



TERMS AND CONDITIONS

1. THE COMPANY'S OVERALL ENGAGEMENT
 - a) All and any business undertaken including any advice information or service provided whether gratuitously or not by Solent Stevedores Limited (hereinafter called 'the Company') is transacted subject to the Conditions hereinafter set out and which Condition shall be deemed to be incorporated in and to be a Condition of any agreement between the Company and the Customer. These Conditions shall prevail over any inconsistent terms or conditions contained, or referred to, in the Customer's purchase order, confirmation of order, acceptance of a quotation or specification, or implied by law, trade custom, practice or course of dealing. The Company is not a common carrier and only deals with goods subject to these Conditions. These Conditions may be altered or varied in writing only so long as the alteration or variation is signed by a Director of the Company or the Company Secretary. In these Conditions "Services" means the services to be provided by the Company to the Customer.
 - b) The Customer's acceptance of a quotation for Services by the Company constitutes an offer by the Customer to purchase the Services specified in it on these Conditions. No offer placed by the Customer shall be accepted by the Company other than:
 - (i) by a written acknowledgement issued and executed by the Company; or
 - (ii) (if earlier) by the Company starting to provide the Services, when a contract for the supply and purchase of those Services on these Conditions will be established. The Customer's standard terms and conditions (if any) attached to, enclosed with or referred to in any order or other document shall not govern the agreement with the Customer.
 - c) Quotations are given by the Company on the basis that no agreement shall come into existence except in accordance with the procedure set out above. Any quotation is valid for a period of 30 days from its date, provided that the Company has not previously withdrawn it.
2. LEGISLATION CONTRARY TO THESE CONDITIONS
 - a) If any legislation is compulsorily applicable to any business undertaken these Conditions shall as regards such business be read as subject to such legislation and nothing in these Conditions shall be construed as a surrender by the Company of any of its rights or immunities or as an increase of any of its responsibilities or liabilities under such legislation and if any part of these Conditions be repugnant to such legislation to any extent such part shall as regards such business be void to that extent but no further.
 - b) Furthermore shall be applicable the terms and conditions of sub-contractors or third parties the service of which the Company is making use of in the loading, unloading, handling, storing, stockpiling, warehousing and delivering bulk or other goods.
3. OWNER OF GOODS
Customers entering into transactions of any kind with the Company expressly warrant that they are either the owners or the authorised agents of the owners of any goods to which the transaction relates and further warrant that they are authorised to accept and are accepting these Conditions not only for themselves but also as agents for and on behalf of all other persons who are or may thereafter become interested in the goods.
4. RIGHT TO DELEGATE OR SUBCONTRACT
Any instructions or business accepted by the Company may in the absolute discretion of the Company be fulfilled by the Company itself by its own employees performing part or all of the relevant services or by the Company employing or instructing or entrusting the goods or work to others on such conditions as such may stipulate to perform part or all of the service.
5. HANDLING METHODS
Subject to express instructions in writing given by the Customer the Company reserves to itself absolute discretion as to the means, route, handling method and procedure to be followed in the handling, storage and transportation of goods. Further, if in the opinion of the Company it is at any stage necessary or desirable in the Customer's interest to depart from those instructions the Company shall be at liberty to do so.
6. CUSTOMER ASSUMED ACTING ON OWN ACCOUNT
The Customer shall be deemed to be acting for his own account unless when giving the order for work to be carried out to the Company he intimates in writing that he is acting on behalf of a third party, whilst mentioning the name of such third party.
7. RIGHT TO WAREHOUSE GOODS IN TRANSIT
Pending distribution or delivery, goods may be warehoused or otherwise held at any place or places at the sole discretion of the Company and the cost thereof shall be for the account of the Customer. The Company shall not be responsible for any losses, damage or deterioration to goods except upon proof that this was due solely to the wilful default of the Company or its employees.
8. CORRECT PACKAGING OF GOODS
Except where the Customer is instructed in writing to pack the goods the Customer warrants that all goods have been properly and sufficiently packed and/or prepared, and the Company accepts no liability for damage caused as a result of inadequate packaging.
9. VALIDATION OF QUOTATIONS
Quotations are given on the basis of immediate acceptance and are subject to withdrawals or revisions. Further, unless otherwise agreed in writing the Company shall after acceptance be at liberty to revise quotations or charges with or without notice in the event of changes occurring or any other changes applicable to the goods or the services provided irrespective of whether the Company has acted in a particular transaction as principal or Agent.
10. DESCRIPTION OF GOODS
The Customer shall be deemed to be bound by and to warrant the accuracy of all descriptions, values and other particulars furnished to the Company for any purposes including Customs. The Customer undertakes to indemnify the Company against all losses, damages, expenses and fines whatsoever arising from any inaccuracy or omission even if such inaccuracy or omission is not due to any negligence. In the absence of a written description or estimate of value from the Customer the Company will accept, handle and deal with goods on their face value and be at liberty to determine their value for all purposes. The Company will not be liable if the Customer seeks to attribute a higher value than that determined by the Company. The Company shall not be obliged to make any declaration for the purposes of any statute or convention or contract as the nature or value of any goods or as to any special interest in delivery unless expressly instructed to do so by the Customer in writing.
11. LIABILITY FOR DUTIES AND TAXES
The Customer shall be liable for any duties, taxes, imposts, levies, deposits or outlays of any kind levied by the authorities at any port, wharf or place for or in connection with the goods and for any payments, fines, expenses, losses or damage whatsoever incurred or sustained by the Company in connection therewith.
12. RIGHT TO SEEK PAYMENT FROM CUSTOMER
When goods are ordered or dealt with on instructions from a third party the Customer shall remain responsible for all charges and expenses if they are not paid by the third party.
13. NO INSURANCE
No insurance shall be effected except upon express instructions given in writing by the Customer and all insurance effected by the Company is subject to the usual exception and conditions of the policies of the insurance company or underwriters taking the risk. The Company shall not be under any obligation to effect a separate insurance on each consignment but may declare it on any open or general policy. Should the insurers dispute their liability for any reason the Customer shall have recourse against the insurers only and the Company shall not be under any responsibility or liability whatsoever in relation thereto notwithstanding that the premium upon the policy may not be at the same rate as that charged by the Company or paid to the Company by the Customer.
14. LIMITATION OF LIABILITY
 - a) This condition sets out the entire financial liability of the Company (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Customer in respect of:
 - (i) any breach of the agreement;
 - (ii) any use made by the Customer of the Services; and
 - (iii) any representation, statement or tortious act or omission (including negligence) arising under or in connection with the agreement.
 - b) All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the agreement.
 - c) Nothing in these Conditions limits or excludes the liability of the Company:
 - (i) for death or personal injury resulting from negligence; or
 - (ii) for any damage or liability incurred by the Customer as a result of fraud or fraudulent misrepresentation by the Company.
 - d) Subject to the above
 - (i) The Company shall not be liable, whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation or otherwise for:
 1. loss of profits; or
 2. loss of business; or
 3. depletion of goodwill and/or similar losses; or
 4. loss of anticipated savings; or
 5. loss of goods; or
 6. loss of contract; or
 7. loss of use; or
 8. any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses.
 - (ii) The Company's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise arising in connection with the performance or contemplated performance of the agreement shall be limited to the price paid for the Services or where the Customer is charged on a vessel-by-vessel basis to the individual charge for the vessel in connection with which the liability arises.
 - e) (i) The Company shall only be responsible for any loss of or damage to goods or for any nondelivery or misdelivery if it is proved that the loss, damage, nondelivery or misdelivery occurred whilst the goods were in the custody of the Company and under its actual control and that such loss, damage, nondelivery or misdelivery was due to the wilful neglect or default of the Company or its own employees.
 - (ii) The Company shall only be liable for any non-compliance or mis-compliance with instructions given to it if it is proved that the same was caused by the wilful neglect or default or of the Company or its own employees.
 - (iii) Save as aforesaid, the Company shall be under no liability whatsoever however arising and whether in respect of or in connection with any goods or any instructions, business, advice, information, handling, storage or service or otherwise.
15. EXCLUSION OF LIABILITY
In any event the Company shall not incur any liability in respect of:
 - a) Damage wholly or partly resulting from the nature and/or condition of the means of transport or the nature and/or condition of the goods;
 - b) Damage which is unavoidable in the applied method of working indicated to the Customer if no objection has been raised to such method by or on behalf of the Customer or those interested;
 - c) Damage due to any difference in weight, quality, contamination, mingling including damage caused by dust and/or presence of foreign objects or particles in the goods unless caused by the gross negligence or recklessness of the Company or its employees;
 - d) Damage caused by or resulting from work other than the loading, unloading, handling, storage, warehousing, stockpiling and delivery. This exemption includes such activities as placing of lamps, carrying out repairs, manipulating hatches, beams, cross beams or moving or removing vessels or vehicles.
 - e) Damage resulting from failure breakage or other defects of the equipment used by the Company unless it can be proved that the equipment was not in a good state of maintenance and did not conform to the requirements if any laid down by the relevant authorities in this respect;
 - f) Damage resulting from non-compliance by third parties with regulations laid down by the relevant authorities or issued by the Company;
 - g) Damage arising from any act or any neglect of a third party whether or not the third party was employed by or on behalf of the Company;
 - h) Damage done to other goods on board during the performance of the Services by the Company other than damage resulting from the gross negligence or wilful default of the Company or its employees;
 - i) Despatch money lost or demurrage due in respect of barges, lighters, railway wagons, trucks, unless caused by the gross negligence or wilful default of the Company or its employees;
 - j) Delay arising from the repair of damage where such repair is carried out during or after completion of loading or unloading unless the damage has been caused by the gross negligence or wilful default of the Company or its employees.

16. **FORCE MAJEURE**
The Company shall have no liability to the Customer under the agreement if it is prevented from or delayed in performing its obligations under the agreement or from carrying on its business by acts, events, omissions or accidents beyond its reasonable control, including strikes, lock-outs or other industrial disputes (whether involving the workforce of the Company or any other party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm, high or low water or default of suppliers or sub-contractors.
17. **DECLARATION OF VALUE**
Where there is a choice of rates according to the extent or degree of the liability assumed by carriers, warehousemen or others, goods will be handled, dealt with and forwarded at Customer's risk or other minimum charges and no declaration of value (where optional) will be made unless express instructions in writing to the contrary have previously been given by the Customer.
18. **RIGHT TO DISPOSE OF PERISHABLE GOODS**
Perishable goods which are not collected or delivered immediately upon arrival or which are insufficiently addressed or marked or otherwise not readily identifiable may be sold or otherwise disposed of without any notice to the Customer and payment or tender of the net proceeds of any sale after deduction of charges and expenses incurred by the Company in connection with such sale or disposal. All charges and expenses arising in connection with the sale or disposal of the goods shall be paid by the Customer.
19. **RIGHT TO DISPOSE OF NON-PERISHABLE GOODS**
The Company shall be entitled to sell or dispose of all non-perishable goods which in the opinion of the Company cannot be delivered either because they are insufficiently or incorrectly addressed or because they are not collected or accepted by the Customer or Consignee or any other person following the giving of 21 days notice in writing to the Customer. All charges and expenses arising in connection with the storage and sale disposal of the goods shall be paid by the Customer.
20. **HAZARDOUS GOODS**
Except under special arrangement previously made in writing with the Company, the Company will not accept any noxious, dangerous, hazardous and inflammable or explosive goods or any goods likely to cause damage. Should the Customer nevertheless deliver any such goods to the Company or cause the Company to handle or deal with any such goods otherwise than under special arrangements previously made in writing with the Company, the Customer shall be liable for all loss or damage whatsoever caused by or to or in connection with the goods however arising and shall indemnify the Company against all penalties, claims, damages, costs and expenses whatsoever arising in connection therewith and the goods may be destroyed or otherwise dealt with at the sole discretion of the Company or any other person in whose custody they may be at the relevant time. If such goods are accepted under arrangements previously made in writing with the Company they may nevertheless be so destroyed or otherwise dealt with if in the opinion of the Company they represent a risk to other goods, property, life or health. The expression "goods likely to cause damage" includes goods likely to harbour or encourage vermin or other pests.
21. **CHARGES AND PAYMENT**
- The total price for the Services shall be the amount as agreed between the Company and the Customer or his agent. The Company reserves the right to increase charges on at least 7 days' prior written notice to the Customer.
 - The Customer shall pay each invoice submitted to it by the Company, in full and in cleared funds, within 30 days of receipt.
 - Without prejudice to any other right or remedy that it may have, if the Customer fails to pay the Company on the due date, the Company may:
 - charge interest on such sum from the due date for payment at the annual rate of 3% above the base lending rate from time to time of Barclays Bank plc, accruing on a daily basis and being compounded quarterly until payment is made, whether before or after any judgment and the Company may claim interest under the Late Payment of Commercial Debts (Interest) Act 1998; and
 - suspend all Services until payment has been made in full.
 - Time for payment shall be of the essence of the agreement.
 - All sums payable to the Company shall become due immediately on its termination, despite any other provision. This condition is without prejudice to any right to claim for interest under the law, or any such right under the agreement.
 - The Company may, without prejudice to any other rights it may have, set off any liability of the Customer to the Company against any liability of the Company to the Customer.
22. **LIEN**
All goods (and documents relating to goods) shall be subject to a particular and general lien and right of detention for monies due either in respect of other goods or for any particular or general balance or other monies due from the Customer to the Company. If any monies due to the Company are not paid within one calendar month after notice has been given to the Customer that such goods are being detained they may be sold by auction or otherwise at the sole discretion of the Company and at the expense of such persons and the net proceeds applied in or towards satisfaction of such indebtedness.
23. **CUSTOMER RESPONSIBILITY AND INDEMNITY BY CUSTOMER IN RESPECT OF CLAIMS BY THIRD PARTIES**
In addition to and without prejudice to the foregoing Conditions the Customer undertakes that he shall in any event indemnify the Company against all liabilities whatsoever suffered or incurred by the Company arising directly from or in connection with the Customers' instructions or their implementation or from the nature or quality of the goods and in particular the Customer shall indemnify the Company in respect of any claim by any employee or agent of the Company or any sub-Contractor or any haulier, carrier, warehouseman, stevedore or other person whatsoever and at any time involved with the goods arising out of any claim made directly or by any person interest in the goods or by any other person whatsoever. The customer shall indemnify the Company for claims for damages from third parties against whom the Company cannot invoke these Conditions in so far as liability of the Company would be excluded if the said third parties would be bound by these Conditions.
24. **CHARGES FOR DEMURRAGE AND STANDING TIME**
The Customer shall be responsible for the Company's charges in the Company's tariff as amended from time to time for detention of equipment and/or cargo and standing time for idle machinery and plant where the Customer is responsible for such detention or standing time, including wagons, trailers, flats, containers, sheets, barges, lighters, or other craft, hoppers, balers, cranes or other machinery and plant.
25. **WRITTEN NOTICE OF DAMAGE**
Without prejudice to the remainder of these conditions the Company shall not be liable to the Customer for any damage unless before completion of the Services or before departure of the means of transport the alleged damage has been brought to the notice of the Company in writing and the Company has been given the opportunity to determine the damage done.
26. **BERTH, ACCOMMODATION, AVAILABILITY**
The Company cannot guarantee that the necessary berth or accommodation shall be available immediately on arrival of the means of transportation to be unloaded or to be loaded. The Company shall not be responsible for any loss of time nor for demurrage nor for moving expenses resulting therefrom. The allocation of a berth, accommodation or waiting place is done with the exclusion of any responsibility for the safety of the allocated place.
27. **MAKING GOOD OF DAMAGE TO THIRD PARTIES**
If a Customer is liable to a third party for damages which the Company is under obligation to reimburse no payment or settlement shall be made by the Customer without the agreement of the Company.
28. **CUSTOMER'S OBLIGATIONS**
- The Customer shall ensure and undertake to the Company that:
 - The means of transportation (vessel or vehicle) with all its appurtenances is fully suitable for the working method to be adopted by the Company in providing the Services to the Customer;
 - The Services can immediately be commenced and can be continued and completed without delay;
 - On board vessels, winches, derricks, deck cranes, winch gear, tackle or other gear, plant or machinery shall always be ready for use for the purposes of carrying out the Services.
 - On board vessels there shall be sufficient light for carry out the Services;
 - After completion of the Services the means of transportation shall at the request of the Company be moved as soon as possible.
 - If the Company's performance of its obligations under the agreement is prevented or delayed by any act or omission of the Customer, its agents, sub-contractors or employees, the Company shall not be liable for any costs, charges or losses sustained or incurred by the Customer arising directly or indirectly from such prevention or delay.
 - The Customer shall be liable to pay to the Company, on demand, all reasonable costs, charges or losses sustained or incurred by the Company (including any direct, indirect or consequential losses, loss of profit and loss of reputation, loss or damage to property and those arising from injury to or death of any person and loss of opportunity to deploy resources elsewhere) arising directly or indirectly from the Customer's fraud, negligence, failure to perform or delay in the performance of any of its obligations under the agreement, subject to the Company confirming such costs, charges and losses to the Customer in writing.
29. **OBLIGATIONS TO MAKE GOOD DAMAGE**
The Customer shall be bound to make good to the Company any damage and reimburse the Company for any expenses or costs suffered or incurred directly or indirectly resulting from vehicles or vessels being parked or berthed in such a way as to interfere with the efficient performance of the Services by the Company.
30. **OPINION OF THE COMPANY**
When in these Conditions any matter is to be determined in accordance with the opinion of the Company the Certificate of a Director or the Company Secretary for the time being shall be conclusive evidence as to any matter so certified.
31. **TERMINATION**
Without prejudice to any other rights or remedies which the parties may have, either party may terminate the agreement without liability to the other immediately on giving written notice to the other if:
 - the other party commits a material breach of any of the terms of the agreement and (if such a breach is remediable) fails to remedy that breach within 30 days of that party being notified in writing of the breach; or
 - an order is made or a resolution is passed for the winding-up of the other party, or circumstances arise which entitle a court of competent jurisdiction to make a winding-up order of the other party; or
 - an order is made or a resolution is passed for the winding-up of the other party, or circumstances arise which entitle a court of competent jurisdiction to make a winding-up order of the other party; or
 - an order is made for the appointment of an administrator to manage the affairs, business and property of the other party, or documents are filed with a court of competent jurisdiction for the appointment of an administrator of the other party, or notice of intention to appoint an administrator is given by the other party or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986); or
 - or a receiver is appointed of any of the other party's assets or undertaking, or circumstances arise which entitle a court of competent jurisdiction or a creditor to appoint a receiver or manager of the other party, or if any other person takes possession of or sells the other party's assets; or
 - the other party makes any arrangement or composition with its creditors, or makes an application to a court of competent jurisdiction for the protection of its creditors in any way; or
 - the other party ceases, or threatens to cease, to trade; or
 - there is a change of control of the other party (as defined in section 574 of the Capital Allowances Act 2001); or
 - the other party takes or suffers any similar or analogous action in any jurisdiction in consequence of debt.
- On termination of the agreement for any reason:
- The Customer shall immediately pay to the Company all of the Company's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, the Company may submit an invoice, which shall be payable immediately on receipt;
 - The accrued rights of the parties as at termination and the continuation of any provision expressly stated to survive or implicitly surviving termination, shall not be affected.
32. **JURISDICTION**
These Conditions and any act or contract to which they apply shall be governed by the English law and any dispute arising out of any such act or contract shall be with the jurisdiction of the English courts.
- HEAD OFFICE:-
Suite 4F, Drake House, Drake Lane, Dursley, Gloucestershire GL11 4HH
Tel: 01453 544449 Fax: 01453 549149
- REGISTERED OFFICE:-
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