

PSA CARGO SOLUTIONS INDIA PRIVATE LIMITED

STANDARD TRADING CONDITIONS

1. Definitions

- 1.1. “**Applicable Law**” means any national or international law, convention, code, notification, government order or regulation which applies compulsorily to the Services, Goods or any Person and which cannot be departed from by private contract, including any extra-territorial laws that apply by virtue of a nexus to any particular jurisdiction, including the corporate residence, place of incorporation or directorships of PCS or Customer.
- 1.2. “**Authority**” means any duly and validly constituted legal, regulatory, judicial or administrative Person, acting within its legal powers and exercising jurisdiction and authority within any nation, state, municipality, port or airport.
- 1.3. “**Charges**” means all amounts relating to the price of the Services, freight, payment, costs, fees, expenses, commissions, duties, penalties, taxes, surcharges and/or charges payable to PCS in respect of the Services and in accordance with the applicable tariff and/or these Conditions.
- 1.4. “**Conditions**” means these Standard Trading Conditions, and any reference to a “Condition” is a reference to that relevant clause in these Conditions.
- 1.5. “**Container**” means any open-top or closed container customarily designed and/or used in the carriage of goods, including any trailer, transportable tank, platform, lift van, flat, unit load device for airfreight, pallet or any similar article of transport accepted or supplied by PCS to be used to consolidate or transport Goods, including any connected or accessory equipment.
- 1.6. “**Customer**” means any Person to whom PCS agrees to provide any Service, and includes the shipper, consignee, receiver of the Goods, any Person owning or entitled to the possession of the Goods (including by virtue of being in possession of any Transport Document issued by PCS) and anyone acting for or on behalf of such Person (whether as principal or Subcontractor), all of whom shall be jointly and severally liable to PCS in respect of these Conditions.
- 1.7. “**Dangerous Goods**” means Goods or any cargo that are or may become inflammable, explosive, corrosive, noxious, hazardous, dangerous or damaging (including radioactive materials), or which are or may become liable to damage, affect or become a hazard to any property or Person whatsoever, including any material specified to be hazardous or dangerous by the International Air Transport Association, International Maritime Organisation or under any international conventions or national laws.
- 1.8. “**Export Controls**” means any prohibition or restriction on the import or export of goods imposed by any state, country, supranational or international governmental organization or other Authority.
- 1.9. “**Force Majeure**” means any of the following events occurring beyond PCS’s reasonable control including but not limited to: (a) any act of God; act of war, rebellion, riot or civil commotion, insurrection, looting, blockade or embargo, act of public enemy, strike, action to work to rule, occupation or lock-out; theft, acts of terrorism or cyber-terrorism or sabotage; compliance with any regulation, measure, direction, order or request of any competent Authority or Person purporting to act therefor, mobilisation or requisitioning; movement control order, public health emergency, quarantine measure, pandemic or epidemic; obstruction of access, prohibition or restriction of import, export or transit, attachment or arrest of any property used for the performance of the Services; abnormally high prices or failure of or stagnation in the supply of power, fuel, transport or equipment affecting the availability of materials or labour necessary for PCS’s performance of the Services to a degree not existing at the time of commencement of the Services, or any other similar circumstances occurring beyond the reasonable control of PCS; (b) any fire, smoke, explosion or water used to extinguish fires; atomic nuclear reaction; haze; flood or storm; peril of the sea; breaking adrift of any vessel; damage by aircraft or vessel; obstruction to shipping or roads or rail or interruption of use of facilities; (c) a third party’s interference with PCS’s computer systems, hacking, cyber-attack, malware, ransomware, DDOS, computer viruses, the stability or availability of the internet or a part thereof or a network or device failure, whether within or external to PCS’s data centre; or (d) any other circumstances the occurrence or extent of which PCS could not reasonably have controlled, foreseen, avoided, prevented or forestalled.
- 1.10. “**Goods**” means any or all goods or property in relation to which Services are provided by PCS to the Customer, and which include any packaging, equipment or Container not supplied by PCS.
- 1.11. “**Occurrence**” means an event or series of events arising out of a common cause, and each and every such multiple events (regardless of whether it is continuous or repeated) arising from a common cause shall be deemed a single Occurrence.
- 1.12. “**PCS**” means PSA Cargo Solutions India Private Limited contracting with the Customer to provide Services, and includes any of its affiliates or subsidiaries who provide Services to the Customer. Any entity who acts as a port operator shall be considered as “Authority” as defined under Condition 1.2 and never as “PCS” as defined under this Condition.
- 1.13. “**Person**” means any natural person, partnership, body corporate or other legal entity.
- 1.14. “**Prohibited Item**” means any cargo or item which is illegal or contraband under any Applicable Law, subject to Export Controls or the import or export of which is prohibited or restricted under any Sanctions.
- 1.15. “**Prohibited Person**” means a Person on any list of individuals or entities with

whom transactions are currently prohibited or restricted under any Sanctions.

- 1.16. “**PSA Group Customer and Partner Principles**” means the code of conduct reflecting PSA’s business principles and details PSA’s expectations and shared commitment to ethical performance helping to improve the reputation of PSA, our partners, and our customers, the latest version which may be found at: <https://www.globalpsa.com/psa-international/#thecode>.
- 1.17. “**Replacement Cost**” means the costs to replace the Goods including the manufacturing or purchasing value of the Goods, plus prorated freight, duties and taxes (if paid by the Customer and not recoverable).
- 1.18. “**Sanctions**” means any sanction, Export Controls, prohibition or restriction imposed by any state, country, supranational or international governmental organization or other relevant Authority.
- 1.19. “**SDR**” means a special drawing right, as defined by the International Monetary Fund.
- 1.20. “**Services**” mean the whole or any part of any business process, service or activity of whatsoever nature undertaken by PCS for the Customer’s benefit, which include but are not limited to any transportation, handling, warehousing, consolidation, lead logistics, customs brokerage, cargo or documentation management and/or other agreed ancillary services.
- 1.21. “**Subcontractor**” means any direct or indirect subcontractors, including owners and operators of vessels, stevedores, terminal operators, consolidators and/or groupage operators, road, rail and air transport operators, longshoremen, customs brokerages, warehousemen and any independent contractor, employee, servant or agent employed by PCS or Customer.
- 1.22. “**Transport Document**” means a document that may be issued by or on behalf of PCS in respect of the whole or any part of the carriage of Goods, including a bill of lading (whether or not negotiable and whether or not for waterborne carriage or combined transport), sea waybill, road waybill, lorry receipts/ e-way bills, rail consignment note, rail receipts, air waybill or similar transport document (whether issued in paper or electronic form).
- 1.23. In these Conditions: (a) words importing the singular number shall include the plural number and vice versa; (b) words importing the masculine gender shall include the feminine or neuter gender; (c) headings used in these Conditions are for convenience and reference only and do not affect the interpretation thereof; (d) any words following the word “including” shall not limit the generality of the preceding words; (e) any reference to a day or days, shall refer to a calendar day unless otherwise stated; and (f) any reference to any statute, law, treaty or international convention includes any subsidiary legislation, regulations or orders made thereunder, and includes any modification, amendment or re-enactment thereof.

2. Applicability of Conditions

- 2.1. Any and all Services provided by PCS in the course of business, gratuitous or otherwise, are subject to these Conditions which terms shall be incorporated into any agreement or arrangement between PCS and the Customer, and which shall prevail over any standard terms and conditions of the Customer.
- 2.2. If PCS and the Customer have signed a specially negotiated agreement, these Conditions shall continue to apply but such negotiated agreement shall prevail in the event of any inconsistency. If PCS has rendered Services to the Customer where a Transport Document is issued by or on behalf of PCS, these Conditions shall continue to apply but such Transport Document shall prevail in the event of any inconsistency.
- 2.3. If any Applicable Law applies to any Services, these Conditions shall be subject to such Applicable Law, except that PCS shall be entitled to enforce any of its rights, defences, liberties or immunities in these Conditions to the fullest extent unless any provision of the Applicable Law applies and which cannot be varied, waived, modified or departed by private contract, in which case the provisions of such Applicable Law shall apply in that circumstance and to that Condition only and no further.
- 2.4. To the extent that the Customer involves multiple Persons acting for or on its behalf, such individual Persons shall be jointly and severally liable and responsible for the discharge of the Customer’s obligations. The Customer warrants/represents to PCS that they have actual, apparent and/or implied authority to bind all such Persons to these Conditions. Persons are aware of these Conditions and shall procure their compliance with these Conditions accordingly. The Customer shall indemnify and hold harmless PCS for any liability, loss, damage, delay, costs or expenses arising from any breach or non-compliance of these Conditions by such Persons.

3. Contracting Capacity of PCS

- 3.1. All Services are provided by PCS as agent for the Customer, except in the following circumstances where PCS acts as principal, where:
 - (a) PCS expressly agrees in writing to act as a principal;
 - (b) PCS performs any of the Services, but only to the extent that such Services are directly performed by PCS itself or its Subcontractors and the Goods are in the actual care, custody or control of PCS or its Subcontractors;
 - (c) A Transport Document has been issued by PCS or on its behalf, which provides that PCS is acting as a carrier under that Transport Document and

- in respect of any element of the Services covered under that Transport Document; or
- (d) PCS is held by a court of competent jurisdiction to have acted as principal.
- 3.2. Without prejudice to the generality of Condition 3.1,
- (a) The manner in which PCS charges its price for any Services shall not in itself determine that PCS is acting as an agent or a principal in respect of such Services;
- (b) The supplying by PCS of their own or leased equipment and/or facilities to perform the Services, shall not in itself determine or be evidence that PCS is acting as an agent or a principal in respect of such Services;
- (c) PCS acts as an agent of Customer and never as a principal where PCS procures or assists to procure the issuance of a Transport Document evidencing a contract of carriage between the Customer and a Person other than PCS; and
- (d) PCS acts as an agent of Customer and never as a principal when dealing with relevant Authorities on behalf of the Customer including matters in respect of or relating to customs, requirements, taxes, export filings and compliance, licenses, consular documents, certificates of origin, inspection certificates, documentation management, and other similar services that may be provided by PCS from time to time.
- 3.3. Where PCS acts as an agent of the Customer:
- (a) PCS acts solely on behalf of the Customer in arranging for the performance of Services by establishing contracts and communications with third parties or dealings with Authorities, such that direct contractual relationships or communications are established between the Customer and such third parties or Authorities;
- (b) PCS shall have the express authority of the Customer to enter into contracts with third parties for and on the Customer's behalf as may be necessary or desirable to fulfil the Services, and to do such acts as to bind the Customer by such contracts;
- (c) PCS shall neither be responsible for any obligation nor liable for any loss or damage arising from the direct relationship between the Customer and such third parties or Authorities. In particular, PCS shall not be liable whatsoever for the acts and omissions of the Customer, such third parties or Authorities; and
- (d) Save to the extent that PCS is negligent or fails to exercise due diligence in its role as an agent, the Customer shall defend, indemnify and hold harmless PCS in respect of all liability, loss, damage, costs or expenses arising out of any Services performed by PCS as an agent.
- 4. Obligations and Liberties of PCS**
- 4.1. PCS will perform the Services with a reasonable degree of care, skill and judgment.
- 4.2. Unless otherwise agreed in writing between PCS and the Customer, PCS reserves to itself the full liberty as to the performance of the Services in accordance with these Conditions, including: (i) the carriage of Goods by any route, means of transport or Subcontractor; (ii) the storage, packing, unpacking, repacking, transfer, transshipment, loading, unloading or handling of Goods by any Person at any place in any manner; (iii) the replacement of any alternative facilities or equipment where any is agreed to be provided; (iv) compliance with any orders or recommendations given by any Authority or any Person having the right to give orders or directions under the terms of any insurance in respect of the relevant Service; and/or (v) to do such acts deemed by PCS to be necessary or incidental to the performance of the Services by PCS.
- 5. Obligations of Customer**
- 5.1. The Customer undertakes that no claim or allegation in respect of the Services shall be made against PCS by any Person other than the Customer, and except where in accordance with the Conditions, and/or the Transport Documents.
- 5.2. The Customer represents and warrants that it is either the legal and/or beneficial owner or the authorized agent of the legal and/or beneficial owner of the Goods and/or entitled to possession, custody and/or control of the Goods and/or agent of Person entitled to possession, custody and/or control of the Goods and that it is authorized to accept and accepts these Conditions, not only for itself, but also as agent for and on behalf of the legal owner of the Goods or any Person owning, or entitled to possession, custody and/or control of the Goods. Ownership and title in the Goods shall always remain with the Customer and shall not pass to PCS in any circumstances.
- 5.3. The Customer and any Person acting on the Customer's behalf shall timeously provide PCS with lawful, sufficient and executable instructions, as well as all necessary, complete and accurate information, details, description, particulars and documentation in respect of the Goods for PCS to perform the Services properly, including its marks, number, quantity and/or weight and any such information as required by PCS from time to time. PCS shall be entitled to rely on the correctness and completeness of such information, particulars, details and documentations from the Customer, and shall not be obliged to make further enquiry in relation thereto.
- 5.4. In particular, for any carriage of Goods by sea, the Customer shall provide PCS with the total gross mass of the Containers and/or Goods complying with the guidelines regarding the verified gross mass of a Container carrying cargo (MSC.1/Circ. 1475) of the International Convention for the Safety of Life at Sea of the International Maritime Organization and all Applicable Law providing for the same or similar requirements.
- 5.5. The Customer warrants that the Goods tendered by the Customer to PCS for the provision of Services are, where applicable, properly packed, marked, classified, stuffed and stowed in containers, sealed and/or labelled, having regard to their nature and in compliance with all Applicable Law, to allow and withstand the appropriate rendering of Services by PCS in respect of any transportation via relevant modes, handling, storage and/or any other reasonable and ordinary operations or transactions relating, except where PCS has agreed in writing to perform any of such requirements.
- 5.6. The Customer warrants that it shall adhere to all Applicable Law in relation to Goods and procurement of Services from PCS and that:
- (a) The Goods are lawful, do not contravene any Applicable Law, Sanctions and do not include any Prohibited Items, or expose PCS or its Subcontractors to any loss, damage or expense, or risk thereof.
- (b) Neither the Services nor any payment or other transaction relating to the Goods or Services will or might expose PCS, its agents, or any of its Subcontractors or any of their respective employees, servants, agents, insurers or re-insurers to any Sanctions (or any risk thereof).
- (c) None of the Persons within the meaning of Customer is a Prohibited Person or is, whether in part or in whole, owned or controlled by or is acting on behalf of a Prohibited Person, and the Customer shall have performed all necessary denied party screenings of the Persons that may be involved in its transactions.
- (d) If, in the sole opinion of PCS, any Goods are (or risk being) subject to any Sanctions or in breach of any Applicable Law, PCS may (and the Customer irrevocably authorises PCS as such) at any time or place, reject, destroy, dispose of, abandon or render harmless such Goods.
- 5.7. Any applications for licenses or declarations for the purposes of any statute, convention or contract as to the Goods or Services shall remain the obligation of the Customer. PCS shall not be responsible or obliged to perform the same unless otherwise accepted in writing by PCS and upon execution of an appropriate power of attorney, letter of authorisation or such document as PCS may require. Any applications or declarations are made by PCS on the Customer's behalf and in reliance upon information provided by the Customer.
- 5.8. In the event of the Customer's breach of its obligations in this Condition 5, PCS shall be entitled to terminate the Services immediately, by giving notice in accordance with these Conditions to the Customer.
- 6. Dangerous Goods**
- 6.1. No Dangerous Goods shall be tendered to PCS for any Services or purpose whatsoever, without:
- (a) Obtaining PCS's written acceptance of such Dangerous Goods for the performance of any Service;
- (b) Ensuring that the packaging, Container or covering of such Dangerous Goods are distinctly marked on the outside indicating the nature and character of such Dangerous Goods as required under any Applicable Law or trade/commercial practice; and
- (c) Providing all proper and accurate information necessary for PCS to perform the agreed Services (if accepted in writing), in accordance with PCS's requirements and all Applicable Law, including all necessary information about the characteristic or classification (if applicable under any Applicable Law relating to Dangerous Goods), the relevant material safety data sheet, and the appropriate manner and method of storage, handling and transportation, and PCS shall be entitled to rely on such information provided by Customer without further verification.
- 6.2. If any such Dangerous Goods are delivered to PCS without complying with the requirements as set out in Condition 6.1 above, or if in the sole opinion of PCS or its Subcontractors, any Goods, once received by PCS, are or are suspected or deemed by PCS to be liable to become Dangerous Goods, PCS may (and the Customer irrevocably authorises PCS as such) at any time or place, reject, destroy, dispose of, abandon or render harmless such Dangerous Goods, without notice to the Customer.
- 6.3. The Customer shall indemnify and hold harmless PCS for any loss, damage, delay, contribution to general average, costs or expenses arising from any breach or non-compliance of this Condition 6 by the Customer, or any act taken by PCS in accordance with this Condition 6, regardless of whether or not PCS had accepted the Dangerous Goods for Services and was aware of the nature of the Dangerous Goods. In any event or proceeding, the burden of proof that PCS knew the exact nature and extent of the danger constituted by the Dangerous Goods, shall rest upon the Customer.
- 6.4. Nothing in this Condition prejudices PCS's right to receive Charges in respect of such Dangerous Goods or exercise any other rights provided for in these Conditions.
- 7. Perishable Goods / Goods requiring Special Instructions**
- 7.1. Unless otherwise agreed, all Goods, whether of a perishable nature or requiring special instructions, shall be handled ordinarily, including being carried in ordinary Containers, using ordinary services or measures, regardless of whether PCS knew the nature of such Goods.
- 7.2. The Customer undertakes not to tender for Services any Goods which require specific protection or special handling, including refrigeration, heating, ventilation or other temperature or climate control settings ("**Special Protection Requirement**"), without: (a) giving prior written notice and all necessary information to PCS of the nature of the Goods and the Special Protection Requirement; and (b) prior written acceptance by PCS to provide such Special

Protection Requirement and/or to provide such specifically equipped Container or equipment as may be agreed.

- (a) In the case of Containers stuffed by the Customer in respect of Goods requiring Special Protection Requirement, it is the obligation of the Customer to pre-cool, pre-heat or otherwise prepared as appropriate and stuff the Goods properly and to ensure that all necessary Special Protection Requirement settings and controls have been set properly and accurately before receipt by PCS.
 - (b) In the case of Containers stuffed by PCS for or on behalf of the Customer under any agreed Special Protection Requirements, PCS shall only be responsible for ensuring that the Special Protection Requirements advised to PCS have been set properly.
 - (c) In any event, where PCS has agreed to provide Services under any Specific Protection Requirement, PCS only undertakes to perform Services in accordance with the agreed Specific Protection Requirement within its control. PCS expressly excludes any warranty or agreement with respect to the effect of the Specific Protection Requirement on the actual state or condition of the underlying Goods.
- 7.3. If the requirements in this Condition 7 are not complied with by the Customer, PCS shall not be liable for any loss of or damage to the Goods howsoever arising and the Customer shall indemnify and hold PCS harmless for any loss, damage, claim, cost or expense arising therefrom.
- 7.4. PCS shall not be liable for any loss of or damage to the Goods arising from any malfunctions in equipment provided by PCS or on behalf of PCS, including from latent defects, breakdown or stoppage of the refrigerating machinery, plant, insulation, or of any apparatus of the Container, vessel, conveyance or other facilities that may affect the Special Protection Requirements, provided that PCS shall use reasonable endeavours to ensure that such equipment is provided in an efficient and working state.
- 7.5. Unless specifically declared and agreed in writing by PCS (including terms relating to increased limits of liability and charges), PCS shall not accept or deal with Goods that are of high value disproportionate to their size or weight, including valuables, works of art, jewellery or antiques. In the event that the Customer does deliver such Goods to PCS for Services without such specific agreement in writing, PCS shall be under no additional liability for such Goods (including any loss or damage, non-delivery, mis-delivery or delay) other than in accordance with these Conditions, regardless of whether PCS knew the nature of such Goods or whether such Goods are described or have their value stated on any documents accompanying the Goods.

8. Receipt, Inspection, and Delivery of Goods by PCS

- 8.1. Unless otherwise agreed, the Goods shall be deemed to have been received by PCS from the Customer only upon endorsement or acknowledgement on the relevant Transport Document, or upon delivery of a relevant goods receipt by PCS or its Subcontractor.
- 8.2. PCS may refuse to accept receipt of any Goods if it determines in its sole discretion that the means of transportation, condition of packing or any other factor in respect of the Goods is not acceptable for the contemplated Services, and may require Customer to remove the Goods forthwith at the risk and expense of the Customer. Any acceptance of receipt by PCS shall not constitute proof that the Goods were delivered in a sound, good and/or undamaged condition, and/or that the obligations of the Customer under these Conditions are satisfied.
- 8.3. PCS shall be entitled (but shall not be obliged) at any time on, before or after accepting delivery of the Goods, to open, weigh, measure, test or examine such means of transportation, packing materials and Containers for the purposes of inspection.
- 8.4. The Customer shall ensure that itself, the consignee and/or any other person designated to take delivery of the Goods (where applicable) shall properly take delivery of the Goods, and will comply with all applicable formalities and procedures in doing so, including, where applicable, the payment of all necessary charges, taxes and duties and surrendering of all relevant documents. Any specific instructions by the Customer relating to the delivery of Goods against payment or surrender of a particular document shall be in writing and subject to PCS's prior written agreement.
- 8.5. If the Customer or any Person acting on its behalf does not take delivery of the Goods or any part thereof at the time and place when and where PCS is entitled to call upon the Customer to take delivery thereof, PCS shall be entitled to store the Goods in the open or under cover at the sole risk and expense of the Customer. If:
 - (a) Within thirty (30) days of attempted delivery of the Goods, or such shorter time as may be provided by law, order, regulation or custom at the relevant place of delivery; or
 - (b) At any time, if in the sole opinion of PCS, the Goods are likely to perish, deteriorate, decay, become worthless or incur additional charges whether for storage, disposal or otherwise in excess of their value,then PCS may (but shall not be obliged to), and without prejudice to any other rights which it may have against the Customer, with notice and without any responsibility whatsoever attaching to him and at the sole risk and expense of the Customer, sell, abandon, destroy or dispose of the Goods. In the event of a sale of the Goods, Condition 16.2 shall apply (as if such sale was pursuant to the exercise of a lien).
- 8.6. Any delivery or disposal of Goods by PCS to or at the instruction of any Person presenting any forged or fraudulent document which purport to entitle such Person to take delivery or possession or otherwise give instruction for the

disposal of Goods, shall be deemed due delivery of the Goods in proper performance of PCS's obligations, unless PCS reasonably ought to have known that: (i) such document was forged or fraudulent; and (ii) such Person in fact had no right or authority of possession or disposal of the Goods.

- 8.7. In the event PCS is required to comply with any Authority's directions (whether lawful, reasonable or otherwise) in respect of the delivery or disposition of the Goods in any manner, compliance with such directions shall constitute due delivery of the Goods and PCS's responsibility and liability shall cease therewith.

9. Containers

- 9.1. Where PCS is requested by the Customer to provide a Container, PCS is not under an obligation to provide a Container of any particular type or quality in the absence of any agreement in writing.
- 9.2. The Customer, or a Person acting on its behalf, shall inspect the Containers and any equipment relating to the Containers including platforms, rails, bars, racks and such related accessories ("**Container Equipment**") that are supplied by or on behalf of PCS, before it is stuffed, packed, filled or loaded, and the use of Containers and any Container Equipment shall be prima facie evidence of the Containers and any Container Equipment being accepted by Customer as sound and suitable for use.
- 9.3. The Customer shall be responsible for and shall indemnify PCS for any repair costs, cleaning costs, detention, loss, damage, contamination or soiling howsoever caused to, caused by or in respect of any Container supplied by or on behalf of PCS, while such Container is in the use or possession of the Customer.
- 9.4. If Containers supplied by or on behalf of PCS are unpacked at the Customer's premises, the Customer is responsible for returning the Containers, including any Container Equipment, cargo-worthy and empty, with interiors brushed and clean, odour free and undamaged to the point or place designated by PCS, its servants or agents, within the time prescribed by PCS, failing which, the Customer shall be liable for: (a) any detention, loss or expenses as declared by PCS; and/or (b) any detention, loss or expenses as charged to PCS. If PCS assumes responsibility to return the empty Containers, the Customer shall indemnify PCS in respect of any charges, costs and expenses of whatsoever nature incurred by PCS in returning the empty Containers that are caused by any act, omission and/or delay of the Customer.

10. Customer-Packed Containers

- 10.1. If a Container has been stuffed, packed, filled or loaded by or on behalf of the Customer, other than by PCS ("**Customer-Packed Container**"), PCS shall not be liable for loss or damage to the Goods caused by acts of the Customer, including: (a) the manner in which the Container has been stuffed, packed, filled or loaded; (b) the unsuitability of the Goods for carriage in the Container used; or (c) the unsuitability or defective condition of the Container.
- 10.2. If a Customer-Packed Container is delivered by PCS with its original seal intact, PCS shall not be liable for any damage to, loss or shortage of Goods at delivery.

11. General Average and Salvage

- 11.1. The Customer shall defend, indemnify and hold harmless PCS in respect of any claims for any general average or salvage contribution that may be made on PCS, irrespective of whether the Charges are pre-paid or not.
- 11.2. Upon PCS's written demand, the Customer shall promptly provide such security as may be required in a form acceptable to PCS for such general average or salvage contribution.

12. Insurance

PCS shall not effect or procure any insurance in respect of the Customer's Goods, except upon written request by the Customer at Customer's own cost and where accepted in writing by PCS. If the Customer makes a specific request and PCS agrees to arrange for insurance in respect of the Goods, PCS shall act solely as agent for the Customer to effect or procure a contract of insurance on terms directly between the Customer and the relevant insurance underwriter. PCS shall not be held responsible for the terms mentioned in the contract of insurance and/or for enforcement of such contract.

13. No Time Guarantee

Unless otherwise agreed, PCS does not undertake that any specific Service shall be completed, or that any Goods or any documents shall depart, arrive, or be available, on any particular dates, to meet any particular requirement or use of the Customer or take any particular route. Any estimated time of arrival, time of departure or other indicative timings shall not be construed as any promise to comply strictly with such timelines by PCS.

14. Charges and Credit Term

- 14.1. Unless otherwise specified or agreed by PCS in writing, all Charges are exclusive of applicable taxes. All applicable taxes payable under any Applicable Law, including goods and services tax, value-added taxes, shall be charged to and borne by the Customer.
- 14.2. The Customer shall bear all the additional costs arising in the performance of the Services, or in respect of the Goods and/or Containers, including freight, duties, fines, penalties, liquidated damages, demurrage, detention, additional or unexpected storage or handling requirements, unless and to the extent caused by PCS's negligence.
- 14.3. PCS shall be entitled to propose adjustments to any agreed price in respect of operational or pricing changes outside PCS's control including any changes in any industry or legal standard affecting the performance of the Services, currency

exchange rates, taxes, freight rates, fuel costs, manpower costs or any additional costs applicable. If the Customer is unwilling to agree on any such price adjustments proposed by PCS, PCS shall be entitled to terminate the Services immediately by providing a notice in writing to the Customer.

- 14.4. Charges are calculated on the basis of particulars furnished by the Customer. If such particulars furnished are incorrect as determined solely by PCS, the Customer shall pay a sum equal to any difference between the correct Charges and the Charges actually charged, including any additional charges or costs imposed on PCS arising directly or indirectly from the furnishing of such incorrect particulars.
- 14.5. In the event PCS agrees to make payments on behalf of the Customer to any Authority or any of the Customer's carriers, vendors or nominees, the Customer shall reimburse PCS for such sums together with an administrative fee at a percentage as agreed by the Customer and PCS, or if in absence of such agreed percentage, at three percent (3%) of such amounts on demand.
- 14.6. Charges shall be deemed fully earned on receipt of the Goods by PCS or upon commencement of Services by PCS, whichever is earlier. No credit terms are granted to the Customer unless expressly agreed in writing by PCS. Any credit terms granted may be amended or withdrawn by PCS at any time if PCS considers in its sole judgment that the Customer's credit and/or liquidity profile has materially changed.
- 14.7. Any dispute as to the invoice issued by PCS shall be raised by the Customer within seven (7) days from the date of the invoice, failing which, the Customer shall be deemed to have conclusively accepted that the invoice is complete and accurate.

15. Payment

- 15.1. The Customer shall pay to PCS all sums in full, immediately when due without deduction or deferment, without any counterclaim, deduction or set-off.
- 15.2. If the Customer is required by law to make any deduction or withholding for or on account of any tax, levy, impost, duty or other charge or withholding of a similar nature (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same) from a payment under or pursuant to these Conditions or agreement between the Customer and PCS, the amount of the payment due from the Customer shall be increased to an amount which (after making such deduction or withholding) leaves an amount equal to the payment which would have been due if no such deduction or withholding had been required.
- 15.3. In the event PCS agrees that any Charges shall be collected from any Person other than the Customer, the Customer shall remain responsible for the Charges in the event of non-payment by such Person.
- 15.4. Without prejudice to any other rights of PCS and to the fullest extent allowed by law, if the Customer fails to pay any Charges on or before the due date, PCS shall be entitled to take any one or more of the following actions:
- (a) By giving written notice, immediately cancel all credit terms granted such that all Charges become immediately due and payable;
 - (b) By giving written notice, immediately suspend performance of all or part of any Services provided until all sums outstanding have been paid in full, with any applicable Charges continuing to run during the period of such suspension;
 - (c) Charge interest on all outstanding amounts at two percent (2%) per month or such maximum rate of interest allowed under any Applicable Law, from the due date until payment (whether before or after judgement), such interest to accrue on a daily basis; and/or
 - (d) Immediately terminate the Services without further liability and notice to the Customer, provided that PCS first gives the Customer thirty (30) days' written notice requiring payment of the sum due and the Customer has failed to make payment during such period.
- 15.5. In the event that the Customer is in default of payment, any expenses borne by PCS to enforce or recover such payment shall be to the account of the Customer and recoverable under a full indemnity basis.

16. Lien

- 16.1. PCS shall have a general lien on the Goods and any documents relating thereto, any funds held and any property in its possession ("Other Goods"), for all sums whatsoever due or payable at any time to PCS, whether under these Conditions and/or any other agreed terms.
- 16.2. To enforce and satisfy PCS's lien and to cover the cost thereof (on a full indemnity basis), PCS shall have the right, at the Customer's expense, to sell the aforementioned Goods, Other Goods and documents relating thereto (to which the lien has been exercised) by public auction or private treaty, with or without notice to the Customer. The Customer shall indemnify and hold harmless PCS in respect of such sale, including any claims for breach of trademark or exclusive distribution rights in respect of the Goods.

17. Termination

- 17.1. PCS may terminate the Services:
- (a) In accordance with any other term provided for in these Conditions;
 - (b) At any time with thirty (30) days' prior written notice to the Customer;
 - (c) At any time if the Customer has been provided with prior written notice of a breach of these Conditions and/or any other agreed terms, and such material breach is not remedied by the Customer to PCS's satisfaction within thirty (30) days; or

- (d) At any time with written notice to the Customer, in the event that:

- (i) the Customer ceases or threatens to cease to carry on its business;
- (ii) any insolvency event where the Customer is unable or admits inability to pay its debts as they fall due, suspends making payments on any of its debts or, by reason of actual or anticipated financial difficulties, commences negotiations with one or more of its creditors with a view to rescheduling any of its indebtedness or if a moratorium is declared in respect of any indebtedness of the Customer; or
- (iii) any legal proceedings are taken in relation to the suspension of payments, a moratorium of any indebtedness, winding-up, dissolution, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) of the Customer, a composition, compromise, assignment or arrangement with any creditor of the Customer, the appointment of a liquidator, receiver, administrative receiver, administrator, compulsory manager or other similar officer in respect of the Customer or any of its assets, enforcement of any security over any assets of the Customer or any analogous procedure or step is taken in any jurisdiction, and where such proceedings are not discontinued within seven (7) days of commencement.

18. Subcontracting

- 18.1. PCS shall be entitled to sub-contract the whole or any part of the Services on any terms whatsoever to its Subcontractors.
- 18.2. The Customer undertakes that no claim will be made against any Subcontractor of PCS, which imposes or attempts to impose upon any of them any liability whatsoever in connection with the Goods or Services. If any such claim is nevertheless made, the Customer undertakes to indemnify and hold harmless PCS against all consequences thereof.
- 18.3. Without prejudice to this Condition 18.1, all of PCS's Subcontractors shall be entitled to the benefit of all defences, exemptions, immunities, limitations, liberties and rights of PCS, including the right to enforce any law and jurisdiction clause, as if these Conditions were expressly made for its benefit, and in contracting with the Customer, PCS does so not only on its own behalf but as agent or trustee for such Subcontractors, and such Subcontractors shall be deemed to be parties to the contract for Services between PCS and the Customer.

19. Force Majeure

- 19.1. In no event shall PCS be liable for any delay in performing, or failure to perform the Services, if such delay or failure results from a Force Majeure event. In such circumstances, the time for performance shall be extended by a period equivalent to the period during which performance of the obligation has been delayed or failed to be performed.
- 19.2. PCS will notify the Customer as soon as practical of any anticipated delay or failure caused by a Force Majeure event, save that notice of Force Majeure shall not be a condition or pre-requisite to the exemptions of liability as set out in this Condition 19.
- 19.3. If a Force Majeure event exceeds a period of thirty (30) days (whether consecutively or in total within a three (3) month period), PCS shall be entitled to terminate the Services (in part or in whole) by providing seven (7) days written notice to the Customer.
- 19.4. In the event of Force Majeure, PCS shall be entitled to full Charges in respect of the Services rendered and any additional costs or expenses incurred by PCS arising out of or in relation to any Force Majeure, including additional detention, demurrage, and storage charges for the affected Goods, additional manpower and fuel costs, costs or expenses to mitigate any loss or damage, shall be to the account of the Customer.

20. Limited Liability

- 20.1. PCS shall be liable for any loss of or damage to Goods only from the time that the Goods are received by PCS to the time when such Goods are delivered by PCS, subject to all applicable defences, exclusions and limitations of liability provided under these Conditions, any Applicable Law and Transport Document. In no event shall PCS be liable for any loss or damage not caused by its negligence, including gross negligence, or wilful misconduct.
- 20.2. Without prejudice to the generality of Condition 20.1, PCS shall not be liable for any loss or damage caused by or arising from: (a) Force Majeure; (b) the nature of and/or inherent vice of the Goods; (c) any packaging of the Goods to the extent not packed by PCS or where PCS packs in accordance with the Customer's instructions; (d) PCS acting in proper accordance with the Customer's instructions or requirements; (e) any act, omission, breach of obligations, representations, warranties or undertakings of the Customer or other Person; (f) any compliance by PCS with Applicable Law, order or instructions of any Authority in respect of the Goods and/or Services.
- 20.3. In absence of limitation of liability provided under any Applicable Law or Transport Document, PCS's liability in respect of the Services and Goods shall be limited in accordance with the following:
- (a) PCS's liability for loss of or damage to Goods shall not exceed: (i) 2 SDR per kilogram of the gross weight of the lost or damaged Goods; (ii) the reasonable cost of repair in the case of damage; or (iii) the Replacement Cost of the lost or damaged Goods, whichever is lower;
 - (b) PCS's liability in relation to any claim for delivery of Goods to an incorrect Person or to an incorrect destination shall not exceed the cost of the replacement carriage of the Goods to the correct destination by the originally contemplated mode of carriage;
 - (c) PCS's liability for any other claims shall not exceed the amount of PCS's

Charges paid or payable in respect of the relevant Service in which the claim arose; and

- (d) PCS's aggregate liability shall in no event exceed an amount equal to INR 15,00,000 per Occurrence.

20.4. All defences, exclusions and limits of liability provided for in these Conditions shall apply regardless if the cause of action or basis of liability is founded in contract (including breach of express or implied warranty), tort (including negligence), bailment, wilful misconduct or otherwise, save that nothing in these Conditions shall exclude or limit PCS's liability for death or personal injury caused by its negligence or under any other cause of action where liability cannot be excluded by private contract under any Applicable Law.

20.5. Unless such limitation is prohibited under any Applicable Law, PCS shall not in any circumstances whatsoever and howsoever arising, including any negligence or wilful misconduct on the part of PCS or its Subcontractors, be liable for loss or damage howsoever caused for any loss of profits, loss of sales, loss of business, loss of savings, loss of market share, loss of good will or reputation (in each case, whether a direct or indirect loss or damage and whether actual or anticipated) or any special, punitive, exemplary, incidental, indirect, consequential, circumstantial loss or damage, or the consequences of any delay or deviation, even if PCS had been notified or should be deemed to have been notified of such potential loss or damages.

21. Indemnity

21.1. Except to the extent caused by the negligence or wilful misconduct of PCS, the Customer shall indemnify, defend and hold harmless PCS from and against all liabilities, third party claims, costs, expenses, damages and losses suffered or incurred by PCS arising out of or in connection with:

- the Goods for which PCS is not responsible;
- Customer's failure to perform or non-compliance of any obligations or any breach of warranty and representation under these Conditions and/or other agreed terms;
- Any loss of or damage to any property, personal death or injury caused by any act or omission or misrepresentation, negligence, fraud, wilful default or misconduct of or breach of Applicable Law by the Customer, its employees or any Person acting for or on behalf of it;
- PCS's compliance with any Applicable Law, orders and instructions of any Authorities in respect of the Goods and/or Services; and
- PCS's compliance with instructions of the Customer or any Person acting for or on behalf of it.

22. Claims

22.1. Notice of claim shall be given in writing by the Customer to PCS without undue delay:

- In the case of apparent or patent damage to the Goods, notice of claim shall be given immediately upon the delivery of the Goods;
- In the case of non-apparent or latent damage to or loss of Goods, notice of claim shall be given within the period prescribed by any Applicable Law, and in the absence of any such provision, no later than seven (7) days from the delivery of the Goods;
- In the case of loss, delay or non-delivery of the Goods, notice of claim shall be given no later than seven (7) days from the date the Goods should have been delivered;
- In any other case, notice of claim shall be given within seven (7) days from the date of the event giving rise to the claim; and
- In all cases, where the Customer can show that it was impossible to comply with the time-limits at (a) to (d) above, the notice of claim must be made as soon as it is reasonably possible for the Customer to do so.

22.2. If the Customer fails to give written notice within the notice period stipulated in Condition 22.1, the Goods shall be deemed to have been delivered in good and proper condition, and PCS reserves the right to reject all claims put forward by the Customer.

22.3. In any event, the Customer shall as far as possible maintain at its own cost the Goods forming the subject of the claim in the same condition as when the loss or damage was discovered, unless that would result in further damage. PCS shall be given the right to inspect the loss or damage, including all original seals, physical and documentary evidence as may be relevant. The Customer shall mitigate any loss to the best of its ability and to take reasonable steps to maximize the salvage value of the affected Goods and to which PCS shall be entitled to a credit in respect of such salvaged value.

23. Time Bar

23.1. Any and all liability of PCS shall be discharged, waived and/or extinguished, unless proceedings are brought in the proper forum within nine (9) months of:

- in the case of damage to Goods, the date of delivery of the Goods;
- in the case of loss, delay or non-delivery of the Goods, the date the Goods should have been delivered; and
- in any other case, the event giving rise to the claim.

23.2. In the event that such time bar (as stated in Condition 23.1) shall be found contrary to any Applicable Law and cannot be varied, waived or modified by private contract, the period prescribed by such Applicable Law shall then apply in that circumstance only and no further.

24. Confidentiality and Data Protection

24.1. Neither PCS nor the Customer shall disclose to any other Person any information relating to the Services without the prior consent of the other party, unless for the purposes of the Services or permitted under Condition 24.2.

24.2. PCS or the Customer may disclose information related to the Services to: (a) its directors, officers, employees, contractors and advisors (including financial advisors, legal counsels and accountants) ("Representatives") who have a need to know the same provided that such Representatives are subject to the same confidentiality restrictions contained herein; (b) any other Person pursuant to a legal requirement to disclose or pursuant to any Authority which requires disclosure; or (c) any other Person to the extent that such information shall already be known to such Person not due to a breach of this Condition 24.

24.3. In the event that the Customer provides to PCS any personal data (as defined by the Applicable Law) in the course of exercising any rights, fulfilling any obligations, or doing anything related to or arising out of the Services, the Customer undertakes and warrants that it has obtained all necessary consents required under the Applicable Law in relation to data protection, for PCS to collect, use and/or disclose such personal data for all the relevant purposes which PCS requires.

24.4. The Customer: (a) authorises PCS to process any personal data provided to PCS or which is made available to PCS by the Customer for the purposes of providing Services under these Conditions and for other purposes including transferring personal data to Authorities, competent bodies, courts or regulatory authorities, as may be required; (b) acknowledges and agrees that PCS may transfer the personal data to its affiliates, employees, agents, delegates, sub-processors or competent authorities and to a country outside of India in accordance with Applicable Law.

25. Miscellaneous

25.1. **Amendments.** PCS reserves the right to review, revise, amend or replace all or any part of these Conditions from time to time. The prevailing version of these Conditions applicable from time to time may be found on <https://india.globalpsa.com/psa-port/>. All contracts concluded between PCS and the Customer shall be on the terms of the prevailing version at the time.

25.2. **Assignment.** The Customer shall not assign or transfer any rights or obligations in respect of the Services to any third party without the prior written consent of PCS, in which case PCS reserves the right to impose any conditions in its consent to take into account any increased counterparty risk at its sole discretion. PCS may assign or transfer all or any rights or obligations under these Conditions to any other person, which includes its affiliates, successors, administrators, executives and permitted assigns, with prior notification to the Customer and such assignment or transfer shall be effective from the date of the notification.

25.3. **Cumulative Rights.** The rights and remedies conferred on PCS under these Conditions shall be cumulative and shall be in addition to and without prejudice to any rights or remedies otherwise available to PCS.

25.4. **Waiver.** No breach of these Conditions by the Customer shall be waived unless agreed to in writing by PCS, and any such waiver shall be only in relation to expressly identified and agreed breaches and not any subsequent waivers. Any delay or omission on the part of PCS to exercise or avail itself of any right, power or privilege under these Conditions shall not operate as a waiver of any breach by the Customer.

25.5. **Severability.** If any provision or provisions of these Conditions shall be held to be invalid, illegal, or unenforceable, such provision shall be enforced to the fullest extent permitted by Applicable Law and the validity, legality and enforceability of the remaining provisions shall not be affected or impaired thereby.

25.6. **Anti-Corruption, Anti-Bribery and PSA Group Customer And Partner Principles.** The Customer shall respect and as far as practicable, commit to implementing an internationally recognized standard within the areas of anti-corruption and anti-bribery. The Customer acknowledges it has read and has full knowledge of the PSA Group Customer and Partner Business Principles (the "CP Principles"). The CP Principles reflect PCS's business principles and details PCS's expectations and shared commitment to ethical performance helping to improve the reputation of PCS, our partners, and our customers. The Customer shall respect the CP Principles and agrees to work with PCS to comply with the CP Principles.

25.7. **Independent Contractor.** Unless otherwise provided, save to the extent that the performance of Services is provided by PCS, its affiliates, agents, employees or subcontractors appointed, nominated or instructed by PCS in its entire sole discretion, PCS shall be an independent contractor. Nothing in the Conditions shall be construed as establishing or implying any partnership or joint venture between PCS and the Customer. PCS and the Customer shall have exclusive control and management of their respective affiliates, agents, employees or subcontractors in the provision of the Services, and shall assume full responsibility for the acts and omissions of such Persons only.

25.8. **Notice.** Unless otherwise provided or the context warrants, any notice, request, consent, demand or other communication required to be given or made under or in pursuance to the Services, shall be in writing and in English language. All letters/communications between the Customer and PCS shall either be sent by registered post, courier, e-mail, fax, hand delivery and shall be sent at the address provided in the Vendor/Customer Registration Form filled and signed by the Customer. Any change in the address or contact details of the Customer shall be communicated in writing to PCS within seven (7) days of such change.

25.9. **Survival.** The provisions of Condition 15 (Payment), Condition 16 (Lien),

Condition 17 (Termination), Condition 19 (Force Majeure), Condition 20 (Limited Liability), Condition 21 (Indemnity), Condition 24 (Confidentiality and data Protection), Condition 25 (Miscellaneous) and Condition 26 (Governing Law and Jurisdiction) shall survive the termination or expiry of these Conditions and shall remain in full force and effect. Other representations, warranties, covenants and terms under these Conditions shall survive and remain in full force and effect insofar as such other terms shall remain unfulfilled or relevant.

26. Governing Law and Jurisdiction

26.1. Unless otherwise agreed in writing or subject to any Applicable Law:

- (a) These Conditions and the contract for Services between PCS and the Customer shall be governed by and construed in accordance with the laws of India; and
- (b) any dispute arising out of or in connection with these Conditions and the contract for Services between PCS and the Customer shall be determined exclusively by the courts of Mumbai, Maharashtra.

26.2. Notwithstanding Condition 26.1(b), PCS shall be entitled, in its absolute and sole

discretion, to bring arbitration or legal proceedings against the Customer in any other foreign tribunal, court or appropriate forum, whether concurrently or otherwise, regardless of the existence of any existing proceedings, and the Customer shall consent accordingly.

26.3. The Customer agrees that it shall not institute legal proceedings in any other jurisdiction in breach of this Condition 26, and shall indemnify PCS for all legal costs and expenses incurred by PCS on an indemnity basis to restrain such proceedings.
