



# Centurion Business Services

## Logistic & Mail Services for Businesses

### **TERMS & CONDITIONS**

#### **1. DEFINITIONS**

- 1.1.** "Centurion Business Services" (hereafter referred to as "Centurion", refers to any trading styles, trading names and/or websites that may be owned or used by Centurion from time to time.
- 1.2.** "The customer" and "The Client" refers to the firm, organisation or person(s) instructing Centurion to undertake on their behalf logistic, postal, transport, storage and/or other activities.
- 1.3.** "The Parties" refers to Centurion and the Customer.
- 1.4.** "Goods" refers to any item, in whatever shape or form, that is to be posted, carried, transported, forwarded, stored or otherwise deal with by Centurion on behalf of the Customer.
- 1.5.** "Interested Party" means the Customer, the Client or any other party with an interest in the consignment, the goods and/or transaction.
- 1.6.** "Limit" refers to the total value, whether defined per tonne or per kilogram ("Kg") gross weight or per item of that part of the Goods in respect of which a claim arises whether in storage or as a consignment when covered by an insurance policy or Centurion's Additional Liability.
- 1.7.** "Additional Liability" refers to an additional charge that is provided by Centurion as an option to the customer that, subject to other terms and conditions herein and those of third party carriers, if paid by the Customer to Centurion increases Centurion's liability for any loss to the full replacement value of the goods involved.
- 1.8.** "Freight Forwarding" refers in general to the organising of activities involved in the moving of customer's goods and/or belongs from one location to another, whether or not across international boundaries, including all associated activities such as (but not exclusively) dealing with couriers, shipping lines, airlines, hauliers, ports, customs and other official bodies. The colloquial terms "Importing" & "Exporting" are included within this general meaning.
- 1.9.** "Courier Service" refers to the movement on behalf of the customer of their goods (including belongings, paperwork, documents and/or cash) from one agreed location to another.
- 1.10.** "Credit" refers to monies paid by Centurion on behalf of the customer when executing the customer's instructions where such monies have not been previously paid by the customer to Centurion.
- 1.11.** "Consignment" refers to a client's order for the movement of goods and/or freight of whatever size, complexity and/or nature.
- 1.12.** "Third parties involved in the consignment" refers generally to shippers, hauliers, couriers, port authorities and other agencies (including government agencies) who may be involved at some stage with the consignment.
- 1.13.** "Carriers" refers to any third party organisation that is entrusted, in full or in part, with the transportation of the consignment(s).
- 1.14.** "Fulfilment" refers to a service provided by Centurion that stores, receives orders, packages, and ships the ordered item(s) to, *inter alia*, retailers and consumers.
- 1.15.** "Customer's Account" or "Account" refers, in general terms, to the amount the customer owes to Centurion for work undertaken by and services provided by Centurion.
- 1.16.** "Loss" includes (without limitation) loss (including theft), destruction, damage, unavailability, contamination, deterioration, delay, non-delivery, mis-delivery, unauthorized delivery, non-compliance with instructions or obligations, or incorrect advice or information.
- 1.17.** "Force Majeure" refers to any event or act beyond the reasonable control of Centurion which prevents and/or delays the performance of any of Centurion's obligations herein. Centurion shall be relieved of its obligations to the extent that their performance is prevented or delayed by, or their non-performance results wholly or partly from such events including (but not exclusively) acts of God, accident, storm, flood, fire, war, riot, civil unrest, act of terrorism, chemical or biological contamination, strikes & industrial disputes, outbreak of epidemic or pandemic disease, compliance with law & governmental order/rule/regulation, and failure of utility service.
- 1.18.** "Dangerous Goods" means dangerous goods as defined in the Carriage of Dangerous Goods by Road Regulations 1996 (as amended, re-enacted or extended from time to time), and any other substance likely to cause or encourage disease, vermin, pests or other hazard.
- 1.19.** "Excluded Goods" means goods as specified by Centurion from time to time which will not be carried and/or forwarded including (but not exclusively) animals (live or dead), illegal substances, guns and explosives;
- 1.20.** "Restricted Goods" means goods that may be carried and/or forwarded but only with prior notification and subject to safety, security and/or statutory requirements.
- 1.21.** For the purpose of clarity herein, (i) the singular shall also mean the plural, and *visa versa*, and (ii) the male gender shall also mean the female gender, and *visa versa*.

#### **2. GENERAL CONDITIONS**

- 2.1.** Unless otherwise stated, it will be assumed that the customer has full power and authority to enter into and perform its obligations under these Conditions.
- 2.2.** These Conditions apply to the exclusion of any other Conditions (including the customer's) unless mutually varied in writing or by contract. Other than a Principal, no employee, agent or sub-contractor of Centurion is authorized to alter or vary these Conditions.
- 2.3.** Any quotation by Centurion may be subject to variation if
- (i) more than 28 days elapse from the date of quotation to the date of booking,
  - (ii) where the nature, size and/or weight of a consignment differs from that originally specified by the customer, and
  - (iii) where the destination of the consignment is altered.
- 2.4.** Centurion will use best endeavours to prevent and limit delays, additional cost and additional

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- consequential costs for the customer. Provided that any delay is not a result of an oversight or failure by Centurion, there is no onus herein upon Centurion to be held responsible for financially expediting any situation where delays are causing either consequential additional cost to the customer or loss of profit by the customer.
- 2.5.** Interest may be charged by Centurion on monies overdue to Centurion at the rate of 2% for each calendar month during all or part of the period that it is overdue. Monies owing by the customer to Centurion are subject to a credit period and if not settled within the designated period may also result in Centurion, until such time as settlement has been made in full,
- (i) ceasing to carry out further work for and/or on behalf of the customer and
- (ii) exercise a lien and be entitled (but not obliged) to retain possession of Products, documents, monies, books and records relating to the customer and/or its Products until the customer has paid all monies due to Centurion (whether Rates, Expenses, Storage or Premiums) even where such non-payment is a dispute over Centurion's charges.
- Centurion may sell anything that is subject to a lien and use the sale proceeds towards payment of the Customer's unpaid invoices and/or other applicable charges. Also, following termination of the Agreement Centurion may dispose of the Product(s) by giving it away or disposing of it, selling it, or destroying it acting in its sole discretion.
- 2.6.** Where a customer fails to settle their account and it remains outstanding for an extended period, Centurion may refer such an account to a debt recovery agent where the customer will additionally be liable for (i) any additional costs and charges resultantly incurred by Centurion, (ii) fees & costs of the debt recovery agent and (iii) associated court, solicitor & disbursement costs in recovering the outstanding balance. Interest may be applied daily at court rate. Additionally, where Centurion has a lien on the Customer's Goods, these Goods may be offered for sale in order to recover outstanding monies.
- 2.7.** Centurion cannot be held liable or responsible for any unforeseen circumstances or liabilities that result from any changes in the customer's financial circumstances. The customer must inform Centurion whenever their circumstances change including any changes to their contact details.
- 2.8.** The customer may only terminate any order placed by giving immediate notice in writing. On receipt, Centurion will cease work on any such job and/or consignment and, where applicable, cease payment to any third party involved in the job and/or to any of the customer's creditors. Centurion will be entitled to be paid by the customer of any work and/or costs incurred on that job to date plus, where appropriate, a cancellation fee to offset termination and other administrative costs provided that the amount is not greater than the total amount contractually owed to Centurion for that consignment.
- 2.9.** Centurion can refuse to undertake work for a customer should they breach the conditions herein, or fail to make agreed payments, or fail to give correct & complete information about their ability to make payments, or where it is subsequently discovered that the customer has supplied incorrect or fraudulent information. Centurion may also refuse when a bankruptcy or winding up petition is made against the customer, or when, by their action(s), the customer may affect the reputation of Centurion.
- 2.10.** If, for whatever reason, this agreement is terminated, Centurion's duties and obligations under this agreement will cease immediately.
- 2.11.** Following the termination of an agreement, for whatever reason, any monies owed by the customer to Centurion will be payable on immediate demand.
- 2.12.** Centurion shall not be liable to the customer, whether in contract, tort or by statute, or otherwise in respect of any loss of profits and/or for any special, indirect, incidental or consequential loss or damage suffered by the customer howsoever caused including, without limitation:
- (i) loss due to delay; and/or
- (ii) loss of anticipated savings; and/or
- (iii) loss of business and/or goods; and/or
- (iv) loss of goodwill; and/or
- (v) loss of use; and/or
- (vi) loss of data or other information; and/or
- (vii) loss relating to the procurement by the customer of any substitution of goods or services.
- For the avoidance of doubt, the types of loss and/or damage specified in this clause shall not constitute direct loss for the purpose of these Conditions.
- 2.13.** The Customer may not use Centurion's services in connection with or for the purposes of any illegal or immoral activity.
- 3. CANCELLATION & TERMINATION**
- 3.1 CANCELLATION**
- 3.1.1** If purchasing as a Consumer, the Customer has the right to cancel their Agreement with Centurion, by notice in writing, at any time before 14 working days have passed from the day after the Agreement was made.
- 3.1.2** If, however, Centurion starts to perform the Services as set out in the Agreement with the consent of the Customer before the Customer exercises this right to cancel, the right to cancel is lost.
- 3.2 TERMINATION**
- 3.2.1** The Agreement shall terminate automatically if either Centurion or the Customer suffers the equivalent of any of the following events:
- (i) Entering into liquidation whether compulsory or voluntary (save for the purpose of reconstruction or amalgamation),
- (ii) Suffering an appointment of a Receiver or an Administrative Receiver,
- (iii) Changing its status from limited to unlimited or vice versa without prior knowledge of the other Party,
- (iv) Making any composition or entering into any arrangement with its creditors,
- (v) Permitting any execution to be levied on its premises.
- (vi) If an order is made for the appointment of an administrator to manage the affairs, business and property of the Customer or documents are filed with a court of competent jurisdiction for the appointment of an administrator or a notice of intention to appoint an administrator is given by the Customer or its directors or by a qualifying floating charge holder (as defined in Para 14 Schedule B1 Insolvency Act 1986).
- 3.2.2** Centurion may terminate or suspend its performance of the Agreement (as regards some or all of its Services) with immediate effect by written notice to the Customer if:
- (i) The Customer is late in any payment obligation; or
- (ii) The Customer is in breach of any term of this Agreement. In any such event, any payment due remains payable and, if already paid, will be non-refundable.
- 3.2.3** Termination of the Contract shall not prejudice any rights of either party, which have arisen on or before the date of termination. On suspension expiry or

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termination of the Agreement, at Centurion's request, the Customer shall at the Customer's own cost remove any Product held by Centurion at a time and in a manner reasonably convenient to Centurion. If the Customer fails to do so when requested then, despite termination of any Agreement, Centurion shall be entitled to charge the Customer (and the Customer shall pay on receipt of invoice) a reasonable charge for all storage of Customer's Products from the date of Agreement termination. It shall be reasonable for Centurion to charge for storage rates not less than those payable during the Agreement, if any. If prior to or following termination of the Agreement, Centurion shall be owed monies, the provisions of clause 2.5 shall apply.

#### **4. CONDITIONS RELATING TO FREIGHT, PALLET, PARCEL AND POSTAL SERVICES**

- 4.1** Centurion does not act as a common carrier and where the carriage of a consignment is handled by a third party or sub-contract courier, haulier, shipper or postal service (whether in the UK or an overseas territory), the terms and conditions of such a courier, haulier, shipper or postal service shall equally apply to the customer.
- 4.2** Courier-Networks is a carrier firm and is an associate business of Centurion. To refer to terms and conditions used generally by carriers, the terms and conditions of Courier-Networks are available on their website at: [www.courier-networks.co.uk](http://www.courier-networks.co.uk) The terms and conditions of the carrier used in each case will apply equally to the terms and conditions herein.
- 4.3** All fees, charges & appropriate additional charges may be imposed by Centurion if Centurion is prevented from performing its obligations by any circumstance beyond its control as indicated in clause 1.11.
- 4.4** The customer must notify Centurion if a consignment includes:
- (i) Dangerous Goods (as defined in the Carriage of Dangerous Goods by Road Regulations 1996 (as amended));
  - (ii) Restricted Goods,
  - (iii) Cash or cash equivalent, the value thereof being in excess of £5,000 including (but not exclusively) travellers' cheques, bearer bonds, bank cards, credit cards, and mobile phones or equivalent;
  - (iv) Perishable goods; and
  - (v) where the total value of the consignment is in excess of (GBP) £5,000.00.
- 4.5** All Dangerous Goods and required details about the dangerous goods must be disclosed by the customer in advance in order for Centurion to make appropriate arrangements for the carriage of the Dangerous Goods. Where carriage is accepted, Dangerous Goods must be classified, packed and labelled in accordance with any applicable statutory regulation for the carriage of such Dangerous Goods and with any specific instructions of Centurion and/or the Carrier. The customer shall further provide such information, documentation and/or declaration as may be necessary to enable the carriage of such Dangerous Goods.
- 4.6** In circumstances outlined in clause 3.4, Centurion shall not be liable for any loss or consequential liability, however caused, unless Centurion has specifically agreed in writing to accept such liability. Where any liability is accepted by Centurion, Centurion reserves the right to charge the customer an additional amount for such consignments, this amount being not less than 2% of the customer's declared value of the consignment. In all cases Centurion shall not be liable for more than their agreed portion of the liability and, where it becomes apparent that the customer has provided a false

valuation (erroneously or otherwise), Centurion shall only be liable for the lesser amount whether this be the declared or actual valuation. In all cases, the term "valuation" refers to the replacement or cost value of the product and not the sales value.

- 4.7** Centurion, where required by the customer, will quote individually on each job undertaken unless there is a contractual agreement with the customer.
- 4.8** Unless otherwise agreed in writing, the consignment shall only be delivered to the address specified by the customer at the time of booking. Centurion reserves the right to vary its charges for any change(s) by the customer to the delivery address.
- 4.9** Centurion shall arrange delivery of consignments according to such route(s) as it in its absolute discretion thinks fit.
- 4.10** Where the customer does not employ Centurion's fulfilment services to pack for them, the customer shall be responsible for ensuring that any consignment is securely & properly packed & labelled consistent with good practice & applicable statutes, and that it is fit & safe to be carried, stored and transported by road, rail, air and/or sea. Additionally, the customer is responsible for ensuring that the consignee address including post code is correct.
- #### **5. CONDITIONS RELATING TO FREIGHT FORWARDING**
- 5.1** Centurion will at all times, when acting on behalf of the customer, use best endeavours to carry out the customer's instructions in the most effective manner that suits the customer's timing & pricing requirements, and which reflect any agreement with the customer. At all times Centurion will use its best endeavours to obtain on behalf of the customer the best solution available for them.
- 5.2** Subject to clauses 2.4 and 2.5, the customer may be required to pay Centurion some of the amounts required and agreed to fulfil the cost of the consignment prior to Centurion being exposed to making payments on the customer's behalf.
- 5.3** Centurion cannot be held responsible or financially liable for the consequences of late payment or non-payment by the customer including consequential actions of creditors and/or third parties involved in the consignment, and any additional costs and charges (including demurrage charges) in relation to the consignment that result from any delayed or non-payment by the customer.
- 5.4** Unless otherwise specified, Centurion's quotations do not cover any duty, VAT or other tax payable on the consignment at the country of destination.
- 5.5** If delays result from the customer failing to remit payments on time, or from the nature/condition of the contents within the consignment, or a customs/port health issue, the resultant additional costs incurred will be the liability of the customer and will be added to the customer's account. The customer will be required to pay these additional charges to Centurion within the timescale advised by Centurion to prevent yet further delays, consequential costs & interest. Centurion is rarely able to negotiate lower payments for customers on contracts for consignments already agreed and/or commenced.
- 5.6** Centurion cannot be held responsible or liable for any actions of third parties irrespective of the fact that the third party(ies) has been instructed by Centurion. The same principle will apply to any event or circumstance that may be construed as being the result of "force majeure".
- 5.7** The customer may not have dealings directly with any third party involved in the consignment instructed by Centurion nor instruct alternative third

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parties to those already instructed by Centurion. Where the customer does give direct or alternative instruction, they will be entirely financially liable for such instructions and for the cost & bills, including consequential additional costs & bills, incurred by Centurion in executing the instruction given to Centurion by the customer.

- 5.8** Centurion will place all client monies in an account specifically designated for customer funds. Payments to all third parties involved with the consignment will be paid directly from funds held in that account. Centurion will take their fee and charges from the customer funds at the same time as payments are made to the third parties.

## **6. TERMS & CONDITIONS RELATING TO STORAGE AND WAREHOUSING**

- 6.1** The Terms & Conditions concerning storage and warehousing relate to both individual storage / warehousing agreements as well as where storage / warehousing forms part of a larger operation carried out by Centurion on behalf of a Customer.

- 6.1.1** Centurion will provide its services with reasonable skill and care. In the absence of prior written instruction to Centurion giving sufficient detail, no particular precautions or any special treatment need be taken or provided for the Goods.

- 6.1.2** In the case of bulk Goods, Centurion may deal with and/or mix apparently similar goods consigned by or for the Customer without distinguishing between consignments.

- 6.1.3** Where Centurion is responsible for the carriage of goods destined to or from storage and where such storage does not form part of a larger logistic operation, Centurion's liability for the Goods starts when loading on the vehicle is complete and ends when the Goods are tendered for unloading. In the case of storage and / or processing it starts when they are accepted into store and ends when they are tendered for collection, or Centurion becomes aware of the grounds for their removal under Condition 6.2.2 or on the expiry of notice under Condition 6.7.1 or 6.7.2. Where Centurion provides storage and carriage it shall also be responsible for the Goods while they are transferred from its vehicle into its store and vice versa. In the case of forwarding, Centurion's responsibility is only to engage or propose apparently competent contractors and to give them adequate instructions in relation to the Goods; and in this case, or where the contract is for advice, it is not responsible for the Goods themselves.

- 6.1.4** Centurion's duty is to the Customer only and not to any third party. Any advice given is for the Customer only.

### **6.2 CUSTOMER'S UNDERTAKINGS.**

- 6.2.1** Under these Terms & Conditions the Customer warrants and undertakes as follows:-

(i) It is either the owner of the Goods, or is authorised by the owner to accept these Terms & Conditions on the owner's behalf.

(ii) The Goods shall be presented to Centurion (and/or anyone else, including a carrier, dealing with them) securely and properly packed in compliance with any applicable statutory regulations, recognised standards and best practice and that they will remain in a condition to be safely handled, stored and/or carried in order not to cause in any way injury, damage, contamination or deterioration (or the possibility of any of these) to any person, premises, equipment or to any other items.

(iii) Before Centurion assumes any responsibility for the Goods, the Customer will inform Centurion in writing of any relevant matters; including any special precautions necessitated by the nature, weight or

condition of the Goods and any statutory or other duties specific to the Goods with which Centurion or others may need to comply; and will promptly after invoicing pay Centurion's reasonable extra charges for complying.

(iv) The Customer will promptly, after invoicing, reimburse all duties, taxes and expenses that Centurion may be required to pay in respect of the Goods including where the liability to pay them arises due to the fault, other act or omission of Centurion or its employees or sub-contractors.

(v) Except to the extent previously notified in detail in writing to (and accepted by) Centurion, none of the Goods will be understood to not be hazardous or contaminated; nor may cause pollution of the environment or harm to human health if they escape from their packaging; nor require any official consent or licence to handle, possess, deal with or carry; nor will at any time whilst in the care or control of Centurion constitute Waste.

(vi) Where Centurion is carrying or arranges the carriage of warehoused Goods, the Customer will provide a risk assessment and method statement appropriate for the Goods and any location in which they are to be handled. Unless otherwise previously agreed the Customer will provide suitable facilities and equipment for, and will procure, safe and prompt loading and unloading of the Goods. The Customer will pay demurrage at Centurion's standard rate if the carrier is delayed for more than 30 minutes beyond the time reasonably needed for loading or unloading; and demurrage and storage charges if delivery is refused.

(vii) The Customer will comply with any reasonable regulations of Centurion relating to handling, carriage, storage or forwarding of Goods (and ancillary matters) which are notified in writing from time to time.

(viii) Information given by the Customer or on its behalf shall be materially correct and complete.

- 6.2.2** The Customer will indemnify Centurion against any loss or damage it suffers as a result of carrying out the Customer's instructions or which is related to any breach of the Customer's obligations, and will pay all costs and expenses (including professional fees) incurred in, and Centurion's reasonable charges for, dealing with the breach and its consequences. The Customer will pay an extra charge equal to the amount of any fine or penalty payable by Centurion wholly or partly as a result of a breach by the Customer. If Centurion suspects a breach of Condition 6.2.1, it may refuse to accept the Goods, demand their immediate removal, or itself arrange their removal without notice, at the Customer's expense.

### **6.3 INSURANCE AND CENTURION'S LIABILITY FOR LOSS.**

- 6.3.1** Except as provided in Condition 5.3.5, Centurion does not insure the Goods and the Customer shall self-insure or make arrangements to cover the Goods against all insurable risks to their full insurable value (including all duties and taxes) with any right for the insurer to bring a subrogated claim against Centurion being excluded.

- 6.3.2** Subject to Condition 6.3.3, Centurion excludes all liability for Loss however arising.

- 6.3.3** If and to the extent that Loss is directly caused by negligence or wilful act or default of Centurion, its employees (acting in furtherance of their duties as employees) or sub-contractors or agents (acting in furtherance of their duties as sub-contractors or agents) and subject to Conditions 6.3.4, 6.3.7 and 6.3.8, Centurion will accept liability for Loss assessed on normal legal principles but not exceeding the Limit fixed by Condition 6.3.5. Any quantification of value includes duties and taxes.

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- 6.3.4** In no case shall Centurion be liable for any lost profit, income or savings, wasted expenditure, or indirect or consequential loss.
- 6.3.5** In no case, including where Centurion is responsible for providing and/or organising insurance cover for Customer's Goods in storage, shall any liability of Centurion (including, *inter alia*, any liability in respect of duties and taxes) exceed the Limit, fixed as follows:-
- (i) The Customer may specify in writing the Limit as to an amount (in GBP Sterling, US Dollars or Euros) per tonne and/or per Kg weight, or per item on a stock schedule the maximum or total replacement value of the Goods, including duty and taxes. This Limit, as nominated by the Customer, shall apply in respect of any cause of action arising after that date.
- (ii) The validity of the Limit as set by the Customer is conditional upon
- (a) the Customer, unless otherwise agreed in writing, having paid in full either Centurion's invoice(s) for its costs in insuring against its potential liability up to the Limit, and/or Centurion's invoice(s) for Additional Liability through which it elects to carry the risk itself which may be charged on an equivalent to the estimated or likely cost of such insurance, and
- (b) any evidence that suggests that the Customer has inflated the valuation of the Limit. Where evidence suggests a lesser valuation, Centurion will be liable for the lesser of the two amounts.
- (iii) If Centurion, having made reasonable efforts, is unable to obtain insurance on reasonable terms to cover its liability up to the Limit, and where it is not prepared to elect to carry the risk itself up to the Limit set by the Customer, and/or if the Customer has not paid any invoice within the invoice's prescribed period issued under 6.3.5(i) and (ii) above, Centurion may give written notice that the Limit for causes of action arising shall be, *pro rata*, £100 GBP sterling per tonne.
- (iv) In all circumstances where no Limit has been agreed or set under Condition 6.3.5(i) and (ii) the Limit shall be, *pro rata*, £100 GBP sterling per tonne.
- 6.3.6** Without prejudice to the Company's rights under Condition 6.6 to be paid free from deduction or set-off, any limitation of liability on the part of the Company shall be applied to any claim by the Customer before any set off or counterclaim is asserted against money due to the Company.
- 6.3.7** (i) The Company shall not be liable for any claim unless: it has received written notice of it within 10 days of the event giving rise to the claim coming to the knowledge of the Customer or consignee; and it has received within 21 days of the event giving rise to the claim coming to the knowledge of the Customer or consignee sufficient detail in writing to enable investigation. In the case of failure to deliver, time shall run from the first working day after the expected date of delivery.
- (ii) No legal proceedings (including any counterclaim) may be brought against Centurion unless they are issued and served within 9 months of the event giving rise to the claim.
- 6.3.8** Centurion shall not be liable for any Loss to the extent that it is caused or contributed to by a breach of any of the Customer's obligations in Condition 6.2, or by any of the circumstances by virtue of which Centurion is relieved of its obligations under Condition 6.8.
- 6.4 EMPLOYEES, SUB-CONTRACTORS AND OTHERS**
- 6.4.1** Centurion shall be entitled to sub-contract all or any part of its obligations and in this event these Terms & Conditions shall apply to such services. Where storage is subcontracted Centurion will on request notify the Customer of the location of the Goods.
- 6.4.2** No Interested Party will make a claim or issue proceedings in respect of Loss against any Additional Party.
- 6.4.3** Without prejudice to Condition 6.4.2, if any Third Party pays or is liable to make a payment to an Interested Party in connection with a claim for Loss, the Interested Party will fully indemnify Centurion against any claim including all costs and expenses) by the Third Party against Centurion for reimbursement of, contribution to or indemnity against that payment to the extent that it exceeds the Limit applicable at the time of the event giving rise to the claim.
- 6.5 CHANGE OF CUSTOMER**
- 6.5.1** The Customer may give written authority for the Goods or any part thereof to be transferred to the account of another party on condition that:
- (i) Before the effective date of the transfer the other party notifies Centurion in writing that it is to become the Customer on the agreed effective date,
- (ii) They agree to be bound by these Terms & Conditions and by any notice given under 6.3 above, and
- (iii) They pay or agree to pay Centurion's charges for the period after the agreed effective date.
- 6.5.2** The existing Customer instruction must include their acceptance of liability for Centurion's charges for the period until the effective.
- 6.5.3** The Goods will remain subject to any lien which applies at the time of transfer irrespective of any change in owner.
- 6.6 CHARGES, PAYMENTS AND LIEN**
- 6.6.1** Centurion's charges which are subject to VAT may be increased by prior notice to the Customer. The notice shall be at least 7 days for increases reflecting any rise in fuel costs and at least 21 days otherwise. Centurion has the right to charge for storage of the Goods for so long as it has custody of or is responsible for them.
- 6.6.2** The charges shall be paid free of any deduction or set-off at such periodic intervals as may have been agreed between the parties and in any event on the earlier of
- (i) the expiry of any agreed period of credit, and
- (ii) the time immediately before any of the Goods cease to be in Centurion's care or control.
- In such circumstances, Centurion shall be entitled to payment for carriage at the time the Goods are loaded onto the vehicle.
- 6.6.3** Centurion shall (on its own behalf and as agent for any assignee of its invoices) have a general and particular lien on the Goods (and any associated documentation or records) as security for payment of all sums (whether due or not) claimed by Centurion from, or invoiced to, the Customer or another Interested Party on any account (relating to the Goods or not), or otherwise claimed in respect of the Goods or other property of an Interested Party. Storage shall be charged for any goods detained under lien.
- 6.7 TERMINATION**
- 6.7.1** The Goods shall be removed by the Customer at the time agreed between the parties. Centurion may at any time by notice in writing to the Customer require the removal of the Goods within 14 days from the date of such notice or, in the case of perishable goods, within 3 days.
- 6.7.2** Where the Customer fails to comply with Condition 6.7.1, or where any payment from the Customer is overdue, Centurion may, without prejudice to its other rights and remedies against the Customer, notify the Customer in writing that the Goods may be

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sold or otherwise disposed of at the Customer's entire risk and expense if such payment is not made and/or such Goods are not removed within 21 days, or in the case of perishable goods within 3 days, from the date of such notice. On expiry of the period, if such payment has not been made and/or the Goods have not been so removed Centurion may sell or otherwise dispose of the Goods or any part at the Customer's entire risk and expense by an appropriate method, and any proceeds of sale or disposal shall be remitted to the Customer after deduction of all expenses and all amounts claimed by Centurion and any assignee of its invoices.

## **6.8 STORAGE – OTHER GENERAL CONDITIONS**

**6.8.1** Each exclusion or limitation in these Terms & Conditions exists separately and cumulatively.

**6.8.2** Signature on a delivery note is evidence that the Goods have been received and/or delivered in apparently good order except as where noted.

**6.8.3** Centurion may open up packaging to inspect Goods.

## **7. TERMS AND CONDITIONS RELATING TO FULFILMENT & PACKING SERVICES (INCLUDING PICK & PACK AND DROP SHIPPING).**

### **7.1 ORDERS**

**7.1.1** Centurion will establish with the Customer the method(s) by which orders will be received by Centurion for fulfilment.

**7.1.2** Fulfilment services includes the provision of storage / warehousing and the terms & conditions contained within the clauses in section 5 above apply equally to fulfilment services as to merely storage and warehousing services.

**7.1.3** All orders for fulfilment received by Centurion shall be deemed to be an offer by the Customer to purchase fulfilment services on the basis of these Terms & Conditions and on the terms agreed with the Customer.

**7.1.4** Centurion may choose not to fulfil an order for any justifiable reason including the Customer's failure to pay their account.

**7.1.2** Even after an order has been accepted by Centurion, the Customer may cancel the order provided this is done prior to order being dispatched. If cancelled after dispatch, the Customer shall be responsible for Centurion's costs and charges in relation to that item in question.

### **7.2 RATES**

**7.2.1** The rate charged by Centurion for fulfilment including the charge for storage, picking and packing, will be agreed in advance and reviewed periodically with the Customer.

**7.2.2** The options for dispatch together the rate for each service will be agreed with the Customer for each of their product lines.

**7.2.3** Where Centurion is required to administer the Customer's postal account, the Customer will provide all relevant access, including passwords and login details, for the administration of that account.

**7.2.4** Where the postage is administered via Centurion's postal account, the Customer agrees to pay their postage account within 28 days of the end of the month in which the postage was consumed. At Centurion's discretion, (dependent, for example, upon the Customer's credit history) Centurion may require the Customer to pay for their postage in advance. All postage rates quoted are always subject to VAT.

### **7.3 PERFORMANCE**

**7.3.1** Centurion shall perform fulfilment services with reasonable skill and care. However, where applicable, Centurion does not guarantee that fulfilment services will be uninterrupted, secure or error-free or that any

data generated, stored, transmitted or used via or in connection with fulfilment will be complete, accurate, secure, up to date, received or delivered correctly or at all. Centurion may have to suspend the fulfilment services for repair, maintenance or improvement. If so, Centurion will restore them as quickly as is reasonably possible.

**7.3.2** Where Centurion is required to directly download orders from the Customer's website(s), the customer shall provide access including relevant passwords and login information. Centurion will not be held responsible for difficulties or failures arising out of or in connection with accessing the Customer's website or other IT facilities.

**7.3.3** The Customer agrees to email Centurion details of any orders received by them on a day to day basis. Such details will be provided in an easily comprehensible, mutually agreed format that facilitates simple reconciliation and that is suitable for the creation of picking lists, dispatch notes and address labels. The prices agreed for fulfilment are dependent on the Customer's strict compliance with this clause in the absence of which Centurion shall be entitled to increase the Prices by a reasonable amount with immediate effect by written notice or suspend performance of its obligations under the Agreement with immediate effect pending resolution of the discrepancy to its reasonable satisfaction.

**7.3.4** The Customer will notify Centurion of delivery of products and ensure that new deliveries, together with existing stocked products, are sufficient to enable Centurion to fulfil any orders.

**7.3.5** Unless otherwise specifically agreed, Centurion will pick, pack, label and dispatch all orders received before 12.00hrs on the same day.

**7.3.6** Orders received after 12.00hrs will, where possible, be dispatched the same day otherwise they will be sent the following working day.

**7.3.7** Working days are Monday to Friday between the hours of 08.00hrs and 17.00hrs and exclude week-ends and public holidays.

**7.3.8** The prices /rates agreed between Centurion and the customer are dependent on the Customer's products strictly conforming to their original description and are based on Centurion's understanding of the Customer's description of its fulfilment requirements. In the event of any non-conformity with or deviation from those descriptions Centurion shall be entitled to increase their prices / rates by a reasonable amount with immediate effect upon written notice to the Customer or suspend performance of its obligations under the Agreement with immediate effect pending resolution of the discrepancy to its reasonable satisfaction.

**7.3.9** The insurance and valuation (including the Limit) of and the liability for the Customer's goods whilst being held in storage pending dispatch and in transit to and from storage is as laid out in clause 5 above.

**7.3.10** The Customer may make use of Customer Services provided by Centurion in order to (i) respond to queries (whether by phone, email or other means) from the purchasers' of their products, and (ii) handle returns from their purchasers at a rate agreed between Centurion and the Customer with such a rate being variable dependent upon the usage made of this service.

**7.3.11** Where Centurion is required by the customer to operate a returns policy, the details of the rate and policy will be agreed between the Customer and Centurion which will include the determination upon inspection by Centurion of the returned items as to the subsequent action to be undertaken.

### **7.4 RIGHTS OF CENTURION**

**7.4.1** Centurion reserves the right to periodically review fulfilment prices.

*(continued next page)*

- 7.4.2** Centurion reserves the right to withdraw fulfilment Services at any time.
- 7.4.3** Centurion shall not be liable to anyone for withdrawing the Services or for refusing to process an order.
- 7.4.4** Centurion shall be entitled, having given written notice to the Customer, to assign their rights to a third party or to sub-contract all or any part of its obligations and in either of these eventualities these Terms & Conditions shall continue to apply to such services.

**8. CONDITIONS RELATING TO PRINTING**

**9. ADMINISTRATION**

- 9.1** Centurion will undertake the customer's instructions by using the most appropriate service(s) that deliver within the required timescales & price. Centurion may sub-contract part or all to specialists subject to the forgoing "conditions" herein.
- 9.2** The price quoted will include Centurion's fees and charges. However, it may be necessary to seek additional payment(s) from the customer during the course of the consignment to cover extra payments to third parties resultant of situations outlined elsewhere within these terms and conditions.
- 9.3** Payment made to Centurion by the customer may be made in British Pounds ("GBPs"), Euros or USA Dollars.
- 9.4** Customers will be advised by Centurion if a third party involved with the consignment and/or goods does not have adequate insurance to cover any loss or damage that would be due to the negligence by the third party.
- 9.5** Centurion will, if requested by the customer, seek/provide suitable total loss insurance (Additional Liability) to cover the Goods.
- 9.6** If the customer is unhappy with the service provided by Centurion they are at liberty to make a formal complaint to Centurion at any time. This procedure will not affect any of the customer's legal rights.
- 9.7** The customer is advised by Centurion to keep all documents that are sent to them by Centurion as copies cannot always be guaranteed to be sent to them at a future time. Should at any time the customer require such copies, this may be provided following a written request & payment of £25.00.
- 9.8** Centurion complies with the relevant provisions of the Data Protection Act and aims to ensure and protect, wherever possible, the customer's privacy. Any information about the customer will be treated as confidential and, save for relevant information to third parties involved with the consignment and/or goods, will not be passed on to other parties without authorization from the customer.
- 9.9** Any notice, letters, payments, statements, or forms sent to or served upon the customer by Centurion shall be duly given if left at or sent by first class prepaid post to the last known address of the other party or by facsimile to the last notified number evidenced by a successful transmission record, or by email to the last address notified for the purpose of that service; and shall if posted be deemed to have been given 2 working days after posting, and if by facsimile or email, one working day after sending.
- 9.10** Information on Centurion' website(s) (excepting these Terms & Conditions) & any other Centurion promotional material cannot be considered as contractual and their contents do not form any part of an agreement between Centurion and its customers.

**9.11 PRIVACY STATEMENT**

- 9.11.1** Centurion is committed to protecting your privacy and maintaining the security of any personal

information received from you. We strictly adhere to the requirements of the data protection legislation in the UK.

- 9.11.2** When a customer makes an order, Centurion needs to know their name, company name, address, telephone number and email address. This allows Centurion to process and fulfil orders. The customer has the option to withhold personal information that is not required for the order process.
- 9.11.3** Centurion may use your personal information for payment and billing purposes, to update you about new products and services, to improve our services and to conduct research.
- 9.11.4** Centurion follows strict security procedures in the storage and disclosure of information which a customer provides in order to prevent unauthorized access in accordance with the UK data protection legislation.
- 9.11.5** Centurion does not collect sensitive information about its Customers except when they specifically and knowingly provide it. In order to maintain the accuracy of Centurion's database, the Customer can check, update or remove their personal details by making a written subject access request to Centurion.
- 9.11.6** Centurion may use "cookies" as part of a normal business procedure to track patterns of behaviour of visitors to their website.
- 9.11.7** In order to process credit/debit card transactions, the bank or card processing agency may require to verify the customer's personal details for authorisation outside the EEA (European Economic Area). Such information will not be transferred outside the EEA for any other purpose.
- 9.12** The Customer may not at any time (either during or after contracting with Centurion and for a period of at least six (6) months following its expiry or earlier termination) solicit or induce any employee of Centurion to cease working for Centurion (regardless of whether or not any such person would thereby commit a breach of Contract) or contract Centurion staff with a view to: (i) offering such Persons, employment; or (ii) soliciting services from them on their own account; or (iii) encouraging them to provide their services to a third party rather than Centurion, or (iv) offering to them the opportunity to perform services colourably similar to Centurion's service. Should the Customer breach this term, one year's salary of the employee(s) in question will become payable to Centurion by the Customer as a recruitment fee.
- 9.13 CONFIDENTIAL INFORMATION**
- 9.13.1** Each party shall keep in strictest confidence all Confidential Information of the other party, and shall not disclose or make use of any such information (save for the sole purpose of performing its obligations under any agreement between the parties) and shall only permit access to Confidential Information of the other party to those of its employees, officers, directors having a need to know, and who are bound by obligations of confidentiality at least as restrictive as those set out in this Agreement.
- 9.13.2** The obligations of confidence contained in this clause shall continue notwithstanding termination of this Agreement but shall not apply to information that:
  - (i) Is or becomes part of the public domain through no act or omission of the receiving Party;
  - (ii) Was in the receiving party's lawful possession prior to the disclosure and had not been obtained by the receiving party either directly or indirectly from the disclosing party; or
  - (iii) Is lawfully disclosed to the receiving party by a third party without restriction on disclosure; or

(iv) Is required to be disclosed pursuant to law or the order of a court or governmental authority.

**9.13.3** The provisions of this clause shall survive the termination of this Agreement for a period of five (5) years from its termination or expiration.

**9.14.1** Centurion frequently acts as an agent when arranging postal & courier services for the Customer.

**9.14.2** Centurion operates a vetting procedure for all services arranged for the customer. However, Centurion cannot guarantee the quality of the Services arranged as an agent. In some cases, the Customer may need to agree to the terms and conditions of the external supplier in order for the Services to be arranged.

**9.14.3** The Customer acknowledges that in order for Centurion to arrange Services for the Customer, it may be necessary for Centurion to provide a third party with the Buyer's details.

**9.14.4** Telephone messages for the Customer taken by Centurion are treated as confidential. However, if the Customer is made the subject of a court order to release information about the Customer, telephone messages may also be provided without notification to the Customer.

**9.14.5** Centurion's business hours are 9:00am to 17:30pm, Monday to Friday, except bank holidays.

**9.14.6** The Customer warrants to Centurion that both parties may lawfully distribute the Product, that no copyright or other intellectual property rights are infringed by the Product and that the Product and any literature distributed with the Product does not defame any person. If the Customer is in breach of the warranty the Customer agrees to indemnify Centurion against all actions, claims, demands, proceedings, legal costs (on an indemnity basis) and other costs incurred by Centurion as a result of such a breach.

#### **9.15 WAIVER**

**9.15.1** No waiver by Centurion (whether express or implied) in enforcing any of its rights shall prejudice its rights to do so in the future.

**9.15.2** No delay, neglect or forbearance on the part of either party in enforcing against the other party any term or condition herein shall either be deemed to be a waiver of, or in any way prejudice any right of that party under these terms and conditions.

**9.15.3** Third Party Rights; for the avoidance of doubt nothing in these terms and conditions confers on any third party any benefit or the right to enforce any terms of this Contract.

#### **9.16 ACCOUNTING**

**9.16.1** All accounts provided by Centurion shall be deemed accepted and no longer capable of dispute unless challenged by written notice within three (3) months of their receipt by the customer. In the event that the customer requests Centurion to audit or perform a reconciliation of the customer's accounts and such audit or reconciliation reveals an error for the period in question of not more than 5% then the customer shall be liable to pay Centurion an administrative charge equal to 5% of the average monthly Fees charged Centurion over the immediately preceding 12 months (or such shorter period for which an Agreement has been in existence).

#### **9.17 LIMITATION OF LIABILITY**

**9.17.1** Except as may be implied by law where the Customer is dealing as a Consumer, in the event of any breach of these Terms and Conditions by Centurion the remedies of the Buyer shall be limited to damages which shall in no circumstances exceed the value of the Product involved and Centurion shall under no circumstances be liable for any indirect, incidental or consequential loss or damage whatever to reputation or profit or other consequential loss alleged to have arisen by reason of such a breach.

**9.17.2** To the extent permitted by law, Centurion shall not be liable to the Customer save as expressly provided for herein and shall have no other obligations, duties or liabilities whatsoever, tort or otherwise, to the Customer.

**9.17.3** Centurion will not be responsible for any damages the Customer's business may suffer.

**9.17.4** Centurion makes no warranties of any kind, expressed or implied for the Services provided.

**9.17.5** Centurion disclaims any warranty or merchantability or fitness for a particular purpose.

**9.17.6** Centurion is not responsible for any loss of data resulting from delays, non-deliveries, wrong delivery, and any and all service interruptions however caused. Centurion cannot guarantee that the Services will be uninterrupted or error-free, or meet the Customer's requirements.

#### **9.18 SEVERANCE**

**9.18.1** If any term or provision of these Terms and Conditions is 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 hereof shall continue in full force and effect as if these Terms and Conditions had been agreed with the invalid illegal or unenforceable provision eliminated.

**9.19** The terms, conditions and administration of this agreement together with all contracts between Centurion and the Customer and any claims relating to them shall be governed by the law of England and disputes dealt with exclusively by the English courts.

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