

Terms and Conditions

THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THE PROVISIONS OF CLAUSE 12 (LIMITATION OF LIABILITY).

1. **Interpretation**

1.1. The following definitions and rules of interpretation apply in these Conditions.

Definitions:

"Abnormal Indivisible Loads" as defined in the RHA Special Terms;

"Assessment Activity" means the assessment activity as identified in the Order Confirmation;

"BIFA Terms" means the British International Freight Association (BIFA) Standard Trading Conditions, as in force at the date of the Order Confirmation;

"Business Day" a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business;

"Candidate" means the individual(s) noted on the Order Confirmation who are due to attend the Training or Assessment Activity;

"Charges" the charges payable by the Customer for the supply of the Services in accordance with clause 10 (Charges and payment);

"Customer Equipment" means any equipment supplied by the Customer for use in the provision of the Services;

"CMR Terms" means the International Convention on the Contract for the Carriage of Goods by Road (CMR) or such replacement or additional regulation as in force as at the date of the Order Confirmation;

"Commencement Date" has the meaning given in clause 2.2;

"Conditions" these terms and conditions as amended from time to time in accordance with clause 19.6, and each set of the Service Specific Terms, as incorporated into each Contract pursuant to clause 3;

"Contract" the contract between the Supplier and the Customer for the supply of Services in accordance with these Conditions;

"Control" has the meaning given in section 1124 of the Corporation Tax Act 2010, and the expression "change of control" shall be construed accordingly;

"Customer" the person or firm who purchases Services from the Supplier;

"Customer Default" has the meaning set out in clause 9.2;

"Dangerous Goods" means goods that could, in the opinion of the Supplier, damage people, property or the environment, including without limitation goods that are or may become dangerous, poisonous, corrosive, volatile, explosive, flammable or radioactive;

"Deliverables" the deliverables, including any training materials produced by the Supplier for the Customer;

"Goods" means the goods (and any associating packaging, securing or dunnaging material for the same) in respect of which the Services are to be provided;

"Group" means in relation to a company: (i) any holding company of that company; (ii) any subsidiary of that company; and (iii) any subsidiary of a holding company of that company, and the terms "holding company" and "subsidiary" shall have the meaning subscribed to them in section 1159 of the Companies Act 2006;

"Intellectual Property Rights" patents, utility models, rights to inventions, copyright and neighbouring and related rights, moral rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world;

"Order" the Customer's order for Services as set out in the Customer's purchase order form, the Customer's written acceptance of a quotation by the Supplier, or overleaf, as the case may be;

"Order Confirmation" means the written confirmation issued by the Supplier in respect of the Customer's Order;

"RHA Carriage Terms" means the Road Haulage Association Limited Conditions of Carriage as in force at the date of the Order Confirmation;

"RHA Special Terms" means the Road Haulage Association Limited Special Conditions of Carriage for Abnormal Indivisible Loads as in force at the date of the Order Confirmation;

"RHA Storage Terms" means the Road Haulage Association Limited Conditions of Storage as in force at the date of the Order Confirmation;

"Services" the services, including the Deliverables, supplied by the Supplier to the Customer as set out in the Order Confirmation;

"Specification" the description or specification of the Services provided by the Supplier to the Customer as set out in or referred to in the Order Confirmation;

"Stevedoring Services" means the services specified as stevedoring services including but not limited to the receipt, handling, storage and delivery of Goods in accordance with the Customer's instructions, and including handling of cargo from place of stow on board arriving vessel to transport or on to dock, or from place of rest to place of stow on board vessel;

"Supplier" Collett & Sons Limited registered in England and Wales with company number 10285579;

"Supplier Materials" means any materials or equipment belonging to or provided by the Supplier to the Customer, and which are held by the Customer (if any);

"Training" means the training to be provided to the Candidate as identified in the Order Confirmation; and

"United Kingdom" means the United Kingdom of Great Britain and Northern Ireland, and all of its constituent parts.

1.2. Interpretation:

1.2.1. A reference to a statute or statutory provision is a reference to it as amended or re-enacted. A reference to a statute or statutory provision includes all subordinate legislation made under that statute or statutory provision.

1.2.2. Any words following the terms "including", "include", "in particular", "for example" or any similar expression, shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

1.2.3. A reference to "writing" or "written" excludes fax and email, except that an Order Confirmation may be issued and received by fax and/or email as between the parties.

2. **Basis of contract**

2.1. The Order constitutes an offer by the Customer to purchase Services in accordance with these Conditions.

2.2. The Order shall only be deemed to be accepted when the Supplier issues an Order Confirmation to the Customer at which point and on which date the Contract shall come into existence ("Commencement Date").

2.3. Any samples, drawings, descriptive matter or advertising issued by the Supplier, and any descriptions or illustrations contained in the Supplier's catalogues or brochures, are issued or published for the sole purpose of giving an approximate idea of the Services described in them. They shall not form part of the Contract or have any contractual force.

2.4. These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

2.5. Any quotation given by the Supplier shall not constitute an offer, and is only valid for a period of 10 Business Days from its date of issue.

2.6. The Supplier is not a common carrier, and accepts no liability as such. The Supplier reserves the right to agree or refuse to contract with any third party at its absolute discretion, and (at any time prior to accepting a contract to carry the same), to reject Goods that it is asked to carry according to its usual course of business.

3. **Service Specific Terms**

3.1. The following conditions ("Service Specific Terms") shall apply to the Contract as follows and shall (in the event of any inconsistency) prevail over the remainder of these Conditions:

3.1.1. Haulage Services:

3.1.1.1. where the Supplier is providing haulage services internationally, being from a departure point overseas to an arrival point either overseas or in the United Kingdom, the CMR Terms may take precedence over our standard conditions of carriage, and where they do so, the CMR Terms shall apply in respect of the provision of those services only (other terms such as CIM, Hague Visby Rules and the Warsaw Convention may also apply to the extent they take precedence over our standard terms, and where they do so the Customer is encouraged to read these terms which are available online);

3.1.1.2. where the Supplier is providing haulage services domestically, being from a departure point in the United Kingdom to a delivery point in the United

Kingdom, the RHA Terms shall apply in respect of the provision of those services only;

3.1.1.3. where the Supplier is providing haulage services for an Abnormal Indivisible Load, the RHA Special Terms shall apply in respect of the provision of those services only (excluding clause 19 of the same)

3.1.2. Storage:

3.1.2.1. where the Supplier is providing storage services for Goods, the RHA Special Terms shall apply in respect of the provision of those services only;

3.1.3. Freight Forwarding:

3.1.3.1. The BIFR Terms shall apply in respect of the provision of freight forwarding services only;

3.1.4. Stevedoring:

3.1.4.1. the provisions of clause 5 below shall apply in respect of the provision of Stevedoring Services;

3.1.5. Consultancy and other services:

3.1.5.1. the provisions of clause 6 below shall apply in respect of the provision of consultancy services;

3.1.6. Crane Hire and Lifting:

3.1.6.1. where the Services include "Contract Lifting Services" (as defined therein), the provisions of the Construction Plant-Hire Association Standard Terms and Conditions for Contract Lifting Services (as in force at the date of the Order Confirmation) shall apply to the provision of those services;

3.1.6.2. where the Services include the hiring of plant or equipment, the Construction Plant-Hire Association Model Conditions for the Hiring of Plant (as in force at the date of the Order Confirmation) shall apply to the provision of those services, and where the hire is of "mobile cranes" the Supplementary Conditions Applicable to Mobile Cranes (Wheeled and Crawler Mounted), shall also apply.

3.2. Save to the extent set out in clauses 1 to 17 (inclusive) hereof, in the event of any conflict or inconsistency between clauses 1 to 17 (inclusive) hereof, and the provisions of the Service Specific Terms, the Service Specific Terms shall prevail.

3.3. It is the Customer's responsibility to ensure they have read and understood each of the relevant Service Specific Terms, all of which are based on an industry standard. Copies of the Service Specific Terms are available on request from the Supplier.

4. **Supply of Services**

4.1. The Supplier shall supply the Services to the Customer in accordance with the Specification in all material respects.

4.2. The Supplier shall use reasonable endeavours to meet any performance dates specified in the Order Confirmation or Specification, but any such dates shall be estimates only and time shall not be of the essence for performance of the Services.

4.3. The Supplier reserves the right to amend the Specification if necessary to comply with any applicable law or regulatory requirement, or if the amendment will not materially affect the nature or quality of the Services, and the Supplier shall notify the Customer in any such event.

4.4. The Supplier warrants to the Customer that the Services will be provided using reasonable care and skill.

4.5. Where the Supplier is a custodian or bailee of the Goods pursuant to the Contract, the Supplier shall take such care of the Goods as a reasonably competent custodian or bailee would take of equivalent Goods in equivalent circumstances.

5. **Stevedoring Services**

5.1. The Customer must, within such period as instructed by the Supplier before receipt of the Goods and provision of the Services, provide the Supplier with an accurate description of the Goods including their packaging, weight, content, measure, quality, condition, marks and numbers and notify the Supplier if any of the Goods are Dangerous Goods or require special handling and/or it intends to make available Customer Equipment for the handling of the Goods.

5.2. The Supplier accepts no responsibility for the maintenance or repair of any part of the Goods nor the provision of consumables, power, fuel or other supplies thereto.

5.3. The Supplier shall only be responsible for the Goods whilst they are in the course of being loaded and unloaded and shall (unless forming a separate Contract or part of the Contract with the Supplier), have no responsibility for the Goods prior to the commencement or after the completion of loading or unloading (as the case may be).

5.4. The Customer warrants and represents that:

5.4.1. the description of the Goods is accurate in all respects;

5.4.2. unless notified and accepted by the Supplier in accordance with clause 5.1, the Goods are not Dangerous Goods;

5.4.3. all Goods are safely and securely packed and in a proper and fit condition for the Supplier to provide the Services;

Terms and Conditions

- 5.4.4. all Customer Equipment is fit for the purpose for which it is supplied;
- 5.4.5. the Goods do not infringe any law and are not prohibited by law;
- 5.4.6. it has complied with all applicable standards, laws and regulations in connection with the Goods to ensure they can be lawfully handled, transported and stored by the Supplier;
- 5.4.7. it has complied with and any Customer Equipment complies with all applicable standards, laws and regulations to ensure it can be lawfully used by the Supplier;
- 5.4.8. if it does not own the Goods, it is authorised to enter into this Contract by every person who does own or who has a proprietary interest in the Goods.
- 5.5. The Supplier shall be entitled at its sole discretion to inspect the Goods and open all packages, containers in which Goods are being held in order to do so, and if the Supplier deems, at its sole discretion, that the Goods are not in a suitable condition for loading, unloading or storage, it shall notify the Customer and shall be entitled to suspend the provision of any Service relating to those Goods, and may require the Customer to remove the Goods from their current location within 72 hours. If the Goods are not so removed, the Supplier shall be entitled to charge the Customer on an indemnity basis for all costs of storage and insurance of the same until such time as the Goods are collected, and or invoke the provisions of any lien over the Goods. The Customer shall be liable for any charges of any nature (including any duties or taxes) levied by any third party (including any governmental or other authority) related to or in connection with the Goods and in the event that the same is not paid, shall indemnify the Supplier from any losses, claims, demands and proceedings it suffers as a result of this failure to pay. The Customer shall ensure all import and export licences and clearances required for the Goods are obtained promptly so as not to delay the provision of the Services.
6. **Consultancy Services**
- 6.1. The Customer shall ensure that the Supplier is provided in good time with all information needed to enable the Supplier to perform the Services and the Supplier will be entitled to rely on that information.
- 6.2. The Customer will give all decisions and approvals in a timely manner and provide any additional assistance or information which the Supplier may reasonably request.
- 6.3. The Supplier may designate an individual to act as the principal representative of the Supplier in dealings with the Customer concerning the Services. The Supplier reserves the right to change that individual but will inform the Customer of any such change.
- 6.4. The Supplier will, to the extent that it is permitted to do so in accordance with all applicable laws, provide the Customer with details of the professional qualifications and experience of staff engaged on the Services upon request.
7. **Training Services**
- 7.1. The Customer shall ensure that each Candidate has all permissions and consents which may be required to attend the Training or Assessment Activity.
- 7.2. The Customer shall be entitled to request a single change to a single registered Candidate ("Change of Candidate Request") for each Training or Assessment Activity. This single change is free of charge provided such request is made in writing to training@Collett.co.uk at least 5 Business Days prior to the start date of the relevant Training or Assessment Activity. Any additional Change of Candidate Request per Training or Assessment Activity shall be subject to a registration charge as specified by the Supplier.
- 7.3. In addition to the single change right at clause 7.2, the Customer shall be entitled to request a single transfer of Candidate ("Transfer of Candidate Request") for each Training or Assessment Activity meaning that Candidate can attend an alternative Training or Assessment Activity held by the Supplier ("New Training or Assessment Activity") provided that:
- 7.3.1. such request is made in writing to training@Collett.co.uk at least 5 Business Days prior to the start of the Training or Assessment Activity; and
- 7.3.2. the Customer makes payment of the difference (if there is a higher cost for attending the New Training or Assessment Activity stated in the Transfer of Candidate Request) immediately upon approval of such Transfer of Candidate Request.
- 7.4. Any additional Transfer of Candidate Request per Training or Assessment Activity shall be subject to a registration charge as specified by the Supplier.
- 7.5. The Supplier shall, at its sole discretion, confirm its acceptance of such Change of Candidate Request or Transfer of Candidate Request in writing to the relevant email address provided by the Customer in the Change of Candidate Request or Transfer of Candidate Request (as the case may be).
- 7.6. Any Order made by the Customer for Training or Assessment Activity will require immediate payment of the Charges for such Training or Assessment Activity in full at the time of placing of the Order.
- 7.7. No refund for the Training or Assessment Activity Charges shall be issued in the event that:
- 7.7.1. the Customer cancels the Training or Assessment Activity; or
- 7.7.2. the Candidate withdraws from and/or does not complete the Training or Assessment Activity.
- 7.8. In the event that the Supplier cancels the Training or Assessment Activity, the Supplier, at its sole discretion, may arrange for Training or Assessment Activity to be provided to the Customer on a date mutually agreed by the Customer, or may provide a refund of the Charges for such cancelled Training or Assessment Activity.
- 7.9. The Customer and the Candidate shall not use, copy, merge, adapt, vary, modify or distribute any Deliverables without the Supplier's express written consent.
8. **Import and Export**
- 8.1. The Customer shall be responsible for ensuring the compliance of the Goods with all applicable laws and regulations relating to their use, storage, import and export into any territory, including but not limited to those territories in which Services are to be provided.
- 8.2. The Customer shall be responsible for obtaining all import and export clearances, tax clearances, levies, customs duties, brokers' fees, and permits and for the payment of all charges related to the same in relation to the import and export of the Goods from any territories in respect of which Services are to be provided.
9. **Customer's obligations**
- 9.1. In addition to its obligations under the Service Specific Terms, the Customer shall:
- 9.1.1. ensure that the terms of the Order and any information it provides in respect of the Order is complete and accurate in all respects;
- 9.1.2. co-operate with the Supplier in all matters relating to the Services;
- 9.1.3. provide the Supplier, its employees, agents, consultants and subcontractors, with access to the Customer's premises, office accommodation and other facilities as reasonably required by the Supplier;
- 9.1.4. provide the Supplier with such information and materials as the Supplier may reasonably require in order to supply the Services, and ensure that such information is complete and accurate in all material respects;
- 9.1.5. comply with all applicable laws, including health and safety laws; and
- 9.1.6. comply with any additional obligations as set out in the Specification; and
- 9.2. If the Supplier's performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation ("Customer Default"): without limiting or affecting any other right or remedy available to it, the Supplier shall have the right to suspend performance of the Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations in each case to the extent the Customer Default prevents or delays the Supplier's performance of any of its obligations;
- 9.2.2. the Supplier shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from the Supplier's failure or delay to perform any of its obligations as set out in this clause 9.2.2; and
- 9.2.3. the Customer shall reimburse the Supplier on written demand for any costs or losses sustained or incurred by the Supplier arising directly or indirectly from the Customer Default.
- 9.3. The Customer warrants that the Goods:
- 9.3.1. will not contaminate or cause danger, injury, pollution or damage to the environment or the property or people of the Supplier or any third party;
- 9.3.2. are not infested, verminous, rotten or subject to fungal attack or are liable to become so;
- 9.3.3. require for safekeeping no special protection arising from vulnerability to heat, cold, natural light, moisture, salt, pilferage, vandalism or proximity;
- 9.3.4. contain no controlled drugs or any illegal matter (in any territory, whether the place of export, import or transit)
- 9.3.5. are properly packed, secured and marked to allow for transit and handling and labelled for customs purposes;
10. **Charges and payment**
- 10.1. The Charges for the Services shall be set out in the Order Confirmation, or in the event that none are set out therein, shall be the Supplier's list price for the Services in question. In the event that the Customer requests the provision of any further Services, this shall be subject to a separate contract or agreed extension, and to any quoted and agreed charges.
- 10.2. At any time prior to commencement of the Contract, or thereafter at its sole discretion, the Supplier may request from the Customer a parent company guarantee in relation to the payment of the Charges and/or the performance of the Customer's obligations under the Contract, such guarantee to be from such institution and in such form as acceptable to the Supplier. Where the Supplier requests a guarantee at any time after formation of the Contract, it may at its discretion delay or suspend the provision of the Services under the Contract until such time as the guarantee is in place.
- 10.3. The Supplier reserves the right to increase the Charges at any time to reflect any increase in its costs which are due to any default of the Customer, including but not limited to any delay or failure to provide access to premises, paperwork, the Goods or facilities.
- 10.4. The Supplier reserves the right to increase the Charges at any time to reflect, and proportionate by, any increase in the change in costs of providing the Services, including but not limited to the costs of transport, fuel and materials.
- 10.5. Where the Charges are based in whole or part upon the number, weight or volume of Goods, the Supplier may verify the same, and the Supplier's measurements shall be deemed conclusive save in the case of manifest error.
- 10.6. The Supplier shall invoice the Customer at the period agreed in the Order Confirmation, or if no such period is stated weekly or monthly in arrears, at its discretion.
- 10.7. Subject to clause 7.6, the Customer shall pay each invoice submitted by the Supplier:
- 10.7.1. within 30 days of the date of the invoice or in accordance with any credit terms agreed by the Supplier and confirmed in writing to the Customer; and
- 10.7.2. in full and in cleared funds to a bank account nominated in writing by the Supplier, and time for payment shall be of the essence of the Contract.
- 10.8. All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax chargeable from time to time (VAT). Where any taxable supply for VAT purposes is made under the Contract by the Supplier to the Customer, the Customer shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Services at the same time as payment is due for the supply of the Services.
- 10.9. If the Customer fails to make a payment due to the Supplier under the Contract by the due date, then, without limiting the Supplier's remedies under clause 14, the Customer shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment, in accordance with the provisions of the Late Payment of Commercial Debts (Interest) Act 1998.
- 10.10. All amounts due under the Contract shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).
11. **Intellectual property rights**
- 11.1. All Intellectual Property Rights in or arising out of or in connection with the Services including but not limited to in any drawings reports, documents and computer-generated data, being together the "Deliverables" (other than Intellectual Property Rights in any materials provided by the Customer) shall be owned by the Supplier.
- 11.2. The Customer grants the Supplier a fully paid-up, non-exclusive, royalty-free, non-transferable licence to copy and modify any materials provided by the Customer to the Supplier for the term of the Contract for the purpose of providing the Services to the Customer.
- 11.3. Subject to and with effect payment in full of all charges for the relevant Services, the Supplier grants the Customer a non-exclusive licence to copy and use any Deliverables strictly for the purposes for the project for which those Deliverables were created, and subject always to referencing the Supplier as the author of the same. The Customer shall not share any Deliverable with any third party or cause any third party to rely on any report, and shall indemnify and

Terms and Conditions

- hold the Supplier harmless from any claims made against it by that third party, where that third party has relied on a Deliverable provided to it by the Customer in breach of this clause.
12. **Insurance**
- 12.1. The Customer must obtain its own insurance in respect of the Goods, to include theft and damage to Goods and any loss or damage to Goods arising as a result of the provision of the Services, and shall procure that any right of subrogation against the Supplier in favour of the insurer is excluded.
- 12.2. The Client shall obtain all such insurance cover as is necessary to cover its actual and potential liabilities and losses under or pursuant to this Contract, and shall ensure that all such insurance policies remain in force for a period of six years from the conclusion of the provision of the Services under each Contract.
- 12.3. The Customer shall ensure that the Supplier's interest is noted on each insurance policy, or that a generic interest clause has been included, and on taking out and renewing each policy, the Customer shall promptly send a copy of the receipt for the premium and policy to the Supplier.
- 12.4. The Customer shall do nothing to invalidate any insurance policy or to prejudice the Supplier's entitlement under it, and shall notify the Supplier of any material change to the policy.
13. **Limitation of liability: THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE.**
- 13.1. The limits and exclusions in this clause reflect the insurance cover the Supplier has been able to arrange and the Customer is responsible for making its own arrangements for the insurance of any excess loss.
- 13.2. The Supplier's liability shall be limited and excluded as set out in the relevant Service Specific Terms which govern the provision of services in respect of which loss has been caused.
- 13.3. Nothing in the Contract limits any liability which cannot legally be limited, including but not limited to liability for:
- 13.3.1. death or personal injury caused by negligence;
- 13.3.2. fraud or fraudulent misrepresentation; and
- 13.3.3. breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession).
- 13.4. Subject to clause 13.3, and save where the liability relates to services provided under Service Specific Terms, in which case clause 12.2 applies:
- 13.4.1. the Supplier's total liability to the Customer shall not exceed, in any contract year, a sum equal to the amount of the charges paid by the Customer during that contract year for the Services to which the liability relates. The Supplier's total liability includes liability in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with the Contract; and
- 13.4.2. the Supplier shall not be liable for the following types of loss: loss of profits; loss of sales or business.
- 13.4.2.1. loss of agreements or contracts;
- 13.4.2.2. loss of anticipated savings;
- 13.4.2.3. loss of use or corruption of software, data or information;
- 13.4.2.4. loss of or damage to goodwill;
- 13.4.2.5. indirect or consequential loss;
- For the purposes of this clause 12.4, a "contract year" means a 12-month period commencing with the date of the Contract or any anniversary of it.
- 13.5. The Supplier has given commitments as to compliance of the Services with relevant specifications in clause 3.1.4. In view of these commitments, the terms implied by sections 13 to 15 of the Sale of Goods Act 1979 and sections 3, 4 and 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.
- 13.6. The Customer shall indemnify the Supplier against any and all liabilities and losses incurred or suffered by the Supplier or its agents, employees and servants, and sub-contractors, arising as a result of or in connection with:
- 13.6.1. any breach of Contract by the Customer;
- 13.6.2. the Supplier acting in accordance with the Customer's instructions;
- 13.6.3. any fraud or negligence of any employee, agent or sub-contractor of the Customer.
- 13.7. This clause 12 shall survive termination of the Contract.
14. **Lien**
- The Supplier may keep the Goods and all documents relating to the Goods and any other goods owned by the Customer and all documents relating to those goods in their possession or control until all charges applicable for the Services provided under this Contract have been paid in accordance with the Contract, or, on provision of 28 days' written notice to the Customer, the Supplier may sell the same and retain such amount of the sale proceeds equal to the amount then owed to the Supplier under the Contract (including in regard to interest for late payment and all proper charges and expenses in relation thereto including any outstanding charges for carriage and storage), and shall account to the Customer for the balance of any proceeds of disposal.
15. **Termination**
- 15.1. Without affecting any other right or remedy available to it, the Supplier may terminate or suspend the Contract or any part of the Contract in respect of Services where it is entitled to do so pursuant to the applicable Service Specific Terms.
- 15.2. Without affecting any other right or remedy available to it, the Supplier may terminate the Contract on giving the Customer at least one month's prior written notice.
- 15.3. Without affecting any other right or remedy available to it, the Supplier may terminate the Contract with immediate effect by giving written notice to the Customer if:
- 15.3.1. the Customer commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 10 days of that party being notified in writing to do so;
- 15.3.2. the Customer takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;
- 15.3.3. the Customer suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or
- 15.3.4. the Customer's financial position deteriorates to such an extent that in the terminating party's opinion the other party's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.
- 15.4. Without affecting any other right or remedy available to it, the Supplier may terminate the Contract with immediate effect by giving written notice to the Customer if:
- 15.4.1. the Customer fails to pay any amount due under the Contract on the due date for payment; or
- 15.4.2. there is a change of control of the Customer.
- 15.5. Without affecting any other right or remedy available to it, the Supplier may suspend the supply of Services under the Contract or any other contract between the Customer and the Supplier if the Customer fails to pay any amount due under the Contract on the due date for payment, the Customer becomes subject to any of the events listed in clause 15.3.2 to clause 15.3.4, or the Supplier reasonably believes that the Customer is about to become subject to any of them.
16. **Consequences of termination**
- 16.1. On termination of the Contract:
- 16.1.1. the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, the Supplier shall submit an invoice, which shall be payable by the Customer immediately on receipt;
- 16.1.2. the Customer shall return all of the Supplier Materials and any Deliverables which have not been fully paid for. If the Customer fails to do so, then the Supplier may enter the Customer's premises and take possession of them. Until they have been returned, the Customer shall be solely responsible for their safe keeping and will not use them for any purpose not connected with the Contract.
- 16.2. Termination of the Contract shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination.
- 16.3. Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination of the Contract shall remain in full force and effect.
17. **Dispute Resolution and Arbitration**
- 17.1. If a dispute arises out of or in connection with this Contract, or its performance, validity or enforceability, then either party shall give to the other written notice of the dispute, setting out its nature and full particulars, together with relevant supporting documents. On service of the dispute resolution notice, a senior representative (nominated by each party) shall attempt in good faith and using reasonable endeavours to resolve the dispute. If the dispute is not resolved within 30 days of service of the dispute resolution notice, then clause 17.2 shall apply.
- 17.2. Save in respect of any dispute regarding payment of invoices by the Customer, in respect of which the provisions of clause 19.14 shall apply where the Customer so elects to pursue the matter in accordance with clause 19.14, the parties agree that any dispute arising out of or in connection with this Contract, including any question regarding its existence, validity or termination, shall be referred to and finally resolved by arbitration under the LCIA Rules, which Rules are deemed to be incorporated by reference into this clause. The number of arbitrators shall be one. The seat, or legal place, of arbitration shall be London, and the language used in the arbitral proceedings shall be English.
18. **Data Protection**
- 18.1. "Controller", "Processor", "Data Subject", "Personal Data", "Personal Data Breach", processing and appropriate technical and organisational measures are as defined in Data Protection Legislation.
- 18.2. "Data Protection Legislation" means all applicable data protection and privacy legislation in force from time to time in the UK including the General Data Protection Regulation ((EU) 2016/679); the Data Protection Act 2018; the Privacy and Electronic Communications Directive 2002/58/EC (as updated by Directive 2009/136/EC) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended.
- 18.3. Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 20 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation. "Applicable Laws" means (for so long as and to the extent that they apply to the Supplier) the law of the European Union, the law of any member state of the European Union and/or Domestic UK Law; and "Domestic UK Law" means the UK Data Protection Legislation and any other law that applies in the UK.
- 18.4. The parties acknowledge that for the purposes of the Data Protection Legislation, the Customer is the Controller and the Supplier is the Processor. The scope, nature and purpose of processing by the Supplier, the duration of the processing and the types of Personal Data and categories of Data Subject will be as relevant for the provision of the Services, and will be communicated in the Specification or Order Acknowledgment.
- 18.5. The Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data to the Supplier and/or lawful collection of the Personal Data by the Supplier on behalf of the Customer for the duration and purposes of the Contract.
- 18.6. The Supplier shall, in relation to any Personal Data processed in connection with the performance by it of its obligations under the Contract:
- 18.6.1. process that Personal Data only on the documented written instructions of the Customer which includes for the purposes of providing the Services unless the Supplier is required by Applicable Laws to otherwise process that Personal Data. Where the Supplier is relying on Applicable Laws as the basis for processing Personal Data, the Supplier shall promptly notify the Customer of this before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit the Supplier from so notifying the Customer;
- 18.6.2. ensure that it has in place appropriate technical and organisational measures, , to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);
- 18.6.3. not transfer any Personal Data outside of the European Economic Area otherwise than in accordance with Data Protection Legislation;
- 18.6.4. assist the Customer, at the Customer's cost, in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security,

Terms and Conditions

- breach notifications, impact assessments and consultations with supervisory authorities or regulators.
- 18.7. The Customer consents to the Supplier appointing identified third-party processors of Personal Data under this Contract as required to perform the Services provided that the Supplier confirms that it will enter with the third-party processor into a written agreement which the Supplier will confirm to reflect and will continue to reflect the requirements of the Data Protection Legislation. As between the Customer and the Supplier, the Supplier shall remain fully liable for all acts or omissions of any third-party processor appointed by it pursuant to this clause.
19. **General**
- 19.1. Status. Nothing in the Contract is intended to or shall be deemed to establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party.
- 19.2. Force majeure. Neither party shall be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under the Contract if such delay or failure result from events, circumstances or causes beyond its reasonable control, including in the case of the Supplier and without limitation, fire, flood, drought, storm, lightning, act of God or other natural disaster, perils of the sea or air, explosion, sabotage, accident, embargo, epidemic, pandemic, labour dispute or shortage, industrial action or lockout, riot, civil commotion, act of war, act of terrorism, in each case occurring in any country in respect of which Services have been or are to be provided under the Contract.
- 19.3. Assignment and other dealings. The Supplier may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Contract. In particular, and without limitation to the above rights, the Supplier will be entitled to subcontract all or part of the Services to be provided within its Group. The Customer shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under the Contract without the prior written consent of the Supplier.
- 19.4. Confidentiality. Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by this clause. Each party may disclose the other party's confidential information: (i) to its employees, officers, representatives, subcontractors or advisers who need to know such information for the purposes of carrying out the party's obligations under the Contract. Each party shall ensure that its employees, officers, representatives, subcontractors or advisers to whom it discloses the other party's confidential information comply with this clause; and (ii) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority. Neither party shall use the other party's confidential information for any purpose other than to perform its obligations under the Contract. The Customer shall make no announcements or issue any publications or statements, or publish any other reference to its contract or relationship with the Supplier without the prior written consent of the Supplier.
- 19.5. Entire agreement. The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter. Each party acknowledges that in entering into the Contract it does not rely on, and shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Contract. Nothing in this clause shall limit or exclude any liability for fraud.
- 19.6. Variation. Except as set out in these Conditions, no variation of the Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).
- 19.7. Waiver. A waiver of any right or remedy under the Contract or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy. A failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under the Contract or by law shall prevent or restrict the further exercise of that or any other right or remedy.
- 19.8. Severance. If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.
- 19.9. Non-solicitation. In order to protect the legitimate business interests of the Supplier, the Customer covenants with the Supplier that it shall not attempt to solicit or entice away, or solicit or entice away from the employment of the Supplier any firm, company or person employed by the Supplier who has been engaged in the provision of the Services or the management of the contract.
- 19.10. Ethics. The Customer shall at all times comply with all applicable laws and regulations relating to foreign exchange controls, bribery corruption and slavery, customs and immigration, anti-corruption and fraud, anti-trust, trade sanctions and criminal matters.
- 19.11. Notices.
- 19.11.1. Any notice given to a party under or in connection with the Contract shall be in writing and shall be delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case).
- 19.11.2. Any notice shall be deemed to have been received:
- 19.11.2.1. if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address; and
- 19.11.2.2. if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting and
- 19.11.2.3. if sent by pre-paid airmail providing proof of postage, at 9.00am on the fifth Business Day after posting.
- 19.11.3. This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any other method of dispute resolution.
- 19.12. Third party rights.
- 19.12.1. Unless it expressly states otherwise, the Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.
- 19.12.2. The rights of the parties to rescind or vary the Contract are not subject to the consent of any other person.
- 19.13. Governing law. The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by, and construed in accordance with the law of England and Wales.
- 19.14. Jurisdiction. Subject to clause 16, each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation, and provided always that for the sole benefit of the Supplier, nothing in this clause shall limit the right of the Supplier to take proceedings against the Customer in any court of competent jurisdiction.