



# General Terms of Business

for agents and brokers who are Members of The Norwegian Shipbrokers' Association

## **§1 Application**

These General Terms of Business (the "Terms") apply to all assignments carried out by agents or brokers who are Members of the Norwegian Shipbrokers' Association and who trade on these terms. In these Terms "the Member" means a member company of the Norwegian Shipbrokers' Association and "the Principal" means the party appointing or entrusting the Member with an assignment as agent or broker.

## **§2 Performance of assignment as broker or agent**

The Member shall perform the duties assigned to him as agent or broker for the Principal in accordance with the Ethical Rules of the Norwegian Shipbrokers' Association. These rules are published on [www.shipbroker.no](http://www.shipbroker.no). The Member shall carry out his duties with reasonable skill and care and shall always promote the best interests of the Principal. Unless otherwise expressly stated or agreed by the Member, the Member is in all commercial activities acting as an agent or broker only for and on behalf of a Principal. The Member shall not in any way be liable for any breach of contract by any of the principal parties in the contract provided or facilitated by the Member. All appointments, instructions or orders given to the Member during his execution of the task as agent or broker shall be in writing.

## **§3 Scope of agents' assignment and instructions**

When appointing a Member to act as an agent the Principal shall give to the Member all instructions and directions necessary for the performance of the assignment as agent, and shall accept that the Member transacts at the expense and risk of the Principal all business that the Member deems necessary for the performance of the assignment in cases where he has not been given adequate instructions and where, to the best judgement of the Member, there is no time to obtain further instructions.



#### **§4 Limitation of Member's liability**

The Member shall be under no liability whatsoever to the Principal or any other party for any loss, damage, delay or expense of whatsoever nature, whether direct or indirect, and howsoever arising in the course of the performance his duty as agent or broker for the Principal UNLESS same is proved to have resulted solely from the gross negligence or wilful default of the Member or his employees and agents, or sub-contractors employed by the Member in connection with his duties to the Principal.

Save where loss, damage, delay or expense has resulted from the Member's personal act or omission committed with the intent to cause same or recklessly and with knowledge that such loss, damage, delay or expense would probably result, the Member's liability for each incident or series of incidents giving rise to a claim or claims shall never exceed a total of five (5) times the agreed fee or commission payable by the Principal for the relevant assignment, or SDR 30.000, whichever is the lowest. The burden of proof rests with the Principal.

#### **§ 5 Notice period for claims against the Member**

Any claim for damages against the Member must be notified to the Member in writing at the latest one (1) year after the Principal became or should have become aware of the event or circumstance giving rise to the claim, and in any event no later than one (1) year after the assignment was completed, otherwise the claim will be forfeited.

#### **§ 6 Payment of compensation, lien and set off**

Payments to the Member fall due against the presentation of invoices, and shall be subject to default interest according to Norwegian law or as specified in the invoice.

The Principal is responsible for payment of the agreed agency fee or brokerage commission to the Member. The Principal shall not be entitled to withhold payment to the Member if the Principal's counterparty fails to make payment to the Principal.

If the Member holds funds on behalf of the Principal, the Member shall be entitled to first ensure payment of his own claims against the Principal by way of set-off against such funds, before arranging payment of third party claims.



Claims secured by maritime liens shall in any event not be paid until the Member's claims have been paid in full.

The Member shall have a charge or lien (*håndpant eller tilbakeholdsrett*) on all items which are in the custody of the Member or a third party, including but not limited to goods, machinery, equipment, bills of lading or other documents, as security for all claims that the Member may have against the Principal and all costs related to such goods or other items, including fees and storage. If the Principal fails to make payment, the Member shall, after due notice to the Principal (if possible), be entitled to sell in a satisfactory manner any such items or part thereof as may be required to cover the Member's claim including costs and interest.

#### **§ 7 Member's outlays and costs in respect of vessels**

The Member shall not be obliged to make outlays or disbursements on behalf of the Principal. If outlays have been made or costs incurred in the performance of the assignment, and in the event that the Member does not hold sufficient funds on behalf of the Principal to pay these outlays and other costs, he shall be entitled to claim payment from the Principal of such outlays and costs prior to the departure of the vessel from the port. Unless payment is made or adequate security is provided, the Member shall have the right to refuse outward clearing of the vessel without in any way becoming liable for direct or indirect costs, losses or other consequences of such refusal.

Should the Member grant an extension for payment of outlays and costs, he shall be entitled to charge a fee of 1½% for each period of 30 days or part thereof as from the date of departure of the vessel.

#### **§ 8 Law and jurisdiction**

Any dispute between the Principal and the Member shall be decided by the appropriate Norwegian court in accordance with Norwegian law.

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*Adopted at the general meeting of the Norwegian Shipbrokers' Association held on 27 April 2013.*