against loss or damage; the costs for this will be collected from the Customer in the form of a fee surcharge.

13.7 If NETCON has concluded insurance as per Section 13.6, NETCON shall be released from liability for all damages which are covered by said insurance. This shall also apply in the event that the sum insured is less than the actual value of the goods and/or interest, or the actual amount of damage, as a result of the value(s) declared by the Customer being insufficient.

13.8 The preceding exclusions of liability and limitations of liability shall also apply to the organs, assistants and vicarious agents of NETCON.

§ 14 Limitation period

14.1 Claims from the Customer against NETCON in accordance with HGB (German Commercial Code) expire in accordance with the statutory provisions of HGB. Mandatory international transport codifications also apply in an unrestricted form.

14.2 All other claims of the Customer against NETCON due to a violation of obligations - particularly claims for damages - expire after one year. Notwithstanding Section 1, the statutory provisions on limitation periods shall apply for the following claims of the Customer against NETCON:

- a) Claims based on damages with respect to fatalities, physical injuries or damage to health caused by the violation of essential rights and obligations arising from the contract;
- b) Claims based on damages due to an intentional or grossly negligent violation of obligations by NETCON.

14.3 The statutory regulations concerning the commencement, suspension, suspension of expiration, and recommencement of limitation periods remain unaffected.

§ 15 Contractual right of lien and right of retention

15.1 NETCON has a contractual right of lien and right of retention with regard to all goods in their power of disposition on the basis of the contract as a result of all due and non-due claims (e.g. part payments) to which NETCON is entitled on the basis of this contract and all other contracts concluded with the Customer. These rights also extend to deposits in lieu of goods as well as claims which act as compensation for or take the place of the goods for other reasons. All expenditure incurred from an assertion of such a right can be charged to the Customer invoice.

15.2 Should the Customer be in arrears with regard to the payment of a secured claim, NETCON is entitled to publicly auction or privately sell the goods as part of their assertion of the right of lien. This shall also apply if the Customer's place of residence is not known or if it has not been possible to send a written communication to the Customer. The proceeds are to be credited to the Customer's liabilities - minus appropriate utilisation costs - in accordance with § 367 BGB (German Civil Code).

15.3 Other legal liens and retention remain unaffected.

15.4 Any further legal liens and retention rights remain unaffected.

§ 16 Applicable law, court of jurisdiction and place of performance

16.1 The law of the Federal Republic of Germany shall apply, including with regards to the individual partial stages of multimodal transportation. The validity of applicable mandatory international transport law codifications remains unaffected.

16.2 The sole place of jurisdiction for disputes arising from or in conjunction with this contract is Aurich. The international jurisdiction of further courts in accordance with the mandatory international transport law codifications applicable to the contract remains unaffected.

16.3 Unless NETCON has agreed otherwise with the Customer, Aurich - or Stade in the case of transshipment services - shall be the place of performance for all obligations arising from this contract.

§ 17 Miscellaneous

- 17.1 NETCON is entitled to make use of subcontractors.
- 17.2 NETCON may make – unless otherwise agreed – general reference to the logistical activities carried out for the Customer in advertising and, where applicable, refer to other calls for tenders and offers.
- 17.3 The Customer may not assign a claim arising from the contract without the prior written consent of NETCON. § 354a HGB remains unaffected. The Customer may not transfer this Contract, or parts thereof, to third parties without the prior written consent of NETCON.
- 17.4 The Customer is obliged to maintain the strictest of confidentiality with regard to all documentation, data, information or other knowledge which is entrusted to them, made publicly accessible or becomes otherwise known; furthermore, these are not to be directly or indirectly made available to third parties either in full or in part and are solely to be used for the contractually intended purposes.
- 17.5 If one or more provisions of this contract become invalid, the validity of the remaining contractual provisions shall remain unaffected. The ineffective or void provision is to be replaced by a provision which reflects the economic purpose of the ineffective or void provision in a legally effective manner. This also applies in the event of gaps in the provisions. Should it be the case that individual provisions of the contract are also general terms and conditions, §§ 306 Para. 1 and Para. 2 BGB shall apply in derogation of the above provisions.
- 17.6 No action of NETCON may be construed as a renunciation of a right to which they are entitled, unless this is an express declaration of renunciation. Delay in exercising a right does not constitute a renunciation of said right. A renunciation of a right on a single occasion must not be construed as a renunciation of said right on other occasions.

B. Transshipment of goods

§ 18 Direct and indirect transshipment.

- 18.1 Unless agreed otherwise between NETCON and the Customer, NETCON is entitled to place goods into temporary storage.
- 18.2 NETCON is entitled to reject a direct transshipment request from the Customer in so far as the transshipment of said goods, or other transshipment procedures, would be delayed or otherwise impeded in such a way that is unreasonable for NETCON.
- 18.3 Should NETCON perform direct transshipment on the basis of an agreement, NETCON is only obliged to inspect the goods in so far as this can be performed during normal transshipment procedures without causing particular difficulties, or only in so far as a separate agreement has been reached to this effect.

§ 19 Berths at the operational facilities used by NETCON

- 19.1 Notwithstanding the allocation of berths by NETCON, each ship master remains responsible for ensuring their ship meets the regulations under public law concerning the acceptance of the allocated berth. Due to other use of the docks and operational facilities, NETCON cannot guarantee that ships can move to and from berths at any given time.
- 19.2 In the interests of ensuring optimal use of the operational facilities and guaranteeing smooth traffic, NETCON can demand that ships immediately leave the berth to which they are allocated following completion of the transshipment work. NETCON can also demand that a ship be moved to another berth should this be necessary for reasons pertaining to the specific characteristics of the goods, or should the ship or the stevedores deployed shipside be unable to properly fulfil their obligations as a result of lack of personnel, refusal to undertake assigned overtime, or other reasons including force majeure. NETCON shall not be held responsible for any detrimental effects that arise therefrom.

§ 20 Liability of NETCON

NETCON's liability for damages is governed by § 32.

§ 21 Ship despatch and loading/unloading times

21.1 Cargo manifestos (loading lists etc.) for the loading and unloading of ships are to be submitted to NETCON in a timely manner so as to enable NETCON to undertake the required transshipment arrangements in due time. Loading and unloading ships are to perform their duties in such a way that the work carried out on the quay does not suffer any delay or interruption. NETCON can demand that loading or unloading activities are not interrupted; any additional costs incurred are to be borne by the Customer.

21.2 The following regulations apply to the operational facilities used by NETCON with regard to any loading/unloading obligations agreed to with the Customer.
Counting of time:

- a) Monday 06:00 until Saturday 12:00;
- b) No time counting takes place between Saturday after 12:00 and Monday at 06:00, on days preceding public holidays after 12:00, on statutory public holidays, New Year, or on May Day (01 May) or Christmas Day.

The commencement of time counting is:

- a) Upon arrival of the ship on Monday to Friday until 12:00: Commencement of time counting is 12:00 on the day of arrival;
- b) Upon arrival of the ship on Monday to Friday after 12:00, as well as at the weekend: time counting starts on the next working day (excluding Saturday) at 06:00.

C. Sea transportation

§ 22 Applicable regulations

Unless stipulated otherwise in these T&Cs, the regulations of the fifth book of the HGB concerning sea trade shall apply.

§ 23 Consignment note and bill of lading

23.1 NETCON is only under an obligation to issue a waybill and/or consignment note and/or bill of lading (collectively: "waybill") in so far as this was explicitly agreed with the Customer upon conclusion of the contract.

23.2 NETCON is entitled to include restrictions in the waybill

- a) concerning the dimensions, number or weight of goods if NETCON has reason to suspect that the information provided is incorrect, or if NETCON does not

have sufficient means of verifying such information; this particularly applies in the case that goods are handed over without being counted, measured or weighed;

- b) concerning identification marks which are not placed on the goods themselves but rather on the packaging, which must be clear and permanently attached to said packaging;
- c) concerning the external condition of the goods.

23.3 Should a proviso be included within the waybill stating "Type, number or weight unknown", or a comment to similar effect, the information contained within the waybill concerning the goods shall not be binding with regard to NETCON, unless the Customer can establish that NETCON was aware of the type, number, dimensions or weight of the goods; or can evidence that NETCON would have been aware thereof.

§ 24 Loading point, loading and deck cargo

24.1 The customer shall determine the loading point in so far as there is no agreement in place concerning loading at the operational facilities used by NETCON. Should the Customer not meet their obligation concerning the selection of a suitable loading point, even after being prompted to do so by NETCON, NETCON is entitled to terminate the freight contract and to demand full freight payment and reimbursement of additional costs, including any demurrage incurred. We reserve the right to enforce further statutory claims.

24.2 Should the loading point specified by the Customer not be available for use, or only in conjunction with disproportionate costs, or should the ship be required to leave the loading point for these reasons, NETCON can request another loading point and another type of loading, should NETCON not be responsible for said events. The costs incurred thereby - however, no less than the costs agreed for the freight - are to be borne by the Customer in addition to the agreed freight, unless NETCON bears responsibility for the chartered vessel . We reserve the right to enforce further statutory claims.

24.3 The Customer is obliged to ensure that the ship safely reaches the location specified for loading and that it rests safely, is capable of being loaded, and can depart safely directly following the completion of the loading procedure.

24.4 In so far as NETCON has not agreed otherwise with the Customer, or these T&Cs stipulate otherwise, the Customer is obliged to load the goods onto the ship in way safe for transportation and operational handling. NETCON is authorised to issue instructions pertaining to the seaworthiness of the ship or for the purposes of preventing damage. The customer is obliged to comply with any such instructions.

24.5 NETCON is always entitled to load the goods as deck cargo, unless the parties have reached an agreement to the contrary.

§ 25 Unloading point and unloading

25.1 The Customer and consignee ("cargo participants") specify the unloading point in so far as there is no agreement concerning unloading at the operational facilities used by NETCON. § 24.1 (3) and § 24.2 apply accordingly.

25.2 In so far as NETCON has not agreed otherwise with the Customer, or these T&Cs stipulate otherwise, the cargo participants are obliged to fully unload the goods from the ship for which they shall be severally liable.

25.3 Should NETCON contractually assume unloading duties on behalf of the Customer, the cargo participants are under an obligation to issue unloading instructions to NETCON prior to the arrival of the ship in the unloading port; failing this, NETCON has the right to undertake all measures which it deems necessary on behalf of, on the account of and at the risk of the Customer.

§ 26 Loading/unloading times and demurrage

26.1 Should NETCON not have agreed anything to the contrary with the Customer, the respective regulations at the loading/unloading location concerning loading and unloading times shall apply. Ship movement data (e.g. estimated arrival time - ETA) is not guaranteed by NETCON, unless agreed otherwise between NETCON and the Customer.

26.2 In the event of non-compliance with the agreed loading/unloading times at the loading or unloading location, or with the loading/unloading times stipulated at said location, for which NETCON is not responsible, NETCON shall be entitled to make claims for demurrage. The extent of demurrage per day or hour shall be governed by the contract between NETCON and the Customer, failing this, the statutory regulations shall apply. The same shall apply should the commencement or continuation of the journey be hindered by accident (such as atmospheric

conditions), with the proviso that NETCON can demand demurrage for the time period between the occurrence of the impediment until the commencement or continuation of the journey. The right to enforce further statutory claims remains unaffected.

§ 27 Delivery impediments

27.1 If the acceptance of the goods by the Customer or the intended consignee, or the payment for claims by NETCON arising from the contract with the Customer are refused, or should any other delivery impediment occur, NETCON may inform the Customer and request instruction. Should this be infeasible under the circumstances, or should the Customer not issue instructions in due time, or execution of the instruction is unreasonable to NETCON, NETCON shall be entitled to store the goods on behalf of, on the account of and at the risk of the Customer in a warehouse or in open areas. The right to enforce further statutory claims remains unaffected.

27.2 Should the Customer bear responsibility for unloading the goods and the agreed unloading time or applicable regulations concerning unloading times at the unloading point are not complied with, NETCON shall be entitled to unload the goods themselves on the account of and at the risk of the Customer, or to have the goods unloaded by another party or store said goods in accordance with § 27.1, notwithstanding the demurrage claims which arise. The right to enforce further statutory claims remains unaffected.

§ 28 Freight and bunker clause

28.1 Unless otherwise agreed between NETCON and the Customer, the freight process encompasses the transportation from the freely stowed ship in the loading port until the arrival of the ship at the unloading port. The costs for loading, stowing, securing and unloading- including all further costs, charges and expenses - are to be paid by the Customer in addition to the freight charges, in so far as there is no specific mention thereof in the agreed freight or transfer of goods section.

28.2 Open and unimpeded ship movements are a prerequisite of the freight agreement. The Customer bears the risk of delays due to natural events. All additional costs and expenses incurred above and beyond the normal course of a ship's voyage are to be borne by the cargo participants for which they shall be severally liable, unless these are based on a fault of NETCON.

28.3 NETCON has – unless otherwise agreed – a claim to full freight if:

- a) The cargo is only delivered in part;
- b) The Customer or consignee demands the goods be unloaded once the voyage has already commenced and prior to arrival at the unloading point;
- c) The continuation of the voyage is not possible or the voyage can only be performed in part; or
- d) The goods are destroyed, lost, seized, confiscated, damaged, reduced or become otherwise worthless; and

NETCON is not responsible for the occurrence of the event.

28.4 The agreed freight is based on the base price per cubic metre of gas oil stipulated in the contract. Should the actual bunker price per cubic metre deviate from the base price, the agreed freight shall be adjusted in line with the following procedure. Should the actual bunker price deviate by more than 2% from the base price on the first day of the ship's voyage - either on the way to the loading port or, if being loaded at the operational facilities used by NETCON, to the unloading port - the agreed freight shall be either increased or reduced in accordance with the percentage change. The actual bunker price shall be determined on the basis of the Platts index applicable to the shipping route in question. NETCON shall inform the Customer of any such price adjustments according to this section.

28.5 The Customer bears liability toward NETCON with regard to freight, freight surcharges, costs, expenses, fees and all other claims to which the goods are liable, including any dead freight, demurrage, or additional costs incurred due to unloading in an intermediary port, storage or onward carriage. The consignee bears liability in this regard in accordance with the statutory provisions if they accept the goods, request delivery of the goods or come into possession of the goods by any other means. Should, however, a bill of lading be issued with a "freight prepaid" clause or similar clause, the consignee shall not bear responsibility for the freight.

§ 29 Elimination of the loading and transport obligations of NETCON

29.1 Should the following events or circumstances arise or be apparent with regard to the ship onto which the goods were loaded, the loading and/or transport obligations of NETCON shall no longer apply irrespective of whether the goods have already been assumed or loaded, or whether the voyage has already commenced:

- a) Official measures, import/export/transit restrictions or prohibitions, as well as seizures, unless NETCON is responsible for such circumstances.
- b) Navigation blockages of any kind, or shipping accidents, interruptions or shutdowns in locks, canals, ports or other shipping facilities; traffic problems, impediments to travel in sea ports or closure of shipping routes, unless NETCON is responsible for such circumstances.
- c) Natural events, high water, floods, ice or risk of ice;
- d) Force majeure within the meaning of § 9.

29.2 During the period of a case stated in § 29.1, and for the duration of an appropriate start-up period, NETCON is entitled to charge compensation for the loss of use of a ship plus additional expenses incurred caused by any delays in shipping turnarounds, as well as perform the transportation operation and levy a freight surcharge for the entire agreed transport route, and to charge for all other additional expenses incurred as part of normal order handling, through which the cargo participants become severally liable for the additional expenses, or

29.3 Should the commencement of the voyage be rendered permanently unfeasible due to chance or circumstances for which NETCON is not responsible, or should further despatch be unfeasible following commencement of the voyage, the Customer and NETCON shall both be entitled to terminate the contract without becoming liable for partial compensation toward the other party. Claims acquired by NETCON, such as with regard to remuneration, shall remain unaffected until such a time as the termination takes effect. The costs for unloading goods that have already been loaded are to be borne by the Customer. Permanent infeasibility shall particularly include:

- a) If the ship with which the despatch is to be performed becomes lost or is damaged in such a way that the voyage cannot be commenced without prior and comprehensive improvements being made to the ship. Within this sense, the type of improvement must require the cargo to be fully unloaded;
- b) If the goods to be conveyed are lost, provided that the goods were not simply loaded during the course of regular operations but rather were specifically referred to in the contract, were already loaded, or had already been taken into the possession of NETCON.

§ 30 Liability of NETCON

30.1 The liability provisions of this section shall apply irrespective of the basis on which a claim to damages can be supported. Further limitations of liability guaranteed by

statutory law or arising from other provisions of these T&Cs shall remain unaffected.

30.2 NETCON is liable by law for damages caused as a result of loss of or damage to the goods in the period between acquisition through to delivery, or as a result of delayed delivery, while complying with the exclusions of liability and limitations of liability that are statutorily granted or those which are stipulated in the following.

30.3 NETCON does not bear liability for damages of any kind which:

- a) Arise at a point in time at which the goods due for transportation have not yet been loaded onto the ship (placing the goods on deck or through the hatch), unless NETCON had already taken possession of the goods for the purposes of delivery;
- b) Arise following unloading (placing the goods on the quay), unless NETCON had not yet delivered the goods;

30.4 Furthermore, NETCON is not liable for damages which are based on one of the following circumstances:

- a) Acts or omissions of the cargo participants, unloader or other parties entitled to dispose of the goods;
- b) Dangers or accidents at sea or other navigable waters;
- c) Handling or storage of goods, unless NETCON is contractually obliged to perform these services for the Customer;
- d) War, civil unrest, acts of public enemies, or instructions of higher authorities as well as quarantine restrictions;
- e) Judicial seizure;
- f) Strike, lockouts or other impediments to work;
- g) The nature of the goods, normal loss of capacity or weight as a result of total or partial loss or damage, especially due to breakage, rust, decay, desiccation, leakage; or the exposure of goods to other natural events (e.g. soiling by bird excrement);
- h) The effects of heat, cold, melting, ignition or corrosion of the goods;
- i) The transportation of live animals;
- j) Missing or defective packaging in so far as the goods would be vulnerable to loss or damage upon missing or defective packaging due to their nature, unless NETCON has contractually assumed the duty of packaging the goods for the Customer;

- k) Insufficient or inadequate identification of goods by the cargo participants or the unloader;
- l) Measures implemented for rescuing people from the sea; or
- m) Salvage measures at sea.

This shall not apply if the damage could have been avoided through applying the diligence of a prudent shipper.

30.5 Should it be probable in view of the circumstances that the loss or damage is based on one of the circumstances stipulated in § 30.4, it shall be assumed that the damage was caused as a result of said circumstance. Section 1 does not apply if the goods were transported via an unseaworthy vessel and/or a vessel not suitable for loading cargo.

30.6 NETCON shall not be held responsible for the faults of its people and ship crew if the damage is caused by acts related to steering or otherwise operating the ship, which are not in conjunction with the performance of measures primarily serving the interests of cargo loading; or, if fire or explosion on board the ship were the cause thereof.

D. Inland vessel transportation

§ 31 Applicable regulations

31.1 Unless stipulated otherwise in these T&Cs, the regulations of the Budapest Convention on the Contract for the Carriage of Good by Inland Waterway (CMNI) shall apply. For national inland vessel transportation, §§ 407 – 466 HGB shall apply.

31.2 §§ 23 – 30 apply accordingly in so far as the following does not stipulate any separate regulations.

§ 32 Liability of NETCON

32.1 The liability provisions of this section shall apply irrespective of the basis on which a claim to damages can be supported. Further limitations of liability guaranteed by statutory law or arising from other provisions of these T&Cs shall remain unaffected.

32.2 NETCON is not liable in so far as damage

- a) Is caused by an action or omission of their people, the ship master, navigators or other persons in the service of the ship with regard to navigation, or the formation or dissolution of a push tow or towed convoy operation; this does not apply if the action or omission was intended to cause damage, or was committed recklessly and in full awareness that such damage would probably occur;
- b) Is caused by fire or explosion on board the ship without there being evidence of the fire or explosion being the fault of NETCON, the executing freight carrier, their employees or authorised representatives, or in so far as said damage is due to a defect of the ship;
- c) Can be attributed to defects which were in existence prior to commencing transportation in so far as NETCON can prove that the defects could not have been discovered prior to transportation despite applying due diligence;
- d) Is one of the cases stated in § 30.4. § 30.5 is to be applied accordingly.

32.3 **Should NETCON be obliged to provide compensation for damage or for the total or partial loss of goods in accordance with §§ 429, 430 HGB, this liability shall be limited to an amount totalling 2 SDRs per gross kg of goods which have become lost or damaged.**

E. Storage

§ 33 Applicable regulations

Unless stipulated otherwise in these T&Cs, §§ 467 through 475h HGB shall apply.

§ 34 Liability of NETCON

34.1 The liability provisions of this section shall apply irrespective of the basis on which a claim to damages can be supported. Unless otherwise stipulated in this section, the liability of NETCON shall be governed by § 13.

34.2 NETCON is not liable for damage that is attributable to one of the conditions listed below or one of the following risks:

- a) The nature of the goods, normal loss of capacity or weight as a result of total or partial loss or damage, especially due to breakage, rust, decay,

desiccation, leakage; or the exposure of goods to other natural events (e.g. soiling by bird excrement);

- b) Defective or missing goods packaging;
- c) Instructions of the Customer or third parties attributable to the Customer;
- d) Damage to or defects of the storage facility for which NETCON is not liable;
- e) The effects of heat, cold, melting, ignition of the goods;
- f) Damage caused by prior transportation.

34.3 Should damage occur which may be a result of the circumstances of the case, or one of the circumstances stipulated under § 34.2, it shall be assumed that the damage arose on the basis of said circumstance.

F. Land transportation

§ 35 Applicable regulations

Unless stipulated otherwise in these T&Cs, §§ 407 through 451h HGB shall apply.

§ 36 Liability of NETCON

36.1 The liability provisions of this section shall apply irrespective of the basis on which a claim to damages can be supported. Further limitations of liability guaranteed by statutory law or arising from other provisions of these T&Cs shall remain unaffected.

36.2 **Should NETCON be obliged to provide compensation for damage or for the total or partial loss of goods in accordance with §§ 429, 430 HGB, this liability shall be limited to an amount totalling 2 SDRs per gross kg of goods which have become lost or damaged.**

G. Haulage services

§ 37 Arrangements for the carriage of goods (freight forwarding)

37.1 Unless stipulated otherwise in these T&Cs, the regulations of §§ 453 through 466 HGB shall apply.

37.2 **Should NETCON be obliged to provide compensation for damage or for the total or partial loss of goods in accordance with §§ 429, 430 HGB - directly or by means of § 461 HGB - this liability shall be limited to an amount totalling 2 SDRs per gross kg of goods which have become lost or damaged.**

37.3 NETCON shall not be held responsible for the faults of its people and ship crew if the damage is caused by acts related to steering or otherwise operating the ship, which are not in conjunction with the performance of measures primarily serving the interests of cargo loading; or, if fire or explosion on board the ship were the cause thereof.

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