

FRED. OLSEN FREIGHT LIMITED – TERMS AND CONDITIONS

The Customer's attention is drawn to the Clauses hereof which exclude or limit the Company's liability and those which require the Customer to indemnify the Company in certain circumstances and those which limit time. The law requires companies which effect insurance to be authorised by the Financial Services Authority. Until such authorisation is obtained, the Company cannot offer insurance under clause 11.

DEFINITIONS AND APPLICATION

1. In these Conditions:-
 - (a) "Carriage" means carriage of Goods by air, water, rail or road, whether gratuitously or for reward.
 - (b) "Company" means Fred. Olsen Freight Ltd and also (where the context so admits) includes all other carriers that carry or undertake to carry the Goods or to perform any other services related to the carriage or storage of the Goods.
 - (c) "Consignee" means the party to whom the Goods are consigned.
 - (d) "Customer" means any person at whose request or on whose behalf the Company undertakes any business or provides advice, information or services.
 - (e) "Direct Representative" means the Company acting in the name of and on behalf of the Customer and/or Owner with H.M. Revenue and Customs ("HMRC") as defined by Council Regulation 2193/92 or as amended.
 - (f) "Goods" means the cargo (including any packaging, containers or equipment) to which any business under these Conditions relates.
 - (g) "Handling" shall include any product packaging or product labelling carried out by the Company.
 - (h) "SDR" means Special Drawing Rights as defined by the International Monetary Fund.
 - (i) "Transport Unit" means packing cases, pallets, containers, trailers, tankers, or any device used whatsoever for and in connection with the carriage of Goods by land, sea or air.
 - (j) "The Owner" means the owner of the Goods (including any packaging, containers or equipment) to which any business concluded under these Conditions relates and any other person who is or may become interested in them.
2. In procuring the Carriage, packing, storage or Handling of Goods, the Company may act as an agent, a freight forwarder, a warehouse keeper or a carrier:-
 - (a) Subject to Sub-Clauses (b), (c) & (d) below, all and any activities of the Company in the course of business whether gratuitous or not are undertaken subject to these Conditions to the exclusion of all other terms and conditions (including any terms and conditions which the Customer purports to apply under any confirmation of order, acceptance document or similar).
 - (b) If any legislation, including international Conventions (e.g. CMR), regulations or directives, is 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 (or increase responsibility or liability beyond that laid down by such legislation) to any extent such part shall as regards such business be overridden to that extent but no further.
 - (c) Where the Company issues a House Bill of Lading, the contract of carriage shall be the terms in the House Bill of Lading supplemented by such of these Conditions which do not expressly conflict with such terms.
 - (d) For carriage of Goods performed pursuant to a charter agreement with the Company, these Conditions shall apply to the charter except insofar as the Company has excluded any of these Conditions or except insofar as there is any inconsistency between these Conditions and the charter, when the charter shall prevail.
3. The Customer warrants that he is either the Owner or the authorised agent of the Owner and also that he is accepting these Conditions not only for himself but also as agent for and on behalf of the Owner.

THE COMPANY

4. Subject to Clauses 11 and 12 below, the Company shall be entitled to procure or provide any or all of its services as an agent or to provide those services as a principal.
5. In any dealings with HMRC for and on behalf of the Customer and/or Owner, the Company is deemed to be appointed, and acts as, Direct Representative only. When the Company contracts as a principal for any services, it shall have full liberty to perform such services itself, or, to subcontract on any terms whatsoever, the whole or any part of such services.
- 6(a) When the Company acts as an agent on behalf of the Customer, the Company shall be entitled, and the Customer hereby expressly authorises the Company, to enter into all and any Contracts on behalf of the Customer as may be necessary or desirable to fulfil the Customer's instructions and whether such contracts are subject to the trading conditions of the parties with whom such contracts are made, or otherwise.
 - (b) The Company shall on demand by the Customer provide evidence of any Contract entered into as agent for the Customer.
- 7(a) The Company may without notice substitute alternative carriers or other means of carriage or storage.
 - (b) The Company reserves the right without notice to cancel, terminate, divert, postpone, delay or advance any means of transportation, or the further carriage of any Goods, or to proceed with any means of transportation without all or any part of the Goods, if it considers that it would be advisable to do so because of any fact beyond its control or not reasonably to be foreseen, anticipated, or predicted at the time the Goods were accepted; or if it considers that any other circumstances so require.
 - (c) In the event any means of transportation is so cancelled, diverted, postponed, delayed or advanced or is terminated at a place other than the place of destination or in the event the Carriage is so cancelled, diverted, postponed, delayed, advanced or terminated, the Company shall not be under any liability. In the event the Carriage of the Goods or any part of it is so terminated, delivery of it by the Company to any transfer agent for transfer or delivery or the placing of such Goods in storage shall be deemed to complete delivery under the contract of carriage, and the Company shall be without any further liability with respect to it, except to give notice of the disposition of the Goods to the Customer or to the Consignee. The Company may, but shall not be obliged to, forward the Goods by any other route or forward the Goods as agent for the Customer or for the Consignee for onward Carriage by any transportation service on behalf of the Customer or the Consignee. The cost of doing so attaches to the Goods and shall be borne by the Owner.
 - (d) The Company is entitled at its discretion to delegate to any person it thinks fit any part or parts of the business undertaken or the services or facilities to be performed or provided by it under or in connection with the contract for Carriage of the Goods or to determine where, by what route, by whom and how the Goods are to be carried or kept or to employ any means of transport belonging to any other person or to subcontract or assign the whole or any part of any agreement and in any such case the Company shall not be liable for any loss or damage howsoever caused and of whatsoever nature arising from the acts or omissions of any such person or assignee or sub-contractor. If, in the reasonable opinion of the Company, it is at any stage

necessary or desirable to depart from any instruction given by the Customer, the Company shall be at liberty to do so and the Customer shall have no recourse against the Company in respect of any such departure. The Company may act as agent on behalf of the Customer (and the Customer hereby authorises the Company to act as agent) to effect any of the foregoing.

- 8(a) Subject to Sub-Clause (b) hereof, the Company:
 - (i) 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 and/or Owner on any account whatsoever, whether relating to Goods belonging to, or services provided by or on behalf of the Company to the Customer or Owner and including storage charges and the costs (including legal fees) of exercising the lien;
 - (ii) shall be entitled, on at least 28 days notice in writing to the Customer, to sell or dispose of or deal with 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.
 - (iii) shall, upon accounting to the Customer for any balance remaining after payment of any sum due to the Company and the costs of sale and/or disposal and/or dealing (including storage charges and the fees relating to any necessary legal or other advice), be discharged of any liability whatsoever in respect of the Goods or documents.
 - (b) When the Goods are liable to perish or deteriorate, the Company's right to sell or dispose of or deal with the Goods shall arise immediately upon any sum becoming due to the Company, subject only to the Company taking reasonable steps (where practicable) to bring to the Customer's attention its intention of selling or disposing of the Goods before doing so.
 - (c) The Company shall be free to exercise this power of sale (and the power of sale under 10(d)) without notice where it is already apparent that the Customer and/or Consignee are unable to honour their obligations and/or have indicated a refusal to do so.
9. The Company shall be entitled to retain and be paid all brokerages, commissions, allowances and other remunerations customarily retained by or paid to Freight Forwarders.
- 10(a) Unless otherwise specifically agreed in advance, delivery of the Goods will be made only to the Consignee or his agent. Delivery to the Consignee shall also be deemed to have been effected:
 - (i) when the Company has delivered to the Consignee or his agent any necessary authorisation (capable of being given by the Company) from the Company required to enable the Consignee to obtain release of the Goods; and
 - (ii) when the Goods have been delivered to Customs or other authorities as required by applicable law or Customs regulations.
 - (b) Should the Customer, Consignee or Owner of the Goods fail to take delivery at the appointed time and place when and where the Company is entitled to deliver, the Company shall be entitled to store the Goods or any part thereof at the sole risk of the Customer or Consignee or Owner, whereupon the liability of the Company in respect of the Goods or that part thereof, stored as aforesaid, shall wholly cease. All costs (including storage costs and legal fees) incurred by the Company as a result of the failure to take delivery shall be deemed as freight earned, and such costs shall, upon demand, be paid by the Customer.
 - (c) Receipt by the person entitled to delivery of the Goods without complaint is prima facie evidence that the same have been delivered in good condition and in accordance with the contract of carriage.
 - (d) 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):-
 - (i) after at least 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) without notice, any goods which have been held by the Company for 90 days and which cannot be delivered as instructed; and
 - (ii) 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 the Company or Third Parties or to contravene any applicable laws or regulations.
 - (iii) Any such sale (including any sale under 8(a)) to be on the basis of a reasonable offer immediately available, which may or may not amount to as much as the Customer (or any other person interested) may believe the Goods to be worth in any specialist market place. The Company may or may not, in its absolute discretion, advertise the Goods for sale.
- 11(a) No insurance will be effected except upon express instructions given in writing by the Customer and accepted in writing by an officer of the Company so authorised. All insurances 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.
 - (b) Insofar as the Company agrees in its absolute discretion to effect insurance, the Company acts solely as agent for the Customer. The contractual liability of the Company to effect such agreed insurance shall not be affected or limited by clause 28.
- 12(a) Except under special arrangements previously made in writing by an officer of the Company so authorised, or made pursuant to 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 (such as but not limited to, against payment or against surrender of a particular document) are accepted by the Company, where the Company has to engage third parties to effect compliance with the instructions, only as Agents for the Customer.
 - (b) Despite the acceptance by the Company of instructions to collect freight, duties, charges, dues or other expenses from the Consignee, or any other person, on receipt of evidence of proper demand by the Company, and, in the absence of evidence of payment (for whatever reason) by such Consignee, or other Person, the Customer shall remain responsible for such freight, duties, charges, dues, or other expenses
 - (c) The Company shall not be under any liability in respect of such arrangements as are referred to under sub-Clause (a) or (b) hereof save where such arrangements are made in writing and in any event, the Company's liability in respect of the performance, or arranging the performance of, such instructions shall not exceed the limits set out in Clause 28(a)(ii) of these Conditions.
13. Advice and information, in whatever form it may be given, is provided by the Company for the Customer only. The Customer shall indemnify the Company against all loss and damage suffered as a consequence of passing such advice or information on to any third party.
- 14(a) Without prior agreement in writing by an officer of the Company so authorised, the Company will not accept or deal with Goods that require special arrangements (or special insurance arrangements) regarding carriage, handling or security whether owing to their thief attractive nature or otherwise including, but not limited to bullion, coin, precious stones, jewellery, valuables, antiques, pictures, human remains, livestock, pets, electronic goods or plants. Should any Customer nevertheless deliver any such goods to the Company or cause the Company to handle or deal with any

such goods otherwise than under prior agreement the Company shall be under no liability whatsoever for or in connection with such goods, howsoever arising.

- (b) The Company may at any time waive its rights and exemptions from liability under Sub-Clause 14(a) above in respect of any one or more of the categories of goods mentioned herein 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.
15. Except pursuant to instructions previously received in writing and accepted in writing by the Company, the Company will not accept or deal with Goods of a dangerous or hazardous or damaging nature, nor with Goods likely to harbour or encourage vermin or other pests, nor with Goods liable to taint or affect other Goods. If such Goods are accepted pursuant to a special arrangement, but thereafter and in the opinion of the Company, they constitute a risk to other goods, property, life or health, the Company shall where reasonably practicable, contact the Customer in order to require him to remove or otherwise deal with the Goods, but, in any event, reserves the right at the expense of the Customer to remove or otherwise deal with the Goods.
16. Where there is a choice of rates according to the extent or degree of the liability assumed by the Company and/or third parties, no declaration of value will be made and/or treated as having been made except under special arrangements previously made in writing by an officer of the Company so authorised as referred to in clause 28(d).
17. The Company reserves the right without assuming any liability to refuse Carriage or storage of Goods when circumstances so require.
18. When the Company acts as a warehouse keeper on behalf of the Customer, the Customer warrants and undertakes: -
- (a) that when presented for warehousing, the Goods shall be securely and properly packed in compliance with any statutory regulations, recognised standards or best practice and shall be and shall remain in a condition to be safely handled, stored and/or carried and so as not to cause injury, damage, contamination or deterioration (or the possibility of them) to any persons, premises, equipment or to any other items in any way;
- (b) that before the Company assumes any responsibility for or by reference to the Goods, the Customer will inform the Company in writing of any relevant matters; including any special precautions necessitated by the nature, weight or condition of the Goods and of any statutory duties or other duties specific to the Goods with which the Company or others may need to comply; and will promptly after invoicing pay the Company's reasonable extra charges for complying.
- (c) that it will promptly after invoicing reimburse all duties, taxes, and expenses that the Company may be required to pay in respect of the Goods including where the liability to pay them arises due to the neglect, willful act, fault, other act or omission of the Company, its employees or sub-contractors;
- (d) except to the extent previously notified in detail to, and accepted by, the Company in writing, none of the Goods: are hazardous or contaminated; may cause pollution of the environment or harm to human health if they escape from their packaging; require any official consent or licence to handle, possess, deal with or carry; will at any time whilst in the care or control of the Company constitute Waste.
- (e) it will comply with any reasonable regulations of the Company relating to handling, carriage, storage or forwarding of Goods (and ancillary matters) which are notified in writing from time to time.
- (f) that it will be liable for any breach of HMRC Regulations relating to goods warehoused and undertakes to indemnify and keep indemnified the Company against all actions, proceedings, costs, claims and demands arising out of any further breach, non-observance or non-performance of the same.

THE CUSTOMER

19. The Customer warrants:-
- (a)(i) that the description and particulars of any Goods furnished by or on behalf of the Customer are full and accurate; and that, in particular, there are no goods to which clause 14 applies, unless separately agreed in writing.
- (ii) that any Transport Unit and/or equipment supplied by the Customer in relation to the performance of any requested services is fit for purpose, and
- (b)(i) that all Goods have been properly and sufficiently prepared, packed, stowed, labelled and/or marked, and that the preparation, packing, stowage, labelling and marking are appropriate to any operations or transactions affecting the Goods and the characteristics of the Goods;
- (ii) that, where the Company is employed to carry out any product packaging and/or package labelling, all the necessary supplies of packaging and/or labels have been delivered to the Company in a timely manner and that such packaging and/or labelling fully complies with all consumer protection or other relevant law and legislation without obligation on the Company to check the same;
- (c) that where the Company receives the Goods from the Customer already stowed in or on a Transport Unit, the Transport Unit is in good condition, and is suitable for the storage or carriage to the intended destination of the Goods loaded therein or thereon;
- (d) that where the Company provides the Transport Unit, on loading by the Customer, the Transport Unit is in good condition and is suitable for the storage or carriage to the intended destination of the Goods loaded thereon or therein;
- (e) that the Carriage or storage of the Goods is not prohibited by the laws or regulations of any relevant country;
- (f) that the Goods are accompanied by the relevant shipping/forwarding documents.
20. Without prejudice to any rights under Clause 15, where the Customer delivers to the Company or causes the Company to deal with or handle Goods of a dangerous or damaging nature, or Goods likely to harbour or encourage vermin or other pests, or Goods liable to taint or affect other goods, whether declared to the Company or not, the Customer shall be liable for all loss or damage arising in connection with such Goods and shall indemnify the Company against all penalties, claims, damages, costs and expenses whatsoever arising in connection therewith, and the Goods may be dealt with in such manner as the Company or any other person in whose custody they may be at any relevant time, shall think fit.
21. The Customer undertakes that no claim shall be made against any Director, Servant, or Employee of the Company which imposes or attempts to impose upon them any liability in connection with any services which are the subject of these Conditions and if any such claim should nevertheless be made, to indemnify the Company against all consequences thereof
22. The Customer shall save harmless and keep the Company indemnified from and against:
- (a) all liability, loss, damage, costs, expenses whatsoever (including, without prejudice to the generality of the foregoing, all duties, taxes, imposts, levies, deposits and outlays of whatsoever nature levied by any authority in relation to the Goods) arising out of the Company acting in accordance with the Customer's instructions, or arising from any breach by the Customer or any warranty contained in these conditions, or from the negligence of the Customer;
- (b) without derogation from sub-clause (a) above, any liability assumed or incurred by the Company, when by reason of carrying out the Customer's instructions, the Company has become liable to any other party, and;
- (c) all claims, costs and demands whatsoever and by whomsoever made or preferred, in excess of liability of the Company under the terms of these conditions, regardless of whether such claims, costs and/or demands arise from, or in connection with, the

breach of contract, negligence or breach of duty of the Company, its servants or agents, and

- (d) any claims of a general average nature which may be made on the Company.
- 23(a) Rates and charges for Carriage governed by these Conditions (and any other service agreed to be performed by the Company) are those duly published or quoted by the Company and in effect on the date the Carriage or other services are performed.
- (b) The Customer shall pay to the Company all sums immediately when due without reduction or deferment on account of any claim, counterclaim or set-off.
- (c) In the event of default of any payment due, or in the event of the levying of any distress or execution against the Customer or the making by it of any composition or arrangement with creditors or, being a company, the Customer's liquidation or any analogous insolvency procedure in any jurisdiction, then all contracts between the Customer and the Company shall be terminated immediately and all sums owed (whether invoiced or not) by the Customer to the Company shall become due and payable immediately. Such termination is without prejudice to the accrued rights and liabilities of the parties prior to termination.
- (d) The Late Payment of Commercial Debts (Interest) Act 1998, as amended, shall apply to all sums due from the Customer.
24. Where liability for General Average arises in connection with the Goods, the Customer shall promptly provide security to the Company or to any other party designated by the Company in a form acceptable to the Company and to any other relevant Third Party.

LIABILITY AND LIMITATION

25. The Company shall perform its duties with a reasonable degree of care, diligence, skill and judgment.
26. 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:-
- (a) strike, lock-out, stoppage or restraint of labour, the consequences of which the Company is unable to avoid by the exercise of reasonable diligence;
- (b) any cause or event which the Company is unable to avoid and the consequences whereof the Company is unable to prevent by the exercise of reasonable diligence.
27. Except under special arrangements previously made in writing by an officer of the Company so authorised, the Company accepts no responsibility for any failure to adhere to agreed departure or arrival dates of Goods.
- 28(a) Subject to Clause 2(b) and 11(b) above and Sub-Clause 28(d) below, the Company's liability howsoever arising and notwithstanding that the cause of loss or damage be unexplained shall not exceed
- (i) in the case of claims for loss or damage to goods: (a) the value of any goods lost or damaged, or (b) a sum at the rate of 2 SDR, per kilo of the gross weight of any Goods lost or damaged whichever shall be the lower.
- (ii) subject to (iii) below, in the case of all other claims: (a) the value of the goods the subject of the relevant transaction between the Company and its Customer or (b) where the weight can be defined, a sum calculated at the rate of two SDRs per kilo of the gross weight of the goods the subject of the said transaction or (c) 75,000 SDRs in respect of any one transaction whichever shall be the lower.
- (iii) in the case of an error or omission, or a series of error and/or omissions which are repetitions of or represent the continuation of an original error, and/or omission: (a) the loss incurred, or (b) 75,000 SDR in the aggregate of any one trading year commencing from the time of the making of the original error, and/or omission, whichever shall be the lower.
- For the purposes of this Clause 28, the value of the Goods shall be their value when they were or should have been shipped. The value of SDRs shall be calculated as at the date when the claim is received by the Company in writing.
- (b) Subject to clause 2(a) above and sub-clause 28(d) below, the Company's liability for loss or damage as a result of failure to deliver, or arrange delivery of goods, in a reasonable time, or (where there is a special arrangement under clause 27 above) 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 contract.
- (c) Save in respect of such loss or damage as is referred to at sub-clause (b) and subject to Clause 2(a) above and Sub-Clause (d) below of this Clause 28, the Company shall not in any circumstances whatsoever be liable for indirect or consequential loss such as (but not limited to) loss of profit, loss of market or the consequences of delay or deviation however caused.
- (d) On express instructions in writing declaring the commodity and its value, received from the Customer and accepted in writing by an officer of the Company so authorised, the Company may accept liability in excess of the limits set out in Sub-Clauses 28(a), (b) and (c) above upon the Customer agreeing to pay the Company's additional charges for accepting such increased liability. Details of the Company's additional charges will be provided upon request.
- 29(a) Any claim by the Customer against the Company arising in respect of any service provided for the Customer, or which the Company has undertaken to provide, shall be made in writing and notified to the Company within 14 days of the date upon which the Customer became, or ought reasonably to have become, aware of any event or occurrence alleged to give rise to such claim, and any claim not made and notified as aforesaid shall be deemed to be waived and absolutely barred, except where the Customer can show that it was impossible for him to comply with this time limit and that he has made the claim within 14 days of it becoming possible for him to do so.
- (b) Notwithstanding the provisions of Sub-Clause 29(a) above, the Company shall in any event be discharged of all liability whatsoever and howsoever arising in respect of any service provided for the Customer, or which the Company has undertaken to provide, unless legal proceedings are started and written notice thereof given to the Company within nine months from the date of the event or occurrence alleged to give rise to a cause of action against the Company.
30. In the event that the Court of competent jurisdiction declares any provision (or a part of any provision) of these Conditions void and/or unenforceable in a particular case, then these Conditions shall be read as if that offending provision has been severed leaving the remainder to be enforced according to the terms thereof.
- 31(a) In circumstances where the Company is acting (either directly or through sub-contractors) as a haulier and a potential claim against the Company arises or is alleged, the Company may, at its election, rely on such terms of the conditions of the Road Haulage Association (current at the date of the claim) as if such conditions were incorporated herein.
- (b) In circumstances where the Company is acting (either directly or through sub-contractors) as a warehouse keeper and a potential claim against the Company arises or is alleged, the Company may, at its election, rely on such terms of the conditions of the United Kingdom Warehousing Association (current at the date of the claim) as if such conditions were incorporated herein.

JURISDICTION AND LAW

32. These Conditions and any act or contract to which they apply shall be governed by English Law. Any dispute arising out of any act or contract to which these Conditions apply shall be subject to the jurisdiction of the English Courts or, at the Company's sole option either (a) to the jurisdiction of the Courts of the country of the principal domicile or place of business of the Customer or (b) to the jurisdiction of the Courts of the country in which any asset of the Customer is or might at the instigation of the Company be detained or frozen.