

CONTENT

clause	1	Applicability, Base of Contract
clause	2	Definitions and Interpretation
clause	3	Provision of the Services
clause	4	Changes to the Services
clause	5	Ownership, Lien
clause	6	Licenses, Permits
clause	7	Insurance
clause	8	Documents and Information
clause	9	Intellectual Property Rights
clause	10	Confidentiality
clause	11	Compliance with Law, Trade Control, Improper Payments
clause	12	Payments
clause	13	Suspension, Termination
clause	14	Indemnities
clause	15	Exclusions and Limits of Liability
clause	16	Notices
clause	17	Time Bars
clause	18	Force Majeure
clause	19	Assignment, Subcontracting
clause	20	Miscellaneous
clause	21	Applicable Law, Jurisdiction
clause	22	Arbitration

1. APPLICABILITY, BASE OF CONTRACT

- 1.1. These Terms shall be deemed to be accepted and the Parties shall become contractually obliged to perform it on the earlier of:
 - (a) Customer issuing written acceptance of these Terms; or
 - (b) any act by Customer consistent with allowing TGP to provide the Services.
- 1.2. TGP undertakes all and any activities in the course of business, whether gratuitous or not, subject to these Terms.
- 1.3. The Contract between Customer and TGP for the provision of the Services is formed by the acceptance of the Terms in accordance with clause 1.1 and incorporates:
 - (a) these Terms; and
 - (b) where these Terms are incorporated pursuant to a written Contract between the Parties, the terms and conditions of that Contract including any other documents or terms which are expressly incorporated into it by that Contract.
- 1.4. The Contract is without prejudice to the terms of any international treaty or convention which is applicable by law to any dispute which may arise in relation to the packing, handling, storage, or carriage of Goods.
- 1.5. If TGP provides Services and issues a document containing terms and conditions governing such Services, the terms and conditions set forth in such document shall govern those Services.
- 1.6. These Terms apply to any action against TGP whether such action be founded in contract or in tort or in whatsoever form.

2. DEFINITIONS AND INTERPRETATION

"Affiliate" with respect to any Party, means any Person directly or indirectly: controlling, controlled by or under common Control with such Party.

"Carrier" means any Person who has assumed the obligation to perform the carriage of Goods by road, rail, river, sea, or air, including its personnel, servants, agents, and subcontractors.

"Claim(s)" means claims, damages, liabilities, awards, judgments, demands, causes of action, fines, penalties, remediation costs, interest, losses, costs and expenses (including attorneys' fees, court and arbitration costs, expenses of investigation, expenses of experts, legal, accounting, consulting, engineering expenses and other reasonable expenses associated with such claims, demands, and causes of action). Conjugations of the verb "to claim" shall be construed accordingly.

"Consequential Loss" means, whether direct or indirect, all loss of:

- anticipated profits, loss of revenue, loss of contracts, loss of opportunity, damage to goodwill;
- business interruption, loss of use, loss of production, non-operation or increased costs of operation of equipment or systems, or cost of purchased or replacement equipment or systems;
- pure economic and/or other similar losses;
- special damages, incidental damages;
- aggravated, punitive, exemplary damages;
- consequential loss or damage;
- costs of capital;
- liability incurred under other contracts,

whether such liability arises in contract, tort (including negligence, strict liability, or fault), or otherwise.

"Consignee" means the Person to whom the Goods are consigned.

"Contract" is defined in clause 1.3.

"Control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the Ownership of voting securities, by contract or otherwise, and the terms "Controlled" and "Controlling" have similar meanings.

"Customer" means the entity to which TGP is or may become contractor and for which TGP is or may be performing a discrete scope of logistics services in connection with the Goods

"Dangerous Goods" means Goods which are classified as hazardous by competent authorities or Law, as well as Goods which are or may become:

- of a dangerous or damaging nature; or
- explosive; or
- inflammable; or
- oxidizing; or
- toxic; or
- infectious; or
- radioactive; or
- corrosive; or
- Goods which are likely to harbour or encourage vermin or other pests; or
- Goods liable to taint or affect other Goods.

"Goods" or **"Cargo"** means any property, including containers, pallets or similar means of transport or packaging, to be made available or made available to TGP, its agent(s), Carriers, Subcontractors or Third Parties by or on behalf of Customer, in respect of which TGP shall provide the Services.

"Indemnify" means "release, protect, defend, indemnify and hold harmless" and "Indemnity", "Indemnifying" and "Indemnification" shall be construed accordingly.

"Law(s)" means all applicable legal and/or regulatory statutes, laws, rules, orders, directions, instructions, codes, regulations, international treaties and conventions, and requirements of any government, local or other competent authority, including amendments or supplements that may be implemented from time to time.

"Owner" means the Owner of the Goods or Transport Unit and any other Person who is or may become interested in them and anyone acting on their behalf.

"Party" or **"Parties"** means a party or the parties to the Contract: Customer and TGP.

"Person" means any natural person, individual, legal entity, firm, corporation, limited liability company, partnership, consortium, joint venture association, joint stock company, trust, non-incorporated organisation or government entity or any agency or political subdivision thereof.

"Schedule of Rates" means the written specification of agreed compensation payable by Customer to TGP for the provision of the Services.

"SDR" means a Special Drawing Right as defined by the International Monetary Fund.

"Services" means services of any kind relating to the packing, handling, storage, consolidation, carriage, or distribution of Goods as well as ancillary and advisory services in connection therewith, including customs and fiscal matters, declaring the Goods for official purposes, procuring insurance of the Goods, and collecting or procuring documents relating to the Goods.

"Subcontractor" means any Person, including Carriers, having an agreement with TGP for the provision of the Services or a part of the Services.

"Terms" means these terms and conditions and is further defined in clause 1.

"TGP" means the Person concluding a Contract with a Customer to provide logistics services.

"Third Party" means any Person other than TGP, a Subcontractor to TGP, or Customer.

"**Transport Unit**" means packing case, pallet, container, trailer, tanker, or any other device used whatsoever for and in connection with the carriage of Goods by land, sea, or air.

"**Valuables**" means bullion, coins, money, negotiable instruments, precious stones, jewellery, antiques, pictures, works of art and similar properties whose value clearly exceeds the regular value of ordinary commercial Goods or merchandise and that are otherwise theft sensitive.

"**Working Day**" means a day where business is customarily conducted in the country where the relevant Services are being provided.

- 2.1. If there is any conflict, inconsistency, and/or ambiguity within this Contract, the more stringent requirement(s) shall apply.
- 2.2. All correspondence and documents in connection with the Contract shall be in the English language.
- 2.3. Except where the context shows otherwise, words in the singular shall also mean the plural and words in plural shall also mean the singular.
- 2.4. Words in the masculine shall also mean the feminine and neuter.
- 2.5. "including" or "include" or "includes" means "including, but not limited to"; "including, without limitation".
- 2.6. Any words following the terms including, include, in particular, for example, such as, or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase, or term preceding those terms.
- 2.7. A reference to "writing" or "written" includes written information generated, sent, received, or stored by electronic, magnetic, optical, or similar means, including electronic data interchange, telegram, telex, telefax or email.
- 2.8. A reference to a law, statute or statutory provision is a reference to it as amended or re-enacted. Such reference includes all subordinate legislation made under that law, statute, or statutory provision.
- 2.9. The clause headings in these Terms are solely for convenience and shall not be considered in its interpretation.

3. PROVISION OF THE SERVICES

- 3.1. TGP will provide the Services in a timely, efficient, and competent manner and with that degree of skill, diligence, speed, prudence, and foresight that would reasonably and ordinarily be expected from a professional and experienced service provider providing the same or similar Services.
- 3.2. TGP shall provide the Services according to Customer's instructions as agreed. If the instructions are inaccurate or incomplete or not according to the Contract, TGP may, upon reasonable efforts to inform Customer, at the risk and expense of Customer act as it deems fit.
- 3.3. No Person shall ever be obliged to undertake any activities or comply with any instructions or directions that can reasonably be deemed unsafe or potentially hazardous to life or property.
- 3.4. The mere statement by Customer of a time for or duration of provision of the Services (including delivery of the Goods) shall not legally bind TGP. Arrival and delivery times are not strict deadlines and TGP does not guarantee these, unless agreed otherwise in writing.
- 3.5. TGP provides advice and information, in whatever form, for Customer only. Customer shall Indemnify TGP against all loss and damage suffered as a consequence of passing such advice or information on to any Third Party.

3.6. Method and Route of Transportation

- 3.6.1. Unless otherwise agreed, TGP may, upon reasonable efforts to inform Customer, choose or substitute the means, route, and procedure to be followed in the provision of the Services.
- 3.6.2. Unless otherwise agreed, TGP may without notice to Customer arrange to carry the Goods on or under deck.

- 3.6.3. Customer shall have the Goods in all aspects ready at the collection or hand-over point(s) at the agreed place and date. Such collection or hand-over point shall be safe and accessible, and suitable for collection and loading operations by TGP.
- 3.6.4. Customer warrants that:
- (a) all Goods have been properly and sufficiently prepared, packed, stowed, labelled and/or marked, appropriate to any operations or transactions affecting the Goods and the characteristics of the Goods;
 - (b) any Transport Unit, lifting device and other equipment supplied by Customer in relation to the Services, and each component thereof, shall be:
 - I. in good operating condition and suitable for the safe and efficient provision of the Services;
 - II. tested and certified by an independent inspection authority recognized by competent authorities.
 - (c) where TGP receives the Goods from Customer already stowed in or on a Transport Unit, this Transport Unit is:
 - I. in good operating condition and suitable for the safe and efficient provision of the Services;
 - II. suitable for the carriage of the Goods on the intended route;
 - III. tested and certified by an independent inspection authority recognized by competent authorities.
 - (d) where TGP provides the Transport Unit for loading by Customer, Customer verifies before loading that this Transport Unit is:
 - I. in good operating condition and suitable for the safe and efficient provision of the Services;
 - II. suitable for the carriage of the Goods on the intended route;
 - III. tested and certified by an independent inspection authority.
 - (e) any wood or wood products that Customer has arranged for carrying, supporting, protecting, packing, stowing, and securing of the Goods complies with the International Standards for Phytosanitary Measures No. 15 ("ISPM 15").

3.7. Hindrances and Delivery

- 3.7.1. If at any time the provision of the Services is or is likely to be affected by any hindrance or risk of any kind (including the condition of the Goods) not arising from any fault or negligence of TGP, its Subcontractors or Carriers, and which cannot be avoided by the exercise of reasonable effort, then TGP may terminate the Services under the respective Contract.
- 3.7.2. In such event, TGP shall make the Goods or any part of them available to Customer at a place which TGP deems safe and practicable, whereupon delivery shall be deemed to have been made, and the responsibility of TGP in respect of such Goods shall wholly cease.
- 3.7.3. Should Customer, Consignee or Owner fail to take delivery of the Goods at the time and place when and where TGP is entitled to deliver, TGP shall be entitled to store the Goods, or any part thereof, at the sole risk of Customer or Consignee or Owner, whereupon TGP's liability in respect of the Goods, or that part thereof stored as aforesaid, shall wholly cease.
- 3.7.4. In any event, TGP shall be entitled to the agreed compensation under the Contract and Customer shall pay any additional costs and expenses resulting from the events and circumstances described in clause 3.7.
- 3.7.5. These costs shall be reasonable, necessary, and unavoidable, and duly and fully documented.

4. CHANGES TO THE SERVICES

- 4.1. If Customer requests to change its instructions after TGP accepted the previous instructions, TGP shall promptly advise Customer:
- (a) if TGP can comply with such changes; and
 - (b) of the effect, if any, on the previously agreed compensation and/or associated schedule and duration.
- 4.2. The increase or decrease of the previously agreed compensation will be valued at the specifications in the Schedule of Rates. Where there are no such rates, TGP shall make a fair and reasonable valuation in accordance with the terms of the Contract.

4.3. The Parties shall confirm any change to the previously agreed compensation and/or associated schedule and duration in writing before provision of the changed Services.

5. OWNERSHIP, LIEN

5.1. Customer warrants that he is the Owner of the Goods, or the authorised agent of the Owner and that he is accepting the terms and conditions in the Contract not only for himself, but also as agent for and on behalf of the Owner.

5.2. TGP shall have a general lien on the Goods and any documents relating thereto for any amount due at any time to TGP from Customer, including storage fees and the cost of recovering same, and may enforce such lien in any reasonable manner which it may think fit.

5.3. On giving twenty-one (21) calendar days' notice in writing to Customer, TGP shall be entitled to sell or dispose of or deal with the Goods or documents relating thereto at the expense of Customer and without any liability of TGP to Customer and Owner and apply the proceeds in or towards the payment of any amount due at any time.

5.4. TGP shall have the lien as defined in clause 5.2 and 5.3 also against the Consignee and/or against the Owner of the Goods.

6. LICENSES, PERMITS

6.1. Customer shall be responsible for obtaining and maintaining all necessary permits, licenses, consents, and declarations in connection with the Goods (such as: export licenses, import permits, dangerous Goods declarations).

6.2. If TGP provides customs clearance services for Customer, then TGP may request Customer to grant a Power of Attorney as may be reasonably required for that purpose.

7. INSURANCE

7.1. TGP will not take out any insurance except upon express instructions given in writing by Customer.

7.2. Customer shall ensure that the terms of its insurance

- (a) provide a severability of interests or cross-liability with a cross-liability provision where appropriate.
- (b) prohibit its insurers exercising a right of subrogation in respect of TGP.

7.3. If TGP agrees to take out insurance, it acts solely as agent for Customer, and:

- (a) All insurances taken out are subject to the usual exceptions and conditions of the policies of the insurance company or underwriters taking the risk.
- (b) Unless otherwise agreed in writing TGP shall not be under any obligation to take out a separate insurance on each consignment but may declare it on any open or general policy held by TGP.
- (c) Where there is a choice of rates according to the extent or degree of the liability assumed by TGP, its Subcontractors, and/or Third Parties, no declaration of value of the Goods will be made and/or treated as having been made except under special arrangements previously made in writing with Customer.

8. DOCUMENTS AND INFORMATION

8.1. TGP may rely on, and shall not be responsible for any mistakes, errors, or omissions in, any documents and information furnished to TGP by or on behalf of Customer and/or the Owner of the Goods.

8.2. Customer warrants the accuracy at the time TGP takes care and custody of the Goods of all particulars furnished by or on behalf of Customer relating to the general nature of the Goods, their marks, number, weight, dimensions, and quantity and, if applicable, to the dangerous character of the Goods.

8.3. Customer shall furnish the Verified Gross Mass (VGM) of packed containers in compliance with the requirements of the IMO SOLAS Convention. Customer warrants:

- (a) that the VGM is accurate and has been determined in accordance with an approved method;

- (b) to furnish the VGM in good time for use in the preparation of the ship's stowage plan.

8.4. Customs Formalities

- 8.4.1. If TGP undertakes to arrange for customs formalities, Customer warrants:
 - (a) that all documentation related to the Goods is accurate, complete, and complies with Law;
 - (b) that the Goods strictly correspond with the description furnished, comply with Law, are importable and/or exportable, and are regularly labelled.
- 8.4.2. Customer shall furnish in good time all the information, dates, customs codes, customs entries, and classification of the Goods, and all the necessary documentation required to proceed with the customs formalities.
- 8.4.3. Customer acknowledges that it is solely liable for maintaining all records required under Law and customs regulations. TGP shall only keep such records as it is required to maintain by Law but shall not act as a "record keeper" or "record keeping agent" for Customer.
- 8.4.4. All customs and/or excise duties, costs, fines, or penalties in respect of the Goods and any documentation relating to the Goods which TGP becomes liable to pay for any reason whatsoever under any Law or regulations shall be paid by Customer.

9. INTELLECTUAL PROPERTY RIGHTS

- 9.1. **"Intellectual Property Rights"** means patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets), copyright and rights in the nature of copyright, moral rights, performers rights, rights in know-how, and all other Intellectual Property Rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.
- 9.2. Title to any and all Intellectual Property Rights in all documents, equipment, materials, or methods provided by or on behalf of TGP in connection with the Services shall vest in TGP, its Subcontractors or any Third Party allowing TGP to use the documents, equipment, materials, or methods.
- 9.3. Title to any and all Intellectual Property Rights in the Goods and all documents, equipment, materials, or methods furnished by or on behalf of Customer, shall vest in Customer.

10. CONFIDENTIALITY

- 10.1. **"Confidential Information"** means any knowledge, data or information disclosed at any time to a Party (Receiving Party) by or on behalf of the other Party (Disclosing Party) in writing, verbally, or by digital, electronic, magnetic, or optical means, in drawings or in any other way and any inferences derived therefrom, whether or not in connection with the Contract and whether of a scientific, commercial, technical, procedural nature, but excludes:
 - (a) information which at the time of disclosure or acquisition is in the public domain; or
 - (b) information acquired from a Third Party who had a lawful right to disclose it to the Receiving Party and who did not require the Receiving Party to hold it in confidence; or
 - (c) information which the Receiving Party developed independently prior to the time of disclosure by the Disclosing Party, and which was not acquired, directly or indirectly, from the Disclosing Party and which the Receiving Party holds free of any obligation of confidence of any Third Party.
- 10.2. Confidential Information includes all documents prepared by or on behalf of TGP in connection with the Services.
- 10.3. The Parties shall at any time preserve and cause their personnel to preserve the secrecy of any Confidential Information. The Receiving Party shall not disclose to any Third Party any Confidential Information except, in each case, with the prior written consent of the Disclosing Party. Further, the Receiving Party shall not use and shall ensure that its personnel shall not use any Confidential Information for any purpose other than for fulfilling the Receiving Party's obligations under the Contract.

10.4. TGP may disclose Confidential Information to its Subcontractors who have a need to know, provided that such Subcontractors are bound by written confidentiality obligations no less restrictive than those contained in clause 10.

11. COMPLIANCE WITH LAW, TRADE CONTROL, IMPROPER PAYMENTS

11.1. The Parties shall observe and abide by all Law including those with respect to anti-bribery and anti-corruption, money laundering, sanctions and other foreign trade controls, labour, insurance, health, safety, and work environment, and act in accordance with sound principles and practices in both Parties' business sector.

11.2. The Parties shall conduct their business in a lawful manner which is consistent with the highest ethical standards of their trade and shall exercise all care and diligence to prevent any actions, events, circumstance or causes which could result in a conflict with the other Party's best interests.

11.3. If the Services or parts of the Services contemplated between the Parties are prohibited under any export control regulations and/or Law and the illegality cannot be rectified, TGP may cancel the Services or parts of the Services at any time on reasonable notice to Customer. Such cancellation shall not incur any liability of TGP to Customer.

12. PAYMENTS

12.1. In consideration of TGP providing the Services in accordance with the Contract, Customer shall pay TGP the amounts as agreed.

12.2. Customer shall pay to TGP all amounts when due, immediately and without reduction or deferment on account of any claim, counterclaim or set-off. Time is of the essence for payment of any and all amounts payable by Customer to TGP.

12.3. In the event of any failure by Customer to make full and punctual payment of any amount payable to TGP, any and all other amounts properly earned by and/or otherwise due to TGP (but which would otherwise not yet be payable) shall become immediately payable in full.

12.4. If Customer fails to make a payment due to TGP by the due date, then Customer shall pay interest on the overdue amount from the due date until receipt by TGP of the overdue amount. Interest under clause 13.4 will accrue each calendar day at the prevailing United Kingdom statutory rate of interest under the Late Payments of Commercial Debts (Interest) Act 1998, currently 8.0% a year above the Bank of England's base rate from time to time, but at 8.0% a year for any period when that base rate is below 0%.

13. SUSPENSION, TERMINATION

13.1. Without limiting or affecting any other right or remedy available to it, TGP may suspend or terminate the Contract, or part thereof, forthwith by written notice:

- (a) if the Customer defaults, fails to perform or is otherwise in breach of any of its obligations under the Contract and
 - I. if the breach is capable of remedy, having been given notice by TGP to correct such defaults, failure, or breach, does not correct the matter immediately; or
 - II. where immediate correction is not possible, fails to start and continue corrective actions within seven (7) calendar days after receipt of TGP's notice; or
 - III. having started corrective action, fails to complete it to TGP's satisfaction within fourteen (14) calendar days of TGP's notice;
 - IV. if the breach is not capable of remedy, with immediate effect,
- (b) in the event of any insolvency of Customer which includes if:
 - I. bankruptcy proceedings have been started against Customer even if they have been stayed; or
 - II. Customer makes an assignment for the benefit of or composition with its creditors generally; or
 - III. Customer goes into liquidation either voluntary (except for reconstruction or amalgamation) or compulsory; or
 - IV. a receiver or judicial manager is appointed in respect of any or all its assets; or
 - V. there is a reasonable threat that any of these things will happen;

VI. that commences in any jurisdiction any procedures similar to the above.

- 13.2. If the Contract or part thereof is suspended or terminated Customer shall:
- (a) pay to TGP the price of any part of the Services provided to Customer prior to the date of suspension or (partial) termination.
 - (b) allow or pay to TGP the amount of any reasonable, documented costs, expenses, losses, and damages caused to TGP by the suspension or (partial) termination.
- 13.3. Any suspension or termination pursuant to clause 13 shall not release either Party from any Claims or liabilities that arose before the suspension or termination date.

14. INDEMNITIES

14.1. General

Customer shall, to the fullest extent permitted by Law, Indemnify TGP from and against any and all Claims that may be imposed on, incurred by, or asserted against TGP by any party or parties (including a governmental entity), caused by, arising from, relating to or in connection with, in whole or in part, directly or indirectly:

- (a) TGP acting in accordance with Customer's instructions;
- (b) Customer's inaccurate or incomplete or ambiguous information or instructions;
- (c) Customer's breach of any provision of the Contract;
- (d) the fraud, negligence, wrongful act, or omission of Customer or Owner;
- (e) any violation of Law by Customer or Owner;
- (f) personal injury or death arising from the negligence, wrongful act or omission, breach of implied warranties, or strict liability of Customer or Owner or their employees, agents, or subcontractors;
- (g) property damage arising from the negligence, wrongful act or omission, breach of implied warranties, or strict liability by reason of property damage of Customer or Owner or their employees, agents, or subcontractors;
- (h) indirect or Consequential Loss.

14.2. Dangerous Goods

Should Customer, otherwise than under special arrangements previously made in writing, deliver to TGP or cause TGP to deal with or handle Dangerous Goods, Customer shall be liable for all costs, expenses, losses, and damages arising in connection with such Goods and shall Indemnify TGP from and against any and all Claims arising in connection therewith. The Dangerous Goods may be dealt with in such a manner as TGP or any other Person in whose custody they may be at any time deems appropriate.

14.3. General Average

- 14.3.1. Customer shall Indemnify TGP in respect of any Claims of a General Average nature which may be made on TGP.
- 14.3.2. Where liability arises in respect of Claims of a General Average nature in connection with the Goods, Customer shall promptly furnish security to TGP, or to any other party appointed by TGP, in a form acceptable to TGP.

15. EXCLUSIONS AND LIMITS OF LIABILITY

15.1. Exclusions

TGP shall in no event be liable for:

1. improper packing or marking of the Goods by or on behalf of Customer or Owner;
2. Valuables or Dangerous Goods unless declared as such at the time of the conclusion of the Contract;
3. loss of or damage to the Goods due to inherent defect of the Goods;

4. loss or damage resulting from delay unless expressly agreed otherwise in writing;
5. handling, loading, discharging, stowing, lashing, and securing of the Goods by Customer, Owner, or their representatives.

15.2. Value of the Goods

For the purpose of clause 15, the value of the Goods shall be determined according to the current commodity exchange price or, if there is no such price, according to the current market price or, if there is no commodity exchange price or current market price, by reference to the normal value of Goods of the same kind and quality.

15.3. Limits of Liability

15.3.1. TGP's liability howsoever arising and notwithstanding that the cause of loss or damage be unexplained, shall not exceed:

(a) in the case of Claims for loss of or damage to Goods:

- I. the value of the (part of the) Goods lost or damaged; or
- II. a sum at the rate of 2 SDR per kilo of the gross weight of the (part of the) Goods lost or damaged, whichever shall be the lesser.

(b) in the case of all other Claims:

- I. the value of the Goods subject of the relevant transaction between TGP and its Customer; or
- II. a sum at the rate of 2 SDR per kilo of the gross weight of the Goods subject of the said transaction; or
- III. 75.000 SDR in respect of any one transaction, whichever shall be the lesser.

(c) 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:

- I. the loss incurred; or
- II. 75.000 SDR in the aggregate per trading year starting from the time of the making of the original error and/or omission, whichever shall be the lesser.

15.3.2. The value of SDR shall be calculated as at the date when TGP receives the Claim in writing.

15.3.3. Nothing in these Terms shall limit or exclude the liability or remedy of either Party:

- (a) for death or personal injury caused by its negligence, or that of its employees, agents, or subcontractors;
- (b) for its fraud or fraudulent misrepresentation;
- (c) any violation of Law;
- (d) for any act, omission or matter, or liability which may not be excluded or limited under any Law;
- (e) for its deliberate breach or wilful abandonment of this Contract.

15.3.4. On clearly stated instructions in writing declaring the Goods and their value, received from Customer and accepted by TGP, TGP may accept liability in excess of the limits set out in clause 15.3 upon Customer agreeing to pay TGP's additional charges for accepting such increased liability. TGP will provide details of these additional charges upon request.

16. NOTICES

16.1. Unless Customer gives notice of loss of or damage to the Goods, specifying the general nature of such loss or damage, in writing to TGP when the Goods are handed over to Customer, such handing over is prima facie evidence of the delivery of the Goods in good order and condition.

16.2. Where such loss or damage is not apparent, the same prima facie effect shall apply if Customer does not give such notice in writing within six (6) calendar days after the day when the Goods were handed over to Customer.

16.3. With respect to all other loss or damage, Customer shall make any Claim against TGP arising in connection with the Contract in writing and notify TGP within fourteen (14) calendar days of the date upon which Customer became or should have become aware of any event or occurrence alleged to give rise to such Claim. Any Claim not made and notified as aforesaid shall be deemed to be waived and absolutely barred except where Customer can show that it was impossible to comply with this time limit and that he has made the Claim as soon as reasonably possible.

17. TIME BARS

- 17.1. TGP shall be discharged of all liability under the Contract unless suit is brought within nine (9) months after:
- (a) the delivery of the Goods, or
 - (b) the date when the Goods should have been delivered, or
 - (c) the date when failure to deliver the Goods would give the Consignee the right to treat the Goods as lost.
- 17.2. With respect to other loss than loss of or damage to the Goods the nine (9) months period shall start at the time when the failure of TGP alleged to give rise to such Claim occurred.

18. FORCE MAJEURE

- 18.1. Neither Party hereto shall be liable for any failure or delay in fulfilling any obligation of the Contract, if and to the extent such delay or failure results from a Force Majeure Event.
- 18.2. "**Force Majeure Event**" means an event, circumstance or cause that is unforeseeable and beyond the control of the Party affected and includes maritime, aviation or other transport disasters, earthquake, fire, explosions, floods, and/or other natural physical disasters, civil disturbances, riots, war, or armed conflicts, acts of God, strikes or industrial disputes which affect a substantial or essential part of a Party's fulfilment of its obligations under the Contract but excludes:
- (a) any event which by the exercise of reasonable diligence the affected Party was or should have been able to prevent or provide against;
 - (b) any event which the affected Party may have directly or indirectly caused or worsened;
 - (c) a shortage of funds;
 - (d) insolvency of a Party;
 - (e) compliance by TGP with Customer's rules and regulations or any Law that may apply to the Services provided by TGP under the Contract;
 - (f) a Party's failure to take the reasonable, diligent, and respectful actions to prevent strikes, picketing, labour or employment disputes or difficulties or other concerted acts or disputes of any nature between the Party and its personnel, or any other individual, group or organization.
- 18.3. On the occurrence of a Force Majeure Event the affected Party shall:
- (a) immediately give verbal notice of the Force Majeure Event to the other Party; and
 - (b) within forty-eight (48) hours give written notice of the Force Majeure Event to the other Party including an estimate of the time and extent of the suspension in the performance of the Contract caused by the Force Majeure Event; and
 - (c) use all reasonable efforts to mitigate, as soon as possible, the effect of the Force Majeure Event on its performance of the Contract.
- 18.4. On the occurrence of a Force Majeure Event TGP shall do all things necessary to preserve and protect all Goods in its care and custody. Customer shall pay TGP for the direct costs and expenses resulting from such preservation and protection, and the unaffected Services provided in accordance with the Contract.
- 18.5. The Parties agree to discuss and to mitigate in good faith any effects of a Force Majeure Event following notice in accordance with clause 18.3 (b). Any agreement(s) between the Parties as a result of those discussions and mitigation shall be deemed a Change, recorded in writing in accordance with clause 4 as soon as practically possible.

18.6. If any Force Majeure Event exceeds fourteen (14) consecutive calendar days, the Parties shall meet and discuss the most appropriate course of action in the circumstances. If, after a period of fourteen (14) calendar days from the date of their first meeting, the Parties have not agreed on an appropriate course of action, but the Parties agree that the Force Majeure Event is unlikely to end in the near future and as a result thereof the fulfilment by (one of) the Parties of (its) their obligations under the Contract will continue to be delayed, hindered, interfered with or prevented, then the unaffected Party may terminate the Contract by giving seven (7) calendar days written notice.

19. ASSIGNMENTS, SUBCONTRACTING

19.1. TGP shall be free to assign any of its rights or obligations under the Contract, in part or in whole, to any of its Affiliates or successors-in-interest subject to prior notification thereof to Customer.

19.2. TGP shall be entitled, and Customer hereby expressly authorises TGP, to enter into all and any agreements on behalf of Customer as may be necessary or desirable to fulfil Customer's instructions, and whether such agreements are subject to the trading conditions of the parties with whom such agreements are made, or otherwise.

20. MISCELLANEOUS

20.1. Entire agreement

The Contract constitutes the entire agreement between the Parties and supersedes and extinguishes all previous promises, proposals, assurances, figures, agreements, terms and conditions, warranties, representations, and understandings between them, whether written or oral, relating to its the Services covered by the Contract.

20.2. Changes to the Contract

Except as set out in these Terms, no change to the Contract, including the introduction of any additional terms and conditions, or change to terms, conditions, scope, or specifications, shall be effective unless it is agreed in writing and signed by the Parties or their authorised representatives.

20.3. Survival

20.3.1. The provisions of the Contract which by their nature are intended to survive the termination, expiration, cancellation, or completion of the Contract shall continue as valid and enforceable obligations of the Parties, notwithstanding any such termination, expiration, cancellation, or completion.

20.3.2. Without limitation to the generality of clause 20.3.1, the following rights and obligations shall survive the termination, expiration, cancellation, or completion of the Contract:

- (a) Claims of either Party against the other Party for damages or specific performance arising out of acts or omissions of the other Party within, or outside of, the scope of the Contract.
- (b) The provisions of clauses: **5** Ownership, Lien; **7** Insurance; **9** Intellectual Property Rights; **10** Confidentiality; **11** Compliance with Law; **12** Payments; **19** Assignment; **20.3** Survival; **21** Applicable Law; **22** Arbitration.

20.4. Severability

If any clause or part-clause of the Contract 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 clause or part-clause shall be deemed deleted. Any modification to or deletion of a clause or part-clause pursuant to clause 22.4 shall not affect the validity and enforceability of the rest of the Contract.

20.5. Waiver

20.5.1. A waiver of any right or remedy under the Contract or by Law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy.

20.5.2. No failure on the part of either Party at any time, or from time to time, to enforce or to require the strict adherence to and performance of any of the terms or conditions of the Contract shall constitute a waiver of such terms or conditions and/or affect or impair such terms or conditions in any way or the right of either Party at any time to avail itself of such remedies as it may have for each and every breach of such terms or conditions.

20.6. Third Party Rights

No term of the Contract shall be enforceable, by virtue of the Contracts (Rights of Third Parties) Act 1999, as may be amended, or any similar Law, or otherwise, by any Person who is not a Party to the Contract, unless otherwise specified in the Contract. The rights of the Parties to rescind or vary the Contract are not subject to the consent of any other Person.

21. APPLICABLE LAW, JURISDICTION

- 21.1. The Contract is governed by English law and the Parties to it agree to submit to the exclusive jurisdiction of the English courts.
- 21.2. Notwithstanding Clause 21.1, TGP may elect to waive its right to bring a Claim in the English courts and may instead bring it in an alternative jurisdiction of its choosing.
- 21.3. Further, TGP may elect to bring a claim and require any claim from the Customer to be referred to arbitration rather than court proceedings. In such circumstances, the arbitration shall be conducted by the London Maritime Arbitrators Association, using its rules in force at the time.

22. ARBITRATION

- 22.1. If clause 21.3 is used by TGP, any disputes or disagreements relating to or arising out of or in connection with the Contract, including its existence or validity (a "Dispute") between the Parties shall, in the first instance, be considered by the Parties at management level.
- 22.2. Failing resolution, the Dispute shall be referred to the senior management level who shall attempt to agree an amicable solution of the Dispute to the satisfaction of both Parties. Such reference shall state that it is made pursuant to clause 22.2.
- 22.3. Any Dispute that remains unresolved thirty (30) calendar days after referral to the senior management level, shall be exclusively referred to the London Maritime Arbitrators Association for arbitration using its rules in force at the time, which rules are deemed to be incorporated by reference into clause 22.
- (a) The number of arbitrators shall be three.
 - (b) The seat, or legal place, of arbitration shall be London, United Kingdom.
 - (c) The language to be used in the arbitral proceedings shall be English.
- 22.4. Where applicable, arbitrators shall apply the provisions of international treaties and conventions on the handling, storage, or carriage of Goods.
- 22.5. The decision of the arbitral tribunal shall be final and binding upon the Parties. Confirmation and enforcement of the awards so rendered may be obtained and entered in any court that has jurisdiction thereof.
- 22.6. Clause 22.1 shall not apply if a Party wishes to start arbitration to prevent a Claim in connection with a Dispute from becoming time barred. In such event and (unless the Parties agree otherwise) without interruption to the applicable time limits for taking steps in the arbitration, the Parties shall meet within thirty (30) calendar days of the start of arbitration to attempt to agree an amicable solution of the Dispute to the satisfaction of both Parties.