

AMALGA LIMITED

TERMS AND CONDITIONS FOR THE PROVISION OF LOGISTICS AND SUPPORT SERVICES

1. SCOPE AND DEFINITIONS

1.1 These Terms shall apply to the provision by the Company to the Customer of the Services in consideration of the payment by the Customer of the Charges.

1.2 Acceptance of the Contract indicates acceptance of these Terms and any other express conditions contained in the Contract. In the event of any inconsistency between these documents, these will be interpreted in the following order of priority:

- (a) any special conditions in the Contract;
- (b) these Terms.

1.3 These Terms shall prevail over any terms and conditions in the Customer's order, invitation to tender, request for proposal or acceptance. No conduct by the Company shall be deemed to constitute acceptance of any terms put forward by the Customer.

1.4 These Terms may only be amended by express agreement in writing signed by an authorised representative of each of the Parties.

1.5 In these Terms, unless the context otherwise requires, the following words have the following meanings:

"**Agreement**" together the Contract and these Terms;

"**Airport**" Specific Airport as identified;

"**Airport Security Control**" the security control posts at the Airport;

"**Airside Clearance Services**" the issue by the Company to the Customer of a TAP which may be provided to the Customer (and used for the benefit of the Customer's vehicles and/or personnel, as the case may be) as part of the Services as more particularly described in the Specification in the Statement of Works;

"**Charges**" the charges payable by the Customer to the Company for the provision of the Services as may be specified in the relevant Work Order or as may be notified by the Company to the Customer from time to time;

"**Company**" Amalga Limited (a company registered in England and Wales with company number 4197644) of **Devonshire House, 60 Goswell Road, London, EC1M 7AD.**

"**Confidential Information**" all identifiable methodology, know-how, experience, data, databases, flow charts, reports, tables or other material produced in relation to these Terms (including the negotiations leading to it) and any other information of whatever kind (whether commercial, technical, financial, operational or otherwise, whether communicated verbally, in writing or in any other form and whether or not expressly stated to be confidential) relating to the Company (including but not limited to) its business, products, suppliers and customers;

"**Contract**" the contract between the Company and the Customer relating to the provision of the Services which is attached or, if no contract is attached, which refers to these Terms;

"**Customer**" the customer specified in the Contract;

"**Customer Project**" any project which would require the Company to perform some or all of the Services in a manner and within a timescale agreed by the Company and the Customer in a Work Order;

"**Customer Site**" the final destination for Delivery of the Goods within the Site including (but not limited to) the Customer's retail unit or such other Site as may be specified in the Work Order;

"**Delivery**" and "**Delivered**" shall have the meaning given to it in clause 8.7;

"**DPA**" the Data Protection Act 1998 in the United Kingdom and any other applicable data protection legislation and regulations as implemented in all applicable territories covered by these Terms;

"**Escort Services**" the escort of a Customer's vehicle and/or personnel (as the case may be) by a member of the Company's personnel in order to facilitate the Customer's vehicle's and/or the Customer's personnel (as the case may be) passage through Airport Security Control at the Site;

"**Event of Force Majeure**" in respect of either Party, an event or circumstance beyond the reasonable control of that Party which causes delays in that Party performing or failure of that Party to perform any of its obligations under this Agreement including (but not limited to): an act of God, strike, lock-out or other industrial actions or trade disputes; war declared or undeclared, threat of war, terrorist act, revolution, riot, civil commotion, public demonstration; lightning, fire, storm, flood or earthquake; power failure or explosion, fault or failure of any plant or apparatus or delays at Airport security posts (caused by a party other than the Company);

"**Goods**" the building and construction materials, machinery, equipment, retail unit fittings, display units, merchandise, waste disposal units and/or any other materials and parts thereof (including packaging) in relation to which the Services are provided;

"**Group**" in relation to a company, that company, its Subsidiaries, its Holding companies, and their Subsidiaries;

"**Holding Company**" a holding company within the meaning ascribed to that expression by sections 736 and 736A of the Companies Act 1985;

"**Initial Term**" the initial term set out in the Contract;

"**Moving Equipment**" such equipment and/or machinery as may be used to lift and/or move the Goods including (but not limited to) fork lift trucks and other lifting equipment;

"**Party**" the Company or the Customer;

"**Services**" the services which the Company may from time to time provide to the Customer (including but not limited to) the Airside Clearance Services, Escort Services, Transit, and/or Waste Removal Services as more particularly described in the Specification in the Statement of Works;

"**Service Request**" a request made by the Customer to the Company for the provision of Services and may include any request made via the Company's web access system, email, fax or otherwise in writing or by telephone;

"**Site**" the location specified in the Contract;

- "**Specification in the Statement of Works**" the document attached at Schedule 1 setting out the nature of the Services and each Party's obligations;
- "**Start Date**" the start date specified in the Contract;
- "**Subsidiary**" has the meaning given to it in sections 736 and 736A of the Companies Act 1985;
- "**TAP**" a temporary airside pass which permits a vehicle and/or individuals (as the case may be) to pass through Airport Security Control at the Site which may be issued to the Customer as part of the Services;
- "**Terms**" these terms and conditions (including any schedule or annexure to it);
- "**Transit**" shall mean the conveyance of the Goods by the Company and shall include (but shall not be limited to) the conveyance of the Goods within the Customer Site and outside of the Customer Site and the period of such conveyance shall either:-
1. commence when the Company takes possession of the Goods (either manually, by the Company's personnel, and/or when the Goods are uploaded onto the Company's Moving Equipment and/or vehicle) at such location as may be specified in the relevant Work Order and end on Delivery to the Customer Site; or
 2. commence when the Company takes possession of the Goods (either manually, by the Company's personnel, and/or when the Goods are uploaded onto the Company's Moving Equipment and/or vehicle) at the Customer Site and end on re-Delivery to the Customer Site;
- "**Waste Removal Services**" the waste removal services which may be provided by the Company to the Customer as part of the Services as more particularly described in the Specification in the Statement of Works;
- "**Working Day**" Monday to Friday in each week, excluding Public and Bank Holidays, in the UK;
- "**Work Order**" each separate work order agreed between the Company and the Customer for the provision of the Services, a template of which is attached at Schedule 2.
- 1.5.1 any reference to any legislation or legislative provision shall be construed as a reference to that legislation or provision as amended, re-enacted or extended at the relevant time;
 - 1.5.2 any reference to a person shall be construed as a reference to any person, corporate entity, government, state or agency of a state or any association or partnership (whether or not having separate legal personality) or one or more of the foregoing;
 - 1.5.3 the headings are inserted for ease of reference only and shall not affect the construction of these Terms; and
 - 1.5.4 any reference to a clause shall mean a clause of these Terms unless specifically stated otherwise.
2. **Start and Duration**
- 2.1 Subject to earlier termination under clause 2.2 or 15, these Terms shall start on the Start Date and shall continue in force for the Initial Term.
 - 2.2 The Company may give to the Customer not less than 30 days notice in writing to terminate the Agreement, or any one of the Work Orders.
- 2.3 If the Company chooses to terminate any one of the Work Orders under this clause independently of the others, the Work Orders and the remainder of this Agreement shall continue in full force and effect. If the notice of termination is not specific, then the Agreement as a whole shall terminate, including all Work Orders.
3. **Supply of Services**
- From time to time, the Customer may request the Company to provide any one or more of the Services set out in the Specification in the Statement of Works.
4. **Service Request**
- 4.1 When wishing to instruct the Company in relation to a Customer Project, the Customer shall submit to the Company a Service Request.
 - 4.2 The Customer shall submit Service Request's no less than three (3) Working Days in advance of the Customer Project to which the Service Request relates.
 - 4.3 The Company shall be free to accept or reject Service Request's at the Company's absolute discretion.
5. **Work Order**
- 5.1 As soon as reasonably practicable following receipt by the Company of a Service Request, the Company shall send to the Customer a completed Work Order.
 - 5.2 The Work Order shall contain confirmation of:
 - 5.2.1 the nature and requirements of the Customer Project;
 - 5.2.2 the Services to be provided by the Company in relation to the relevant Customer Project;
 - 5.2.3 timescales for completion of the Services; and
 - 5.2.4 details of the Charges payable in respect of the Services specified in the Work Order.
 - 5.3 Once the Customer has notified the Company of its acceptance of the Work Order in writing, the Company shall be required to supply and the Customer shall be required to receive and pay for the Services in accordance with the Work Order.
 - 5.4 For the avoidance of doubt, if written notification of the Customer's acceptance of the Work Order as referred to clause 5.3 above is not received by the Company within twenty-four (24) hours of issue of the Work Order by the Company, the Customer will be deemed to have accepted the Work Order.
 - 5.5 The Company shall use its reasonable endeavours to perform the Services in accordance with and within the periods specified in the Work Order and that Work Order shall form part of this Agreement.
 - 5.6 If, during the course of providing Services under a Work Order, the Customer requests and the Company agrees to provide additional services not specified in the relevant Work Order, the Company will provide these additional services in accordance with the terms of this Agreement. For the avoidance of doubt, the Charges and payment provisions shall apply to the provision of these additional services as set out in clause 9.
6. **Company's Obligations**
- 6.1 The Company shall provide the Services with reasonable skill and care and in accordance with good industry practice.
 - 6.2 The Company shall use reasonable endeavours to:

- 6.2.1 provide the Services to the Customer in accordance in all material respects with the Specification in the Statement of Works;
- 6.2.2 meet any performance dates specified in the Terms but any such dates shall be estimates only and time shall not be of the essence for performance of the Services;
- 6.2.3 observe all health and safety rules and regulations and any other reasonable security requirements that apply at the Customer Site and that have been communicated to it under clause 7.1.5;
- 6.2.4 take precautions to safeguard the security of the Goods in accordance with the Specification in the Statement of Works;
- 6.2.5 comply with the operational procedures in relation to the Services set out in the Specification in the Statement of Works; and
- 6.2.6 comply with the byelaws and/or other rules and regulations that may be applicable at the Airport.
- 7. Customer's Obligations**
- 7.1 The Customer agrees to:
- 7.1.1 comply with the Customer's obligations referred to in the Specification in the Statement of Works in a timely manner;
- 7.1.2 co-operate with the Company in good faith in all matters relating to the provision of the Services;
- 7.1.3 provide in a timely manner such access, including security and vehicle access, to the Customer Site (or such other premises where the Goods are to be collected from) and such other facilities or resources, as may be reasonably requested by the Company in order to enable the Company to provide the Services;
- 7.1.4 provide the Company in a timely manner with such other information as the Company may request in order to provide the Services and ensure that this information is accurate and complete in all material respects;
- 7.1.5 inform the Company of all health and safety rules and regulations and any other reasonable requirements that apply at the Customer Site; and
- 7.1.6 comply with the operational procedures in relation to the Services as set out in the Specification in the Statement of Works.
- 7.2 The Customer warrants:
- 7.2.1 that it is the owner of the Goods or if not the owner it has the authority and consent of the owner as required to comply with its obligations under these Terms; and
- 7.2.2 to provide full and accurate information to the Company to enable it to provide the Services.
- 7.3 The Customer acknowledges and agrees that it is the responsibility of the Customer to ensure that the Goods specified for Transit are correctly described and labelled. For the avoidance of doubt, the Company reserves the right to refuse to remove, store, provide Transit services for or otherwise handle any Goods that the Company deems not to be adequately described or labelled. The Company shall not be liable for any loss, damage or inconvenience arising directly or indirectly out of any discrepancy, omission or error contained in the instruction for Transit.
- 7.4 The Customer shall, and shall procure that its employees, agents and sub-contractors shall:
- 7.4.1 comply with all security requirements notified to it by the Company including (but not limited to) producing upon request such identity documentation and/or vehicle documentation as may be notified to the Customer from time to time;
- 7.4.2 upon request and as soon as reasonably practicable, provide such information and documentation as the Company may require in order to obtain the necessary TAPs on behalf of the Customer, its employees, agents and sub-contractors;
- 7.4.3 when issued by the Company with a TAP, keep such TAP safe and secure at all times and shall not allow any person other than the person to whom the TAP has been issued to use the TAP.
- 7.5 In the event that a Customer or any of its employees, agents or sub-contractors loses or damages any TAP which has been issued to the Customer by the Company, the Customer shall notify the Company immediately and the Customer shall pay to the Company the sum of £500.00 in relation to each TAP which has been lost or damaged. The Parties agree that this amount is a fair and reasonable representation of the costs which the Company will incur in dealing with the lost TAP and in obtaining a replacement TAP.
- 7.6 On request by the Company (and, in any event on termination of the Agreement for any reason), the Customer shall immediately return all TAP's which have been issued to the Customer by the Company under this Agreement.
- 7.7 If the Company's performance of its obligations under these Terms is prevented or delayed by any act or omission of the Customer's or the Customer's agents, sub-contractors or employees or of the Airport or the Airport's agents, sub-contractors or employees, the Company shall be entitled, in its absolute discretion, to terminate the relevant Work Order under which the Services are to be provided, and the Company shall not be liable for any costs, charges or losses sustained or incurred by the Customer arising directly or indirectly from such termination and the Customer will pay to the Company all additional time and expenses incurred by the Company as a result of that act or omission at the Company's then standard rates.
- 7.8 The Customer shall indemnify and keep indemnified the Company from and against all costs, expenses (including, but not limited to, legal and other professional charges and expenses) losses, damages and other liabilities (of whatever nature, whether contractual tortious or otherwise) suffered or incurred by the Company and arising out of or in connection with any acts or omissions of the Customer's agents, sub-contractors, employees or a member of the Customer's Group, any breach of these Terms by the Customer, any activities of the Customer under or in connection with these Terms, any dispute as to the ownership of the Goods in relation to which the Services are provided or as to the person entitled in law to possession of the Goods or any claims, actions or demands made against the Company by any third party as a result of any breach or alleged breach of these Terms by the Customer.
- 8. Handling of Goods and Delivery**
- 8.1 The Customer shall ensure that any Goods provided to the Company for Transit shall be packed in accordance with such packing requirements as may be set out in the relevant Work Order.
- 8.2 The Customer shall at all times provide to the Company all relevant information about the nature of the Goods and, if required by the Company, procedures for dealing with the handling of the Goods and (if appropriate) information about their perishability and normal shelf life.

- 8.3 The Customer shall keep the Company fully informed of any particular risk of which it is aware whether such risk be in relation to the Goods or their possible deterioration or damage or the hazardous nature of the Goods or any liability to contaminate or otherwise affect other documentation, goods, products, property or persons.
- 8.4 The Company reserves the right at its complete discretion to refuse to remove, store, provide Transit services for or otherwise handle any article or substance which may in the reasonable opinion of the Company be damaged, hazardous or dangerous in themselves or constituent parts or which article or substance could cause damage to other goods carried in respect of these Terms or which article or substance could cause damage or be dangerous to the Company's employees, servants or agents or the property of the Company including but not limited to its buildings, vehicles or equipment.
- 8.5 The Customer shall not knowingly or recklessly submit for Transit any dangerous or explosive article or substance. In the event that the Customer does submit dangerous or explosive articles or substances for Transit, the Customer shall be liable for and agrees to reimburse the Company in respect of any loss or damage incurred by the Customer as a result of the Transit of such articles or substances. The Customer shall indemnify the Company against all claims made against it for any loss or damage by any third party as a direct result of the presence of any such article or substance among the Goods of which the Customer is aware or should reasonably have been aware.
- 8.6 In relation to the Waste Removal Services, the Customer shall inform the Company in advance in each case of the type of goods which the Company is required to remove and any specific handling requirements.
- 8.7 The Company will be deemed to have Delivered the Goods to the Customer Site when the Goods are either:
- 8.7.1 manually Delivered to the Customer's Site by the Company's personnel; and/or
- 8.7.2 off-loaded from the Company's vehicle or the Company's Moving Equipment (if the Services include Transit); and/or
- 8.7.3 offloaded from the vehicle or Moving Equipment of a third party.
- 8.8 For the avoidance of doubt, the Customer acknowledges and agrees that the Customer is not required to be in attendance when Goods are Delivered by the Company to the Customer's Site (as referred to in clause 8.7 above) or uploaded by the Company into the Company's vehicles at the Customer's Site.
- 9. Charges and payment**
- 9.1 In consideration of the provision of the Services, the Customer shall pay to the Company the Charges on the basis of a cost per activity performed.
- 9.2 Unless expressly stated to the contrary in the Work Order, the Company may invoice for the Charges weekly in arrears.
- 9.3 The Customer shall pay each invoice submitted to it by the Company within fourteen (14) days of the date of invoice or Prior Payment via pro forma as agreed. Time for payment shall be of the essence of these Terms.
- 9.4 Without prejudice to any other remedy which the Company may have, if any sums due under these Terms are not received by the Company by the due dates referred to the Company may:
- 9.4.1 claim interest under the Late Payment of Commercial Debts (Interest Act) 1998 from the due date until the overdue sums have been received by the Company in cleared funds; and/or
- 9.4.2 suspend the provision of the Services or any other obligations required to be performed by the
- Company under these Terms until such time as payment of the overdue sums (together with any interest) have been received by the Company.
- 9.5 All sums due under these Terms are exclusive of Value Added Tax which (where applicable) will be paid to the Company by the Customer in addition to the sums due.
- 9.6 Without prejudice to any other right or remedy it may have, the Company reserves the right to set off any amount owing at any time to it by the Customer against any amount payable by the Company to the Customer.
- 10. Confidential Information**
- 10.1 The Customer shall safeguard and keep confidential any and all Confidential Information. The Customer shall not use or disclose the Confidential information except to the extent that such use or disclosure is necessary for the purposes of performing its obligations or exercising its rights under this Agreement. The Customer shall ensure that its officers and employees and any other persons to whom the Confidential Information is disclosed comply with the provisions of this clause 10.
- 10.2 The obligations on the Customer set out in clause 10.1 shall not apply to any information to the extent that such information:
- 10.2.1 is publicly available or becomes publicly available through no act or omission of the Customer; or
- 10.2.2 is required to be disclosed by law.
- 11. Data Protection**
- 11.1 In relation to any "personal data" "processed" by a person as "data controller" (as such terms are defined by the DPA) in connection with these Terms ("Personal Data"), that person shall process the Personal Data in accordance with the DPA.
- 11.2 Insofar as one Party ("Processor") acts as a person or organisation which processes Personal Data on behalf of the other ("Controller"), in relation to the Personal Data the Processor shall:
- 11.2.1 maintain appropriate technical and organisational measures against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, Personal Data held or processed by the Processor; and
- 11.2.2 act only on the Controller's instructions in relation to the processing of such Personal Data.
- 12. Liability**
- 12.1 The Company shall not be liable for loss, mis-delivery, delay of or damage to the Goods whilst they are not in the Company's possession or control including (but not limited to) any loss, mis-delivery, delay of or damage to the Goods during the course of the Escort Services.
- 12.2 Notwithstanding any other provision of these Terms, the Company shall not be liable for loss, mis-delivery, delay of or damage to the Goods whilst in Transit where it is proved such loss, mis-delivery, damage or delay has arisen from an act or omission of the Customer, its employees or agents or any failure of the Customer to comply with its obligations under these Terms.
- 12.3 The Company shall not be liable to the Customer (whether by reason of any negligence by the Company or any of the Company's employees or sub-contractors, any breach of contract or any express or implied warranty, condition or other term, or under any indemnity given by the Company) for any: loss of profits, or damage to reputation, or loss of anticipated savings, or loss of anticipated revenues, or loss of business opportunities, or loss of contracts, or loss of goodwill, or loss of or corruption of any data, or claim, action or demand made

against the Customer by any third party, or indirect loss, damage, cost, expense, claim or other liability whatsoever; which arises out of or in connection with these Terms.

12.4 The aggregate liability (inclusive of interest and legal and other costs) of the Company to the Customer in respect of all claims arising under or in connection with these Terms (whether by reason of any negligence by the Company or any of the Company's employees or sub-contractors, any breach of contract or any express or implied warranty, condition or other term, or under any indemnity given by the Company) shall not in any event exceed £5000 pounds sterling).

12.5 Nothing in these Terms shall operate to limit or exclude either Party's liability to the other for any death or personal injury caused by the that Party's negligence or any of that Party's employees or agents, or for any other matter in respect of which liability cannot lawfully be limited or excluded.

13. Risk

13.1 Subject to clause 12, the Company shall be responsible during Transit for all losses and damage to Goods due to the wilful or negligent acts or omissions of the Company or its employees, agents or subcontractors.

13.2 The Company's liability for loss of or damage to Goods under clause 13.1 above shall be limited to:

13.2.1 the net invoice price to the Customer of the Goods or the manufacturing cost of the Goods (excluding VAT); or

13.2.2 (in the case of damaged Goods) the reduction in value of the Goods;

provided that in relation to any one event, the Company's total liability for lost or damaged goods shall not exceed £5000 pounds sterling).

14. Force Majeure

The Company will not be liable for, or be deemed to be in breach of these Terms as a result of, any delay in performing or failure to perform any of the Company's obligations under these Terms where that delay or failure is caused by any circumstances beyond the Company's reasonable control including, but not limited to, an Event of Force Majeure.

15. Termination

15.1 Either Party may terminate these Terms immediately by serving written notice to that effect on the other Party if at any time any one or more of the following events occurs:

15.1.1 the other Party makes any voluntary arrangement with its creditors or becomes bankrupt or enters administration or goes into liquidation (otherwise than for the purposes of solvent amalgamation or reconstruction); or

15.1.2 a security holder takes possession, or a receiver or administrative receiver is appointed, over all or any material part of the property or assets of the other Party; or

15.1.3 anything analogous to any of the foregoing occurs to the other Party under the law of any jurisdiction; or

15.1.4 the other Party ceases to carry on business; or

15.1.5 the other Party commits a material breach of any of the provisions of these Terms and in the case of a breach capable of remedy, fails to remedy that breach within thirty (30) days after being served with a written notice specifying the breach and requiring it to be remedied.

16. Consequences of Termination

16.1 Any termination of these Terms shall be without prejudice to any other rights or remedies a Party may be entitled to under these Terms or at law and shall not affect any accrued rights or liabilities of either Party nor the coming into or continuance in force of any provision of these Terms which is expressly or by implication intended to come into or continue in force on or after such termination including (but not limited to) clauses: 9, 10, 11, 12, 14, 15, 16, 17-24.

16.2 On termination (for whatever reason) and/or expiry of these Terms the Customer shall immediately pay to the Company any outstanding unpaid invoices and interest due to the Company. The Company may submit invoices for any Services that it has provided but not invoiced. The Customer must pay these invoices within 30 days of the date of invoice.

17. Exclusion of Third Party Rights

Unless expressly stated in this Agreement, nothing in this Agreement shall confer any rights on any person under the Contracts (Rights of Third Parties) Act 1999.

18. Assignment/Sub-contracting

18.1 The Customer shall not be entitled to assign, sub-contract or otherwise dispose of any of its rights or obligations under these Terms without the prior written consent of the Company. For the avoidance of doubt, such consent may only be given by a director of the Company.

18.2 The Company may sub-contract its rights and obligations under this Agreement at any time without the consent of the Customer.

18.3 The Company may at any time and without seeking the consent of the Customer, assign its rights and obligations under this Agreement to a third party ("Transferee"). On condition that the Transferee undertakes for the benefit of the Customer to perform with effect from the date of assignment all of the obligations of the Company under this Agreement in place of the Company, the Customer shall accept such performance and shall release the Company from any and all obligations and liability under this Agreement arising on or after the date of assignment.

19. Waiver

19.1 No delay or failure on the part of either Party in enforcing any provision in these Terms shall be deemed to operate as a waiver or create a precedent or in any way prejudice that Party's rights under these Terms, nor shall any single or partial exercise of any right or remedy in any circumstances preclude any other or further exercise of it or the exercise of any other right of remedy.

19.2 The rights and remedies provided in these Terms are cumulative and are additional to any rights or remedies provided by law.

20. Severability

If any provision in these Terms is declared void or unenforceable by any court or other body of competent jurisdiction, or is otherwise rendered so by any applicable law, that provision shall to the extent of such invalidity or unenforceability be deemed severable and all other provisions of these Terms not affected by such invalidity or unenforceability shall remain in full force and effect.

21. Notices

21.1 Any notice under these Terms shall be in writing and shall be sent by pre-paid, first class post, hand delivery or fax to the address/number for the relevant Party as stated in these Terms or otherwise notified to the other Party for this purpose. Any such notice shall be deemed to have been duly received:

21.1.1 if despatched by first class, recorded delivery post - 48 hours from the time of posting (subject only to any delays caused by industrial action affecting the postal service);

- 21.1.2 if delivered by hand - at the time of actual delivery;
- 21.1.3 if despatched by fax - 24 hours after the time of the despatch.
- provided in each case that if the deemed receipt time occurs on a day that is not a Working Day or after 5.00pm on a Working Day, then the notice shall not in fact be deemed to have been received until 10.00am on the next following Working Day (such times being local time at the address of the recipient).
22. **Entire Terms**
- 22.1 These Terms shall constitute the entire Terms and understanding, and shall supersede any previous Terms(s), between the parties in connection with the subject matter of these Terms.
- 22.2 The Customer acknowledges and agrees that the Customer has not been induced to enter into these Terms in reliance upon, and in connection with these Terms does not have any remedy in respect of, any representation or other statement or promise of any nature whatsoever other than as expressly set out in these Terms.
- 22.3 Nothing in these Terms shall operate to limit or exclude any liability for any fraudulent misrepresentation or for any other matter in respect of which liability cannot lawfully be limited or excluded.
23. **Dispute Resolution**
- 23.1 All and any disputes or differences arising out of or in connection with these Terms, including any dispute or difference in respect of the breach, termination or invalidity of these Terms ("**Dispute**") shall be resolved and finally settled in a manner provided for in this clause 23.
- 23.2 The Parties will seek in good faith to resolve any Dispute by negotiation without recourse to proceedings. In the event of a Dispute either Party may serve written notice ("**Dispute Notice**") on the other proposing that the Parties resolve the Dispute by negotiation. Within 10 days after service of the Dispute Notice, one or more representatives of each Party at senior director level shall meet in good faith to attempt to resolve the Dispute by agreement.
- 23.3 If the Dispute is not resolved within 21 days of the Dispute Notice, either Party may upon written notice to the other refer the Dispute to mediation in accordance with clause 23.4.
- 23.4 If any Dispute arises and is not resolved under the procedure set out in clauses 23.2 and 23.3, the Parties will attempt to settle it by mediation under the auspices of the ADR Group. To initiate the mediation a Party shall give written notice ("**Mediation Notice**") to the other Party requesting a mediation. The mediator shall be agreed upon within 60 days of the date of the Mediation Notice, failing which the mediator shall be appointed by the President of the Law Society of England and Wales.
- 23.5 If the Parties cannot agree on any issue as to the conduct of the mediation (other than as to the appointment of the mediator), then at the request of either Party the ADR Group will decide the issue.
- 23.6 If the Dispute is not resolved within 7 days of starting the mediation or within such further period as the Parties may agree in writing, either Party may then give written notice to the other to refer the Dispute to the English Courts for final determination in accordance with clause 24 below.
- 23.7 Nothing in this clause shall prevent any Party seeking injunctive or interim relief.
- 23.8 The commencement of a mediation shall not prevent either Party from commencing or continuing court proceedings.
24. **Governing Law & Jurisdiction**
- 24.1 These Terms shall be governed by and construed in accordance with the law of England and Wales.
- 24.2 Subject to clause 23, any dispute arising under or in connection with these Terms shall be subject to the exclusive jurisdiction of the courts of England and Wales, to which each of the parties irrevocably submit

