

“General Conditions for Booking and Payment relating to outward bound cargoes of the Association of Rotterdam Shipbrokers and Agents” – December 2005
(herein after also the ‘Booking and Payment Conditions’)

1. General :

- 1.1. The members of the Association of Rotterdam Shipbrokers and Agents render their services in accordance with the ‘General Conditions and Rules for Dutch Shipbrokers and Agents’ (herein after also to be referred to as the ‘Shipbrokers and Agents Conditions’), currently in force, deposited at the Court registries of amongst others the Amsterdam and Rotterdam District Courts, which conditions are hereby incorporated and the text of which will be sent to you upon your request in the Dutch or in the English or in the German Language; In the event of any apparent inconsistency or ambiguity between the texts in the various languages then the Dutch text prevails;
- 1.2. The ‘Shipbrokers- and Agents Conditions’ include amongst others limitations of the liability of the ‘Shipbroker/ Shipsagent’ and an Arbitration Clause (art 32 ‘Shipbrokers- and Agents Conditions’) on the basis of which clause all conceivable disputes between the parties except where it has been agreed differently in writing shall be exclusively submitted to Arbitration in Rotterdam or Amsterdam as envisaged by the ‘Tamara’ rules, which shall be provided upon request by the ‘Shipbroker/ Agent’ (with the exception of the ‘Shipbroker’s/ Agent’s’ right to submit unchallenged claims in respect of sums of money that are due and demandable to the Regular Courts) and furthermore a choice of law clause declaring Dutch Law applicable (art 31 ‘Shipbrokers- and Agents Conditions’);
- 1.3. Because of the specific problems that arise from time to time with outward bound cargoes in relation to the booking of such cargoes/ concluding of contracts of carriage and timely payment of the invoices in question, and in addition to the ‘Shipbrokers- and Agents Conditions’ (and/ or such specific conditions from other trades as may apply via the ‘Shipbrokers- and Agents Conditions’, as envisaged in art. 5 of the ‘Shipbrokers- and Agents Conditions’), the present ‘Booking and Payment Conditions shall apply to bookings of outward bound cargo and payment of the invoices concerned and in general to the legal relationship between the party that requests the ‘Shipbroker/ Agent’ for a quotation (also to be referred to as the ‘Shipper/ the booking party’) and the ‘Shipbroker/ Agent’

2. Booking

- 2.1. The ‘Shipbroker/ Agent’ quotes as to the terms (such as freight and attendant costs) upon which a booking can be made, i.e. on which terms a contract for the carriage of goods envisaged by the Shipper/ booking party’ may be concluded;
- 2.2. The envisaged contract is brought about by acceptance of the quotation;
- 2.3. Freight and attendant costs are invoiced by the ‘Shipbroker/ Agent’ to the ‘Shipper/ booking party’, if possible within 8 days after sailing;

2.4. The 'Shipbroker/ Agent', who will be debited by and liable to his principal (or in the alternative direct by/ to local authorities or third parties) for freight and attendant costs, and who is under an obligation to settle these amounts in these matters, shall have title to sue in his own right the shipper/ the booking party (all of this also taking into account art. 3 of the present conditions) in respect of the concluded contract; Between the 'Shipper/ booking party' and the Shipbroker/ Agent it stands established that the 'Shipbroker/ Agent' himself has title to sue in these matters (on the other hand the 'Shipbroker/ Agent' shall hold the 'Shipper/ booking party' harmless in respect of conceivable later claims by third parties in respect of the amounts and claims invoiced by him upto the amalgamate amount of these amounts and claims;

3. **(Timely) payment/ penalty/ interests/ possessory lien :**

3.1. The 'Shipbroker/ Agent' is at liberty but under no obligation to extend credit to the 'Shipper./ booking party' subject to the provisions of the present 'booking and payment conditions';

3.2. Credit is extended (unless otherwise agreed) for a period of ...days as of invoice date; This means that the total amount of the invoice in question, without deduction, set off or compensation, is to be credited to the Shipbroker/Agent's bank account at the latest with value by .. days after invoice date;

3.3. The 'Shipper/ booking party' is under an obligation to pay the invoices received from the 'Shipbroker/ Agent' strictly within the term of credit;

3.4. Failing payment within the term of credit the 'Shipper/ booking party' shall be in default without separately having been formally summoned in that respect and the 'Shipbroker/ Agent' shall then have available to him all rights and actions arising therefrom;

3.5. Then (failing payment within the term of credit) the 'Shipper/ booking party' is further more under an obligation to pay :

3.5.1. a penalty of 10% over the outstanding invoice amount

3.5.2. interest due on the outstanding invoice amount and on the amount of the penalty, as of the day following the end of the term of credit and to be calculated until the date of payment in full, at a percentage of 3% in excess of the Statutory Interest rate prevailing for that period by Royal Decree;

3.6. If the 'Shipper/ booking party', even after having been summoned to do so by the 'Shipbroker/ Agent', fails to amicably pay the amounts due (inclusive of interests and penalty), then the 'Shipbroker/ Agent' is at liberty to secure compliance with his obligations by the 'Shipper/ booking party' by all means legal, inclusive of but not limited to security arrests and/ or summary proceedings; All costs to be incurred by the 'Shipbroker/ Agent' in that context shall be at the expense of the 'Shipper/ booking party', inclusive of the full invoices and costs of attorneys and bailiffs on a full indemnity basis; In addition in such situation the 'Shipbroker/ Agent' shall have a possessory lien on anything of the shipper/ booking party, inclusive of (but not limited to) goods and documents, that the 'Shipbroker/ Agent' has or will be having under his control;

4. **Prolonged and/ or repeated default in payment/ Signalling :**

- 4.1. Where the 'Shipper/ booking party' repeatedly or for a prolonged period of time remains in default as to paying the 'Shipbroker/ Agent' one or more invoices within the prevailing credit terms, the 'Shipbroker/ Agent' is at liberty to report that to (the Board/ Credit Committee of) the Association of Rotterdam Shipbrokers and Agents;
- 4.2. Further and supplementary to summonses/ reminders by the 'Shipbroker/ Agent' himself the board/ credit committee may then decide to notify the 'Shipper/ booking party' in question of him having been reported as sub 4.1 and may remind him that there are sums outstanding for his account with members of the association;
- 4.3. Where there are repeated and/ or long lasting arrears in payment of 'Shipbrokers/ Agents' invoices with a particular 'Shipper/ booking party' involved then the Board/ Credit Committee may decide to advise the membership of the association to no longer extend credit to that particular 'Shipper/ booking party';
- 4.4. The one and the other without the Board/ Credit Committee being under an obligation to disclose the identity of the member(s) involved;