

STANDARD TERMS AND CONDITIONS

1. In these Conditions:

The “**Customer**” means the owner of the goods (including any packaging, containers or equipment) to which any business conducted under these conditions relates and any other person who is or may become interested in them as well as any person at whose request or on whose behalf the Company undertakes any business, or provides advice, information or services.

The “**Company**” means IGS (IMC Global Solutions), and its affiliates to wit: IMC Company (see <http://www.imccompanies.com/companies/>).

CONDITIONS GENERALLY APPLICABLE

2. (A) These Conditions will apply with respect to services to the extent such services are provided by any legal entity included in the definition of “Company.” These Conditions shall not create any additional rights for or obligations against any legal entity other than the specific legal entity performing each particular service hereunder; in particular, the liability of each legal entity included in the definition of “Company” shall be several and not joint. Any and all activities of the Company in the course of its business including any advice, information or service provided by the Company whether for compensation or not are undertaken subject to these Conditions except that if Company issues one of the following documents with respect to any of its services, then such services shall be subject to the terms and conditions of such document and Customer hereby accept those conditions with respect to such services:

- (i) The Company’s Terms and Conditions relating to the consolidation and carriage of goods by air;
- (ii) The Company’s House Bill of Lading relating to the consolidation and carriage of goods by sea;
- (iii) The Company’s Warehouse Receipt relating to the consolidation and storage of goods in a warehouse;
- (iv) The Company’s [United States/North American] Bill of Lading relating to the consolidation and carriage of goods by road or rail;
- (v) The Company’s Customs Broker Terms and Documents;
- (vi) The Company’s Credit Terms and Conditions for International Services

(See Mode-Specific documents, Terms and Conditions.)

THE CUSTOMER’S ATTENTION IS PARTICULARLY DRAWN TO THE CLAUSES HEREOF WHICH EXCLUDE OR LIMIT THE COMPANY’S LIABILITY, THOSE WHICH REQUIRE THE CUSTOMER TO INDEMNIFY THE COMPANY IN CERTAIN CIRCUMSTANCES AND TO THE CLAUSE GRANTING THE COMPANY A LIEN IN THE GOODS. NOTICE IS HEREBY GIVEN THAT NO PERSON, OTHER THAN AN OFFICER OR DIRECTOR OF THE COMPANY, HAS OR WILL BE GIVEN AUTHORITY TO AGREE TO ANY VARIATION, CANCELLATION, OR WAIVER OF THESE TERMS AND CONDITIONS.

(B) If any law is compulsorily applicable to any business undertaken, these Conditions shall, as regards such business, be read as subject to such law and nothing in these Conditions shall be construed as a surrender by the Company of any of its rights, immunities, or protections, or as an increase of any of its responsibilities or liabilities, under such law. If any part of these Conditions be unenforceable or

mandatorily superseded by such law to any extent, such part shall be overridden to that extent and no further.

(C) Company may, in its sole discretion, amend these terms and conditions from time to time in which case the modified terms and conditions will take effect as of the effective date therein. If the Customer wishes to contract with the Company otherwise, special arrangements can be made and revised prices quoted but such arrangements shall become applicable only if made in a writing that expressly disclaims application of these Conditions which writing is signed by an officer of the Company. Any attempt by Customer to otherwise alter, amend or modify these Conditions shall be null and void, unless it is in writing and signed by an officer of the Company.

3. (A) The Company may act as a principal or as the agent of the Customer. The Company shall be entitled to arrange all or any of the carriage, storing, packing or handling of the goods, or any other services required by the Customer, as an agent on behalf of the Customer, or to provide all or any part of such services as principal contractor.

(B) When acting as an agent, the Company acts solely on behalf of the Customer in engaging the services of third parties on the usual terms and conditions on which the third parties offer services for the carriage, storage, packing, consolidation or handling of any goods, or for any other service in relation to them, thereby establishing a direct contract between the Customer and the provider, whether or not the Customer is identified in such contract. The Customer acknowledges that it shall be bound by the terms and conditions of the transportation or other agreements of the third parties into whose custody the goods may be entrusted. The Company does not make or purport to make any contract with the Customer when acting as an agent for the carriage, storage, packing or handling of any goods other than one subject solely to these Conditions.

(C) To the extent that the Company itself by its own servants performs all or any part of the carriage, storage, packing or handling of the goods, or any other service required by the Customer, the Company shall be deemed to provide such services, or the part so performed, as principal contractor. When the Company issues any of the documents listed in 2(A)(i)-(iv), Company shall also be deemed to provide such services as principal contractor.

(D) The charging or agreement to charge a fixed price for any service shall not of itself determine whether the Company arranges such service as agent or provides the same as principal contractor. Nothing herein shall be construed as creating a legal partnership or joint venture between any parties.

4. The Customer warrants that it is either the owner or the authorized agent of the owner and that it is accepting these conditions not only for itself but also as agent for and on behalf of the owner and any other person who is or may become interested in the goods or services.

5. In exchange for, and as a material condition of, receiving the benefits of the services provided by Company that are covered by these Conditions, the owner, consignor and consignee accept these Conditions, and the conditions contained in the documents listed in 2(A)(i)-(iv), for themselves and their agents and for any parties on whose behalf they or their agents may act. In particular, but without prejudice to the generality of this clause, they accept that the Company shall have the right to enforce against them jointly and severally any liability of the Customer under these Conditions or to recover from all or any of them any sums to be paid by the Customer which upon proper demand have not been paid.

6. The Customer warrants that the description and particulars, including but not limited to their marks, number, weight, volume and quantity, of any goods furnished by or on behalf of the Customer are full and accurate. Customer acknowledges that it is required to review all documents and declarations prepared and filed with government agencies and third parties, including, but not limited to, U.S. Customs and

Border Protection, and will immediately advise the Company of any errors, discrepancies, incorrect statements, or omissions on any declaration filed on Customers' behalf. In preparing and submitting customs entries, export declarations, applications, documentation and export data to the United States or a third party, the Company relies on the correctness of all documentation whether in written or electronic format and all information furnished by Customer. Customer shall indemnify and hold the Company harmless from any and all claims, liabilities or losses, suffered by reason of the Customer's failure to disclose information or any incorrect or false statement by the Customer upon which the Company reasonably relied. The Customer agrees that the Customer has an affirmative non-delegable duty to disclose any and all information required to import, export or enter the goods.

7. Except where the Company has accepted instructions in respect of the preparation, packing, packaging, stowage, labeling or marking of the goods by Company, the Customer warrants that all goods have been properly and sufficiently prepared, packed, packaged, stowed and labeled and/or marked for normal handling, including any special handling requested by the Customer if applicable, and that the goods have been properly loaded in a suitable transport unit in suitable condition to carry the goods. Except where the Company has accepted special instructions in writing, and has issued written acknowledgement of its acceptance thereof, the Customer warrants that the goods do not require insulated, refrigerated, ventilated or other special storage or handling not disclosed to the Company at or before the time of Customer's request for services with respect to such goods. Customer further warrants that the goods do not require any special licenses, permits or authorizations in order to store, handle, possess or otherwise provide services related to the goods.

8. Estimates and quotations as to fees, rates of duty, freight charges, insurance premiums or other charges given by the Company to the Customer are for informational purposes only and are subject to change without notice.

9. (A) Company makes no express or implied warranties in connection with its services, except as specifically set forth herein.

(B) The Company shall not be obliged to arrange for the goods to be carried, stored or handled separately from other goods, except under special arrangements previously made, and acknowledged, in writing.

(C) Customer agrees that in connection with any and all services performed by the Company, the Company shall only be liable for its negligent acts, which are the direct and proximate cause of any injury to Customer, including loss or damage to Customer's goods, and the Company shall in no event be liable for the acts of third parties. If Company is held liable for cargo loss and damage but has not issued an air waybill, bill of lading or other document addressing such liability, then Customer acknowledges that Company is not acting as a carrier and Company's liability for such cargo loss or damage will be limited to the lesser of: (1) the amounts set forth in sub-clause 28(A); or (2) the actual value of the goods. In no event will liability under this provision exceed \$10,000 per occurrence.

10. (A) All insurance procured by the Company is subject to the usual exceptions and conditions of the policies of the insurance company or underwriters taking the risk. In all cases, Customer shall pay all premiums and costs in connection with procuring insurance. Furthermore, the Company shall not be under any obligation to procure separate insurance on each consignment but may declare it on any open or general policy held by the Company.

(B) Insofar as the Company has received written instructions to arrange insurance, the Company acts solely as agent for the Customer using its best endeavors to arrange such insurance.

11. (A) No date for completion is fixed and in particular but without prejudice to the generality of the foregoing the Company accepts no responsibility for departure or arrival dates of goods except under special arrangements previously made in writing.

(B) If at any stage in any transaction the Company should reasonably consider that there is good reason in the Customer's interests to depart from any of the Customer's instructions, the Company shall be permitted to do so and shall not incur any additional liability in consequence of the doing.

12. If at any time, events or circumstances come to the attention of the Company which in the opinion of the Company make it wholly or in part impossible for the Company to perform for any reason, the Company may use any other method available at its discretion and all charges and/or expenses incurred in using such method shall be for the Customer's account. Company shall endeavor where practical to inform the Customer of such events or circumstances and seek further instructions.

13. Except under special arrangements previously agreed to in writing by the Company, Customer will not tender or attempt to tender any waste or any consignment containing any noxious, dangerous, hazardous or flammable or explosive goods or any goods likely to cause damage. The expression "goods likely to cause damage" includes goods likely to harbor or encourage vermin or other pests and goods which are liable to taint or affect other goods. Any specially arranged consignment must be packaged, tendered and labeled in accordance with the hazardous material regulations of the U.S. Department of Transportation, the International Marine Dangerous Goods ("IMDG") Code, applicable Dangerous Goods Regulations ("DGR") or any other applicable governmental or industry rules and regulations, and such consignments must be identified as such at the time of Customer's request for services and again at the time of tender. Should any Customer deliver any such goods to the Company or cause the Company to handle or deal with any such goods, otherwise than under special arrangements previously agreed to in writing by Company, the Customer shall be liable for all loss or damage whatsoever caused by or to or in connection with the goods however arising and hereby indemnifies the Company against all penalties, claims, damages, costs and expenses whatsoever arising in connection therewith WHETHER AS A RESULT OF COMPANY'S NEGLIGENCE or not and the goods may be destroyed or otherwise dealt with at the sole discretion of the Company or any other person in whose custody they may be at the relevant time. If such goods are accepted under arrangements previously agreed to in writing, they may nevertheless be so destroyed or otherwise dealt with on account of risk to other goods, property, life or health though the Company will where reasonably practicable contact the Customer.

14. Except under special arrangement previously agreed to in writing by the Company, Customer will not tender or attempt to tender any consignment containing bullion, coin, precious stones, jewelry, valuables, antiques, pictures, human remains, livestock or plants. Should Customer nevertheless deliver any such goods to the Company or cause the Company to handle or deal with any such goods, otherwise than under special arrangement previously agreed to in writing by the Company, the Company shall be under no liability whatsoever to the Customer for or in connection with such goods WHETHER AS A RESULT OF COMPANY'S NEGLIGENCE or not.

15. Except under special arrangements previously agreed to in writing by the Company, Customer will not tender or attempt to tender any consignment containing any goods subject to the Arms Export Control Act, as amended (Title 22 United States Code Sec. 2778), successor acts and regulations issued thereunder (the "arms Export Acts"). Should any Customer nevertheless deliver any such goods to the Company or cause the company to handle or deal or obtain shipping for any such goods, otherwise than under special arrangement previously agreed to in writing by the Company, the Company shall not be liable to the Customer for any liability, loss, damage or costs arising from its failure to comply with any requirement of the Arms Export Acts, WHETHER SUCH FAILURE SHALL BE DUE TO THE COMPANY'S NEGLIGENCE OR OTHERWISE, and the Customer hereby indemnifies and holds

harmless the Company against all liability, loss, damage or costs arising from the Company's failure to comply with any requirement of the Arms Export Acts, WHETHER SUCH FAILURE SHALL BE DUE TO THE COMPANY'S NEGLIGENCE OR OTHERWISE.

16. (A) If delivery of any goods is not taken by the Customer at the time and place when and where the Company is entitled to call upon such person to take delivery thereof, the Company shall be entitled to store the goods and issue a warehouse receipt for those goods, or arrange for such storage with a third party on the terms and conditions otherwise applicable to storage performed by such third party. The Company shall also be entitled to issue a warehouse receipt and perform or arrange for storage when, at the time the goods are received, the Company is unable to issue an air waybill for air carriage or a bill of lading for sea carriage due to the lack of shipping instructions or for any other reason. The cost of storage of the goods and of transportation to and from the warehouse, if provided by, paid for or payable by the Company or any agent or subcontractor of the Company shall be paid by the Customer to the Company.

(B) After notifying the person on whose account the goods are stored, the Company may require payment of any charges and removal of the goods from the storage 30 or more days after the notice is given, or within such shorter time as permitted by applicable law if the goods are about to deteriorate in value or are a hazard to other property or persons.

17. Compensation paid by Customer to Company shall include the rates and charges of all carriers and third parties used by Company in performing services with respect to the goods. All such amounts are due to Company in advance unless Company determines, in its sole discretion, to grant Customer credit. Granting of credit as to a particular transaction shall not be considered a waiver of this provision. When goods are accepted or dealt with upon instructions to collect freight, duties, charges or other expenses from the consignee or any other person the Customer shall remain responsible for the same if they are not paid by such consignee or other person immediately when due. Company shall have no liability if any bank or consignee refuses to pay for the shipment or if payment is collected via the wrong method.

18. (A) All sums due to the Company are payable on demand by invoice or otherwise. Payment shall be made without deduction and shall not be withheld or deferred on account of any claim, counterclaim or set-off.

(B) The Company shall be entitled to continuously compounded interest, calculated at the lesser of the maximum amount allowed by applicable law, or 4 percent above the prime interest rate as published in the Wall Street Journal on all amounts overdue.

19. (A) The Company shall have a general lien on all goods and documents relating to goods with respect to which services have been provided or arranged for all monies owed by Customer to Company. The Company shall also have a lien on goods covered by a warehouse receipt for all sums due at any time from the Customer.

(B) The Company shall be entitled, at the expense of the Customer, to sell the goods covered by a warehouse receipt, bill of lading or air waybill (whether such receipt, bill of lading or waybill is issued by Company or a third-party service provider) at a public or private sale after giving notice complying with applicable law to all persons known to the Company to claim interest in the goods.

(C) The Company shall give appropriate credit to the Customer for any balance arising out of the proceeds of sale of the goods after deduction of the costs of sale and any accrued charges.

20. (A) The Customer hereby indemnifies and holds harmless the Company against all direct and indirect claims, fines, penalties, liability, loss, damage, costs, and expenses whatsoever (including defense costs

and attorneys' fees) arising (i) from the Company acting in accordance with the Customer's instructions, or (ii) from any breach by the Customer of any warranty or undertaking contained in these conditions or (iii) from the negligence or other wrongful acts or omissions of the Customer.

(B) Without derogation from sub-clause (A) above, the Customer hereby indemnifies and holds harmless the Company against any liability assumed or incurred by the Company (including defense costs and attorneys' fees) when by reason of carrying out the instructions of Customer the Company has become liable or may become liable to any other party, including but not limited to those arising from the importation or exportation of merchandise and/or any conduct or omission of the Customer.

21. In preparing and submitting customs entries, export declarations, applications, documentation and/or export data to the United States and/or a third party, the Company relies on the correctness of all documentation whether in written or electronic format and all information furnished by Customer. The Customer shall be liable for all duties, taxes, imposts, levies, deposits and outlays of whatsoever nature levied by any authority in relation to the goods and for all payments, fines, costs, expenses, loss or damage whatsoever incurred or sustained by the Company in connection therewith. Customer shall indemnify and hold the Company harmless from any and all claims asserted and/or liability or losses (including defense costs and attorneys' fees), suffered by reason of the Customer's failure to disclose information or any incorrect or false statement by the Customer upon which the Company reasonably relied. The Customer agrees that it has an affirmative non-delegable duty to disclose any and all information required to import, export or enter the goods.

22. (A) The Customer undertakes that no claim shall be made against any director, servant or employee of the Company which imposes upon them any liability in connection with any services which are the subject of these Conditions and if any such claim should nevertheless be made the Customer hereby indemnifies and holds harmless the Company against all consequences thereof (including defense costs and attorneys' fees).

(B) The Customer shall not seek to impose upon any agent, director, servant or employee of the Company any liability greater than that accepted by the Customer under these Conditions, and if, in breach of this undertaking, Customer should seek to do so, Customer shall indemnify the Company for any resulting liability or expense (including defense costs and attorneys' fees) which the Company may hereby incur to such person, firm or company. All claims in connection with the act of a third-party carrier or service provider shall be brought solely against such party and/or its agents; in connection with any such claim, the Company shall reasonably cooperate with the Customer, which shall be liable for any charges or costs incurred by the Company.

(C) The Customer shall save harmless and keep the Company indemnified from and against all claims, costs (including defense costs and attorneys' fees) and demands whatsoever and by whomsoever made or preferred in excess of the liability of the Company under the terms of these Conditions and without prejudice to the generality of this clause this indemnity shall cover all claims costs (including defense costs and attorneys' fees) and demands arising from or in connection with the negligence or breach of duty of the Company, its servants, sub-contractors or agents.

23. The Customer hereby indemnifies and holds harmless the Company in respect of any claim of a general average nature which may be made on it and shall provide such security as may be required by the Company in this connection. The Customer also agrees to pay defense costs and attorneys' fees if Customer wishes to challenge the general average claim.

24. (A) Advice and information, in whatever form it may be given, is provided by the Company for the Customer only and Customer hereby indemnifies and holds harmless the Company against all liability,

claims, loss, damage, costs or expenses (including defense costs and attorneys' fees) arising out of the reliance by any other person upon such advice or information. Except under special arrangements previously agreed in writing by the Company, advice and information which is not related to specific instructions accepted by the Company is provided gratuitously and without liability.

(B) Customer acknowledges that it has the sole responsibility for maintaining records required of it by law or for use in its business, and Company shall have no obligations related thereto. Company shall be required to keep only those records required of it by applicable laws or regulations and shall have no liability as to Customer in the event that Company fails to comply with such laws or regulations.

25. The Company has complete freedom in choosing the means, route and procedure to be followed in providing or arranging the handling, transportation and delivery of the goods. The Company shall also be entitled to engage any other person, firm or company to perform any of its obligations. Selection of a third party by the Company shall not be construed as a warranty or representation by the Company that such third party will render services, nor does the Company assume responsibility or liability for the actions and/or inactions of such third parties, nor for any liability due to delay, loss or damage which occurs while goods are in the custody or control of any such third party or agent thereof.

26. The defenses and limits of liability provided for in these Conditions shall apply in any action against the Company whatsoever arising, whether the action be founded in contract, tort or otherwise.

27. The Company shall be relieved of liability for any loss or damage if and to the extent that such loss or damage was caused by:

(A) The act or omission of the Customer, or person other than the Company acting on behalf of the Customer, or of the person from whom the Company took the goods in charge.

(B) Insufficiency of the packing and/or marks and/or labels and/or numbers (save where the Company had agreed in advance and in writing to carry out the packing, application or marks or labeling or numbering of the goods).

(C) Handling, loading, stowage, or unloading of the goods by the Customer or any person acting on behalf of the Customer.

(D) Inherent vice of the goods.

(E) Strike, lock out, stoppage or restraint of labor, the consequences of which the Company was unable to avoid by the exercise of reasonable diligence.

(F) Any cause or event which the Company was unable to avoid and the consequences whereof the Company was unable to prevent by the exercise of reasonable diligence.

28. Subject to clause 2 above, sub-clause (E) below and the provisions of 19 C.F.R. 111.44:

(A) The Company's liability howsoever arising and notwithstanding that the cause of loss or damage be unexplained shall not exceed:

(i) In the case of claims for loss or damages to goods whichever shall be the lower of:

(a) The value of any goods lost or damaged, or (b) The sum of \$50.00 per consignment.

(ii) In the case of all other claims (including claims relating to customs business) whichever shall be the lower of:

(a) The value of the goods the subject of the relevant transaction between the Company and its Customer, or (b) The sum of \$50.00 per transaction.

For the purpose of paragraphs (i) and (ii) above the value of the goods shall be their value at the place and time they are delivered or should have been so delivered to the consignee in accordance with the relevant transaction between the Company and the Customer.

(B) The Company's liability for loss or damage as a result of failure to deliver or arrange delivery of goods in a reasonable time or where there is a special arrangement under a clause 11(A) to adhere to agreed departure and arrival dates shall not in any circumstances whatever exceed a sum equal to twice the amount of a Company's charges in respect of the relevant transaction.

(C) IN NO EVENT WILL COMPANY BE LIABLE FOR ANY CONSEQUENTIAL, SPECIAL, INDIRECT OR PUNITIVE DAMAGES, REGARDLESS OF WHETHER COMPANY WAS AWARE OF THE POSSIBILITY OF SUCH DAMAGES.

(D) Third parties, to whom goods are entrusted, may limit liability for loss or damage, and the Customer agrees that it is bound by such limitations. The Company will request that such third parties accept liability up to an excess declared value only upon specific written instructions from the Customer that are received by the Company at least seventy-two (72) hours prior to scheduled pick-up, and then, only upon written acknowledgment by Company of its agreement to undertake to arrange for such excess declared value. The Customer agrees that it will be solely responsible for the charges associated therewith, and that failure to pay such charges may result in lack of such coverage. In the absence of written instructions or the refusal of the third party to agree to a higher declared value, at the Company's discretion, the goods may be tendered to the third party subject to the otherwise applicable limitation of liability without any additional liability on the Company.

(E) By special arrangement previously agreed in writing signed by a Director or Officer the company may accept liability in excess of the limits set out in sub-clauses (A) to (C) above upon the Customer agreeing to pay the Company's additional charges for accepting such increased liability. Details of the Company's additional charges will be provided upon request.

29. The Customer agrees to make any claim against the Company in writing and without delay; in the event of delay in presentation of a claim causing prejudice to the Company, the Company shall be relieved of all and any liability in respect of such claim and in particular, but without prejudice to the generality of the foregoing, the Company shall be relieved of all and any liability in respect of any claim arising out of or in connection with:

(i) The carriage of goods by air if such claim is not presented:

(a) In the case of visible damage to the goods immediately after discovery of the damage and at the latest within 10 days from the receipt of the goods;

(b) In the case of other damage to the goods within 10 days from the receipt of the goods;

(c) In the case of delay within 17 days of date the goods are placed at the disposal of the Customer; and

(d) In the case of loss (including non-delivery) of the goods within 115 days from the date of issue of the Air Waybill;

(ii) The carriage of goods by sea if such claim is not presented before or at the time of the removal of the goods into the custody of the person entitled to delivery thereof under the Bill of Lading, or if the Loss or damage is not then apparent, within 3 consecutive days thereafter, such removal shall be prime facie evidence of the delivery in good condition.

(iii) The carriage of goods by road or rail if such claim is not presented:

(a) In the case of damage to goods, where the Company is determined by a court of appropriate jurisdiction in a final non-appealable order or a binding arbitration decision to be subject to 49 U.S.C. § 14706, within nine months from the delivery date,

(b) In the case of loss (including non-delivery) of the goods, where the Company is determined by a court of appropriate jurisdiction in a final non-appealable order or a binding arbitration decision to be subject to 49 U.S.C. § 14706, within nine months from the scheduled delivery date.

(iv) All other services subject to these Conditions if such claim is not presented in writing and received by the Company within sixty (60) days of the event giving rise to claim.

30. The Company shall be discharged of all liability whatsoever howsoever arising in respect of any service provided for the Customer or which the Company has agreed to provide unless suit be brought and written notice thereof given to the Company within one (1) year from the date of any event or occurrence alleged to give rise to the underlying claim or any cause of action against the Company.

CONDITIONS ONLY APPLICABLE TO THE COMPANY AS FORWARDING AGENT

31. Clauses 32 to 37 below apply only where and to the extent that the Company in accordance with clause 2 acts as agent on behalf of the Customer.

32. The Company shall be entitled and the Customer hereby expressly authorizes the Company, except insofar as has been otherwise specifically agreed between the Company and the Customer, to enter into contracts on behalf of the Customer:

(A) For the carriage of goods by any route or means or person;

(B) For the storage, packing, transshipping, transloading, loading, unloading or handling of the goods by any person at any place whether on shore or afloat and for any length of time;

(C) For the carriage or storage of goods in or on transport unit load devices or with other goods of whatever nature; and

(D) To do such acts as may in the opinion of the Company be reasonably necessary in the performance of its obligations in the interests of the Customer.

33. The Company shall be entitled to perform any of its obligations herein by itself or by its parent, subsidiary or associated companies or by any other person, firm or company. In the absence of any written agreement between the Company and Customer to the contrary any contract to which these Conditions apply is made by the Company on its own behalf and also as agent for and on behalf of any such parent, subsidiary or associated company, and any such company shall be entitled to the benefit of these Conditions.

34. Where there is a choice of rates according to the extent or degree of the liability assumed by carriers, warehousemen or others, unless previously agreed in writing between the Company and the Customer, no declaration of excess value where optional will be made except under special arrangements subject to the Conditions set forth above, nor shall the Company be under any liability to the Customer by reason of having entered into any contract on behalf of the Customer whereby the extent or degree of the liability assumed by a carrier, warehouseman or other party is in any respect excluded or limited.

35. The Company shall be entitled to retain and be paid all brokerages, commissions, allowances and other remunerations customarily retained by or paid to forwarding agents.

36. (A) Any instructions relating to the delivery or release of goods in specified circumstances only, such as (but without prejudice to the generality of this clause) against surrender of a particular document, are accepted by the Company only as an agent for the Customer, where third parties are engaged to effect compliance with the instructions.

(B) In any event, the Company's liability in respect of the performance or arranging the performance of such instructions shall not exceed that provided for in these Conditions in respect of loss of or damaged goods.

37. The Company shall not be liable to the Customer for loss or damage arising from any non-compliance or miscompliance with the Customer's instructions or for any failure to perform whether wholly or in part its obligations (whether such obligations arise in contract or otherwise) unless the same is due to the negligence of the Company or its own servants. The Company shall not be liable to the Customer for loss or damage to the goods unless the same is due to the negligence of the Company, and in any event, such liability will be limited in accordance with the amounts set forth in clause 28.

JURISDICTION AND APPLICABLE LAW

38. These Conditions, and any act or contract to which they apply, shall be governed by applicable Federal law of the United States and by the law of the State of Tennessee and any dispute arising out of any such act or contract shall be within the exclusive jurisdiction of the federal or state courts serving Memphis, Tennessee without giving consideration to choice of law principles thereof. Customer and Company hereby irrevocably: consent to the jurisdiction of those courts; agree that any action relating to the services performed by Company shall only be brought in said courts; consent to the exercise of in personam jurisdiction by said courts over them; and further agree that any action to enforce a judgment may be instituted in any jurisdiction.