

## **Customer Terms & Conditions Of Carriage 2022**

CED COURIERS

51 Parsonage Gardens

Enfield

London

EN2 6JR

**CED Couriers** (hereinafter referred to as “the Carrier “) is not a common carrier and accepts goods for carriage only upon that condition and the Conditions set out below. No servant or agent of the Carrier is permitted to alter or vary these Conditions in any way unless expressly authorised in writing to do so by a duly authorised person. If any part of these Conditions is incompatible with applicable legislation, such part shall, as regards the Contract, be overridden to that extent and no further.

### **1. Definitions**

In these Conditions:

“Customer” means the person, firm or company who contracts for the services of the Carrier.

“Contract” means the contract of carriage between the Customer and the Carrier.

“Consignee” means the person or company to whom the Carrier contracts to deliver the Consignment to.

“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 Customer to the Consignee from one address to another address.

“Dangerous Goods” means goods set out in the Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations (CDG) and the European agreement “Accord européen relatif au transport international des marchandises dangereuses par route” (ADR), which together regulate the carriage of dangerous goods by road including, explosives, radioactive material, and any other goods presenting a similar hazard.

“Delivery Address” means the address for delivery of the Consignment notified to the Courier at the time of booking.

“Demurrage” means any cost or expense the Carrier suffers as a result of the improper, excessive, or unreasonable detention of any vehicle, trailer, container, or other equipment belonging to or under the control of the Carrier.

“Force Majeure Event” shall have the meaning set out in Condition 14(3)(b).

“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 that the information is readily accessible and durable so as to be usable for subsequent reference.

## **2. Application of Conditions**

**(1)** These conditions shall:

**(a)** apply to and be incorporated into the contract between the Customer and the Carrier;

**(b)** prevail over any inconsistent terms or conditions contained, or referred to, in the Customer’s purchase order, confirmation of order, acceptance of a quotation or specification, or implied by law, trade custom, practice or course of dealing.

**(2)** The Road Haulage Association Limited Conditions of Carriage 2020 are hereby incorporated into the Conditions (“RHA Terms”). In the event of any conflict or inconsistency between the RHA Terms and these Conditions, the terms of the RHA Terms shall prevail.

**(3)** The Customer’s purchase order, or the Customer’s acceptance of a quotation for services by the Carrier, constitutes an offer by the Customer to purchase the services specified in it on these Conditions. No offer placed by the Customer shall be accepted by the Carrier other than:

**(a)** by a written or verbal acknowledgement of the quote issued by the Carrier; or

**(b)** (if earlier) by the Carrier starting to provide services when a contract for the supply and purchase of those services on these Conditions will be established. The Customer’s standard terms and conditions (if any) attached to, enclosed with, or referred to in any purchase order or other document shall not prevail.

## **3. Bookings, commencement, and duration.**

(1) Each booking by the Customer shall be submitted by the Customer to the Carrier by telephone or email.

- (2) The Carrier shall provide a quotation for the delivery of the Consignment, such a quotation shall be valid for a period of 7 days or such other period as the Carrier may specify.
- (3) The Carrier reserves the right to refuse to accept any bookings.
- (4) The services supplied under this agreement shall be provided by the Carrier to the Customer from the date of acceptance by the Carrier of the Customer's offer in accordance with condition 2(1)(3). above.
- (5) The services supplied shall continue to be supplied until the Consignment is delivered to the delivery address or the agreement is terminated.

#### **4. Parties and Sub-Contracting**

- (1) The Customer warrants that he is either the owner of the Consignment or is authorised by such owner to accept these Conditions on such owner's behalf.
- (2) The Carrier, and any other carrier employed by the Carrier, may employ the services of any other carrier for the purpose of fulfilling the Contract in whole or in part and the name of every other such carrier shall be provided to the Customer upon request. The Carrier may at any time assign, mortgage, charge, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Contract, to the extent permitted by law.
- (3) The Carrier contracts for itself and as agent 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 these Conditions to "the Carrier " shall be deemed to include every other such carrier, servant and agent with the intention that they shall have the benefit of the Contract and collectively and together with the Carrier be under no greater liability to the Customer or any other party than is the Carrier hereunder.
- (4) Notwithstanding Condition 2(3) the carriage of any Consignment by rail, sea, inland waterway or air is arranged by the Carrier as agent of the Customer to be carried out by a third party and shall be subject to the conditions of the third party rail, shipping, inland waterway, or air carrier contracted to carry the Consignment. The Carrier 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 the Carrier.

## **5. Dangerous Goods**

- (1) The Carrier shall not be obliged to carry any Dangerous Goods or Consignments.
- (2) The Customer is responsible for ascertaining if the contents of any Consignment are Dangerous Goods, are prohibited or are subject to restrictions or specific requirements either within the UK or the country of destination for international deliveries.
- (3) The Customer must not send or attempt to send a Consignment containing any Dangerous Goods, prohibited or restricted goods via the Carrier without disclosing this information to the Carrier.
- (4) If the Customer does send or attempt to send Dangerous Goods, prohibited or restricted goods the Customer may be liable to prosecution and shall indemnify and keep indemnified the Carrier and its employees, contractors, subcontractors, and agents, against any loss or damage suffered or liability incurred as a result of such actions.
- (5) If a Consignment containing any Dangerous Goods, prohibited or restricted goods is sent by the Customer, the Carrier may deal with the Consignment in its sole and absolute discretion (without incurring any liability whatsoever to the Customer or Recipient) including destroying or otherwise disposing of such Parcel or Consignment in whole or in part or returning the Consignment to the Customer, and shall be entitled to charge the Customer the cost of disposal and all other costs reasonably incurred and additionally the sum of £20, (or such sum as specified by the Carrier on its website) if it chooses to return the Consignment or any part of it.
- (6) The Carrier may, acting reasonably, add or remove items from the definition of prohibited goods or restricted goods (and may vary any applicable restrictions) without notice, by making the details of any such additions or deletions available on its website).
- (7) The Customer shall be liable to the Carrier its employees, subcontractors and agents for all loss, damage or injury arising out of the carriage of Dangerous Goods, prohibited or restricted goods, whether declared as such or not and all goods not properly packed and duly labelled (or not in compliance with any other specific requirements) to the extent that such loss, damage or injury is caused by the nature of those goods.
- (8) Dangerous Goods (prohibited and restricted goods) must be declared by the Customer and if the Carrier agrees to accept them for carriage they must be classified, packed, marked, labelled and documented in accordance with the statutory regulations for the carriage by road of the substance declared.

(9) Transport Emergency Cards (Tremcards) or information in writing in the manner required by the relevant statutory provisions must be provided by the Customer in respect of each substance and must accompany the Consignment. The Carrier will ensure that the cards are appropriate to the load.

(10) The Carrier reserves the right to open and inspect any Consignment.

## **6. Delivery**

(1) The Customer will ensure that the Consignment is properly and safely packed, secure, and safe to be carried, stored, and transported.

(2) The Carrier will use all reasonable efforts to ensure Consignments are delivered in accordance with the time notified to the Customer, however, it is agreed that such times are estimates only and time shall not be of the essence for the purpose of this agreement.

(3) When Consignments are to be collected from a customer's address the Customer will provide appropriate equipment and labour for loading the Consignment.

(4) Delivery shall be deemed to be completed when the Carrier completes unloading of the Consignment to the Delivery Address, and a proof of delivery is obtained and a signature is obtained ("POD"). The driver who delivers the Consignment shall scan the POD and upload photographic evidence as required by the Carrier.

## **7. Loading and Unloading**

(1) Unless the Carrier has agreed in writing to the contrary with the Customer:

(a) The Carrier 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 Customer warrants that any special appliances or instructions required for loading or unloading the Consignment which are not carried by the vehicle will be provided by the Customer or on the Customer's behalf.

(c) The Customer shall ensure that any cranes, fork lift trucks, slings, chains or other equipment used in loading or unloading the vehicle are suitable for that purpose and

will indemnify the Carrier against any and all consequences of failure of or unsuitability of such equipment.

- (d)** The Customer shall ensure that there is adequate access to the loading and the unloading points and that the roadways to and from the public highway are of suitable material and that unloading will take place on good sound hardstanding, where there will be sufficient space to load or unload the vehicle in safety.
- (e)** The Carrier shall be under no liability whatsoever to the Customer for any damage whatsoever, howsoever caused, if the Carrier is instructed or provided with special appliances to load or unload any Consignment which, in breach of the warranty in (b) above, have not been provided by the Customer or on the Customer's behalf.
- (f)** The Customer shall indemnify the Carrier against all liability or loss, or damage suffered or incurred (including but not limited to damage to the Carrier's vehicle) as a result of the Carrier's personnel complying with the instructions of the Customer or the Consignee or their servants or agents.
- (g)** The Carrier shall not be required to provide service beyond the usual place of collection or delivery but if any such service is provided by the Carrier it shall be at the sole risk of the customer and subject to 7(3) below.
- (2)** The Customer shall indemnify the Carrier against all claims and demands which could not have been made if such instructions as are referred to in (1)(e) of this Condition and such service as is referred to in (1)(g) of this Condition had not been given.
- (3)** The Carrier shall not be liable for any loss or damage whatsoever, howsoever caused, if the Carrier's personnel are instructed by the Customer or the Consignee of their servants or agents to provide service to an area which does not comply with (d) above, whether or not against the recommendations of the Carrier or the Carrier's personnel.
- (4)** The customer shall make available to the Carrier upon request details of any risk assessments which may have been carried out at the collection and/or delivery addresses. The responsibility for carrying out such risk assessments shall be that of the Customer and not of the Carrier.
- (5)** Unless otherwise agreed in writing, the Customer will be responsible for loading the Consignment onto the vehicle and will also be responsible for the Consignee unloading the Consignment off the vehicle. The Carrier will not be responsible for any loss or damage to the Consignment arising from loading the Consignment onto or unloading the Consignment off the vehicle, or from the overloading of the vehicle or from the unsafe loading of the vehicle. The Carrier may, at its sole discretion, through its servants and agents provide assistance in loading or unloading the Consignment if requested to do so by the Customer or the Consignee or the agents of either. The

Customer shall indemnify the Carrier from and against all and any loss, damage, death or injury that may arise whilst the loading or unloading operations is taking place whether or not such loss, damage, death or injury is attributable to the negligence of the Carrier, its employees, contractors, subcontractors, servants or agents.

## **8. Obligations of the Customer**

The Customer warrants that:

- (1)** the Consignment does not and will not cause pollution of the environment or harm to human health; require any official consent or licence to handle, possess, deal with, or carry; at any time whilst in the care or control of the Carrier constitute waste (unless the Carrier has been previously advised otherwise); and that the Consignment is of a nature that can be legally transported in the United Kingdom;
- (2)** it will comply, and will procure that all of its agents, employees and sub-contractors also comply, with any reasonable regulations of the Carrier relating to handling, health and safety, and security, of which they are notified or have been notified; and
- (3)** it will provide the Carrier with such information and materials as the Carrier may reasonably require in order to comply with its obligations under the Contract and will ensure that such information is complete and accurate in all material respects.
- (4)** If the Carrier's performance of any of its obligations under the Contract is prevented, hindered, or delayed by any act or omission of the Customer or by any failure by the Customer to perform any relevant obligation ("**Customer Default**"), then
  - (a)** without limiting or affecting any other right or remedy available to it, the Carrier shall have the right to suspend performance of its obligations until the Customer remedies the Customer Default, and may 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, hinders, or delays the Supplier's performance of any of its obligations;
  - (b)** the Carrier shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from the Carrier's failure to perform or delay in performing any of its obligations as set out in this Condition 8(4); and
  - (c)** the Customer shall on written demand reimburse the Carrier for any costs or losses sustained or incurred by the Carrier arising directly or indirectly from the Customer Default.

## **9. Consignment Notes and Signed Receipts**

**(1)** The Carrier shall, if so required, sign a document prepared by the sender acknowledging the receipt of the Consignment but no such document shall be evidence of the condition or of the correctness of the declared nature, quantity, or weight of the Consignment at the time it is received by the Carrier and the burden of proving the condition of the Consignment on receipt by the Carrier and that the Consignment was of the nature, quantity or weight declared in the relevant document shall rest with the Customer.

**(2)** The Customer shall, prior to or upon the completion of loading the Consignment, sign and forthwith deliver to the Carrier a consignment notes stating:

**(a)** The Collection address, the Consignee, and the Delivery Address.

**(b)** A complete and accurate description of the nature of the goods within the Consignment and the method of packing.

**(c)** The number of items, parcels, packages and/or containers in the Consignment;

**(d)** The gross weight of the goods within the Consignment or their quality otherwise expressed and

**(e)** Any other information the Carrier may reasonably require.

## **10. Transit**

**(1)** Unless otherwise agreed expressly between the parties, transit shall commence when the Carrier takes possession of the Consignment whether at the point of collection or at the Carrier's premises.

**(2)** Transit shall (unless otherwise previously determined) end when the Consignment is tendered at the Delivery Address provided that;

**(a)** if no safe and adequate access or no adequate unloading facilities there exist and the Consignment cannot be delivered then transit shall be deemed to end at the expiry

of one clear day after notice in writing (or by telephone) of the arrival of the Consignment at the Carrier's premises has been sent to the Consignee; and

**(b)** when for any other reason whatever a Consignment cannot be delivered or when a Consignment is held by the Carrier 'to await order ' or to be 'kept till called for' or upon



any like instructions and such instructions are not given or the Consignment is not called for and removed within a reasonable time, then transit shall be deemed to end at the expiry of that reasonable time.

**(3)** The Customer shall ensure that the Consignment is securely and properly packed and labelled in accordance with any relevant legislation and in such a condition that it is not likely to cause injury or damage to person or property.

**(4)** The Customer shall ensure that no loss or damage to any of the vehicles or trailers occurs whilst at the collection or delivery premises and shall be liable for any such damage.

**(5)** The Consignment shall be at the sole risk of the Customer at all times when the Consignment is not in transit.

### **11. Undelivered or Unclaimed Consignments**

**(1)** When the Carrier is unable to effect delivery, the Carrier shall use its reasonable endeavours to notify the Customer and the Consignee of any undelivered or unclaimed Consignment. The Consignment will be removed from the Carrier's vehicle the next day and stored at a location of the Carrier's choosing (additional charges may be incurred for storage and charged to the Customer). Unless the Consignment is collected by the Customer or instructions are provided for return of further delivery (for which there will be an additional charge) within 10 business days of notice being given to the Customer, the provisions in clause 19 (Lien) will prevail over the Consignment and the Carrier may sell or destroy the Consignment as if it were the original owner. Any charges incurred by the Carrier in selling or destroying the Consignment may be charged to the Customer.

**(2)** The Carrier shall use its reasonable endeavours to obtain what is in its view a reasonable price for the Consignment and shall use the proceeds of sale to discharge the Carrier's expenses incurred in relation to the carriage, storage and sale or disposal of the Consignment. Any remaining amounts will be charged to the Customer and any proceeds will be paid over to the Customer upon its written request, upon which the Carrier shall be discharged from all liability in respect of the Consignment.

### **12. Carrier's Charges**

**(1)** The Carrier's charges shall be payable by the Customer without prejudice to the Carrier's rights against the Consignee or any other person provided that when any Consignment is consigned 'carriage forward' the Customer shall not be required to pay

such charges unless the Consignee fails to pay after a reasonable demand has been made by the Carrier for payment thereof.

- (2)** Time is of the essence of payment of all and any sums payable by the Customer to the Carrier.
- (3)** Charges shall be payable when due without deduction or deferment on account of any claim, counterclaim or set-off. The Customer shall pay the Carrier within 30 days month end date of invoice and the Carrier shall be entitled, without prejudice to any other right, the Carrier shall be entitled to charge interest and legal costs on any overdue sum from the due date until payment of the overdue sum, whether before or after judgement. Interest under this clause will accrue each day at the rate prescribed by the Late Payment of Commercial Debts (Interest) Act 1998 as amended from time to time.
- (4)** If the Customer becomes insolvent or any sums owed by the Customer on any invoice or account with the Carrier become overdue for payment, any credit terms shall be cancelled with immediate effect and all invoices or accounts issued by the Carrier shall immediately be deemed due for payment and thereupon become payable.
- (5)** Unless otherwise agreed with the Customer at the time of the booking, the Carrier shall not be required to obtain a signed or any other type of proof of delivery (including photographic proof) of the Consignment from the Consignee. Where the Carrier does agree at the time of booking to obtain such proof of delivery no payment shall however be withheld by the Customer where the Carrier is unable to provide a proof of delivery unless notification of non-delivery is received by the Carrier no more than 48 hours after the expected time of delivery of the Consignment and the Carrier is subsequently unable to evidence proof of delivery.
- (6)** The Customer shall pay to the Carrier any storage charges incurred as a result of it exercising its lien in accordance with clause 19.
- (7)** The Customer is entitled to cancel the collection of a Consignment at any time before the agreed collection time. If the Customer cancels the collection less than an hour before the agreed time the Carrier reserves the right to charge a cancellation fee equivalent to 100% of the total agreed charge.
- (8)** If the Consignment is not ready at the agreed collection time the Carrier reserves the right to charge such fees as notified in the quotation provided, for every 15 minutes or part thereof up until the time the Consignment is ready for loading after the period agreed in the quotation.
- (9)** If the Consignee has not completed the loading or unloading of a Consignment within 15 minutes of arrival of the Carrier at either the loading address or the Delivery Address then the Carrier reserves the right to charge such fees as notified in the

quotation provided for every 15 minutes after the agreed period within the quote until the Consignment unloading is complete.

- (10)** The Carrier 's charges are subject to adjustment by the Carrier to account for any variation in its costs including (but not limited to) variations in wages, cost of materials, fuel cost, exchange rate fluctuations, alteration of duties, Local Authority rates, National Insurance and other employment costs, VAT, and other costs.
- (11)** In the event that the Carrier provides services in addition to those originally agreed including (without limitation) providing services outside working hours, making deliveries to locations other than the Delivery Address or outside the time at which the Carrier is to collect or deliver the Consignment, the Carrier shall be entitled to be paid by the Customer such additional amount as represents the additional cost incurred together with a management charge (up to £100).
- (12)** The Customer shall not be entitled to withhold, deduct, or set off against any amount due to the Carrier any sum which it alleges is due to it from the Carrier.
- (13)** The Customer is responsible for ensuring that it has paid the appropriate charges. If at any time the Carrier determines that the Customer has not paid the appropriate charges, then the Customer shall be liable to the Carrier for the difference between what the Customer initially paid and the amount which the Customer should have paid.

The Carrier may at its discretion suspend any account that the Customer has with the Carrier until any unpaid amount is repaid, as well as take any other legal action the Carrier is entitled to recover any unpaid amounts.

### **13. Cancellations**

- (1)** The Customer may cancel the order up to 24 hours before and receive a full refund by contacting the Carrier and providing the relevant order number connected to the Consignment.
- (2)** If an order is cancelled within 24 hours of collection, the Carrier will endeavour to cancel the order and issue a refund where possible. If however, the Carrier is unable to cancel delivery without incurring costs, those costs shall be passed on to the Customer and in any case the Customer shall be unable to cancel the order and shall not be entitled to a refund if the Carrier has collected the Consignment or it has been dropped off/the label has been used.

## 14. Liability for Loss and Damage

(1) The Customer shall be deemed to have elected to accept the terms set out in subclauses (2) and (3) unless, before the transit commences, the Customer has agreed in writing that the Carrier shall be under no liability for loss of, or mis-delivery of or damage to or in connection with the Consignment, howsoever or whensoever caused.

(2) Subject to this clause 14, the Carrier shall only be liable for loss 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 the Carrier, its employees, contractors, subcontractors or agents if and to the extent that the Carrier has been negligent.

(3) Subject to these Conditions the Carrier 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) the Carrier has specifically agreed in writing to carry any such items; and

(ii) the Customer has agreed in writing to reimburse the Carrier in respect of all additional costs which result from the carriage of the said items; and

(iii) the loss, mis-delivery or damage is occasioned during transit and is proved to be due to the negligence of the Carrier, its employees, contractors, subcontractors or agents;

(b) physical loss, mis-delivery of or damage to any other goods comprising the Consignment unless the same has arisen from a “**Force Majeure Event**” which shall mean any act(s), event(s), circumstances(s) or cause(s) the occurrence of which is beyond the reasonable control of the Carrier, including but not limited to:

(i) 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.

(ii) seizure or forfeiture under legal process;

(iii) error, act, omission, mis-statement or misrepresentation by the Customer or other owner of the Consignment or by servants or agents of either of them;

(iv) inherent liability to wastage in bulk or weight, faulty design, latent defect or inherent defect, vice, or natural deterioration of the Consignment;

- (v) any special handling requirements in respect of the Consignment which have not been notified to the Carrier;
  - (vi) insufficient or improper packing, labelling or addressing;
  - (vii) act of God, riot, civil commotion, strike, lockout, general or partial stoppage or restraint of labour from whatever cause;
  - (viii) fire, flood, storm, earthquake, pandemic, or epidemic.
  - (ix) road congestion, road accidents, delays incurred at any delivery location or lack of delivery instructions from the Customer, vehicle breakdown.
  - (x) Consignee not taking or accepting delivery within a reasonable time after the Consignment has been tendered.
- (4) The Carrier shall not in any circumstances be liable for loss or damage arising after transit is deemed to have ended within the meaning of these conditions, whether or not caused or contributed to directly or indirectly by any act, omission, neglect, default, or other wrongdoing on the part of the Carrier, its servants, agents, or sub-contractors.
- (5) The Carrier shall not be liable for any loss or deterioration of, or damage to, or nondelivery, mis-delivery of any property (including the Consignment) or any other claim in any circumstances whatsoever, howsoever caused save to the extent that the same is caused by its wilful default or negligence.
- (6) Unless agreed otherwise, the Carrier shall not be obliged to insure the Consignment, and where it does so, will insure on the conditions set out by the Road Haulage Association and CMR. The Customer is responsible for insuring against all risks for the full insurable value.

## **15. Fraud**

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

## **16. Limitation of Liability**

**(1)** Except as otherwise provided in these Conditions, the liability of the Carrier 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 to the lesser of

**(a)** the value of the goods actually lost, mis-delivered or damaged; or

**(b)** the cost of repairing any damage or of reconditioning the goods; or

**(c)** a sum calculated at the rate of £1,300 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 the Carrier's liability is limited shall be only the gross weight of that part regardless of whether the loss, misdelivery or damage affects the value of other parts of the Consignment;

**(ii)** nothing in this Condition shall limit the liability of the Carrier to less than the sum of £10;

**(iii)** the Carrier may require the Customer to substantiate a claim by providing any relevant information about the consignment including proof of despatch, proof of value, estimates for repair costs, cost price, invoices, weight and nature of the item(s) lost or damaged, serial numbers and IMEI numbers for electrical items. This may include requesting any recipient of the Consignment to retain all packaging, or obtaining other documentary evidence as requested by the Carrier.

**(iv)** the Customer shall be entitled to give to the Carrier written notice to be delivered at least 7 days prior to commencement of transit requiring that the £1,300 per tonne limit in 11 (1)(c) above be increased, but not so as to exceed the value of the Consignment, and in the event of such notice being given the Customer shall be required to agree with the Carrier an increase in the carriage charges in consideration of the increased limit, but if no such agreement can be reached the aforementioned £1,300 per tonne limit shall continue to apply.

**(2)** The liability of the Carrier in respect of claims for any other loss whatsoever (including indirect or consequential loss or damage and loss of market), and howsoever arising in connection with the Consignment, shall not exceed the amount of the carriage charges in respect of the Consignment or the amount of the claimant's proved loss, whichever is the lesser, unless;

**(a)** at the time of entering into the Contract with the Carrier the Customer declares to the Carrier a special interest in delivery in the event of physical loss mis-delivery or damage or of an agreed time limit being exceeded and agrees to pay a surcharge calculated on the amount of that interest, and

**(b)** at least 7 days prior to the commencement of transit the Customer has delivered to the Carrier written confirmation of the special interest, agreed time limit and amount of the interest.

## **17. Indemnity to the Carrier**

**(1)** The Customer shall indemnify the Carrier against:

**(a)** all liabilities and costs incurred by the Carrier (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 Customer or other owner of the Consignment or by any employee, contractor, subcontractor or agent, insufficient or improper packing, labelling or addressing of the Consignment or fraud as in Condition 15 and

**(b)** 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 the Carrier by HM Customs and Excise in respect of dutiable goods consigned in bond) in excess of the liability of the Carrier under these Conditions 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 the Carrier, its servants, agents or sub-contractors.

**(c)** Any sensitive personal data, information and documents contained within a Consignment, including but not limited to names, addresses, bank details, signatures and dates of birth is entirely at the Customer 's risk and no compensation is available for these items. Data stored on electronic media, for example data disks, hard drives, magnetic tapes or pen drives must be suitably encrypted. The Customer shall indemnify the Carrier against all actions, claims, proceedings and judgments together with costs incurred relating to loss, damage or disclosure of such data documents.

## **18. Time Limits for Claims**

**(1)** The Carrier 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 the Carrier has been negligent and the Customer has advised the Carrier in writing of the issue 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.

**(2)** The Carrier may make such investigations as it deems necessary to satisfy itself of the validity of any claim and the Customer shall co-operate as is reasonable in the circumstances. In the case of claims for loss or damage, the Carrier may take as reasonable amount of time to undertake investigations and search activity.

**(3)** Any information requested to substantiate a claim must be made available to the Carrier within 14 days of

**(4)** If the information requested is not received within this timescale, the Carrier reserves the right to close the claim. Should there be an error in a claim application or the supporting evidence that results in the need to re-issue a cheque, an administration charge of £10 will be deducted from the claim amount.

**(5)** If a dispute arises out of or in connection with the provisions of the Services under these Conditions or the performance, validity or enforceability of them (“Dispute”) then the parties shall follow the procedure set out in this clause:

**(a)** either party shall give to the other written notice of the Dispute, setting out its nature and full particulars (“Dispute Notice “), together with relevant supporting documents. On service of the Dispute Notice, both parties shall attempt in good faith to resolve the Dispute;

**(b)** if for any reason both parties are unable to resolve the Dispute within 30 days of service of the Dispute Notice, the parties will attempt to settle it by mediation in accordance with the CEDR Model Mediation Procedure. Unless otherwise agreed between the parties, the mediator shall be nominated by CEDR. To initiate the mediation, a party must serve notice in writing (“ADR notice “) to the other party to the Dispute, requesting a copy of the ADR notice should be sent to CEDR. The mediation will start not later than 14 days after the date of the ADR notice.



**(c)** The commencement of mediation shall not prevent the parties commencing or continuing court proceedings in relation to the Dispute under condition 22 (Governing Law and Jurisdiction) which shall apply at all times.

**(d)** If the Dispute is not resolved within 30 days after service of the ADR notice, or either party fails to participate or to continue to participate in the mediation before the expiration of the said period of 30 days, or the mediation terminates before the expiration of the said period of 30 days, the Dispute shall be finally resolved by the courts of England and Wales in accordance with condition 22 (Governing Law and Jurisdiction).

**(6)** The Customer acknowledges and agrees that the time limits set out in this Condition 18 are reasonable and reflective of the urgent nature of the type of Consignments that the Carrier undertakes for the Customer and are necessary in order to preserve the appropriate evidence in respect of any such claims (including the ability to interview and obtain witness statements from drivers and other third parties).

## **19. Lien**

**(1)** The Carrier shall have a general lien against the Customer, where the Customer is the owner of the Consignment, for any monies whatever due from the Customer to the Carrier. If such a lien is not satisfied within a reasonable time, the Carrier may, at its absolute discretion sell the Consignment, or part thereof, as agent for the Customer and apply the proceeds towards the monies due and the expenses of the retention, insurance and sale of the Consignment and shall, upon accounting to the Customer for any balance remaining, be discharged from all liability whatever in respect of the Consignment.

**(2)** Where the Customer is not the owner of the Consignment, the Carrier shall have a particular lien against the said owner, allowing the Carrier to retain possession, but not to dispose of, the Consignment against monies due from the Customer in respect of the Consignment.

**(3)** The Carrier may exercise its lien on its own behalf or as agent for any assignee of its invoices at any time and at any place in its sole discretion, whether or not the contractual carriage has been completed and these Conditions shall continue to apply during the period of exercise of such lien.

**(4)** If the Consignment is not solely the property of the Customer, the Customer warrants that it has the authority of all those having a proprietary or possessory interest in the Consignment to grant to the Carrier liens as set out in Condition 19(1) above, and

the Customer shall indemnify the Carrier for all claims and demands the Carrier may receive asserting that the Customer did not have that authority.

## **20. Unreasonable Detention**

The Customer shall be liable to pay Demurrage for unreasonable detention of any vehicle, trailer, container or other equipment but the rights of the Carrier against any other person in respect thereof shall remain unaffected.

## **21. Confidentiality**

(1) 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 these Conditions.

(2) Each party may disclose the other party's confidential information:

(a) to its employees, officers, representatives, sub-contractors or advisers who need to know such information for the purposes of carrying out the party's legal obligations; and

(b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

## **22. Governing Law and Jurisdiction**

Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims).

## **23. General**

- (1) Nothing in these Conditions (nor anything else), shall confer on any third party any benefit, nor the right to enforce any of these Conditions which that person would not have had but for the Contracts (Rights of Third Parties) Act 1999.
- (2) These conditions, and the documents and information on the websites referred to, constitute the entire agreement between the Carrier and the Customer. The Customer acknowledges that in agreeing to these conditions it has not relied on any representation or undertaking, whether oral or in writing, save as expressly incorporated therein.
- (3) If any provision of these conditions shall be found by any court or administrative body of competent jurisdiction to be invalid or unenforceable, such invalidity or unenforceability shall not affect the provisions of these Conditions which shall remain in full force and effect.
- (4) If any provision or part-provision of these Conditions 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 these Conditions.
- (5) The Carrier and the Customer agree that they and/or anyone they employ and/or for who they are responsible will comply with any applicable anti-bribery or anti-money laundering laws and/or regulations in connection with these Conditions or related services.
- (6) The Carrier shall not be liable to the other for any delay or non-performance of the Services to the extent that such non-performance is due to a Force Majeure Event (including but not limited to any genuine circumstances outside of the reasonable control of either of the parties which were not reasonably foreseeable at the date of execution hereof which include war, insurrection, earthquake, riot, fire and flood, but excluding any change to guidelines, industry codes or regulations or industrial dispute).

### **Period of Validity**

To be reviewed annually

### **Insurance**

Goods are insured up to and including the value of £1300.00 per tonne -Standard RHA T&Cs apply.

## Proof of Delivery

PODs are available on request.

## Claims

All claims will be processed in accordance with the Speedy Freight claims procedure which is available from your local office.

## Waiting Time

Vehicle Type	Charge	Rules
Small Van	£15 P/H	Applies after 30 mins
Short Wheel Base	£15 P/H	Applies after 30 mins
Long Wheel Base	£15 P/H	Applies after 30 mins
Extra Long Wheel Base	£15 P/H	Applies after 30 mins
Luton	£20 P/H	Applies after 30 mins

## Cancellation Charges

Standard Cancellation Scale (dependent on notice) – Time cancelled prior to collection.

Vehicle Type (Small Van to Luton)	
Notice Period	Cancellation Charge
0:00 (driver on site)	100%
0:01 – 0:30 mins	£25 Admin Fee
0:31 mins+	0%

## Rebooks, Returns & Refusals

Any rebooks, returns or redeliveries will be rated in accordance with the Speedy Freight costing model.

## Hand-balling charges

Small Van to Extra Long Wheelbase: £15 per hour

Luton: £20 per hour

## CED COURIERS– SUPPLIER TERMS AND CONDITIONS

### 1. Definitions and Interpretation

**1.1** In these Terms and Conditions, unless the context otherwise requires, the following expressions have the following meanings:

**Agreement:** means the agreement which comes into existence between the Company and the Contractor and which is subject to these Terms and Conditions and will include any term or condition specified by the Company in any proposal it has published and which leads to an agreement between the parties hereto;

**Business Day:** means any day (other than Saturday or Sunday) on which ordinary banks are open for their full range of normal business in London;

**Company Materials:** means all and any equipment, including (but not by way of limitation) uniforms, vehicles, computer and IT based equipment, mobile communication devices, tracking devices, and all and any documents, information, items and materials in any form (whether owned by the Company or a third party), which are provided by the Company to the Contractor in connection with the Services;

**Confidential Information:** means, in relation to either Party, information which is disclosed to that Party by the other Party pursuant to or in connection with the Agreement (whether orally or in writing or any other medium, and whether or not the information is expressly stated to be confidential or marked as such);

**Contractor:** means the individual or company agreeing to provide Services for the Company;

**Customer:** means any customer of the Company on whose behalf the Contractor is providing the Services or a customer or client of the Company's customer;

**Date:** means the date upon which the agreement between the Company and the Contractor came into existence;

**Fees:** means any and all sums due under the Agreement from the Company to the Contractor, as specified in Clause 8 or otherwise agreed between the Parties from time to time;

**Goods:** means all Customer products and/or goods together with any packaging or containers in which they are transported or stored for which the Contractor shall be responsible for providing the Services;

**Purchase Order:** means the purchase order provided by the Company to the Contractor requesting the Services;

**Services:** means the services to be provided by the Contractor to the Company in accordance with these Terms and Conditions or as detailed in any proposal published by the Company; and

**Term:** means the term of the Agreement as set out in Clause 10.

**1.2** Unless the context otherwise requires, each reference in these Terms and Conditions to:

**1.2.1** “writing”, and any cognate expression, includes a reference to any communication effected by electronic or facsimile transmission or similar means;

**1.2.2** a statute or a provision of a statute is a reference to that statute or provision as amended or re-enacted at the relevant time;

**1.2.3** “these Terms and Conditions” is a reference to these Terms and Conditions and each of the Schedules as amended or supplemented at the relevant time;

**1.2.4** references to “the Contractor” will, where the context so admits, include any director of the Contractor and any employee, agent, sub-contractor or representative of the Contractor;

**1.2.5** a Schedule is a schedule to these Terms and Conditions;

**1.2.6** a Clause or paragraph is a reference to a clause of these Terms and Conditions (other than the Schedules) or a paragraph of the relevant Schedule; and

**1.2.7** a “Party” or the “Parties” refers to the parties to these Terms and Conditions.

**1.2.8** The headings used in these Terms and Conditions are for convenience only and will have no effect upon the interpretation of these Terms and Conditions.

**1.3** Words imparting the singular number will include the plural and vice versa.

**1.4** References to any gender will include the other gender.

**1.5** References to persons will include corporations.

## **2. COMMENCEMENT AND DURATION**

**2.1** This agreement constituted the exclusive statement of the Company's offer to Contractor to purchase the Services subject to these Terms and Conditions.

**2.2** These Terms and Conditions shall apply to the Agreement to the exclusions of any additional or different terms and conditions stated by the Contractor in any quotation, confirmation of order, or other document.

**2.3** Acceptance of this Agreement by the Contractor is strictly conditioned on acceptance of these Terms and Conditions

## **3. PROVISION OF THE SERVICES**

**3.1** The Contractor agrees to:

**3.1.1** perform the Services with the highest level of care, skill and diligence in accordance with best practice in the Contractor's industry, profession or trade;

**3.1.2** co-operate with the Company in all matters relating to the Services, and comply with the Company's instructions;

**3.1.3** before the Date, obtain and maintain during the period in which the Services are being undertaken, all necessary licences and consents and comply with all relevant legislation in relation to the provision of the Services and specifically, but not by way of limitation, that it holds a valid and effective Goods Vehicle Operator's Licence for all of the Goods which it will carry for the Company pursuant to these Terms and Conditions;

**3.1.4** provide a reasonable and timely response, in the event that the Company requires the decision, approval, consent or any other communication from the Contractor in order to continue with the provision of the Services or any part thereof at any time.

**3.1.5** observe all health and safety rules and regulations and any other reasonable security requirements that apply at the Company's premises or at any site at which the Contractor provides the Services;

**3.1.6** hold all Company Materials in safe custody at its own risk, maintain such Company Materials in good condition until returned to the Company, and not dispose of or use the Company Materials other than in accordance with the Company's written instructions or authorisations;

**3.1.7** not do or omit to do anything which may cause the Company to lose any licence, authority, consent or permission on which it relies for the purposes of conducting its business;

**3.1.8** at all times before it commences the Services to verify that the Goods are not dangerous or hazardous before they are loaded unless the Company and the Contractor have previously agreed that the Contractor will carry dangerous or hazardous Goods;

**3.1.9** at all times when it is providing the Services to provide them in a way which does not cause a nuisance or annoyance to others and not in a manner which would, in any way, cause damage to the reputation of the Company; and

**3.1.10** at all times when performing the Services to comply with all and any codes of conduct published by the Company from time to time.

**3.2** The Contractor warrants as follows:

**3.2.1** that each of its personnel who carry out the Services for the Contractor under these Terms and Conditions holds a full United Kingdom driving licence permitting such personnel to drive the type of vehicle which is being driven, and that, before the Date, it has disclosed to the Company all endorsements recorded on such licence;

**3.2.2** that, in respect of its Goods Vehicle Operator's Licence, it has not been suspended, revoked, curtailed or otherwise limited in any manner and that the Date and for the three years prior to the Date there have been no investigations in respect of such licence;

**3.2.3** that on the Date it is not aware of any circumstances which would or might lead to an endorsement on such licence;

**3.2.4** that it has disclosed all convictions whether relating to Road Traffic Act offences or otherwise which would or might affect the decision of any insurer of the Company to provide the Company with any form of insurance cover in relation to the Services or any part of them;

**3.2.5** that it will immediately inform the Company of any conviction of any nature to which it or any of its personnel carrying out the Services or any part thereof is subjected and of any investigations which may have an effect on the Goods Vehicle Operator's Licence held by the Contractor and of the full circumstances surrounding such conviction or investigation;

**3.2.6** that it will not use any additional or substitute labour permitted to be used under the terms of these Terms and Conditions unless and until that additional or substitute labour has provided a warranty to the Company in terms similar in all respects to those contained in sub-Clauses 3.2.1 to 3.2.5;

**3.2.7** that on the Date it holds and will during the term of the Agreement and for a period of 6 years after the expiry or termination of the Agreement, with a reputable insurance company, professional indemnity insurance in the sum of £5,000,000 and shall, on the



Company's request, produce both the insurance certificate giving details of cover and the receipt for the current year's premium;

**3.2.8** that if it agrees to transport dangerous or hazardous Goods on behalf of the Company, those Goods will be transported only using a vehicle and/or trailer which has a current and valid ADR Test Certificate, which is available at all times whilst such Goods are being transported and that, at all times, such transport will be supervised by a fully and properly qualified Dangerous Goods Safety Advisor.

**3.3** The Contractor agrees that the breach of any part of Clause 3.8 will amount to a breach of a fundamental term and allow the Company, immediately and without notice or compensation, to terminate the Agreement.

**3.4** The Contractor consents to the Company conducting and retaining reasonable searches and enquiries with credit reference and other agencies in relation to the creditworthiness of the Contractor and all and any of its directors.

**3.5** The Contractor will, within three Business Days of any request by the Company and at no charge to the Company, supply it with copies of all current Goods Vehicle Operator's Licences, Drivers' Licences (for any of the personnel of the Contractor providing the Services), insurance policies and certificates required by these Terms and Conditions and all and any other documentation reasonably required by the Company to ensure that the Contractor is complying with these Terms and Conditions.

**3.6** If the Contractor is unable to perform the Services at any time due to illness, accident or for any other reason:

**3.6.1** it shall not be entitled to receive any payment for those periods when it is not able to perform the Services;

**3.6.2** it will immediately (and no later than two hours in advance of the time it has agreed to be available to perform the Services) notify the Company and either:

**3.6.2.1** agree alternative arrangements with the Company, including, if appropriate, the provision of an alternative person to provide the Services (subject to such conditions as the Company, in its sole discretion, wishes to impose); or

**3.6.2.2** if no alternative arrangements can be made within a reasonable time, the Company may terminate the Agreement and appoint a replacement service provider.

**3.7** If the Contractor is, for any reason, unable to effect a collection or delivery of Goods by reason of a default by the Customer then the following provisions will apply:

**3.7.1** the Contractor will allow up to one hour for the default to be resolved so that the collection or delivery can be effected at no charge to the Company;

**3.7.2** if, at the end of the period referred to in sub-Clause 3.7.1, the default has not been resolved and the collection or delivery cannot be effected, the Contractor will contact the Company for instructions as to how to resolve the situation;

**3.7.3** the Company will, if it in its sole discretion decides, pay to the Contractor an additional Fee (of not more than £10.00 per hour) if the Company requires the Contractor to wait;

**3.7.4** if the Company requires the Contractor to wait, in order that the collection or delivery may be effected, the Contractor will remain at the Customer's site until the collection or delivery can be effected or until the Company has agreed alternative arrangements with the Contractor.

**3.8** The Contractor will at all times ensure that it and any of its employees comply with the Code of Conduct set out in Schedule 1.

#### **4 LOSS AND DAMAGE**

**4.1** If any Goods in the custody of the Contractor suffer any loss or damage of any nature the Contractor will immediately notify the Company of such loss or damage and will deliver to it a full report of the incident which caused the loss or damage in such form as the Company will, from time to time, specify as soon as reasonably practicable thereafter, and in any event no later than seven days after such incident. The Contractor will, on demand and without any delay, provide the Company with such other information as it may require relating to such incident.

**4.2** If such loss or damage is due or suspected to be as the result of criminal action, the Contractor will, within 24 hours of the incident, report the same to the authorities.

#### **5. VEHICLES AND EQUIPMENT**

**5.1** It is the responsibility of the Contractor at its own expense during the term of the Agreement to provide a suitable vehicle or vehicles and such other equipment as may be required for the proper performance of the Services.

## **6. COMPANY'S OBLIGATIONS**

**6.1** The Company will use all reasonable endeavours to provide all pertinent information to the Contractor that is necessary for the Contractor's provision of the Services.

**6.2** The Company may, from time to time, issue reasonable instructions to the Contractor in relation to the Contractor's provision of the Services.

## **7. FEES, PAYMENT AND RECORDS**

**7.1** The Company will pay the Fees to the Contractor specified in any purchase order supplied by the Company or otherwise agreed in advance with the Contractor and in accordance with the provisions of this Clause 7.

**8.2** All payments required to be made pursuant to these Terms and Conditions by either Party will be made within 30 days of the end of the month of invoice by that Party and, in the case of an invoice from the Contractor, bearing the order number supplied by the Company in its purchase order or otherwise.

**8.3** Where any payment pursuant to these Terms and Conditions is required to be made on a day that is not a Business Day, it may be made on the next following Business Day.

**8.4** Without prejudice to sub-Clause 10.2.1, any sums which remain unpaid following the expiry of the period set out in sub-Clause 8.3 will incur interest on a daily basis at 2% above the base rate of Royal Bank of Scotland plc from time to time until payment is made in full of any such outstanding sums.

**8.5** The Contractor will:

**8.5.1** keep, or procure that there are kept, such records and books of account as are necessary to enable the amount of any sums payable pursuant to these Terms and Conditions to be accurately calculated; and

**8.5.2** at the reasonable request of the Company, allow the Company or its agent to inspect those records and books of account and, to the extent that they relate to the calculation of those sums, to take copies of them.

**8.6** The Company shall be entitled to reject any invoice from the Contractor which is submitted later than 180 days following the date of completion of the Services specified in any purchase order supplied by the Company, and the Company shall not be bound to pay the Fees as if the invoice had been submitted in accordance with the terms of this clause 8.

**8.7** If the Company disputes a payment in good faith, then the interest payable under Clause 8.4 is only payable after the dispute is resolved on sums found or agreed to be due, from 30 days after the dispute is resolved until payment.

**8.8** The Company may, at any time, without notice to the Contractor, set off any liability of the Contractor to the Company against any liability of the Company to the Contractor, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under these Terms and Conditions. Any exercise by the Company of its rights under this Clause shall not limit or affect any other rights or remedies available to it under these Terms and Conditions or otherwise.

**8.9** If, for any reason, the Company cancels the Services before the Goods have been collected, the liability of the Company will be limited to a reasonable Fee dependent upon all the circumstances surrounding such cancellation but, in any event, not exceeding the sum of £50.00 for vehicles with a Gross Vehicle Weight less than 3.5 tonnes and for larger vehicles no more than 25% of the agreed job rate.

**8.10** The Contractor acknowledges that it holds all Goods which are in its custody, as bailee of the owner of those Goods and will at all times keep them separate and identifiable from any other goods in its possession.

**8.11** The Contractor shall have no interest in the Goods and will have no right to claim a lien over or in respect of them.

**8.12** The Contractor shall account for and pay to the Company for all moneys (whether cash or cheques) received by it on behalf of the Company from any Customer on the day on which such moneys are received if practicable or on the first Business Day thereafter at the offices of the Company or as it directs.

**8.13** All payments due hereunder from the Company to the Contractor are made net of VAT.

## **9. LIABILITY, INDEMNITY AND INSURANCE**

**9.1** The Contractor will ensure that it has in place at all times suitable and valid insurance that will include public liability insurance.

**9.2** In the event that the Contractor fails to perform the Services with reasonable care and skill it will carry out any and all necessary remedial action at no additional cost to the Company.

**9.3** The Contractor's total liability for any loss or damage caused as a result of its negligence or breach of these Terms and Conditions will be unlimited.

**9.4** Nothing in these Terms and Conditions will limit or exclude the Contractor's liability for death or personal injury.

**9.5** Subject to Clause 9.3 the Contractor will indemnify the Company against any costs, liability, damages, loss, claims or proceedings arising out of the Contractor's breach of these Terms and Conditions.

**9.6** The Company will indemnify the Contractor against any costs, liability, damages, loss, claims or proceedings arising from loss or damage to any equipment (including that belonging to any third parties appointed by the Contractor) caused by the Company or its agents or employees.

**9.7** Neither Party will be liable to the other or be deemed to be in breach of these Terms and Conditions by reason of any delay in performing, or any failure to perform, any of that Party's obligations if the delay or failure is due to any cause beyond that Party's reasonable control.

**9.8** The Contractor will, at its own expense, obtain and, at all times during the Term keep in force, insurance with a reputable insurer (in a sum and for cover and for amounts specified or approved by the Company) against damage to Goods, death, loss or injury which may occur to any person or property in connection with the provision of the Services including public liability, motor, goods in transit insurance and where appropriate employer's liability insurance. The Contractor will make available copies of these to the Company upon request.

**9.9** The Contractor will not carry any Goods which are excluded under the policies of insurance mentioned in Clause 9.8.

**9.10** Notwithstanding anything to the contrary in this Agreement, or the Terms and Conditions, the Company's total aggregate liability to the Contractor, including without limitation under the indemnity in Condition 9.6, shall not exceed the Fees payable to the Contractor for the Services, unless the liability arises out of or in relation to death or personal injury caused by the Company's negligence, fraud or fraudulent misrepresentation or for any liability that cannot be excluded by law.

## **10. TERMINATION**

**10.1** The Company may terminate the Agreement immediately on written notice if the Contractor no longer holds any of the licences or permissions required by these Terms and Conditions or if they, or any of them, are subject to any conditions, endorsements or other provisions which the Company, in its sole discretion, considers would have an adverse effect on the business of the Company.

**10.2** Either Party may forthwith terminate the Agreement by giving written notice to the other Party if:

**10.2.1** any sum owing to that Party by the other Party under any of the provisions of these Terms and Conditions is not paid within 20 days of the due date for payment;

**10.2.2** the other Party commits any other breach of any of the provisions of these Terms and Conditions and, if the breach is capable of remedy, fails to remedy it within 24 hours after being given written notice giving full particulars of the breach and requiring it to be remedied;

**10.2.3** an encumbrancer takes possession, or where the other Party is a company, a receiver is appointed, of any of the property or assets of that other Party;

**10.2.4** the other Party makes any voluntary arrangement with its creditors or, being a company, becomes subject to an administration order (within the meaning of the Insolvency Act 1986);

**10.2.5** the other Party, being an individual or firm, has a bankruptcy order made against it or, being a company, goes into liquidation (except for the purposes of bona fide amalgamation or re-construction and in such a manner that the company resulting therefrom effectively agrees to be bound by or assume the obligations imposed on the other Party under these Terms and Conditions);

**10.2.6** anything analogous to any of the foregoing under the law of any jurisdiction occurs in relation to the other Party; or

**10.2.7** the other Party ceases, or threatens to cease, to carry on business.

**10.3** The right to terminate the Agreement given by this Clause 10 shall not prejudice any other right or remedy of either Party in respect of the breach concerned (if any) or any other breach.

**10.4** Any termination of the Agreement (howsoever occasioned) shall not affect any accrued rights or liabilities of either Party nor shall it affect the coming into force or the continuance in force of any provision in these Terms and Conditions which is expressly or by implication intended to come into or continue in force on or after such termination.

## **11. EFFECTS OF TERMINATION**

Upon the termination of the Agreement for any reason:

**11.1** all Clauses which, either expressly or by their nature, relate to the period after the expiry or termination of the Agreement will remain in full force and effect;

**11.2** subject as provided in this Clause 11 and except in respect of any accrued rights neither Party will be under any further obligation to the other; and

**11.3** the Contractor will (except to the extent referred to in Clause 12) immediately cease to use, either directly or indirectly, any Confidential Information, and will immediately return to the Company any documents in its possession or control which contain or record any Confidential Information.

## **12. CONFIDENTIALITY**

**12.1** The Contractor undertakes that, except as provided by sub-Clause 12.2 or as authorised in writing by the Company, it shall at all times during the continuance of the Agreement and after its termination:

**12.1.1** keep confidential all Confidential Information;

**12.1.2** not disclose any Confidential Information to any other party;

**12.1.3** not use any Confidential Information for any purpose other than as contemplated by these Terms and Conditions;

**12.1.4** not make any copies of, record in any way or part with possession of any Confidential Information; and

**12.1.5** ensure that (as applicable) none of its directors, officers, employees, agents or advisers does any act which, if done by that Party, would be a breach of the provisions of this Clause 12.

**12.2** Subject to Clause 12.3, the Contractor may disclose any Confidential Information to:

**12.2.1** any of its sub-contractors, substitutes or suppliers;

**12.2.2** any governmental or other authority or regulatory body; or

**12.2.3** any of their employees or officers or those of any party described in sub-Clauses 12.2.1 and 12.2.2;

**12.3** Disclosure under Clause 12.2 may be made only to the extent that is necessary for the purposes contemplated by these Terms and Conditions, or as required by law. In each case the Contractor must first inform the recipient that the Confidential Information is confidential. Unless the recipient is a body described in sub-Clause 12.2.2 or is an authorised employee or officer of such a body, the Contractor must obtain and submit to the Company a written undertaking from the recipient to keep the Confidential Information confidential and to use it only for the purposes for which the disclosure is made.

**12.4** The Contractor may use any Confidential Information for any purpose, or disclose it to any other party, where that Confidential Information is or becomes public knowledge through no fault of the Contractor.

**12.5** When using or disclosing Confidential Information under Clause 12.4, the Contractor must ensure that it does not disclose any part of that Confidential Information which is not public knowledge.

**12.6** The provisions of this Clause 12 shall continue in force in accordance with their terms, notwithstanding the termination of the Agreement for any reason.

### **13. DATA PROTECTION**

The Parties undertake to comply with the provisions of the Data Protection Act 1998 and the General Data Protection Regulations EU (2016/679) and any related legislation in so far as the same relates to the provisions and obligations of these Terms and Conditions.

### **14. FORCE MAJEURE**

**14.1** Neither Party to the Agreement shall be liable for any failure or delay in performing their obligations where such failure or delay results from any cause that is beyond the reasonable control of that Party. Such causes include, but are not limited to: power failure, internet service licensor failure, industrial action, civil unrest, fire, flood, storms, earthquakes, acts of terrorism, acts of war, governmental action or any other event that is beyond the control of the Party in question.

**14.2** If such circumstances continue for a continuous period of more than three months, either Party may terminate the Agreement by written notice to the other Party.

### **15. NON-SOLICITATION**

**15.1** The Contractor undertakes with the Company that it will not during the Agreement or:

**15.1.1** for a period of six months after its termination (alone, jointly with or as manager or agent for any person) employ, solicit, interfere with or endeavour to entice away from the Company any person or business who is then or was in the six months preceding such termination a client of the Company; and

**15.1.2** for a period of six months after its termination either on its own account or for any other person employ, solicit, interfere with or endeavour to entice away from the Company any person who is then or was in the six months preceding such termination an employee of the Company.



## **16. NO AGENCY, PARTNERSHIP OR EMPLOYMENT**

**16.1** The Agreement shall not constitute or imply any partnership, joint venture, agency, fiduciary relationship or other relationship between the Parties other than the contractual relationship expressly provided for in these Terms and Conditions.

**16.2** The Contractor's relationship to the Company is that of an independent contractor. The Contractor will be responsible for all taxes and contributions (including, but not limited to, income tax and national insurance, where applicable) in respect of all amounts paid or payable to the Contractor under or in relation to the Agreement.

**16.3** The Contractor hereby agrees to indemnify the Company in respect of any claims that may be made by the relevant authorities against the Company in respect of any such taxes and/or contributions, including interest and penalties, relating to the Services.

**16.4** The Contractor shall be responsible for all of its expenses and, where applicable, VAT.

## **17. SEVERANCE**

The Parties agree that, in the event that one or more of the provisions of the Agreement is found to be unlawful, invalid or otherwise unenforceable, that / those provisions shall be deemed severed from the remainder of the Agreement. The remainder of the Agreement shall be valid and enforceable.

## **18. GENERAL**

**18.1** Nothing in this Agreement, or the Terms and Conditions (nor anything else), shall confer on any third party any benefit, nor the right to enforce any of these Terms and Conditions which that person would not have had but for the Contracts (Rights of Third Parties) Act 1999.

**18.2** This Agreement, the Terms and Conditions and the documents and information on the website referred to, constitute the entire agreement between the Carrier and the Customer. The Contractor acknowledges that in agreeing to these Terms and Conditions it has not relied on any representation or undertaking, whether oral or in writing, save as expressly incorporated therein.

## **19. LAW AND JURISDICTION**

**19.1** Each party irrevocably agreed that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with

this agreement or its subject matter or formation (including non-contractual disputes or claims).

## **20. NOTICES**

**20.1** All notices under the Agreement shall be in writing and be deemed duly given if signed by, or on behalf of, a duly authorised officer of the Party giving the notice.

**20.2** Notices shall be deemed to have been duly given:

**20.2.1** when delivered, if delivered by courier or other messenger (including registered mail) during normal business hours of the recipient; or

**20.2.2** when sent, if transmitted by e-mail and a return receipt is generated; or

**20.2.3** on the fifth business day following mailing, if mailed by national ordinary mail, postage prepaid; or

**20.2.4** on the tenth business day following mailing, if mailed by airmail, postage prepaid.

In each case notices shall be addressed to the most recent address, e-mail address or facsimile number notified to the other Party.

## **21. SUCCESSORS AND ASSIGNEES**

**21.1** The Agreement shall be binding upon, and inure to the benefit of, the Parties and their respective successors and permitted assignees, and references to a Party in the Agreement shall include its successors and permitted assignees.

**21.2** In these Terms and Conditions references to a Party include references to a person:

**21.2.1** who for the time being is entitled (by assignment, novation or otherwise) to that Party's rights under these Terms and Conditions (or any interest in those rights); or

**21.2.2** who, as administrator, liquidator or otherwise, is entitled to exercise those rights, and in particular those references include a person to whom those rights (or any interest in those rights) are transferred or pass as a result of a merger, division, reconstruction or other reorganisation involving that Party. For this purpose, references to a Party's rights under these Terms and Conditions include any similar rights to which another person becomes entitled as a result of a novation of the Agreement.

## **22. NATURE OF THE AGREEMENT**

**22.1** The Agreement is personal to the Parties and neither Party may assign, mortgage or charge (otherwise than by floating charge) or sub-license any of its rights hereunder, or sub-contract or otherwise delegate any of its obligations hereunder, except with the written consent of the other Party, such consent not to be unreasonably withheld.

**22.2** Notwithstanding the provisions of Clause 20.1, the Company may assign the Agreement to any acquirer of all or of substantially all of the Company's equity securities, assets or business relating to the subject matter of the Agreement or to any entity controlled by, that controls, or is under common control with the Company.

**22.3** The Agreement contains the entire agreement between the Parties with respect to its subject matter and may not be modified except by an instrument in writing signed by the duly authorised representatives of the Parties.

**22.4** Each Party acknowledges that, in entering into the Agreement, it does not rely on any representation, warranty or other provision except as expressly provided in these Terms and Conditions, and all conditions, warranties or other terms implied by statute or common law are excluded to the fullest extent permitted by law.

**22.5** No failure or delay by either Party in exercising any of its rights under the Agreement shall be deemed to be a waiver of that right, and no waiver by either Party of a breach of any provision of the Agreement shall be deemed to be a waiver of any subsequent breach of the same or any other provision.

**22.6** In the event that the Contractor seeks to apply terms and conditions upon any agreement with the Company which conflict with the terms and conditions herein contained, these Terms and Conditions will prevail.

## **23. THIRD PARTIES**

A person who is not a Party to the Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Agreement, but this does not affect any right or remedy of a third party which exists or is available apart from such Act.

## **24. LAW AND JURISDICTION**

**24.1** The Agreement (including any non-contractual matters and obligations arising therefrom or associated therewith) shall be governed by, and construed in accordance with, the laws of England and Wales.

**24.2** Any dispute, controversy, proceedings or claim between the Parties relating to the Agreement (including any non-contractual matters and obligations arising therefrom or associated therewith) shall fall within the jurisdiction of the courts of England and Wales.

## **SCHEDULE 1**

The Contractor will at all times when engaged in work for the Company comply, and ensure that all of its employees so engaged, with the following Code of Conduct.

- Whilst in transit, the load should be locked in the cargo compartment, and all access to the load area secured with all windows secured, at all times.
- No loaded vehicle should be left unattended at any time save and except where the Services involve a multi drop.
- If the Services involve a multi drop, the vehicle must be left only if it is fully locked and secured.
- The Contractor must ensure that Goods are appropriately packed and restrained at all times throughout the journey.
- No item may be left unattended and a signature must be obtained for all deliveries.
- All items must be delivered to the individual named on the load sheet or to a properly authorised person at the designated delivery address. No item may be handed to anyone other than the correct recipient.
- No item left in the care of a Contractor may be stored, overnight, in any vehicle unless it is securely locked inside a fully secured area.
- The Contractor and all its employees must, at all times, carry out the Services in a polite and friendly manner and not so as to bring the name of the Company into disrepute.
- All written documents completed by the Contractor or its employees must be completed completely and in a legible manner.
- The Contractor's vehicle and all persons involved in providing the Services will, at all times, be clean, tidy and properly attired.
- The Contractor and all its employees must, at all times wear appropriate Personal Protective Equipment when carrying out the Services.