

**Battal Group's Standard Terms and Conditions**  
**(Transport and Logistics Services)**

THESE STANDARD CONDITIONS INCLUDE TERMS WHICH EXCLUDE OR LIMIT THE COMPANY'S LIABILITY AND WHICH REQUIRE THE CUSTOMER TO INDEMNIFY THE COMPANY IN CERTAIN CIRCUMSTANCES.



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## Section 1 – Applicability and Interpretation

- 1.1 These Standard Terms and Conditions (“Conditions”) electronically published at [www.battal.com/conditions](http://www.battal.com/conditions) as amended, set out the general standard terms on which any company and/or associated company belonging to the Battal Group of companies performs any Services and unless otherwise agreed in writing apply to all quotations issued by the Company, any Agreement concluded by the Company, and all general business undertakings, advice, and/or Services provided by the Company to a Customer or third party.
- 1.2 In addition to these Conditions, any specific terms on the front and reverse of warehouse receipts, holding certificates, storage confirmations, release orders, business confirmations, quotations, or other similar documents issued by the Company shall also apply to any Services. Inasmuch as the Company is not the buyer or seller of the Goods, any reference to any Incoterms as between the Company and the Customer is used with the purpose of clarify any agreed point of collection and/or delivery point and does not dictate any assumption of risk or insurance for the Goods by the Company. If and insofar as any of the aforesaid terms conflict with these Conditions, these Conditions shall prevail.
- 1.3 The Company shall not be bound by any conflicting standard terms and conditions (howsoever called) used by the Customer or third party and such terms and conditions shall not be applicable to the Agreement or legal relationship between the parties unless the terms and conditions have been accepted in writing by the Company.
- 1.4 Failure of the Company to invoke or enforce strict compliance with any provisions of the Conditions shall not constitute a waiver by the Company of its right to insist upon compliance with all other provisions of the Conditions or invoke the respective provision in other or future circumstances.
- 1.5 If any of the terms of these Conditions is in conflict with applicable law, the conflicting term shall be deemed to be deleted and/or amended to conform therewith, and such deletion and/or amendment shall not affect the remaining provisions of these Conditions.
- 1.6 These Conditions have been drawn up in English and in other languages. In the event of any differences in content, the English text shall govern.

## Section 2 – Applicability of Sectoral Terms and Conditions

Unless otherwise agreed in writing and where relevant, the sectoral terms and conditions as set forth in Appendix 1 shall apply in addition to these Conditions. With the exception of the provisions of Section 11 and 12 (Liability) and Section 14 (Disputes) as set forth in these Conditions, if and insofar as the provisions of these Conditions conflict with the applicable sectoral terms and conditions, these Conditions shall prevail. Copies of any specific sectoral terms and conditions referenced in Appendix 1 are available upon request.

## Section 3 – Definitions

In these Conditions, the following words and expressions shall have the following meanings, save where the context otherwise requires:

**“Agreement”** means any agreement, whereby the Company and/or an authorized agent of the Company offers and the Customer accepts the provision of the Services, or where the Company has started performance of an order, and shall include without limitation any written contract agreed and/or correspondence by post, fax, Electronic Data Interchange, mobile devices and any applications contained thereon, or email between the Company and/or an authorized agent of the Company and the Customer, and these Conditions;

**“Company”** means the Battal Group entity undertaking the Services and/or its authorized agents;

**“Customer”** means the party to whom the Company’s quotation is addressed and/or the party entering into the Agreement with the Company, and/or the party to whom the Company shall provide the Services pursuant to the Agreement;

**“Electronic Data Interchange”** means the exchange of business documents in an electronic format;

**"Goods"** mean any goods handled, stored, or otherwise dealt with by the Company on behalf of or at the instance of the Customer, or which come under control of the Company or its agents, servants or nominees on the instructions of the Customer, and includes any container, transportable tank, flat pallet, flat rack, package or any other form of conveyance, covering, packaging, container or equipment used in connection with or in relation to such goods;

**"Group"** means the Company and the subsidiary and/or associated and/or affiliated companies of the Company collectively;

**"in writing"** shall mean any written correspondence sent by post, fax, Electronic Data Interchange, mobile devices and any applications contained thereon, or email between the Company and/or its authorized agents and the Customer;

**"Loss"** includes (without limitation) any legislative or regulatory fines or penalties and any financial, reputational, contractual, delictual or tortious losses or damages arising from any cause whatsoever, including, without limitation, those caused by loss (including theft), destruction, damage, unavailability, contamination, deterioration, delay, non-delivery, misdelivery, unauthorized delivery, non-compliance with instructions or obligations, or incorrect advice or information;

**"Non-Transferable Warehouse Receipt"** means a Warehouse Receipt which is indicated on its face as being non-transferable;

**"Order"** means the Customer's request for Services;

**"Price"** means the rates which shall be chargeable by the Company to the Customer for the provision of the Services as set forth in the Agreement;

**"Quotation"** means any offer by the Company to provide Services, whether conveyed orally or in writing or contained in a formal quotation or transmitted to the Customer electronically or otherwise;

**"Sanctions"** shall mean any applicable sanctions or export controls;

**"Services"** shall mean any and all services provided or to be provided by the Company to the Customer pursuant to the Agreement and/or any and all general business undertakings, advice, information or services provided by the Company to a Customer or third party, whether gratuitous or not;

**"Warehouse Receipt"** means a warehouse receipt titled as a Warehouse Receipt issued by the Company subject to these Conditions and other terms and conditions stipulated by the Company from time to time; and

**"Warrant Holder"** means the party identified as having title to the warrants or the party authorized by the Warrant Holder. In the case of LME Warrants or Immobilized Warrants, the holder of such warrants is the Account Holder within the LMEs word to whose Account a warrant is recorded from time to time (as defined by the LME).

#### **Section 4 – General Provisions Applicable for all Services**

- 4.1 Unless otherwise agreed in writing, the Company in providing or procuring the carriage, storage, packing or handling of the Goods shall be acting in the capacity of a transportation intermediary and not as principal (including but not limited to services such as chartering of trucks, barges, trains and/or vessels, even where such services are performed pursuant to a transport Order), receiving agent, customs agent, limited or direct fiscal representative, warehouse keeper, shipbroker, stevedore and/or provider of other warehousing or logistic services.
- 4.2 The Company shall use all reasonable endeavors to complete the services within estimated time frames but time shall not be of the essence in the performance of any Services. The Company shall be entitled to modify delivery deadlines under the Agreement if such deadlines are not compatible with the Company's or carrier's compliance with road and/or applicable transport safety norms.
- 4.3 The Company may in its reasonable discretion decide on the means, route and procedures to be followed in the handling, storage, transportation and/or forwarding of the Goods.
- 4.4 The Company shall have the right at any time to require the removal of the Goods received for storage prior to the expiration of the storage period without adhering to any period of notice, if in the reasonable discretion of the Company there is an urgent reason to do so. Without limiting the generality of the discretion of the Company as aforesaid, an urgent reason, shall be deemed to exist if the Customer fails to comply with one or more provisions of the Agreement and/or the Conditions, and/or if it appears that owing to the presence of the Goods loss and/or damage to other goods, to the storage

place or to equipment, or harm to a person is to be feared, or if the Goods are perishable or liable to inherent changes which in the Company's opinion would result in a decrease in value of the Goods. The Customer shall remain liable for payment of the warehouse rent, moving charges and any increases up to and including the date when the Goods were removed.

- 4.5 In the event the Company has any reason to believe that there is actual, or potential, damage to the Goods (whether at the time of delivery of the Goods to the Company or at the time Goods are stored with the Company), the Customer authorizes the Company to take all steps the Company deems necessary in its absolute discretion, without prior notice to the Customer, to protect the Customer's interests in the goods at the Customer's costs and the Customer's risk.
- 4.6 Unless otherwise agreed in writing, the Company, shall be entitled to enter into any contract it reasonably deems necessary or requisite for the fulfillment of the Customer's instructions. The Customer acknowledges that when the Company, as agent for and on behalf of the Customer, concludes any agreement with a third party, such agreement is concluded between the Customer and the third party. The Customer undertakes, however, that payments due in respect of any such agreement shall be made to the Company, who thereafter shall account to the third party.
- 4.7 The description and/or specification or weight of the Goods and the particulars concerning the packages or other shipping unit as stated on the face of storage receipt (including Warehouse Receipt), delivery Order and/or facsimile release for similar purposes are those of the Customer. The Customer warrants that all descriptions, values and other particulars of the Goods furnished to the Company are accurate and complete, and that the Company relies on the weights and/or measurements provided by the Customer. With the exception of physical differences as to the number or weight of packages or other shipping unit that have been noted by the Company and indicated on the documents, the Company does not, by the issuance of any such document, agree that such description is correct, or admit the existence, good order and condition of the Goods, or of the contents of any package or other shipping unit.
- 4.8 The Company shall not be obliged to weigh or inspect or measure the Goods if no instructions have been given by the Customer to do so. It is acknowledged that the expression "said to contain" or "said to weigh" in relation to any description and/or specification and/or quantity of the Goods and the particulars thereof as stated on any document issued by the Company (including without limitation Warehouse Receipts, delivery order and/or releases, etc.) shall mean the description, specification, weight and/or particulars of such Goods as represented and furnished by the Customer. The Customer further accepts that the Company does not represent or warrant the truth or accuracy of such description, specification, weight and/or particulars of such Goods and the Company is accordingly not liable for any Loss attributable to weight and/or measurement discrepancies of the Goods. The Customer agrees that the Company is not obliged to verify any value communicated nor to notify any Verified Gross Mass (VGM) to the governmental authorities. The Customer recognizes the potential loss in weight during storage and handling of the Goods, due to but not limited to long storage, handling of the Goods, nature of the Goods, and inherent vice. The Company shall not be liable or accountable for any loss in weight or quality of the Goods, unless the same is caused directly by the Company's gross negligence, subject further to the limitations set out in Section 11.
- 4.9 In the event the Customer requires work to be performed outside of normal working hours, the Company shall be at liberty but not obliged to perform such work and any extra charges incurred and/or additional rates shall be borne by the Customer.
- 4.10 Unless otherwise agreed in writing, the Company may store the Goods at any warehouse within the agreed location.
- 4.11 Subject to Clause 4.12, unless otherwise agreed in writing, the Customer shall be obliged to obtain insurance cover in respect of the Goods, and the Company shall not be obliged to take out any insurance on the Goods. It is the Customer's obligation to insure the Goods to their full insurable value with any right for the insurer to bring a subrogated claim against the Company being excluded.
- 4.12 In the event the Customer requests the assistance of the Company to take out insurance on the Goods and where sanctioned under local law and regulations, the Company, as an intermediary, may take out insurances on the Goods against such risks as may be identified by the Customer and obtain insurances covering the specified risks at the standard conditions issued by the insurance company of its choice, and all costs shall be borne by the Customer. The Company shall not be held liable for any loss arising from the failure of the insurer to pay in full or in part or because a claim in respect of damage is being disputed as a result of circumstances for which the Company cannot be held liable or the manner in which the Company effected the contract for insurance.

4.13 The Company is under no obligation to ascertain or bring to the Customer's attention the existence of any impediments to shipping the Goods that may be enforced by law or by any authorities, including but not limited to importation, exportation, or transit restrictions.

4.14 Where applicable and sanctioned by national legislation, the Company shall be entitled to issue in respect of the whole or part of any contract for the movement of the Goods a combined transport bill of lading provided that where a bill of lading is issued these Conditions shall continue to apply insofar as there is conflict with the terms of the applicable bill of lading. By the issue of a bill of lading the Company shall be entitled to raise an additional charge as determined by the Company, to cover its additional obligations arising under the bill of lading.

4.15 The Company shall be obliged to admit the Customer and/or any person authorized by the Customer to the place where the Goods are stored (in the case of exchange warranted Goods to warehouse/entrance), subject to all formalities prescribed by the relevant authorities being complied with. The following conditions shall be applicable to persons granted admittance by the Company:

- (a) all persons visiting the place of storage including personnel of vessels and vehicles reporting to the warehouse enter the premises at their own risk and must observe all applicable laws or regulations, the Company's regulations and any third-party regulations;
- (b) admittance shall be granted only during normal working hours and with supervision;
- (c) the cost of the inspection and any supervision required or handling charges to move material for inspection during the visit shall be borne by the Customer;
- (d) the cost of supervision during the visit shall be borne by the Customer; and
- (e) the Customer shall be liable for any damage caused to property or injury caused to persons where such damage or injury is attributable to the act or omission of the visitors or Customer representatives.

4.16 In the event the Customer requires the Company to take any special precautions in respect to the Goods, such precautions must be advised by the Customer in writing providing sufficient detail for the proper execution of the instructions by the Company and subject to acceptance in writing by the Company. The Company shall use its reasonable endeavors to carry out the agreed precautions. Where the Company is providing services in relation to Goods stored in temperature controlled warehouses the Company does not warrant the suitability of the temperature for the Goods. In no event shall the Company be responsible for the condition or quality of the Goods. Unless otherwise agreed in writing or per the relevant rules or regulations, the Company is not obliged to take any specific precautionary measures for warehouse surveillance.

4.17 Except to the extent previously notified in writing and accepted by the Company, the Customer shall not deliver to the Company any Goods which are officially classified as hazardous as well as Goods which are or may become explosive, flammable, corrosive, noxious, radioactive or dangerous in nature or any Goods which are likely to cause damage (including goods that may harbor vermin or other pests) to the warehouse or to other goods stored in the warehouse (hereinafter "Dangerous Goods"). Where delivery of Dangerous Goods is accepted by the Company, the packages containing such goods shall be clearly marked to show the hazardous nature of their contents and labeling shall be compliant with all applicable rules and regulations. The Customer shall indemnify the Company from and against any and all fines, penalties, expenses, loss or damages suffered or incurred by the Company by reason of the nature of the Goods or as a result of the Customer's failure to comply with this clause.

4.18 The Customer warrants that the Goods shall be transported, handled and presented to the Company (and/or any other party designated by the Company) securely and properly packed and conditioned in compliance with any applicable laws or regulations, recognised standards and best practice and shall be packed and conditioned in a manner whereby they will remain in condition to withstand normal handling so as not to cause injury, damage, contamination or deterioration (or the possibility of such events) to any person, premises, equipment or to any other items in any way.

4.19 The Customer must ensure that all the necessary and proper details and documents required by law, and as further reasonably determined by the Company, to be provided to the Company for the execution of the Services are in the Company's possession within the time frame indicated by the Company. Where applicable, information to be provided includes but is not limited to proof of REACH registration, a valid Safety Data Sheet (where applicable), proper labels, the nature of the Goods, the number, quantity, quality and content of parcels, their gross weight, size and any other information instrumental to the execution of the Services. The Customer acknowledges that the company shall not be regarded as the importer as envisaged by REACH and agrees to indemnify and hold harmless the Company for all third-party claims

concerning the Goods.

- 4.20 Any signed inventory document supplied by the Company to the Customer in respect of the Goods shall once signed by the Customer be conclusive proof of the quantity of the Goods that have been received by the Company and where not signed by the Customer be conclusive proof of what Goods have been received by the Company unless the Customer advised the Company within twenty-four (24) hours of receipt of the inventory document.
- 4.21 Where the Services include customs clearance services, including without limitation, acting as importer on record, the Company or its appointed representatives shall be authorized to issue the customs declaration on the basis of the information provided by the Customer. In such an event, the Customer accepts to exclude any liability of the Company or its appointed representative in respect to the issuance of the customs declaration and agrees to indemnify and hold harmless the Company and/or its appointed representatives from and against losses, damages, costs (including attorneys' fees on a full indemnity basis), expenses and liabilities incurred or suffered arising out of such Services, including any fee, tax, levy, fine, penalty or charge imposed in relation to the Goods by local and/or customs authorities for any reason whatsoever, howsoever arising.
- 4.22 Where the Services include stevedoring, the Company shall be entitled to rely on the customs, rules, and regulations of the relevant port or ports (where applicable). The Company shall not be liable to the Customer for any Loss resulting from the Company acting in accordance with the custom, rules and regulations of such port or ports. The Customer shall ensure that all contracts it enters into with all third parties in connection with the stevedoring services to be provided by the Company shall contain a clause to the effect that the Company will be entitled to rely on all rights and benefits made in favor of the Customer in the third party contracts, including but not limited to provisions excluding and/or limiting the Customer's liability to the third party, and which are enforceable against such aforesaid third parties ("Himalaya Clause").
- 4.23 Unless otherwise agreed in writing, it is the Customer's exclusive responsibility to obtain and to provide to the Company all permits, licenses, documents and other consents needed for the import and export or storage of the Goods.
- 4.24 The Customer expressly warrants that it has all necessary rights and powers to deliver the Goods to the Company and to engage the Company to render the Services in respect to the Goods. It is hereby acknowledged and accepted that the Company has no responsibility or liability whatsoever with respect to any conflicting claims arising out of any dispute contesting rights of possession, ownership, or title to the Goods or any part thereof. All and any rights of possession, ownership or title to the Goods shall be established and verified by the Customer, or between the Customer and its client or other third party. The Customer further warrants that they are authorized to accept and are accepting the Conditions not only for themselves but also as agents on behalf of all other persons or third parties who may thereafter acquire title or any interest to the Goods.
- 4.25 If the Customer transfers or passes ownership of the Goods or transfers or passes the right to take possession or delivery of the Goods, such action does not release the Customer of its previously assumed obligations to the Company until the Company has confirmed in writing to the Customer that the Company has accepted such transfer and/or release of the Goods and it is agreed by all parties that the new owner of the Goods shall be responsible for any previously assumed obligations of the prior owner of the Goods, provided that this clause shall not apply to Goods which are subject to a Warehouse Receipt.
- 4.26 With the exception of LME and/or COMEX Goods under warrant or bearer documents, the Customer is obliged to immediately notify the Company in writing of transfer or passing of ownership of the Goods or transfer or passing of the right to take delivery of the Goods, as the case may be. Any transfer of interest in the Goods shall not affect the Customer's previously assumed contractual obligations to the Company and any transfer of any obligations may only take place by way of assignment of the contract between the Customer and the third party with the express written consent of the Company.
- 4.27 The Company puts on notice all persons dealing with LME warranted or warrantable metal located in the Company's warehouses that such metal may be subject to the interest of account holders within the LMEsword from time to time.
- 4.28 Unless otherwise agreed in writing, the Customer shall provide the Company, in advance, with the funds needed to execute the Services and to fulfill all related obligations which the Company has undertaken and/or shall undertake in its own name and on behalf of the Customer to perform the Services.
- 4.29 If the Customer has instructed the Company that Goods for storage in a certain quantity and/or at a certain time will be delivered to the Company, or that Goods to be re-delivered in a certain quantity and/or at a certain time will be collected, and if in such a case the Customer fails to deliver or to collect the Goods regularly and on time, then the Customer shall be

obliged to reimburse all costs and expenses incurred by the Company as a result of any personnel and equipment ordered and/or arranged for the execution of the relative Order by the Company not having been used in full or at all.

- 4.30 In the event the Goods are subject to any inspections, processing, sampling or handling, prior agreements to this effect must be made with the Company and any procedures carried out shall be carried out by personnel appointed by the Company or personnel mutually agreed between the Company and the Customer, and all costs shall be for the Customer's account.
- 4.31 The Customer warrants, represents and undertakes that it will not cause the Company to violate any Sanctions or expose Company to designation risk under any Sanctions, involve any person, third party (to the extent applicable), bank or other entity or vessel in dealings or transactions relating to this Agreement that might violate or expose Company to designation risk under any Sanctions, directly or indirectly use, transfer or make available any economic resources from Company under this Agreement to anyone designated on any list maintained by any relevant authority under Sanctions or for any prohibited end use under Sanctions or for any purposes which would expose Company to designation risk under any Sanctions. The Customer further warrants and undertakes that it has not and will not violate applicable laws or regulation relating to anti-corruption or facilitation payments. In case of failure to comply with this clause, the Customer shall indemnify Company against any and all costs, expenses, losses and liabilities (including fines and penalties) and the Company may terminate the Agreement with immediate effect upon written notice to the Customer.

## **Section 5 – General Provisions Applicable for Services Regarding Warehouse Receipts**

- 5.1 Upon receipt of the Goods by the Company, the Company may, upon request from the Customer, issue a Warehouse Receipt to the Customer. The Company shall be entitled to refuse such issuance or any other services as provided under this Section 5 if the Customer has not paid all monies due and owing to the Company, or there appears to be other grounds for the refusal. All such documents are issued in accordance with, and are subject to, these Conditions and any other terms and conditions imposed by the Company from time to time.
- 5.2 There shall only be one original Warehouse Receipt issued by the Company. A valid Warehouse Receipt shall only be signed by authorized signatory or signatories of the Company. The Company shall not be liable for any losses arising from the unauthorized or improper use of this Warehouse Receipt.
- 5.3 Any copy, photocopy or scanned copy of a Warehouse Receipt shall not have any legal force or binding effect. Any amendment, erasure and/or any form of tempering with any Warehouse Receipt shall render such Warehouse Receipt null and void.
- 5.4 Transfer of the Warehouse Receipt by the Customer to a third party shall not be recognized by the Company unless all monies owing by the Customer to the Company and all claims which the Company may have against the Customer shall have been paid and/or settled. Until and unless a new agreement has been made between the Company and such third party, the Agreement with the original Customer in respect of the Goods or part thereof which is transferred shall always remain applicable to the Goods.
- 5.5 The Warehouse Receipt is not and shall not be construed to be a document of title. The Company will not recognize any party as having legal and beneficial title to the Goods by reason of any mode of transfer and/or endorsement on the Warehouse Receipt.
- 5.6 In the event a Warehouse Receipt is issued, the Company is entitled to deny the release of any goods stored with the Company unless and until it has received the duly endorsed original Warehouse Receipt from the last-named party on the Warehouse Receipt. In order for the Company to recognize such third party's right of possession to the Goods, any endorsement must be in conformance with conditions stipulated by the Company. This clause shall not be applicable to Non-Transferable Warehouse Receipts.
- 5.7 The Customer shall present the original Warehouse Receipt to the Company before the Company may act on the instructions of the Customer pertaining to that Warehouse Receipt. This clause shall not be applicable to Non-Transferable Warehouse Receipts.
- 5.8 If a Warehouse Receipt is lost, damaged or destroyed, the person entitled to it may apply to the Company for either a nullification of the Warehouse Receipt or issuance of a new Warehouse Receipt; where such application must set out in full cause of the loss (including where applicable, enclosing a copy of the police report in relation to such loss) or damage/destruction, and the ground on which the applicant proves his entitlement over the Goods. The Company may

demand a letter of indemnity and/or impose such other requirements at the absolute discretion of the Company, and to decide whether to reissue such Warehouse Receipt.

5.9 At the reasonable request of the Customer and in consideration of the payment of USD1.00 (one US Dollar) by the Customer to the Company (the receipt and sufficiency of which is acknowledged by the parties), the Company will use its reasonable endeavors to provide the service of verifying and/or authenticating whether a certain warehouse receipt is issued by the Company. Such verification and/or authentication service is rendered subject to these Conditions.

5.10 Notwithstanding anything herein, in no event shall the Company's liability arising out of or in connection with any service rendered in respect of Warehouse Receipts and/or other storage related documents (including, without limitation, verification and authentication services of Warehouse Receipts) exceed USD 20.00 (twenty US Dollars) per document, whether in an action for contract, tort, equity or otherwise, and whether or not the Company knows or has previously been advised of the possibility of such loss or damage. The Customer acknowledges and agrees that it is fair and reasonable for the Company to limit its liability in accordance with this clause.

5.11 In providing the verification services, the Company does not warrant or make any representation or assume any responsibility for the validity and/or veracity and/or authenticity of the Warehouse Receipt or endorsement, if any. Further, the Company has no means to know and makes no representation as to the legal ownership of the asset or any other claim(s) against it or pledge(s) of it as collateral for any reason.

5.12 In providing the authentication services, the Company does not warrant or make any representation or assume any responsibility for the validity and/or veracity and/or authenticity of any endorsement. The Company has no means to know and makes no representation as to the legal ownership of the asset or any other claim(s) against it or pledge(s) of it as collateral for any reason. Further, the validity of any authentication shall expire and the Company shall not assume any responsibility or liability in respect of the authenticity of the Warehouse Receipt as soon as the Warehouse Receipt leaves the Company's custody and control.

## **Section 6 – Quotations, Acceptance of Orders, and Modifications to an Agreement**

6.1 All quotations issued by the Company and Order(s) submitted to the Company are non-binding until an Agreement has been concluded. An Agreement shall be deemed concluded the earlier of a written confirmation being sent by the Company to the Customer confirming the Agreement, the Customer accepting the Company's quotation in writing, or the Company starting performance of the Services.

6.2 Unless agreed otherwise in writing, all quotations made by the Company and/or its authorized agents are based on the work being carried out by the Company under normal conditions and during normal working hours.

6.3 Oral promises or representations made by employees, servants, or agents of the Company are not binding on the Company unless and until confirmed in writing by the Company.

6.4 The Company shall be entitled to not accept any work or Order at any time and without cause.

6.5 Any modification or additions to the terms of the Agreement must be made and agreed to in writing by both the Company and the Customer.

## **Section 7 – Prices, Rates, and Tariffs**

7.1 Unless otherwise agreed in writing, all prices are stated in the currency as stated in the quotation and thereafter invoiced and exclude packing, customs fees, (e.g. C.O.D fees), V.A.T., any non-freight charges, costs associated with abandoned Goods, waste disposal costs and General Rate Increases (GRI) imposed by shipping and/or forwarding companies, and any other taxes and other surcharges of whatever description levied by public authorities in connection with the Goods, their importation or exportation, transshipment, or storage. Any additional costs that may arise in the course of the Company's performance of the Services are for the Customer's account and are payable immediately upon first demand.

7.2 Should the Company be instructed by the Customer in writing to collect freight, duties, charges, or other expenses from the consignee of the Goods or from any other person, the Customer shall remain responsible for the payment thereof in the event the consignee or such person does not pay same in cash immediately when due or payable.

7.3 Unless otherwise agreed in writing, the agreed rates for storage shall be based on the customary method of stacking the Goods. If at the Customer's request, or owing to the conditions of the Goods, the customary method is departed from, an increase in the rates shall be affected in proportion to the additional floor space occupied as compared with that for normal stacking.

- 7.4 In the event one or more of the cost components included in the rates is subject to an increase after the date the Agreement is concluded (e.g. supplier's prices, employee wages, social and/or other charges, freights and/or import duties, and/or insurance premiums and other costs, and/or price of equipment or fuel) the Company has the right to increase the agreed rates by a corresponding amount.
- 7.5 Unless agreed otherwise in writing, the Company is entitled to annual escalation in rates and tariffs, pursuant to any increase of costs.
- 7.6 In the event the Company carries out additional work or performs any variation to the Agreement as requested by the Customer, the charges associated with the variations will be for the Customer's account.
- 7.7 In the event that the loading and/or unloading time under any bill of lading and/or charterparty or laycan in respect of the Goods is insufficient due to an act of the Customer, idle time or for reasons beyond the control of Company, all charges resulting therefrom, including without limitation any demurrage charges, shall be borne by the Customer, notwithstanding that the Company was the party that accepted the vessel or entered into the bill of lading and/or charter party from which the aforesaid charges arise.

## **Section 8 – Payment**

- 8.1 Unless otherwise agreed in writing, the Customer shall pay to the Company in cash immediately upon presentation of account all sums due to the Company without deduction or set off, free of exchange and any other charges, and payments shall be not withheld or deferred on account of any claim or counterclaim which the Customer may allege. By the issuance of an invoice, the Company shall be entitled to raise an additional administration charge as determined by the Company, to cover the cost of issuance.
- 8.2 If the Company has granted the Customer a credit facility and the Customer falls into arrears then the credit facility shall immediately revert to a cash basis (payable immediately on presentation of account), without written notice to the Customer. The Company reserves the right to discontinue any account and summarily to cancel any agreement in respect of which payments have fallen into arrears, and in the event of these right being exercised, all amounts howsoever owing by the Customer to the Company shall immediately become due and payable on demand.
- 8.3 All monies received by the Company from the Customer shall be appropriated by the Company in its sole and absolute discretion in respect of any undisputed debt owing by the Customer to the Company, notwithstanding that the Customer might when making payment, seek to appropriate the payments made to any particular debt or portion of the debt.
- 8.4 In the event the Customer fails to pay any invoiced amount, which is due and payable under the Agreement, the Customer shall be deemed to be in default of its payment obligations, and the Company shall be entitled to interest on the overdue amount at a rate of 2.5% per month to the extent such rate is legally enforceable. In the event such rate is not legally enforceable under applicable law then the statutory or legally permissible rate in the country where the rate is being imposed shall apply. Interest shall be calculated from the date on which payment was due to the date of full settlement. Any payments shall be deducted first from the due interest and then from the principle sum due.

## **Section 9 – Termination**

- 9.1 The Company is entitled to terminate the Agreement immediately by written notice to the Customer if the Customer is in material breach of its obligations under the Agreement. A material breach shall include, but not be limited to, situations where:
  - (a) the Customer fails to meet its liabilities and/or obligations as and when they fall due;
  - (b) the Customer seeks a composition with its creditors;
  - (c) all or part of the Customer's property is subject to receivership; or
  - (d) a petition for liquidation, winding-up, bankruptcy or administration is filed in respect of the Customer; or
  - (e) the Customer is in breach of the warranties provided under section 4.31 (Sanctions).
- 9.2 In the event that the Company gives notice of termination according to the terms of Clause 9.1, all outstanding payments shall be accelerated and be due and payable immediately.

## **Section 10 – Right of Retention, Lien, and Pledges on the Goods**

- 10.1 The Company has a lien and/or a right of retention in respect of the Goods and any documents and funds of the Customer that are in the possession of the Company under the Agreement. The Goods and any documents or funds of the Customer

that are in possession of the Company under the Agreement may serve as a pledge for the Company against all claims that it may have or may acquire against the Customer or any other party with rights to the Goods or funds. The Company shall not in any circumstances be liable for any loss or damages resulting from the exercise of a pledge, right of retention, or lien.

- 10.2 Until the end of the exercise of the lien or the right of retention, the Company is entitled to be paid storage charges at the same rate agreed prior to the exercise of the Company's right of retention, or at the rate in force immediately prior to termination.
- 10.3 In the event of non-payment of the claim(s) for which such rights under the above Clauses 10.1 and 10.2 are exercised, the Company shall be entitled to sell the pledged Goods, documents and funds in the manner prescribed by law. If the manner of sale or disposal is not prescribed by applicable law, the Company may sell or otherwise dispose the Goods or documents in any manner as it deems fit including by way of a private treaty or auction and at such price determined solely by the Company. The proceeds from such sale shall then be applied towards satisfaction of all the outstanding monies, followed by the costs of conducting such sale, and any balance thereafter shall be paid to the Customer.

## **Section 11 – General Liability Provisions Applicable for all Services**

- 11.1 Where an Agreement is subject to sectoral terms and conditions under Section 2 (Applicability of Sectoral Terms and Conditions and Jurisdiction Specific Legislation), and where liability is specifically addressed in the sectoral terms and conditions, the Company's liability shall be determined by the applicable sectoral terms and conditions. However, in cases where the sectoral terms and conditions do not specifically determine such liability, the following provisions shall apply.
- 11.2 In the event the specific liability provisions as set forth in Section 11 and 12 are in conflict with the liability provisions of an Agreement which further limit or waive the Company's liability, the liability provisions of the latter shall prevail.
- 11.3 The Company shall not be liable for any claim of whatsoever nature or any Loss howsoever arising, whether based in contract or tort (whether based in negligence or strict liability) for any lost profit, income or savings, wasted expenditure, or indirect or consequential loss, whether or not the Company knows or has previously been advised of the possibility of such loss or damage.
- 11.4 No legal proceedings (including any counterclaim) may be brought against the Company unless they are issued and served within one (1) year of the event giving rise to the claim.
- 11.5 The Company shall be liable to the Customer only for direct damages caused solely by the gross negligence of the Company. Such liability will be limited in the manner and to the extent contained in the sectoral terms as set forth in Appendix 1 to VIII (if applicable). In no case shall any liability of the Company exceed whichever is the least of the following respective amounts:
  - 11.5.1 the actual direct damages incurred; or
  - 11.5.2 the actual value of the damaged or lost Goods (as evidenced by the relevant documentation or declared by the Customer for customs purposes or for any purposes connected with their transportation); or
  - 11.5.3 the values of the damaged or lost Goods as declared for insurance purposes; or
  - 11.5.4 EUR 100,000 (or equivalent amount in the local currency of the country in which the Company that is party to the Agreement is domiciled) per event, or series of events arising from one and the same cause; or
  - 11.5.5 pursuant to Clause 5.10, in respect of a claim arising out of or in connection with a Warehouse Receipt issued by the Company, USD 20.00 (twenty US Dollars) per Warehouse Receipt, whether in an action for contract, tort, equity or otherwise, and whether or not the Company knows or has previously been advised of the possibility of such loss or damage; or
  - 11.5.6 2 SDR per kilogram of gross weight of the Goods lost or damaged unless a larger amount is recovered from a person for whom the Company is responsible.
- 11.6 Without prejudice to any of the Company's rights and securities under these Conditions, the Customer shall be obliged to indemnify and hold harmless the Company against any and all loss, damage, liabilities, duties, taxes, penalties, damages, costs and expenses whatsoever incurred or suffered by the Company arising directly or indirectly from or in connection with the Goods or Services, and/or the Company carrying out the Customer's express or implied instructions or their implementation by or on behalf of or at the instance of the Customer, and/or which is related to any breach of the Customer's obligations under the Agreement and these Conditions.
- 11.7 The Customer shall have no claim whatsoever against any director, servant or employee of the Company (whether or not

such director, servant or employee acted within the course and scope of his or her employment with the Company).

- 11.8 In the event of legal proceedings being instituted between the Company and the Customer, and where a judgment is entered in favor of the Company, the Customer agrees to reimburse the Company for any legal costs incurred in connection with the proceedings including collection charges and tracing agents' fees.
- 11.9 In the event of legal proceedings being instituted by the Company on behalf of the Customer against third parties, and where a judgment is either entered in favor of or against the Company, the Customer agrees to reimburse the Company for any legal costs incurred in connection with the proceedings including collection charges and tracing agents' fees.

## **Section 12 – Force Majeure**

- 13.1 The Company shall not be liable for any loss, damage to or destruction of the Goods, or for any delay in the performance or non-performance of any of the terms of the Agreement due in whole or in part to any cause not within the control of the Company, including without limitation, to the following:
  - (a) war, threat of war, official action, quarantine, civil disturbance or unrest, terrorism and terrorist threats, revolution or the operations of international law, governmental decree, sanctions or other trade restrictions, sabotage, labor dispute, strike, lock-out, interference with communications, cyber-attacks, lack of transport, labor and/or storage accommodation, epidemics, diseases, or other public health emergencies;
  - (b) storm, fog, lightning, flood, high and low tide or water level, frost, freezing, ice, heat, earthquake, acts of God;
  - (c) subsidence and/or collapse of the ground and/or any storage facility;
  - (d) water leakage or seepage, dampness, odor, stench, worms and rodents, damage through rats, mice, insects and other creatures;
  - (e) the natural properties of the Goods, inherent changes in quality, spontaneous deterioration, self-generated heat, combustion, explosion, drying, mold, yeasts, leaks, rot and mildew, rust and sweating; and
  - (f) the non-availability of a berthing or parking place upon arrival of a vessel or truck;
  - (g) wheel puncture, unordinary traffic and/or congestion, or gasoline shortages due to strikes;
  - (h) power blackouts, outages, or power trips (in particular where Goods are being stored in temperature controlled warehouses);
  - (i) non-performance by the Company's subcontractor, carrier, or other associated third party (the "Third Party") by reason of an event or circumstance that would constitute a force majeure event under this Agreement; and/or, by reason of any other unforeseeable restraint, delay, event, or circumstance affecting the Third Party, including without limitation, to bankruptcy, liquidation or forced administration, business closure, sickness and/or death of key personnel; and
  - (j) all other causes which the Company and/or its subcontractors could not reasonably foresee and prevent.
- 13.2 All additional costs which may be incurred as a result of a force majeure event, including but not limited to carriage and storage charges, warehouse or yard rentals, charges in respect of transportation of the Goods to another storage area, demurrage for vessels or trucks, insurance premium, charges in respect of delivery from warehouses, bonded or otherwise, shall be borne by the Customer and shall form part of the debt due and owing to the Company by the Customer on which interest shall be chargeable.
- 13.3 The Customer's payment obligations arising before the commencement of the force majeure event remain in force despite the force majeure event. Notwithstanding anything to the contrary, the Customer shall continue to be liable to the Company for all charges and expenses incurred by the Company arising out of or in connection with any force majeure event, and whether under the Customer's instructions or otherwise, until such time the Company ceases to provide any of the services to the Customer.
- 13.4 The Company will as soon as reasonably practicable notify the Customer of a force majeure event and the nature and extent thereof and shall, subject to Clause 13.2, use commercially reasonable efforts (provided that in no event shall the Company be required to settle any strikes, lockouts, labor disputes or disturbance) which shall be within the discretion of the Company to overcome the force majeure and to minimize the loss occasioned to the Customer.
- 13.5 If any force majeure event prevents, hinders, or delays the Company's performance of any service for a period exceeding sixty (60) consecutive days, the Company may, notwithstanding any provisions herein and at its sole option, terminate any Agreement for the provision of any service with immediate effect and without any further liability to the Customer, or any other person entitled to the Goods.

### **Section 13 – Governing Law and Dispute Resolution**

Where an Agreement is subject to sectoral terms and conditions under Section 2 (Applicability of Sectoral Terms and Conditions), and where governing law and/or dispute resolution and/or jurisdiction is specifically addressed in the sectoral terms and conditions, governing law and/or dispute resolution and/or jurisdiction shall be determined by the applicable sectoral terms and conditions. However, in cases where the sectoral terms and conditions do not specifically determine governing law and/or dispute resolution and/or jurisdiction, the following provisions shall apply. The Agreement shall be governed by and construed in accordance with the laws of the country or state in which the Company that is party to the Agreement is domiciled. The Customer agrees that any legal action or proceedings arising out of or in connection with the Agreement may be brought in the Courts of the country in which the Company that is party to the Agreement is domiciled and the Customer irrevocably agrees to submit to the non-exclusive jurisdiction of the Courts of the country in which the Company that is party to the Agreement is domiciled.

**Effective as of 20 April 2022**

**Any Agreement or these Conditions shall be subject to any modification of any legislation in force.**

## Appendix I

### I. Sectoral Terms Applicable for Battal International B.V.,

1. The following individual sectoral terms shall apply to Services rendered by Battal Group entities in Netherlands depending on the nature of the work involved:
  - (a) Stevedoring work relating to the storage and handling of bulk goods, and such storage and handling: The Stevedores' Bulk Goods Conditions Rotterdam 1991 (de Voorwaarden Massagoed-stuwadoors Rotterdam 1991), filed with the Registry of the District Court in Rotterdam as no. 505 on 8 May 1991.
  - (b) Stevedoring work: The General Conditions of the Association of Rotterdam Stevedores (de Algemene Voorwaarden van de Vereniging van Rotterdamse Stuwadoors), filed with the Registry of the District Court in Rotterdam on 12 August 1976.
  - (c) All international carriage of goods by road: The Convention on the Contract for the International Carriage of Goods by Road (CMR), concluded in Geneva on 19 May 1956.
  - (d) All carriage of goods by road within the Netherlands: The General Conditions of Carriage 2002 (de Algemene Vervoerscondities 2002; AVC 2002), filed with the Registry of the District Court in Amsterdam and Rotterdam.
  - (e) Carriage by rail: The Uniform Rules concerning the Contract for International Carriage of Goods by Rail (CIM 1980), where necessary supplemented by the General Carriage Rules (Algemeen Reglement Vervoer) and the General Conditions of Railion Benelux N.V. (Algemene Voorwaarden van Railion Benelux N. V.).
  - (f) Chartering of coastal shipping and shipping for inland waterways: The Chartering Conditions 1991 (de Bevrachtingsvoorwaarden 1991), filed with the Registry of the District Court in Amsterdam and Rotterdam.
  - (g) Forwarding work: The General Conditions of FENEX (Netherlands Association for Forwarding and Logistics), hereinafter the "Dutch Forwarding Conditions" (de Nederlandse Expeditievoorwaarden), filed with the Registry of the District Court in Amsterdam, Arnhem, Breda, and Rotterdam on 1 May 2018.
  - (h) General Warehousing, storage, handling and delivery of goods within the Netherlands: The Dutch Warehousing Conditions (de Nederlandse Opslagvoorwaarden), filed with the Registry of the Court in Rotterdam on 15 November 1995.
  - (i) Work as a shipping agent or shipbroker: The General Conditions for 'Cargadoors' (Dutch Shipbrokers and Agents) 2009, filed with the Registry of the District Court in Rotterdam and with the Chamber of Commerce in Rotterdam in 2009.
  - (j) Towing contracts: for towing, assisting and providing services to floating objects such as barges, floating derricks, cranes, elevators etc.: The General Towing Conditions (de Algemene Sleepconditiën), filed with the Registry of the District Court in Amsterdam, Dordrecht and Rotterdam on 5 March 1946; for towing, assisting and providing services to ships intended to sail regularly to sea: the Netherlands Towing Service Conditions 1951 (de Nederlandse Sleepdienst Conditiën 1951), filed with the Registry of the District Court in Amsterdam and Rotterdam on 15 November 1951; for towing, attending on and providing services, other than the provision of help, to all other ships: the Towing Conditions 1965 (de Sleepconditiën 1965), filed with the Registry of the District Court in Amsterdam and Rotterdam on 15 December 1965.
2. If the agreement calls for different types of services to be rendered consecutively, each type of service shall be treated as being independent from the other and shall be subject to the sectoral terms relating to that specific type of service. Where two or more sets of sectoral terms apply to one type of service, the sectoral terms which are mentioned first in the above listing shall prevail unless the parties have agreed otherwise.
3. The Company may in its sole discretion refer any claim or dispute arising out of or in connection with the Agreement to arbitration, which dispute shall be settled in accordance with the Arbitration Rules of the Netherlands Arbitration Institute ("NAI"). The arbitral tribunal shall be composed of one arbitrator. The parties shall jointly nominate and mutually agree upon the arbitrator to be appointed. Should the parties fail to agree on the arbitrator to be appointed or no arbitrator has been appointed by the parties within one month of the submission of the short answer to the request for arbitration, the arbitrator shall be appointed in accordance with the Arbitration Rules of the NAI. The place of arbitration shall be Rotterdam, the Netherlands. The proceedings shall be conducted in the English language. Consolidation of the arbitral proceedings with other arbitral proceedings, as provided for in Article 1046 of the Dutch Code of Civil Procedure and Article 39 of the Arbitration Rules of the Netherlands Arbitration Institute, is excluded.

## **II. Sectoral Terms Applicable for Battal Taşımacılık ve Lojistik A.Ş.**

1. The following individual sectoral terms shall apply to Services rendered by Battal Taşımacılık ve Lojistik A.Ş. depending on the nature of the work involved: General conditions of 4458 numbered Turkish customs law and limits which shall apply to all customs and bonded warehouse related operations; General conditions of 2918 numbered Turkish road transportation law and limits which shall apply to all domestic transportations.
2. The Company may in its sole discretion refer any claim or dispute arising out of or in connection with the Agreement to arbitration, which dispute shall be settled in accordance with the Arbitration Rules of the Netherlands Arbitration Institute ("NAI"). The arbitral tribunal shall be composed of one arbitrator. The parties shall jointly nominate and mutually agree upon the arbitrator to be appointed. Should the parties fail to agree on the arbitrator to be appointed, or no arbitrator has been appointed by the parties within one month of the submission of the short answer to the request for arbitration, the arbitrator shall be appointed in accordance with the Arbitration Rules of the NAI. The place of arbitration shall be Rotterdam, the Netherlands. The proceedings shall be conducted in the English language. Consolidation of the arbitral proceedings with other arbitral proceedings, as provided for in Article 1046 of the Dutch Code of Civil Procedure and Article 39 of the Arbitration Rules of the Netherlands Arbitration Institute, is excluded.



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