

## CONDITIONS OF CONTRACT (AIR)

### Standard Trading Condition

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#### **(1) Definitions:**

Ancillary Services includes services of arranging for the storage, warehousing, collection, delivery, local transportation, insurance, customs clearance, packing, unpacking and other handling of goods and other services relating or ancillary to the Principal Services.

Company means Jupiter Global Ltd., a member of the Hong Kong Association of Freight Forwarding and Logistics Limited trading under these Conditions.

Conditions means the entire undertakings, terms, conditions and clauses embodied herein and includes the Company's terms and conditions printed on the front and the back of the Shippers' Instructions and of the Company's form of transport document (including the company's house air waybill or house bill of lading)

Customer means any person at whose request or on whose behalf the Company undertakes any business, or provides advice, information or services, and includes the party named as "shipper" or "consignor" on the front of the Shippers' Instructions and of the Company's form of transport document (including the Company's house air waybill or house bill of lading).

Shippers Instructions means any of the Company's form or forms of shipping instructions or orders containing the Customer's instructions to the Company.

Instructions means statements of the Customer's specific requirements and includes the instructions specifies on the front of the Shippers' Instructions and of the Company's form of transport document (including the Company's house air waybill or house bill of lading).

Principal Services means the services of arranging for the transportation of carriage of goods by air and/or sea.

Services means the services to be provided by the Company and includes the Principal Services and the Ancillary Services.

The Owner means the owner of the goods (including any packings, containers or equipment other than those provided by the Company or carriers) to which any business concluded under these Conditions relates and any other person who is or may become interested in them and including the consignee named on the front of the Shippers Instructions and of the Company's form of transport document (including the Company's house air waybill or house bill of lading).

Warsaw Convention means the Convention for the Unification of Certain Rules relating to International Carriage by air signed at Warsaw on 12th October 1929 or that Convention as amended at The Hague, 28th September 1955, whichever may be applicable.

**(2) General:**

- (A) All and any business undertaken, except all and any advice, information or services provided gratuitously by the Company is transacted subject to the conditions hereinafter set out and each of the Conditions shall be deemed to be incorporated in and to be a condition of any agreement between the Company and the Customer. All other terms and conditions are hereby excluded. Should the customers wish to contract with the Company otherwise than subject to these Conditions special arrangements can be made and revised prices quoted, provided that such arrangements shall only apply if reduced to writing and signed by an authorized officer of the Customer and by an authorized officer of the Company. Save as aforesaid no agent or employee of the Company has the Company's authority to waive or vary these Conditions. All and any advice information or services provided by the Company gratuitously is provided on the basis that the Company will not accept any liability whatsoever therefore in tort or bailment or otherwise.
- (B) If any legislation is compulsorily applicable to any business undertaken, these Conditions shall, as regards such business, be read as subject to such legislation and nothing in these Conditions shall be construed as a surrender by the Company of any of its rights or remedies or immunities or as an increase of any of its responsibilities or liabilities under such legislation, and, if any part of these Conditions be repugnant to such legislation to any extent, such part shall as regards such business be overridden to that extent and no further.
- (C) The customer entering into any transaction with the Company hereby

expressly warrants that it is either the owner or the authorized agent of the owner of the goods (including any containers or equipment) to which the business relates and further warrants that it is authorized to accept and is accepting these Conditions not only for itself but also as agent for the owner of the goods. Where the Customer accepts these Conditions as agent of the owner of the goods, it also accepts personal liability, but such acceptance shall not prejudice the rights of the Company against the owner of the goods. The Customer shall indemnify the Company against all expenses, losses and other liabilities whatsoever suffered by the Company arising from or due to a breach or breaches of the above warranties whether or not arising out of the negligence of the Customer

**(3) Contractual Status of the Company:**

- (A) The company is a freight forwarding agent whose principal business is to act as an agent in arranging for the transportation of goods on behalf of Customers.
- (B) Related to its principal business the Company also arranges for the securing of ancillary services on behalf of the customers including.
  - (a) Taking delivery or receipt of goods at places designated by the Customers, transporting and handing over such goods to carriers at place designated by such carriers.
  - (b) Warehousing or otherwise storing the goods before handling over the goods to the carriers.
  - (c) Receiving the goods from carriers at overseas destination, transporting the goods to places where the goods will be collected by the consignees or other persons designated by the Customer or consignees and attending to such collection.
  - (d) Warehousing or otherwise storing the goods before the goods are collected by the consignees or other persons designated by the Customer or consignees.
  - (e) Customs clearance of the goods.
  - (f) Placing of insurance in respect of the goods
  - (g) Packing of the goods
  - (h) Otherwise handling of the goods pursuant related or incidental to the instructions of the Customers.
- (C) Notwithstanding (B) above the Company is entitled to perform any or all the ancillary services specified therein by itself.

**(4) Company's Authority:**

- (A) The Company is authorized to select and engage on behalf of the Customers carriers, truckmen, forwarders, foreign agents, warehousemen, and others. The Company shall be entitled to enter into any contract on behalf of the Customer whether in the name of the Customer or not with any person
  - (a) for the carriage of the customer's goods to overseas destination by any route or any carrier
  - (b) for the storage, packing, local transportation or otherwise handling of the goods by any person at any place or places and for any length of time
  - (c) for any other purposes pursuant related or incidental to the Customer's instructions and to do such acts, as the Customer's agents, as may be necessary or incidental thereto in the absolute discretion of the Company. The Company may but is not obliged to depart from the Customer's instructions in any respect if in the opinion of the Company it is necessary or desirable to do so in the Customer's interest or it is otherwise expedient to do so.
- (B) The Customer expressly authorizes the Company to do such acts and enter into such contracts as are referred to in (A) above on behalf of the Customer so as to bind the Customer by such acts in all respects, notwithstanding any departure from the Customer's instructions as aforesaid. The Customer agrees that the Company is not obliged to consult the Customer before the Company enters into any such contracts or does any such acts. The customer further agrees that the Company is not obliged to advise the customer of the terms and conditions of such contracts or details of such acts unless specifically requested to do so by the customer in writing, provided that the Customer shall have no right to enquire into the actual charges paid by the company to any third party., and the Customer acknowledges that any difference between the charges paid by the Customer to the Company and the charge paid by the Company to any third party is the Company's commission or remuneration or profit
- (C) The company is authorized (but is not obliged) to inspect or arrange for the goods to be inspected.
- (D) The company is not obliged to arrange for the Customers' goods to be carried, forwarded, packed, unpacked, stored or handled separately.

The company is authorized (but is not obliged) to consolidate or arrange to be consolidated the goods of the Customer with other goods.

- (E) The customer expressly agrees to be bound in all respects by any act or contract or arrangement done or entered into by the Company pursuant to the aforesaid authorizations.

**(5) Where the Company contracts (On behalf of the Customer) in its own name:**

- (A) Where the Company enters into a contract on behalf of the Customer in its own name with any 3rd Party for any purposes, the Company is not itself a carrier for the purposes of the Carriage by Air Ordinance or for any other purposes, nor does the Company make or purport to make any contract as a principal with the Customer for the carriage, storage, packing, unpacking, (local) transportation, transshipment, loading, unloading or other handling of the goods. The Company's sole obligation is to procure contracts for the carriage, storage, packing, unpacking, (local) transportation, transshipment, loading, unloading or other handling of goods by other persons.
- (B) In addition and without prejudice to the exceptions and limitations contained in these Conditions, the Company shall be entitled to the benefit of all exceptions and limitations in favour of any 3rd Party. The Customer shall not seek to impose on such 3rd Party any liability greater than that accepted by such 3rd Party under such contract.
- (C) In respect of a carriage of goods by air, the following notice is hereby given:

"If the carriage involves an ultimate destination or stop in a country other than the country of departure, the Warsaw Convention may be applicable and the Convention governs and in most cases limits the liability of carriers in respect of loss of or damage to cargo". Agreed stopping places are those places (other than the places of departure and destination) shown under requested routing and/or those places shown in carriers timetables as scheduled stopping places for the route.
- (D) No time is fixed for the completion of carriage and the Company may without notice substitute alternate carriers.

**(6)**

The customer warrants that all goods have been properly and sufficiently packed and/or prepared, and the company has and accepts no liability for

goods which are damaged as a result of improper or insufficient packing or preparation, no matter how the damage is caused.

**(7) Delivery and Notice of Arrival:**

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 the customer 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. It is the duty of the customer, or its agent to undertake and ensure that all descriptions, values and particulars are correct, and unless such description values etc., are furnished in writing to the company, then the company has no liability for any omission or inaccuracy. The customers, its agent or owner will undertake to indemnify and to pay the company for any loss or damage suffered by the company caused by such omission or inaccuracy.

**(8)**

Prior to the release of any goods, the company is entitled to retain and be paid all brokerages, commissions, allowances and other remunerations. The company may take all steps to protect the goods and its interests therein in connection with the protection of monies owed to the company.

**(9)**

Subject to express instruction in writing given by the customer and the acceptance of those instructions 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 and any departure from the terms and conditions or in the handling other than pursuant to the normal custom of handling the goods is done at the sole risk of the customer, owner or consignee.

**(10)**

Pending forwarding or delivery, goods may be warehoused or otherwise held at the risk of the customer or the owner at any place at the sole discretion of the company and the cost therefore shall be for the account of the customer.

**(11)**

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 customers in writing.

**(12) Duty:**

The customer shall be liable for any duties, taxes, 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, storage, demurrage, fines, expenses, loss or damage whatsoever incurred or sustained by the company in connection therewith

**(13) Insurance:**

No insurance will be arranged except upon express instructions given in writing by the customer and accepted by the company. If the appropriated premium is paid, the company shall arrange a separate insurance on behalf of the customer for the amount requested by the customer. Individual insurance policy will be issued by the insurance company for each shipment stating terms and conditions of such insurance. The company does not act as a broker or agent of the insurance company. Indemnity is settled directly between customer and the insurance company. Claims under such policy must be reported immediately to an office of the Company. 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.

**(14) Disposal of goods:**

(A) The company is entitled (but not obliged) to sell or dispose of (or cause to be sold or disposed) 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 14 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.

- (B) 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 owner to the company. If any such monies due to the company are not paid within 14 days after notice has been given to the customer that such goods are being detained, the goods and/or the documents may be sold by auction or otherwise at the sole discretion of the company at the expense of the customer, and the proceeds (net of the expenses in connection with such sales) applied in or towards satisfaction of such indebtedness, and the company shall not be liable for any deficiencies or reduction in value received on the sale of the goods, nor shall the customer be relieved from the liability merely because the goods have been sold.

**(15) Quotations and Charges**

- (A) The customer is primarily liable for the payment of all freight, fee, duties, charges and other expenses whether the same (or any of them) are to be pre-paid or to be collected.
- (B) The customer shall pay to the company all sums immediately when due without deduction or deferment on account of any claim, counterclaim or set-off. Payment to the Company is due as soon as an invoice is rendered. Payment shall be made in cash unless otherwise agreed by the company.
- (C) Without prejudice to the foregoing provisions, when the company is instructed to collect freight, duties, fees, charges or other expenses from any person other than the customer, the customer shall remain responsible for the payment of the same. The customer shall forthwith upon demand pay the company such freight, duties, fees charges and other expenses or any balance thereof together with interest (if applicable) without deduction or deferment on account of any claim, counterclaim or set off (whether or not demand is made to such other person). Without prejudice to the generality of the foregoing, this provision shall apply if (inter alia) the goods are refused by the consignee or there person entitled to delivery or confiscated by the customs or other authorities or for any reason it is in the opinion of the company not practicable or impossible to arrange for the delivery of the goods.

- (D) On all amounts overdue to the company, the company shall be entitled to interest on a monthly basis from the date such accounts are overdue.
- (E) Quotations are given on the basis of immediate acceptance by the customer and are subject to withdrawals or revisions by the company. Further, unless otherwise agreed in writing by the company, the company, notwithstanding acceptance of the quotations by the customer, shall be at liberty to revise quotations or charges with or without prior notice in the event of changes occurring in currency exchange risks, rates of freight, insurance premiums or any charges applicable to the goods.

**(16) Sub-Contracting:**

The company shall be entitled to sub-contract on any terms the whole or any part of the services and any and all duties whatsoever undertaken by the company.

**(17) Indemnities**

- (A) The customer shall save harmless and indemnify and keep indemnified the company from and against all claims, liabilities, losses, damages, costs and expenses (including without limitation all duties, taxes, imposts, levies, deposits, fines and outlays of whatsoever nature levied by any authority) arising out of the company acting in accordance with the customer's instructions, or arising from a breach of warranty or obligation by the customer, or arising from the customer's inaccurate or incomplete or ambiguous information or instructions, or arising from the negligence of the customer or owner.
- (B) Advice and information, in whatever form as may be given by the company, are provided by the company for the customer only and the customer shall save harmless and indemnify and keep indemnified the company from and against all claims, liabilities, losses, damages, cost and expenses arising out of any other person relying on such advice or information. Except under special arrangements previously made in writing, advice or information which is not related to specific instructions accepted by the company is provided gratuitously and without liability and clause 2(A) is applicable.
- (C) The customer undertakes that no claim shall be made against any officer, servant, agent or sub-contractor of the company which imposes or attempts to impose upon them any liability in connection with any

services provided or to be provided by the company. If any such claim should nevertheless be made the customer shall indemnify the company against all consequences thereof. Without prejudice to the foregoing every such officer, servant agent and sub-contractor shall have the benefit of all provisions herein benefiting the company as if such provisions were expressly for his or its benefit. For the foregoing purposes, the company contracts for itself as well as agents for all the aforesaid persons.

- (D) The customer shall defend, indemnify and hold harmless the company from and against all claims, costs and demands whatsoever and by whomsoever made or preferred in excess of the liability of the company under the terms of these conditions, and without prejudice to the generality of the foregoing this indemnity shall include (without limitation) all claims, costs and demands arising from or in connection with the negligence of the company, its officers, servants, agents or sub-contractors.

**(18)**

- (A) The company shall only be responsible for any loss of or damage to goods or for any non-delivery or mis-delivery if it is proved that the loss, damage, non-delivery or mis-delivery occurred whilst the goods were in the actual custody of the company and under its actual control and that such loss damage non-delivery or mis-delivery was due to the willful neglect or default of the company or its own servants.
- (B) The company shall only be liable for any non-compliance or miscompliance 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.
- (C) 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 of otherwise.
- (D) Further and without prejudice to the generality of the preceding sub-conditions, the company shall not in any event whether under sub-conditions (A) or (B) or otherwise, be under any liability whatsoever for any consequential loss or loss of market or fire or consequence of the fire or delay or deviation howsoever caused

**(19)**

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 of HK\$200.00 per shipping package or unit of HK\$10.00 per kilogram whichever is the least.

**(20)**

If either the Hague Rules, Hague Visby Rules, or the Warsaw Convention are compulsorily applicable, the relevant limitation amounts set out therein will apply.

In the event of loss and/or damage of goods occurring during transportation by air through various carriers, the legal liability of the Company is limited in accordance with the rule established by the concerned carrier.

The liability governing the carriage by truck, train or any modes of transport as may be involved in the completion of carriage, will be in accordance with the rules relating to liabilities established by the medium involved.

In all other cases the limitation amounts detailed in clause 19 will apply.

**(21)**

By special arrangement agreed in writing the company may accept liability in excess of the limit set out in clause 19 and 20 above upon the customer agreeing to pay the company's additional charges for accepting such increased liability. Details of the company's additional charges will be provided upon request.

**(22) Notice of claim:**

(A) Any claim against the company must be in writing and delivered to the company at its registered office or its principal place of business in Hong Kong within 14 days of :

- a. in the case of damage to goods, the date of delivery of the goods;
- b. in the case of loss or non-delivery or mis-delivery or delay in delivery of goods, the date that the goods should have been delivered; and
- c. in any other case, the date of the event giving rise to the claim.

(B) No action shall lie against the company if the claim is not made within the times and in the manner specified in clause 22.A

**(23)**

Any right of action against the company shall be extinguished if suit is not brought in the proper forum and written notice thereof received by the company within 9 months from the date the goods arrived at the destination or the date the goods should have arrived at the destination (whichever date is the earlier).

**(24) Waiver**

Any waiver by the company of any default or right under these conditions shall not be deemed to be a waiver by the company of any prior, subsequent or continuing default or right of a like or similar nature.

**(25) Severability**

If any provision of these conditions be declared void invalid or unenforceable by any court of law, the remaining provisions of the conditions shall to the extent permitted by such declaration remain in full force and effect as through the void invalid or unenforceable provisions were never a provision of these conditions.

**(26) Governing Law**

These conditions and any act or contract to which they apply shall be governed by and construed according to the laws of the Hong Kong Special Administrative Region. Any dispute arising out of these conditions or any such act or contract shall be subject to the non exclusive jurisdiction of the courts of the Hong Kong Special Administrative Region.