



## CUSTOMS BROKERAGE SERVICE

### LETTER OF DIRECT REPRESENTATION

#### Authority for a Customs Clearance Agent to act as a Direct Representative

I (i).....

Having authority to sign on behalf of

The **Principal** (ii)..... EORI no.....

Hereby appoint SGS United Kingdom Limited, EORI no. **GB208660468000** (**The Customs Agent**) to act on behalf of the entity named above in the capacity of a **Direct Representative** in accordance with Schedule 21 Customs Agents of the **Taxation (Cross Border Trade) Act 2018**.

This authorisation is applicable to all consignments arriving or departing from the UK.

This Appointment applies with effect from the date of signature until revoked by the entity named above.

The entity named above authorises SGS United Kingdom Limited to delegate customs clearance to sub agents as a **Direct Representative** of the declarant in all dealings with HMRC where circumstances necessitate.

The entity named above authorises their representative, SGS United Kingdom Limited to declare goods to HMRC using:

**Deferment Approval Number (if applicable):** .....

**UK VAT Number:** .....

**UK Company Registered No.** .....

Notes:

- (i) Name of person signing, must have authority to sign on behalf of the importer or exporter
- (ii) Legal name & EORI Trader Identification No. of importer or exporter.

In accordance with the Cross Border Trade Act 2018, a **Direct Representative** acts in the name of and on behalf of another person. In relation to import/export declarations, the importer/exporter will be liable for any customs debt arising from the declaration.

SGS United Kingdom Limited use postponed VAT accounting (PVA) for imports unless instructed otherwise in writing.

**Import Valuation:** Please note that in the absence of specific instruction regarding mandatory valuation indicators on the customs platform, SGS United Kingdom Limited makes the following assumptions to complete import declarations:

1. There is no price influence as a result of a Party Relationship between buyer and seller.
2. There are no restrictions as to the disposal or use of the goods by the buyer.
3. There is no sale or price condition/consideration in accordance with Article 70(3)(b) of the Union Customs Code.
4. No sale arrangement exists under which part of the proceeds of any subsequent resale, disposal



or use accrues directly or indirectly to the seller. For further information please see HMRC notice 252, or email [brokerage.uk@sgs.com](mailto:brokerage.uk@sgs.com).

Furthermore, the Principal authorises and commissions the Customs Agent to:

- submit requests for repayment/remission as well as to submit written objections relating to data incorrectly stated in the declaration compared to the information supplied when the order was placed;
- submit request for repayment/remission as well as to submit written objections, because incorrect information was supplied when the order was placed, at the request of the Principal;
- submit written objections in relation to corrections up to the completion of the verification of the declaration;
- handle the financial aspects of the requests and objections etc. which are mentioned above.

Separate, case-by-case agreements are required for making/submitting other requests, written objections and lodging appeals.

The **Principal** and the **Customs Agent** acknowledge that this agreement is made in consideration of the relevant customs legislation relating to the provision of Customs Brokerage service as outlined in customs legislation including:

**General Conditions** as attached.

**The Customs Agent** is entitled to refuse to perform acts provided this is communicated in a timely manner.

**The Principal** authorises the **Customs Agent** to delegate sub agents as a Direct Representative of the Principal where required.

**The Parties** – The Principal will communicate all relevant information to the Customs Agent in relation to executing this agreement including all available data relating to the completion of customs declarations. The Customs Agent will make the declarations on the basis of the information received.

**Record Keeping** – The Customs Agent is obligated to retain records of declarations and any accompanying documents for a period of eight years unless otherwise agreed. The Principal must store any documents and correspondence relating to each declaration for the same period.

**Duration and Termination** – This agreement applies for an indeterminate period of time, effective from the date of signature. The agreement may be cancelled without delay on the receipt of a registered letter. The **Customs Agent** will retain the authorisation in support of fulfilling obligations imposed on by HMRC in relation to the subject matter of this agreement.

**By signing this document, you agree to the above, the attached general conditions and confirm that you represent a UK based business with a physical location and operation in the UK.**

<b>Signed</b>		<b>Principal Name</b>	
<b>Name</b>		<b>Position at Principal</b>	
<b>Date</b>		<b>Email Address</b>	



## SGS GENERAL CONDITIONS FOR DIRECT CUSTOMS REPRESENTATION SERVICES IN THE UK

These General Conditions for Direct Customs Representation Services in the UK (the **“General Conditions”**), and, as applicable, the Proposal, the Application, any appointment letter and any appendices hereto shall constitute the entire agreement (the **“Contract”**) between the Customer and SGS with respect to the subject matter hereof. Save as otherwise provided no variation to the Contract shall be valid unless it is in writing and signed by or on behalf of the Customer and SGS by authorised signatories of each. The General Conditions shall govern the provision of Direct Customs Representation services in the UK by SGS and shall apply on the earlier of the appointment letter date or SGS commencing services on behalf of the customer (**“Effective Date”**).

### DEFINITIONS

**“Application”** means the request for services completed by the Customer;

**“Declarant”** means any organization authorised to submit declarations to UK customs in its own name;

**“Principal”** means the name of the company who signed the Letter of Direct Representation;

**“Company”** or **“SGS”** means **SGS UNITED KINGDOM LIMITED** a company registered under the laws of the United Kingdom (company number: 01193985), having its registered office at Rossmore Business Park, Inward Way, Ellesmere Port, Cheshire CH65 3EN, United Kingdom;

**“Customer”** means the company referred to in the Proposal and/or the Letter of Direct Representation (hereafter referred to as **“Customer”**),

**“Party Relationship”** means persons deemed to be related if: a) they are officers or directors of the other person’s business; b) they are legally recognised partners in business; c) they are employer and employee; d) a third party directly or indirectly owns, controls or holds 5 % or more of the outstanding voting stock or shares of both of them; e) one of them directly or indirectly controls the other; f) both of them are directly or indirectly controlled by a third person; g) together they control a third person directly or indirectly; h) they are members of the same family.

**“Proposal”** means the document provided by SGS outlining the Services to be rendered by SGS to the Customer.

**“Services”** means the provision of Direct customs representation in the facilitation of digital customs declarations and ancillary documentation only by SGS on behalf of the Customer and/or support in relation to the same as more fully described in the Proposal .

(each a **“Party”** and collectively the **“Parties”**).

The above is hereby incorporated herein as a part of the General Conditions with the same effect as if set forth in the body hereof.

**NOW THEREFORE**, the Parties agree as follows:

### GENERAL CONDITIONS

#### 1. DIRECT CUSTOMS REPRESENTATION

(a) SGS as a Direct representative shall use its reasonable commercial endeavours to lodge customs declarations to Her Majesty’s Revenues and Customs (hereafter referred to as “HMRC” or “UK Customs”) for and on behalf of the UK established Customer and/or Owner, SGS is deemed to be appointed and duly empowered to act as a Direct Customs Agent only, to make Customs declarations in the name of the Customer (Principal) as their “Direct Agent”.

(b) The Customer is not established in the UK for customs purposes and is willing to appoint SGS as its Direct customs representative to lodge customs declarations in respect of the Customer’s UK import flows, in SGS’s own name, but on behalf of the Customer, for imports into the UK and SGS is willing to act as Direct customs representative in its own name, but on behalf of the Customer and process customs declarations for the Customer’s imports into the UK;

#### 2. OBLIGATIONS OF THE CUSTOMER

The Customer shall undertake to:

(a) Provide SGS with complete and accurate written statement in respect of the HS-codes/origin/values for the products to be imported or exported into/from the UK in the form of SGS’ Import/Export Declaration Request Form’. This form shall be completed accurately for each import/export;

(b) Ensure and provide written evidence that the Customer has a legally compliant UK VAT solution (and provide written evidence of the same from a UK qualified accountant and/or solicitor) and is solely accountable and liable for UK VAT;

(c) Undergo regular assessments which shall include as a minimum an annual assessment and regular review meetings with SGS;

(d) Where applicable, deposit, payable by proforma invoice, anticipated import duties based on UK global tariff rates and information of anticipated shipping totals for two months. Such would not apply to goods, based on the information and documentation provided at the date of the request to lodge an import declaration, that are not liable to import duty in the UK (i.e. are zero rated).

(e) Pay the monthly invoices for the service of creating declarations and all other costs as described under Article 4.

(f) Not to, in any way, whether directly or indirectly, damage the good name or reputation of SGS;

(g) Act with utmost good faith and a duty of candour, as well as complying with applicable legal and/or statutory obligations to keep and maintain accurate records.

#### 3. OBLIGATIONS OF COMPANY

Company will:

(a) Receive and process the Import/Export Declaration Request Form (available upon request) submitted by the Customer and inform the Customer as soon as reasonably practicable in all the circumstances of any additional documents or information to be submitted to Company for each customs declaration;

(b) Act in accordance with all reasonable and lawful instructions contained within the information and documentation provided by the Customer. Company is obliged to perform checks on the information and documentation provided and shall exercise reasonable commercial endeavours to bring to the attention of, and seek clarification from the Customer should any instructions, information or documentation give rise to material anomalies identified within the realm of Company’s knowledge at such time, but ultimate responsibility shall rest solely with the Customer as to the accuracy, completeness and verisimilitude of any information they submit to Company;

- (c) Prepare and lodge the customs import/export declaration as Direct representative, on behalf of the Customer based on the precedent customs declaration (available upon request);
- (d) While preparing and submitting the customs declaration for each import/export, Company shall act with reasonable care and skill in order that the salient information received from the Customer is detailed in the customs declaration. Company will engage suitably trained and knowledgeable resources for the Services to the Customer which have sufficient experience and expertise in the field of customs services;
- (e) Submit the customs declaration within the pre-agreed timeframe, share a copy of the customs declaration with the Customer for each import/export declaration once the customs declaration has been submitted, and keep the Customer suitably informed on the progress of the customs declaration, in particular when deviations of the normal course of events would occur, such as for example HMRC notifying Company of administrative or physical inspections of the goods.

#### **4. COST OF SERVICES**

(a) The cost of each import/export declaration shall be set out in the Proposal. Port specific charges may come later than the declaration cost, as they are passed by the port operators retrospectively. These costs are tied to unique consignment numbers (UCN's) and will be highlighted and passed to the Customer (which shall pay the same) as soon as possible when applicable. The Company reserves the right to apply a 10% handling fee on top of any port specific charges to cover the cost of extending further credit to the Customer, its human and software resources and any other administrative or business costs.

#### **(b) NOT USED**

(c) Material adjustments in the volume of work will impact on the unit cost. If the number of declarations receive drops below in the number specified in the Proposal, Company reserves the right to increase the cost per declaration. Costs include 2 HS codes per declaration. Additional codes are available on a per unit cost. Based on one container/vehicle, additional container/vehicle shall be priced accordingly.

(d) In the event of a physical inspection of HMRC, Company will charge a fee as set out in the Proposal, and all additional external costs incurred and passed on to the Customer with a 10% administration charge.

(e) The Company reserves the right to increase its fees set out in these General Conditions once every 12 months or by mutual consent, at any time. Should Company's costs increase suddenly it shall have the right to increase its fees commensurately to cover the same at any time.

#### **5. LIABILITY AND INDEMNIFICATION**

(a) Customer will be designated as customs debtor by HMRC and, is severally liable towards HMRC for customs debts that may arise from the import/export declarations. The Parties agree that the Services shall be at the expense and risk of the Customer, as principal and as the party with an interest in the goods. SGS shall not be liable for any loss or damage whatsoever, including claims from HMRC or any other public, governmental or regulatory body, or private body, unless and until the Customer proves that the loss or damage was caused by a negligent act or omission solely arising from SGS.

(b) The Customer shall indemnify SGS for all duties, taxes, imposts, demands, damages, penalties, levies, losses and outlays including without limitation claims levied by HMRC arising, directly or indirectly, out of SGS acting in accordance with the Customer's

instructions for the customs clearance of its imports/exports into the UK, unless such duties, taxes, imposts, demands, penalties, levies, losses and outlays levied by HMRC from Company are caused by a negligent act or omission on the part of Company.

(c) The Customer shall be liable towards Company for the accuracy and completeness of the instructions, information and documentation provided to Company in respect of the Services to be provided by Company to the Customer, taking into account the provisions of the Contract.

(d) The Company shall be liable towards the Customer for the submission of the customs declaration based on the accurate and complete information and documentation provided in a timely manner by the Customer.

(e) Any advice or information, in whatever form it may be given, is provided by SGS for the Customer only. The Customer shall indemnify SGS against for claims of third parties against SGS as a consequence of passing such advice or information on to any third party.

(f) Neither Party shall be entitled to avail itself of any provision of these General Conditions limiting or excluding its liability or switching the normal burden of proof if damage to the other Party was caused by its willful misconduct or equivalent default (gross negligence).

#### **(g) NOT USED**

(h) Except in the event that the person concerned has acted with willful misconduct or gross negligence to cause damage to the Customer, the Customer undertakes that no claim shall be made against any director, servant, or employee of the SGS which imposes, or attempts to impose, upon them any liability in connection with any services which are the subject of these General Conditions, and, if any such claim should nevertheless be made, to indemnify the SGS against all consequences thereof.

(i) SGS shall not be liable for any delayed, partial or total non-performance of the Services arising through circumstances which SGS could not reasonably avoid and the consequences of which SGS was reasonably unable to prevent.

(j) Where SGS is liable towards the Customer under the Contract for compensation in respect of any claim for loss, damage or expenses, such compensation shall not exceed £10,000 (GBP) per claim or any series of claims per annum.

(k) SGS shall have no liability for any indirect or consequential loss including: (i) loss of profits; (ii) loss of business; (iii) loss of opportunity; (iv) loss of goodwill; (v) loss of accreditation; (vi) damage to reputation; (vii) consequences of delay or deviation; (viii) fines, penalties or charges; and (vi) cost of product recall. Further, the Customer shall indemnify and hold harmless SGS for the claims of any third party relating to the products, goods or services of the Customer that may be incurred by the Customer or SGS.

(l) The period of limitation for an action by the Customer against the Company arising out of the Contract or the Services ordered thereunder, shall be one (1) year, which begins on the day after the day of performance of the Services, i.e. lodging an import/export declaration as Direct representative. The Parties acknowledge that the cause for action will not in all cases be known within one (1) year as from the performance of the Services and so, in the event of such a claim for loss or damage, the one (1) year time limitation shall begin as of the day on which the Customer became aware or may reasonably be considered to have been aware of the loss or damage. In any event, no claim may be brought by the Customer

against the Company following three (3) years of the Contract commencing.

(m) The Company shall not be liable for any commitments of the Customer to third parties not otherwise described herein including, but not limited to, the Customer's subcontractors, suppliers, customers, clients, lenders, insurers, partners, agents, and employees.

## 6. TERM AND TERMINATION

(a) These General Conditions shall commence on the Effective Date and shall continue for an indefinite term unless terminated earlier in accordance with the other provisions of these General Conditions.

(b) Each of the Parties may terminate these General Conditions for breach or purported breach of the other Party of any of its obligations hereunder upon 60 days written notice, such notice setting out such breach(es) in adequate detail, to the breaching Party and the failure of the breaching Party to remedy or otherwise obtain the written consent of the other Party that the same has been resolved to its reasonable satisfaction within 21 days of such notice.

(c) Company may terminate these General Conditions for any or no reason (including its convenience) at any time upon 3 months written notice to the other Customer.

(d) Company reserves the right, at any time and without prior notice to the Customer to terminate the Contract in the event that the Customer is in material breach of any of the Customer's warranties or material obligations under these General Conditions, including, for the avoidance of doubt, where deemed unable to pay its debts as they fall due within the meaning of Section 123 of the Insolvency Act 1986 (as amended from time to time) or exhibits behaviours analogous to the same.

(e) In any case SGS shall be entitled to suspend the performance of the Services under the General Conditions, if, after the due date for payment of an invoice(s) for services SGS has served notice upon the Customer advising of the outstanding account(s) for which the payment term has expired and clearly stated that the Services will be suspended after five working days of the date of such notice if the Customer has not made the payment(s) by such time and at such date SGS has still not received such payment from the Customer in cleared funds. If SGS uses this power to suspend the performance of the Services, it is obliged to inform the Customer.

(f) SGS shall not be liable for any loss, damage or expense in respect of the termination or suspension of these General Conditions in accordance with sub-sections 6(2) (where the Customer is in default), 6(4) and 6(5) respectively.

## 7. CONFIDENTIALITY, DATA PROTECTION AND COOPERATION WITH UK CUSTOMS

(a) SGS agrees will use reasonable commercial endeavours to process information received from the Customer while performing the Services provided under these General Conditions in accordance with applicable laws and regulations on data protection.

(b) SGS agrees to suitably protect all confidential information provided by the Customer for the performance of the Services on behalf of the Customer and shall not, without prior consent from the Customer, disclose or permit disclosure of such confidential information to any third party.

(c) Notwithstanding the above, SGS as the party involved in the accomplishment of customs formalities and, as the case may be, controls performed by UK Customs, may at the request of UK Customs or other regulatory body and based on an obligation to cooperate with the authorities, provide UK Customs or other regulatory body with the requisite documents and information, and other assistance necessary for the completion of the formalities or controls. In such case, SGS shall however, where permissible and reasonably practicable in all the circumstances, be obliged to inform the Customer prior to providing documents and information or assistance to UK Customs or other regulatory body, and allow the Customer to participate in such requests, unless UK Customs or other regulatory body have instructed or implied that SGS ought to keep an audit confidential even from the Customer.

## 8. ANTI-BRIBERY AND CORRUPTION

The Parties agree to comply with all applicable anti-corruption and bribery laws and regulations including but not limited to the UK Bribery Act 2010, German Criminal Code, the Foreign Corrupt Practices Act of 1977 of the United States of America ("FCPA"), anti-money laundering, anti-terrorist financing, any and all statutes, statutory instruments, by-laws, orders, directives, decrees and laws which relate to anti-bribery and/or anti-corruption.

## 9. GOVERNING LAW AND JURISDICTION

The Agreement (and any dispute, controversy, proceeding or claim of whatsoever nature arising out of or in any way relating to it) shall be governed by and interpreted in accordance with the substantive laws of England and Wales, without giving effect to any choice of law or conflict of law rules or provisions, and all disputes shall be finally settled by the English courts. Notwithstanding the above, SGS may, at its sole discretion, issue and pursue a claim against the Customer or seek relief in any court of competent jurisdiction.

## 10. FORCE MAJEURE

(a) If Company is prevented from performing or completing any service for which the Contract has been made by reason of any cause whatsoever outside Company's control, including, but not limited to, acts of god, war, chemical explosion, riot or similar civil unrest, epidemic, novel virus, terrorist activity or industrial action; failure to obtain permits licenses or registrations; illness, death or resignation of personnel or failure by Customer to comply with any of its obligations under the Contract, the Customer shall pay to Company: i) the amount of all abortive expenditures actually made or incurred; ii) a proportion of the agreed fees equal to the proportion (if any) of the service actually carried out; and Company shall be relieved of all responsibility whatsoever for the partial or total non-performance of the required Services.

(b) Other than for payment obligations by you, neither party will be liable for a delay or failure to perform an obligation to the extent that the delay or failure is caused by an occurrence beyond the party's reasonable control. Each party acknowledges that the operation of the Internet is beyond the other party's reasonable control, and neither party will be liable for a delay or failure caused by an interruption or failure of telecommunication or digital transmission links, Internet slow-downs or failures, or other such transmission failure. The Customer acknowledges that any software is subject to the operation and telecommunications infrastructures of the Internet and the operation of Internet connection services, all of which are beyond Company's control.

## 11. ASSIGNMENT

The Parties agree that they will not assign any rights or obligations under these General Conditions, without the prior written consent of the other Party (such consent shall not unreasonably be withheld, delayed or conditioned). SGS shall not be allowed to

subcontract its services to the Customer unless it has obtained prior consent of the Customer (such consent shall not unreasonably be withheld, delayed or conditioned).

## **12. NOTICES**

All notices or other communications for Company's attention required or permitted hereunder shall be made in writing and shall be deemed to have been duly given if delivered to each of the following business e-mail addresses (or any alternative e-mail address(es) communicated by the Company to the Customer from time to time): to [Adam.Underwood@sgs.com](mailto:Adam.Underwood@sgs.com) (Operations Manager); and [brokerage.uk@sgs.com](mailto:brokerage.uk@sgs.com) (Brokerage Mailbox); and CC: to Head of UK Legal.

## **13. SEVERABILITY**

If any term or provision of these General Conditions shall be held or be illegal or unenforceable, in whole or in part, under any enactment or rule of law, such term or provision or part shall to that extent be deemed not to form part of these General Conditions but the validity and enforceability of the remainder of these General Conditions shall not be affected.

## **14. ENTIRE AGREEMENT - MODIFICATIONS**

These General Conditions reflect the entire understanding between the Parties. No waiver, alteration, variation or addition to these General Conditions shall be effective unless made in writing on or after the date of signature of these General Conditions by both Parties and accepted by an authorized signatory of both parties.

These General Conditions, including any annexures or appendices, constitutes the entire agreement between the Parties with respect to the subject matter hereof, and supersedes and replaces all prior understandings or agreements, written or oral, regarding such subject matter. General terms and conditions the Parties may from time to time use in contracts, shall not apply to these General Conditions.

## **15. MISCELLANEOUS**

(a) Each of the parties hereto acknowledges that each party to the Contract has been represented by legal counsel and/or any other relevant professional advisor in connection with the Contract and the transactions contemplated by the Contract. Accordingly, any rule of law, whether implied or express, or any legal decision that would require interpretation of any claimed ambiguities in the Contract against the party that drafted it has no application and is expressly waived.

(b) A party's failure to enforce a provision of the Contract will not waive the party's right to enforce the same provision later or right to enforce any other provision of the Contract. To be effective, all waivers must be both in writing and signed by the party benefiting from the waived provision.

(c) Any provision determined invalid or unenforceable by rule of law will be reformed to the minimum extent necessary to make the provision valid and enforceable. If reformation is not possible, the provision is deemed omitted and the balance of the agreement remains valid and enforceable.

(d) The Customer shall be responsible for complying with any and all necessary data and privacy laws as well as regulations in any applicable jurisdiction(s). This includes all applicable laws in England and Wales, European Union laws or directives, local, state, and Federal laws in the United States, and any other laws throughout the world. The Customer shall make the appropriate and required disclosures to individuals. Pursuant to clause 5, the Customer shall indemnify the Company for any alleged privacy or data security breach or violation.

(e) The Contracts (Rights of Third Parties) Act 1999 shall not apply to these General Conditions or the Contract and the Contract is not intended to benefit or be enforceable by any third party.

(f) A Party giving notice under these General Conditions must do so in writing with such notice being hand delivered or sent by prepaid, first class post or facsimile to the address for the other Party as set out in the Application. A notice will be deemed received by the other Party: a) if hand delivered, on the date of delivery; b) if sent by first class post, three days after the date of posting; c) if sent by facsimile or email, the time indicated on the sending Party's facsimile transmission, confirmation message, delivery or read receipt.

(g) The Parties acknowledge that SGS provides the Services to the Customer as

an independent contractor and that the Contract does not create any partnership, agency, employment or fiduciary relationship between SGS and the Customer.

(h) SGS reserve the right to charge interest on all costs fees and expenses due to SGS at the rate of 2% above the percentage prescribed by the Late Payment of Commercial Debts (interest) Act 1998 until the actual date of payment.

(i) The Contract shall be deemed to have been accepted by the Customer on the earlier of (a) execution of the Proposal or Letter of Appointment; or (b) SGS commencing the Services.

(j) Should Company receive documents reflecting engagements contracted between Customer and third parties or third party documents, such as copies of sale contracts, letters of credit, bills of lading, etc., they are considered to be for information only, and do not extend or restrict the scope of the Services or the obligations accepted by the Company.

(k) Customer acknowledges that the Company, by providing the Services, neither takes the place of Customer or any third party, nor releases them from any of their obligations, nor otherwise assumes, abridges, abrogates or undertakes to discharge any duty of Customer to any third party or that of any third party to Customer.