

FRIGORE LTD TERMS AND CONDITIONS FOR THE SUPPLY OF LOGISTICS SERVICES

Frigore Ltd is not a common carrier and only accepts goods for carriage and/or storage on that condition and upon on the conditions set out below.

These conditions incorporate the **British International Freight Association Standard Trading Conditions**, and the **Customer Data Processing Agreement**, a current copy of which is annexed hereto and should be read and noted.

1. INTERPRETATION

The definitions and rules of interpretation in this clause apply in these Conditions.

1.1 Definitions:

BIFA Conditions: means the British International Freight Association Standard Trading Conditions as amended, updated or varied from time to time, a copy of the current version of which is annexed hereto.

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

Charges: the charges payable by the Customer for the supply of the Services.

Company: Frigore Ltd (Registered in England and Wales with Company Number 06075296).

Conditions: these terms and conditions as set out in clauses 1 to 8 (inclusive).

Contract: the contract between the Company and the Customer for the supply of the Services in accordance with these Conditions, any quotation provided by the Company, the BIFA Conditions, and the Data Processing Agreement

Customer: the person, firm or company who purchases services from the Company.

Data Processing Agreement: means the Customer Data Processing Agreement, as amended, updated or varied from time to time, a copy of the current version of which is annexed hereto.

Group Company: means any company which is a subsidiary of the Customer (whether a wholly or partly owned subsidiary) or which is a parent company of the Customer (whether an immediate parent company, an intermediate parent company or the ultimate parent company) or any other company in which the Customer or the Customer's shareholders own (directly or indirectly) 25% or more of the issued capital.

Order: the Customer's order for services from the Company.

Services: the services supplied by or on behalf of the Company to the Customer.

Termination: the termination of the Contract however that termination occurs.

1.2 Interpretation:

(a) A reference to a statute or statutory provision is a reference to it as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted.

(b) Any phrase introduced by the terms **including**, **include**, **in particular** or any similar expression, shall be construed as illustrative and shall not limit the sense of the words preceding those terms.

(c) A reference to **writing** or **written** includes email but not fax.

(d) Clause headings shall not affect the interpretation of these Conditions.

(e) References to clauses are to the clauses of these Conditions.

2. BASIS OF CONTRACT

2.1 The Order constitutes an offer by the Customer to purchase the relevant services in accordance

- with these Conditions, the BIFA Conditions, and the Data Processing Agreement.
- 2.2 The Order shall only be deemed to be accepted when the Company issues written acceptance of the Order or, if later, the relevant services are provided by the Company or on its behalf, at which point and on which date the Contract shall come into existence.
- 2.3 Any samples, drawings, descriptive matter or advertising issued by the Company, and any descriptions or illustrations contained in the Company's catalogues or brochures or on its website, 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.
- 2.4 These Conditions, the BIFA Conditions and the Data Processing Agreement apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 2.5 To the extent that there is a conflict between these Conditions and the BIFA Conditions, the provisions of the BIFA Conditions shall prevail in respect of such conflict
- 2.6 Any quotation given by the Company shall not constitute an offer and, unless stated otherwise in the quotation, is only valid for a period of 30 days from its date of issue. The Company may withdraw any quotation at any time.

3. CUSTOMER'S OBLIGATIONS

- 3.1 The Customer shall:
- (a) ensure that the terms of each Order are complete and accurate;
 - (b) co-operate with the Company in all matters relating to the services to be provided by or on behalf of the Company;
 - (c) provide the Company with such information as the Company may reasonably require in order for the services to be provided by or on behalf of the Company, and ensure that such information is accurate in all material respects.
- 3.2 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 under the Contract (**Customer Default**):
- (a) the Company shall, without limiting its other rights or remedies, have the right to suspend performance of the services to be provided by or on behalf of the Company until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations to the extent the Customer Default prevents or delays the Company's performance of any of its obligations;
 - (b) 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 this clause 3.2; and
 - (c) 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.

4. CHARGES AND PAYMENT

- 4.1 The Charges will be calculated in accordance with latest quotation provided by the Company and accepted by the Customer, subject to any variations agreed by the Company and the Customer from time to time in accordance with clause 4.5.
- 4.2 Unless otherwise agreed in writing by the Company, the Customer shall pay each invoice submitted by the Company in full and in cleared funds without set off or deduction within 30 days of the date of the invoice. Time for payment shall be of the essence of the Contract.
- 4.3 All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax chargeable for the time being (**VAT**). Where any taxable supply for VAT purposes is made under the Contract by the Company to the Customer, the Customer shall, on receipt of a valid VAT invoice from the Company, pay to the Company such additional amounts in respect of VAT as are chargeable on the supply of the Services at the same time as payment is due for the supply of the Services.
- 4.4 The Company may at any time, without limiting its other rights or remedies, set off any amount

- owing to it by the Customer against any amount payable by the Company to the Customer.
- 4.5 The Company shall provide at least 2 months' notice in writing to the Customer of any proposed variations to the Charges (**Variation Notice**). The Customer shall, within 1 month of receipt of such notice, confirm to the Company whether it accepts such proposed variations and:
- (a) in the event that the parties agree the proposed variations prior to the expiry of the Variation Notice, such agreed variations shall take effect from such expiry;
 - (b) in the event that the parties do not agree the proposed variations prior to the expiry of the Variation Notice, the Company may either terminate the Contract with effect from the expiry of the Variation Notice or continue to provide the relevant Services without the proposed variations to the Charges taking effect.

5. TERMINATION

- 5.1 Without limiting its other rights or remedies, either party may terminate the Contract with immediate effect by giving written notice to the other party if:
- (a) the other party commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 10 Business Days of being notified in writing to do so;
 - (b) the other party enters into or 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 or, if the step or action is taken in another jurisdiction, the other party enters into or becomes subject to any analogous procedure in the relevant jurisdiction;
 - (c) 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
 - (d) 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.
- 5.2 Without limiting its other rights or remedies, either party may terminate the Contract by giving at least 3 months' written notice to the other party.
- 5.3 Without limiting its other rights or remedies, the Company may suspend provision of the services to be provided by or on behalf of the Company under the Contract or any other contract between the Customer and the Company if the Customer becomes subject to any of the events or procedures listed in clause 5.1(b) or the Company reasonably believes that the Customer is about to become subject to any of them, or if the Customer fails to pay any amount due under this Contract on the due date for payment.

6. CONSEQUENCES OF TERMINATION

On termination of the Contract for any reason:

- (a) 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;
- (b) the accrued rights, remedies, obligations and liabilities of the parties as at Termination shall be unaffected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of Termination; and
- (c) clauses in these Conditions and the BIFA Conditions which expressly or by implication survive termination shall continue in full force and effect.

7. CUSTOMER RESTRICTIONS

7.1 In this clause 7 the following phrases shall have the meanings set out next to them:

- "Existing Supplier" means a person, company or other organisation from which the Customer has directly received services of the same kind or of a materially similar kind as those provided by or on behalf of the Company pursuant to the Contract

in the 12 months immediately preceding the earlier of:

- (i) the date on which such person, company or other organisation first provided services to the Customer as a sub-contractor of the Company; and/or
- (ii) the date on which the Company first referred the Customer to such person, company or other organisation (or the Company first referred such person, company or other organisation to the Customer) for the purposes of the Customer receiving services direct from such person, company or other organisation.

“Restricted Supplier” any person, company or other organisation, other than an Existing Supplier who at any time during the 12 months prior to Termination provided services to the Customer as a sub-contractor of the Company.

“Restricted Services” services of the same kind or of a materially similar kind as those provided by the relevant Restricted Supplier to the Customer as a sub-contractor of the Company during the 12 months immediately prior to Termination.

7.2 During the continuance of the Contract the Customer will not (and will procure that each Group Company shall not) without the prior written agreement of the Company:

- (a) offer to employ or engage or otherwise endeavour to entice away from the Company any employee, agent or subcontractor of the Company in relation to the provision of services of the same kind or of a materially similar kind as those provided by or on behalf of the Company under or in connection with the Contract;
- (b) employ or engage any employee, agent or subcontractor of the Company in relation to the provision of services of the same kind or of a materially similar kind as those provided by or on behalf of the Company under or in connection with the Contract.

7.3 The Customer will not (and will procure that each Group Company shall not) at any time in the 12 months after the date of Termination without the Company's prior written agreement:

- (a) offer to employ or engage a Restricted Supplier in connection with the provision of Restricted Services for or on behalf of the Customer; or
- (b) employ or engage a Restricted Supplier in connection with the provision of Restricted Services for or on behalf of the Customer; or
- (c) cause or encourage a Restricted Supplier to reduce or not do business with the Company.

7.4 For any prior written agreement of the Company to be valid in accordance with clause 7.2 or clause 7.3 it must be signed by a director of the Company and specify the relevant services, supplier, employee, agent or subcontractor and period for which the restrictions in this clause 7 shall not apply. The Company reserves the right to withdraw its agreement at any time, upon which the restrictions in this clause 7 shall continue to apply to the Customer.

7.5 The restrictions imposed on the Customer by this clause 7 apply to it acting:

- (a) directly or indirectly; and/or
- (b) on its own behalf; and/or
- (c) on behalf of, or in conjunction with, any other firm, company or person whether as an employee, officer, subcontractor, agent or otherwise.

7.6 Each of the restrictions in each of the sub sections of this clause 7 is intended to be separate and severable. If any of the restrictions shall be held to be void but would be valid if part of their wording were deleted, such restrictions shall apply with such deletion as may be necessary to make it valid or effective.

7.7 The Customer acknowledges that there is substantial goodwill attached to the Company's employees, agents and sub-contractors and recognises therefore that the restrictions set out in this clause 7 are reasonable.

7.8 The provisions of clause 7 shall survive Termination and shall continue to apply notwithstanding Termination.

8. GENERAL

8.1 **Data.** Both parties shall comply with the obligations set out in the Data Processing Agreement.

8.2 **Force majeure.**

- (a) The Company shall not be in breach of this Contract nor liable for delay in performing, or failure to perform, any of its obligations under this Contract if such delay or failure result from events, circumstances or causes beyond its reasonable control (a **Force Majeure Event**).
- (b) For the purposes of clause 8.2, a Force Majeure Event shall include, but shall not be limited to:
- (a) acts of God, flood, drought, earthquake or other natural disaster;
 - (b) epidemic or pandemic;
 - (c) terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations;
 - (d) nuclear, chemical or biological contamination or sonic boom;
 - (e) malicious damage;
 - (f) any law, rule, regulation, direction or any other action taken by a government or public authority, including without limitation imposing an export or import restriction, quota or prohibition, or failing to grant a necessary licence or consent;
 - (g) collapse of buildings, fire, explosion or accident;
 - (h) breakdown of plant or machinery;
 - (i) any labour or trade dispute, strikes, industrial action or lockouts (other than in each case by the party seeking to rely on this clause, or companies in the same group as that party);
 - (j) labour shortages;
 - (k) material shortages;
 - (l) disruption to national or international freight services;
 - (m) increased border restrictions and trade embargos;
 - (n) non-performance by suppliers or subcontractors (other than by companies in the same group as the party seeking to rely on this clause); and
 - (o) interruption or failure of a utility service of the transport network.
- (c) If the Force Majeure Event prevents, hinders or delays either party's performance of its obligations for a continuous period of more than one calendar month, the Company may terminate this agreement by giving one week's written notice to the Customer.

- 8.3 **Material adverse change.** The obligations of the Company under this Contract are subject to there being, in its opinion, no event or circumstance arising from the withdrawal of the United Kingdom from the European Union, or the continuation of the COVID-19 or any other epidemic or pandemic which, in its opinion, could materially adversely affect:
- (a) the ability of the Company to perform its obligations under this Contract; or
 - (b) the ability of suppliers and sub-contractors to perform all or part of the Services; or
 - (c) international or domestic freight services.

In the event that any such event or circumstance could result in a breach by the Company of this Contract, or a delay by the Company in performing, or failure to perform, any of its obligations under this Contract, the Company shall not be liable if such delay or failure results from those events or circumstances.

8.4 **Assignment and other dealings.**

- (a) The Company may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights under the Contract and may subcontract or delegate in any manner any or all of its obligations under the Contract to any third party or agent.
- (b) The Customer shall not, without the prior written consent of the Company, assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract.

8.5 **Entire agreement.**

- (a) The contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- (b) Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Contract.

8.6 **Variation.** No variation of the Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

8.7 **Waiver.** A waiver of any right or remedy is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. A delay or failure to exercise, or the single or partial exercise of, any right or remedy shall not:

- (a) waive that or any other right or remedy; or
- (b) prevent or restrict the further exercise of that or any other right or remedy.

8.8 **Severance.** 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.

8.9 **Notices.**

- (a) Any notice to be given under or in connection with the Contract shall be in writing, addressed to the party at the address or email address such party uses for corresponding with the other party or such other address or email address as such party may have specified to the other in writing in accordance with this clause, and shall be delivered personally, or sent by pre-paid first class post or other next working day delivery service or commercial courier or email.
- (b) A notice shall be deemed to have been received: if delivered personally, when left at the

address referred to in clause 8.9(a); if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by email, one Business Day after transmission.

- (c) The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.
- 8.10 **Third parties.** Save as provided otherwise in the BIFA Conditions, no one other than a party to the Contract shall have any right to enforce any of its terms.
- 8.11 **Governing law and jurisdiction.** The provisions of clause 28 of the BIFA Conditions shall apply as if set out in this clause at length but with references to "Conditions" in such clause being substituted with "Contract".

Customer Data Processing Agreement

PARTIES

- (1) Frigore Ltd (incorporated and registered in England and Wales with company number **06075296**) ("**Company**" or "**Processor**").
- (2) The Company's customer to whom the Services are to be provided ("**Customer**" or "**Controller**").

BACKGROUND

FINAL DRAFT

(A) This Customer Data Processing Agreement ("**Agreement**") is the Data Processing Agreement referred to, and defined in, the Customer Terms and Conditions as agreed between (1) the Company and (2) the Customer for the supply of logistics services ("**the Conditions**"). The Agreement, together with the Conditions and the BIFA Conditions make up the legally binding Contract between the parties.

(B) All words and expressions defined in the Contract shall, unless the context requires otherwise, bear the same meanings in this Agreement and the interpretation provisions in clause 1 of the Conditions shall be incorporated into and shall apply to the terms of this letter as if such clause (with appropriate amendments so far as to refer to this Agreement) were set out in full in this Agreement. In order to perform the Services, the Company will need to Process certain Personal Data on behalf of the Customer.

(C) This Agreement sets out the terms, requirements and conditions on which the Processor will Process Personal Data when providing services under the Contract. This Agreement contains the mandatory clauses required by Article 28(3) of the General Data Protection Regulation ((EU) 2016/679) for contracts between controllers and processors.

(D) The parties shall enter into this Agreement in order to regulate the provision and use of Personal Data that the Processor will be Processing of behalf of the Controller.

AGREED TERMS

1. DEFINITIONS AND INTERPRETATION

The following definitions and rules of interpretation apply in this Agreement.

1.1 Definitions:

Business Purposes: the services described in the Order or any other purpose specifically identified in Annex A.

Data Protection Legislation: all applicable privacy and data protection laws including the General Data Protection Regulation ((EU) 2016/679), Data Protection Act 2018 and any other applicable national implementing law, regulations, guidelines, codes of practice (whether or not legally binding) and secondary legislation in England and Wales relating to the Processing of Personal Data and the privacy of electronic communications, as amended, replaced or updated from time to time, including the Privacy and Electronic Communications Directive (2002/58/EC) and the Privacy and Electronic Communications (EC Directive) Regulations 2003 (SI 2003/2426).

Data Subject: an individual who is the subject of Personal Data.

Personal Data: means any information relating to an identified or identifiable natural person that is Processed by the Processor as a result of, or in connection with, the provision of the Services; an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.

Personal Data Breach: a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, Personal Data transmitted, stored or otherwise Processed.

Processing, Processes and Process: either any activity that involves the use of Personal Data or as the Data Protection Legislation may otherwise define Processing, Processes or Process. It includes any operation or set of operations which is performed on personal data or on sets of personal data, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation

or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction. Processing also includes transferring Personal Data to third parties.

Restricted Transfer: means a transfer of personal data from a data exporter located inside the EEA, and/or, following the exit by the UK from the European Union ('**Brexit**') the UK, to a data importer located outside the EEA and/or, following Brexit, the UK.

Standard Contractual Clauses: Means the contractual clauses approved by the European Commission for the transfer of data between a Data Controller in the EEA to a Data Controller outside the EEA or the transfer of data between a Data Controller in the EEA to a Data Processor outside the EEA, as may be amended from time to time.

1.2 This Agreement is subject to the terms of the Conditions and the BIFA Conditions, and is incorporated into the Contract.

1.3 The Annexes, and any Appendix therein, form part of this Agreement and will have effect as if set out in full in the body of this Agreement. Any reference to this Agreement includes the Annexes.

1.4 Any reference in this Agreement to 'writing' or similar expressions includes a reference to, electronic mail, letter or other comparable means of communication.

FINAL DRAFT

1.5 If any term or provision of this Agreement shall be held to be illegal or unenforceable in whole or in part under any enactment or rule of law, such term or provision or part shall to that extent be deemed not to be part of this Agreement but the remainder of this Agreement shall not be affected.

1.6 In the case of conflict or ambiguity between:

(a) this Agreement and the BIFA Conditions, the provisions of the BIFA Conditions shall prevail;

(b) any provision contained in the body of this Agreement and any provision contained in the Annexes, the provision in the body of this Agreement will prevail;

(c) the terms of any accompanying invoice or other documents annexed to this Agreement and any

provision contained in the Annexes, the provision contained in the Annexes will prevail;

(d) any of the provisions of this Agreement and the provisions of the Order, the provisions of this Agreement will prevail; and

(e) In the event of any conflict or inconsistency between the terms of this Agreement and the terms of any applicable Standard Contractual Clauses, the terms of the Standard Contractual Clauses shall take precedence.

2. DATA PROTECTION

2.1 Both parties will comply with all applicable requirements of the Data Protection Legislation. This Agreement is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation. In this Clause 1, Applicable Laws means (for so long as and to the extent that they apply to Frigore Ltd) the law of the European Union, the law of any member state of the European Union and/or Domestic UK Law; and Domestic UK Law means the UK Data Protection Legislation and any other law that applies in the UK.

2.2 Without prejudice to the generality of clause 2.1, the Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data to Frigore Ltd and/or lawful collection of the Personal Data by Frigore Ltd on behalf of the Customer for the duration and purposes of this agreement.

3. PERSONAL DATA TYPES AND PROCESSING PURPOSES

3.1 Subject to clause 3.2, the Customer and Frigore Ltd acknowledge that for the purpose of the Data Protection Legislation, the Customer is the "Controller" and Frigore Ltd is the "Processor".

3.2 The Controller retains control of the Personal Data and remains responsible for its compliance obligations under the applicable Data Protection Legislation, including providing any required notices and obtaining any required consents, and for the Processing instructions it gives to the Processor.

3.3 Annex A describes the subject matter, duration, nature and purpose of Processing and the Personal Data categories and Data Subject types in respect of which the Processor may Process to fulfil the Business Purposes.

4. PROCESSOR'S OBLIGATIONS

3.1 The Processor will:

(a) process that Personal Data only on the documented written instructions of the Controller unless Frigore Ltd is required by Applicable Laws to otherwise process that Personal Data. Where Frigore Ltd is relying on Applicable Laws as the basis for processing Personal Data, Frigore Ltd shall promptly notify the Controller of this before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit Frigore Ltd from so notifying the Controller;

(b) comply with reasonable instructions notified to it in advance by the Controller with respect to the processing of the Personal Data.

(c) assist the Controller, at the Controller'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.

4. SECURITY

FINAL DRAFT

4.1 The Processor must at all times implement appropriate technical and organisational measures against unauthorised or unlawful Processing of Personal Data, and against accidental or unlawful loss, destruction, alteration, disclosure or damage of 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).

4.2 The Processor will treat Personal Data as confidential and ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential.

5. PERSONAL DATA BREACH

5.1 The Processor will notify the Controller without undue delay on becoming aware of a Personal Data Breach.

7. CROSS-BORDER TRANSFERS OF PERSONAL DATA

7.1 Where the Processor is located within the EEA or, following Brexit, the UK, the Processor shall not and shall procure that any sub-processor shall not make a Restricted Transfer unless:

- (a) the Restricted Transfer is made in accordance with the provisions set out in this Agreement; or
- (b) the Processor obtains the Controller's prior written consent.

7.2 Where such consent is granted under clause 7.1, the Processor may only make a Restricted Transfer under the following conditions:

- (a) The Processor has ensured that such transfer is made in compliance with the Data Protection Legislation, including ensuring that there are protections and appropriate safeguards in place in respect of that transfer as may be required under the Data Protection Legislation; and
- (b) The Processor has notified the Controller of the protections and appropriate safeguards in paragraph 7.2(a) and
- (c) The Processor has documented and evidenced the protections and appropriate safeguards in paragraph 7.2(a) above and will allow the Controller access to any relevant documents and evidence, on request.

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7.3 The Standard Contractual Clauses annexed at Annex B to this Agreement shall automatically apply between the parties where:

- (a) the transfer of personal data from the Controller to the Processor is a Restricted Transfer which is prohibited under the Data Protection Legislation in the absence of Standard Contractual Clauses; or
- (b) If the UK leaves the European Union without a withdrawal agreement on the day of exit (or the transitional period under a withdrawal agreement expires before the European Commission has adopted an adequacy decision for the UK).

7.4 For the avoidance of doubt, where the transfer of personal data from the Processor to the Controller is a Restricted Transfer and such transfer is prohibited under the Data Protection Legislation, both parties may agree to vary this agreement to the extent required to put in place such adequate safeguards and protections as may be approved by the relevant regulators, being the Information Commissioner's Office and/ or the European Commission, as applicable, to cover such transfer.

8. SUBCONTRACTORS

8.1 The Processor may authorise a third party (subcontractor) to Process the Personal Data provided that:

- (a)** Any subcontractor is appointed on the basis that they meet the criteria set out in SCS Terms and Conditions, a copy of which can be found [here online](#)
- (b)** the Processor enters into a written contract with the subcontractor that contains terms substantially the same as those set out in this Agreement, in particular, in relation to requiring appropriate technical and organisational data security measures, and, upon the Controller's written request, provides the Controller with copies of such contracts.

8.2 The Parties consider the Processor to control any Personal Data controlled by or in the possession of its subcontractors.

8.3 On the Controller's written request, the Processor will audit a subcontractor's compliance with its obligations regarding the Controller's Personal Data and provide the Controller with the audit results.

FINAL DRAFT

9. COMPLAINTS, DATA SUBJECT REQUESTS AND THIRD PARTY RIGHTS

9.1 The Processor must, at no additional cost, take such technical and organisational measures as may be appropriate, and promptly provide such information to the Controller as the Controller may reasonably require, enabling the Controller to comply with:

(a) the rights of Data Subjects under the Data Protection Legislation, including subject access rights, the rights to rectify and erase personal data, object to the Processing and automated Processing of personal data, and restrict the Processing of personal data; and

(b) information or assessment notices served on the Controller by any supervisory authority under the Data Protection Legislation.

9.2 The Processor must notify the Controller immediately if it receives any complaint, notice or communication that relates directly or indirectly to the Processing of the Personal Data or to either party's compliance with the Data Protection Legislation.

9.3 The Processor must notify the Controller promptly without undue delay and within 24 hours if it receives a request from a Data Subject for access to their Personal Data or to exercise any of their related rights under the Data Protection Legislation.

9.4 The Processor will give the Controller its full co-operation and assistance in responding to any complaint, notice, communication or Data Subject request.

9.5 The Processor must not disclose the Personal Data to any Data Subject or to a third party other than at the Controller's request or instruction, as provided for in this Agreement or as required by law.

10. TERM AND TERMINATION

FINAL DRAFT

10.1 This Agreement will remain in full force and effect so long as:

(a) the Contract remains in effect; or

(b) the Processor retains any Personal Data related to the Contract in its possession or control (**Term**).

10.2 Any provision of this Agreement that expressly or by implication should come into or continue in force on or after termination of the Contract in order to protect Personal Data will remain in full force and effect.

10.3 If a change in any Data Protection Legislation prevents either party from fulfilling all or part of its obligations in accordance with the Order, the parties will suspend the Processing of Personal Data until that Processing complies with the new requirements. If the parties are unable to bring the Personal Data Processing into compliance with the Data Protection Legislation within 30 days they may terminate the provisions of the Order on written notice to the other party.

11. DATA RETURN AND DESTRUCTION

11.1 At the written request of the Controller, the Processor will at the written direction of the Controller, delete or return Personal Data and copies thereof to the Controller on termination of the agreement unless required by Applicable Law to store the Personal Data.

11.2 If any law, regulation, or government or regulatory body requires the Processor to retain any documents or materials that the Processor would otherwise be required to return or destroy, it will notify the Controller in writing of that retention requirement, giving details of the documents or materials that it must retain, the legal basis for retention, and establishing a specific timeline for destruction once the retention requirement ends.

12. RECORDS

12.1 The Processor shall maintain complete and accurate records and information to demonstrate its compliance with this Agreement.

16. NOTICE

16.1 Any notice or other communication given to a party under or in connection with this Agreement must be in writing and delivered to the individuals highlighted in the Order.

16.2 [Clause 16.1](#) does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

16.3 A notice given under this agreement is not valid if sent by email.

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ANNEX A

PERSONAL DATA PROCESSING PURPOSES AND DETAILS

Subject Matter of Processing:

Frigore Ltd will be processing elements of the Customer's personal data to provide to enable the Services to be delivered.

Duration of Processing:

The Customer's data is retained and processed for the duration of this agreement.

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Nature of Processing:

- collection
- recording
- organisation
- storage
- dissemination or otherwise making available
- erasure or destruction

Business Purposes:

Frigore Ltd collects and processes personal data about Customer's employees for the following purposes:

- (a) Maintaining and enhancing Frigore Ltd's delivery of the Services (for example, for coordinating warehouse drop-offs and collections).
- (b) Account management (e.g. maintaining contact with the Customer for delivery and other business updates).

Personal Data Categories:

- Personal details (name)
- Contact Information (address, work email addresses, phone)

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Data Subject Types:

In order to fulfil its obligations to deliver the Service under the Contract, Frigore Ltd collects personal data from the following categories of data subject: Employees of Customer (where necessary to perform the Contract).

The legal basis for processing Personal Data outside the EEA in order to comply with cross-border transfer restrictions will be:

- Located in a country with a current determination of adequacy; or
- Standard Contractual Clauses between Controller as "data exporter" and Processor as "data importer".

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ANNEX B

DATA CONTROLLER TO DATA PROCESSOR: STANDARD CONTRACTUAL CLAUSES (PROCESSORS)

For the purposes of Article 26(2) of Directive 95/46/EC for the transfer of personal data to processors established in third countries which do not ensure an adequate level of data protection.

Name of the data exporting organization is the Controller under the Agreement

(the data **exporter**)

And

Name of the data importing organisation: the Processor under the Agreement

(the data **importer**)

each a 'party'; together 'the parties',

HAVE AGREED on the following Contractual Clauses (the Clauses) in order to adduce adequate safeguards with respect to the protection of privacy and fundamental rights and freedoms of individuals for the transfer by the data exporter to the data importer of the personal data specified in Appendix 1.

Clause 1

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Definitions

For the purposes of the Clauses:

- (a) 'personal data', 'special categories of data', 'process/processing', 'controller', 'processor', 'data subject' and 'supervisory authority' shall have the same meaning as in Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data;
- (b) 'the data exporter' means the controller who transfers the personal data;
- (c) 'the data importer' means the processor who agrees to receive from the data exporter personal data intended for processing on his behalf after the transfer in accordance with his instructions and the terms of the Clauses and who is not subject to a third country's system ensuring adequate protection within the meaning of Article 25(1) of Directive 95/46/EC;
- (d) 'the sub-processor' means any processor engaged by the data importer or by any other sub-processor of the data importer who agrees to receive from the data importer or from any other sub-processor of the data importer personal data exclusively intended for processing activities to be carried out on behalf of the data exporter after the transfer in accordance with his instructions, the terms of the

Clauses and the terms of the written subcontract;

(e) 'the applicable data protection law' means the legislation protecting the fundamental rights and freedoms of individuals and, in particular, their right to privacy with respect to the processing of personal data applicable to a data controller in the Member State in which the data exporter is established;

(f) 'technical and organisational security measures' means those measures aimed at protecting personal data against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access, in particular where the processing involves the transmission of data over a network, and against all other unlawful forms of processing.

Clause 2

Details of the transfer

The details of the transfer and in particular the special categories of personal data where applicable are specified in Appendix 1 which forms an integral part of the Clauses.

Clause 3

Third-party beneficiary clause

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1. The data subject can enforce against the data exporter this Clause, Clause 4(b) to (i), Clause 5(a) to (e), and (g) to (j), Clause 6(1) and (2), Clause 7, Clause 8(2), and Clauses 9 to 12 as third-party beneficiary.
2. The data subject can enforce against the data importer this Clause, Clause 5(a) to (e) and (g), Clause 6, Clause 7, Clause 8(2), and Clauses 9 to 12, in cases where the data exporter has factually disappeared or has ceased to exist in law unless any successor entity has assumed the entire legal obligations of the data exporter by contract or by operation of law, as a result of which it takes on the rights and obligations of the data exporter, in which case the data subject can enforce them against such entity.
3. The data subject can enforce against the sub-processor this Clause, Clause 5(a) to (e) and (g), Clause 6, Clause 7, Clause 8(2), and Clauses 9 to 12, in cases where both the data exporter and the data importer have factually disappeared or ceased to exist in law or have become insolvent, unless any successor entity has assumed the entire legal obligations of the data exporter by contract or by operation of law as a result of which it takes on the rights and obligations of the data exporter, in which case the data subject can enforce them against such entity. Such third-party liability of the sub-processor shall be limited to its own processing operations under the Clauses.
4. The parties do not object to a data subject being represented by an association or other body if the data subject so expressly wishes and if permitted by national law.

Clause 4

Obligations of the data exporter

The data exporter agrees and warrants:

- (a) that the processing, including the transfer itself, of the personal data has been and will continue to be carried out in accordance with the relevant provisions of the applicable data protection law (and, where applicable, has been notified to the relevant authorities of the Member State where the data exporter is established) and does not violate the relevant provisions of that State;
- (b) that it has instructed and throughout the duration of the personal data-processing services will instruct the data importer to process the personal data transferred only on the data exporter's behalf and in accordance with the applicable data protection law and the Clauses;
- (c) that the data importer will provide sufficient guarantees in respect of the technical and organisational security measures specified in Appendix 2 to this contract;
- (d) that after assessment of the requirements of the applicable data protection law, the security measures are appropriate to protect personal data against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access, in particular where the processing involves the transmission of data over a network, and against all other unlawful forms of processing, and that these measures ensure a level of security appropriate to the risks presented by the processing and the nature of the data to be protected having regard to the state of the art and the cost of their implementation;
- (e) that it will ensure compliance with the security measures;
- (f) that, if the transfer involves special categories of data, the data subject has been informed or will be informed before, or as soon as possible after, the transfer that its data could be transmitted to a third country not providing adequate protection within the meaning of Directive 95/46/EC;
- (g) to forward any notification received from the data importer or any sub-processor pursuant to Clause 5(b) and Clause 8(3) to the data protection supervisory authority if the data exporter decides to continue the transfer or to lift the suspension;
- (h) to make available to the data subjects upon request a copy of the Clauses, with the exception of Appendix 2, and a summary description of the security measures, as well as a copy of any contract for sub-processing services which has to be made in accordance with the Clauses, unless the Clauses or the contract contain commercial information, in which case it may remove such commercial information;

(i) that, in the event of sub-processing, the processing activity is carried out in accordance with Clause 11 by a sub-processor providing at least the same level of protection for the personal data and the rights of data subject as the data importer under the Clauses; and

(j) that it will ensure compliance with Clause 4(a) to (i).

Clause 5

Obligations of the data importer

The data importer agrees and warrants:

(a) to process the personal data only on behalf of the data exporter and in compliance with its instructions and the Clauses; if it cannot provide such compliance for whatever reasons, it agrees to inform promptly the data exporter of its inability to comply, in which case the data exporter is entitled to suspend the transfer of data and/or terminate the contract;

(b) that it has no reason to believe that the legislation applicable to it prevents it from fulfilling the instructions received from the data exporter and its obligations under the contract and that in the event of a change in this legislation which is likely to have a substantial adverse effect on the warranties and obligations provided by the Clauses, it will promptly notify the change to the data exporter as soon as it is aware in which case the data exporter is entitled to suspend the transfer of data and/or terminate the contract;

(c) that it has implemented the technical and organisational security measures specified in Appendix 2 before processing the personal data transferred;

(d) that it will promptly notify the data exporter about:

(i) any legally binding request for disclosure of the personal data by a law enforcement authority unless otherwise prohibited, such as a prohibition under criminal law to preserve the confidentiality of a law enforcement investigation;

(ii) any accidental or unauthorised access; and

(iii) any request received directly from the data subjects without responding to that request, unless it has been otherwise authorised to do so;

(e) to deal promptly and properly with all inquiries from the data exporter relating to its processing of the personal data subject to the transfer and to abide by the advice of the supervisory authority with regard to the processing of the data transferred;

(f)at the request of the data exporter to submit its data-processing facilities for audit of the processing activities covered by the Clauses which shall be carried out by the data exporter or an inspection body composed of independent members and in possession of the required professional qualifications bound by a duty of confidentiality, selected by the data exporter, where applicable, in agreement with the supervisory authority;

(g)to make available to the data subject upon request a copy of the Clauses, or any existing contract for sub-processing, unless the Clauses or contract contain commercial information, in which case it may remove such commercial information, with the exception of Appendix 2 which shall be replaced by a summary description of the security measures in those cases where the data subject is unable to obtain a copy from the data exporter;

(h)that, in the event of sub-processing, it has previously informed the data exporter and obtained its prior written consent;

(i)that the processing services by the sub-processor will be carried out in accordance with Clause 11;

(j)to send promptly a copy of any sub-processor agreement it concludes under the Clauses to the data exporter.

Clause 6

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Liability

- 1.The parties agree that any data subject, who has suffered damage as a result of any breach of the obligations referred to in Clause 3 or in Clause 11 by any party or sub-processor is entitled to receive compensation from the data exporter for the damage suffered.
- 2.If a data subject is not able to bring a claim for compensation in accordance with paragraph 1 against the data exporter, arising out of a breach by the data importer or his sub-processor of any of their obligations referred to in Clause 3 or in Clause 11, because the data exporter has factually disappeared or ceased to exist in law or has become insolvent, the data importer agrees that the data subject may issue a claim against the data importer as if it were the data exporter, unless any successor entity has assumed the entire legal obligations of the data exporter by contract or by operation of law, in which case the data subject can enforce its rights against such entity.

The data importer may not rely on a breach by a sub-processor of its obligations in order to avoid its own liabilities.

- 3.If a data subject is not able to bring a claim against the data exporter or the data importer referred to in paragraphs 1 and 2, arising out of a breach by the sub-processor of any of their obligations referred

to in Clause 3 or in Clause 11 because both the data exporter and the data importer have factually disappeared or ceased to exist in law or have become insolvent, the sub-processor agrees that the data subject may issue a claim against the data sub-processor with regard to its own processing operations under the Clauses as if it were the data exporter or the data importer, unless any successor entity has assumed the entire legal obligations of the data exporter or data importer by contract or by operation of law, in which case the data subject can enforce its rights against such entity. The liability of the sub-processor shall be limited to its own processing operations under the Clauses.

Clause 7

Mediation and jurisdiction

1. The data importer agrees that if the data subject invokes against it third-party beneficiary rights and/or claims compensation for damages under the Clauses, the data importer will accept the decision of the data subject:

(a) to refer the dispute to mediation, by an independent person or, where applicable, by the supervisory authority;

(b) to refer the dispute to the courts in the Member State in which the data exporter is established.

2. The parties agree that the choice made by the data subject will not prejudice its substantive or procedural rights to seek remedies in accordance with other provisions of national or international law.

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Clause 8

Cooperation with supervisory authorities

1. The data exporter agrees to deposit a copy of this contract with the supervisory authority if it so requests or if such deposit is required under the applicable data protection law.

2. The parties agree that the supervisory authority has the right to conduct an audit of the data importer, and of any sub-processor, which has the same scope and is subject to the same conditions as would apply to an audit of the data exporter under the applicable data protection law.

3. The data importer shall promptly inform the data exporter about the existence of legislation applicable to it or any sub-processor preventing the conduct of an audit of the data importer, or any sub-processor, pursuant to paragraph 2. In such a case the data exporter shall be entitled to take the measures foreseen in Clause 5(b).

Clause 9

Governing law

The Clauses shall be governed by the law of the Member State in which the data exporter is established, namely England.

Clause 10

Variation of the contract

The parties undertake not to vary or modify the Clauses. This does not preclude the parties from adding clauses on business related issues where required as long as they do not contradict the Clause.

Clause 11

Sub-processing

1. The data importer shall not subcontract any of its processing operations performed on behalf of the data exporter under the Clauses without the prior written consent of the data exporter. Where the data importer subcontracts its obligations under the Clauses, with the consent of the data exporter, it shall do so only by way of a written agreement with the sub-processor which imposes the same obligations on the sub-processor as are imposed on the data importer under the Clauses. Where the sub-processor fails to fulfil its data protection obligations under such written agreement the data importer shall remain fully liable to the data exporter for the performance of the sub-processor's obligations under such agreement.
2. The prior written contract between the data importer and the sub-processor shall also provide for a third-party beneficiary clause as laid down in Clause 3 for cases where the data subject is not able to bring the claim for compensation referred to in paragraph 1 of Clause 6 against the data exporter or the data importer because they have factually disappeared or have ceased to exist in law or have become insolvent and no successor entity has assumed the entire legal obligations of the data exporter or data importer by contract or by operation of law. Such third-party liability of the sub-processor shall be limited to its own processing operations under the Clauses.
3. The provisions relating to data protection aspects for sub-processing of the contract referred to in paragraph 1 shall be governed by the law of the Member State in which the data exporter is established, namely England.
4. The data exporter shall keep a list of sub-processing agreements concluded under the Clauses and notified by the data importer pursuant to Clause 5(j), which shall be updated at least once a year. The list shall be available to the data exporter's data protection supervisory authority.

Clause 12

Obligation after the termination of personal data-processing services

1. The parties agree that on the termination of the provision of data-processing services, the data importer and the sub-processor shall, at the choice of the data exporter, return all the personal data transferred and the copies thereof to the data exporter or shall destroy all the personal data and certify to the data exporter that it has done so, unless legislation imposed upon the data importer prevents it from returning or destroying all or part of the personal data transferred. In that case, the data importer warrants that it will guarantee the confidentiality of the personal data transferred and will not actively process the personal data transferred anymore.
2. The data importer and the sub-processor warrant that upon request of the data exporter and/or of the supervisory authority, it will submit its data-processing facilities for an audit of the measures referred to in paragraph 1.

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Appendix 1

to the Standard Contractual Clauses

This Appendix forms part of the Standard Contractual Clauses.

The Member States may complete or specify, according to their national procedures, any additional necessary information to be contained in this Appendix.

Data exporter

The data exporter is (please specify briefly your activities relevant to the transfer):

The data exporter is the Controller under the Agreement, and the activities relevant to the transfer are as set out in the Agreement.

Data importer

The data importer is (please specify briefly activities relevant to the transfer):

The data importer is the Processor under the Agreement, and the activities relevant to the transfer are as set out in the Agreement.

Data subjects

The personal data transferred concern the following categories of data subjects (please specify):

See "Subject Matter of Processing" in Annex A to the Agreement.

Categories of data

The personal data transferred concern the following categories of data (please specify):

See "Personal Data Categories" in Annex A to the Agreement.

Special categories of data (if appropriate)

The personal data transferred concern the following special categories of data (please specify):

No Special Categories of data will be processed as part of this Agreement.

Processing operations

The personal data transferred will be subject to the following basic processing activities (please specify):

See "Nature of Processing" in Annex A to the Agreement.

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Appendix 2

to the Standard Contractual Clauses

This Appendix forms part of the Standard Contractual Clauses.

Description of the technical and organisational security measures implemented by the data importer in accordance with Clauses 4(d) and 5(c) (or document/legislation attached):

The Data Importer shall implement appropriate technical and organisational security measures in respect of its processing of personal data. Those technical and organisational security measures shall be appropriate taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons. Such measures may include, as appropriate:

- (a) the pseudonymisation and encryption of personal data;
- (b) the ability to ensure the ongoing confidentiality, integrity, availability and resilience of processing systems and services;
- (c) the ability to restore the availability and access to personal data in a timely manner in the event of a physical or technical incident;
- (d) a process for regularly testing, assessing and evaluating the effectiveness of technical and organisational measures for ensuring the security of the processing.

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