



## **SPIRIT GENERAL CONDITIONS FOR TERMINALHANDLING**

**Spirit Air Cargo Handling Sweden AB**

SE-195 87 Stockholm, Sweden · Spirit Terminal Stockholm-Arlanda & Gothenburg-Landvetter

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These general conditions for terminal handling are intended for use with respect to handling and storage of whole or loose load carriers, freight-units or containers as well as with respect to handling and storage of loose cargo. Attached to these general conditions are Annexes specifying terms and conditions for handling and storage of load carriers as well as handling and storage of loose cargo. These general conditions will enter into force as of 2012-01-01 (January 1st, 2012) and will remain valid and effective unless otherwise notified. Furthermore, these Conditions may be modified, altered or changed without notice by SPIRIT subject to article 2.3 of these Conditions.

## **1. DEFINITIONS**

Expressions and terms used in these General Conditions and annexes attached hereto shall be defined as follows, except where the context otherwise requires or where it is otherwise expressly provided for;

### **ACCEPTANCE**

Goods are considered as accepted only when it is delivered ready for carriage.

### **AGENT HANDLING SERVICE**

("Equivalent to the term FORWARDING SERVICE")

Services performed by SPIRIT for the cost and account of an Agent (Customer) for the purpose of completion of shipments such as but not limited to labeling, sorting, and consolidation. Applies equally to shipments for export or import.

### **AGREEMENT**

(Equivalent to the term "contract"). Any form of contract entered into by and between SPIRIT and the Customer with the intention of creating a legal obligation. It may have elements in part or in whole in writing or may be made orally. It can be formed via fax, e-mail or other documents.

### **AIR WAYBILL**

(Which is equivalent to the term "air consignment note", "Shipping Document" or "AWB") The document made out by or on behalf of a Shipper which evidences a Contract between a Shipper and a Carrier(s) for carriage of Cargo over routes of the Carrier(s).

### **CARRIER**

Any and all carriers that carry or undertake to perform each or all portions of the transportation of the goods or to perform any other services related to such carriage using any kind of mode(s) of transport.

### **CARGO**

(Equivalent to the term "goods") means anything carried or to be carried under an air waybill, road consignment note or shipment record and includes baggage, mail or any aircraft ballast

### **CHARGES COLLECT**

The charges entered on the shipping agreement for collection from the consignee against delivery of the shipment.

### **CONDITIONS OF CONTRACT**

The terms and conditions printed on the back page of the original copies of the Shipping Agreement.

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### **CONSEQUENTIAL DAMAGES**

(Equivalent to the term “consequential loss”) Consequential damages may also include or be referred to as indirect, incidental or special damages and may include but shall not be limited to loss of revenue, loss of income, loss of markets, loss of reputation or good-will, loss of customers, loss of use, loss of opportunity or any other similar loss or damage.

### **CONSIGNEE**

The person or firm whose name appears in the “Delivery Address” box on the Shipping Agreement and is the party to whom the shipment is to be delivered.

The persons eventually appearing on the Shipping Agreement as “notify” are persons to be notified of the arrival of the goods only.

### **CONSIGNMENT NOTE**

The document made out by Carrier for the transportation of the goods by any carrier, using the route(s) and any mode(s) of transportation available to that carrier.

### **CUSTOMER**

(Equivalent to the term “consignor”) The person or firm whose name appear in the customer’s box on the shipping-, storage or handling agreement, or if applicable any other agreement for services to be performed by SPIRIT, as the party contracting with SPIRIT for said services or on whose behalf the contract is made.

### **DAYS**

Full calendar days, including Sundays and legal holidays; provided that for the purpose of notification the balance of the day upon which notice is dispatched shall not be counted.

### **DECLARED VALUE OF CARGO**

The value of goods declared on the terminal-, handling- or storage agreement, or if applicable any other agreement for services entered into by SPIRIT, by the Customer for the purpose of determining the limit of the SPIRIT’s liability for loss, damage or delay to cargo. It is also the basis for application of valuation charges.

### **DELIVERED - EXPORT**

Goods are delivered when handed over by the Customer and duly signed for by SPIRIT.

### **DELIVERED – IMPORT**

Goods are delivered when handed over by SPIRIT and duly signed for by Customer.

### **DELIVERY SERVICE**

The surface carriage of inbound shipments from the port of Destination to the address of the consignee or that of his agent.

### **DIRECT DAMAGE**

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(Equivalent to the term “direct loss”) Means a loss arising naturally or directly from an occurrence and which excludes remote, indirect, consequential, or special losses or damages, such as loss of revenue or loss of profit.

#### **IATA SGHA**

The Standard Ground Handling Agreement of the International Air Transport Association. Will be edited from time to time.

#### **INDIRECT DAMAGE**

(Equivalent to the term “indirect loss” and refers to Consequential damage above.

#### **LOAD CARRIER**

(Equivalent to the term “ULD” or “unit”). Shall mean whole standardized load carriers such as containers, swap body or other standardized units intended for the transportation of cargo, including ULDs. Shall be marked in accordance with common standards as well as approved for carriage with the intended mode of transport. The Customer shall bear the responsibility for meeting such requirements.

#### **PREPAID SHIPMENT**

Shipment on which the charges are to be paid by the shipper.

#### **READY FOR CARRIAGE**

Subject to security control required by Authorities and Airlines, the following criteria must be met for the cargo to be considered ‘ready for carriage’

The shipment is booked. The complete shipment is delivered on time.

The complete shipment and documents are secured in accordance to local CAA security regulations and import country CAA and customs authorities regulations.

The shipment corresponds with the booking. The shipment is accompanied by a correctly issued airway bill containing accurate information about weight, volume, content and with all relevant documents attached. Correct labels, with barcode, are attached to each piece of cargo.

The packaging is in good condition.

SPIRIT shall reserve the right to refuse any shipment not considered ready for carriage.

#### **RECEIVING GOODS**

Means by SPIRIT signed proof of acceptance of the goods.

#### **RECEIVING LOAD CARRIER OR UNIT**

Means when a trailer is disconnected from the vehicle or cranes lifts up the unit and the load carrier thus physically has been received for handling in a terminal.

#### **SHIPMENT**

(Which is equivalent to the term “goods” or “consignment”) Anything shipped or to be shipped under a shipment record in one or more packages, pieces or bundles of cargo accepted by SPIRIT from one customer or his agent at one time and at one address, receipt for in one lot and under a single shipment record, for shipment to one consignee at one destination address.

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### **SHIPPER**

(Equivalent to the term “consignor”) The person or firm whose name appear in the shipper’s box on the air waybill or shipment record, as the party contracting with the Carrier for the carriage of cargo or on whose behalf the contract is made.

### **SHIPPING AGREEMENT**

The document made out by Carrier and Customer which evidences the contract between the Carrier and the Customer for the shipment.

### **SHIPMENT RECORDS**

Any record of the contract of carriage preserved by Carrier evidenced by means other than a Shipping Agreement.

### **SPECIAL DRAWING RIGHT (SDR)**

A Special Drawing Right as defined by the International Monetary Fund

### **SPECIAL DAMAGES**

(Equivalent to the term “special loss” and refers to Consequential damage above.

### **SPECIAL GOODS**

(Equivalent to the term Special Shipments) Means, for example, perishables, live animals, valuables, vulnerable cargo, news material, dangerous goods or any similar goods.

### **SPIRIT**

The Party contracting with Customer to handle and / or store cargo, goods or load carriers. Includes any duly authorized agent and/or representative of SPIRIT.

### **SPIRITs REGULATIONS**

All requirements, rules, instructions, and practices, which can be obtained at the offices of SPIRIT.

### **TERMINAL**

Intended to mean all buildings, places or locations used for arrival and departure handling of cargo and for loading, re-loading and storage of cargo

### **TRUCK HANDLING**

Means loading and/or unloading a truck operating as a Truck Service.

### **TRUCK SERVICE**

Means a service operated by truck on behalf of an airline carrying loads documented in accordance with the applicable IATA and/or ICAO rules, regulations and procedures.

### **UNIT LOAD DEVICES (ULDs)**

Means devices which interface directly with an aircraft restraint system and are registered by the IATA ULD Technical Board.

## **GENERAL PROVISIONS**

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## 2. APPLICABILITY

2.1 These General Conditions shall apply to contracts of terminal handling of load carriers, for storage of such load carriers or for terminal handling and storage of loose cargo ("cargo") performed by SPIRIT AIR CARGO HANDLING ("SPIRIT") for the account of the principal ("Customer"). Subject to so otherwise agreed upon in writing by SPIRIT and Customer, these General Conditions shall only apply to services agreed upon to be performed by SPIRIT in Sweden

With regards to applicable contracts for services not mentioned within these General Conditions, such as but not limited to trucking services, entered into by and between SPIRIT and Customer, these General Conditions shall similarly apply to such contracts or agreements unless so otherwise specifically agreed upon in any such agreement or contract.

2.2 These General Conditions shall be applicable subject to mandatory national law, international conventions, rules and regulations or any applicable IATA SGHA in force having precedence. The parties may agree on other terms and conditions which may wholly or in part supplement or replace these General Conditions.

2.3 Furthermore, these General Conditions are subject to change without notice except to the extent otherwise provided for by any applicable law or government regulations or order; provided that no such change shall apply to a contract for services to be performed entered into before any such change became effective and similarly with regards to such change after the date of issuance of any Confirmation Receipt or order by SPIRIT.

2.4 Unless the context requires otherwise, the international conventions applicable to each individual assignment is based on the mode of transport. Any valid convention in force regulating the actual mode of transport will for all legal purposes regulate the agreement between SPIRIT and the Customer. Other provisions will be regulated by these General Conditions or any written and specifically agreed upon terms and conditions in any individual agreement of assignment. In case no convention applies, or no individual terms and conditions have been agreed upon in an agreement of assignment, SPIRIT and Customer understand that NSAB 2000, or any later edition intended to replace NSAB2000 shall be deemed to apply, subject to any provision in these conditions of carriage stating otherwise.

2.5 For ancillary local road transport (import) specifically agreed upon by and between Customer and SPIRIT, for the purposes of SPIRIT's liability the applicable liability provisions of any convention or mandatory national law in force regulating that agreed upon mode of transportation shall apply and shall super cede these General Conditions where any conflict may occur.

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- 2.6 Upon handing over shipments, cargo or load carriers to SPIRIT, the Customer acknowledges acceptance of SPIRITS General Conditions. Any instructions from the Customer given to SPIRIT at the moment the goods are handed over to SPIRIT intended to modify, alter or change SPIRITS General Conditions shall not be effective and SPIRIT shall not be legally bound by any such conflicting or amending instructions unless the procedure of Article 25.2 of these General Conditions have been followed.

### **3. TERMINAL HANDLING (goods)**

Under these General Conditions and any applicable annex (es) terminal handling of goods may include the following:

- 3.1 Loading and un-loading of goods on the main arriving / departing means of transport to / from (between) point of departure and destination, with the exception of local transport to / from the terminal of the Customer regardless of whether this local transport is performed by the Customer or SPIRIT.
- 3.2 Terminal handling of goods may further include storage or holding of goods in a terminal or other facility in connection to transport in accordance with agreed upon terms and conditions which may be in the form of fax, e-mail or similar means of communication.

### **4. TERMINAL HANDLING (Load Carrier)**

Under these General Conditions and any applicable annex (es) terminal handling of load carriers or units may include the following:

- 4.1 Loading and un-loading of load carrier or unit on the main arriving / departing means of transport to / from (between) the point of departure and destination. Loading and unloading on or in a load carrier or unit from one unit to another unit (re-loading)

### **5. DELIVERY, ACCEPTANCE AND READY FOR CARRIAGE**

The Customer shall deliver goods and all necessary documents for the goods to be considered 'ready for carriage'. Unless the complete number of documents are delivered with the goods, the goods shall not be regarded as 'delivered' to SPIRIT until this requirement has been fulfilled by the Customer and all necessary documents have been delivered to SPIRIT for the goods to be transported.

In the event goods may not be shipped in accordance with any booking thereof due to lack of or late delivery of documents, although the goods itself was delivered in time, the Customer shall bear all responsibility and liability for the shipment not being transported as

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booked including any and all costs for storage and/or rebooking that might occur and shall indemnify SPIRIT in full for any and all such costs that might be charged against SPIRIT due to this by any carrier or third party.

Delivery of shipments for Agent Handling Services must be met by the Customer in due time giving SPIRIT reasonable opportunity to fulfil its obligations under the Handling Agreement, and in accordance with deadlines as further specified in these Agreements or by SPIRIT on its website. These deadlines may be modified by SPIRIT from time to time by notification thereof on the website of SPIRIT.

## **6. SUPPLEMENTARY ADD-ON SERVICES**

6.1 Additional services may be agreed upon in exchange for remuneration and in each separate case after special agreement in accordance with for SPIRIT at each time valid tariffs and separate conditions.

6.2 SPIRIT and the Customer shall agree on supplementary add-on services which shall be clearly defined and specified

6.3 SPIRIT shall have received clear and specific instructions as to what may be included in the supplementary add-on services. Furthermore, it must be distinguished between supplementary add-on services which may be regarded as necessary for the performance of the contract, and for which SPIRIT may charge the Customer even if no agreement has been made for these services, and supplementary add-on services which are performed only by agreement thereof

6.4 Supplementary add-on services may include the following;

Marking (“labeling”) of goods, disposition and storage of customs goods and if the case so requires customs clearance of such goods, storage in temperature controlled facilities, value, safety- or security storage, handling of transport of animals, or handling of dangerous goods.

- Storage / alignment of load carrier for temporary storage within a terminal.
  - Alignment is intended to mean standard depot inclusive of the day of arrival plus one day.
- Storage and / or alignment of unit or load carrier for remuneration.
  - Alignment is intended to mean contract depot including a longer period than standard depot (day of arrival plus one day).
- Survey of load carrier or unit.
  - Survey is intended to mean an ocular (visual) inspection such as external checks upon arrival and departure

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- Electrical power supply connection of load carrier or unit, including a normal external check that electricity is supplied to the unit or load carrier.
  - Normal external check is intended to mean at each given time customary or standard use within the line of business
- Folding of support legs in case the Customer has not performed this measure
- Folding of under-run protection, with or without anchoring Electrical power supply connection of load carrier or unit where special transport requires such supplementary service.
- Removal of snow- or ice from unit or load carrier intended for transport on road. Such snow removal can be performed within or at the terminal, on load carrier or unit as well as prior to said unit or load carrier being lifted onboard a vehicle for transport.
- Cleaning of unit or load carrier. Normal cleaning because of dirtying and wear and tear due to normal use of the unit or load carrier
- Heavy (rough) cleaning of dirt and wear and tear in excess of what can be considered normal as above
- Maintenance and repair of unit or load carrier which follows due to wear and tear which may not be considered normal.
- Disposal time of unit
- Removal of and provision of dangerous goods labels
- Adjustment of cargo load. May be performed by SPIRIT on the cost and risk of the Customer if SPIRIT has reasonable cause to suspect that cargo is incorrectly stowed or loaded and as a consequence an imminent danger for load, people, load carrier, vehicle or the surrounding environment may be assumed.
- Securing of load. May be performed by SPIRIT on the cost, risk, responsibility and liability of the Customer after specific written request thereof.
- Customs warehouse (bonded)
- Breaking down of inbound cargo (import) to House-AWB level. To be paid for by the forwarder or Customer unless specifically otherwise agreed upon.

6.5 In addition to the above mentioned additional supplementary add-on services may be agreed upon in exchange for remuneration and in each separate case after special agreement in accordance with at each time valid tariffs and separate conditions in force.

## 7. FEES AND CHARGES

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- 7.1 The Customer will be charged in accordance with at each time applicable and valid tariffs of SPIRIT on the terms and conditions specified below, unless otherwise specifically agreed upon.
- 7.2 SPIRIT reserves the right to charge the Customer for services performed within the scope of the agreed contract if such services are of the art and nature that they constitute normal business practice and as such may be included in the intended contract even if said services have not been agreed upon. The above mentioned shall furthermore apply in case SPIRIT regards a service as necessary for the execution and performance of the contract and SPIRIT has been unable to reach the Customer within reasonable time to confirm the performance and execution of said service.
- 7.3 In the event there are no valid tariffs in force for executed and performed services not agreed upon as specified above, SPIRIT is entitled to and reserves the right to charge the Customer a reasonable fee, including any possible necessary disbursements, for the execution and performance of such services.
- 7.4 Value added tax as well as any other taxes or duties are for the payment and account of the Customer.
- 7.5 SPIRIT is entitled to and reserves the right to at any given time adjust published or specified fees and charges in the event of a significant economic circumstance beyond the control or influence of SPIRIT. Should such fee or charge be so adjusted, the Customer is entitled to terminate the contract with effect from date of said adjustment subject to the adjustment being of significant importance to the Customer.
- 7.6 In the event SPIRIT's costs for the completion of the contract is significantly affected by fluctuations in currency exchange rates, SPIRIT is entitled to adjust published or specified fees with the difference between the currency exchange rate which formed the basis of the announced fee and the currency exchange rate at the completion of the assignment.

## **8. PAYMENT TERMS AND CONDITIONS**

- 8.1 Payment of charges due shall be at the account of SPIRIT at the latest within the time specified on the invoice.
- 8.2 The Customer shall within thirty (30) days after the expiry date of the invoice notify the SPIRIT whether the invoice is regarded as incorrect or containing faults. Failing this the Customer will lose its rights of objections against said invoice.
- 8.3 The Customer shall be liable for and hold SPIRIT free and harmless for the completion of any transport-, storage- or terminal fees and charges in case SPIRIT in accordance with instructions from the Customer charges a third party and such third party within thirty (30)

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days after the expiration date of the invoice fails to make payment in full of outstanding debts as specified above, regardless of reasons thereto. The liability of the Customer as detailed above shall also include any possible penalty interests on overdue payments, invoice- and reminder fees for overdue payments.

- 8.4 SPIRIT shall be entitled to and reserves the right to demand payment in advance for contracts where the value of the goods can not be deemed to cover freight-, terminal- and storage fees and charges.
- 8.5 With regards to charges collect shipments the Customer shall be liable for payments of any charges, fees, expenses and disbursements related to the contract should the consignee neglect to or not be in a position to make payment for the contract, regardless of whether the consignee has taken possession of the goods or not.
- 8.6 Should the invoice be disputed in part or in whole, the above mentioned shall not affect the disputed part of the invoice. Should the disputed part of the invoice later be found unjustified, the Customer shall make payment of penalty interests on overdue payments, fees and other costs for the disputed part from the time the claim was presented until the claim was found to be unjustified.
- 8.7 In the event payment of charges is overdue SPIRIT is entitled to and reserves the right to charge the Customer with penalty interests on overdue payments in accordance with the applicable Swedish act on interest payments as well as any reminder fees allowed under Swedish law and where applicable any fees and charges for collection services.

## **9. VALIDITY OF PROPOSAL OR OFFER**

SPIRIT guarantees any proposal or offer to Customer for a period of twenty (20) working days after receipt of the Customer of the proposal or offer. If said date can not be agreed upon, for the purposes of these Conditions such date shall be regarded as a date set forward three (3) working days after the date of the proposal or offer.

## **10. LIEN AND RIGHT OF RETENTION**

- 10.1 Subject to the extent permitted by applicable national law, SPIRIT shall have a lien on goods, load carrier, unit or any documents relating to goods such as documents of transport and air waybills or road consignment notes that SPIRIT has under his control, custody or possession for claims that SPIRIT has towards the Customer as a consequence of storage or terminal handling of goods, load carrier or unit for the account of the Customer after a contract thereof. This shall apply equally to goods, load carrier or unit that SPIRIT

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undertakes for transport, terminal handling or storage and that the consignee has yet not taken possession of.

- 10.2 The above mentioned lien shall apply equally to claims made by SPIRIT towards the Customer regarding contracts of terminal handling or storage or goods, load carrier or unit that is no longer is in the possession or control of SPIRIT.
- 10.3 In the event the Customer enters into receivership or reconstruction the Customer shall be obliged to inform the court appointed trustee or liquidator of the prioritized claims of SPIRIT and shall hold SPIRIT free and harmless to the fullest extent permitted under the law in case such obligation is not met or performed by the customer.
- 10.4 In the event the Customer fails to make payment for terminal-, storage- or other costs related to the contract SPIRIT shall be entitled to exercise his lien and prevent or refuse delivery of load carrier, unit or goods until payment has been made in full. In the event the Customer does not take possession of or collect load carrier, unit or goods and further does not make full payment of terminal-, storage- or other costs related to the contract and fails to correct this after thirty (30) days have passed since the Customer was notified of this by SPIRIT, SPIRIT shall be entitled to sale of load carrier, unit or goods at private or public auction and cover its claims out of the proceeds thereof and to deposit any excess income amount to the account of the Customer at the general county authority (Länsstyrelsen) of Stockholm, Sweden.

## **11. INSURANCE**

- 11.1 The Customer shall in its own name and account procure and maintain any required insurance coverage for storage-, terminal handling- or transport risks covering the liability for goods, unit or load carrier in excess of that which is laid down and stipulated for SPIRIT under these General Conditions.

Any possible and potential self-deductible which the insurers at any given time elects to apply shall be for the account of the Customer.

- 11.2 In the event the Customer chooses to in its own name and account procure insurance coverage brokered by an insurer for storage- or cargo risks, the Customer shall be liable towards SPIRIT as well as third party such as buyer, seller or other final receiver of load carrier, unit or goods for the correct and sufficient insurance of said load carrier, unit or goods delivered to SPIRIT by the Customer for terminal handling or storage.

## **12. TRANSFER OF ASSIGNMENTS**

- 12.1 The Customer may not assign its rights and/or liabilities, in part or in whole, under these

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General Conditions to any third party without the express previous written consent of SPIRIT.

- 12.2 SPIRIT shall however always be entitled to assign its rights and liabilities, in part or in whole, under these General Conditions to another legal entity within the same company group or such entity where the operator owns a controlling share.

### **SPECIAL PROVISIONS**

#### **13. PACKAGING, WRAPPING AND MARKING / LABELING OF GOODS**

- 13.1 If in the opinion of SPIRIT cargo is not correctly packaged, wrapped, and / or marked or labeled SPIRIT shall be entitled to require that the Customer undertakes this and if such packaging, wrapping, marking or labeling can not be carried out in time for the performance or completion of the contract, such performance or completion shall take place at a later stage when the goods is deemed by SPIRIT to be correctly packaged, wrapped, and / or marked or labeled. The Customer shall assume liability for delay or other damages that might occur or arise in the event SPIRIT in its opinion regards goods as not being correctly packaged, wrapped and / or marked or labeled.
- 13.2 In the event SPIRIT discovers obvious deficiencies with regards to the packaging, wrapping, marking or labeling of the goods after taking delivery of such goods, and furthermore said deficiencies, if they are not corrected, may cause damage to SPIRIT or any third party SPIRIT shall be entitled to correct these deficiencies at the risk and expense of the Customer if in the reasonable opinion of SPIRIT instructions from the Customer can not be received in time for the deficiency to be corrected.
- 13.3 In the event the Customer requires that SPIRIT, in spite of the opinion of SPIRIT that the goods is not correctly packaged, wrapped, marked or labeled, nevertheless shall handle the goods in the terminal alternatively store said goods, such terminal handling and storage shall be carried out and performed entirely on the responsibility, liability, risk and expense of the Customer and SPIRIT shall not be held responsible or liable for any damage or injury which may be caused by or arise as a consequence or reason of the incorrect packaging, wrapping, marking or labeling, including any damages for delay in connection thereto.
- 13.4 SPIRIT reserves the right to request the Customer to seal any packaging or wrapping before taking possession of the goods. In the event SPIRIT requests such sealing of the goods, and the Customer does not perform or effect such sealing, SPIRIT shall not be held responsible or liable for any damage or injury which may arise in the event of a dispute on whether the packaging or wrapping has been broken or tampered with.
- 13.5 In the event transport is performed to the wrong destination as a consequence of and due

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to incorrect marking or labeling performed or effected by the Customer of goods or, where applicable, of load carriers, the Customer shall assume responsibility and liability of all costs and expenses for the re-routing of the goods, or load carrier, including storage- and terminal handling charges and fees, which may arise as a consequence of said transport to the wrong destination.

- 13.6 In the event goods or load carriers are transported to the wrong destination as a consequence of and due to incorrect marking or labeling of goods effected and performed by SPIRIT, and SPIRIT has undertaken in the contract or in an offer to mark up or label goods, SPIRIT shall assume responsibility and liability for all reasonable direct costs and expenses for the re-routing of the goods or load carrier, including storage- and terminal handling charges and fees, which may arise as a consequence of said transport to the wrong destination on the condition that SPIRIT has been duly notified by the Customer of this fact and thereafter has been given reasonable and fair opportunity and possibility to effect and perform said re-routing using same or similar means of transport as originally agreed upon. SPIRIT shall however be under no obligation to assume any liability for incidental or consequential damages such as but not limited to loss of income, business, good-will or any other such damages.
- 13.7 In the event the Customer without allowing SPIRIT reasonable and fair opportunity and possibility to effect and perform the re-routing decides to perform such re-routing on the account and expense of SPIRIT, SPIRIT shall nevertheless only be held liable and responsible for the part of the final costs and expense for said re-routing that SPIRIT after the fact can verify it could have effected said re-routing for. Any additional costs and expenses in excess of this amount shall be for the account and expense of the Customer.

#### **14. EXECUTION OF SHIPPING DOCUMENTS**

- 14.1 The Customer shall be responsible for the issuance and completion of all shipping documents necessary for any transportation of the goods. In the event Customer requests SPIRIT to complete any shipping documents, Customer shall furnish to SPIRIT all necessary information in order for SPIRIT to complete the shipping agreement and any consignment note necessary. Charges for carriage and other charges, insofar as they have been ascertained, shall be inserted in the shipment agreement by SPIRIT.
- 14.2 If the shipment record handed over with the goods by the customer do not contain all the required particulars, or if the shipment record or such particulars or statements contain any error, SPIRIT is authorized to complete or correct any incomplete or incorrect shipment record or particulars or statements on behalf of the Customer to the best of SPIRIT's ability without being under any obligation to do so.
- 14.3 **Responsibility for Particulars**

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The Customer shall be liable for all damage suffered by SPIRIT or any other person by reason of the irregularity, incorrectness or incompleteness of particulars or statements in the shipment record pursuant to the provisions as stated above.

14.4 **Apparent Order and Condition of Goods**

If the apparent order and condition of the goods and/or packing is in any way defective, the Customer shall insert in the shipping document a statement describing the apparent order and condition. However, if the Customer fails to include such a statement, or if such statement is inaccurate, SPIRIT may insert or correct such statement in the shipping document.

14.5 **Alterations**

SPIRIT reserves the right to refuse acceptance of shipping documents on which the writing has been altered or erased.

**15. DANGEROUS GOODS**

15.1 The Customer shall notify SPIRIT in due time and at the latest twenty-four (24) hours before dangerous goods are handed over to SPIRIT, that the contract concerns dangerous goods. The notification shall include the UN-number, official transport designator, class, packaging-group and quantity of the goods.

15.2 Units or load carriers containing dangerous goods shall be delivered and collected by the Customer on the agreed upon date, time and location. SPIRIT assumes no liability or responsibility for dangerous goods which are delivered by the customer prior to the agreed upon time and date, or at another location than what has been agreed upon, unless SPIRIT has duly signed for the receipt of said dangerous goods.

15.3 Dangerous goods may only be delivered by the Customer to SPIRIT in load carriers intended for and used for transport and storage of dangerous goods according to the at each time valid and applicable national and international laws, rules and regulations in force regarding transportation of dangerous goods.

15.4 SPIRIT reserves the right to refuse acceptance of certain dangerous goods such as but not limited to radioactive material, explosives or otherwise hazardous material, etc.

15.5 It is the obligation of the Customer to establish a safety plan with regards to and concerning the part of the activity during transport and storage of dangerous goods for which the Customer is responsible and liable. The Customer shall hold SPIRIT free and harmless in the event the Customer fails or neglects to establish a safety plan and SPIRIT as a result of this breach suffers damage or is levied fine, duties or other sanctions by a governmental authority. In addition to the above mentioned the Customer shall compensate SPIRIT in full and hold SPIRIT free and harmless for any and all costs, losses or damages that may occur or arise as a consequence of the handling, including but not limited to transportation and

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storage, of dangerous goods, including any possible damages dangerous goods belonging to the customer, may cause any third party.

## **16. SPECIAL GOODS**

- 16.1 Special goods requiring temperature controlled-, safety-, or high value storage and / or similar handling shall be received and handled by SPIRIT after specific agreement only and in accordance with valid and applicable separate terms and conditions. Goods which requires safety-, or high value storage and thus can be classified as goods with a high risk, shall be notified by the Customer to SPIRIT at least twenty-four (24) hours prior to acceptance or delivery of the customer and receipt of such goods by SPIRIT.
- 16.2 In the absence of separate terms and conditions with regards to special goods, the Customer shall have a strict liability exceeding that which follows under the provisions of these General Conditions for damage that said and such goods may or can cause SPIRIT, its property, facilities, personnel or employees, and any third party, including goods, facilities, personnel or employees of such third party.
- 16.3 Damages referred to under article 16.2 above may include but not be limited to leakage, wastage or the like occurring as a consequence of the incorrect or insufficient packaging or wrapping of the goods.
- 16.4 In the event goods requiring special terminal handling and/ or storage such as but not limited to temperature controlled-, safety-, or high value storage in ancillary facilities, are not collected or picked up at the agreed upon time by the Customer or consignee, or if no time for pick-up or collection has been agreed upon, within twenty-four (24) hours immediately following the working day the Customer was notified by the SPIRIT to collect the goods and said goods was placed at the disposal of the Customer, and the said facilities as mentioned above after the end of the agreed upon contract was booked and reserved by another Customer, and SPIRIT due to the art and nature of said goods can not without risk of damage remove said goods from said facility but must arrange for other facilities of a similar nature for the newly arrived goods of a similar art and nature belonging to another third party Customer, the original first Customer shall be responsible and liable for the added extra expenditures which may arise as a consequence of re-placing said goods belonging either to the first Customer or to a third party, including any and all damages which may be caused to the goods of the first Customer or any third party as a consequence of this.
- 16.5 The Customer shall be liable for damages to its own goods as well as goods belonging to any third party, with regards to damages in accordance with article 16.4 above, even if SPIRIT should choose not to relocate the goods of the Customer alternatively is not successful in attempting to relocate the goods of the Customer and said goods, as a consequence of this, is damaged when the Customer or the consignee fails to pick-up or collect said goods within the agreed upon time or the time so instructed.

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## LIABILITY PROVISIONS

### 17. LIABILITY

17.1 SPIRIT shall be liable under these General Conditions when SPIRIT under its own name offers or agrees to perform terminal handling or storage of load carriers, units or cargo independently and irrespectively of if later other such operator performs or effects the actual terminal handling or storage of said load carrier, unit or cargo. In the event any other services are agreed upon by SPIRIT and the Customer, these General Conditions shall similarly apply to those services agreed upon unless specifically otherwise agreed upon.

Subject to articles 3, 4, 5 and 6 above, terminal handling and / or storage may be further defined in annexes or special handling agreements attached to these General Conditions.

17.2 SPIRIT shall not be liable for damage to, loss of or depreciation of cargo occurring to goods which are stored within a load carrier or unit and when the contract is intended for handling or storage of a whole load carrier, regardless of how such damage, loss or depreciation occurs.

17.3 SPIRIT shall not be liable for the delay of delivery of cargo (contained within a load carrier or unit) either during terminal handling or temporary storage, with the exception of article 19.2 below.

17.4 The Customer shall be liable for ensuring that load carrier, unit or goods are correctly packaged, wrapped, marked and labeled. SPIRIT is entitled to and reserves the right and opportunity to control this before said load carrier, unit or goods are collected or received but is under no obligation to carry out such control or inspection

17.5 The Customer shall be liable for damage to goods or load carrier of any third party or any damage to property or personnel of such third party and shall hold SPIRIT free and harmless of any claims or demands from such third party to the extent that such damage has arisen as a consequence or due to incorrect or faulty packaging, wrapping, marking or labeling or alternatively as a consequence of the art and nature of said load carrier, unit or goods.

17.6 In the event terminal handling or storage is performed or executed by SPIRIT free of charge and without remuneration or compensation the Customer shall solely and without exception or limitation on its own account bear the full risk, responsibility and liability of any load carrier or unit as well as any possible damage to goods stored inside or separately outside of load carrier or unit.

### 18. PERIOD OF LIABILITY

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18.1 The liability of SPIRIT shall commence at the time and moment when SPIRIT in accordance with an offer or agreement thereof shall receive a load carrier, unit or goods for terminal handling or storage.

In the event SPIRIT receives load carrier, unit or goods before the agreed upon time of acceptance, the liability of SPIRIT shall be intended to commence at the time when the terminal at the receiving facility opens on the date when said load carrier, unit or goods shall be received in accordance with the agreement thereof, subject to the provisions of article 18.1 above, however at the earliest at 06.00hrs a.m. local time.

18.2 The liability of SPIRIT for damage to load carriers, units or goods shall be intended to cease at the time and moment at which said load carrier, unit or goods in accordance with agreement or offer thereof is placed or has been placed at the disposal of the consignee or Customer and said party has been notified by SPIRIT to take possession of said load carrier, unit or goods. After such time and moment SPIRIT undertakes to store said load carrier, unit or goods without assuming any liability for damage to said load carrier, unit or goods unless this has been agreed upon in writing. The Customer is thereafter obliged to make payment for storage fees and charges in accordance with applicable provisions in these General Conditions until said load carrier, unit or goods is finally collected.

18.3 If SPIRIT instructs the Customer in writing or by fax or e-mail to collect load carrier, unit or goods and such load carrier, unit or goods have been placed at the disposal of the Customer or consignee and said Customer or consignee has not taken possession of said load carrier, unit or goods after a period of thirty (30) days have expired after instructions were notified to the Customer or consignee, SPIRIT shall be entitled to and reserves the right to have the load carrier, unit or goods either destroyed or sold and out of the proceeds of any sale cover its outstanding claims/debts for said load carrier, unit or goods.

## **19. LIMITS OF LIABILITY**

19.1 The liability of SPIRIT for damage to or loss of load carrier or unit is limited to the value of the load carrier or unit at the most likely time of damage or deficiency but shall not exceed SDR 2 000 per load carrier or unit regardless of the circumstances.

With regards to several damages occurring at the same time and in accordance with article 19.1 the total liability of SPIRIT is limited to and shall not exceed SDR 20 000 at any one occurrence.

19.2 For delay in delivery of load carrier or unit the liability of SPIRIT is limited to the contract fee as specified in the agreement or offer.

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19.3 The liability of SPIRIT for damage to, loss of, depreciation to loose cargo regardless of whether it is goods stored inside a load carrier or unit or goods in itself is limited to the value of the goods at the most likely time of damage or deficiency or if such value can not be verified, the market price of goods of the same kind at the storage location on the above mentioned time and moment.

Compensation in accordance with article 19.3 above may however under no circumstances exceed SDR 2 per kilogram unless specifically agreed upon in writing prior to acceptance by SPIRIT of said cargo, or any applicable national law, international convention or regulation stipulates otherwise. For several damages under article 18.3 which occurs at the same time and moment the total liability of SPIRIT shall be limited to and shall not exceed SDR 20 000 at any one occurrence.

The liability of SPIRIT for goods in accordance with the above mentioned and under these General Conditions shall not be dependent on whether the contract has been entered into for handling or storage of load carriers containing goods, or if the has been entered into for handling and / or storage of loose cargo.

19.4 The liability of SPIRIT for delay of loose cargo is limited to the contract fee as specified in the agreement or offer.

19.5 SPIRIT shall under no circumstance be liable for indirect damages, incidental, special or other consequential damages or any punitive damages whether in tort or not such as and including but not limited to loss of revenue, loss of income, loss of markets, loss of reputation or good-will, loss of customers, loss of use, loss of opportunity or the like which may not be directed against SPIRIT under any circumstances regardless of the nature of the contract or irrespectively if damage has been caused to a load carrier, unit or goods.

Furthermore, the above mentioned shall apply to the fullest extent permitted by law even where it can be established that SPIRIT had, or ought to have had, knowledge that such damages or loss might arise including without limitation any breach of contract, negligence willful act or default by SPIRIT.

In addition, the provisions of article 19.5 shall furthermore apply to the fullest extent permitted by law for any and all third party damages, product liability damages or labor-related damages, or any other damages arising out of any agreement or contract for services entered into by SPIRIT.

19.6 SPIRIT may not rely on and invoke the limits of liability under article 19.1, 19.2, 19.3 and 19.4 above if damage, loss, depreciation or delay has resulted or arisen, been caused or arisen out of, directly or indirectly, the gross negligence or intentional act of SPIRIT.

19.7 The Customer shall be liable towards SPIRIT for any and all claims that any third party may direct against SPIRIT as a consequence of terminal handling or storage and the

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Customer undertakes to hold SPIRIT free and harmless for any such claims to the extent they exceed the limits of liability of SPIRIT or, should it be the case, in the event that SPIRIT is not liable for the occurred damage.

The above mentioned shall similarly apply for contracts or agreements entered into by SPIRIT for services other than those specifically mentioned in 19.7 above.

19.8 SPIRIT shall not be liable for any damages caused to the vehicles of the Customer, including modes of transport delivering or receiving goods of the Customer, unless so otherwise specifically agreed upon in writing.

The above mentioned shall equally apply for vehicles of any third party such as but not limited to sub-contractors of the Customer.

19.9 The provisions of Article 19 shall apply regardless of the art and nature of the contract and similarly if damage has been caused to a load carrier, unit, cargo or any other object.

## **FINAL PROVISIONS**

### **20. FORCE MAJEURE**

20.1 SPIRIT shall be free of liability and claims for damages or any other sanctions if the completion of a certain commitment is prevented or significantly obstructed by any occurrence or circumstance beyond the reasonable control of SPIRIT which SPIRIT could not have anticipated, nor avoided or prevented.

Circumstances which shall be considered as force majeure shall include but not be limited to strikes, labor stoppage (except strikes or labor lockouts with regards to employees of SPIRIT, seizure, lockout, war, riots, natural disasters, unexpected weather conditions including avalanches or landslides and the like, flooding, fires, thunder- or strokes of lightning, national emergency, acts of God, actions of any government, or the like, lack of or deficiencies in services from sub-contractors due to circumstances mentioned above, general shortage of transport, goods or energy or similar circumstance.

20.2 If the completion of the contract is significantly prevented during a period of more than three (3) months due to any circumstance in accordance with the above mentioned, SPIRIT shall be entitled to terminate the contract with immediate effect by giving notice in writing to the customer.

### **21. CLAIMS AND STATUTE OF LIMITATIONS**

21.1 No action shall be maintained unless a written complaint is made to SPIRIT within seven

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(7) days from the date of receipt of the goods. Any right of damages against SPIRIT shall be extinguished unless an action is brought within one (1) year after the date of delivery, or in case of loss of or delay of load carrier, unit or goods, within one (1) year after said load carrier, unit or goods should have arrived. In case of part delivery the aforementioned times shall be calculated from the last arrived load carrier, unit or loose cargo.

- 21.2 Party entitled to make claims against SPIRIT shall be the Customer only. Any other third party intending to or lodging a claim against SPIRIT may do so on condition that such third party has obtained a letter of subrogation from the Customer and furthermore any such third party may only lodge a claim against SPIRIT on the same conditions as the Customer since the third party claimant derives its claim rights from the Customer.

## **22. REMARKS**

- 22.1 Remarks regarding damage shall, in order to be legally justified against SPIRIT, be made in writing by the Customer upon pick-up or delivery through a notation on the documents or receipts of pick-up, collection or delivery. Failing this the goods, unit or load carrier, as applicable, shall be presumed undamaged and intact upon receipt or delivery.

## **23 DISPUTE RESOLUTION, APPLICABLE LAW AND JURISDIKTION**

- 23.1 The parties agree that these General Conditions and any annexes attached thereto shall be interpreted and governed by, and construed in accordance with at any given time applicable Swedish law, EU-law, international convention or where another country's laws or international convention has precedence, such other country's law or international convention.
- 23.2 The parties mutually agree to solve any disputes if and when a dispute arises through mediation via neutral representatives appointed by each party.
- 23.3 Should such mediation through neutral representatives not be achievable, the dispute shall, unless otherwise specified in any applicable legislation, finally be referred to and settled by a competent court of law having jurisdiction over the registered domicile of SPIRIT.

## **24. VALIDITY AND TERMINATION OF AGREEMENTS OR CONTRACTS**

- 24.1 Each agreement or contract shall be valid for a specified term so indicated in each case.
- 24.2 Unless specifically agreed upon either Party may terminate an agreement or contract for specified services at any time with immediate effect by notice in writing, or by e-mail if followed within five (5) business days of receipt of e-mail by letter, without any formal summons or judicial intervention being required:

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- (i) if the other Party ceases to function as a going concern, becomes insolvent or files a petition for bankruptcy, makes a general assignment for the benefit of creditors, or commits an act of bankruptcy or if a petition in bankruptcy or for its reorganisation or the readjustment of its indebtedness be filed by or against it, provided the petition is found justified by the appropriate authority, or if a receiver, trustee or liquidator of all or substantially all of its property be appointed or applied for.
  - (ii) if the other Party materially defaults in the performance of any covenant, term or condition contained in this Agreement and such material default contains unremedied during ten (10) business days from the written notice of default has been given.
- 24.3 In the event an agreement or contract is being so terminated, such termination shall be without prejudice to the rights and liabilities under these General Conditions, any applicable rights and liabilities specifically agreed upon in said agreement or contract, and at law.
- 24.4 Further, the Parties agree that upon termination, any final payment is for services rendered up to and including the date of termination only.

## **25. MISCELLANEOUS**

- 25.1 All notices, statements and reports including claims or other messages with regards to the application of the contract shall be in writing and deemed to have been effectively given and received if: (a) five (five) business days after the date of mailing if sent by registered or certified mail; (b) when transmitted if sent by telefax or e-mail, if such transmission and receipt thereof is verifiably confirmed.
- 25.2 No terms, conditions, understandings or agreements purporting to modify, vary, supplement or expand any provision of these General Conditions shall be effective or binding unless signed in writing by a duly authorized representative of each Party. Such signature may be effected through an e-mail or fax if sent by such duly authorized representative and followed by a signed original within five (5) businessdays.
- 25.3 If any term, provision or part condition of these General Conditions (or the application of any such term, provision or condition to any circumstance) or in any annex attached to these General Conditions, shall to any extent be held invalid or unenforceable, the remainder of these General Conditions, and the application of such term, provision or condition other than to the extent it is held invalid, shall not be invalidated or affected thereby and each other term, provision and condition shall be valid and enforceable to the fullest extent permitted by law.
- 25.4 In the event a contract is being so terminated, such termination shall be without prejudice to the rights and liabilities of each party in accordance with these General Conditions or any annex attached to these general conditions hereunder as well as under any applicable law.

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