

DEFINITIONS AND INTERPRETATION

1. In these Conditions:
- (a) "Authority" means any duly constituted legal or administrative Person, which exercises jurisdiction or has authority within any nation, state, municipality, port or airport.
- (b) "Charges" means all freight, costs, fees, expenses, commissions, duties, penalties, taxes, surcharges and/or charges payable to the Company in respect of the Services and in accordance with the applicable tariff (if any) and/or these Conditions.
- (c) "Customer" means the Person who contracts to supply the Services.
- (d) "Customs" means these Standard Trading Conditions as may be amended from time to time in accordance with the terms hereof.
- (e) "Customer" means any Person for whom the Company agrees to provide or arrange a Service, and includes the supplier, holder, consignee, receiver of the Goods, any Person owning or entitled to the possession of the Goods and any person acting on behalf of or as principal of such Person.
- (f) "APT LOG" means APT LOG RESOURCES and any of its direct or indirect group, subsidiaries, affiliates, associates, or agents.
- (g) "Dangerous Goods" means goods, which are or may become dangerous, hazardous, noxious (including radioactive material), inflammable, explosive or which are or may become liable to damage any property or person whatsoever.
- (h) "Goods" means the whole or any part of the cargo and any packaging accepted from the Customer, including Dangerous Goods and any Transport Unit not supplied by or on behalf of the Company, in respect of which the Customer provides Services.
- (i) "Information" means data, messages, advice, and/or information (including electronic data) in any form.
- (j) "Information System" means any computer hardware, computer software, website, portal, communication lines and information processing technologies operated and/or used by the Company, the Customer or any third party used in connection with the Services (including any system which sends or receives Information, or is otherwise used for Information interchange).
- (k) "Instructions" means a statement of the specific requirements from the Customer, an Authority and/or any person entitled to give such instructions.
- (l) "Persons" includes an individual, corporation, or other legal entity.
- (m) "SDR" means Special Drawing Right. The SDR shall be as defined by the International Monetary Fund and the value of a SDR in relation to any claim arising hereunder shall be calculated as at the date when settlement is agreed or the date of any judgment.
- (n) "Services" means the whole or any part of any physical, managerial, agency and/or business process services and/or activities of whatsoever nature undertaken by the Company in respect of the Customer and/or in relation to the Goods, including but not limited to packing, stuffing, stowage, securing, unloading, unpacking, de-stuffing, warehousing, storage and any other operations and services of whatsoever nature undertaken by or performed by or on behalf of the Company in relation to the Goods and cargo management services and related documentary, customs and information technology processes.
- (o) "Subcontractor" includes charterers and operators of vessels (other than the Company), stewards, terminal and groupage operators, road rail and air transport operators, forwarding agents, warehousemen, and any independent contractors and agents employed by the Company in the performance of the Services and any direct or indirect subcontractors, servants and agents thereof, whether in direct contractual privity or not.
- (p) "Transport Document" means a "bill of lading" (whether or not negotiable) or "waybill" or "air waybill" or similar document issued by the Company or a Subcontractor in paper or electronic form.
- (q) "Transport Unit" means any packing case, pallet, container, flat rack, platform, trailer, transportable tank or other item used for or in connection with the carriage of Goods by land, sea or air.
- (r) "Vehicle" means any vehicle, including, any lorry, van or car.

2. In these Conditions:
- 2.1. Headings of clauses or groups of clauses in these Conditions are for convenience only and do not affect the interpretation of these Conditions.
- 2.2. Should any clause, or part of a clause, be found to be void or unenforceable, the remainder of these Conditions and the clause shall remain enforceable.
- 2.3. The singular includes the plural and vice versa unless the context otherwise requires.
- 2.4. Any words following the word "including" shall be interpreted without limitation to the generality of the preceding words.

APPLICATION

3. Subject to clauses 4, 5, 6, 36 and 37 all Services provided by the Company are subject to these Conditions. The provisions of clauses 9 and 10 will apply only to the extent that the Company provides any of the Services as agent. The provisions of clauses 11 and 12 will apply only to the extent that the Company provides any of the Services as principal. The other clauses will apply to all Services regardless of the legal capacity of the Company.
4. If the Company and the Customer have signed a specially negotiated agreement, these Conditions shall continue to apply, but such negotiated agreement shall be paramount and prevail in so far as its terms are inconsistent with these Conditions.
5. Where the Customer uses or accesses any Information System operated by the Company then the Company's user terms (if any) as published on the relevant Information System or available upon request from the Company) shall be paramount and prevail in so far as such provisions are inconsistent with these Conditions.
6. Where a Transport Document is issued by or on behalf of the Company (which provides that the Company contracts as carrier, the provisions set out, or incorporated, in the Transport Document (if any) shall be paramount in so far as such provisions are inconsistent with these Conditions.

LEGAL CAPACITY

7. All Services are provided by the Company as agent, except in the following circumstances where the Company acts as principal:
- (a) to the extent that the Company expressly agrees in writing to act as a principal;
- (b) where the Company performs any of the Services but only to the extent that such Services are performed by the Company itself or its servants and the Goods are in the actual custody or control of the Company or its servants;
- (c) where a Transport Document is issued in respect of any element of the Services, which provides that the Company contracts as carrier or principal in respect of such Services;
- (d) where the Company is held by a court of competent jurisdiction to have acted as principal.
8. Without prejudice to the generality of clause 7
- (a) the charging by the Company of fixed Charges for any Services shall not in itself determine or be evidence that the Company is acting as an agent or a principal in respect of such Services;
- (b) The Company acts as an agent where the Company procures a Transport Document between a Person, other than the Company, and the Customer, including where the Transport Document provides that a member of the APT LOG contracts as carrier; and
- (c) The Company acts in the name of and on behalf of the Customer, and never as a principal, when dealing with Authorities on behalf of the Customer in relation to customs requirements, taxes, licenses, consular documents, certificates of origin, inspection certificates, documentation management, and other similar services.
9. Where the Company is held by a court of competent jurisdiction to have acted as principal.
10. Without prejudice to the generality of clause 7
- (a) the charging by the Company of fixed Charges for any Services shall not in itself determine or be evidence that the Company is acting as an agent or a principal in respect of such Services;
- (b) The Company acts as an agent where the Company procures a Transport Document between a Person, other than the Company, and the Customer, including where the Transport Document provides that a member of the APT LOG contracts as carrier; and
- (c) The Company acts in the name of and on behalf of the Customer, and never as a principal, when dealing with Authorities on behalf of the Customer in relation to customs requirements, taxes, licenses, consular documents, certificates of origin, inspection certificates, documentation management, and other similar services.

SERVICE AS AGENT

9. Where and to the extent that the Company acts as an agent, it has the express authority of the Customer to:
- (a) enter into contracts with third parties on the Customer's behalf as may be necessary or desirable to fulfil the Customer's Instructions, whether such contracts are subject to the trading conditions of such third parties, or otherwise, including by way of example, contracts with such third parties, and the Company will sign such contract for and on behalf of the customer as agent only; and
- (b) do such acts as to bind the Customer by such contracts.
10. Where and to the extent that the Company acts as an agent:
- (a) the Company on behalf of the Customer in securing contracts with the third parties referred to in subclause 9(a) above, so that direct contractual relationships are between the Customer and such third parties; and
- (b) it shall not be liable for the acts and omissions of such third parties.

SERVICES AS PRINCIPAL

11. Where and to the extent that the Company contracts as principal, the Company shall have the full liberty to perform the Services itself or to subcontract on any terms whatsoever the whole or any part of the Services to any Subcontractor or any member of the APT LOG (or both).
12. The Company agreed otherwise in writing, where and to the extent that the Company contracts as principal, the Company shall be entitled, with or without notice to the Customer, to perform any Services itself and/or enter into contracts:
- (a) for the carriage of Goods (and the provision of any other Services) by any route, means or Person;
- (b) for the carriage of Goods of any description, whether containerised or not, outside the deck of any vessel;
- (c) for the storage, packing, transhipment, stuffing, consolidation, deconsolidation, loading, unloading or handling of Goods by any Person at any place whether on shore or afloat and for any length of time; and
- (d) for the carriage of Goods in Transport Units or with other goods of whatever nature; and to do such acts as in the opinion of the Company may be necessary or incidental to the performance of the Company's obligations.

OBLIGATIONS OF COMPANY

13. The Company will perform the Services with a reasonable degree of care, skill, and judgment.

OBLIGATIONS OF CUSTOMER

14. The Customer and any Person acting on the Customer's behalf shall give lawful, sufficient, and executable Instructions.
15. The Customer warrants that:
- (a) it is either the owner of the Goods or the authorised agent of the Person owning or entitled to possession and / or control of the Goods;
- (b) it accepts these Conditions not only for itself, but also as authorised agent for and on behalf of any Person owning or entitled to possession and / or control of the Goods;
- (c) the descriptions and particulars of the Goods, including marks, numbers, quantity and weight are full and accurate;
- (d) the Goods are properly and sufficiently packed, marked, labelled, stuffed and stowed in a manner appropriate to any operations or transactions affecting the Goods and the characteristics of the Goods;
- (e) the Goods do not include any of the goods listed by the Company as prohibited or restricted from time to time or any goods prohibited by the law or regulation of any Authority of any country where the Services are provided;
- (f) where a Transport Unit is used to carry the Goods:
- (i) the Goods are suitable for carriage in a Transport Unit;
- (ii) the Transport Unit is suitable and free of defects, except where the Transport Unit has been supplied by or on behalf of the Company; and
- (iii) the Transport Unit is sealed at the commencement of the carriage, except where the Company has agreed to seal the Transport Unit.

COMPLIANCE WITH THE APPLICABLE LAWS

16. The Customer warrants that:
- (a) has complied with all applicable laws, rules and regulations, including the export laws and government regulations of any country to, from, or through which the Goods may be carried;
- (b) the Goods do not require the Company to obtain any special license or permit for transportation, exportation, importation or handling of the Goods and, to the extent required by law or regulation, the Customer has obtained all necessary export, import, re-export, or import licenses or permits;
- (c) neither the receipt, delivery or handling of the Goods nor any payment or other transaction relating to the Goods will expose the Company or any member of the APT LOG, its group, the Subcontractors or any of their directors, servants, agents, banks, financial institutions, or related entities to any sanction, prohibition or penalty (or any risk of sanction, prohibition or penalty) whatsoever imposed by any state, country, supranational or international governmental organisation or authority;
- (d) neither the Customer nor any Person the Customer trades with in relation to or in connection with the Goods, is or is owned or controlled by or is acting on behalf of a Person which is included on any list of individuals or entities with whom transactions are currently prohibited or restricted under any sanction, prohibition or restriction imposed by any state, country, supranational or international governmental organisation or other Authority, including but not limited to the consolidated list of financial sanctions targets in the United Kingdom or the US list of Specially Designated Nationals;

# STANDARD TRADING TERMS AND CONDITIONS

## LOGISTICS SERVICES & FREIGHT MANAGEMENT

- (e) the Goods are not intended to be used in the design, development, or production of nuclear, chemical, or biological warfare;
- (f) The Customer shall promptly provide in writing all information required in order to enable the Company to (i) arrange and safely perform the Services for the Customer and (ii) comply with all laws, regulations and conditions applicable to the Goods.
18. The Company assumes no liability to Customer, or any other person, for any loss or expense including, but not limited to, fines and penalties due to Customer's failure to comply with any applicable export laws, rules, regulations, licenses or permits.

GOODS REQUIRING SPECIAL HANDLING

19. (a) Unless otherwise previously agreed in writing, the Customer shall not deliver to the Company or cause the Company to deal with or handle Dangerous Goods.
- (b) If the Company agrees to accept Dangerous Goods, the Customer or someone acting on its behalf, shall give the Company written notice of the nature of the Dangerous Goods prior to the Company's receipt of the Goods. The written notice shall include all information necessary for the Company to perform its obligations in connection with the Dangerous Goods in accordance with all applicable laws, regulations or requirements (or any combination of the foregoing) including information about the characteristics of the Dangerous Goods, the appropriate manner and method of storage, handling and transportation of the Dangerous Goods. The Dangerous Goods must be destroyed or otherwise dealt with at the expense and risk of the Customer without liability to the Company.
- (c) If any of the Goods are likely to taint or affect other goods, or liable to cause contamination, stalling and remedial cleaning expenses to be incurred, or likely to harbour or encourage vermin or other pests, they may, without notice to the Customer, be destroyed or otherwise dealt with at the expense and risk of the Customer and without liability to the Company.
- (d) The Customer undertakes not to tender for transportation any Goods that require temperature and/or atmosphere control without any other information.
- (e) The Customer giving written notice of their nature and particular temperature and/or atmosphere to be set; and
- (f) the Company agreeing in writing to deal with such Goods,
- prior to the Company's receipt of the Goods.
- (g) In the case of a temperature and/or atmosphere controlled pre-heated or stuffed or loaded by or on behalf of the Customer, the Customer shall not be liable for any loss or damage to the Goods caused by such non-compliance.
- (h) The Transport Unit and Goods have been properly pre-cooled, pre-heated or otherwise prepared as appropriate;
- (i) the Goods have been properly stuffed or loaded in the Transport Unit; and
- (ii) the Transport Unit's thermostatic or other controls have been properly set and checked by or on behalf of the Customer.
- (j) If the above requirements are not complied with, the Company shall not be liable for any loss of or damage to the Goods caused by such non-compliance.

SPECIAL INSTRUCTIONS

20. Unless otherwise agreed in writing, the Company does not undertake that the Goods or any documents shall deliver, arrive, or be available at a particular date and time or at a particular place.
21. Instructions relating to the delivery of Goods against payment or surrender of a particular document shall be in writing and subject to the Company's prior written approval.
22. The Company shall not be obliged to make any declaration for the purposes of any statute, convention or agreement in relation to the Goods or as to any specific instruction in delivery, unless express written Instructions to that effect have been accepted in writing by the Company.

CARGO INSURANCE

24. (a) The Company shall not provide any cargo insurance solutions to the Customer unless it agrees to do so in writing, in which case 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.
- (b) If the Customer requests a separate insurance on the Goods and the Company agrees in writing to effect such separate insurance, this will lead to the formation of a separate contract of insurance between the Customer and insurance underwriters which is subject to the conditions and exceptions incorporated into such policy. Insofar as the Company agrees to effect such separate insurance, the Company acts solely as agent for the Customer.
- (c) The Company is not liable for any acts, omissions, or decisions of the underwriter of any open or general policy or separate contract of insurance whatsoever, and should the insurance underwriters dispute liability to settle a claim for any reason whatsoever, the Customer shall not have any recourse against the Company.

RECEIPT

- (a) Where Goods, Transport Units or Vehicles are to be delivered to the Company's or a Subcontractor's premises, the Company or Subcontractor shall be responsible for the manner in which the Goods are delivered to the Company or Subcontractor's receipt at the area and the Company or Subcontractor has expressly agreed to receive the Goods, Transport Units or Vehicles.
- (b) The Company or Subcontractor may refuse to receive or unload the Goods, Transport Units or Vehicles at its discretion where it has reasonable cause to do so, including where the Company or Subcontractor is not satisfied that arrangements have been or will be made for the removal of such Goods, Transport Unit or Vehicle.

GENERAL INDEMNITIES

26. (a) The Customer shall defend, indemnify and hold harmless the Company, the Subcontractors and the members of the APT LOG against all liabilities, losses, damages, costs (including the costs of investigating and defending any claims), expenses, awards and fines of whatever nature and however assumed, incurred or suffered arising from or out of:
- (i) the nature of the Goods, unless caused by the Company's negligence;
- (ii) the Company acting in accordance with the Customer's Instructions;
- (iii) any breach of any of the warranties or undertakings given or obligations undertaken by the Customer under these Conditions;
- (iv) the negligence of the Customer;
- (v) any duties, taxes, imports, levies, deposits and outlays of whatsoever nature levied by any Authority in respect of the Goods and/or Transport Unit, and for all liabilities, payments, fines, costs, expenses, loss and damage sustained by the Company in connection therewith, unless caused by the Company's negligence;
- (vi) the Company assuming any liability in excess of its liability under the provisions of these Conditions regardless of whether such liability arises from, or in connection with a breach of contract, negligence, wilful misconduct or breach of duty by the Company, its agents, servants or Subcontractors;
- (vii) any contracts made pursuant to clause 9, except to the extent caused by the Company's negligence.
- (b) If the Customer undertakes that no claim shall be made against any Subcontractor, agents, employees or servants of the Company nor any other member of the APT LOG which imposes or attempts to impose upon any of them any liability whatsoever in connection with the Services and/or the Goods, and if any such claim should nevertheless be made, it shall be made by the Company against all consequences thereof including any costs incurred by the Company therefrom.
- (c) Without prejudice to the foregoing, all such Subcontractors and all members of the APT LOG, together with all their respective Subcontractors, employees, directors, officers and agents ("Relevant Third Parties") shall have the benefit of all provisions herein, as if such provisions were expressly for their benefit. In entering into a contract with the Company, the Customer does so (to the extent of such provisions) not only on its own behalf, but also as agent and trustee for Relevant Third Parties.

INFORMATION AND INFORMATION SYSTEM

27. Information, in whatever form or manner it may be given, is provided by the Company:
- (a) in good faith, but is not held out to be, nor to be taken as guaranteed, complete, accurate or timely, and no warranty, representation or undertaking whatsoever is given in respect of any Information;
- (b) for the Customer only, and the Customer shall defend, indemnify and hold harmless the Company for any liability, loss, damage, cost or expense arising out of any other Person relying on such Information.
28. Information Systems and Electronic Data Interchange
- (a) The Customer and the Company may co-operate in the exchange of information via their respective Information Systems and may enter into a separate written agreement regarding such co-operation. The provision of such separate agreements shall be paramount in so far as such provisions are inconsistent with these Conditions.
- (b) Unless otherwise expressly agreed in writing, the Company shall not be liable for any loss, damage, cost or expense arising out of the use of the Company's Information System.
- (c) Entering or sending or receiving Information (or failing to enter or send Information) to the Customer's or any third party's Information Systems;
- (d) damaging, corrupting, losing or disclosing Customer's or any third party's Information or Information System; or
- (iii) using the Customer's or a third party's Information System that is defective or malfunctioning.
- (e) Except as set out in these Conditions, the Company shall have no liability whatsoever in respect of any Information system or information whatsoever arising. Any representation, statement, warranty or other undertaking whatsoever made orally or written elsewhere made in respect of any Information system or information and which is not fully reflected in these Conditions is hereby excluded (including where such representations or statements were made negligently provided always that this clause shall not exclude or limit any liability or any right which any party may have in respect of precontractual statements made or given fraudulently. All conditions, warranties of other terms implied by contract or common law are hereby excluded to the fullest extent permitted by law, made by the Customer's own risk.

QUOTATIONS AND CHARGES

29. Unless otherwise stated by the Company, quotations or indications of Charges given by or on behalf of the Company ("Quotations") are:
- (a) subject to these Conditions and any specific reservations or conditions contained or referred to in the Quotation;
- (b) provided for information purposes only and are not binding on the Company unless the Company agrees in writing to perform the Services at the specific rate or amount set forth in the Quotation;
- (c) subject to the right of amendment or revision without notice; and
- (d) subject to the requirement for publishing and/or filing in accordance with any law, statute, or regulation.
30. (a) The Customer shall pay to the Company, in cash or as otherwise agreed, all Charges immediately when due, in the currency of the Company's option, without deduction or deferment on account of any claim, counterclaim or set-off.
- (b) When the Company is instructed to collect Charges from any Person other than the Customer, the Customer shall be responsible for the same on receipt of evidence of demand and non payment by such other person when due.
- (c) Charges are payable based on particulars furnished by the Customer. If such particulars are incorrect, the Customer shall be liable for the correct Charges, and any expenses incurred in connection with such correction, including examining, weighing, measuring or valuing the Goods.
- (d) On all Charges overdue and unpaid, the Customer shall be entitled to interest due on any outstanding sum at the rate advised by the Company, or if no such rate is advised, at the annual rate of 3 (three) per cent above the minimum lending rate set by the national or central bank, as applicable, of the country or territory of the relevant Charges are due. The interest shall be payable from the date when such amount had become overdue, plus reasonable attorney fees and expenses incurred in collecting any sums due.
- (e) Payment of Charges to any party other than the Company shall not be deemed payment to the Company, and the Company shall not be bound by any payment made to any other party.
- (f) No credit is granted to the Customer unless expressly agreed in writing by the Company. Where credit is granted to the Customer under this clause and the credit terms are breached by the Customer, such credit shall be forfeited by the Customer.

31. The Company shall be entitled to retain and be paid all brokerages, commissions, allowances and other remuneration customarily retained by or paid to service providers or freight forwarders.
32. (a) The Customer may unilaterally amend these Conditions at any time by publishing the amendments on the Company's website. All contracts concluded by the Company and the Customer after such publication shall be subject to the amended Conditions.
33. (a) The Customer shall be discharged of all liability unless:
- (i) notice of any claim is received in writing by the Company or its authorised agent within fourteen (14) days after the date specified in sub-clause 46(a) below, or
- (ii) the Customer shall be deemed to have accepted the claim if it was impossible to comply with the time limit and that the claim has been as soon as it was reasonably possible for the Customer to do so, and
- (iii) suit is brought in the proper form as specified in clause 49 and written notice thereof received by the Company within 9 months after the date specified in sub-clause 46(b) below.
- (b) For the purposes of clause 46(a) the relevant date shall be:
- (i) in the case of loss or damage to Goods, the date of delivery of the Goods,
- (ii) in the case of delay or carriage of the Goods to the incorrect destination, the planned date of delivery (if the Company advised the Customer of such a date),
- (iii) in any other case, the date of the event giving rise to the claim.
- (c) Any claim which does not comply with the provisions of clause 46 shall be deemed to be waived and absolutely barred.

LIBERTIES AND RIGHTS OF THE COMPANY

34. (a) The Customer or any Person acting on its behalf does not take delivery of the Goods or any part thereof at the time and place when and where the Company is entitled to call upon the Customer to take delivery thereof, the Company shall be entitled to store the Goods in the open or under cover at the sole risk and expense of the Customer providing that the Company thereafter takes reasonable steps to bring any such storage to the Customer's attention. Such storage shall constitute delivery of the Goods and the liability of the Company shall wholly cease.
- (b) If at any time, in the opinion of the Company or any Person whose services the Company makes use of, the performance of the Company's obligations is or is likely to be affected by any hindrance, risk, delay, difficulty or disadvantage whatsoever and which cannot be avoided by reasonable endeavours by the Company or such other Person, the Company may suspend or discontinue the performance of its obligations.
- (c) treat the performance of its obligations as terminated and place the Goods or any part of them at the Customer's disposal at any place which the Company may deem safe and convenient, whereupon the responsibility for the Goods shall be transferred to the Customer, and the Customer shall be responsible for any additional costs to and delivery and storage at such place; or
- (d) continue or suspend the performance of its contracted obligations, at its own discretion, and the Customer shall be responsible for any additional costs, expenses and/or Charges incurred by the Company in so doing.
- (e) The Company shall be entitled to exercise its rights to take delivery of the Goods or any part thereof at the time and place when and where the Company is entitled to call upon the Customer to take delivery thereof, the Company shall be entitled to store the Goods in the open or under cover at the sole risk and expense of the Customer providing that the Company thereafter takes reasonable steps to bring any such storage to the Customer's attention. Such storage shall constitute delivery of the Goods and the liability of the Company shall wholly cease.

DISPOSAL OF GOODS AND LIEN

35. (a) The Company shall have a lien on all Goods and any documents relating to the Goods, funds held and any other goods in respect of which the Company is providing services to the Customer ("Other Goods") for all charges (including the Charges) due at any time under these Conditions or otherwise.
- (b) The Company shall also have a general lien against the Customer on all Goods and any documents relating to the Goods, funds held and any Other Goods for all sums due at any time from the Customer to any member of the APT LOG.
- (c) The Company may exercise its lien at any time and at any place in its sole discretion, whether the Services are completed or not with or without further notice. In any event any lien shall (a) survive the delivery of the Goods and (b) extend to cover the balance of the Customer's lien and recovering any sums due.
- (d) To enforce and satisfy the Company's lien, the Company shall have the right, at the Customer's expense, to sell the aforementioned Goods, documents and Other Goods by public auction or private treaty, without notice to the Customer and without any liability towards the Customer.

COMPULSORY LEGISLATION

36. In the event of loss of or damage to Goods or delay in the performance of the Services, the Company's liability in respect of the same shall be determined and limited in accordance with the provisions of clauses 38 to 46 unless in national conventions or national laws which the Company applies compulsorily to any element of the Services and cannot be waived or modified ("Compulsory Legislation"), in which case the liability of the Company in relation to that element of the Services will be determined and limited in accordance with the provisions of such Compulsory Legislation.
37. If any Compulsory Legislation applies to any element of the Services, these Conditions shall, as regards such element of the Services, be read as subject to such Compulsory 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 Compulsory Legislation and if any part of these Conditions is inconsistent with such Compulsory Legislation to any extent such part shall as regards such element of the Services be overridden to that extent and no further.

EXCLUSIONS FROM AND LIMITATION OF LIABILITY

38. Exclusions of liability
- (a) Except insofar as otherwise provided by these Conditions, the Company shall not be liable for any loss or damage whatsoever arising from or out of:
- (i) the act or omission of the Customer or any Person (other than the Company) acting on their behalf;
- (ii) compliance with any Instructions given to the Company;
- (iii) insufficiency of the packing or labelling of the Goods except where such service has been provided by the Company;
- (iv) handling, loading, stowage or unloading of the Goods by the Customer or any Person (other than the Company) acting on their behalf;
- (v) inherent vice of the Goods;
- (vi) riots, civil commotion, strikes, lockouts, stoppage or restraint of labour from whatsoever cause;
- (vii) act of war or terrorism;
- (viii) fire, flood or storm;
- (ix) the breakdown of, accident to, failure or interruption of or reduction in the mains electrical supply to the Company and/or Subcontractor;
- (x) any cause, which the Company could not avoid, and the consequences whereof it could not prevent by the exercise of reasonable diligence.
- (b) Where under sub-clause 38(a) above the Company is not under any liability for loss or damage caused by one or more of the causes, events or occurrences listed above, the Company shall only be liable to the extent that the causes, events or occurrences for which it is liable under these Conditions have contributed to the loss or damage. The Company shall not be liable for loss or damage caused by one or more of the causes, events or occurrences listed above, sub-clause 38(a) above shall still apply to the Company save that when the Company establishes that in the circumstances of the case, the loss or damage could be attributed to one or more of the causes, events or occurrences specified in sub-clause 38(a), it shall be presumed that it was so caused, and the Customer shall, however, be entitled to prove that the loss or damage was not in fact caused wholly or partly by one of the causes, events or occurrences listed under sub-clause 38(a).
39. Limitations and exclusions of liability
- (a) In relation to claims for loss of or damage to Goods or other property owned or leased by the Customer (including any Transport Unit, Vehicles or premises) the Company's liability however arising and, notwithstanding that the loss or damage be unexplained, shall not exceed the lower of:
- (i) the value of the relevant Goods;
- (ii) the reasonable cost of repair in the case of damage; or
- (iii) 2 SDR per kg of the relevant Goods,
- provided always that the Company's liability under this clause shall not exceed a maximum of 75,000 SDR per event or events arising from a common cause.
- (b) In relation to claims for delivery of the Goods to an incorrect Person or destination, the Company's liability however arising and, notwithstanding that the loss or damage be unexplained, shall not exceed the lower of:
- (i) the value of the relevant Goods;
- (ii) the reasonable cost of repair in the case of damage; or
- (iii) 2 SDR per kg of the relevant Goods,
- provided always that the Company's liability under this clause shall not exceed a maximum of 75,000 SDR per event or events arising from a common cause.
- (c) In relation to claims for delivery of the Goods to an incorrect Person or destination, the Company's liability however arising and, notwithstanding that the loss or damage be unexplained, shall not exceed the lower of:
- (i) the value of the relevant Goods;
- (ii) the reasonable cost of repair in the case of damage; or
- (iii) 2 SDR per kg of the relevant Goods,
- provided always that the Company's liability under this clause shall not exceed a maximum of 75,000 SDR per event or events arising from a common cause.
- (d) If, notwithstanding clause 21, the Company is nevertheless found liable for delay, its liability shall in no circumstances exceed the amount of the Company's Charges in respect of the relevant Services.
- (e) The Company shall not be liable to the Customer for any loss of profit, loss of sales or business, loss of agreements or contracts, loss of anticipated savings, loss of use or corruption of software, data or information, loss of or damage to goodwill (in each case whether direct or indirect), or any indirect or consequential loss.
40. For the purposes of clause 39:
- (a) the value of the Goods is the ex works invoice value plus freight and insurance if paid, plus any customs duty or local taxes and other charges of their carriage and not recoverable from any Authority.
- (b) If there is no ex works invoice value for the Goods, compensation shall be calculated by reference to the value of such Goods at the place and time when they are delivered in accordance with the Customer's Instructions or otherwise been so delivered. The value of the Goods shall be fixed according to the current market price, or, if there be no commodity exchange price or current market price, by reference to the normal value of the goods of the same kind and quality.
- (c) the value of the Customer's property (other than Goods) is (i) if leased by the Customer, its lease value or (ii) if owned by the Customer, its market value at the place where the loss or damage occurred.
41. By special arrangement in writing made between the Company and the Customer and subject to payment of a premium, the Company shall be liable to the Customer for any loss or damage to the Customer's property or goods, whichever is the lesser.
42. The Customer is advised to obtain appropriate insurance cover at its own cost if the Customer considers the limits of liability set out in these Conditions to be inadequate.
43. The defence, exclusion and limits of liability provided for by these Conditions shall apply in any action whether such action be founded in contract, tort, bailment, breach of express or implied warranty, negligence, wilful misconduct or otherwise.
44. Nothing in these Conditions shall exclude or limit the Company's liability for loss or damage or personal injury caused by its negligence, fraud, misrepresentation or any other act or omission for which liability may not lawfully be excluded or limited.
45. Save as set out in these Conditions, the Company shall not be liable for loss of or damage to any Goods or delay however arising (whether caused by negligence, wilful misconduct or otherwise).

NOTICE AND CLAIM, TIME BAR

46. (a) The Company shall be discharged of all liability unless:
- (i) notice of any claim is received in writing by the Company or its authorised agent within fourteen (14) days after the date specified in sub-clause 46(a) below, or
- (ii) the Customer shall be deemed to have accepted the claim if it was impossible to comply with the time limit and that the claim has been as soon as it was reasonably possible for the Customer to do so, and
- (iii) suit is brought in the proper form as specified in clause 49 and written notice thereof received by the Company within 9 months after the date specified in sub-clause 46(b) below.
- (b) For the purposes of clause 46(a) the relevant date shall be:
- (i) in the case of loss or damage to Goods, the date of delivery of the Goods,
- (ii) in the case of delay or carriage of the Goods to the incorrect destination, the planned date of delivery (if the Company advised the Customer of such a date),
- (iii) in any other case, the date of the event giving rise to the claim.
- (c) Any claim which does not comply with the provisions of clause 46 shall be deemed to be waived and absolutely barred.

GENERAL AVERAGE AND SALVAGE

47. The Customer shall defend, indemnify and hold harmless the Company in respect of any claims for General Average or salvage contribution that may be made on the Company, irrespective of whether the Charges are prepaid or not. The Customer shall provide such security as may be required by the Company for General Average or salvage contributions promptly and in a form acceptable to the Company.
48. The Company may unilaterally amend these Conditions at any time by publishing the amendments on the Company's website. All contracts concluded by the Company and the Customer after such publication shall be subject to the amended Conditions.
49. These Conditions, and all non-contractual matters associated with, arising out of or connected with them, shall be governed by and interpreted in accordance with English law and the parties agree that the English courts have exclusive jurisdiction to adjudicate any dispute which arises in connection with these Conditions and all non-contractual matters associated with, arising out of or connected with them, save that the Company retains the right to bring proceedings against the Customer in any other court of competent jurisdiction.

AMENDMENTS

48. The Company may unilaterally amend these Conditions at any time by publishing the amendments on the Company's website. All contracts concluded by the Company and the Customer after such publication shall be subject to the amended Conditions.

JURISDICTION AND GOVERNING LAW

49. These Conditions, and all non-contractual matters associated with, arising out of or connected with them, shall be governed by and interpreted in accordance with English law and the parties agree that the English courts have exclusive jurisdiction to adjudicate any dispute which arises in connection with these Conditions and all non-contractual matters associated with, arising out of or connected with them, save that the Company retains the right to bring proceedings against the Customer in any other court of competent jurisdiction.