

**The Customer's attention is particularly drawn to the provisions of clause 8.**

## **1. INTERPRETATION**

1.1 Definitions. In these Conditions, the following definitions apply:

**Business Day:** a day (other than a Saturday, Sunday or public holiday) when banks in London are open for business.

**Charges:** the charges payable by the Customer for the supply of the Services in accordance with clause 5.

**Commencement Date:** has the meaning set out in clause 2.

**Conditions:** these terms and conditions as amended from time to time in accordance with clause 15.8.

**Contract:** the contract between the Supplier and the Customer for the supply of Services in accordance with these Conditions.

**Customer:** the person or firm who purchases Services from the Supplier.

**Data Protection Legislation:** the UK Data Protection Legislation and (for so long as and to the extent that the law of European Union has legal effect in the UK) the GDPR and any other directly applicable European Union regulation relating to privacy.

**GDPR:** General Data Protection Regulation ((EU) 2016/679).

**Intellectual Property Rights:** all patents, rights to inventions, utility models, copyright and related rights, trade marks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world.

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

**Services:** the transportation and storage of the Customer's goods as set out in clause 3.1 and the Specification.

**Specification:** the description or specification of the Services provided in writing by the Supplier to the Customer.

**Supplier:** A C Morrison Limited registered in England and Wales with company number 3746693.

**Supplier's Premises:** unit 9 at RO24 Harlow Business Park Harlow Essex CM19 5QB

**UK Data Protection Legislation:** any data protection legislation from time to time in force in the UK including the Data Protection Act 1998 or 2018 or any successor legislation.

- 1.2 Construction. In these Conditions, the following rules apply:
- (a) a **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);
  - (b) a reference to a party includes its personal representatives, successors or permitted assigns;
  - (c) a reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted;
  - (d) any phrase introduced by the terms **including, include, in particular** or any similar expression, shall be construed as illustrative and shall not limit the sense of the words preceding those terms; and
  - (e) a reference to **writing** or **written** includes faxes and e-mails.

## 2. BASIS OF CONTRACT

- 2.1 The Order constitutes an offer by the Customer to purchase Services in accordance with these Conditions.
- 2.2 The Order shall only be deemed to be accepted when the Supplier provides their unequivocal acceptance to provide the Services to the Customer and on which date the Contract shall come into existence (**Commencement Date**).
- 2.3 The Contract constitutes the entire agreement between the parties. The Customer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of the Supplier which is not set out in the Contract.
- 2.4 These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 2.5 Any quotation given by the Supplier shall not constitute an offer, and is only valid for a period of 20 Business Days from its date of issue.

## 3. SUPPLY OF SERVICES

- 3.1 The Supplier shall:
- (a) collect the Customer's goods and transport them to the Supplier's Premises;

- (b) designate a space within the Supplier's Premises in which the Customer's goods shall be stored;
  - (c) make a written and, where deemed appropriate by the Supplier, a photographic list of the Customer's goods;
  - (d) transport and return the Customer's goods to the Customer or make them available for collection by the Customer upon the Customer providing the Supplier with eight weeks' notice.
- 3.2 The Customer shall not have access to the designated space within the Supplier's Premises. The Supplier shall place and remove all of the Customer's goods in the designated space unless it is agreed by the Supplier that the Customer shall have access but only if accompanied by a representative of the Supplier.
- 3.3 The Supplier shall use all reasonable endeavours to meet any performance dates requested by the Customer, but any such dates shall be estimates only and time shall not be of the essence for performance of the Services.
- 3.4 The Supplier shall have the right to make any changes to the Services which are necessary to comply with any applicable law or safety requirement, or which do not materially affect the nature or quality of the Services, and the Supplier shall notify the Customer in any such event.
- 3.5 The Supplier shall have the right to store the goods in a place other than the designated space in the event that extra storage space is required by the Supplier.
- 3.6 The Services will be provided using reasonable care and skill.

#### **4. CUSTOMER'S OBLIGATIONS**

- 4.1 The Customer shall:
- (a) provide the Supplier with written confirmation of the value of the Customer's goods. In the event that the value of the goods is greater than the value the Customer has declared, the Supplier's liability under clause 8.2 will be reduced to reflect the proportion that the declared value bears to their actual value;
  - (b) ensure that the terms of the Order and any information it provides in the Specification are complete and accurate;
  - (c) co-operate with the Supplier in all matters relating to the Services;
  - (d) provide the Supplier, its employees, agents, consultants and subcontractors, with access to the Customer's premises, office accommodation and other facilities as reasonably required by the Supplier;

- (e) provide the Supplier with such information and materials as the Supplier may reasonably require in order to supply the Services, and ensure that such information is accurate in all material respects;
  - (f) obtain and maintain all necessary licences, permissions and consents which may be required before the date on which the Services are to start;
  - (g) maintain all necessary insurances for the Customer's goods to their full value whilst the goods are in transit with the Supplier and whilst the Customer's goods are in storage at the Supplier's Premises.
- 4.2 If the Supplier's performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation (**Customer Default**):
- (a) the Supplier shall without limiting its other rights or remedies have the right to suspend performance of the Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations to the extent the Customer Default prevents or delays the Supplier's performance of any of its obligations;
  - (b) the Supplier shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from the Supplier's failure or delay to perform any of its obligations as set out in this clause 4.2; and
  - (c) the Customer shall reimburse the Supplier on written demand for any costs or losses sustained or incurred by the Supplier arising directly or indirectly from the Customer Default.

## 5. CHARGES AND PAYMENT

- 5.1 The Charges for the Services shall be as advised by the Supplier in writing prior to the Commencement Date.
- 5.2 The Supplier reserves the right to increase its Charges, provided that such Charges cannot be increased more than once in any 12 month period. The Supplier will give the Customer written notice of any such increase one month before the proposed date of the increase. If such increase is not acceptable to the Customer, it shall notify the Supplier in writing within one week of the date of the Supplier's notice and the Supplier shall have the right without limiting its other rights or remedies to terminate the Contract by giving two weeks' written notice to the Customer.
- 5.3 The Supplier shall invoice the Customer monthly in arrears.
- 5.4 The Customer shall pay each invoice submitted by the Supplier:
- (a) within 30 days of the date of the invoice; and

- (b) in full and in cleared funds to a bank account nominated in writing by the Supplier, and

time for payment shall be of the essence of the Contract.

- 5.5 An exit charge shall apply when the goods are removed from storage. Where the goods are to be collected from the Supplier's Premises by another business, an exit charge will apply to cover the Supplier's handling fees. Where the goods are to be delivered by the Supplier to another storage business the Supplier's exit fee will include transportation charges. The exit charge shall be the rate applicable at the time.
- 5.6 All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax chargeable for the time being (**VAT**). Where any taxable supply for VAT purposes is made under the Contract by the Supplier to the Customer, the Customer shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Services at the same time as payment is due for the supply of the Services.
- 5.7 Without limiting any other right or remedy of the Supplier, if the Customer fails to make any payment due to the Supplier under the Contract by the due date for payment (**Due Date**), the Supplier shall have the right to charge interest on the overdue amount at the rate of 4 per cent per annum above the then current HSBC PLC's base rate accruing on a daily basis from the Due Date until the date of actual payment of the overdue amount, whether before or after judgment, and compounding quarterly.
- 5.8 The Customer shall pay all amounts due under the Contract in full without any deduction or withholding except as required by law and the Customer shall not be entitled to assert any credit, set-off or counterclaim against the Supplier in order to justify withholding payment of any such amount in whole or in part. The Supplier may, without limiting its other rights or remedies, set off any amount owing to it by the Customer against any amount payable by the Supplier to the Customer.
- 5.9 For the avoidance of doubt the Supplier shall not return or make available for collection the goods until such time that the Customer has paid all of the Charges in full and in cleared funds.

## **6. INTELLECTUAL PROPERTY RIGHTS**

- 6.1 All Intellectual Property Rights in or arising out of or in connection with the Services shall be owned by the Supplier.

6.2 The Customer acknowledges that, in respect of any third party Intellectual Property Rights, the Customer's use of any such Intellectual Property Rights is conditional on the Supplier obtaining a written licence from the relevant licensor on such terms as will entitle the Supplier to license such rights to the Customer.

6.3 All Supplier Materials are the exclusive property of the Supplier.

## 7. DATA PROTECTION AND DATA PROCESSING

7.1 Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 7 is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation. In this clause 7, **Applicable Laws** means (for so long as and to the extent that they apply to the Supplier) the law of the European Union, the law of any member state of the European Union and/or Domestic UK Law; and **Domestic UK Law** means the UK Data Protection Legislation and any other law that applies in the UK.

7.2 The parties acknowledge that for the purposes of the Data Protection Legislation, the Customer is the data controller and the Supplier is the data processor (where Data Controller and Data Processor have the meanings as defined in the Data Protection Legislation).

7.3 Without prejudice to the generality of clause 7.1, the Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data (as defined in the Data Protection Legislation) to the Supplier for the duration and purposes of the Contract.

7.4 Without prejudice to the generality of clause 7.1, the Supplier shall, in relation to any Personal Data processed in connection with the performance by the Supplier of its obligations under the Contract:

7.4.1 process that Personal Data only on the written instructions of the Customer unless the Supplier is required by Applicable Laws to otherwise process that Personal Data. Where the Supplier is relying on laws of a member of the European Union or European Union law as the basis for processing Personal Data, the Supplier shall promptly notify the Customer of this before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit the Supplier from so notifying the Customer;

7.4.2 ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the Customer, to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);

- 7.4.3 ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential; and
- 7.4.4 not transfer any Personal Data outside of the European Economic Area unless the prior written consent of the Customer has been obtained and the following conditions are fulfilled:
  - (a) the Customer or the Supplier has provided appropriate safeguards in relation to the transfer;
  - (b) the Data Subject (as defined in the Data Protection Legislation) has enforceable rights and effective legal remedies;
  - (c) the Supplier complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and
  - (d) the Supplier complies with reasonable instructions notified to it in advance by the Customer with respect to the processing of the Personal Data;
- 7.4.5 notify the Customer without undue delay on becoming aware of a Personal Data breach;
- 7.4.6 at the written direction of the Customer, delete or return Personal Data and copies thereof to the Customer on termination of the agreement unless required by Applicable Law to store the Personal Data; and
- 7.4.7 maintain complete and accurate records and information to demonstrate its compliance with this clause 7.
- 7.5 The Customer consents to the Supplier appointing a third-party processor of Personal Data under the Contract. The Supplier confirms that it has entered or (as the case may be) will enter with the third-party processor into a written agreement incorporating terms which are substantially similar to those set out in this clause 7.
- 7.6 The Supplier may, at any time on not less than 30 days' notice, revise this clause 7 by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when replaced by attachment to the Contract).

**8. LIMITATION OF LIABILITY: THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE**

- 8.1 Nothing in these Conditions shall limit or exclude the Supplier's liability for:
  - (a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;
  - (b) fraud or fraudulent misrepresentation; or
  - (c) breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession).

- 8.2 Subject to clause 8.1:
- (a) the Supplier shall under no circumstances whatever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the Contract; and
  - (b) the Supplier's total liability to the Customer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed a sum equal to the value of the goods as declared in accordance with clause 4.1(a), subject to a maximum liability of £25,000. This is the level of cover the Supplier has obtained in respect of its own legal liability for individual claims. The Customer is responsible for making its own arrangements for the insurance of any excess loss.
- 8.3 Except as set out in these Conditions, all warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.
- 8.4 This clause 8 shall survive termination of the Contract.

## **9. TERMINATION**

- 9.1 Without limiting its other rights or remedies, each party may terminate the Contract with immediate effect by giving written notice to the other party if:
- (a) the other party commits a material breach of the Contract and (if such a breach is remediable) fails to remedy that breach within 14 days of that party being notified in writing of the breach;
  - (b) the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply;
  - (c) the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors [other than (where a company) for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party];
  - (d) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other party (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of that



other party with one or more other companies or the solvent reconstruction of that other party;

- (e) the other party (being an individual) is the subject of a bankruptcy petition or order;
- (f) a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days;
- (g) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the other party (being a company);
- (h) a floating charge holder over the assets of that other party (being a company) has become entitled to appoint or has appointed an administrative receiver;
- (i) a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party;
- (j) any event occurs or proceeding is taken with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 9.1(b) to clause 9.1(i) (inclusive);
- (k) the other party suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business; or
- (l) the other party (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his own affairs or becomes a patient under any mental health legislation.

9.2 Without limiting its other rights or remedies, the Supplier may terminate the Contract with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under this Contract on the due date for payment.

9.3 Without limiting its other rights or remedies, each party shall have the right to terminate the Contract by giving the other party two months' written notice.

9.4 Without limiting its other rights or remedies, the Supplier shall have the right to suspend provision of the Services under the Contract or any other contract between the Customer and the Supplier if the Customer becomes subject to any of the events listed in clause 9.1(b) to clause 9.1(l), or the Supplier reasonably believes that the Customer is about to become subject to any of them, or if the Customer fails to pay any amount due under this Contract on the due date for payment.

## **10. OWNERSHIP OF THE CUSTOMER'S GOODS**

- 9.1 By entering into this Contract you warrant that:
- (a) the goods are your own property, or
  - (b) the person(s) who own or have an interest in the goods have given you authority to enter into this Contract.
- 9.2 You will be liable to us for any claim for damages and/or costs brought against us in the event that the warranties in 10.1(a) or 10.1(b) are untrue.

## **11. PROHIBITED GOODS**

Unless previously agreed in writing by the Supplier the following items cannot be stored as goods by the Supplier.

- (a) Stolen goods, drugs, pornographic material, potentially damaging, dangerous or explosive items, including gas bottles, aerosols, paints, firearms and ammunition;
- (b) Jewellery, watches, trinkets, precious stones, metals or money;
- (c) Plants or goods likely to encourage vermin or other pests or to cause infestation or contamination;
- (d) Perishable items and/or those requiring a controlled environment;
- (e) Any animals, birds or fish;
- (f) Goods which require a special licence or permit for export or import;

## **12. CONSEQUENCES OF TERMINATION**

On termination of the Contract for any reason:

- (a) the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, the Supplier shall submit an invoice, which shall be payable by the Customer immediately on receipt;
- (b) the accrued rights, remedies, obligations and liabilities of the parties as at expiry or termination shall not be affected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry; and
- (c) clauses which expressly or by implication have effect after termination shall continue in full force and effect.

## **13. SUPPLIER'S RIGHT TO HOLD THE GOODS (LIEN)**

The Supplier shall have a right to withhold and/or dispose of some or all of the Customer's goods until such time that the Customer has paid all sums due under this

Contract or any other contract the Customer may have with the Supplier. This includes any charges that the Supplier has paid out on the Customer's behalf. Whilst the Supplier holds the goods the Customer will be liable to pay all storage charges and other costs incurred by the Supplier as a consequence of withholding the Customer's goods and these Conditions shall continue to apply.

#### 14. SUPPLIER'S RIGHT TO SELL OR DISPOSE OF THE GOODS

If payment of the Supplier's charges or any other sums due pursuant to this Contract are unpaid and on giving the Customer two months' notice, the Supplier is entitled to require the Customer to remove their goods from the Supplier's Premises and pay all money due to the Supplier. If the Customer fails to pay the outstanding monies due to the Supplier, the Supplier may sell or dispose of some or all of the goods without further notice. The cost of the sale or disposal will be charged to the Customer. The net proceeds of any sale will be offset against the monies owed to the Supplier. Any surplus monies will be paid to the Customer without interest. If the net proceeds of any sale do not cover the full amount due to the Supplier, the Supplier may seek to recover the balance from the Customer.

#### 15. GENERAL

##### 15.1 Force majeure:

- (a) For the purposes of this Contract, **Force Majeure Event** means an event beyond the reasonable control of the Supplier including but not limited to strikes, lock-outs or other industrial disputes (whether involving the workforce of the Supplier or any other party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or subcontractors.
- (b) The Supplier shall not be liable to the Customer as a result of any delay or failure to perform its obligations under this Contract as a result of a Force Majeure Event.
- (c) If the Force Majeure Event prevents the Supplier from providing any of the Services for more than four weeks, the Supplier shall, without limiting its other rights or remedies, have the right to terminate this Contract immediately by giving written notice to the Customer.

##### 15.2 Assignment and subcontracting:

- (a) The Supplier may at any time assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights under the Contract and may subcontract or delegate in any manner any or all of its obligations under the Contract to any third party or agent.

- (b) The Customer shall not, without the prior written consent of the Supplier, assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.

15.3 Notices:

Any notice or other communication required to be given to a party under or in connection with this Contract shall be in writing and shall be delivered to the other party personally or sent by pre-paid first class post, recorded delivery or by commercial courier, at its registered office (if a company) or (in any other case) its principle place of business or sent by fax to the other party's main fax number (**Written Notice**).

15.4 Waiver:

- (a) A waiver of any right under the Contract is only effective if it is in writing and shall not be deemed to be a waiver of any subsequent breach or default. No failure or delay by a party in exercising any right or remedy under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor preclude or restrict its further exercise. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.
- (b) Unless specifically provided otherwise, rights arising under the Contract are cumulative and do not exclude rights provided by law.

15.5 Severance:

- (a) If a court or any other competent authority finds that any provision of the Contract (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed deleted, and the validity and enforceability of the other provisions of the Contract shall not be affected.
- (b) If any invalid, unenforceable or illegal provision of the Contract would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

15.6 No partnership: Nothing in the Contract is intended to, or shall be deemed to, constitute a partnership or joint venture of any kind between any of the parties, nor constitute any party the agent of another party for any purpose. No party shall have authority to act as agent for, or to bind, the other party in any way.

15.7 Third parties: A person who is not a party to the Contract shall not have any rights under or in connection with it.

- 15.8 Variation: Except as set out in these Conditions, any variation, including the introduction of any additional terms and conditions, to the Contract, shall only be binding when agreed in writing and signed by the Supplier.
- 15.9 Governing law and jurisdiction: This Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, English law, and the parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales.