

# GENERAL CONDITIONS OF FORWARDING OF COMPANY "C. Steinweg Romania SRL."

## Article 1. DEFINITIONS

1. **Forwarding activity** means the organization of and/or provision for export, import, transit or other cargoes transportation/handling process, being the complex of works and services including consulting, getting of necessary prior approvals or permissions regarding cargo processing, organization of storage/warehousing, packing, handling works, drawing up, sending and accepting of shipping and transport documentation, insurance, collecting of payment obligations and arranging of due payments to the transportation process participants, and other actions connected with the fulfillment of Forwarder's liabilities under the Forwarding contract subject to Customer's order containing necessary instructions being provided beforehand.

2. **Forwarding service** (work) is the basic component of forwarding activity, directly intended for the organization of and/or provision for export, import, transit or other cargoes transportation/handling process according to the Forwarding contract.

3. **Forwarder** is the subject of the Forwarding activity, acting on the basis of the Forwarding contract by the order, in the interests and for account of the Customer and providing for fulfillment or organization of fulfillment of forwarding services (works).

4. **Carrier** is a neutral person or legal entity carrying out the transportation of cargo on a commercial basis under the carriage contract and is entitled to deliver the cargo accepted to the place of destination by his own or attracted transport means.

5. **Customer** is a neutral person or legal entity who charges the Forwarder with the organization of and provision for export, import, transit or other cargoes transportation/handling process under the Forwarding contract and takes upon himself certain liabilities to provide for Forwarder's fulfillment of Forwarding contract conditions.

6. **Forwarding contract** is a contract under which the Customer entrusts, and the Forwarder is entitled to organize of and/or to provide for the organization of the complex of works and services for transportation/handling process of export, import, transit or other cargoes as well as private property both on the territory of Romania and abroad.

7. **In writing, in written form** means contract documents, letters, telegrams, faxes, telexes, if otherwise is not agreed by the Parties.

8. **Dangerous cargo** is a cargo officially qualified as dangerous as well as a cargo inflammable or causing damages/demolition.

9. **SDR** is an international reserve asset, created by the International Monetary Fund. The currency value of the SDR is determined by summing the values in U.S. dollars, based on market exchange rates, of a basket of major currencies (the U.S. dollar, Euro, Japanese yen, and pound sterling). The SDR currency value is calculated daily and the valuation basket is reviewed and adjusted every five years.

## Article 2. APPLICABILITY

1. The Customer hereby agrees that these General Conditions shall apply to any order placed either verbally or in writing, even though no reference to these General Conditions has been made. The limitations of liability as defined within the provisions of these General Conditions shall also be applicable to compensation claims arising from any unlawful act. These General Conditions shall apply to any kind of services the Forwarder shall perform.

2. As regards the operations and activities, such as those of stevedores, carriers, insurance agents, warehousing and superintending firms etc., carried out by the Forwarder, the

conditions customary in the particular trade or conditions stipulated to be applicable shall also be applicable.

3. The Forwarder may at any time declare applicable provisions arisen from the conditions stipulated by the third parties whom he has made the contracts with, to carry out the orders given to him by the Customer.

## Article 3. PERFORMANCE OF FORWARDING CONTRACT

1. All quotations made by the Forwarder shall be without any obligation on his part.

2. If the Forwarder charges fixed rates, as the case may be, these rates shall be deemed to include all costs that in the normal procedure of handling the order are for the account of the Forwarder.

3. Unless provided otherwise, fixed rates shall not include at any rate: duties, taxes and levies, consular and attestation fees, cost of preparing bank guarantees and insurance premiums.

4. For work of a specific kind, unusual job or work requiring a special amount of time or effort, an additional reasonable amount may at all times be charged.

5. The cargo should be tendered by the Customer at the agreed place and time.

6. In the event of loading and/or unloading time being inadequate - regardless of the cause thereof - all costs resulting therefrom, such as demurrage, etc., shall be borne by the Customer.

7. Unless agreed otherwise in writing, the supplying to the Forwarder of data required for customs formalities shall imply an order to perform such formalities.

8. An order to the Forwarder is being given in writing and, if given in a different way, it is necessary to confirm it in writing. The acceptance of an order can also be confirmed in another way than in writing, and it is possible, as the case may be, to deduce the acceptance of an order tacitly if the order has not been returned by the Forwarder to the Customer within a certain time or without an undue delay.

9. The Customer shall ensure that the documents required for receipt and for dispatch, as well as the instructions, are in the Forwarder's possession in proper time.

10. In the event of cancellation or dissolution of the Forwarding contract, all claims of the Forwarder, with the inclusion of future claims, shall become due and payable forthwith and in full.

11. The Customer shall at all times be obliged to indemnify the Forwarder for any amounts to be levied or additionally demanded by any authority in connection with the order, as well as any related fines imposed upon the Forwarder. The Customer shall also reimburse the said amounts to the Forwarder if a third party called in by the Forwarder demands payment within the framework of the Forwarding contract.

## Article 4. FORWARDER'S OBLIGATIONS

1. The Forwarder shall be obliged to execute his activity with professional care and to see to a qualitative, economical and careful satisfaction of Customer's interests. In the scope of these activities the Forwarder:

a. shall properly care for cargo entrusted to him by the Customer and for the cargo obtained for the Customer,

b. shall deposit for the Customer's needs for an adequate or agreed period documents obtained in the course of performing the Forwarding Contract,

c. shall draw the Customer's attention to any apparent incorrectness of his instructions; in case the Customer insists on his instructions, the Forwarder shall not be liable. The Forwarder is further entitled to ask for a completion of Customer's orders if insufficient instructions have been given by the Customer,

d. shall inform the Customer of any imminent damage threatening the cargo or already arisen thereon, as soon as the Forwarder has learned thereof, such advice shall be given without any unnecessary delay while providing the advise results in no liability whatsoever related to the damage,

e. shall act according to Customer's instructions when Customer releases cargo or documents representing the cargo to another Customer (another trader or another bank as the case may be), which can only be written instructions and

treat such instruction as an irrevocable instruction unless agreed otherwise, which can only be cancelled or amended if the other Customer consents to that cancellation or amendment in writing.

2. In the course of fulfillment of his engagement the Forwarder is bound to provide, with the professional care, for the mode and conditions of transportation/handling that suit best to the Customer's interests as they follow from the Forwarding contract and his instructions or are otherwise known to the Forwarder.

3. If a danger of delay arises the Forwarder shall proceed in the interest of the protection of the cargo even without Customer's instruction in order to protect as much as possible the interests of the Customer in accordance with the up-to date information known to the Forwarder.

4. The Forwarder shall ascertain the weight of cargo only when agreed with the Customer. The Forwarder is obliged to advise without delay the Customer of any new facts.

5. The Forwarder shall perform a limited visual examination of the authorization of the person representing Customer who proves such authorization with no liability whatsoever arising from such authorization being fraudulent or otherwise not representing the Customer's true intentions.

6. The Forwarder shall follow strictly the Customer's instructions relating to the customs clearance. In case it cannot be performed in accordance with the Customer's instructions, it is necessary to inform the Customer thereof immediately. In such a case the Forwarder is not responsible for the delay.

## Article 5. LIMITATION OF FORWARDER'S LIABILITY

1. All operations and activities shall be at the Customer's expense and risk.

2. The Forwarder shall not be liable for any damage whatsoever, unless the Customer shall prove that the damage has been caused by fault or willful negligence on the part of the Forwarder or the latter's servants.

3. The Forwarder's liability shall in all cases be limited to 10,000 SDR per occurrence or series of occurrences with one and the same cause of damage, on the understanding that in the event of damaging, loss of value or loss of the cargo comprised in the order, the liability shall be limited to 4 SDR per kilogram damaged or lost gross weight, the maximum being 4,000 SDR per consignment.

4. The loss to be indemnified by the Forwarder shall never exceed the invoice value of the cargo, to be proved by the Customer, in default whereof the market value - to be proved by the Customer - at the time when the damage has occurred shall apply. The Forwarder shall not be liable for lost profit, consequential loss, and pain and suffering.

5. If during the execution of the order damage occurs for which the Forwarder is not liable, the Forwarder shall make efforts to recover the Customer's damage from the party that is liable for the damage. The Forwarder shall be entitled to charge to the Customer the costs incidental thereto.

6. The Customer shall be liable towards the Forwarder for any damage as a consequence of the (nature of the) cargo and the packaging thereof, the incorrectness, inaccuracy or incompleteness of instructions and data, the failure to tender the cargo or not doing so in time at the agreed place and time, as well as the failure to supply -- or to do so in time -- documents and/or instructions, and fault or negligence in general on the part of the Customer and the latter's servants and third parties called in or engaged by him.

7. The Customer shall indemnify the Forwarder against third party claims connected with the damage referred to in the foregoing paragraph, such third parties including servants of both the Forwarder and the Customer.

8. The Forwarder does not guarantee arrival times, unless agreed otherwise in writing.

9. If the carriers refuse to sign for weight or number of pieces or items etc., the Forwarder shall not be liable for the consequences thereof.

## Article 6. FORWARDER'S RIGHTS

Forwarder shall be entitled:

1. to ask for the order for providing cargo transportation/handling to be given in writing,

2. to demand from the Customer an adequate advance payment, covering the expenses connected with the fulfillment of the Forwarding contract, namely before the Forwarder has begun to fulfill it,

3. to ask from the Customer the agreed remuneration or if it has not been agreed, then a remuneration is to be paid according to the Forwarder's tariff. In addition thereto the Forwarder has the right to be reimbursed by the Customer for the necessary and useful expenses expended for the purpose of fulfillment of the Forwarding contract,

4. to ask from the Customer the payment of a remuneration after the Forwarder has concluded a contract with a carrier and handed over the forwarded cargo to him,

5. to apply, upon request of the preceding forwarders, all their appropriate rights, in particular the lien on the cargo in order to enable the Forwarder to satisfy their claims unless the agreed remuneration includes all necessary and reasonable expenses,

6. to consider the instruction relating to the cargo for binding upon himself until it has been withdrawn by the Customer. The order for putting the cargo at the disposal of a third person may not be withdrawn, unless such withdrawal agreed in writing by that third person,

7. to act according to his own discretion, by observing the Customer's interests, in particular as to the choice of the means of handling and/or route of transportation, in case the Forwarder has not received a sufficient or feasible instruction,

8. if the Forwarder makes use of a further forwarder (an intermediate forwarder) for arranging the transportation/handling, the Forwarder shall be liable as if he had provided for the transport/handling himself.

#### **Article 7. CUSTOMER'S DUTIES**

The Customer shall be obliged to:

1. to place to the Forwarder in writing an order providing for the cargo transportation/handling,

2. in case of an imminent and substantial danger threatening to the cargo, upon invitation of the Forwarder, to transmit to him further instructions immediately,

3. to pay to the Forwarder the agreed remuneration, after the latter has concluded a contract with a carrier, or if appropriate, to grant him an adequate advance payment,

4. to remit to the Forwarder the agreed remuneration, or if this has not been agreed, to pay the remuneration according to the Forwarder's tariff,

5. to withdraw always the order if such order providing for the cargo transportation/handling has not been accepted without undue delay (unless otherwise agreed between the Forwarder and Customer),

6. to put at the Forwarder's disposal the correct particulars regarding the contents and nature of the cargo as well as other facts required for concluding a contract of carriage and fulfillment of Forwarder's obligations under the Forwarding contract, such as e.g. weight, kind, number of pieces, dimensions and weight of individual pieces, marks and numbers, kind of packing and information whether the cargo is dangerous in the sense of the Convention ADR, RID etc. The relevant consequences of incorrect and incomplete particulars are for Customer's account,

7. to call in time the Forwarder's attention, in a customary way, to the obligations under public law or customs law connected with the cargo transportation/handling unless these obligations are known to the Forwarder. The Customer is responsible to the Forwarder for all consequences of such failure,

8. in case of canceling the order, to grant to the Forwarder the agreed remuneration after deducting the expenses saved. If the Customer proves that he has cancelled the order owing to justified reasons for which the Forwarder is responsible, the Forwarder has the right to claim compensation of his expenses only,

9. to grant to the Forwarder, besides the agreed remuneration, a compensation for necessary and reasonable expenditures as well as a compensation for the expended costs which the Forwarder has reasonably expended when fulfilling his engagement under the Forwarding contract,

10. to pay to the Forwarder a compensation for expenses and an adequate remuneration for the return transport of cargo, in the same amount as for the transport to the consignee if the consignee refuses to take over the delivered cargo,

11. to pay to the Forwarder the outstanding amounts for freight, customs charges, duties and other charges settled by the Forwarder, in particular if being authorized to dispose, or as a possessor, of another's cargo unless the Forwarder is responsible for them and Customer's written instruction and

Forwarder's written acceptance as regards matters thereof are available.

#### **Article 8. PAYMENT**

1. The Customer shall pay to the Forwarder the cost of forwarding services/works rendered by the agreed rate and other resulting costs, freights, duties, etc., ensuing from the Forwarding contract and/or these conditions, against the Forwarder's invoice.

2. Invoices of the Forwarder are payable immediately and cash, if otherwise is not agreed by the Parties, without reduction or deferment on account of any claim, counterclaim or set-off; and payments may under no circumstances be subordinated to particular event or to the good execution of the operation. The risk of exchange rate fluctuations shall be borne by the Customer.

3. Delay in payment is defined as occurring 15 days after the delivery of the Forwarder's invoices. In case of delay in payment the Forwarder shall be entitled to charge the agreed interest rate and, if not agreed, the interest by the double discount rate of the National Bank of Romania for all the time of delay shall be applied. The Forwarder is entitled to not commence or to suspend the fulfillment of his obligations under the Forwarding contract if the delay of advanced amounts payment against the Forwarder's delivered invoice occurs.

#### **Article 9. LIEN AND PLEDGE**

1. The Forwarder has a statutory lien on the cargo as a security for his claims against the Customer as long as the cargo is in the Forwarder's custody, or in the custody of someone holding it on the Forwarder's behalf; or as long as the Forwarder has in his possession the documents representing the cargo.

2. The Forwarder shall have a lien on the Goods and any documents relating thereto for all sums whatsoever due at any time to the Forwarder from the Customer and for General Average contribution to whomsoever due and for the costs of recovering the same and the Forwarder shall have the right to sell the Goods and documents by public auction or private treaty, without notice to the Customer and at the Customer's expense and without any liability towards the Customer..

#### **Article 10. RESTRAINTS**

Such an obstacle shall be considered as a circumstance excluding the responsibility which occurred regardless of the will of the liable party and which prevents it from the fulfillment of the obligation if it cannot be reasonably presumed that the liable party would have prevented or overcome such an obstacle or its effects, and further that this party would have anticipated such an obstacle at the time when the obligation has arisen. In such cases, the Forwarder shall be entitled but not obliged to withdraw from the Forwarding contract even if the order has been partly performed. However, the Forwarder's obligation to care about the Customer's interests shall continue. But, in such cases, the Customer has the same right if it is not justified to ask him to persist in the Forwarding contract. If the Forwarder or the Customer withdraws from the Forwarding contract according to the indicated provisions, the Forwarder shall be entitled to get a compensation for the expenses expended and to receive an adequate recompense. The Forwarder shall be obliged to check up and to advise the Customer whether there are some legal or official obstacles for the handling/transportation (e.g. import or export - restriction), in case they are known to him.

#### **Article 11. FORCE-MAJOR CIRCUMSTANCES**

1. To be regarded as force major are all circumstances which the Forwarder could not reasonably avoid and the consequences of which the Forwarder could not reasonably prevent.

2. In the event of force major, the Forwarding contract shall remain in force; the Forwarder's obligations shall, however, be suspended for the duration of the event of force major.

3. All additional costs caused by force major, such as carriage and storage charges, warehouse or yard rentals, demurrage for vessels or trucks, insurance, removal, etc., shall be borne by the Customer and shall be paid to the Forwarder at the Forwarder's initial request.

#### **Article 12. INSURANCE OF CARGO**

1. The Forwarder does not provide insurance cover of any kind unless specific instructions in writing to arrange for such insurance at the Customer's expense and risk is provided by the Customer.

2. If the Forwarder has taken out any insurance in his own name he shall be bound - if so requested - only to transfer his claims against the insurer to his Customer.

3. The Forwarder shall not be responsible as regards the choice of the insurer and the latter's solvency.

4. The Forwarder is not entitled to consider a mere price indication for the goods as an order to arrange the insurance. Should the insurance be agreed, the Forwarder arranges insurance in compliance with the insurance conditions customary at the place of fulfillment.

#### **Article 13. DISPUTES AND JURISDICTION**

1. These General Conditions of Forwarding and related Forwarding contracts and/or other documents shall be regulated by the current legislation of Romania.

2. All disputes which may arise between the Forwarder and the other party shall be solved by the way of negotiations; otherwise they shall be decided by the International Commercial Arbitration Court at Chamber of Commerce and Industry of Romania ( CCIR) in the city of Constanta. The Parties agree that the rules of the International commercial arbitration court at the Chamber of Commerce and Industry of Romania ( CCIR) should be applied when resolving the dispute. The place of arbitration is Constanta, Romania. The case should be handled by a sole arbitrator. The Romanian language and the Romanian law are applied when solving the dispute. One arbitrator shall be appointed to consider the matter.

The decision of the International Commercial Arbitration Court at CCIR in Constanta shall be final for both Parties. A dispute shall exist whenever any of the parties declares this to be so.

3. In case the place of dispute resolving is not agreed, it shall be considered under the general rules, the legislation of Romania is applicable.

#### **Article 14. FINAL PROVISIONS**

1. No legal or arbitration proceedings shall be taken against third parties by the Forwarder unless he states his readiness to take the same at the Customer's request and expense.

2. The place of fulfillment for all participants is the place of the Forwarder's place of business to which the order has been addressed or instructions transmitted.

3. Claims arisen due to the damage on the handled/transported cargo and due to a delayed delivery of cargo shall be time-barred against the Forwarder after 1 year elapses.

The term of time bar as regards rights arisen from an entire destruction or loss of the cargo shall commence as from the day on which the cargo should have been delivered to the consignee, as regards other right it shall commence from the day of the cargo delivery. The claims against the carrier shall be time-barred according to the provisions valid for the contract of carriage.

4. The Forwarder shall not be responsible for the carrier and he raises the claims, if any, in his own name and for the Customer's account. When such claims against the carrier are being raised the Customer shall be obliged to cooperate, in particular in order to provide documents relating to the cargo, its value, etc. as a basis for raising claims against the carrier.

5. These General Conditions of Forwarding form an integral part of the Forwarding Contract concluded between the Customer and the Forwarder, unless otherwise agreed upon between the Customer and the Forwarder.

Accepted by the Customer

Stamp and  
signature of the Customer's authorized person