(HSL Netherlands B.V. General Terms and Conditions („GTC")

(as of 01 June 2019, KvK nr. 68743297, registered office: Noorderpoort 87, 5916 PJ ND Venlo, seat Amsterdam)

I. Scope of application, deviating and supplementary terms and conditions

a) HSL Logistik GmbH (hereinafter HSL) shall render all – including future – performances subject to the following General Terms and Conditions for the Performance of Services and the terms and conditions cited in letter c). International transports shall be subject to the uniform rules concerning the Contract for the International Carriage of Goods (CIM) and the General Terms and Conditions of Carriage for International Freight Traffic by Rail (GTC CIM) published by the International Rail Transport Committee (CIT), as amended from time to time. The General Terms and Conditions for the Performance of Services shall also apply to international transports, should the CIM and GTC CIM contain no provisions. Should traffics be implemented overseas, the valid terms and conditions of the rail transport companies in the relevant country shall apply.

b) Solely the General Terms and Conditions for the Performance of Services of HSL apply to the contractual relationship between HSL and the customer, unless otherwise agreed with the customer in individual cases. No conflicting, deviating or supplementary provisions of the customer shall form an integral part of the contract, even if HSL fails to explicitly object to such.

c) The following terms and conditions, as amended from time to time, shall apply in addition to the General Terms and Conditions for the Performance of Services: all provisions relating to the transport of dangerous goods by rail, in particular

- the Ordinance on the National and International Carriage of Dangerous Goods by Road, Rail and Inland Waterways (GGVSEB) and the Regulation Concerning the International Carriage of Dangerous Goods by Rail (RID),
- the General Contract of Use for Wagons (GCU),
- the UIC – Loading Guidelines

Moreover, the commercial provisions for the freight forwarder consignment purchase shipping company of the HGB (German Commercial Code), and otherwise of the BGB (German Civil Code) shall also apply.

II. Service agreement, individual agreements

a) In principle, the basis of the services to be rendered by HSL shall be formed by a service agreement to be concluded with the customer in writing. The renewal, amendment or conclusion of a new service agreement shall not require the written form. Should the service agreement not have been signed by both parties, any confirmation of HSL not immediately contravened by the customer shall be binding. The latter may ensue via e-mail, fax or telephone.

b) The service agreement shall contain any essential service data required for the conclusion of individual contracts, in particular freight contracts (e.g. relation, cargo, type of wagon, load unit, price per unit).

c) Individual contracts shall be concluded by order of the customer and acceptance by HSL. The order shall be considered accepted when HSL fails to object within a reasonable time period or renders the commissioned service without objection.

d) When using a consignment note pursuant to HGB or CIM, the latter shall be considered as an order.

III. Consignment note

a) Unless otherwise agreed, the customer shall issue a consignment note. The latter shall not be signed by HSL; printed or stamped names or corporate details shall not be considered as signatures.

b) Should the customer place the transport order without using a consignment note, according to Section 414 HGB and Article 8 CIM said customer shall be liable for the correctness and completeness of all the details included in the transport order.

IV. Wagons and load units (LUs), loading deadlines, liability

a) At the customer's request, HSL shall provide suitable wagons and load units (LUs).

b) The customer shall be responsible for the correct specification of the required number and class of wagons and LUs as well as the destination; Section 412 Paragraph. 3, Section 415, as well as Section 417 HGB, shall apply accordingly to the provision of wagons and LUs prior to the conclusion of a freight contract.

c) The customer shall be obligated to use the wagons and LUs provided by HSL solely for the contractually intended purpose.

d) Should the customer provide wagons and LUs, said customer shall inspect the latter prior to loading for their suitability for the intended purpose of use as well as for obvious defects and immediately inform HSL of any complaints.

e) The customer shall ensure that the provided wagons are operationally reliable and technically approved according to the applicable national and international provisions and remain technically approved during their operating time.

f) The customer shall be liable for any damage to wagons and LUs.

g) HSL shall solely transport wagons that are assigned to a certified ECM entity. Prior to concluding the service contract, the customer shall inform HSL of the ECM entity to which its wagons are assigned. The customer must immediately notify HSK immediately of any changes in the ECM quality.

h) Unless otherwise agreed, loading deadlines shall be announced by customer information in written or text form.

I) The customer shall be responsible for ensuring that unloaded wagons and LUs are returned in a usable state, i.e. completely empty, properly decontaminated or cleaned, as well as complete with loose components and, furthermore, on schedule at the agreed transfer point or terminal. In the event of non-compliance, HSL shall invoice the customer for the expenses actually incurred and duly supported. This shall not affect any more extensive claim to damages.

V. Loading regulations

a) Loading and unloading shall be incumbent upon the customer, unless otherwise agreed. The UIC Loading Guidelines regulate the details. HSL shall be authorised to inspect wagons and LUs for operationally reliable loading.

b) Should the customer violate its obligation arising from letter a), should a considerable deviation between the agreed and actual cargo exist, should the admissible total weight be exceeded or the transport be impeded by the type of cargo or loading, HSL

shall request the customer to remedy the problem within a reasonable time period. Once said period has lapsed without success, HSL shall also be authorised to assert the rights according to Section 415 Paragraph 3 Clause 1 HGB and Article 13 Section 2 CIM.

c) The customer shall be obligated to immediately remove any loading and unloading residue at the loading point, including the access routes, at its own expense; should HSL be required to do so by way of execution by substitution, the customer shall be liable for any costs incurred in the process.

VI. Transport and delivery hindrances

a) The customer shall ensure that any wagons it provides are subject to maintenance by an entity certified to this end (ECM). Failure to do so shall authorise HSL Logistik to refuse acceptance of the wagons.

b) The customer shall ensure that HSL Logistik receives only wagons whose holders are party to the General Contract of Use for Wagons (GCU) or shall provide them to HSL Logistik in the same way as if such type of wagon were concerned. The applicable version of the GCU, as amended from time to time, may be found on the Internet under www.gcubureau.org.

c) Should transport and delivery hindrances exist, the legal provisions shall apply with the proviso that HSL shall be authorised to store the loaded means of transport, within the scope of Section 419 Paragraph 3 HGB and Article 20 Section 2 CIM. For the duration of such storage, HSL shall be liable for the care of a prudent businessman. Any storage costs incurred as a result shall be borne by the customer.

VII. Presumed loss

Pursuant to Section 424 Paragraph 1 HGB and Article 29 CIM, a further time period of 30 days after expiration of the delivery period shall apply uniformly to all national and international traffics once loss is presumed.

VIII. Dangerous goods, accompanying document

a) The customer must comply with the relevant dangerous goods regulations, in particular GGVSEB and RID, as amended from time to time.

b) Dangerous goods shall only be accepted/delivered by HSL, should the acceptance of the safety and due care obligations up until collection or from the time of provision onward, as well as the physical transfer/acceptance of class 1 and 2 goods, have been agreed in writing with the dispatcher/recipient.

c) Within the scope of its share of liability, the customer shall indemnify HSL against all obligations arising during the transport, the custody or other handling vis-à-vis third parties, as well as those which are attributable to the individual characteristic of the cargo and non-compliance with the duties of care incumbent upon the customer.

d) Dangerous goods shall not be stored by HSL, not even due to storage of loaded transport means on the respective transport route. Possible exceptions would exist in the event of corresponding patrolling / surveillance the individual wagons. The storage of uncleaned empty tank wagons or tank containers for over 24 hours – should the last cargo have been a material with high risk potential in terms of the RID (Clause 1.10.3.1.2 therein) – or for over 48 hours in the event of other dangerous materials, shall require a special written agreement. Uncleaned empty and non-degassed pressurised gas tank wagons and pressurised gas tank containers shall not be stored for longer than 24 hours by HSL.

IX. Remuneration, invoicing, ban on offsetting

a) Settlement shall be made by means of invoicing.

b) All prices cited by HSL are in euros and exclusive of the prevailing value added tax, currently amounting to 21%.

c) Unless otherwise agreed the invoices of HSL shall fall due for payment on the date the invoices are issued. The customer shall pay the service charge free of any deductions for taxes, levies or other costs.

d) Should the customer fall into arrears with a payment, all receivables of HSL arising from the business relationship shall fall due for immediate payment, without the need for any separate notice of default.

e) No offsetting and no exercising of a right of retention against receivables of HSL shall be admissible.

f) Subsidies and subsidies of any kind are considered accordingly in the offers and can not be claimed

X. Cancellations or postponements

1) Cancellation less than 24 hours before confirmed departure: 80% on the agreed circulation/tonnage price.

2) Cancellation between 24 and 48 hours before confirmed departure: 60% on the agreed circulation/tonnage price.

3) Cancellation between 48 and 120 hours (5 days) before confirmed departure: 30% on the agreed circulation/tonnage price.

4) Postponements of 2 - 24 hours shall be invoiced with the additional costs.

5) Postponements < 24 hours shall be considered and treated as cancellations (see Clause 1).

6) If there are no cancellations, 100% will be charged

XI. Customs and other administrative regulations

a) The instruction to forward goods in bond or deliver them free house shall also authorise HSL to effect the customs clearance and to advance customs and excise duties and fees. HSL shall invoice the customer the expenses actually incurred and duly supported for such services, as well as for any delays for which HSL is not responsible on the occasion of the performance of such services.

b) Prior to the respective transport implementation, the customer shall inform HSL unbidden whether the cargo concerned comprises Union or non-Union goods and, if necessary, whether a customs treatment by HSL is required. The customer shall also inform HSL whether the cargo concerned needs to be transported according to a tax suspension procedure.

XI. Special terms and conditions for combined traffic

In combined traffic, HSL transports empty and loaded LUs and renders supplementary services according to special agreement (e.g. the completion of the required transport papers). LUs in terms of these General Terms and Conditions for the Performance of Services are:

- containers for overseas traffic, whose dimensions, corner fittings and strength are normalised by the International Organisation for Standardisation,
- inland containers for the European mainland traffic, and
- swap bodies, i.e. hot-swappable structures.

b) LUs must comply with the prevailing legal regulations and technical provisions (e.g. according to DIN, EN, UIC leaflets).

c) LUs provided to HSL by the customer must be operationally reliable and suitable for the load. The customer shall be liable for any damage caused by unsuitable, defective or non-operationally reliable LUs.

d) LU shall only be stored by HSL in the open air.

e) HSL may assume the completion of the required transport papers and thus the associated services on behalf of the customer. A special contract shall be concluded for this purpose.

XII. Liability

a) HSL shall be liable for delays in delivery or failed deliveries, should HSL be responsible for the latter. This shall particularly not apply should delays in delivery or failed deliveries be due to:

- weather-related adverse conditions during loading, transport and unloading, including in particular freezing of the cargo or of the transport containers;
- hindrances caused by the infrastructure operator (z. B. DB Netz AG), including inter alia building work on the rail infrastructure, delayed timetabling, restricted track availability, track disruption, points failure, lubricant film on the rail, misguided action, damaged overhead cables, hindrances due to third-parties (e.g. suicide, derailment of third-part rail transport companies, terrorist attacks, vandalism);
- delays in the transport process due to the delayed return or delayed unloading of the wagons, should these be caused by the customer or the latter's subcontractor; as well as
- contaminations and load residue in the employed wagons following unloading by the customer, the recipient or the subcontractor thereof.

a) For the rest, the liability for delays in delivery, damage and loss of the transported cargo shall be subject to the provisions of the HGB and CIM, as amended from time to time, unless otherwise regulated in these General Terms and Conditions for the Performance of Services.

b) Liability according to a) and b) shall be excluded for direct consequential damages, should this be admissible according to the regulations cited in b).

c) For the rest, should any damage of the customer not have been caused by intent or gross negligence on the part of HSL and no personal injury have resulted, the liability of HSL shall be excluded. In the event of violation of the essential contractual duties, the liability of HSL shall be limited to typical, foreseeable damage.

XIII. Force majeure

a) Any events and circumstances whose prevention of which cannot be controlled by the contracting parties, such as e.g. natural catastrophes, war, industrial disputes, raw material and energy shortages, acts of God, shall release the relevant contracting party for the duration of the disruption and to the extent of the effects of such on its contractual duties.

b) The relevant contracting party shall immediately inform the other party about the expected duration and scope of the disruption and shall take all reasonable measures to promptly eliminate the disruption. The relevant contracting party shall endeavour to subsequently render any failed services within the realms of its possibilities.

c) On no account shall HSL be liable for any damages and delays caused by force majeure in terms of this provision.

XIV. Place of jurisdiction, applicable law

a) Hamburg is sole place of jurisdiction for all disputes arising from the contractual relationship. However, HSL shall also be entitled to file suit against the customer at the latter's corporate domicile.

b) The law of the Federal Republic of Germany applies to the legal relationships between the contracting parties.

XV. Final provisions

a) Should the written form have been selected, the conclusion, amendments and supplements of agreements between the customer and HSL shall require the written form. This shall then also apply to the exclusion of the written form requirement.

b) Should one or more provisions of these General Terms and Conditions of Performance of Services or of the contract concluded based on such General Terms and Conditions of Performance of Services be or become invalid, this shall not affect the validity of the remaining terms and conditions or of the contractual terms and conditions. The parties shall instead replace the invalid provision by a valid provision most closely resembling the desired economic purpose of the invalid provision. The same shall apply to any gap in the provisions.

c) The customer shall not be entitled to use the business relationship with HSL as reference or for advertising purposes without the latter's consent.

d) The customer undertakes to maintain confidentiality regarding all information, knowledge and documents received from HSL, or otherwise obtained from the field of HSL or of one of the latter's affiliated undertakings, e.g. offers, (operational) concepts, technical and other data, personal data, operating secrets, know-how, drawings and other documents, to refrain from making such accessible to third parties and to use such only for the purpose of handling the respective delivery/service.

e) This obligation shall continue to apply for 2 years beyond the termination of the contractual relationship.