

TERMS AND CONDITIONS OF BUSINESS

All business is undertaken and all goods (hereinafter “the Goods”) are stored by CWT Commodities (UK) Limited (hereinafter “the Company”) subject solely to the following Conditions which can be varied only in writing by a Director of the Company. The Company is not a common carrier.

These terms and conditions shall take precedence over any terms and conditions of the Customer whether standard or otherwise and whether written or oral. The Company contracts for itself and as agent of and trustee for its employees and sub-contractors with the intention that they shall have the benefit of these conditions.

1. Customers Obligations

- (a) The Customer warrants that it is either the owner of the Goods or is authorised by such owner to accept these Conditions on the owner’s behalf.
- (b) The Customer undertakes that when presented for warehousing, the Goods shall be securely and properly packed in compliance with any statutory regulations or official or recognised standards and in such condition as not to cause damage or injury or the likelihood of damage or injury to the property of the Company or to any other goods, whether by spreading of damp, infestation, leakage or the escape of fumes or substances or otherwise howsoever.
- (c) The Customer undertakes that before presentation of the Goods for warehousing, the Customer will inform the Company in writing of any special precautions necessitated by the nature, weight or condition of the Goods and of any statutory duties specific to the Goods with which the Company may need to comply.
- (d) The Customer shall pay the Company’s charges within 30 days of presentation of an invoice in respect thereof.
- (e) The Customer shall reimburse all duties and taxes that the Company may be required to pay in respect of the Goods.
- (f) The Customer undertakes that unless prior to acceptance of the Goods by the Company, the Company receives written notice containing all appropriate information, none of the Goods are or contain substances the storage of which would require the obtaining of any consent or licence or which, if they escaped from their packaging, would or may cause pollution of the environment or harm to human health.
- (g) If there is a breach of contract by the Customer, the Customer will indemnify the Company against any loss or damage it suffers which is related to the breach, and will pay all costs and expenses (including professional fees) incurred in, and the Company’s reasonable charges for, dealing with the breach and its consequences. If the Company suspects a breach of warranty or of any undertaking in Condition 1, it may demand the immediate removal of any goods held for the Customer, or itself arrange their removal without notice, at the Customer’s expense.

2. Company’s liability for goods and other losses.

- (a) The Company does not insure the Goods and the Customer shall make arrangements to cover the Goods against all risks to the full insurable value thereof.
- (b) The Company is under no obligation to enquire into the genuineness, authenticity or accurateness of any such instructions and documents provided by the Customer to the Company. The Company excludes liability for any claim relating to loss, damage, deterioration, delay, non-delivery, mis-delivery, unauthorised delivery or mis-compliance with instructions of or to or in connection with the Goods (“Claim). This exclusion does not apply if a Claim is proven to be caused by the neglect or wilful act or default of the Company, its employees (acting in furtherance of their duties as employees) or sub-contractors (acting in furtherance of their duties as sub-contractors). In any case, the Company’s liability shall not exceed a total of £ 100 per tonne weight of that part of the Goods in respect of which a claim arises. In no case shall the Company be liable for any loss of profit or indirect or consequential loss of any kind.
- (c) The Company will not be liable for any loss or damage howsoever or whatsoever arising from events outside its control including but not limited to the acts or omissions of any independent haulier or other third party, acts of God, storm, flood, fire, explosion, breakdown or failure of plant or machinery, industrial action, strike, lockout, civil commotion, acts of war (whether declared or undeclared), terrorist attack, national emergency or the prohibitive legislation or regulation of any local, national or international government or body.
- (d) The Company shall not be liable for any Claim unless it has received written notice of the Claim from the Customer within 7 days (3 days in the case of sub-contracting carriage) of the cause of the Claim coming to the Customer’s knowledge or of the Goods being delivered by the Company to or to the use of the Customer, whichever is the later.

3. Sub-contractors

- (a) In any of the circumstances referred to in Condition 2(c) hereof, and otherwise with the written consent of the Customer, the Company shall be entitled to sub-contract all or any part of its business and in this event these Conditions shall apply to such services. The Company shall be entitled to sub-contract with others for the security, cleaning, maintenance, repair and other services and works at the premises where the Goods are located.

4. Charges, payments and lien

- (a) The Company's charges, which may be increased from time to time by at least 21 days' prior notice to the Customer, shall be payable within 30 days of presentation of an invoice in respect thereof. Interest on amounts due and unpaid shall be payable from the date when payment of such amounts fell due and shall be calculated at the rate of 2 per cent for each calendar month during all or part of which a payment is overdue. Further, the Company shall have on the Goods a particular lien, as well as a general lien entitling it to retain the Goods as security for payments of all sums due from the Customer on any account (relating to the Goods or not). Storage charges shall continue to accrue on any goods detained under lien.

5. Termination

- (a) The Company may at any time by notice in writing to the Customer require the removal of the Goods within 14 days from the date of such notice or, in the case of perishable goods, within 3 days.
- (b) In the event of failure by the Customer to pay any amount due to the Company or to remove any of the Goods (notice in accordance with condition 5(a) having been given) at the due time, the Company may, without prejudice to its other rights and remedies against the Customer, notify the Customer in writing of its intention to sell or otherwise dispose of the Goods. If the Goods are not removed within 14 days, or in the case of perishable Goods within 3 days, from the date of such notice, the Company shall be entitled to sell or otherwise dispose of all or any part of the Goods at the Customer's entire risk and expense by the best methods reasonably available, and the proceeds of sale or disposal shall be remitted to the Customer after deduction therefrom of all expenses and all amounts due to the Company from the Customer on any account.

6. Frustration of contract

- (a) The Company shall be relieved of its contractual obligations to the extent that their performance is prevented by, or their non-performance results wholly or partly, directly or indirectly from the act, neglect, or default of the Customer, including any breach by the Customer of these Conditions, or by storm, flood, fire, explosion, breakdown or failure of plant and/or machinery, riot, civil disturbance, industrial dispute, labour disturbance or cause beyond the reasonable control of the Company.

7. General

- (a) Each exclusion or limitation in these Conditions exists separately and cumulatively.
- (b) When reasonably necessary and at the discretion of the Company the Goods may be carried, stored or handled with other compatible goods or transferred between stores.
- (c) Any notice or statement of account given by the Company to the Customer shall be duly given if left at or sent by first class post to the last known address of the Customer or by facsimile to the last notified number and such notice or account shall if posted be deemed to have been given 2 working days after posting and, if by facsimile, the next working day.

8. Severability

- (a) In the event of any part or parts of these terms and conditions becoming or being declared invalid or inoperable by reason of any legislation or juridical decision or ruling such invalidity or inoperability shall not affect the remainder of these terms and conditions which shall continue to have full force and effect.

9. Governing law

- (a) All contracts between the Company and the Customer shall be governed in all respects by the law of England and the Customer hereby submits to the exclusive jurisdiction of the English courts.