

SOVEREIGN SPEED UK LTD. GENERAL TERMS AND CONDITIONS OF TRADE 2021

THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THE PROVISIONS OF *CLAUSE 15* (LIMITATION OF LIABILITY).

1. ABOUT US

- 1.1 **Company details:** Sovereign Speed (UK) Limited (company number 04858383) is a company registered in England and Wales with its registered office at Unit B2x Skyway 14, Calder Way, Colnbrook, Slough, SL3 0BQ.
- 1.2 **Contacting us:** To contact us, telephone our customer service team at +44 1753 6877-68 or email us at cs.lhr@sovereignspeed.com.
- 1.3 **Conditions:** Sovereign Speed (UK) Limited is not a common carrier and undertakes all Services subject solely to these Conditions which can only be altered or varied in writing by a Director of the Company.
- 1.4 **Application:** These Conditions apply to the exclusion of any other terms that the Customer may seek to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.
- 1.5 **Currency:** Unless otherwise agreed or stated in these Conditions, all charges or payments due under these Conditions shall be in GBP.

2. DEFINITIONS AND INTERPRETATION

- 2.1 The following definitions and rules of interpretation apply in these Conditions.

Authorised Consignee: a Consignee that is authorised by HM Revenue & Customs to end movement of Goods under transit at its premises or the premises of its agent, in accordance with the Common Transit Convention for Great Britain.

Business Day: a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.

Carrier: Sovereign Speed (UK) Limited (company number 04858383) is a company registered in England and Wales with its registered office at Unit B2x Skyway 14, Calder Way, Colnbrook, Slough, SL3 0BQ (or any member of the group of companies to which Sovereign Speed (UK) Limited belongs), who contracts with the Customer to carry the Consignment.

Carrier's Representative(s): the Carrier's employee(s), servant(s), agent(s) or sub-contractor(s).

Charges: the charges payable by the Customer for the supply of the Services in accordance with clause 11.

Commencement Date: has the meaning given in clause 3.3.

Conditions: these terms and conditions as amended from time to time in accordance with clause 21.5.

Consignee: the person or firm to whom the Consignment shall be delivered by the Carrier.

Consignment: the Goods sent at any one time from a Consignor from one address to a Consignee at any other one address.

Consignment Note: a consignment note made out in accordance with the provisions of Articles 5 and 6 of the Convention on the Contract for the International Carriage of Goods by Road (**CMR Convention**).

Consignor: the person or firm, whether the Customer or otherwise, who supplies the Consignment to the Carrier for carriage.

Contract: the contract between the Carrier and the Customer for the supply of Services in accordance with these Conditions and the Account Application Form.

Control: has the meaning given in section 1124 of the Corporation Tax Act 2010, and the expression **change of control** shall be construed accordingly.

Customer: the person or firm who purchases Services from the Carrier under a Contract.

Dangerous Goods: those substances and articles the carriage of which are prohibited by the European Agreement concerning the International Carriage of Dangerous Goods by Road (ADR) as applied in the United Kingdom, or permitted 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.

Delivery Location: the address specified in the Order for the delivery of the Consignment to the Consignee.

Direct Representative: means the appointment of the Carrier as the customs representative of the Customer in accordance with clause 6.4.

Exempt Products: Goods which the Carrier may in its absolute discretion refuse for carriage as updated by the Carrier from time to time, including but not limited to:

- Dangerous Goods, nuclear fuels, radioactive substances and hazardous goods (if they exceed the legally permitted exemption limits);
- arms and ammunition (except for hunting and sports weapons and ammunition);
- drugs which are subject to the Act on Narcotic Drugs Trafficking (the opium act) of 10 December 1969, as amended;



- live animals, tobacco products, cigarettes and motor vehicles;
- particularly valuable goods and/or goods with an inherent risk of theft with a total value per shipment exceeding EUR 10,000.00 including mobile phones, works of art, securities, gems, genuine pearls, jewellery, bullion, precious metals, precious stones, money, coins, legal or business documents, deeds, antiques, stamps or other tokens, cheque cards or credit cards, valid telephone cards or other means of payment, as well as unique items of any kind.

Goods: the goods, whether a single item or multiple units or in bulk, or any number of separate items, parcels, packages or containers, which are transported in the Consignment.

ICS ENS Data Transferor: means the appointment of the Carrier as data transferor on behalf of the Customer in accordance with the UK and / or EU Import Control System(s) (ICS) in respect of the obligation to submit the Entry Summary Declaration (ENS).

Order: the Customer's order for Services as set out in the Customer's written acceptance of a quotation by the Carrier.

Services: the carriage and transportation services provided by the Carrier to the Customer in relation to the Goods as set out in the Order.

- 2.2 A reference to a statute or statutory provision is a reference to it as amended or re-enacted. A reference to a statute or statutory provision includes all subordinate legislation made under that statute or statutory provision.
- 2.3 Any words following the terms **including, include, in particular, for example** 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.
- 2.4 A reference to writing or written includes email.

3. BASIS OF CONTRACT

- 3.1 The Customer warrants that:
- 3.1.1 it is the legal owner of the Consignment; or
- 3.1.2 it is authorised by the legal owner of the Consignment to accept these Conditions on the legal owner's behalf.
- 3.2 The Order constitutes an offer by the Customer to purchase Services in accordance with these Conditions.
- 3.3 The Order shall only be deemed to be accepted when the Carrier issues written acceptance of the Order at which point and on which date the Contract shall come into existence (**Commencement Date**).
- 3.4 Marketing and other promotional material relating to the Services are illustrative only and shall not form part of the Contract or have any contractual force. The Customer agrees that it has not relied on any representations or statements by the Carrier other than those expressly set out in the Contract.
- 3.5 Any quotation given by the Carrier shall not constitute an offer, and is only valid for a period of 3 Business Days from its date of issue. Any quotation given by the Carrier may be withdrawn by the Carrier at any time at its sole discretion.

4. CUSTOMER'S OBLIGATIONS

- 4.1 The Customer shall:
- 4.1.1 notify the Carrier at the point of Order, if the Goods are non-community goods;
- 4.1.2 ensure that the terms of the Order and any delivery information it provides are complete and accurate;
- 4.1.3 co-operate with the Carrier in all matters relating to the Services;
- 4.1.4 promptly obtain and maintain all necessary licences, clearances, permissions and consents which may be required for the carriage of the Consignment (including where applicable import and export licences) before the date on which the Services are to start, including for the avoidance of doubt any necessary customs declarations and / or documents which the Carrier requires in respect of the Consignment;
- 4.1.5 provide the Carrier with such information and materials as the Carrier may reasonably require for the carriage of the Consignment (including where applicable a Consignment Note and import and export licences) and in order to comply with its obligations under the Contract including for the avoidance of doubt any necessary customs declarations and / or documents which the Carrier requires in respect of the Consignment and ensure that such information is complete and accurate in all material respects;
- 4.1.6 comply, and will procure that all of its employees, agents, servants and sub-contractors shall comply, with any regulations of the Carrier relating to handling, health and safety, and security as notified to it from time to time by the Carrier;
- 4.1.7 be liable for any breach of HM Customs & Excise Regulations relation to the Goods and undertakes to indemnify and keep indemnified the Carrier against all actions, proceedings, costs, claims and demands arising out of any further breach, non-observance or non-performance of the same;



- 4.2 Unless the Carrier has previously agreed otherwise in writing, in relation to the Consignment, the Customer warrants that:
- 4.2.1 before presentation of the Consignment for transit, the Customer will inform the Carrier in writing of any special precautions necessitated by the nature, weight or condition of the Consignment and of any statutory duties specific to the Consignment with which the Carrier may need to comply;
 - 4.2.2 the Consignment does not contain Dangerous Goods and / or Exempt Products;
 - 4.2.3 the Consignment does not and will not cause pollution of the environment or harm to human health;
 - 4.2.4 the Consignment does not require any official consent or licence to handle, possess, deal with or carry;
 - 4.2.5 the Consignment does not, at any time whilst in the care or control of the Carrier, constitute “waste” as defined in the Directive 2008/98/EC on waste (Waste Framework Directive) as applied in the United Kingdom;
 - 4.2.6 the Consignment is of a nature that can be legally transported within any and all countries which it may pass through during the course of transit by the Carrier;
 - 4.2.7 when presented for transit, the Consignment shall be securely and properly packed in compliance with any statutory regulations or official or recognised standards and in such condition as not to cause damage or injury or the likelihood of damage or injury to the property of the Carrier or to any other goods which may be carried by the Carrier, whether by spreading of damp, infestation, leakage or the escape of fumes or substances or otherwise.
- 4.3 The Carrier reserves the right, at its absolute discretion, to immediately terminate the Contract before the date on which the Services are to start if the Carrier cannot comply for any reason with the special precautions necessary for transit of the Consignment confirmed by the Customer in accordance with clause 4.2.1, without liability to the Customer, Consignor or Consignee.
- 4.4 The Carrier may, at its discretion, suspend the Services or terminate the Contract with immediate effect, in accordance with clause 19, if it becomes apparent that any of the warranties given by the Customer in clause 4.2.2 to 4.2.7 (inclusive) are untrue, without liability to the Customer, Consignor or Consignee.

5. EXEMPT PRODUCTS AND DANGEROUS GOODS

- 5.1 Unless otherwise agreed in writing by the Carrier, the Carrier will not accept for carriage a Consignment containing Exempt Products or Dangerous Goods. Where the Customer has failed to disclose to the Carrier that the Consignment contains Exempt Products or Dangerous Goods, then the Carrier shall be entitled to rescind the Contract without liability to the Customer, Consignor or Consignee.

6. SUPPLY OF SERVICES

- 6.1 The Carrier shall supply the Services to the Customer in accordance with the Order in all material respects and the Carrier warrants to the Customer that the Services will be provided using reasonable care and skill.
- 6.2 The Carrier shall use all reasonable endeavours to meet any delivery dates specified in the Order, but any such dates shall be estimates only and time shall not be of the essence for performance of the Services.
- 6.3 The Carrier reserves the right to amend the Order if necessary to comply with any applicable law or regulatory requirement, or if the amendment will not materially affect the nature or quality of the Services, and the Carrier shall notify the Customer in any such event.
- 6.4 By signing the Account Application Form, the Customer agrees that in the event that the Carrier is required to carry out certain customs formalities on behalf of the Customer in relation to an Order, as described in clauses 12, 13, or otherwise, the Carrier will act in the name of and on behalf of the Customer in the capacity of Direct Representative, in accordance with Articles 18 and 19 of Regulation (EU) No. 952/2013 (the Union Customs Code) and / or as ICS ENS Data Transferor, subject to the following provisions:
- 6.4.1 the authorisation of the Carrier to act in the capacity of Direct Representative and / or as ICS ENS Data Transferor in accordance with this clause 6.4 shall apply to each Order for Services accepted by the Carrier and such authorisation shall only be revoked on written notice of the Customer to the Carrier;
 - 6.4.2 the Carrier shall not be liable to the Customer for any losses, liabilities, costs, fines, penalties or other liability which may be caused by incorrect or incomplete information given by the Customer to the Carrier or otherwise incurred as a result of the Carrier acting in the name of and on behalf



of the Customer in the capacity of Direct Representative and / or as ICS ENS Data Transferor (unless such losses occur as a result of the negligence of the Carrier, in which case the provisions of clause 15 shall apply); and

- 6.4.3 in the event that the Carrier sub-contracts the whole or part of the Services in accordance with clause 7, the Customer agrees that the sub-contractor shall act in the capacity of Direct Representative and / or as ICS ENS Data Transferor and the provisions of this clause 6.4 shall apply to that sub-contractor equally.

7. SUB-CONTRACTING

- 7.1 Unless the Customer provides notice to the contrary in writing to the Carrier, the Carrier may sub-contract the whole or part of the Services to any member of the Carrier's group or to another carrier for the purposes of fulfilling the Contract.
- 7.2 Where the Services are sub-contracted by the Carrier in whole or in part to any member of the Carrier's group or to another carrier under clause 7.1, any sub-contractor appointed shall have the benefit of these Conditions and shall be under no greater liability to the Customer than the Carrier would be under the Contract.
- 7.3 The Customer agrees that no claim shall be made against a sub-contractor in addition to or in excess of the limitation and / or exclusions of liability set out in these Conditions.

8. LOADING AND UNLOADING

- 8.1 Unless otherwise agreed in writing, the Customer or Consignor including its representatives (as appropriate) shall be responsible for all aspects of unloading the Consignment off its own vehicle (if applicable) and loading the Consignment on to the Carrier's vehicle at the collection address (**First Mile Delivery**).
- 8.2 The Consignee shall be responsible for all aspects of unloading the Consignment off of the Carrier's vehicle at the Delivery Location (**Last Mile Delivery**).
- 8.3 The responsibilities of the Customer, Consignor and / or Consignee and their representatives in clause 8.1 and 8.2 (as applicable), include providing and safely operating any equipment that may be required for loading and unloading the Consignment.
- 8.4 The Carrier shall be entitled to load and unload the Consignment: (i) at such sites; and (ii) on to such vehicles; and (iii) at such times as it sees fit, following First Mile Delivery until Last Mile Delivery and the limitations of liability in clause 15 shall apply to any loss or damage caused to the Consignment during the Carrier's loading and/or unloading.
- 8.5 If the Carrier's Representatives assist in any part of loading or unloading the Consignment during First Mile Delivery or Last Mile Delivery then, whilst they provide such assistance, the Carrier's Representatives shall be deemed to be under the instruction and control of the Customer, Consignor or Consignee (as applicable) and the Customer, Consignor or Consignee (as applicable) accepts full liability for the acts of the Carrier's Representatives during that period except for any acts of gross negligence.
- 8.6 The Customer, Consignor or Consignee (as applicable) shall ensure that any equipment used in loading or unloading the Consignment on to the vehicle during First Mile Delivery or Last Mile Delivery - including without limitation cranes, fork lift trucks, slings or chains – is suitable for that purpose and will indemnify the Carrier against any and all consequences of failure of or unsuitability of such equipment.
- 8.7 The Carrier shall not be liable for any loss or damage caused as a result of:
- 8.7.1 the Carrier acting upon the instructions or directions of the Customer, Consignor or Consignee or their servants or agents with respect to the loading and / or unloading of the Consignment during First Mile Delivery or Last Mile Delivery;
- 8.7.2 negligent acts committed by the Customer, Consignor or Consignee or their servants or agents in assisting with loading and / or unloading during First Mile Delivery or Last Mile Delivery; and
- 8.7.3 its use of defective equipment supplied by the Customer, Consignor or Consignee for loading and / or unloading the Consignment during First Mile Delivery or Last Mile Delivery;
- 8.8 The Customer, Consignor or Consignee (as applicable) shall ensure that there is adequate access to the loading and the unloading points at the addresses specified in the Order and that the roadways to and from the public highway are of suitable material and that loading and / or unloading during First Mile Delivery or Last Mile Delivery will take place on good sound hardstanding, where there will be sufficient space to load and / or unload the Carrier's vehicle in safety.

- 8.9 The Customer shall indemnify the Carrier against all liability, loss or damage suffered or incurred (including but not limited to damage to the Carrier's vehicle) as a result of the Customer, Consignor or Consignee or their servants or agents instructing the Carrier to an area which does not comply with clause 8.8, whether or not against the recommendations of the Carrier or the Carrier's Representatives.
- 8.10 The Customer, Consignor or Consignee (as applicable) shall be responsible for carrying out any and all necessary or desirable risk assessments at the collection and/or delivery addresses and shall make details of these risk assessments available to the Carrier upon request.

9. RECEIPTS AND IMPORT / EXPORT DOCUMENTS

- 9.1 Without limiting clauses 4.1.4 and 4.1.5, the Customer shall at its own cost provide to the Carrier, or (where local laws or regulations require the Carrier to do so) assist the Carrier in procuring, any documents necessary under applicable laws and regulations for the Carrier to carriage the Consignment to the Delivery Location in accordance with such laws and regulations.
- 9.2 Without limiting clauses 4.1.4 and 4.1.5, the Customer shall procure that, on or before the start date of the Services, the Carrier is provided with the following documents as necessary to the carriage of the Consignment:
- 9.2.1 Consignment Note;
 - 9.2.2 commercial invoice(s) with statement on Origin of Goods;
 - 9.2.3 certificate(s) of origin (if applicable);
 - 9.2.4 packing list;
 - 9.2.5 insurance documentation;
 - 9.2.6 import / export licence(s) or certificate(s);
 - 9.2.7 test or quality certificate(s); and
 - 9.2.8 transport and customs documents e.g. air waybill, bill of lading, delivery note, Transit Document (T1/T2) and / or Export Entry (Export Accompanying Document).
- 9.3 The Customer shall be responsible for all expenses, loss and damage sustained by the Carrier by reason of the absence, inaccuracy, inadequacy or irregularity of the documents provided by the Customer to the Carrier under clauses 9.1 and 9.2.
- 9.4 Subject to clause 9.5, the Carrier or the Carrier's Representatives shall - if requested by the Customer and / or Consignor - sign a document acknowledging receipt of the Consignment loaded on to the Carrier's vehicle. Any receipt signed by the Carrier or the Carrier's Representative under this clause 9.4 shall not be evidence as to the accuracy of the condition, weight, quantity nor nature of the Goods said to comprise the Consignment at the time the receipt is signed by the Carrier or the Carrier's Representatives.
- 9.5 In the case of a Consignment Notice produced in accordance with the CMR Convention, the Carrier shall be entitled to enter any reservations in the Consignment Notice together with the grounds on which they are based in respect of the accuracy of the statement in the Consignment Note and / or the apparent condition of the Goods and their packaging.
- 9.6 Unless otherwise agreed in writing by the Customer or Consignor, the Carrier or the Carrier's Representatives shall use reasonable endeavours to obtain a signed receipt of delivery of the Consignment from the Consignee and such receipts shall be returned to the Customer and / or Consignor as proof of delivery.

10. TRANSIT

- 10.1 Unless otherwise expressly agreed by the Carrier, transit shall commence at the moment the Consignment has left the collection address, as specified in the Order, in the Carrier's vehicle.
- 10.2 Transit shall end (unless terminated earlier in accordance with these Conditions) when the Carrier places the Consignment at the disposal of the Consignee at the Delivery Location, provided that if:
- 10.2.1 no safe and adequate access to the Delivery Location exists; or
 - 10.2.2 there are no safe and adequate unloading facilities at the Delivery Location; or
 - 10.2.3 the Consignee fails to take delivery of the Consignment at the Delivery Location; or
 - 10.2.4 for any other reason beyond the Carrier's control the Consignment cannot be placed at the disposal of the Consignee at the Delivery Location,



then the Carrier shall notify the Customer and / or Consignee and seek further instructions. Unless further instructions are received, transit shall be deemed to end at the expiration of 24 hours after notice has been sent to the Customer or Consignee.

- 10.3 At any time before transit ends in accordance with clause 10.2, the Customer may ask the Carrier to stop the Consignment in transit, to change the place at which delivery is to take place or to deliver the Consignment to a Consignee other than the consignee indicated in the Order. The Carrier shall carry out such new instructions only if:
- 10.3.1 such new instructions are provided in writing or, in the case of a delivery subject to a Consignment Notice, a copy of the Consignment Note on which the new instructions have been noted is produced to the Carrier;
 - 10.3.2 the carrying out of such new instructions is possible at the time when the instructions reach the Carrier and does not either interfere with the Carrier's normal working or prejudice other customers or consignees of other consignments; and
 - 10.3.3 the new instructions do not result in division of the Consignment;
- otherwise, the Carrier shall notify the customer that it cannot carry out such new instructions.
- 10.4 If a Customer wishes to exercise the rights conferred in clause 10.3, it shall indemnify the Carrier against all expenses, loss and damage involved in carrying out such new instructions.

11. CHARGES AND PAYMENT

- 11.1 The Carrier's charges are as set out in the Order and the Carrier shall invoice the Customer on completion of the Services.
- 11.2 The Customer shall pay each invoice submitted by the Carrier:
- 11.2.1 within 30 days of the date of the invoice or in accordance with any credit terms agreed by the Carrier and confirmed in writing to the Customer;
 - 11.2.2 in full and in cleared funds to a bank account nominated in writing by the Carrier; and
 - 11.2.3 time for payment shall be of the essence of the Contract.
- 11.3 All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax chargeable from time to time (**VAT**). Where any taxable supply for VAT purposes is made under the Contract by the Carrier to the Customer, the Customer shall, on receipt of a valid VAT invoice from the Carrier, pay to the Carrier such additional amounts in respect of VAT as are chargeable on the supply of the Services at the same time as payment is due for the supply of the Services.
- 11.4 If the Customer wishes to dispute an invoice submitted by the Carrier, it must do so in writing within 14 days of receipt to accounts.uk@sovereignspeed.com. Any individual items on an invoice which are not disputed by the Customer must be paid in accordance with clause 11.2.
- 11.5 Subject only to clause 11.4, all amounts due to the Carrier under the Contract shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).
- 11.6 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.
- 11.7 If the Customer fails to make a payment due to the Carrier under the Contract by the due date, then, without limiting the Carrier's remedies under clause 19, the Customer shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause 11.6 will accrue each day at 5% a year above the Bank of England's base rate from time to time, but at 5% a year for any period when that base rate is below 0%.
- 11.8 The Customer shall also pay to the Carrier any storage, disposal or other charges incurred as a result of clause 13.1, as a result of it exercising its rights under clause 14.2 or its lien in accordance with clause 17 below.
- 11.9 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 cancellation.

12. TRANSIT GUARANTEE LIABILITY

- 12.1 Where the Customer instructs the Carrier to issue a Transit Accompanying Document (**TAD**) at the commencement of transit for closing by an Authorised Consignee:
- 12.1.1 the Customer shall provide proof that the Consignee is an Authorised Consignee prior to the TAD being issued;



- 12.1.2 the Carrier shall issue the TAD for closing by the Authorised Consignee at the relevant premises and shall be responsible for arranging the customs guarantee in respect of the Consignment. The customs guarantee value shall be a minimum of 20% of the value of the Consignment stated in the Commercial Invoice provided by the Customer or Consignor (the **Guarantee Amount**); and
- 12.1.3 upon Delivery of the Consignment and signature of the Carrier's CMR, the Authorised Consignee shall be responsible for discharging the TAD within 24 hours of Delivery.
- 12.2 In the event that the Authorised Consignee fails to discharge the TAD in accordance with clause 12.1.3 then, without limiting any other remedies available to the Carrier, the Carrier may invoice the Customer, and the Customer shall be liable to immediately pay the Carrier, a sum equivalent to 2.5% of the Guarantee Amount per day from the date 24 hours after Delivery of the Consignment until the date the TAD is discharged by the Authorised Consignee, such charges to be capped at the Guarantee Amount.
- 12.3 In addition to clause 12.2, the Customer shall indemnify the Carrier against all actions, proceedings, costs, claims and demands arising out of any failure by the Authorised Consignee to discharge the TAD.
- 12.4 Where the Carrier seeks to enforce its rights under clause 12.2, the Carrier shall provide to the Customer a copy of the CMR signed by the Authorised Consignee or any other evidence to confirm that the Consignment was Delivered to the Authorised Consignee.

13. CUSTOMS AND EXCISE DUTIES, TAXES AND CHARGES

- 13.1 Notwithstanding the provisions of clause 12, in the event that the Carrier pays or is entitled to defer payment of any duties, taxes or other charges in connection with the import of the Consignment on behalf of the Consignee, the Carrier shall be entitled to retain the Consignment and shall provide the Consignee with an invoice in respect of duties or taxes deferred or paid by the Carrier. The Consignee shall (and the Company shall procure that the Consignee shall) pay the invoice submitted by the Carrier:
 - 13.1.1 within 7 days of the date of the invoice;
 - 13.1.2 in full and in cleared funds to a bank account nominated in writing by the Carrier; and
 - 13.1.3 time for payment shall be of the essence.

at which point the Consignment will be released by the Carrier to the Consignee.

- 13.2 If the Consignee fails to make a payment due to the Carrier by the due date, then, without limiting the Carrier's remedies under clause 13.3, the Consignee shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause 13.2 will accrue each day at 5% a year above the Bank of England's base rate from time to time, but at 5% a year for any period when that base rate is below 0%.
- 13.3 Notwithstanding any acceptance by the Carrier 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 Carrier, 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
- 13.4 If the Consignee fails to pay an invoice submitted in accordance with clause 13.1 within 30 days of the date of the invoice and payment is not received from the Customer in accordance with clause 13.3 within a reasonable time, the Carrier shall (without limiting any other remedy available to the Carrier) be entitled to treat the Consignment as an undelivered or unclaimed consignment and the provisions of clause 14 shall apply including the Carrier's right to sell the Goods, were such sale is permitted by law.

14. UNDELIVERED OR UNCLAIMED CONSIGNMENTS

- 14.1 In the event that the Carrier is unable for any reason beyond its control to deliver the Consignment in accordance with the Contract (including but not limited to occurrence of any event listed in clause 10.2), the Carrier shall seek further instructions from the Customer. The Carrier's reasonable additional charges for retaining and / or arranging proper storage of the Consignment pending the arrival of such further instructions and for carrying out those instructions shall be payable by the Customer, unless such expenses were caused by the wrongful act or neglect of the Carrier.
- 14.2 Where transit is deemed to have ended in accordance with clause 10.2 and where the Carrier is unable to obtain further instructions from the Customer in accordance with clause 14.1, the Carrier may sell the Goods, provided that such sale is permitted by law and subject to the provisos in clause 14.2.1 to 14.2.3 below:
 - 14.2.1 the Goods may not be sold unless the Carrier has made reasonable efforts to notify the Customer in writing of the Carrier's intention to sell the Goods. The Goods may be sold unless, within a reasonable time (such time to be specified in the notice) the Customer arranges to collect the Goods or gives instructions for their disposal (at the expense of the Customer) and has paid, without prejudice, all outstanding charges due to the Carrier including any storage costs which may have been incurred during the time that the Goods have been retained;



- 14.2.2 pending disposal of the Goods, the Carrier shall at the expense of the Customer have authority to arrange proper storage of the Consignment. During such period of storage, the Goods will be held at the Owner's Risk and the Carrier shall not be liable for loss or damage of the Goods howsoever caused;
- 14.2.3 the Carrier shall make reasonable efforts to obtain a reasonable market price for the Consignment. If the Goods have no market value, then the Carrier may dispose of them subject to compliance with all legal requirements in force in respect of such Goods.
- 14.3 In the event that the proceeds of sale of the Goods in accordance with clause 14.2 is less than the Contract price after deducting all reasonable storage and selling expenses from the proceeds of sale, the Carrier shall invoice the Customer for the difference, which shall be payable by the Customer immediately on receipt.
- 14.4 In the event that the proceeds of sale of the Goods in accordance with clause 14.2 is greater than the Contract price then, after deduction of all proper charges and expenses in relation to the sale and of all outstanding charges of the Carrier in relation to the carriage, storage and disposal of the Goods, the Carrier shall pay the balance of the proceeds of sale to the Customer.
- 14.5 Sale of the Goods in accordance with clause 14.2 shall discharge the Carrier from all liability in respect of such Goods, their carriage and storage.
- 15. LIMITATION OF LIABILITY: THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE.**
- 15.1 The Carrier does not insure the Goods and the Customer shall make arrangements to cover the Goods against all risks to the full insurable value thereof (including all duties and taxes).
- 15.2 The Carrier shall be liable for the total or partial loss of the Goods and for damage thereto occurring between the time when it takes over the Consignment and the time of delivery, as well as for any delay in delivery caused by the negligence of the Carrier. In this clause 15.2:
- 15.2.1 delay shall be said to occur when the Consignment has not been delivered within the agreed time limit or, where a time limit has not been agreed, where the time taken for delivery exceeds the time it would be reasonable to allow a diligent carrier; and
- 15.2.2 the fact that the Consignment has not been delivered within 30 days following the expiry of the agreed time limit (or within 60 days from the date the Carrier took over the Consignment if no time limit was agreed) shall be conclusive evidence of the loss of the Goods.
- 15.3 The Carrier shall not be liable for any loss or damage arising after transit is deemed to have ended under clause 10.2, whether or not caused by or contributed to, directly or indirectly, any act, omission, neglect, default or other wrongdoing on the part of the Carrier or the Carrier's Representatives.
- 15.4 The Carrier shall not be liable for any loss, damage or delay caused by:
- 15.4.1 the wrongful act or neglect of the Customer;
- 15.4.2 the instruction of the Customer given otherwise than as a result of a wrongful act or neglect on the part of the Carrier;
- 15.4.3 inherent vice of the Goods;
- 15.4.4 use of open unsheeted vehicles, when their use has been expressly agreed by the Customer;
- 15.4.5 the lack of, or defective condition of packing in the case of Goods which, by their nature, are liable to wastage or to be damaged when not packed or when not properly packed;
- 15.4.6 handling, loading, stowage or unloading of the Goods by the Customer, Consignor, Consignee or persons acting on their behalf;
- 15.4.7 compliance with laws, governmental or regulatory authorities or regulations, or other official or recognised decrees or requirements relating to the transit of the Goods including but not limited to the physical, electronic or x-ray inspection of Goods for security and safety;
- 15.4.8 the nature of certain kinds of Goods which particularly exposes them to total or partial loss or to damage, especially through breakage, rust, decay, desiccation, leakage, normal wastage, or the action of moth or vermin;
- 15.4.9 insufficiency or inadequacy of marks or numbers on the packages; or
- 15.4.10 a Force Majeure Event.
- 15.5 Except as otherwise provided in these Conditions or otherwise agreed in writing between the Customer and the Carrier, the Carrier's total aggregate liability to the Customer in respect of claims for the total or partial loss of the Goods and for damage thereto occurring (unless otherwise agreed in writing between the Customer and Carrier prior to the commencement of carriage) shall in all circumstances be limited to the lessor of:



- 15.5.1 the value of the Goods lost at the place and time at which they were accepted for carriage or the amount by which damaged Goods have been depreciated in value by reason of that damage; or
 - 15.5.2 the cost of replacing the Goods lost and / or reconditioning or repairing any damage to the Goods; or
 - 15.5.3 a sum calculated at the rate of 8.33 units of account per kilogram of gross weight of the Goods actually lost or damaged.
- 15.6 In addition to clause 15.5, the carriage charges, Customs duties and other charges incurred shall be refunded in full in case of total loss and in proportion to the loss sustained in case of partial loss, but no further damages shall be payable.
- 15.7 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 Customer's proved loss, whichever is less.
- 15.8 The following types of loss or damage are wholly excluded, and will not under any circumstances be the subject of compensation by the Carrier:
- 15.8.1 loss of profits;
 - 15.8.2 loss of sales or business;
 - 15.8.3 loss of agreements or contracts;
 - 15.8.4 loss of anticipated savings;
 - 15.8.5 loss of use of, or corruption of, software, data or information;
 - 15.8.6 loss of or damage to goodwill;
 - 15.8.7 indirect or consequential loss; and
 - 15.8.8 any fine imposed on the Customer by the Consignee or its customer.
- 15.9 Nothing in the Contract limits any liability which cannot legally be limited, including liability for:
- 15.9.1 death or personal injury caused by negligence; and
 - 15.9.2 fraud or fraudulent misrepresentation.
- 15.10 The Carrier shall not be liable for any claim unless it has received written notice of the claim:
- 15.10.1 not later than the time of delivery in the case of apparent loss or damage; and
 - 15.10.2 within 21 clear Business Days of delivery in the case of loss or damage which is not apparent;
- 15.11 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 served on the Carrier within one year of the date when transit commenced under clause 10.1.
- 15.12 Nothing in this clause 15 shall limit the Customer's payment obligations under the Contract.
- 15.13 This clause 15 shall survive termination of the Contract.

16. INDEMNITY TO THE CARRIER

- 16.1 The Customer shall indemnify the Carrier against:
- 16.1.1 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):
 - (a) as a result of any breach of these Conditions by the Customer or any party on whose behalf it has contracted;
 - (b) by reason of any error, omission, mis-statement or misrepresentation by the Customer or owner of the Consignment or their servants or agents;
 - (c) by reason of insufficient or improper packing, labelling or addressing of the Consignment; or

- (d) by reason of fraud on the part of the Customer, Consignor, Consignee or the owner of the Consignment, or their servants or agents;
- 16.1.2 all losses, liabilities and costs arising from claims and demands by any third party howsoever arising (including, for the avoidance of doubt, claims alleging negligence or conversion) 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 an act, omission, neglect, default or other wrongdoing on the part of the Carrier or the Carrier's Representatives; and
- 16.1.3 any claims made or penalties imposed by the Commissioners of Customs and Excise in respect of dutiable Goods.

17. LIEN

- 17.1 The Carrier shall have:
 - 17.1.1 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
 - 17.1.2 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 an proprietary or possessory interest in it, by the Consignee, or by any agent of these persons, on any invoice, account or contract whatsoever.
- 17.2 If the Carrier exercises a lien, but appropriate payment is not made within 14 days after notice that the payment is due, the Carrier may exercise the power of sale set out in clause 14.2 (subject to clauses 14.2.1 to 14.2.3) over the Goods in the Carrier's possession, 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.
- 17.3 If the Consignment is not solely the property of the Customer, the Customer warrants that it has the authority to grant to the Carrier a particular lien against the owner of the Goods. The Carrier may hold the Goods against the owner for any unpaid monies applicable to those Goods only, but he may not sell or dispose of the Goods in any way without the express consent of the owner.

18. DETENTION OF CARRIER'S PROPERTY

- 18.1 The Customer shall be liable to pay 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.

19. TERMINATION

- 19.1 Without affecting any other right or remedy available to it, the Carrier may terminate the Contract with immediate effect by giving written notice to the Customer if:
 - 19.1.1 the Customer takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), applying to court for or obtaining a moratorium under Part A1 of the Insolvency Act 1986, 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;
 - 19.1.2 the Customer suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or
 - 19.1.3 the other party's financial position deteriorates to such an extent that in the terminating party's opinion the other party's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.
- 19.2 Without affecting any other right or remedy available to it, the Carrier may terminate the Contract with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under the Contract on the due date for payment.
- 19.3 Without affecting any other right or remedy available to it, the Carrier may suspend the supply of Services under the Contract or any other contract between the Customer and the Carrier if:
 - 19.3.1 the Customer fails to pay any amount due under the Contract on the due date for payment;
 - 19.3.2 the Customer becomes subject to any of the events listed in clause 19.1.2 or 19.1.3, or the Carrier reasonably believes that the Customer is about to become subject to any of them; and
 - 19.3.3 the Carrier reasonably believes that the Customer is about to become subject to any of the events listed in clause 19.1.1.

20. CONSEQUENCES OF TERMINATION

- 20.1 On termination of the Contract, the Customer shall immediately pay to the Carrier all of the Carrier's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, the Carrier shall submit an invoice, which shall be payable by the Customer immediately on receipt.
- 20.2 Termination of the Contract shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination.
- 20.3 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination of the Contract shall remain in full force and effect.

21. GENERAL

- 21.1 **Force majeure.** A "Force Majeure Event" shall mean any act, event, circumstance or cause, the occurrence of which is beyond the reasonable control of the Carrier, including but not limited to:
- 21.1.1 act of God, riot, civil commotion, strike, lockout, general or partial stoppage or restraint of labour from whatever cause, war, act of foreign power, terrorism, seizure or forfeiture under legal process, restraint of government;
 - 21.1.2 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;
 - 21.1.3 inherent wastage in bulk or weight, faulty design, latent defect or inherent vice or natural deterioration of the Consignment;
 - 21.1.4 any special handling requirements in respect of the Consignment which have not been notified to the Carrier;
 - 21.1.5 insufficient or improper packaging, labelling or addressing, unless the Carrier has contracted to provide this service;
 - 21.1.6 fire, flood, storm, earthquake, pandemic or epidemic; and
 - 21.1.7 delays arising from Customs intervention;
 - 21.1.8 road congestion, road accidents, a delay in providing to the Carrier safe and adequate access and / or delivering instructions in accordance with clause 8.5, delays incurred at any delivery location or lack of delivery instructions from the Customer, vehicle breakdown.
- 21.2 **Assignment and other dealings.** The Carrier may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Contract. The Customer shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under the Contract.
- 21.3 **Confidentiality.** 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 clause 21.3.1. Each party may disclose the other party's confidential information:
- 21.3.1 to its employees, officers, representatives, contractors, subcontractors or advisers who need to know such information for the purposes of carrying out the party's obligations under the Contract or as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 21.4 **Entire Agreement.** The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter. Each party acknowledges that in entering into the Contract it does not rely on, and shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Contract.
- 21.5 **Variation.** Except as set out in these Conditions, no variation of the Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).
- 21.6 **Waiver.** 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. A failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under the Contract or by law shall prevent or restrict the further exercise of that or any other right or remedy.



21.7 **Severance.** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this agreement. If any provision or part-provision of this Contract is deleted under this clause 21.7 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

21.8 **Notices.** Any notice given to a party under or in connection with the Contract shall be in writing and shall be delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or sent by email to the address specified in the Order.

Any notice shall be deemed to have been received:

- (a) if delivered by hand, at the time the notice is left at the proper address;
- (b) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; or
- (c) if sent by email at the time of transmission, or, if this time falls outside business hours in the place of receipt, when business hours resume. In this clause 21.8(c), business hours means 9.00am to 5.00pm Monday to Friday on a day that is not a public holiday in the place of receipt.

This clause 21.8 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any other method of dispute resolution.

21.9 **Third party rights.** Unless it expressly states otherwise, the Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.

21.10 **Governing law.** The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by, and construed in accordance with the law of England and Wales.

21.11 **Jurisdiction.** Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.