

STANDARD TERMS OF TRADING

1. The Company is not a common carrier and excepts goods for carriage only upon that condition and the Conditions set out below. No servant or agent of the Company is permitted to alter or vary these Conditions in any way unless expressly authorised to do so.

2. DEFINITIONS

'the Company' means Independent Wholesale Express Limited

'the Carriers' (whether in regard to carriage or storage or otherwise) mean the Company including its servants and agents, and its sub-contractors together with their respective servants and agents and any of them

'Customer' means any person entering into an agreement with the Company for the carriage of a consignment or consignments using the Company's services and includes unless the context otherwise requires his principles, servants, agents consignee and other owner of the goods.

'Consignment' means goods in bulk or contained in one parcel, package or container as the case may be or any number of separate parcels packages or containers sent at one time on one load be or for the Customer from one address to one address.

'Dangerous Goods' means goods included in the list of dangerous goods as defined in the Classification Packaging and Labelling of dangerous substances Regulations (the C.P.L. Regulations) the classification and labelling of explosives regulations together with any amendments thereto or goods which present a comparable hazard

3. PARTIES

- 3.1 The Customer warrants that he is either the owner of the goods in any consignment or is authorised by such owner to accept these conditions on such owners behalf
- 3.2 The Company and any other carrier employed by the Company may employ the services of any other carrier for the purpose of fulfilling its obligations hereunder in whole or in part and the name of every such other carrier shall be provided to the Customer on request
- 3.3 The Company contracts for itself and as agent of and trustee for its servants and agents and all other carriers referred to in 3.2 above and such other carriers servants and agents and every reference in conditions 4 to 13 inclusive hereto to the Company shall be deemed to include every other such carrier servant and agent with the intention that they shall have the benefit of the carrier and collectively and together with the Company shall be under no greater liability to the Customer or any other party than is the Company hereunder

4. DANGEROUS GOODS

Except following instructions received from the Customer and accepted by the Company the Company will not accept or deal with dangerous goods of a damaging nature or which are likely to harbour vermin or encourage other pests or goods liable to taint or affect other goods. If the Company agrees to accept such goods they must be accompanied by a full declaration of their nature and contents and be properly and safely packed and labelled in accordance with any statutory regulations for the time being in force. If such goods are accepted and then in the opinion of the Company present risk to other goods property life or health the Company shall where practicable contact the Customer but reserves the right at the expense of the Customer to remove or otherwise deal with the goods

5. TRANSIT

- 5.1 The Company reserves to itself a reasonable liberty as to the means route and procedure to be followed in the handling storage and transportation of goods
- 5.2 The Company shall be entitled to perform any of its obligations herein by itself or by its parent subsidiary or associated Companies. In the absence of agreement to the contrary any Contract to which these Conditions apply is made by the Company on its own behalf and also as Agent for and on behalf of any such parent subsidiary or associated Company shall be entitled to the benefit of these conditions
- 5.3.1 Subject to Sub-Clause 5.3.2 hereof, the Company shall have a general lien on all goods and documents relating to goods in its possession, custody or control for all sums due at any time from the Customer or owner, and shall be entitled to sell or dispose of such goods or documents as Agent for and at the expense of the Customer and apply the proceeds in or towards the payment of such sums on 28 days notice in writing to the Customer. Upon accounting to the Customer for any balance remaining after payment of any sum due to the Company and the costs of sale or disposal the Company shall be discharged of any liability whatsoever in respect of the goods or documents.
- 5.3.2 When the goods are liable to perish or deteriorate, the Company's right to sell or dispose of the goods shall arise immediately upon any sum becoming due to the Company subject only to the Company taking reasonable steps to bring to the Customer's attention its intention of selling or disposing of the goods before doing so
- 5.4 The Company shall be entitled to retain and be paid all brokerages, commissions, allowances and other remuneration customarily retained by or paid to Freight Forwarders
- 5.5 hereof transit is deemed to be at any end, the Company may sell the goods and payment or tender of the proceeds after deduction of all property charges and expenses in relation thereto and, of all outstanding charges in relation to the carriage and storage of the goods shall (without prejudice to any claimer right which the Customer may have against the Company otherwise arising under these conditions) discharge the Company from all liability in respect of such goods, their carriage and storage
Provided that:
- 5.5.1 If delivery of the goods or any part thereof is not taken by the Customer, consignee or owner, at the time and place when and where the Company is entitled to call upon such person to take delivery thereof, the Company is entitled to call upon such person to take delivery thereof, the Company shall be entitled to store the goods or any part thereof at the sole risk of the Customer, whereupon the liability of the Company in respect of the goods or that part thereof

- stored as foreshall shall wholly cease and the cost of such storage if paid for or payable by the Company or any Agent or Sub-Contractor of the Company shall forthwith upon demand be paid by the Customer to the Company
- 5.5.2 The Company shall be entitled at the expense of the Customer to dispose of (by sale or otherwise as may be reasonable in all the circumstances):-
- 5.5.2.1 on 28 days notice in writing to the customer, or where the Customer cannot be traced and reasonable efforts have been made to contact any parties who may reasonably be supposed by the Company to have any interest in the goods, any goods which have been held by the Company for 90 days and which cannot be delivered as instructed and
- 5.5.2.2 without prior notice, goods which have perished, deteriorated or altered or are in immediate prospect of doing so in a manner which has caused or may reasonably be expected to cause loss or damage to Third Parties or to contravene any applicable laws or regulations
- 5.6.1 No insurance will be effected except upon express instructions given in writing by the Customer and all Insurance effected by the Company are subject to the usual exceptions and conditions of the Policies of the Insurance Company or underwriters taking the risk. Unless otherwise agreed in writing 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 held by the Company
- 5.6.2 Insofar as the Company agrees to arrange insurance, the Company acts solely as Agent for the Customer using its best endeavours to arrange such insurance and does so subject to the limits of liability contained in Clause 12 hereof
- 5.7.1 Except under special arrangements previously made in writing or under the terms of a printed document signed by the Company, any instructions relating to the delivery or release of goods in specified circumstances only, such as (but without prejudice to the generality of this clause) against payment or against surrender of a particular document, are accepted by the Company only as Agents for the Customer where Third Parties are engaged to effect compliance with the instructions
- 5.7.2 The Company shall not be under any liability in respect of such arrangements as are referred to under Sub-Clause 5.7.1. hereof save where such arrangements are made in writing
- 5.7.3 In any event the Company's liability in respect of the performance or arranging the performance of such instructions shall not exceed that provided for in these Conditions in respect of loss of or damage to goods

6. ADVICE

Advice and information, in whatever form it may be given, is provided by the Company for the Company for the Customer only and the Customer shall indemnify the Company against any liability, claims, loss, damages, costs or expenses arising out of any other persons relying upon such advice or information. Except under special arrangements previously made in writing, advice and information which is not related to specific instructions accepted by the Company is provided gratuitously and without liability

7. SPECIAL ARRANGEMENTS

- 7.1 Except under special arrangement previously made in writing the Company will not accept or deal with bullion, coin, precious stones, jewellery, valuables antiques, pictures, human remains, livestock or plants. Should any Customer nevertheless deliver any such goods to the Company or cause the Company to handle or deal with such goods otherwise than under special arrangements previously made in writing the Company shall be under no liability whatsoever for or in connection with such goods howsoever arising
- 7.2 The Company may at any time waive its rights and exceptions from liability under Sub-Clause 7.1 above in respect of any one or more of the categories of goods mentioned or of any part of any category, if such waiver is not in writing the onus of proving such waiver shall be on the customer

8. UNDELIVERED AND UNCLAIMED GOODS

- 8.1 Where the Company is unable for any reason to deliver a Consignment or the Consignee or as he may order, or where by virtue of the proviso to Condition
- 8.1.1 the Company shall do what is reasonable to obtain the value of the Consignment and
- 8.1.2 the power of sale shall not be exercised where the name and address of the sender or of the consignee is known unless the Company shall have done what is reasonable in the circumstances to give notice to the sender or, if the name and address of the sender is not known, to the consignee that the goods will be sold unless within the time specified in such notice, being a reasonable time in the circumstances from the from the giving of such notice, the goods are taken away or instructions are given for their disposal

9. CHARGES

- 9.1 The Company's charges are quoted on a basis that they are the rate for delivery on the day the price is given. All charges are subject to alteration in the event of charges occurring in currency exchange rates, freight, insurance premiums, and any other charges applicable to the Consignment which are imposed by a third party. The Company will notify the Customer of the alteration price by fax as soon as the alteration is known to the Company but the price alteration will be effective from the date that the alteration is imposed upon the Company, regardless of whether or not the Customer sees notification by fax
- 9.2 The Company's charges for carriage and storage and any other services incidental thereto shall be payable by the Customer within 30 days of the date of the invoice without prejudice to the Company's rights against the consignee or any other person. Should the charges not be paid within the period of 30 days then the Customer agrees to pay to the Company interest at the rate of 5% above the base rate lending rate then prevailing of HSBC Bank Plc from the date of invoice, calculated on a daily basis on all amounts overdue to the Company
- 9.3 A claim, counter claim or set off should not be made the reason for deferring or withholding payment of monies otherwise due to the Company

- 9.4 The Customer shall pay the Company's charges for the detention of the Carriers' vehicles, containers or coverings or other equipment or for the use or occupation of other accommodation, whether before or after transit is suspended, unless the Customer proves that such detention or use or occupation has arisen from default of the Company
- 9.5 The Customer shall be responsible and liable to pay to the Company its costs in respect of any delay encountered as a result of the Company being prevented from effecting delivery of the goods for causes other than the Company's own negligence and shall pay to the Company its charges in respect of any frustrated or abortive journey occasioned other than by the Company's negligence
- 9.6 The Company shall be entitled to impose an appropriate charge for supplying any document proving delivery requested by the Customer in respect of each consignment

10 LIABILITY FOR LOSS AND DAMAGE

- 10.1 The Customer shall be deemed to have elected to accept the terms set out in 10.2 of this Condition unless before the transit commences, the Customer has agreed in writing that the Company shall not be liable for any loss or misdelivery of or damage to goods however or whenever 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 Company
- 10.2 Subject to these Conditions the Company shall be liable for:
- 10.2.1 loss or misdelivery of or damage to livestock, bullion, money, securities, stamps, precious metals or precious stones only if
- 10.2.1.1 the Company has specifically agreed in writing to carry any such items and
- 10.2.1.2 the Customer has agreed in writing to reimburse the Company in respect of all additional costs which result from the carrying of the said items and
- 10.2.1.3 the loss or misdelivery or damage is occasioned during transit and results from negligent act or omission by the Company
- 10.2.2. any loss or misdelivery of or damage to any other goods occasioned during transit unless the same has arisen from, and the Company has used reasonable care to minimise the effects of
- 10.2.2.1. act of God
- 10.2.2.2. any consequences of war, invasion, act of foreign enemy, hostilities (whether war or not), civil war, rebellion, insurrection, military or usurped power of confiscation, requisition, or destruction of or damage to property by or under the order of any government or public or local authority
- 10.2.2.3. seizure or forfeiture under legal process
- 10.2.2.4. error, act, omission, misstatement or misrepresentation by the Customer or other owner of the goods or by servants or agents of either of them
- 10.2.2.5. inherent liability to wastage in bulk or weight, latent defect, vice or natural deterioration of the goods
- 10.2.2.6. insufficient or improper packing
- 10.2.2.7. insufficient or improper labelling or addressing
- 10.2.2.8. riot, civil commotion, strike, lockout, general or partial stoppage or restraint of labour from what ever cause
- 10.2.2.9. consignee not taking or accepting delivery within a reasonable time after the Consignment has been tendered
- 10.3 The Company shall not in any circumstances be held liable for loss of or damage to goods after transit of such goods is deemed to have ended within the meaning of condition 5.5 hereof, 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 Company

11. FRAUD

The Company shall not in any circumstances be liable in respect of a Consignment where there has been fraud on the part of the Customer or the owner of the Goods or the servants or agent of either in respect of that Consignment, unless the fraud has been contributed to by the complicity of the Company or of any servant of the Company acting in the course of his employment

12. LIMITATION OF LIABILITY

- 12.1 The Company shall be relieved of liability for any loss or damage if and to the extent that such loss or damage is caused by
- 12.1.1. Strike, lock-out, stoppage or restraint of labour, the consequences of which the Company is unable to avoid by the exercise of reasonable diligence
- 12.1.2. Any cause or event which the Company is unable to avoid and the consequence whereof the Company is unable to prevent by the exercise of reasonable diligence
- 12.2 Unless special arrangements have previously been made in writing the Company accepts no responsibility for departure or arrival of goods
- 12.3 Except as otherwise provided in these Conditions the liability of the Company in respect of loss or mis-delivery of or damage to goods shall in circumstances be limited as follows:
- 12.3.1 In the case of damage to goods
- 12.3.1.1 the value of any goods lost or damaged: or
- 12.3.1.2 a sum at the rate of two special drawing rights as defined by the International Monetary Fund (SDR's) per kilo of gross weight of any goods lost or damaged whichever shall be the least
- 12.3.2 In case of loss of documents the paper vale of the documents
- 12.3.3 In the case of all other claims
- 12.3.3.1 the value of the goods subject to the relevant transaction between the Company and it's Customer: or
- 12.3.3.2 a sum at the rate of 2 SDR's per kilo of the gross weight of the goods: or
- 12.3.3.3 75,000 SDR's in respect of any one transaction whichever shall be the least
- For the purposes of this clause the value of the goods shall be the value when they were or should have been shipped. The value of SDR' shall be calculated as at the date when the claim is received by the Company in writing
- 12.4 The Company's liability for loss or damage as a result of failure to deliver or arrange delivery of goods in reasonable time or whether as a special arrangement under Clause 12.2 to adhere to agreed departure or arrival dates shall not in

- any circumstances whatever exceed a sum equal to twice the amount of the Company's charges in respect of the relevant transaction
- 12.5 The Company shall not in any circumstances whatsoever be liable in respect of any indirect or consequential loss or damage however arising and including loss of market
- 12.6 By special arrangement agreed in writing the Company may accept liability in excess of the limit set out in Clause 12.3 hereof upon the Customer agreeing to pay the Company's additional charges for accepting such increased liability
- 12.7 The Company shall not be liable for
- 12.7.1. Loss from a parcel package or container or from an unpacked consignment or for damage to a consignment or any part of the consignment unless he is advised thereof in writing otherwise than upon a consignment note or delivery document within 3 days, and the claim is made in writing within 7 days, after the termination of transit
- 12.7.2. Loss mis-delivery or non-delivery of the whole of the consignment or of any separate parcel package or container forming part of the consignment unless he is advised of the loss, mis-delivery or non-delivery in writing otherwise than upon a consignment note or delivery document within 28 days, after the commencement of transit PROVIDED THAT if a Customer proves that
- 12.7.3 It was not reasonably possible for the customer to advise the Company or make a claim in writing within the time limit applicable and
- 12.7.4 Such advise or claim was given or made within a reasonable time The Company shall not have the benefit of the exclusion of liability afforded by this condition

13 INDEMNITY TO THE CARRIER

- The Customer shall indemnify the Company against
- 13.1 All consequences suffered by the Company (including but not limited to claims, demands, proceedings, fines, penalties, damages, costs, expenses and loss of or damage to the carrying vehicle and of other goods carried) of any error, omission, misstatement or misrepresentation by the Customer or other owner of the goods or by any servant or agent of either of them, insufficient or improper packaging, labelling or addressing of the goods or fraud as in Condition 11
- 13.2 All claims and demands whatever made in excess of the liability of the Company under these Conditions
- 13.3 All losses suffered by and claims made against the Company in consequence of loss of or damage to property caused by or arising out of the Carriage by the Company of Dangerous Goods whether or not declared by the Customer as such
- 13.4 All claims made upon the Company by H.M. Customs and Excise in Respect of dutiable goods consigned in bond whether or not in transit has coded or been suspended

14 GOVERNING LAW

All contracts subject to these Conditions made between the Company and the Customer shall be subject to and interpreted in accordance with English Law and any dispute arising out of any act or matter to which these Conditions apply shall be subject to the exclusive jurisdiction of the English Courts