

General Terms & Conditions

Of



ARUBA STEVEDORING COMPANY (ASTEC) N.V.

Revision December 16, 2015

Aruba

Contents

Page

Article 1	Definitions	3
Article 2	Scope	3-4
Article 3	General	4-5
Article 4	Execution of the instruction	5-9
Article 5	Premature Termination	9-10
Article 6	Limitation of Liability	10-12
Article 7	Force Majeure	12-14
Article 8	Further Liability Clauses	14-17
Article 9	Insurances	18
Article 10	Payments	18-20
Article 11	Tariffs	20
Article 12	Presence on the Company Premises	20-21
Article 13	Packages	21-22
Article 14	Pledge and Right of Retention	23
Article 15	Lapse and Prescription	23
Article 16	Extrajudicial Costs	23-24
Article 17	Arbitration	24
Article 18	Final Provision	24



1. Definitions

1.1 The Aruba Stevedoring Company N.V. shall be named hereinafter: 'ASTECC' or 'the Stevedore'.

1.2 ASTEC is a (stevedoring) company in the sense of Stevedoring Ordinance (AB 1991, GT49, as amended).

1.3 Definition:

In these General Conditions, the following terms are defined as follows:

'Instruction' shall mean all Work assigned, regardless of the good involved herein and regardless of the means of transportation, other auxiliary materials or working methods involved therein. The Instruction shall encompass all work related thereto or arising there from, including the Additional Work, and this irrespective of whether ASTEC is obligated to perform this work and/or is paid for this work.

'Client' shall mean a natural person or a legal entity that has given ASTEC an Instruction.

'Company Premises' shall mean all parcels of land, buildings (sheds and otherwise), and ponds where ASTEC is domiciled or where it performs its duties, both in Oranjestad and in Barcadera, including quays (adjacent or not), rolling equipment, harbor cranes and roads.

'Stevedoring Work' shall mean the stevedoring work as meant in Art. 1, paragraph 1, of the Stevedoring Ordinance (AB 1991, GT 49, as amended).

'Additional Work' shall mean all work, not being stevedoring work, carried out by ASTEC.

'Work' shall mean all Stevedoring Work and all Additional Work.



2. Scope

- 2.1 These General Terms & Conditions shall apply to all ASTEC's instructions agreements, transactions, services provided and work, of whatever nature, as well as to the Work not forming part of the Stevedoring Work, and the irrespective of whether ASTEC is obligated to carry out this Work and/or carries out this Work against payment.
- 2.2 These General Terms & Conditions shall become effective as of the January 5, 2016. These General Terms & Conditions are filed with the Office of the Clerk of the Court of First Instance of Aruba. By filing these General Terms & Conditions, all general terms & conditions filed earlier shall be cancelled, except for agreements, which were governed by the previous general terms & conditions and in which these General Terms & Conditions cannot be incorporated.

3. General

- 3.1 ASTEC may unilaterally modify or supplement these General Terms & Conditions. Client shall promptly be notified of these modifications.
- 3.2 These General Terms & Conditions are available in Dutch and English. In the event of a dispute between parties on the interpretation of the text and/or translation, the English text shall prevail and be the sole binding text at all times.
- 3.3 Client's Instructions shall be considered to be the recognition and acceptance of these General Terms & Conditions, while emphatically rejecting any general or special conditions of Clients, in conformity with art. 6:225, paragraph 3, Civil Code (CC).
- 3.4 Deviations from these General Terms & Conditions, notably in the Client's own general or special conditions, shall only apply, if they have been explicitly agreed on in writing.
- 3.5 In as far as these General Terms & Conditions do not provide for certain matters, the harbor practice existing in the harbors of Oranjestad and Barcadera shall apply. In additions to this, ASTEC may invoke the harbor practice existing in the harbors of Oranjestad and Barcadera, also if this deviates from what has been stipulated in these General Terms & Conditions. In that case, the harbor practice existing in the harbors of Oranjestad and Barcadera shall replace the provisions laid down in these General Terms & Conditions.



- 3.6 In the event that ASTEC does not make use of a right pursuant to these General Terms & Conditions at any time, this cannot be deemed to be a waiver of rights of forfeiture of rights to exercise this right in the future.
- 3.7 Documents to be submitted by ASTEC shall constitute full and mandatory proof as regards the nature, the content and the scope of the work carried out, such as, but not limited to, the hours worked and the manpower and equipment made available.

4. **Execution of the Instruction**

- 4.1 ASTEC shall undertake to execute the Instruction with the care and accuracy as is customary in the harbors of Barcadera and Oranjestad.
- 4.2 Without prejudice to the provisions laid down in Art. 13 of these General Terms & Conditions, Client is obligated to provide all information in writing, which, in ASTEC's opinion, is required for the execution of the Instruction, not later than 24 hours prior to the expected arrival of a vessel. In case of a vessel that has been loaded in the harbors of Curacao or Venezuela, the information shall be provided not later than 5 hours prior to the expected arrival. At any rate, the information mentioned above shall include the stowage plan and the unloading and loading list.
- 4.3 Without prejudice to the provisions laid down in Art. 4.2 and Art. 13 of these General Terms & Conditions, ASTEC shall be notified in writing of all characteristics of the goods and of the means of transportation that could cause these goods to constitute a hazard, either spontaneous or under certain influences, to other goods or objects, including the company equipment and storage areas, or to persons, or to the soil, water or air environment, and this at least 1 calendar week in advance.
- 4.4 At least 1 calendar week in advance, ASTEC shall also be notified in writing of all special attention and/or a specific treatment in the execution of the Instruction, such as, for example, frozen cargo or one of the characteristics mentioned in Art. 13.4. In the event of one or more package(s) with a weight, the number of packages and the measurements of these package(s) shall be specified. In the event of a package with a container size of 40 ft or more, a detailed description of the package material and the measurement of the package shall be added.
- 4.5 ASTEC shall execute the Instruction, either with its own or with rented equipment, or using the loading and unloading equipment, as well as the cargo handling equipment of



the vessel (e.g ship cranes) for the benefit of which the work is carried out. This is at ASTEC's discretion.

- 4.6 The provisions laid down in Art. 1759 et seq., CC, shall not apply to the means of transportation and other auxiliary material Client makes available free of charge to ASTEC. The applicability of Art. 1759 et seq., CC, shall emphatically be excluded in as far as possible.
- 4.7 Client is aware that ASTEC exclusively disposes of a gantry container crane with an effective hoisting capacity under the spreader of 40,000 kg (fourty thousand kilograms). The Reach Stacker (Top Loader) has an effective lifting capacity under the spreader of 45,000 kg (fourty five thousand kilograms). The mobile harbor crane has an effective capacity range of 41,000 kg 'under spreader'(fourty one thousand kilograms) to 104,000 kg 'under hook' (one hundred and four thousand kilograms) , depending on the applicable lifting boom angle.
- 4.8 In the event that ASTEC is of the opinion that there are goods that cannot be processed by using the auxiliary material mentioned in Art. 4.7, Client shall make available free of charge to ASTEC all other means of transportation and/or other auxiliary materials, which, in ASTEC's opinion, are required for the execution of the Instruction, and this for Client's account and risk. In the event that there is doubt whether the auxiliary material made available by Client meets the requirements issued by the public authorities, ASTEC may call in the authorities.
- 4.9 Client is obligated to remove, or cause to be removed, the goods stored in or near the storage shed (as indicated by ASTEC) as quickly as possible, at any rate not later than within 30 calendar days, or a shorter period to be determined by ASTEC, after the calendar day on which the goods were stored. In all other cases, except for containers loaded with goods on the harbor premises, the (mixed) cargo shall be removed within 3 days after the unloading, or within a shorter period to be further determined by ASTEC. In as far as ASTEC did not set a certain period, containers loaded with goods on the harbor premises shall be removed within a reasonable period, not to exceed 90 days.
- 4.10 In the event that the obligations as referred to in Art. 4.9 are not promptly complied with, Client shall be liable for all costs, damages and interests arising there from for ASTEC.
- 4.11 In the event that the obligations as referred to in Art. 4.9. are not promptly complied with, ASTEC may relocate and/or store the goods at Client's expense, if ASTEC deems this desirable. In the event that the obligations as referred to in Art. 4.9 are not promptly complied with, Client shall also be deemed to have given up voluntarily and



unconditionally the goods not removed in time in favor of ASTEC, which shall have free disposal of these goods.

- 4.12 Client is aware that the goods stored in the goods storage shed shall be handed over to the customs authorities on expiry of the 30 day's period as referred to in Art. 4.9. Client is also aware that the customs authorities shall not place the goods at free disposal until all costs incurred by ASTEC, to be increased with interests, penalties and other expenses, as well as any customs fees, have been paid.
- 4.13 In the event that the goods (to be stored or already stored) have been sold, or the ownership thereof has been passed to third parties, in whole or in part, by or on behalf of Client prior to the agreed date of termination of the storage, Client shall remain liable towards ASTEC for the part transferred or passed, unless the new owner has recognized in writing the same obligations and liabilities as Client toward and to the satisfaction of ASTEC.
- 4.14 Client shall ensure and guarantee ASTEC that:
- a. the means of transportation, including all appurtenances and accessories, made available by Client are completely suitable for the goods and the working method used by ASTEC and meet all requirements as set by the public authorities;
 - b. the Work can immediately be started on the means of transportation, and that this Work can be continued and completed without delay, meaning that, at any rate, means of transportation can be shifted or relocated immediately, if so requested by ASTEC. After the completion of the Work, the means of transportation shall be shifted or removed on first demand of ASTEC;
 - c. onboard a means of transportation being loaded or unloaded, hoists shall be ready to be used for shifting at all times;
 - d. onboard a means of transportation being processed, there shall be sufficient lighting for the performance of the work;
 - e. proper supervision shall be carried out over the proper functioning and the correct use of the loading and unloading equipment of the means of transportation, as well as, in general, to do all that is possible to prevent any damage;
 - f. all Work shall be carried out, which is only indirectly related to the actual execution of the Instruction, but which is necessary for ASTEC to be able to start with, to continue or to complete the Work, including the clearing, opening and closing of the means of



transportation or spaces thereof, the positioning of davits, the preparation of winches, the positioning, removal and relocation of gangways.

- 4.15 Client shall remain responsible and liable for the Work mentioned in Art. 4.14 of these General Terms & Conditions, even if the performance of this Work by ASTEC would have become general practice.
- 4.16 In the event that the Client did not, or not in time, carry out the Work mentioned in Art. 4.14 of these General Terms & Conditions, whatever the cause may be, ASTEC may carry out this Work (or cause it to be carried out) for Client's account and risk.
- 4.17 Without prejudice to the provisions laid down in Art. 14 of these General Terms & Conditions, ASTEC shall not deliver the goods to third parties, not including the custom authorities, until all amounts due in connection with the Instruction have been paid, also including all compensations related to any delay, and Client has given his approval in writing of the delivery.

5 **Premature Termination**

- 5.1 ASTEC may terminate the Instruction prematurely, if:
- a. Client fails to comply with his obligations, whatever the reason may be, or if it is to be expected that Client will not, or will not be able to, comply with his obligations;
 - b. ASTEC should conclude, based on Client's attitude or information, that Client will fail to comply with his obligations, whatever the reason may be;
 - c. ASTEC is of the opinion that it has been put in a position that the completion of the Instruction cannot reasonably be required from it, including, but not limited to, the case that there are circumstances beyond its control in the sense of Art. 7 of these General Terms & Conditions;
 - d. Client discontinues his profession or business to a considerable extent;
 - e. Client fails to meet any condition set by ASTEC or related to a license or permission;
 - f. Client loses the free disposal of his assets or part thereof;
 - g. the filing by Client of any petition or any application seeking reorganization, readjustment or rearrangement of the business of Client under any law relating to bankruptcy or insolvency;

h. the making by Client of any assignment or attempted assignment for the benefit of creditors;

i. Client becoming insolvent, as evidenced, for example (without limitation) by (i) the appointment of a receiver or a receiver manager for all or substantially all of the property of Client, (ii) the inability of Client to pay its liabilities generally as they become due, (iii) the termination of a majority of Client's employees, or (iv) Client ceasing, or imminently ceasing by way of a third party petition remaining in place for 30 days, to carry on business;

j. any resolution passed, order made, or other steps taken by Client for the winding up, liquidation or other termination of the existence of Client;

k. Client's assets are embargoed;

5.2 In the event of premature termination as referred in Art. 5.1, Client and ASTEC shall settle based on the Work (properly) carried out so far, without prejudice to both parties' right to claim damages, with due observance of the provisions laid down in these General Terms & Conditions.

6. Limitation of Liability

6.1 In the execution of an Instruction, ASTEC shall not assume any liability towards other than Client.

6.2 Client shall indemnify ASTEC against all claims, by whatever name and for whatever reason, from third parties (including Client's insurer(s)), towards whom ASTEC could not invoke these General Terms & Conditions, in as far as these claims would be excluded, if the third parties would be bound by these General terms & Conditions.

6.3 On pain of exclusion of any liability on the part of ASTEC, Client shall notify third parties also involved in the execution of the Instruction on his behalf of these General Terms & Conditions and accordingly, enter into agreements with them. In the event of failure to comply with this obligation, Client shall indemnify ASTEC against all claims (from third parties).

6.4 ASTEC shall not be liable for damage to, or loss of goods, nor for the cause thereof, unless Client proves that they are due to willful intent or gross negligence of ASTEC. Furthermore, as regard loss of goods, ASTEC shall only be liable, if Client proves that the loss is due to theft committed by employees of ASTEC.

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- 6.5 ASTEC is not liable for any difference found between quantities of goods shipped in or out, unless the difference is the result of willful intent or gross negligence of ASTEC, in as far as it assumed liability for this under these General Terms & Conditions.
- 6.6 The means of transportation and other auxiliary material used by ASTEC shall only be deployed for Client's account and risk. ASTEC shall only assume liability, if Client proves that ASTEC's own company equipment /other auxiliary material was not in good condition at the time the damage occurred and did not meet any requirements set for this purpose by the public authorities, and that the damage occurred was caused by these circumstances. ASTEC shall not be liable for faults in the loading and unloading equipment, nor for loading and unloading equipment of the vessel or the other equipment/auxiliary material made available by Client.
- 6.7 Any liability of ASTEC shall terminate, if Client did not draw ASTEC's attention in writing to the alleged damage and did not give ASTEC the opportunity to convince itself of the alleged damage prior to termination of the Instruction or prior to departure from the Company Premises of the means of transportation and/or other auxiliary material and/or the goods that sustained the damage. In the event that this damage could not be reported in reason within the periods set, but Client was familiar with the damage, the first day Client could have notified ASTEC, shall be considered to be the date of termination, and this, however, with a maximum of three days after termination of the Instruction. The extent of the damage shall be determined as per the date on which the damage was found or, pursuant to the first sentence of this paragraph, should or could have been reported.
- 6.8 Without prejudice to the provisions laid down in these General Terms & Conditions, ASTEC's liability as regards direct and indirect (consequential) loss shall be limited as follows:
- a. for damage concerning goods or animals up to a maximum amount of Afl. 500.-- per package, respectively animal, and, in the event of non-packages, up to an amount of Afl. 500.-- per 1000 kg, and this up to a maximum of Afl. 5,000.--;
 - b. for damage concerning persons, to be understood to be bodily injury and the immaterial damage possibly resulting there from, up to a maximum amount of Afl. 5,000.--;
 - c. for damage concerning goods not falling under Art. 6.8, under a, up to maximum amount of Afl. 5000.--.

6.9 Without prejudice to the provisions laid down in Art. 6.8, ASTEC's liability shall also be limited up to a maximum of Afl. 15,000.—per Instruction, irrespective of the duration of the Instruction, the number of times damage occurred, the nature or cause of the damage, and irrespective of whether the damage concerns only one or more parties. The same damage that occurred in the execution of two or more different Instructions shall remain limited up to the same maximum amount of Afl. 15,000.-, but shall be divided among the joint Clients on a pro rata basis.

7. Force Majeure

7.1 ASTEC shall not be liable for matters beyond ASTEC's direct and indirect control and the damage resulting there from. Matters beyond ASTEC's control (Force Majeure) shall amongst others be understood to be, without being limited thereto:

a. war, riots, sabotage, molestation, destruction, disturbances, terrorism or hostage-taking;

b. government measures;

c. strike by permanent and/or temporary employees, in whole or in part, organized or unorganized, irrespective of whether the strike takes place by means of breach of contract, or due to prior notice of termination by employees, by exclusion, agitation, or in any other form, and irrespective of whether the employees are employed by ASTEC or another company (including Client);

d. burglary, fire or explosion;

e. nuclear reactions;

f. failure in the supply of energy and/or water;

g. high or low water or other acts of God;

h. hidden defects in pipes, buildings, machinery or breakdown, whatever the cause may be, and irrespective of where they occurred.

7.2 Furthermore, parties explicitly agree that ASTEC shall not be liable for:

a. change in quality of goods, mold, leakage, decay, vermin, insufficient or faulty packing;

b. third parties and/or personnel that does not, or not fully, comply with regulations laid down by the public authorities or by ASTEC;



c. causes of damage , which ASTEC could not reasonably prevent or impede, or unknown causes;

d. ASTEC's failure to do something that ASTEC has not been explicitly or separately been instructed to do; whatever the cause may be, and irrespective of where they occurred.

7.3 Force Majeure for ASTEC shall also include equipment and/or other items and/or auxiliary material deployed or to be deployed by or in the name of ASTEC, which has gotten mislaid, or the repair or replacement thereof, irrespective of whether they belong to ASTEC or to third parties, which are required for the execution of the Instruction, or the replacement or repair of which should be given priority in reason over the execution of the Instruction.

7.4 Force Majeure for ASTEC shall also encompass the circumstance that no berth or standing place is available on arrival of the means of transportation to be loaded or unloaded.

7.5 In all cases of Force Majeure, the possible loss of time and the berth and standing place fees and/or shipping fees and/or other losses due to delays shall be for Client's account.

8. Further Liability Clauses

8.1 In the event that ASTEC is obligated to pay Client damages as regards damage to third parties, ASTEC shall pay Client only the amount Client was obligated to pay a third party pursuant to a court order or an arbitration award and based on proper evidence, in the opinion of ASTEC, that the damages actually have been paid to the third party.

8.2 ASTEC reserves the right to contest Client's liability toward third parties (and the amount of the damage possibly resulting there from). If the payment by Client to the third party is effected to comply with an amicable settlement or a revocable arbitration award/court order, unless ASTEC and Client have reached consensus in writing, prior to the payment, as regards the Client's liability and the amount of the damages resulting there from.

8.3 ASTEC may invoke stipulations for the exclusion or limitation of damage, contained in agreements between Client or the transporter and third parties, or relevant statutory provisions that might apply to such agreements, at all times.

8.4 All stipulations concerning Client's indemnification against claims from third parties, as well as the arbitration clause , and all other rights in connection with possible damage and events stipulated for ASTEC's benefit (such as Art 8.3), as well as the arbitration clause, and all other rights in connection with possible damage and events stipulated for

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ASTECS benefit (such as in Art. 6.2 and 6.3 of these General Terms & Conditions) shall also be stipulated for the benefit of all (auxiliary) persons, whether or not employed by ASTEC, and, in general, for the benefit of each and anyone for whose acts/failures ASTEC might be liable for whatever reason, or who can be held liable for work carried out by ASTEC. In this respect ASTEC shall act as representative of the persons mentioned above in as far as necessary.

- 8.5 If and in so far as ASTEC informed Client that it assumes the liability of the persons as referred to in Art. 8.4 of these General Term & Conditions, Client's right to damages towards the aforementioned persons shall extinguish. Client agrees that, in this case, ASTEC shall dispose of all defenses, pleas, exonerations, etc., as would be available to the aforementioned persons.
- 8.6 Client is aware that ASTEC shall indemnify the Aruba Port Authority N.V. ('APA') against any claims from Client on APA for compensation of damage due to the use of goods, tools or premises owned or supervised by APA, in as far as they are operated or used by ASTEC.
- 8.7 Without prejudice to the other provisions laid down in these General Terms & Conditions, and except for willful intent or gross negligence, ASTEC shall not be liable for:
- a. Damage entirely or partially due to the nature, condition or stowage of the goods to be processed, or to faults in the loading and unloading equipment, and/or to the nature, suitability and layout for the transportation of the vessel and/or the other means of transportation directly or indirectly involved in the execution;
 - b. Damage that is the inevitable result of Client's instructions, or, in the absence of such instructions, of the working method used by ASTEC, if neither Client nor other parties concerned objected in writing in a timely manner to the working method used;
 - c. Damage that is foreseeable or inevitable when using the material deployed and/or the working method applied(in every aspect of the Instruction) unless Client raised reasonable objections against this in advance;
 - d. Damage that has been caused by loss of weight, loss of quality, pollution, commixture (including damage caused by pollination) or by the presence of exotic objects in the goods;
 - e. Damage caused by the goods, either due to their nature or as a consequence of any act or any failure of ASTEC or a third party, which damage third parties may (also)



recover from ASTEC pursuant to prevailing or future legislation, including soil, water and air pollution, product liability, dust and nuisance caused by bad smells;

f. Damage caused to other cargo onboard a means of transportation, which is not the subject matter of the Instruction at the time the damage occurred;

h. Damage to the means of transportation due to or in consequence of preparatory and Additional Work not included in the Instruction, such as installing lighting, carrying out repairs, manipulating hatches, shifting/relocating vessels, etc;

i. Damage in the form of dispatch money to be lost or demurrage to be paid, irrespective of the cause, as well as each form of time loss during or after the completion of the Instruction, which is the result of repairs under ASTEC's responsibility;

j. Damage due to incorrect stowage, if none, or insufficient instructions and/or insufficient instructions and/or information have/has been given by or on behalf of Client or another party concerned, and no objections against the (manner of) stowage have been brought to ASTEC's knowledge during the loading;

k. Damage due to the breaking, etc., of hoisting engines, chains and ropes, steel wires and other tools owned by ASTEC, unless it is demonstrated that this material was not in a good state of repair and did not meet the requirements in as far as these are for this purpose by the public authorities, or in the absence thereof, requirements deemed reasonable in general;

l. Consequential loss, financial loss and immaterial damage, other than damage directly caused to the means of transportation or the goods;

m. Damage during work normally carried out by other—e.g. the ship's crew or the shipbroker's personnel—regardless of the reason why ASTEC takes over such work and whether it receives payment for it, whatever the cause may be and irrespective of where it occurred.

9. Insurances

9.1 Client shall have sufficient insurance against the risks that have been excluded (from their nature or extent) from ASTEC's liability pursuant to these General Terms & Conditions.

9.2 ASTEC shall not insure the goods it retains during the execution of the Instruction.



10. Payment

- 10.1 The payments of all that Client owes pursuant to this agreement and these General Terms & Conditions shall be made promptly after the Instruction has been completed, without any discount, deduction or settlement of a claim Client may feel he has on ASTEC. ASTEC, on the other hand, may settle any claim against the goods it retains or will receive at all times.
- 10.2 ASTEC may determine to which outstanding claim a payment it received from Client applies, if necessary, in deviation from Art.6:43 CC et seq.
- 10.3 ASTEC may modify the place or method of payment by means of a written notification.
- 10.4 Without prejudice to the other provisions laid down in these General Terms & Conditions, ASTEC may request, at all times, an advance payment on, cash payment of or, in its opinion, adequate security for any bill/invoice it submitted and/or for payments of work in progress and/or for any other claim, and – without prior warning, notice of default or judicial intervention and without any liability on its part—refuse , suspend, interrupt or discontinue the Work at any time, until its request as meant above has been properly complied with.
- 10.5 Client may not suspend his obligations pursuant to the agreement and the General terms & Conditions in connection with a claim Client may feel he has on ASTEC for whatever reason – if necessary, in deviation from Art.6:262 CC.
- 10.6 Each time an amount payable pursuant to the agreement and the General Terms & Conditions belonging thereto has not been paid on the due date concerned, Client shall forfeit by operation of the law an immediately payable amount which is not subject to judicial moderation of 10% (in words: ten percent) of the amount due in respect of handling and administrative expenses, with a minimum of Afl. 100, -- per event, as of the due date, . The amount payable under this article is without prejudice to ASTEC's right to claim compliance and (additional or alternative) compensation.
- 10.7 Each time an amount payable pursuant to the agreement and the General Terms & Conditions belonging thereto has not been paid on the due date concerned, a contractual interest of 1.5 percent shall be payable in respect of the amount due per calendar month or part thereof, while each new calendar month shall be considered to be a full calendar month.
- 10.8 All claims of ASTEC shall become immediately payable in case of bankruptcy or a moratorium (or petitions to this effect) of Client or its representative, or of the owner



and/or shipper of the object at or for the benefit of which work is or been carried out, or if an attachment is made on the object or the content or any part thereof, at or for the benefit of which work is or has been carried out, such as, for example, the vessel, the cargo or the bunkers of the vessel, or on the cargo of the vessel, or any part thereof.

- 10.9 Delay at the beginning of the Instruction and/or at the completion of the Instruction, regardless who or what caused it, shall not release Client from its obligation to pay ASTEC the additional costs due based thereon for waiting time of equipment and personnel, harbor fees, berth fees and/or standing fees.
- 10.10 Payments for compensation of damage ASTEC made to Client shall only imply liability, if and in so far as ASTEC explicitly and unconditionally acknowledged this.
- 10.11 Client shall owe ASTEC an additional payment for the execution of the Instruction, if it appears during the execution that the goods or the means of transportation show such characteristics or features that the Work encompasses more time, manpower or deployment of material as was to be reasonably anticipated when accepting the Instruction.
- 10.12 The costs of Additional Work shall be invoiced separately and shall not constitute part of the prices of the Instruction, unless explicitly agreed on otherwise.

11. Tariffs

- 11.1 The Tariffs have been laid down in the most recent version of the Tariffs Booklet.
- 11.2 The Tariffs are based on a normal processing method of goods packed in a solid and seaworthy manner with teams of normal strength and during the normal working hours, and this at the exclusive discretion of ASTEC, and applicable at the time of the determination of the Tariffs.

12. Presence on the Company Premises

- 12.1 Each and anyone present on ASTEC's Company Premises or at the place where the Work is carried out, shall be there at his own risk and shall strictly adhere to the regulations and/or instructions given by government agencies, also including APA, and ASTEC.
- 12.2 Only means of transportation and vehicles, which have been insured for at least an amount of Afl. 250,000.— with an insurance company of good reputation and licensed by the Central Bank of Aruba, and which meet all requirements to be set for this purpose by



the Aruban public authorities as regards the means of transportation, including the general periodic test, shall be allowed to access the Company Premises.

- 12.3 ASTEC may demand evidence that the provisions laid down in Art. 12.2 of these General Terms & Conditions are met at all times.
- 12.4 Each and anyone is prohibited to be present within the radius of hoisting equipment, with means of transportation or otherwise, in as far as not strictly necessary for the Work.
- 12.5 It is prohibited to smoke, use drugs or alcoholic beverages on the Company Premises.
- 12.6 Each and anyone who supplies or takes delivery of goods on the Company Premises or carries out Work on the Company Premises shall be liable towards ASTEC for the compliance with the provisions laid down in these General Terms & Conditions by those who are present on or near the Company Premises, for whatever reason, in connection with the Work or the goods.
- 12.7 ASTEC may deny persons or goods access to the Company Premises at all times, without prior notification and without stating reasons.

13 Packaging of and indications on goods.

- 13.1 The goods shall be packed in a solid and seaworthy manner and be provided in a clear manner with notices and other indications, in conformity with the prevailing rules under Aruban public law and the rules of the International Maritime Organization (IMO).
- 13.2 The following shall clearly and accurately be indicated on all packages to be processed;
 - a. the name of the owner(s) of the goods;
 - b. the name of the vessel used for the transportation of the packages to Aruba.
 - c. the data on which the (intended) unloading will take place.
- 13.3 In the event that more than one package is meant for one and the same owner within the framework of the Instruction, Client shall draw up a so-called packing list, including a statement and a description of the packages in question. This description shall at least contain the information mentioned in Art. 13.2. Furthermore, the packing list is submitted in a way by which the contents can be reasonably identified .



- 13.4 Without prejudice to the provisions laid down in Art. 4.2, 4.3 and 4.4, it shall clearly and accurately be indicated on all packages to be processed-whenever possible, in conformity with generally accepted rules, in the absence of rules public procedural law-whether the packages contain or concern goods susceptible to rust, and/or oxidation and/or flammable and/or explosive and/or fragile and/or caustic and/or poisonous and/or radioactive and/or toxic goods, and, in general, whether they contain or concern goods that may be bothersome, harmful or dangerous to human, animals or the environment. Furthermore, the weight, if it exceeds 1,000 kg, shall clearly and accurately be indicated on the packages to be processed. ASTEC shall also be made specifically aware of any of the aforementioned circumstances. This shall also apply to packages requiring a special stowage or special measures in connection with their value.
- 13.5 Indications or information in another language or in technically terms not generally know, shall be deemed not to meet the above requirements, at ASTEC's discretion.
- 13.6 At all times, ASTEC may refuse, suspend, prematurely interrupt, or terminate the processing of goods, which, in its opinion, do not meet any of the requirements laid down in Arts. 13.1, 13.2 or 13.3 of the General Terms & Conditions or otherwise, and/or take measures as regards such goods, which ASTEC deems necessary (including destruction), for Client's account.

14. **Pledge and Right of Retention.**

- 14.1 ASTEC shall have a pledge and a right of retention on all objects, goods, documents and money ASTEC retains or will receive, for whatever reason and for whatever purpose, towards each and anyone claiming the surrender thereof, on account of all claims it has or should obtain against of Client and/or owner, until all of its claims have been paid or adequate security has been provided, at ASTEC's exclusive discretion.
- 14.2 ATEC may also enforce the rights granted to in Art. 14.1 on account of all that Client still owes it in connection with previous Instructions or for another reason.
- 14.3 In the event of failure to pay the claim, the security shall be sold in the manner stipulated by law or- provided that there is consensus- by private sale.

15. **Lapse and Prescription.**

- 15.1 Any claim against ASTEC shall lapse by the expiry of one calendar year.



15.2 The period referred to in Art. 15.1 shall commence the day following the day the claim became due and payable, or the day following the day the injured party became aware of the damage.

15.3 Without prejudice to the above provisions, aforementioned periods for claims regarding damage to, decrease in value or loss of objects, shall commence the day following the day of the completion of the Instruction.

16. **Extrajudicial Costs.**

16.1 In cases in which ASTEC has a summons, notice of default or a process served on Client, or in case of procedures against Client to force it to comply and/or to pay damages, Client is obligated to pay ASTEC all costs incurred for this purpose, both in and out of court, except for the legal cost to be paid by Client pursuant to a final court order.

16.2 The costs incurred shall be fixed at 15 percent of the principal sum due by Client, or at an amount not lower than the usual rate applied by process servers.

17. **Disputes.**

17.1 All disputes which may arise in connection with this agreement, or further agreements that may result there from, shall be settled in the Court of First Instance of Aruba under Aruban law.

17.2 For the collection of monetary claims, the Court of First Instance of Aruba shall be competent to rule on the settlement of the claim in question.

18. **Final Provision.**

18.1 In the event that any provisions of these General Terms & Conditions are determined to be invalid or unenforceable by a court of competent jurisdiction in any jurisdiction, the remainder of the General terms & Conditions will remain in full force and effect without said provision in said jurisdiction and such determination will not affect the validity or enforceability of such provision or the General Terms & Conditions in any other jurisdiction. The Client and ASTEC will in good faith negotiate a substitute clause for any provision declared invalid or unenforceable, which will most nearly approximate the intent of the provisions of these General Terms & Conditions so invalidated.

