

PayCargo Europe General Terms and Conditions

These terms and conditions (the "Terms and Conditions") are the general terms conditions of PayCargo Europe S.L., a limited liability company incorporated and existing under the laws of the Spain, with its registered office in Paseo de la Castellana, 200. 28046 Madrid, registered with the Commercial Registry of Madrid with volume 38918, page 121, sheet M-691677. ("PayCargo").

1. Applicability

- 1.1. These Terms and Conditions apply to all Services (the "Service(s)" or "PayCargo Service(s)") provided by PayCargo to its Customers (each, a "Party"), whether Billers or Payers.
- 1.2. PayCargo reserves the right to - without consent of the Customer - modify (a) these Terms and Conditions and (b) the Program Schedules (by removing, adding new or editing terms) as required by PayCargo, applicable banking rules and regulations or Legal Requirements. In the event of a modification to the Program Schedules or Terms and Conditions, PayCargo shall provide Customer the revised Terms and Conditions or Program Schedules with reasonable advance notice prior to their effective date.
- 1.3. If PayCargo requests the Customer's consent to be bound by the amended Terms and Conditions and/or Program Schedules as contemplated in Section 1.2 and the Customer does not agree to be bound by amended Terms and Conditions and/or Program Schedules, PayCargo reserves the right (a) to continue to apply the Agreement on the basis of the unchanged Terms and Conditions and/or Program Schedules; or (b) to terminate the Agreement with the Customer with 30 days' notice.

2. Definitions.

- 2.1. "Agreement" means the contractual relationship between PayCargo and the Customer (each a "Party") on the basis of these Terms and Conditions and any other specific contractual documents exchanged between the Parties.
- 2.2. "Approved Transaction" means a Valid Invoice which has been submitted by either the Payer or the Biller via the PayCargo Service and payment of which has been approved by the Payer by selecting the "Approve" button (or similar online or automated functionality).
- 2.3. "Authorised Signer" means a person who has been duly authorized by the Customer to complete the Registration Application and to execute the Agreement.
- 2.4. "Authorised Users" means only those employees of the Customer who are designated and authorized by the Customer to use the Services as specified under the terms of the Agreement.
- 2.5. "Biller" means a Customer who has completed the steps outlined in Sections A and B of **Exhibit B** attached hereto in order to receive payments for Valid Invoices using the PayCargo Services.
- 2.6. "Customer" means a Biller or Payer;
- 2.7. "Customer Information" refers to any information provided in the Registration Application as well as information regarding the Customer's business operations, including invoices and bills of lading, that is provided by Customer to PayCargo or obtained by PayCargo in accordance with the Agreement.
- 2.8. "Fees" means the Transaction Fees and other charges due to PayCargo listed in the Fee Schedule in **Exhibit D**, as modified from time to time.
- 2.9. "Legal Requirements" means any supranational, federal, state or local laws, regulations, judicial or administrative decisions, executive orders, rules or interpretations applicable to using the Services in connection with Customer's business.
- 2.10. "Non-Asset Based Customer" (or "N-ABC") means a Customer, including an NVOCC (Non-Vessel Operating Common Carrier) or a freight forwarder who brokers or serves as a facilitator of Transactions, but does not actually provide transport services or ship goods it owns.
- 2.11. "PayCargo System" means a web-based application accessible via the PayCargo Website that is used by Payers and Billers to access the PayCargo Services.
- 2.12. "PayCargo Website" means the website <https://PayCargo-eu.com/>.
- 2.13. "Payer" means a Customer who has completed the steps outlined in Sections A and B of **Exhibit A** attached hereto in order to pay Valid Invoices of a Biller using the PayCargo Services.
- 2.14. "Payment Processor" means a third party payment processor engaged by PayCargo for the processing of Customers' payments.
- 2.15. "Person" means a natural person, legal person or association or partnership (even if lacking legal personality).
- 2.16. "Registration Application" means the online application available on the PayCargo System that must be completed by the Customer before the Customer may be approved to make use of the PayCargo Services.
- 2.17. "Settlement" means the process by which funds are disbursed to Billers on behalf of Payers, in connection with Transactions.
- 2.18. "Settlement Account" means the bank accounts designated by Customer to be used for the purpose of Settlement of PayCargo Transactions. For a Biller, the Settlement Account will be ordinarily credited (but can be debited for an NSF from Payer if Biller is a Biller), and for a Payer, it will be debited.
- 2.19. "Shipper Initiated Services" means a process by which a Payer inputs Transactions into the PayCargo System to pay Valid Invoices of its Billers.

- 2.20. "Ship and Pay" means a process by which a Biller inputs Transactions into the PayCargo System to receive payments from its Payers.
- 2.21. "Sites" means the PayCargo Europe's Website and the website www.paycargo-eu.com.
- 2.22. "Transaction(s)" means a separately identifiable invoice or other item submitted by a Biller for payment by a Payer.
- 2.23. "Valid Invoices" means a current and valid invoice (or similar statement of amount due) for freight charges and related expenses, and services, provided by a Biller.

3. Construction.

- 3.1. The Exhibits referred to in these Terms and Conditions form an integral and essential part of the Terms and Conditions.
- 3.2. The headings of the Terms and Conditions are for ease of reference only and shall not be taken into account in the interpretation of the Terms and Conditions.
- 3.3. In the Terms and Conditions:
- (a) references to recitals, articles, schedules and annexes are references to recitals, articles, schedules and annexed of the Terms and Conditions, unless otherwise expressly stated;
 - (b) words in the singular include the plural and vice versa;
 - (c) words such as "including", "as well", "comprise" or "contain" are used to demonstrate that the list to which they relate is not exhaustive.
- 3.4. A provision of the Terms and Conditions may not be interpreted to the detriment of a Party for the mere reason that that Party was responsible for drawing up the provision in question.
- 3.5. References to Dutch legal concepts are deemed to have the meaning given to them in Dutch legislation, unless otherwise expressly apparent.

4. Customer Authorization.

- 4.1. Verification of Information. Customer hereby authorizes PayCargo, or its designated agent, to verify the information on the Registration Application and information concerning any corporate officer, principal, partner, owner or other contact person of Customer as provided below.

- 4.2. Authorization. Customer grants:

- (a) PayCargo;
- (b) the Customer's trade references;
- (c) the Customer's bank references; and
- (d) consumer credit services, consumer reporting agencies, etc.

permission and authorization to verify, receive, and obtain business and other information, including without limitation criminal background checks of Customer (including corporate officers), as part of PayCargo's ongoing evaluation of the Customer throughout the Agreement.

- 4.3. Electronic Documents. The Agreement is concluded electronically by means of completion of the Registration Application and receipt of the Customer's electronic confirmation that it has read and agrees to be bound by these Terms and Conditions. The Agreement thus concluded will be as effective and binding as if executed by means of a paper agreement.

5. Services.

- 5.1. The PayCargo Services are made available to the Customer through the PayCargo System which is comprised of various applications which store, manage, deliver, download and display information related to Transactions between Billers and Payers and the payments associated with such Transactions. Billers and Payers will access the PayCargo Services in accordance with the Agreement and any Program Schedules issued by PayCargo for the Settlement of Transactions.
- 5.2. Third Party Services. Notwithstanding Section [23.4](#), to the extent that the Sites or applications provide links or access to third party products and/or services, the Customer irrevocably acknowledges and agrees that the relevant third parties are intended third-party beneficiaries of the Agreement pertaining to the Customer's use of the third-party products/services and will have the right to enforce the Agreement directly against the Customer in their own names. PayCargo expressly disclaims any responsibility for the content of third-party sites and disclaims any and all liability resulting from the Customer's use of such sites or the services offered by such third parties.

6. Requirements for Use of the PayCargo Service.

- 6.1. Compliance with Laws. The PayCargo Service uses software and technology the use of which may be subject to Laws including (a) money laundering and financing of terrorism regulations, (b) economic sanctions; and (c) export and exchange control regulations.
- 6.2. The Customer warrants, for the period during which Customer utilizes the Services, that its and its Authorized Users' use of the Services is not in breach of any Laws. In particular, it warrants that it and its Authorized Users: (a) are not located in or under the control of the government of a country subject to US or EU sanctions, or sanctions of any EU Member State; and (b) are not on OFAC's SDN list or the U.S. Department of Commerce's denied persons list.

- 6.3. The Customer further warrants that the information, software and technology used by the PayCargo Service will not be transferred, exported or re-exported to a sanctioned country, SDN or denied person or otherwise used in violation of sanctions or Laws.
- 6.4. The Customer is responsible for ensuring that any necessary licenses for its business (including import and export licenses) are obtained from the relevant governmental authority.
- 6.5. User Access. Customer shall grant access to the PayCargo Services only to those employees who are designated by Customer to use the Services as Authorized Users.
- 6.6. Use of PayCargo Service. Customer and its Authorized Users may use the PayCargo Services only for purposes specified in the Agreement, as amended from time to time.
- 6.7. Prohibited Use. Customer may not use the PayCargo Services in order to transmit, distribute, store or destroy material (a) in violation of any Legal Requirements (b) in a manner that will infringe the copyright, trademark, trade secret or other intellectual property rights of third parties or violate the privacy, publicity or other personal rights of third parties, or (c) that is defamatory, obscene, threatening, abusive or hateful.
- 6.8. Prohibited Conduct. Customers are prohibited from violating or attempting to violate the security of the PayCargo System, including, without limitation: (a) accessing data not intended for such Customer, or logging into a server or account which the Authorized User is not authorized to access; (b) attempting to probe, scan or test the vulnerability of a system or network or to breach security or authentication measures without proper authorization; (c) attempting to interfere with service to any user, host or network; (d) sending unsolicited or unauthorized e-mails, including promotions and/or advertising of products or services.
- 6.9. Prohibited Information. Customers are expressly prohibited from (a) providing any incomplete, false or inaccurate biographical information, when completing the Registration Application; (b) using any device, software or routine to interfere or attempt to interfere with the proper working of the PayCargo Services or any activity being conducted on the PayCargo Services; (c) taking any action which imposes an unreasonable or disproportionately large load on the PayCargo Services infrastructure; (d) disclosing or sharing passwords with any non-authorized users or third parties or using passwords for any unauthorized purpose; (e) using or attempting to use any engine, software, tool, agent or other device or mechanism (including, without limitation, browsers, spiders, robots, avatars or intelligent agents) to navigate or search the PayCargo System other than the search engine and search agents provided by PayCargo, if any, on the PayCargo Services and other than generally available third party web browsers (e.g., Netscape Navigator, Microsoft Explorer); and (f) directly or indirectly attempting to copy, translate, transmit, distribute, adapt, reproduce, modify, decipher, decompile, disassemble, create derivative works, reverse engineer or derive source code or other trade secrets from the Sites or the software comprising or in any way making up part of the PayCargo Services.
- 6.10. PayCargo Service Customer Account and Passwords. Customer is responsible for maintaining the confidentiality of its PayCargo System user name and passwords and for ensuring that only Authorized Users have access to the PayCargo System. Customer is responsible for actions taken using the PayCargo System by Customer's employees or those acting on behalf of Customer or using passwords obtained from Customer. All usernames and passwords are the property of PayCargo and PayCargo, in its sole discretion, may revoke them (or otherwise restrict Customer's access to the PayCargo Service) or require Customer to change its usernames and/or passwords. The Customer agrees to notify PayCargo immediately of any unauthorized use of the Customer's account or any other breach of security. PayCargo will not be liable for any loss that the Customer may incur as a result of someone else using the Customer's password or account, either with or
- without the Customer's knowledge. However, the Customer may be held liable for any losses incurred by PayCargo or another party due to someone else using the Customer's account or password. The Customer acknowledges that by providing any information to PayCargo which is untrue, inaccurate, not current or incomplete, PayCargo reserves the right to terminate the Agreement and the Customer's continued access and use of the Sites and/or the Services.
- 6.11. Customer Information. The Services shall be provided in reliance upon Customer Information provided to PayCargo. Customer shall be responsible for insuring the validity, accuracy and completeness of all Customer Information, data and instructions provided by Customer. PayCargo shall not be required to act on instructions provided by Customer if PayCargo has a reasonable basis for believing the Customer Information provided by Customer is not accurate, or that Customer has failed to comply with the Agreement or any Legal Requirements.

7. Settlement; Transactions.

- 7.1. Settlement. Using the PayCargo Service, PayCargo will process and disburse payments on behalf of Customers according to the Settlement and payment terms outlined in Program Schedules for Billers and Payers attached hereto as **Exhibits A and B**. Customer agrees to execute any authorization forms or provide other authorizations as reasonably requested by PayCargo which will permit PayCargo to initiate debits from, and/or credits to, the Customer's Settlement Account(s), as applicable.
- 7.2. Transactions. A Transaction is considered to be "paid", for purposes of Settlement, three (3) business days after the Transaction is submitted to the Payment Processor for processing, so long as the Payment Processor does not report an error or returned status on such Transaction during such three (3) business day period. The Parties acknowledge that it is possible for a Transaction identified as "paid" to later be reported as a returned item. Upon termination of the Agreement for any reason, PayCargo shall cancel all Transactions that have not been submitted for processing.
- 7.3. General Authorization. The Customer hereby authorizes PayCargo to initiate credit and/or debit entries, as applicable, from the Customer's Settlement Account(s) designated on the Registration Application. If any funds relating to a debit Transaction are returned for any reason, Customer (Biller or Payer) agrees that PayCargo may (in addition to rights and remedies provided elsewhere in the Agreement) initiate subsequent debits for such Transaction amount and any corresponding Fees. Customer agrees that its failure to ensure sufficient funds are available in its Settlement Account(s) for any debit transaction may result in additional charges from the

banking institution and/or PayCargo, which amounts will be subsequently deducted from Customer's account(s) or collected as otherwise permitted.

- 7.4. Customer will immediately provide PayCargo with notice of any changes to Customer's Settlement Account(s), and Customer shall hold PayCargo harmless from liabilities resulting from Transactions processed using outdated or incorrect Account information. The authorisation provided in Section 7.3 shall remain in effect until the later of (i) thirty (30) days after the Agreement has been terminated, or (ii) PayCargo has completed processing Customer's pending Transactions. Notwithstanding anything to the contrary herein, the authorizations shall survive any termination for a time period reasonably necessary for PayCargo to complete the processing of Customer's pending Transactions, but in no event less than such time period required by then- applicable laws and regulations.

8. Valid Invoices.

- 8.1. Customer, including a Non-Asset Based Customer, agrees and represents to PayCargo that only Valid Invoices will be submitted in connection with the PayCargo Services. Customer further agrees that it will not submit Transactions or invoices for payment with entities affiliated with Customer.

9. Disputes between Biller and Payer.

- 9.1. Disputes Prior to Approval. Unless otherwise agreed between Billers and Payers, the Payer may choose to dispute a Transaction due to price, terms, quantity, unauthorized service or any other circumstance directly related to a Transaction. It is the responsibility of the Payer and the Biller to resolve each such dispute. PayCargo will authorize payment from the Payer to the Biller only after the Transaction has been designated as an "Approved Transaction" by the Payer. The PayCargo Service provides tools to facilitate communications for the resolutions of such disputes.
- 9.2. Disputes after Approval. If a dispute occurs after approval of the payment by the Payer, Customer agrees that the Payer and Biller will settle the dispute directly between the Biller and Payer and not involve PayCargo.
- 9.3. PayCargo will not be responsible for, and hereby disclaims any and all liability for, disputes that arise (and the resolution thereof) between Payers and Billers.

10. Lien Rights.

- 10.1. Payer Security Interests. Payer agrees to have sufficient funds available in its Settlement Account to (i) pay all Fees when they become due and payable; and (ii) to settle approved funds transfers.
- 10.2. PayCargo shall have a lien/charge (or comparable security right under the applicable property law) ("Security Interest") on any and all goods of the Payer (also referred to as consignee or bill to party) in the possession (constructive, in-transit or otherwise), custody, control of the Payer or the Biller to secure payment Fees, charges and all other amounts owed or due to PayCargo in connection with using any Services. If the Customer is a Non-Asset Based Carrier, PayCargo shall have a Security Interest in the accounts receivable from the customers of the Non-Asset Based Carrier. The subject Security Interest may be asserted against any such goods without regard to whether the monies claimed as owed relate to the prior shipment of goods or goods currently being shipped. PayCargo reserves the right to foreclose and/or satisfy its Security Interest by selling the goods at public auction or private sale (or collecting or selling accounts receivable of an N-ABC) at the sole discretion of PayCargo upon proper and due notice to the Payer (or N-ABC), and upon receipt of notice in accordance with these provisions, the Payer will undertake to notify any other parties with a beneficial interest in the subject goods.
- 10.3. Biller Security Interests. Once Biller has been paid, the Biller agrees not to object to any notice of a Security Interest submitted by PayCargo in connection with PayCargo asserting its Security Interest on any and all goods of the Payer (also referred to as consignee or bill-to party) in the possession (constructive or otherwise), custody, control of the Biller or the Payer for all other amounts owed or due to PayCargo.
- 10.4. Security. As security for any existing and future indebtedness of Payer or Biller to PayCargo, including claims for charges, expenses or advances incurred by PayCargo in connection with any shipment or transaction of a Biller or Payer, and whether or not presently contemplated by Biller or Payer and PayCargo, Billers and Payers hereby assign, transfer, convey, pledge, mortgage and grant to PayCargo a first perfected priority Security Interest in all goods, documents of title and other property for which a Biller or Payer provides for its customers and clients and for which settlement of funds transfers are extended hereto (collectively, with proceeds of the foregoing, the "Collateral"). Biller and Payer expressly warrant and represent to PayCargo that Biller or Payer hold and maintain valid title and/or Security Interests in the Collateral by way of: (a) carrier's and/or warehouse liens upon the Collateral under the applicable law; (b) consensual security interests in the Collateral under Article 9 of the Uniform Commercial Code or other applicable law; and/or (c) general and continuing Security Interests pursuant to contractual agreements with its customers and/or its tariffs in effect governing the services provided by Biller or Payer to its customers. Biller and payer expressly agree that it holds the Collateral as bailee for PayCargo's benefit to secure its obligations under the terms of the Agreement and that PayCargo shall have a Security Interest and a general and continuing lien on any and all Collateral, wheresoever located, in the possession, custody or control of Biller or Payer or its agents, for any amounts owed by Biller or Payer to PayCargo with regard to the shipment on which the Security Interest is claimed, a prior shipment(s) or both, and without regard to the services performed by Biller or Payer for its customer. PayCargo is hereby granted power of attorney to execute and file appropriate financing statements on Customer's behalf. This Security Interest shall be in addition to any other rights PayCargo has or may acquire under other agreements, conventions, tariffs and/or applicable laws, and shall survive delivery or releases of any Collateral. In the event of any failure to fund or in the event of an NSF notification or failure to pay any amounts due hereunder, Biller or Payer shall notify all parties having an interest in its shipment(s) of PayCargo's rights and/or the exercise of such Security Interest. Unless, within thirty days of receiving notice of PayCargo's intent to exercise such lien, Biller or Payer posts cash or letter of credit at sight, or, if the amount due is in dispute, an acceptable bond equal to 110% of the value of the total amount due, in favour of PayCargo, guaranteeing payment of the monies owed, plus all charges accrued or to be accrued, PayCargo shall have the right to sell such shipment(s) at public or private sale or auction and any net proceeds remaining thereafter shall be refunded to Biller or Payer.

11. Fees, Invoicing and Payment.

- 11.1. Fees and Payment. Payer agrees to pay PayCargo for all Approved Transactions and Fees incurred for the Services provided by PayCargo as provided in the Agreement.
- 11.2. Fee Payments. PayCargo is hereby directed and authorized, without further action by Customer, to collect for any and all Approved Transactions and Fees due and payable by Customer by: (i) deducting such Transactions and Fees from any Settlement funds due between PayCargo and Customer, (ii) debiting Customer's Settlement Account for the amount of such Transactions and Fees as they become due.
- 11.3. Invoicing. If invoices are not paid in full when due, PayCargo will impose a late charge equal to one and one-half percent (1.5%) per month if permitted by applicable law, or if not, the Dutch statutory commercial default interest rate, on the unpaid balance. Invoice discrepancies must be identified in writing by Customer within twenty (20) days of the invoice date.
- 11.4. Fee Adjustment. PayCargo may adjust the Fees at any time to offset or pass through increases in the costs of providing the Services hereunder to the extent changes in any of the following result in a cost increase to PayCargo (or its affiliates): (i) SEPA or Payvision rules and regulations, or (ii) changes in Legal Requirements or the interpretation or implementation thereof by any federal, state or local governmental authority. Any such adjustments will become effective upon written notice to Customer.
- 11.5. Renewal Term Fees. The Fees charged during any Renewal Term will be based on PayCargo's then-current standard rates at the time of renewal, which will be provided to Customer.

12. Compliance with Law.

- 12.1. Legal Requirements. The Parties agree to comply with, and not use the Services in violation of Legal Requirements, and each Party will be solely liable for their respective violation of Legal Requirements. Customer will use the Services in accordance and compliance with the Agreement and the written policies and procedures provided by PayCargo from time-to-time. Customer will not use the Services in connection with any gaming business, adult or sexually oriented business, or multi-level marketing business.

13. Representations and Warranties.

- 13.1. Customer represents and warrants that:

- (a) it has the corporate authority to execute the Agreement;
- (b) executing the Agreement does not constitute a material conflict with, breach or default under any applicable Law, their respective charter or bylaws, or any documents, agreements or other instruments which are binding upon the Parties;
- (c) the Agreement creates valid, legal and binding obligations that are enforceable against the Parties;
- (d) it has, and shall have, the Security Interests as set forth in Section [10](#) hereof;
- (e) it has notified its customers of the transfer and assignment of the aforementioned Security Interests in the Collateral to PayCargo or its to secure its obligations hereunder;
- (f) it has notified its customers that PayCargo or its affiliated entity holds and maintains a general and continuing Security Interest in the Collateral to secure Customer's obligations hereunder and under;
- (g) it has not entered into any contract or agreement with any person or entity, including but not limited to, its customer, which provides that Customer shall not assign or otherwise transfer said Security Interests;
- (h) its customers have agreed or otherwise consented to the transfer and assignment of said Security Interests in the Collateral to PayCargo or its affiliated entity;
- (i) it has a contract with its customers and/or maintains and publishes a tariff which
 - i) provides for the assertion of the Security Interests over the Collateral;
 - ii) puts its Customers on notice that third parties such as PayCargo or its affiliated entity may have Security Interests over the Collateral; and
 - iii) provides for the right of Customer and/or such third parties to execute on such Security Interest to sell or otherwise dispose of the Collateral;
- (j) it will defend the Collateral against all claims and demands of all persons and entities, and will not permit any circumstances to exist under which the PayCargo or its affiliated entity may lose its Security Interest or priority on the Collateral;
- (k) it will promptly pay all potential taxes upon the Collateral that might result in the imposition of a Security Interest upon the Collateral;
- (l) it will not sell, assign, mortgage, lease, pledge, lend, transfer, allow any third party to use or otherwise dispose of the Collateral without the prior written consent and at the sole discretion of the PayCargo;
- (m) it shall allow PayCargo or its representatives free access to and right of inspection of the Collateral at any time;
- (n) all of the information supplied and statements made to PayCargo by or on behalf of Customer relating to Customer's financial information, capacity to make payments hereunder or the Collateral are and shall be true and complete and accurate, whether supplied or made prior to, contemporaneously with or subsequent to the execution of the Agreement; and

- (o) that no tangible document of title can be substituted for an electronic record, and that the Customer's customers have acknowledged and agreed to same. Customer expressly agrees and acknowledges that PayCargo shall have the right to instruct the underlying carrier(s) to release any Collateral in their possession, or the possession of their agents, to the custody of PayCargo or its agents, and that the carrier(s) are directed to follow all such instructions by PayCargo with respect to the disposition of any portion of the Collateral, regardless as to whether PayCargo is in possession of the applicable bill(s) of lading.

14. Disclaimer of Warranties.

- 14.1. The Services are provided on an "as is" and "as available" basis, and the Customer's use of the Sites and the Services are at the Customer's own risk. PayCargo makes no warranty concerning the business results that may be obtained from use of the Services nor assumes any responsibility or liability for (i) the timeliness of communications or the deletion or the failure to store payments or other data, whether or not caused directly or indirectly by PayCargo, or (ii) any third party's unauthorized access to the PayCargo Services account and passwords through Customer, and hereby disclaims, any and all other express and/or implied warranties, including, but not limited to, warranties of merchantability, fitness for a particular purpose and noninfringement. PayCargo does not warrant that the Customer's use of the Sites will be uninterrupted or error-free.
- 14.2. PayCargo does not warrant or make any representation regarding the information the Customer obtain from the Site, including the capability, correctness, accuracy, or reliability of the information. The Customer expressly acknowledges that PayCargo shall in no event be held liable for any damages, suits or claims relating to the information obtained by the Customer from the Sites, or the use by the Customer of such information. No oral or written representation or advice given by PayCargo will be deemed to create such a warranty.
- 14.3. Hyperlinks. PayCargo may provide links or other access to websites maintained by third parties, which allow a user to leave the PayCargo Website to access third-party material or to incorporate third party material into the PayCargo Website via "inverse" hyperlinks and framing technology (a "linked site"). PayCargo assumes no responsibility for the availability of such third- party sites or for the content, advertising, products, or other materials on or available on a linked site and the provision of such a link shall not be construed as an endorsement, authorization, sponsorship, or affiliation with respect to such third-party site, its contents, owners or providers.
- 14.4. Except as specifically set forth in the Agreement, PayCargo disclaims all warranties, express or implied, including without limitation, warranties of merchantability or fitness for a particular purpose, which relate to the Services provided under the Agreement. Further, PayCargo does not warrant that Customer's use of the Services or any component thereof will be uninterrupted or error-free.

15. Limitation of Liability.

- 15.1. Limitation of Liability. Neither PayCargo nor its directors, officers, employees, contractors, agents or sponsors are responsible or liable to the Customer or anyone else for any loss or injury or any indirect, incidental, consequential, special, exemplary, punitive or other damages under any contract, negligence, strict liability or other theory arising out of or relating in any way to (i) the use of or inability to use the Sites or the Services; (ii) any content contained on the Sites and/or the Services; (iii) statements or conduct posted or made publicly available on the Sites and/or the Services; (iv) any product or service purchased or obtained through the Sites; (v) any action taken in response to or as a result of any information available on the Sites or the Services; (vi) any damage caused by loss of access to, deletion of, failure to store, failure to back up, or alteration of any content on the Sites or the Services, or (vii) any other matter relating to the Sites and/or the Services. In no event shall PayCargo's total liability to the Customer for any and all damages, losses, and causes of action (whether in contract, tort including, but not limited to, negligence - statutory, or otherwise) exceed the amount paid by the Customer, if any, for using any of the Services or the Sites.
- 15.2. PayCargo will have no liability to the Customer or third parties in connection with the use of the Sites. In addition, the Customer acknowledges that PayCargo does not and cannot control the flow of data to or from other portions of the internet. Actions or inactions of third parties may result in situations in which the Customer's connection to the internet, use of software services, or information and systems may be impaired, disrupted or damaged. Although PayCargo will use commercially reasonable efforts to take actions it deems appropriate to remedy and avoid such events, PayCargo cannot guarantee that they will not occur. Accordingly, PayCargo disclaims any and all liability resulting from or related to such events.
- 15.3. This limitation of liability does not limit in any way the amounts owed by Customer (i) in connection with Settlement for Transactions, or (ii) as a result of wilful, fraudulent or grossly negligent conduct by Customer in connection with the use of the Service.
- 15.4. No Consequential Damages. PayCargo will not be liable under any theory for special, indirect, incidental, consequential (including lost profits), exemplary or punitive damages; regardless of whether such damages were foreseeable or if the parties were advised of the possibility of such damages whether arising from third party claims or direct claims by the other Party.
- 15.5. Limitation to Pursue Action. Neither Party may bring an action (regardless of form) for breach of the Agreement more than two (2) years after such Party first knew or should have known of such breach; provided, however, this limitation will not apply to breaches of the confidentiality requirements herein. Each Party will act to mitigate its loss.

16. Indemnification.

- 16.1. Customer Indemnity. Customer will indemnify, defend and hold harmless PayCargo, its directors, officers, employees, affiliates and agents against any third party claims, losses, costs, fines, penalties or damages (including court costs and reasonable attorneys' fees) (collectively, "Claims") to the extent arising out of or connected with Customer's (and affiliates, employees, agents or representatives of Customer) (i) gross negligence or wilful misconduct; (ii) material breach of or any provision of the Agreement; (iii) use of the Services or any component thereof for any purpose not permitted by the Agreement; (iv) infringement of any patent, copyright, trademark, service mark, trade secret or other proprietary right of a third party; and (v) failure to comply with its obligations and representations under the Agreement.

17. Term and Termination

Term

17.1. This Agreement commences on the date PayCargo approves this Agreement and will extend for an initial term of three (3) years ("Initial Term"). Upon the expiration of the Initial Term, this

Agreement will automatically renew for successive one (1) year periods (each a "Renewal Term"), unless PayCargo or Customer gives the other Party written notice of its intent not to renew this Agreement at least ninety (90) days prior to the end of the Initial Term or then current Renewal term. Collectively the Initial Term and Renewal Term are referred to as the "Term" of this Agreement.

Termination

17.2. Either Party may terminate this Agreement if the other:

- (a) breaches a representation, warranty, term, condition or obligation under this Agreement, and fails to cure such breach within ten (10) days after receiving written notice of such breach, or
- (b) the other party is dissolved, becomes insolvent, files bankruptcy, or generally fails to pay or admits in writing its general inability to pay its debts as they become due.

17.3. PayCargo may terminate this Agreement, in whole or in part, without Customer being entitled to claim any damages and without affecting PayCargo's other rights under this Agreement or by virtue of law (including but not limited to any termination rights, or suspend all or a portion of its Services), immediately if (i) Customer's performance of its obligations or use of the Services violates any federal, state or local law, rule or regulation; (ii) PayCargo reasonably determines, based on its evaluation of Customer's credit, financial condition or business prospects, that a material adverse change has occurred in Customer's financial condition, or that such a change is reasonably likely to occur and to adversely impact PayCargo; (iii) Customer fails to pay any amount due within five (5) days of its due date; or (iv) Customer submits an invoice for payment that is not for a Valid Invoice, from a person other than Customer, for products provided or Services rendered.

17.4. Customer agrees that PayCargo, in its sole discretion, may terminate Customer's password, account (in whole or in part), or use of the Sites or Services, and remove and discard any content within the Sites, at any time and for any reason. Customer agrees that any actions taken under this Section [17.4](#) may be effective without prior notice to Customer.

17.5. Termination of the Agreement will not limit or affect PayCargo's right to recover any amounts for which Customer is liable or obligated arising under this Agreement. Termination of the Agreement will not affect Customer's responsibility to pay all amounts for which it is liable or obligated in connection with the Services provided under this Agreement.

18. Force majeure

18.1. Force Majeure (*overmacht*) means circumstances which prevent the performance of the Agreement, or which make such performance unreasonably burdensome and which are not attributable to PayCargo. This includes (in so far as these circumstances prevent the performance or unreasonably complicate the performance) whether or not foreseeable circumstances which prevent suppliers or other third parties that PayCargo depend upon, to perform.

18.2. A "Force Majeure Event" includes (i) labour disputes, strikes, riot or other civil unrest; (ii) flood, hurricane, tornado, lightning, severe weather, earthquake or other natural disaster; (iii) rationing or other shortage of materials; (iv) utility failures, electronic transmission failures or other electronic or communication failures or delays; (v) terrorism, embargo, blockade, revolution or other acts of war; (vi) any change in laws, orders, rules, regulations, ordinances or other governmental or judicial acts impairing performance, or (vii) other acts of God, all of which are beyond the Parties' reasonable control.

18.3. PayCargo also reserves the right to rely on Force Majeure if the Force Majeure Event occurs after PayCargo should have performed the Agreement.

18.4. All delivery commitments and other obligations are suspended during Force Majeure. If the period, during which fulfilment of obligations is impossible due to Force Majeure, lasts longer than 3 months, either party is entitled to dissolve the agreement without being liable for damages.

18.5. If, at the beginning of the Force Majeure Event, PayCargo has already fulfilled part of its obligations or could only fulfil part of its obligations, PayCargo is entitled to invoice the delivered part or the deliverable part separately and the other party is obliged to settle the invoice as if it concerned a separate contract.

19. Privacy

19.1. PayCargo considers the protection of personal data and data security to be very important.

19.2. PayCargo shall process any personal data in accordance with applicable privacy and data protection Laws and the PayCargo Privacy Policy (<http://paycargo-eu.com/privacy-policy/>).

20. Confidential Information; Information Security.

20.1. "Confidential Information" means all data or information that is competitively sensitive material or not generally known to the public; including, without limitation, a Party's data or information whether or not marked confidential or proprietary, customer lists, technology, inventions, systems, operations, facilities, products, services, discoveries, ideas, concepts, research, development, processes, operating procedures, marketing, business and development plans, pricing, policies and financial information. Confidential Information does not include information which: (i) is or becomes part of the public domain; (ii) was already known to the receiving Party prior to its disclosure; (iii) is lawfully obtained from a third party without obligations of confidentiality; (iv) is independently developed by the receiving Party; or (v) is otherwise excluded under the terms of the Agreement.

20.2. Disclosure and Use Restrictions. Neither Party will disclose, reproduce, transfer nor use the other Party's Confidential Information except (i) as necessary in connection with providing or using the Services; (ii) as specifically allowed under the Agreement; or (iii) to the extent necessary to comply with Legal Requirements or a valid court order, provided the disclosing Party must use reasonable efforts to notify the other Party prior to disclosure (unless such notification is prohibited by Legal Requirements or a valid court order) so the other Party may seek a protective order or otherwise

prevent or limit disclosure of its Confidential Information. Each Party's employees, affiliates, agents, advisors or subcontractors with access to the other's Confidential Information will comply with the confidentiality provisions of the Agreement; and each Party will be responsible for the performance of its employees, affiliates, agents, advisors or subcontractors with respect to the foregoing requirement. Each Party will take such steps to prevent disclosure of the other Party's Confidential Information as it would take to prevent disclosure of its own; including, at a minimum, commercially reasonable steps.

20.3. Information Security. Each Party agrees to employ appropriate safeguards to protect Confidential Information residing on their respective technology systems or under their control, including through their use of third-party vendors or subcontractors, if any, in connection with the Services. Each Party will maintain commercially reasonable information security practices designed to prevent unauthorized or unlawful access to, use, disclosure or alteration of Confidential Information (collectively, a "Security Incident"). In the event of a Security Incident involving the other Party's Confidential Information, the affected Party will promptly (a) assess the nature and scope of the Security Incident; (b) identify the Confidential Information involved, if any; (c) take appropriate steps to contain, control and stop the Security Incident; and (d), in the event Confidential Information was compromised, promptly notify the other Party of the Security Incident, subject to any request by law enforcement or other government agency to withhold such notice pending the completion of an investigation. PayCargo is not responsible for and does not control third party telecommunication lines used to provide the Services; and will not be responsible for the security of any transmissions using these lines.

20.4. Ownership. This Agreement does not provide either Party with any right, title or interest in or to the Confidential Information of the other Party. Each Party will return or destroy (and certify the destruction of) the other Party's Confidential Information at the request of the other Party.

21. Intellectual Property.

21.1. Grant of Licence. PayCargo hereby grants Customer and its employees a limited, revocable, non-exclusive, non-transferable, licence to use the PayCargo Service as described herein, and subject to the terms and conditions of the Agreement. Customer is expressly prohibited from renting, leasing, sublicensing, assigning, transferring, reselling and/or otherwise transferring rights to the PayCargo Service.

21.2. Title; Intellectual Property. Except for the rights expressly granted in the Agreement: (a) the Agreement does not transfer from PayCargo to the Customer any right, title or interest in or to any intellectual property owned by PayCargo or any Third Party, and all right, title and interest in such intellectual property will remain solely with PayCargo or such third parties, as applicable; and (b) no licence, right or interest in any PayCargo trademark, copyright, trade name or service mark is granted herein.

21.3. Use of Marks and Publicity. Neither Party will use any trademark, service mark, trade name nor other proprietary designation (collectively, "Marks") owned, licensed or registered by the other Party without prior written consent; provided, however, PayCargo may use Customer's Marks in publicity indicating that Customer and PayCargo have entered into a contractual relationship, as

well as customer lists or other advertising identifying the customers of PayCargo. Neither Party will use or reference the other's Marks in any manner that disparages or portrays the other in a negative light. Neither Party may alter modify, or change the other's Marks in any way. A breach of the terms of the Agreement related to the use of a Party's Marks will cause irreparable harm such that the non-breaching Party will not have an adequate remedy at law and, in addition to any other rights or remedies available at law or in equity, will be entitled to seek injunctive relief against the breaching Party (without posting a bond or other security).

22. Verification; Audit and Inspection.

22.1. PayCargo may periodically select certain of Customer's Transactions for audit. To assist with this process, Customer agrees to provide requested supporting documentation for the Transaction(s), such as bills of lading or invoices reflecting dollar amounts due and the date. Customer further agrees to assist PayCargo in obtaining and verifying invoices and bills of lading submitted for payment using the PayCargo Service.

22.2. Audit and Inspection. During the term of the Agreement and for one (1) year thereafter, PayCargo may audit or inspect Customer's records related to its performance, duties or obligations under the Agreement, during normal business hours and upon reasonable notice.

22.3. Examinations. To the extent permitted by law, PayCargo and Customer will cooperate with each other in providing information or records in connection with examinations, requests, or proceedings of regulatory or law enforcement authorities.

23. Choice of forum and applicable law.

23.1. If the Customer's corporate seat, registered office, place of central administration or principal place of business is in the territory of a Member State of the European Union or a State bound by the Hague Convention of 30 June 2005 on Choice of Court Agreements, any disputes arising out of or in connection with the Agreement shall be submitted to the exclusive jurisdiction of the competent court of Amsterdam, the Netherlands.

23.2. If Section [23.1](#) does not apply, any disputes arising out of or in connection with the Agreement shall be referred to and finally determined by arbitration in accordance with the Arbitration Rules of the Netherlands Arbitration Institute. The arbitral tribunal shall consist of a sole arbitrator. The place of arbitration shall be Amsterdam, the Netherlands. The language to be used in the arbitral proceedings shall be English. The dispute, controversy or claim shall be decided in accordance with the laws of the Netherlands. This clause is without prejudice to PayCargo's right to apply for injunctive relief in summary proceedings before the competent court of Amsterdam, the Netherlands or any other court of jurisdiction.

23.3. The Agreement and any dispute or claim arising out of or in connection with it shall be governed by the laws of the Netherlands.

23.4. In the event of a dispute between or among the Parties with respect to this Agreement, the successful Party shall be entitled to recover all legal fees and costs, whether incurred during pre-litigation, trial, on appeal, in bankruptcy proceedings or other legal proceedings, except to the extent that such fees are not reasonably incurred.

24. General

24.1. Severability. In the event that any provision of the Terms and Conditions is determined to be void, voidable or unenforceable, this shall not affect the remainder of Terms and Conditions, which shall continue to apply in full force and effect. The Parties will substitute a valid provision approximating the intent and economic effect of any invalidated provision.

24.2. No Third-Party Beneficiaries. There are no third-party beneficiaries to the Agreement and it will not be construed to create such rights, benefits or remedies generally, except for as provided under Section [5.2](#).

24.3. Survival of Obligations. All Sections of the Agreement which, by their nature, are intended to survive termination of the Agreement will survive, including Sections [2](#), [3](#), [9](#), [12](#), [13](#), [14](#), [15](#), [16](#), [17](#), [19](#), [20](#), [21](#), [23](#) and [24](#).

24.4. Assignment. PayCargo is entitled to assign, delegate and/or give in security its rights and obligations pursuant to this Agreement and the Customer hereby approves and agrees to provide any necessary cooperation to facilitate such assignment of, delegation of or grant of security over PayCargo's rights. The Customer is not entitled to assign or transfer the Agreement or any part thereof without PayCargo's written consent, such consent not to be unreasonably withheld. This Agreement will extend to and be binding upon any permitted successors and assigns.

24.5. Subcontractors. PayCargo may subcontract all or any portion of the Services, provided, however, that PayCargo will remain responsible for the performance of the Services provided through any subcontractors thus engaged.

24.6. Notices. Unless otherwise agreed, all communications between the Parties concerning the Agreement and its implementation must be in writing, which includes e-mail. All notices or other communications will be effective upon receipt. Any notice to PayCargo shall be sent to the following email address support@paycarg-eu.com, or such other email address as designated by PayCargo in writing. Any notice to the Customer shall be sent to the person and email address listed on the Registration Application, or such other email address as designated by the Customer in writing.

24.7. PayCargo and the Customer are independent contractors. Nothing in these Terms and Conditions will be deemed to create a joint venture, partnership, employment or similar relationship between the Parties. Except as specifically provided for herein, neither Party is an agent or representative of the other; and neither Party shall make any representation to that effect.

24.8. The failure of either Party to enforce any rights under this Agreement or to take action against the other Party in the event of a breach will not be deemed a waiver by that Party as to subsequent enforcement of rights or subsequent actions in the event of future breaches.

24.9. The Terms and Conditions may only be amended or deviated from by written agreement between the Parties, except the right of PayCargo as provided under Section 1.2.

[remainder of page intentionally left blank]

Exhibit A PayCargo Program Schedule - Payer Services

This PayCargo Program Schedule describes the PayCargo Service for Payer Services ("Payer Schedule"). This Payer Schedule also describes the steps a Customer must follow to become a Payer. This Payer Schedule is an integral part of the Agreement (whether the form of the Agreement is paper, electronic or a combination of each), and the Parties agree to be bound by its terms.

A. Registration

1. Payer must complete the Registration Application using the www.paycargo-eu.com website.

2. If PayCargo determines, in its sole discretion, after reviewing the results of this process, that the Customer has qualified as a PayCargo Service Payer, PayCargo will approve the Payer's Registration.

B. Authorized Administrator and Authorized Users

1. Payer must designate an employee to serve as the administrator for its PayCargo Service account ("Account Administrator") who is to be an Authorized User of the Service, and who is responsible to appoint and manage other Authorized Users for Payer.

2. The Account Administrator appointed by Payer must limit access to the PayCargo Service to only those employees of Payer who have a need to use the Service. Once Customer has determined which employees will be permitted access, Payer must register these employees as Authorized Users for the PayCargo Service.

C. Enter Transactions with Billers and Biller Approval

1. Once items A and B above are complete, Payers will be able to enter their transactions with Billers.

2. If the Biller is also participating in the PayCargo Service and is qualified as a Biller, the Biller can provide and upload files which will allow the Payer to view, approve or dispute transactions with the Biller.

3. The Payer must access the PayCargo Service using the PayCargo System and view the transactions and dispute or approve the transaction for payment.

D. Select a Payment Method As a final step, the Payer must select a payment method. Payers can choose between:

(a) SEPA fund transfer; or

(b) Credit card.

Exhibit B PayCargo Program Schedule - Biller Services

This PayCargo Program Schedule describes the PayCargo Service for Biller Services ("Biller Schedule"). This Biller Schedule also describes the steps a Biller must follow to become a Biller. This Biller Schedule is an integral part of the Agreement (whether the form is paper, electronic or a combination of each), and the Parties agree to be bound by its terms.

A. Registration

1. Biller must complete the Registration Application using the www.paycargo-eu.com website.

2. If PayCargo determines, in its sole discretion, after reviewing the results of this process that the Customer has qualified as a Biller, PayCargo will approve the Biller's Registration.

B. Authorized Administrator and Authorized Users

1. Biller must designate an employee to serve as the administrator for its PayCargo Service account ("Account Administrator") who is to be an Authorized User of the Service, and who is responsible to appoint and manage other Authorized Users for Biller.

2. The Account Administrator appointed by Customer must limit access to the PayCargo Service to only those employees of Customer who have a need to use the Service. Once Customer has determined which employees will be permitted access, Customer must register these employees as Authorized Users for the PayCargo Service.

C. Enter Transactions with Payers

1. Once items A and B above are complete, Billers will be able to enter their transactions with Payers.

2. If the Payer is also participating in the PayCargo Service and is qualified as a Payer, the Biller can provide and upload files which will allow the Payer to view, approve or dispute transactions with the Biller.

D. Receive Payments

Once a Payer approves a transaction from Biller, the Biller will receive an email or electronic alert indicating that the transaction has been approved and stating that the funds will be sent to Biller's Settlement Account on the next banking business day.

Exhibit C PayCargo Program Schedule - Payment Methods

"SEPA Direct Debit" refers to the payment method using the PayCargo Service (via its Payment Processor) to facilitate the payment of Transactions by allowing PayCargo to debit the Payer's Settlement Account via PayCargo's Payment Processor's transaction services, once Payer has approved the Transaction for payment. Payer's approval of the Transaction serves as Payer's assurance that funds sufficient for payment of the Transaction and applicable Fees to Billers are available in the Payer's designated Settlement Account(s). Upon approval by the Payer (unless otherwise specified by the Biller), Biller agrees to recognize the freight charges as "paid" and release the cargo to Payer. Such agreement does not preclude the Biller from making other collections efforts in the event a funds transfer is not paid in full. Once Payer has approved the Transaction, PayCargo will debit Payer's Settlement Account for the amount of the Approved Transaction. PayCargo will then credit Biller's Settlement Account for the amount of the Approved Transaction. Since PayCargo will be advancing payment to Biller prior to the Payer's direct debit return deadline, the Payer may subsequently dispute the Transaction resulting in debited funds being returned from PayCargo to Payer. Should this occur, PayCargo is authorized to initiate a direct debit to Biller's Settlement Account for the amount PayCargo credited to Biller, and any associated Fees on the Transaction.

"Credit Card" refers to the payment method using the PayCargo Service (via its Payment Processor) to facilitate the payment of Transactions by allowing PayCargo to debit the Payer's Settlement Account via PayCargo's Payment Processor's transaction services, once Payer has approved the Transaction for payment. Payer's approval of the Transaction serves as Payer's assurance that funds sufficient for payment of the Transaction and applicable Fees to Billers are available in the Payer's designated Settlement Account(s). Upon approval by the Payer (unless otherwise specified by the Biller), Biller agrees to recognize the freight charges as "paid" and release the cargo to Payer. Such agreement does not preclude the Biller from making other collections efforts in the event a funds transfer is not paid in full. Once Payer has approved the Transaction, PayCargo will debit Payer's Settlement Account for the amount of the Approved Transaction. PayCargo will then credit Biller's Settlement Account for the amount of the Approved Transaction. Since PayCargo will be advancing payment to Biller prior to the Payer's direct debit return deadline, the Payer may subsequently dispute the Transaction resulting in debited funds being returned from PayCargo to Payer. Should this occur, PayCargo is authorized to initiate a direct debit to

Exhibit D PayCargo Program Fee Schedule

Section I: Transaction Fees		
Transaction Type	Fee Per Import Transaction	Fee Per Export Transaction
SEPA Direct Debit	€5.00	€5.00
Section II: Implementation Fees		
ACH Set-up Fee: €0.00	Account Set-up Fee: €0.00 Other Implementation Fees: €0.00	
Section III: Miscellaneous Fees		
Split Transaction Fee: €5.00	Returned Direct Debit Fee: €35.00	
Stop Payment Fee: €35.00	Pre-Note Transaction Fee: €5.00	
	Other Miscellaneous Fees €0.00	