

General Terms of Business 2018 (DSAB)

For members of the Danish Shipbrokers' Association

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This is an English translation of the Danish version of *Almindelige Forretningsbestemmelser 2018 (DSAB) for medlemmer af Danmarks Skibsmæglerforening*. In case of discrepancy, the original Danish version shall apply.

§ 1. Scope and validity

(1) Unless otherwise explicitly agreed, these terms shall apply to any services performed by a member of the Danish Shipbrokers' Association, hereafter referred to as the 'member'. The member's contracting party is hereafter referred to as the 'orderer'.

(2) Only members of the Danish Shipbrokers' Association shall have the right to use these terms. These terms, whether they are used amended or unamended in form and substance in the specific agreement, shall not apply and shall be deemed null and void, unless the member is a validly registered member of the Danish Shipbrokers' Association.

(3) All offers conveyed by the member are non-binding, unless the member has explicitly stated a fixed time for acceptance in the offer.

§ 2. Agent

Unless otherwise explicitly agreed, the member shall perform the services assigned to him as the orderer's agent or as an intermediary. The member shall not be liable for any breach of the contract conveyed by the member.

§ 3. Performance of the services

(1) The member shall perform his services with due care and shall safeguard the orderer's interests.

(2) The orderer knows that the member for a limited remuneration assumes significant risks, which, without any regulation, would be disproportionate to the remuneration. The orderer accordingly understands and accepts that the member shall perform his services under the protection provided for by these terms.

§ 4. Instructions

The orderer shall provide the member with all due instructions for the performance of the services. The orderer accepts that the member transacts at the risk and expense of the orderer in any and all matters that the member deems necessary for the performance of the services, including but not limited to where the member in his own judgment has not been given adequate instructions or lacks sufficient time to obtain further instructions.

§ 5. Terms of payment

(1) Unless otherwise agreed, the member's remuneration and other claims against the orderer fall due upon receipt of the invoice and interest shall accrue from the due date at the rate of 2% for each month or a part of a month.

(2) The member is entitled to demand payment in advance and may at any time set off or demand instant payment of, including but not limited to disbursements, collection costs and all other costs related to the performance of the services.

(3) The member is entitled to set off his claims against the orderer in freight and any other amounts that the member has collected or holds on behalf of the orderer. The orderer has no right of set-off whatsoever against the member.

(4) As security for any claim the member has against the orderer, the member has a lien and a right of retention in the ship, goods, cash and equipment that is within the member's control, and in bills of lading, storage receipts and other documents that represent goods. The member has a similar right in respect of surrogates and compensation paid by insurers, carriers or others.

(5) If the member's overdue claims are not paid, the member may sell, in accordance with above provisions and in a reassuring manner, any part of goods that are in the custody of the member as may be required to recover the member's aggregate claims.

(6) Against any amount that the member holds possession to on behalf of the orderer, the member shall be entitled to set off his own claims against the orderer, including, without limitation, disbursements and costs.

(7) If the member does not receive incoming freight or other payments on behalf of the orderer, or if they are not sufficient to settle the member's claims

against the orderer, the member is entitled to claim payment from the orderer of such claims prior to the vessel's departure. The member may refuse to provide outward clearance until the orderer has paid or provided adequate security.

(8) Should the member extend credit for payment of disbursements, the member may charge a late payment fee of 2% for each month or a part of a month accruing from the ship's departure date.

(9) The orderer shall pay the price charged by the member, unless the orderer proves that such price is manifestly unreasonable. If the orderer does not immediately object to the price charged by the member, the member's price shall be considered reasonable.

(10) Any service that exceeds the scope expressly agreed or implied between the parties at the time of contract shall be considered an extra service for which the member is entitled to separate remuneration in accordance with Section 5(9).

§ 6. Liability as agent

The member shall only be liable towards the orderer or other parties for damage or loss caused intentionally or by gross negligence.

§ 7. Liability for customs claims or other claims from authorities

(1) Customs claims and other claims from authorities, which arise during the performance of the services, shall solely be for the orderer's account. In the event that a member is charged with customs claims, tax claims, fines or other claims from authorities, which arise from the performance of the services for the orderer, the orderer shall pay such costs.

(2) In the event that the member and/or the orderer is charged with such claims, fines, etc. by authorities as a result of the member's fault or negligence, the member shall only be liable towards the orderer for an amount of SDR 25.000 in accordance with the provisions in Section 11.

§ 8. Liability as carrier

(1) If the member should incur liability as carrier, such liability for any loss of or damage to the goods shall in any event – irrespective of the mode or modes of transport used – be limited in accordance with the provisions of the Danish Merchant Shipping Act to 667 SDR per package or unit of the goods or 2 SDR for each kilogram of the gross weight of the goods lost or damaged, whichever is the higher, unless prescribed otherwise by mandatory rules of law.

(2) Where a container, trailer, pallet or similar article of transport is used to consolidate the goods, each package or other unit listed in the transport document as having been loaded in such article of transport shall be deemed as one package or unit for the purpose of Section 8(1). Except as aforesaid the

goods in the article of transport shall be deemed as unit.

(3) The member's liability for any form of delay in collection, transport or delivery of the goods is limited to an amount equivalent to five (5) times the agreed remuneration for the services.

§ 9. Liability for port services and other handling of goods

If the member performs services such as stevedoring, storage or other handling of goods in port or inland, the liability of the member is limited in accordance with the provisions of Sections 8 and 11.

§ 10. Other liability

(1) The member is only liable for other damage or loss than covered by the preceding Sections, including, but not limited to, damage to other property than goods, pollution and other environmental damage, personal injury or death, etc., if it is proven that the damage or loss has been caused intentionally or through gross negligence by the member. This shall apply regardless of whether the action against the member is founded in contract or in tort.

(2) Unless the member has acted intentionally or gross negligently, the member shall not be liable for loss or destruction of cash that is in the member's custody.

(3) Unless otherwise explicitly agreed, the member does not assume any of the orderer's obligations under the rules on ISPS and dangerous goods, and the member shall not in any case be obliged to give messages or any type of notices on behalf of the orderer in accordance with these rules. If the member does provide such messages or notices, the member is not responsible for the accuracy of the information it conveys.

§ 11. Limitation of liability

(1) Notwithstanding the provisions on limitation of liability under the preceding Sections, the member's liability is always limited to, and cannot exceed, SDR 25,000 for any one event that leads to loss or damage. If more than one orderer suffers loss or damage resulting from the same event, the member's liability shall still be limited to a maximum of SDR 25,000 distributed between the orderers proportional to their claims. The limit provided for herein includes interest and all costs.

(2) The member shall in no event be liable for indirect loss and consequential loss of any kind, including but not limited to loss of time or loss due to delay, lost profits, loss of production, loss of use, demurrage, damages for detention and similar losses.

(3) The member's liability shall not be more onerous than the liability of the orderer. If the orderer has limited his liability vis-à-vis a third party, the member shall automatically have a similar right to limit his liability

correspondingly against the orderer and/or a third party.

(4) The member shall in no event be held liable for disclosure, on behalf of the orderer or other parties, of any data or information of any kind whatsoever, including, without limitation, in compliance with rules on reporting formalities for ships arriving in and/or departing from ports in EU-member states.

(5) The member shall in no event be held liable for any reduction in the functionality, breakdown, alteration, termination, damage to, intervention in (*hacking*) or lack of access to the internet or other forms of telecommunications, computer systems, hardware, software, data, microprocessor(s), integrated networks or similar computer and not computer-related devices, whether or not owned by the member, the orderer or a third party (*cyber risks*).

(6) The defences and limits of liability provided for under these provisions shall apply, and the member shall be entitled to the benefit of the these defences and limits of liability, even if loss or damage has been caused by gross negligence of the member.

§ 12. Indemnity

The orderer shall indemnify the member against any loss or damage, etc., that may be incurred by the member in relation to or in connection with the performance of the services. This includes, but is not limited to, claims for interests and costs and claims from employees, contracting parties, third parties, etc. Claims from authorities are governed by Section 7.

§ 13. Notice

If the orderer intends to hold the member liable, claim damages or exercise other remedies for breach of contract, the orderer shall give the member written notice thereof immediately after the orderer discovered, or ought to have discovered, the circumstances that gave rise to such liability or breach of contract. If the orderer does not give such notice immediately, the orderer has forfeited its right to hold the member liable or to exercise other remedies for breach.

§ 14. Time bar

Any claim for damages against the member shall be deemed time-barred 10 months from the due date of the claim, and legal proceedings shall be commenced in accordance with Section 15 within the time stipulated therein, or else the claim shall be deemed forever waived and time-barred. If the claim for damages related to the carriage of goods, the limitation period shall commence from the arrival of the vessel at the port of discharge.

§ 15. Choice of law and jurisdiction

Any dispute arising out of or in relation with these terms shall be decided by the Maritime and Commercial High Court of Copenhagen in accordance with Danish law.

§ 16. Entry into force

These terms shall apply to contracts concluded on and after 1 July 2019.