

PART C – GLOBAL TERMS OF SERVICE

Version 03/01/2025

In consideration of the mutual covenants and agreements contained in the Service Agreement, the Parties agree as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Agreement and unless the context otherwise dictates, the following terms and phrases will have the meanings set out below:

"Additional Charges" means any other charges or surcharges assessed or levied pursuant to these General Terms from time to time, including fuel and other surcharges, clearance service fees, ancillary charges, return charges, special handling fees, duties and taxes, Excise Tax, import and export surcharges, Import Duties, customs duties and other related disbursements payable pursuant to clause 6.4.7.2 and other costs reasonably incurred by Emiro relating to the provision of the Services.

"Agreement": means the agreement between the Parties made up of the Commercial Terms, General Terms and Service Specific Terms.

"Business Day" means a day on which banks in the Territory are open for business.

"COD": means the actual Shipment value amount, as provided in the invoice by Customer, and which is to be collected from the consignee upon delivery of Shipment to the consignee.

"Commencement Date": means date specified in the Commercial Terms.

"Commercial Term(s)": means the terms set out in part A of this Agreement.

"Controlled Goods" means any Goods that require temperature and/or atmosphere control.

"CPI": means the consumer price index for the Territory.

"Customs Clearance Deposit": means the amount set out in the Commercial Terms.

"Dangerous Goods": means goods that are or may become dangerous, hazardous, noxious (including radioactive materials), inflammable, explosive or which are or may become liable to damage any property, or injure or cause the death of any person whether or not listed in any unofficial, international or national code, convention, listing or table.

"Dangerous Goods Policy": means the Emiro Dangerous Goods Policy as amended from time to time and available at [Emiro's Dangerous Goods policy](#).

"Excise Goods": means all goods which are subject to excise duty as per the local Excise Law governing regulations in the Territory/ies including but not limited to tobacco and tobacco products; liquids used in electronic smoking devices and tools, electronic smoking devices and tools, carbonated drinks, energy drinks, and sweetened drinks.

"Excise Tax": means an indirect tax or duty levied on specific Excise Goods for their production, licensing and sale as defined by the local excise law and governing regulations in the respective Territory(ies).

"General Terms": means the terms contained in part B of this Agreement.

"Goods": means the various shipment, packages, parcels, stock and/or products that are owned by or under the legal possession of Customer.

"Import Duties": means a duty applicable on cost of goods, including insurance, freight, incidental charges related to transportation.

"Minimum Shipping Commitment": means the committed shipping volume agreed to by the Customer (if applicable) and set out in Appendix(ces) 1 of the Service Specific Terms.

"Security Deposit": means the amount set out in the Commercial Terms.

"Service Fees": means fees due in exchange for Services provided as set out in Appendix 2 of the Service Specific Terms or, alternatively, where not set out in Appendix 2 of Service Specific Terms, as quoted by Emiro from time to time.

"Services": means the services provided to the Customer by Emiro under this Agreement and which are set out in Appendix 1 of the Service Specific Terms.

"Service Specific Terms": means the services and terms set out in part C of this Agreement.

"Shipment": means a consignment of Goods which are tendered to Emiro for delivery and/or COD amount pick up as part of the Services.

"Term": means the period set out in the Commercial Terms which commences on the Commencement Date.

"Territory": means the territory set out in the Commercial Terms.

"VAT": means any value added tax, consumption tax, goods and service tax or any similar tax or charge on goods or services imposed under a VAT Law from time to time.

"VAT Law": means a value added tax law, and supplementing regulations, consumption tax, goods and service tax or any similar tax or law issued by the relevant authority in the Territory from time to time.

1.2 In this Agreement:

1.2.1 the headings are for convenience only and shall not affect its interpretation;

1.2.2 the words "include", "including" and "in particular" shall not be interpreted as limiting the generality of any foregoing words.

1.2.3 The documents comprising the Agreement shall be read as one document. In the event of any ambiguity, inconsistency or a conflict between the provisions of any of the documents comprising the Agreement, the documents shall take precedence in the following order (1) General Terms, (2) Commercial Term; and (3) Service Specific Terms.

2. COMMENCEMENT AND DURATION

2.1 This Agreement will take effect as of the Commencement Date and be valid and in full force and effect for the duration of the Term, unless terminated earlier, in accordance with the terms of this Agreement.

2.2 This Agreement may be renewed or terminated in accordance with the Commercial Terms.

3. AGENT OR PRINCIPAL CONTRACTOR

3.1 Subject to these General Terms, Emiro may provide Services as agent on behalf of the Customer, or as principal contractor.

3.2 When acting as an agent Emiro:

3.2.1 acts solely on behalf of the Customer in securing services by establishing contracts with third parties, including subcontractors, so that direct contractual relationships are established between the Customer and such third parties. Emiro is not liable for acts and omissions of such third parties.

3.2.2 has authority to enter into any contracts with such third parties on behalf of the Customer, which Emiro, in its absolute discretion, believes is necessary for the performance of the Services or to carry out the Customer's instructions and whether such contracts are subject to the trading conditions of the parties with whom such contracts are made, or otherwise.

3.3 To the extent that Emiro performs all or any part of the Services required by the Customer, Emiro shall be deemed to provide such Services, or the part so performed, as principal independent contractor.

4. OBLIGATIONS OF EMIRO

4.1 Emiro shall:

4.1.1 perform the Services with a reasonable degree of care and skill;

- 4.1.2 be solely responsible for payment and filing obligations for Emiro's tax(es) in accordance with applicable local laws, without any liability to the Customer;
- 4.1.3 comply with all applicable laws, including any statutory requirements applicable to the employment of any personnel; and
- 4.1.4 maintain such licences and permits as are required by applicable law.

5. ROUTING AND DELIVERY TIMES

- 5.1 Subject to any written agreement between Emiro and the Customer, Emiro shall at all times have absolute freedom and discretion to determine, without notice to the Customer:
 - 5.1.1 the routes and procedure for carrying the Goods. The Customer agrees to all routing whether or not the most direct, scheduled, advertised or customary and diversions, including the possibility that the Goods may be carried via intermediate stopping places;
 - 5.1.2 the modes of transport; and
 - 5.1.3 the Goods storage, stowage and handling, including whether to carry the Goods on or under deck (where applicable).
- 5.2 Emiro shall never be obliged to arrange for any Goods to be carried, stored or handled separately from the Goods of other customers.
- 5.3 Unless previously agreed in writing, between the Parties, delivery times are not guaranteed and Emiro does not undertake that the Shipments or any documents shall depart, arrive, or be available on particular dates or take a particular route. Any additional cost incurred for Goods to be carried, stored or handled separately shall at all times be for the Customer's account

6. RESPONSIBILITIES AND WARRANTIES

- 6.1 The Parties agree that the rates provided under this Agreement are conditional on the committed shipping activity by Customer as described below and that Customer will meet the commitments agreed to under this Agreement. If it becomes evident, during any month of the Term, that the Customer will not achieve the Minimum Shipping Commitment, the Customer will promptly notify Emiro in writing and the Parties shall meet in person, via online meeting or by phone to discuss in good faith acceptable solutions to the shortfall. Any acceptable solution shall be agreed to in writing. If the Parties fail to reach a mutually acceptable solution following such good faith discussions, the Customer must pay Emiro the rates generally applicable for the actual Shipments shipped during that month of the Term. The Parties agree that only the Shipments shipped under Customer's account number will be used to determine whether Customer has reached the minimum requirements of this Agreement.
- 6.2 The Customer is responsible for obtaining its own insurance and Shipments are transported at the Customers risk.
- 6.3 Customer shall throughout the Term of this Agreement:
 - 6.3.1 pay Emiro the fees at the rates set out in Appendix 2 of the Service Specific Terms, and in accordance with Clause 9;
 - 6.3.2 comply with Emiro's Code of Conduct;
 - 6.3.3 make available, on request, representatives to help Emiro identify the Goods which are the subject of the Services; and
 - 6.3.4 provide reasonable assistance to Emiro as it may reasonably request to enable Emiro to provide the Services.
- 6.4 The Customer represents, warrants and undertakes that:
 - 6.4.1 it is either the owner of the Shipment or the authorised agent of the person owning or entitled to possession and/or control of the Shipment, and is authorised to contract with Emiro on the terms of the Agreement;
 - 6.4.2 the Shipment is properly and sufficiently prepared, labelled, marked, packed, stuffed or stowed (as appropriate) by or on behalf of the Customer in a manner appropriate to the Services and any operations or transactions affecting the Shipment and applicable law, and provide to Emiro all of the necessary information, documents and/or documentation/declarations as required to provide the Services, including those relating to the complete and accurate description of the Goods;
 - 6.4.3 save for the licences and permits maintained by Emiro pursuant to Clause 4.1.4 it has obtained all of the necessary licences, approvals or permits for the sale, distribution, transportation, exportation, importation or handling of the shipment, including for Excise Goods, as are required by applicable law;
 - 6.4.4 neither the performance of the Services, nor any payment or other transaction relating to the Services, will or might expose Emiro or any member of its group or any of its respective officers, employees, servants, agents or insurers, to any sanctions or any other breach of applicable law;
 - 6.4.5 neither the Customer nor any person it trades with is a prohibited person or is owned or controlled by, or is acting on behalf of, a prohibited person; and
 - 6.4.6 the description and particulars of the Shipment, including any marks, numbers, condition, quantity and weight, are full and correct.
 - 6.4.7 The Customer shall:
 - 6.4.7.1 comply with all applicable laws, including in relation to customs, data protection, sanctions and embargos. In the event Emiro reasonably suspects or is aware of any actual or potential breach or failure by the Customer to comply with any Applicable Law Emiro may suspend provision of the Service, at no cost or liability to Emiro;
 - 6.4.7.2 retain sole liability for all Additional Charges, customs duty, import VAT, anti-dumping duty (where applicable), countervailing duty or other import taxes Excise Tax, duties, deposits, fines, penalties and levies as may apply to the Shipment (whether actual or potential), and will reimburse Emiro on demand should Emiro have made any such payment;
 - 6.4.7.3 be solely responsible for payment and filing obligations for the Customer's tax(es) in accordance with applicable local laws, without any liability to Emiro; and
 - 6.4.7.4 promptly provide Emiro with such information, execute all documents and do all acts and things required in order to enable Emiro to arrange and safely perform the Services and comply with all applicable laws.
 - 6.4.8 The Customer shall not deliver to Emiro or cause Emiro to deal with:
 - 6.4.8.1 store, handle or transport any drugs, stolen goods, contraband, counterfeit, pirated, or other illegal matter or substances, stowaways or any other goods listed by Emiro or applicable law as prohibited or restricted from time to time;
 - 6.4.8.2 Controlled Goods, unless previously agreed in writing by Emiro pursuant to Emiro's Controlled Goods provisions in clause 7.1; or
 - 6.4.8.3 Dangerous Goods, unless previously agreed in writing by Emiro pursuant to Emiro's Dangerous Goods Policy and the provision on clause 7.2; or
 - 6.4.8.4 Excise Goods, unless previously agreed in writing by Emiro pursuant to Emiro Excise Goods provision in clause 7.3.

7. CONTROLLED GOODS AND SHIPMENTS THAT REQUIRE SPECIAL HANDLING:

- 7.1 **Controlled Goods**
 - 7.1.1 The Customer undertakes not to tender for transportation, storage and handling any Controlled Goods or Shipments that require special or unusual handling ("**Special Goods**") without prior written agreement of Emiro. Where Emiro agrees to transport, store or handle Controlled Goods or Special Goods, the Customer warrants that it has:
 - 7.1.1.1 given Emiro reasonable prior written notice of the nature of, and particular temperature, atmosphere and/or handling requirements for the proper transportation, storage and/or handling of the relevant Controlled Goods or Special Goods;
 - 7.1.1.2 in the case of a temperature and/or atmosphere- controlled transport units stuffed or loaded by or on behalf of the Customer, that the relevant transport unit and Goods have been properly pre-cooled, pre-heated and/or otherwise prepared as appropriate;
 - 7.1.1.3 the Goods have been properly stuffed or loaded in the transport unit;

- 7.1.1.4 the transport unit's thermostatic or other controls have been properly set and checked by or on behalf of the Customer
- 7.1.1.5 the Controlled Goods or Special Goods are packed, sealed and not capable of spillage;
- 7.1.1.6 has provided Emiro with all the specifications and characteristics of the Controlled Goods or Special Goods and the appropriate manner and method of storage, handling and transportation of the Controlled Goods or Special Goods (as appropriate); and
- 7.1.1.7 has provided Emiro with all other information necessary for Emiro to perform the Services in connection with the Controlled Goods or Special Goods safely and in accordance with all Applicable Law.
- 7.1.2 Emiro may, at its discretion, apply additional charges to transport, store and/or handle any Controlled Goods or Special Goods.
- 7.1.3 Emiro shall not be liable for any loss of or damage to Controlled Goods or Special Goods arising from a deviation or temperature excursion of Controlled Goods or Special Goods or any other breach of Clause 7.1 by the Customer and the provisions of Clause 12 herein below apply.
- 7.2 **Dangerous Goods**
 - 7.2.1 Emiro will not transport, store or handle Dangerous Goods unless it has previously agreed to do so in writing. Where Emiro at its sole discretion agrees to transport, store or handle Dangerous Goods, the Customer warrants that it has:
 - 7.2.1.1 given Emiro written notice of the nature of the Dangerous Goods prior to Emiro's receipt of the same, including:
 - i. all the specifications and characteristics of the Dangerous Goods and the appropriate manner and method of storage, handling and transportation of the Dangerous Goods (as appropriate); and
 - ii. all other information necessary for Emiro to perform the Services in connection with the Dangerous Goods safely and in accordance with all Applicable Law; and
 - iii. obtained all necessary approvals, consents and/or licenses from the relevant authorities that are or may be necessary for Emiro to transport, store or handle such Dangerous Goods in accordance with applicable law, without risk or delay.
 - 7.2.2 Emiro may, at its discretion, apply additional charges to transport, store or handle any Dangerous Goods.
 - 7.2.3 The Dangerous Goods must be distinctly marked on the outside so as to indicate the nature and characteristics of the Dangerous Goods and so as to comply with all applicable law.
 - 7.2.4 Dangerous Goods shall at all times be subject to the Dangerous Goods Policy.
 - 7.2.5 Dangerous Goods that have been tendered to Emiro in breach of this clause 7.27.2 or which, in the opinion of Emiro, constitute a risk to other goods, property, environment, life or health may, at the sole discretion of Emiro (or any other person in whose custody they may be at the relevant time) and without notice to the Customer, be destroyed or otherwise dealt with at the expense and risk of the Customer and without liability to Emiro.

- 7.3 **Excise Goods**
 - 7.3.1 The Customer warrants that it holds and shall continue to retain the necessary licenses and registration to distribute Excise Goods within the Territory. For the purposes of this provision distribution shall include (i) importing into, (ii) produced, (iii) stockpiled/ warehoused within the Territory and/or (iv) while exporting the goods by the Customer and/or any agent of the Customer. Emiro may at any time during the provision of the Services request proof hereof.
 - 7.3.2 The Customer further warrants that it complies with all applicable laws and regulations pertaining to the distribution and warehousing of Excise Goods and is solely responsible for any trading activities performed in relation to said Excise Goods. The Customer acknowledges that Emiro has no visibility, control, or responsibility regarding the Customer's trading activities as it pertains to Excise Goods.
 - 7.3.3 The Customer acknowledges and confirms that Emiro is not, unless agreed to in writing, required to provide bonded warehousing facility/ies for the warehousing of Excise Goods. In the event that Excise Goods are to be warehoused by Emiro as part of the Services, the Customer shall provide written proof to Emiro that all Excise Tax due on said Excise Goods have been settled with the necessary authorities. The Customer shall retain sole liability for all Excise Tax as well as any penalties and costs related to failure by the Customer to comply with any Excise Tax laws.

8. CUSTOMS

- 8.1 **Customs Compliance**
 - 8.1.1 Where Emiro provides customs clearance Services, Emiro does so as the Customer's agent. The Customer agrees that it has sole liability for errors in customs declarations made on its behalf by Emiro, unless such errors are the result of Emiro's breach of this Agreement, negligence, wilful misconduct or fraud.
 - 8.1.2 Customer hereby authorizes Emiro for the purpose of clearance of the Shipments under this Agreement with the requisite authorities for the purposes of customs, entry tax and such other applicable statutory clearances. If any statutory authority requires additional documentation for the purpose of confirming Emiro's authorized status, it is the responsibility of Customer to provide the required documentation at its own expense.
 - 8.1.3 The Customer undertakes to indemnify Emiro, immediately upon first written demand, of any and all costs, charges, disbursements and expenses, including fines, penalties, tax, duties (including Import Duties) and levies, that Emiro may incur in performing customs clearance Services on behalf of the Customer.
 - 8.1.4 Emiro will not act as the Importer of Records (IOR) and/or Exporter of Records (EOR) on behalf of the Customer, unless agreed in writing and subject to the terms of a separate agreement to be executed between the Customer and Emiro.
- 8.2 **Customs Duties and related other disbursements**
 - 8.2.1 The Customer will be responsible for paying any and all Import Duties. Emiro is authorised (but shall be under no obligation) to advance any duties (including Import Duties), taxes or any other types of charges, and to make any disbursement, with respect to the Shipments, and the Customer shall be liable for the reimbursement thereof immediately upon receiving an invoice from Emiro in this regard, or as otherwise agreed with Emiro.
 - 8.2.2 The Customer's obligations under this clause will also apply where any Shipments are returned to the Customer for any reason whatsoever.
- 8.3 Emiro has the right to request the Customer to pay Emiro a Customs Clearance Deposit in the amount stated in the Commercial Terms, which will be paid to Emiro in the form of a cashier's cheque or a bank transfer to Emiro's bank account as identified by Emiro and to be held by Emiro.
- 8.4 In the event Customer does not pay invoices issued by Emiro in accordance with this Agreement, Emiro shall have the right to deduct, unilaterally, such unpaid amount(s) from the Customs Clearance Deposit, without the need for a court order allowing it to do so. If Emiro uses, applies, or retains the whole or any part of the Customs Clearance Deposit, Customer will deliver to Emiro the amount necessary to replenish the Customs Clearance Deposit to its original sum immediately upon notification from Emiro of the amount due. Failure to pay the amount due shall constitute a material breach, and Emiro reserves the right to suspend the custom clearance Service immediately and until such time as the Customer pays the outstanding balance of the Customs Clearance Deposit.

9. PAYMENT TERMS

- 9.1 The Customer shall pay Emiro the Service Fees in consideration for Emiro performing its Services. Any other services requested by the Customer and provided by Emiro that are not included in the Agreement will be charged in accordance with mutually agreed rates.

- 9.2 The Service Fees are exclusive of all appropriate taxes (including direct, indirect, local, goods and service tax, and VAT, and/or levies, Additional Charges, and any other fee imposed by any government or other authority, as may be applicable to the Services from time to time. Any VAT, goods and service tax, or other tax imposed in accordance with the respective tax law, or other applicable law or regulation will be charged to Customer at the prevailing rate, and will be paid by Customer in addition to the Service Fees. Emiro will issue a valid tax invoice and/or other relevant documents to Customer according to VAT Law.
- 9.3 The Service Fees will further be reviewed on an annual basis 60 days prior to the anniversary of the Commencement Date. The review of the Service Fees shall where applicable be based upon changes to Customer's cost base associated with labour rates, utility costs, fuel increases, statutory changes and any other material input cost related to the Services. If the Parties do not agree the increased amount payable by the anniversary of the Commencement Date the Service Fees will automatically increase by the amount set out in the Commercial Terms.
- 9.4 Emiro's invoices for Service Fees shall be due for payment within the payment terms set out in the Commercial Terms.
- 9.5 Emiro's invoices for Additional Charges shall be due and payable in accordance with the payment terms set out in the specific invoice.
- 9.6 All payments due from the Customer under the Agreement shall be made free and clear from any deduction (in respect of banking charges or otherwise), set-off or counterclaim of any kind. If withholding is required by law, the Customer shall pay such additional amount as will ensure that the net amount received by Emiro equals the full amount which would have been received by it had no such deduction or withholding been required.
- 9.7 If the Customer, in good faith, disagrees on reasonable grounds with the amount of, or any amounts within, any invoice submitted by Emiro, then the Customer shall pay the amount of the invoice that is not disputed in accordance with the provisions of Clauses 9.4 or 9.5 and 9.6 and shall provide its justification for disputing the amount of, or any amounts within, the invoice in writing within 7 (seven) days of the date of the relevant invoice ("Invoice Dispute"), failing this, the Customer will be deemed to have accepted the invoice. Following receipt of a notice of Invoice Dispute, the Parties will, within 14 days of receipt of the Invoice Dispute, resolve the Invoice Dispute. Following resolution of the Invoice Dispute, any amount agreed or found to be payable by the Customer shall be paid within 7 days.
- 9.8 If the Parties do not reach a resolution to the Invoice Dispute or the Customer fails to pay an invoice by the due date, Emiro may, without prejudice to any other rights or remedies Emiro may have, suspend all or part of the Services immediately and until a resolution is reached or the outstanding invoice is paid.
- 9.9 All payments under this Agreement will be made by (a) electronic transfer to the bank account of Emiro specified in the relevant invoice, quoting the invoice number against which the payment is made, or (b) by cheque (not post-dated).
- 9.10 Emiro will have the right to deduct from, and set-off against, any amounts owed to Customer by Emiro from time to time (including, but not limited to, collected COD amounts prior to remittance to Customer) to the extent of the amounts owed by Customer to Emiro under this Agreement. The rights of Emiro under this Section are in addition to the other rights and remedies (including, without limitation, other rights of set-off) which Emiro may have.
- 9.11 **Security Deposit**
- 9.11.1 Emiro has the right to request the Customer to pay Emiro a Security Deposit in the amount stated in the Commercial Terms, which will be paid to Emiro in the form of a cashier's cheque or a bank transfer to Emiro's bank account as identified by Emiro and to be held by Emiro.
- 9.11.2 In the event Customer does not pay the Invoices issued by Emiro in accordance with Clause 9.4 or 9.5 and 9.6 above, Emiro shall have the right to deduct such unpaid amount(s) from the Security Deposit against official receipts. If Emiro uses, applies, or retains the whole or any part of the Security Deposit in accordance with this Agreement, Customer will deliver to Emiro the amount necessary to replenish the Security Deposit to its original sum immediately upon notification from Emiro of the amount due. Failure to pay the amount due shall constitute material breach under this Agreement, and Emiro reserves the right to suspend the Service until such time Customer pays the outstanding balance(s).
- 9.12 Upon termination of the Agreement and in the event the Customer failed to pay any invoices of the Service Charges or Additional Charges, Emiro reserves the right to withhold return of the Security Deposit until such time Customer has paid, in full, all outstanding invoices issued under this Agreement.
- 9.13 Where Goods are in Emiro's possession and either (a) the Customer fails to pay an invoice; or (b) Goods can be considered abandon, and irrespective of whether the goods in Emiro's possession are directly related to the Services and provided 14 calendar days written notice has been given by Emiro (which can be sent in accordance with clause 19), Emiro shall have the right to destroy, sell, abandon and/or give away any Goods which are left in the Facility, without the need to take any further legal action, or obtain a court order or a judgement in that regard.

10. FUEL AND OTHER SURCHARGES

- 10.1 All Service Fees are exclusive of Fuel and other applicable surcharges. The Customer, by tendering a Shipment to Emiro, agrees to pay the surcharge(s) in force at that time as published on [fuel surcharge](#) index.
- 10.2 Emiro reserves the right to assess and amend its fuel surcharge from time to time, the duration and amount of such revisions will be determined by Emiro.
- 10.3 In the event that Emiro has agreed to incorporate the fuel surcharge into the Service Fees as set out in Part C Appendix 2 and should there be an increase in the fuel prices as issued by the applicable government or regulatory body, Emiro will provide 7 (seven) days written notice of such increase ("Fuel Increase Notice") to the Customer. The Parties must within 7 (seven) days of the Customer receiving the Fuel Increase Notice agree and amend the Service Fees in writing. If the Parties do not reach agreement on the amended Service Fees, the Service Fees will, effective immediately, be adjusted in line with the fuel surcharge index as indicated in 9.1 above.

11. RISK AND INSURANCE

- 11.1 The Customer and Emiro respectively shall maintain on force for the Term policies of insurance as may be reasonable or required by applicable law.
- 11.2 Risk of loss or damage to the Customer's Goods shall at all times remain the Customer's responsibility. Accordingly, the Customer hereby confirms that it has and will continue to maintain at its own expense adequate Insurance cover ("**Goods Insurance**") with a reputable insurer up to full value of the Goods and on an indemnity basis, throughout the Term of this Agreement and whilst the Goods are in the custody of Emiro. Any claims for loss or damage to the Goods will be first reported and claimed under the insurance policy maintained by the Customer on primary basis.
- 11.3 Emiro shall not be required to take out specific insurance in relation to any Goods or Services unless expressly agreed otherwise with the Customer. As a value-added service, Emiro may (where possible) and on written request from the Customer, facilitate the procurement of insurance cover in respect of the risk of losses or damages to the Goods, subject to the terms of such insurance policies and subject to clause 11.4 herein below. All premiums, costs and deductibles related to any such insurance cover shall at all times be for the Customer's account.
- 11.4 To the extent that the Customer obtains insurance cover through Emiro as described in clause 11.1 above, the Customer will at all times declare the full replacement value of their Goods/Shipment accurately supported by relevant invoice or other documentation and in timely manner to Emiro for the purpose of said insurance. The Customer warrants it shall without delay, but no later than 24 hours prior to the execution of the Services, works, collection of or receipt of Goods by Emiro or at Emiro's facility, notify Emiro of any variation in the value of the Goods. Emiro shall under no circumstances whatsoever be liable for any shortfall or inadequacy in insurance cover due to the Customer's failure to provide accurate or timely declarations and/or variation/s in declarations, of value for their Goods / Shipments.
- 11.5 Insurance effected by Emiro on behalf of the Customer does not cover indirect loss or damage, or loss or damage caused by delays. All terms of any insurance policies contracted by Emiro on behalf of the Customer are deemed agreed directly between the Customer and the relevant insurance provider, without responsibility of Emiro.

- 11.6 The Customer warrants that any Goods Insurance policy contracted pursuant to Clause 11.2 will list Emiro as an insured person alternatively, will include a waiver by the insurance Emiro of any subrogated claims against Emiro.
- 11.7 Should Customer elect not to insure its Goods or should the insurance cover arranged by Emiro pursuant to clause 11.3 above to cover loss or damage to Customer's Goods for any reason whatsoever, then Emiro's liability at all times and in all circumstances shall be limited in accordance with clause 12.1 of the Agreement.

12. LIABILITY AND INDEMNITY

12.1 EMIRO LIABILITY

- 12.1.1 Emiro will in no way be liable in the respect of loss or damage to the Shipments except as expressly set out in this clause 12, and all other liabilities are hereby excluded, save to the extent that such loss or damage was caused by Emiro's negligent act or omission in performing the Services under this Agreement. To the extent that Emiro is negligent the following limits will apply.
- 12.1.2 **Liabilities for loss or damages to Shipments in transit:** Customer agrees that notwithstanding any other provisions of this Agreement to the contrary, the below international conventions governing the carriage of Shipment will apply to loss or damage to Goods in the performance of the Services:
- Warsaw and Montreal Conventions (Airfreight);
 - Hague Visby Rules (Sea freight); and
 - Convention on the Contract for the International Carriage of Shipment by Road ("**CMR**").
- 12.1.3 Emiro's liability towards Customer for loss or damage to a Shipment in transit (will be governed by the aforementioned conventions, and in the event that the aforementioned conventions do not apply for any reason whatsoever, then the Parties hereby agree Emiro's liability towards Customer for loss or damage to a Shipment in transit (courier services) will not exceed up to an amount equivalent to Twenty-Five United States Dollars (US\$ 25) for each lost or damaged domestic Shipment, and up to One Hundred United States Dollars (USD 100) for each lost or damaged international Shipment.
- 12.1.4 Liability for loss or damage resulting from customs clearance services - Emiro's liability towards Customer for loss or damage to a Shipment resulting from customs clearance services will be equal to the lesser of (i) the value of the Shipment, or (ii) the United States Dollars amount equal to last invoice issued and paid by Customer for such Services immediately before the date the claim arose. Emiro's aggregate liability per annum, in terms of this clause 12.1.4 shall not exceed an amount equal to the customs clearance fees paid by Customer to Emiro for such customs clearance services for the last month immediately preceding the date of the incident.
- 12.1.5 Aggregate Liability. Notwithstanding the any other provisions of this Agreement, Emiro's aggregate total liability including loss and damage to Goods (per contract year) arising from this Agreement shall in no event exceed the total amount of the previous one (1) month's invoice received by Emiro during the contract year in which the claim arose.
- 12.1.6 Emiro will not be liable for:
- Shipments lost or damaged unless such Shipments were in good and sellable condition when delivered to Emiro and such loss or damage was caused by Emiro's negligent act or omission in performing the Service under this Agreement. On receipt of any Shipment, Emiro will, so far as reasonably practicable, carry out an external check of the condition of the Shipments. Emiro will endorse the delivery notes with details of any apparent problems;
 - any delay or failure to give instructions or authority by Customer or any person on its behalf in respect of any matter relating to the Services or the Shipments or where there is any breakdown in or failure on Customer's part to comply with any agreed procedures;
 - the impact of any sudden or unplanned variations in Customer's requirements relating to the Services and/or Shipments, as well as any steps which Customer requires Emiro to take to deal with them;
 - any claims unless they are notified in writing to Emiro within ten (10) business days of delivery of the Shipment;
 - the contents of any sealed carton or container;
 - Shipments found to be missing or damaged on dismantling of any pallet load;
 - loss of or damage to any Shipment due to faulty or inadequate packaging; or
 - any loss of or damage to Controlled Goods/Special Goods arising from a deviation or temperature excursion of Controlled Goods/Special Goods or any other breach of Clause 7.1 by the Customer. If, notwithstanding this clause 12.1.7.9, Emiro is nevertheless found liable for such loss or damage, its liability shall in no circumstances exceed the amount set out under this clause 12;
 - any loss of or damage to Dangerous Goods arising from a breach of Clause 7.2 by the Customer. If, notwithstanding this clause 12.1.7.9, Emiro is nevertheless found liable for such loss or damage, its liability shall in no circumstances exceed the amount set out under this clause 12; or
 - any loss of or damage to Excise Goods arising from a breach of Clause 7.3 by the Customer. If, notwithstanding this clause 12.1.7.10, Emiro is nevertheless found liable for such loss or damage, its liability shall in no circumstances exceed the amount set out under this clause 12.
- 12.1.7 In no event will Emiro be liable for any type of consequential or special or indirect or incidental damages or other indirect loss, however arising, whether or not Emiro had knowledge that such damage might be incurred, including but not limited to loss of income, profit, interest, utility or loss of market.
- 12.1.8 Customer shall make any claim relating to the Services or otherwise under this Agreement no later than 12 months of the act or omission alleged to have caused the claim.

12.2 EMIRO INDEMNITY

Subject to any exclusions in this Agreement or at law, Emiro will indemnify the Customer, from any third party claims or liability that arises from or relates to damage or loss of property (excluding Goods and Shipment), or from any Injury or death of any person directly arising out of any negligent acts or omissions of Emiro, its employees, agents or subcontractors while providing Services under this Agreement.

12.3 CUSTOMER INDEMNITY AND LIABILITY

- 12.3.1 Customer will be solely liable for any mis- declaration of the Shipment.
- 12.3.2 Customer will indemnify and hold harmless Emiro, its officers, directors, agents, servants and employees from any claims, losses, damages, judgments, awards, orders or liability, any and all costs, charges, disbursements and expenses, including fines, penalties, tax (including Excise Tax), duties (including Import Duties) and levies that may arise from or relate to (i) Emiro's provision of the Services under this Agreement, including without limitation, liability for customs duties, charges and or fines, (ii) the Customer breach of its obligations or warranties under this Agreement or the applicable laws, (iii) any claim from a third party (including the end customers/consumers of the Customer) in relation to the provision of Service, or for any breach of intellectual property rights by the Customer, or (iv) any claim in relation to the Goods or their nature, including any claim from the Customer's end customers/consumers in relation to any health and safety incidents, or (v) damage or loss of property, or any other damages arising from any product liability claim relating to the Shipment and/or any wilful or negligent acts or omissions of Customer, its employees, agents or subcontractors; or (vi) the performance of customs clearance Services on behalf of the Customer or (vii) any cause arising from or with respect to the storage, handling or transport of any (a) Excise Goods, (b) Controlled Goods/Special Goods or (c) Dangerous Goods, for which Emiro is not responsible.

13. ADVERTISING AND CONFIDENTIALITY

- 13.1 Each Party will protect the confidentiality of information provided by the other Party, or to which the receiving Party obtains access by virtue of its performance under this Agreement, that either has been identified as confidential by the disclosing Party or by its nature warrants confidential treatment. The receiving Party will use such information only for the purposes of this Agreement and will not disclose it to anyone except its employees or professional advisors who have a need to know the information provided that such employees or professional advisors are bound by confidentiality obligations.
- 13.2 These nondisclosure obligations will not apply to information that is or becomes public through no breach of the receiving Party, is received from a third party free to disclose it, is independently developed by the receiving Party, or is required by law to be disclosed. In the event where disclosure is required by law, the receiving Party will, if legally permissible, provide the disclosing Party with prompt written notice of the disclosure required, and will assist the disclosing Party, at the disclosing Party's request, in obtaining a protective order in respect of such disclosure.
- 13.3 Confidential information will be returned to the disclosing Party upon its request, except that each Party may retain one copy in its legal files solely for purposes of documenting its compliance with its obligations hereunder.
- 13.4 The Parties agree that the [Privacy Policy](#) will govern processing of personal data under this Agreement. -

14. TERMINATION

- 14.1 This Agreement may be terminated, with immediate effect, for cause by notice in writing:
- 14.1.1 by either Party to the other, where the other Party has committed a material breach of this Agreement and has failed to remedy the breach within thirty (30) days of receipt of notice from the other Party requesting such remedy;
- 14.1.2 by either Party if the other Party is unable to pay its debts as they fall due or an order is made or a resolution passed for its liquidation, winding-up or dissolution (otherwise than for the purposes of a solvent amalgamation or reconstruction) or an administrative or other receiver, manager, trustee, liquidator, administrator or similar officer is appointed over all or any substantial part of its assets or takes formal steps towards making any kind of composition, compromise or arrangement involving it and any of its creditors or anything analogous to the foregoing will occur in any jurisdiction;
- 14.1.3 by Emiro where invoice(s) due to Emiro remain unpaid by Customer for more than thirty (30) days after the same became due; or
- 14.1.4 by Emiro where Emiro reasonably suspects or is aware of any potential or actual breach or failure by the Customer to comply with any applicable laws pursuant to clause 6.4.7.1; or
- 14.2 This Agreement may be terminated by Emiro for convenience at any time during the Term subject to a thirty (30) days' notice to Customer of that effect.

15. FORCE MAJEURE

- 15.1 If either Party is prevented or delayed from carrying out its obligations under this Agreement by reason of Force Majeure Event, which in the case of this Agreement, will mean any act of God, riots, strikes or lock-outs (except those by officers, employees of the Party seeking to avail itself of this Clause or those of its suppliers or contractors), wars, pandemics, epidemics, government or regulatory authority imposed restrictions or mandates or orders and similar events beyond the reasonable control of the Parties ("Force Majeure Event"), then the Party affected by the Force Majeure Event will be temporarily relieved of its non-monetary obligations for the period of time that the Force Majeure Event persists.
- 15.2 In the event that the Force Majeure Event continues for a period of one (1) month or more, then either Party may terminate this Agreement by immediate notice to the other Party.

16. ASSIGNMENT/ SUBCONTRACT

- 16.1 Except as set out in clause 16.2, neither Party will assign its rights and/or obligations under this Agreement in whole or in part or any other person or entity without the other Party's express prior written consent. However, nothing in this Agreement will restrict Emiro from assigning the Agreement to any affiliate under the Emiro group of companies. Any unauthorized assignment will be null and void. Subject to the foregoing, this Agreement binds and benefits each Party and its respective successors and assigns.
- 16.2 Emiro reserves the right to subcontract in whole or in part the Services to any party without the Customers prior written consent, provided that Emiro shall not thereby be relieved of any of its obligations under this Agreement.

17. VARIATION AND WAIVER

- 17.1 No variation of this Agreement and no agreement at variance with any of the terms and conditions hereof will be binding on the Parties hereto unless contained in writing and signed by them (including their respective agents duly authorized hereto).
- 17.2 Failure or delay by either party to exercise any of its rights under this Agreement will not be deemed to be a waiver thereof and will not preclude the exercise of such right in the future.

18. NOTICES

- 18.1 All notices hereunder will be in writing addressed to the recipient Party using the details supplied in the Commercial Terms or as notified from time to time to the other Party.
- 18.2 Notices will be deemed to have been duly given:
- 18.2.1 when delivered, if delivered by courier or other messenger (including registered mail) during normal business hours of the recipient; or
- 18.2.2 when sent, if transmitted by e-mail and a successful return receipt is generated.

19. ELECTRONIC COMMUNICATION

- 19.1 The parties agree there may be communication with each other via e-mail (including the internet) or other electronic means (including API and EDI) (collectively, "Electronic Communications") for purposes of meeting obligations under this Agreement. Customer acknowledges that each party may need to access to the other party's systems in order to perform the Services.
- 19.2 The parties recognize that Electronic Communications are inherently insecure and that e-mails and data can become corrupted, communications are not always delivered promptly (or at all). In addition, the Electronic Communications are prone to viruses and may not be encrypted. Each party will be responsible for protecting its own systems and interests and Emiro will not be responsible nor liable to Customer on any basis (contract, tort or otherwise) for any loss, damage or omission in anyway arising from the use of Electronic Communications as a form of communication or other reason(s) under this Agreement.
- 19.3 Emiro may initiate communications with Customer via instant messaging channels (such as WhatsApp, WeChat or other social media platforms) while providing the Services. Customer agrees that Emiro does not have control over these and such use may prejudice the confidentiality of Customer information. If Customer communicates with Emiro via instant messaging, Emiro will not be held liable for any data breach which results from transmitting information through these means, nor will Emiro be liable for any direct or indirect loss resulting from a data breach caused by using instant messaging or by third parties intercepting Customer information.

20. GOVERNING LAW AND JURISDICTION

- 20.1 This Agreement will be governed by and construed in accordance with the laws set out in the Commercial Terms.
- 20.2 Any claim or dispute arising out of or in connection with this Agreement, including its appendices, as well as any question regarding its existence, validity, application or termination, will be resolved by the courts set out in the Commercial Terms.

21. ANTI-CORRUPTION; ANTI-TERRORISM

- 21.1 Each Party will comply with all applicable laws, rules and regulations, including but not limited to, the US Foreign Corrupt Practices Act ("FCPA"), the UK Anti-Bribery Act of 2012, and all similar Territory anti-bribery laws, as well as all applicable international and local anti-terrorism laws.

- 21.2 Customer will be solely responsible for its customers and will implement a know your customer ("**KYC**") program in compliance with all applicable international and local anti-terrorism, anti-corruption, and anti-money laundering laws and regulations, which will be utilized to verify the personal information provided by Customer's customers under this Agreement.
- 21.3 Customer represents warrants and undertakes that neither Customer nor Customer's parent or subsidiary companies, affiliates or any of their shareholders, subcontractors, members, managers, directors, officers, employees, independent contractors, subcontractors or agents: (i) has made or authorized or will make or authorize any offer, payment, promise to pay, any money, including kick-backs, or a gift, promise to give, or the giving of anything of value to any third party including, but not limited to, a government official, political party, party official, family member or representative of a state-owned enterprise for the purpose of wrongfully influencing the recipient; obtaining or retaining business; or for securing or obtaining an improper business advantage; or (ii) has taken or permitted or will take or permit any action to be taken, including an action in connection with the conduct of their business and the transactions contemplated under this Agreement, which would cause Customer or Emiro to be in violation of any applicable anti-bribery or anti-corruption laws, including all local equivalent laws in the Territory in which the Services are to be provided under this Agreement. Customer further agrees that it will make no facilitating payment in any form to any government official or the family member or representative of a government official or party official on behalf of Customer or Emiro for the purpose of expediting or securing the performance of a routine non- discretionary governmental duty or action; or (iii) the Customer, nor any of its respective funding sources (including any shareholder, legal or beneficial owner of any equity interest in Customer) is or has ever been a terrorist or suspected terrorist within the meaning of the applicable anti-terrorism laws or identified by name or address on any terrorist list.
- 21.4 At all times during the Term of this Agreement, Customer, its affiliates and representatives, will be solely responsible and will comply with applicable laws, rules, statutes, and regulations regarding anti-money laundering and anti-terrorist financing and sanctions program ("**AML Laws**"), including, without limitation, the implementation, maintenance, and operation of policies, programs, and procedures reasonably designated to comply with AML Laws ("**AML Compliance Program**"), including a KYC program; transaction monitoring to identify suspicious activity; fraud detection and other risk management activities and tools to prevent fraudulent transactions; and screening to ensure compliance with applicable sanctions programs.

22. SANCTIONS AND EMBARGO

- 22.1 Customer acknowledges and agrees that they shall be solely responsible for complying with applicable export control laws, rules and regulations, including, without limitations the regulations promulgated by the U.S. Department of Commerce and the U.S. Department of the Treasury; U.S. Department of the State; and economic sanctions programs implemented by the United Nations, the European Union or its Member States, or other applicable government authority ("**Sanctions and Export Laws**").
- 22.2 Customer represents, warrants and undertakes that it is not identified on any U.S. government restricted party lists (including, without limitation, the U.S. Treasury Department's List of Specially Designated Nationals and Other Blocked Persons, the U.S. Department of Commerce's Denied Party List, Entity List and Unverified List and the U.S. Department of State's proliferation-related lists), or owned or controlled by any such person. Customer agrees that it will not use, transfer, download, export or re-export, directly or indirectly, to third party or entity which is ineligible to receive the item or to any country that is subject to comprehensive U.S. trade sanctions or restrictions (currently including, without limitation, Cuba, Iran, North Korea, Sudan, Syria, and Venezuela).
- 22.3 Emiro may refuse to provide any Services, or deliver any Shipment, if such Service or delivery or transaction could be in violation of any Sanctions and Export Laws.

23. MISCELLANEOUS

- 23.1 It is agreed and understood between the Parties that Emiro is free to provide similar services to customers other than Customer pursuant to any separate agreements.
- 23.2 This Agreement will apply to and bind the successors and assigns of the Parties hereto.
- 23.3 If any provision of this Agreement is prohibited by law or judged by a court to be unlawful, void or unenforceable, the provision will, to the extent required, be severed from this Agreement and rendered ineffective as far as possible without modifying the remaining provisions of this Agreement and will not in any way affect any other circumstances of or the validity or enforcement of this Agreement.
- 23.4 This Agreement will not constitute or imply any partnership, joint venture, agency, fiduciary relationship or other relationship between the Parties other than the contractual relationship expressly provided for in this Agreement.

This Agreement constitutes the entire agreement between the Parties relative to the Services and supersedes all prior agreements, arrangements and negotiations between the Parties in respect of its subject matter. This Agreement may be executed in any number of counterparts or duplicates, each of which will be an original, and such counterparts or duplicates will together constitute one and the same agreement. The counterparts of this Agreement may be executed and delivered by electronic signature by either of the Parties and the receiving Party may rely on the receipt of such document so executed and delivered electronically as if the original had been received.