



User Agreement

This Agreement is dated the 1st day of February 2013

BETWEEN

- (1) **BRADFORD SWISSPORT LIMITED (Company No 08094544 of Groundstar House, Freight Village, Newcastle International Airport, Newcastle upon Tyne, NE13 8BH)**
- (2) (Company No of ("End User")

INTRODUCTION

- (A) Bradford Swissport Limited and Heathrow Airport Limited ("HAL") have entered into a business relationship under which Bradford Swissport Limited shall provide a consolidation and distribution service for retail and catering concessions at Heathrow Airport (the "Service").
- (B) Bradford Swissport Limited and HAL have entered into a binding agreement, the Services Agreement in respect of the Heathrow Consolidation Centre dates 1st February 2013 (the "Services Agreement").
- (C) The End User and HAL have entered into a binding agreement dated 1st February 2013 ("the Concession Agreement") for the provision of deliveries within Terminals one to five at Heathrow Airport ("the Retail Units").
- (D) The End User desires to receive the Service at Heathrow pursuant to the terms and conditions of this End User agreement ("End User Agreement").

AGREED TERMS

1. Bradford Swissport Limited agrees to provide the Service to the End User as described in Schedule 1 and pursuant to the terms and conditions set out in this End User Agreement, including the conditions annexed hereto.
2. Bradford Swissport Limited is not a common carrier and accepts goods only upon that condition and the terms and conditions set out below. No servant or agent of Bradford Swissport Limited is permitted to alter or vary this End User Agreement in any way unless expressly authorised in writing to do so by a director or other authorised person of Bradford Swissport Limited. If any legislation is compulsorily applicable to this End User Agreement and any part of this End User Agreement is incompatible with such legislation, such part shall, as regards the End User Agreement, be overridden to that extent and no further.
3. This End User Agreement shall be effective from 1st February 2013 (the "Commencement Date"). This End User Agreement shall terminate automatically if:

- 3.1.1 the Services Agreement is terminated by either HAL or Bradford Swissport Limited ; or
- 3.1.2 the Concession Agreement is terminated by either HAL or the End User.

4. In Summary, the service provided by Bradford Swissport Limited under this End User Agreement (the “Services”) will comprise:

- Receipt of the goods from Suppliers
- Scanning the goods using X-ray detection machines
- Loading the goods into appropriate media (including roll cages, pallets and totes, as required)
- Delivery of the goods to the End User’s Heathrow stores in appropriate media within an agreed delivery window and per agreed delivery timetable

5. The Service will be provided in accordance with all applicable legislation including, but not limited to, health and safety legislation and agreed operational procedures which both parties will identify and agree prior to the Commencement Date.

6. Where End User requests Bradford Swissport Limited to perform any services in addition to the Service (“Additional Services”), Bradford Swissport Limited shall be entitled to charge an additional charge which shall be agreed in writing between the End User and Bradford Swissport Limited prior to any Additional Services being provided (“Additional Services Charge”). Bradford Swissport Limited shall invoice End User any such Additional Services at the end of the month in which the Additional Services were provided. Such invoices will be paid by End User by bank direct debit within 28 days of invoice date.

7. The Service is provided by Bradford Swissport Limited as principal and not as agent for HAL.

EXECUTED BY THE PARTIES TO THIS AGREEMENT

.....
Bradford Swissport Limited
(duly authorised signatory)	(duly authorised signatory)
Print Name	Print Name

GENERAL CONDITIONS

1. Definitions

In this End User Agreement:

“End User” means the person or company who contracts for the services of Bradford Swissport Limited including any other carrier who gives a Consignment to Bradford Swissport Limited.

“Consignee” means the person or company to whom Bradford Swissport Limited contracts to deliver the Consignment.

“Consignment” means goods, whether a single item or in bulk or contained in one parcel, package or container, as the case may be, or any number of separate items, parcels, packages or containers sent at one time in one load by or for the End User from one address to one address.

“Dangerous Goods” means those substances and articles the carriage of which is prohibited by the provisions of the European Agreement Concerning the International Carriage of Dangerous Goods by Road (ADR) as applied in the United Kingdom, or authorised only under the conditions prescribed in accordance therewith.

“In writing” includes, unless otherwise agreed, the transmission of information by electronic, optical or similar means of communication, including, but not limited to, facsimile, electronic mail or electronic data interchange (EDI), provided the information is readily accessible so as to be usable for subsequent reference.

“Trader” means the owner of the Consignment, any other person having an interest therein and anyone acting on behalf of such owner or other person, including, as the case may be, the End User, sender and Consignee.

2. Parties and Sub-Contracting

- (1) The End User warrants that he is either the owner of the Consignment or is authorised by such owner to accept this End User Agreement on such owner's behalf.
- (2) Bradford Swissport Limited and any other carrier employed by Bradford Swissport Limited may employ the services of any other carrier for the purpose of fulfilling the End User Agreement in whole or in part and the name of every other such carrier shall be provided to the End User upon request.
- (3) Bradford Swissport Limited contracts for itself and as agent of and trustee for its servants and agents and all other carriers referred to in (2) above and such other carriers' servants and agents and every reference in this End User Agreement to “Bradford Swissport Limited” shall be deemed to include every other such carrier, servant and agent with the intention that they shall have the benefit of the End User Agreement and collectively and together with Bradford Swissport Limited be

under no greater liability to the End User or any other party than is Bradford Swissport Limited hereunder:

- (4) Notwithstanding Condition 2(3) the carriage of any Consignment by rail, sea, inland waterway or air is arranged by Bradford Swissport Limited as agent of the End User and shall be subject to the conditions of the rail, shipping, inland waterway or air carrier contracted to carry the Consignment. Bradford Swissport Limited shall be under no liability whatsoever to whomsoever and howsoever arising in respect of such carriage: Provided that where the Consignment is carried partly by road and partly by such other means of transport any loss, damage or delay shall be deemed to have occurred while the Consignment was being carried by road unless the contrary is proved by Bradford Swissport Limited.

3. Dangerous Goods

Dangerous goods must be disclosed by the End User and if Bradford Swissport Limited agrees to accept them they must be classified, packed, marked, labelled and documented in accordance with the statutory regulations for the carriage by road of the substance declared.

4. Loading and Unloading

- (1) Unless Bradford Swissport Limited has agreed in writing to the contrary with the End User:

- a) Bradford Swissport Limited shall not be under any obligation to provide any plant, power or labour, other than that carried by the vehicle, required for loading or unloading the Consignment.
- b) The End User warrants that any plant, power or labour required for loading or unloading the Consignment which is not carried by the vehicle will be provided by the End User or on the End User's behalf.
- c) Bradford Swissport Limited shall be under no liability whatsoever to the End User for any damage whatsoever, howsoever caused, if Bradford Swissport Limited is instructed to load or unload any Consignment requiring plant, power or labour which, in breach of the warranty in (b) above, has not been provided by the End User or on the End User's behalf.
- d) Bradford Swissport Limited shall not be required to provide the Service beyond the usual place of collection or delivery but if any such service is given by Bradford Swissport Limited it shall be at the sole risk of the End User.

- (2) The End user shall indemnify Bradford Swissport Limited against all claims and demands whatsoever which could not have been made if such instructions as are referred to in (1) (c) of this Condition and such service as is referred to in (1) (d) of this Condition had not been given.

5. Signed Receipts

Bradford Swissport Limited shall, if so required, sign a document or electronic record prepared by the sender acknowledging the receipt of the Consignment but the burden of proving the condition of the Consignment and its nature, quantity or weight at the time of collection shall rest with the End User.

6. Transit

- (1)** Transit shall commence when Bradford Swissport Limited takes possession of the Consignment whether at the point of collection or at Bradford Swissport Limited's premises.
- (2)** Transit shall (unless otherwise previously determined) end when the Consignment is tendered at the usual place of delivery at the Consignee's address provided that:
 - a) if no safe and adequate access or no adequate facilities exists then transit shall be deemed to end at the expiry of one clear day after notice in writing (or by telephone if so previously agreed in writing) of the arrival of the Consignment at Bradford Swissport Limited's premises has been sent to the Consignee;
 - b) when for any other reason whatsoever a Consignment cannot be delivered or when a Consignment is held by Bradford Swissport Limited 'to await order' or 'to be kept until called for' or upon any like instructions and any such instructions are not given or the Consignment is not called for and removed within a reasonable time, then transit shall also be deemed to end.

7. Liability for Loss and Damage

- (1)** The End User shall be deemed to have elected to accept the terms set out in section (2) of this Condition unless, before the transit commences, the End User has agreed in writing that Bradford Swissport Limited shall not be liable for any loss or mis-delivery of or damage to or in connection with the Consignment howsoever or whensoever caused and whether or not caused or contributed to directly or indirectly by any act, omission, neglect, default or other wrongdoing on the part of Bradford Swissport Limited, its servants, agents or sub-contractors.
- (2)** Subject to this End User Agreement Bradford Swissport shall be liable for:
 - a) Physical loss, mis-delivery of or damage to living creatures, bullion, money, securities, stamps, precious metals or precious stones comprising the Consignment only if:
 - i) Bradford Swissport Limited has specifically agreed in writing to carry any such items; and
 - ii) The End User has agreed in writing to reimburse Bradford Swissport Limited in respect of all additional costs which result from the carriage of them said items; and
 - iii) The loss, mis-delivery or damage is occasioned during transit and is proved to be due to the gross negligence of Bradford Swissport Limited, its servants, agents or sub-contractors;
 - b) Gross negligent, physical loss, mis-delivery of or damage to any other goods comprising the Consignment unless the same has arisen from, and Bradford Swissport Limited has used reasonable care to minimise the effects of:
 - i) Act of God;
 - ii) any consequences of war, invasion, act of foreign enemy, hostilities(whether war or not), civil war, rebellion, insurrection, terrorist act, military or usurped power or confiscation, requisition, or destruction

- or damage by or under the order of any government or public or local authority;
- iii) seizure of forfeiture under legal process;
 - iv) error, act, omission, mis-statement or misrepresentation by the End User or other owner of the Consignment or by servants or, agents of either of them;
 - v) inherent liability to wastage in bulk or weight, faulty design latent defect, vice or natural deterioration of the Consignment;
 - vi) insufficient or improper packing;
 - vii) insufficient or improper labelling or addressing;
 - viii) riot, civil commotion, strike, lockout, general or partial stoppage or restraint of labour howsoever caused (other than that which relates to Bradford Swissport Limited's own labour force);
 - ix) Consignee not taking or accepting delivery within a reasonable time after the Consignment has been tendered.

(3) Bradford Swissport Limited shall not in any circumstances be liable for loss or damage arising after transit is deemed to have ended within the meaning of Condition 6(2) hereof, whether or not caused or contributed to directly or indirectly by any act, omission, neglect, default or other wrongdoing on the part of Bradford Swissport Limited, its servants, agents or sub-contractors

8. Fraud

Bradford Swissport Limited shall not in any circumstances be liable in respect of a Consignment where there has been fraud on the part of the End User or the owner, or servants or agents of either, in respect of that Consignment, unless the fraud has been contributed to by the complicity of Bradford Swissport Limited or of any servant of Bradford Swissport Limited acting in the course of his employment.

9. Limitation of Liability

Except as otherwise provided in this End User Agreement, the liability of Bradford Swissport Limited in respect of claims for physical loss, mis-delivery of or damage to goods comprising the Consignment, howsoever arising, shall in all circumstances be limited as follows:

- a) the value of the goods actually lost, mis-delivered or damaged where such goods are valued at under £2,000; or
- b) for goods actually lost, mis-delivered or damaged which are valued at over £2,000, a sum calculated at the rate of £10,000 Sterling per tonne on the gross weight of the goods actually lost, mis-delivered or damaged;

and the value of the goods actually lost, mis-delivered or damaged shall be taken to be their invoice value if they have been sold and shall otherwise be taken to be the replacement cost thereof to the owner at the commencement of transit, and in all cases shall be taken to include any Customs and Excise duties or taxes payable in respect of those goods provided that:

- i) in the case of loss, mis-delivery of or damage to a part of the Consignment the weight to be taken into consideration in determining the amount to which Bradford Swissport Limited's liability is limited shall be only the gross weight of that part regardless of whether the loss, mis-delivery or damage affects the value of other parts of the Consignment;

- ii) no claim shall be brought by the End User unless the value of the goods lost, mis-delivered or damaged exceeds £20;
- iii) Bradford Swissport Limited shall be entitled to proof of the weight and value of the whole of the Consignment and of any part thereof lost, mis-delivered or damaged;
- iv) The End User shall be entitled to give to Bradford Swissport Limited notice in writing to be delivered at least 7 days prior to commencement of transit requiring that the per tonne limit in 9(1)(b) above be increased, but not so as to exceed the value of the Consignment, and in the event of such notice being given the End User shall be required to agree with Bradford Swissport Limited an increase in the carriage charges in consideration of the increased limit, but if no such agreement can be reached the aforementioned £10,000 per tonne limit shall continue to apply.

10. Indemnity to Bradford Swissport Limited

The End User shall indemnify Bradford Swissport Limited against:

- (1) all liabilities and costs incurred by Bradford Swissport Limited (including but not limited to claims, demands, proceedings, fines, penalties, damages, expenses and loss of or damage to the carrying vehicle and to other goods carried) by reason of any error, omission, mis-statement or misrepresentation by the End User or other owner of the Consignment or by any servant or agent of either of them, insufficient or improper packing, labelling or addressing of the Consignment or fraud as Condition 8;
- (2) all claims and demands whatsoever (including for the avoidance of doubt claims alleging negligence), by whomsoever made and howsoever arising (including but not limited to claims caused by or arising out of the carriage of Dangerous Goods and claims made upon Bradford Swissport Limited under this End User) Agreement in respect of any loss or damage whatsoever to, or in connection with, the Consignment whether or not caused or contributed to directly or indirectly by any act, omission, neglect, default or other wrongdoing on the part of Bradford Swissport Limited, its servants, agents or sub-contractors.

11. Time Limits for Claims

- (1) Bradford Swissport Limited shall not be liable for:
 - a) damage to the whole or any part of the Consignment, or physical loss, mis-delivery or non-delivery of part of the Consignment unless advised thereof in writing within seven days, and the claim is made in writing within fourteen days, after the termination of transit;
 - b) any other loss unless advised thereof in writing within twenty-eight days, and the claim is made in writing within forty-two days, after the commencement of transit.

Provided that if the End User proves that,

- i) it was not reasonably possible for the End User to advise Bradford Swissport Limited or make a claim in writing within the time limit applicable, and
 - ii) such advice or claim was given or made within a reasonable time, Bradford Swissport Limited shall not have the benefit of the exclusion of liability afforded by this Condition.
- (2) Bradford Swissport Limited shall in any event be discharged from all liability whatsoever and howsoever arising in respect of the Consignment unless suit is brought and notice in writing thereof given to Bradford Swissport Limited within one year of the date when transit commenced.
- (3) In the computation of time where any period provided by this End User Agreement is seven days or less, Saturdays, Sundays and all statutory public holidays shall be excluded.

12. Law and Jurisdiction

Unless otherwise agreed in writing, the End User Agreement and any dispute arising thereunder shall be governed by English law and shall be subject to the jurisdiction of the English courts alone.