

TERMS & CONDITIONS OF TRADE FOR MASTERLINK

These are the Terms & Conditions of Trade for Masterlink and comprise the terms and conditions under which Masterlink will carry out services on behalf of its customers.

These Terms & Conditions of Trade constitute the entire agreement between Masterlink and its customers and supersede all prior editions of terms & conditions of trade of Masterlink whether written or oral between Masterlink and its customers and no oral alterations to these Terms & Conditions of Trade and no oral representations made by Masterlink or its employees or agents, shall have any effect between Masterlink and its customers.

1. DEFINITIONS AND INTERPRETATION

"Business Day"	any day other than a Saturday, Sunday or a public holiday in Ireland when banks in Dublin are open for business;
"Carriage Services"	means the services for the delivery of the Goods to the Customer;
"Customer"	means the recipient of Goods delivered and/or Services supplied by Masterlink;
"Consignment"	means all the Goods sent by Masterlink to one Customer as one delivery to the same address;
"Contract"	the contract for services, if any, between Masterlink and the Customer, as may be specified in the relevant Contract Document (and the Contract Document will automatically incorporate these Terms & Conditions of Trade);
"Contract Document"	means the paperwork signed by Masterlink and the Customer containing details of the Services;
"Dangerous Goods"	means all Goods defined as dangerous by the European Agreement concerning the International Carriage of Dangerous Goods by Road (ADR) and any Goods which, in the opinion of Masterlink, are of the same or similar nature or present a hazard;

"Freight Forwarding Services"	means the collection of Goods outside the island of Ireland for delivery within the island of Ireland or, alternatively, the collection of Goods within the island of Ireland for delivery outside the island of Ireland;
"Goods"	means the goods in respect of which the Services are supplied by Masterlink;
"Masterlink"	means whichever of the following companies is providing the Services: Masterlink Logistics Limited (Co. No. 514116) Masterlink Distribution Limited (Co. No. 514114) Masterlink Solutions Limited (Co. No. 514115) National Seaways (Freight) Limited (Co. No. 138399) or any of the subsidiary or associated companies of any of those companies from time to time;
"Services"	means the Carriage Services, the Freight Forwarding Services, the Technical Services and the Storage Services together with any other service carried out by Masterlink on the instructions of the Customer;
"Storage Services"	means the service of storage of Goods by Masterlink at the Masterlink premises or elsewhere;
"Sub-Contractor"	means any third party engaged by Masterlink in connection with the provision of the Services;
"Technical Services"	means the order fulfilment, turnkey, repack and quality checking services or other such similar service provided by Masterlink;
"Terms & Conditions of Trade"	means these Terms & Conditions of Trade or such further editions thereof as may be made available on Masterlink's website (www.masterlinklogistics.com) from time to time and which shall become effective as between Masterlink and the Customer immediately upon being made available on the Masterlink website; and
"Transit"	means the period during which Masterlink is in possession of the Goods as more particularly detailed in Clause 3.2.

2. AGREEMENT

In these Terms & Conditions of Trade:

- 2.1 Any reference in these Terms & Conditions of Trade to "writing" or cognate expressions includes a reference to electronic mail, facsimile transmission or comparable means of communication.
- 2.2 Clause headings are inserted for ease of reference only and shall not affect construction.
- 2.3 Words importing one gender shall be treated as importing any gender, words importing individuals shall be treated as importing bodies corporate, corporations, unincorporated associations and partnerships and vice-versa, words importing the singular shall be treated as importing the plural and vice-versa and words importing whole shall be treated as including a reference to any part thereof.
- 2.4 Masterlink will only agree to provide the Services to Customers on these Terms & Conditions of Trade.
- 2.5 By signing the Contract Document or accepting provision of the Services, the Customer is deemed to have accepted these Terms & Conditions of Trade. No variation to these Terms & Conditions of Trade or the Contract Document shall be binding unless agreed by Masterlink in writing and signed by an authorised officer of Masterlink.
- 2.6 The Customer confirms and warrants that all the information supplied by the Customer in the Contract Document is complete and accurate.
- 2.7 Unless otherwise agreed in writing by an authorised officer of Masterlink, these Terms & Conditions of Trade shall apply to all Services to be performed by Masterlink for the Customer to the exclusion of all other terms which the Customer may purport to apply under any letter, purchase order, confirmation of order or similar document.
- 2.8 If the Customer is not the owner of the Goods, the Customer shall be deemed for the purposes of these Terms & Conditions of Trade to be the properly authorised agent of the owner of the Goods and able to accept these Terms & Conditions of Trade on behalf of the owner of the Goods. The Customer warrants that the Customer has full authority to accept these Terms & Conditions of Trade on behalf of the owner of the Goods.
- 2.9 These Terms & Conditions of Trade shall not be capable of assignment (whether in whole or in part) by the Customer. Masterlink shall be entitled to employ Sub-Contractors as it feels necessary in the performance of the Services.

3. CARRIAGE SERVICES

- 3.1 Masterlink reserves the right to refuse to accept any Goods which it considers to be incorrectly or inadequately packaged or in any way unsuitable for Carriage Services.

- 3.2 Transit will be deemed to commence when the Goods are loaded onto a Masterlink vehicle and to be completed when the Goods are unloaded at the place of delivery, provided that if no safe or adequate unloading facilities exist at the place of delivery or if the Customer refuses to accept delivery of the Goods, Transit shall be deemed to end one Business Day from the date when Masterlink notifies the Customer that the Goods have not been delivered to the Customer.
- 3.3 Unless otherwise agreed in writing in advance by Masterlink, Masterlink shall have no responsibility to provide personnel, other than the vehicle driver, to load or unload the Goods.
- 3.4 The Customer shall, at its expense, provide any personnel, equipment or apparatus necessary for the loading or unloading of the Goods other than equipment carried on the delivery vehicle. Masterlink shall have no liability in respect of any loss of or damage to Goods resulting from the Customer's failure to provide such equipment or apparatus or suitable or adequate equipment or apparatus or suitably trained and competent personnel. The Customer shall indemnify Masterlink from and against any and all loss, damage, cost, claim or expense incurred by Masterlink resulting from the Customer's failure to supply equipment or apparatus or personnel in accordance with this Clause 3.4 or from any such apparatus being faulty, defective or inadequate or any such personnel being not suitably trained or competent.
- 3.5 The Customer undertakes that It will reimburse all duties and taxes that the Company may be required to pay in respect of the Goods, except to the extent that the Company is expected to accept responsibility for them in accordance with Condition 9
- 3.6 If Masterlink is instructed by the Customer to undertake any activities other than provision of the Services at the usual or designated place of collection or delivery, Masterlink shall have no liability to the Customer in respect of such activities. The Customer shall indemnify Masterlink from and against any and all loss, damage, cost, claim or expense incurred by Masterlink resulting from Masterlink performing any such activity pursuant to this Clause 3.5.
- 3.7 Masterlink or its employees, servants or agents shall decide at their sole discretion whether safe and adequate access for loading or unloading exists at the place of collection or delivery. If the Customer or any employee, servant or agent of the Customer, or any other party acting in any authority (other than that of Masterlink), requires the Consignment to be placed in the vehicle intended to transport the Consignment otherwise than in a manner agreed with Masterlink, damage to that vehicle and the Consignment shall be at the sole risk of the Customer and the Customer shall keep Masterlink indemnified against any claim or demand for any cost, loss or damage howsoever incurred by Masterlink arising out of such loading or unloading, subject in all cases to the right of Masterlink to refuse to permit the loading or unloading of the Consignment if it so considers it advisable.

4. STORAGE SERVICES

- 4.1 Masterlink reserves the right to refuse to accept any Goods which it considers to be incorrectly or inadequately packaged or in anyway unsuitable for Storage Services.

5. TECHNICAL SERVICES

- 5.1 Masterlink shall carry out such quality checks, order fulfilment, turnkey or repack on the Goods as the Customer may instruct, provided the Customer supplies Masterlink with such information and such quantity of Goods as Masterlink may require in order to provide such Service.
- 5.2 Masterlink shall have no liability in respect of any faults or defects in the Goods which Masterlink was not instructed to identify or which would not be reasonably apparent on examination.
- 5.3 Masterlink shall have no liability to the Customer if the standards set by the Customer fall below those accepted by the Customer or any third party recipient of the Goods.
- 5.4 Masterlink shall report the result of checks on the Goods in such form and manner as the Customer shall reasonably require and Masterlink shall agree.
- 5.5 If the Customer delays in collecting, accepting for re-delivery or issuing instructions for delivery of Goods in respect of which Masterlink has supplied Technical Services, Masterlink shall be entitled to charge for storage of such Goods at its then current standard rates from the date of completion of the Technical Services until the date of collection or delivery of the Goods.
- 5.6 Time shall not be of the essence in relation to the Technical Services and Masterlink shall have no liability in respect of delay in the provision of the Technical Services.

6. FREIGHT FORWARDING SERVICES

- 6.1 Subject to express instructions in writing given by the Customer, and acceptance of same confirmed in writing by the Company, the Company reserves to itself absolute discretion as to the means, route and procedure to be followed in the handling, storage, and transportation of goods. Further, if in the opinion of the Company it is at any stage necessary or desirable in the Customer's interests to depart from those instructions, the Company shall be at liberty to do so.
- 6.2 Pending forwarding or delivery, goods may be warehoused or otherwise held at any place or places at the sole discretion of the Company and the cost thereof shall be for the account of the Customer.
- 6.3 Except where the Company is instructed in writing to pack the goods the Customer warrants that all goods have been properly and sufficiently packed and/or prepared

- 6.4 The Company is entitled to retain and be paid all brokerages, commissions, allowances and other remunerations.
- 6.5 Quotations are given on the basis of immediate acceptance and are subject to withdrawals or revisions. Further unless otherwise agreed in writing the Company shall be after acceptance at liberty to revise quotations or charges with or without notice in the event of changes occurring in currency exchange rates, rates of freight, insurance premiums or any charges applicable to the goods.
- 6.6 The customer shall be deemed to be bound by and to warrant the accuracy of all descriptions, values and other particulars furnished to the Company for Customs, Consular and other purposes and he undertakes to indemnify the Company against all losses, damages, expenses and fines whatsoever arising from any inaccuracy or omission, even if such inaccuracy or omission is not due to any negligence.
- 6.7 The Customer shall be liable for any duties, taxes, imposts, levies, deposits or outlays of any kind levied by the authorities at any port or place for or in connection with the goods and for any payments, fines, expenses, loss or damage whatsoever incurred or sustained by the Company in connection therewith.
- 6.8 When goods are accepted or dealt with upon instructions to collect freight, duties, charges or other expenses from the consignee or any other person the Customer shall remain responsible for the same if they are not paid by such consignee or other person immediately when due.
- 6.9 No insurance will be effected except upon express instructions given in writing by the Customer and 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. 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. Should the insurers dispute their liability for any reason the insured shall have recourse against the insurers only and the Company shall not be under any responsibility or liability whatsoever 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.
- 6.9 The Company shall only be responsible for any loss of or damage to goods or for any nondelivery or misdelivery if it is proved that the loss, damage, nondelivery or misdelivery occurred whilst the goods were in the actual custody of the Company and under its actual control and that such loss damage nondelivery or misdelivery was due to the wilful neglect or default of the Company or its own servants. (ii) The Company shall only be liable for any non-compliance or mis-compliance with instructions given to it if it is proved that the same was caused by the wilful neglect or default of the Company or its own servants. (iii) Save as aforesaid the Company shall be under no liability whatsoever however arising, and whether in respect of or in connection with any goods or any instructions, business, advice, information or service or otherwise. (iv) Further and without prejudice to the generality of the preceding sub-condition, the Company shall not in any event, whether under sub-conditions (i) or (ii) or otherwise, be

under any liability whatsoever for any consequential loss or loss of market or fire or consequence of fire or delay or deviation however caused.

- 6.7 In no case whatsoever shall any liability of the Company howsoever arising and notwithstanding any lack of explanation exceed the value of the relevant goods or a sum at the rate of €1,000 per tonne of 1000 kilos of the gross weight of the goods whichever is the less, with a maximum of €12,000 per claim.
- 6.8 (a) In any event the Company shall be discharged from all liability - (a) for loss from a package or an unpacked consignment or for damage or misdelivery (however caused) unless notice be received in writing within seven days after the end of the transit where the transit ends in the British Isles or within fourteen days after the end of the transit where the transit ends at any place outside the British Isles. (b) for loss or non-delivery of the whole of a consignment or any separate package forming part of the consignment (however caused), unless notice be received in writing within twenty-eight days of the date when the goods should have been delivered.
- 6.9 (a) The Company shall not be obliged to make any declaration for the purpose of any statute or convention or contract as to the nature or value of any goods or as to any special interest in delivery; unless expressly instructed by the Customer in writing. (b) Where there is a choice of rates according to the extent or degree of the liability assumed by carriers, warehousemen or others, goods will be forwarded, dealt with, etc., at Customer's risk or other minimum charges and no declaration of value (where optional) will be made, unless express instructions in writing to the contrary have previously been given by the Customer.
- 6.10 Perishable goods which are not taken up immediately upon arrival or which are insufficiently addressed or marked or otherwise not readily identifiable, may be sold or otherwise disposed of without any notice to the Customer and payment or tender of the net proceeds of any sale after deduction of charges and expenses shall be equivalent to delivery. All charges and expenses arising in connection with the sale or disposal of the goods shall be paid by the Customer
- 6.11 The Company shall be entitled to sell or dispose of all non-perishable goods which in the opinion of the Company cannot be delivered either because they are insufficiently or incorrectly addressed or because they are not collected or accepted by the Consignee or any other reason, upon giving 21 days notice in writing to the Customer. All charges and expenses arising in connection with the storage and sale or disposal of the goods shall be paid by the Customer.
- 6.12 Except under special arrangements previously made in writing the Company will not accept or deal with any noxious, dangerous, hazardous or inflammable or explosive goods or any goods likely to cause damage. 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 special arrangements previously made in writing, he shall be liable for all loss or damage whatsoever caused by or to or in connection with the goods however arising and shall indemnify the Company against all penalties, claims, damages, costs and expenses whatsoever 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. If such goods are accepted under arrangements previously made in writing, they may nevertheless be so destroyed or otherwise dealt with on account of risk to other goods, property, life or health. The expression “goods likely to cause damage” included goods likely to harbour or encourage vermin or other pests.

- 6.13 Except under special arrangements previously made in writing the Company will not accept or deal with bullion, coins, precious stones, jewellery, valuables, antiques, pictures, livestock 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 special arrangements previously made in writing the Company shall be under no liability whatsoever for or in connection with the goods however caused.
- 6.14 Without prejudice to Condition 2 the Company shall have the right to enforce any liability of the Customer under these Conditions or to recover any sums to be paid by the Customer under these Conditions not only against or from the Customer but also if it thinks fit against or from the sender and/or consignee and/or owner of the goods. All sums shall be paid to the Company in cash immediately when due without deduction and payment shall not be withheld or deferred on account of any claim, counterclaim or set-off.
- 6.15 All goods (and documents relating to goods) shall be subject to a particular and general lien and right of detention for monies due either in respect of such goods, or for any particular or general balance or other monies due from the Customer or the Sender, consignee or owner to the Company. If any monies due to the Company are not paid within one calendar month after notice has been given to the person from whom the monies are due that such goods are being detained, they may be sold by auction or otherwise at the sole discretion of the Company and at the expense of such person, and the net proceeds applied in or towards satisfaction of such indebtedness

7. DANGEROUS GOODS

- 7.1 If Masterlink agrees to accept Dangerous Goods for carriage, the Customer must ensure that such Dangerous Goods be accompanied by a full and detailed declaration as to their nature and contents and all documentation, labelling and marking required by law and in particular as required under Section 11 of the Carriage of Dangerous Goods by Road Act, 1998 (“**the 1998 Act**”) and Regulations 17, 18 and 19 of the Carriage of Dangerous Goods by Road Regulations, 2007 (“**the 2007 Regulations**”).
- 7.2 The Customer shall, before Transit of Dangerous Goods, provide Masterlink, in a timely manner, with all documentation required by law and in particular by the 1998 Act and the 2007 Regulations (and any regulations made thereunder) in connection with the carriage of the Dangerous Goods.

- 7.3 The Dangerous Goods must be properly and safely packed in accordance with Regulation 33 of the 2007 Regulations and any subsequent amendments thereto and in accordance with any other requirements under law.
- 7.4 The Customer warrants that the carriage of the Dangerous Goods is permitted by law and that it has complied with all relevant requirements under law relating to the carriage of the Dangerous Goods and that it has disclosed all relevant information relating to the carriage of the Dangerous Goods to Masterlink.
- 7.5 The Customer shall indemnify Masterlink, its servants, agents and sub-contractors from and against any and all loss, damage or injury however caused arising out of or connected either directly or indirectly with the carriage of any Dangerous Goods.

8. CHARGES AND PAYMENT

- 8.1 Charges in respect of the Services shall be at Masterlink current rates as advised to the Customer as initially agreed or subsequently agreed either by way of written rate review or by agreement between the Customer and Masterlink.
- 8.2 All charges and/or payments are exclusive of value added tax and any other tax, duty, fee or charge imposed from time to time by any government or other authority and are subject to the addition of value added tax and such other tax, duty, fee or charges at the appropriate rate.
- 8.3 All payments to be made by the Customer to Masterlink shall be made in full without any set-off, restriction or condition and without any deduction or set-off for or on account of any counterclaim.
- 8.4 If delivery to the Customer at the location specified in the Contract Document is not possible through no fault of Masterlink, the Customer shall be liable to pay:
- 8.4.1 Delivery charges to Masterlink's premises or any alternative location as instructed by the Customer; and
- 8.4.2 Storage charges in accordance with Masterlink's storage rates from time to time in force.
- 8.5 Unless otherwise agreed in writing, Masterlink's charges for the Services shall be payable by the Customer on or before the twentieth day of the month following the month when the Services were supplied. Masterlink shall be entitled to charge interest at 2% above the EURIBOR prevailing rate at the date of Masterlink's invoice or account, calculated on a daily basis, on all amounts overdue to Masterlink.

9. INSURANCE AND LIABILITY

- 9.1 Masterlink does not insure the Goods and the Customer is responsible for insuring the Goods against all risks (including risk of theft) to the full insurable value of the Goods

(including all duties and taxes). Masterlink shall have no liability to the customer in contract, tort (including negligence) or otherwise if the Customer can claim for all or any of such loss or damage under the terms of any insurance policy of the Customer.

- 9.2 Subject only to Clause 9.11 below, Masterlink excludes all liability whatsoever and howsoever arising in respect of the Goods including, without limitation, all liability for loss, damage, theft, duties and taxes, deterioration, delay, non-delivery, mis-delivery, unauthorised delivery, non-compliance with instructions or failure of the Customer to take delivery of the Goods (“Loss”).
- 9.3 Masterlink shall endeavour to deliver the Goods by the time stated in the contract with the Customer or otherwise as agreed with the Customer, but Masterlink shall have no liability in contract, tort (including negligence) or otherwise in respect of delay in delivery, and under no circumstances will Masterlink be liable for any consequential loss arising from any such delay in delivery.
- 9.4 Masterlink shall have no liability for Goods stolen while in the possession, or under the control of Masterlink, save to the extent of the wilful default of Masterlink.
- 9.5 If and to the extent that Loss is directly caused by the neglect or wilful act or default of Masterlink, its employees (acting in furtherance of their duties as employees) or sub-contractors (acting in furtherance of their duties as sub-contractors), and subject to Clause 9.6 below, Masterlink sole liability for Loss is up to a maximum of the limits in Clause 9.7 below.
- 9.6 In no case whatsoever (including without limitation a case within Clause 9.5 above) will Masterlink be liable for any loss of revenue or anticipated profit or income or indirect or consequential loss or damage of any kind.
- 9.7 In no case whatsoever (including, inter alia, a case within Clause 9.5 above) will any liability of Masterlink (including, inter alia, any liability in respect of duties and taxes) exceed the following limits:
- 9.7.1 in respect Carraige Services the following will apply:
- a) Garments: a maximum amount of €25 per garment lost, damaged or stolen
 - b) Liquids (inc Wines, Beers & Spirits): given the nature of the product a breakage tolerance allowance equal to 0.45% of annual throughput is applied to any and all instances (*Throughput = 5,000 cases / Breakage Tolerance Allowance of 0.45% = 22.5 cases*) thereafter a maximum amount of €100 per 9litre case lost, damaged or stolen
 - c) All other Goods, a maximum amount of €1,800 per tonne of the Goods lost, damaged or stolen.

If part of a consignment or part of a batch of Goods is lost, damaged or stolen, Masterlink shall be liable in respect of the lost, damaged or stolen items only and not the entire consignment or batch;

9.7.2 in respect of freight forwarding services, a maximum amount equal to the charges paid by the Customer to Masterlink for the freight forwarding services in relation to the Goods the subject of the claim;

9.7.3 in respect of technical services, a maximum amount equal to the charges paid by the Customer to Masterlink for the technical services in relation to the Goods the subject of the claim; and

9.7.4 in respect of storage services, a maximum amount limited to the charges paid by the Customer to Masterlink for the storage services for the Goods the subject of the claim.

9.8 To assist in the efficient processing of any claim, Masterlink has developed a “*Customer Friendly Claim Process*” which requires the Customer to complete and submit a “*Customer Claim Form*” and provide the necessary supporting documentation. Masterlink will not be liable for any Claim, (i) where this form is not completed fully and returned to Masterlink within twenty one (21) days (7 days in the case of sub-contract carriage) of the Goods being delivered to the Customer or (ii) where Masterlink has received from the Customer an unqualified proof of delivery (or equivalent) document.

9.9 No legal proceedings may be brought against Masterlink by the Customer in respect of any claim, and no counterclaim may be raised by the Customer against Masterlink, unless those proceedings (or counterclaim, as the case may be) are issued and served on Masterlink within 9 months of the event giving rise to the claim.

9.10 Masterlink shall not be liable for any loss or damage to the extent such loss or damage is caused, or contributed to, by the Customer.

9.11 Nothing in these Terms & Conditions of Trade shall limit or exclude Masterlink’s liability for:

9.11.1 death or personal injury caused by the negligence of Masterlink or its employees, agents or sub-contractors;

9.11.2 fraud or fraudulent misrepresentation by Masterlink or its employees, agents or sub-contractors; or

9.11.3 any other liability which cannot be limited or excluded by applicable law.

9.12 No legal proceedings may be brought against the Company unless they are issued and served, and no counterclaim may be raised unless full written details are received by the Company, within 9 months of the event giving rise to the Claim.

10. LIEN

- 10.1 Masterlink has a general and particular lien over the Goods for all sums owing by the Customer to Masterlink until such sums have been received in full by Masterlink. In case any lien is not satisfied within a twenty-eight (28) day period from the date upon which Masterlink first gives notice of the exercise of its lien to the Customer, the Goods may be sold by Masterlink and the proceeds of sale applied in or towards the satisfaction of every such lien and all proper charges and expenses in relation thereto. Masterlink will account to the Customer for any surplus.
- 10.2 Masterlink shall be entitled at the expense of the Customer to dispose of the Goods the subject of the Masterlink lien by sale (or otherwise as Masterlink may consider reasonable in all the circumstances):
- 10.2.1 on twenty-eight (28) days notice in writing to the Customer, or where the Customer cannot be traced and reasonable efforts have been made to contact any parties who may reasonably be supposed by the Company to have any interest in the Goods, any Goods which have been held by Masterlink for sixty (60) days and which cannot be delivered as instructed, and
- 10.2.2 without prior notice, Goods in respect of which content has perished, deteriorated or altered or there is, in the opinion of Masterlink, an imminent prospect of doing so in a manner which has caused or may reasonably be expected to cause loss or damage to Masterlink or third parties or to contravene any applicable laws or regulations.
- 10.3 Upon accounting to the Customer for the balance (if any) remaining after payment of any sum due to Masterlink and the costs of sale or disposal by Masterlink, Masterlink shall be discharged from any liability whatsoever in respect of the Goods or Services.
- 10.4 During the period of the exercise of a lien, Masterlink is entitled to be paid storage charges at its current rates in force immediately prior to the imposition of the lien. If the Contract has been terminated, the relevant rate at which the storage charges will be payable will be that in force immediately prior to termination.

11. TERMINATION

- 11.1 Masterlink accepts that by providing the Services to the Customer, the Services are likely to be an important part of the supply chain of the Customer. Consequently, subject to the Customer paying to Masterlink the agreed charges in accordance with Clause 7 (when due) and not otherwise being in default under any of these Terms & Conditions of Trade and subject also to Clause 10.2 and 13.5 below:
- 11.1.1 where the Customer accepts the Services from Masterlink for a period of greater than three (3) consecutive but less than six (6) consecutive months,

both parties (Masterlink or the Customer) shall only be entitled to terminate after providing the other party with at least one (1) month's notice in writing.

11.1.2 where the Customer accepts the Services from Masterlink for a period of greater than six (6) consecutive but less than twelve (12) consecutive months, both parties (Masterlink or the Customer) shall only be entitled to terminate after providing the other party with at least two (2) months' notice in writing.

11.1.3 where the Customer accepts the Services from Masterlink for a period of greater than twelve (12) consecutive months, both parties (Masterlink or the Customer) shall only be entitled to terminate after providing the other party with at least three (3) months' notice in writing.

During such notice period, Masterlink commit to maintaining service levels and the customer commits to maintaining volume levels.

11.2 Without limiting its other rights or remedies, Masterlink may suspend or withdraw its Services and terminate the Contract with immediate effect without notice to the Customer if the Customer:

11.2.1 commits a breach of any term of the Contract or these Terms & Conditions of Trade and, if such a breach is capable of remedy, fails to remedy that breach within seven (7) days of being notified by Masterlink in writing to do so;

11.2.2 fails to pay any amount due under these Terms & Conditions of Trade or the Contract on the due date for payment; or

11.2.3 becomes Insolvent (and the Customer shall notify Masterlink immediately upon becoming Insolvent).

11.3 In this Clause 10, "**Insolvent**" means where the Customer:

11.3.1 ceases or threatens to cease to trade;

11.3.2 becomes, or in the reasonable opinion of Masterlink, is likely to become, unable to pay its debts as they fall due;

11.3.3 becomes, or in the reasonable opinion of Masterlink, is likely to become, insolvent or bankrupt, including where the Customer has a receiver, examiner, administrator or liquidator appointed;

11.3.4 gives notice of intention to have a liquidator appointed or passes a resolution for its winding-up or has a winding-up order made by a court in respect of it;

11.3.5 enters into any composition or arrangement with creditors; or

11.3.6 has any steps or actions taken in any jurisdiction that have an effect equivalent or similar to any of the events described in this Clause 10.3.

12. CONSEQUENCES OF TERMINATION

- 12.1 On withdrawal of the Services by Masterlink and/or termination of the Contract by Masterlink for any reason:
- 12.1.1 the Customer shall immediately pay to Masterlink all of Masterlink's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, Masterlink shall submit an invoice, which shall be payable by the Customer immediately on receipt;
 - 12.1.2 the accrued rights, remedies, obligations and liabilities of Masterlink and the Customer as at expiry or termination shall be unaffected, including the right to claim damages in respect of any breach of the Contract or these Terms & Conditions of Trade which existed at or before the date of termination or expiry; and
 - 12.1.3 clauses which expressly or by implication survive termination shall continue in full force and effect.

13. FRUSTRATION OF CONTRACT

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

14. SUB-CONTRACTORS

- 14.1 Masterlink shall be entitled to sub-contract the provision of all or part of any of the Services.
- 14.2 Appointment of a Sub-Contractor shall not affect Masterlink's liability under these Terms & Conditions of Trade.
- 14.3 The Sub-Contractors shall have no liability to the Customer, whether in Contract, tort (including negligence) or otherwise in addition to or separately from the liability of Masterlink.

15. FORCE MAJEURE

- 15.1 This Clause 13.1 applies in the event that any circumstances occur which are beyond the reasonable control of the Customer or Masterlink (including, amongst other things, war, riot and/or other civil commotion, Global pandemic) which have the effect of materially impairing the performance by the Customer or Masterlink (as the case may be) of its obligations under this Agreement (“**Force Majeure**”).
- 15.2 Any failure by either the Customer (save for any payment obligation) or Masterlink to comply with any provision of these Terms & Conditions of Trade which results from Force Majeure shall not constitute a breach of these Terms & Conditions of Trade.
- 15.3 Masterlink and the Customer shall notify the other of them in writing as soon as it is affected by Force Majeure.
- 15.4 If Force Majeure prevails for a continuous period of more than two (2) months, either Masterlink or the Customer shall be entitled by written notice to the other of them to suspend all or any part of the Services.
- 15.5 If Force Majeure prevails for a continuous period of more than six (6) months, either Masterlink or the Customer shall be entitled to terminate the Contract but without prejudice to any accrued rights arising in respect of the period ending on or prior to the occurrence of the Force Majeure.

16. VARIATION

- 16.1 Masterlink reserves the right to change, alter, amend or add to these Terms & Conditions of Trade. Masterlink will make available on its website (www.masterlinklogistics.com) the most recent Terms & Conditions of Trade which will take effect as between Masterlink and the Customer immediately upon being so made available.

17. WAIVER

- 17.1 A waiver by Masterlink of any breach of these Terms & Conditions of Trade or the acquiescence of Masterlink in any act (whether commission or omission) which but for such acquiescence would be a breach as aforesaid shall not constitute a general waiver of such term, provision or condition or an acquiescence to any subsequent act contrary thereto.
- 17.2 A failure by Masterlink to exercise or delay by Masterlink in exercising a claim, power, right or remedy provided by these Terms & Conditions of Trade or by law does not constitute a waiver of the right or remedy or a waiver of other rights or remedies. No single or partial exercise by Masterlink of a right or remedy provided by these Terms & Conditions of Trade or by law prevents a further exercise of the right or remedy or the exercise of another right or remedy.

18. FRAUD

- 18.1 Masterlink shall not in any circumstances be liable to the Customer where there has been fraud on the part of the Customer or the owner of the Goods or any of their employees, servants or agents.

19. VALIDITY

- 19.1 If any provision of these Terms & Conditions of Trade is held by any competent authority to be invalid, unlawful or unenforceable in whole or in part, the validity of the other provisions of these Terms & Conditions of Trade and the remainder of the provision in question shall not be affected thereby.

20. EXPERT

- 20.1 In the event of a dispute in regard to any matters concerning these Terms & Conditions of Trade (a “**Dispute**”), the Dispute shall in the first instance be referred to Masterlink’s Operations Director and the Customer’s Operations Director (or such other persons as may from time to time occupy those positions) for resolution. Failing a resolution of the Dispute by those persons within ten (10) Business Days of referral of the Dispute to them, the Dispute shall then be referred to Masterlink’s Managing Director and the Customer’s Managing Director (or such other persons as may from time to time occupy those positions) for resolution. Failing a resolution of the Dispute by those persons within ten (10) Business Days of referral of the Dispute to them, the provisions of Clause 18.2 shall apply.
- 20.2 In the event of a Dispute not being resolved pursuant to Clause 18.1 above, Masterlink and/or the Customer shall be entitled to refer the Dispute for determination by an expert (“**the Expert**”) agreed between Masterlink and the Customer or, failing agreement between them, appointed, on the application of either of them, by the President of the Law Society of Ireland. The Expert shall act as an expert and not as an arbitrator and the provisions of the Arbitration Act, 2010 of Ireland shall not apply. The fees, costs and expenses of the Expert shall be paid by Masterlink and/or the Customer as the Expert shall decide.
- 20.3 The Expert’s determination shall, save in the case of fraud or manifest error, be final and binding on the Customer and Masterlink.

21. NOTICES

- 21.1 Notices or other communications under these Terms & Conditions of Trade shall only be effective if sent by registered post or by delivery or by electronic mail or facsimile and, if sent by registered post, shall be effective 48 hours after posting and, if delivered by

hand, shall be effective at the time of receipt and, if given by facsimile or electronic mail, be effective at the time of transmission. Any notice or other communication not received between 0900 hours and 1700 hours on a Business Day shall be deemed to be received at 0900 hours on the next Business Day.

22. GOVERNING LAW AND JURISDICTION

- 22.1 These Terms & Conditions of Trade shall be governed by and shall be read and constructed in all respect in accordance with Irish Law.
- 22.2 Without prejudice to Clause 18 of these Terms & Conditions of Trade, each of Masterlink and the Customer irrevocably agrees that the courts of Ireland shall have exclusive jurisdiction to settle any Dispute or claim (including non-contractual disputes or claims) arising out of or in connection with these Terms & Conditions of Trade.