

## **My UK Mail Ltd t/a BPS Logistics**

### **TERMS AND CONDITIONS OF CARRIAGE**

#### **1. Definitions**

"Carrier" means My UK Mail Ltd, company number 5614271. which, unless the context requires otherwise, includes any sub-contractor appointed by the Carrier.

"Customer" means the person or company who contracts for the services of the Carrier, including any other carrier who gives a Consignment to the Carrier for carriage.

"Contract" means the contract of carriage between the Customer and the Carrier, which shall be made subject to these Terms and Conditions.

"Consignee" means the person, company or representative of the company to whom the Carrier contracts to deliver the Consignment.

"Consignment" any item or items the Carrier carries for the Customer at one time in one load or from one address to another, including any packaging. means goods in bulk or contained in one parcel, package, container or envelope, as the case may be, or any separate number of parcels, packages, containers or envelopes sent at one time in one load by or for the Customer from one address to one address. For the avoidance of doubt, the expression "goods" shall include papers and documents other than those expressly excluded in these Terms and Conditions.

"Dangerous Goods" means dangerous substances as defined in the Road Traffic (Carriage of Dangerous Substances in Packages etc.) Regulations 1992 (and any amendment or replacement thereof), explosives, radioactive substances and any other substance presenting a similar hazard or anything the Customer asks the Carrier to deliver that could put the health and safety of other people at risk.

#### **2. General**

2.1 These Terms and Conditions cannot be changed or varied unless a director of the Carrier agrees in writing.

2.2 The Carrier is not a common carrier and accepts at its sole discretion Consignments for carriage under these Terms and Conditions.

2.3 The Carrier reserves the right to change these Terms and Conditions at any time.

#### **3. Authority and Sub-Contracting**

3.1 The Customer warrants that he is either the owner of the goods in any Consignment or is authorised by the owner to accept these Terms and Conditions on the owner's behalf.

3.2 The Carrier and any other carrier employed by the Carrier may employ the services of any other carrier for the purposes of fulfilling the contract in whole or in part and the name of every such other carrier shall be provided to the Customer upon request.

3.3 The Carrier contracts for itself and (subject to paragraph 3.4) as agent of and trustee for its servants and agents and all other carriers referred to in paragraph 3.2 above and such other carriers' servants and agents.

3.4 Notwithstanding paragraph 3.3, the carriage of goods in any Consignment by rail, sea, inland waterway or air is arranged by the Carrier as agent of the Customer and shall be subject to the terms and conditions of the rail, shipping, inland waterway or air carrier contracted to carry the Consignment.

#### **4. Dangerous Goods**

Dangerous Goods must be disclosed by the Customer in advance and if the Carrier agrees to accept them for Carriage they must be classified, packed and labelled in accordance with the statutory regulations for the carriage by road of the substance(s) declared. Transport Emergency Cards ("Tremcards") or information in writing in the manner required by the relevant statutory provisions or by the relevant body authorised by statute to make regulations must be provided by the Customer in respect of each substance and must accompany the Consignment.

#### **5. Delivery**

5.1 Unless the Carrier has agreed in writing to the contrary with the Customer:

5.2 The Carrier shall not be under any obligation to provide any plant, power or labour required for loading or unloading the Consignment, other than that carried by the vehicle used by the Carrier;

5.3 The Customer warrants that any special equipment required for loading or unloading the Consignment that is not carried by the Carrier's vehicle will be provided or procured by the Customer;

5.4 The Carrier shall be under no liability whatsoever to the Customer and the Customer shall indemnify and hold harmless the Carrier for any damage, however caused, if the Carrier is instructed to load or unload any goods requiring special equipment if such equipment has not been provided or procured by the Customer.

#### **6. Consignment Notes**

The Carrier shall, if so required, sign a document prepared by the Customer acknowledging 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.

#### **7. Transit**

7.1 Transit shall commence when the Carrier takes possession of the Consignment, whether at the point of collection or at the Carrier's premises.

7.2 Where the Carrier at the request of the Customer loads a consignment on one day for delivery on the next working day so that the Consignment is stored in a vehicle, transit shall commence and storage shall be deemed to end when the vehicle begins delivery.

7.3 Transit shall (unless otherwise previously determined) end when the Consignment is tendered at the usual place of delivery at the Consignee's address PROVIDED THAT:

7.3.1 If no safe and adequate access or, if applicable, no adequate unloading facilities there exist, then transit shall be deemed to end at the expiry of one hour after notice by telephone of the arrival of the Consignment at the Carrier's premises has been given to the Customer; or

7.3.2 When for any other reason whatever a Consignment cannot be delivered or when a Consignment is held by the Carrier to "await order" or upon any like instructions and such instructions are not given or the Consignment is not called for and removed within a reasonable time determined by the Carrier, then transit shall be deemed to end at the expiry of such reasonable time.

## **8. Undelivered or Unclaimed Goods**

8.1 Where the Carrier is unable for any reason to deliver a Consignment to the Consignee or as he may order, or when by paragraph 7.2 above transit is deemed to be at an end, the Carrier may sell the goods comprising the Consignment. Payment or tender of the proceeds after deduction of all proper charges and expenses in relation thereto and of all outstanding charges in relation to the carriage and storage of the Consignment shall (without prejudice to any claim or right which the Customer may have against the Carrier otherwise arising under these conditions) discharge the Carrier from all liability in respect of the Consignment.

8.2 Notwithstanding the generality of paragraph 8.1 above, the Carrier shall use his reasonable endeavours to obtain a reasonable price for the Consignment and the Carrier's power of sale shall not be exercised where the name and address of the Customer or of the Consignee is known unless the Carrier shall use its reasonable endeavours to give notice to the Customer and to the Consignee that the goods will be sold unless within the time specified in such notice, being a reasonable time in the circumstances from the giving of such notice, the goods are taken away or instructions are given for their disposal.

## **9. Carrier's Charges**

9.1 The Carrier's charges shall be made in accordance with its tariff current at the time of performance of the Contract. The Carrier will prepare invoices at least once a month. The Carrier at its absolute discretion may withdraw credit facilities at any time and the balance outstanding shall become due immediately on demand.

9.2 The Carrier's charges shall be payable by the Customer without prejudice to the Carrier's rights against the Consignee or any other person. Without prejudice to the generality of the foregoing, when goods are consigned "carriage forward", the Customer shall not be required to pay such charges unless the Consignee fails to pay after demand has been made by the Carrier for the payment thereof and such demand has not been paid within the time stipulated by the Carrier to the Consignee.

9.3 Charges shall be payable on the expiry of any time limit notified to the Customer (whether on any invoice or otherwise) or failing such notification 30 days after the date of the relevant invoice and the Carrier shall be entitled to interest and compensation in accordance with the Late Payment of Commercial Debts (Interest) Act 1998 as Amended and supplemented by the Late Payment of Commercial Debts Regulations 2002. Any queries as to the correctness of the invoice must be made in writing within fourteen days of issue of the invoice otherwise it will be payable in full.

9.4 Except where any quotation states otherwise, all quotations given based on a weight charge shall apply to the gross weight of the Consignment.

9.5 Unless stated otherwise, all charges quoted are exclusive of Value Added Tax.

9.6 All sums due to the Carrier shall be paid without deduction, set-off or abatement and the Customer shall not withhold or defer any payment on account of any claim or counterclaim and acknowledges that any such claim or counterclaim whatsoever by the Customer against the Carrier must be subject to separate proceedings.

## **10. Liability for Loss and Damage**

10.1 The Customer shall be deemed to have elected to accept the terms set out in paragraphs 10.2 and 10.3 below unless, before the transit commences, the Customer has agreed in writing that the Carrier shall not be liable for any loss or misdelivery or damage to the Consignment however or whenever 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.

10.2 The Carrier shall not be liable under any circumstances for any loss, misdelivery or damage to bullion, money, securities, deeds, bills of exchange, promissory notes, stamps, photographs, documents of title to property, jewellery, precious stones, gold, silver, platinum and other precious metals, non-ferrous metals other than in component form, antiques, watches, furs, drugs, human remains, nuclear fuel or nuclear waste, cassettes, videos, spirits, tobacco (other than raw leaf tobacco) and cigarettes, brittle/fragile/breakable articles or livestock and the Customer shall indemnify and hold harmless the Carrier in respect of any loss or damage caused in respect thereof to any person whatsoever. In addition, the Carrier shall not carry any passengers under any circumstances.

10.3 The Carrier shall not be liable in respect of any loss or misdelivery of or damage to any Consignment if the same has arisen from and the Carrier has used reasonable care to minimise the effects of:

10.3.1 Acts of God;

10.3.2 Any consequences of war, invasion, act of foreign enemy, hostilities (whether war or not), civil war, rebellion, insurrection, military or usurped power of confiscation, requisition or destruction of or damage to property by or under the order of any government or public or local authority;

10.3.3 Seizure or forfeiture under legal process;

10.3.4 Act, omission, misstatement or misrepresentation by the Customer or other owner of the Consignment or by servants or agents of either of them;

10.3.5 Inherent liability to wastage in bulk or weight, defect or inherent defect, natural deterioration or fragility of the Consignment (notwithstanding that it may be marked "Fragile");

10.3.6 Insufficient or improper packing;

10.3.7 Insufficient labelling or addressing;

10.3.8 Riot, civil commotion, strike, lockout, general or partial stoppage or restraint of labour from whatever cause;

10.3.9 The Consignee not taking or accepting delivery within a reasonable time after the Consignment has been tendered;

10.3.10 Failure or delay in delivery for any reason whatsoever beyond the control of the Carrier.

10.4 The Carrier shall not in any circumstances be liable for loss or damage to the Consignment after transit of such goods is deemed to have ended within Clause 7 above, 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.

## **11. 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 of the Consignment or any part thereof or the servants or agents of either of them 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.

## **12. Limitation of Liability**

12.1 The liability of the Carrier for loss of or damage to any Consignment shall be limited to a maximum of £100 whether such loss or damage was due to the fault or negligence of the Carrier or its servants, agents or employees or otherwise.

12.2 If the Customer requests 'Enhanced Liability' in writing prior to transportation of the goods commencing, the liability of the Carrier for loss or damage to any Consignment shall be limited to a maximum of £2,500 whether such loss or damage was due to the fault or negligence of the Carrier or its servants, agents or employees or otherwise.

12.3 For international services carried by road, the conditions of the Convention on the Contract for International Carriage of Goods by Road (CMR) May 1956, Geneva and the Protocol of July 5th, 1978, Geneva, will apply.

12.4 For international services carried by air, the goods are carried subject to the Warsaw Convention 1929, as amended by the Protocol signed in the Hague on September 28th 1955.

12.5 Where the misdelivery, loss or damage howsoever sustained is in respect of a part only of the Consignment, the Carrier's liability shall be limited to the actual value of that part of the Consignment or where such can not be readily ascertained a sum representing the proportion which the part of the Consignment misdelivered, lost or damaged represents of the total Consignment based on the open market value of the total Consignment.

12.6 The Carrier shall not in any circumstances be liable for any indirect loss or damage or for loss of profit or for loss of a particular market whether held daily or at intervals.

12.7 The Carrier shall be entitled to receive written proof of the value of the Consignment damaged or lost and shall be afforded by the Customer a reasonable opportunity to inspect the Consignment when delivery has been effected to the Consignee.

12.8 The Carrier shall not be liable for any loss or damage whatsoever where a Consignment is correctly delivered to the Delivery Address but where any person misrepresents their authority to receive the Consignment on behalf of the consignee.

12.9 A delivery note signed by a person at the delivery address will be conclusive proof that the Consignment was delivered in good order and condition. Save to the extent that any damage is clearly noted on the delivery note at the time of delivery. The Carrier shall not be liable for loss or damage to a Consignment unless the delivery note clearly indicates such damage at the time of delivery. The term 'Unchecked; or words to that affect will constitute conclusive proof that the consignment was delivered in good order and condition.

### **13. Time Limits for Claims**

13.1 The Carrier shall not be liable for:

13.1.1 Loss of a parcel, package, or container or from an unpacked Consignment or for damage to a Consignment or any part of a Consignment unless it is advised thereof in writing otherwise than upon a consignment note or delivery document within 3 days and the claim giving details of quantum and the circumstances of any loss is made in writing within 7 days after the termination of transit as determined above;

13.1.2 Loss or misdelivery or non-delivery of the whole of the Consignment or any separate parcel, package or container forming part of a Consignment unless the Carrier is advised of the loss, misdelivery or non-delivery in writing, otherwise than upon a consignment note or a delivery document within 14 days and the claim giving details of quantum and the circumstances of any loss is made in writing within 21 days after the commencement of transit as determined above.

### **14. Money Back Guarantee Policy**

14.1 Where the Carrier provides a time and/or day definite guarantee on delivery of the consignment, the Customer is eligible to receive a refund on carriage charges in the event of late delivery, providing that;

14.1.1 The Consignment conformed to all conditions in these Terms and Conditions

14.1.2 The Consignment was not delayed by Customs or Government authorities

14.1.3 The Customer correctly and accurately completed all documentation associated with the delivery

14.1.4 The Carrier is notified in writing by the Customer no more than 7 days after commencement of carriage

14.2 The money back guarantee shall not apply when the Carrier attempted delivery within the required time frame, and the Consignee was not present to accept delivery

14.3 The money back guarantee is limited to the price paid by the customer for carriage

14.4 In the event of late delivery of part of a multiple package consignment, the money back guarantee shall only apply proportionately to the carriage charges related to the package(s) that were delayed, and not the whole Consignment

### **15. Indemnity to the Carrier**

14.1 The Customer shall indemnify the Carrier against:

14.1.1 All consequences suffered by the Carrier (including but not limited to claims, demands, proceedings, fines, penalties, damages, costs, expenses and loss of or damage to the carrying vehicle and to other goods carried) of any error, omission, misstatement or misrepresentation by the Customer or other owner of the Consignment or by any servant or agent of either of them, insufficient or improper packaging, labelling or addressing of the Consignment or fraud;

14.1.2 All claims and demands whatsoever by whomsoever made in excess of the liability of the Carrier under these Terms and Conditions;

14.1.3 All losses suffered by and claims made against the Carrier resulting from loss of or damage to property caused by or arising out of the carriage by the Carrier of Dangerous Goods whether or not declared by the Customer as such;

14.1.4 All claims made upon the Carrier by H M Customs & Excise in respect of dutiable goods consigned in bond whether or not transit has ended or been suspended.

## **16. Lien**

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 monies due and the expenses of the retention, insurance and sale of the Consignment and shall, while accounting to the Customer for any balance remaining, be discharged from all liability whatsoever in respect of the Consignment. 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 dispose of, the goods against monies due from the Customer in respect of the Consignment.

## **17. Unreasonable Detention**

The Customer shall be liable for the cost of unreasonable detention of any vehicle, trailer, or other item of the Carrier, but the rights of the Carrier against any other person shall remain unaffected.

## **18. Impossibility of Performance**

The Carrier shall be relieved of its obligation to perform a Contract to the extent that performance is prevented by the failure of the Customer, fire, weather conditions, industrial dispute, labour disturbance or cause beyond the reasonable control of the Carrier.

## **19. Computation of Time**

In the computation of time, where any period of days provided by these Terms and Conditions is 7 days or less, Saturdays, Sundays and all Bank/Public Holidays shall be excluded.

## **20. Governing Law and Jurisdiction**

These Terms and Conditions and all Contracts shall be governed by and construed in accordance with the Laws in England and any proceedings in relation thereto shall be subject to the exclusive jurisdiction of the English Courts.

## **21. Arbitration**

In the event of a dispute the contracting parties may agree to seek arbitration.

## **TERMS AND CONDITIONS OF STORAGE**

## **1. Definitions.**

In these conditions:

“The Company” and “Supplier” shall mean My UK Mail Ltd.

“The Customer “ shall mean the person or persons entering into the contract with the Company.

“The Contract” shall mean the contract for work or services entered into by the Company and the Customer.

“The Work” shall mean the work to be performed and/or the services to be provided by The Company under the Contract.

“The Goods” shall mean all or part of those goods and/or other property, which is the subject of the Contract.

“These Conditions” shall mean the terms and conditions hereof.

## **2. Common Carrier**

The Carrier is not a common carrier and accepts at its sole discretion consignments for carriage only upon that condition that the Terms and Conditions contained herein. Save as may be agreed in writing by a Director of the Company, no servant or agent of the Company is permitted to alter or vary these Terms and Conditions in any way. All rates quoted are based on current freight and carriage rates which are subject to change without notice and in the event of such rates or charge of any nature being increased amounts will be paid by the Customer or his agent.

## **3. Quotations**

Any quotation given by the Company to the Customer is given subject to these conditions and is deemed to be withdrawn unless accepted within thirty days of its date. Acceptance after thirty days of submission of the quotation may be subject to renegotiations.

## **4. All works subject to these conditions**

The contract is deemed to be subject to these conditions which cannot be varied insofar as the Company in writing expressly agrees such variation and signed by an authorised representative of the Company. Without prejudice to the generality of the foregoing, the Customer acknowledges that these conditions shall not be affected by any verbal statement or representations that may have been made to the Customer or any person authorised by the Customer to represent their interests. The Supplier reserves the right to change these Terms and Conditions at any time.

## **5. Additional Costs**

Additional costs to those submitted in the quotation may be incurred, if during the course of the Work authorised representatives of the Customer request services in addition to that specified in the Contract or the Work is delayed through circumstances that the Company cannot be held responsible for or cannot control. The Company reserve the right to pass on to the Customer, in addition to the quoted price, the additional costs (if any) incurred by the Company thereby such additional sum as is reasonable having regard to such additional works or services.

## **6. Sub Contractors**

6.1 The Company may employ or engage the services of any other agent, servant or subcontractor for the purposes of fulfilling the Contract in whole or in part and the name of every such other agent, servant or subcontractor shall be provided to the Customer upon request. The Company contracts for itself as agent of and trustee for its servants and agents and all other subcontractors engaged under contract with the Company.

6.2 Notwithstanding relevant clauses in these Terms and Conditions, the carriage of goods in any Consignment by rail, sea, inland waterway or air arranged by the Company as agent of the Customer shall be subject to the terms and conditions of the rail, shipping, inland waterway or air-carrier contracted to carry the Consignment. When a contract involves the international carriage of goods by road so that the Carriage of Goods by Road Act 1965 is deemed to modify the terms of these conditions the statutory terms shall only apply to that part of the Contract which consists of the carriage of goods by road and shall not apply to any preparatory work, warehousing or site work.

## **7. Cancellation Charges**

Should the Customer for any reason whatsoever withdraw from the Contract notice in writing must be given. No charge will be made if notice to cancel is given in writing at least ten working days prior to the start date of the Work. When written notice is given with less than ten working days the following charges shall apply:

- (a) From five to ten working days (inclusive) before the date a storage consignment was due to arrive - 25% of the transportation charge stated on the quotation shall be payable if the Supplier had been contracted to bring the consignment into store and 1 weeks storage charges.
- (b) Less than five days before the due start - 35% of the transportation charge stated on the quotation shall be payable and two weeks storage charges
- (c) If less than 24 hours – any costs already incurred by the Company in order to fulfil the Contract will be payable with two weeks storage charges

## **8. Postponement**

The Customer may for any reason whatsoever postpone the date upon which the Work was agreed to commence, No charge will be made if notice to cancel is given in writing at least seven working days prior to the start date of the Work. When written notice is given with less than ten working days the following charges shall apply:

- (a) If less than less than seven working days from the agreed start date - any costs already incurred by the Company in order to fulfil the Contract will be payable.
- (d) If the Work does not commence within 30 days of notice of postponement or a new start date beyond the 30 days is not agreed the Work will be deemed to be cancelled and the cancellation charges may be applied

## **9. Ownership of Goods**

The Customer warrants that he is either the owner or the authorised agent of the owner of the goods. In the event of any claim being made against the Company, its servants, agents or sub contractors by any third party in respect of any loss or of damage to the Goods or any of them, the Customer will indemnify the Company in respect of such claim. The Customer warrants that as either the owner or authorised by such owner to accept these Terms and Conditions on such owner's behalf. The Customer is responsible for ensuring that the Goods dealt with by the Company in the execution of the Contract comprise only those goods which are the subject of the Contract.

## **10. Dangerous Goods**

“Dangerous Goods” means dangerous substances as defined in the Road Traffic (Carriage of Dangerous Substances in Packages etc) Regulations 1992 and any amendment or replacement thereof, explosives, radioactive substance and any other substance presenting a similar hazard. Dangerous Goods must be disclosed by the Customer in advance and if the Company agrees to accept them for Carriage and or storage they must be classified, packed and labelled in accordance with the statutory regulations for the carriage by road of the substance(s) declared. Transport Emergency Cards (Tremcards) or information in writing in the manner required by the relevant statutory provisions or by the relevant body authorised by statute to make regulations must be provided by the Customer in respect of each substance and must accompany the Consignment. The Company will not accept storage consignments of Dangerous Goods that have not been declared prior to arriving for storage and reserves the right to return said goods to the Customer and apply a return load charge and a storage cancellation fee of two weeks storage.

If it is found that the Company has inadvertently and unknowingly stored on behalf of the Customer Goods which have not been properly labelled and packaged and which have not been declared to the Company prior to the consignment arriving, the company reserves the right to insist the Customer makes immediate arrangements for said Goods to be removed from the Company’s property. Storage charges for the consignment will continue to apply for two weeks thereafter. If said goods cause damage to other consignments, property or persons as a result of the Customer not making the proper declaration prior to the goods arriving in store, the customer shall be liable for all claims that arise as a result.

## **11. Loss, damage or injury**

The Customer will indemnify the Company against any loss, damage or injury or expense incurred by the Company and against any claim by any third party for any loss, damage or injury caused by or arising by reason of:

- (a) The fact that any premises or property (whether or not owned by the Customer) onto which the Company reasonably goes for the purpose of carrying out the Work, are not reasonably fit and safe for that purpose.
- (b) The presence of any explosive, caustic, flammable or other dangerous substances on any such premises or property or as part of a storage consignment.
- (c) The nature or condition of the Goods or their packing.
- (d) Work done by the Company under the Contract as a sub contractor and/or on the premises of any third party to the extent that these conditions would have provided a defence to such claim had they been applicable.

## **12. Access**

The Customer warrants that there is adequate, safe and reasonable access for the vehicles, staff and Goods as specified in the Contract. On such occasions where viewing of the delivery address and access to it has not been made possible by the Customer prior to the Work commencing, the Company reserves the right to halt the Work if access is deemed to be unsafe or inadequate. Such action may result in additional charges being levied, as the conditions within the Contract may need to be varied in order to carry out the Works as agreed in the given circumstances.

Access by the Customer to the storage facilities can be arranged in advance in writing or by telephone with at least 24 hours notice. The Customer must be accompanied at all times and a charge is applicable. To comply with Health and Safety regulations access by the Company’s

staff to carry out Work on behalf of the Customer may incur the cost of more than one member of staff.

Customers may only access their own consignments.

The Supplier reserves the right to refuse the Customer entry to the Suppliers premises for any reason.

### **13. The Customer's responsibility for items**

The Customer shall be responsible for ensuring:

- (a) That all items to be removed into or out of storage are notified to the Company.
- (b) Any items removed in error are notified to the Company

### **14. The Company's liability to the Customer**

The Company is not liable for:

- (a) Loss, damage or delay for which is not caused by its actual fault or caused by circumstances which are reasonably deemed to be outside the Company's control.
- (b) Testing and recording the workability of electrical, mechanical or gas driven appliances. All items are stored untested and the Company cannot be held liable for items returning from storage that are not working.
- (c) Consequential loss.
- (d) Loss or damage of whatever type not brought to the Company's attention within seven working days of the event giving rise to the claim. The Customer agrees to give the Company written notice of such claim. In the event of damage to the premises, claims will not be entertained unless the fact of such damage is notified on the removal order form at the time of such damage and is confirmed in writing not more than seven days thereafter.
- (e) Damage to the goods caused by weather or climatic conditions whilst in transit or during the loading and unloading phases
- (f) Loss caused by any delay in commencing or in completing the Work on the part of the Company, its servants, agents or sub contractors.
- (g) Goods taken or left in error

### **15. Insurance**

- (a) The Customer undertakes to insure the Goods in respect of loss or damage. Such insurance must be with an insurance company approved by the Company and to be in the joint names of the Customer and the Company. In the event of the Customer failing to comply with this condition, the Company will not accept responsibility for any loss and/or damage to the Goods. In the event of the Customer arranging all risks insurance the Customer must be satisfied that its terms and conditions are acceptable and that the interest of the Company is noted on the policy.
- (b) The Company shall be under no liability in the event of the policy being voided or in respect of any deficiency in the cover provided. A statement of value for the goods coming into storage must be given in writing to the Company by the Customer prior to the Work being carried out.
- (c) The terms of any insurance policy shall be deemed to be incorporated into these Terms and Conditions. Where insurance arranged by the Customer conflict with the terms and conditions set out herein these terms shall take precedence. By reason of the availability of insurance cover for the Goods written in joint names and regardless of whether or not the Customer avails themselves of such cover, the Company's liability under any claim made in relation to the Goods shall not exceeding the amount of the insurance cover.

## **16. Goods in store**

The Customer shall give the Company not less than five working days notice of the date upon which the Goods in full or in part are required from storage. The Company may give to the Customer seven working days notice to remove the Goods in full or in part from storage facilities. In the event that the Customer does not remove such goods upon the date specified in a notice under this clause, the Company shall be entitled to charge the Customer an additional storage charge at the current rate.

## **17. Computer Equipment**

- (a) Limitation to Liability - The Company will only be liable for non-physical loss to any equipment deemed to fall within this category where the Company is engaged to both decommission and recommission the equipment as part of the Contracted Works.
- (b) In the event of any damage to or fault occurring in the equipment or the system the Customer must notify the Company in writing within seven days of completion of Works and the Company must be given the opportunity to repair any such damage that has been agreed to be the fault of the Company. The Company will not be liable for any loss in the event of the Customer arranging to carry out such repairs themselves or by any other party contracted to do so on the Customers behalf without the Company's prior consent.
- (c) Software loading and configuration of equipment is the Customer's sole responsibility. Any and all software should be backed up by the Customer prior to the removal of the Goods and the Company cannot accept any responsibility for the failure to do so.
- (d) The Customer is responsible for ensuring the provision of adequate consumables for the testing and implementation of all equipment specified in the Contract. Without prejudice to the provision herein contained the Company shall not be liable:
  - d.1 For any loss to the operative parts of any computers or other machinery or equipment or any claims for consequential loss arising therefrom
  - d.2 For any loss or damage not notified to the Company within three working days of completion of the removal.

## **18. Errors and Omissions**

Immediately that the Customer is aware of any error, omission or act which should have been corrected he shall immediately give the Company due notice thereof and the Company shall be afforded a reasonable time to make such correction.

## **19. Notices**

Every reasonable effort shall be made by the Company to communicate notices to the Customer. All communications to the Customer shall be deemed to have been received by the Customer forty-eight hours after the same have been posted to the Customer's last known address.

## **20. Interest on late payment**

All sums due to the Company shall be paid without deduction, set-off or abatement and the Customer shall not withhold or defer any payment on account of any claim or counterclaim and acknowledges that any such claim or counterclaim whatsoever by the Customer against the Company must be subject to separate proceedings. The Company's charges shall be payable by the Customer without prejudice to the Company's rights against any other person. Charges shall be payable on the expiry of any time limit notified to the Customer, whether on any invoice or

otherwise. The Company shall be entitled to interest and compensation in accordance with the Late Payment of Commercial Debts (Interest) Act 1998 as Amended and supplemented by the Late Payment of Commercial Debts Regulations 2002. Any queries as to the correctness of the invoice must be made in writing within fourteen days of issue of the invoice otherwise it will be payable in full. Unless stated otherwise all charges quoted are exclusive of VAT.

Late payment will make insurance premiums invalid and claims will not be entertained.

## **21. Lien on Customer Goods**

To the extent that any such or sums owed by the Customer hereunder is or unpaid after becoming due, the Company shall have a lien of the Goods or other property of the Customer as are in the possession or control of the Company, its servants, agents and subcontractors or any of them. If any sum remains unpaid after 60 days the Company may sell the goods in its possession. Payment or tender of the proceeds after deduction of all proper charges and expenses in relation thereto and of all outstanding charges in relation to carriage and storage of the Goods shall (without prejudice to any claim or right which the Customer may have against the Company otherwise arising under these conditions) discharge the Company from all liability in respect of the Goods. Notwithstanding the generality contained herein the Company shall use reasonable endeavours to obtain a reasonable price for the Goods and the Company's power at the time of sale shall not be exercised where the name and address of the Customer is known unless the Company shall use its reasonable endeavors to give notice to the Customer that the goods will be sold unless within the time specified in such notice, being a reasonable time, the goods are taken away or instructions are given for their disposal.

## **22. Ownership of Materials**

Ownership of all materials and equipment (packing containers, crates etc.) shall remain with the Company but shall be the responsibility of the Customer until the said materials and equipment are returned to the Company. The Customer is responsible for obtaining a signed delivery note on return.

None of these conditions shall be vitiated by the illegality, invalidity or unenforceability of any other of these conditions, the Contract shall be construed as if it did not contain such illegal, invalid or unenforceable condition.

The Contract is governed by the laws of England.

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