

Customer Account Opening Pack



Contents

1. Introduction	2
2. Economic Operator Registration and Identification (EORI)	4
3. C1207N authorisation to access duty deferment – Import only	5
4. Account Opening Form	6
5. Direct Representation Authorisation and Prohibitions and Restrictions standing instruction mandate	7
6. Direct Representation and Prohibitions and Restrictions Template.....	8
7. Standing Clearance Instructions (SCI)	9
7.1. SCI Template- Imports	10
7.2. SCI Template- Exports.....	11
8. Legal Notice.....	12
Appendix A – HMRC Value & Costs Guidance.....	13
Appendix B – Account Opening Form.....	15
Appendix C – Terms and conditions	17

1. Introduction

Customers who already Import and/or Export outside the European Union will be aware of HMRC requirements regarding import and export clearances and declarations.

This pack not only contains our Customer Account Opening form and Terms and Conditions, but relevant Customs documents that we ask Hellmann Worldwide Logistics Ltd (HWL) customers to complete, so we are able to deal with your orders without delay and in the most efficient manner.

The Brexit 'Transition' ends on 31.12.20. From 1.1.21 imports and exports involving the EU will require Customs declarations. **The outcome of the trade negotiations between the UK and the EU will have no impact on the requirement for Customs documentation.**

To this end Hellmann Worldwide Logistics has expanded its Customs Clearance services around the UK.

It is important that we are prepared and that we have all the necessary information to ensure that your goods can continue to move as freely as possible.

This means action is required immediately.

We have identified some practical steps which can be taken by you now in connection with your European Union business to prepare for Brexit and would ask you to complete and sign the enclosed Customs forms as appropriate to the services being completed by HWL. You will also need to complete these Customs forms for any other business you have which is subject to Customs' controls.

These documents must be completed by the UK importer in the case of imports to the UK or the UK exporter in the case of exports from the UK. **This applies irrespective of the applicable Incoterms.** The pack has been written aimed at the relevant parties who will need to complete it.

We would ask that the relevant party returns the completed Customer Account Opening Pack with all possible expediency to us via email using the email address: ccs@hellmann.com

Should you require any additional information or help with this matter, please contact us.

We stand ready for your questions and thank you in advance for your understanding and kind co-operation.

We draw to your attention the Legal Notice in section 8 of the attached pack.

We would also recommend you visit our Brexit blog for information about Brexit and Customs - <https://brexit.hellmann.com/>

DELAYING IMPORT CUSTOMS DECLARATIONS - *OPTIONAL SCHEME 01.01.2020 – 30.06.2021 ONLY*

For the first six months of 2021, in some cases, it may be possible to delay presentation of import Customs declarations until after delivery of your goods. This scheme is not available if you:

- are importing 'controlled goods, such as alcohol or some goods which need an import licence or are otherwise controlled
- are not registered for VAT
- are importing goods which weren't in EU free circulation
- have a poor Customs compliance record

Please beware that your 'Supplementary Declaration' [read import Customs declaration] must be submitted within six months of the arrival of the goods in to the UK and preferably you will have your own duty deferment account [see section 3 below]. You must remember to instruct us when you want to submit the supplementary declaration and you must keep detailed records of:

- the Customs procedure code you will use
- a 'DUOCR' – a unique reference which allows you to identify the consignment in your records
- purchase and where available, sales invoice numbers

- the date and time of entry in records
- any temporary admission, warehousing or temporary storage stock account references
- any warehouse approval number
- a written description of the goods
- the commodity code[s]
- the Customs value
- the quantity of the goods, including number of packages, items and the net mass
- the details of licence requirements and numbers
- the details of any supporting documents, including serial numbers
- your own company details

If you wish to use the delayed import Customs declaration scheme, please ensure you tell us. If you do not tell us, we will assume you do not wish to delay your import declarations.

2. Economic Operator Registration and Identification (EORI)

Immediate action required: if you only trade goods with the EU, we advise you apply to HMR&C **now** for EORI registration.

You will need an EORI number to support Customs declarations.

Don't worry – this application is actually quite straightforward. Usually, Customs complete the process in a few days. Start at: <https://www.gov.uk/eori>

If you have existing trade with non EU countries, it is possible you may already have an EORI registration. In this case, please confirm your EORI number below:

--	--	--	--	--	--	--	--	--	--	--	--	--	--	--

3. C1207N authorisation to access duty deferment – Import only

A duty deferment account allows you to pay taxes to HMR&C.

To become authorised, you need the support of an HMR&C recognised financial institution which is prepared to issue a guarantee. If you want to apply for your own deferment account, please contact us for guidance.

If you do not have your own account, in certain circumstances we may be able to make arrangements for you to use ours, subject always to our applicable trading conditions as per the “Legal Notice” below, and to status. Fees will apply in this case.

Note we do not extend credit for Customs taxes. Goods will be held pending prior reimbursement of cleared funds to our account.

Do you wish to use our duty deferment guarantee?

YES

NO

If you already have a duty deferment guarantee, please confirm the number below:

--	--	--	--	--	--	--

Please give us your standing agreement to access your duty deferment account for your imports. Do this by visiting the below address.

<https://www.gov.uk/government/publications/import-and-export-deferment-of-duty-against-an-importers-deferment-approval-number-c1207n>

You will need our EORI number, which is GB180776931000.

Please select yes in answer to the question ‘Please indicate if this agent is to have access to your deferment balance?’. This will assist and speed up the clearance process.

Please confirm you have completed this process:

YES

NO

Please note that if you do not complete form C1207N, you will be required to complete C1207S for each consignment for which your authority to use your duty deferment account is needed.

You may also authorise us to access your deferment account by email for each consignment. The completion of form C1207N removes the need to do this separately for each consignment you import.

4. Account Opening Form

Within this pack (Appendix B) you will find an Account Opening Form which we urge you to complete and return to us at your earliest opportunity.

If approved for trade credit, payment of any Customs clearance ancillary or related charges will not impede the delivery of your cargo.

However, Hellmann Worldwide Logistics Limited does not extend credit facilities for Customs taxes. These must be fully reimbursed to us with cleared funds before cargo is delivered.

Please note you do not need to complete an account opening form if you already have an account with us.

Process for completion of the Account Opening Form:

Step 1. Please fill out the enclosed Account Opening Form

Step 2. Return the completed Account Opening Form to us by email to caf@hellmann.com

Step 3. If trade credit is requested, we will reply in 3 days.

Step 4. If trade credit is not requested, we will reply within 2 days

Step 5. Once your application is accepted, your instructions will be actioned provided:

i) sufficient credit exists;

and where applicable:

ii) we have your completed Direct Representation/Prohibitions and Restrictions mandate and;

iii) we have your Customs clearance instructions. Please note if you have issued us previously with standing instructions, you must notify us in writing of any relevant changes to these.

For the following Sections 5, 6 and 7 - If you have previously submitted responses for these sections as standing instructions, you can ignore them, but you must update us with any changes that may occur.

Please note it is important that when you complete the Account Opening form the Hellmann UK contact person and Branch must be inserted in the appropriate boxes.

5. Direct Representation Authorisation and Prohibitions and Restrictions standing instruction mandate

'Direct Representation' - defines the legal relationship between the importer/exporter and HMR&C and the capacity in which we work as an agent on your behalf.

Please use the template in section 6 and **transfer to your letter head**, to complete the authorisation for us to act on your behalf under the concept of Direct Representation.

Please note that if we agree to act on your behalf, this is subject always to our applicable trading conditions, as per the "Legal Notice" below.

'Prohibitions and Restrictions' - some goods need written permission or approval from a government department to import or export.

To find out if your goods need such permission, for example, a licence, health certificate or similar, please go to:

<https://www.gov.uk/guidance/export-and-import-licences-for-controlled-goods-and-trading-with-certain-countries>

Please also use the template in section 6 to instruct us as to whether your goods are subject to licensing controls or other similar requirements.

Please return your authorisation **to us on your letter head** with the completed pack at your earliest convenience.

Our email address is caf@hellmann.com

6. Direct Representation and Prohibitions and Restrictions Template

Company Name & Address:

EORI Number:

--	--	--	--	--	--	--	--	--	--	--	--	--	--	--

We authorise Hellmann Worldwide Logistics Limited to complete, sign and submit Customs entries on our behalf to HM Revenue & Customs. We understand and accept that Hellmann Worldwide Logistics Limited acts on our behalf under the concept of Direct Representation, subject always to their applicable trading conditions, and that we are fully responsible for Customs entries submitted by them on our behalf. We further understand that any post clearance recovery action or repayments of excess taxes in relation to Customs declarations will be transacted purely between ourselves and HM Revenue & Customs.

We confirm that all goods imported and/or exported by ourselves are not subject to any licence or other type of control, prohibition or restriction unless we advise to the contrary.

We understand and accept our responsibility to disclose all such relevant information to Hellmann Worldwide Logistics Limited before presentation of the relevant Customs declaration covering the goods in question.

Signed:

Print Name:

Title:

Date:

7. Standing Clearance Instructions (SCI)

As an importer or exporter, you are legally responsible to HMR&C for the accuracy of the Customs declaration. We are required to obtain instructions from you as to how to enter your imports and exports to HMR&C.

You can do this separately for each consignment or where you have repeat business you can give us a standing instruction.

Please use the following two templates to issue your instructions to us, returning to us **on your letter head** at your earliest convenience.

If you wish to send instructions separately for each consignment, you can still use the templates, but deleting the word 'Standing'.

Please note that it is your responsibility to ensure the accuracy of your instructions to us, and you will therefore need to regularly review and update any standing instructions you may send us.

Notes for the following two templates:

'Customs Procedure Code' - As identified in Volume 3 Appendix E of the HMR&C Tariff, this identifies the Customs and/or excise regime to which the goods are being entered and removed. This code tells Customs what is happening to the goods. Further guidance can be found at: <http://www.uk-customs-tariff.com/vol3Frameset.htm>

'Commodity Code' - Variable digit number obtained from the HMRC Tariff Volume 2 used to identify and classify imported or exported goods, define appropriate tax rates, licence requirements and other measures. Further guidance can be found at: <https://www.gov.uk/trade-tariff/sections>

7.1. SCI Template- Imports

STANDING CLEARANCE INSTRUCTION - IMPORTS

Importer name and address:

Importer EORI number:

--	--	--	--	--	--	--	--	--	--	--	--	--	--	--

In transit insurance premium £ or rate [pence per cent]

HMR&C require that all values and costs are correctly declared. You must provide us with accurate details of all values and costs and any other relevant information for insertion on declarations. We have included some initial guidance in Appendix A of this document

Additional charges / costs to be added to value for Customs Duty/VAT

Customs Procedure Code [depending on which CPC, additional questions may follow]:

Commodity code [s]:

To HM Revenue & Customs:

The undersigned agrees on behalf of the above importer that Hellmann Worldwide acts under the principle of Direct Representation. Unless otherwise indicated, the goods imported are not subject of any prohibitions or restrictions and do not require any form of licence.

We are Telephone number:

Signed..... Date:

Print Name: Position in company:

7.2. SCI Template- Exports

STANDING CLEARANCE INSTRUCTION - EXPORTS

Exporter name and address:

Exporter EORI number:

--	--	--	--	--	--	--	--	--	--	--	--	--	--	--

Customs Procedure Code [depending on which CPC, additional questions may follow]:

Commodity code [s]:

Are the goods subject to any export licence? (State which apply and attach copies of relevant licences):

To HM Revenue & Customs:

The undersigned agrees on behalf of the above importer that Hellmann Worldwide Logistics Ltd acts under the principle of Direct Representation. Unless otherwise indicated, the goods exported are not subject of any prohibitions or restrictions and do not require any form of licence.

We are Telephone number:

Signed..... Date:

Print Name: Position in company:

8. Legal Notice

Hellmann Worldwide Logistics Ltd want to support our customers by sharing our knowledge and experience in this field. However, please note that it remains your responsibility to ensure that you comply with all HMR&C requirements and that all information supplied to HMR&C is complete and accurate.

All freight forwarding and customs clearance services are provided by us subject to the current edition of the BIFA Standard Trading Conditions which in certain circumstances limit and exclude our liability and/or require you to indemnify us. Please do not hesitate to contact us if you require further details.

Appendix A – HMRC Value & Costs Guidance

Additional charges / costs to be added to value for Customs duty/VAT

HMR&C require that all costs are correctly declared on an import declaration. This is not limited to entering the correct value, but extends to the inclusion of all relevant extra charges that contribute to the value at which Customs Duty is applied [which is also the value for trade statistics] and subsequently the value on which VAT is applied.

Most import declarations will use 'Method 1 - transaction value' as the basis of valuation. This is the price the buyer pays the seller for the goods and is stated on the commercial invoice. If a middle man is buying the goods and reselling at a profit to the importer, the final invoice value representing what the importer is actually paying is the one which must be used. This makes the declaration compliant with UCC Regulations. Other valuation methods exist, but are rarely used.

Value for Customs duty / statistical value

Once the correct valuation method is established, a number of other items in addition to the value of the goods must be added to the entry to arrive at the value for Customs duty. These are listed below and your instruction to us must include any which are relevant:

- Delivery to the EU border [for airfreight, there are special percentages applicable to the portion of the freight cost considered to be outside the EU];
- The cost of insurance to the EU border;
- Most commissions (except buying commission);
- Royalties and licence fees paid by you on the imported goods as a condition of sale;
- Containers and packing;
- Any proceeds of resale the seller will receive;
- Goods and services provided to the seller for free or at a reduced cost by the buyer – e.g. components incorporated in the imported goods, or development and design work carried out outside the EU and necessary for the production of the imports;
- If goods are imported from a processor – i.e. a business that assembles or otherwise works on one or more sets of existing products to create the new imported products - transaction values can be built up by adding to the processing costs the value of any materials or components provided to the processor by the buyer.

Some items may be left out of the customs value if certain conditions are met, these include:

- EU duties or taxes;
- Taxes paid in the country of origin or export;
- delivery costs within the EU;
- Quantity and trade discounts and those relating to cash and early settlement, that are valid at the time the goods are valued;
- Dividend payments to the seller;
- Marketing activities related to the imports;
- Buying commission;
- Export quota and licence costs;
- Interest charges;
- Rights of reproduction;
- Post-importation work, e.g. construction or assembly;
- Management fees.

Many of the items on these two lists will only be known to you as the importer. You must therefore always instruct us by confirming any additional charges to be included in the value for Customs duty that are above and beyond the elements which are already known to us [for example, the freight cost if you are using our transportation services].

Once the Customs value has been ascertained, the Customs duty can be correctly calculated.

Value for VAT

Once the Customs duty has been calculated, the correct value for VAT can be established. To calculate the value for import VAT certain other items must be added to the goods' value for duty, unless they have already been included in the invoice value. These items are listed below and your instruction to us must include any which are relevant:

- All incidental expenses incurred up to the goods' first destination in the UK, e.g. commission, packing, transport and insurance;
- All such incidental expenses that result from transporting the goods to a further destination within the EU (if that destination is known when you import the goods);
- Any customs duties or levies payable on import to the UK [these will be calculated automatically];
- Any excise duties or other charges payable on import to the UK [these will be calculated automatically].

Appendix B – Account Opening Form

Company Registered Name:		Company Registration No:	
		Date Incorporated: / /	
Company Trading Name (If Different):			
Trading Address:		Registered Address:	
Postcode:		Postcode:	
Telephone No:		Telephone No:	
Contact Name for Accounts:			
Email for Accounts/Invoices:			
IMPORTANT: Please note that all our invoices and statements are sent electronically and not posted			
Nature of Business:		Credit is provided subject to current reference checks	
		Credit Limit Applied for: £ / \$ / € (delete as appropriate)	
Branch Address:		Anticipated Start Date:	
Sort Code:		Swift Code:	
Account Number:		IBAN Number:	
Please supply two Trade References (1):		Trade Reference (2):	
Telephone No:		Telephone No:	
PAYMENT TERMS: Immediate Payment for Customs Duty/VAT, Nett 30 days from invoice date for all other charges			
V.A.T Number			
<p>Declaration: I am authorised on behalf of the applicant to make this application and understand that all services supplied by HWL will be in accordance with the current editions of their standard trading conditions which are (a) Domestic Road – R.H.A, (b) Storage – UKWA, (c) for all other services, including freight forwarding services, customs clearance services and international traffic, BIFA (d) in all cases, the Addendum to our terms and conditions, copies of which we acknowledge receipt with this form. Please be aware that as editions are subject to change, all transactions upon engagement are subject to the then current versions (updated copies available upon request). All credit facilities are provided by us at our sole discretion and strictly subject to the application of these terms. We reserve the right to withdraw such credit facilities at any time, whereupon your entire account shall become due for immediate payment.</p>			
Authorised Signature:		Name: (please print)	
Position in Company:		Date:	
Hellmann UK Contact:		Hellmann UK Depot/Branch:	
OFFICE USE ONLY			
K & H Account:		Credit Limit Approved for: £ / \$ / € (delete as appropriate)	
Ops Account No:		Date: : / /	
		Authorised By:	

Please return the completed form to: Hellmann Worldwide Logistics Ltd, Kuhlmann House, Lancaster Way, Fradley Park, Lichfield, Staffs, WS13 8SX. Tele: +44 (0) 1543 443 300
Company Registration 01108485

AOF v6 Aug 2019

Appendix C – Terms and conditions



Road Haulage Association Limited

CONDITIONS OF CARRIAGE 2020

Effective 1 September 2020

PLEASE NOTE THAT THE CUSTOMER WILL NOT IN ALL CIRCUMSTANCES BE ENTITLED TO COMPENSATION, OR TO FULL COMPENSATION, FOR ANY LOSS AND MAY BE SUBJECT TO CERTAIN OBLIGATIONS AND INDEMNITIES. THE CUSTOMER SHOULD THEREFORE SEEK PROFESSIONAL ADVICE AS TO APPROPRIATE INSURANCE COVER TO BE MAINTAINED WHILE CONSIGNMENTS ARE IN TRANSIT.

Company Stamp or details

HELLMANN WORLDWIDE LOGISTICS LTD

Kulmann House
Lancaster Way
Fradley Park
Lichfield
Staffordshire WS13 8SX

0 0 0 2 8 8 9 - 0 0 0 RHA membership number

(hereinafter referred to as "the Carrier") is not a common carrier and accepts goods for carriage only upon that condition and on the conditions set out below (the Conditions). No servant or agent of the Carrier is permitted to alter or vary these Conditions in any way unless expressly authorised to do so in writing by a Director of, Principal of, or Partner in the Carrier, or by another person separately authorised by such a person in writing. If any provision or part-provision of these Conditions is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of these Conditions. These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose, have agreed or incorporate, and to the exclusion of any terms which might be implied by trade, custom, practice or course of dealing. It is expressly stated to be the Customer's responsibility to read and understand these Conditions which will form the basis of the Contract under which any claims or disputes are settled. Customers are recommended to take professional advice and must arrange adequate insurance to provide full cover for the Consignment, and any liabilities they may be under in respect of it, when the Consignment is in transit.

1. Definitions

In these Conditions:

"Customer" means the person or company who contracts for the services of the Carrier, including any other carrier who gives a Consignment to the Carrier for carriage.

"Contract" means the contract of carriage between the Customer and the Carrier.

"Consignee" means the person or company to whom the Carrier contracts with the Customer to deliver the Consignment.

"Consignment" means goods – whether sent as a single item or in bulk or contained in one parcel, package or container, as the case may be, or any number of separate items, parcels, packages or containers – sent at one time in one load by or for the Customer from one address to one address.

"Dangerous Goods" means those substances and articles the carriage of which are prohibited by the provisions of the European Agreement Concerning the International Carriage of Dangerous Goods by Road (ADR) as applied in the United Kingdom, or permitted to be carried only under the conditions prescribed therein, as well as all other substances and articles of a nature or having characteristics which represent a hazard or danger to persons or property, or which include any radioactive or explosive material.

"Demurrage" means any cost or expense the Carrier suffers as a result of the improper, excessive or unreasonable detention of any vehicle, trailer, container or other equipment belonging to or under the control of the Carrier.

"Force Majeure Event" shall have the meaning set out in Condition 10(2)(c)

"In writing" includes, unless otherwise agreed, the transmission of information by electronic, optical or similar means of communication, including, but not limited to, facsimile, electronic mail or electronic data interchange (EDI), provided that the information is readily accessible and durable so as to be usable for subsequent reference.

2. Parties and Sub-Contracting

- The Customer warrants that he is either the owner of the Consignment or is authorised by the owner to accept these Conditions on his behalf; and that he is similarly authorised by all those having a proprietary or possessory interest in the Consignment, to accept these Conditions on their behalf.
- The Carrier and any other carrier employed by the Carrier may employ the services of any other carrier for the purpose of fulfilling the Contract in whole or in part; and the name of every other such carrier shall be provided to the Customer upon request. The Carrier may at any time assign, mortgage, charge, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Contract, to the extent permitted by law.

(3) The Carrier contracts both for itself and also as agent of and trustee for its servants and agents and all other carriers referred to in (2) above, and also as agent of and trustee for such other carriers' servants and agents; and every reference in these Conditions to "the Carrier" shall be deemed to include every other such carrier, servant and agent with the intention that they shall have the full benefit of the terms of this Contract, and collectively and together with the Carrier shall be under no greater liability to the Customer or any other party than is the Carrier hereunder.

(4) Notwithstanding Condition 2(3), the carriage of any Consignment by rail, sea, inland waterway or air has been or will be arranged by the Carrier solely as agent of the Customer, and any such carriage shall be subject to the conditions of the rail, shipping, inland waterway or air carrier contracted to carry the Consignment. The Carrier shall be under no liability whatsoever, howsoever caused, to any person for such carriage: Provided always that where the Consignment is carried partly by road and partly by such other means of transport any loss, damage or delay shall be deemed to have occurred while the Consignment was being carried by road unless the contrary is proved by the Carrier.

3. Dangerous Goods

If the Customer does not disclose in writing and in advance that a Consignment contains Dangerous Goods, the Carrier shall be entitled to rescind the Contract. If the Carrier agrees to accept for carriage any Dangerous Goods so disclosed then the Customer must arrange for and ensure that the Dangerous Goods are classified, packed, marked, labelled and documented in accordance with all applicable statutory regulations for the carriage by road of the substance declared.

4. Loading and Unloading

- Unless otherwise agreed in writing the Customer will be responsible for the loading of goods onto the vehicle and will also be responsible for the Consignee unloading the goods off the vehicle. The Carrier will not be responsible for any loss or damage to the goods arising from loading the goods onto or unloading them off the vehicle, or from the overloading of the vehicle or from the unsafe loading of the vehicle. The Carrier may, at its sole discretion, through its servants and agents provide assistance in loading or unloading the goods if requested to do so by the Customer or the Consignee or the agents of either. The Customer shall indemnify the Carrier from and against all and any loss, damage, death or injury that may arise whilst the loading or unloading operations is taking place whether or not such loss, damage, death or injury is attributable to the negligence of the Carrier, its agents or servants.
- The Customer shall ensure that any cranes, fork lift trucks, slings, chains or other equipment used in loading or unloading the vehicle are suitable for that purpose and will indemnify the Carrier against any and all consequences of failure of or unsuitability of such equipment.
- The Customer shall ensure that there is adequate access to the loading and the unloading points and that the roadways to and from the public highway are of suitable material and that unloading will take place on good sound hardstanding, where there will be sufficient space to load or unload the vehicle in safety.
- The Carrier shall not be liable for any loss or damage whatsoever, howsoever caused, if the Carrier's personnel are instructed by the Customer or the Consignee or their servants or agents to provide service to an area which does not comply with Condition 4(3) above, whether or not against the recommendations of the Carrier or the Carrier's personnel.
- The Customer shall indemnify the Carrier against all liability or loss or damage suffered or incurred (including but not limited to damage to the Carrier's vehicle) as a result of the Carrier's personnel complying with the instructions of the Customer or the Consignee or their servants or agents.
- The Customer shall make available to the Carrier upon request details of any risk assessments which may have been carried out at the collection and/or delivery addresses. The responsibility for carrying out such risk assessments shall be that of the Customer and not of the Carrier.

5. Obligations of the Customer

The Customer warrants that:

- The Consignment does not and will not: cause pollution of the environment or harm to human health; require any official consent or licence to handle, possess, deal with or carry; at any time whilst in the care or control of the Carrier constitute waste (unless the Carrier has been previously advised otherwise); and that the Consignment is of a nature that can be legally transported in the United Kingdom;
- It will comply, and will procure that all of its agents, employees and sub-contractors also comply, with any reasonable regulations of the Carrier relating to handling, health and safety, and security, of which they are notified or have been notified; and
- It will provide the Carrier with such information and materials as the Carrier may reasonably require in order to comply with its obligations under the Contract, and will ensure that such information is complete and accurate in all material respects.

(4) If the Carrier's performance of any of its obligations under the Contract is prevented, hindered or delayed by any act or omission of the Customer or by any failure by the Customer to perform any relevant obligation (Customer Default), then:

- (a) without limiting or affecting any other right or remedy available to it, the Carrier shall have the right to suspend performance of its obligations until the Customer remedies the Customer Default, and may rely on the Customer Default to relieve it from the performance of any of its obligations in each case to the extent the Customer Default prevents, hinders or delays the Supplier's performance of any of its obligations;
- (b) the Carrier shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from the Carrier's failure to perform or delay in performing any of its obligations as set out in this Condition 5(4); and
- (c) the Customer shall on written demand reimburse the Carrier for any costs or losses sustained or incurred by the Carrier arising directly or indirectly from the Customer Default.

6. Signed Receipts

The Carrier shall, if so required, sign a document or electronic record prepared by the Customer or its agent acknowledging the receipt of the Consignment; but the burden of proving the condition of the Consignment and/or its nature, quantity, quality, or weight at the time of that receipt shall rest with the Customer.

7. Transit

- (1) Unless otherwise agreed expressly between the parties, transit shall commence after the Consignment has left the premises from where the Consignment is collected.
- (2) Transit shall (unless it has terminated earlier) end when the Consignment arrives at the proper place of delivery at the Consignee's address within the customary cartage hours of the district, provided that:
 - (a) if no safe and adequate access to that address exists, or if no safe and adequate unloading facilities exist there, then transit shall be deemed to end at the expiry of one clear day after notice (by letter, telephone, fax or email or other agreed method of communication) of the arrival of the Consignment at the premises has been sent to the Consignee or the Customer;
 - (b) when for any other reason whatsoever a Consignment cannot be delivered, or when a Consignment is held by the Carrier on instructions 'to await order' or 'to be kept till called for' or upon any like instructions, and no such order is given within a reasonable time, or the Consignment is not called for and removed within a reasonable time, then transit shall also be deemed to end at the expiry of that reasonable time.
- (3) The Consignment shall be at the sole risk of the Customer at all times when the Consignment is not in transit.

8. Undelivered or Unclaimed Consignments

Where either of the provisos to Condition 7(2) operate such that transit is deemed to have ended, the Carrier may sell the Consignment; and payment or tender of the proceeds of sale to the Customer, after deduction of all proper charges and expenses in relation thereto and of all outstanding charges in relation to the carriage and storage of the Consignment, shall discharge the Carrier from all liability in respect of such Consignment, its carriage and storage:

Provided that:

- (1) the Carrier shall do what is reasonable to obtain a reasonable price for the Consignment; and
- (2) the power of sale shall not be exercised where the name and address of the Customer or of the Consignee or of the owner of the Consignment or of any other person having any proprietary or possessory interest in it is known; unless the Carrier shall first have done what is reasonable in the circumstances to give notice to such persons that the Consignment will be sold unless within the time specified in that notice, being a reasonable time in the circumstances from the giving of such notice, the Consignment is taken away or instructions are given for its disposal.

9. Carrier's Charges

- (1) The Carrier's charges shall be payable by the Customer, without prejudice to any rights the Carrier may have against the Consignee, or any other person, to secure or obtain payment: Provided however that when any Consignment is consigned 'carriage forward' the Customer shall not be required to pay such charges unless the Consignee shall, within a reasonable period of demand for payment having been made of it, have failed to pay the Carrier's charges.
- (2) Charges shall be payable when due without deduction or deferment on account of any claim, counterclaim or set-off. If the Customer becomes insolvent, or any sums owed by the Customer to the Carrier become overdue for payment, all credit terms previously agreed shall be cancelled with immediate effect: and all invoices and accounts issued by the Carrier shall be deemed due for immediate payment and all sums owing (whether due or not) shall thereupon become payable. The Late Payment of Commercial Debts (Interest) Act 1998, as amended, shall apply to all sums due from the Customer.

- (3) The Carrier shall use reasonable endeavours to obtain a signed proof of delivery of the Consignment from the Consignee, unless otherwise agreed with the Customer. No payment shall however be withheld by the Customer where the Carrier is unable to provide a proof of delivery unless notification of non-delivery is received by the Carrier no more than 48 hours after the expected time of delivery of the Consignment and the Carrier is subsequently unable to evidence proof of delivery.
- (4) The Customer shall pay to the Carrier any storage charges incurred as a result of it exercising its lien in accordance with clause 15 below.
- (5) If the Contract is cancelled at any time the Customer shall pay the Carrier all costs and expenses which the Carrier has incurred prior to such cancellation.

10. Liability for Loss and Damage

- (1) The Customer shall be deemed to have elected to accept the terms set out in sub-clause (2) of this Condition unless, before the transit commences, the Customer has agreed in writing that the Carrier shall be under no liability for loss of, or mis-delivery of or damage to or in connection with the Consignment, howsoever or wheresoever caused, and whether or not caused or contributed to, directly or indirectly, by any act, omission, neglect, default or other wrongdoing on the part of the Carrier, its servants, agents or sub-contractors.
- (2) Subject to these Conditions the Carrier shall be liable for:
 - (a) physical loss, mis-delivery of or damage to living creatures, bullion, money, securities, stamps, precious metals or precious stones comprised within the Consignment only if:
 - (i) the Carrier has specifically agreed in writing to carry any such items; and
 - (ii) the Customer has agreed in writing to reimburse the Carrier in respect of all additional costs which result from the carriage of the said items; and
 - (iii) the loss, mis-delivery or damage is occasioned during transit and is proved to have been caused by the negligence of the Carrier, its servants, agents or sub-contractors;
 - (b) physical loss, mis-delivery of or damage to any goods of a type not covered by sub-clause (a) above comprised within the Consignment, unless the same has arisen from a Force Majeure Event.
 - (c) a "Force Majeure Event" shall mean any act(s), event(s), circumstance(s) or cause(s) the occurrence of which is beyond the reasonable control of the Carrier, including but not limited to:
 - (i) act of God, riot, civil commotion, strike, lockout, general or partial stoppage or restraint of labour from whatever cause, war, act of terrorism, seizure or forfeiture under legal process, restraint of government;
 - (ii) error, act, omission, mis-statement or misrepresentation by the Customer or the owner of the Consignment or by any servant or agent of either of them;
 - (iii) inherent wastage in bulk or weight, faulty design, latent defect or inherent vice or natural deterioration of the Consignment;
 - (iv) any special handling requirements in respect of the Consignment which have not been notified to the Carrier;
 - (v) insufficient or improper packaging, labelling or addressing, unless the Carrier has contracted to provide this service;
 - (vi) fire, flood, storm, earthquake, pandemic, or epidemic;
 - (vii) road congestion, road accidents, delays incurred at any delivery location or lack of delivery instructions from the Customer, vehicle breakdown;
- (3) The Carrier shall not in any circumstances be liable for any loss or damage arising after transit is deemed to have ended within the meaning of Condition 7(2) hereof, whether or not caused or contributed to, directly or indirectly, by any act, omission, neglect, default or other wrongdoing on the part of the Carrier, its servants, agents or sub-contractors.

11. Fraud

The Carrier shall in no circumstances be liable in respect of a Consignment in relation to which there has been fraud on the part of the Customer, the Consignee or the owner of the Consignment, or their servants or agents, unless the Carrier or of any servant of the Carrier acting in the course of his employment has been complicit in that fraud.

12. Limitation of Liability

- (1) Except as otherwise provided in these Conditions, the liability of the Carrier in respect of claims for physical loss of, mis-delivery of or physical damage to goods comprised within the Consignment, howsoever arising, shall in all circumstances be limited to the lesser of
 - (a) the value of the goods actually lost or mis-delivered, at the place they should have been delivered; or the amount by which damaged goods have been depreciated in value by reason of that damage; or
 - (b) the cost of replacing the goods actually lost or mis-delivered and/or reconditioning or repairing any damage to the goods; or
 - (c) a sum calculated at the rate of £1,500 Sterling per tonne on the gross weight of the goods actually lost, mis-delivered or damaged;

and the value of the goods actually lost, mis-delivered or damaged shall be taken to be their invoice value if they have been sold, and shall otherwise be taken to be their replacement cost to the owner at the commencement of the transit, and in all cases shall be taken to include any Customs and Excise duties or taxes paid or payable in respect of those goods when lost, mis-delivered or damaged:

Provided that:

- (i) in the case of loss, mis-delivery or damage to a part of the Consignment, the weight to be taken into consideration in determining the amount to which the Carrier's liability is limited shall be only the gross weight of that part, regardless of whether the loss, mis-delivery or damage affects the value of other parts of the Consignment;
 - (ii) nothing in this Condition shall limit the liability of the Carrier to less than the sum of £10;
 - (iii) the Carrier shall be entitled to proof of the weight and value of the whole of the Consignment and of any part thereof lost, mis-delivered or damaged;
 - (iv) the Customer shall be entitled to give to the Carrier notice in writing, to be delivered at least seven days prior to commencement of transit, requesting that the £1,300 per tonne limit referred to in Condition 12(1)(c) above be increased (but not so as to exceed the value of the Consignment) and in the event of such notice being given the Customer shall be required to agree with the Carrier an increase in the carriage charges, but if no such agreement can be reached the aforementioned £1,300 per tonne limit shall continue to apply.
- (2) The liability of the Carrier in respect of claims for any other type of loss, liability or damage whatsoever and howsoever arising in connection with the Consignment shall not exceed the amount of the carriage charges in respect of the Consignment or the amount of the claimant's proved loss, whichever is the less, unless:
- (a) at the time of entering into the Contract with the Carrier, the Customer declares to the Carrier a special interest in the avoidance of physical loss, mis-delivery or damage to the Consignment, and/or a special interest in delivery within a specified period, undertaking to pay such surcharge, referable to the declared value of that interest or those interests, as may be agreed with the Carrier, and
 - (b) at least 7 days prior to the commencement of transit the Customer has delivered to the Carrier confirmation in writing of the declared value of any special interest and of any agreed time limit, and of its agreement to pay the specified surcharge which it has agreed with the Carrier.
- (3) The Carrier shall not be in breach of the Contract nor liable for any delay in performing, or failure to perform, any of its obligations under the Contract if such delay or failure results from a Force Majeure Event.
- (4) The following types of loss or damage are wholly excluded, and will not under any circumstances be the subject of compensation by the Carrier:
- (a) loss of profits;
 - (b) loss of sales or business;
 - (c) loss of agreements or contracts;
 - (d) loss of anticipated savings;
 - (e) loss of use of, or corruption of, software, data or information;
 - (f) loss of or damage to goodwill;
 - (g) indirect or consequential loss;
 - (h) any fine imposed on the Customer by the Consignee or its customer.

13. Indemnity to the Carrier

The Customer shall indemnify the Carrier against:

- (1) all losses, liabilities and costs incurred by the Carrier (including but not limited to those incurred in connection with loss of or damage to the carrying vehicle or to other goods carried) as a result of any breach of these Conditions by the Customer or any party on whose behalf it has contracted, or by reason of any error, omission, mis-statement or misrepresentation by the Customer or owner of the Consignment or by any servant or agent of either of them, or by reason of insufficient or improper packing, labelling or addressing of the Consignment, or by reason of fraud on the part of the Customer, the Consignee or the owner of the Consignment, or their servants or agents (as referred to in Condition 11);
- (2) all losses, liabilities and costs arising from claims and demands by whomsoever made and howsoever arising (including for the avoidance of doubt, claims alleging negligence or conversion, or by H.M. Revenue and Customs in respect of dutiable goods, or arising out of the carriage of Dangerous Goods) in respect of any loss of or damage to, or in connection with, the Consignment in an amount exceeding the liability of the Carrier under these Conditions in respect of that loss or damage, whether or not that loss or damage was caused or contributed to, directly or indirectly, by any act, omission, neglect, default or other wrongdoing on the part of the Carrier, its servants, agents or sub-contractors.

14. Time Limits for Claims

(1) The Carrier shall not be liable for:

- (a) physical loss of, mis- or non-delivery of, or physical damage to goods comprised within the Consignment unless advised thereof in writing within seven days after the termination of transit or the date on which the transit should have terminated;
- (b) any other type of loss unless advised thereof in writing within twenty-eight days after the termination of transit or the date on which the transit should have terminated.

Provided that if the Customer proves that,

- (i) it was not reasonably possible for the Customer to advise the Carrier or make a claim in writing within the time limit applicable, and
- (ii) such advice or claim was given or made within a reasonable time after the time at which it did become reasonably possible for the Customer to advise the Carrier or make a claim in writing.

the Carrier shall not have the benefit of the exclusion of liability afforded by this Condition.

(2) The Carrier shall in any event be discharged from all liability whatsoever and howsoever arising in respect of the Consignment unless legal proceedings are issued and notice in writing thereof given to the Carrier within one year of the date when transit commenced.

(3) In the computation of time where any period provided by these Conditions is seven days or less, Saturdays, Sundays and all statutory public holidays shall be excluded.

15. Lien

(1) The Carrier shall have:

- (a) a particular lien on the Consignment for all charges due to the Carrier for the carriage, storage and/or warehousing of the Consignment and for all other proper charges or expenses incurred in connection with the carriage of the Consignment, and
- (b) a general lien on the Consignment for any sums overdue and unpaid by the Customer, by the owner of the Consignment or by any other person having any proprietary or possessory interest in it, by the Consignee, or by any agent of these persons, on any invoice, account or contract whatsoever.

If the Carrier exercises a lien, but appropriate payment is not made within 14 days after notice that the payment is due has been given in accordance with Condition 8(2) above, the Carrier may sell the Consignment, or any part thereof, as agent for its owner and for those having a proprietary or possessory interest in it, and shall apply the proceeds towards any sums unpaid and towards the expenses of the retention, storage, insurance and sale of the Consignment and shall, upon accounting to the Customer for any balance remaining, be discharged from all liability whatsoever in respect of the Consignment.

(2) The Carrier may exercise its lien on its own behalf or as agent for any assignee of its invoices at any time and at any place in its sole discretion, whether or not the contractual carriage has been completed, and these Conditions shall continue to apply during the period of exercise of such lien.

(3) If the Consignment is not solely the property of the Customer, the Customer warrants that it has the authority of all those having a proprietary or possessory interest in the Consignment to grant to the Carrier liens as set out in Condition 15(1) above, and the Customer shall indemnify the Carrier for all claims and demands the Carrier may receive asserting that the Customer did not have that authority.

16. Unreasonable Detention

The Customer shall be liable to pay Demurrage, without prejudice to any rights that the Carrier may have against any other person in respect of any improper, excessive or unreasonable detention of any vehicle, trailer, container or other equipment belonging to or under the control of the Carrier.

17. Confidentiality

(1) Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by these Conditions.

(2) Each party may disclose the other party's confidential information:

- (a) to its employees, officers, representatives, sub-contractors or advisers who need to know such information for the purposes of carrying out the party's legal obligations; and
- (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

18. Law and Jurisdiction

Unless otherwise agreed in writing, the Contract and any dispute arising under it or in connection with it shall be governed by English law and each party irrevocably agrees that such dispute shall be subject to the exclusive jurisdiction of the English courts.

THESE CONDITIONS MAY ONLY BE USED BY MEMBERS OF THE ROAD HAULAGE ASSOCIATION

© Road Haulage Association Limited 2020



Membership No: 8293
Company: HELLMANN
WORLDWIDELOGISTICS
LTD

CONTRACT CONDITIONS FOR LOGISTICS (2019)

These conditions are copyright and reserved for use by current UKWA members.

The Company provides all items and services on the following Conditions which can be varied only in writing by an Officer of the Company.

The Company is a member of UKWA and is not a common carrier.

If a Customer's acceptance document, purchase order or other communication, received by the Company before or after notification of these Conditions, contains terms at variance with these Conditions, then every such term shall be of no effect.

IMPORTANT NOTE

CONDITION 3 LIMITS THE COMPANY'S LIABILITY. PLEASE READ IT CAREFULLY.

The Customer must insure the Goods. The Company does not insure Goods or underwrite their value; the rates charged reflect this. The limitation of liability in Condition 3 minimises the amount that the Company would otherwise need to charge to recover its insurance costs (or an amount in lieu to reflect risk).

THE COMPANY'S OBLIGATIONS

- 1.1. The Company will provide its services with reasonable skill and care. In the absence of written instruction to the Company given a reasonable time in advance with sufficient warning and detail, no particular precautions nor any special treatment need be taken or provided for the Goods by the Company or its subcontractors, nor shall time be of the essence for performance by the Company.
- 1.2. In the case of bulk Goods, unless the parties have agreed otherwise the Company may deal with and/or mix apparently similar goods consigned by or for the Customer without distinguishing between consignments.
- 1.3. In the case of carriage the Company's responsibility for the Goods starts when loading on the vehicle is complete and ends when the Goods are tendered for unloading. In the case of storage and / or processing it starts when they are accepted into store and ends when they are tendered by the Company or its subcontractors for collection, or the Company becomes aware of the grounds for their removal under Condition 2.2 or on the expiry of notice under Condition 7.1 or 7.2. Where the Company provides storage and carriage it shall also be responsible for the Goods while they are transferred from its vehicle into its store and vice versa. In the case of forwarding, the Company's responsibility is only to engage or propose apparently competent contractors and to give them adequate instructions (on the basis of matters known to the Company) in relation to the Goods; and in this case, or where the contract is for advice, it is not responsible for the Goods themselves.
- 1.4. The Company's duty is to the Customer only and not to any third party. Any advice given is for the Customer only and cannot be relied on by any other party.
- 1.5. Unless it states otherwise in writing, where the Company provides forwarding services it operates as the Customer's agent in dealing, or engaging others to deal, with the Goods.

- 1.6. For the purposes of the Fulfilment House Due Diligence Scheme and other matters relating to tax, excise, customs or duties, the Company acts as the direct representative of the Customer unless otherwise agreed in writing.

CUSTOMER'S UNDERTAKINGS

- 2.1. It is a condition of the contract, and the Customer represents, warrants and undertakes, that:-
 - 2.1.1 It is either the owner of the Goods, or is authorised by the owner to accept these Conditions on the owner's behalf.
 - 2.1.2 The Goods shall be presented to the Company (and/or anyone else dealing with them) securely and properly packed in compliance with any applicable statutory regulations, recognised standards and good practice; and that they and any Goods Transport Unit are and will remain in a condition to be safely handled, stored and/or carried and so as not to cause injury, damage, contamination or deterioration (or the possibility of them) to any person, premises, property, the environment, drains or watercourses, equipment or to any other items in any way. Where the Company is performing an operation or process on the Goods, they will be delivered to the Company in a condition where that operation or process can be done without further work (other than unpacking) by the Company.
 - 2.1.3 Before the Company assumes any responsibility for or by reference to the Goods, the Customer will inform the Company in writing of any relevant matters; including any special precautions necessitated by the nature, size or shape, weight, condition or potential for deterioration of the Goods and any statutory or other requirements relevant to the Goods with which the Company or others may need to comply; and will promptly after invoicing pay the Company's reasonable extra charges for complying.
 - 2.1.4 It will promptly after invoicing indemnify the Company against all duties, taxes and expenses that the Company has paid or may be required to pay in respect of the Goods; including where the liability to pay them is triggered by the fault, act or omission of the Company or its employees or sub-contractors.
 - 2.1.5 Except to the extent previously notified in detail to and accepted by, the Company in writing none of the Goods: are or may become hazardous or contaminated; may cause pollution of the environment or harm to human health if they escape from their packaging; require any official consent or licence (or would be illegal for the Company) to handle, possess, deal with or carry; or will at any time whilst in the care or control of the Company constitute Waste.
 - 2.1.6 The Customer will provide a risk assessment and/or method statement appropriate for handling the Goods. Where the Company is carrying the Goods, then unless otherwise previously agreed in writing the Customer will provide suitable facilities, equipment and methods for, and will procure, safe and prompt loading and unloading of the Goods at, any location not occupied by the Company in which they are being handled.
 - 2.1.7 It will comply with any reasonable requirements of the Company relating to handling, packing, carriage, storage or forwarding of Goods (and ancillary matters) which are notified in writing from time to time.
 - 2.1.8 Information given by or on its behalf shall be correct and complete. The Customer will provide promptly when, and in a format, reasonably requested by or on behalf of the Company, any documentation, instructions or information which is relevant to the Goods, to any interest in them, to any services to be provided for the Customer, or to any actual or anticipated obligation of the Company related to either the Goods or the Customer.
 - 2.1.9 Unless otherwise agreed the Customer will be responsible for instructing the Company on the order of stock removals.

- 2.2 The Customer will indemnify the Company against any expense, loss or damage it suffers as a result of the Customer's instructions (or failure to give instructions or information), or which is related to any breach of the Customer's obligations or the Customer's insolvency, or complying with the instructions of a competent authority in respect of the Goods, and will pay all costs and expenses (including professional fees) incurred in, and the Company's reasonable charges for, dealing with such matters and their consequences. The Customer will pay an extra charge equal to the amount of any fine or penalty payable by the Company wholly or partly as a consequence of compliance with the instructions, or of acts or omissions of the Customer. If the Company suspects a breach of Condition 2, it may refuse to accept the Goods, demand their immediate removal, or itself arrange their removal without notice, at the Customer's expense.

INSURANCE AND THE COMPANY'S LIABILITY

- 3.1 Unless expressly agreed, the Company does not insure the Goods and the Customer shall self-insure or make arrangements to cover the Goods against all insurable risks to their full insurable value (including all duties and taxes). The insurance referred to in Condition 3.5 is insurance against the Company's potential liability for breach of its obligations and not to cover the Goods themselves against loss, damage, etc .
- 3.2 Subject to Condition 3.3, the Company shall have no liability for Loss however arising.
- 3.3 If and to the extent that Loss is directly caused by negligence or wilful act or default of, or breach of duty owed to the Customer by, the Company, its employees (acting in furtherance of their duties as employees) or sub-contractors or agents (acting in furtherance of their duties as sub-contractors or agents) and subject to Conditions 3.4, 3.7 and 3.8, the Company will accept liability for Loss assessed on normal legal principles but not exceeding the Limit fixed by Condition 3.5. Any quantification of amount or value includes duties and taxes.
- 3.4 In no case shall the Company be liable for any lost profit, income or savings, wasted expenditure, liquidated damages, or indirect or consequential loss suffered by anyone.
- 3.5 In no case shall any liability of the Company (including inter alia any liability in respect of duties and taxes) exceed the Limit, fixed as follows.-
- 3.5.1 Where potential Loss relates to Goods, the Customer may specify the Limit as an amount (in Sterling, US Dollars or Euros) per tonne weight of the Goods by notice in writing stating the Limit and the nature and maximum value of the Goods, including duty and taxes. The Limit so nominated by the Customer shall apply in respect of any cause of action arising after the Date and in the period in which the nomination remains in effect. It is a condition of the contract that the Customer pays within 7 days of receipt the Company's invoices for its costs in insuring against its potential liability up to the Limit, and/or to the extent that the Company elects to carry the risk itself, its extra charge equivalent to the estimated or likely cost of such insurance.
- 3.5.2 If the Company having made reasonable efforts is unable to obtain insurance on reasonable terms to cover its liability up to the Limit nominated by the Customer, or if the Customer has not yet paid any invoice issued under Condition 3.5.1, the Company may give 3 working days written notice, and the Limit for causes of action arising after the giving of the Customer's notice under 3.5.1 shall be £100 sterling per tonne weight of the Goods.
- 3.5.3 Unless and until a higher Limit has been fixed under Condition 3.5.1 and continues in effect, the Limit shall be £100 sterling per tonne.
- 3.5.4 Where Loss does not relate directly to Goods (for example alleged negligent advice or data irregularities) the Limit applicable shall be £1000 per incident or series of connected incidents.

- 3.6 Without prejudice to the Company's rights under Condition 6 to be paid free from deduction or set-off, any limitation of liability on the part of the Company shall be applied to any claim by the Customer before any set off or counterclaim is asserted against money payable to the Company.
- 3.7.1 The Company shall not be liable for any claim unless:
it has received written notice of it within 10 days of the event giving rise to the claim coming to the knowledge of the Customer or consignee; and
it has received, within 21 days of the event giving rise to the claim coming to the knowledge of the Customer or consignee, sufficient detail in writing to enable investigation. In the case of failure to deliver, time shall run from the second working day after the expected date of delivery.
- 3.7.2 No legal proceedings (including any counterclaim) may be brought against the Company unless they are issued and served within 9 months of the event giving rise to the claim.
- 3.8 The Company shall not be liable for any Loss to the extent that it is caused or contributed to by a breach of any of the Customer's obligations, or by a person for whom the Company is not responsible, or by any of the circumstances by virtue of which the Company is relieved of its obligations under Condition 8.

EMPLOYEES, SUB-CONTRACTORS AND OTHERS

- 4.1 The Company shall be entitled to sub-contract on reasonable or industry standard terms all or any part of its obligations and in this event these Conditions shall continue to apply as between the Company and the Customer. However, except where urgent the Company will obtain the Customer's consent (not to be unreasonably withheld or delayed) before storage is subcontracted and will on request notify the Customer of the location of the Goods.
- 4.2 No Interested Party will make a claim or issue proceedings in respect of Loss against any Additional Party.
- 4.3 Without prejudice to Condition 4.2, if an Additional Party pays or is liable to make a payment to an Interested Party in connection with a claim for Loss, the Interested Party will fully indemnify the Company against any claim (including all costs and expenses) by the Additional Party against the Company for reimbursement of, contribution to or indemnity against that payment to the extent that the claim added to any direct liability of the Company, and payments made by it, to all Interested Parties exceeds the Limit applicable to the Loss giving rise to the claim.

CHANGE OF CUSTOMER

5. If the Customer wishes to transfer the Goods or any part to the account of another person it shall give prior written notice to the Company. The notice shall not be effective unless before the effective date of the transfer the proposed transferee notifies the Company in writing that it wishes to become a customer, is to be bound by these Conditions and by any notice given under Condition 3, endorses any information provided by the Customer and will pay the Company's charges for the period after the effective date. The Customer will pay the charges for the period until the later of the effective date, or acceptance by the Company of the notice and of the proposed transferee as a customer. In any event the Customer will remain jointly liable for charges and indemnities relating to Goods consigned by it to the Company. The Goods remain subject to any lien which applies at the time of transfer.

CHARGES, PAYMENTS AND LIEN

- 6.1 The Company's charges are subject to VAT and may be increased by prior notice to the Customer. The notice shall be at least 7 days for increases reflecting any rise in fuel costs and at least 21 days otherwise. If the Customer does not agree to the increase it shall notify the Company in writing and will remove the Goods within 21 days after receipt of the Company's notice. If the Goods are not so removed then the increased charges will apply from expiry of the Company's notice. The Company has the right to charge for storage of the Goods for so long as it has custody of or is responsible for them.
- 6.2 The Customer will pay demurrage at the Company's standard rate (or a reasonable rate set by the Company if there is no standard rate) if the vehicle used by or on behalf of the Company to deliver the Goods is delayed for more than 60 minutes beyond the time reasonably needed for loading or unloading; and demurrage and storage charges if delivery is refused.
- 6.3 The Company's charges shall be paid without deduction or set-off at such periodic intervals as may have been agreed between the parties and in any event on the earliest of (a) the expiry of any agreed period of credit (b) when any amount payable to the Company by the Customer becomes overdue and (c) the time immediately before any of the Goods cease to be in the Company's care or control. The Company shall be entitled to payment for carriage at the time the Goods are loaded onto the vehicle. Absence of a delivery note shall not justify a refusal by the Customer to pay.
- 6.4 Interest shall be paid on money overdue to the Company at the rate of 1.5% for each calendar month during all or part of which it is overdue.
- 6.5 The Company shall (on its own behalf and as agent for any assignee of its invoices) have a general and particular lien on the Goods (and any associated documentation or records) as security for payment of all sums (whether due or not) claimed by the Company from, or actually or prospectively payable to the Company by, the Customer or another Interested Party on any account (relating to the Goods or not), or otherwise claimed in respect of the Goods or other property of an Interested Party. Where a lien secures sums payable to or claimed by the Company, it shall continue to apply to Goods to cover those sums notwithstanding any transfer of ownership of Goods, or change of customer. Storage shall be charged for any goods detained under lien or where the Company is required by any competent authority to retain them.

REMOVAL AND DISPOSAL OF GOODS

- 7.1 The Goods shall be removed by the Customer at the time agreed between the parties. However the Company may at any time by notice in writing to the Customer require the removal of the Goods within 14 days from the date of such notice or, in the case of perishable goods, 3 days; or immediately in case of urgency.
- 7.2 Where the Customer fails to comply with Condition 7.1, or any payment from the Customer is overdue, the Company may, without prejudice to its other rights and remedies against the Customer, suspend activity and/or notify the Customer in writing that the Goods may be or are being sold or otherwise disposed of. If the notice is solely because of a failure to pay the Company will allow 14 days for payment from the date of such notice before it effects sale or disposal. If the notice is for any other reason there is no minimum period of notice. On expiry of the period, if such payment has not been made (or if applicable the Goods have not been so removed) the Company may sell or otherwise dispose of the Goods or any part at the Customer's entire risk and expense by such method and at such price (if any) as it considers appropriate. and The Company will account to the Customer for any proceeds of sale or disposal after deduction of all expenses and amounts claimed by the Company and

any assignee of its invoices. The Company shall not be liable for any alleged failure to achieve a sufficient sale price for the Goods. The Company (and any person deriving title to Goods through it) shall be entitled to use under licence in connection with the disposal of Goods any copyright material or trade marks, and pass on any manufacturer's standard warranty, relating to them which would be available to an authorised retailer of the Goods.

- 7.3 Notice or action by the Company under this condition shall not in itself terminate the contract between the parties unless the Company expressly states so.
- 7.4 The time periods in this Condition may be extended by the Company in its discretion.

FORCE MAJEURE

- 8. The Company shall be relieved of its obligations to the extent that their performance is prevented or delayed by, or their non-performance results wholly or partly from, the act or omission of the Customer or anyone acting on its behalf or with its authority or an Interested Party or by storm, flood, fire, explosion, civil disturbance, governmental, regulatory or quasi-governmental action, breakdown or unavailability of premises, equipment or labour, or other cause beyond the reasonable control of the Company.

DATA AND CONFIDENTIALITY

- 9.1 Each party will observe its obligations under the General Data Protection Regulation and other applicable data protection legislation including the Data Protection Act 2018.
- 9.2 Unless otherwise agreed in writing the Company will be a data processor and the Customer will be the data controller of personal data relating to or supplied by the Customer or consignees of the Goods.
- 9.3 The Company will process personal data in accordance with the Customer's instructions. The Company may use data supplied by or on behalf of the Customer for purposes appropriate to the performance of the Company's obligations, the exercise of the Company's rights or for business planning by the Company. The Company may share data with a Subcontractor for the provision of the Company's services to the Customer, and with any government authority where appropriate.
- 9.4 Subject to the provisions of this clause and applicable legislation, the Company and the Customer shall each keep confidential information or data supplied by or on behalf of the other which is expressed to be confidential or which is of such a nature that it should clearly be regarded as confidential by a reasonable person.

TUPE AND SERVICE PROVISION CHANGE

- 10.1 Where there is an Inward TUPE Transfer, the Customer will indemnify the Company against all liability and expense which the Company may incur in connection with:
 - 10.1.1 the employment or the termination of employment, before the Effective Time, of any Employee;
 - 10.1.2 any failure by the Transferor to comply with its legal obligations in respect of any of the Employees;
 - 10.1.3 the transfer to the Company, by virtue of TUPE or otherwise, of the employment of any person or the applicability of terms of employment, other than those previously notified to, and previously accepted by, the Company in writing;
 - 10.1.4 any act or omission of the Transferor, on or before the Effective Time, for which the Company becomes liable by virtue of TUPE or otherwise; or
 - 10.1.5 the Transferor's failure to comply with its obligations under regulation 13 of TUPE.
- 10.2 Where there is an Outward TUPE Transfer, the Customer will indemnify the Company against all liability and expense which the Company may incur in connection with the

Transferee's failure to comply with its legal obligations, including without limitation those under regulation 13 of TUPE.

GENERAL

- 11.1 Each exclusion or limitation of liability in these Conditions exists separately and cumulatively.
- 11.2 Signature on behalf of a Customer or its consignee on a delivery note is evidence that the Goods have been received in apparently good order save as noted
- 11.3 The Company may open packaging or Goods Transport Units to inspect them or Goods they contain
- 11.4 Any notice shall be duly given if left at or sent by first class prepaid post to the last known address of the other party or by facsimile to the last notified number evidenced by a successful transmission record, or by email to the last address notified for the purpose of service. It shall be deemed to have been received: if posted 2 working days after posting (4 working days if sent abroad), and if sent by facsimile or email, one working day after sending subject to confirmation of successful transmission (fax) or delivery (email).
- 11.5 "Writing" includes email.
- 11.6 Delay or failure by either party to enforce its rights shall not be a waiver of them.

GOVERNING LAW

- 12 All contracts between the Company and the Customer and any claims relating to the Goods shall be governed by the law of England and disputes dealt with exclusively by the English courts.

DEFINITIONS

- 13 Terms used in these Conditions have the following meanings:

"**Additional Party**" means any employee, worker, agent or sub-contractor of the Company, or anyone entitled to an indemnity, reimbursement or contribution from the Company in respect of a claim by an Interested Party.

"**Company**" means the party agreeing to provide the services and/or items under the contract

"**Customer**" means the party requesting the services and/or items under the contract (and if different, also the person to whom they are supplied).

"**Date**" means the 10th working day after the relevant notice is actually received by the Company

"**Effective Time**" means the time at which the employment of any person (or liabilities relating to that person) are transferred to the Company under TUPE

"**Employee**" means a person employed or previously employed by the Transferor and who is, or whose rights are, affected by the TUPE Transfer

"**Goods**" means goods (including any associated documents, packaging, Goods Transport Unit(s) and equipment) to which the contract relates or which are in the possession of the Company.

"**Goods Transport Unit**" means any container, packaging, pallet or other platform used in connection with the transport of Goods

"**Interested Party**" means the Customer and/or anyone with an interest in the Goods; any obligation of the Interested Party is borne jointly and severally.

"**Inward TUPE Transfer**" means a situation where the Company is (or is expected to be) a transferee for the purposes of TUPE as a result of providing services to or for the benefit of the Customer (or intending to do so)

"Limit" means a limit per tonne gross weight of that part of the Goods in respect of which a claim arises.

"Loss" includes (without limitation) loss (including theft), destruction, damage, unavailability, contamination, deterioration, delay, non-delivery, mis-delivery, unauthorised delivery, non-compliance with instructions or obligations, incorrect advice or information, loss or corruption of data, breach of data protection or processing obligations, interference with or disruption of information technology systems, breach of duty; and any event giving rise to any liability of an Interested Party to any other person or authority.

"Officer" includes a Director or Company Secretary; General Manager; Partner; or member of a Limited Liability Partnership

"Outward TUPE Transfer" means a situation where the Company is (or is expected to be) a transferor for the purposes of TUPE as a result of the transfer of operations carried out for the Customer

"Subcontractor" means a party engaged at the behest of the Company to perform some or all of the Company's obligations

"Transferee" means a transferee as defined by TUPE

"Transferor" means a transferor as defined by TUPE

"TUPE" means the Transfer of Undertakings (Protection of Employment) Regulations 2006 (and any successor legislation) and also includes any other legislation under which employment or liabilities arising from employment transfer by operation of law

"Waste" bears its general meaning and also includes "Waste" and "Directive Waste" as defined legislatively.

Copyright reserved 2019 UKWA Ltd

BRITISH INTERNATIONAL FREIGHT ASSOCIATION (BIFA) – STANDARD TRADING CONDITIONS 2017 (ENGLAND) EDITION

BRITISH INTERNATIONAL FREIGHT ASSOCIATION (BIFA) STANDARD TRADING CONDITIONS
2017 EDITION, © BIFA 2017

THE CUSTOMER'S ATTENTION IS DRAWN TO SPECIFIC CLAUSES HERE OF WHICH EXCLUDE OR LIMIT THE COMPANY'S LIABILITY AND THOSE WHICH REQUIRE THE CUSTOMER TO INDEMNIFY THE COMPANY IN CERTAIN CIRCUMSTANCES AND THOSE WHICH LIMIT TIME AND THOSE WHICH DEAL WITH CONDITIONS OF ISSUING EFFECTIVE GOODS INSURANCE BEING CLAUSES 7, 8, 9, 10(A) AND 11(B) 12-14 INCLUSIVE, 18-20 INCLUSIVE, AND 24-27 INCLUSIVE. THE CUSTOMER'S ATTENTION IS ALSO DRAWN TO CLAUSE 28 WHICH PERMITS ARBITRATION IN CERTAIN CIRCUMSTANCES

All headings are indicative and do not form part of these conditions

DEFINITIONS AND APPLICATION

1 In these conditions the following words shall have the following meanings:-

"Company" the BIFA member trading under these conditions
"Consignee" the Person to whom the goods are consigned
"Customer" any Person at whose request or on whose behalf the Company undertakes any business or provides advice, information or services
"Direct Representative" the Company acting in the name of and on behalf of the Customer and/or Owner with H.M. Revenue and Customs ("HMRC") as defined by Article 18 of Regulation (EU) No. 952/2013 of the European Parliament and of the Council or as amended the cargo to which any business under these conditions relates
"Goods" natural person(s) or any body or bodies corporate
"LMAA" the London Maritime Arbitrators Association
"SDR" are Special Drawing Rights as defined by the International Monetary Fund
"Transport Unit" packing case, pallets, container, trailer, tanker, or any other device used whatsoever for and in connection with the carriage of Goods by land, sea or air
"Owner" the Owner of the Goods or Transport Unit and any other Person who is or may become interested in them

2(A) Subject to sub-paragraph (B) below, all and any activities of the Company in the course of business, whether gratuitous or not, are undertaken subject to these conditions.

(B) If any legislation, to include regulations and directives, is compulsorily applicable to any business undertaken, these conditions shall, as regards such business, be read as subject to such legislation, and nothing in these conditions shall be construed as a surrender by the Company of any of its rights or immunities or as an increase of any of its responsibilities or liabilities under such legislation, and if any part of these conditions be repugnant to such legislation to any extent, such part shall as regards such business be overridden to that extent and no further.

3 The Customer warrants that he is either the Owner, or the authorised agent of the Owner and, also, that he is accepting these conditions not only for himself, but also as agent for and on behalf of the Owner.

THE COMPANY

4(A) Subject to clauses 11 and 12 below, the Company shall be entitled to procure any or all of the services as an agent, or, to provide those services as a principal.

(B) The Company reserves to itself full liberty as to the means, route and procedure to be followed in the performance of any service provided in the course of business undertaken subject to these conditions.

5 When the Company contracts as a principal for any services, it shall have full liberty to perform such services itself, or, to subcontract on any terms whatsoever, the whole or any part of such services.

6(A) When the Company acts as an agent on behalf of the Customer, the Company shall be entitled, and the Customer hereby expressly authorises the Company, to enter into all and any contracts on behalf of the Customer as may be necessary or desirable to fulfil the Customer's instructions, and whether such contracts are subject to the trading conditions of the parties with whom such contracts are made, or otherwise.

(B) The Company shall, within 14 days' notice given by the Customer, provide evidence of any contract entered into as agent for the Customer. Insofar as the Company may be in default of the obligation to provide such evidence, it shall be deemed to have contracted with the Customer as a principal for the performance of the Customer's instructions.

7 In all and any dealings with HMRC for and on behalf of the Customer and/or Owner, the Company is deemed to be appointed, and acts as, Direct Representative only.

8(A) Subject to sub-clause (B) below, the Company:

(i) has a general lien on all Goods and documents relating to Goods in its possession, custody or control for amounts due at any time to the Company from the Customer and/or Owner on any account whatsoever, whether relating to Goods belonging to, or services provided by or on behalf of the Company to the Customer or Owner. Storage charges shall continue to accrue on any Goods detained under lien;

(ii) shall be entitled, on at least 21 days' notice in writing to the Customer, to sell or dispose of or deal with such Goods or documents as agent for, and at the expense of, the Customer and apply the proceeds in or towards the payment of such sums;

(iii) shall, upon accounting to the Customer for any balance remaining after payment of any sum due to the Company, and for the cost of sale and/or disposal and/or dealing, be discharged of any liability whatsoever in respect of the Goods or documents;

(B) When the Goods are liable to perish or deteriorate, the Company's right to sell or dispose of or deal with the Goods shall arise immediately upon any sum becoming due to the Customer, subject only to the Company taking reasonable steps to bring to the Customer's attention its intention to sell or dispose of the Goods before doing so.

9 The Company shall be entitled to retain and be paid all brokerages, commissions, allowances and other remunerations customarily retained by, or paid to, freight forwarders.

10(A) Should the Customer, Consignee or Owner of the Goods fail to take delivery at the appointed time and place when and where the Company is entitled to deliver, the Company shall be entitled to store the Goods, or any part thereof, at the sole risk of the Customer or Consignee or Owner, whereupon the Company's liability in respect of the Goods, or that part thereof, stored as aforesaid, shall wholly cease. The Company's liability, if any, in relation to such storage, shall be governed by these conditions. All costs incurred by the Company as a result of the failure to take delivery shall be deemed as freight earned, and such costs shall, upon demand, be paid by the Customer.

(B) The Company shall be entitled at the expense of the Customer to dispose of or deal with (by sale or otherwise as may be reasonable in all the circumstances):-

(i) after at least 21 days' notice in writing to the Customer, or (where the Customer cannot be traced and reasonable efforts have been made to contact any parties who may reasonably be supposed by the Company to have any interest in the Goods) without notice, any Goods which have been held by the Company for 60 days and which cannot be delivered as instructed; and

(ii) without prior notice, any Goods which have been perished, deteriorated, or altered, or are in immediate prospect of doing so in a manner which has caused or may reasonably be expected to cause loss or damage to the Company, or third parties, or to contravene any applicable laws or regulations.

11(A) No insurance will be effected except pursuant to and in accordance with clearly stated instructions given in writing by the Customer and accepted in writing by the Company, and all insurances effected by the Company are subject to the usual exceptions and conditions of the policies of the insurers or underwriters taking the risk. Unless otherwise agreed in writing, the Company shall not be under any obligation to effect a separate insurance on the Goods, but may declare it on any open or general policy held by the Company.

(B) Insofar as the Company agrees to effect insurance, the Company acts solely as agent for the Customer, and the limits of liability under clause 26(A) of these conditions shall not apply to the Company's obligations under clause 11.

12(A) Except under special arrangements previously made in writing by an officer of the Company so authorised, or made pursuant to or under the terms of a printed document signed by the Company, no instructions relating to the delivery or release of the Goods in specified circumstances (such as, but not limited to, against payment or against surrender of a particular document) are accepted by the Company, where the Company has to engage third parties to effect compliance with the instructions, only as agents for the Customer.

(B) Despite the acceptance by the Company of instructions from the Customer to collect freight, duties, charges, dues, or other expenses from the Consignee, or any other Person, on receipt of evidence of proper demand by the Company, and, in the absence of evidence of payment (for whatever reason) by such Consignee, or other Person, the Customer shall remain responsible for such freight, duties, charges, dues, or other expenses.

(C) The Company shall not be under any liability in respect of such arrangements as are referred to under sub-clause (A) and (B) hereof save where such arrangements are made in writing, and in any event, the Company's liability in respect of the performance of, or arranging the performance of, such instructions shall not exceed the limits set out in clause 26(A) (i) of these conditions.

13 Advice and information, in whatever form it may be given, is provided by the Company for the Customer only. The Customer shall indemnify the Company against all loss and damage suffered as a consequence of passing such advice or information on to any third party.

14 Without prior agreement in writing by an officer of the Company so authorised, the Company will not accept or deal with Goods that require special handling regarding carriage, handling, or security whether owing to their high attractive nature or otherwise including, but not limited to, bullion, currency, securities, precious stones, jewellery, valuables, antiques, pictures, human remains, living creatures, plants. Should any Customer nevertheless deliver any such goods to the Company, or cause the Company to handle or deal with any such goods, otherwise than under such prior agreement, the Company shall have no liability whatsoever for or in connection with the goods, howsoever arising.

15 Except pursuant to instructions previously received in writing and accepted in writing by the Company, the Company will not accept or deal with Goods of a dangerous or damaging nature, nor with Goods likely to harbour or encourage vermin or other pests, nor with Goods liable to taint or affect other Goods. If such Goods are accepted pursuant to a special arrangement, but, thereafter, and in the opinion of the Company, constitute a risk to other goods, property, life or health, the Company shall, where reasonably practicable, contact the Customer in order to require him to remove or otherwise deal with the goods, but reserves the right, in any event, to do so at the expense of the Customer.

16 Where there is a choice of rates according to the extent or degree of the liability assumed by the Company and/or third parties, no declaration of value will be made and/or treated as having been made except under special arrangements previously made in writing by an officer of the Company so authorised as referred to in clause 26(D).

THE CUSTOMER

17 (A) The Customer warrants:

(i) that the following (furnished by on or behalf of the Customer) are full and accurate: the description and particulars of any Goods, any information furnished (including but not limited to, the nature, gross weight, gross mass (including the verified actual gross mass of any container packed with packages and cargo items), and measurements of any Goods); and the description and particulars of any services required by or on behalf of the Customer are full and accurate, and

(ii) that any Transport Unit and/or equipment supplied by the Customer in relation to the performance of any requested service is fit for purpose;

(B) that all Goods have been properly and sufficiently prepared, packed, stowed, labelled and/or marked, and that the preparation, packing, stowage, labelling and marking are appropriate to any operations or transactions affecting the Goods and the characteristics of the Goods;

(C) that where the Company receives the Goods from the Customer already stowed in or on a Transport Unit, the Transport Unit is in good condition, and is suitable for the carriage to the intended destination of the Goods loaded therein, or thereon;

(D) that where the Company provides the Transport Unit, on loading by the Customer, the Transport Unit is in good condition, and is suitable for the carriage to the intended destination of the Goods loaded therein, or thereon.

18 Without prejudice to any rights under clause 15, where the Customer delivers to the Company, or causes the Company to deal with or handle Goods of a dangerous or damaging nature, or Goods likely to harbour or encourage vermin or other pests, or Goods liable to taint or affect other goods, whether declared to the Company or not, the Customer shall be liable for all loss or damage arising in connection with such Goods, and shall indemnify the Company against all penalties, claims, damages, costs and expenses whatsoever arising in connection therewith, and the Goods may be dealt with in such manner as the Company, or any other person in whose custody they may be at any relevant time, shall think fit.

19 The Customer undertakes that no claim shall be made against any director, servant, or employee of the Company which imposes, or attempts to impose, upon them any liability in connection with any services which are the subject of these conditions, and, if any such claim should nevertheless be made, to indemnify the Company against all consequences thereof.

20 The Customer shall save harmless and keep the Company indemnified from and against

(A) all liability, loss, damage, costs and expenses whatsoever (including, without prejudice to the generality of the foregoing, all duties, taxes, imports, levies, deposits and outlays of whatsoever nature levied by any authority in relation to the Goods) arising out of the Company acting in accordance with the Customer's instructions, or arising from any breach by the Customer of any warranty contained in these conditions, or from the negligence of the Customer;

(B) without derogation from sub-clause (A) above, any liability assumed, or incurred by the Company when, by reason of carrying out the Customer's instructions, the Company has become liable to any other party;

(C) all claims, costs and demands whatsoever and by whomsoever made or preferred, in excess of the liability of the Company under the terms of these conditions, regardless of whether such claims, costs, and/or demands arise from, or in connection with, the breach of contract, negligence or breach of duty of the Company, its servants, sub-contractors or agents;

(D) any claims of a general average nature which may be made on the Company.

21(A) The punctual receipt in full of sums falling due from the Customer to the Company is critical to the operation of the Company's business and its performance of its obligations to the Customer. Accordingly the Customer shall pay to the Company in cash, or as otherwise agreed, all sums when due, immediately and without reduction or deferment on account of any claim, counterclaim or set-off. Time is of the essence of payment of all and any sums payable by the Customer to the Company.

(B) In the event of any failure by the Customer to make full and punctual payment of any sum payable to the Company (in accordance with clause 21(A) above):

(i) Any and all other sums properly earned by and/or otherwise due to the Company (but which, but for this clause 21(B), would otherwise not yet be payable by the Customer, whether by virtue of an agreed credit period or otherwise) shall become immediately payable in full; and

(ii) Any sum so thereby becoming immediately payable shall be paid to the Company in cash, or as otherwise agreed, and with reduction or deferment on account of any claim, counterclaim or set-off.

(C) No omission to seek compensation for breach of 21(A) and (B) above by the Company shall constitute a waiver or release to the Customer from any liability under 21(A) and (B) above during the application of these terms unless agreed in writing by authorised officers of the Company and Customer.

(D) The Late Payment of Commercial Debts (Interest) Act 1998, as amended, shall apply to all sums due from the Customer.

22 Where liability arises in respect of claims of a general average nature in connection with the Goods, the Customer shall promptly provide security to the Company, or to any other party designated by the Company, in a form acceptable to the Company.

LIABILITY AND LIMITATION

23 The Company shall perform its duties with a reasonable degree of care, diligence, skill and judgment.

24 The Company shall be relieved of liability for any loss or damage if, and to the extent that, such loss or damage is caused by:-

(A) strike, lock-out, stoppage or restraint of labour, the consequences of which the Company is unable to avoid by the exercise of reasonable diligence; or

(B) any cause or event which the Company is unable to avoid, and the consequences of which the Company is unable to prevent by the exercise of reasonable diligence.

25 Except under special arrangements previously made in writing by an officer of the Company so authorised, the Company accepts no responsibility with regard to any failure to adhere to agreed departure or arrival dates of Goods.

26(A) Subject to clause 2(B) and 11(B) above and sub-clause (D) below, the Company's liability howsoever arising and, notwithstanding that the cause of loss or damage be unexplained, shall not exceed:

(i) in the case of claims for loss or damage to Goods:

(a) the value of any loss or damage; or

(b) a sum at the rate of 2 SDR per kilo of the gross weight of any Goods lost or damaged whichever shall be the lesser.

(ii) subject to (i) below, in the case of all other claims:

(a) the value of the subject Goods of the relevant transaction between the Company and its Customer; or

(b) where the weight can be defined, a sum calculated at the rate of 2 SDR per kilo of the gross weight of the subject Goods of the said transaction; or

(c) 75,000 SDR in respect of any one transaction, whichever shall be the lesser.

(iii) in the case of an error and/or omission, or a series of errors and/or omissions which are repetitions of or represent the continuation of an original error and/or omission:

(a) the loss caused; or

(b) 75,000 SDR in the aggregate of any one trading year commencing from the time of the making of the original error and/or omission, whichever shall be the lesser.

For the purposes of clause 26(A), the value of the Goods shall be their value when they were, or should have been, shipped. The value of SDR shall be calculated as at the date when the claim is received by the Company in writing.

(B) Subject to clause 2(B) above and sub-clause (D) below, the Company's liability for loss or damage as a result of failure to deliver, or arrange delivery of goods, in a reasonable time, or (where there is a special arrangement under Clause 25) to deliver, or arrange departure or arrival dates, shall not in any circumstances whatever exceed a sum equal to twice the amount of the Company's charges in respect of the relevant contract.

(C) Save in respect of such loss or damage as is referred to at sub-clause (B), and subject to clause 2(B) above and sub-clause (D) below, the Company shall not in any circumstances whatsoever be liable for indirect or consequential loss such as (but not limited to) loss of profit, loss of market, or the consequences of delay or deviation, however caused.

(D) On clearly stated instructions in writing desiring the commodity and its value, received from the Customer and accepted by the Company, the Company may accept liability in excess of the limits set out in sub-clauses (A) to (C) above upon the Customer agreeing to pay the Company's additional charges for accepting such increased liability. Details of the Company's additional charges will be provided upon request.

27(A) Any claim by the Customer against the Company arising in respect of any service provided for the Customer, or which the Company has undertaken to provide, shall be made in writing and notified to the Company within 14 days of the date upon which the Customer became, or ought reasonably to have become, aware of any event or occurrence alleged to give rise to such claim, and any claim not made and notified as aforesaid shall be deemed to be waived and absolutely barred, except where the Customer can show that it was impossible for him to comply with this time limit, and that he has made the claim as soon as it was reasonably possible for him to do so.

(B) Notwithstanding the provisions of sub-paragraph (A) above, the Company shall in any event be discharged of all liability whatsoever and howsoever arising in respect of any service provided for the Customer, or which the Company has undertaken to provide, unless suit be brought and written notice thereof given to the Company within nine months from the date of the event or occurrence alleged to give rise to a cause of action against the Company.

JURISDICTION AND LAW

28(A) These conditions and any act or contract to which they apply shall be governed by English law.

(B) Any dispute arising out of any act or contract to which these Conditions apply shall, save as provided in (C) below, be subject to the exclusive jurisdiction of the English courts.

(C) Notwithstanding (B) above, the Company is entitled to require any dispute to be determined by arbitration.

(D) The Company may exercise its rights under (C) above either by itself commencing arbitration in respect of a dispute or by giving written notice to the Customer requiring a dispute to be determined by arbitration.

(E) In the event that the Company exercises its rights under (C) above, the corresponding arbitration shall be conducted as follows:

(i) Where the amount claimed by the claimant is less than £400,000, excluding interest, (or such other sum as the Company and Customer may agree, and subject to (ii) below), the reference shall be to a tribunal of three arbitrators and the arbitration shall be conducted in accordance with the LMAA Intermediate Claims Procedure applicable at the date of the commencement of the arbitration proceedings;

(ii) Where the amount claimed by the claimant is less than £100,000, excluding interest, (or such other sum as the Company and Customer may agree, and subject to (ii) below), the reference shall be to a sole arbitrator and the arbitration shall be conducted in accordance with the LMAA Small Claims Procedure applicable at the date of the commencement of the arbitration proceedings;

(iii) In any case where neither of the LMAA Procedures referred to in (i) and/or (ii) above applies, the reference shall be to three arbitrators in accordance with the LMAA Terms applicable at the date of the commencement of the arbitration proceedings.

COPYRIGHT © BIFA 2017

General Terms and Conditions (Addendum)

1. Direct Representation

We authorise Hellmann Worldwide Logistics Limited (HWL) to complete, sign and submit Customs entries on our behalf to HM Revenue & Customs (HMRC).

We understand and accept that HWL act on our behalf under the concept of Direct Representation.

We further understand that any post clearance recovery action or repayments of excess taxes in relation to Customs declarations will be dealt with solely by us and HMRC and not HWL

2 Prohibitions & Restrictions

We confirm that all goods imported and/or exported by ourselves are not subject to any licence or other type of control, prohibition or restriction, in any relevant jurisdiction unless we advise to the contrary.

We understand and accept our responsibility to disclose all such relevant information to HWL before presentation of the relevant Customs declaration covering the goods in question.

3 No Breach of Sanction[s]

- We hereby warrant and confirm that no cargo or business will be instructed for transport or handling of any kind which is restricted by Governmental Agency or in breach of any Governmental sanction[s];
- We further warrant and confirm that we do not conduct business with any company which or individual who appears on any official Governmental Agency security list as being of concern or with which or with whom it is illegal to trade.

4 Anti-facilitation of Tax Evasion

We confirm that we:

- i) will act in compliance with all applicable laws and regulations relating to the criminal facilitation of tax evasion (including the Criminal Finances Act 2017);
- ii) have and will maintain such policies and procedures as are both reasonable to prevent the facilitation of tax evasion by another person (including without limitation our own employees) and to ensure compliance with i) above;
- iii) will provide HWL with all reasonable assistance to enable HWL to comply with the Criminal Finances Act 2017 including, without limitation, promptly reporting to HWL any request or demand from a third party to facilitate the evasion of tax within the meaning of Part 3 of the Criminal Finances Act 2017, in connection with the business undertaken by HWL on our behalf;
- iv) accept a breach of the foregoing shall be deemed to be a material breach incapable of remedy and in the event of such a breach, we agree to indemnify HWL against any losses, liabilities, damages, costs (including but not limited to reasonable legal fees) and expense incurred by HWL as a result.

5 Anti-slavery and Human Trafficking

We warrant and confirm that we have implemented a due diligence process appropriate to our business, to ensure there is no slavery or human trafficking in our supply chains. We further warrant and confirm that we have used all reasonable endeavours to ensure our supply chains are free from any engagement in any activity, practice or conduct that would constitute an offence under the Modern Slavery Act 2015.

If our organisation is required to do so by the Modern Day Slavery Act, we will produce and publish a modern day slavery statement.

6 Data Protection & Disclosure of Information

In this clause, "Data Protection Legislation" means all applicable data protection and privacy legislation in force from time to time in the UK including the General Data Protection Regulation ((EU) 2016/679); the Data Protection Act 2018; the Privacy and Electronic Communications Directive 2002/58/EC (as updated by Directive 2009/136/EC) and the Privacy and Electronic Communications Regulations 2003 (SI 2003 No. 2426) as amended; any other European Union legislation relating to personal data and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of personal data (including, without limitation, the privacy of electronic communications); and the guidance and codes of practice issued by the relevant data protection or supervisory authority and applicable to a party.

We hereby warrant and confirm that we shall fully comply with the Data Protection Legislation. We shall not through our acts or omissions place HWL in breach of any Data Protection Legislation.

We will safeguard and make only appropriate use of confidential information and not disclose any information that is not known to the general public.

We will ensure that we have all necessary appropriate consents and notices in place to enable lawful transfer of any personal data to HWL (including any personal data relating to our employees and end customers) for the duration and purposes of HWL providing the Services under the relevant Terms and Conditions attached to this pack (as applicable).

It is acknowledged and agreed that HWL shall act as a controller in its own right in respect of its processing of such personal data. In its processing of such personal data, HWL shall at all times comply with its obligations under the Data Protection Legislation and HWL's Privacy Statement for Customers, Partners and Suppliers, which is available at:

<https://www.hellmann.net/en/united-kingdom/about-us/at-a-glance/>

7 Marketing

HWL may send marketing emails to its customers (i.e. B2B customers and their employees) from time to time, provided that the customer has not opted out of receiving such marketing. Customers can ask HWL to stop sending marketing emails at any time by following the opt-out links on any marketing email.

The following section is only relevant to sole-traders

HWL will not send marketing emails to sole-traders, unless the sole-trader has given his/her explicit consent to receive such marketing emails from HWL.

I am a sole-trader

I would like HWL to contact me by email with information about goods and services which HWL feel may be of interest to me

8. Bribery & Corruption

We hereby warrant and confirm that we shall comply with all national and international anti-bribery regulations as well as applicable anti-corruption laws, regulations and standards. We will not (either directly or indirectly) offer or promise to provide anything of value to improperly influence an official act or to secure an improper advantage.

9. Dangerous & Hazardous Goods

We hereby warrant and confirm that nothing of a dangerous or hazardous nature (in any environmental conditions) or anything which could be considered as such will be proffered for transport and/or handling by HWL, save that all required regulations and laws pertaining thereto are strictly observed, including but not limited to the prior notification to HWL of such characteristics in the goods.

10. The departure of the United Kingdom from The European Union [Brexit]

We agree to pay and indemnify HWL in full for any liability or additional charges in respect of the transportation, declarations to Governmental Agencies and/or handling in any way of our cargo incurred by HWL as a result of the post Brexit environment, including but not limited to demurrage, Customs clearance activities, diversion of freight and additional costs caused by a lack of relevant documentation, information and/or instructions in respect of official clearance / release of cargo.

11. Termination

We agree that either party may terminate our relationship by giving the other party not less than 30 days' notice in writing.

Without prejudice to the foregoing, we also agree that either party may terminate our relationship with immediate effect upon giving notice to the other party in writing if:

- a) the other party commits a material breach of any term of our relationship and, if such breach is remediable, fails to remedy that breach within 30 days of being notified in writing to do so;
- b) the other party takes any step or action in connection with its entering administration, (provisional) liquidation, bankruptcy or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets, or ceasing to carry on business (or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction);
- c) the other party sells, assigns or parts with its business or that part of its business which relates to our relationship; or
- d) the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business;

We also agree that, without affecting any other right or remedy available to it, HWL may terminate our relationship with immediate effect by giving us written notice if we:

- e) fail to pay any amount due to HWL by or on the due date for payment, or if we are otherwise unable to pay our debts as they fall due;
- f) fail to provide HWL with accurate and true information and/or instructions in relations to customs clearance declarations of any type which HWL complete on our behalf;
- g) fail to provide HWL with timely information or instructions in relation to customs declarations of any type which HWL complete on our behalf (and the definition of "timely" shall be within the sole discretion of HWL); or
- h) undergo a change of control.

We also agree that HWL may, at its sole discretion and without prejudice to its remedies above, suspend the provision of all or any services to us if we become subject to (or HWL reasonably believes that we are about to become subject to) any of the situations in (a)-(h) above.

12. Consequences of termination

In the event of termination of our relationship, we agree:

- a) to pay all of HWL's unpaid invoices (and interest where applicable) immediately upon termination;
- b) to pay any further invoices (i.e. for services supplied and/or costs incurred for which no invoice had been submitted at the time of termination) within seven days of receipt;
- c) to return any and all materials supplied by HWL within 14 days of termination;
- d) that HWL may, at its sole discretion and without liability, decline to provide any services during any applicable termination notice period if in its reasonable judgement there is a risk of such services having to be performed, or any underlying obligations continuing, beyond the date of termination.

13. Legal Notice

We hereby warrant and confirm that it remains our responsibility to ensure that we comply with all HMR&C requirements and that all information supplied to HMR&C is complete and accurate.

