

## Terms and conditions

The following terms and conditions are the contract between you and Any Courier Limited, company number 13217556 ('we', 'our' or 'us').

Our registered business address is 69 High Street, Southgate, London, N14 6LD.

These terms apply to you, so far as the context allows to you as a visitor to our Website and as a Member. They prevail over any terms proposed by you.

If you have any questions about our terms and conditions, please contact us.

### 1. Definitions

In this agreement:

'Account'	means the records on our Website relating to you and your transactions with us.
'Client'	means a Member who Posts a Job as available.
'Consumer'	has the same meaning as in the Regulations, or otherwise where the context applies, any individual located in the United Kingdom or in a European Union member state who, in connection with this agreement, is acting for a purpose which is outside their business.
'Content'	means the content that is encountered as part of your experience or that you contribute to our Website when visiting it. Content may include, among other things: text, images, sounds, videos and animations.
'Fee'	means the fee payable to us for the service we provide.
'Intellectual Property'	means intellectual property of every sort, whether or not registered or registrable in any country, including intellectual property of kinds coming into existence after today; and including, among others, designs, copyrights, software, discoveries, know-how, together with all rights which are derived from those rights.
'Item'	means goods, an object or an item that is the subject of a Job.

'Job'	means a discrete task relating to the transportation of Items.
'Member'	means someone who holds an Account on our Website.
'Post'	means display, exhibit, publish, distribute, transmit and/or disclose information, Content and/or other material on our Website. The terms 'Posted' and 'Posting' shall be interpreted accordingly.
'Quotation'	means an offer to provide Transportation Services for a particular Job at a quoted price, subject to the Client also agreeing to other terms.
'the Regulations'	means the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013.
'Transport Provider'	means a Member who provides Transportation Services to Clients.
'Transportation Service'	means a service where a Job is carried out.
'our Website'	means any website, webpage or service designed for electronic access that is owned or operated by us.

## **2. Interpretation**

In this agreement unless the context otherwise requires:

- 2.1. A reference to a person is a reference to one or more individuals, whether or not formally in partnership, or to a corporation, government body, or other association or organisation.
- 2.2. Any agreement by any party not to do or omit to do something includes an obligation not to allow some other person to do or omit to do that same thing.
- 2.3. Except where stated otherwise, any obligation of any person arising from this agreement may be performed by any other person.
- 2.4. In this agreement references to a party include references to that person's successors, legal representatives, permitted assigns and any person to whom those rights and obligations are transferred or passed as a result of a merger, division, reconstruction or other re-organisation involving that party.
- 2.5. The headings to the paragraphs to this agreement do not affect the interpretation.

- 2.6. A reference to an act or regulation includes new law of substantially the same intent as that act or regulation.
- 2.7. In the context of permission, 'may not' in connection with an action of yours, means 'must not'.
- 2.8. In any indemnity, a reference to costs or expenses shall be construed as including the estimated cost of management time of the indemnified party.
- 2.9. This agreement is made only in the English language. If there is any conflict in meaning between the English language version of this agreement and any version or translation of this agreement in any other language, the English language version shall prevail.

### **3. Our contract**

- 3.1. This agreement contains the entire agreement between the parties and supersedes all previous agreements and understandings between the parties.
- 3.2. So far as the law allows, all implied conditions, warranties and terms are excluded from this agreement.
- 3.3. In entering into this contract you have not relied on any representation, warranty, information or document or other term other than that given on our Website.
- 3.4. Where we provide a service without specific charge to you, then it is deemed to be provided free of charge, and not to be associated with any other service for which a charge is made. Accordingly, there is neither contractual nor other obligation upon us in respect of that unpaid service.
- 3.5. If you use our Website in any way, including if you use it on behalf of another person then you warrant that you have full authority to do so and you accept personal responsibility for every act or omission by you.
- 3.6. Should these terms conflict with any other information we provide on our Website or elsewhere, then you agree that these terms prevail.
- 3.7. We may change this agreement in any way at any time. The version applicable to your contract is the version that was posted on our Website at the time that the contract was made.

#### **4. Our relationship**

- 4.1. Our business connects Clients with Transport Providers.
- 4.2. We do not provide Transportation Services ourselves. Nor are we a freight forwarder, a broker, a partner or an agent of any Transport Provider or a reseller of Transportation Services.
- 4.3. We are not involved in the transaction for the provision of any Transportation Service and therefore we make no claim as to, and have no liability to you for:
  - 4.3.1 your decision to use a particular Transportation Service;
  - 4.3.2 your decision to provide a Quotation for any demanded Transportation Service;
  - 4.3.3 the nature or actions of another Member in respect of a Transportation Service;
  - 4.3.4 the quality, quantity, delivery or price of a Transportation Service;
  - 4.3.5 any aspect of the supply or the outcome of a Transportation Service, including the quality, safety or any other legal aspect of a service;
  - 4.3.6 payments and refunds for any Transportation Service;
  - 4.3.7 any complaint about any Transportation Service.
- 4.4. In any dispute, you should deal only with the relevant Member. We have neither legal obligation nor detailed information about the services provided.
- 4.5. You agree that it is your responsibility to agree any terms of any Transportation Service other than the price.
- 4.6. We assume no responsibility for claims made by Transport Providers with respect to any claim made at any point during the quoting process or fulfilment of the Transportation Service, including those related to their licenses, insurance, registration, membership or trade association.

#### **5. Permitted transactions**

- 5.1. You may only use our Website and our services to arrange, or to seek to arrange, the transportation of Items that are not prohibited from being transported, handled or transferred in the country or countries in which the Members are located.

- 5.2. The transportation, transfer or handling of some Items may be governed by statutory or other regulations which cannot be negotiated. It is the responsibility of Members to identify and to comply with such laws and regulations.
- 5.3. With the exceptions below, Members may not arrange or seek to arrange for the transportation of Items that are:
  - 5.3.1 classed as dangerous goods or whose transportation is prohibited by law;  
or
  - 5.3.2 with the exception of animals, prohibited to be sent by Royal Mail.
- 5.4. The law allows some items that are classified as 'hazardous goods' to be transported provided they are properly packaged and labelled. Jobs for the transportation of such items may be Posted on the Website provided that the Job listing clearly gives notice of the hazardous nature of the material and a description of the required method of shipping that allows compliance with any relevant law.
- 5.5. The Client and the Transport Provider accept all responsibility for compliance with all laws and regulations that relate to the transportation of hazardous and restricted goods.

## **6. Your Account**

- 6.1. Your account must be registered to a single 'person in law' – an individual person or a company.
- 6.2. In registering as a Member, you confirm that you are over the age of 18 years and able to enter into this contract.
- 6.3. Additionally, if it is your business that will use our services, you confirm that you have authority to bind your business to this contract.
- 6.4. You may not share, license access to, or transfer ownership of your Account with any other person or organisation.
- 6.5. You agree that you have provided, and will continue to provide accurate, up to date, and complete information about yourself. We need this information to provide you with our service.
- 6.6. If you wish to provide Transportation Services, then before we allow you to submit Quotations we may ask you to verify your identity with a third party service. For this we may require you to provide your driving licence or passport to the third party service provider, and also allow them to take a photograph of your face.

- 6.7. You are responsible for maintaining the confidentiality of your Account and password and for preventing any unauthorised person from using your Account.
- 6.8. You agree to accept responsibility for all activities that occur under your account or password. You should tell us immediately if you believe some person has accessed your account without your authority and also log in to your account and change your password.
- 6.9. We may suspend your access to our services or delete your Account at any time and for any reason without notice to you. For example, although we are not a party to your contract with any other Member, if another Member has a valid complaint against you we may suspend your access to our services while we investigate.
- 6.10. We may notify other Members of any action taken by you that has resulted in our decision to suspend your access to our services led or to delete your Account.
- 6.11. Please notify us of any security breach or unauthorised use of your account.

## **7. Fees**

- 7.1. Our Website is free to join as a Member. We charge no fee to post Jobs or to provide Quotations.
- 7.2. We charge a Fee to the Client if they accept a Quotation. The Fee relates to our role in the introduction of the Client to the Transport Provider, and is payable regardless of the performance of the Transportation Service.
- 7.3. A Fee is calculated as a tiered percentage of the Quotation price.
- 7.4. A Fee is additional to the price quoted by the Transport Provider.
- 7.5. The Fee for a Job is shown on our Website along with each Quotation.
- 7.6. The Client's obligation to pay us the Fee remains if an accepted Job is subsequently not carried out.
- 7.7. We reserve the right to waive a Fee or change the basis for the calculation of the Fee at any time. We may also temporarily change or suspend the Fee for a promotional period. Any such changes will be described on the Website.
- 7.8. Prices shown on our Website are inclusive of Value Added Tax ('VAT').
- 7.9. If you are located in the UK, we will show and retain the amount of VAT due on Fees. If you provide a valid UK VAT registration number, we will not charge or deduct VAT from sums due to you.

- 7.10. If you are a Transport Provider then you are responsible for collecting and remitting all taxes, including VAT, associated with Transportation Services. Your Quotation should be inclusive of VAT, even if the Member who has posted the job is a business. You must not submit a Quotation for an amount that excludes VAT and then later charge VAT on that price if accepted.
- 7.11. We have the right to demand additional information about your business so far as it may affect your VAT registration, at any time, from you or from a governmental authority.

## **8. Posting a Job**

- 8.1. When posting a Job, a Member must give sufficient information for the Transport Provider to provide a Quotation that reasonably should not later change, including:
  - 8.1.1 the nature, weight and size of Items;
  - 8.1.2 the pick-up location and destination of the Items; and
  - 8.1.3 times and timeframes in which the Job must be completed.

## **9. Quotations**

- 9.1. A Quotation is an offer to provide Transportation Services subject to the information the Member has included in the Job and the Client's acceptance of any additional terms of service of the Transport Provider.
- 9.2. Until all any additional terms proposed by the Transport Provider have been accepted and the Client has paid the Fee, a Quotation is not contractually binding.
- 9.3. Any additional terms of your contract should be provided on demand.
- 9.4. If you are a Transport Provider the following terms also apply:
  - 9.4.1 In submitting a Quotation, you warrant that you and any person associated with you and involved in the provision of Transportation Services:
    - 9.4.1.1 you possess all the necessary insurances to carry out the Job;
    - 9.4.1.2 have not been convicted of a crime that is related in any way to the business of transportation of people or goods; and

- 9.4.1.3 are not subject to any legal proceedings that might prevent you from performing a contract for a Transportation Service.
- 9.4.2 You agree to use our Website to offer transportation related services only unless you have our prior written approval otherwise.
- 9.4.3 You authorise us to take any action that may reasonably be required from time to time, to protect your interests and ours in connection with a breach or possible breach of the Regulations.
- 9.4.4 Because we are not your agents except to market your Transportation Service and take payment, all your obligations under the Regulations must be fulfilled by you. That means the information you provide to us and Clients must be clear, sufficient and complete, to comply with the Regulations.
- 9.4.5 Because every reference to a Transportation Service of yours, made by you or by us, may be treated by a Client as contractual, you agree:
  - 9.4.5.1 to make clear any contractual term in content you place on our Website, which may be different from any term on our Website.
  - 9.4.5.2 that no content on your website will contradict content you place on our Website.

## **10. Accepting a Quotation**

- 10.1. Unless it is clear to the contrary, you may assume that a Transport Provider provides Transportation Services as a business.
- 10.2. If you accept a Quotation:
  - 10.2.1 If you are a Consumer as defined by the Regulations then the Transport Provider will be bound to provide all the information required by the Regulations.
  - 10.2.2 The Transport Provider agrees to provide all terms of the Transportation Service to the Client as soon as reasonably possible.
  - 10.2.3 The Client must provide to the Transport Provider such information that the Transport Provider requires in order to be able to carry out the contract for Transportation Services.

- 10.3. It is the responsibility of the Client to ask about insurance and to accept any additional charges for insurance.
- 10.4. The contract for the provision of the Transportation Service comes into existence when the Client writes to the Transport Provider, through our Website or otherwise to confirm acceptance of all the terms given by the Transport Provider and pays the Fee to us.

## **11. Directions**

- 11.1. We may provide distance calculations and driving directions ('Directions') to a Transport Provider. If so, it remains the responsibility of the Transport Provider to verify that the Directions are correct. Directions may not take into consideration the current state of the transport network, nor suitability of the transport network for certain goods or vehicles. As examples, our Directions may not take into consideration road closures, changes in direction of traffic, one-way systems, emergency access roads, height regulations, road conditions or restrictions on manoeuvrability. We give no warranty as to the usefulness or validity of such Directions.
- 11.2. We are not liable to any Member for any loss, damage, or delay resulting from use of directions we have provided.
- 11.3. Neither we nor a Transport Provider can be responsible for action by any governmental authority. We do not know and are not responsible for duties, taxes, delays or impounding of any item.

## **12. Feedback**

- 12.1. Our Website provides functionality for Members to leave feedback about interactions between them, including but not limited to performance of Transportation Services.
- 12.2. Feedback is not moderated or checked by us, and we take no responsibility to you as to its accuracy.
- 12.3. In posting a Job, providing a Quotation or entering into a contract for Transportation Services, you acknowledge that it is likely that another Member may leave feedback about you, which may be positive or negative.

- 12.4. Abuse of the feedback system in any way, including unwarranted feedback, potentially libellous comments, and swearing in feedback may result in a decision by us to suspend or delete your Account.
- 12.5. You may not, nor attempt to, improperly influence your own feedback or encourage someone else improperly to influence your feedback.

### **13. Cancellation and refunds**

- 13.1. The following sub-paragraphs 13.1.1 to 13.1.3 are not contractually part of this agreement. These are statement of your rights as a Consumer with which all service providers must comply.
  - 13.1.1 The law allows you to cancel a contract within 14 days of entering into it without any repercussion to you. The service provider will not be able to provide their services until 14 days have elapsed.
  - 13.1.2 However, if you would like the service provider to provide their services before 14 days has passed, you can opt out of your cancellation right. To do that you have to instruct the service provider to provide their services as soon as possible.
  - 13.1.3 If you instruct the a service provider to start work immediately, you may still cancel the contract at any time. But if you do so, you will owe the service provider for work done to the date of cancellation and any money spent on your behalf.
- 13.2. When you accept a Quotation, your acceptance is an instruction to us to provide our services immediately. In accepting a Quotation, you opt out of your cancellation right for the services we provide.
- 13.3. When you enter into a contract with a Transport Provider for Transportation Services, you may ask for the services to be started earlier than 14 days after the date of the contract. If so, you will opt out of your cancellation right.

### **14. Limitation of liability**

- 14.1. The Content on our Website relating to Jobs and Transportation Services is provided by Members. We do not accept responsibility for the accuracy of any claim or advertisement.

- 14.2. We make no representation, warranty or other provision with regard to any Transportation Service and you acknowledge that you do not rely on any made by us, but solely on your contract with a Transport Provider.
- 14.3. So far as concerns Services you purchase through Our Website, we are not liable for:
  - 14.3.1 any Transportation Service complying with the requirement of any law or being available;
  - 14.3.2 the Transport Provider performing their contract;
- 14.4. We give no warranty, representation or undertaking whatever as to the continuing business of a Transport Provider or that any Transportation Service offered for sale by a Transport Provider will be useful or suitable for you.
- 14.5. We and the Transport Provider can take any action that may reasonably be required from time to time, to protect their interests and ours in connection with a breach or possible breach of the Regulations.
- 14.6. You now expressly release us from any and all claims and liability known and unknown, arising in any way from a dispute between you and any other Member.

## **15. Data Protection Act 2018 Compliance**

- 15.1. Your own personal data will be held and processed by us in the ways set out in our privacy notice.
- 15.2. Insofar as we process personal and other data of other Members with whom you interact in the course of your business following terms apply:
  - 15.2.1 To satisfy your legal obligations and ours, we will agree to comply with the provisions of the Schedule.
  - 15.2.2 Those obligations shall continue to apply after expiry or termination of this agreement for any reason.

## **16. How we handle your Content**

- 16.1. If you Post Content to any public area of our Website it becomes available in the public domain. We have no control who sees it or what anyone does with it.

- 16.2. Even if access to your Content requires user registration it remains effectively in the public domain because someone has only to register to access it. You should therefore avoid Posting unnecessary confidential information at all times.
- 16.3. You accept all risk and responsibility for determining whether any Content is in the public domain and not confidential.
- 16.4. Posting Content of any sort does not change your ownership of the copyright in it. We have no claim over it and we will not protect your rights for you.
- 16.5. You understand that you are personally responsible for your breach of someone else's intellectual property rights, defamation, or any law, which may occur as a result of any Content having been Posted by you.

## **17. Restrictions on what you may Post to our Website**

- 17.1. You agree that you will not use or allow anyone else to use our Website to Post Content that:
  - 17.1.1 is or may be malicious or defamatory;
  - 17.1.2 comprises commercial images, audio, or video;
  - 17.1.3 is or may be considered illegal, obscene, offensive, threatening or violent;
  - 17.1.4 is or may be sexually explicit or pornographic;
  - 17.1.5 is could deceive a person or be used to impersonate any person, or that misrepresents your identity, age or affiliation with any person;
  - 17.1.6 gives the impression that it emanates from us or that you are connected with us or that we have endorsed you or your business;
  - 17.1.7 solicits passwords or personal information from anyone;
  - 17.1.8 is or could be used to sell any services unrelated to the purpose of this Website or for any other commercial use;
  - 17.1.9 links to any other webpage containing material specified in this paragraph;  
and
  - 17.1.10 communicates age-inappropriate Content to anyone under the age of 18.
- 17.2. In addition to the restrictions set out above, content you Post to our Website must not contain:

- 17.2.1 hyperlinks, other than those specifically authorised by us;
- 17.2.2 words that are irrelevant to the Content Posted;
- 17.2.3 the name, logo or trademark of any organisation other than your own;
- 17.2.4 inaccurate, false, or misleading information.

## **18. Removal of offensive Content**

- 18.1. We are under no obligation to monitor or record the activity of any visitor to our Website for any purpose. However, we may do so without notice to you and without giving you a reason.
- 18.2. Our Website may include Content Posted by third parties. We are not responsible for any such Content.
- 18.3. If you are offended by any Content, you should tell us. After we receive notice of a claim or complaint we shall investigate so far as we alone decide. We shall remove the offending Content while our investigation takes place. If we judge that your complaint is without basis, we may reinstate the Content about which you have complained after the investigation has concluded.
- 18.4. In respect of any complaint made by you or any person on your behalf, you now irrevocably grant to us a licence to publish the complaint and all ensuing correspondence and communication without limit.
- 18.5. You now agree that if any complaint is made by you frivolously or vexatiously you will repay us the cost of our investigation including legal fees, if any.

## **19. Intellectual Property**

- 19.1. We will defend our rights in all our Intellectual Property, including the rights in our services, and our copyright in the Content of our Website whether provided by us or by any other party.
- 19.2. You may not use our name, logos or trademarks or any other Content on any website of yours or that of any other person.
- 19.3. You agree that at all times that you will:
  - 19.3.1 not do anything which does or might reduce the value of our Intellectual Property or challenge our ownership of it;

- 19.3.2 notify us of any suspected infringement of our Intellectual Property; and
- 19.3.3 without our express permission, not to:
  - 19.3.3.1 copy or replicate it for use by any other person in any way not intended by us;
  - 19.3.3.2 make any change to it or any part of it;
  - 19.3.3.3 publish or store it on any website or cloud storage service, or otherwise allow any other person access to it;
  - 19.3.3.4 create derivative works from it;
  - 19.3.3.5 use it in any way in which it is not intended to be used; and
  - 19.3.3.6 not to use it except directly in our interest.

## **20. Indemnity**

- 20.1. You agree to indemnify us against all costs, claims and expense arising directly or indirectly from:
  - 20.1.1 your failure to comply with the law of any country;
  - 20.1.2 your breach of this agreement;
  - 20.1.3 any act, neglect or default by any agent, employee, licensee or customer of yours;
  - 20.1.4 a contractual claim arising from your use of our service; and
  - 20.1.5 a breach of the intellectual property rights of any person.
- 20.2. You agree that the cost of our management and technical time is properly recoverable and can reasonably be valued at £100 per hour without further proof.

## **21. Disclaimers and limitation of liability**

- 21.1. This paragraph (and any other paragraph which excludes or restricts our liability) applies to our directors, officers, employees, subcontractors, agents and affiliated companies (who may enforce this provision under the Contracts (Rights of Third Parties) Act 1999 as well as to us.

- 21.2. We use our reasonable endeavours to confirm the accuracy of any information we place on this website. We make no warranties, whether express or implied in relation to its accuracy or completeness.
- 21.3. We claim no expert knowledge in any subject. We disclaim any obligation or liability to you arising directly or indirectly from information you take from our website.
- 21.4. Our website may include content posted by third parties, including advertisements. We are not responsible for any such content. If you come across any content that offends you, please tell us.
- 21.5. This website may contain links to other websites over which we have no control of the nature, the content and the availability.
- 21.6. You acknowledge and agree that we shall not be liable in any way for the content of any such linked website, nor for any loss or damage arising from your use of any such website or from your buying goods or services via such a website.
- 21.7. The inclusion of any links on this website does not necessarily imply a recommendation or endorse the views expressed on those to which we link.
- 21.8. This website is provided 'as is' and 'as available' without any representation made. We make no warranty as its usefulness to you, its satisfactory quality, its fitness for any purpose, the availability of any function of the website, the compatibility with your devices or software, privacy of any transmission, or security of use.
- 21.9. We aim to maintain access to our website, but from time to time it may be necessary for us to suspend all or part of our service for repairs, maintenance or other good reasons. We may do so without telling you first.
- 21.10. You acknowledge that access to our website may also be interrupted for many reasons beyond our control.
- 21.11. Accordingly, we make no warranty that this website will meet your requirements or that your use of it will be uninterrupted, timely or error-free.
- 21.12. Nor do we make any warranty that we will correct defects and errors, nor that the website or the server on which it is hosted are free of viruses or bugs.
- 21.13. We will not be responsible or liable to you for any loss, foreseeable or not, arising from any interruption of the availability of our website.
- 21.14. We shall not be liable to you in contract, tort (including, without limitation, negligence), pre-contract or other representations (other than fraudulent or negligent misrepresentations) for any loss or expense arising out of or in connection

with your use of this website, which is a special, indirect or consequential loss, or an economic loss or other loss of turnover, profits, contracts, business or goodwill.

This applies whether in an action of contract, negligence or otherwise, even if such loss was reasonably foreseeable or we knew you might incur it.

- 21.15. To the fullest extent permissible under applicable law, we disclaim any and all warranties of any kind, whether express or implied, in relation to any service we make available to you. This does not affect your statutory rights as a consumer, nor does it affect your contract cancellation rights.
- 21.16. We make no representation or warranty for: the quality of our services; their usefulness to you or their adequacy or appropriateness for a particular purpose; or any aspect or characteristic of any service advertised on our Website.
- 21.17. We shall not be liable to you for any loss or expense arising from your use of our services which is an indirect or consequential loss; or an economic loss or other loss of turnover, profits, business or goodwill, even if such loss was reasonably foreseeable or we knew you might incur it.
- 21.18. Except where otherwise set out, our total liability to you, however it arises, shall not exceed the amount you have paid us for services in the immediately preceding 12 month period. This applies whether your case is based on contract, tort or any other basis in law.
- 21.19. No term of our agreement with you shall exclude or limit our liability for death or personal injury resulting from our negligence or that of our agents or employees.

## **22. Miscellaneous matters**

- 22.1. If any term or provision of this agreement is at any time held by any jurisdiction to be void, invalid or unenforceable, then it shall be treated as changed or reduced, only to the extent minimally necessary to bring it within the laws of that jurisdiction and to prevent it from being void and it shall be binding in that changed or reduced form. Subject to that, each provision shall be interpreted as severable and shall not in any way affect any other of these terms.
- 22.2. The rights and obligations of the parties set out in this agreement shall pass to any permitted successor in title.
- 22.3. Any obligation in this agreement intended to continue to have effect after termination or completion shall so continue.

- 22.4. No failure or delay by any party to exercise any right, power or remedy will operate as a waiver of it nor indicate any intention to reduce that or any other right in the future.
- 22.5. Any communication to be served on either party by the other shall be delivered by hand, sent by a recorded delivery postal service or by email. It shall be deemed to have been delivered: on the day of delivery if delivered by hand, or within 72 hours of posting if delivered by recorded post, or when an email message confirming receipt is sent if sent by email.
- 22.6. In the event of a dispute, you agree to undertake to attempt to settle the dispute by engaging in good faith with the other in a process of mediation before commencing arbitration or litigation.
- 22.7. No party to this agreement shall be liable for any failure or delay in performance of this agreement that is caused by circumstances beyond their reasonable control, including any labour dispute between a party and their employees.
- 22.8. In the event of any conflict between any term of this agreement and the provisions of the articles of a limited company or any comparable document intended to regulate any other corporate or collective body, then the terms of this agreement shall prevail.
- 22.9. This agreement does not give any right to any third party under the Contracts (Rights of Third Parties) Act 1999 or otherwise, except that any provision in this agreement which excludes or restricts the liability of our directors, officers, employees, subcontractors, agents and affiliated companies, may be enforced under that Act.
- 22.10. The validity, construction and performance of this agreement shall be governed by the laws of England and Wales and you agree that any dispute arising from it shall be litigated only in that country.

## Schedule: Data Protection Act 2018 Compliance

### 1. Definitions

In this Schedule, the following words shall have the following meanings:

'Act'	means the Data Protection Act 2018.
'Associate'	means any corporate or other form of organisation or any individual person with whom you have an association which does, or could, entail the transfer of personal data to us for processing.
'ICO'	means the Information Commissioner's Office.
'Data Protection Legislation'	means all or any of:  (a) the UK GDPR,  (b) the Act,  (c) regulations made under the Act  (d) regulations made under section 2(2) of the European Communities Act 1972 which relate to the EU GDPR or the Law Enforcement Directive.
'the UK GDPR'	means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (United Kingdom General Data Protection Regulation), as it forms part of the law of England and Wales, Scotland and Northern Ireland by virtue of section 3 of the European Union (Withdrawal) Act 2018.
'Law Enforcement Directive'	means Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA.

'data controller', 'data processor', 'sub-processor', 'data subjects', 'personal data', "process", 'processed' and 'processing' shall have the meanings respectively, as defined in the Act.

In this agreement, 'personal data', is limited to data that comes into our possession in some way connected to this agreement.

## **2. Data Protection**

- 2.1. The obligations described in this Schedule are in addition to our obligations under the Data Protection Legislation.
- 2.2. To enable us to provide the Services under this agreement, you authorise us to process personal data on your behalf.
- 2.3. We both agree that you and your Associates are data controllers, and we are your data processor in relation to personal data.
- 2.4. Details of the anticipated processing activities are set out at Appendix 1 to this Schedule.

## **3. How we shall process data**

We shall at all times comply with the provisions and obligations imposed by the Data Protection Legislation and, in particular, shall:

- 3.1. process personal data only to the extent necessary to provide the Services;
- 3.2. ensure that every person processing personal data under this agreement does so strictly on a need-to-know basis, has received training on their obligations relating to handling of personal data and is bound by confidentiality obligations no less stringent than our confidentiality obligations under this agreement;
- 3.3. in order to use commonly accepted international communications and money transfer protocols, it will be necessary to use sub-contractors for certain service provision. We shall not necessarily be aware of the identity of every organisation involved in the train of communications. When that happens, we accept full responsibility for our compliance with the Data Protection Legislation.
- 3.4. subject to the exceptions mentioned in the last previous sub-paragraph, we will not use subcontractors for personal data processing under this agreement without your prior written consent;

- 3.5. wherever possible, enter into a written contract with each such sub-processor, which includes the same obligations on the sub-processor as those imposed on us by You under this agreement;
- 3.6. subject to the other provisions of this Schedule, not process personal data or permit any third party to process personal data outside of the United Kingdom unless:
  - 3.6.1. UK standard contractual clauses approved by the ICO are entered into between you or your relevant Associate as data exporter, and the relevant recipient of the personal data as data importer; or
  - 3.6.2. the recipient of the personal data has entered into a data processing agreement with you; or
  - 3.6.3. the recipient of the personal data is regulated within the United States of America solely by the U.S. Department of Commerce, is certified under the UK/US Privacy Shield framework, and continues to be certified for the period within which it processes the personal data; or
  - 3.6.4. the recipient of the personal data has entered into binding corporate rules, which are valid in respect of the processing of personal data under this agreement and have been approved by the ICO; or
  - 3.6.5. the transfer is to a recipient located within a jurisdiction whose law relating to the processing of personal data has been approved by the ICO (subject to any applicable restrictions);
- 3.7. have in place at all times appropriate technical and organisational measures to ensure a level of security appropriate to the risk presented by processing the personal data, to prevent accidental, unauthorised or unlawful destruction, loss, alteration, or access to personal data, including as a minimum whatever security measures you notify and instruct us to use. Examples of such measures are:
  - 3.7.1. the pseudonymisation and encryption of personal data;
  - 3.7.2. the ability to ensure the ongoing confidentiality, integrity, availability and resilience of processing systems and services; and
  - 3.7.3. a process for regularly testing, assessing and evaluating the effectiveness of technical and organisational measures for ensuring the security of processing;
- 3.8. maintain a written record of all categories of processing activities carried out on your behalf and when you ask, copy it to you. The record shall contain:

- 3.8.1. our name and contact details and (where applicable) those of our approved sub-processors and details of their respective data protection officers;
- 3.8.2. the categories of personal data, data subjects and processing activities carried out on behalf of you and your Associates;
- 3.8.3. where applicable, transfers of personal data to a third country (i.e. non-EU Member State) or an international organisation, including identification of that third country and documentation evidencing implementation of suitable safeguards; and
- 3.8.4. a general description of the technical and organisational security measures we have installed as referred to in Section 56 of the Act;
- 3.9. when you ask, give to you or to the ICO, access to our employees, data processing facilities, procedures, and records to inspect and audit compliance with the Data Protection Legislation and the terms of this agreement. We shall (and shall ensure any sub-processor shall) give all reasonable cooperation and assistance.
- 3.10. immediately tell you (and in any event within 24 hours) after becoming aware of any actual or suspected unlawful destruction, loss, alteration, disclosure of, or access to, personal data transmitted, stored or otherwise processed by you or any sub-processor under this agreement;
- 3.11. provide reasonable assistance to you in:
  - 3.11.1. responding to data subject's requests to exercise their rights under the Act;
  - 3.11.2. responding to communications received from the ICO relating to the processing of personal data under this agreement, including notifying You immediately of any such communication;
  - 3.11.3. taking measures to address data security incidents, including, where appropriate, measures to mitigate their possible adverse effects;
  - 3.11.4. promptly upon your request, transfer personal data to a third party in compliance with a request from a data subject to exercise their right to data portability;
  - 3.11.5. make available to you on request all information necessary to demonstrate compliance with the obligations set out in this Schedule; and

- 3.11.6. at your request (no more than once in every calendar year) complete and return without delay your information security and data protection questionnaires.

#### **4. Post termination**

- 4.1. Upon termination of this agreement, we and any sub-processor shall:
  - 4.1.1. physically destroy all copies of media upon which any personal data was supplied and any further copies made by us;
  - 4.1.2. return all personal data stored in hard copy to you; and
  - 4.1.3. delete all personal data stored in soft copy, by some method which prevents future re-activation of that data.
- 4.2. Where we or our sub-processor is required to retain personal data in order to comply with applicable law, we will tell you and will retain such personal data only in our capacity as a data processor and shall comply with our obligations as a data processor, as far as applicable law permits.

#### **5. Warranty and acceptance of liability**

- 5.1. We represent and warrant that the information provided in any response to any request by you shall be complete, true and accurate, and will not misrepresent our business or practices in respect of our ability to comply with the Data Protection Legislation and our obligations under this agreement.
- 5.2. If any act or omission of ours or our sub-processors results in data transmitted or processed under this agreement being lost or degraded so as to be unusable, then we shall be liable to you for the cost of reconstituting the data and/or yours and your Associate's costs in recreating such data.

## **Appendix 1 to Schedule**

### **Data Processing Activities**

#### **What we or you may process in each category**

##### **1. Personal data processed**

We shall process the following personal data:

- 1.1. Name or other identifiers
- 1.2. Contact information, including an email address and telephone numbers
- 1.3. Technical information relating to electronic communication, which is personal information only when associated with the name or identity of the data subject

##### **2. We shall process the data of these data subjects**

Data of Members, so far as their data is required in order to satisfy our obligations under this contract and comply with the Data Protection Legislation.

##### **3. This is why and how we shall process personal data**

- 3.1. Our processing of personal data will be limited to such activity as is reasonably required to satisfy our obligations under this contract.
- 3.2. We shall not make contact with any data subject nor seek additional data from any other source.

##### **4. Retention period**

- 4.1. We may retain personal data, along with much other data, for six years, for these reasons:
  - 4.1.1. for accounting and taxation purposes;
  - 4.1.2. to provide evidence if required in connection with a legal claim;
  - 4.1.3. for any other reason where the law provides a six years limitation period;

- 4.2. If any event occurs which requires us lawfully to continue to retain data beyond that period, then we may do so.