

Instruction completing agreement Limited Fiscal Representative

1. Read **agreement and annexes carefully.**

2. **Complete Importer information on page 1.**

3. **Sign by Importer on page 7 by authorized person.**

4. **Add copy of passport from undersigner.**

5. **Add copy layout of Chamber of Commerce to show under signer is authorized.**

6. Please answer the **following questions.**
 - a) Email address importer _____
 - b) Website importer _____
 - c) Founding year of company _____
 - d) Undersigner is director since _____

7. Send page 1 to 7 **original signed to:**
CSD Deutschland GmbH
Tempowerkring 6
21079 Hamburg



MODEL CONTRACT TO ACT AS FISCAL REPRESENTATIVE WITH A LIMITED LICENCE

Underlined passages indicate that further completion is required.

The undersigned, hereinafter referred to as 'Principal'

Company name
Address
Postal code
Country
Chamber of Commerce registr. No.:
VAT ID number (if possible):
EORI number:

And

CSD Deutschland GmbH," hereinafter referred to as 'Fiscal Representative'".

CSD Deutschland GmbH
Tempowerkring 6
21079 Hamburg

Amtsgericht Hamburg HRB 114853
Geschäftsführer: M.G.P. Bedaf
Ust-IdNr. DE277067036

Parties hereby declare that they have agreed as follows:

Principal hereby states to be a foreign enterprise without permanent establishment in Germany whose activities involve dealing with German turnover tax. Principal hereby designates Fiscal Representative to carry out the operations and activities prescribed pursuant to the 'deutschen einfuhrumsatzsteuer' and associated legislation and regulations concerning consignments of goods brought in by/on behalf of Principal or intended for Principal. Principal shall issue a separate Power of Attorney to Fiscal Representative in respect of the work assigned.

Fiscal representative:

Fiscal Representative declares to act as Fiscal representative with a limited licence on behalf of Principal regarding the import of goods and the subsequent delivery of consignments of goods brought in by/on behalf of Principal or intended for Principal.

Supplementary arrangements need to be made for the following transactions and tasks carried out by the Fiscal Representative:

- a) for example pick-up shipments
(meaning that the Fiscal Representative places the) goods at disposal of acquiring party, without arranging further transportation)
- b) for example certain goods or goods subject to excise duty)¹
- c) for example intra-Community supplies under connected contracts (simplified A-B-C scheme)

Article 1 GENERAL CONDITIONS

- 1.1 Fiscal Representative shall at all times be entitled to refuse operations and activities ensuing from this contract.
- 1.2 Use of the VAT identification number of Fiscal Representative by Principal shall only be permitted to the extent that such ensues from the present contract and is necessary in order to meet legal obligations.
- 1.3 Fiscal Representative shall only use Principal's documents, information and data for operations / activities ensuing from the present contract. Fiscal Representative shall not make such documents, information or data available to third parties, unless such ensues from the present contract or be required in order to achieve an accurate tax levy or ensues from a legal obligation.
- 1.4 Barring deviations / supplementary rulings in the present contract, the 'Nederlandse Expeditievoorwaarden' [Dutch Forwarding Conditions] shall apply to the relationship between parties, as filed by FENEX at the Offices of the District Courts in Amsterdam, Arnhem, Breda and Rotterdam. The latest version of the Dutch Forwarding Conditions at the time such operations/activities are performed shall apply. ²
- 1.5 The following appendices constitute part of this contract:
 - Appendix a) Dutch Forwarding Conditions.
 - Appendix b) Required information and documentation per transaction.
 - Appendix c) General terms and conditions Customs Support
- 1.6 Matters relating to the implementation of the present agreement may be further arranged by parties, supplementary to this agreement, in appendices that shall automatically constitute part of this agreement after having been signed or initialled.

¹ For bulk goods and goods subject to excise duty (goods as referred to in Table II, item a7 and item a8 of the

² Turnover Tax Act 1968) Fiscal Representative shall also have the right to declare local / intra-EU purchases.

Article 2 DESCRIPTION / NATURE OF AGREED ACTIVITIES

- 2.1 Fiscal Representative shall act on behalf of Principal in respect of all obligations ensuing from German regulations concerning Fiscal Representation with a limited licence.
- 2.2 Fiscal Representative shall carry out the following activities on behalf of / for the benefit of Principal:
 - a) Periodical / Monthly VAT declaration under the VAT identification number allocated to Fiscal Representative.
 - b) Quarterly report of intra-Community supplies.
 - c) CBS / Intrastat report.
- 2.3 In his declaration of intra-Community supplies to acquiring parties registered for turnover tax, Fiscal Representative shall, wherever possible on the basis of the invoice supplied or other documents, information and data, apply the zero rate tariff. If so requested by Principal in writing, Fiscal Representative shall periodically verify the VAT identification number of the intra-Community acquiring party with the tax authorities.
- 2.4 Without prejudice to the foregoing, Fiscal Representative is subject to the following legal obligations:
 - Provision of security with the tax authorities.
 - If so required, supply information to the tax authorities.
 - Keep proper records in order to show in the case of audits that correct tax levy has taken place.

Article 3 RIGHTS ACCRUING TO FISCAL REPRESENTATIVE

- 3.1 For all operations / activities and formalities relating to the agreement, if Fiscal Representative should have any doubts concerning the correct application of the VAT rate / transfer of turnover tax, he shall be (including the zero rate tariff) entitled to file the VAT declaration or amend a VAT declaration already filed, applying the valid rates for turnover tax.³
- 3.2 Fiscal Representative shall retain the right to suspend operations and activities until the amount due within the framework of the present agreement or the relevant conditions has been settled. In the case that operations and/or activities should be suspended, Fiscal Representative shall inform Principal accordingly.
- 3.3 In the case that Principal shall not meet his obligations ensuing from the present contract or if Fiscal Representative may reasonably assume that Principal shall fail to fulfil these obligations, Fiscal Representative shall be entitled to offset any payments/refunds by the tax authorities of whatever nature accruing to Principal.
- 3.4 Fiscal Representative shall be entitled but not obliged to consult / negotiate with the tax authorities concerning tax levies, supplementary tax levies and/or other costs and matters falling under the present agreement. Consultation with Principal shall take place in respect of calling in third parties to handle claims and negotiations with the tax authorities. All said operations and activities shall be at the expense and risk of Principal.

³ Also see article 4.4

3.5 Fiscal Representative shall request instructions from Principal if an unexpected situation should arise in respect of performance of activities that has not been provided for in the present Agreement. However, should Principal fail to respond within a reasonable period of time and immediate action be required in view of urgent circumstances, Fiscal Representative shall deal with the matter at his own discretion, having due regard to the provisions of this Agreement.

Article 4 PRINCIPAL'S OBLIGATIONS

Principal shall be obliged to:

- 4.1 provide Fiscal Representative in good time quantity of goods consignments;
- 4.2 notify Fiscal Representative consignments if these deviate by more than 20% of the expected amount of import turnover tax;
- 4.3 provide Fiscal Representative with all required documents, information and data - also per individual consignment/transaction - required pursuant to the relevant regulations and under the present Agreement, in conformity with Annex B. Principal shall guarantee the accuracy of said documents, information and data;
- 4.4 make all efforts required in connection with the application of Article 3.1, such upon first request by Fiscal Representative;
- 4.5 hold Fiscal Representative indemnified against claims by third parties in connection with failure on the part of Principal and his contractual parties to meet any obligations that may exist under the present Agreement and/or relevant general conditions, including the provision of correct VAT identification numbers and correct documents, information and data;
- 4.6 in addition to the agreed remuneration, reimburse / pay any other sums/expenses ensuing from the present agreement and/or relevant general conditions. Said obligation to pay shall remain valid in the case of any dispute between parties;
- 4.7 reimburse / pay Fiscal Representative at all times upon first request for any amounts to be levied or additionally demanded by any authority in connection with the present agreement, as well as any fines imposed and interest due;
- 4.8 notify Fiscal Representative in good time (or: as early as possible) of the sale / transfer of his company, any change in control of the company as well as application for a moratorium and bankruptcy.

Article 5 PRICES AND RATES + YEARLY ADJUSTMENT

- 5.1 Agreed prices and rates for operations and activities by Fiscal Representative shall be separately agreed upon.
- 5.2 All sums of whatever nature owed to Fiscal Representative by Principal must be paid within the agreed period after date of invoice or should be paid immediately upon first demand. Should Principal fail to pay the sum due immediately upon demand or after the applicable term of credit, Fiscal Representative shall be entitled to charge the legal interest in conformity

with sections 6:119 and 6:119a of the 'Burgerlijk Wetboek' [Dutch Civil Code].

- 5.3 If according to the judgment of Fiscal Representative it should be necessary to deviate from the principles of Appendix d, for example as a consequence of a return based on articles 4.1 and 4.2, Fiscal Representative may re-determine prices and rates and submit these to Principal for approval.
- 5.4 Prices and rates shall be adjusted annually, unless otherwise agreed.

Article 6 LIABILITY OF THE PARTIES

- a) Without prejudice to the provisions of the Dutch Forwarding Conditions, Fiscal Representative shall not be liable for the operations and activities of third parties brought in according to article 3.4.
- b) Principal shall be liable for any damages resulting from failure by Principal and/or his contractual parties to meet any obligations existing pursuant to the present agreement and/or relevant general conditions, including the provision of accurate VAT identification numbers and correct documents, information and data.

Article 7 SECURITY

- 7.1 In conformity with the Dutch Forwarding Conditions, Principal has the obligation to provide sufficient security upon first request of Fiscal Representative.⁴
- 7.2 Upon commencement of fiscal representation, Principal has the obligation to provide a bank guarantee - the nature and content of which shall be considered adequate by Fiscal Representative - to cover anything that may ensue from the present agreement.

Article 8 DURATION / TERMINATION AGREEMENT

- 8.1 This agreement has been entered into for:
- an indefinite period, commencing on undersigning of this agreement. The agreement may be terminated with due observance of a period of notice of one month
- 8.2 The agreement shall be terminated by written notice by registered letter.
- 8.3 Parties engage to ensure correct finalization upon termination of the agreement.

⁴ *Bulletin 20 "Fiscal Representation for the levy of turnover tax " (Decree of 9 May 1994, nr VB 94/1143) by the State Secretary of Finance deals with security in the case of fiscal representation*

- 8.4 Either party may terminate the agreement prematurely by means of dissolution with immediate effect, without consequences and without intervention by the courts/arbitration, provided:
- a) other party to the contract, after written notice of default, does not fulfil its obligations as recorded in the present agreement, or;
 - b) other party to the contract sells or transfers their company to a third party or there is a change in control of the company, or;
 - c) other party to the contract has been granted a moratorium or is in a state of bankruptcy, or;
 - d) it is proven that Fiscal Representative evidently is not able to act in that capacity.
- 8.5 Pursuant to article 8.4 paragraph 1 Fiscal Representative is entitled to terminate the agreement prematurely if such be justified in the judgment of Fiscal Representative on the basis of articles 4.1 and 4.2, in the event that agreement cannot be reached concerning price and/or rates and the bank guarantee to be provided.
- 8.6 Upon termination and dissolution of the agreement, all claims - including future claims - by Fiscal Representative ensuing from the operations and activities carried out by Fiscal Representative within the framework of the present agreement, shall be immediately and fully due and payable.
- 8.7 Principal shall provide adequate security in the judgment of Fiscal Representative for any sums that are or may be due after termination of the agreement, including provision of a bank guarantee the nature and content of which shall be considered adequate, whereby earlier guarantees provided by Principal shall remain in full force.
- 8.8 The provisions of this agreement will continue to apply after termination of the agreement, to the extent that such shall be relevant in connection with amounts to be levied or additionally demanded by any authority, meeting obligations to any authority or any other payments.

Article 9 INVALID PROVISION / AMENDMENTS BY THE STATE

- 9.1 If one or more individual provision(s) of this Agreement should be null and void or be annulled, this shall not affect the validity of the remaining provisions hereof.
- 9.2 In the event that stipulations of the agreement should prove null and void / subject to annulment, or if this contract should need to be amended due to changes in legislation / regulations, Fiscal Representative shall retain the right to terminate this contract without consequences or, in consultation, to amend the stipulation into a valid version without prejudice to the other provisions.



Artikel 10 PRESCRIPTION

10.1 Article 21 of the Dutch Forwarding Conditions shall apply, with the proviso that contrary to article 21 sub 1, any claims by Fiscal Representative under this agreement in respect of amounts to be levied or additionally demanded by any authority as well as any fines imposed and interest due, shall be prescribed by the mere lapse of five years. In the case of objection and/or appeal, the period of prescription shall commence on the day following that upon which judgment in the case of objection and/or appeal became final.

Article 11 CHOICE OF APPLICABLE LAW

11.1 This agreement shall be governed by Dutch law.

Principal, legally represented by:

Full Name _____

Position _____

Date and Place _____

Signature (and business stamp) _____

Fiscal Representative, CSD Deutschland GmbH, legally represented by:

Full name M.G.P. Bedaf

Position CEO

Date and Place HAMBURG,

Signature (and business stamp) _____



Annex A

**DUTCH FORWARDING CONDITIONS
GENERAL CONDITIONS
OF THE
FENEX (Netherlands Association for Forwarding and Logistics)**
deposited at the Registry of the District Courts at Amsterdam,
Arnhem, Breda and Rotterdam on 1 July 2004
Applicability

Article 1.

1. These general conditions shall apply to any form of service which the forwarder shall perform. Within the framework of these general conditions the term forwarder must not be understood exclusively to mean the forwarder as contemplated in Book 8 of the Dutch Civil Code. The party ordering the forwarder to carry out operations and activities shall be considered the forwarder's principal, regardless of the agreed mode of payment.
2. With respect to the operations and activities, such as those of shipbrokers, stevedores, carriers, insurance agents, warehousing and superintending firms etc. which are carried out by the forwarder, the conditions customary in the particular trade, or conditions stipulated to be applicable, shall also be applicable.
3. The forwarder may at any time declare applicable provisions from the conditions stipulated by third parties with whom he has made contracts for the purpose of carrying out the orders given to him.
4. The forwarder may have his orders and/or the work connected therewith carried out by third parties or the servants of third parties. In so far as such third parties or their servants bear statutory liability towards the forwarder's principal, it is stipulated on their behalf that in doing the work for which the forwarder employs them they shall be regarded as solely in the employ of the forwarders. All the provisions (inter alia) regarding non-liability and limitation of liability and also regarding indemnification of the forwarder as described herein shall apply to such persons.
5. Instructions for delivery C.O.D., against banker's draft etc., shall be deemed to be forwarding work.

Contracts

Article 2.

1. All quotations made by the forwarder shall be without any obligation on his part.
2. All prices quoted and agreed shall be based on the rates, wages, costs incidental to social security and/or other provisions of law, freight and exchange rates applying at the time of quotation or contract. © Copyright FENEX, 2004 2-10 All rights reserved. These conditions, or parts thereof, may not be reproduced, copied or published in any form or by any means without the written permission of FENEX, The Netherlands.
3. Upon any change in any or more of these factors the quoted or agreed prices shall likewise be altered in accordance therewith and retroactively to the time such change occurred. The forwarder must be able to prove the change(s).

Article 3.



1. If the forwarder charges all-in or fixed rates, as the case may be, these rates shall be deemed to include all costs that in the normal procedure of handling the order are for the account of the forwarder.
2. Unless provided otherwise, all-in or fixed rates shall not include at any rate: duties, taxes and levies, consular and attestation fees, cost of preparing bank guarantees and insurance premiums.
3. For work of a special nature, unusual job or work requiring a special amount of time or effort, an additional reasonable amount may at all times be charged.

Article 4.

1. In the event of loading and/or unloading time being inadequate - regardless of the cause thereof - all costs resulting therefrom, such as demurrage, etc., shall be borne by the principal, even when the forwarder has accepted the bill of lading and/or charter party from which the additional costs arise without protestation.
2. Expenses of an exceptional nature and higher wages arising whenever carriers by virtue of any provision in the shipping documents load or unload goods in the evening, at night, on Saturdays or on Sundays or public holidays, shall not be included in the agreed prices, unless specifically stipulated. Any such costs shall therefore be refunded by the principal to the forwarder.

Article 5.

1. Insurance of any kind shall be arranged only upon specific instructions in writing at the principal's expense and risk. The risks to be covered shall be clearly stated. A mere statement of the value is not enough.
2. If the forwarder has taken out any insurance in his own name he shall be bound - if so requested - only to transfer his claims against the insurer to his principal.
3. The forwarder shall not be responsible as regards the choice of the insurer and the latter's solvency.
4. When the forwarder uses derricks and any other such equipment for carrying out his orders he shall be entitled to take out insurance at his principal's expense to cover the forwarder's risk arising through the use of such equipment.

Article 6.

1. Unless agreed otherwise in writing, the supplying to the forwarder of data required for customs formalities shall imply an order to perform such formalities.

Performance of the contract

Article 7.

1. If the principal has not given any specific instructions with his order, the mode and route of transport shall be at the forwarder's option and the forwarder may at all times accept the documents customarily used by the firms with which he contracts for the purpose of carrying out his orders.

Article 8.

1. The principal shall ensure that the goods are tendered at the agreed place and time.



2. The principal shall ensure that the documents required for receipt and for despatch, as well as the instructions, are in the forwarder's possession in proper time.
3. The forwarder shall not be obliged but shall be entitled to investigate whether the specifications stated to him are correct and complete.
4. In the absence of documents, the forwarder shall not be obliged to receive against a guarantee. Should the forwarder furnish a guarantee, he shall be saved harmless by his principal from and against all the consequences thereof.

Article 9.

1. All operations such as inspecting, sampling, taring, tallying, weighing, measuring etc., and receiving goods subject to appraisal by a court-appointed expert shall take place only on the principal's specific instructions and upon reimbursement of the costs thereof.
2. Nevertheless, the forwarder shall be entitled, but not obliged, on his own authority and at his principal's expense and risk to take all such action as he deems necessary in the principal's interest.
3. The forwarder shall not act as an expert. He shall in no way be liable for any notification of the state, nature or quality of the goods; nor shall he be under any obligation to ensure that the shipped goods correspond with the samples.

Article 10.

1. The addition of the word "approximately" shall allow the principal the freedom to supply 2.5% more or less.

Liability

Article 11.

1. All operations and activities shall be at the principal's expense and risk.
2. Without prejudice to the provisions of Article 16, the forwarder shall not be liable for any damage whatsoever, unless the principal shall prove that the damage has been caused by fault or negligence on the part of the forwarder or the latter's servants.
3. The forwarder's liability shall in all cases be limited to 10,000 SDR per occurrence or series of occurrences with one and the same cause of damage, on the understanding that in the event of damaging, loss of value or loss of the goods comprised in the order, the liability shall be limited to 4 SDR per kilogram damaged or lost gross weight, the maximum being 4,000 SDR per consignment.
4. The loss to be indemnified by the forwarder shall never exceed the invoice value of the goods, to be proved by the principal, in default whereof the market value - to be proved by the principal - at the time when the damage has occurred shall apply. The forwarder shall not be liable for lost profit, consequential loss, and pain and suffering.
5. If during the execution of the order damage occurs for which the forwarder is not liable, the forwarder shall make efforts to recover the principal's damage from the party that is liable for the damage.
6. The forwarder shall be entitled to charge to the principal the costs incidental thereto. If so requested, the forwarder shall waive in his principal's favour his claims against third parties engaged by him for the purpose of carrying out the order.



7. The principal shall be liable towards the forwarder for any damage as a consequence of the (nature of the) goods and the packaging thereof, the incorrectness, inaccuracy or incompleteness of instructions and data, the failure to tender the goods or not doing so in time at the agreed place and time, as well as the failure to supply -- or to do so in time -- documents and/or instructions, and fault or negligence in general on the part of the principal and the latter's servants and third parties called in or engaged by him.
8. The principal shall indemnify the forwarder against third-party claims connected with the damage referred to in the foregoing paragraph, such third parties including servants of both the forwarder and the principal.
9. Even where all-in or fixed rates, as the case may be, have been agreed, the forwarder, who is not a carrier, shall be liable under the present conditions and not as a carrier.

Article 12.

1. To be regarded as force majeure are all circumstances which the forwarder could not reasonably avoid and the consequences of which the forwarder could not reasonably prevent.

Article 13.

1. In the event of force majeure, the contract shall remain in force; the forwarder's obligations shall, however, be suspended for the duration of the event of force majeure.
2. All additional costs caused by force majeure, such as carriage and storage charges, warehouse or yard rentals, demurrage for vessels or trucks, insurance, removal, etc., shall be borne by the principal and shall be paid to the forwarder at the forwarder's initial request.

Article 14.

1. The mere statement by the principal of a time for delivery shall not be binding upon the forwarder.
2. The forwarder does not guarantee arrival times, unless agreed otherwise in writing.

Article 15.

1. If the carriers refuse to sign for number or weight of pieces or items etc., the forwarder shall not be liable for the consequences thereof.



Imperative law

Article 16.

1. If the goods are not delivered without delay at the place of destination in the state in which they were tendered, the forwarder, in so far as he has carried out a contract of transport himself which he was to conclude with a third party, is obliged to notify this forthwith to the principal who has notified him of the damage.
2. If the forwarder fails to make notification as referred to in the first paragraph and if as a result thereof he has not been called upon as a carrier in time, he shall, in addition to being liable for payment of the further damage sustained by the principal as a result thereof, be liable to pay compensation equal to the damages he would have had to pay, if he had been called upon as a carrier in time.
3. If the goods are not delivered without delay at the place of destination in the state in which they were tendered, the forwarder, in so far as he has not carried out a contract of transport himself which he was to conclude with a third party, is obliged to inform the principal forthwith which contracts of transport he has entered into to fulfill his obligation. He is also obliged to put at the disposal of the principal all documents in his possession or which he can reasonably supply, at any rate in so far as they may be used to claim damages sustained.
4. As from the point of time at which he informs the forwarder unequivocally that he wishes to exercise such rights and powers, the principal shall obtain as against the party with whom the forwarder has conducted business the rights and powers to which he would have been entitled if as a shipper he had concluded the contract himself. He shall be free to take legal action in this matter if he submits a statement to be issued by the forwarder - or in case the forwarder has gone into compulsory liquidation, by the forwarder's liquidator - that between him and the forwarder with respect to the goods a contract for the carriage thereof was concluded.
5. If the forwarder fails to comply with an obligation as referred to in the third paragraph, he shall, in addition to being liable for payment of the further damage sustained by the principal as a result thereof, be liable to pay compensation equal to the damages which the principal would have received from him if he himself had carried out the contract concluded by him, less the damages which the principal may have received from the carrier.

Payment

Article 17.

1. The principal shall pay to the forwarder the agreed remuneration and other resulting costs, freights, duties, etc., ensuing from the contract and/or these conditions, upon arrival or dispatch of goods which are being received or forwarded respectively. The risk of exchange rate fluctuations shall be borne by the principal. The agreed remuneration and other resulting costs, freights, rights, etc., ensuing from the contract and/or these conditions, shall also be due if in the performance of the contract damage has occurred.
2. If, in contravention of paragraph 1 of this article, the forwarder allows deferred payment, the forwarder shall be entitled to make an additional credit limit charge.
3. If the principal does not pay the amount due immediately upon notice to that effect or, as the case may be, after lapse of the term of deferred payment, the



- forwarder shall be entitled to charge the legal interest in conformity with Articles 6:119 or 6:119a Dutch Civil Code.
4. In the event of cancellation or dissolution of the contract, all claims of the forwarder, with the inclusion of future claims, shall become due and payable forthwith and in full. All claims shall be due and payable forthwith and in full in any case, if:
 - the principal is involuntarily wound up, the principal applies for suspension of payment or otherwise loses the unrestricted disposition over his assets;
 - the principal offers a settlement to his creditors, is in default of fulfilling any financial obligation owed to the forwarder, ceases to trade or - where the principal is a legal entity or a corporate body - if the legal entity or the corporate body is dissolved.
 5. The principal shall be reason of the forwarding contract and upon demand by the forwarder provide security in the form of a bond with sureties for any amount for which the principal is or may be indebted to the forwarder. The principal is also so obliged where he already has to provide or has provided security in the form of a bond with sureties in connection with the amount owed.
 6. The forwarder shall not be obliged out of his own means to provide security in the form of a bond with sureties for the payment of freight, duties, levies, taxes and/or other costs should the same be demanded. All the consequences of non-compliance or of failure to comply forthwith with a demand to provide security in the form of a bond with sureties shall be borne by the principal. If the forwarder has provided security in the form of a bond with sureties out of his own means, he may demand that the principal pay the amount for which security has been provided security in the form of a bond with sureties.
 7. The principal shall at all times be obliged to indemnify the forwarder for any amounts to be levied or additionally demanded by any authority in connection with the order, as well as any related fines imposed upon the forwarder. The principal shall also reimburse the said amounts to the forwarder if a third party called in by the forwarder demands payment within the framework of the forwarding contract.
 8. The principal shall at all times indemnify the forwarder for any amounts as well as for all additional costs that may be claimed or additionally claimed from the forwarder in connection with the order as a result of incorrectly charged freight rates and costs.
 9. The principal shall not be entitled to apply any set-off in respect of sums charged by the forwarder to the principal under any contract existing between them.

Article 18.

1. Cash payments shall be deemed in the first place to have been made on account of non-preferential debts, regardless of whether any other instructions were given at the time of payment.
2. If legal proceedings or other means are resorted to in the event of overdue payment, the amount of the indebtedness shall be increased by 10% for clerical expenses, while the legal and other costs shall be borne by the principal up to the amount paid by or due from the forwarder.

Article 19.



1. With respect to all claims he has or may at any time have against the principal and/or the owner, the forwarder shall have a pledge and a lien on all goods, documents and moneys which he holds or will hold in his possession whatever the reason and the purpose thereof may be, as against any party requiring their delivery. If the goods are forwarded on, the forwarder shall be entitled to collect the sum due on subsequent delivery or draw a bill therefor with the shipping documents annexed.
2. The forwarder may also exercise the rights granted to him in paragraph 1 for that which the principal was owing to him with respect to previous orders.
3. The forwarder is also authorized to exercise the rights granted to him by virtue of paragraph 1 for any amount(s) payable by way of delivery C.O.D. in respect of the goods.
4. Failing payment of the amount due the security shall be sold as provided by statute or - if so agreed - by private sale.

Final provisions

Article 20.

1. No legal or arbitration proceedings shall be taken against third parties by the forwarder unless he states his readiness to take the same at the principal's request and expense.

Article 21.

1. Without prejudice to the provisions of paragraph 5 of this Article, all claims shall be barred by the mere lapse of a period of nine months.
2. All claims against the forwarder shall be barred by the mere lapse of a period of eighteen months.
3. The terms mentioned in paragraphs 1 and 2 shall commence on the day following the day on which the claim has become due and payable or the day following the day on which the prejudiced party had knowledge of the loss. Without prejudice to the preceding provisions, the said terms shall commence on the day following the day of delivery with respect to claims regarding damage to, decrease in value or loss of the goods. The day of delivery shall be understood to be the day on which the goods are delivered from the means of transport or, if they have not been delivered, the day on which they should have been delivered.
4. In case any public authority or third parties as referred to in paragraph 7 of Article 17 claim payment from the forwarder, the term mentioned in paragraph 1 of this Article shall commence on the first of the following days:
 - the day following the day on which payment is claimed from the forwarder by any public authority or third party;
 - the day following the day on which the forwarder has settled the claim existing against him.

If the forwarder or a third party called in by the forwarder as referred to in Article 17, par. 7 has submitted an administrative objection and/or lodged an administrative appeal, the period specified in paragraph 1 shall commence on the day following the day on which the decision on the administrative objection and/or the administrative appeal has become final.

5. If after the term of prescription a third party claims payment of the amount due and payable by either parties, a new term of prescription - of three months - commences, unless the situation referred to in paragraph 4 of this Article occurs.



Article 22.

1. All contracts to which the present conditions apply shall be governed by Dutch law.
2. The place for settlement and adjustment of damage shall be that where the forwarder's business is situated.

Disputes

Article 23.

1. All disputes which may arise between the forwarder and the other party shall be decided by three arbitrators to the exclusion of the ordinary courts of law, and their decision shall be final. A dispute shall exist whenever any of the parties declares this to be so. Without prejudice to the provisions of the preceding paragraph the forwarder shall be at liberty to bring before the competent Dutch court in the forwarder's place of business claims for sums of money due [and] payable, the indebtedness of which has not been disputed in writing by the opposing party within four weeks after the invoice date. In the event of urgent claims, the forwarder shall equally be at liberty to institute interim relief proceedings (kort geding) before the competent Dutch court in the forwarder's place of business.
2. One arbitrator shall be appointed by the Chairman or the Vice-Chairman of the FENEX; the second shall be appointed by the Dean of the Bar Association of the district in which the aforesaid forwarder has registered office; the third shall be appointed by mutual agreement between the two arbitrators so appointed.
3. The Chairman of the FENEX shall appoint as such an expert on forwarding questions; the Dean of the Bar Association shall be asked to appoint a member of the legal profession; the third arbitrator shall preferably be an expert on the trade and industry in which the forwarder's opposite party is engaged.
4. The party desirous of having the dispute determined shall inform the Secretariat of the FENEX hereof by registered letter or fax letter, giving a brief description of the dispute and of his claim and at the same time remitting the amount of administrative costs to be determined by the Board of the FENEX, due as a compensation for the administrative work of the FENEX in an arbitration case. A case shall be considered to be pending on the day of receipt of the said registered letter or fax letter by the Secretariat of the FENEX.
5. After receipt of the above-mentioned application for arbitration the Secretariat of the FENEX shall as soon as possible acknowledge receipt thereof and send a copy of the application to the other party, to the Chairman of the FENEX, to the Dean of the Bar Association, with a request to each of the latter two to appoint an arbitrator and to notify the FENEX Secretariat of the name and address of the person appointed. Upon receipt of such notification the FENEX Secretariat shall as soon as possible notify the persons concerned of their appointment, send each of them a copy of the application for arbitration and a copy of these general conditions and request each of them to appoint a third arbitrator and notify the FENEX Secretariat of the person so appointed. Upon receipt hereof the FENEX Secretariat shall forthwith notify the third arbitrator of his appointment, at the same time sending him a copy of the application for arbitration and a copy of these



- general conditions. The FENEX Secretariat shall also notify both parties as to who have been appointed arbitrators.
6. If all three arbitrators have not been appointed within two months of the application for arbitration having being lodged all of them shall be appointed by the President of the District Court within whose jurisdiction the forwarder's business is situated upon the application of whichever party shall first make the same.
 7. The person appointed by the Dean shall act as Chairman of the arbitration board. If the arbitrators are appointed by the President of the District Court, the arbitrators shall themselves decide who is to function as chairman. The place of arbitration shall be the place where the chairman of the arbitrators is established. The arbitrators shall make their award as good men in equity, subject to their liability to observe the applicable imperative legal stipulations. Where applicable, they shall also apply the provisions of the international transport treaties, among which, inter alia, the Convention on the Contract for the International Carriage of Goods by Road (CMR). The arbitrators shall determine the procedure of the arbitration, subject to the parties being given opportunity to put forward their cases in writing and to elucidate the same orally.
 8. The arbitrators shall continue in office until the final award. They shall deposit their award at the Registry of the District Court within the district of which the seat of the arbitration is situated, while a copy thereof shall be sent to each of the parties and to the FENEX Secretariat. The arbitrators may require the Plaintiff or both parties to deposit a sum beforehand in respect of the arbitration costs; during the proceedings they may require an additional amount to be deposited. If, within three weeks of the relevant request, the deposit required by the arbitrators of the plaintiff has not been paid in, it shall be deemed to have withdrawn the arbitration. In their award the arbitrators shall order which of the two parties shall bear the costs of arbitration or what proportion thereof each party shall bear. These costs shall comprise the arbitrators' fees and disbursements, the amount of administrative costs paid to the FENEX with the application and the costs incurred by the parties in so far as the arbitrators deem the same to be reasonably necessary. The sums due to the arbitrators shall to the extent possible be taken from the amounts deposited.

Article 24.

1. These general conditions may be cited as the "Dutch Forwarding Conditions". In case the English translation differs from the Dutch text, the latter will prevail.
FENEX, Netherlands Association for Forwarding and Logistics
Seattleweg 7, Building 3, Portnumber 2801, 3195 ND Pernis-Rt
P.O. Box 54200, 3008 JE Rotterdam, The Netherlands



ANNEX B

CHECKLIST: INFORMATION AND DOCUMENTS REQUIRED

A licence to act as Fiscal Representative will only be granted by the Dutch tax authorities if certain conditions are fulfilled. One of these conditions is that the Fiscal Representative keeps efficient and well-organized records. These must clearly and convincingly demonstrate to the tax authorities that legislation and regulations have been applied correctly. The period of prescription applicable to a tax levy is 5 years pursuant to article 27 of the 'Invorderingswet 1990' [Collection of State Taxes Act 1990]¹.

In many cases the Fiscal Representative will not have the required documents, information and data at his disposal, but nevertheless shares responsibility in respect of the tax authorities, Principal should provide these appropriately and in a timely manner - **within a period of ___ days / weeks after expiry of the tax return period**, unless otherwise indicated. After termination of the agreement, Principal shall continue to have the obligation, pursuant to article 8.8, for the period during which the authorities may impose retrospective-tax⁵, to cooperate in every way and if so required supply all documents, information and data concerning the activities carried out by Fiscal Representative within the framework of the present agreement.

§ 1 Documents, information and data to be provided by Principal

➤ GENERAL

- **Written declaration by Principal** concerning the consignment for which Fiscal Representative is to act in this capacity (or by fax, e-mail)

➤ REQUIRED DOCUMENTS, INFORMATION AND DATA IN THE CASE OF IMPORT

- **All documents, information and data required for customs clearance²**, such as, for example an invoice

➤ SUBSEQUENT SUPPLIES

Required documents, information and data in the case of Intra-community supplies

¹ Article 27 of the Collection of State Taxes Act 1990 states that the right to collection under duress and the right of set-off with reference to a tax levy become prescribed five years after commencement of the day following that upon which the tax levy is fully collectable or, if such should lead to a later point in time, five years after commencement of the day following that upon which the last deed of litigation in respect of said tax levy to the party owing taxes has been passed. The second paragraph of article 27 states the cases in which the period of prescription may be extended.

² In the case that transport and/or customs clearance are not handled by Fiscal Representative, Principal should make these documents, information and data available to Fiscal Representative, if necessary through a third party brought in by him. In order to transfer the VAT due at importation to the periodical VAT declaration (in accordance with article 23 of the Turnover Tax Act 1968), Fiscal Representative's VAT identification number allocated by the tax authorities should be mentioned on the import declaration.



- **VAT identification number of party dealing with Intra-Community acquisitions** should be passed on to Fiscal Representative by Principal prior to the Intra-community supply
- **Invoice** presented to the Intra-community acquiring party. In order to apply the zero rate, this invoice should include both the VAT identification number of the Fiscal Representative and that of the Intra-Community acquiring party (for further general invoice requirements, please refer to §2)
- **Proof of delivery**³, for example signed waybill (B/L or CMR)
- **Carrier(s)' invoice**⁷

In accordance with bulletin 38 by the State Secretary for Finance (Decree of 20 June 1995, nr. VB 95/2120), documents that Fiscal Representative may require of Principal, could include the following:

- **Order confirmation**⁴
- **Proof of payment by acquiring party**
- **Insurance policy covering transport of the goods**
- **Acquiring party** should send Fiscal Representative a **FAX of receipt of goods**⁵
- **Declaration by acquiring party** that he has reported/will report an **Intra-community acquisition** in the VAT declaration in the member state where the goods were acquired⁹
- Copies of the **VAT declaration by acquiring party** should be sent to Fiscal Representative⁹

Required documents, information and data for supplies within the Netherlands

- **Invoice** presented to the Dutch acquiring party. In order to transfer the VAT to a company with domicile in the Netherlands and registered for VAT, this invoice should include both the VAT identification number of the acquiring party and the statement “verlegging conform artikel 12 lid 3 Wet op de Omzetbelasting 1968” [Transfer in conformity with article 12 paragraph 3 Turnover Tax Act 1968]. Supplies to Dutch acquiring parties other than a company registered for turnover tax or with an unknown VAT identification number are not eligible for transfer under article 12 paragraph 3 Turnover Tax Act 1968. Invoice should include VAT (for further general invoice requirements, please refer to §2)
- **Proof of delivery**⁷, for example signed waybill or other documents that may serve as proof of delivery

Depending on the situation, documents required of Principal by Fiscal Representative may include:

- Order confirmation⁸
- Proof of payment by acquiring party
- **Declaration by acquiring party** that he has submitted or will submit a **VAT declaration**⁹

³ In the case that Fiscal Representative does not have the transport documents/proof of delivery at his disposal (for example: not arranging transportation) Principal should make these documents available to Fiscal Representative, if necessary through a third party brought in by him.

⁴ Correspondence between seller and acquiring party

⁵ In the case that Principal is not the party who acquired the goods, Principal should instruct the acquiring party accordingly.



Required documents, information and data for export

- **Invoice** presented to acquiring party of the goods (for further general invoice requirements, please refer to §2)
- **3rd copy of the customs export document, validated by customs at EU border**
- **Proof of delivery⁷**, for example signed waybill (B/L or CMR)
- **Carrier(s)' Invoice⁷**

Depending on the situation, documents required of Principal by Fiscal Representative may include:

- **Order confirmation⁸**
- **Import documents non-EU countries**
- **Proof of payment** foreign (non-EU) acquiring parties
- **Insurance policy covering transport of the goods⁷**

Documents, information and data required for pick-up shipments (meaning that the Fiscal Representative places the goods at disposal of acquiring party, without arranging further transportation)

- **Invoice** presented to acquiring party of the goods⁶ (for further general invoice requirements, please refer to §2)
- Acquiring party shall provide Fiscal Representative with **a declaration** (prior to transport) **as referred to in section 4.3 of Bulletin 38⁹**. If this declaration is not available, we strongly advise charging VAT, as this declaration is crucial for the correct application of the zero rate
- Other considerations are:
 - **Fax** in which acquiring party of the goods declares to Fiscal Representative that he has actually taken delivery of the goods⁹
 - Copies of the **VAT declaration by acquiring party** should be sent to Fiscal Representative⁹
- **Further documents, information and data** should be supplied in conformity with the relevant sections of this Appendix, depending upon domicile of acquiring party

Required documents, information and data for intra-Community supplies under connected contracts (simplified A-B-C scheme)

A transaction is considered to be a simplified ABC transaction if:

- several transactions take place with reference to the same item between three parties who are each established in a different EU member state, and
- parties 'A' and 'B' reach agreement over carriage of the goods to 'C', and
- goods are transported directly from the Netherlands to 'C' in 'C's country.

⁶ For the various invoice requirements, depending on domicile of acquiring party, please refer to the relevant sections in this Appendix and to the general invoice requirements included in §2

- **Documents, information and data** should be provided in accordance with the section on Intra-community supplies in this Appendix. Furthermore, Fiscal Representative's Principal 'A' should instruct the other party to the contract 'B' that all required information should be sent to Fiscal Representative (for example, a CMR waybill signed by 'C')
- Moreover Principal 'A' should instruct the other party to the contract 'B' with respect to the following:
 - **Invoice to client 'C'** should show the VAT identification number of both 'B' and 'C' as well as the indication that the VAT on the supply to 'C' will be transferred to client 'C' "conform artikel 28 quater.E.3 Zesde richtlijn" [in conformity with article 28 quater.E.3 of the Sixth Directive]
 - **Declaration by client 'B'** should be sent to Fiscal Representative⁷, implying that 'B' has reported or will report an Intra-community acquisition in the **VAT declaration** in the member state of establishment

§ 2 General invoice requirements

An invoice must be made up for all goods and services to an entrepreneur or a legal entity who is not an entrepreneur. An invoice should be sent before the 15th day of the month following the month in which the goods were supplied. In the case that the services of a Fiscal Representative are called in, the following information should be mentioned on the invoice.⁸

- Name and address of selling party (in full)
- Name and address of acquiring party (in full)
- '(name and address of Fiscal Representative)' shall act as Fiscal Representative with a limited licence
- Fiscal Representative's VAT identification number¹³
- Invoice date
- Invoice number (invoices should be numbered consecutively)
- Detailed description of nature and quantity of goods supplied (HS-code / GN-code if any)
- Date on which the supply of goods was made or completed
- Unit price excluding VAT⁹
- Any advance payments, discounts and rebates if these have not been included in the unit price¹³
- Taxable amount per rate or exemption¹³
- Price excluding VAT, unless a special ruling applies
- VAT rate applied¹³
- Price including VAT
- The amounts which appear on the invoice may be expressed in any currency, provided that the amount of tax to be paid is expressed in the national currency of the Member State where the supply of goods takes place.

⁷ If 'B' can show that he acquired the goods for the purpose of selling them on to 'C', 'B' does not need to be registered in 'C's state and ultimately 'B' will not have to pay VAT

⁸ Principal who is not seller, should instruct other party to the contract relating to the goods transaction on invoice requirements

⁹ Per 1-1-2004 (Council Directive 2001/115/EG)



- There are supplementary invoice requirements for various transactions, also in relation to fiscal representation, in the case that a transfer or exemption ruling applies.

in the case of Intra-community supplies / simplified A-B-C transactions

- VAT identification number of (Intra-Community) acquiring party
- VAT zero rate, statement for levy criterion “nihil conform artikel 9 lid 2 sub b jo. Tabel II post a 6” [nil in conformity with article 9 par 2 sub b jo. Table II item a 6]

in the case of supplies within the Netherlands to a for VAT-registered enterprise

- VAT identification number of Dutch acquiring party
- statement “verlegging conform artikel 12 lid 3 Wet op de Omzetbelasting 1968” [transfer in conformity with article 12 par 3 Turnover Tax Act 1968]
- Neither VAT rate nor price including VAT should be mentioned

in the case of deliveries outside the European Union (export)

- zero VAT rate, statement for levy criterion “nihil conform artikel 9 lid 2 sub b jo. Tabel II post a 2” [nil in conformity with article 9 par 2 sub b jo. Table II item a 2]

Although this list has been carefully composed, the above description is not to be viewed as an exhaustive listing



Annex C

GENERAL TERMS AND CONDITIONS OF CUSTOMS SUPPORT

General terms and condition of the private companies with limited liability Customs Support International B.V.(24294906), Customs Support Holland B.V.(24297076), Customs Support Import B.V.(24179956), Customs Support Export B.V.(34076014), Customs Support NCTS B.V.(24252173), Customs Support Fiscal B.V.(20033123), Customs Support Excise B.V.(51827166) and Customs Support Personnel B.V. (246397) established at [3165 AA] Rotterdam - Albrandswaard at the address no. 11-19 Willem Barentzstraat, the company incorporated under Germany law CDS Deutschland GmbH (HRB 114853) established at [21147] Hamburg at the address no. 10 Heykenaukamp and CS Belgium BVBA established [2321] Hoogstraten, Belgium at the address Londonstraat 8 (company number 0834398750), hereinafter to be referred to as 'Customs Support'.

APPLICABILITY

These general conditions apply to all agreements between Customs Support and her clients and to all kinds of services which Customs Support carries out for her clients, regardless of the nature of the services, work or juristic actions assigned to her. The applicability of the general terms and conditions used by clients is explicitly rejected. Once the client has contracted Customs Support on the basis of these general terms and conditions, he therewith accepts the terms and conditions with regard to all future contractual relations with Customs Support.

REFERRAL TO EXPEDITION CONDITIONS FENEX

In addition to these general terms and conditions, also the Dutch Expedition Conditions of FENEX, latest version are applicable, with the exception of the arbitration clause included in those conditions as well as the article in which reference is made (on) to certain different branch conditions with regard to (specific) other activities.

LIABILITY

All operations and activities are carried out at the expense and risk of client. Customs Support disclaims any and all liability for damage, which has not yet been arranged in the Dutch Expedition conditions, except if and in as far such damage would be the result of intentional acts or deliberate recklessness of Customs Support or its executive staff, to be proven by client. Should Customs Support receive a claim from clients on a non-contractual basis, then she has no further liability than the one she would have on the basis of the contract.

SPECIFIC STIPULATIONS

The following applies in particular:

- whenever Customs Support acts as direct representative, indirect representative or as (restricted) fiscal representative, client will have the obligation to sign and submit a power of attorney direct representation respectively an agreement for services/mandate indirect representation or a



power of attorney (restricted) fiscal representation respectively and to provide all documents and information to Customs Support so that Customs Support shall be able to check whether the power of attorney/agreement for services/mandate is correct and complete;

- client is fully responsible and liable with regard to the completeness, correctness and accuracy of all documents and (electronic) information needed or to be used with regard to the commission or the execution of the representation as well as timely requesting and providing all such documents and information, among which explicitly included possible import, transit or export permits;
- assigning goods to the Combined Classification shall be the full responsibility of client;
- Customs Support – with the exception of specific instructions and additional payment - is not obliged to provide information to client about the possible applicability of tariff preferences, exemptions, (temporary or final) anti-dumping rights, specific destinations, tariff quota and similar measures and/or non-fiscal regulations;
- Customs Support has no obligation to check whether those goods or the use of such goods result into a breach of intellectual ownership and other rights pertaining to third parties;
- Operation of interfaces to be connected to electronic (tax declaration) systems of Customs support will be on the account and risk of client;

THIRD-PARTY CLAUSE

After client has accepted the stipulation made by Customs Support, the latter has the right to appeal on behalf of her employees, non –subordinate assisting staff, managers, shareholders and their employees to the agreement between client and Customs Control and to the general conditions which form part thereof.

TERM OF PAYMENT

The term of payment will be agreed upon separately and laid down in writing. When exceeding this period, client will be legally in neglect. For the payment schedule Customs Support refers to article 17 of the Dutch Expedition conditions of FENEX.

(COLLECTION)INTEREST

Clients explicitly authorize Customs Support to object and/or appeal on their behalf against invitations for payment and/or other decisions and/or requests to pay back/remissions as well as to receive possible reimbursements on the basis of such procedures. The (collection) interest paid on the amounts to be received by Customs Support shall not be refunded to client and Customs Support shall be fully entitled to this amount.

TERM OF FORFEITURE

In as far as the Dutch Expedition conditions of FEMEX do not already contain a limitation period or term of forfeiture, all legal claims against Customs Support will end by the mere lapse of one year. This period starts on the day on which the claim became due and payable or on the day on which the injured party took cognizance of the damage.