

HFW



CONTAINER SHIPPING CONTRACTS A FIXED-FEE CONTRACT REVIEW PACKAGE

As many beneficial cargo owners (BCOs) start to turn their minds to preparing their tender packages for containerised sea freight services for 2018-2019, one of the key elements to consider is the inclusion of a template framework agreement, and more importantly whether it is still fit for purpose and more than just a ‘gentleman’s arrangement’¹.

HOW WE CAN HELP

For a limited time only², HFW are offering a fixed-fee contract review package for BCOs, to ensure that the key element of the tender contains appropriate and favourable, yet balanced, terms and conditions. Fixed at £1,950 (ex VAT), our contract review package will give you:

- A review of your existing template contract by our legal experts with extensive experience in this area;
- A written report giving you commercial and legal advice on:
 - Areas for improvement and optimisation
 - How to reduce potential areas of risk
 - Alternative pricing mechanisms
 - Issues of legal enforceability
- A one-hour call or meeting at our offices to discuss our report and next steps; and
- A detailed guidance note on the BIMCO’s SERVICECON standard form contract.

¹ <http://www.hfw.com/Gentlemens-agreements-May-2012>

² For instructions received on or before 10 November 2017, thereafter but before 31 December 2017 available at £2,450 (ex VAT)



ABOUT US

HFW are at the forefront of working with BCOs to conclude more flexible, comprehensive and balanced framework agreements for purchasing containerised sea freight services from ocean carriers. Over the past decade we have worked extensively with our clients and their industry bodies and representatives to draft, review and negotiate commercial terms which are legally enforceable and acceptable for both BCOs and ocean carriers. We have also written guidance and provided advice to BCOs on the use of BIMCO's SERVICECON standard form contract.

HFW partner **Matthew Gore**, has advised BCOs across a wide variety of sectors including 'blue-chip' retailers, major supermarket chains, beverage manufacturers, food producers and leading sportswear brands. Matthew has written and spoken extensively on the topic of shipper-carrier contracting in leading industry publications and also at high-profile liner shipping events around the world. Before qualifying as a lawyer, Matthew spent his early career with the leading container shipping line. This first-hand experience gives him an unparalleled understanding of how the industry works.

Catherine Emsellem-Rope specialises in complex contractual arrangements in the logistics sector. She has extensive experience in contract drafting and negotiation on a broad range of commercial arrangements in the international supply chain, including master agreements and general terms and conditions. Before joining HFW, she spent nine years in the logistics sector working for a world leading logistics company and a major UK logistics specialist where she was senior counsel.

Craig Grant recently joined HFW's expanding Logistics team after completing his training with the firm. He specialises in commercial arrangements across the logistics sector and has experience of advising

on transport, freight forwarding and warehousing agreements, as well as transport operators' standard terms and conditions.

Matthew, Catherine and Craig work as part of our dedicated logistics and multimodal transport team, which is recognised by the leading legal directories as having a pre-eminent reputation in this field. The combination of our in-depth experience in the logistics sector and our international exposure enables us to provide our clients with sophisticated legal advice and representation, tailored to fit their business needs. Our specialist team includes lawyers who have hands-on experience of working with major industry players both in-house and on secondments. It is this experience which enables us to help our clients reach successful, cost-effective and commercial solutions.

For more information, please contact the following:



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“Going through the process and cost of implementing standard contracts, whilst daunting at the beginning, was made simple by HFW’s involvement and has saved us considerable time and money in the years that followed.”

CASE STUDY MARKS & SPENCER

M&S
EST. 1884

Back in November 2010 the relationship between Marks & Spencer (M&S) and HFW developed following a number of seminars and events focussed on BCOs and their international logistics supply chains. We were initially attracted to working with HFW as it was one of the few sector focussed international law firms who had genuine shipping and logistics experience and who were able to offer practical commercial advice on our international logistics supply chain, whilst at the same time underpinning it with detailed legal experience in this area.

We have a large number of suppliers around the globe, with sourcing split between Europe, the Middle East, Africa, the Indian sub-continent and the remainder from the Far East. Currently we move in excess of 50,000 TEU a year across multiple lanes to our retail hub in the UK and others in the world.

We wished to implement formal sea freight agreements with ocean carriers in order to provide certainty of supply and cost over a fixed term, rather than relying on spot purchasing of sea freight. This reflected the approach the M&S business took across all of its other logistics providers. However, ever mindful of the general approach of ocean carriers at the time, we understood in order to succeed in this aim we needed to table sea freight agreements which were balanced in their approach and reflected a fair risk/reward between the ocean carriers and us, as customer. HFW helped create and then negotiate the terms of formal sea freight agreements across all of our carriers in a cost effective and commercial manner. It meant for the first time ever we had clearly defined and consistent terms across all of our providers.

We take a partnership approach with our carriers and have regular dialogue with senior executives in order to have open two-way conversations and drive benefits for our supply chain. We are looking for long-term relationships where the parties can work together and hold each other to task. Stability of the marketplace, flexibility and innovation are all key attributes we look for in our carriers.

In order to ensure that the sea freight agreements were easy to understand and accessible to the business, they needed to allow for the easy insertion of commercial information and future change in requirements. HFW helped ensure that the final agreements did just that. They are now an essential part of the dialogue between us and our ocean carriers and help shape and define the on-going relationship. With HFW’s advice, we are able to easily understand the perimeters of our requests and where we are expecting too much from our carriers!

The M&S logistics department uses all modes of transport – air, sea, road and rail freight. It truly does end-to-end supply chain. It has also taken more ownership of its supply chain and has changed from landed DDP to FOB instead. It also no longer uses forwarders to negotiate on its behalf with carriers but uses them as freight managers, maintaining a direct line with shipping lines as a critical part of its supply chain.

Given the success of the implementation of sea freight agreements, we subsequently engaged HFW to extend their scope of work with us to cover freight management agreements, air freight agreements and also domestic container and international road transport agreements with other logistics service providers. Once again, we were highly impressed at the speed at which HFW were able to assist us and the commercial experience they brought to the table in carrying out this work.

Having consistent contractual terms with our providers has proved invaluable. The contracts are now much more accessible to, and understood by, the business. The contracts allow us to manage our suppliers more closely and effectively.

Going through the process and cost of implementing standard contracts, whilst daunting at the beginning, was made simple by HFW’s involvement and has saved us considerable time and money in the years that followed.

HFW has over 500 lawyers working in offices across Australia, Asia, the Middle East, Europe and the Americas. For further information about our logistics capabilities, please visit hfw.com/logistics

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