

Primeline Sales and Marketing

TERMS AND CONDITIONS OF SALE

1. Definitions

1.1 For the purposes of these terms and conditions of business, the following words will have the prescribed meanings as set out:

"Associated Company" shall have the meaning prescribed to it by Section 432 of the Taxes Consolidation Act 1997;

"Company" means Primeline Logistics (trading as *Primeline Sales & Marketing*), registered in Ireland under no 313922, and having its registered office is at Unit 3 Ashbourne Business Park, Ashbourne, Co Meath, and/or any Associated Companies and all administrators and assigns;

"Contract" means the contract between the Company and the Customer for the sale and purchase of the Goods and/or Services supplied under these Conditions;

"Consignee" means the person (corporate or otherwise, who may or may not be the Customer) to whom the Company contracts to deliver the Consignment;

"Consignment" means goods whether single or multiple units or in bulk despatched at any one time from one Sender in a single load from one address to another in Ireland;

"Customer" means any customer of the Company to which Goods and/or Services are supplied under these Conditions;

"Goods" means and includes goods or any part thereof which the Company agrees to supply; the word "goods" without capitalisation shall be taken to refer to goods which are the subject of Services;

"Primeline Sales & Marketing" means the sales and marketing division of the Company;

"Sender" means the person (corporate or otherwise, who may or may not be the Customer) who supplies the Consignment to the Company for carriage; and

"Services" means the logistics and related services or any part thereof which the Company agrees to provide (whether directly or through the use of sub-contractors).

1.2 For the purposes of these Conditions, "Primeline Sales & Marketing" shall be read as the **"Company"**.

2. In all or any business undertaken by the Company, such business is transacted subject to the following Conditions each of which is deemed to be incorporated in and to be a condition of any agreement between the Company and its Customers. No variation of these Conditions shall be binding unless previously agreed in writing between the authorised representatives of the Customer and the Company.
3. In authorising the Customer to enter into any Contract with the Company and/or in accepting any document issued by the Company in connection with such Contract, the Owner and Consignee accept these Conditions for themselves and their Agents and for any parties on whose behalf they or their Agents may act, and in particular, but without prejudice to the generality of this condition, they accept that the Company shall have the right to enforce against them jointly and severally any liability of the Customer under these Conditions or to recover from them any sums to be paid by the Customer which upon proper demand have not been paid.
4. The Company is not a common carrier and deals with or handles goods subject only to these conditions. No variation or waiver of any of these Conditions shall be of any effect unless it be evidenced in writing and signed by a director of the Company.
5. Any Instruction given to the Company may in the absolute discretion of the Company be followed by the Company itself by its own servants performing part or all of the relevant services or by the Company employing or instructing or entrusting the goods to others on such conditions as such others may stipulate to perform part or all of such services. The conditions of such others shall as between the Company and the customer apply so as to limit but not so as to extend the liability of the Company under these Conditions, subject to the foregoing these Conditions shall prevail in the event of any difference between them and the conditions of such others.
6. A customer entering into a transaction or agreement of any kind with the Company expressly warrants that he is either the owner or the authorised agent of the owner of the goods to which the transaction or agreement relates and further warrants that he is authorised to accept and does accept these Conditions not only for himself but also as agent for and on behalf of all other persons who are or may become interested in the goods.

THE COMPANY

7. SUPPLY OF SERVICES

- a) The provisions of this condition 7 shall apply to the provision of logistics and other Services to the Customer. In the event of a conflict between condition 7 and any other condition in these Terms and Conditions, the provisions of condition 7 shall prevail.
- b) The Company warrants that the Services will be provided with due skill, care and diligence, and that any materials used will be sound and reasonably fit for the purpose for which they are required.
- c) Subject to express instructions in writing given by the Customer, the Company reserves to itself absolute discretion as to the means, route and procedure to be followed in the handling, storage and transportation of the goods and the provision of its services. If, in the opinion of the Company it shall at any time become necessary or desirable to depart from such instructions, the Company (in its absolute discretion) shall be free to do so.
- d) The Company shall be entitled to retain and to be paid all brokerages, commission, allowance or any other remuneration customarily retained by or paid to carriers, shipping and forwarding agents, freight forwarders and insurance brokers.
- e) Except under special arrangements previously made in writing the Company will not accept or deal with bullion, coins, precious stones, jewellery, valuables, antiques, pictures or plants. Should any Customer nevertheless deliver 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, the Company shall be under no liability whatsoever for any loss or damage to or in connection with such goods howsoever caused.

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- f) Except under special arrangements with the Customer previously agreed in writing the Company will not accept or deal with any goods which are in the opinion of the Company, noxious, dangerous, hazardous, inflammable or explosive or likely to cause damage. The expression, "goods likely to cause damage" includes goods likely to harbour vermin or other pests, but this shall in no way limit the generality of the said words. In the event of any person delivering such goods to the Company or causing the Company to handle or deal with any such goods (except under special arrangements previously agreed in writing with the Customer) the Customer shall be liable for all loss or damage caused thereby and shall indemnify the Company against all penalties, claims, damages, costs and expenses 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 and the Customer shall indemnify the Company against all consequences of the exercise of this right. If such goods are accepted under an arrangement with the Customer previously agreed in writing they may nevertheless be so destroyed or otherwise dealt with if in the opinion of the Company they become dangerous to other goods, property or health and the Customer in that event shall indemnify the Company in the manner aforesaid. The customer will supply the Company with the correct accurate and relative hazardous documentation and declarations for goods being accepted under these arrangements and will indemnify the Company against all consequences associated with a failure to do so.
- g) Pending forwarding and delivery goods may be warehoused or otherwise stored at any place or places at the sole discretion of the Company at the Customer's expense. The Company shall not be liable for any loss of whatever nature arising from such warehousing or storing unless that loss is proven to have been caused by the wilful neglect or wilful default of the Company, its servants or agents done with intent to cause damage. The Customer shall indemnify the Company against any loss suffered by it as a result of any claims brought against it by Third Parties (including the Company's own servants or agents) in connection with the warehousing or storing of goods except where any loss giving rise to any such claim is proved by the Customer to have been caused by the wilful neglect or wilful default of the Company, its servants or agents as aforesaid.
- h) Perishable goods which are not accepted or taken up immediately upon arrival or which the Company considers to be insufficiently addressed or marked or otherwise not readily identifiable may be sold or otherwise disposed of without notice to the senders, owners or consignees and payment or tender of the net proceeds of any sale after deduction of the charges shall be a complete discharge of all responsibility on the part of the Company and equivalent to delivery. The Customer shall pay all charges and expenses arising in connection with the sale or disposal of the goods. The Customer will indemnify the Company against all losses, costs and expenses incurred by the Company in respect of any claim by any Third Party (including its own servants or agents) in connection with such sale or disposal.
- i) No Document signed by or on behalf of the Company prepared by the Customer and acknowledging receipt of a consignment, shall be evidence of the condition or the correctness of the declared nature, quantity, quality or weight of the consignment at the time of receipt by the Company.
- j) The Company shall not be obliged to make any declaration for the purpose of any statute or contract as to the nature or value of any goods or as to any special interest in the delivery unless required by law or unless the Company shall have accepted in writing express written instructions from the Customers to that effect.
- k) Where there is a choice of rates in accordance with or related to the degree of the liability assumed by carriers, warehousemen or others, goods will be forwarded, carried, warehoused or otherwise dealt with only at the lowest of such rates and no declaration of value (where optional) will be made, unless the Company shall have accepted in writing express written instructions from the Customer to that effect.

8. SALE OF GOODS

- (a) The provisions of this condition 8 shall apply to the distribution and sale of Goods by the Company to the Customer, where on a wholesale or any other basis. In the event of a conflict between condition 8 and any other condition in these Terms and Conditions, the provisions of condition 8 shall prevail.
- (b) The Company shall sell and the customer shall purchase the Goods in accordance with any written quotation of the Company which is accepted by the Customer, thereby creating a Contract, or with any written order of the Customer which is accepted by the Company, thereby creating a Contract, subject in either case to these Conditions.
- (c) The Company's employees or agents are not authorised to make any representation concerning the Goods unless confirmed by the Company in writing. In entering into the Contract, the Customer acknowledges that it does not rely on and waives any claim for breach arising from any representations which are not so confirmed and the Customer further acknowledges that it does not rely on any terms, conditions, warranties or representations (not contained in the Conditions) which the Company may have made in relation to any previous Contract.
- (d) Any typographical, clerical or any other error or omission in any sale literature, quotation, price list, acceptance of offer, invoice or other document issued by the Company shall be subject to correction without any liability on the part of the Company.
- (e) No order submitted by the Customer shall be deemed to be accepted by the Company unless and until confirmed in writing by the Company's authorised representative.
- (f) The Customer shall be responsible to the Company for ensuring the accuracy of the terms of any order (including any applicable specification) submitted by the Customer and for giving the Customer any necessary information relating to the Goods within a sufficient time to enable the Company to perform the Contract in accordance with its terms.
- (g) The quantity, quality and description of, and any specification for, the Goods shall be those set out in the Company's quotation (if accepted by the Customer) or the Customer's order (if accepted by the Company).
- (h) No order which has been accepted by the Company may be cancelled by the Customer except with the agreement in writing of the Company and on the terms that the customer shall indemnify the Company in full against all loss (including loss of profit), costs (including the costs of all labour and material used), damages, charges and expenses incurred by the Company as a result of the cancellation.
- (i) Delivery of the Goods shall be made by prior agreement between the Company and the Customer.
- (j) Any dates quoted for delivery of the Goods are approximate only and the Company shall not be liable to make good any damage or loss whether arising directly or indirectly from any delay in the delivery of the Goods howsoever caused. Time for delivery shall not be of the essence unless previously agreed by the Company in writing. The Goods may be delivered by the Company in advance of the quoted delivery date upon giving reasonable notice to the Customer.
- (k) Where delivery of the Goods is to be made at a place designated by the Customer, the Customer must give delivery instructions for the Goods on or before the delivery date.
- (l) No responsibility will be accepted by the Company in relation to any loss or damage to the Goods occurring during transit and prior to the point of delivery unless:
- (i) in the event of damage, the carrier and the Company is notified in writing by the Customer within three (3) working days from the date of receipt of the Goods at the designated place of delivery, and/or

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- (ii) in the event of loss or non-arrival of the Goods, the carrier and the Company is notified in writing by the Customer within twenty-eight (28) days of the date of the Company's invoice to the Customer.
- (m) In addition to any other payment or damages for which the Customer may become liable under the Conditions in respect of failure to take delivery on the due date, the Company may in its absolute discretion store the Goods until delivery (and the Customer shall be liable to the Company for the reasonable cost, to include carriage and insurance, of its so doing) and/or sell all or part of the Goods. Refusal by the Customer to take delivery will relieve the Company of the obligation to make further deliveries, without prejudice to the Company's right to recover damages for such refusal.
- (n) The Company may postpone or cancel any delivery of the Goods until the amounts then due for payment by the Customer to the Company have been duly received as cleared funds by the Company, whether such amounts be due under the Contract or otherwise howsoever but without prejudice to any other claim or remedy which the Company may have against the Customer in respect thereof or in respect of any consequential non-completion of the Contract.
- (o) The price stated in the order is subject to change and the actual price to be paid for the Goods will be the Company's current price for the relevant market in force at the time when the Goods are despatched by Company whether or not the time is stated in the order, provided that the Company will inform the Customer in writing of any increase in price within fourteen days of such price increase being made.
- (p) Prices quoted are ex-works unless otherwise stated. Any special packing or transport or insurance costs will be charged additional to the price of goods. The term "special" refers to any particular arrangements that may be agreed by the Company at the request of the Customer which are other than the normal arrangements made by the Company for packing and/or delivery.
- (q) The Company shall have the right upon notice to suspend deliveries under the Contract and/or any other contract the Company may have with the Customer (even though the Customer is not in arrears with any payment), if the Company considers the amount outstanding on the Customer's account (whether actually due for payment or not) has reached the limit to which the Company is prepared to allow the Customer Credit.
- (r) Without prejudice to the provisions of conditions 42-44 inclusive, risk of damage to or loss of Goods shall pass to the Customer:
 - (i) In the case of Goods to be delivered at the Company's premises, at the time when the Company notifies the Customer that the Goods are available for collection,
 - (ii) In the case of the Goods to be delivered otherwise than at the Company's premises, at the time of delivery or, if the Customer wrongfully fails to take delivery of the Goods, at the time when the Company has tendered delivery of the Goods.
- (s) Quality
 - (i) The Customer shall inspect the Goods immediately on receipt thereof. Small deviations or variations from particulars of Goods shall not give rise to any claims.
 - (ii) Any claim by the Customer which is based on any defect in the quality and condition of the Goods or their failure to correspond with a specification shall be notified to the Company within three (3) days from the date of the delivery or, where the defect or failure was not apparent on reasonable inspection, within a reasonable time after the discovery of the defect or failure.
 - (iii) Where any valid claim in respect of any of the Goods which is based on any defect in the quality or condition of the Goods or their failure to meet specification is notified to the Company in accordance with these Conditions, the Company shall be entitled to replace the Goods (or the part in question) free of charge or, at the Company's sole discretion, refund to the Customer the price of the Goods (or a proportionate part of the price) in exchange for the return of the Goods but the Company shall have no further liability to the Customer.
 - (iv) Without prejudice to the other provisions hereof and to any other remedy or claim which the Company may have, should the Company partially complete an order, it shall be entitled to be paid for the Goods in respect of which the order has been completed together with all the costs and charges associated with the relevant order.

INSURANCE & PERFORMANCE

- 9. No insurance will be effected by the Company except upon express written instructions by the Customer to the Company and written confirmation from the Company to the Customer that it is in a position to, and has effected the cover. All insurances effected by the Company are subject to the exceptions 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 any consignment but may declare each consignment on an open or general policy. Should the insurers or underwriters for any reason dispute their liability neither the insured nor the Customer shall have recourse against the Company but their recourse if any shall be against the insurers or underwriters only and the Company shall not be under any responsibility or liability 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 its Customer or other party.
- 10. The Company shall use reasonable efforts to meet any stated dates for performance but shall not be liable (in contract, negligence or otherwise) for any loss or damage resulting from its failure to do so, howsoever caused.

THE CUSTOMER

- 11. The Customer warrants that all goods shall be properly and sufficiently packed and/or prepared by the Customer for carriage or forwarding. The Company shall not be liable for any damage to the goods attributable to or in any way connected with inadequate or insufficient packaging or the absence of packaging. The Customer shall indemnify the Company against all losses, or claims arising out of or in any way connected with any damage or injury caused by, resulting from or connected with the state of packing or the preparation of the goods. The Company does not provide a packing service on behalf of its customers unless such is expressly requested in writing by the customer AND agreed to and confirmed in writing by the Company.
- 12. The Customer shall be deemed to be bound by and to warrant the accuracy of all descriptions, weights, measurements, values or other particulars furnished to the Company for customs, consular, shipping or other purposes and he undertakes to indemnify the Company against all losses, damages, expenses and fines arising from any inaccuracy or omission even if such inaccuracy or omission is not due to negligence.
- 13. The Customer shall be liable for any duties, taxes, import levies, deposits, demurrage or outlays of any kind levied at any port or place in connection with the goods and shall indemnify the Company for any payments, fines, expenses, loss or damage incurred or sustained by the Company in connection therewith.
- 14. The Customer shall not exercise any claim to set-off any sum against any sum due to the Company, nor shall the Customer refuse or delay payment of any sum due to the Company on the ground of any counter claim or dispute.

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15. When goods are accepted or dealt with upon instruction to collect freight, duties, charges other expenses from the consignee or any other person the Customer shall remain responsible for the payment of same in the event of non payment by such consignee or other person upon delivery or when requested.
16. Notification of queries and/or complaints must be notified to the Company in writing within 10 days of the problem arising, or 10 days of completion of the Services, whichever is the earlier.
17. The Customer shall indemnify the Company and save it harmless against all claims, demands or liabilities made against or suffered or incurred by the Company, in excess of the Company's liability under these Conditions in connection with the goods or arising directly or indirectly from the Customer's instructions or their execution or in connection with any services provided or to be provided by the Company under any agreement with the Customer, whether or not any such claim, demand or liability shall be due to or result from or connected with any negligence or other tort or breach of statutory duty on the part of the Company, its servants, agents, sub-contractors or any other person for whose acts of omission the Company shall or may be liable.
18. In particular and without limiting the generality of the immediately preceding sub-condition, the Customer shall indemnify and save the Company harmless against all such claims, demands or liabilities by, from or to any servant, agent or sub-contractor, or any haulier, carrier, warehouseman or other person whatsoever at any time involved with the goods or with the provision of any service to the Customer arising out of or in connection with any service to the Customer arising out of or in connection with any claim made directly or indirectly against any such person by the Customer or by any sender, consignee or owner of the goods or by any person interested in the goods or any other person.
19. Non-Perishable goods which cannot be delivered either because in the opinion of the Company they are insufficiently or incorrectly addressed or because they are not collected or accepted by the Consignees may be sold, returned or otherwise disposed of at the Company's option at any time after expiration of 21 days from the date of a notice in writing sent to the last known address of the Customer. The Customer shall pay all charges and expenses arising in connection with the sale, return or disposal of the goods. A communication from any agent, servant or correspondent of the Company to the effect that the goods cannot be delivered for any reason shall be conclusive evidence of the fact. Return of the goods to the Customer or payment by the Company to the Customer of the net proceeds of any sale after deduction of the charges shall be a complete discharge of all responsibility on the part of the Company. If any claims are made by Third Parties (including its own servants or agents) by reason of such sale or return the Customer will indemnify the Company against same and against all losses, costs and expenses incurred by the Company in connection therewith.

LIABILITY AND LIMITATION

The Company shall perform its duties with a reasonable degree of care, diligence, skill and judgment

20. 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:-
 - (i) act of God, failure of the Company or third-party computer systems, strikes, industrial action, lock-outs, fire, storm, tempest, breakdown, shortage of raw materials, scarcity of labour, government action, riot, civil commotion, stoppage of machinery from any cause or in any other circumstances of whatever nature beyond the control of the Company; or
 - (ii) 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.
21. Except under special arrangements previously made in writing the Company accepts no responsibility for departure or arrival dates of goods
22. The Company's liability howsoever arising and notwithstanding that the cause of loss or damage be unexplained shall not exceed the value (as of the date of acceptance by the Company of the Consignment) of any goods lost or damaged or the value of €1,650 per kilo of Goods transported by the Company, whichever is the lower.
23. 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 should 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 as soon as it was reasonably possible for him to do so.
24. Notwithstanding the provisions of Condition 31 above the Company shall in any event be discharged of all liability whatsoever howsoever arising in respect of any service provided for the Customer or which the Company has undertaken to provide unless suit be brought 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.
25. The Company shall not under any circumstances be liable to the Customer by reason of any representation or warranty, condition or other term or any duty of common law, or under the express terms of these conditions or service, for any consequential, special, incidental or punitive loss or damage (whether for loss of current or future profits, loss of enterprise value or otherwise) and whether occasioned by the negligence of the Company, its employees or agents or otherwise, even if advised of the possibility of such damages.
26. The Company shall only be responsible for the goods while they are in its actual custody and under its actual control and the Company shall not be liable for loss of or damage to the goods or part thereof or failure to deliver the goods or part thereof unless it is proved that such loss or damage or failure to deliver was due to the wilful neglect or wilful default of the Company or its own servants done with intent to cause damage.
27. The Company shall be liable for any non-compliance with any instruction given to it only if it is proved that such non-compliance was caused by the wilful neglect or wilful default of the Company or its own servants done with intent to cause damage.
28. Save as aforesaid the Company shall be under no liability in connection with the goods or with instructions given to it or services provided or to be provided by it notwithstanding that the Company or its servants or agents shall have been negligent or in breach of any statutory duty.
29. Furthermore and without prejudice to the generality of the preceding sub- conditions the Company shall not in any event be liable for any delay or consequential loss or loss of market, however caused, nor for any loss, damage or expense arising from or in any way connected with the marks, weights, numbers, brands, contents, quality, quantity or description of any goods however caused.
30. If an action is brought against a servant or agent of the Company in respect of any loss or any damage to the goods or any part of the goods or in respect of any other matter connected with the goods such servant or agent shall be entitled to the defences, exceptions and limits of liability which the Company is entitled to invoke under these Conditions and for the purpose only of conferring the benefit of such defences, exceptions and limits of liability upon its servants and agents the Company enters into every agreement with the Customer on its own behalf and also as agent for all persons who are or may from time to time become its servants or agents.

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31. Nothing in these conditions of service shall exclude or limit the liability of the Company for death or personal injury resulting from the negligence of the Company or any of its employees or agents, nor shall they operate to exclude or limit any statutory rights which cannot be legally excluded or limited, including the statutory rights of a consumer.

PRICES AND PAYMENT

32. Unless another price is quoted by the Company in writing and accepted by the Customer, the price of the Services is the Company's relevant standard price for the particular Services as at the date of the order.
33. Quotations are given subject to withdrawal or revision prior to acceptance. All quotations not accepted in writing within 30 days from the date issued will be deemed to have been withdrawn. After acceptance, all quotations and charges shall be subject to revision without notice and in accordance with any changes in the rates of freight, haulage, insurance premiums or any other charge at any time applicable to the goods.
34. The company invoices to the nearest 30 minutes or part thereof.
35. The Company's credit terms are strictly payment on presentation of invoice unless specific credit terms are mutually agreed.
36. Instructions to collect payment on delivery (C.O.D.) in cash or otherwise are accepted by the Company upon condition that the Company in the matter of such collection will not be liable for loss arising from the failure of the required party to supply the required C.O.D. or the failure or inability of the Company to secure same at the time of delivery. This condition applies whether the Company applies a fee for the collection of a C.O.D. or not.
- Unless expressly quoted as including all expenses, all prices are exclusive of the Company's reasonable hotel, travel and other out-of-pocket expenses in providing the Services. The Customer shall reimburse the Company for such expenses, subject to the Company properly vouching for them.
37. Unless expressly quoted as including VAT, all prices are exclusive of value added tax or any other government taxes, duties or levies which, if applicable, shall be paid by the Customer.
38. Unless otherwise agreed in writing, the Company may invoice the Customer quarterly, with a final invoice upon completion of the Services.
39. Unless otherwise agreed in writing by the Company, the Customer shall make all payments due to the Company, on or within 30 days of the date of the invoice, in cleared funds to the bank account nominated by the Company.
40. The Customer shall make all payments in Euros (unless otherwise agreed), without set-off or counterclaim and free and clear of all taxes, deductions, withholdings and other charges.
41. In compliance with the Late Payment in Commercial Transactions Regulations 2012, the Customer shall pay to the Company the Flat Rates for compensation for recovery costs (as defined therein) and interest on any overdue amount (including VAT) at a rate of 8% per annum above the main refinancing rate of the European Central Bank, from the due date for payment until payment, calculated on a daily basis and compounded monthly. Interest will be payable both before and after judgment.

LIEN & RETENTION OF TITLE

- 42.
- (a) For the purposes of this Condition, the Customer shall be responsible for ensuring the compliance by the Consignee with the Customer's obligations hereunder.
- (b) The Goods delivered remain the Company's property until full payment of the purchase price and all other present or future claims the Company is entitled to against the Customer from the business connection. The retention of title shall not be affected by including the purchase price claim against the Customer in an open account and acknowledging a pertinent balance.
- (c) The Customer is obligated to treat the purchased item with care until acquiring full ownership; in particular, the purchaser is obligated to adequately insure the goods at replacement value against loss and damage and destruction, such as against damage due to fire, water and theft. Pending the transfer of full ownership, the Customer assigns its claims from insurance contracts to the Company. The Company accepts this assignment. Should maintenance and repair become necessary, the Customer must implement these on its own account.
- (d) The Customer may neither pledge our reserved goods nor use them as collateral. However, in accordance with the following conditions, the Customer is entitled to resell the delivered goods within the normal course of business. The above entitlement is void, if the Customer has pledged or assigned the claim against its contracting partner – in each case active - arising from the resale of the goods to a third party in advance, or agreed on a non-assignment clause with its contracting partner.
- (e) In order to ensure the fulfilment of all the Company's claims mentioned in these Conditions, the Customer assigns all income – including future and conditional claims – from the resale of the Goods delivered with all ancillary rights to the Company as collateral in the amount of 110% gross of the value of the Goods delivered ranked before the remainder of its receivables. The Company accepts this assignment.
- (f) As long as the Customer meets its payment obligations towards the Company, the Customer is authorised to collect the receivables against its customers that have been assigned to the Company within proper business transactions. However, with regard to this claim, the Customer is not entitled to enter into a current account relationship or a non-assignment clause with its customer or pledge or assign it to third parties. Should a current account exist between the Customer and the buyers of the Company's reserved goods contrary to these Conditions, the claim assigned beforehand also refers to the pertinent balance and in the case of insolvency of the Customer, also to the balance existing at the time.
- (g) At the Company's request, the Customer must itemise the claims assigned to the Company and inform its debtors of the assignment with the request to pay an amount up to the Company's claims to the Company. The Company is entitled to inform the Customer's debtors ourselves about the assignment and to collect the outstanding debt. The Company shall, however, not exercise this right as long as the Customer properly meets its payment obligations on time, the Customer has not applied for insolvency proceedings to be instituted and the Customer does not stop payments. On the other hand, if one of the above events should occur, the Company can demand that the Customer informs the Company of the assigned claims and their debtors, supplies all data necessary to collect the debt and hands over the relevant documents.
- (h) In the case of pledges or other interventions by third parties the Customer must inform the Company in writing without delay.

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- (i) Should the goods delivered by the Company under retention of title be processed, mixed or combined with other items that do not belong to the Company, we shall acquire co-ownership of the new item in proportion of the value of the delivered Goods (final invoice amount, including VAT) to the other items at the time of processing/mixing or combining. Otherwise, the same applies to the item created after processing as to the Goods delivered under retention of title. If processing, mixing or combining occurs in such a way that the Customer's item may be regarded as the main item, it shall be agreed that the Customer assigns proportionate co-ownership to the Company. The Customer is entitled to resell the new products created by processing or reshaping or combining or mixing within the normal course of business without pledges or assignments, as long as it meets the obligations from the business relationship with the Company on time. The Customer assigns its claims from the sales of these new products, in which the Company is entitled to co-ownership, as collateral to the Company in the amount of the Company's share of ownership of the goods sold.
 - (j) To secure the Company's claims, the Customer also assigns the claims that accrue against a third party from combining the delivered Goods with real property, in the amount of the value of the Goods.
 - (k) The Company undertakes to release the securities due to the Company at the Company's choice and at the Customer's request to the extent that the realisable value of the Company's collateral exceeds the Company's claims against the Customer to be secured by more than 20%.
 - (l) In the event of contract breach by the Customer, in particular payment default of more than 10% of the invoice amount for a significant period of time, the Company shall be entitled – without prejudice to further (damages) claims due to the Company – to withdraw from the contract and demand the return of the Goods delivered by the Company. After the Goods delivered by the Company have been returned, the Company shall be authorised to sell them. The sale amount shall be offset against Customer's payables due to the Company – less reasonable sales costs.
43. For the avoidance of doubt, all goods (and documents relating to goods) in the possession of the Company or any agent or subcontractor of the Company shall be subject to a particular and general lien for monies due to the Company or to any Associated Company either in respect of such goods or for any particular or general balance or other monies due from the Customer, the Sender or Consignee. In the event that the Company for whatever reason withdraws credit facilities from the Customer or puts the Customer's account on hold, all outstanding monies become immediately due and no further credit for past, current or future transactions can be availed of until full settlement of the account has been received by the Company and the Company agrees to reopen a credit account for the Customer. If any monies due to the Company or any associated company are not paid within one month after notice has been given to the person or company from whom the monies are due that such goods are being detained, the goods may be sold by auction or otherwise at the sole discretion of the Company and at the expense of such person or company, and proceeds applied in or towards satisfaction of such particular or general lien. If any claims are made against the Company or any associated company by Third Parties (including the its own servants or agents) by reason of the exercise of its rights under this Condition the Customer will indemnify the Company or such associated company against the same and against all losses, costs, damages, and expenses incurred by the Company or such associated company in connection herein.
44. For as long as any money is due by the Customer to the Company, the Company and its agents shall be entitled to enter (with or without vehicles) any premises where the Goods are located to take possession of and re-sell same and for this purpose the Customer hereby grants the Company irrevocable right and licence and to enter any such premises. This right shall continue notwithstanding termination of any Contract between the Customer and the Company for any reason and shall be without prejudice to any accrued rights of the Company. In the event of the Company recovering the Goods it shall retain all payments made, if any, for the Goods as damages for breach of Contract.

General

45. The Company may in its discretion delegate any of its duties in the provision of the Services.
46. Nothing in these conditions of service or elsewhere shall be deemed to make the Company an employee, agent or partner of the Customer for any purpose whatsoever.
47. These conditions of service shall apply to any purchase of services under an order which is accepted by the Company. No other terms shall apply to the sale of the Services, including any standard conditions of purchase of the Customer, even if they are printed on the written order of the Customer or any other document issued by the Customer.

Exclusion of Contra-Proferentem Rule

48. These terms and conditions have been reviewed by both Parties and their legal representatives have reviewed (or have had an opportunity to review same) and accordingly, the Parties agree that no presumption or rule that an ambiguity shall be construed against the Party drafting the condition shall apply to the interpretation or enforcement of this Agreement. **Governing Law**
49. These conditions of service shall be governed by Irish Law and be within the exclusive jurisdiction of the Irish Courts.
