

# RH EXPORT PACKERS LIMITED

## CONDITIONS OF TRADING

### GENERAL

#### 1. Definitions

- (i) 'The Company' means RH Export Packers Limited.
- (ii) 'The Customer' means the person, firm, company, organisation or public authority contracting or dealing with the Company or for whom the Company may undertake or carry out any packing, warehousing, carriage or any other service of work.
- (iii) 'The Services' means packing, warehousing, forwarding and carriage services or any one or more of such services undertaken by the Company for the Customer.

#### 2. Variation

Unless otherwise agreed in writing signed by a Director of the Company the services are provided by the Company only on these conditions and save as aforesaid no variation of or addition thereto (whether contained in any documents emanating from the Customer or made orally by any person acting or purporting to act on behalf of the Company) shall have effect. Should any of these conditions conflict with any conditions stated in the Customers order or any other document emanating from the Customer then these conditions shall prevail.

#### 3. Price

- (i) The Company reserves the right to increase the price for the services by an appropriate amount to take account of any increased cost caused by the alteration of the Customer's instructions or lack of them or any increase between the date of the order and the date of completion of the Contract in the cost of any materials comprised or used in the provision of the services or wages or any taxation, levy or imposition born by the Company or for any other reason whatsoever.
- (ii) All prices quoted are exclusive of VAT unless otherwise stated.

#### 4. Terms of Payment

- (i) Time of payment shall be of the essence of the Contract.
- (ii) Payment falls due in full not later than the last day of the month in which the services are invoiced by the Company to the Customer.
- (iii) In the event that the Customer fails to make payment in full by the due date the Customers right to discount (if any) shall be forfeited and the Customer shall pay interest on the amount outstanding at the rate of 4% above the current minimum lending rate of the Bank of England for the time being calculated from day to day from the date upon which payment became due to the date of actual payment.
- (iv) In the event of Customers failure to pay on the due date as aforesaid the Company shall be entitled at its absolute discretion to withdraw credit facilities at any time by notice in writing to the Customer and to suspend deliveries of any goods belonging to the Customer under this or any other contract with the Customer and if such payment shall remain in arrears for more than 7 days after written demand shall be made therefor the Company shall have the right to sell to third parties as agent for the Customer any goods the subject of this or any other Contract belonging to the Customer and may apply the proceeds of such sale in reduction of the expenses of the sale and the monies due to the Company. Any action taken by the Company pursuant to this Clause shall be without prejudice to any claim the Company may have against the Customer.

#### 5. Lien

All goods or property belonging to the Customer shall be subject to a general lien and right of detention for any monies due to the Company either in respect of such goods or property or for any general balance or other monies or charges due from the Customer or if the Customer be an agent from the principal of the Customer to the Company.

#### 6. Instalment Contracts

Where any Contract subject to these terms provides for delivery by instalments the cancellation or reduction for any reason of any instalment shall not affect the remainder of the Contract, each instalment being deemed to be a separate Contract except in the case of cancellation by the Company for failure on the Customers part to pay for goods as delivered.

#### 7. Sub-Contractors

The Company shall be at liberty with or without the consent of the Customer to sub-Contract the whole or any part of the services to such sub-Contractor and upon such terms and conditions as the Company may think fit. Any such sub-Contractor shall be entitled to the benefit of the Contract between the Company and the Customer and shall be under no liability whatsoever to the Customer or anyone claiming through him in respect of the goods in addition to or separately from that of the Company any premiums paid in the respect of insurance of the goods.

#### 8. Insurance

All goods delivered to the Company by the Customer shall be at the Customers risk. No insurance will be effected upon the said goods or property except upon the express instructions given in writing by the Customer. In the event of such instruction the Customer shall reimburse the Company any Premiums paid in the respect of insurance of the goods.

#### 9. Delivery

- (i) The Company will use its best endeavours to deliver the goods and/or provide the services on the date or dates specified in the contract or otherwise by either party but such dates are approximate dates only and not guaranteed and time for delivery or for provision of the services is not of the essence of the Contract. The Company shall not be liable in respect of any claim arising out of or consequent to failure to meet such dates and such failure shall not entitle the Customer to renege or cancel the Contract.
- (ii) In the event of delivery of the goods or provision of the services being delayed for a period of two months from the said date or dates by war, invasion, hostilities (whether war has been declared or not) civil war or unrest, rebellion, insurrection or military or usurped power or by any acts of foreign governments or by any statute, rules or regulations, order or requests issued by any government department or other duly constituted authority or from strikes, lock-outs, breakdown of plant, the failure of the consignee to accept delivery of the goods or from any other cause (whether or not of a like nature) beyond the Companys control, either party may terminate the Contract by notice in writing to the other and the Company shall incur no liability in respect thereof.

#### 10. The Goods

- (i) The Customer expressly warrants and guarantees to the Company that the Customer is either the owner or the duly authorised agent of the owner of any goods or property accepted or received from the Customer and if the Customer is only an agent these conditions shall be deemed to have been accepted by the principal or other third party for whom the Customer may act or represent.
- (ii) The Customer shall inform the Company prior to the receipt of the goods by the Company in writing of the value of any goods delivered to the Company and of the nature and description of such goods together with any specific instructions for their safety and preservation.
- (iii) The Company will not (except upon special terms) accept pack store or carry or handle gunpowder explosives fissionable or radioactive materials petroleum oils or any other goods of dangerous or hazardous nature. If the Company agrees to accept goods of a dangerous or hazardous nature such goods must be accompanied by a full declaration of their nature and content and must be properly and safely packed by the Customer in accordance with any statutory regulation for the time being in force. The Customer shall indemnify the Company against all loss damage or injury however caused arising out of the provision of the services in respect of such dangerous or hazardous goods, whether declared such or not.

#### 11. Exports

It shall be the responsibility of the Customer to obtain any necessary export or other licences and if the same cannot be obtained either party may rescind the Contract but the Company shall be reimbursed for any costs incurred prior to rescission. The Customer shall be liable to the Company for any costs incurred or work done in connection with the provision of the services prior to the date of such rescission and for any loss of profit.

### GENERAL

#### 12. Liability

- (i) Except for expressly stated in these conditions all warranties, conditions and representations express or implied, statutory or otherwise are (to the extent that they may in law be excluded) hereby excluded and the Company shall not be liable in Contract, tort or otherwise for any loss, damage, expense or injury arising out of or in connection with the provision of the services or any damage to the goods, the subject of the Contract, provided always that the Company shall if the Company would otherwise be liable therefore accept:
  - (a) liability in respect of death or personal injury arising out of the Company's negligence
  - (b) liability limited in total to £1,250 per tonne weight of the goods the subject of the Contract and proportionate part of £1,250 for each part of a tonne in respect of any other loss or damage whether direct or indirect or consequential
- (ii) Notwithstanding any other condition herein contained the Company shall incur no liability whatsoever in the event of the failure by the Customer to notify the Company of the alleged breach of Contract or other events alleged to give rise to liability on the part of the Company within ten days after the delivery of the goods or within twenty eight days after the receipt of the invoice whichever shall be the sooner.
- (iii) The Customer shall be entitled at any time prior to receipt of the goods by the Company for the purposes of the Contract to give seven days written notice to the Company requiring that the said limit of £1,250 per tonne shall be increased but not so as to exceed the value of the goods and in such event the Company shall be entitled to increase the price payable under the Contract by the cost of any increased insurance cover which the Company shall deem it prudent to obtain as a result of the increased limit of liability.

#### 13. Default or Insolvency of the Customer

- (i) If the Customer defaults in any way in its commitments with the Company or suffers any distress or execution upon its property or assets or makes or offers to make any arrangement or composition with its creditors or commits an act of bankruptcy or has a Receiver appointed over all substantial part of its assets or a Resolution passed or petition filed for winding up then the Company shall have the right (without prejudice to any other remedies) to cancel any uncompleted Contract or to withhold or suspend any deliveries due thereunder.
- (ii) In the event of a Contract being cancelled by the Company in the above circumstances or being cancelled by the Customer, the Customer shall indemnify the Company against all loss (including profits) costs (including labour, materials and overheads) and all other expenses and damage incurred by the Company in connection with the Contract and its cancellation (the Company giving credit for the value of any materials sold or utilised for other purposes).

#### 14. Notice

Any notice required to be served upon the Customer shall be deemed to have been duly served if left at or sent by prepaid post to the Customer at his last known abode or principal place of business and shall if sent by post to the Customer at his last known abode or principal place of business be deemed to have been received on the day on which in the ordinary course of post such notice would have reached him.

#### 15. English Law

Every Contract to which these terms and conditions shall apply shall be construed in accordance with and governed in all respects by the laws of England and the Company and the Customer submit irrevocably to the jurisdiction of the English Court.

### PARTICULAR CONDITIONS

#### Packing

- (1) **STORAGE CHARGES**  
Packed goods or property will be liable to storage charges at the appropriate rates for the time being charged by the Company from and after the expiration of 28 days from completion of packing.
- (2) The Company shall pack, case or crate goods in such manner and using such materials as it shall think fit. If the Customer desires or requires special packing or protection of any goods or property or desires or requires any special type of container, carton box, case of lining (whether inner or outer) detailed written instructions must be given to the Company prior to its acceptance of such goods or property and prior to formation of the Contract.

#### Warehousing

- (1) Storage charges are made on a daily basis and are liable to be increased at any time upon the Company sending to the Customer not less than seven days previous notice in writing before any increase comes into operation. Upon receipt of such notice the Customer shall have the option of removing its goods from the Companys premises on payment of all charges accrued to the date of removal. If goods are not so removed before the increase comes into operation the Customer shall be deemed to have agreed the increased charges and shall be liable accordingly.
- (2) At least 48 hours notice of intention to collect goods from the Companys premises must be given to the Company and no vehicle will be loaded or unloaded at the Companys premises unless it reports for that purpose at least two hours before normal closing time and unless previously agreed in writing the Company will not receive or deliver goods into or from the Companys premises on a Saturday, Sunday or public holiday.
- (3) Any expenses or loss incurred by the Company in consequence of any requirement of the Weights and Measures Act 1963 or of any instrument made thereunder shall be reimbursed or paid by the Customer to the Company.
- (4) Except by special arrangement the warehouse keeper shall not be obliged to provide any weighing or measuring apparatus or weights or measures.
- (5) The Company shall have the right at any time upon not less than seven days notice in writing to the Customer to require the removal of any goods in the custody of the Customer upon payment of all charges and other monies due to the Company from the Customer to the date of such removal and in default of such removal the Company shall be entitled at the expense of the Customer and without being liable for loss to make such arrangements for the removal or sale of such goods as the Company shall think fit.
- (6) Special storage arrangements will not be made unless detailed written instructions have been given to the Company prior to its acceptance of the goods or property. The Company shall not be liable for any loss, deterioration, depreciation occasioned during storage by temperature, humidity or other atmospheric conditions or changes thereof or by weather conditions.

#### Carriage

- (1) The Company does not and shall not in any circumstances be deemed to be a common carrier nor liable or accountable as such.
- (2) The Company shall not be responsible in any way for any delay whilst any goods or property are in the course of transportation or carriage save where such delay is caused by the negligence of the Company and then only in accordance with the provisions of condition 12 hereof and subject to the limitations set out therein.
- (3) When collection or delivery takes place at the Customers premises the Company shall not be under any obligation to provide any plant, power or labour which is required for loading or unloading at such premises. Any assistance given by the Company shall be at the sole risk of the Customer who will hold harmless and keep the Company indemnified against any claim or demand which could not have been made if such assistance had not been given.
- (4) Goods requiring special appliances for unloading from the vehicle are accepted for carriage only on condition that the Customer has duly ascertained from the consignee of such goods that such appliances are available at destination. Where the Company is without prior arrangement in writing with the Customer called upon to load or unload such goods the Company shall be under no liability whatsoever to the Customer for any damage howsoever caused and the Customer shall hold harmless and keep the Company indemnified against any claim or demand which could not have been made if such assistance had not been given.