



## **STANDARD WAREHOUSE TERMS AND CONDITIONS FOR NKB WAREHOUSING PTE LTD**

*Applicable to operations in Singapore*

These Standard Warehouse Terms and Conditions (these “Terms”) shall apply to any Services or activities performed by the Warehouseman. Any Deal Confirmation issued by the Warehouseman, or in the absence of a Deal Confirmation, any agreement by the Warehouseman to provide any Services (“Contract”) shall be subject to these Terms which are deemed to be incorporated therein. Goods described on a Warehouse Receipt or stock certificate issued by the Warehouseman are stored and handled in accordance with the rates and charges set out in the Warehouseman’s Deal Confirmation (and in the absence of a Deal Confirmation, in accordance with the Warehouseman’s standard rates and charges sheet as then in effect) and are subject to these Terms unless otherwise agreed by the Warehouseman. In the event of any conflict between the terms of the Contract and these Terms, the terms of the Contract shall prevail.

### **DEFINITIONS**

“Deal Confirmation” means any contract between the Warehouseman and a Depositor as set out in Clause 1 herein.

“Depositor” means any person or entity at whose request, for whose benefit or on whose behalf the Warehouseman provides any Services and includes any references to “Customer”.

“Services” means all storage, handling, warehousing or any other activities or services provided by the Warehouseman to the Depositor in respect of any goods.

“Warehouseman” or “Warehouse Company» means NKB Warehousing Pte Ltd («NKB») and, where applicable, includes its officers, directors, employees, subsidiaries, affiliates, agents and subcontractors.

“Warehouse Receipt” means the document issued by the Warehouseman pursuant to Clause 5 of these Terms upon receipt and acceptance of goods by the Warehouseman at the warehouse facility and unless otherwise stated, includes any references to “stock certificate”.



## 1. ACCEPTANCE AND DEAL CONFIRMATION

- a. Acceptance of goods by the Warehouseman includes any goods received and accepted by the Warehouseman at or transported to his warehouse facility (defined as the buildings, sheds, docks, overhangs, yard space and fenced areas, including vehicles and transportation equipment parked therein, as well as other off-site facilities controlled by the Warehouse Company). Acceptance of goods by the Warehouseman is on a 30-day term basis, renewable each month by continued mutual agreement, or as stated in a Deal Confirmation (or other written document) signed by an officer of the Warehouse Company. In accordance with the standard trading conditions of the Singapore Logistics Association (SLA), the Depositor holding title to the goods and/or merchandise and/or equipment as indicated declares that the goods, merchandise, inventory or equipment received by the Warehouseman are on a “said to be basis”, and acknowledges and stipulates that “contents, weight, quantity, count, quality or condition (are) unknown” to the Warehouseman and that the Warehouseman has no knowledge of whether all or any part of the goods are in fact received or conform to any description or declaration made by the Depositor in terms of marks or labels, or contents, weight, quantity, count quality or condition, and the Warehouseman has no liability for such contents, weight, quantity, count, quality or condition.
- b. A Deal Confirmation including accessorial charges endorsed on or attached thereto must be accepted in writing by the Depositor within 30 days from the date of issue of the Deal Confirmation. In the absence of such written acceptance, the act of tendering goods described herein for storage or any other services performed by the Warehouseman within 30 days from the date of issue of the Deal Confirmation shall constitute such acceptance by the Depositor of the Deal Confirmation. No other contract with the Warehouseman or offer is valid unless duly signed by an authorized officer of the Warehouseman.
- c. In the event that goods tendered for storage or other services do not conform to the description contained in the Deal Confirmation, or conforming goods are tendered after 30 days from the date of issue of the Deal Confirmation without prior written acceptance by the Depositor as provided in paragraph (b) of this section, the Warehouseman may refuse to accept such goods. If the Warehouseman accepts such goods, the Depositor agrees to rates and charges as may be assigned and invoiced by the Warehouseman and to all terms of the contract and other conditions as notified by the Warehouseman.
- d. A contract under these Terms may be terminated by either party upon 30 days' written notice and is terminated if no storage or other services are performed under such contract for a period of 180 days.

## 2. SHIPPING

The Depositor agrees not to ship goods to the Warehouseman, naming the Warehouseman as consignee. If in violation of these Terms, goods are shipped to the Warehouseman as “consignee”, (a) the Depositor shall immediately notify the carrier in writing, with a copy of such notice to the Warehouseman, that the party named as consignee is a warehouse as a “care of party” only and that the Warehouseman has no beneficial title or interest in such goods. The Depositor further agrees to indemnify and hold harmless the Warehouseman from any and all liabilities, damages, costs, expenses and charges of any nature, in connection with goods so shipped. The Depositor further agrees that if it fails to notify the carrier as required by this section, the Warehouseman shall have the right to reject and refuse delivery of any such goods and shall not be liable or responsible for any loss or damage or claims of any nature to, or related to, such goods and the Depositor shall be liable for any costs associated with such rejection/refusal. The undertakings contained in this section shall be binding on the Depositor's heirs, successors and assigns.



### **3. TENDER FOR STORAGE**

- a. All goods for storage shall be delivered at the warehouse facility properly marked and packaged for handling. The Depositor shall furnish at or prior to such delivery, a manifest showing marks, brands, or sizes to be kept and accounted for separately, and the class of storage and other services desired.
- b. Upon receipt and acceptance of the goods by the Warehouseman, the Warehouseman may issue a Warehouse Receipt to the Depositor. The Warehouseman shall only issue one (1) Warehouse Receipt and shall not be liable for any loss arising out of any unauthorized use of such Warehouse Receipt.

### **4. STORAGE PERIOD AND CHARGES**

- a. All charges for storage or per package charges or other agreed unit charges are per month, unless otherwise indicated in the Deal Confirmation.
- b. Storage charges become applicable upon the date that the Warehouseman receives care, custody and control of the goods, regardless of unloading date or issue of the Warehouse Receipt. Except as provided in paragraph (d) of this section, or otherwise provided in the Deal Confirmation, a full month's storage charge will apply on all goods received after the first of the calendar month; and a full month's storage charge will apply to all goods in storage on the first day of the next and succeeding calendar months. All storage charges are due and payable on the first day of storage for the initial month and thereafter on the first day of each calendar month.
- c. When mutually agreed to by the Warehouseman and the Depositor, a storage charge shall extend from a date in one calendar month to, but not including, the same date of the next and all succeeding months. All storage charges are due and payable on the first day of the calendar month of storage.
- d. The Depositor shall not set off or deduct any amount in respect of any claim, dispute, misunderstanding, retailer chargeback, markdown, price deduction, penalty, fee, interest charge or assessment against any amounts invoiced by, or due and payable to, the Warehouseman for services provided under any Deal Confirmation, proposal or other agreement, including but not limited to these Terms, any trucking bill of lading, or any other agreement or transportation document.

### **5. TRANSFER, TERMINATION OF STORAGE, REMOVAL OF GOODS**

- a. Instructions to transfer goods on the books of the Warehouseman to a third party are subject to section 7(b) below and are not effective until delivered to and accepted in writing by the Warehouseman, and all charges up to the time the transfer is made are chargeable to the Depositor of record. If a transfer involves re-handling the goods, such re-handling will be subject to a charge. When goods in storage are transferred from one party to another through issuance of a new Warehouse Receipt, a new storage date is established on the date of transfer.
- b. The Warehouseman reserves the right to move, at his expense, fourteen (14) days after notice is sent by email, certified or registered mail to the Depositor of record or to the last known holder of a negotiable Warehouse Receipt, any goods in storage from the warehouse facility in which they may be stored to any other of its warehouse facilities; but if the Depositor or holder of a Warehouse Receipt takes redelivery of the goods in lieu of the Warehouseman moving the goods, no storage charge will be made for the current storage month. The Warehouseman may, without notice, move goods within or about his warehouse facilities or other off-site facilities or utilize trailers or other secure transportation equipment on the Warehouseman's property to house the goods.



- c. The Warehouseman may, upon written notice to the Depositor of record and any other person known by the Warehouseman to claim an interest in the goods, require payment of any charges and the removal of any goods from the warehouse facility by the end of the next succeeding storage month. Such notice shall be given to the last known place of business or abode of the person to be notified. If goods are not removed before the end of the next succeeding storage month, the Warehouseman may sell them in accordance with applicable law.
- d. If the Warehouseman in good faith believes that the goods are about to deteriorate or decline in value to less than the amount of the Warehouseman's lien before the end of the next succeeding storage month, the Warehouseman may specify in the notification under this section any reasonable shorter time for removal of the goods, and in case the goods are not removed, may sell them at public sale held one (1) week after a single advertisement or posting as provided by law.
- e. If, as a result of a quality or condition of the goods of which the Warehouseman had no notice at the time of receipt or acceptance of the goods, the goods are a hazard to other property or to the warehouse facilities or to any persons, the Warehouseman may sell the goods at public or private sale without advertisement or posting on reasonable notification to all persons known to claim an interest in the goods. If the Warehouseman, after a reasonable effort, is unable to sell the goods, he may dispose of them in any lawful manner and shall incur no liability by reason of such disposition. Pending such disposition, sale or return of the goods, the Warehouseman may remove the goods from the warehouse facility and shall incur no liability by reason of such removal.
- f. The Depositor acknowledges and accepts that the Warehouseman has an absolute and unqualified right to require the Depositor to remove its goods from the Warehouseman's facilities, at the Depositor's expense, in accordance with Uniform Commercial Code § 7206; and that the Warehouseman has an absolute and unqualified right to exercise the enforcement of a Warehouseman's lien in accordance with Uniform Commercial Code §§7209 and 7210 for settlement of all charges, including but not limited to reasonable attorneys' fees incurred by the Warehouseman in the exercise of such lien or eviction. The Depositor shall also hold the Warehouseman harmless and release absolutely and forever the Warehouseman from any claims, obligations, suits, actions or causes of actions or attorneys' fees incurred by the Depositor, which may arise from the Warehouseman exercising such rights and/or from the final disposition of the Depositor's merchandise.

## **6. HANDLING**

- a. The handling charges cover the ordinary labour involved in receiving goods at the warehouse door and transferring said goods to their first place of rest in the warehouse facility and subsequently returning goods to the warehouse door ("Handling Charge(s)"). Additional Handling Charges apply for any intermediate movement from the goods' first place of rest in the warehouse facility for any additional services. Handling Charges are due and payable on receipt of the goods.
- b. Unless otherwise agreed, Handling Charges do not include labour for unloading, loading, devanning, stuffing, destuffing or stripping of goods from vehicles or containers and the said loading, stuffing, destuffing, or stripping of goods will be subject to a charge. Without prejudice to the foregoing, additional expenses incurred by the Warehouseman in receiving and handling damaged goods, and additional expenses in unloading from or loading into cars or other vehicles not at the warehouse facility door will be charged to the Depositor.
- c. Labour and materials used in loading rail cars or other vehicles are chargeable to the Depositor.



- d. When goods received are ordered out by the Depositor in partial lots or in multiple parcels out of the total quantity of goods received, the Warehouseman may charge additional Handling Charges for each lot or parcel so handled.
- e. The Warehouseman shall not be liable for demurrage, delays in unloading inbound trucks, or delays in obtaining and loading trucks for outbound shipment, unless such delay or demurrage resulted from the Warehouseman's failure to exercise reasonable care.

## **7. TRANSFER AND REDELIVERY REQUIREMENTS**

- a. No goods shall be transferred to a third party or redelivered to the Depositor, except upon receipt by the Warehouseman of the Depositor's complete written instructions. Written instructions shall include, but are not limited to, fax, EDI, e-mail or similar communications, provided the Warehouseman shall have no liability when relying on the information contained in the communication as received.
- b. The Warehouseman will only accept an instruction to transfer goods to a third party where it is accompanied by a written release containing the necessary information as the Warehouseman may require, and as notified to the Depositor from time to time, to effect the transfer. Upon a transfer being effected, the transferred goods shall be stored and handled in accordance with the rates and charges set out in the Warehouseman's standard rates and charges sheet as then in effect (copies of which are available on request), unless otherwise agreed by the Warehouseman, and shall be subject to these Terms.
- c. The Depositor shall indemnify and hold the Warehouseman harmless from and against all loss, cost, penalty and expense (including, without limitation, reasonable attorneys' fees) paid or incurred by the Warehouseman, including in respect of any dispute or litigation, whether instituted by the Warehouseman or others, as a result of the Warehouseman effecting a transfer of goods in accordance with the written instructions and information received from the Depositor. Where goods are transferred in accordance with these Terms and Conditions, the Warehouseman shall issue to the transferee a fresh Warehouse Receipt or stock certificate, in a form determined by the Warehouseman, confirming the transferee's right to receive, hold and dispose of the goods it covers.
- d. Where a Warehouse Receipt has been issued, no goods covered by that Warehouse Receipt shall be redelivered to the Depositor or any party or transferred to a third party on the books of the Warehouseman unless the Warehouse Receipt, is surrendered for cancellation or for endorsement of partial delivery thereon. If a Warehouse Receipt is lost or destroyed, delivery of goods may be made only upon the order of a court of competent jurisdiction and the posting of security approved by the court, as provided by law.
- e. Where goods are ordered out, the Warehouseman shall be given reasonable time to carry out the relevant instructions. If the Warehouseman is unable to carry out such instructions, or is unable to perform any obligation under the Contract, by reasons or causes beyond the Warehouseman's reasonable control - including without limitation, acts of God, war, work stoppages, action by public enemies, seizure under legal process, strikes, lockouts, riots and civil commotions or by reason of loss or destruction of goods, or any other excuse provided by law, the Warehouseman shall not be liable for failure to carry out such instructions, and any goods remaining in storage will continue to be subject to regular storage charges.



## **8. EXTRA SERVICES (SPECIAL SERVICES)**

- a. Warehouse labour required for services other than ordinary handling and storage will be charged to the Depositor.
- b. Special services requested by the Depositor including but not limited to compiling of special stock statements; reporting marked weights, serial numbers or other data from packages; physical checks of goods; and handling transit billing will be subject to a charge.
- c. Dunnage, bracing, packing materials, pallets or other special supplies, may be provided for the Depositor at a charge in addition to the Warehouseman's cost.
- d. By prior arrangement, goods may be received or delivered during other than usual business hours, subject to a charge.
- e. Communication expenses including but not limited to postage, fax, telegram, e-mail or telephone, will be charged to the Depositor if such expenses concern more than ordinary inventory reporting or if, at the request of the depositor, communications are made by other than regular mail.

## **9. BONDED STORAGE**

- a. A charge in addition to regular rates will be made for merchandise in bond.
- b. Where a Warehouse Receipt covers goods in Customs bond, the Company will have no liability for any goods seized or removed by the relevant authorities or for any charges or penalties imposed by the relevant authorities for any reason, including but not limited to exceeding any time limit of bonded storage imposed by such authorities or applicable rules.

## **10. STORAGE CONDITIONS AND MANAGEMENT SYSTEM**

- a. Regardless of the commodity type, all goods will be stored in general storage conditions and will not be stored in a temperature or humidity-controlled environment. Goods which are subject to damage through temperature or humidity changes or other causes incident to general storage will be received at the Depositor's risk for such damage as might result from general storage conditions and the Warehouseman shall not be liable for any claims arising therefrom.
- b. Electronic Data Interchange (EDI), data input and retail compliance services: the Warehouseman may provide at a specific charge, some or all of the software, hardware, data lines and personnel to map and transmit EDI documents, interface shipment data, manually input data, scan and generate retailer specified labels (bar code), engage in UPC numerology records and maintenance and credibility, and other ancillary services (including testing of systems interfaces related to shipments of merchandise in an automated environment), and the Warehouseman expressly shall not be liable for any loss or injury to goods, transactions, shipment data or business stipulations or the consequences of any contractual sales terms between the Depositor and other third parties including but not limited to retail trading or transportation partners. Neither the Warehouseman nor its officers, subcontractors or agents shall have any liability for any loss, claims or damages, direct, indirect or consequential (including but not limited to lost profits, business interruption, loss of business information, loss of sales or lost business of the Depositor), chargebacks or other retailer penalties, incidental or other damages, arising out of or relating to the Warehouseman engaging in EDI, data transmissions, bar code scanning, RFID, labelling or other retail compliance provisions on the Depositor's behalf regardless of whether any claim is based upon warranty, contract or tort. The Depositor shall be liable for any retailer chargebacks, penalties, fees or deductions, as a result of, or consequential to, the Warehouseman's efforts to perform said services on behalf of the Depositor, or in the execution of such services.



## 11. MINIMUM CHARGES

- a. A minimum handling charge per lot and a minimum storage charge per month will be levied. When a Warehouse Receipt covers more than one lot or when a lot is in assortment, a minimum charge per mark, brand, or variety will be made.
- b. A minimum monthly charge to one account for storage and/or handling will be levied. This charge will apply also to each account when one Customer has several accounts, each requiring separate records and billing.

## 12. LIABILITY AND LIMITATION OF DAMAGES

### a. Standard of Care

The Warehouseman shall not be liable for any loss of, or injury to, goods stored, handled, transloaded, staged, assembled, crated, braced, temperature-maintained, temperature-controlled, labelled, packaged, sealed, or otherwise serviced by the Warehouseman, however caused, unless such loss or injury resulted from the Warehouseman's failure to exercise the degree of care that a reasonably careful person would exercise under like circumstances. The Warehouseman shall not be liable for damages that could not have been avoided by the exercise of such care.

### b. No Insurance

Goods are not insured by the Warehouseman against loss, damage, or injury, however caused. The Depositor must maintain its own insurance covering the full replacement value of the goods for the entire period of storage.

### c. Overall Liability Cap

Notwithstanding any other provision in these Terms or any contract, the aggregate liability of the Warehouseman, whether arising under contract, tort, negligence, strict liability or otherwise, shall not exceed USD 50,000 per event or series of events arising from the same cause, regardless of the number of Warehouse Receipts or stock certificates held by the Depositor ("Overall Liability Cap"). Such Overall Liability Cap may only be increased if a higher aggregate cap is expressly agreed in the Warehouseman's Deal Confirmation to the Depositor, in which case additional monthly charges as specified in the Warehouseman's Deal Confirmation shall be payable in addition to the regular monthly storage charge.

### d. Limitation of Liability — Warehouse Storage

The Warehouseman's liability for loss of or damage to warehouse storage goods shall be limited to the lower of:

- (i) fifty (50) times the monthly storage rate paid by the Depositor in respect of the affected goods; and
- (ii) the Overall Liability Cap set out in paragraph (c) above.

In no event shall the Warehouseman's liability exceed the cap set out in paragraph (c) above.



**e. Limitation of Liability — Non-Storage Goods**

The Warehouseman's liability for loss of or damage to non-storage goods (meaning goods not in storage and including goods under services of transloading, cross-docking, CFS vaning or devanning, vehicle loading or unloading, blocking and bracing services) shall be limited to the lower of:

- (i) fifty percent (50%) of the applicable transload or other service charge paid per package or shipping unit in respect of the affected goods; and
- (ii) the Overall Liability Cap set out in paragraph (c) above.

In no event shall the Warehouseman's liability exceed the cap set out in paragraph (c) above.

**f. Product Liability**

The Warehouseman assumes no product liability in respect of the Depositor's goods (or those of its customers), nor does the Warehouseman provide the Depositor with product liability insurance. As all products, packaging, and materials are of the Depositor's own design and selection, the Depositor assumes all risks associated therewith.

The Depositor shall indemnify, defend, and hold harmless the Warehouseman from and against all liabilities, claims, demands, damages, and costs of every kind and nature — including, without limitation, attorneys' fees and court costs — arising out of or in connection with: (i) injury to or death of any person (including employees, subcontractors, or agents); (ii) damage to or loss of use of any property; or (iii) the performance of work under a Deal Confirmation, these Terms and/or any Contract or the products resulting therefrom; except to the extent that such liability arises solely from the Warehouseman's own negligence.

Upon the Warehouseman's request, the Depositor shall defend and satisfy any suits or judgments arising from work performed or products resulting from work performed under these Terms and/or any Contract with the Warehouseman, including all third-party claims. The Warehouseman does not warrant the quality or integrity of any components or parts supplied by the Depositor's vendors or factories.

**g. Force Majeure and Excluded Risks**

All goods in the custody of the Warehouseman are at the Depositor's risk of loss or damage caused by fire, wind, water, sprinkler leakage or malfunction, rodents, vermin, leakage, acts of God, acts of governmental authorities or enemies thereof, civil disturbances or mob action, breakage of goods not properly packed, or any other cause beyond the Warehouseman's reasonable control.

The Warehouseman assumes no responsibility and will not be liable for: concealed damage; leakage; variations in weight; loss of weight due to defective or insufficient packaging or containers; delays, whether occurring during storage or handling; failure to detect or remedy any of the foregoing; or loss or delays caused by strikes, work stoppages, labour disputes, civil commotions, or demurrage or detention charges on equipment, or any other cause beyond the Warehouseman's reasonable control.

**h. Consequential Loss and Ancillary Services**

The Depositor acknowledges that the Warehouseman is not responsible for lost sales, market conditions, or other business trends; for the quality or cleanliness of merchandise or packaging; or for misunderstandings or deficiencies in customer service relating to goods stored or handled by the Warehouseman. The Warehouseman shall not be liable for any loss of profit or any special, indirect, or consequential damages of any kind.



The Depositor further agrees to indemnify, defend, save and hold harmless the Warehouseman in respect of: routings and scheduling; missed deliveries; freight charges; cash-on-delivery (C.O.D.) collections; transportation-related claims and their processing; misdeliveries; shortages and damages (whether concealed or otherwise); and the solvency and/or performance of carriers, as they may relate to pre-warehouse or post-warehouse inland transportation services for the Depositor's goods that are ancillary to storage or handling by the Warehouseman.

**i. Taxes and Duties**

The Warehouseman shall not be liable for any duties, taxes, imposts, levies, or other charges — including, without limitation, sales, property, or inventory taxes (collectively, «Taxes») — that may be levied on the goods while they are recorded on the Warehouseman's books. The Depositor shall indemnify and hold harmless the Warehouseman from and against all such Taxes, however arising, including any attorneys' fees and court costs incurred in connection therewith.

**13. NOTICE OF CLAIM, GOVERNING LAW AND JURISDICTION**

- a. Claims by the Depositor and all other persons must be presented in writing to the Warehouseman within a reasonable time, and in no event longer than either (i) sixty (60) days after delivery of the goods by the Warehouseman or (ii) sixty (60) days after the Depositor of record is notified by the Warehouseman that loss or damage to part or all of the goods has occurred, whichever time is the shorter.
- b. No action may be maintained by the Depositor or others against the Warehouseman for loss or damage to the goods stored unless timely written claim has been given as provided in paragraph (a) of this section and unless such action is commenced either (i) within nine (9) months after the date of delivery by the Warehouseman or (ii) within nine (9) months after the Depositor of record is notified that loss or damage to part or all of the goods has occurred, whichever time is the shorter.
- c. When goods have not been delivered, notice in writing may be given of known loss or damage to the goods to the Depositor of record. Time limitations for the presentation of a claim in writing and the maintenance of an action after notice begin on the date such notice is mailed by the Warehouseman.
- d. The Deal Confirmation, these Terms and any Contract with the Warehouseman shall be governed by and construed in accordance with the laws of Singapore.
- e. It is agreed that any claim, dispute or matter arising out of or in connection with the Deal Confirmation, these Terms or the Services provided by the Warehouseman shall be referred to and finally resolved by arbitration in Singapore in the English language in accordance with the Arbitration Rules of the Singapore International Arbitration Centre (the "SIAC") in force as at the date of such reference.

**14. PER DIEM/LEASE CHASSIS**

- a. Any neutral «Pool» chassis leasing charges and/or equipment per diem, detention or demurrage charges assessed will be for the account of the Depositor, unless specifically authorized in writing in a contract signed by an officer of the Warehouseman.

**15. RIGHT TO STORE GOODS; ACCURATE INFORMATION**

- a. The Depositor represents and warrants that the Depositor is lawfully possessed of the goods and has the right and authority to store them with the Warehouseman. The Depositor agrees to indemnify and hold the Warehouseman harmless from all loss, cost and expense (including but not limited to reasonable attorneys' fees) which the Warehouseman pays or incurs as a result of any dispute or litigation, whether instituted by the Warehouseman or others, in respect of the Depositor's right, title or interest in the goods. Such amounts shall be charged in relation to the goods and subject to the Warehouseman's lien.



- b. The Depositor will provide the Warehouseman with information concerning the goods which is accurate, complete and sufficient to allow the Warehouseman to comply with all laws and regulations concerning the storage, handling and transporting of the goods. The Depositor will indemnify and hold the Warehouseman harmless from all loss, cost, penalty and expense (including but not limited to reasonable attorneys' fees) which the Warehouseman pays or incurs as a result of the Depositor failing to fully discharge this obligation.

## **16. LIEN**

The Warehouseman has a lien for all lawful charges for storage and preservation of the goods; also, for all lawful claims for money advanced, interest, insurance, transportation, labour, weighing, cooperating and other charges and expenses in relation to such goods, and for the balance on any other accounts that may be due.

## **17. DOCUMENTS OF TITLE**

Documents of title, including Warehouse Receipts and stock certificates, may be issued either in physical or electronic form at the option of the Warehouseman.

## **18. ASSIGNMENT AND NOVATION**

The Warehouseman may assign, novate, transfer or subcontract any or all of its rights and obligations under a Deal Confirmation or any Contract to any group company which carries on the same business for so long as that company remains a member of the Warehouseman's group. Such assignment, novation or transfer is subject to the Warehouseman giving reasonable advance notice, and provided that such group company complies with the Depositor's AML / KYC requirements and procedures. The Warehouseman shall procure that such assignee:

- (i) exercises its rights and performs its obligations in accordance with these Terms; and
- (ii) honours any Warehouse Receipt or stock certificate issued by the Warehouseman prior to the assignment (save that the assignee may, at its discretion, cancel and reissue any such Warehouse Receipt or stock certificate on the assignee's letterhead).

For the avoidance of doubt, the Warehouseman may not subcontract any of its obligations under a Deal Confirmation or Contract to any other third party who is not a group company without the Depositor's prior written consent.

## **19. SANCTIONS & COMPLIANCE**

- a. The Warehouseman and the Depositor respectively warrant that:
  - (i) to the best of their knowledge (having made due enquiries), at the date of the Deal Confirmation or the Contract and throughout the duration of the Deal Confirmation or Contract, they are not a Sanctioned Entity or an Affiliate of a Sanctioned Entity; and
  - (ii) for the duration of the Deal Confirmation or the Contract each party shall comply with all Sanctions applicable to it.
- b. The Warehouseman warrants that the warehouse facility shall, upon the date of the Contract and throughout the duration of the Contract, not be owned, leased, operated or controlled by a Sanctioned Entity.

- c. "Affiliate" means in relation to either party, any undertaking (as defined in section 1161 of the Companies Act 2006) which is a subsidiary undertaking or a parent undertaking (including the ultimate parent undertaking) of that party and any undertaking which is a subsidiary of such parent undertaking (subsidiary undertaking and parent undertaking are as defined in section 1162 of the Companies Act 2006).
- d. «Sanctions» means economic, financial or trade sanctions or embargoes enacted or imposed by law or regulation or other restrictive measures and administered or enforced from time to time by (a) the United Nations Security Council, (b) the US government, (c) the European Union or any of its member states' governments, (d) the United Kingdom, (e) the Singaporean government, (f) the Swiss Confederation, each acting through the respective governmental authorities and (g) agencies of any of the foregoing (including without limitation, the Office of Foreign Assets Control of the U.S. Department of Treasury, the United States Department of State, the United States Department of Commerce and Her Majesty's Treasury) (each a «Sanctions Authority»).
- e. «Sanctioned Entity» means any person, being an individual, corporation, company, premises, association or government, who or which is (a) a person listed in any list of specially designated nationals or designated persons or entities maintained by a Sanctions Authority; (b) 50% or more owned or controlled by any persons described in paragraph (a) of this definition; or (c) otherwise the subject of Sanctions.
- f. If at any time during the performance of the Contract: (a) one party ("Party A") becomes aware that the other party ("Party B") is in breach of the above warranties in this Clause (whether as a result of any action and/or omission); or (b) (1) new Sanctions are imposed or (2) there are changes to existing Sanctions or their interpretation, which materially affect Party A's performance of its obligations hereunder; Party A shall advise Party B in writing of the breach(es) and, notwithstanding any clause or provision to the contrary in the Contract and without prejudice to Party A's other rights:
- g. Party A may immediately suspend performance of its obligations under the Contract other than any of its obligations relating to the safe storage, handling or redelivery of the goods including but not limited to those provided in the Contract or at law.
- h. Provided such circumstances are continuing to affect materially Party A's performance for more than seven (7) calendar days from the date of Party A's notice, Party A shall be entitled to terminate the Contract with immediate effect on written notice to Party B, unless goods are already in the warehouse facility, where redelivery of goods to the Depositor shall be made in accordance with the Depositor's instructions with termination effective on completion of redelivery. Upon termination there shall be no further liability on either party save for any accrued rights or remedies including under this clause.
- i. If Party A is the Warehouseman, the Depositor shall make arrangements to take redelivery of the goods promptly upon receipt of any redelivery request by the Warehouseman. For the avoidance of doubt, the Depositor shall remain liable for storage fees for all time pending redelivery of the goods.
- j. If Party A is the Depositor and issues instructions under paragraph (ii) above, for the first seventy-two (72) hours following the written notice to the Warehouseman, the Depositor shall not be liable for storage fees.



- k. To the extent any payment would be in violation of or otherwise prohibited by Sanctions applicable to a party, any payment obligations arising prior to termination of the Contract (including storage fees which have been incurred but not yet paid) shall be suspended until such time as payment is no longer prohibited by Sanctions whereupon such payment shall be made notwithstanding the termination.
- l. In the event that a payment arising pursuant to the Contract cannot be made in United States Dollars due to Sanctions or applicable laws, the parties shall review and mutually agree in writing the applicable payment settlement currency and the relative rate of exchange provided such does not contravene any Sanctions binding upon a party and shall amend, or procure the amendment of the Contract accordingly. The rate of exchange is to be fixed using an internationally recognized and tradable daily fixation, the date of which shall be mutually agreed by the parties.
- m. Notwithstanding anything in this clause to the contrary, neither the Warehouseman nor the Depositor shall be required to do anything which constitutes a violation of, or would be in contravention of any Sanctions applicable to it, or would expose the party concerned to being designated by a Sanctions Authority.

## **20. ANTI-BRIBERY AND CORRUPTION**

- a. Each Party respectively warrants and undertakes to the other that in connection with the Contract:
  - (i) it has implemented adequate internal procedures designed to ensure it shall not authorise the giving or offering of any financial or other advantage with the intention of inducing or rewarding an individual or entity to improperly perform an activity undertaken in the course of an individual's employment or connected to an entity's business activities (the "Anti-Corruption Controls"); and
  - (ii) it has not authorised and it will not authorise, in connection with the performance of the Contract, any financial or other advantage to or for the benefit of any public official, civil servant, political party, political party official, candidate for office, or any other public or private individual or entity where such authorisation would violate the Anti-Corruption Controls.
- b. In the event of any breach of the warranties and undertakings in (i) and (ii) the non-breaching party may terminate the Contract with immediate effect upon written notice to the other party. This shall be the sole remedy available for a breach of the warranties and undertakings in this clause.

## **21. WAIVER**

- a. If any provision of these Terms, or any application thereof, should be construed or held to be void, invalid or unenforceable, the remaining provisions of these Terms shall not be affected thereby but shall remain in full force and effect.
- b. The Warehouseman's failure to require strict compliance with any provision of these Terms shall not constitute a waiver or estoppel to later demand strict compliance with that or any other provision(s) of these Terms.

## **22. ADDITIONAL TERMS AND CONDITIONS APPLICABLE TO THIS CONTRACT**

Nothing entered hereon shall be construed to extend the Warehouseman's liability beyond the standard of care specified in sections 10 and 12 above.