

Primeline Logistics

WAREHOUSING CONDITIONS

Primeline Logistics (the “**Company**”) undertakes all services subject solely to the following Conditions which can be varied only in writing by a Director, Company Secretary or Partner of the Company. If a Customer’s acceptance document, purchase order or other documentation, received by the Company before or after notification of these Conditions, contains terms or conditions additional to, or at variance with these Conditions, then every such additional or varying term or condition shall be of no effect.

Where appropriate, these Warehousing Conditions shall be read in conjunction with the Company’s Terms and Conditions of Sale and in the event of a conflict, the terms and conditions of sale shall prevail.

IMPORTANT NOTE

The Customer’s attention is drawn specifically to Condition 3. Condition 3 (ii) has been included herein solely to relieve the owner of the goods (including any associated packing and equipment) the subject of this contract (“the **Goods**”), or the owner’s agent, of the additional costs that the Company would need to include to recover insurance charges were its liability not limited as provided for in Condition 3 (ii). Condition 3 (iii) will become operative at the option of the Customer on the terms provided therein.

These Warehousing Conditions shall be read together with the Company’s Standard Terms and Conditions as one document and in the event of a conflict between the two documents, the Company’s Standard Terms and Conditions shall prevail.

Definitions:

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

“**Company**” means Primeline Logistics, registered in Ireland under no 313922, and having its registered office is at Unit 3 Ashbourne Business Park, Ashbourne, Co Meath, and/or any Associated Companies and all administrators and assigns;

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

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

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

“**Customer**” means any customer of the Company to which Goods and Services are supplied under these Conditions;

“**Goods**” means and includes goods or any part thereof which the Company agrees to supply; and

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

“**Services**” means services or any part thereof which the Company agrees to provide (whether directly or through the use of sub-contractors).

Warranty of Agency

1. The Customer warrants that it is either the owner of the Goods or is authorised by such owner to accept these Conditions on the owner’s behalf.

Customer’s Undertakings

2. (i) The Customer undertakes that:-
 - (a) When presented for warehousing, the Goods shall be securely and properly packed in compliance with any statutory regulations or official or recognised standards and in such condition as not to cause damage or injury or the likelihood of damage or injury to the property of the Company or to any other goods, whether by spreading of damp, infestation, leakage or the escape of fumes or substances or otherwise howsoever.
 - (b) Before presentation of the Goods for warehousing, the Customer will inform the Company in writing of any special precautions necessitated by the nature, weight or condition of the Goods and of any statutory duties specific to the Goods with which the Company may need to comply.
 - (c) 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 required to accept responsibility for them in accordance with Condition 3.
 - (d) Unless prior to acceptance of the Goods by the Company, the Company receives written notice containing all appropriate information, none of the Goods constitute “Waste” as defined in the Environmental Protection Act 1990.
 - (e) Unless prior to acceptance of the Goods by the Company, the Company receives written notice containing all appropriate information, none of the Goods are or contain substances the storage of which would require the obtaining of any consent or licence or which, if they escaped from their packaging, would or may cause pollution of the environment or harm to human health.
- ii. Notwithstanding any notice under Condition 3 (iii), if there is a breach of contract by the Customer, the Customer will indemnify the Company against any loss or damage it suffers which is related to the breach, and will pay all costs and expenses (including professional fees) incurred in, and the Company’s reasonable charges for, dealing with the breach and its consequences. The Customer will pay an extra storage charge equal to the amount of any fine or penalty payable by the Company wholly or partly as a result of a breach by the Customer of this contract. If the Company suspects a breach of warranty in Condition 1 or of any undertaking in Condition 2 (i), it may demand the immediate removal of any goods held for the Customer, or itself arrange their removal without notice, at the Customer’s expense.

Company’s Liability for Goods and Other Losses

3. (i) Except as provided in Condition 3(iii) below, the Company does not insure the Goods and the Customer shall make arrangements to cover the Goods against all risks to the full insurable value thereof.
- (ii) The Company excludes liability for any claim relating to loss, damage, deterioration, delay, non-delivery, mis-delivery, unauthorised delivery or non-compliance with instructions of or to or in connection with the Goods (“Claim”). This exclusion does not apply if a Claim arises from the neglect or wilful act or default of the Company, its employees (acting in furtherance of their duties as employees) or sub-contractors (acting in furtherance of their duties as sub-contractors). In any case, the Company’s liability shall not exceed a total of €100 per tonne weight of that part of the Goods in respect of which a claim arises. In no case shall the Company be liable for any loss of profit or indirect or consequential loss of any kind.
- (iii) The limit of liability in Condition 3 (ii) may be increased by written notice, in which event:-
 - (a) The Customer shall give written notice to be received by the

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Company at least 7 days before the date on which the increased liability is required to be operative and shall specify the nature and the maximum value of the Goods to be at risk inclusive of duty and taxes paid or payable thereon. Under no circumstances will the Company's liability to the Customer exceed the value given under this notice.

- (b) The Customer shall accept an increase in the Company's charges to cover the costs incurred in insuring against the Company's additional liability hereunder.
- (iv) (a) The Company shall not be liable for any Claim unless it has received written notice of the Claim from the Customer within 21 days (7 days in the case of sub-contract carriage) of the cause of the Claim coming to the Customer's knowledge or of the Goods being delivered/stored by the Company to or to the use of the Customer, whichever is the later.
- (b) 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.
- (v) The Company shall not be liable hereunder for any loss or damage to the extent that the same is caused or contributed to by a breach of any of the Customer's warranties and undertakings (or by any of the circumstances by virtue of which the Company is relieved of its contractual obligations in accordance with Condition 8).

Employees and Sub-Contractors

- 4. (i) The Customer and the Owner of the Goods will not take any proceedings against any employee or sub-contractor of the Company for a Claim.
- (ii) Without prejudice to Condition 4 (i), if an employee or sub-contractor pays or is liable to make a payment to the Customer or Owner of the Goods in connection with a Claim, the Customer and the Owner of the Goods will each fully indemnify the Company against any claim (including all costs and expenses) by the employee or sub-contractor against the Company for reimbursement of or indemnity against that payment to the extent that it exceeds £100 per tonne weight of that part of the Goods the subject of a Claim or any higher figure agreed under Condition 3(iii).
- (iv) In any of the circumstances referred to in Condition 4 (iv) hereof, and otherwise with the written consent of the Customer, the Company shall be entitled to sub-contract all or any part of its business and in this event these Conditions shall apply to such services. The Company shall be entitled to sub-contract with others for the security, cleaning, maintenance, repair and other services and works at the premises where the Goods are located.
- (iv) The circumstances referred to in Condition 4 (iii) hereof are actual or anticipated storm, flood, fire, explosion, breakdown or failure of plant and/or machinery, riot, civil disturbance, industrial dispute, labour disturbance, requirement of a responsible Authority or any emergency reasonably requiring such action by the Company.

Change of Customer

- 5. The Customer may give written authority for the Goods or any part thereof to be transferred by the Company to the account of another party but subject to the Customer ensuring before the effective date of the transfer that such other party notifies the Company in writing that it is to become the Customer and is to be bound by these Conditions and by any notice given under Condition 3(iii) (a). Further, the Customer agrees to continue to pay the Company's charges until receipt by the Company of the other party's written notification.

Charges, Payments, Lien and Retention of Title

- 6. The Company's charges, which may be increased from time to time by at least 21 days prior notice to the Customer, shall be payable free of any deductions at such periodic intervals as may have been agreed between the parties and in any event on the earlier of (a) the expiry of any agreed period of credit and (b) the time immediately before the removal of the Goods from the Company's custody or control. Interest on amounts due and unpaid shall be payable from the date when payment of such amounts fell due and shall be calculated at the rate of 2 per cent for each calendar month during all or part of which a payment is overdue. Further, the Company shall have on the Goods a particular lien, as well as a general lien entitling it to retain the Goods as security for payment of all sums due from the customer on any account (relating to the Goods or not). Storage charges shall continue to accrue on any goods detained under lien.

7. Lien and Retention of Title

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

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- (i) Should the goods delivered/stored by the Company under retention of title be processed, mixed or combined with other items that do not belong to the Company, we shall acquire co-ownership of the new item in proportion of the value of the delivered/stored Goods (final invoice amount, including VAT) to the other items at the time of processing/mixing or combining. Otherwise, the same applies to the item created after processing as to the Goods delivered/stored under retention of title. If processing, mixing or combining occurs in such a way that the Customer's item may be regarded as the main item, it shall be agreed that the Customer assigns proportionate co-ownership to the Company. The Customer is entitled to resell the new products created by processing or reshaping or combining or mixing within the normal course of business without pledges or assignments, as long as it meets the obligations from the business relationship with the Company on time. The Customer
- (j) assigns its claims from the sales of these new products, in which the Company is entitled to co-ownership, as collateral to the Company in the amount of the Company's share of ownership of the goods sold.
- (k) To secure the Company's claims, the Customer also assigns the claims that accrue against a third party from combining the delivered/stored Goods with real property, in the amount of the value of the Goods.
- (l) The Company undertakes to release the securities due to the Company at the Company's choice and at the Customer's request to the extent that the realisable value of the Company's collateral exceeds the Company's claims against the Customer to be secured by more than 20%.
- (m) In the event of contract breach by the Customer, in particular payment default of more than 10% of the invoice amount for a significant period of time, the Company is entitled – without prejudice to further (damages) claims due to the Company – to withdraw from the contract and demand the return of the Goods delivered/stored by the Company. After the Goods delivered/stored by the Company have been returned, the Company shall be authorised to sell them. The sale amount shall be offset against Customer's payables due to the Company – less reasonable sales costs.

Termination

- 8. (i) The Goods shall be removed by the Customer from the custody or control of the Company at such date as may have been agreed between the parties. In the absence of such agreement, and otherwise where reasonably necessary, the Company may at any time by notice in writing to the Customer require the removal of the Goods within 28 days from the date of such notice or, in the case of perishable goods, within 3 days.
- (ii) In the event of failure by the Customer to pay any amount due to the Company or to remove any of the Goods from the custody or control of the Company (notice in accordance with Condition 7 (i) having been given) at the due time, the Company may, without prejudice to its other rights and remedies against the Customer, give notice in writing to the Customer of the Company's intention to sell or otherwise dispose of the Goods at the Customer's entire risk and expense if such amount is not paid and/or such Goods are not removed within 28 days, or in the case of perishable within three days from the date of such notice. On the expiry of such period, if such payment has not been made and/or the Goods have not been so removed the Company shall be entitled to sell or otherwise dispose of all or any part of the Goods at the Customer's own risk and expense by the best method reasonably available, and the proceeds of any sale or disposal shall be remitted to the Customer after deduction therefrom of all expenses and all amounts due to the Company from the Customer on any account.
- (iii) In the case of perishable goods, notice under Condition 7 (ii) may be combined with a notice under Condition 7(i).

Frustration of Contract

- 9. 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.

General

- 10. (i) Each exclusion or limitation in these Conditions exists separately and cumulatively.
- (ii) When reasonably necessary and at the discretion of the Company the Goods may be carried, stored or handled with other compatible goods or transferred between stores.
- (iii) Any notice or statement of account given by the Company to the Customer shall be duly given if left at or sent by first class post to the last known address of the Customer or by facsimile to the last notified number and such notice or account shall if posted be deemed to have been given 2 working days after posting and, if by facsimile, the next working day.

Exclusion of Contra-Proferentem Rule

- 11. These terms and conditions have been reviewed by both Parties and their legal representatives have reviewed (or have had an opportunity to review same) and accordingly, the Parties agree that no presumption or rule that an ambiguity shall be construed against the Party drafting the clause shall apply to the interpretation or enforcement of this Agreement.

Governing Law

- 12. All contracts between the Company and the Customer shall be governed in all respect by the Laws of the Republic of Ireland and the Customer hereby submits to the exclusive jurisdiction of the Courts of the Republic of Ireland.

Other Conditions of Business

- 13. If the business undertaken comprises or includes any of the following activities, then these Conditions shall still apply to the activity except to the extent that they are inconsistent with the Company's own standard terms (if any) for such activity in which case those standard terms shall apply.
 - (a) Carriage of goods over public roads (other than in connection with the loading or unloading of the goods and the transfer of the Goods as referred to in Condition 9 (ii)).
 - (b) Vehicle repair and maintenance.
 - (c) Freight Forwarding.