



STANDARD TERMS AND CONDITIONS FOR THE SUPPLY OF SERVICES

1. DEFINITIONS

In these Conditions:

“Background IPR”	means rights in any Intellectual Property, excluding Foreground IPR, owned or controlled by any Party arising before commencement of the Services, or in parallel independently of the Services, which is necessary for the carrying out the Services
“Charges”	means the Company’s charges as set out in the Proposal
“Company”	means the engaging business entity of the “GBA Group of Companies”, including but not limited to GBA (Holdings) Ltd, G.B. Agencies Ltd, G.B. Motorships Ltd, G.B. Shipping and Forwarding Ltd, G.B. Terminals (Southern) Ltd, G.B. Terminals (Western) Ltd, G.B. Terminals (Northern) Ltd, GBA Transport Ltd, Euro Terminal Ltd, GBA Technologies Ltd, GBA Technical Services Ltd
“Conditions”	means these Standard Terms and Conditions for the Supply of Services
“Confidential Information”	means all information (including all oral and visual information, and all information recorded in writing or electronically, or in any other medium or by any other method) disclosed to, or obtained by one Party from the other party or a third party acting on that Party’s behalf, and without prejudice to the generality of the foregoing definition shall include commercially sensitive information, information that relates to the business, affairs, properties, assets, trading practices, service information, developments, trade secrets, Intellectual Property Rights, know-how, personnel, customers and suppliers and all personal data and sensitive personal data within the meaning of the Data Protection Act 1998
“Customer”	means the person, company, firm or entity named on the Proposal for whom the Company has agreed to provide the Services
“Foreground IPR”	means rights in any Intellectual Property obtained, found, produced, devised, developed, made or generated in the course of the carrying out of the Services
“Intellectual Property”	means copyright, design right, trademark, know-how, patentable inventions, database rights, practices, procedures, instructions, software, technical information, data of any kind in whatever form and all other intellectual property protection wherever in the world enforceable.
“Parties”	means the Company and the Customer
“Proposal”	means the sheet or document setting out the Services to which these Conditions are appended
“Services”	means the services agreed to be provided by the Company to the Customer and set out in the Proposal
“Term”	means the period from the start date to the end date for the provision of the Services as set out in the Proposal and continuing thereafter in full force and effect unless terminated in accordance with the provisions of these Conditions
“VAT”	means value added tax



2. SERVICES

- 2.1. The Company shall provide the Services to the Customer subject to these Conditions. Any changes or additions to the Services or these Conditions must be agreed in writing by the Company and Customer.
- 2.2. The Services shall, subject to these Conditions, be provided in accordance with the Proposal.
- 2.3. Nothing in these Conditions implies that the Company will provide the Services exclusively to the Customer.
- 2.4. Unless otherwise agreed by the Parties in writing, the Customer shall at its own expense supply the Company with all necessary information relating to the Services, within sufficient time to enable the Company to provide the Services in accordance with these Conditions. The Customer shall ensure the accuracy of all Customer provided information.
- 2.5. The Company may at any time without notifying the Customer make any changes to the Services which are necessary to comply with any applicable safety or other statutory requirements, or which do not materially affect the nature or quality of the Services.
- 2.6. The Company may elect to suspend the provision of Services if the Customer is in breach of the provisions of these Conditions and may at its entire discretion first serve notice of its intention to suspend provision of the Services and allow the Customer seven (7) days to remedy such breach failing which the Services shall be suspended upon notice without prejudice to the payment obligations and liability of the Customer.
- 2.7. Time shall not be of the essence in relation to the provision of the Services by the Company to the Customer.
- 2.8. The Customer acknowledges that it has read these Terms and Conditions and understands and agrees to be bound by them.

3. CHARGES AND PAYMENT

- 3.1. The Company's Charges for the relevant Services are set out in the Proposal.
- 3.2. All Charges and sums quoted (unless otherwise specified) are exclusive of any UK VAT, for which the Customer shall be additionally liable at the applicable rate from time to time.
- 3.3. Subject to any special terms agreed in writing by the parties, any sums payable by the Customer to the Company shall be paid by the Customer (together with any applicable VAT) within 30 days of the Company's invoice. Payment shall be made in £ sterling. All cheques, drafts or other payment instructions should be drawn on a bank trading in the UK.
- 3.4. The Charges and any additional sums payable shall be paid in full by the Customer without any set off or other deduction (whether for withholding tax or otherwise).
- 3.5. All bank charges associated with payments made by the Customer for the Services shall be payable by the Customer.
- 3.6. Time shall be of essence in relation to payments by the Customer to the Company under these Conditions.
- 3.7. If payment is not made on the due date, the Company shall be entitled, without prejudice to any other rights and remedies available to the Company:
 - 3.7.1. to charge interest on the outstanding amount at the rate of 8 per cent per annum above the base rate from time to time of Yorkshire Bank plc;



3.7.2. to suspend the provision of any further Services to the Customer;

3.7.3. to charge the Customer for all fees incurred by the Company in collecting outstanding Charges or sums.

4. CUSTOMER'S OBLIGATIONS

4.1. The Customer shall afford to the Company all reasonable co-operation in all matters relating to the performance of the Company's obligations under these Conditions. In particular but without limitation to this Clause, the Customer shall:

4.1.1. promptly and fully respond to all communications of the Company relating to the provision of the Services and ensure (if applicable) that appropriate and suitably qualified members of the Customer's staff are at all reasonable times available to liaise with the Company on matters relevant to the provision of the Services;

4.1.2. obtain or assist the Company to obtain at the Customer's cost all necessary licences and consents required or reasonably necessary to enable the Company to properly and lawfully provide the Services to the Customer;

4.1.3. Provide all necessary information to the Company in respect of its requirements in relation to the Services;

4.1.4. pay all Charges promptly when due, without deduction or set-off, and if not paid on the due date to pay such applicable default interest at the specified rate from time to time in force.

4.2. The Customer warrants that any material supplied and its use by the Company for the purpose of providing the Services will not infringe the copyright or other rights of any third party. The Customer shall indemnify the Company against any loss, damages, costs, expenses or other claims arising from any such infringement.

5. INTELLECTUAL PROPERTY RIGHTS

5.1. To the extent that the provision of Services results in the creation of any Foreground IPR such Foreground IPR shall vest in the Company unless otherwise agreed in writing by the Company.

5.2. Ownership or titles to any Background IPR shall not be affected by these Conditions.

6. LIMITATION OF LIABILITY

6.1. The entire liability of the Company to the Customer under or in connection with these Conditions (whether in respect of the provision of the Services, damages, breach, indemnity or otherwise) shall not in any circumstance exceed the amount of the Charges paid by the Customer to the Company for the provision of the Services for the period not exceeding twelve (12) months.

6.2. The Company shall have no liability to the Customer for any loss, damage, costs, expenses or other claims for compensation arising from any information supplied by the Customer which are incomplete, incorrect, inaccurate, illegible, out of sequence or in the wrong form or any other fault of the Customer.

6.3. Except in respect of death or personal injury caused by the Company's negligence, the Company shall not be liable to the Customer by reason of any representation (unless fraudulent), or any term or any duty for any loss of anticipated savings, business revenues, or profits (whether categorised as direct or indirect) or any indirect, special or consequential loss, loss of goodwill, data and all other such loss (whether or not arising in the normal course of business), or other economic loss or other claims however caused under these Conditions or the provision of the Services.

6.4. The Customer agrees and acknowledges that the allocation of risk in this clause is fair and reasonable in the circumstances having been taken into account by the Company in setting the level of Charges and agreeing the extent of Services.



7. TERM AND TERMINATION

- 7.1. These Conditions can be terminated by the Company upon service of three (3) months' notice in writing to the Customer whereupon the liability of the Customer to pay the Charges and of the Company to provide the Services shall cease on the expiration of the notice;
- 7.2. Either Party may terminate these Conditions immediately by written notice given to the other where:
 - 7.2.1. the other Party commits any breach of any term of these Conditions which the Party serving the notice reasonably considers is not capable of remedy; or
 - 7.2.2. the other Party has continued in any breach of these Conditions for more than thirty (30) days after being warned in writing of such breach.
- 7.3. The Company may terminate these Conditions immediately by written notice if the Customer:
 - 7.3.1. becomes bankrupt, insolvent, makes any composition or arrangement with its creditors or (if an individual) has a receiver appointed under the Mental Health Act 1983 or dies;
 - 7.3.2. has a receiving order made against it or if an order is made or a resolution is passed for its winding up ;
 - 7.3.3. has an order made for the appointment of an administrator to manage its affairs, business and property;
 - 7.3.4. is liquidated whether compulsory or voluntary (otherwise than for the purposes of solvent amalgamation or reconstruction);
 - 7.3.5. has a receiver or administrative receiver appointed over all or any of its assets or undertakings,
 - 7.3.6. suffers from any circumstances which entitle a Court or a creditor to appoint a receiver or manager or which entitle a Court to make a winding up order;
 - 7.3.7. compounds with its creditors;
 - 7.3.8. has any assets sequestered or placed under judicial management;
 - 7.3.9. assign, novates, mortgages, charges, transfers, disposes or creates any trust of its rights under these Conditions otherwise than in accordance with the terms of these Conditions.
- 7.4. If the Customer fails to make payment of any sums due or Charges pursuant to these Conditions the Company reserves the right to cease supply of the Services and, if it thinks fit, to terminate these conditions immediately by written notice given to the Customer.
- 7.5. Any termination of these Conditions pursuant to this clause shall be without prejudice to any other rights or remedies a party may be entitled to under the Contract or at law and shall not affect any accrued rights or liabilities of either party nor the coming into or continuance in force of any provision which is expressly or by implication intended to come into or continue in force on or after such termination.
- 7.6. The Company may, during the term of these Conditions and upon termination of these Conditions, set off against any debt owed by the Customer to the Company, or the amount of loss and/or damages the Company have reasonably assessed as resulting from the termination of these Conditions, any sums otherwise due to the Customer.

8. ASSIGNMENT AND SUBCONTRACTING

- 8.1. The Customer shall not assign or sub-contractor all or any of its rights or obligations under these Conditions without the prior written consent of the Company, such consent not to be unreasonably withheld.



8.2. The Company may employ sub-contractors for carrying out any part of the Services and shall be entitled at all times in its absolute discretion to decide the number of and which of its employees agents or sub-contractors shall provide the Services on behalf of the Company.

9. FORCE MAJEURE

9.1. The Company shall not be liable to the Customer for any loss or damage which may be suffered by the Customer as a direct or indirect result of the provision of the Services being prevented, hindered, delayed or rendered uneconomic from events or circumstances beyond the Company's reasonable control.

9.2. Without prejudice to the generality of the foregoing, circumstances beyond the Company's reasonable control shall include act of God, server crashes, virus attacks on equipment, fire or accident, war or threat of war, sabotage, insurrection, civil disturbance or requisition, acts, restrictions, regulations, byelaws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority, damage, bad weather, software, power or equipment failure, strikes, lockouts or other industrial actions or trade disputes (whether involving employees of the Company or of a third party).

10. NON-SOLICITATION

During the Term and for a period of twelve (12) months thereafter (except with the prior written consent of the Company), the Customer shall not induce, solicit or employ (whether as an employee, agent, partner or consultant or any other form of employment or engagement) any employee of the Company directly associated with this Conditions and the provision of the Services or other management of this Conditions or any significant part of it.

11. DISPUTE RESOLUTION

11.1. The Parties will each use their reasonable efforts to negotiate in good faith and settle any major or material dispute that may arise out of or relate to these Conditions, the Services or any breach of contract. If any such dispute cannot be settled amicably through ordinary negotiations by the respective representatives, the dispute shall be referred to the senior representatives nominated by the managing director of the Company and the Customer's managing director who will meet in good faith in order to try and resolve the dispute.

11.2. If the dispute or difference is not resolved as a result of such meetings either party may (at such meeting or within ten (10) days of its conclusion) propose to the other in writing that structured negotiations be entered into with the assistance of a neutral adviser or mediator ("the Adviser") before resorting to litigation with costs shared equally.

11.3. If the Parties fail to reach agreement in the structured negotiations within twenty one (21) days of the Adviser being appointed, either party may then refer any dispute to litigation.

12. CONFIDENTIAL INFORMATION

The Parties agree not at any time during or after the Term to divulge or allow to be divulged to any person any Confidential Information relating to the business or affairs of the other party to these Conditions except as permitted by law or with the other party's consent. Upon termination of these Conditions each party will return to the other any Confidential Information (without retaining copies thereof) provided for the purposes of the Contract.

13. WARRANTY

13.1. The Company warrants that the Services will be provided using reasonable skill and care and, as far as reasonably possible, in accordance with the Proposal.

13.2. Without prejudice to Clause 13.1, and except as expressly stated in these Conditions, all warranties whether expressed or implied are hereby excluded in relation to the Services provided by the Company to the fullest extent permissible by law.

14. NOTICES

Any notice or other communications to be given under these Conditions shall be in writing and may be delivered by hand or sent by first class prepaid recorded delivery post (or if the recipient is in another



country by prepaid airmail) to the relevant address(es) stated in the Conditions (or to such other address as the addressee may from time to time have notified for that purpose) or sent by facsimile transmission to the relevant number. Communications shall be deemed to have been received, if delivered by hand at the time of delivery, if posted two (2) working days (7 (seven) working days if prepaid airmail) after posting, and if sent by fax transmission, at the date of transmission.

15. SEVERABILITY

If any term or provisions of these Conditions are held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction, such provision shall be severed and the remainder of the provisions shall continue in full force and effect as if these Conditions had been agreed with the invalid, illegal or unenforceable provisions eliminated.

16. ENTIRE CONDITIONS

These Conditions (together with the terms (if any) set out in the Proposal) constitute the entire Conditions between the Parties, supersede any previous Conditions or understanding and may not be varied except in writing between the Parties.

17. WAIVER AND VARIATION

17.1. No failure or delay by either party in exercising any of its rights under these Conditions shall be deemed to be a waiver of that right, and no waiver by either party of any breach of these Conditions by the other shall be considered as a waiver of any subsequent breach of the same or any other provision.

17.2. Any variation of any provision of these Conditions must be effected in writing and issued by the Company. No purported variation by any other means shall bind the Company.

18. LEGAL RELATIONSHIPS

The Parties acknowledge and agree that these Conditions shall not establish or constitute any relationship of partnership, joint venture, franchise or agency between the Parties and except as otherwise expressly provided or agreed neither party shall have the power to bind the other without the other's prior written consent.

19. THIRD PARTY RIGHTS

The Parties do not intend any term of these Conditions to create any rights or benefits to any other party other than the Parties to this Conditions or to be enforceable pursuant to the Contracts (Rights of Third Parties) Act 1999 but this does not affect any right or remedy of any third party which exists or is available apart from the Act.

20. GOVERNING LAW AND JURISDICTION

These Conditions shall be governed by the law of England and Wales, and the Parties hereby submit to the exclusive jurisdiction of the courts of England and Wales.