

## GENERAL SERVICE TERMS OF TORCARGO

Torcargo ehf., kt. 480107-1600, Selhelli 11, 221 Hafnarfirði, (the Company), offers its customers combined transport and port-to-port shipment in accordance with the terms, conditions and exceptions stated in the Company's general transportation terms, which can be found e.g., on the Company's shipping documents. Additionally, the Company offers other Services, not included in the definitions of combined transport or port-to-port shipment. The following General Service Terms of Torcargo shall apply to such Services.

### 1. Definitions

For the purpose of these provisions, the following terms shall be defined as follows:

**"Import Charges"** shall mean all duty and other taxes, charges and costs, which must be paid upon customs treatment of goods at importation or exportation, and any interests and cost that falls on such charges.

**"Subsidiaries"** shall mean other companies in which the Company holds a majority ownership and/or controls a majority of the votes and/or owns in their entirety at any given time.

**"Shipping Document"** shall mean a bill of lading and/or sea waybill for combined transport and/or port-to-port shipment.

**"The Company"** shall mean Torcargo ehf., kt. 480107-1600, Selhelli 11, 221 Hafnarfirði and its Subsidiaries at any given time.

**"SDR"** (Special Drawing Rights) is the international unit of account used by the International Monetary Fund, which shall be converted into Icelandic currency according to the exchange rate on the day payment is made.

**"Sub-contractor"** shall mean direct or indirect sub-contractors as well as their employees, agents and sub-contractors.

**"Goods"** shall mean an item, cargo or commodities, including packaging and containers of any kind in which Goods are consolidated or packed; "container" shall mean all types of containers, trailer, transportable tank, flat or pallet or other similar transport units used to consolidate the Goods. In relations to customs clearance, goods shall mean a customs clearance item or items specified in a customs declaration that can be treated in accordance with the customs register.



**“Customer”** shall mean an individual or a legal entity who has ordered or requested that the Company provide a particular Service, and/or a party to whom the Company has provided Services, and/or an owner of Goods or a party who has an entitlement to ownership of Goods, and any party who acts on behalf of the abovementioned parties as an employee or agent, or in another capacity.

**“Invoice”** shall mean the invoice which forms the basis for the customs treatment according to the Customs Law and which the Customer delivers to the Company for the purpose of determine the customs value of the relevant Goods, as appropriate.

**“Customs Clearance”** shall mean the services which the Company undertakes for the Customer as a customs broker, whether charged for or not, and includes completing all formalities required by the Customs Law so that Goods can be delivered for domestic use, transit or export.

**“Customs Law”** shall mean the Customs Law No. 88/2005 as later amended, and any regulations, rules and other administrative rules issued in accordance therewith.

**“Customs Documentation”** shall mean customs declaration and other documents to be submitted at Customs Clearance as prescribed in the Customs Laws, whether written or in electronic form.

**“Service”** shall mean all work, or part thereof, which the Company undertakes for a Customer, including but not limited to, providing consultation and/or information of all types, transport bookings, pre- and on-carriage by sea, road or other modes of transport as appropriate, completion of shipping documents, tallying, sorting, and stowing of Goods on pallets, plastic covering of Goods, stowing and lashing in containers, storage, transfer of Goods between containers, transfer of Goods and/or containers within port areas or storage areas, inspection of Goods, haulage of Goods to and from customers, container rentals, transport of mail in ships' bags and other handling of documents, customs clearance, ships' agency, loading and unloading of ships, work aboard ships, unloading of fishing vessels and all other related work as well as any other work to be performed by the Company under contract. The above list consists of examples of the work that the Company may undertake to perform. Any works undertaken by the Company, other than those listed above, shall also be covered by this definition.

## 2. Applicability

These terms shall apply to all Service which the Company or its Subsidiaries undertake to perform for the Customer, regardless of whether the Service is paid for or not, insofar as such Service is not governed by the Company's terms of transportation, mandatory legislation or other terms of the Company expressly agreed upon in writing as governing the relationship between the parties.



In the event of inconsistency between these terms, on the one hand, and the Company's terms of transportation, mandatory legislation, and/or other written terms expressly agreed upon as governing the relationship between the parties, on the other hand, the terms and legislation named above shall prevail over these terms.

These terms, including exceptions from liability, defenses, rights and limitations of liability, shall apply in all actions against the Company, whether or not the claim rises from contract or tort, even if such liability is the result of intention or gross negligence, rejection of contract or significant default.

These terms shall apply to the legal relationship between the Customer and the Company and the legal relationship between the owner of the Goods and the Company, if the owner of the Goods is not also the Customer.

### **3. Services**

The Company undertakes to perform the Service, which it has undertaken for the Customer, in a reasonable and responsible manner.

### **4. Customs Clearance**

Imported and exported Goods are subject to Customs Clearance in accordance with the Customs Law. When the Company undertakes Customs Clearance for a Customer the following rules in Sections 4.1 to 4.5 shall apply in addition to other rules presented in these terms:

#### **4.1. Authority**

The Company holds a license for operating customs brokerage in accordance with the Customs Law and is therefore authorized to act on the behalf of its customers before the customs authorities at Customs Clearance of Goods imported and exported to and from Iceland.

A Customer requests that the Company handles Customs Clearance on behalf of the Customer by submitting a power of attorney form available on request and also available on the Company homepage ([www.thorship.is](http://www.thorship.is)).

By requesting the Company to handle Customs Clearance on behalf of the Customer the Customer grants to the Company full power of attorney to act on its behalf before the customs authorities in accordance with the provisions of the Customs Law, sign a binding affidavit on a customs declaration of Goods cleared for customs in the name of the Customer, and request for the debiting of Import Charges of Goods cleared for customs in the name of the Customer based on the Customer's permits for deferment of payment of Import Charges with the customs authorities.

#### **4.2. Services provided by the Company as a Customs Broker**



The services provided by the Company as a customs broker, on the basis of authority according to Section 4.1, is limited to the following, as appropriate and requested by the Customer at any given time:

1. Consultancy with regard to completing customs documentation, such as tariff classification and calculation of Import Charges.
2. Completion of customs declarations for imports and exports.
3. Requests for the customs clearance of Goods by document delivery between computers (SMT- Customs Clearance).
4. Payment of import charges on behalf of the Customer.

The list is exhaustive and is limited to the Company's obligations as a customs broker under the Customs Law.

The Company undertakes to execute the Customs Clearance in a reasonable and responsible manner and in total confidence. Further, the company undertakes to fulfil the conditions set out the Customs Law for the granting an operating license.

The Company undertakes to deliver to the Customer a copy of all customs documentation for review no later than fifteen (15) days following a request for Customs Clearance to the Directorate of Customs.

The Company will conclude independently whether the documentation provided by the Customer as the basis for the import declaration fulfil the conditions provided for in the Customs Law. If the Company considers that these are not so, the Company will request the missing documents or new documents replacing those which may be unsatisfactory.

Request for the customs clearance will not be executed until the Company has been provided with such documents or information.

If the Company discovers that the Customer has intentionally provided the Company with incorrect or unsatisfactory data, the Company will immediately inform the authorities.

### **4.3. The Customer's Obligations at Customs Clearance**

The Customer warrants that he is the rightful owner or the rightsholder of the Goods subject to Customs Clearance or that he has full and unlimited authorization from the owner of the Goods to seek a particular Service and agree to these terms on behalf of the owner of the Goods.

The Customer shall be responsible for ensuring that all the requirements of domestic and foreign law, regulations and official instructions applicable concerning the Goods and Service which the Company is requested to provide, are met as appropriate.



The Customer warrants that all data and information that he provides and shall provide to the Company, whether written or electronic, is precise and accurate. The Customer shall be aware that the Company relies on this data and information when providing the Service.

The Customer is required to review all customs documentation sent to him by the Company in accordance with Section 4.2, whether in writing or electronic, verify their accuracy and notify the company if not thorough or accurate and advise the Company regarding any adjustments. Should the Customer have no comments on the tariff classification of the Goods in a specific tariff heading according to the customs tariff within ten (10) days from receiving the customs documentation it shall be assumed that it is correct, and that the Customer has agreed to the relevant tariff classification and the customs clearance of the Goods.

#### **4.4. Payment of Import Charges on behalf of the Customer**

Under no circumstances is the Company required to pay the Import Charges for the Customer or on behalf of the Customer unless provided with sufficient funds to cover such costs in advance. The Company decides on the amount payable by the Customer according to the aforementioned. The Company is obliged to keep the funds separated in its books. After the Import Charges, and other claims the Company may have against the Customer, have been paid the Company shall reimburse the Customer any surplus of the advanced funds.

#### **4.5. The Customer's Responsibilities at Customs Clearance**

The Customer warrants that he has, at any given time, a permit for deferment of payment of Import Charges from the customs authorities and undertakes to inform the Company in a verifiable manner of all changes that might be made to the permit and/or if the permit expires during the term of the authorization according to Section 4.1 of these terms.

The Customer shall inform the Company immediately in a verifiable manner of any default of Import Charges and if the customs authorities reject Customs Clearance.

The Customer shall be objectively liable for all direct and indirect damage the Company will suffer as a cause of incorrect, misleading or insufficient information and/or documents from the Customer or information and/or documents is not in accordance with law. In other respect the Customer shall be liable towards the Company in accordance with general rules of tort.

The Customer is without exception liable for the payment of Import Charges and/or other charges stemming from the Customs Law. Should the Company be required to pay any Import Charges or any other payments according to a decision made by the customs authorities or any court, due to wrong tariff classification or liability on the grounds of Article 33 of the Customs Law, or any other events, the Customer shall reimburse the Company such charges or payments together with the maximum legal penalty interest and



compensate any damages and cost, including attorney fees, which the Company has incurred as a result of such payment, and hold the Company harmless from any consequences. The commencement of the limitation period for such claim shall be the day the Company paid the aforementioned charges.

## **5. Liability of the Company and the Period of Liability**

### **5.1. Liability**

The Company shall be liable, according to the general principles of the laws of tort, for any direct loss to the Customer that can be attributed to either intention or gross negligence on the part of the Company or persons for whom it is responsible, with the exceptions stated in these terms. The burden of proof regarding the liability of the Company shall rest with the party claiming that the Company bears liability.

### **5.2. Commencement of Liability**

In instances concerning handling of Goods, or services related to Goods, liability pursuant to Section 5.1 shall commence when the Company receives the Goods into its custody. In all other instances the Company's liability shall begin upon the commencement of the relevant Service.

### **5.3. End of Liability**

In instances concerning handling of Goods, or Services related to Goods, liability pursuant to Section 5.1 shall conclude when the Company has delivered or was to deliver the Goods.

In all other instances the Company's liability shall end upon the completion of the relevant Service.

## **6. Amount of Compensation and Exemption from Liability**

### **6.1. Determination of the Amount of Compensation**

When the Company shall compensate for the loss of or damage to the Goods, such compensation shall be calculated with reference to the value of the Goods as stated in an invoice. If the value of the Goods is not stated in an invoice, the compensation shall be calculated with reference to the value of Goods of the same kind and same quality at the time when the loss or damage occurred. The burden of proof regarding the value of the Goods, as mentioned above, shall rest with the Customer.



Compensation for a partial loss shall be calculated on a proportional basis. However, compensation for a partial loss can never exceed the amount of compensation for a total loss of Goods.

### **6.2. Delay and/or Delay in Delivery**

Under no circumstances whatever shall the Company be liable for any direct, indirect or consequential loss, costs or damages caused by a delay or a delay in delivery. Furthermore, the Company does not warrant that the Goods, documents or other items will reach their destination at a particular time, or meet any particular market or use, or be available for a particular purpose, unless such provisions have been agreed upon in writing in advance.

### **6.3. Indirect or Consequential Damages**

Under no circumstances whatever shall the Company be liable for consequential damages or loss of profit. Nor shall the Company be liable to pay compensation arising from antiquity value, sentimental value or other special values.

### **6.4. Relief from Liability**

Under no circumstances whatsoever shall the Company be liable for any loss or damage that may be attributed to the following events, which are, however, not exhaustive:

1. Fire, explosion or water damage, unless such may be attributed to intention or gross negligence by the Company.
2. Insufficient or defective packing or labelling of the Goods.
3. Negligence or intention by the Customer or someone acting on behalf of the Customer.
4. Handling, loading, unloading or stowage of Goods, e.g., in a container or on a pallet, which the Customer has carried out.
5. Breakdowns, derangement, electrical power failures or other reasons which result in malfunctions of reefer stores, reefer containers, cranes or other equipment of the Company or failure of such equipment to function normally, unless this can be attributed to gross negligence or intention by the Company.
6. Incorrect or insufficient information or documents from the Customer.
7. Data or information that the Customer has kept from the Company.
8. The Customer does not fulfil his obligation to provide information to the authorities or resists in assisting the appropriate authorities as is required in accordance with law.
9. It is considered that the customs value does not fulfil the provisions of Chapter V of the Customs Law.
10. A binding classification opinion has been requested in accordance with Article 21 of the Customs Law and the decision is revoked by the Director of Customs or altered following an appeal to the State Customs Board.



11. The Customer's default of service charges, import charges, penal interest or other cost and/or charges.
12. The Customer's breach of the provisions of these terms and/or any agreement between the parties and/or power of attorney according to Section 4 of these terms.
13. Labor stoppages or slowdowns strikes or lockouts, regardless of whether the Company is involved and regardless of whether they are legal or illegal.
14. Force Majeure, or other external circumstances which are outside the Company's control.

### **6.5. Customer's Own Fault**

Compensation to the customer shall be reduced or cancelled if it is proved that the Customer has contributed to the loss by negligence or intention. Furthermore, the Customer shall in all circumstances be obliged to take measures to limit any loss according to general principles of law of tort.

### **6.6. Interest**

No interest shall be paid on claims made against the Company until a judgement has been passed by a court.

## **7. Limitation of Liability**

The liability amount of damages for which the Company may be responsible pursuant to Sections 5 - 6 of these terms shall under no circumstances exceed the following:

### **7.1. Particular Limitation**

#### **7.1.1. General Rule**

In instances concerning handling of Goods, or Services related to Goods, compensation for damage or loss to the Goods shall be limited to SDR 2 for each kilo of gross weight of Goods lost or damaged, or SDR 667 for each package or other unit of Goods, whichever is the higher. The compensation, however, may never exceed the value of the Goods as per Article 6.1 of these terms.

When deciding what constitutes a package or unit, reference shall be made to a receipt for reception of the Goods, or, if no such receipt has been issued, the shipping document issued for the carriage of the Goods.

In all other cases and when neither the weight nor the number of units of the Goods can be ascertained, compensation is limited to SDR 7,500 for each loss, or for several losses suffered by a Customer, provided they result from the same cause.



### **7.1.2. Special Provision on Customs Clearance**

In case of Customs Clearance according to Section 4 of these terms the liability of the Company shall be limited to five times the Company's fee for Customs Clearance of the relevant Goods. Should it not be possible to verify the Company's fee and, thus, the aforementioned limitation, the liability of the Company shall be limited to 500 SDR for each damage or several damages if they result from the same cause. This special provision shall prevail over the general rule in Section 7.1.1 of these terms.

### **7.2. Global Limitation**

The Company's liability towards all its Customers shall be limited to SDR 100,000 for all claims arising from one and the same event. The right to apply the limitation stated in this Section shall exist regardless of the grounds for liability. Any claims amount subject to the limitation of liability under this Section shall be divided among the claimants in proportion to their claims.

This provision shall not prevent the application of Section 7.1 of these terms for the purpose of limitation of liability of the Company against the relevant Customer.

## **8. Fees**

The Customer shall pay the Company a fee for work and Service that the Company performs for the Customer. The Customer shall also reimburse the Company for all costs the Company has incurred on behalf of the Customer. The fee, and its payment, shall be based on the terms of the Company's applicable tariff unless otherwise agreed.

If the fee has not been paid by the due date, the Company shall be entitled to charge the Customer penalty interest on overdue debts from the due date until payment has been made, as well as the cost of recovering the fee.

The Customer advises e-mail address and phone number (communication details) for business purpose and agrees that the communication details will be shared with debt collection agency, if any debt collection is needed. The Customer also agrees that the communication details will be used for communicating with him due to debt collection, including electronic debt collection.

## **9. Lien and Contractual Lien**



The Company shall have lien and Contractual Lien in all Goods in its custody against all claims against the Customer related to the Goods and for any other claims of the Company against the Customer, which are in no way related to the Goods.

If the Company intends to apply the aforementioned lien or the Contractual Lien it shall notify the Customer in writing thereof. This notification shall include a general clarification of the reason for the action in question and state the amount of the claim or the total amount of claims, in the event that more than one claim is involved.

Should the Customer fail to settle the claim following the above notification, the Company shall be entitled to sell the Goods in the manner the Company deems most advantageous in each individual case, at the Customer's risk and cost without any further notification to the Customer.

In the event that the amount realized from the sale of the goods does not cover the claim, the Company shall be entitled to demand any difference to be paid by the Customer, including interests and costs of the claim. If, on the other hand, a surplus remains from the sale, after settlement of the claim including costs and interest, the surplus shall be paid to the Customer.

## **10. Customer's Obligations and Responsibility**

The Customer shall be responsible towards the Company in accordance with general principles of the law of torts.

The Customer warrants that he is the owner or rightsholder of the Goods that are delivered to the Company, or that the Customer has full and unlimited authorization from the owner of the Goods to seek a particular Service and agree to these terms on behalf of the owner of the Goods.

The Customer shall be responsible for ensuring that all the requirements of domestic and foreign law, regulations and official instructions applicable concerning the Goods and Services which the Company is requested to provide, are met as appropriate.

The Customer warrants that all data and information that he provides and shall provide to the Company, whether written or electronic, is precise and accurate. The Customer shall be aware that the Company relies on this data and information when providing its Service.

The Customer shall be responsible for promoting these terms to its employees or agents. In addition to the aforesaid, the Customer shall compensate and indemnify the Company for all consequences of the following:

1. Incorrect, unclear or unsatisfactory information on Goods and/or other particulars submitted to the Company.
2. Inadequate and/or insufficient packaging and marking of Goods.



3. The loading or stowage of Goods, e.g., on a pallet or in container by or on behalf of the Customer, is proven to be unsatisfactory.
4. Damaging or hazardous properties of the Goods, which were not specifically stated.
5. Any party other than the Customer bases its rights or entitlement on and/or follows information or advice that the Company has provided to the Customer.
6. The Company has been obliged, without otherwise having incurred liability, to pay taxes, customs duty or other official levies of any kinds.
7. The Customer defaults and/or violates any provisions of these terms.

## **11. Sub-Contractors**

The Company shall have the right to hire Sub-Contractors under any terms to perform work and services, which the Company has undertaken towards the Customer. All employees and Sub-Contractors of the Company shall be entitled to invoke the provisions of these terms, when applicable, since the Company enters into this contract with the Customer both on its own behalf and as the agent or trustee for employees and Sub- Contractors.

## **12. Delivery of Notifications**

When these terms provide for one of the parties to send the other a notification, regardless of what it is called, then such notification shall be sent in a verifiable manner

to an address supplied by the parties, or to their lawful domicile as registered when the notification is dispatched. Provided that this is respected, then such notification shall have the significance and the legal effect that it is intended to have, even if it arrives corrupted or late, or even if it does not reach the intended recipient.

## **13. Notice of Loss and Time Bar**

The Customer shall notify the Company in writing of any loss or damage, which he believes is the responsibility of the Company, as soon as it has been detected and, in any case, no later than ten (10) days from the time the Customer became aware of, or could have known about, the loss or damage. The afore-mentioned notice must state clearly the Goods involved, the amount of the claim, if possible, and, if applicable, the reason for why the Company is held responsible for the incident in question. If a notice of loss or damage is not made in accordance with the foregoing provision, the rights of the Customer to claim compensation from the Company shall expire due to indifference.



Despite the above-mentioned provisions regarding notice, all claims against the Company shall be cancelled due to time bar within nine (9) months from the following time:

1. in the case of claims for loss of or damage to Goods: the date of delivery of the Goods, or the date when the Goods should have been delivered.
2. in the case of Customs Clearance according to Section 4 of these terms: the date that a customs declaration is sent off to the customs authorities, whether by SMT delivery or by other means; or
3. if neither is applicable; the date the relevant Service was provided.
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In other respects, the general rules of Act no 150/2007 on the limitation periods for claims shall apply to the time bar under these terms.

#### **14. Termination of Business**

Should the Customer significantly default in his obligations under these terms, or any other agreement with the Company and/or power of attorney according to Section 4 of these terms, the Company has the right to terminate the said agreement and/or power of attorney regarding Customs Clearance, without further notice.

If the default is not significant the Company shall have the right to terminate the relevant agreement and/or power of attorney regarding Customs Clearance by giving the Customer, in a verifiable manner, fifteen (15) days' prior notice, urging the Customer to rectify the default within said notice otherwise the agreement will be terminated and thereupon any obligations and responsibilities of the Company.

In other instances, the Company shall have the right to terminate an agreement and/or power of attorney regarding Customs Clearance by giving the Customer thirty (30) days' prior notice.

#### **15. Jurisdiction**

These terms shall be governed by the laws of Iceland. Any disputes regarding the terms shall be brought before the District Court of Reykjavik.

#### **16. Insurance**

The Company does not insure those Goods that are kept in its custody or that of its Subsidiaries or Sub-Contractors. As a result, the Customer is advised to insure all Goods against any possible loss and/or damage for which insurance is available.



## 17. Entry into Force

These General Service Terms of Torcargo Ltd. shall enter into force on 1. January 2014 and shall apply to any Service covered by these terms from that day onward.

Any reference to General Service Terms whether in an agreement or otherwise, shall as of 1. January 2014 be considered as a reference to these General Service Terms of Torcargo Ltd.

The Company reserves the right to alter these terms at any given time. Such alteration shall enter into force on the day the altered terms are published on the Company's website.

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*This is an English translation of the Icelandic original General Service Terms of Torcargo Ltd. The original Icelandic text is the authoritative text. Should there be discrepancy between this translation and the authoritative text, the Icelandic original prevails.*

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