
TRADEPORT HONG KONG LIMITED
香港商貿港有限公司

STANDARD TERMS AND CONDITIONS
FOR SERVICES PROVIDED

VERSION : AUGUST 2015

These Standard Terms and Conditions (the “Standard Terms”) govern services of any kind provided by Tradeport Hong Kong Limited 香港商貿港有限公司 (“Tradeport”) and will be subject to change without prior notice, save that if there is a separate agreement signed between Tradeport and the client to which Tradeport provides services, the signed agreement shall prevail.

1. DEFINITIONS

“**Client**” shall mean any party to which Tradeport provides Services;

“**Client’s Agents**” shall mean any of the agents, employees, officers, sub-contractors or invitees of the Client (or of the Client's sub-contractors or agents);

“**Fees**” shall mean any and all Service Fees, charges and any other sums payable by the Client to Tradeport;

“**Goods**” shall mean all relevant goods (including packaging and other materials of such goods not supplied by Tradeport) of any description delivered to Tradeport for or relating to the Services;

“**Hazardous Goods**” shall mean any hazardous substance or material, hazardous waste, radioactive material or waste, medical waste, ecologically hazardous waste, or any other material or substance whose importation, exportation, transportation, storage, handling or disposal are regulated, restricted or controlled by the applicable laws of the relevant jurisdiction;

“**Interest Rate**” means the rate equivalent to three (3) percent above the rate per annum from time to time announced by The Hong Kong and Shanghai Banking Corporation Limited to be its prime lending rate for Hong Kong Dollars;

“**Services**” means any of the services or activities provided by Tradeport subject to space availability;

“**Service Fees**” shall mean the fees payable by the Client to Tradeport for the Services;

“**Tradeport’s Agents**” shall mean any agents, employees, officers, sub-contractors or invitees of Tradeport (or of Tradeport's sub-contractors or agents).

2. FEES AND PAYMENT

2.1 Tradeport shall invoice the Client for the Fees on a monthly basis. Unless otherwise agreed between the Parties, all of Tradeport’s invoices shall become due and payable on the thirtieth (30th) day after presentation of the relevant invoices. All overdue sums shall bear interest from the due date until payment in full at the Interest Rate.

2.2 All Fees shall be paid by the Client to Tradeport: (a) free of any restriction or condition; and (b) free and clear of and without any deduction or withholding on account of any

taxes (including without limitation any value added tax, service tax or any similar taxes) or by way of set-off, counterclaim or otherwise.

3. LIMITATION OF LIABILITIES

- 3.1 The Client acknowledges that Tradeport relies upon and would not provide the Services to the Client without the exclusion and limitation of liabilities set out in the Standard Terms.
- 3.2 Except where expressly stated in the Standard Terms, Tradeport shall not be liable to the Client for any losses, damages, costs (including legal costs) and expenses arising from, occasioned by or connected with any loss, damage, mis-delivery or misdirection of Goods or any other properties, or delay, failure or other defaults in performing the Services.
- 3.3 Subject to any applicable laws, Tradeport shall only be liable to the Client for the type of loss or damage set out below attributed solely and exclusively to the wilful negligence or default of Tradeport or Tradeport's Agents, and subject to the financial limits stated:
- 3.3.1 physical loss of or damage to or mis-delivery of the Goods, but not exceeding the least of: (a) the value of the Goods, or (b) the reasonable cost of repair in the case of physical damage, or (c) US\$20 per kg of the Goods lost, damaged or mis-delivered;
 - 3.3.2 physical loss of or damage to property (whether such property belongs to the Client or any third party) other than the Goods, but not exceeding the least of: (a) the value of the property, or (b) the reasonable cost of repair in the case of physical damage, or (c) US\$1,000 per event or events arising from a common cause;
 - 3.3.3 delay in the delivery of the Goods, but not exceeding the least of: (a) actual and direct loss or damage suffered by the Client; or (b) the Service Fees payable by the Client relating to the Goods which have been delayed.
- 3.4 Notwithstanding and without prejudice to any other provisions in the Standard Terms, Tradeport shall not be liable to the Client for (a) any and all amounts of losses, damages, costs (including legal costs) and expenses resulting from or occasioned by any event or events arising from a common cause, which in aggregate exceed US\$5,000, and which but for this clause would be payable by Tradeport under or in connection with the Standard Terms; (b) any loss (due to theft or otherwise) or damage to the Goods which is within the permitted loss or damage limits agreed between the parties under separate agreement, if any.

- 3.5 Except where specifically prohibited by applicable laws, Tradeport shall not be liable for special, incidental, consequential or exemplary loss or damage of any kind or nature (including any loss of profits, loss of goodwill, loss of opportunity or claim by any third party), regardless of whether such loss or damage was reasonably foreseeable, arises in tort or otherwise, or whether Tradeport was actually told of the possibility of such loss or damage.
- 3.6 The Client shall forthwith serve a written notice on Tradeport in relation to any claim or prospective claim by it as follows:
- 3.6.1 in the case of damage to the Goods during transit, within fourteen (14) days after the end of the transit;
 - 3.6.2 in the case of delay in delivery, non-delivery or mis-delivery, within fourteen (14) days of the date when the Goods should have been delivered; and
 - 3.6.3 in any other case within fourteen (14) days after the event or circumstances giving rise to such claim.

The written notice shall provide sufficient details of the claim (including the event or circumstances giving rise to such claim, description of the Goods loss or damaged, the costs incurred by the Client and the weight of the Goods). The Client shall thereafter provide any other information relating to the claim which is reasonably required by Tradeport. The Client's failure to give notice strictly in accordance with this clause shall completely extinguish the claim which the Client has or may have against Tradeport for all purposes whatsoever.

4. **INDEMNIFICATION**

- 4.1 The Client shall indemnify, defend and hold Tradeport (and Tradeport's Agents) harmless from and against any and all liabilities, damages, fines, penalties, claims, obligations, causes of action, interest, costs (including legal costs on a full indemnity basis) and expenses, arising from or connected with:
- 4.1.1 any claims, enforcement actions, fines, or costs which are the result of Client's (or the Client's Agents') controlled actions, or recalls or retrievals of the Goods;
 - 4.1.2 any product liabilities relating to the Goods;
 - 4.1.3 action, negligence or default of the Client (or the Client's Agents);
 - 4.1.4 violations by the Client (or the Client's Agents) of any applicable laws including those relating to the protection of the environment or public health;
 - 4.1.5 the fraudulent or criminal act of the Client (or the Client's Agents); or
 - 4.1.6 any claim by any third party relating to the performance of the Services (excepting any claims arising solely and exclusively from the wilful neglect or default of Tradeport or Tradeport's Agents).

4.2 If either party seeks indemnification hereunder (the “Indemnified party”) from the other party (the “Indemnifying party”) with respect to a third party claim, the Indemnified party will notify the Indemnifying party as promptly as practicable and give the Indemnifying party an opportunity to defend the claim. The Indemnified party will extend reasonable cooperation in connection with such defence. The Indemnifying party will be subrogated to all rights of the Indemnified party against any third party with respect to any claim for which indemnity was paid.

5. **TERMINATION**

5.1 Subject to the notice periods contained in this clause, either party may give a termination notice specifying whether that party is terminating the Services.

5.2 Without prejudice to any other remedies available, Tradeport shall have the right at any time to terminate the Services, or any part hereof, forthwith by written notice to the Client if:

5.2.1 the Client fails or neglects to make payment for any Fees within sixty (60) days after the relevant due date;

5.2.2 the Client fails to perform any material obligation to be performed by it hereunder within fourteen (14) days after written notice from Tradeport that time for such performance has passed or, if no such time is prescribed, within thirty (30) days after written notice from Tradeport;

5.2.3 the Client becomes insolvent or unable to pay its debts as they become due;

5.2.4 a receiver, administrator, manager or liquidator (or equivalent in another jurisdiction) is appointed for the Client’s assets;

5.2.5 if Tradeport has reasonable ground to believe that the Client has ceased to trade (either in whole, or as to any part or division relevant to the Services).

5.3 Either party may terminate the Services by giving not less than ninety (90) days’ prior written notice to the other party.

5.4 Upon termination of the Services for any reason whatsoever, the Client shall forthwith:

5.4.1 deliver to Tradeport (or destroy at the direction of Tradeport) all documents and all media or items (or copies thereof) containing any confidential information supplied by Tradeport to the Client; and

5.4.2 pay all Fees due to Tradeport (including all Fees for storage, insurance and transportation of the Goods after the termination); and

5.4.3 accept delivery or re-delivery of all Goods at the places where such Goods are then located, and in any case within thirty (30) days of the termination, failing which Tradeport shall be entitled to dispose of all Goods (in any manner that Tradeport deems fit) and recover from the Client the full costs of goods disposal including the storage, insurances, transportation of goods until disposal. Tradeport shall not be under any liability whatsoever relating

to such disposal, including failure to sell the Goods at the best price achievable or failure to account for the proceeds of disposal (or any part thereof) or otherwise; and

5.4.4 restore at its own cost the area used by the Client (if any) into its original condition.

5.5 In addition to any other provisions in the Standard Terms, on termination of the Services:-

5.5.1 all Fees accrued or payable shall become immediately due and payable and shall be paid within seven (7) days of the effective date of termination; and

5.5.2 all other rights and obligations between the Parties pursuant to the Standard Terms shall terminate, except for the rights and obligations which have accrued prior to the termination or which, according to the provisions of the Standard Terms, are expressed or implied to operate or have effect after the termination of the Services, including Clause 3 (*Limitation of Liabilities*), Clause 4 (*Indemnification*).

6. **OTHERS**

6.1 The Client represents and warrants to Tradeport that none of the Goods will include any Hazardous Goods.

6.2 Tradeport shall, to the maximum extent permitted by applicable law, have a general lien on all Goods or documents relating to the Goods for all sums due to Tradeport.

6.3 The Standard Terms shall be governed by and construed in accordance with the laws of Hong Kong and each of the parties hereby irrevocably agrees to submit to the non exclusive jurisdiction of the Courts of Hong Kong.

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