



AGREEMENT

THE PARTIES

This is a contract between:

- (1) **AMALGA LIMITED** (Company No. 04197644) whose registered office is at Unit 1 Polar Park, Bath Road, West Drayton, England, UB7 0EX (hereinafter referred to as “**Amalga**”); and
- (2) the company or organisation referred to in the Works Order (hereinafter referred to as the “**Customer**”)

BACKGROUND

- (A) Amalga is in business on its own account engaged in the provision of services at civilian airports.
- (B) Amalga has agreed to provide the Services to the Customer as described in the Works Order.
- (C) The Parties have agreed that the Services shall be provided in accordance with these Terms and Conditions of Business (the “**Terms**”).

Signed by:.....
For and on behalf of Amalga Limited

Signed by:.....
For and on behalf of the Customer

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The Contract is made up of the following:

- (a) these Terms
- (b) the Works Order
- (c) the Supporting Documents
- (d) the RHA Conditions of Carriage and/or the RHA Conditions of Storage

If there is any conflict or ambiguity between the terms of the documents listed above, a term contained in a document higher in the list shall have priority over one contained in a document lower in the list.

Section 1- Definitions

The following definitions and rules of interpretation apply in these Conditions:

Agreement: means the agreement as set out on page 1 of these Terms;

Airport: Specific Airport as identified in the Works Order;

Airside Clearance Services: the issue by Amalga to the Customer of a TAP which may be provided to the Customer (and used for the benefit of the Customer's vehicles and/or personnel, as the case may be) as part of the Services as more particularly described in the Works Order;

Amalga Authorised Representative: shall be as named on the Works Order.

Assignment: the period for which an Employee is supplied to the Customer as part of the Supply of Staff Services.

Authorised Representative: shall mean the Amalga Authorised Representative or the Customer Authorised Representative or both of them, as the context requires.

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

Charges: means the charges payable by the Customer to Amalga for the provision of Services as specified in the relevant Works Order or as may be notified by Amalga to the Customer from time to time.

Confidential Information: all identifiable methodology, know-how, experience, data, databases, flow charts, reports, tables or other material produced in relation to the relevant Contacts (including any negotiations leading to it) and any other information of whatever kind (whether commercial, technical, financial, operational or otherwise, whether communicated verbally, in writing or in any other form and whether or not expressly stated to be confidential) relating to Amalga (including but not limited to) its business, products, suppliers and customers.

Contract: a contract created by the issuing of a Works Order, comprising these Terms, the Works Order, the Supporting Documents and the RHA Conditions of Carriage and the RHA Conditions of Storage as applicable.

Customer Authorised Representative: shall be as named on the Works Order.

Customer Site: means in respect of the Logistics, Support and Storage Services the destination for the pickup of delivery of the Goods within the Site as is specified in the Works Order. In respect of the Installation and Strip-out Services means the site where the strip-out and/or installation services are to be carried out.

Data Protection Legislation: all applicable data protection and privacy legislation in force from time to time in the UK including the UK GDPR; the Data Protection Act 2018 (DPA 2018) (and regulations made thereunder) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended [and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of Personal

Data (including, without limitation, the privacy of electronic communications).

Delivery Address: the final destination for delivery of the Goods within the Site as specified in the Works Order.

Employee: any individual whose services are supplied by Amalga to the Customer as part of the Supply of Staff Services and shall include any replacement or substitute supplied to the Customer.

Engagement: the engagement of the Employee by the Customer on the terms of the Contract and any employment or use of the Employee on a permanent or temporary basis, directly or indirectly, whether under a contract of services or for services, an agency, licence, franchise or partnership arrangement; or any other arrangement.

Escort Services: the escort of a Customer's vehicle and/or personnel (as the case may be) by a member of Amalga's personnel in order to facilitate the Customer's vehicles and/or the Customer's personnel (as the case may be) passage through security control posts at the Airport at the Site.

Force Majeure Event: in respect of either party, an event or circumstance beyond the reasonable control of that party which causes delays in that party performing or failure of that party to perform any of its obligations under the Contract including (but not limited to): an act of God, strike, lock-out or other industrial actions or trade disputes; war declared or undeclared, threat of war, terrorist act, revolution, riot, civil commotion, public demonstration; lightning, fire, storm, flood or earthquake; power failure or explosion, fault or failure of any plant or apparatus or delays at Airport security posts (caused by a party other than Amalga).

Goods: the building and construction materials, machinery, equipment, retail unit fittings, display units, merchandise, waste disposal units and/or any other materials and parts thereof (including packaging) whether a single item or in bulk or contained in one parcel, package or container as the case may be or any number of separate items, parcels, packages or containers in relation to which Logistics, Support and Storage Services are provided.

Group: in relation to a company, that company, its subsidiaries, its holding companies, and their subsidiaries.

Installation and Strip-out Services: means such installation and strip-out services as are identified in the Works Order, including but not limited to appointments, unitry and mechanical and electrical services.

Logistics, Support and Storage Services: means in relation to the Goods, such logistics and/or support and/or storage services as are identified in the Works Order.

Relevant Period: has the meaning given in regulation 10(5) and (6) of the Conduct of Employment Agencies and Employment Business Regulations 2003.

RHA Conditions of Carriage: the Road Haulage Association's Conditions of Carriage, as amended from time to time.

RHA Conditions of Storage: the Road Haulage Association's Conditions of Storage, as amended from time to time.

Services: the services which Amalga may from time to time provide to the Customer (including but not limited to) Logistics, Support and Storage Services (which may include Airside Clearance Services, Escort Services, Transit, and/or Waste Removal Services), Supply of Staff Services and/or Installation and Strip-out Services, as more particularly described in the Works Order.

Service Request: a request made by the Customer to Amalga for the provision of Services and may include any request made via Amalga's web access system, email, fax or otherwise in writing or by telephone.

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Site: the location specified in the Works Order.

Storage: the storage and handling of Goods including unloading and loading of Goods and movement of Goods between stores as described in the Logistics, Support and Storage services and such other ancillary services as Amalga may agree to in writing, and the words "Store" and "Stored" shall be construed accordingly.

Supporting Documents: the scope, drawings, specifications and/or other documents describing the Services to be provided under, and forming part of, a Works Order.

Supply of Staff Services: the provision of Employees to the Customer by Amalga.

TAP: a temporary airside pass which permits a vehicle and/or individuals (as the case may be) to pass through Airport security control at the Site which may be issued to the Customer as part of the Services.

Terms: these terms and conditions.

Transit: the conveyance of the Goods by Amalga and shall include (but shall not be limited to) the conveyance of the Goods within the Customer Site and/or Delivery Address and outside of the Customer Site and/or Delivery Address and the period of such conveyance shall commence when Amalga takes possession of the Goods (either manually, by Amalga's personnel, and/or when the Goods are uploaded onto Amalga's moving equipment and/or vehicle) either:

- a) at the Customer Site and end on Delivery to the Delivery Address; or
- b) at the Customer Site and end on re-Delivery to the Delivery Address.

UK GDPR: has the meaning given to it in section 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018.

Waste Removal Services: means such waste removal services as are identified within the Works Order.

Works Order: the works order issued by Amalga for the provision of the Services.

Any terms defined in the RHA Conditions of Carriage and/or RHA Conditions of Storage shall have the same meaning when used in these Terms.

Section 2 – Terms applicable to all Contracts

1. Service Request

1.1. The Customer shall submit to Amalga a Service Request no less than three (3) working days in advance of the anticipated start date for the project to which the Service Request relates.

1.2. The submission of a Service Request by the Customer shall in no way oblige Amalga to accept or reject the Service Request, unless and until Amalga has issued a valid Works Order.

2. Works Order

2.1. In response to a Service Request, Amalga may send to the Customer a completed Works Order, signed by an Amalga Authorised Representative.

2.2. Upon issue of a valid Works Order, the Customer shall sign and return to the Amalga Authorised Representative a copy of the Works Order.

2.3. Notwithstanding clause 2.2, if the Customer does not sign and return a copy of the Works Order to the Amalga Authorised Representative within twenty-four (24) hours of its issue by Amalga, the Customer will be deemed to have accepted the Works Order and these Terms and Amalga shall be entitled to proceed with the provision of the Services.

2.4. On issue of a valid Works Order, these Terms, the Works Order and the Supporting Documents shall constitute the Contract

and Amalga shall supply and the Customer shall receive and pay for the Services in accordance with the Contract.

2.5. The start date of any Services shall be as specified in the Works Order.

3. Additional Services

3.1. If, during the course of providing Services under a Works Order, the Customer requests and Amalga agrees to provide additional services not specified in the relevant Works Order, then the Customer shall submit a supplemental Services Request and these terms and conditions shall apply to the provision of any such additional services.

3.2. The parties shall agree on the Charges applicable to the provision of any such additional services.

4. Amalga's obligations

4.1. Amalga shall provide the Services with reasonable skill and care and in accordance with good industry practice.

4.2. Amalga shall use reasonable endeavours to:

- (a) provide the Services in accordance with the Supporting Documents and to meet any performance dates specified in the Works Order, however any such dates shall be estimates only and time shall not be of the essence for performance of the Services;
- (b) observe all health safety rules and regulations and any other reasonable security requirements that apply at the Customer Site and/or Delivery Address and that have been communicated to it in accordance with clause 5.1(f); and
- (c) comply with the byelaws and/or other rules and regulations that may be applicable at the Airport.

5. Customer's obligations

5.1. The Customer agrees to:

- (a) Obtain and maintain all necessary licences and consents and comply with all relevant legislation to enable to Amalga to provide the Services;
- (b) comply with the Customer's obligations referred to in the Supporting Documents in a timely manner and in accordance with any timescales set out therein;
- (c) co-operate with Amalga in good faith in all matters relating to the provision of the Services;
- (d) provide or procure in a timely manner such access, including security and/or vehicle access, to the Customer Site and/or the Delivery Address (or such other premises) and such other facilities or resources, as may be reasonably required by Amalga to provide the Services;
- (e) provide Amalga in a timely manner with such information and materials as Amalga may require in order to provide the Services and ensure that this information is accurate and complete in all material respects; and
- (f) inform Amalga of all health and safety rules and regulations and any other reasonable requirements that apply at the Customer Site and/or Delivery Address.

5.2. The Customer acknowledges and agrees that it is the responsibility of the Customer to ensure any Goods specified for Transit are correctly described and labelled. For the avoidance of

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doubt, Amalga reserves the right to refuse to remove, store, provide Transit services for, or otherwise handle, any Goods that Amalga deems not to be adequately described or labelled.

5.3. The Customer shall and shall procure that its employees, agents and sub-contractors shall:

- (a) comply with all security requirements notified to it by Amalga including (but not limited to) producing upon request such identity documentation and/or vehicle documentation as may be notified to the Customer from time to time;
- (b) upon request and as soon as reasonably practicable, provide such information and documentation as Amalga may require in order to obtain the necessary TAPs on behalf of the Customer, its employees, agents and sub-contractors; and
- (c) when issued by Amalga with a TAP, keep such TAP safe and secure at all times and not allow any person other than the person to whom the TAP has been issued to use the TAP.

5.4. In the event that the Customer or any of its employees, agents or sub-contractors loses or damages any TAP which has been issued to the Customer by Amalga, the Customer shall notify Amalga immediately and the Customer shall pay to Amalga the sum of £500.00 in relation to each TAP which has been lost or damaged. The parties agree that this amount is a fair and reasonable representation of the costs which Amalga will incur in dealing with the lost TAP and in obtaining a replacement TAP.

5.5. On request by Amalga (and, in any event on termination of the applicable Contract for any reason), the Customer shall immediately return all TAPs which have been issued to the Customer by Amalga under the applicable Contract.

6. Charges and payment

6.1. In consideration for the provision of the Services, the Customer shall pay to Amalga the Charges as set out in the Works Order.

6.2. Amalga shall be entitled to revise the Charges from time to time and any such revision shall not become effective until the expiry of twenty-one days from the date of notice of proposed revision is given to the Customer.

6.3. Unless expressly stated to the contrary in the Works Order, Amalga may invoice for the Charges weekly in arrears.

6.4. All sums due under these Terms are exclusive of Value Added Tax which (where applicable) will be paid to Amalga by the Customer in addition to the sums due.

6.5. Goods accepted for Storage during any calendar week (Monday to Sunday both inclusive) shall be charged for as though they were received on the first day of such week.

6.6. The Customer shall pay each invoice submitted to it by Amalga within 14 days of the date of invoice or Prior Payment via pro forma as agreed. Time for payment shall be of the essence.

6.7. Should the delivery of Goods be postponed or cancelled by the Customer, Amalga shall be entitled to recover from the Customer all expenses incurred by Amalga and all rental charges in respect of space reserved for such Goods.

6.8. Without prejudice to any other remedy which Amalga may have, if any sums due under these Terms are not received by Amalga by the due dates referred to Amalga may:

- (a) claim interest under the Late Payment of Commercial Debts (Interest Act) 1998 from the due date until the overdue sums have been received by Amalga in cleared funds; and/or
- (b) suspend the provision of the Services or any other obligations required to be performed by Amalga under these Terms until such time as payment of the overdue sums (together with any interest) have been received by Amalga.

6.9. Without prejudice to any other right or remedy it may have, Amalga reserves the right to set off any amount owing at any time to it by the Customer against any amount payable by Amalga to the Customer, whether under the applicable Contract or any Contract or contract between Amalga and/or any member of Amalga's Group its Group and the Customer.

7. Data protection

In this clause 7, Controller, Processor, Data Subject, Personal Data, Personal Data Breach, processing and appropriate technical and organisational measures shall have the meanings as defined in the Data Protection Legislation.

7.1. Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 7 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation.

7.2. The parties acknowledge that for the purposes of the Data Protection Legislation, the Customer is the Controller and Amalga is the Processor.

7.3. Without prejudice to the generality of clause 7.1, the Customer warrants that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data to Amalga for the duration and purposes of the Contract.

7.4. The Customer agrees to indemnify Amalga against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by Amalga arising out of any breach by the Customer of their obligations under this clause 7 or any applicable requirements of the Data Protection Legislation.

8. Limitation of liability

8.1. Unless otherwise stated elsewhere in these Terms, the terms of the RHA Conditions of Carriage or the RHA Conditions of Storage shall apply to the Services as applicable.

8.2. Amalga shall not be liable for any loss, mis-delivery, delay of or damage to the Goods whilst they are not in Amalga's possession or control including (but not limited to) any loss, mis-delivery, delay of or damage to the Goods during the course of the Escort Services.

8.3. Except as provided for elsewhere in these Terms, the liability of Amalga in respect of claims for any other loss whatsoever and howsoever arising shall not exceed the amount of

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the Charges payable by the Customer to Amalga in respect of the Services to which the claim relates or the amount of the claimant's proven loss, whichever is the lesser.

8.4. If Amalga's performance of its obligations under these Terms is prevented or delayed by any act or omission of the Customer or the Customer's agents, sub-contractors or employees or of the Airport or the Airport's agents, sub-contractors or employees, Amalga shall be entitled, in its absolute discretion, to terminate the relevant Contract and Amalga shall not be liable for any costs, charges or losses sustained or incurred by the Customer arising directly or indirectly from such termination and the Customer will pay to Amalga all additional time and expenses incurred by Amalga as a result of that act or omission at Amalga's then standard rates.

8.5. Amalga shall not be in breach of the Contract nor liable for any delay in performing, or failure to perform, any of its obligations under the Contract if such delay or failure results from a Force Majeure Event.

8.6. Amalga shall not in any circumstances be liable in respect of Goods where there has been fraud on the part of the Customer or the owner, or the employees or agents of either, in respect of those Goods, unless the fraud has been contributed to by the complicity of Amalga or of any employee of Amalga acting in the course of his employment.

8.7. Nothing in the Contract limits any liability which cannot legally be limited, including but not limited to liability for:

- (a) death or personal injury caused by negligence;
- (b) fraud or fraudulent misrepresentation; and
- (c) breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession).

8.8. The following types of loss or damage are wholly excluded and will not under any circumstances be the subject of compensation by Amalga:

- (a) loss of profits;
- (b) loss of sales or business;
- (c) loss of agreements or contracts;
- (d) loss of anticipated savings;
- (e) loss of use of, or corruption of, software, data or information;
- (f) loss of or damage to goodwill;
- (g) indirect or consequential loss.

9. Indemnity

9.1. The Customer shall indemnify and keep indemnified Amalga from and against all costs, expenses (including, but not limited to, legal and other professional charges and expenses) losses, damages and other liabilities (of whatever nature, whether contractual tortious or otherwise) suffered or incurred by Amalga and arising out of or in connection with:

- (a) any error, acts, omissions, misstatement or misrepresentation of the Customer, Customer's agents, sub-contractors, employees or a member of the Customer's Group, including any insufficient or improper packaging, labelling or addressing of Goods or any breach of the Contract by the Customer;

- (b) any dispute as to the ownership of the Goods in relation to which the Services are provided or as to the person entitled in law to possession of the Goods; and

- (c) all claims and demands whatsoever (including for the avoidance of doubt claims alleging negligence), by whomsoever made and howsoever arising (including but not limited to claims caused by or arising out of the Storage of Dangerous Goods and claims made upon Amalga by HM Customs and Excise in respect of dutiable goods consigned in bond) in excess of the liability of Amalga under these Terms in respect of any loss or damage whatsoever to, or in connection with, the Goods whether or not caused or contributed to directly or indirectly by any act, omission, neglect, default or other wrongdoing on the part of Amalga, its employees, agents or subcontractors.

10. Insurance

10.1. No insurance will be effected by Amalga except upon express instructions given in writing by the Customer and accepted in writing by Amalga, and all insurances effected by Amalga are subject to the usual exceptions and conditions of the policies of the insurers or underwriters taking the risk. Unless otherwise agreed in writing, Amalga shall not be under any obligation to effect a separate insurance on the Goods, but may declare it on any open or general policy held by Amalga.

11. Termination

11.1. Either party may terminate these Terms and/or any applicable Contract immediately by serving written notice to that effect on the other party if at any time any one or more of the following events occurs:

- (a) the other party makes any voluntary arrangement with its creditors or becomes bankrupt or enters administration or goes into liquidation (otherwise than for the purposes of solvent amalgamation or reconstruction);
- (b) a security holder takes possession, or a receiver or administrative receiver is appointed, over all or any material part of the property or assets of the other party;
- (c) anything analogous to any of the foregoing occurs to the other party under the law of any jurisdiction;
- (d) the other party ceases to carry on business; or
- (e) the other party commits a material breach of any of the provisions of these Terms and in the case of a breach capable of remedy, fails to remedy that breach within thirty (30) days after being served with a written notice specifying the breach and requiring it to be remedied.

11.2. Amalga may give to the Customer not less than 30 days' notice in writing to terminate the applicable Contract created by a Works Order or part thereof.

11.3. If Amalga chooses to terminate any one Contract (or part thereof) created by a Works Order under these Terms independently of the remaining parts or any other Contract, any Contracts or parts thereof created by Works Orders not terminated shall continue in full force and effect.

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11.4. If the notice of termination is not specific as to which Works Order is being terminated, then all Contracts with the Customer shall terminate.

11.5. The rights to terminate any Contract or the Services given by this clause 11.5 shall not prejudice any other right or remedy of either Party in respect of the breach concerned (if any) or any other breach.

12. Consequences of termination

12.1. Any termination of any Contract shall be without prejudice to any other rights or remedies a party may be entitled to under these Terms or at law and shall not affect any accrued rights or liabilities of either party nor the coming into or continuance in force of any provision of these Terms which is expressly or by implication intended to come into or continue in force on or after such termination.

12.2. On termination (for whatever reason) and/or expiry of these Terms the Customer shall immediately pay to Amalga any outstanding unpaid invoices and interest due to Amalga. Amalga may submit invoices for any Services that it has provided but not invoiced. The Customer must pay these invoices within 30 days of the date of invoice.

Section 3 – Terms specific to Logistics, Support and Storage Services

13. RHA Conditions

13.1. Except as otherwise provided in these Terms, the terms of the RHA Conditions of Carriage and/or the RHA Conditions of Storage shall apply to all Logistics, Support and Storage Services as applicable.

14. Handling of Goods and delivery

14.1. The Customer shall ensure that any Goods provided to Amalga for Transit shall be packed in accordance with such packing requirements as may be set out in the relevant Works Order.

14.2. The Customer shall at all times provide to Amalga all relevant information about the nature of the Goods and, if required by Amalga, procedures for dealing with the handling of the Goods and (if appropriate) information about their perishability and normal shelf life.

14.3. The Customer shall keep Amalga fully informed of any particular risk of which it is aware whether such risk be in relation to the Goods or their possible deterioration or damage or the hazardous nature of the Goods or any liability to contaminate or otherwise affect other documentation, goods, products, property or persons.

14.4. Amalga reserves the right at its complete discretion to refuse to remove, store, provide Transit services for or otherwise handle any article or substance which may in the reasonable opinion of Amalga be damaged, hazardous or dangerous in themselves or constituent parts or which article or substance could cause damage to other goods carried in respect of these Terms or which article or substance could cause damage or be dangerous to Amalga's employees, agents or sub-contractors or the property of Amalga including but not limited to its buildings, vehicles or equipment.

14.5. The Customer shall not knowingly or recklessly submit for Transit any dangerous or explosive article or substance. In the event that the Customer does submit dangerous or explosive articles or substances for Transit, the Customer shall be liable for and agrees to reimburse Amalga in respect of any loss or damage incurred by the Customer as a result of the Transit of such articles or substances. The Customer shall indemnify Amalga against all claims made against it for any loss or damage by any third party as a direct result of the presence of any such article or substance among the Goods of which the Customer is aware or should reasonably have been aware.

14.6. In relation to any Waste Removal Services, the Customer shall inform Amalga in advance in each case of the type of goods which Amalga is required to remove and any specific handling requirements.

14.7. The Customer acknowledges and agrees that the Customer is not required to be in attendance when Goods are Delivered by Amalga to the Customer's Site or uploaded by Amalga into Amalga's vehicles at the Customer's Site provided proof of delivery shall be deemed to be acceptance of the Goods notwithstanding the absence of the Customer to sign as proof of delivery.

14.8. The Customer shall give to Amalga no less than 48 hours' notice of its intention to deliver or remove Goods from Amalga's premises.

Section 4 – Terms specific to Supply of Staff Services

15. Supply of Staff

15.1. Amalga may at any time without notifying the Customer make any changes to the Services to be provided during the Assignment which are necessary to comply with applicable safety or other statutory requirements and which do not materially affect the nature or quality of the Assignment. The Customer will be notified of any necessary changes.

15.2. When providing Supply of Staff Services, Amalga does so as an employment business pursuant to the Employment Agencies Act 1973 and the Conduct of Employment Agencies and Employment Business Regulations 2003 and the relevant statutory instruments.

15.3. Neither of the parties shall hold itself (and shall procure that the Employee shall not hold themselves) out as having authority to bind one another (Amalga and or the Customer) in any way in relation to third party arrangements.

16. Customer's responsibilities

16.1. When making a request for the provision of an Employee, the Customer will give Amalga details of:

- (a) the date on which the Customer requires the Employee to commence work and the duration, or likely duration, of the work;
- (b) the position which the Customer seeks to fill, including the type of work the Employee in that position would be required to do, the location at which, and the hours during which, the Employee would be required to work, and any risk to health or safety known to the Customer and what

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steps the Customer has taken to prevent or control such risks;

- (c) the experience, training, qualifications and any authorisation which the Customer considers are necessary, or which are required by law, or by any professional body, for the Employee to possess in order to work in the position; and
- (d) any information reasonably required by Amalga in order for Amalga to fulfil its obligations under the Agency Workers Regulations 2010 .

16.2. The Customer shall at its own expense ensure that the Employee is afforded sufficient access to any of the Customer's or third parties' premises, materials, manuals, personnel, data and other information and use of any equipment which is reasonably necessary for the satisfactory completion of the Supply of Staff Services.

16.3. Whilst the Employee is working at the Customer's or third parties' premises, the Customer shall provide the Employee with a suitable place of work and such materials in a good condition and sufficient for the purposes for which they are required.

16.4. The Customer shall ensure that the Employee is made aware of and abides by the rules and regulations of the Customer's or third parties' site. Any insubordination, disobedience, performance, conduct or capability matter, should be reported to Amalga and not dealt with by the Customer directly and the Customer shall provide Amalga with relevant information and evidence as reasonably required to enable Amalga to undertake appropriate investigation and disciplinary action.

16.5. The Customer shall advise Amalga of all health and safety matters about which Amalga is required to inform the Employee, and the Customer shall carry out all health and safety risk assessments relevant to the Assignment.

16.6. For the duration of the Assignment and whilst the Employee is working at the Customer's or third parties' premises the Customer shall undertake to:

- (a) ensure that the health and safety standards required by all applicable regulations and guidelines are observed;
- (b) notify Amalga and the Employee of any specific risks to health and safety known to it and what steps the Customer has taken to prevent or control such risks; and
- (c) confirm that it knows of no reason why it would be detrimental to the interests of the Employee to provide their services.

16.7. The Customer shall provide, at its own cost, the Employee with health and safety training and shall provide all further training required.

16.8. The Customer shall provide, at its own cost, the Employee with any and all necessary personal protective equipment and shall ensure that the same is replaced as required.

16.9. The Customer undertakes to assist Amalga in complying with Amalga's duties under the Working Time Regulations by supplying any relevant information about the Assignment requested by Amalga and the Customer will not do anything to cause Amalga to be in breach of its obligations under such Regulations. Where the Customer requires or may require the

services of an Employee for more than 48 hours in any week, the Customer must notify Amalga of this requirement before the commencement of that week. Only Employees who consent to working over 48 hours in any week will be permitted to do so.

16.10. The Customer undertakes to supervise the Employee sufficiently to ensure the Customer's satisfaction with the Employee's standards of workmanship.

16.11. The Customer warrants that it shall not request Amalga to supply an Employee to perform duties normally undertaken by staff who are participating in an official strike or other industrial action.

17. Amalga's responsibilities

17.1. Amalga shall screen Employees before introducing them to the Client and shall introduce to the Customer only Employees who meet the minimum criteria for the position stipulated by the Customer in accordance with clause 16.1. Amalga shall introduce only Employees who have the right to work in the relevant territory and, in particular, Amalga shall comply with the Immigration Asylum and Nationality Act 2006, the Immigration Act 2016 and other relevant UK legislation or equivalent legislation in the relevant jurisdiction as well as any regulations or relevant codes of practice regarding the reporting of labour movements, concealed employment and the employment of foreign workers.

17.2. Where an Employee is required by law or any professional body to have any qualifications, authorisations or certification to work on the Assignment, Amalga shall take all reasonably practicable steps to obtain, and offer to provide copies of, any relevant qualifications or authorisations or certification. Amalga shall also take all reasonably practicable steps to confirm that the Employee is suitable for the Assignment. If Amalga is unable to fully comply with these requirements, it shall inform the Customer of the steps it has taken to obtain the necessary information.

17.3. Prior to the commencement of the Assignment, Amalga shall send the Customer written confirmation of:

- (a) the identity of the Employee;
- (b) the Employee's experience, training, qualifications and authorisations necessary for the Assignment;
- (c) the Employee's willingness to carry out the Assignment;
- (d) the Charges applicable to the provision of the Employee;
- (e) any notice period to terminate the Assignment; and
- (f) the intervals at which invoices shall be rendered to the Customer by Amalga.

17.4. Amalga shall notify the Customer immediately if it believes that any Employee is unsuitable for the Assignment or if it becomes aware of any matter that indicates that an Employee may be unsuitable for the Assignment or is inconsistent with any information previously provided including where an Employee ceases to have the appropriate skills, approvals or a right to work in the United Kingdom.

17.5. Amalga shall remain responsible for taking any disciplinary action in respect of the Employees.

18. Time sheets

18.1. Amalga shall provide the Customer with timesheets on which to record the hours worked by the Employee. The Customer will provide these timesheets to the Employee for completion and signature.

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18.2. The Customer shall send to Amalga the signed timesheets verifying the Employee's working hours that week by close of business each Friday or at the end of the Assignment where it is for a period of one week or less or is completed before the end of a week.

18.3. It is the Customer's responsibility to ensure that the recorded hours are a true reflection of the hours worked by the Employee but failure by the Customer to sign the timesheets will not negate the Customer's obligation to pay the Charges in respect of hours worked by the Employee nor will dissatisfaction with the Employee's performance.

18.4. In the event of a dispute in respect of the hours worked between the Customer and the Employee the Customer shall inform Amalga in writing within 24 hours of such dispute arising and the Customer shall provide timely assistance to Amalga if it needs to verify the hours claimed and establish what hours (if any) were worked.

19. Remuneration

19.1. Amalga shall be responsible for payment of the Employee's remuneration, Amalga and the Employee's National Insurance Contributions and PAYE Income Tax where applicable.

19.2. Under no circumstances will the Customer discuss the Charges with the Employee or make payment to the Employee direct.

20. Charges

20.1. The Customer agrees to pay Amalga for all work performed by the Employee in the provision of the Supply of Staff Services by reference to the Charges set out in the Works Order.

20.2. The Employee's hourly charge rate shall be agreed between Amalga and the Customer on an Assignment by Assignment basis and the charge rate applicable to the Employee shall be stated in the Works Order.

20.3. In order to achieve the most suitable Employee hourly charge rate, the Customer shall endeavour to provide Amalga before the issue of the Works Order and the commencement of the Assignment all relevant information to the anticipated duration of the Assignment, the nature of the services to be provided (including location and required hours, any potential health and safety risks), together with training, qualification and authorisation requirements.

20.4. The Charges are calculated as a multiple of the number of hours, days, weeks (as appropriate) worked by the Employee during the Assignment and the relevant charge rate stated in the Works Order.

20.5. Amalga shall be entitled to vary the Charges from time to time by giving not less than 14 days written notice to the Customer.

20.6. Invoices, accompanied by copies of any available supporting timesheet(s) or other such evidence, for the work performed by the Employee shall be presented to the Customer for payment on a weekly basis and shall be payable in compliance with clause 6.

20.7. Payment by the Customer of the Charges shall constitute acceptance of the level of the Charges for the Supply of Staff Services and the accuracy of any accompanying copy timesheet(s) or other such evidence.

20.8. Chargeable hours worked by an Employee shall commence on the Employee's arrival at site except where the Customer requires an Employee to travel, for example from site to site, in which case travel time will be charged at the Employee's applicable hourly rate of Charges.

20.9. The Customer shall pay the Charges of Amalga relating to the Employee's authorised break(s), as noted on the Employee's timesheet or other such evidence, unless otherwise expressly agreed in writing.

20.10. The Customer shall reimburse all reasonable properly and necessarily incurred expenses of the Employee (plus VAT if applicable) in the provision of the Supply of Staff Services to Amalga subject to production of receipts or other appropriate evidence of payment.

20.11. Where the Customer requests Amalga to provide the Employee with tools, plant, materials or equipment, such as a mobile telephone, Amalga shall charge the Customer for the use of such equipment at a rate to be agreed between Amalga and the Customer prior to Amalga supplying the equipment.

21. Insurance and responsibility for Employees

21.1. The Employee is employed by Amalga under a contract of employment.

21.2. Amalga shall ensure that the relevant insurance policies are taken out and maintained throughout the Assignment.

21.3. Notwithstanding the Employee's employment status, for the duration of the Assignment the Customer agrees to be responsible for:

- (a) provision of adequate Contractors All Risk, Professional Indemnity, Employer's and Public Liability Insurance cover for the Employee and will indemnify Amalga against any liability thereunder;
- (b) all acts, errors or omissions of each Employee, whether wilful, negligent or otherwise; and
- (c) compliance in all respects with all statutes relating to the Employee including, but not limited to employment regulations, the Health and Safety At Work Act and all statutory instruments, guidelines and codes of practice to which the Customer is ordinarily subject to in respect of its own employees and the Customer shall indemnify Amalga against any causes of action or complaint arising from the Customer's breach of the regulations or treatment of the Employee.

21.4. The Customer shall be responsible for taking all steps necessary or desirable for the health, safety and welfare of the Employee when performing services at any premises of the Customer or third parties as if the Employee (strictly for the provision of this clause) were an employee of the Customer and the Customer shall indemnify Amalga against any failure to do so.

22. Introduction Fee

22.1. If, following the supply of an Employee by Amalga to the Customer within the Relevant Period, the Customer engages the Employee, the Customer will pay Amalga the introduction fee calculated in accordance with clause 22.4 (**Introduction Fee**).

22.2. The Introduction Fee will not be payable if the Customer gives written notice to Amalga that it intends to continue the hire of

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the Employee for a further period of three months (**Extended Assignment**) before it engages the Employee other than through Amalga.

22.3. Where the Customer decides (in accordance with Clause 22.2) to have the Employee supplied by Amalga for the Extended Assignment:

- (a) the Charges payable by the Customer to Amalga during the Extended Assignment shall be those applicable immediately before Amalga received the Customer's notice of election;
- (b) at the end of the Extended Assignment, the Customer may engage the Temporary Worker without paying the Introduction Fee; and
- (c) If the Customer chooses an Extended Assignment, but engages the Employee before the end of the Extended Assignment, the Introduction Fee may be charged by Amalga, reduced proportionately to reflect the amount of the Extended Assignment paid for by the Customer.

22.4. The Introduction Fee shall be the Employee's standard Monday to Friday hourly charge rate multiplied by 400 (four hundred) plus VAT if applicable.

23. Capability and replacement

23.1. The Customer shall satisfy itself that the Employee has the overall capability to perform the job role required under the Assignment and the Customer shall notify Amalga of any complaints concerning the Employee's performance or conduct as soon as knowledge of such matters of concern should arise. Amalga will accept no responsibility for information relating to the Employee which is outside of its knowledge.

23.2. The Customer shall notify Amalga immediately and without delay and in any event within 24 hours in writing if the Employee fails to attend work or notifies the Customer that they are unable to attend work for any reason.

23.3. Should the Employee be unable to provide the required services during the Assignment for reason of illness or injury, the Customer shall advise Amalga as soon as reasonably practicable and the Customer shall assist Amalga in respect of its obligations under the statutory sick pay scheme by providing to Amalga evidence of the Employee's illness or injury as Amalga may reasonably require from the Employee.

23.4. No Charges shall be payable by the Customer in respect of any period during which the Supply of Staff Services are not provided under the Assignment save for in event of the Customer failing to provide notice of variation to the Supply of Staff Services as stated in clause 24.1.

23.5. In addition to the provisions of clause 10, the Customer shall notify Amalga in writing if it should wish to terminate the Supply of Staff Services of the Employee and shall provide a clear written account of the difficulties encountered.

23.6. Amalga may offer to appoint a suitably qualified and skilled substitute employee to perform the Supply of Staff Services under the Assignment instead of the Employee either on a temporary or permanent basis.

23.7. The provision of a replacement by Amalga shall in no way amount to an admission that the work carried out by the Employee was not carried out with reasonable care and skill.

24. Variation of Supply of Staff Services

24.1. Should the Customer wish to make any variation to the Supply of Staff Services such as reducing the hours worked by the Employee each day, the number of days worked by the Employee each week or the number of Employees, the Customer shall provide Amalga with 14 days' written notice before any such variation comes into effect.

Section 5 – Terms specific to Installation and Strip-out Services

25. Amalga's obligations

25.1. Amalga shall carry out all the Installation and Strip-out Services between the hours of 9.00 am to 5.00 pm Monday to Friday (excluding public holidays) except where the Customer requires Amalga to work outside of these hours at such additional cost as the parties shall agree.

26. Customer's obligations

26.1. The Customer agrees to:

- (a) inform Amalga whether it must allow for any confined space entry, high pressure water jetting or pre-cleansing, or any services which Amalga may need to provide as part of the Installation and Strip-out Services;
- (b) be responsible (at its own cost) for preparing the Customer Site to enable to the Installation and Strip-out Services to be provided, including identifying, monitoring, removing and disposing of any hazardous materials as Amalga may require; and
- (c) ensure that all of the Customer's equipment required by Amalga is in good working order and is suitable for the purposes for which it is used and conforms to all relevant standards and requirements.

27. Liability

27.1. Amalga's total liability in respect of any Installation and Strip-out Services in contract, tort or otherwise arising in connection with the Services shall be limited to £5,000,000.

28. Insurance

28.1. The Customer shall take out and maintain appropriate insurance cover in respect of its risks and liabilities in procuring the carrying out the Installation and Strip-out Services and provide copies of such insurance policies and evidence of such insurance being maintained as Amalga shall reasonably demand. The Customer shall not do or omit to do anything to make such insurances void or voidable.

Section 6 – General Terms

29. Variation

29.1. No variation or alteration to the Contract shall be valid unless it is in writing and signed by the Amalga Authorised Representative and on behalf of the Customer.

30. Assignment and sub-contracting

30.1. The Customer shall not be entitled to assign, sub-contract or otherwise dispose of any of its rights or obligations

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under any Contract without the prior written consent of Amalga, such consent may only be given by a director of Amalga.

30.2. Amalga shall be entitled to may assign, sub-contract or otherwise its rights and obligations under any Contract at any time without the consent of the Customer.

31. Confidentiality

31.1. The Customer shall not either during the term or at any time after the termination of the Contract use or disclose to any firm, person or company any Confidential Information.

31.2. The restriction under clause 31.1 shall not apply to any use or disclosure authorised by the parties or required by law, or any information which is already in, or comes in, to the public domain otherwise than through the parties unauthorised disclosure.

32. Entire Agreement

32.1. These Terms shall constitute the entire Terms and understanding, and shall supersede any previous term(s), between the parties in connection with the subject matter of these Terms.

32.2. The Customer acknowledges and agrees that the Customer has not been induced to enter into these Terms in reliance upon, and in connection with these Terms does not have any remedy in respect of, any representation or other statement or promise of any nature whatsoever other than as expressly set out in these Terms.

33. Waiver

33.1. No delay or failure on the part of either party in enforcing any provision in these Terms shall be deemed to operate as a waiver or create a precedent or in any way prejudice that party's rights under these Terms, nor shall any single or partial exercise of any right or remedy in any circumstances preclude any other or further exercise of it or the exercise of any other right of remedy.

34. Severance

34.1. If any provision or part-provision of these Terms 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 these Terms is deleted under this clause 34.1, 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.

35. Notices

Any notice under these Terms shall be in writing and shall be sent by pre-paid, first-class post, hand delivery or email to the address/number for the relevant party as stated in these Terms or otherwise notified to the other party for this purpose. Any such notice shall be deemed to have been duly received:

- (a) if sent by first class, recorded delivery post 48 hours from the time of posting (subject only to any delays caused by industrial action affecting the postal service);
- (b) if delivered by hand at the time of actual delivery; 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.

provided in each case that if the deemed receipt time occurs on a day that is not a working day or after 5.00pm on a working day, then the notice shall not in fact be deemed to have been received until 10.00am on the next following working day.

36. Third party rights

36.1. Unless expressly stated in these Terms, nothing in these Terms shall confer any rights on any person under the Contracts (Rights of Third Parties) Act 1999.

37. Governing Law and Jurisdiction

37.1. 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.

37.2. 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.



Road Haulage Association Limited

CONDITIONS OF CARRIAGE 2024

Effective January 2024

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

Company Stamp or details

Amalga Limited
Unit 1, Polar Park
Bath Road
West Drayton
Middlesex
UB7 0EX

0 0 3 6 4 6 0 - 0 0 0 RHA membership number

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

1. Definitions

In these Conditions:

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

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

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

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

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

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

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

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

2. Parties and Sub-Contracting

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

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

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

3. Dangerous Goods

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

4. Loading and Unloading

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

5. Obligations of the Customer

The Customer warrants that:

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

- (3) It will provide the Carrier with such information and materials as the Carrier may reasonably require in order to comply with its obligations under the Contract, including but not limited to information relating to the weight and contents of the Consignment, and the Customer will ensure that such information is complete and accurate in all material respects.
- (4) The Customer shall, and shall procure that the Consignee shall, allow any employees or agents of the Carrier to access all welfare facilities available at their premises.
- (5) If the Carrier's performance of any of its obligations under the Contract is prevented, hindered or delayed by any act or omission of the Customer or by any failure by the Customer to perform any relevant obligation (**Customer Default**), then:
 - (a) without limiting or affecting any other right or remedy available to it, the Carrier shall have the right to suspend performance of its obligations until the Customer remedies the Customer Default, and may rely on the Customer Default to relieve it from the performance of any of its obligations in each case to the extent the Customer Default prevents, hinders or delays the Supplier's performance of any of its obligations;
 - (b) the Carrier shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from the Carrier's failure to perform or delay in performing any of its obligations as set out in this Condition 5(5); and
 - (c) the Customer shall on written demand reimburse the Carrier for any costs or losses sustained or incurred by the Carrier arising directly or indirectly from the Customer Default.

6. Receipts

The Carrier shall, if so required, provide a document or electronic record prepared by the Customer or its agent acknowledging the receipt of the Consignment; but the burden of proving the condition of the Consignment and/or its nature, quantity, quality, or weight at the time of that receipt shall rest with the Customer. For the avoidance of doubt, the Customer shall not be entitled to withhold any of the Carrier's Charges where such receipt has not been provided.

7. Transit

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

8. Undelivered or Unclaimed Consignments

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

Provided that:

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

9. Carrier's Charges

- (1) The Carrier's charges shall be payable by the Customer, without prejudice to any rights the Carrier may have against the Consignee, or any other person, to secure or obtain payment: Provided however that when any Consignment is consigned 'carriage forward' the Customer shall not be required to pay such charges unless the Consignee shall, within a reasonable period of demand for payment having

been made of it, have failed to pay the Carrier's charges.

- (2) Charges shall be payable when due without deduction or deferment on account of any claim, counterclaim or set-off. If the Customer becomes insolvent, or any sums owed by the Customer to the Carrier become overdue for payment, all credit terms previously agreed shall be cancelled with immediate effect and all invoices and accounts issued by the Carrier shall be deemed due for immediate payment and all sums owing (whether due or not) shall thereupon become payable. The Late Payment of Commercial Debts (Interest) Act 1998, as amended, shall apply to all sums due from the Customer.
- (3) The Carrier shall use reasonable endeavours to obtain a signed proof of delivery of the Consignment from the Consignee, unless otherwise agreed with the Customer. No payment shall however be withheld by the Customer where the Carrier is unable to provide a proof of delivery unless notification of non-delivery is received by the Carrier no more than 48 hours after the expected time of delivery of the Consignment and the Carrier is subsequently unable to evidence proof of delivery.
- (4) The Customer shall pay to the Carrier any storage charges incurred as a result of it exercising its lien in accordance with clause 15 below.
- (5) If the Contract is cancelled at any time the Customer shall pay the Carrier all costs and expenses which the Carrier has incurred prior to such cancellation.

10. Liability for Loss and Damage

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

11. Fraud

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

12. Limitation of Liability

- (1) Except as otherwise provided in these Conditions, the liability of the Carrier in respect of claims for physical loss of, mis-delivery of or physical damage to goods comprised within the Consignment, howsoever arising, shall in all circumstances be limited to the lesser of

- (a) the value of the goods actually lost or mis-delivered, at the place they should have been delivered; or the amount by which damaged goods have been depreciated in value by reason of that damage; or
- (b) the cost of replacing the goods actually lost or mis-delivered and/or reconditioning or repairing any damage to the goods; or
- (c) a sum calculated at the rate of £1,300 Sterling per tonne on the gross weight of the goods actually lost, mis-delivered or damaged;

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

Provided that:

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

13. Indemnity to the Carrier

The Customer shall indemnify the Carrier against:

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

14. Time Limits for Claims

- (1) The Carrier shall not be liable for:
 - (a) physical loss of, mis- or non-delivery of, or physical damage to goods comprised within the Consignment unless advised thereof in writing, together with such evidence as may reasonably be required to prove that the physical loss of, mis- or non-delivery of, or physical damage to goods was caused by the Carrier, within seven days after the termination of transit or the date on which the transit should have terminated;
 - (b) any other type of loss unless advised thereof in writing within twenty-eight days after the termination of transit or the date on which the transit should have terminated.
- Provided that if the Customer proves that,
- (i) it was not reasonably possible for the Customer to advise the Carrier or make a claim in writing within the time limit applicable, and
 - (ii) such advice or claim was given or made within a reasonable time after the time at which it did become reasonably possible for the Customer to advise the Carrier or make a claim in writing,
- the Carrier shall not have the benefit of the exclusion of liability afforded by this Condition.
- (2) The Carrier shall in any event be discharged from all liability whatsoever and howsoever arising in respect of the Consignment unless legal proceedings are issued and notice in writing thereof given to the Carrier within one year of the date when transit commenced.
 - (3) In the computation of time where any period provided by these Conditions is seven days or less, Saturdays, Sundays and all statutory public holidays shall be excluded.

15. Lien

- (1) The Carrier shall have:
 - (a) a particular lien on the Consignment for all charges due to the Carrier for the carriage, storage and/or warehousing of the Consignment and for all other proper charges or expenses incurred in connection with the carriage of the Consignment, and
 - (b) a general lien on the Consignment for any sums overdue and unpaid by the Customer, by the owner of the Consignment or by any other person having any proprietary or possessory interest in it, by the Consignee, or by any agent of these persons, on any invoice, account or contract whatsoever.
- If the Carrier exercises a lien, but appropriate payment is not made within 14 days after notice that the payment is due and has been given in accordance with Condition 8(2) above, the Carrier may sell the Consignment, or any part thereof, as agent for its owner and for those having a proprietary or possessory interest in it, and shall apply the proceeds towards any sums unpaid and towards the expenses of the retention, storage, insurance and sale of the Consignment and shall, upon accounting to the Customer for any balance remaining, be discharged from all liability whatsoever in respect of the Consignment.
- (2) The Carrier may exercise its lien on its own behalf or as agent for any assignee of its invoices at any time and at any place in its sole discretion, whether or not the contractual carriage has been completed, and these Conditions shall continue to apply during the period of exercise of such lien.
 - (3) If the Consignment is not solely the property of the Customer, the Customer warrants that it has the authority of all those having a proprietary or possessory interest in the Consignment to grant to the Carrier liens as set out in Condition 15(1) above, and the Customer shall indemnify the Carrier for all claims and demands the Carrier may receive asserting that the Customer did not have that authority.

16. Unreasonable Detention

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

17. Confidentiality

- (1) Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by these Conditions.
- (2) Each party may disclose the other party's confidential information:
 - (a) to its employees, officers, representatives, sub-contractors or advisers who need to know such information for the purposes of carrying out the party's legal obligations; and
 - (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

18. Law and Jurisdiction

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



Road Haulage Association Limited

CONDITIONS OF STORAGE

Effective 1 April 2021

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

Company Stamp or details

Amalga Limited
Unit 1, Polar Park
Bath Road
West Drayton
Middlesex
UB7 0EX

0 0 3 6 4 6 0 - 0 0 0 RHA membership number

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

(1) Definitions

In these Conditions:

"Customer" means the person or company who contracts for the services of the Contractor including any other contractor who gives Goods to the Contractor for Storage.

"Contract" means the contract between the Customer and the Contractor for the Storage of the Goods.

"Goods" means goods whether a single item or in bulk or contained in one parcel, package or container as the case may be or any number of separate items, parcels, packages or containers stored under the Contract.

"Storage" means the storage and handling of Goods including unloading and loading of Goods and movement of Goods between stores and such other ancillary services as the Contractor may agree to in writing, and the words "Store" and "Stored" shall be construed accordingly.

"Dangerous Goods" means:

- a. those substances and articles the carriage of which is prohibited by the provisions of the European Agreement Concerning the International Carriage of Dangerous Goods by Road (ADR) as applied in the United Kingdom, or authorised only under the conditions prescribed in accordance therewith;
- b. any weapon, drug, poison, damaging article or substance or any article or substance likely to encourage vermin or other pests or likely to cause infection; and
- c. any Goods which, although, not included in (i) or (ii) above, in the sole opinion of the Contractor, present a similar hazard.

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

"Trader" means the owner of the Goods, any other person having an interest therein and anyone acting on behalf of such owner or other person, including, as the case may be, the Customer.

(2) Parties and Sub-Contracting

- (2) The Customer warrants that he is either the owner of the Goods or is authorised by such owner to accept these Conditions on such owner's behalf, and that he is similarly authorised by all those having a proprietary or possessory interest in the Goods, to accept these Conditions on their behalf.
- (3) The Customer also warrants that the Goods are as described to the Contractor with regard to their nature, weight, quantity, condition and dimensions.
- (4) The Customer also warrants that Dangerous Goods accepted for Storage comply with all relevant statutory regulations for the time being in force concerning the Storage, carriage, packing, marking, documentation and labelling of such articles or substances.

- (4) The Contractor and any other contractors employed by the Contractor may employ the services of any other contractor for the purpose of fulfilling the Contract in whole or in part and the name of every such other contractor shall be provided to the Customer on request.
- (5) The Contractor contracts for itself and as agent of and trustee for its servants and agents and all other contractors referred to in (4) above and such other contractors' servants and agents and every reference in these Conditions to the "Contractor" shall be deemed to include every other such contractor, servant and agent with the intention that they shall have the benefit of the contract and collectively and together with the Contractor be under no greater liability to the Customer or any other party than is the Contractor hereunder.

3. Dangerous Goods

- (1) Dangerous Goods must be disclosed by the Customer and if the Contractor agrees to accept them for Storage such Goods must be properly and safely packed, marked, labelled and documented in accordance with any legislation for the time being in force for the Storage and carriage of such articles or substances and the Customer shall, whilst the Dangerous Goods remain in Storage, keep the Contractor informed of any statutory modification or re-enactment thereof or any rules or regulations made there under or rules or recommendations made by any relevant authority, concerning the Storage or handling of the Dangerous Goods.
- (2) Prior to receipt of the Dangerous Goods, the Customer shall provide the Contractor with such information in writing as will enable the Contractor to know the identity of the Dangerous Goods, the nature of the hazards created thereby, and any action to be taken in an emergency. While the Dangerous Goods remain in Storage, the Customer shall keep the Contractor informed of its recommendations on the handling and Storage of such Goods including all health and safety recommendations. The Contractor shall be entitled to disclose the information supplied by the Customer to its servants, agents and other contractors referred to in condition 2(5), and any relevant Government department.
- (3) If the Customer does not disclose in writing and in advance that the Goods accepted for Storage include Dangerous Goods, the Contractor shall be entitled to rescind the Contract.

4. Procedure on Delivery or Collection

- (1) The Customer shall give the Contractor not less than twenty-four hours notice of its intention to deliver or remove Goods at the premises of the Contractor.
- (2) Unless otherwise agreed in writing the Customer will be responsible for any loading of goods onto a vehicle, and will also be responsible for any unloading of the goods off a vehicle during the Storage period. The Contractor will not be responsible for any loss or damage to the Goods arising from loading the Goods onto or unloading them off a vehicle, or from the overloading of a vehicle or from the unsafe loading of a vehicle. The Contractor may, at its sole discretion, through its servants and agents provide assistance in loading or unloading the goods if requested to do so by the Customer or its agents. The Customer shall indemnify the Contractor from and against all and any loss, damage, death or injury that may arise whilst the loading or unloading operations is taking place whether or not such loss, damage, death or injury is attributable to the negligence of the Contractor, its agents or servants.

5. Receipt of Goods

- (1) Following acceptance of the Goods for Storage the Contractor shall if so required provide the Customer with a receipt in writing but the burden of proving the condition of the Goods on receipt by the Contractor and that the Goods were of the nature, property, chemical composition, quantity, quality or weight declared in the relevant document shall rest with the Customer.
- (2) The Contractor shall notify the Customer of any pre-existing damage to and/or deficiency in the Goods to be Stored, within a reasonable time of the Contractor becoming aware of such damage or deficiency. Such Goods shall, in the absence of any express agreement to the contrary between the Customer and the Contractor, be returned to the Customer at the Customer's expense.

6. Obligations of the Customer

The Customer warrants that:

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

- (4) If the Contractor's performance of any of its obligations under the Contract is prevented, hindered or delayed by any act or omission of the Customer or by any failure by the Customer to perform any relevant obligation (**Customer Default**), then:
- (a) without limiting or affecting any other right or remedy available to it, the Contractor shall have the right to suspend performance of its obligations until the Customer remedies the Customer Default, and may rely on the Customer Default to relieve it from the performance of any of its obligations in each case to the extent the Customer Default prevents, hinders or delays the Contractor's performance of any of its obligations;
 - (b) the Contractor shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from the Contractor's failure to perform or delay in performing any of its obligations as set out in this Condition 6(4); and
 - (c) the Customer shall on written demand reimburse the Contractor for any costs or losses sustained or incurred by the Contractor arising directly or indirectly from the Customer Default.

7. Termination of Storage

- (1) Either the Contractor or Customer may at any time give not less than twenty-one clear days' notice in writing to the other of its intention to terminate the Contract and notwithstanding that the Contractor may have released the Goods before the expiry of such notice, all charges shall be payable to the date when the notice would have expired.
- (2) The Contractor may require the removal of the Goods or any part thereof, forthwith, if in the Contractor's opinion:
 - (a) the Customer's financial position becomes unsatisfactory or if the Customer ceases to pay its debts in the ordinary course of business or cannot pay its debts as they become due, or (being a company) is deemed to be unable to pay its debts or has a winding up petition issued against it or a receiver appointed of all or any part of its assets, or if a proposal is made for a composition with creditors or scheme of arrangement or for an administrator to be appointed in respect of all or any part of the business or assets of the Customer or (being an individual) commits an act of bankruptcy or has a bankruptcy petition issued against him, or the Customer is in breach of any of its obligations arising under the Contract;
 - (b) the Storage of Goods poses a risk to the health and safety of the Contractor, its servants or any third party or to the Contractor's property or any third party property;
 - (c) the continued Storage of the Goods will result in the Goods perishing or otherwise deteriorating and/or will cause damage to other goods or property.
- (3) If the Goods or any part thereof are not removed after notice is given by the Contractor to the Customer in accordance with paragraphs (1) and (2) above, then the Contractor may, at its absolute discretion, sell the Goods after the lapse of a reasonable period of time after notice is given by the Contractor to the Customer of its intention to sell the Goods or part thereof.

8. Revision of Storage Charges and Conditions of Storage

The Contractor's charges and these Conditions may be revised by the Contractor from time to time. Any such revision shall not become effective until the expiry of twenty-one days from the date notice of proposed revision is given to the Customer.

9. Contractor's Charges

- (1) Goods accepted for Storage during any calendar week (Monday to Sunday both inclusive) shall be charged for as though they were received on the first day of such week.
- (2) The Contractor's charges shall be payable by the Customer, without prejudice to any rights the Contractor may have against any other person, to secure or obtain payment.
- (3) Charges shall be payable when due without reduction or deferment on account of any claim, counterclaim or set-off. If the Customer becomes insolvent or any sums owed by the Customer on any invoice or account with the Contractor become overdue for payment, any credit terms shall be cancelled with immediate effect and all invoices or accounts issued by the Contractor shall immediately be deemed due for payment and thereupon become payable. The Late Payment of Commercial Debts (Interest) Act 1998, as amended, shall apply to all sums due from the Customer.
- (4) Should the delivery of Goods be postponed or cancelled by the Customer, the Contractor shall be entitled to recover from the Customer all expenses incurred by the Contractor and all rental charges in respect of space reserved for such Goods.
- (5) The Customer shall pay to the Contractor any additional storage charges incurred as a result of it exercising its lien in accordance with clause 15 below.

10. Liability for Loss and Damage

- (1) The Customer shall be deemed to have elected to accept the terms set out in (2) of this Condition unless, before the Goods are Stored, the Customer has agreed in writing that the Contractor shall not be liable for any loss or mis-delivery of or damage to or in connection with the Goods howsoever or whensoever caused and whether or not caused or contributed to directly or indirectly by any act, omission, neglect, default or other wrong doing on the part of the Contractor, its servants, agents or sub-contractors.
- (2) Subject to these conditions the Contractor shall be liable for:
 - (a) physical loss, mis-delivery of or damage to living creatures, bullion, money, securities, stamps, precious metals or precious stones only if:
 - (i) the Contractor has specifically agreed in writing to Store any such items; and
 - (ii) the Customer has agreed in writing to reimburse the Contractor in respect of all additional costs which result from the Storage of the said items; and

- (iii) the loss, mis-delivery or damage is occasioned during Storage and is proved to be due to the negligence of the Contractor, its servants, agents or sub-contractors.
- (b) physical loss, mis-delivery of or damage to any other Goods not covered by sub-clause (a) above comprised occasioned during Storage unless the same has arisen from a Force Majeure Event.
- (c) A "**Force Majeure Event**" shall mean any act(s), event(s), circumstance(s) or cause(s) the occurrence of which is beyond the reasonable control of the Contractor, including but not limited to:
 - (i) act of God, riot, civil commotion, strike, lockout, general or partial stoppage or restraint of labour from whatever cause, war, act of terrorism, seizure or forfeiture under legal process, restraint of government;
 - (ii) error, act, omission, mis-statement or misrepresentation by the Customer or the owner of the Goods or by any servant or agent of either of them;
 - (iii) inherent wastage in bulk or weight, faulty design, latent defect or inherent vice or natural deterioration of the Goods;
 - (iv) any special handling requirements in respect of the Goods which have not been notified to the Contractor;
 - (v) insufficient or improper packaging, labelling or addressing, unless the Contractor has contracted to provide this service;
 - (vi) fire, flood, storm, earthquake, pandemic, or epidemic;
 - (vii) leakage or deficiency of Goods of a perishable or leaky nature, moth, vermin, insects, atmospheric or climatic causes;
 - (viii) any other cause beyond the reasonable control of the Contractor.
- (3) The Contractor shall not in any circumstances be liable for loss of or damage to Goods arising after Storage of such Goods has ended, whether or not caused or contributed to directly or indirectly by any act, omission, neglect, default or other wrongdoing on the part of the Contractor, its servants, agents or sub-contractors.

11. Fraud

The Contractor shall not in any circumstances be liable in respect of Goods where there has been fraud on the part of the Customer or the owner, or the servants or agents of either, in respect of those Goods, unless the Contractor or any servant of the Contractor acting in the course of his employment has been complicit in that fraud.

12. Limitation of Liability

- (1) Except as otherwise provided in these Conditions, the liability of the Contractor in respect of claims for physical loss, mis-delivery of or damage to Goods, howsoever arising, shall in all circumstances be limited to the lesser of
 - (a) the value of the Goods actually lost, mis-delivered or damaged, at the place they should have been stored; or the amount by which damaged Goods have been depreciated in value by reason of that damage; or
 - (b) the cost of repairing any damage or of reconditioning the Goods; or
 - (c) a sum calculated at the rate of £100 Sterling per tonne on the gross weight of the Goods actually lost, mis-delivered or damaged; and the value of the Goods actually lost, mis-delivered or damaged shall be taken to be their invoice value if they have been sold and shall otherwise be taken to be the replacement cost thereof to the owner at the commencement of Storage, and in all cases shall be taken to include any Customs and Excise duties or taxes paid or payable in respect of those Goods when lost, misdelivered or damaged:

Provided that:

- (i) in the case of loss, mis-delivery of or damage to a part of the Goods the weight to be taken into consideration in determining the amount to which the Contractor's liability is limited shall be only the gross weight of that part regardless of whether the loss, mis-delivery or damage affects the value of other parts of the Goods;
- (ii) nothing in this Condition shall limit the liability of the Contractor to less than the sum of £10;
- (iii) the Contractor shall be entitled to proof of the weight and value of the whole of the Goods and of any part thereof lost, mis-delivered or damaged;
- (iv) the Customer shall be entitled to give to the Contractor notice in writing to be delivered at least seven days prior to commencement of Storage requiring that the £100 per tonne limit in 12(1)(c) above be increased, but not so as to exceed the value of the Goods, and in the event of such notice being given the Customer shall be required to agree with the Contractor an increase in the Storage charges in consideration of the increased limit, but if no such agreement can be reached the aforementioned £100 per tonne limit shall continue to apply.
- (2) The liability of the Contractor in respect of claims for any other type of loss, liability or damage whatsoever and howsoever arising in connection with the Goods, shall not exceed the amount of the Storage charges in respect of the Goods or the amount of the claimant's proved loss, whichever is less, unless:
 - (a) at the time of entering into the Contract with the Contractor the Customer declares to the Contractor a special interest in Storage in the event of physical loss mis-delivery or damage and agrees to pay a surcharge calculated on the amount of that interest, and
 - (b) at least seven days prior to the commencement of Storage the Customer has delivered to the Contractor confirmation in writing of the declared value of any special interest, and of its agreement to pay the specified surcharge which it has agreed with the Contractor.
- (3) The Contractor shall not be in breach of the Contract nor liable for any delay in performing, or failure to perform, any of its obligations under the Contract if such delay or failure results from a Force Majeure Event.

- (4) The following types of loss or damage are wholly excluded, and will not under any circumstances be the subject of compensation by the Contractor:
- (a) loss of profits;
 - (b) loss of sales or business;
 - (c) loss of agreements or contracts;
 - (d) loss of anticipated savings;
 - (e) loss of use of, or corruption of, software, data or information;
 - (f) loss of or damage to goodwill;
 - (g) indirect or consequential loss;
 - (h) any fine imposed on the Customer by the Consignee or its customer.

13. Indemnity to the Contractor

The Customer shall indemnify the Contractor against:

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

14. Time Limits for Claims

- (1) The Contractor shall not be liable for:
 - (a) physical loss of, mis-delivery or non-delivery of or physical damage to Goods being Stored, or failure to release any Goods unless advised thereof by the Customer within seven days after release of the Goods alleged to be damaged or, in the case of Goods alleged to be lost or mis-delivered or which the Contractor fails to release, within seven days after the time when the Goods should in the ordinary course of events have been released and the Contractor shall be under no liability unless such claim is made within the time stipulated; or
 - (b) any other type of loss unless advised thereof in writing within twenty-eight days after the termination of Storage or the date on which the Storage should have terminated,
- provided that if the Customer proves that:
- (i) it was not reasonably possible for the Customer to advise the Contractor or make a claim in writing within the time limit applicable, and
 - (ii) such advice or claim was given or made within a reasonable time, after the time at which it did become reasonably possible for the Customer to advise the Contractor or make a claim in writing, the Contractor shall not have the benefit of the exclusion of liability afforded by this Condition.
- (2) The Contractor shall in any event be discharged from all liability whatsoever and howsoever arising in respect of the Goods unless legal proceedings are issued and notice in writing thereof given to the Contractor within one year of the date when the Goods were released or should, in the ordinary course of events, have been released.
 - (3) In the computation of time where any period provided by these Conditions is seven days or less, Saturdays, Sundays and all statutory public holidays shall be excluded.

15. Lien

- (1) The Contractor shall have:
 - (a) a particular lien on the Goods for all charges due to the Contractor for the Storage of the Goods, and
 - (b) a general lien on the Goods for any sums overdue and unpaid by the Customer, by the owner of the Goods or by any other person or agent having any proprietary or possessory interest in the Goods, on any invoice, account or contract whatsoever.

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

- (2) The Contractor may exercise its lien on its own behalf or as agent for any assignee of its invoices at any time and at any place in its sole discretion, whether or not the contractual storage has been completed, and these Conditions shall continue to apply during the period of exercise of such lien.
- (3) If the Consignment is not solely the property of the Customer, the Customer warrants that it has the authority of all those having a proprietary or possessory interest in the Consignment to grant to the Contractor liens as set out in Condition 15(1) above, and the Customer shall indemnify the Contractor for all claims and demands the Contractor may receive asserting that the Customer did not have that authority.

16. Impossibility of Performance

The Contractor shall be relieved of its obligations to perform the Contract to the extent that the performance thereof is prevented by failure of the Customer, fire, weather conditions, industrial dispute, epidemic or pandemic, labour disturbance or cause beyond the reasonable control of the Contractor.

17. Notice

All written communications from the Contractor to the Customer shall be deemed to have been served if delivered or posted to the last known address of the Customer.

18. Confidentiality.

- (1) Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by these Conditions.
- (2) Each party may disclose the other party's confidential information:
 - (a) to its employees, officers, representatives, subcontractors or advisers who need to know such information for the purposes of carrying out the party's legal obligations; and
 - (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

19. Law and Jurisdiction

Unless otherwise agreed in writing, the Contract and any dispute arising thereunder shall be governed by English law and shall be subject to the jurisdiction of the English courts alone.