



**CROSSFLIGHT LIMITED**

**TERMS AND CONDITIONS OF SUPPLY OF FULFILMENT SERVICES**

**THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THE PROVISIONS OF CLAUSE 9 (WARRANTIES AND LIMITATION OF LIABILITY) AND CLAUSE 10.17 (DATA PROTECTION COSTS AND INDEMNITY)**

1. **Interpretation**

1.1. In these Conditions:

"Actual Value" means for the purposes of Condition 9.3 the lowest of the cost of repairing or replacing the Customer Goods or the fair market value of the Customer Goods and, in any event, the actual value of the Customer Goods cannot be more than the original costs to the Customer plus 10%;

"BIFA Terms" means the British International Freight Association (BIFA) – Standard Trading Conditions 2021 (England Edition) as amended from time to time and appended to these Conditions as Schedule A;

"Company" means Crossflight Limited (Registered Number 2111027);

"Conditions" means the standard terms and conditions of supply of the Services as set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed in writing between the Company and the Customer;

"Contract" means the contract for the supply by the Company to the Customer of the Services incorporating these Conditions;

"Controller", "Processor", "Data Subject", "Personal Data", "Personal Data Breach", "processing" and "appropriate technical and organisational measures" are as defined in the Data Protection Legislation.

"Customer" means any individual, firm, body corporate, unincorporated association or other body, placing an Order;

"Customer Goods" means the goods belonging to the Customer which are delivered to the Company as detailed on the Order or otherwise notified in writing by the Customer to the Company;

"Data Protection Legislation" means all applicable data protection and privacy legislation in force from time to time in the UK including the retained EU law version of the General Data Protection Regulation ((EU) 2016/679) (UK GDPR); the Data Protection Act 2018 (DPA 2018) (and regulations made thereunder) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended and the guidance and codes of practice issued by the Information Commissioner or other relevant regulatory authority and applicable to a party;

"Domestic Law" means the law of the United Kingdom or a part of the United Kingdom;

"Fulfillment" means any or all of the following processes: storing, picking and packing of the Customer Goods, but shall not mean the conveyance from the Company's premises by any means, such conveyances being governed by the provision of either the BIFA Terms or the Mail Terms or such other contractual agreement as has been made between the Company and the Customer for such conveyances;

"Intellectual Property Rights" means patents, utility models, rights to inventions, copyright and neighbouring and related rights, moral rights, trademarks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of confidential information (including know-how and trade secrets), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and right to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world;

"Mail Terms" means the terms and conditions detailed in the Crossflight Limited Trading As Crossflight Mail Terms And Conditions Of Supply Of Bulk Mail Services agreement as published [here](#) and appended to these Conditions as Schedule B;

"Order" means an order for the supply of Services placed by the Customer in writing to the Company or completed by the Company on behalf of the Customer following a request by the Customer;

"Price" means the price of the Services payable by the Customer in accordance with Condition 4; and

"Services" means all or any of the services described in the Order being services offered by the Company in accordance with Condition 3.

1.2. Any reference in these Conditions to a statute or a provision of a statute shall be construed as a reference to that statute or provision as amended, re-enacted or extended at the relevant time.

1.3. Headings in these Conditions are for convenience only and shall not affect their interpretation.

2. **Basis of Supply**

The Company accepts the Order and any subsequent Order on and subject exclusively to these Conditions. The conditions of the BIFA Terms and the Mail Terms and not these Conditions shall apply (in the instance of the BIFA Terms) to any freight or express delivery order between the parties and (in the instance of the Mail Terms) to any mailing services, including database services. No employee or agent of the Company has any authority to alter, vary or waive any provision of the Contract in any respect.

2.1. The Customer irrevocably warrants to the Company that, and the Company accepts the Customer Goods for storage and fulfillment on the basis that, the following conditions are fulfilled:

- 2.1.1. that the Customer is either the owner of or acting as the fully authorised agent for the owner of the Customer Goods and has lawful possession of the Customer Goods and all rights and authority to store them with the Company and to direct the release and/or onward delivery of the Customer Goods;
- 2.1.2. that the Customer Goods do not comprise or include weapons, ammunition or explosives or any other items which the Company, in its absolute discretion, following receipt of the Order decides cannot be stored safely;
- 2.1.3. that the Customer Goods do not comprise or include drugs, documents or other things which are illegal to possess in the United Kingdom;
- 2.1.4. that unless the Company has been given express prior written detailed notice and has agreed in writing to store such Customer Goods, none of the Customer Goods are of a toxic, corrosive, combustible or flammable nature;
- 2.1.5. that the Customer Goods do not comprise or include any items for which any third party (whether or not governmental) has an exclusive right to perform the Services, and
- 2.1.6. that unless packed by the Company the Customer Goods are packed to the Customer's complete satisfaction.

2.2. The Customer shall:

- 2.2.1. ensure that the terms of the Order and any information it provides to the Company are complete and accurate;
- 2.2.2. co-operate with the Company in all matters relating to the Services;
- 2.2.3. provide the Company with such information and materials as the Company may reasonably require in order to supply the Services, and ensure that such information is complete and accurate in all material respects; and
- 2.2.4. obtain and maintain all necessary licences, permissions and consents which may be required for the Services before the date on which the Services are to start.

2.3. The Contract shall come into existence when the Order is accepted by the Company.

2.4. These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate which are implied by trade, custom, practice or course of dealing.

2.5. The Customer agrees that the Company may open and inspect the Customer Goods for any reason and at any time.

2.6. Any quotation given by the Company shall not constitute an offer and is only valid for a period of 20 business days from its date of issue.

2.7. If the Company'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):

- 2.7.1. without limiting or affecting any other right or remedy available to it, the Company shall 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 its obligations in each case to the extent the Customer Default prevents or delays the Company's performance of any of its obligations;
- 2.7.2. the Company shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from the Company's failure or delay to perform any of its obligations as set out in clause 2.2; and
- 2.7.3. the Customer shall reimburse the Company on written demand for any costs or losses sustained or incurred by the Company arising directly or indirectly from the Customer Default.

2.8. Any samples, drawings, descriptive matter or advertising issued by the Company, and any descriptions or illustrations contained in the Company's catalogues or brochures, are issued or published for the sole purpose of giving an approximate idea of the Services described in them. They shall not form part of the Contract or have any contractual force.

3. **The Services**

3.1. The Company will at the request of the Customer and as detailed in the Order provide any of the Services described in Schedule C, including but not limited to:

- 3.1.1. Receiving the Customer Goods at any of the Company's premises;

3.1.2. Storing the Customer Goods;

3.1.3. Repacking any of the Customer Goods;

3.1.4. Picking those of the Customer Goods ordered for dispatch and

3.1.5. Preparing those Customer Goods for dispatch.

3.2. The Company shall use its reasonable endeavours to meet any performance times and dates but any such times and dates shall be estimates only and time shall not be of the essence for performance of the Services.

4. **Price of the Services**

4.1. The Price of the Services shall unless otherwise agreed in writing by the Company and the Customer, be the Company's list price in force from time to time (as the same is available on written request from the Company) for such Services on the date the Order is placed by the Customer with the Company together with any further price which may be applicable for non-standard services. Where the Services are specific to the Customer and no list price is available, the Price shall be the price agreed in advance in writing, or failing that, the provisions of section 15 (1) of the Supply of Goods and Services Act 1982 shall apply in that the parties hereby accept there is an implied term that the party contracting (Customer) with the supplier (Company) will pay a reasonable charge for the Services and in such case the Company in its absolute discretion shall set the consideration for the Service at a price it believes to be reasonable.

4.2. The Price shall unless otherwise stated, be exclusive of:

- 4.2.1. any applicable value added tax and any other applicable taxes, duties, imposts or levies; and
- 4.2.2. insurance.

5. **Insurance**

The Company shall receive and store the Customer Goods on an uninsured basis and the Customer's attention is drawn to the provision of Condition 9.3. Should the Customer require the Company to obtain a quotation for an insurance policy on their behalf for loss or damage to the Customer Goods whilst in storage at the Company's premises the Company will place the request with the Company's usual insurance broker or underwriter, and the Customer warrants that in such instance they:

- 5.1. will provide the Company with a full and accurate description of the Customer Goods together with a true and accurate valuation;
- 5.2. will pay the Company a fee comprising the insurance premium together with any administrative charge for arranging the insurance, always provided that the Company has submitted a quotation in advance in writing and the Customer has accepted the quotation in writing, such notifications to be allowed by email; and
- 5.3. accept irrevocably in the instance of making any claim that a decision on acceptance of such claim, value and subsequent payment to the Customer by the insurer shall be final, and that the Customer shall hold harmless the Company and hereby irrevocably agree to indemnify the Company on demand on a full indemnity basis for any excess or other losses whether proven or unproven.

6. **Terms of Payment**

- 6.1. Unless otherwise agreed in writing between the parties, the Company shall be entitled to invoice the Customer on or at any time after the Order has been placed by the Customer or as provided for in clause 12 (Consequences of Termination).
- 6.2. Unless otherwise stated in the Order the Customer shall pay each invoice within 15 days of its date of issue, failing which interest shall accrue on a daily basis in accordance with Condition 6.4.1. Time for payment shall be of the essence of the Contract.
- 6.3. The Customer shall not be entitled to set off against the Price sums owed or claimed to be owed to the Customer by the Company and all amounts due under the Contract shall be paid in full without any counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).
- 6.4. If the Customer fails to pay by the due date any amount which is payable to the Company under the Contract, then, without prejudice to Condition 7:
  - 6.4.1. that amount shall bear interest from the due date until payment is made in full, both before and after any judgment, at a rate equivalent to 8% per annum over the Bank of England base rate from time to time, calculated on a daily basis;
  - 6.4.2. the Company shall be entitled to suspend the performance of the Services or any other services on behalf of the Customer until the outstanding amount has been received by the Company;
  - 6.4.3. the Customer hereby irrevocably agrees to indemnify the Company on demand on a full indemnity basis for all costs and expenses (including legal, debt collection and valuation fees and any internal costs and expenses of the Company) and any value added tax incurred thereon by it in connection with the enforcement of any of the rights of the Company under these Conditions; and
  - 6.4.4. all amounts payable by the Customer to the Company in respect of invoices issued by the Company shall become immediately due and payable.

7. **Lien**

The Company shall have a lien over the Customer Goods for any amount due under the Contract and the cost of recovering the same. If any lien is not satisfied within a reasonable time the Company shall be at full liberty to sell the Customer Goods, either privately or by auction, and to apply the proceeds of any such sale in or towards discharge of the lien and the expense of the sale.

8. **Intellectual Property**

All Intellectual Property Rights in or arising out of or in connection with the Services (other than Intellectual Property Rights in any materials provided by the Customer) shall be owned by the Company.

9. **Warranties and Limitation of Liability**

**THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE**

- 9.1. The Company warrants that the Services will be provided using reasonable care and skill.
- 9.2. Nothing in the Contract shall limit or exclude the Company's liability for:
  - 9.2.1. death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;
  - 9.2.2. fraud or fraudulent misrepresentation; or
  - 9.2.3. breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession) or any other liability which cannot be limited or excluded by law.
- 9.3. Subject to clause 9.2 the total liability of the Company to pay to the Customer compensation for loss or damage occurring in respect of the Customer Goods shall in no circumstances exceed the lower amount of 25% of the total amount paid for the Services in the previous twelve months by the Customer exclusive of any other services (including, but not limited to mailing, courier, freight and other shipping services) provided by the Company to the Customer OR £20,000, always provided that:
  - 9.3.1. no compensation shall be payable by the Company to the Customer in respect of any:
    - 9.3.1.1. loss of profits;
    - 9.3.1.2. loss of sales or business;
    - 9.3.1.3. loss of agreements or contracts;
    - 9.3.1.4. loss of anticipated savings;
    - 9.3.1.5. loss of use or corruption of software, data or information;
    - 9.3.1.6. loss of or damage to goodwill; and
    - 9.3.1.7. indirect or consequential loss.
  - 9.3.2. no compensation whatsoever shall be payable in the event that the Customer fails, within 7 days of any loss or damage becoming known to the Customer, to report this to the Company at its registered office by recorded delivery first class letter;
  - 9.3.3. no compensation whatsoever shall be payable in the event that the Customer fails, within 14 days of any loss or damage, to report this to the Company at its registered office by recorded delivery first class letter.
  - 9.3.4. no compensation whatsoever shall be payable in the event that any legal proceedings commenced against the Company by the Customer relating to any claim for compensation as aforesaid are not brought within the period of 2 years commencing with the date of the alleged loss or damage;
  - 9.3.5. no compensation shall be payable in the event of loss, damage, misdelivery or delay caused by events beyond the Company's control, including but not limited to acts of God, perils of the air, adverse weather conditions, mechanical delays, acts of war, hostilities, civil commotions, strikes, industrial action, acts of public enemies, or acts or omission of public authorities (including customs and quarantine officials) with actual or apparent authority; and
- 9.4. Save as provided in Condition 9.2 above the Company shall not be under any other liability whatsoever or howsoever arising to the Customer in respect of the provision of the Services.
- 9.5. Without prejudice to the generality of Condition 9.2 above and for the avoidance of doubt the Company shall not be liable in respect of any losses caused:-

- 9.5.1. partly by its negligence and/or the negligence of its employees and partly by the negligence of the Customer;
- 9.5.2. by any independent contractor in any manner whatsoever.
- 9.6. In the event of any loss, damage, misdelivery or delay occurring in respect of the provision of Services by reason of any act or default of an independent contractor the Company shall at the Customer's request and expense assign to the Customer any right of action which the Company may have against the independent contractor.
- 9.7. This condition 9 shall survive termination of the Contract.
- 10. Data Protection and Data Processing**
- 10.1. Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 10 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation.
- 10.2. In this clause 10, the following words shall have the following meanings:
- "Agreed Purpose" means the supply by the Company of fulfillment-related services on behalf of the Customer.
- "Applicable Law" means (i) any and all laws, statutes, regulations, by-laws, orders, ordinances and court decrees that apply to the performance of the Original Agreement or the processing of Shared Personal Data, and (ii) the terms and conditions of any applicable approvals, consents, exemptions, filings, licences, authorisations, permits, registrations or waivers issued or granted by, or any binding requirement, instruction, direction or order of, any applicable government department, authority or agency having jurisdiction in respect of that matter;
- "Data Protection Authority" means the Information Commissioner's Office, or any other relevant local governmental or other official regulator(s) responsible for enforcement of Data Protection Legislation from time to time in the United Kingdom.
- "Shared Personal Data" means the personal data which is shared between the parties, including names, addresses, email addresses, telephone numbers, commercial or proforma invoices, company registration numbers and tax references and IDs including but not limited to verification documents, passports, driving licences and bank details.
- 10.3. The parties agree to only control Shared Personal Data as related to the Agreed Purpose and shall not control it in a way which is incompatible with the Agreed Purpose.
- 10.4. The parties agree to only process Shared Personal Data as related to the Agreed Purpose and shall not process it in a way which is incompatible with the Agreed Purpose.
- 10.5. The Company and the Customer shall work in good faith together to reach agreement with regard to any issues arising from the data sharing.
- 10.6. Each party shall comply with their obligations under the Data Protection Legislation and shall use their reasonable endeavours to ensure that any subcontractors shall:
- 10.6.1. comply with their obligations under the Data Protection Legislation
- 10.6.2. process the Shared Personal Data on the basis of one of the lawful grounds listed in the Data Protection Legislation; and
- 10.6.3. obtain all permissions and consents necessary to disclose the Shared Personal Data to the other party.
- 10.7. One party shall not attempt to access, copy, amend, store or delete any personal data owned by the other party where such action either is not absolutely necessary in order to fulfil the Agreed Purpose or is agreed in advance in writing by the parties.
- 10.8. In the event that the Customer is to transfer a database or databases of Shared Personal Data, or other Shared Personal Data which is not sent by the data subject, to the Company the Customer shall ensure that it has explicit consent from the data subject to the sharing of such Shared Personal Data with the Company. If requested by the Company, the Customer shall provide details of the wording and methods used to obtain such consent which complies with the Data Protection Legislation. To the extent that such wording and/or methods expose the Company to material non-compliance with the Data Protection Legislation, the Company shall be entitled to request reasonable changes to such wording and methods in order to remove such exposure and the Customer agrees to enact such reasonable changes as are agreed.
- 10.9. The Customer shall comply with all reasonable requests from the Company to provide information, cooperation and assistance in relation to any investigation by any governmental entity or authority including, without limitation, any Data Protection Authority if and to the extent that such investigation related to Shared Personal Data.
- 10.10. Each party shall ensure that, to the extent of its reasonable knowledge and belief, the personal data it discloses to the other party is accurate.
- 10.11. Rights of data subjects
- 10.11.1. Each party shall, in respect of the Shared Personal Data, ensure that their privacy notices are clear and provide sufficient information to all affected data subjects reasonably for them to understand what of their personal data is being shared, the circumstances in which it will be shared, the purpose for the data sharing and either the identity of the other party or a description of the type of organisation which will receive the personal data.
- 10.11.2. The parties acknowledge that the Data Protection Legislation grants data subjects certain rights over their personal data and that the responsibility for complying with a reasonable request from a data subject falls to the party who receives it in respect of the personal data they hold about the relevant data subject.
- 10.11.3. The parties shall maintain a record of any requests made by data subjects to exercise their rights, such records to include any explanation of decisions made and any information exchanged together with copies of the request, details of the data accessed and shared and, where relevant, notes of any meetings, correspondence or telephone calls relating to the request.
- 10.11.4. The parties agree to provide reasonable assistance as is necessary to each other to enable them to comply with any request made by a data subject.
- 10.12. Each party shall ensure that the Shared Personal Data is retained for only as long as is required by applicable law or reasonable internal retention policy.
- 10.13. For the purpose of this clause 10.13 transfers of personal data shall mean any disclosure of personal data to a third party. Where either party transfers Shared Personal Data in accordance with this clause 10:
- 10.13.1. it shall ensure that the transfer of such Shared Personal Data is carried out in accordance with a written contract which shall impose on the relevant third party conditions no less stringent than those to which the transferring party is subject under the terms of this clause 10;
- 10.13.2. where the transfer is outside of the EEA and is not territory approved by the European Commission as providing adequate protection, nor to an entity who is a member of the "Privacy Shield" certification scheme, it shall ensure that the transfer is otherwise legitimised in accordance with the Data Protection Legislation; and
- 10.13.3. where the transfer is outside the EEA the Company will make use of the General Data Protection Regulations' Article 49 derogations as the transfer of shared personal data is necessary for the performance of the contracted service; and
- 10.13.4. it shall remain liable for the actions of any third party who receives it as though they were its own.
- 10.14. Each party shall take account of the risks that are presented by the processing of personal data, in particular from accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data transmitted, stored or otherwise processed.
- 10.15. If one party becomes aware of a personal data breach relating to any of the Shared Personal Data it shall:
- 10.15.1. notify the other party immediately upon becoming aware of the breach and thereafter provide details, including where possible the categories and approximate numbers of data subjects concerned and, so far as is reasonably practical, details of the likely consequences of the personal data breach as well as the measures that party has taken or proposes to take to address and/or mitigate the breach (including, where appropriate, measures to mitigate known adverse effects which have already occurred);
- 10.15.2. provide the other party with such information and assistance as it requires in relation to the personal data breach; and
- 10.15.3. document the personal data breach and any related action taken.
- 10.16. Each party shall ensure that its staff are appropriately trained to handle and process the Shared Personal Data in accordance with the technical and organisational security measures taken by that party, together with any other applicable national data protection laws and official guidance. The level, content and regularity of such training shall be proportionate to each staff member's role, responsibility and frequency with respect to their handling and processing of the Shared Personal Data.
- 10.17. **With regard to Data Protection costs and indemnity:**
- THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE**
- 10.17.1. Each party shall perform its obligations under this clause 10 at its own cost;
- 10.17.2. The Customer shall indemnify and hold harmless the Company and any employee, agent or subcontractor of the Company on a full indemnity basis in respect of any cost, charge, damages, expense or loss which the Customer may cause the Company to suffer as a result of their breach of any provisions of this clause 10 or of the Data Protection Legislation including in the event that the provision of Shared Personal Data in the form of a database or otherwise to the Company will constitute such a breach of the Data Protection Legislation, or may give rise to any claim by any individual for compensation for loss or unauthorised disclosure of data; and
- 10.17.3. The Customer shall ensure that the transfer of any Shared Personal Data was lawful under the Data Protection Legislation and the Company shall not be liable for any action or omission resulting from the Customer's failure to ensure that the transfer of any Shared Personal Data was lawful under the Data Protection Legislation.
- 11. Termination**
- 11.1. Without affecting any other right or remedy available to it, either party may terminate the Contract by giving the other party no less than three months' written notice unless otherwise agreed in writing in advance.
- 11.2. Without affecting any other right or remedy available to it, either party may terminate the Contract with immediate effect by giving written notice to the other party if:
- 11.2.1. the other party commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within fourteen days of that party being notified in writing to do so;
- 11.2.2. the other party takes any step or action in connection with its entering administration, provisional liquidation or any provision of this clause 10 or of the Data Protection Legislation including in the event that the company is wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business;
- 11.2.3. the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or
- 11.2.4. the other party's financial position deteriorates to such an extent that in the terminating party's opinion the other party's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.
- 11.3. Without affecting any other right or remedy available to it, the Company may terminate the Contract with immediate effect by giving written notice to the Customer if:
- 11.3.1. the Customer fails to pay any amount due under the Contract on the due date for payment; or
- 11.3.2. there is a change of control of the Customer.
- 11.3.3. Notwithstanding clause 2.7 and without affecting any other right or remedy available to it, the Company may suspend the supply of Services under the Contract or any other contract between the Customer and the Company if the Customer fails to pay any amount due under the Contract on the due date for payment, the Customer becomes subject to any of the events listed in clause 11.2.2 to clause 11.2.4, or the Company reasonably believes that the Customer is about to become subject to any of them.
- 12. Consequences of Termination**
- 12.1. On termination of the Contract the Customer shall immediately pay to the Company all of the Company's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, the Company shall submit an invoice, which shall be payable by the Customer immediately on receipt; and
- 12.2. The Company shall agree a date with the Customer on which the Company will make available the Customer Goods to the Customer by providing access to either the Customer, or a third party authorised by the Customer, or by the Company agreeing to deliver the goods to an address specified by the Customer, and the Customer shall agree to pay the Company continuing charges for the Services together with any other associated costs, including but not limited to delivery of the Customer Goods, until such agreed date (the "Final Charges"); and
- 12.3. The Customer Goods will only be released to the Customer or its authorised agent upon cleared payment of the Final Charges in full and without deduction; and
- 12.4. Termination or expiry of the Contract shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, 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
- 12.5. Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Contract shall remain in full force and effect.
- 13. General**
- 13.1. The Company may at any time assign, mortgage, charge, subcontract, delegate, declare a transfer over or deal in any other manner with any or all of its rights and obligations under the Contract.
- 13.2. The Customer shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a transfer over or deal in any other manner with any or all of its rights and obligations under the Contract.
- 13.3. Any notice required or permitted to be given by either party to the other under these Conditions shall be sent by recorded delivery mail or by other reputable express delivery service or by email to that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice or where by email to a recognized email address which shall either have been provided by the receiving party to the other for the purpose of service a notice or which has customarily or commonly been used as an email address between the parties during the course of the Contract.
- 13.4. Any notice given by either party under the provisions of Condition 13.3 shall if sent by post be deemed to have been received 7 days after posting or if sent by email by 09.00 hours the day following transmission.
- 13.5. No waiver by the company of any breach of the Contract by the Customer shall be considered as a waiver of any subsequent breach of the same or any other provision.
- 13.6. If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected thereby.
- 13.7. Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by clause 13.7.1.
- 13.7.1. Each party may disclose the other party's confidential information:
- 13.7.1.1. to its employees, officers, representatives, subcontractors or advisers who need to know such information for the purposes of carrying out the party's obligations under the Contract. Each party shall ensure that its employees, officers, representatives, subcontractors or advisers to whom it discloses the other party's confidential information comply with this clause 13.7, and
- 13.7.1.2. as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 13.7.2. Neither party shall use the other party's confidential information for any purpose other than to perform its obligations under the Contract.
- 13.8. Except as set out in these Conditions, no variation of the Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).
- 13.9. If any provision or part-provision of the Contract 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 the Contract.
- 13.10. Unless it expressly states otherwise, the Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.
- 13.11. These Conditions (together with any special terms and conditions agreed in writing between the Company and the Customer) and the terms of the relevant Order constitute the entire agreement between the Company and the Customer, supersede any previous agreement or understanding and may not be varied except in writing by the Company and the Customer. All other terms and conditions, express or implied by statute or otherwise, are excluded to the fullest extent permitted by law.
- 13.12. The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by, and construed in accordance with the laws of England.
- 13.13. Each party irrevocably agrees that the courts of England shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.

## SCHEDULE A

### BRITISH INTERNATIONAL FREIGHT ASSOCIATION (BIFA) – STANDARD TRADING CONDITIONS 2021 (ENGLAND) EDITION

#### BRITISH INTERNATIONAL FREIGHT ASSOCIATION (BIFA) STANDARD TRADING CONDITIONS

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**THE CUSTOMER'S ATTENTION IS DRAWN TO SPECIAL CLAUSES HEREOF WHICH EXCLUDE OR LIMIT THE COMPANY'S LIABILITY AND THOSE WHICH REQUIRE THE CUSTOMER TO INDEMNIFY THE COMPANY IN CERTAIN CIRCUMSTANCES AND THOSE WHICH LIMIT TIME AND THOSE WHICH DEAL WITH CONDITIONS OF ISSUING EFFECTIVE GOODS INSURANCE BEING CLAUSES 7, 8, 10, 11(A) and 11(B) 12-14 INCLUSIVE, 18-20 INCLUSIVE, AND 24-27 INCLUSIVE. THE CUSTOMER'S ATTENTION IS ALSO DRAWN TO CLAUSE 28 WHICH PERMITS ARBITRATION IN CERTAIN CIRCUMSTANCES**

All headings are indicative and do not form part of these conditions

#### DEFINITIONS AND APPLICATION

1 In these conditions the following words shall have the following meanings:-

<p>"Company" "Consignee" "Customer"</p> <p>"Direct Customs Agent"</p> <p>"Goods" "Person" "LMAA" "SDR" "Transport Unit"</p> <p>"Owner"</p>	<p>the BIFA member trading under these conditions</p> <p>the Person to whom the goods are consigned</p> <p>any Person at whose request or on whose behalf the Company undertakes any business or provides advice, information or services</p> <p>The Company acting in the name of and on behalf of the Customer and/or Owner with H.M. Revenue and Customs ("HMRC") as defined by the Taxation (Cross Border Trade) Act 2018, Clause 21.1(a), or as amended</p> <p>the cargo to which any business under these conditions relates</p> <p>natural person(s) or any body or bodies corporate</p> <p>the London Maritime Arbitrators Association</p> <p>are Special Drawing Rights as defined by the International Monetary Fund</p> <p>packing case, pallets, container, trailer, tanker, or any other device used whatsoever for and in connection with the carriage of Goods by land, sea or air</p> <p>the Owner of the Goods or Transport Unit and any other Person who is or may become interested in them</p>
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2(A) Subject to sub-paragraph (B) below, all and any activities of the Company in the course of business, whether gratuitous or not, are undertaken subject to these conditions.

(B) any legislation, to include regulations and directives, is compulsorily applicable to any business undertaken, these conditions shall, as regards such business, be read as subject to such legislation, and nothing in these conditions shall be construed as a surrender by the Company of any of its rights or immunities or as an increase of any of its responsibilities or liabilities under such legislation, and if any part of these conditions be repugnant to such legislation to any extent, such part shall as regards such business be overridden to that extent and no further.

3 The Customer warrants that he is either the Owner, or the authorised agent of the Owner and, also, that he is accepting these conditions not only for himself, but also as agent for and on behalf of the Owner.

#### THE COMPANY

4(A) Subject to clauses 11 and 12 below, the Company shall be entitled to procure any or all of the services as an agent, or to provide those services as a principal.

(B) The Company reserves to itself full liberty as to the means, route and procedure to be followed in the performance of any service provided in the course of business undertaken subject to these conditions.

5 When the Company contracts as a principal for any services, it shall have full liberty to perform such services itself, or, to subcontract on any terms whatsoever, the whole or any part of such services.

6(A) When the Company acts as an agent on behalf of the Customer, the Company shall be entitled, and the Customer hereby expressly authorises the Company, to enter into all and any contracts on behalf of the Customer as may be necessary or desirable to fulfil the Customer's instructions, and whether such contracts are subject to the trading conditions of the parties with whom such contracts are made, or otherwise.

(B) The Company shall, within 14 days' notice given by the Customer, provide evidence of any contract entered into as agent for the Customer. Insofar as the Company may be in default of the obligation to provide such evidence, it shall be deemed to have contracted with the Customer as a principal for the performance of the Customer's instructions.

7 In all and any dealings with HMRC, for and on behalf of the UK established Customer and/or Owner, the Company is deemed to be appointed and duly empowered to act as a Direct Customs Agent only, to make Customs declarations in the name of the Customer (Principal) as their "Direct Agent".

8(A) Subject to sub-clause (B) below, the Company:

(i) has a general lien on all Goods and documents relating to Goods in its possession, custody or control for all sums due at any time to the Company from the Customer and/or Owner on any account whatsoever, whether relating to Goods belonging to, or services provided by or on behalf of the Company to the Customer or Owner. Storage charges shall continue to accrue on any Goods detained under lien;

(ii) shall be entitled, on 21 days' notice in writing to the Customer, to sell or dispose of or deal with such Goods or documents as agent for, and at the expense of, the Customer and apply the proceeds in or towards the payment of such sums;

(iii) shall, upon accounting to the Customer for any balance remaining after payment of any sum due to the Company, and for the cost of sale and/or disposal and/or dealing, be discharged of any liability whatsoever in respect of the Goods or documents.

(B) When the Goods are liable to perish or deteriorate, the Company's right to sell or dispose of or deal with the Goods shall arise immediately upon any sum becoming due to the Company, subject only to the Company taking reasonable steps to bring to the Customer's attention its intention to sell or dispose of the Goods before doing so.

9 The Company shall be entitled to retain and be paid all brokerages, commissions, allowances and other remunerations customarily retained by, or paid to, freight forwarders.

10(A) Should the Customer, Consignee or Owner of the Goods fail to take delivery at the appointed time and place when and where the Company is entitled to deliver, the Company shall be entitled to store the Goods, or any part thereof, at the sole risk of the Customer or Consignee or Owner, whereupon the Company's liability in respect of the Goods, or that part thereof, stored as aforesaid, shall wholly cease. The Company's liability, if any, in relation to such storage, shall be governed by these conditions. All costs incurred by the Company as a result of the failure to take delivery shall be deemed as freight earned, and such costs shall, upon demand, be paid by the Customer.

(B) The Company shall be entitled at the expense of the Customer to dispose of or deal with (by sale or otherwise as may be reasonable in all the circumstances):-

(i) after at least 21 days' notice in writing to the Customer, or (where the Customer cannot be traced and reasonable efforts have been made to contact the parties who may reasonably be supposed by the Company to have an interest in the Goods) without notice, any Goods which have been held by the Company for 60 days and which cannot be delivered as instructed; and

(ii) without prior notice, any Goods which have perished, deteriorated, or altered, or are in immediate prospect of doing so in a manner which has caused or may reasonably be expected to cause loss or damage to the Company, or third parties, or to contravene any applicable laws or regulations.

11(A) No insurance will be effected except pursuant to and in accordance with clearly stated instructions given in writing by the Customer and accepted in writing by the Company, and all insurances effected by the Company are subject to the usual exceptions and conditions of the policies of the insurers or underwriters taking the risk. Unless otherwise agreed in writing, the Company shall not be under any obligation to effect a separate insurance on the Goods, but may declare it on any open or general policy held by the Company.

(B) Insofar as the Company agrees to effect insurance, the Company acts solely as agent for the Customer, and the limits of liability under clause 26(A) of these conditions shall not apply to the Company's obligations under clause 11.

12(A) Except under special arrangements previously made in writing by an officer of the Company so authorised, or made pursuant to or under the terms of a printed document signed by the Company, any instructions relating to the delivery or release of the Goods in specified circumstances (such as, but not limited to, against payment or against surrender of a particular document) are accepted by the Company, where the Company has to engage third parties to effect compliance with the instructions, only as agents for the Customer.

(B) Despite the acceptance by the Company of instructions from the Customer to collect freight, duties, charges, dues, or other expenses from the Consignee, or any other Person, on receipt of evidence of proper demand by the Company, and, in the absence of evidence of payment (for whatever reason) by such Consignee, or other Person, the Customer shall remain responsible for such freight, duties, charges, dues, or other expenses.

(C) The Company shall not be under any liability in respect of such arrangements as are referred to under sub-clause (A) and (B) hereof save where such arrangements are made in writing, and in any event, the Company's liability in respect of the performance of, or arranging the performance of, such instructions shall not exceed the limits set out in clause 26(A) (i) of these conditions.

13 Advice and information, in whatever form it may be given, is provided by the Company for the Customer only. The Customer shall indemnify the Company against all loss and damage suffered as a consequence of passing such advice or information on to any third party.

14 Without prior agreement in writing by an officer of the Company so authorised, the Company will not accept or deal with Goods that require special handling regarding carriage, handling, or security whether owing to their thief attractive nature or otherwise including, but not limited to, bullion, currency, securities, precious stones, jewellery, valuables, antiques, pictures, human remains, living creatures, plants. Should any Customer nevertheless deliver any such goods to the Company, or cause the Company to handle or deal with any such goods, otherwise than under such prior agreement, the Company shall have no liability whatsoever for or in connection with the goods, howsoever arising.

15 Except pursuant to instructions previously received in writing and accepted in writing by the Company, the Company will not accept or deal with Goods of a dangerous or damaging nature, nor with Goods likely to harbour or encourage vermin or other pests, nor with Goods liable to taint or affect other Goods. If such Goods are accepted pursuant to a special arrangement, but, thereafter, and in the opinion of the Company, constitute a risk to other goods, property, life or health, the Company shall, where reasonably practicable, contact the Customer in order to require him to remove or otherwise deal with the goods, but reserves the right, in any event, to do so at the expense of the Customer.

16 Where there is a choice of rates according to the extent or degree of the liability assumed by the Company and/or third parties, no declaration of value will be made and/or treated as having been made except under special arrangements previously made in writing by an officer of the Company so authorised as referred to in clause 26(D).

#### THE CUSTOMER

17 (A) The Customer warrants:

(i) that the following (furnished by on or behalf of the Customer) are full and accurate: the description and particulars of any Goods; any information furnished (including but not limited to, the nature, gross weight, gross mass (including the verified actual gross mass of any container packed with packages and cargo items), and measurements of any Goods); and the description and particulars of any services required by or on behalf of the Customer are full and accurate, and

(ii) that any Transport Unit and/or equipment supplied by the Customer in relation to the performance of any requested service is fit for purpose;

(B) that all Goods have been properly and sufficiently prepared, packed, stowed, labelled and/or marked, and that the preparation, packing, stowage, labelling and marking are appropriate to any operations or transactions affecting the Goods and the characteristics of the Goods;

(C) that where the Company receives the Goods from the Customer already stowed in or on a Transport Unit, the Transport Unit is in good condition, and is suitable for the carriage to the intended destination of the Goods loaded therein, or thereon;

(D) that where the Company provides the Transport Unit, on loading by the Customer, the Transport Unit is in good condition, and is suitable for the carriage to the intended destination of the Goods loaded therein, or thereon.

18 Without prejudice to any rights under clause 15, where the Customer delivers to the Company, or causes the Company to deal with or handle Goods of a dangerous or damaging nature, or Goods likely to harbour or encourage vermin or other pests, or Goods liable to taint or affect other goods, whether declared to the Company or not, he shall be liable for all loss or damage arising in connection with such Goods, and shall indemnify the Company against all penalties, claims, damages, costs and expenses whatsoever arising in connection therewith, and the Goods may be dealt with in such manner as the Company, or any other person in whose custody they may be at any relevant time, shall think fit.

19 The Customer undertakes that no claim shall be made against any director, servant, or employee of the Company which imposes, or attempts to impose, upon them any liability in connection with any services which are the subject of these conditions, and, if any such claim should nevertheless be made, to indemnify the Company against all consequences thereof.

20 The Customer shall save harmless and keep the Company indemnified from and against

(A) all liability, loss, damage, costs and expenses whatsoever (including, without prejudice to the generality of the foregoing, all duties, taxes, levies, duties and outlays) of whatever nature levied by any authority in relation to the Goods) arising out of the Company acting in accordance with the Customer's instructions, or arising from any breach by the Customer of any warranty contained in these conditions, or from the negligence of the Customer;

(B) without derogation from sub-clause (A) above, any liability assumed, or incurred by the Company when, by reason of carrying out the Customer's instructions, the Company has become liable to any other party;

(C) all claims, costs and demands whatsoever and by whomsoever made or preferred, in excess of the liability of the Company under the terms of these conditions, regardless of whether such claims, costs, and/or demands arise from, or in connection with, the breach of contract, negligence or breach of duty of the Company, its servants, sub-contractors or agents; any claims of a general average nature which may be made on the Company.

21(A) The punctual receipt in full of sums falling due from the Customer to the Company is critical to the operation of the Company's business and its performance of its obligations to the Customer. Accordingly the Customer shall pay to the Company in cash, or as otherwise agreed, all sums when due, immediately and without reduction or deferral on account of any claim, counterclaim or set-off. Time is of the essence of payment of all and any sums payable by the Customer to the Company.

(B) In the event of any failure by the Customer to make full and punctual payment of any sum payable to the Company (in accordance with clause 21(A) above):

(i) Any and all other sums properly earned by and/or otherwise due to the Company (but which, but for this clause 21(B), would otherwise not yet be payable by the Customer, whether by virtue of an agreed credit period or otherwise) shall become immediately payable in full; and

(ii) Any sum thereby becoming immediately payable shall be paid to the Company in cash, or as otherwise agreed, and without reduction or deferral on account of any claim, counterclaim or set-off.

(C) No omission to seek compensation for loss and/or damage by the Customer shall constitute a waiver or release to the Customer from any liability under 21(A) and (B) above during the application of these terms unless agreed in writing by authorised officers of the Company and Customer.

(D) The Late Payment of Commercial Debts (Interest) Act 1998, as amended, shall apply to all sums due from the Customer.

22 Where liability arises in respect of claims of a general average nature in connection with the Goods, the Customer shall promptly provide security to the Company, or to any other party designated by the Company, in a form acceptable to the Company.

#### LIABILITY AND LIMITATION

23 The Company shall perform its duties with a reasonable degree of care, diligence, skill and judgment.

24 The Company shall be relieved of liability for any loss or damage if, and to the extent that, such loss or damage is caused by:-

(A) fire, lock-out, stoppage or restraint of labour, the consequences of which the Company is unable to avoid by the exercise of reasonable diligence; or

(B) any cause or event which the Company is unable to avoid, and the consequences of which the company is unable to prevent by the exercise of reasonable diligence.

25 Except under special arrangements previously made in writing by an officer of the Company so authorised, the Company accepts no responsibility with regard to any failure to adhere to agreed departure or arrival dates of Goods.

26(A) Subject to clause 2(B) and 11(B) above and sub-clause (D) below, the Company's liability howsoever arising and, notwithstanding that the cause of loss or damage be unexplained, shall not exceed:

(i) in the case of claims for loss or damage to Goods:  
(a) the value of any loss or damage; or  
(b) a sum at the rate of 2 SDR per kilo of the gross weight of any Goods lost or damaged whichever shall be the lesser.

(ii) subject to (iii) below, in the case of all other claims:  
(a) the value of the subject Goods of the relevant transaction between the Company and its Customer; or  
(b) where the weight can be defined, a sum calculated at the rate of 2 SDR per kilo of the gross weight of the subject Goods of the said transaction; or  
(c) 75,000 SDR in respect of any one transaction, whichever shall be the lesser.

(iii) in the case of an error and/or omission, or a series of errors and/or omissions which are repetitions of or represent the continuation of an original error and/or omission:  
(a) the loss incurred; or  
(b) 75,000 SDR in the aggregate of any one trading year commencing from the time of the making of the original error and/or omission, whichever shall be the lesser.

For the purposes of clause 26(A), the value of the Goods shall be their value when they were, or should have been, shipped. The value of SDR shall be calculated as at the date when the claim is received by the Company in writing.

(B) Subject to clause 2(B) above and sub-clause (D) below, the Company's liability for loss or damage as a result of failure to adhere to agreed departure or arrival dates, shall not in any circumstances whatever exceed a sum equal to twice the amount of the Company's charges in respect of the relevant contract.

(C) Save in respect of such loss or damage as is referred to at sub-clause (B), and subject to clause 2(B) above and sub-clause (D) below, the Company shall not in any circumstances whatsoever be liable for indirect or consequential loss such as (but not limited to) loss of profit, loss of market, or the consequences of delay or deviation, however caused.

(D) On clearly stated instructions in writing declaring the commodity and its value, received from the Customer and accepted by the Company, the Company may accept liability in excess of the limits set out in sub-clauses (A) to (C) above upon the Customer agreeing to pay the Company's additional charges for accepting such increased liability. Details of the Company's additional charges will be provided upon request.

27(A) Any claim by the Customer against the Company arising in respect of any service provided for the Customer, or which the Company has undertaken to provide, shall be made in writing and notified to the Company within 14 days of the date upon which the Customer became, or ought reasonably to have become, aware of any event or occurrence alleged to give rise to such claim; and any claim not made and notified as aforesaid shall be deemed to be waived and absolutely barred, except where the Customer can show that it was impossible for him to comply with this time limit, and that he has made the claim as soon as it was reasonably possible for him to do so.

(B) Notwithstanding the provisions of sub-paragraph (A) above, the Company shall in any event be discharged of all liability whatsoever and howsoever arising in respect of any service provided for the Customer, or which the Company has undertaken to provide, unless suit be brought and written notice thereof given to the Company within nine months from the date of the event or occurrence alleged to give rise to a cause of action against the Company.

#### JURISDICTION AND LAW

28(A) These conditions and any act or contract to which they apply shall be governed by English law.

(B) Any dispute arising out of any act or contract to which these Conditions apply shall, save as provided in (C) below, be subject to the exclusive jurisdiction of the English courts.

(C) Notwithstanding (B) above, the Company is entitled to require any dispute to be determined by arbitration.

(D) The Company may exercise its rights under (C) above either by itself commencing arbitration in respect of a dispute or by giving notice to the Customer requiring a dispute to be determined by arbitration.

(E) In the event that the Company exercises its rights under (C) above, the corresponding arbitration shall be conducted as follows:

(i) Where the amount claimed by the claimant is less than £400,000, excluding interest, (or such other sum as the Company and Customer may agree, and subject to (ii) below), the reference shall be to a tribunal of three arbitrators and the arbitration shall be conducted in accordance with the LMAA Intermediate Claims Procedure applicable at the date of the commencement of the arbitration proceedings;

(ii) Where the amount claimed by the claimant is less than £100,000, excluding interest, (or such other sum as the Company and Customer may agree, and subject to (ii) below), the reference shall be to a sole arbitrator and the arbitration shall be conducted in accordance with the LMAA Small Claims Procedure applicable at the date of the commencement of the arbitration proceedings;

(iii) In any case where neither of the LMAA Procedures referred to in (i) and/or (ii) above applies, the reference shall be to three arbitrators in accordance with the LMAA Terms applicable at the date of the commencement of the arbitration proceedings.

## SCHEDULE B

### CROSSFLIGHT LIMITED TRADING AS CROSSFLIGHT MAIL TERMS AND CONDITIONS OF SUPPLY OF BULK MAIL

#### THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THE PROVISIONS OF CLAUSE 9 (WARRANTIES AND LIMITATION OF LIABILITY)

1. **Interpretation**
- 1.1. In these Conditions:
  - "Actual Value" means for the purposes of Condition 9.3 the lowest of the cost of repairing or replacing the Mail or the cost of reconstructing or reconstituting the Database or the resale or fair market value of the Mail and/or Database and, in any event, the actual value of the Mail and/or Database cannot be more than the original costs to the Customer plus 10%;
  - "Company" means Crossflight Limited (Registered Number 2111027) trading as Crossflight Mail or such other trading name as it may use from time to time;
  - "Conditions" means the standard terms and conditions of supply of the Services as set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed in writing between the Company and the Customer;
  - "Contract" means the contract for the supply by the Company to the Customer of the Services incorporating these Conditions;
  - "Controller", "Processor", "Data Subject", "Personal Data", "Personal Data Breach", "processing" and "appropriate technical and organisational measures" are as defined in the Data Protection Legislation;
  - "Customer" means any individual, firm, body corporate, unincorporated association or other body, placing an Order;
  - "Customer Address" means the address of the Customer from which the Mail is to be collected by the Company as detailed on the Order or otherwise notified in writing by the Customer to the Company;
  - "Database" means the database of the Customer to be provided to the Company in an appropriate format to enable the Company to access the information on that database using its computer systems;
  - "Data Protection Legislation" means all applicable data protection and privacy legislation in force from time to time in the UK including the retained EU law version of the General Data Protection Regulation ((EU) 2016/679) (UK GDPR); the Data Protection Act 2018 (DPA 2018) (and regulations made thereunder) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended and the guidance and codes of practice issued by the Information Commissioner or other relevant regulatory authority and applicable to a party;
  - "Delivery Address" means the address to which the Mail is to be delivered and which address is clearly marked in the Order or on the relevant package;
  - "Domestic Law" means the law of the United Kingdom or a part of the United Kingdom;
  - "Intellectual Property Rights" means patents, utility models, rights to inventions, copyright and neighbouring and related rights, moral rights, trademarks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of confidential information (including know-how and trade secrets), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and right to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world;
  - "Mail" means any document or items (including containers and packaging) consigned by a customer from the Customer Address to the Delivery Address;
  - "Order" means an order for the supply of Services placed by the Customer by completing an application form and/or mail docket supplied by the Company or completed by the Company on behalf of the Customer following a request by the Customer;
  - "Price" means the price of the Services payable by the Customer in accordance with Condition 4; and
  - "Services" means the services if any described in the Order being services offered by the Company in accordance with Condition 3.
- 1.2. Any reference in these Conditions to a statute or a provision of a statute shall be construed as a reference to that statute or provision as amended, re-enacted or extended at the relevant time.
- 1.3. Headings in these Conditions are for convenience only and shall not affect their interpretation.
2. **Basis of Supply**
- 2.1. The Company is not a common carrier and accepts the Order and any subsequent Order on and subject exclusively to these Conditions. No employee or agent of the Company has any authority to alter, vary or waive any provision of the Contract in any respect.
- 2.2. The Customer irrevocably warrants to the Company that, and the Company accepts Mail and/or Database for conveyance, processing or onward transmission on the basis that, the following conditions are fulfilled:
  - 2.2.1. that the Customer is either the owner of or acting as the fully authorised agent for the owner of the Mail and/or the Database;
  - 2.2.2. that the Mail does not comprise or include weapons, ammunition or explosives or any other items which the Company, in its absolute discretion, following receipt of the Order decides cannot be transported safely;
  - 2.2.3. that the Mail does not comprise or include any letters, documents or items which the United Kingdom Post Office or, in the case of Mail to be delivered overseas, any equivalent body in any other country has an exclusive right to convey;
  - 2.2.4. that the Mail and/or the Database does not comprise or include drugs, documents or other things which are illegal to possess in the United Kingdom or, in the case of Mail to be delivered overseas, in the country to which they are consigned;
  - 2.2.5. that the Mail does not comprise or include documents or other things which are illegal to take out of the United Kingdom or to take into the country to which they are consigned or through or over which they may be transported;
  - 2.2.6. that unless the Company has been given express prior written detailed notice and has agreed in writing to carry such Mail, none of the Mail is of a toxic, corrosive, combustible or flammable nature; and
  - 2.2.7. that unless packed by the Company the Mail is packed to the Customer's complete satisfaction and in strict compliance with all relevant packing regulations.
- 2.3. The Customer hereby undertakes to the Company that it will comply with all applicable laws, rules and regulations, including but not limited to customs laws, import and export laws and governmental regulations of any country to, from, through or over which the Mail may be sent and the Customer agrees to furnish such information and complete and attach to the Order such documents as are necessary to comply with such laws, rules and regulations.
- 2.4. The Customer shall:
  - 2.4.1. ensure that the terms of the Order and any information it provides to the Company are complete and accurate;
  - 2.4.2. co-operate with the Company in all matters relating to the Services;
  - 2.4.3. provide the Company, its employees, agents, consultants and subcontractors, with access to the Customer's premises, office accommodation and other facilities as reasonably required by the Company;
  - 2.4.4. provide the Company with such information and materials as the Company may reasonably require in order to supply the Services, and ensure that such information is complete and accurate in all material respects; and
  - 2.4.5. obtain and maintain all necessary licences, permissions and consents which may be required for the Services before the date on which the Services are to start.
- 2.5. The Contract shall come into existence when the Order is accepted by the Company.
- 2.6. These conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate which are implied by trade, custom, practice or course of dealing.
- 2.7. The Customer agrees that the Company may open and inspect the Mail for any reason and at any time.
- 2.8. Any quotation given by the Company shall not constitute an offer and is only valid for a period of 20 business days from its date of issue.
- 2.9. If the Company'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):
  - 2.9.1. without limiting or affecting any other right or remedy available to it, the Company shall 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 its obligations in each case to the extent the Customer Default prevents or delays the Company's performance of any of its obligations;
  - 2.9.2. the Company shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from the Company's failure or delay to perform any of its obligations as set out in clause 2.4; and
  - 2.9.3. the Customer shall reimburse the Company on written demand for any costs or losses sustained or incurred by the Company arising directly or indirectly from the Customer Default.
- 2.10. Any samples, drawings, descriptive matter or advertising issued by the Company, and any descriptions or illustrations contained in the Company's catalogues or brochures, are issued or published for the sole purpose of giving an approximate idea of the Services described in them. They shall not form part of the Contract or have any contractual force.
3. **The Services**
- 3.1. The Company will at the request of the Customer and as detailed in the Order provide any of the following Services:
  - 3.1.1. Bulk Mail Service: the Company will collect Mail from the Customer Address and arrange for such Mail to be sorted and despatched by the appropriate means to be decided in the Company's absolute discretion within one or more of the categories of service level offered by the Company from time to time to be determined by the Customer in the Order or, failing such determination, in the absolute discretion of the Company.
  - 3.1.2. Database Service: the Company will use its reasonable endeavours to carry out any of the following tasks relating to the Database provided that full written details of the task required are supplied by the Customer and accepted in writing by the Company:
    - 3.1.2.1. the processing of mailing lists for the Customer by computer including from the Database;
    - 3.1.2.2. the deletion of duplicate addresses from the Database;
    - 3.1.2.3. the printing of envelopes and/or labels from the Database;
    - 3.1.2.4. mailshot services (including printing of envelopes and/or labels, insertion of the items in to the envelopes and sealing and despatch of such mailshots); and
    - 3.1.2.5. any other services using the Database or creating a database for the Customer that the Customer and the Company agree in writing.
- 3.2. In the provision of the Services, the Company is in its absolute discretion entitled to process and/or convey Mail:
  - 3.2.1. by its own employees and/or by any mail service, airline, delivery company and/or other independent contractor whatsoever; and
  - 3.2.2. by means of any conveyance.
- 3.3. The Company shall use its reasonable endeavours to meet any performance dates but any such dates shall be estimates only and time shall not be of the essence for performance of the Services.
4. **Price of the Services**
- 4.1. The Price of the Services shall unless otherwise agreed in writing by the Company and the Customer, be the Company's list price in force from time to time (as the same is available on written request from the Company) for such Services on the date the Order is placed by the Customer with the Company together with any further price which may be applicable for non-standard services. Where the Services are specific to the Customer and no list price is available, the Price shall be the price agreed in advance in writing, or failing that, the provisions of section 15 (1) of the Supply of Goods and Services Act 1982 shall apply in that the parties hereby accept there is an implied term that the party contracting (Customer) with the supplier (Company) will pay a reasonable charge for the Services and in such case the Company in its absolute discretion shall set the consideration for the Service at a price it believes to be reasonable.
- 4.2. The Price shall unless otherwise stated, be exclusive of:
  - 4.2.1. any applicable value added tax and any other applicable taxes, duties, imposts or levies; and
  - 4.2.2. packaging, packing and insurance.
5. **Terms of Payment**
- 5.1. The Company shall be entitled to invoice the Customer on or at any time after the Order has been placed by the Customer and each invoice shall quote the number (if any) of the Order.
- 5.2. Unless otherwise stated in the Order the Customer shall pay each invoice within 7 days of its date of issue, failing which interest shall accrue on a daily basis in accordance with Condition 5.5. Time for payment shall be of the essence of the Contract.
- 5.3. The Customer shall not be entitled to set off against the Price sums owed or claimed to be owed to the Customer by the Company and all amounts due under the Contract shall be paid in full without any counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).
- 5.4. In the event that the Company pays or agrees to pay to any third party any duty and/or taxes and/or levy in respect of any Mail:
  - 5.4.1. the Company shall do so on the sole basis that in doing so it is acting as the Customer's fully authorised agent;
  - 5.4.2. whether or not delivery of the Mail is actually made to the Delivery Address to which they are consigned, immediately upon receipt of the Company's invoice in respect of such duty and/or tax and/or levy the Customer shall settle such Duty Invoice in full;
  - 5.4.3. in the event of any Customer failing to comply strictly with sub-condition 5.4.2 above the Company shall be at full liberty to deal with the Mail in accordance with Condition 6 below.
- 5.5. If the Customer fails to pay by the due date any amount which is payable to the Company under the Contract, then, without prejudice to Condition 6:
  - 5.5.1. that amount shall bear interest from the due date until payment is made in full, both before and after any judgment, at a rate equivalent to 8% per annum over Lloyds Bank Plc base rate from time to time, calculated on a daily basis;
  - 5.5.2. the Company shall be entitled to suspend the performance of the Services or any other services on behalf of the Customer until the outstanding amount has been received by the Company;
  - 5.5.3. the Customer hereby irrevocably agrees to indemnify the Company on demand on a full indemnity basis for all costs and expenses (including legal, debt collection and valuation fees and any internal costs and expenses of the Company) and any value added tax incurred thereon by it in connection with the enforcement of any of the rights of the Company under these Conditions; and
  - 5.5.4. all amounts payable by the Customer to the Company in respect of invoices issued by the Company shall become immediately due and payable.
6. **Lien**

The Company shall have a lien over the Customer's Mail for any amount due under the Contract and the cost of recovering the same. If any lien is not satisfied within a reasonable time the Company shall be at full liberty to sell the Mail, either privately or by auction, and to apply the proceeds of any such sale in or towards discharge of the lien and the expense of the sale.
7. **Intellectual Property**
- 7.1. All Intellectual Property Rights in or arising out of or in connection with the Services (other than Intellectual Property Rights in any materials provided by the Customer) shall be owned by the Company.
- 7.2. The Customer grants the Company a fully paid-up, non-exclusive, royalty-free, non-transferable licence to copy and modify any materials provided by the Customer to the Company for the term of the Contract where applicable for the purpose of providing the Services to the Customer.
8. **Insurance**

No insurance cover for Mail and/or the Database shall be arranged by the Company unless a request in writing is received by the Company from the Customer and the Company confirms cover prior to the Company accepting the Mail and/or the Database. For the avoidance of doubt, no insurance for the Mail and/or Database shall be deemed or assumed to have been arranged by the Company unless and until written confirmation of the insurance cover arranged by the Company for the Customer is received by the Customer and any such cover shall only commence from the date and time and shall be subject to the terms of the insurance stipulated in such confirmation in writing.
9. **Warranties and Limitation of Liability**

**THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE**
- 9.1. The Company warrants that the Services will be provided using reasonable care and skill.
- 9.2. Nothing in the Contract shall limit or exclude the Company's liability for:
  - 9.2.1. death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;
  - 9.2.2. fraud or fraudulent misrepresentation; or
  - 9.2.3. breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession) or any other liability which cannot be limited or excluded by law.

## SCHEDULE B

### CROSSFLIGHT LIMITED TRADING AS CROSSFLIGHT MAIL TERMS AND CONDITIONS OF SUPPLY OF BULK MAIL

#### THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THE PROVISIONS OF CLAUSE 9 (WARRANTIES AND LIMITATION OF LIABILITY)

- 9.3. Subject to clause 9.2 the total liability of the Company to pay to the Customer compensation for loss or damage occurring in respect of the Mail and/or the Database shall be limited to the lesser of the Actual Value or the Price provided that:
- 9.3.1. no compensation shall be payable by the Company to the Customer in respect of any:
- 9.3.1.1. loss of profits;
- 9.3.1.2. loss of sales or business;
- 9.3.1.3. loss of agreements or contracts;
- 9.3.1.4. loss of anticipated savings;
- 9.3.1.5. loss of use or corruption of software, data or information;
- 9.3.1.6. loss of or damage to goodwill; and
- 9.3.1.7. indirect or consequential loss.
- 9.3.2. no compensation whatsoever shall be payable in the event that the Customer fails within 7 days of any loss damage, misdelivery or delay occurring to the Mail and/or Database becoming known to the Customer, to report this to the Company at its registered office by recorded delivery first class letter;
- 9.3.3. no compensation whatsoever shall be payable in the event that the Customer fails within 14 days of any loss, damage, misdelivery or delay occurring to the Mail and/or Database to report this to the Company at its registered office by recorded delivery first class letter;
- 9.3.4. no compensation whatsoever shall be payable in the event that any legal proceedings commenced against the Company by the Customer relating to any claim for compensation as aforesaid are not brought within the period of 2 years commencing with the date of the alleged loss, damage, misdelivery or delay;
- 9.3.5. no compensation shall be payable in the event of loss, damage, misdelivery or delay caused by events beyond the Company's control, including but not limited to acts of God, perils of the air, adverse weather conditions, mechanical delays, acts of war, hostilities, civil commotions, strikes, industrial action, acts of public enemies, or acts or omission of public authorities (including customs and quarantine officials) with actual or apparent authority; and
- 9.4. Save as provided in Condition 9.2 above the Company shall not be under any other liability whatsoever or howsoever arising to the Customer in respect of the provision of the Services.
- 9.5. Without prejudice to the generality of Condition 9.2 above and for the avoidance of doubt the Company shall not be liable in respect of any losses caused:-
- 9.5.1. partly by its negligence and/or the negligence of its employees and partly by the negligence of the Customer;
- 9.5.2. by any independent contractor in any manner whatsoever.
- 9.6. In the event of any loss, damage, misdelivery or delay occurring in respect of the provision of Services by reason of any act or default of an independent contractor the Company shall at the Customer's request and expense assign to the Customer any right of action which the Company may have against the independent contractor.
- 9.7. This condition 9 shall survive termination of the Contract.
- 10. Data Protection and Data Processing**
- 10.1. Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 10 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation.
- 10.2. The parties acknowledge that for the purposes of the Data Protection Legislation, the Customer is the Controller and the Company is the Processor.
- 10.3. Without prejudice to the generality of clause 10.1, the Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data to the Company for the duration and purposes of this Contract.
- 10.4. Without prejudice to the generality of clause 10.1, the Company shall, in relation to any Personal Data processed in connection with the performance by the Company of its obligations under this Contract:
- 10.4.1. process that Personal Data only on the documented written instructions of the Customer unless the Company is required by Domestic Law to otherwise process that Personal Data. Where the Company is relying on Domestic Law as the basis for processing Personal Data, the Company shall promptly notify the Customer of this before performing the processing required by the Domestic Law unless the Domestic Law prohibits the company from so notifying the Customer;
- 10.4.2. 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);
- 10.4.3. ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential; and
- 10.4.4. not transfer any Personal Data outside of the UK unless the prior written consent of the Customer has been obtained and the following conditions are fulfilled:
- 10.4.4.1. the Customer or the Company has provided appropriate safeguards in relation to the transfer;
- 10.4.4.2. the data subject has enforceable rights and effective legal remedies;
- 10.4.4.3. the Company complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and
- 10.4.4.4. the Company complies with reasonable instructions notified to it in advance by the Customer with respect to the processing of the Personal Data;
- 10.4.5. assist the Customer, at the Customer's cost, in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
- 10.4.6. notify the Customer without undue delay on becoming aware of a Personal Data Breach;
- 10.4.7. 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 Domestic Law to store the Personal Data; and
- 10.4.8. maintain complete and accurate records and information to demonstrate its compliance with this clause 10.
- 10.5. The Customer consents to the Company appointing third-party processors of Personal Data under this Contract. The Company confirms that it has entered or (as the case may be) will enter with the third-party processors into a written agreement substantially on that third party's standard terms of business which the third-party processors confirm reflect and will continue to reflect the requirements of the Data Protection Legislation. As between the Customer and the Company, the Company shall remain fully liable for all acts or omissions of any third-party processor appointed by it pursuant to this clause 10.
- 10.6. Either party may, at any time on not less than 30 days' notice, revise this clause 10 by replacing it with any applicable controller to processor standard clauses or similar terms adopted by the Information Commissioner or forming part of an applicable certification scheme (which shall apply when replaced by attachment to this agreement).
- 11. Customer Warranties and Indemnity**
- 11.1. Where the Customer supplies a Database, the Customer hereby warrants that, and agrees to indemnify and hold harmless the Company and any employee, agent or subcontractor on a full indemnity basis in respect of all liabilities, costs, claims, damages, proceedings and expenses whatsoever arising out of the following:-
- 11.1.1. the Mail does not infringe the intellectual property rights of any third party and will not give rise to any claim by a third party for infringement of the intellectual property rights of that third party arising from the Database.
- 11.1.2. the Customer has duly complied with all requirements of the Data Protection Legislation and indemnifies the Company against any breach by the Customer of all relevant requirements of the Data Protection Legislation including in the event that the provision of the Database to the Company will constitute such a breach of the Data Protection Legislation, or may give rise to any claim by any individual for compensation for loss or unauthorised disclosure of data; and
- 11.1.3. the Database and any media by which the Database is provided to the Company is free from all viruses, faults or defaults which may in any way adversely affect the Company's computer systems.
- 11.2. The Customer shall indemnify the Company and agrees to indemnify and hold harmless the Company and any employee, agent or subcontractor of the Company on a full indemnity basis in respect of the following:
- 11.2.1. any breach of these Conditions by the Customer (including in particular, but without limitation, of Condition 2.2);
- 11.2.2. any claims, costs and/or demands by third parties relating to the Services;
- 11.2.3. any unusual expenses incurred by the Company as a result of it providing the Services to the Customer.
- 12. Termination**
- 12.1. Without affecting any other right or remedy available to it and unless otherwise agreed in writing and signed between the parties in accordance with clause 14.8, either party may terminate the Contract by giving the other party three months' written notice.
- 12.2. Without affecting any other right or remedy available to it, either party may terminate the Contract with immediate effect by giving written notice to the other party if:
- 12.2.1. the other party commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within fourteen days of that party being notified in writing to do so;
- 12.2.2. the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business;
- 12.2.3. the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or
- 12.2.4. the other party's financial position deteriorates to such an extent that in the terminating party's reasonable opinion the other party's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.
- 12.3. Without affecting any other right or remedy available to it, the Company may terminate the Contract with immediate effect by giving written notice to the Customer if:
- 12.3.1. the Customer fails to pay any amount due under the Contract on the due date for payment; or
- 12.3.2. there is a change of control of the Customer.
- 12.4. Notwithstanding clause 2.9 and without affecting any other right or remedy available to it, the Company may suspend the supply of Services under the Contract or any other contract between the Customer and the Company if the Customer fails to pay any amount due under the Contract on the due date for payment, the Customer becomes subject to any of the events listed in clause 12.2.2 to clause 12.2.4, or the Company reasonably believes that the Customer is about to become subject to any of them.
- 13. Consequences of Termination**
- 13.1. On termination of the Contract:
- 13.1.1. the Customer shall immediately pay to the Company all of the Company's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, the Company shall submit an invoice, which shall be payable by the Customer immediately on receipt;
- 13.1.2. the Customer shall return all of the Company's material and any deliverables which have not been fully paid for. If the Customer fails to do so, then the Company may enter the Customer's premises and take possession of them. Until they have been returned, the Customer shall be solely responsible for their safe keeping and will not use them for any purpose not connected with the Contract; and
- 13.1.3. the Company shall fulfil Orders which have been accepted by the Company and paid for by the Customer prior to termination of the Contract unless such termination is due to Customer Default. In the event of termination due to Customer Default, the Company shall return any undelivered Mail to the Customer.
- 13.2. Termination or expiry of the Contract shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, 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.
- 13.3. Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Contract shall remain in full force and effect.
- 14. General**
- 14.1. Subject to clause 14.7, the Company may at any time assign, mortgage, charge, subcontract, delegate, declare a transfer over or deal in any other manner with any or all of its rights and obligations under the Contract.
- 14.2. The Customer shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a transfer over or deal in any other manner with any or all of its rights and obligations under the Contract.
- 14.3. Any notice required or permitted to be given by either party to the other under these Conditions shall be sent by recorded delivery mail or by electronic or facsimile transmission (provided that a confirmatory copy is sent by post) to that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice.
- 14.4. Any notice given by either party under the provisions of Condition 14.3 shall if sent by post be deemed to have been received 7 days after posting and if sent by electronic or facsimile transmission (provided that a confirmatory copy is sent by post) to have been received instantaneously.
- 14.5. No waiver by the company of any breach of the Contract by the Customer shall be considered as a waiver of any subsequent breach of the same or any other provision.
- 14.6. If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected thereby.
- 14.7. Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by clause 14.7.1.
- 14.7.1. Each party may disclose the other party's confidential information:
- 14.7.1.1. to its employees, officers, representatives, subcontractors or advisers who need to know such information for the purposes of carrying out the party's obligations under the Contract. Each party shall ensure that its employees, officers, representatives, subcontractors or advisers to whom it discloses the other party's confidential information comply with this clause 14.7; and
- 14.7.1.2. as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 14.7.2. Neither party shall use the other party's confidential information for any purpose other than to perform its obligations under the Contract.
- 14.8. Except as set out in these Conditions, no variation of the Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).
- 14.9. If any provision or part-provision of the Contract 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 the Contract.
- 14.10. Unless it expressly states otherwise, the Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.
- 14.11. These Conditions (together with any special terms and conditions agreed in writing between the Company and the Customer in accordance with clause 14.8) and the terms of the relevant Order constitute the entire agreement between the Company and the Customer, supersede any previous agreement or understanding and may not be varied except in writing by the Company and the Customer in accordance with clause 14.8. All other terms and conditions, express or implied by statute or otherwise, are excluded to the fullest extent permitted by law.
- 14.12. The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by, and construed in accordance with the laws of England.
- 14.13. Each party irrevocably agrees that the courts of England shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.