

HARGREAVES (UK) SERVICES LIMITED - STANDARD TERMS AND CONDITIONS FOR THE SUPPLY OF TRANSPORT SERVICES TO HARGREAVES LOGISTICS (the "Conditions")

1 INTERPRETATION

1.1 In these Conditions the following definitions apply:

"Associated Company" means, in relation to a company, its subsidiaries from time to time and the ultimate holding company (if any) of that company and every other subsidiary of the same ultimate holding company (if any) from time to time (and "holding company" and "subsidiary" shall have the meaning given to them in section 1159 of the Companies Act 2006);

"Best Industry Practice" means that degree of skill, diligence, prudence and foresight which, as at the relevant time, would reasonably and ordinarily be expected from a skilled and experienced and reputable provider of haulage services using the best techniques and practices for any given process seeking in good faith to comply with its contractual obligations, and complying with all applicable laws in the same type of undertaking and under the same or similar circumstances and observations;

"Charges" means the relevant charges/rates as detailed in e Subcontractor from time to time or such other charges/ rates agreed between the parties which the Company shall pay to the Contractor in accordance with these Conditions in consideration of the provision of the Services;

"Collection / Delivery Note/Instruction" means the Company's standard form of collection /delivery note/instruction from time to time stating details of the Product(s), amount of the Products to be delivered by the Contractor, delivery address and vehicle identification number to be supplied by the Company to the Contractor with the Product;

"Company" means Hargreaves (UK) Services Limited (Company Number 03735251) whose registered office address is West Terrace, Esh Winning, Durham, DH7 9PT trading as Hargreaves Logistics;

"Company's Policies" means the Sub-contractor Handbook, the Driver Handbook, the Anti-Slavery Policy the Branding Policy, the Alcohol and Drugs Policy and all other policies, rules and regulations of the Company from time to time including (but not limited to) all relevant health and safety and environmental rules and as notified in writing by the Company to the Contractor (each as amended from time to time) and including (but not limited to) any policies relating to the use of PPE and anti-slavery and human trafficking policy all of which are available on e Subcontractor (or, if not, will be provided to the Contractor by the Company) and the Contractor is obliged to check e Subcontractor on a weekly basis (at the very least) to ensure it is familiar with all prevailing policies from time to time;

"Conditions" these terms and conditions as amended from time to time in accordance with clause 21(iv);

"Contract" means each contract between the Company and the Contractor for the supply of the Services;

"Contractor" means the person, company or other entity to whom the Company contracts to deliver the Product which shall, when the context so admits, include the driver of the Vehicle which is to transport the Product(s) by road in accordance with these Conditions;

"Customer" means the Company's customer to whose site the Product(s) are to be delivered and/or from which Products are to be collected by the Contractor;

"Customer Site" means the relevant site of the Company's customer as notified to the Contractor in accordance with Condition 4 to or from which the Vehicles will collect/deliver Product(s);

"eSubcontractor" means the Company's IT platform which a Contractor may access via a unique user name and login. As particularised by the guidance provided in in the Sub-contractor Handbook, the Contractor's access to this IT platform will enable it to (amongst other things):

- (a) receive an Order (and any updates to an Order) from the Company;
- (b) monitor and record the delivery of the Services and update the status of any delivery in accordance with this agreement and the Sub-contractor Handbook; and

issue invoices to the Company via the Invoicing Platform in accordance with this agreement and the Sub-contractor Handbook;

"Employees" means the Company's or the Contractor's or any of their Associated Companies' current or previous employees, agents, drivers or sub-contractors or any person or party deemed to be its employee by virtue of TUPE and who was or is employed or engaged by the Contractor or any of its Associated Companies in the provision of the Services;

"Employment Liabilities" means all liabilities, costs, claims, salaries, emoluments, expenses, wages, bonuses, notice pay, redundancy payments, commissions, Pay As You Earn and National Insurance Contributions (whether employer's or employee's), accrued holiday pay or other sums properly payable to any Employee of either the Company or the Contractor;

"Flat Bed" means a flat bed trailer;

"Floor Trailer" means a walking floor trailer;

"Force Majeure Event" any cause effecting the performance by a party of its obligations under this agreement arising from acts, events, omissions or non-events beyond its reasonable control, including without limitation, acts of God, riots, war, acts of terrorism, fire, flood, storm or earthquake and any disaster, but excluding any industrial dispute relating to the Contractor, the Contractor's Employee or any other failure on the Contractor's supply chain;

"Health and Safety Issue" means a health and safety issue as defined in clause 6.6.1;

"Incident" means an incident as detailed in clause 6.6.1;

"Losses" means all liabilities (including tax liabilities), costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss or profit, loss of business, loss of reputation or depletion of goodwill and similar losses), proceedings, damages and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs, fees and expenses awarded against, suffered or incurred by the Company;

"Order" means the Company's order for the supply of Services issued in accordance with clause 4;

"Personal Data" has the same meaning as the term 'personal data' under the Data Protection Act 1998;

"**Product(s)**" means the products of the Company from time to time to be delivered by the Contractor;

"**Proof of Delivery**" means documentary evidence that the Product(s) have been collected / delivered to the Site / Customer Site;

"**Rental Agreement**" means a rental agreement for the hire of Company Trailers by the Contractor in place from time to time

"**Services**" means the shunting, transportation, collection and delivery (to or from or via the destinations nominated by the Company throughout the United Kingdom (in accordance with its requirements)) and offloading of Product(s) in each case in accordance with these Conditions;

"**Site**" means the premises from which Vehicles operate as notified to the Contractor;

"**Statutory Requirements**" means any Act of Parliament and instrument, rule or order made under any Act of Parliament having legal effect, any statutes, regulations and codes, any regulation or bye-law, of any local authority or regulatory body having legal effect or any directly effective and directly applicable EU law and any modification or re-enactment (including but not limited to the Road Vehicles (Construction & Use) Regulations 1986, all or any regulations and directives governing working time in the transport sector, and any policies and standards issued by the Vehicle and Operator Services Agency, and all applicable laws or regulations relating to health, safety and/or the protection of the environment;

"**Trailer**" means a Floor Trailer, Tipper or Flat Bed;

"**Tipper**" means a tipper trailer;

"**Traffic Manager**" means an Employee of the Company nominated as such for the purpose of performance of the Services who shall be the main point of contact for the Contractor under these Conditions;

"**TUPE**" means the Transfer of Undertakings (Protection of Employment) Regulations 2006 (as amended);

"**Vehicles**" means the tractor vehicles or any replacement vehicle under these Conditions together with all accessories provided and used by the Contractor or any authorised sub-contractor in the performance of the Services, but excluding any of the Company's trailers; and

"**Weighbridge Ticket**" means the final document produced by a calibrated weighbridge at the Collection and Delivery point.

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 Each Order constitutes an offer by the Company to purchase Services from the Contractor in accordance with

these Conditions each of which is accepted on receipt by the Contractor of an Order at which point and on which date a Contract shall take effect as between the parties (**Commencement Date**).

2.2 These Conditions and the terms of the relevant Order shall form the contract for carriage in respect of the relevant Order and shall apply to the exclusion of any other terms that the Contractor seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

3 SERVICES AND PERFORMANCE

3.1 The Contractor will provide the Services to the Company or its nominated Associated Company in accordance with these Conditions and the applicable Order.

3.2 The Contractor shall ensure that an annual independent system and procedures audit is carried out by an accredited body (approved by the Company) and its results are disclosed to the Company within 5 Business Days of receiving the same.

3.3 The Contractor will use all reasonable skill and care and diligence in providing the Services and shall deliver the Services at all times in accordance with Best Industry Practice, all Statutory Requirements (including (but not limited to) all Operators Licence provisions) and the Company's Policies (including achieving the Company's target of zero incidents) and the Contractor warrants that it will provide evidence of compliance with Statutory Requirements, Best Industry Practice and copies of all relevant licensing documents (including Operators licences) on request, and that it will commit such resources as are needed to provide the Services in accordance with the Contract.

3.4 In providing the Services, the Contractor shall:

- (a) co-operate with the Company in all matters relating to the Services, and comply with all instructions of the Company;
- (b) use personnel who are suitably skilled and experienced to perform tasks assigned to them and in sufficient number to ensure that the Contractor's obligations are fulfilled in accordance with this contract
- (c) provide all equipment, tools and vehicles and such other items as are required to provide the Services; and
- (d) not do or omit to do anything which may cause the Company to lose any licence, authority, consent or permission upon which it relies for the purpose of conducting its business, and the Contractor acknowledges that the Company may rely or act on the Services.

3.5 The Company shall not be under any obligation to provide any minimum amount of work to the Contractor but may offer to the Contractor any deliveries of the Product(s).

3.6 The Contractor shall meet any delivery dates for the Services specified in an Order or notified to the Contractor by the Company.

3.7 If Product(s) is/are delivered late or later than the time stated on the relevant Delivery Note or not delivered in whole or part other than in circumstances constituting a Force Majeure Event or the Contractor cannot provide certifiable Proof of Delivery the Contractor shall reimburse to the Company (and the Company shall be entitled to withhold to the extent unpaid to the Contractor) all reasonable costs the Company has incurred or will incur as a result of such failure to deliver.

3.8 Should a delivery be carried out earlier or later than required and the Products are then subsequently returned then the costs of delivery and return shall be borne by the Contractor. The Contractor will use its best endeavours to ensure continuity in the provision of the Services in every eventuality.

3.9 Should the Contractor breach any of its obligations in these Conditions then the Customer shall be entitled to undertake a review of the Services and a reduction in the Charges.

4. ORDERS

- 4.1 The Company will place Orders for Services in writing, verbally, via text message or via e Subcontractor. Such Orders will specify:
- (i) the volume of Products to be transported;
 - (ii) the destination for collection / delivery;
 - (iii) the type and size of Vehicle required to make the delivery;
 - (iv) the date/time at which the Products are to be collected/delivered;
 - (v) the identity of the Customer from/ to whom the Products are to be collected/delivered; and
 - (vi) any Customer or delivery specific instructions.
- 4.2 The Contractor will have a period of not more than 2 hours to inform the Company of any issue preventing the Contractor from fulfilling the Order, after which period the Order will (if not previously acknowledged as accepted) be deemed accepted by the Contractor. Each such Order is placed and accepted on the Conditions set out in this document.

5. ORDER RESPONSES

- 5.1 All Orders are deemed accepted by the Contractor as placed, unless the Contractor advises the Company's Traffic Manager in writing within a reasonable timeframe (not being more than 2 hours after placement of the Order) of the need to re-negotiate the Order criteria immediately that need is identified.
- 5.2 The parties shall work together and use best endeavours to improve load efficiencies, as notified by the Company from time to time.
- 5.3 The Contractor will not be reimbursed for collections / deliveries where an Order has not been placed by the Company.

6. VEHICLES

- 6.1 On all days when they are used in the provision of the Services, the Vehicles shall be made available as directed by the Company in accordance with these Conditions and the relevant Order and the Company's other reasonable requirements, and shall remain at the Contractor's risk at all times.
- 6.2 The Contractor shall use best endeavours to ensure that:
- (i) the drivers of the Vehicles are at all times able to communicate legally and safely and the drivers maintain and operate within the Vehicle a radio/mobile telephone or such other electrical equipment (including satellite tracking equipment) as the Company may stipulate;
 - (ii) ensure that (where applicable) each driver is aware of, and complies with, the terms of any Rental Agreement in relation to a Company Trailer or its operation;
 - (iii) all Vehicles are authorised for use under the Contractor's operator's licence;
 - (iv) the Vehicles are kept in good roadworthy repair and condition in compliance with all Statutory Requirements and any applicable Rental Agreement(s) with regards to Company Trailers;
 - (v) all Vehicles are painted in the Contractor's livery or as stipulated by the Company;
 - (vi) any damage suffered by or to the Vehicles is repaired as soon as is reasonably practicable;
 - (vii) Product(s) are properly secured and sheeted on the Vehicles in compliance with the Company's Policies, applicable Customer Site regulations and Statutory Requirements in order that they reach the Customer Site undamaged;
 - (viii) it operates an effective defect reporting system and carries out all routine maintenance on each of the Vehicles when required and in accordance with Best Industry Practice;
 - (ix) the drivers of Vehicles shall complete a defect book on a daily basis and ensure that it clearly shows that

all pre start checks have been carried out. The defect book shall be carried by the drivers of Vehicles at all times;

- (x) the Vehicles are provided promptly and in good time to allow the Company to load the Product(s);
 - (xi) a high standard of Vehicle cleanliness is maintained, and as a minimum, Vehicles must be washed at least once a week;
 - (xii) tipper Vehicles presented for loading are clean internally and that product contamination does not occur. In the event that such contamination does occur the Contractor acknowledges and agrees that:
 - (a) the Contractor shall not be entitled to receive any Charges in respect of that Order;
 - (b) if required it shall be responsible for disposing of the Product at its own cost if so required by the Company;
 - (c) it shall pay an amount equal to the value of the contaminated Product to the Company;
 - (d) it shall indemnify the Company against any Losses that it may incur as a result of the contamination;
 - (xiii) all drivers of Vehicles must wear a seat belt and comply with all the Company's Policies and Procedures at all times; and
 - (xiv) all drivers of Vehicles have been trained as competent to carry out the task required, and the Contractor shall produce documentary evidence to the Company upon request to confirm that the driver has had the necessary induction, and training (including on all necessary risk assessments) to perform the task.
- 6.3 The Contractor shall be responsible for reviewing the Company's website on a regular basis to check current prevailing Company Policies and Procedures and to ensure compliance with them in respect of the Vehicles and its Employees.
- 6.4 Where requested by the Company, the Contractor, any drivers of the Vehicles and anyone specifically requested by the Company shall be required to attend the Company's induction training.
- 6.5 The Contractor shall terminate the involvement in an Order of any driver of a Vehicle at the Company's request, if in the Company's opinion the driver is, or for any reason becomes unsuitable or renders the Contractor in breach of its obligations under these Conditions;
- 6.6 The Contractor shall:
- (a) notify the Company as soon as it becomes aware of any Health and Safety Issue (being any health and safety hazards, issues or near-hits which have arisen or may arise in relation to the Services) and in the event of any major incident or emergency (including, but not limited to, any Incident (being any road traffic incident involving injury, death or the closure of a public road during the provision of the Services)) the Contractor is to immediately inform the Company (by informing the Traffic Manager in the first instance) of the nature of the Incident after any necessary action has been take;
 - (b) should any Health and Safety Issue and/or Incident (as defined in clause 6.6(a) occur, conduct an internal investigation and prepare a written report (which should include all such witness evidence, information, documents, data and photographs as is reasonably required in the circumstances to provide the Company with accurate and complete information in relation to the Health and Safety Issue and/or Incident) and provide this written report to the Company within 7 Business Days (or within 7 Business Days of the Contractor becoming aware) of the Health and Safety Issue and/or Incident or within such other timescale as is reasonably practicable and agreed by the Company;
 - (c) co-operate with the Company in providing all such information relating to the Health and Safety Issue and/or Incident as the Company shall require (pursuant and subject to any limitations imposed by any applicable Statutory Requirements) together with

any other information that the Company may require within the timeframe specified by the Company and any failure to provide such information or the written report required by clause 6.6.(b) within the applicable (and/or agreed) timeframe shall be deemed to be a Material Breach of this agreement and the Company shall, in its absolute discretion, be entitled to immediately terminate this agreement pursuant to clause 22.1.3;

- 6.7 The Contractor shall review the Subcontractor on a weekly basis to check, ensure compliance with (in terms of the performance of the Services) current prevailing Company Policies and to ensure that the Charging rates are adhered to.

7. LOADING AND UNLOADING

7.1 The Contractor:

- (i) shall be responsible for ensuring that all loads are safely and properly secure in accordance with all Statutory Requirements and the Company's Policies. If the Contractor is responsible for loading the Vehicles it will load the Vehicles in accordance with the relevant Site requirements. The Contractor will, if so required by the Company, acknowledge receipt of the Products in writing and such receipt shall contain an acknowledgement that the Products are loaded in accordance with the Order.
- (ii) will unload the Vehicle in a reasonable and safe manner and using the equipment specified in such Order, as requested by the Customer's representative at the Customer Site and ensure that its designated driver/representative is properly qualified to operate the Vehicle or machinery to be used to unload the Products provided that nothing in this Condition 7 will require the Contractor to unload the Products in any way which in its reasonable opinion would be contrary to any health and safety rules or other Statutory Requirements.
- (iii) will ensure that no Product may be collected from the Customer Site without express instructions to that effect first being given by the Company.

8. VEHICLE WEIGHT CHECKS

- 8.1 If the Contractor is unable to provide the Vehicle specified in the Order, it will select an alternative Vehicle with a load capacity which most closely matches or exceeds (but does not fall short of) the load to be carried.
- 8.2 Once loaded, the Contractor will ensure that all Vehicles are weighed on the Customer's weighbridge at the Site (where available) and that no Vehicles which are overweight leave the Site. If any Vehicles are overweight, the Contractor will co-operate fully with the Company to reduce the Product carried to the relevant safe load level and weight.

9. THE COMPANY'S RIGHTS AND OBLIGATIONS

- 9.1 The Company will pay the Charges in consideration of the Contractor providing the Services.
- 9.2 Following delivery and unloading of the Products, the Contractor shall procure that the site foreman/representative of the Customer shall sign and print their name on the Delivery Note and any other relevant information to confirm that the Products have been properly delivered as well as the arrival and departure times of the Vehicle (unless it is otherwise agreed in writing that a weight ticket alone will suffice). Once signed, the Contractor will return such confirmation to the Company as directed.
- 9.3 The Company will not be obliged to make payment of the Charges (and the Contractor shall not be entitled to raise the applicable invoice) in respect of any delivery of Product(s) unless the Company first receives such confirmation or the Company is otherwise satisfied that

delivery was properly made.

9.4 The Company shall:

- (a) use reasonable endeavours to pay the Charges within sixty (60) days of the end of the month in which it receives a validly constituted VAT invoice from the Contractor in respect thereof in accordance with clause 10.3, unless agreed otherwise in writing. For the avoidance of doubt, time for payment shall not be of the essence for the purposes of these Conditions.
 - (b) use reasonable endeavours to grant the Contractor non-exclusive access to the relevant parts of the Site and obtain non-exclusive access for the Contractor to the Customer Site to enable the Contractor to carry out the Services.
- 9.5 If there is any invoice which is in dispute (whether in whole or part), the Company shall be entitled to withhold payment of the relevant invoice in full. The parties shall enter into discussions to seek to resolve such dispute.
- 9.6 Payment of the Charges shall not constitute acceptance by the Company of the Services.
- 9.7 The Company may at any time, without notice to the Contractor, set off any liability of the Contractor to the Company against any liability of the Company to the Contractor, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under this agreement. If the liabilities to be set off are expressed in different currencies, the Company may convert either liability at a market rate of exchange for the purposes of set-off. Any exercise by the company of its rights under this clause shall not limit or affect any other rights or remedies available to it under this agreement or otherwise.

10. THE CONTRACTOR'S OBLIGATIONS

10.1 The Contractor:

- (a) will deliver the Products in accordance with the requirements of the Order and adhere to the delivery times /dates specified by the Order, which are of the essence of this agreement.
 - (b) shall ensure that all drivers of Vehicles comply with all legislative requirements and all site rules at all times, which includes but is not limited to wearing a seatbelt at all times.
 - (c) shall not sub-contract or in any way transfer or assign any of his duties or obligations without the prior written consent of the Company.
 - (d) shall not transfer the Products either in whole or in part from one Vehicle to another without the prior written consent of the Company.
 - (e) undertakes not to carry any unauthorised persons or animals within the Vehicle at any time.
 - (f) shall take all reasonable steps to ensure that the conditions at the Customer Site are suitable for the passage of the Vehicle and unloading of the Product.
 - (g) shall ensure Proof of Delivery is attained and delivered to the Company as set out in Condition 9.
 - (h) will at all times handle Products using all reasonable care and skill and in accordance with Best Industry Practice, all Statutory Requirements and the Company's Policies and so as to minimise the risk of any loss, damage or injury. The Company may from time to time notify the Contractor of the Company's Policies or further requirements in relation to the handling of the Products and the Contractor shall comply with such requirements.
- 10.2 The Contractor in agreement with the Company will employ sufficient numbers of adequately trained people to provide the Services so far as it is practicable in accordance with Best Industry Practice.
- 10.3 The Contractor shall be required to submit a valid VAT invoice for the relevant Charges no later than 10 Business Days after completion of the Order (**Invoice Deadline**). The Company shall have no obligation to pay the Contractor any amounts due under invoices submitted after the Invoice Deadline (**Late Invoice**). Without prejudice to the foregoing, in the event that the Company elects to pay

a Late Invoice (notwithstanding that it has no obligation to do so) the Company reserves the right to deduct an administration fee of £75.00 (plus VAT) from the amounts due under such Late Invoice prior to payment to the Contractor.

- 10.4 The Contractor shall on the last Business Day of each month submit to the Company a statement setting out what (if any) invoices, submitted in accordance with clause 10.3 above, remain outstanding and unpaid at the time of the statement.

11. COMPANY'S REMEDIES

- 11.1 If the Contractor fails to perform the Services by the applicable dates, the Company shall, without limiting its other rights or remedies, have one or more of the following rights:
- (a) to terminate the Contract with immediate effect by giving written notice to the Contractor;
 - (b) to withdraw any Order that has not been accepted (or deemed to be accepted);
 - (c) refuse to accept any subsequent performance of the Services which the Contractor attempts to make;
 - (d) to recover from the Contractor any costs incurred by the Company in obtaining substitute services from a third party on a full indemnity basis;
 - (e) where the Company has paid in advance for Services that have not been provided by the Contractor, to have such sums refunded by the Contractor; or
 - (f) to recover on an indemnity basis any additional costs, Losses or expenses incurred by the Company which are in any way attributable to the Contractor's failure to meet such dates.
- 11.2 These Conditions shall extend to any substituted or remedial services supplied by the Contractor.
- 11.3 The Company's rights under this Contract are in addition to its rights and remedies implied by statute and common law.

12. LIABILITY

- 12.1 Save as otherwise expressly stated in these Conditions, the Contractor shall indemnify, keep indemnified and hold harmless the Company against all costs, expenses, damages and losses (whether direct or indirect), including any interest, fines, costs, legal and other professional fees and expenses awarded against or incurred or paid by the Company as a result of or in connection with any breach of these Conditions or otherwise of an Order by the Contractor as well as any claim made against the Company by a third party arising out of, or in connection with, the supply of the Services, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of a Contract by the Contractor, its Employees, agents or subcontractors.
- 12.2 Neither party excludes or limits liability to the other party for death or personal injury caused by its negligence or for fraud or fraudulent misrepresentation or where liability cannot otherwise be excluded or limited as a matter of law.
- 12.3 Subject to the provisions of this Condition 12 all representations, terms, warranties and conditions whether implied by statute or otherwise are excluded from these Conditions to the fullest extent permitted by law.
- 12.4 Subject to these Conditions, the Company shall be liable to the Contractor for direct loss only as herein provided. It is agreed and acknowledged by the Contractor that the Company shall not be liable (whether in contract, tort (including negligence), breach of statutory duty or otherwise for any indirect or consequential loss or loss of profit whatsoever arising.
- 12.5 Subject to these Conditions, the Company's total liability to the Contractor in any year in respect of all other losses arising under or in connection with these Conditions, whether in contract, tort (including negligence), breach of statutory duty, or otherwise shall not, in any circumstances, exceed the total value of the Charges payable in the preceding Contract Year by the Company to the Contractor

in respect of the provision of the Services.

13. RESPONSIBILITY FOR PRODUCT

- 13.1 Save as otherwise expressly provided in this Condition 13 the Contractor will be liable (on an indemnity basis) for all loss or damage or contamination to Product(s) whilst under the control of the Contractor as well as otherwise from the time when the loading of the Product(s) has been completed by the Company on to the relevant Vehicle and when in transit and (provided the Contractor is responsible for off loading) while off loading until all Product(s) from the relevant Vehicle is delivered to the Customer Site in accordance with the Company's instructions.
- 13.2 The Contractor will not be liable for:
- (i) damage or contamination to the Products unless such Product(s) was in a good and saleable condition when supplied to the Contractor. In the absence of any adverse comments on the Collection / Delivery Note it shall be presumed that the Product(s) was supplied to the Contractor in a good and saleable condition;
 - (ii) failure to deliver the Product(s) where such failure is due to the condition at the Customer Site being such that it is not accessible or is unsuitable for the passage of the Vehicle and unloading of the Product(s) and the Contractor considers in its reasonable opinion that unloading would be contrary to any Statutory Requirements provided always that immediate notice of such event is given to the Traffic Manager at the time of attempted delivery in order to ensure, so far as is reasonably possible, that the Company has sufficient opportunity to discuss any such problems with the Customer in order that delivery may be effected at that time.
- 13.3 Nothing in these Conditions shall operate to vest any right as to title in the Product(s) to the Contractor (over which the Contractor shall claim no right of possession or lien in any circumstances). All title in the Products (to the extent held) shall remain vested in the Company at all times.

14. INDEMNITY

- 14.1 The Contractor shall keep the Company (or any Associated Company) indemnified against all liabilities, costs expenses, damages and losses (including but not limited to any direct, in direct or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by the Company (or any Associated Company) as a result of or in connection with:
- (a) Any claim made against the Company (or any Associated Company) for actual or alleged infringement of a third parties intellectual property rights arising out of or in connection with the use or supply of the Services, to the extent that the claim is attributable to acts or omissions of the Contractor, its employees, agents or subcontractors;
 - (b) Any claim made against the Company (or any Associated Company) by a third party for death, personal injury or damage to property arising out of, or in connection with the supply or use of the Services;
 - (c) Any claim made against the Company (or any Associated Company) by a third party arising out of or in connection with the supply of Services, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of the Contract by the Contractor, its employees, agents or subcontractors; and
 - (d) any claim made against the Company by a third party (or by the Customer or its Associated Company) arising out of or in connection with a breach of clause 6.2(xi) or 6.2(xii) to the extent that any Product is or has been contaminated in any way.
- 14.2 This clause 14 shall survive termination of this Contract.

15. QUALITY ASSURANCE AND SECURITY

The Company shall have access to any of the Vehicles at any time for the purpose of auditing the vehicle or the driver and / or inspecting the Vehicle and /or any Products loaded onto them or any aspect of the performance of the Services. Once loaded, Vehicles will be secured and sheeted by the Contractor in accordance with the Company's Policies and Statutory Requirements.

16. EMPLOYEES

- 16.1 The Company reserves the right to ban access to the Site / Customer site to any Employee of the Contractor who, in the reasonable opinion of the Company, is incompetent or negligent in the execution of his duties or has failed to comply with any Statutory Requirements, any of the Company's Policies or any requirements of any Customer when on the Customer Site.
- 16.2 The Contractor shall be responsible for the training and competence of any person employed or engaged in any capacity by the Contractor in connection with these Conditions, and for their compliance with Statutory Requirements and will have appropriate risk assessment procedures in place.
- 16.3 The Contractor undertakes to obtain written undertakings as to compliance with the Company's Policies from its Employees and shall procure that any such policies are properly enforced, including the wearing of PPE at the Site and Customer Site.
- 16.4 The Contractor shall ensure that the Vehicles are operated so as to avoid infringement of any Statutory Requirements, and that all applicable Employees employed by it to perform the Services are fully authorised to operate the Vehicles in accordance with all applicable Statutory Requirements.
- 16.5 The parties agree that, to the extent permitted by law, the commencement or termination of the provision of the Services under these Conditions and any associated arrangements shall not constitute a relevant transfer for the purposes of TUPE. If and to the extent that the commencement or termination of the provision of the Services under these Conditions and any associated arrangements does constitute a relevant transfer for the purposes of TUPE, the Contractor shall indemnify, keep indemnified and hold harmless the Company in respect of all Employment Liabilities suffered by the Company as a result (including any liability incurred by the Company dismissing (with or without cause) any employee transferred to the Company from the Contractor under TUPE).

17. INSURANCE

- 17.1 The Contractor will effect and maintain comprehensive insurance cover with a reputable insurance company for:
 - (i) the Vehicles used or to be used in the performance of the Services including any liability to third parties, accidental damage, fire and theft;
 - (ii) its liability for Product(s) under Condition 12; and
 - (iii) Goods in transit insurance in respect of Product(s) being carried to a value of no less than £1300 per tonne increasing annually as agreed between the Contractor and the Company. The Contractor shall provide the Company (or its nominated agent or broker) with a copy of their current insurance certificate. Upon the renewal of such policy the Contractor shall provide the Company with a copy of the renewal prior to the expiry of the existing policy.at such levels as may from time to time be required by the Company.
- 17.2 The Contractor shall, on the Company's request, produce both the insurance certificate giving details of cover and the receipt for the current years premium in respect of each insurance.

18. TERMINATION

- 18.1 The Company shall be entitled to terminate a Contract without cause immediately by notice in writing to the Contractor. The Contractor shall be entitled to terminate a Contract without cause on 30 days' prior written notice to the Company, provided that the Contractor shall fully discharge and perform any Order placed prior to termination, in accordance with these Conditions and the relevant Order.
- 18.2 Termination of the Contract, however arising, shall not affect any of the parties rights and remedies that have accrued as at termination.
- 18.3 Clauses which expressly or by implication survive termination of the Contract shall continue in full force and effect.

19. CONSEQUENCES OF TERMINATION

- 19.1 On termination of this agreement for any reason, the Contractor shall (at its own cost) within 7 days:
 - (a) deliver to the Company copies of information and data provided by the Company including the Company handbook to the Contractor for the purposes of this Contract or any Order and shall certify to the Company that it has not retained any copies of such information or data;
 - (b) deliver to the Company any and all trailers hired by the Contractor pursuant to any and all applicable Rental Agreements and for the avoidance of doubt, unless the Rental Agreement(s) in question provide otherwise, any Rental Agreement(s) between the Company and the Contractor will terminate automatically upon termination of this agreement;
 - (c) ensure that all of the Company's livery is removed from the Vehicles (unless agreed with the Company) and any stationary used by the Contractor;
 - (d) ensure that all references to the Company's arrangements with the Contractor (as per this Contract) are removed from the Contractor's website (if there is one) or from any other publically available resources or information controlled or produced by the Contractor; and
 - (e) ensure that all Services/Orders which have commenced but remain to be fulfilled are completed.
- 19.2 If the Contractor fails to fulfil its obligations under clause 19, then the Company may enter the Contractor's premises and / or have access to any Vehicle or any of the Contractor's Employees in order to take possession of any items which should have been returned to it. Until they have been returned or repossessed, the Contractor shall be solely responsible for their safe keeping.

20. CONFIDENTIALITY:

A party ("**Receiving Party**") shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives of the other party or its Employees, ("**Disclosing Party**") which are of a confidential nature and have been disclosed to, or otherwise obtained by, the Receiving Party, and any other confidential information concerning the Disclosing Party's business or its products or its services which the Receiving Party may obtain. The Receiving Party shall restrict disclosure of such confidential information to such of its employees, agents or subcontractors as need to know it for the purpose of discharging the Receiving Party's obligations under the Contract, and shall ensure that such employees, agents or subcontractors are subject to obligations of confidentiality corresponding to those which bind the Receiving Party. This Condition 20 shall survive termination of the Contract.

21. PERSONAL DATA

The Contractor warrants to the Company that to the extent it processes any Personal Data in connection with the provision of Services or otherwise under this Contract it

shall comply with the provisions of the Data Protection Act 1998.

22. FORCE MAJEURE

- 22.1 Neither party shall be in breach of the Contract or an Order nor liable for delay in performing, or failure to perform, any of its obligations under it if such a delay or failure result from an event, circumstances or cause beyond its reasonable contract (**Force Majeure Event**).
- 22.2 The Contractor shall use all reasonable endeavours to mitigate the effect of a Force Majeure Event on the performance of its obligations.
- 22.3 If a Force Majeure Event prevents, hinders or delays the Contractor's performance of its obligations for a continuous period of more than [15 days], the Company may terminate the Contract or Order immediately by giving written notice to the Contractor.

23. ANTI-BRIBERY

- 23.1 The Contractor shall:
- (a) comply with all applicable laws, statutes, regulations and codes relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 (the "**Relevant Requirements**");
 - (b) not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK;
 - (c) comply with any anti-bribery policy of the Company (and any other applicable policy) as provided by the Company from time to time (the "**Relevant Policies**");
 - (d) have and shall maintain in place throughout the term of this agreement its own policies and procedures, including adequate procedures under the Bribery Act 2010, to ensure compliance with the Relevant Requirements, the Relevant Policies, and will enforce them where appropriate; and
 - (e) promptly report to the Company any request or demand for any undue financial or other advantage of any kind received by the Contractor in connection with the performance of this agreement.
- 23.2 The Contractor shall ensure that any person associated with the Contractor who is performing services in connection with this agreement does so only on the basis of a written contract which imposes on and secures from such person terms equivalent to those imposed on the Contractor in this clause 23 (the "**Relevant Terms**"). The Contractor shall be responsible for the observance and performance by such persons of the Relevant Terms, and shall be directly liable to the Company for any breach by such persons of any of the Relevant Terms.

24. GENERAL

- (i) If any provision of these Conditions is held by any court or other competent authority to be void or unenforceable (in whole or part), the other provisions of these Conditions and the remainder of the affected provisions shall continue to be valid.
- (ii) The rights and remedies provided in these Conditions are cumulative and not exclusive of any rights or remedies otherwise provided by law.
- (iii) the failure or delay of a party to exercise or enforce any right under these Conditions shall not be deemed to be a waiver of that right nor operate to bar the exercise or enforcement of it (or purported exercise or enforcement of it) (in whole or in part) at any time or times thereafter.
- (iv) No variation of these Conditions shall be valid unless it is in writing and signed by or on behalf of each of the parties.
- (v) The Contractor shall not assign, transfer, charge, subcontract or deal in any other manner with all or any

of its rights or obligations under a Contract without the prior written consent of the Company. The Company may at any time assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights under a Contract and may subcontract or delegate in any manner any or all of its obligations under a Contract to any third party or agent.

- (vi) Save as expressly set out elsewhere in this Contract, no variation of this Contract shall be binding upon the parties unless the same shall be in writing signed by a duly authorised representative of both the Company and Contractor and such variation shall be particular to the circumstances mentioned by such writing and shall not be regarded as a general variation.
- (vii) These Conditions, each relevant Order and the documents referred to therein set out the entire agreement between the parties in relation to the subject matter hereof and supersede any previous agreement relating to the subject matter of a Contract, whether written or oral. For the avoidance of doubt, a Contract shall expressly exclude any standard terms and conditions of purchase that the Contractor may purport to apply under a Contract or any part of it. Each party acknowledges that in entering into this Contract it is not relying upon any representation (including any misrepresentation), warranty, promise or assurance made or given by the other party or any other person in any form whatsoever which is not expressly set out in this Contract.
- (viii) Other than in respect of any Associated Company of the Company, a person who is not a party to this Contract has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any of its terms. The Company may perform any of its obligations or exercise any of its rights hereunder through any Associated Company. Notwithstanding that an Associated Company shall be entitled to enforce certain rights under this Contract which have been given for their benefit, the parties to this Contract may enter into any agreement or arrangement varying or amending any of the terms of this Contract, or compromising or settling any claim under this Contract (including in respect of such rights), without reference to the interests of, or the consent of, the other Associated Company not party to this Contract.
- (ix) If any provision or part-provision of this agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this agreement

25. EMERGENCIES

In the event of a major incident or emergency the Contractor is to inform the Company (by informing the Traffic Manager in the first instance) of the nature of any incident immediately after any necessary action has been taken. This includes any road traffic incident involving injury, death or the closure of a public road during the provision of the Services.

26. GOVERNING LAW AND JURISDICTION

This Contract, and any non-contractual obligations arising out of or in connection with it, shall be governed by and construed in all respects in accordance with the laws of England, and the English courts shall have exclusive jurisdiction in all matters relating to this Agreement (whether of a contractual or tortious nature or otherwise).