

IQAX eBL

IQAX eBL Service Terms and Conditions



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CONFIDENTIAL



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IQAX eBL Service Terms and Conditions

The User (as defined in Clause 1.59 below) has entered and/or will be entering into one or more transactions via IQAX eBL (as defined in Clause 1.35 below) with other Users of IQAX eBL. The User's entry into such transactions shall be governed by this IQAX eBL Service Terms and Conditions (the "**IQAX eBL Service T&C**") and the documentary and electronic confirmation/evidence of confirmation exchanged between the User and IQAX Limited through ebl.shrd.iqax.com or any and all other means of access to IQAX eBL as made available by IQAX Limited or otherwise effective for the purpose of confirming or evidencing those transactions.

Accordingly, the User and the Supplier agree as follows: -

1. Definitions

- 1.1 "Accept" means, in respect of a Designation of a Custodian, to accept the Designation. "Acceptance" means the act of Accepting or the state of having been Accepted. For the avoidance of doubt, no Acceptance is required from the Designated User unless it has been Designated as the Bank as set out at Clause 1.5 below.
- 1.2 "Amend" means, in respect of an eBL, a request to the Carrier by a Dual Function User that the eBL be Surrendered and, as its substitute, one or more new eBLs be Issued to the said Custodian. "Amendment" means the act of Amending or the status of having been Amended. For the avoidance of doubt, the Carrier shall have the sole discretion in determining whether or not one or more new eBLs will be Issued as requested by the said Custodian.
- 1.3 "Authorise" means, in respect of an eBL, to irrevocably Designate by the Shipper, a User as the Shipper's agent, to initiate and acknowledge actions and activities on the Site and enter into Transactions with other Users for and on behalf of the Shipper, in the Shipper's name in accordance with this IQAX eBL Service T&C. "Authorisation" means the act of Authorising or the state of having been Authorised.

For the avoidance of doubt, once a User is Authorised by the Shipper and becomes the Authorised Agent, in respect of the eBL,
 - a. the Authorised Agent will become the Custodian of the eBL and be named as the "Current Custodian";
 - b. the named "Current Title Holder" will remain the Shipper unless the eBL is Transferred to another User who shall not be the Shipper;
 - c. the Authorised Agent will have all the options originally available to the Shipper save that the Authorised Agent will not be allowed to Authorise another User;
 - d. all options available to the Shipper as of the Authorisation on the Site will be inactivated; and
 - e. where the Authorised Agent Escrows the eBL to a Bank and a "Return" is subsequently affected by the Bank, the eBL will be Transferred back to the Authorised Agent (as opposed to the Shipper).
- 1.4 "Authorised Agent" means, in respect of an eBL, the User Designated by the Shipper as its agent in accordance with Clause 1.3 above.

- 1.5 "Bank" means, in respect of an eBL that forms part of documents required for a complying presentation under a Documentary Credit, the User who shall be the presenting bank, the advising bank, the issuing bank, the collecting bank, the negotiating bank, the remitting bank, or any other role of a bank or a financial institution howsoever named or described that is involved in the processing of a Documentary Credit and for such purpose shall be rendered Custody of the eBL. For the avoidance of doubt, a Bank in respect of an eBL shall be one of the following: (i) the User to whom the eBL is Escrowed, (ii) the User who is Transferred Custody of the eBL for Release, (iii) the User who is Transferred Custody of the eBL for further Transfer to another Bank.
- 1.6 "Cargo Interests" means, in respect of a bill of lading (including both paper bill of lading and eBL), collectively: (i) the shipper, the consignor, the receiver, the consignee or the owner of the goods; (ii) its custodian or endorsee; (iii) any person owning, entitled to or claiming the possession of the goods described under the bill of lading or of the bill of lading and anyone acting on behalf of any such person.
- 1.7 "Carrier" means, in respect of an eBL, the User who Issues the eBL and:
- a. by whom or in whose name a contract of carriage of goods, as evidenced by the eBL, is concluded with the Shipper; or
 - b. to whom the performance of a contract of carriage of goods, as evidenced by the eBL, or of part of the carriage, has been entrusted.
- 1.8 "Carrier's Terms and Conditions" means, in respect of a Carrier, its standard terms and conditions (including any incorporated law and dispute resolution clause(s), if applicable, Charterparty Terms and/or applicable international conventions) applicable to the contract of carriage concluded or existing between the Carrier and the Cargo Interests that, if a paper bill of lading in the same terms had been issued in respect of that contract of carriage of goods, would have been set out on the front and/or the back of the paper bill of lading and/or published and updated from time to time by the Carrier's website.
- 1.9 "Charterparty Terms" means, in respect of an eBL, the provisions of a charterparty (including the law and dispute resolution clause(s)) incorporated in the contract of carriage as evidenced by the eBL in accordance with Clause 8.3 below.
- 1.10 "Consignee" means in respect of a non-negotiable eBL, the User Designated as the Consignee of the goods upon Issuing of the eBL who is entitled to take delivery of the goods. For the avoidance of doubt, other than Surrendering the eBL to the Carrier, the Consignee is not allowed to Transfer or Endorse the eBL to other Users.
- 1.11 "Consignee's Bank" means, in respect of a non-negotiable eBL that forms part of documents required for a complying presentation under a Documentary Credit, the Bank, being the issuing bank of the Documentary Credit or otherwise, having an obligation to release the eBL to the Consignee pursuant to the terms otherwise agreed between the Bank, the Consignee and/or any other parties involved in the processing of the Documentary Credit. For the avoidance of doubt, upon Acceptance of a Designation of the Consignee's Bank through the action of "Receive", the Consignee's Bank becomes the Custodian of the eBL and has the options of action

to "Release" the eBL to the Consignee, "Return" the eBL to the User from whom it Received the eBL, or "Transfer" the eBL to another Bank.

- 1.12 "Convert" means, in respect of an eBL, to issue a paper bill of lading by the Carrier in place of the eBL as Surrendered to the Carrier in accordance with a "**Convert-to-Paper**" request. "Converting" shall be construed accordingly.
- 1.13 "Convert-to-Paper" means, in respect of an eBL, an action available to the eBL's then Dual Function User to Surrender the eBL to its Carrier for the issuing of a paper bill of lading in its place in accordance with Clause 13 (Convert-to-Paper) below.
- 1.14 "Copy View" means, in respect of an eBL, the eBL View available on the Site to the relevant Users who is not the then Custodian. Each page of the Copy View of an eBL will be watermarked as "COPY".
- 1.15 "Current Custodian" means, in respect of an eBL, the User named in the preview of key information of the eBL on the Site as being the Custodian of the eBL as at the time of access.
- 1.16 "Current Title Holder" means, in respect of an eBL, the following User named in the preview of key information of the eBL on the Site as likely to have constructive possession of the goods described under the eBL when the User becomes the Custodian of the eBL:
- a. the Shipper, if either the Shipper or its Authorised Agent (if any) is the Custodian of the eBL;
 - b. the Consignee, if the eBL is a non-negotiable eBL and neither the Shipper nor its Authorised Agent (if any) is the Custodian of the eBL;
 - c. the Endorsee (if any), or in the absence of an Endorsee, the To-order Party, if the eBL is a negotiable eBL and neither the Shipper nor its Authorised Agent (if any) is the Custodian of the eBL.
- 1.17 "Custodian" means, in respect of an eBL, the User who has been Designated to exclusively hold the eBL as if the eBL were the original paper bill of lading.
- 1.18 "Custody" means the exclusive control of a Custodian over an eBL subject to the terms of this IQAX eBL Service T&C.

For the avoidance of doubt, the Custodian's control over an eBL will be restricted or limited:

- a. upon the Escrow by the Custodian to a Bank (and any concurrent Endorsement) pending Receipt by the Bank, in which case, the Custodian will only have the right to Withdraw the Escrow (and any concurrent Endorsement) before the Bank's Receipt; and/or
- b. if the Custodian is a Bank, upon the Transfer by the Custodian to another Bank pending Receipt by the other Bank, in which case, all actions and activities available to the Custodian in respect of the eBL will be inactivated unless and until the eBL is Returned to the Custodian.

- 1.19 "Designate" means to name or appoint a person to a role in respect of an eBL. "Designation" means the act of Designating or the state of having been Designated. For the avoidance of doubt, all Designations have to be made by Users on the Site and to Users on the Site.
- 1.20 "Document" means a contract, bill, or other unit of substantive, often textual, information sent as a subdivided part of any communication, notice or other information sent through the Site.
- 1.21 "Documentary Credit" shall mean an arrangement however named or described that constitutes an undertaking by a bank or a financial institution to make payment to a named beneficiary against a formal claim and/or conditional upon a complying presentation of documents required under the terms of the said arrangement.
- 1.22 "Dual Function User" means in respect of a negotiable eBL, the User who is simultaneously named as the "Current Title Holder" and the "Current Custodian" of an eBL.
- 1.23 "eBL" means a Document issued in accordance with Clause 6 below and recorded in the IQAX eBL Ledger which:
- a. at any point of time exists in one original only to which access and control is exclusive to the Custodian of the eBL; and
 - b. acknowledges the receipt of goods by a Carrier for carriage and is evidence of the contract of carriage in respect of the goods and a document of title to the goods.
- 1.24 "eBL View" means, in respect of an eBL, the presentation of its contents in the form of images as displayed on the Site that visualises the eBL as if it were a paper bill of lading.
- 1.25 "Electronic Signature" means a data process attached to or associated with an Electronic Record and executed or adopted by a person in order to identify that person and to indicate that person's authentication of the Electronic Record, such as for example and without limitation:
- a. in respect of an eBL, the electronic signature on the eBL applied by the Carrier at the time of Issuing the eBL; and
 - b. in respect of an Endorsement, the electronic signature on the eBL applied by the Endorser; and
 - c. in respect of a Designation, an Acceptance or a Rejection, the electronic signature applied by the relevant User confirming such Designation, Acceptance or Rejection.
- 1.26 "Electronic Record" means data created, generated, sent, communicated, received or stored by electronic means; that is capable of being authenticated as to the apparent identity of a sender and the apparent source of the data contained in it, and as to whether it has remained complete and unaltered.

- 1.27 "Endorse" means in respect of a negotiable eBL, to endorse the constructive possession of the goods described under the eBL according to Clause 11 below.

"Endorsement" means the act of Endorsing or the state of having been Endorsed the constructive possession of the goods described under the negotiable eBL.

- 1.28 "Endorsee" means, in respect of an Endorsement, the User Designated to have constructive possession of the goods described under the negotiable eBL when it is or becomes the Custodian of the negotiable eBL.

- 1.29 "Endorser" means the User who Designates an Endorsee.

- 1.30 "Endorsee's Bank" means, in respect of a negotiable eBL that forms part of documents required for a complying presentation under a Documentary Credit, the Bank, being the issuing bank of the Documentary Credit or otherwise, having an obligation to release the eBL to the Endorsee pursuant to the terms otherwise agreed between the Bank, the Endorsee and/or any other parties involved in the processing of the Documentary Credit. For the avoidance of doubt, upon Acceptance of a Designation of the Endorsee's Bank through the action of "Receive", the Endorsee's Bank becomes the Custodian of the eBL and has the options of action to "Release" the eBL to the Endorsee, "Return" the eBL to the User from whom it Received the eBL, or "Transfer" the eBL to another Bank.

- 1.31 "Endorser's Bank" means, in respect of a negotiable eBL, the Bank Designated by a Dual Function User pursuant to an "Endorse&Escrow" as set out at Clause 9.1 b.(iii) below. For the avoidance of doubt, upon Acceptance of the Endorser's Designation, the Endorser's Bank becomes the Custodian of the negotiable eBL and has the options of action to "Return" the eBL to the User from whom it Received the eBL, or "Transfer" the negotiable eBL to another Bank.

- 1.32 "Escrow" means, in respect of an eBL, to Transfer or the act of Transferring or the state of having been Transferred the Custody of an eBL by the Shipper or the Endorsee or the To-order Party (as the case may be) to another User acting as a Bank involved in the Documentary Credit in respect of the eBL.

- 1.33 "Issue" means to issue an eBL in accordance with Clause 6 below. "Issuance" means the act of Issuing or the state of having been Issued.

- 1.34 "IQAX eBL Ledger" means, in respect of an eBL, collectively a record of status of:
- a. the execution of functions relating to its Custodian, Title Holder and the Issuance, Authorisation, Endorsement, Designation, Acceptance, Receipt, Rejection, Amendment, Endorsement, Transfer, Escrow, Release, Return, Withdrawal or Surrendering of the eBL; and
 - b. a non-repudiatory and invariable audit trail of dealings with 1.34.a. above.

For the avoidance of doubt, the User is on notice and accepts that there may not be a page on the Site for the User to access a summary or detailed information of the IQAX eBL Ledger.

- 1.35 "IQAX eBL" means the system that is made available to the User by the Supplier for the access and use of the IQAX electronic bill of lading services which facilitates the digitization and secure transfer of bills of lading between the Users.

- 1.36 "IQAX eBL Services" means collectively the IQAX electronic bill of lading services.
- 1.37 "negotiable" means, in respect of an eBL, that no Consignee is Designated upon the Issuing of the eBL and the "Consignee" is recorded as:
- a. "To Order"; or
 - b. "To the order of" a User Designated by the Shipper.
- 1.38 "non-negotiable" means, in respect of an eBL, that a User is Designated as the "Consignee" upon the Issuing of the eBL. A non-negotiable eBL is categorised as a "Straight" eBL on the Site.
- 1.39 "Original View" means, in respect of an eBL, its eBL View available on the Site to its then Custodian. Each page of the Original View of an eBL will be watermarked as "ORIGINAL". For the avoidance of doubt, any copy of or made from an Original View of an eBL is not equivalent to an original of the eBL. An Original View only contains the information of the eBL as of the time when the Original View is accessed or downloaded by the Custodian from the Site.
- 1.40 "Prohibited Person" means any person (whether designated by name or by reason of being included in a class of persons) against whom Sanctions are directed, including without limitation, any person against whom Sanctions are directed as a result of being (i) owned or controlled directly or indirectly by any person who is a designated target of Sanctions, or (ii) organised under the laws of, or a citizen or resident of, any Restricted Jurisdiction, or otherwise a target of Sanctions.
- 1.41 "Receive" means, in respect of an eBL that is Designated to a Bank, to Accept the Designation. "Receipt" means the act of Receiving or the state of having been Received.
- 1.42 "Release" means:
- a. in respect of an eBL that is held in the Custody of a Consignee's Bank, to Transfer the eBL to the Consignee; or
 - b. in respect of an eBL that is held in the Custody of an Endorsee's Bank, to Transfer the eBL to the Endorsee;
- or the act of Releasing or the state of having been Released.
- 1.43 "Restricted Jurisdiction" means any country, territory, region or area that is or whose government is, subject to Sanctions.
- 1.44 "Reject" means, in respect of a Designation of a Custodian, to reject the Designation thereof by so confirming on the Site. "Rejection" means the act of Rejecting or the state of having been Rejected.
- 1.45 "Return" means, in respect of an eBL that is Designated to a Bank as the Custodian for Escrow:
- a. to Reject the Designation; or

- b. after having Accepted the Designation, to Transfer the eBL back to the User who Designated the Bank and simultaneously reverse any Endorsement made concurrently with the said Designation; or

"Return" means the act of Returning or the state of having been Returned.

1.46 "Sanctions" means, in respect of a User, any sanctions, embargoes, freezing provisions, prohibitions or other restrictions relating to trading, doing business, investment, exporting, financing or making assets available (or other activities similar to or connected with any of the foregoing):

- a. imposed by law or regulation of the United Nations (including any of its member states) or its Security Council or the United States of America, the United Kingdom, the European Union (including any of its member states and the Council of the European Union), the People's Republic of China (including without limitation Hong Kong SAR) or the government institution or agency of any of the foregoing; or
- b. otherwise imposed by any law or regulation applicable to the User and/or the Supplier or to which the User and/or the Supplier are subject (including without limitation, any regulation that, compliance with which is reasonable in the ordinary course of the User's and/or the Supplier's business) (which shall include without limitation, any extra-territorial sanctions imposed by law or regulation of the United States of America and/or the People's Republic of China).

1.47 "Shipper" means, in respect of the goods described under an eBL, the User:

- a. by whom or in whose name or on whose behalf (i) a contract of carriage of goods with the Carrier is concluded, and/or (ii) the goods have been delivered to the Carrier involved in the contract of carriage of goods; and
- b. who is designated as the "Shipper" in respect of the eBL.

For ease of reference, and unless otherwise stated or the context otherwise requires, references to "Shipper" in other Clauses of this IQAX eBL Service T&C (save for Clauses 1.3, 1.4 and 1.16 above) include such Shipper's Authorised Agent (if any).

1.48 "Site" means <https://ebl.shrd.iqax.com/> and any and all other means of access to the IQAX eBL Services made available by the Supplier.

1.49 "Supplier" means IQAX Limited.

1.50 "Surrender" means, in respect of an eBL, to submit a request to the Carrier and simultaneously end the existence of the eBL by its Dual Function User for:

- a. releasing of the goods described under the eBL, or
- b. issuing a paper bill of lading in respect of the goods described under the eBL, or
- c. other purposes that do not need the continuing existence of the eBL.

"Surrendering" means the act of Surrendering or the state of having been Surrendered the eBL.

- 1.51 "Surrender-for-Delivery" means, in respect of an eBL, a request made by its then Dual Function User, to Surrender the eBL for delivery of the goods described thereunder.
- 1.52 "Third Party Sources" means, in respect of a User, any communications, websites or other sources directed to the User from any third party directly or indirectly in connection with the IQAX eBL Services.
- 1.53 "To-order Party" means, the User Designated by the Shipper as set out at Clause 1.37.b. above.
- 1.54 "Trade Log" means, in respect of an eBL, a summary of the record of its Endorsements which forms part of the eBL View.
- 1.55 "Transactions" means collectively, the Issuance, Authorisation, Designation, Acceptance, Receipt, Rejection, Amendment, Endorsement, Transfer, Escrow, Release, Return, Withdrawal, Surrendering, Converting in respect of an eBL (each a "Transaction").
- 1.56 "Transfer" means, in respect of an eBL, to transfer or the act of transferring or the state of having been transferred the Custody of the eBL.
- 1.57 "Transferee" means, in respect of a Transfer, any Designated Custodian of the eBL.
- 1.58 "Transferor" means the User who Designates a Transferee.
- 1.59 "User" means:
- a. the person who is enrolled to access the Site, initiate and acknowledge actions and activities on the Site; and
 - b. (i) in respect of its relationship with the Supplier, the party named as the "User" on the Service Form (including any attachments of the Service Form) provided by the Supplier to such party in respect of the IQAX eBL Services the party shall receive and/or the party on whose behalf this IQAX eBL Service T&C is confirmed before the party's use of the IQAX eBL Services, or
(ii) otherwise, any party described as the "User" in this IQAX eBL Service T&C.
- Subject to a User's nature and business, it may have the following role(s) in respect of an eBL, Carrier, Consignee, To-order Party, Endorser, Endorsee, Bank, Authorised Agent and Shipper.
- 1.60 "User Contents" means any data uploaded, posted, exchanged, transmitted, transferred, generated, communicated or included, whether via IQAX eBL or any application, email, application programming interface, electronic data interchange, short messaging, or any other interface or means, electronic and non-electronic, by, or on behalf of, any User (including, without limitation, by any person who accesses IQAX eBL through an account designated to the User).
- 1.61 "Withdraw" means, in respect of an eBL, to withdraw by a User its Designation of a Bank as Custodian for Escrow and any current Endorsement any time before the Bank Accepts the Designation. "Withdrawal" means the act of Withdrawing or the state of having been Withdrawn.

2. Variation of the IQAX eBL Service T&C

- 2.1 The Supplier has the right to revise this IQAX eBL Service T&C at any time and will post any amendment(s) on this Site. If the User is not notified of any revisions and/or amendments before a specific Transaction begins, they will not apply to that specific Transaction.
- 2.2 By using this Site, the User undertakes that it has reviewed the IQAX eBL Service T&C on a regular basis and that the User understands the IQAX eBL Service T&C governing the User's entry into one or more Transactions via the Site and the IQAX eBL Services.
- 2.3 The Supplier will use reasonable efforts to inform all Users of any revisions and/or amendments of the IQAX eBL Service T&C on a timely basis. If, despite the Supplier's efforts, not all Users who are parties to a specific Transaction are notified of a revision and/or amendment before the Transaction begins, in respect of any disputes in connection with that specific Transaction and between these Users only, the User agree that: (i) the revision and/or amendment shall not apply; and (ii) references to the IQAX eBL Service T&C or any provisions therein (as the case may be) shall be read as references to the last version of the IQAX eBL Service T&C or the corresponding provisions of that last version (as the case may be) before the said revision and/or amendment is made by the Supplier to the IQAX eBL Service T&C.

3. Use of the Site

- 3.1 Without prejudice to the User's obligations otherwise apply under the terms of the IQAX eBL Service T&C, the User further agrees to the following:
 - a. Any User ID and password the User receives or creates for this Site are confidential. The User shall ensure that its User ID and password are only available to the User and/or the person duly authorised by the User to:
 - (i) have access to the IQAX eBL Services provided to the User;
 - (ii) use the Site for and on behalf of the User; and
 - (iii) confirm the User's acceptance of the IQAX eBL Service T&C for and on behalf of the User from time to time.
 - b. In order to make use of the Site and the IQAX eBL Services, each User, including each person attempting to access the Site through a User ID and password, will need to confirm that the User understands and accepts this IQAX eBL Service T&C through steps as may be required on the Site. Insofar as any terms so confirmed by the User through the Site is not set out in this IQAX eBL Service T&C, the User agrees to be bound by such terms.
 - c. This Site is not for use by any minors (as defined under any applicable law in the relevant jurisdiction where any User is incorporated and/or based) or any other person that is lacking contractual capacity, whether acting as the User or acting for and on behalf of the User. By using this Site, the User confirms and warrants to the Supplier that the User fully complies with this Clause 3.1 c. That said, in the event of any breach of this Clause 3.1 c. by any User, the User

agrees to be bound by all consequences of the relevant breaching use of the Site and, in particular:

- (i) if it is the breaching User, to ratify and keep the Supplier and the Site fully indemnified from any and all claims arising from or in relation to the relevant breaching use of the Site; and
 - (ii) if it is a non-breaching User, to deem the relevant breaching of the Site as compliant with this IQAX eBL Service T&C.
- d. Each User accepts to indemnify in whole the Supplier from any damages, liabilities, costs, demands, causes of action and expenses arising in any way related to the User's breach of this IQAX eBL Service T&C or any misuse of this Site.

4. Errors and Inaccuracies of the User Contents

- 4.1 The Supplier does not represent or warrant that the User Contents are legitimate, accurate, complete, or current. This includes pricing and availability information. Subject to the restrictions expressly set out in Clause 4.2 below in respect of the contents of an eBL, the Supplier reserves the right to request that any errors or omissions in the User Contents be corrected and updated upon which the relevant User shall take the necessary steps or procure that the necessary steps are taken to correct and update the User Contents.
- 4.2 For the avoidance of doubt, the contents of an eBL are populated by the User who Issues and/or Designates the eBL. The Supplier cannot change the contents of an eBL. Therefore, the Supplier shall not be held accountable for the contents of an eBL whatsoever.

5. Fees

- 5.1 In consideration of the Supplier making this Site available to the User for access to the IQAX eBL Services, the User shall pay the fees as agreed from time to time between the User and the Supplier.

6. Issuance of an eBL

- 6.1 The User agrees that, when acting as a Carrier, any communication, notice or other information sent through the Site as an eBL in accordance with the instructions set out on the Site:
- a. includes an acknowledgement by the Carrier of the receipt of goods shipped on board a vessel or received for shipment by that Carrier;
 - b. contains or evidences the terms of the contract of carriage (although the enforcement of rights under such terms contained or evidenced in the eBL may be subject to provisions otherwise agreed between the relevant parties); and
 - c. shall be transmitted automatically to the IQAX eBL Ledger.
- 6.2 An eBL shall not be Issued unless the Carrier has received the following instructions from the Shipper in respect of the goods carried under the eBL:

- a. the description of the goods, including without limitation, any leading marks, number, quantity, weight;
- b. The identity of the Shipper;
- c. the Shipper's instructions that either (i) a User be Designated as the Consignee or (ii) the Consignee of the IQAX be left blank and recorded as "To Order" or (iii) the Consignee of the IQAX be left blank and a User be Designated as the To-order Party;
- d. the Shipper's instructions that the Shipper be Designated as the Custodian; and
- e. any other information required from the Shipper for the Carrier to Issue the eBL.

These Shipper's instructions shall have been separately communicated to the Carrier without the involvement of any IQAX eBL Services or the Supplier and will not be recorded in the IQAX eBL.

6.3 The Shipper agrees that the Carrier may:

- a. issue an eBL according to Shipper's instructions as set out at Clause 6.2 above;
- b. clause the eBL to include any statement as to, without limitation, the description of the goods provided by the Shipper or apparent order and condition of the goods or the mark, number, quantity or weight in respect of the goods in the eBL as the Carrier deems fit; and
- c. Designate the eBL, when Issued, to the Custodian.

6.4 Where certain additional conditions such as legal acts, permits, etc. are required in certain jurisdictions for the creation, issuing and/or circulation of the bills of lading, the Supplier has no obligation to check if the Carrier Issuing an eBL has a right to issue and/or circulate bills of lading. The Carrier shall fulfill all such conditions of the relevant jurisdiction applicable to the Carrier to issue and/or circulate bills of lading before issuing the eBL.

6.5 It is a condition of the use of the eBL Services that no contemporaneous paper bill of lading will be issued.

6.6 The Supplier is not responsible for the content of an eBL or any other content that is created / sent through the Site by a User. In particular, the Supplier takes no responsibility whatsoever for any data uploaded by a User.

6.7 The Carrier irrevocably appoints the Supplier as its agent for the purpose of (i) acknowledging that the Carrier holds the goods to the order of the Current Title Holder of an eBL; and (ii) receiving notice of any acceptance or refusal by any Endorsee of any such transfer of constructive possession of the goods. The Supplier takes no responsibility whatsoever for any claim that arises from and/or in connection with any Transaction(s) entered into by any User and/or any failure by any User to enter into any Transaction(s), including without limitation:

- a. whether a Carrier has an obligation under this IQAX eBL Service T&C or otherwise to Issue an eBL or convert a Surrendered eBL to a paper bill of lading;
 - b. whether a Custodian of an eBL has an obligation under this IQAX eBL Service T&C or otherwise to Transfer the eBL to a particular User.
- 6.8 The User is on notice and accepts that an eBL once Issued, exists in one original only and no additional originals will be available whatsoever.
- 6.9 The User irrevocably appoints the Supplier, as its agent, to bind all Users, both current and future, to this IQAX eBL Service T&C and in particular Clauses 9 and 10 below (subject to the Supplier's right to revise as set out in the terms of the IQAX eBL Service T&C, including in particular without limitation, the terms as set out at Clause 2 above); and the Supplier accepts such appointment and the obligations thereof.

7. Electronic Bills of Lading

- 7.1 The Electronic Signature on the eBL shall have exactly the same force and effect as a manuscript or "wet ink" or printed signature on a paper bill of lading. Each User expressly agrees, in respect of the contract of carriage evidenced by the eBL, that the Electronic Signature of the eBL is a valid signature and undertake not to deny this.
- 7.2 By accepting this IQAX eBL Service T&C, the User agrees that an eBL shall have exactly the same status and attributes as a paper bill of lading and therefore the transfer of title and the transfer of rights and liabilities operate in exactly the same manner as if the eBL were a paper bill of lading subject to the terms and conditions of this IQAX eBL Service T&C. The User undertakes not to deny these effects. For that reason and also in accordance with Clauses 2, 3 and 6 above, the User may sue and/or be sued in exactly the same manner as if the eBL were a paper bill of lading.
- 7.3 The Supplier undertakes that every User will be required to agree to the IQAX eBL Service T&C upon becoming a User and be subject to the Supplier's right to revise as set out in the terms of the IQAX eBL Service T&C, including in particular without limitation, the terms as set out at Clause 2 above. However, each User accepts that it is not within the Supplier's control if the User's intended counterparty refuses to agree to the IQAX eBL Service T&C to become a User, or if electronic bills of lading (including without limitation the eBLs) are recognised under the laws of the jurisdictions as may be involved in any Transaction.
- 7.4 Each User agrees to be responsible to ensure in respect of any and all Transactions it has entered into or will enter into that, to the User's best knowledge, any and all parties to such Transactions are a User or will become a User of IQAX eBL and accept this IQAX eBL Service T&C.
- 7.5 To the extent that, in the User's opinion, the provisions of Clause 7.2 above are not recognised in any relevant jurisdiction then the User may switch an eBL to a paper bill of lading through the action of "Convert-to-Paper" when it is or becomes the Dual Function User of the eBL.

8. Incorporation by Reference

- 8.1 Carrier's Terms and Conditions. In order to incorporate its Carrier's Terms and Conditions into an eBL, a Carrier shall in the eBL set out the said terms and conditions in full. The User agrees that the Carrier's Terms and Conditions as specified on the Site to apply to an eBL shall apply to the eBL as a matter of law or hereby as a matter of contract, and that, as between any User and the Carrier with regard to matters in respect of an eBL Issued by the Carrier, the Carrier's Terms and Conditions so incorporated shall prevail over anything to the contrary in the terms and conditions set out in the IQAX eBL Service T&C.
- 8.2 Effect of Incorporation. Each User agrees that the incorporation of the Carrier's Terms and Conditions in accordance with Clause 8.1 above shall be effective to make such terms and conditions (including the law and dispute resolution clause(s)) binding upon the parties to the contract of carriage.
- 8.3 Incorporation of Charterparty Terms. Without prejudice to the generality of Clause 14 below, each User agrees that any words contained in the contract of carriage expressly incorporating the provisions of any charterparty (including the law and dispute resolution clause(s)) as evidenced by the eBL shall have the same effect as if such words of incorporation had appeared as part of the written terms of a paper bill of lading issued by the Carrier. For the avoidance of doubt, in the event that such words of incorporation would not be effective had they appeared as part of the written terms of a paper bill of lading issued by the Carrier, the relevant provisions of the charterparty shall not be deemed incorporated in the contract of carriage as evidenced by the eBL.
- 8.4 International Conventions. A contract of carriage in respect of which the Carrier has Issued an eBL shall be subject to any international convention, or national law giving effect to such international convention, which would have been compulsorily applicable if a paper bill of lading in the same terms had been issued in respect of that contract. Such international convention or national law shall be deemed incorporated into the eBL. In the event of a conflict between the provisions of any international convention or national law giving effect to such international convention and the other provisions of the contract of carriage as contained in the eBL, the provisions of that national law or that international convention shall prevail.

9. Transactions

- 9.1 Once an eBL is Issued, Transactions in respect of the eBL and the goods described under the eBL as set out below at Clauses 9.1 a. to 9.1 f. may be effected on the Site by the User competent of effecting the relevant Transactions in accordance with this IQAX eBL Service T&C. These Transactions shall become effective when the said User clicks on the "Confirm" button that appears on the Site for the relevant Transaction unless expressly provided otherwise in this IQAX eBL Service T&C.
- a. To Accept a Designation of a Bank through the action of "Receive" which has the same meaning as given to it at Clause 1.41 above;
- b. To Designate through the following actions as named on the Site:
- (i) **"Authorise"**, which has the same meaning as set given to it at Clause 1.3 above;

- (ii) "**Endorse&Transfer**", which means to Endorse and Transfer the eBL to an Endorsee simultaneously by the Dual Function User;
- (iii) "**Endorse&Escrow**", which means to Endorse the eBL to an Endorsee and simultaneously Escrow the eBL to a Bank by the Dual Function User. However, despite the effectiveness of the Designation by the Dual Function User, neither the Endorsement nor the Escrow shall be effective until the Bank Accepts the Designation through a "Receive" as set out at Clause 9.1 a. above;
- (iv) "**Transfer**", which means to Transfer the eBL without a concurrent Designation of an Endorsee. However, for the avoidance of doubt, if the eBL is Transferred to a Bank, despite the effectiveness of the Designation by the Transferor, the Transfer shall not be effective until the Bank Accepts the Transfer through a "Receive" as set out at Clause 9.1 a. above;
- (v) "**Escrow**", which means to Escrow a non-negotiable eBL to a Bank by the Shipper. However, for the avoidance of doubt, despite the effectiveness of the Designation by the Shipper, the Escrow shall not be effective until the Bank Accepts the Designation through a "Receive" as set out at Clause 9.1 a. above;
- (vi) "**Release**", which has the same meaning as given to it at Clause 1.41 above;
- (vii) "**Return**", which has the same meaning as given to it at Clause 1.45 b. above;
- c. To Surrender the eBL to the Carrier for delivery of the goods described under the eBL through the action of "**Surrender-for-Delivery**" as named on the Site having the same meaning as given to it at Clause 1.50 above;
- d. To Surrender the eBL to the Carrier for it to be Converted through the action of "**Convert-to-paper**" as named on the Site having the same meaning as given to it at Clause 1.13 below.
- e. To Reject a Designation through the following actions as named on the Site:
 - (i) "**Amend**", which has the same meaning as given to it at Clause 1.2 above; or
 - (ii) "**Return**", which has the same meaning as given to it at Clause 1.45 a. above;
- f. To Withdraw a Designation through the action of "**Withdraw**" as named on the Site having the same meaning as given to it at Clause 1.61 above.

9.2 The User agrees:

- a. Unless otherwise expressly set out in this IQAX eBL Service T&C and/or on the Site, a Transaction will take effect immediately and cannot be revoked once the User clicks on the relevant "**Confirm**" button as set out at Clause 9.1 above;

- b. Where a User submitted a request of "**Amend**", "**Surrender-for-Delivery**" or "**Convert-to-Paper**" in respect of an eBL:
 - (i) Upon each such request, the eBL will be immediately Surrendered;
 - (ii) In addition to the Transaction effected through the Site as set out at Clause 9.1 above, the User and the Carrier shall communicate separately without the assistance of IQAX eBL or the Supplier to specify and confirm the User's intention in respect of the submitted request. Such communication will not be recorded in the IQAX eBL. The User and the Carrier accept that they will continue to be bound by the contract of carriage as evidenced by the eBL despite the Surrendering unless otherwise agreed.
 - (iii) The User is free to supplement and/or amend details of the request to the Carrier directly through such communication which will not be recorded in the IQAX eBL.
 - (iv) If the Carrier and the User fail to agree on the User's request to the Carrier, the Carrier may Issue a new eBL that bears the same information as set out in the eBL Surrendered.
 - (v) The User and the Carrier accept that unless and until the Carrier Issues one or more new eBLs or paper bills of lading as the substitutes of the Surrendered eBL, they will continue to be bound by the contract of carriage as evidenced by the Surrendered eBL despite the request to "**Amend**", "**Surrender-for-Delivery**" or "**Convert-to-Paper**".

10. Transfer of Constructive Possession of the Goods under a non-negotiable eBL

- 10.1 In respect of a non-negotiable eBL, the transfer of constructive possession of the goods described under the eBL shall be effected upon the occurrence of any of the following events:
 - a. The Shipper "**Transfer**"s the eBL to the Consignee; or
 - b. The Bank to whom the Shipper Escrows the eBL "**Receive**"s the eBL; or
 - c. The Shipper is "**Return**"ed the eBL after the eBL has been Received by a Bank.
- 10.2 Upon the occurrence of the event set out at Clause 10.1 a. or Clause 10.1 b. above, the Carrier acknowledges that from that time on it holds the goods described in the eBL for the Consignee until:
 - a. the goods described under the eBL is delivered; or
 - b. the eBL ceases to exist pursuant to a valid Surrender; or
 - c. the occurrence of an event as set out at 10.1 c. above.
- 10.3 Upon the occurrence of the event set out at Clause 10.1 c. above, the Carrier acknowledges that from that time on it holds the goods described in the eBL for the Shipper until:

- a. the goods described under the eBL is delivered; or
- b. the eBL ceases to exist pursuant to a valid Surrender; or
- c. the occurrence of an event as set out at Clause 10.1 a. or Clause 10.1 b. above.

11. Transfer of Constructive Possession of the Goods under a negotiable eBL

- 11.1 In respect of a negotiable eBL, the transfer of constructive possession of the goods described under the eBL pursuant to an Endorsement shall be effected upon:
- a. the Acceptance of a concurrent Transfer, if pursuant to the Transfer, Custody of the eBL is Designated to a Bank and hence requires the Bank's Acceptance; or
 - b. the Designation of a concurrent Transfer in all circumstances other than that set out at Clause 11.1 a.
- 11.2 Further, after the Acceptance by a Bank of a concurrent Transfer pursuant to an Endorsement as described at Clause 11.1.a. above, transfer of constructive possession of goods described under the negotiable eBL shall also be effected when the eBL is "**Return**"ed by the Bank to the Endorser. As at the time of the Return, the Endorsement is reversed.
- 11.3 Upon the occurrence of the event set out at Clause 11.1 a. or Clause 11.1 b. above (as the case may be), the Carrier acknowledges that from that time on it holds the goods described in the eBL to the order of the Endorsee until:
- a. the effectiveness of any subsequent Endorsement; or
 - b. the goods described under the eBL is delivered; or
 - c. the eBL ceases to exist pursuant to a valid Surrender; or
 - d. applicable to the event set out at Clause 11.1 a. only, the Endorsement is reversed pursuant to the occurrence of a "Return" as described at Clause 11.2 above, upon which the Carrier acknowledges that from that time on it holds the goods described in the eBL to the order of the Endorser.
- 11.4 For the avoidance of doubt, transfer of constructive possession of goods shall take place according to the terms of Clause 12 below.

12. Novation in respect of a negotiable eBL

- 12.1 The User agrees that in respect of a negotiable eBL, no Endorsee can be Designated unless a Transferee is simultaneously Designated. Specifically, as described at Clauses 9.1 b.(ii) and 9.1 b.(iii) above, a Designation of a User as the Endorsee has to be concurrent with either (i) the Designation of the same User as the Transferee or (ii) the Designation of the Endorser's Bank to Escrow the eBL.
- 12.2 The User agrees that where an eBL is Endorsed, it shall mean that, in each of the scenarios set out in the chart below, the Users identified as relevant to the scenario as Endorser, Endorsee or neither (as the case may be) agree to all of the following terms in this Clause 12.2:

Scenario	Relevant Users		
	Endorser	Endorsee	Neither
A. " Endorse&Escrow "	Dual Function User	The User as Designated by the Dual Function User	Carrier, Endorser's Bank (as Transferee)
B. " Endorse&Transfer "	Dual Function User	The User as Designated by the Dual Function User (also as Transferee)	Carrier

- a. Upon the Designation of an Endorsee pursuant to an action of "**Endorse&Escrow**" as set out at Scenario A. above and before the Endorsement becomes effective upon the concurrent Transfer (including Escrow) being Accepted by the Transferee, the contract of carriage shall remain between the Carrier and the Endorser on the terms as contained in or evidenced by the eBL as of the time immediately before the Designation was made.
- b. Upon the Acceptance of the concurrent Transfer (including Escrow) by the Transferee pursuant to an action of "**Endorse&Escrow**" as set out at Scenario A. above or upon the Designation of the Endorsee pursuant to an action of "**Endorse&Transfer**" as set out at Scenario B. above:
 - (i) a contract of carriage shall arise between the Carrier and the Endorsee on the terms as contained in or evidenced by the eBL;
 - (ii) the Endorsee shall be entitled to all the rights and accepts all the liabilities of the contract of carriage as contained in or evidenced by, or deemed to be so contained in or evidenced by, the eBL; and
 - (iii) the Endorser's rights and liabilities under its contract of carriage as evidenced by the eBL with the Carrier shall immediately cease and be

extinguished, unless such Endorser is also the Shipper, in which case its rights but not its liabilities under its contract of carriage with the Carrier shall cease and be extinguished.

- c. To the Endorser irrevocably undertakes, represents and warrants to the Supplier and all Relevant Users that there is not and will not be any disputes in relation to the Designation of the Endorsee (including, without limitation, any disputes raised by or to be raised by the Endorsee in respect of the Designation).

12.3 In the case of an "**Endorse&Escrow**", the User agrees that:

- a. The Bank Designated pursuant to an "**Endorse&Escrow**" shall only have the following options:
 - (i) to Return the eBL; and
 - (ii) to Receive the eBL and, after which, in its option of action to "Transfer" the eBL to another Bank.

However, if either the eBL is Returned to the Bank after having been Transferred to another Bank as set out at item (ii) of this Clause 12.3 a., or after the Bank Receives the eBL the Bank does not intend to Transfer the eBL to another Bank for any reason whatsoever, the Bank shall have the option of action to "Return" the eBL to the User who Designated the Bank pursuant to the "**Endorse&Escrow**".

- b. For completeness, if a Bank is Designated by another Bank pursuant to an action of "**Transfer**", the Designated Bank shall only have the following options:
 - (i) to "**Return**" the eBL; and
 - (ii) to "**Receive**" the eBL and, after which, to "**Transfer**" the eBL to another Bank, or, if the Bank is the Endorsee's Bank, to "**Release**" the eBL.

However, if after a Bank Receives an eBL Designated to the Bank through a "**Transfer**", such Bank does not intend to Transfer the eBL to another Bank or if the Bank is the Endorsee's Bank, Release the eBL for any reason whatsoever, it shall have the option of action to "**Return**" the eBL to the Bank from whom it Received the eBL.

12.4 For the avoidance of doubt, any User who is or was the Custodian of an eBL or a Relevant User as identified in the chart at Clause 12.2 above (whether or not its Designation is subsequently effective or not, Accepted or not or otherwise Rejected) agrees that any claim against the Carrier for loss of or damage to the goods shall be subject to the terms of the contract of carriage as contained in or evidenced by the eBL (including the law and dispute resolution clause(s)).

12.5 Each User irrevocably appoints the Supplier as its agent acting at the instructions of the User, for the sole and limited purpose of effecting the novations referred to in this Clause 12.

13. Convert-to-Paper

- 13.1 At any time before delivery of the goods described in an eBL, the Dual Function User may request to "**Convert-to-Paper**", upon which the eBL is immediately Surrendered, for the Carrier to issue a paper bill of lading in its place. The paper bill of lading shall replicate precisely the wording of the eBL together with the terms, conditions and remarks therein.
- 13.2 For the avoidance of doubt, the Supplier makes no representation as to when or if an eBL will be Converted by the Carrier.

14. Validity and Enforceability

- 14.1 Any applicable requirement of law, contract, custom or practice that any transaction, document or communication shall be made or evidenced in writing, signed or sealed shall be satisfied by any communication, notice or other information sent through the Site bearing an Electronic Signature of the User which was valid when the Electronic Signature was created. The contents of which, or a portion drawn from which, are binding upon that User to the same extent, and shall have the same effect at law, as if the contents or portion thereof had existed in a manually signed form.
- 14.2 No User shall contest the validity of any transaction, statement or communication made by means set out in Clause 14.1 above on the grounds that it was made in electronic form instead of by paper and/or signed or sealed.
- 14.3 If any provision of this IQAX eBL Service T&C is unlawful, void or unenforceable then that provision shall be deemed severable from the remaining provisions and shall not affect the validity and enforceability of the IQAX eBL Service T&C.

15. Data Security and Privacy

- 15.1 The User accepts the Supplier's Privacy and Security Statement.
- 15.2 This Clause 15 shall survive the termination of this IQAX eBL Service T&C.

16. No Warranties

- 16.1 The Supplier makes no express or implied representations or warranties, of any kind related to this Site or the User Contents contained on the Site.

17. Limitation of Liability

- 17.1 The Supplier shall have no responsibility whatsoever for any consequences of or losses to a User arising from the following save for any consequences or losses arising from technical failure of the IQAX eBL:
- a. fraudulent interaction(s) of the User or otherwise solely attributable to the User with an eBL;
 - b. fraudulent interaction(s) of other User(s) or other third parties with an eBL unless proven that such consequences or losses are resulted wholly or partially from the willful negligence or gross negligence of the Supplier;

- c. interference(s) with the issuance, transfer or novation of an eBL through hacking, password mining, spoofing or any other means of circumventing, defeating or otherwise tampering with the Site, unless proven that such consequences or losses are resulted wholly or partially from the willful or gross negligence of the Supplier;
- d. any and all other risks external to the operation of the Site except for any consequences or losses to a User arising from technical failure of the IQAX eBL other than those fall within any of Clauses 17.1 a., 17.1 b. and 17.1 c above.

That said, the Supplier shall use reasonable endeavours to ensure that IQAX eBL is secure from the risks as set out above at items b., c. and d. above, failing which, the Supplier shall be liable for its breach of this Clause 17.1.

17.2 The Supplier's entire liability for any and all claims of any one User arising from or in any way in connection to any one occurrence, for any losses (including interest and legal costs) whatsoever and howsoever caused, will not exceed USD 5,000,000. This limit applies collectively to the Supplier, its subsidiaries, contractors, sub-processors, and suppliers.

17.3 This Clause 17 shall survive the termination of this IQAX eBL Service T&C.

18. Governing Law & Jurisdiction

18.1 The IQAX eBL Service T&C is governed by and shall be interpreted in accordance with English law.

18.2 A person who is not a party to this IQAX eBL Service T&C has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of this IQAX eBL Service T&C.

18.3 Where the only matter or matters in dispute between the parties is a claim against the Supplier whatsoever, all proceedings in respect of such claim shall be subject to the exclusive jurisdiction of the English courts.

18.4 Subject to Clause 18.5 below, any other dispute arising out of this IQAX eBL Service T&C shall be subject to the exclusive jurisdiction of the English courts.

18.5 For the avoidance of doubt, any and all disputes arising from or in connection with an eBL with regard to:

- a. the rights and interests to the goods described under the eBL, and/or
- b. the terms of the contract of carriage as evidenced by the eBL and/or any rights and obligations arising from such terms,

shall be governed by the applicable law and jurisdiction as set out in the Carrier's Terms and Conditions as incorporated in accordance with Clause 8.1 above.

19. Confidentiality

19.1 Without prejudice to the User's obligations otherwise apply under the terms of the IQAX eBL Service T&C, the following shall remain private and confidential between the User and the Supplier and shall not be disclosed to any third parties, save as

shall be reasonably necessary for proper business purposes (for example for the purposes of their direct insurance and reinsurance, audit, legal advisory or regulatory interests) or as required by law or a regulatory body, a government agency or a competent court, or to prove its existence to a competent court:

- a. all negotiations, prior agreements and understandings and the IQAX eBL Service T&C between the User and the Supplier; and
- b. the User's access to the Site and the User Contents made available to the User.

20. Anti-bribery and anti-corruption

- 20.1 The User shall comply with all applicable anti-corruption laws and regulations; and not to offer or give, directly or indirectly, any gift, loan, fee, reward, services or anything more than nominal value or any other undue advantage or prospect thereof, present or promise to any staff and any related persons of the Supplier or other Users who are involved in or have any authority or influence on concluding or performing the IQAX eBL Service T&C and/or the Transactions.
- 20.2 The User represents and warrants that none of its owners, partners, shareholders, directors has any financial or any other interest which would in any way however be in conflict with the performance of its obligations under the IQAX eBL Service T&C.
- 20.3 The User shall bear all consequences and liabilities resulting from its breach of this Clause 20, including without limitation, the Supplier's immediate suspension or termination of the IQAX eBL Services to the User and/or the User's access to the Site in Supplier's sole discretion.

21. Sanctions

- 21.1 The User represents and warrants to the Supplier and repeats such representations and warranties during its use of the IQAX eBL Services:
 - a. neither the User nor, to the User's best knowledge, any of its Authorised Agent, Transferee or Endorsee involved in any Transactions initiated by the User:
 - (i) is a Prohibited Person;
 - (ii) is owned or controlled by or acting directly or indirectly on behalf of or for the benefit of, a Prohibited Person;
 - (iii) owns or controls a Prohibited Person; and
 - (iv) has a Prohibited Person serving as a director, officer or, to the best of its knowledge, employee; and
 - b. the User complies with all laws and regulations in respect of Sanctions implemented from time to time; and
 - c. the User has, implements and reviews timely a code of practice or policy in effect to minimise any risk of Sanctions, including without limitation the risk of any breach of this Clause 21.



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- 21.2 In the event of the User's breach of this this Clause 21, the Supplier shall have the right to terminate all or part of the User's use of the Site and receipt of the IQAX eBL Services. Further, the User shall keep the Supplier fully indemnified for any and all losses, damages, costs and claims arising from User's breach of this this Clause 21.
- 21.3 This Clause 21 shall survive the termination of this IQAX eBL Service T&C.

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