

This Agreement is made between Parcelpoint Limited and the Client

IT IS HEREBY AGREED THAT:

1. DEFINITIONS AND INTERPRETATION

1.1 In this Agreement and the Schedules, unless the context otherwise requires, the following expressions have the following meanings and may be used interchangeably within the main body of this Agreement and within the Schedules:

- “Address Only Service”** means the Service whereby Parcelpoint is required to deliver only to the address specified on the Consignment Note;
- “Affiliate”** where applicable means any subsidiary or holding company of a Party (having the meanings set out in section 1159 of the Companies Act 2006) and any subsidiary of any such holding company from time to time and any entity over which from time to time, any of the entities specified above either directly or indirectly exercises management control, even though it may own less than fifty percent (50%) of the shares and is prevented by law from owning a greater shareholding;
- “Agreement”** means this document incorporating the front page and the Schedules attached hereto;
- “Carriage”** means the collection, holding, transportation, delivery and other services undertaken with regard to a Consignment;
- “Charges”** means all charges payable by the Client including but not limited to charges for the Carriage, surcharges (including but not limited to emergency, operational and fuel surcharges), storage charges, VAT, taxes, fines, administration charges, duties, customs duties, levies, imposts, insurance premiums and any other amounts properly chargeable to the Client in connection with the Carriage or imposed by regulatory bodies in relation to the Consignment(s), and any other amounts payable under this Agreement;
- “Client”** means the party detailed on the front page of the Agreement, who contracts with Parcelpoint and who is responsible for the Charges;
- “Commencement Date”** means the date specified on the front page of the Agreement;
- “Confidential Information”** means any information of a confidential nature (whether in existence before or after the date of this Agreement) however conveyed that relates to the business, affairs, developments, trade-secrets, personnel, suppliers and customers of either Party including Intellectual Property together with all information derived from the above and any other information clearly designated as being confidential (whether or not it is marked “confidential”) or which ought reasonably be considered to be confidential;
- “Consignment”** means all goods that travel under a Consignment Note (whether in one or a number of parcels) collected on the same day for delivery to a single address and any other goods accepted by Parcelpoint for Carriage;
- “Consignment Note”** means the document specifying the number of parcels and the destinations and which may include any manifest or label produced by a Parcelpoint automated system or otherwise;
- “Customer”** means the party specified on the Consignment Note to whom the Consignment is to be delivered;
- “Dispute”** means any dispute or disagreement between the Parties under this Agreement, but shall exclude any claim brought under clause 4.4 or clause 5 of this Agreement;
- “Equipment”** means any special appliances to be provided by the Sender and/or Customer where required for the loading or unloading of a Consignment;
- “Intellectual Property”** means any Parcelpoint owned intellectual property rights in any part of the world and shall include without limitation Parcelpoint Software, Parcelpoint Property, patents (including without limitation supplementary protection certificates), trade-marks (registered or unregistered), service marks, design rights (registered or unregistered), any application for the foregoing, copyrights, database rights, logos, know-how, trade or business names and any other similar rights or obligations whether capable of being registered or not in any country, utility models, get-up and rights in domain names;
- “No Signature Service”** means the delivery of a Consignment by Parcelpoint where Parcelpoint is not required to obtain a signed proof of delivery from the Customer;
- “Parcelpoint”** means the contracting entity as detailed on the front page of the Agreement;
- “Parcelpoint Property”** means any Parcelpoint owned property including but not limited to computer hardware, software, documentation, manuals, operating manuals, user instructions, technical literature and related material, consumables and any other property owned by or belonging to Parcelpoint loaned to the Client during the term of this Agreement;
- “Party” and “Parties”** means Parcelpoint the Client and where applicable any Affiliates;
- “POD”** means proof of delivery of a Consignment by signature in electronic or written form, or by electronic scan by Parcelpoint or by any other evidence;

“Safe Place”	means a place which in Parcelpoint’s reasonable opinion is safe or out of sight of the general public which may include but is not limited to a porch, garage, shed, back-door, letter box, or other location as specified in the Consignment Note;
“Sender”	means the party sending the Consignment;
“Services”	means express courier services for any Consignment or any associated services as specified in this Agreement and more particularly described in Schedule 1 to this Agreement and on www.yodel.co.uk ;
“TUPE”	means the Transfer of Undertakings (Protection of Employment) Regulations 2006;
“Working Day”	means when the Parcelpoint service centres are open for business excluding Saturday, Sunday and Bank Holidays.

- 1.2 In this Agreement, (unless the context requires otherwise) words in the singular include the plural and vice versa and any gender includes a reference to all other genders.
- 1.3 The recitals and schedules to this Agreement form part of it and the headings are for convenience only and shall not affect the interpretation of this Agreement.
- 1.4 References to laws and regulations include amendments and re-enactments.
- 1.5 Reference in this Agreement to it or other document shall be construed as a reference to this agreement or the other document, as from time to time novated, supplemented, amended or varied.
- 1.6 If any provisions in the Agreement conflict, the following order of precedence shall apply in respect of the conflicting provisions: (a) Schedule containing the Prices and Additional Charges; (b) this part of the Agreement, excluding the Schedules; and (c) any other Schedules.

2. TERM & TERMINATION

- 2.1 This Agreement shall commence on the Commencement Date and shall continue indefinitely until terminated by either Parcelpoint or the Client in accordance with the provisions of this Agreement.
- 2.2 Without prejudice to either Parcelpoint or the Client’s rights to terminate in accordance with the provisions of this clause 2, this Agreement may be terminated in whole or in part by either Parcelpoint or the Client on 30 days’ written notice.
- 2.3 Parcelpoint shall be entitled to terminate this Agreement upon one week written notice where the Client fails more than once in any three month period to pay to Parcelpoint any of the Charges (or any other sums due under this Agreement) within seven days of the due date for payment.
- 2.4 Either Parcelpoint or the Client shall be entitled to terminate this Agreement immediately by notice in writing to the other Party in the event that the other Party, being a company, goes into liquidation whether voluntary or compulsory or is the subject of a winding up, receivership or administration proceedings or if a person takes possession of all or any substantial part of its property, assets or undertaking or enters into any composition or other voluntary arrangement with its creditors, or suffers any distress or execution to be levied on all or any substantial part of its property, assets and undertaking or any other analogous event or ceases or threatens to cease carrying on business or becomes unable to pay its debts as they fall due or, being an individual, is subject to any analogous circumstances.
- 2.5 Either Parcelpoint or the Client shall be entitled to terminate this Agreement with immediate effect in the event that the other Party commits a material breach of this Agreement which is either not capable of remedy or which that Party fails to remedy within 30 days of receipt of a written notice requesting the breach be remedied.
- 2.6 On termination all Parcelpoint Property and any property owned by or belonging to a third party and supplied to the Client in connection with the Services must be returned to Parcelpoint within 14 days of the date of termination.

3. THE SERVICES

- 3.1 Parcelpoint shall provide the Services as detailed in this Agreement to the Client and upon Parcelpoint’s prior written consent, to its Affiliates.
- 3.2. Parcelpoint shall have the right at any time to suspend the provision of all or any part of the Services if in its reasonable opinion it deems the provision of Services to the Client and/or to its Affiliates to be detrimental to Parcelpoint’s commercial and/or operational interests.
- 3.3. Where the Client uses the No Signature Service then Parcelpoint may deliver by leaving the Consignment in a Safe Place. Delivery is deemed to take place when the Consignment is left in the Safe Place and Parcelpoint shall have no liability for any loss of or damage occurring after delivery.
- 3.4 In the event that Parcelpoint is unable to deliver to the delivery address specified in the Consignment Note due the address being closed for holidays or any other reason, Parcelpoint will return the Consignment to the Client at the Client’s expense.
- 3.5 Parcelpoint may perform any of the following activities on the Client’s behalf in the course of providing the Services:
 - 3.5.1 complete any documents, amend product or service codes, and pay any duties or taxes required under applicable laws and regulations; and
 - 3.5.2 redirect the Consignment to the Customer’s import broker or other address upon request by any person who Parcelpoint believes in its reasonable opinion to be authorised.
- 3.6 The Client shall be prohibited from re-selling the Services to any third party unless Parcelpoint’s prior written consent has been obtained. In the event that the Client re-sells the Services without Parcelpoint’s prior written consent, Parcelpoint shall have the right to immediately terminate this Agreement.

- 3.7 Where the Client has selected an Address Only Service then the provisions contained in clause 3.8.3 below shall not apply to such Service.
- 3.8.1 Consignments are delivered to the delivery address but not necessarily to the named Customer personally.
- 3.8.2 One attempt to deliver will be made by Parcelpoint. Thereafter Parcelpoint may request instructions from the Customer following which re-delivery will be made by Parcelpoint dependent upon the service selected and subject to the associated Charges. It is the Client's responsibility to ensure that the appropriate service is selected at the time of dispatch of or booking the collection.
- 3.8.3 Where appropriate Parcelpoint may deliver Consignments to an address close to the delivery address where the Customer is not available, at the Client's risk.
- 3.8.4 Consignments to addresses with a central receiving area will be delivered to that area.
- 3.8.5 The Consignment is deemed to have been delivered upon receipt of a POD. The POD shall be conclusive evidence of delivery, save where the POD is obtained as a result of any fraud, collusion or dishonesty on the part of Parcelpoint.
- 3.8.6 The data scanned by Parcelpoint shall prevail if there is a discrepancy between the data provided by the Sender or Client, and the data scanned by Parcelpoint in connection with the Consignment.
- 3.8.7 Parcelpoint will make every reasonable effort to deliver Consignments according to Parcelpoint's regular delivery schedules but these are estimates only and are not guaranteed unless otherwise stated. Parcelpoint is not liable for any damages or loss caused by delays howsoever arising.
- 3.8.8 All route planning shall be at the sole discretion of Parcelpoint. The Client acknowledges that Carriage over weekends, Bank Holidays and Public Holidays may impact on the expected delivery time.
- 3.8.9 Collections and deliveries which take more than fifteen minutes may be subject to a surcharge.
- 3.8.10 Where Parcelpoint has been requested to collect a Consignment and upon collection there is no Consignment to collect, then Parcelpoint will charge the Client an aborted collection charge.
- 3.8.11 Parcelpoint may open and inspect a Consignment at any time for any reason but is under no obligation to do so.
- 3.8.12 Parcelpoint shall have no liability for any loss or damage occurring after delivery.
- 3.8.13 Couriers and booking agents are not responsible for the interpretation of this Agreement and Parcelpoint shall not be liable for any representation, guidance or interpretation of this Agreement.
- 3.8.14 Parcelpoint may at anytime at its sole and reasonable discretion refuse to carry any Consignment
- 3.8.15 Consignments cannot be delivered to PO boxes.
- 3.8.16 If the Customer refuses delivery or is unable to accept delivery or the Consignment is deemed to be unacceptable by the Customer or the Customer cannot reasonably be identified or located then Parcelpoint shall use reasonable efforts to return the Consignment to the Sender at the Client's cost, failing which Parcelpoint shall be entitled to dispose of or sell the Consignment without incurring any liability to the Client or to any other party whatsoever. The Client shall be responsible for all costs associated with the disposal or sale of the Consignment and Parcelpoint shall be entitled to deduct from the proceeds of the sale sufficient funds to meet these costs.
- 3.8.17 When collection or delivery takes place at the Sender or the Customer's premises, Parcelpoint shall not be under any obligation to provide any equipment, power or additional manpower required for such collection or delivery.
- 3.8.18 It is the Client's responsibility to ensure that where any Equipment is required, that such Equipment is available free of charge at the time of collection and/or delivery. Where such Equipment is not available and if Parcelpoint agrees to load or unload such Consignment (or part thereof), such loading or unloading shall be at the Client's risk and Parcelpoint shall have no liability whatsoever and shall be indemnified by the Client for any damage howsoever arising in the course of or as a result of loading or unloading such Consignment without the Equipment
- 3.9 Where available and where requested by the Client, Parcelpoint may arrange insurance for the loss of or physical damage from an external cause to the Consignment only. The Client shall be responsible for the payment of the premium.
- 3.10 It is the Client's responsibility to either seek insurance coverage through Parcelpoint (where available) or make its own insurance arrangements in such sums and against such risks as it deems appropriate if the Client is not satisfied with the level of Parcelpoint's liability under this Agreement.
- 3.11 Subject to clause 7.1.8, the Client's notification shall not be deemed to be a declaration of interest for insurance purposes. Where such approval for Carriage has been granted by Parcelpoint, Parcelpoint shall not be deemed to have insured the Consignment unless the Client has paid the associated insurance premiums.
- 3.12 The Client hereby waives all rights of subrogation which might otherwise exist under the insurance policies possessed by the Client with coverage for Consignments in Carriage, for any claim or action in excess of the liability limits in this Agreement. Parcelpoint's liability shall always be limited as set out in clause 5.
- 3.13 Parcelpoint shall have a specific and general lien on any Consignment and associated documentation during Carriage for all Charges due. Parcelpoint shall be entitled to sell or dispose of the Consignment and associated documentation at the expense of the Client after having given the Client 14 days' notice of such disposal and to apply any proceeds towards payment of any overdue Charges. Parcelpoint shall account to the Client for any amounts exceeding the overdue Charges and associated expenses and shall then be discharged from any liability with regard to the Consignment and associated documentation.

4. CHARGES

- 4.1 The Charges agreed by the Parties are as specified in Schedule 1. The Client shall pay or reimburse Parcelpoint for all Charges without any deduction.
- 4.1.1 All Charges are exclusive of Value Added Tax which shall be payable in addition on the rendering by Parcelpoint of any appropriate Value Added Tax invoice and such Charges may be subject to variation by Parcelpoint from time to time.
- 4.1.2 The Charges are based on the number, size and weight of the Consignments or parcels and on the volume, collection and distribution profile as indicated by the Client. Should the volume, distribution profile or expenditure vary then Parcelpoint shall have the right to implement a reasonable adjustment of the applicable Charges. The provisions of this sub-clause 4.1 shall be without prejudice to sub-clauses 4.2 and 4.3 below.
- 4.2 Parcelpoint reserves the right to make surcharges in connection with the provision of the Services to recover costs associated with operational, national, international or industry-wide situations, including but not limited to increases arising out of any fuel price increases, force majeure event, and increases in Government or any other authority's fiscal or statutory charges payable by Parcelpoint (including but not limited to IATA security surcharges, variations in vehicle excise duty or congestion charging).
- 4.3 Subject to sub-clause 4.4 below, the Client shall pay the Charges without set-off, withholding or deduction within seven (7) days from the date of invoice by direct debit. If the Client fails to pay any sum due under this Agreement on the due date for payment for any reason howsoever arising all Charges shall immediately become due and payable and Parcelpoint will hold all Consignments and shall, without prejudice to any other right or remedy that it may have, suspend the provision of the Services or any part thereof and charge the Client interest at the rate of interest specified from time to time in the Late Payments of Commercial Debts (Interest) Act 1998 calculated daily from the due date for payment until the date on which the obligation of the Client to pay the sum is discharged (whether before or after any judgment) until payment of all Charges is made in full. Services thereafter will only be provided by Parcelpoint following an upfront payment by the Client to cover any further services to be provided by Parcelpoint.
- 4.4 If at any time and in good faith, the Client disputes all or any of the Charges:
- 4.4.1 the Client will notify Parcelpoint within 7 days of the invoice date details of any disputed Charges, specifying the grounds for the dispute and the amount of payment to be withheld;
- 4.4.2 the Client will pay to Parcelpoint within 7 days from the date of invoice all amounts not disputed by the Client;
- 4.4.3 the Parties shall use all reasonable endeavours to resolve the dispute within 14 days of the notice given in accordance with sub-clause 4.4.1;
- 4.4.4 in circumstances where the Parties resolve that the disputed Charges are payable, the Client will pay the Charges (or any lesser sum as may have been agreed) within 7 days of the resolution date; and
- 4.4.5 if the Parties are unable to resolve the dispute within the timeframe set out in sub-clause 4.4, then the Charges shall in any event become payable within 7 days of the expiration of such timeframe.

5. LIABILITY

- 5.1 Parcelpoint's liability for loss or damage sustained by the Client as a consequence of Parcelpoint's acts or omissions in the performance of the Services is limited in accordance with clauses 5.3 to 5.6 and clause 6 below, Parcelpoint's liability arising from any negligent act, omission or breach resulting in loss of or damage to a Consignment shall not exceed the cost price of the Consignment or part thereof and shall be limited as follows:
- 5.1.1 in the event of loss of or damage to the whole of a Consignment or mis-delivery or non-delivery of the Consignment, Parcelpoint's liability shall not exceed the greater of (i) £100 in respect of Services; and (ii) where the Consignment is over 50 kilograms in weight a rate of £2 per kilogram; and
- 5.1.2 in the event of loss of or damage to part of a Consignment, Parcelpoint's liability shall be calculated pro-rata in accordance with condition 5.1.1 above.
- 5.1.3 Parcelpoint will only accept risk for Consignments from the point they are received and scanned into the relevant Parcelpoint site. Bulk loss of Consignments between the Client's site(s) and Parcelpoint's site(s) will be covered by Parcelpoint's insurance up to a maximum of £25.00 per Consignment. Bulk loss is loss of 100 or more Consignments at the same time. Liability for the total loss of all Consignments in any one instance of bulk loss shall be accepted by Parcelpoint up to a limit of the actual cost value of the contents of the Consignment to the Client or £25.00 per Consignment whichever is the lesser amount up to a maximum of £15,000 per trailer. Nothing in this clause shall require Parcelpoint to indemnify the Client against or make good to the Client any loss of goodwill, profit, lost business, revenue or any other purely economic or indirect loss.
- 5.2 Subject to clauses 5.3 to 5.6 and clause 6 below, in the event of any other Claim made under this Agreement other than in respect of delay, loss or damage to a Consignment or mis-delivery or non-delivery of the Consignment, Parcelpoint's maximum liability under this Agreement shall be limited to £50 per Consignment.
- 5.3 Parcelpoint shall have no liability whatsoever unless the Client commences proceedings as detailed in clause 6 within 12 months from the date the Consignment was collected for Carriage.
- 5.4 Neither party shall in any circumstances howsoever arising be liable to the other or to any third party for (i) consequential loss or damage; (ii) indirect loss or damage; (iii) incidental loss or damage; (iv) economic loss of any nature; (v) loss of income; (vi) loss of profits whether direct or indirect; (vii) loss of interest; (viii) loss of future business; (ix) loss of goodwill and (x) loss of sales or turnover.

- 5.5 Nothing in this Agreement shall restrict or exclude liability of the Client or Parcelpoint for (i) death or personal injury caused by that Party's negligence; (ii) any fraudulent act, fraudulent omission or fraudulent misrepresentation by that Party or its officers, employees, sub-contractors, agents or representatives; and (iii) any other liability that cannot be limited or excluded by law.
- 5.6 The Warsaw and Montreal Conventions may apply to the Carriage and may further limit the liability of Parcelpoint.
- 5.7 Unless otherwise agreed to by Parcelpoint, the following items **will not** be carried by Parcelpoint: animals (including birds, fish, insects, larvae, pupae etc); animal products; antiques and art works; banderoles/tax stickers; Bullion (or any precious metal); cash-like negotiable instruments in bearer form (this would include but not be limited to cash, bank notes, currency, vouchers, securities, pre-paid phone cards, activated SIM cards and unused stamps); complete firearms, firearm parts, ammunition, explosives, weapons or items that could be used as weapons (these include but are not limited to decorative swords, kitchen knives etc); costume jewellery over £250 in value; dangerous goods (these include but are not limited to lithium batteries, dry ice, biological substances, UN classified dangerous goods and any goods specified as such under IATA, ADR or IMDG regulations); designer clothing, apparel and accessories over £250 in value; flowers and plant products; furs and garments trimmed with fur; hazardous goods; human remains or ashes; illegal goods (these are goods which are considered illegal in the origin, the transit points and/or the destination countries and would include but not be limited to pirated goods, counterfeit goods and narcotics); imitation (replica) firearms, weapons, explosive devices or ammunition; irreplaceable/ unique items; ivory and other banned products; jewellery and objects constructed of precious metals and/or stones, loose precious stones (including industrial diamonds); legal drugs and pharmaceutical products; medical samples (includes bodily fluids and tissue samples); micro processors, electronic components, mobile telephones and accessories over £250 in value; negotiable instruments in bearer form (this includes but is not limited to blank cheques, blank activated credit cards / debit cards / charge cards or cash dispenser cards and event tickets.); non-hazardous liquids; perishable items that require a temperature controlled environment; personal data; pornography; tobacco; toy guns; and watches with an individual value over £250. This list of items may be amended by Parcelpoint from time to time as published on the web at www.yodel.co.uk.
- 5.8 Parcelpoint may at its sole discretion refuse to carry other items not listed in clause 5.7.
- 5.9 Certain commodities listed in clauses 5.7 and 5.8 above may be accepted for Carriage by Parcelpoint within the UK mainland only (excluding any location serviced by air or sea) subject to prior written approval being obtained from an authorised Parcelpoint representative. The Client shall comply with Parcelpoint's regulations regarding the Carriage of prohibited and restricted items.
- 5.10 The Client hereby fully indemnifies and holds Parcelpoint harmless for any costs, loss or damage arising out of its failure to comply with any applicable laws or statutory obligations or regulations and for its breach of the warranties and representations set out in this Agreement.
- 5.11 Without prejudice to any liability of the Client to Parcelpoint, the Client shall also be responsible for any liability of its Affiliates to Parcelpoint, resulting from this Agreement or the Services provided hereunder.
- 5.12 Any claims by an Affiliate of the Client under this Agreement must be brought directly by the Client against Parcelpoint.
- 5.13 Where the Client has authorised the use of its Parcelpoint account details by a third party, or where the Client has failed to keep its account details secure resulting in the fraudulent use of the account by a third party, then the Client shall be liable and shall indemnify Parcelpoint for all Charges incurred on the Client's account.
- 5.14 In respect of the Parcelpoint Priority 10:00 Service only and subject to this clause 5, Parcelpoint offers the Client a refund of the Charges paid by the Client for the Carriage ("Money-Back Guarantee") where Parcelpoint has failed to deliver the Consignment by 10:00.

6. CLAIMS PROCEDURE AND DISPUTE RESOLUTION

- 6.1 The Client shall comply with the claims procedure as published on the web at www.yodel.co.uk as amended from time to time.
- 6.2 Parcelpoint shall be entitled to require proof of the cost price and if applicable the weight of the whole or any part of the Consignment.
- 6.3 All claims brought under clause 5.2 and all claims for loss of a Consignment or for late delivery in respect of the pre-10am service only, must be made by the Client in writing within 28 days of the date of despatch.
- 6.4 All claims for damage to a Consignment or partial loss of Consignment must be made by the Client in writing within 14 days of the date of delivery.
- 6.5 Should the Client fail to comply with the time limits specified in clauses 5.3, clauses 6.3 or 6.4 above, then Parcelpoint shall have no liability whatsoever.
- 6.7 In the event of a Dispute arising under this Agreement, the Parties shall use their best commercial efforts to negotiate and settle amicably such Dispute. The Parties agree in the first instance to refer any Dispute to their respective account managers. Should the account managers fail to reach resolution within 10 working days of referral of the Dispute, then the Dispute shall be referred to the immediate line manager of the respective account managers for resolution. Should the immediate line managers be unsuccessful in resolving the Dispute within 10 working days of the Dispute being referred to them for resolution, then the Dispute shall be referred to the appropriate senior managers of the Parties.
- 6.8 Provided the procedure set out in sub-clause 6.7 above has been exhausted and in the event the attempt at settlement has failed, the dispute shall finally and exclusively be referred to arbitration by a single arbitrator appointed by agreement between the parties or (in default) nominated on the application of other Party by the

Freight Transport Association, in accordance with the provisions of the Arbitration Act 1996 or any statutory modification or re-enactment thereof.

7. CUSTOMER OBLIGATIONS, WARRANTIES AND INDEMNITIES

- 7.1 Notwithstanding the provisions of clause 5.4, the Client shall warrant and undertake that:
- 7.1.1 all Consignments are appropriately and securely packaged for Carriage taking into account: (i) the content of the Consignment and ensuring that it does not cause damage or injury to equipment, personnel or otherwise; (ii) the rigours of an automated transportation process; and (iii) Parcelpoint's packaging advice located at www.yodel.co.uk. Parcelpoint shall be entitled to refuse to carry Consignments which are not suitably packaged. The Client shall fully indemnify and hold Parcelpoint harmless for any costs, expenses, loss or damage howsoever arising out of its or any third party's failure to comply with the provisions of this clause;
 - 7.1.2 all Consignments are correctly labelled, and that all labels shall be securely fixed, clear, legible and placed on the largest flat surface of each parcel comprising the Consignment for easy visibility. If the Sender has failed to adequately label any parcel within the Consignment then Parcelpoint shall be entitled to refuse to carry the entire Consignment. Parcelpoint, its servants or agents shall not in any circumstances be liable for any late delivery, mis-delivery or non-delivery caused by or contributed to by the deficient or ambiguous labelling or any other failure by the Sender of its labelling obligations;
 - 7.1.3 all data to be provided by it (including by electronic means) in relation to the ordering, labelling, Carriage or invoicing of the Consignment shall be accurate, complete, of the correct type, and be provided in a timely manner as required by Parcelpoint. Such data if required for the provision of the Service shall include but not be limited to the weight of the Consignment; an accurate description of the contents of the Consignment; a full and accurate name and address of the Customer including the postcode, a mobile telephone number, email address and a day time landline telephone number. If the Client has failed to provide all such necessary data which is required for the provision of the Service, then Parcelpoint shall be entitled to refuse to carry the Consignment and/or may charge the Client accordingly. The Client shall fully indemnify and hold Parcelpoint harmless for any costs, expenses, loss or damage howsoever arising out of its or any third party's failure to comply with the provisions of this clause;
 - 7.1.4 it complies with all legal and statutory obligations and regulations regarding the Carriage of Consignments by road, sea and air;
 - 7.1.5 it complies with clause 5.7 and all legal and statutory obligations and regulations regarding the Carriage of the Consignment. The Client shall fully indemnify and hold Parcelpoint harmless for any costs, expenses, loss or damage howsoever arising in circumstances where: (i) the Client or a third party submits items for Carriage which fall within clause 5.7; or (ii) the Client or any third party fails to comply with any applicable laws or regulations (including but not limited to any health and safety obligations);
 - 7.1.6 prior to Carriage, any important documents (including passports and other original documents) are copied; any electronic data is backed-up; and all personal data and confidential information is encrypted. The Client shall fully indemnify and hold Parcelpoint harmless for any costs, expenses, loss or damage incurred by Parcelpoint as a result of such breach howsoever arising;
 - 7.1.7 shall keep confidential and not disclose any information relating to this Agreement including services provided under them and shall not make any press release or other public announcement about Parcelpoint or any matter relating to this Agreement without Parcelpoint's prior written consent;
 - 7.1.8 it shall notify Parcelpoint in writing and request Parcelpoint's prior approval for the Carriage of any Consignment with a value in excess of £30,000;
 - 7.1.9 it has obtained any necessary licences and consents to enable Parcelpoint to provide the Services; and
 - 7.1.10 it shall pre-advise Parcelpoint of all Consignments to be delivered. The pre-advise information is vital for Parcelpoint to identify specific Consignments service offer expectation. In the event the Client fails to pre-advise Parcelpoint service levels will not be guaranteed on nor apply to any Consignment that enters the network without pre-advise. Parcelpoint will not be liable for Consignments that may fail service levels due to non-receipt of file transfer information from the Client, reported as 'non pre-adviced' UPI data.
- 7.2 In the event of a breach of any of the obligations in clause 7.1 above which causes loss of or damage to the Consignment, or delay or mis-delivery or non-delivery, then Parcelpoint's liability as specified in clause 5 will be excluded.
- 7.3 Subject to clause 5.4 above, if the Customer, Sender or any other party makes any claims for liabilities or damages or makes any attempt to recover any costs or expenses ("Claim") against Parcelpoint, its agents or sub-contractors, then the Client shall indemnify Parcelpoint, its agents and sub-contractors against any such Claim where Parcelpoint has already paid the Client the limits set out in clause 5 and/or where Parcelpoint's liability to the Sender or Customer or any other party exceeds the limits set out in clause 5.
- 7.4 For any Consignments that may be carried by air, in accordance with IATA, EU Regulation (EC) No 2320/2002 on civil aviation security and any other relevant international legal and statutory obligations and regulations, the Client warrants that:
- 7.4.1 the Consignment was prepared in secure premises by Client's employees;
 - 7.4.2 the Client employed reliable staff to prepare the Consignment; and
 - 7.4.3 it protected the Consignment against unauthorised interference during preparation, storage and transportation to Parcelpoint.
- 7.5 Certain commodities listed in paragraphs 5.7 and 5.8 and Schedule 3 of this Agreement may be accepted for Carriage by Parcelpoint within the UK mainland only (excluding any location serviced by air or sea) subject to

prior written approval being obtained from an authorised Parcelpoint representative. The Client shall comply with Parcelpoint's regulations regarding the Carriage of prohibited and restricted items and Schedule 3 where dangerous goods are to be carried.

8. TUPE

- 8.1 The Client and Parcelpoint acknowledge and agree that, for the purposes of TUPE, there will be no relevant transfer on or after the Commencement Date by virtue of this Agreement and that no contract of employment between the Client or a third party and any employee will have effect on or after the Commencement Date as if originally made between Parcelpoint and that employee.
- 8.2 However, if there was a relevant transfer for the purposes of TUPE by virtue of this Agreement, the Client shall indemnify Parcelpoint in full against all actions, proceedings, demands, awards, costs, fines, orders, expenses and liabilities (including legal and other professional fees and expenses) ("Losses") arising in connection with any claims made by or on behalf of an affected employee or appropriate representative arising out of a failure to inform or consult appropriate representatives under Regulation 13 of TUPE.
- 8.3 If any contract of employment between the Client or a third party and an employee should have had effect as if originally made between Parcelpoint and that employee (the "Transferred Employee"), the Client shall indemnify Parcelpoint in full against all Losses arising in connection with any claims made by or on behalf of a Transferred Employee that their contract of employment should have transferred to Parcelpoint on or after the Commencement Date including the termination of the employment of any of the Transferred Employees and anything done or omitted to be done in respect of any of the Transferred Employees which is deemed to have been done by Parcelpoint, or liability is attributed to Parcelpoint, by virtue of TUPE.
- 8.4 If any person employed by Parcelpoint in connection with the Services is made redundant by Parcelpoint at anytime during this Agreement or in connection with the termination of this Agreement in circumstances where TUPE does not apply to such termination, the Client shall indemnify Parcelpoint in full against all Losses arising in connection with such redundancies (including, without limitation, contractual and statutory redundancy payments and payments in lieu of notice).
- 8.5 For the purposes of sub-clause 8.2 above, references to "affected employee" and "appropriate representative" shall be construed in accordance with Regulation 13 of TUPE.

9. INTELLECTUAL PROPERTY

- 9.1 All Intellectual Property created or developed by Parcelpoint or which forms part of the Services shall at all times remain the property of Parcelpoint.
- 9.2 Where applicable, Parcelpoint grants to the Client for the duration of this Agreement the Licence specified in Schedule 2 and the Client agrees to be bound by the provisions of such Licence.
- 9.3 The Client hereby agrees that it has read and agrees to be bound by any relevant Parcelpoint Software licences and any other third party software licences. Any licences granted hereunder will immediately terminate on the termination or expiry of this Agreement.

10. SUB-CONTRACTING

- 10.1 Parcelpoint shall be entitled to assign, transfer or sub-contract this Agreement and the Carriage or any part thereof to any third party sub-contractor or its Affiliates. Parcelpoint shall remain liable to the Client to the extent set out in this Agreement for the performance of any sub-contractor. The Client shall not be entitled to assign, transfer or sub-contract its rights or obligations under this Agreement without the prior written approval of Parcelpoint.
- 10.2 Any sub-contractor or agent of Parcelpoint shall be entitled to rely on and enforce any of the provisions of this Agreement as if it were a party hereto in the place of Parcelpoint.

11. THIRD PARTY RIGHTS

- 11.1 Subject to clause 10 above, the Parties agree that the provisions of the Contracts (Rights of Third Parties) Act 1999, shall not apply to this Agreement. For the avoidance of doubt, any Affiliate of the Client shall be deemed to be a third party under this Agreement.

12. NOTICES

- 12.1 All notices sent under this Agreement shall be in writing and shall be sent to the address of the recipient set out in this Agreement and shall be delivered personally or sent by pre-paid first class post. A notice is deemed to have been received if delivered personally, at the time of delivery, or in the case of pre-paid first class post, 72 hours after posting.

13. CONFIDENTIALITY AND ANNOUNCEMENTS

- 13.1 Each Party agrees to keep all Confidential Information confidential and shall not at any time during this Agreement, and for a period of 2 years after termination of this Agreement, disclose to any person any Confidential Information except as permitted by sub-clause 13.2 below.
- 13.2 Each Party may disclose the other Party's Confidential Information:
 - 13.2.1 to its employees, officers, representatives or advisers who need to know such information for the purposes of carrying out its obligations under this Agreement. Each Party shall ensure that its employees, officers, representatives or advisers to whom it discloses such Confidential Information comply with this clause 13; and

- 13.2.2as may be required by law, court order or any governmental or regulatory authority.
- 13.3 Neither Party shall use the other Party's Confidential Information for any purpose other than to perform its obligations under this Agreement.
- 13.4 This clause 13 shall not apply to Confidential Information which is:
- 13.4.1 or becomes part of the public domain through no fault of the receiving Party;
 - 13.4.2 known to the receiving Party prior to the disclosure by the disclosing Party without an obligation to keep such Confidential Information confidential;
 - 13.4.3 subsequently obtained by the receiving party from a third party without breach of any obligation of confidentiality owed to a third party or to the disclosing Party; or
 - 13.4.4 independently developed by the receiving Party without any breach of this Agreement.
- 13.5 The Parties shall keep confidential and not disclose any information relating to this Agreement including the Services provided under them and shall not make any press release or other public announcement about the other Party or any matter relating to this Agreement without such Party's prior written consent.

14. DATA PROTECTION

- 14.1 All personal data provided to Parcelpoint under these Conditions will be held and processed by Parcelpoint its servants, agents and where applicable carefully selected third party companies and shall be used fairly, in confidence and solely for the purposes of providing the services. Parcelpoint shall keep such personal data secure and shall comply with the Data Protection Act 1998.
- 14.2 The Client warrants that all personal data provided to Parcelpoint has been fairly and lawfully obtained and the Client has authority to disclose such personal data to Parcelpoint and for Parcelpoint to lawfully process it. The Client shall fully indemnify and holds harmless Parcelpoint for any costs, expenses, losses or damage howsoever arising out of its failure to comply with this warranty.

15. FORCE MAJEURE

- 15.1 Parcelpoint is not liable for any loss, damage, failure to perform, or delay in performing any of its duties due to circumstances beyond its reasonable control, including but not limited to: flood; fire; "Act of God"; strike, lock-out or other labour dispute; threat and/or act of terrorism; malicious damage; riot or civil commotion; accident; adverse traffic conditions; mechanical breakdown; war or any other military action; earthquake; severe weather conditions; pandemic; plane crash; embargo; compliance with any law or governmental order, rule, regulation or direction not in force on the date of collection of the Consignment; and electrical or magnetic damage to, or erasure of, electronic or photographic images, data or recordings.

16. VARIATION AND WAIVER

- 16.1 No variation of this Agreement shall be valid unless it is in writing and signed by an authorised representative of each Party.
- 16.2 The waiver or failure of either Party to exercise any right provided for under this Agreement shall not be deemed a waiver or failure to exercise any other right. No waiver by either Party of any provision of this Agreement shall be binding unless expressly made or confirmed in Writing. Any such waiver shall relate only to such matter, non-compliance or breach as it expressly relates to and shall not apply to any subsequent or other matter, non-compliance or breach, nor shall any delay or omission on the part of either Party to exercise or avail itself of any right, power or privilege it has or may have hereunder operate as a waiver of any breach or default by the other Party.

17. INVALIDITY AND SEVERABILITY

- 17.1 If any provision of this Agreement is found by any court or administrative body of competent jurisdiction to be invalid or unenforceable, the invalidity or unenforceability of such provision shall not affect the other provisions of this Agreement and all provisions not affected by such invalidity or unenforceability shall remain in full force and effect. The Parties hereby agree to attempt to substitute for any invalid or unenforceable provision a valid or enforceable provision, which achieves to the greatest extent possible the economic, legal and commercial objectives of the invalid or unenforceable provision.

18. ENTIRE AGREEMENT & CONFLICTING PROVISIONS

- 18.1 This Agreement including any variations agreed between the Parties in accordance with clause 16, contains the entire agreement of the Parties and supersedes all other oral or written agreements with respect to the subject matter of this Agreement. Any oral or written representations made by one Party to the other and not contained in this Agreement or the Schedules hereto shall not have any contractual effect whatsoever. Variations to this Agreement are valid only when signed by duly authorised representatives of both Parties hereto.

19. GOVERNING LAW

- 19.1 This Agreement and any non-contractual obligations arising out of or in connection with it shall be governed by and construed in accordance with the laws of England and the Parties submit to the non-exclusive jurisdiction of the English courts.

SCHEDULE 2 - PRODUCT LICENCE

1. Definitions

1.1 In this Schedule 2, unless the context otherwise requires, the following expressions have the following meanings and will be supplemental to the definitions within the main body of the Agreement which are also used within this Schedule 2:

- “**Licence**” means the licence granted by Parcelpoint to the Customer pursuant to paragraph 2;
- “**Location**” means the initial location where the Products are to be installed and used by the Customer as denoted in the Schedule, or any subsequent location agreed to in writing from time to time by Parcelpoint;
- “**Media**” means the media on which the relevant Products are recorded or printed including, without limitation, any CD/DVD-ROM, tape, memory stick/USB or diskette owned by Parcelpoint and licensed to the Customer during the term of the Agreement;
- “**Product(s)**” means the Parcelpoint Software and/or the Parcelpoint Property and the Media loaned or licensed by Parcelpoint during the term of the Agreement to the Customer from time to time pursuant to the Agreement, including those items listed in paragraph 4.2 below; and
- “**Specification**” means the specification of the relevant Products describing the capabilities functions and operating instructions thereof, as amended by Parcelpoint from time to time.

2. Grant of Licence and Loan of Products

- 2.1 Parcelpoint grants the Customer a limited, royalty-free, non-exclusive, non-transferable, revocable licence to use the Products subject to the terms and conditions contained in this Schedule.
- 2.2 Parcelpoint agrees to loan or licence the Products to the Customer with effect from the date of delivery of the Products to the Customer at the Location.

3. Ownership and Risk

- 3.1 Ownership and title in the Products shall at all times remain vested in Parcelpoint.
- 3.2 Risk in the Products shall pass to the Customer on delivery. If all or part of any Product is lost, destroyed or damaged after the delivery date, then Parcelpoint shall replace the Product subject to the Customer paying the cost of such replacement.

4. Parcelpoint Obligations

- 4.1 Parcelpoint shall:
- 4.1.1 arrange and/or pay for the delivery and installation of the Products at the Location, , and for the de-installation and return of the Products to Parcelpoint at the end of the Agreement. For the avoidance of doubt, Parcelpoint may charge for de-installation and re-installation where Parcelpoint permits the Customer to move the Products to a new Location during the term of the Agreement;
- 4.1.2 install the Products at the Location. The Products delivered shall consist of at least one copy of the object code of the Parcelpoint Software in machine-readable form only; and
- 4.1.3 except as provided in paragraphs 4.2 and 4.3 below, maintain the Products at no cost to the Customer during the term of this Agreement provided that the Products are used and operated in accordance with this Agreement and/or Parcelpoint’s written instructions provided from time to time.
- 4.2 Parcelpoint may on the Commencement Date provide the Customer with an initial supply of consumables to use with the Parcelpoint Property including (without limitation and subject to change):
- 4.2.1 Printer ribbons and cartridges;
- 4.2.2 Diskettes; and
- 4.2.3 Listing paper.
- On depletion of the above, the Customer shall be responsible for supplying these and any other required consumables at its own cost. Notwithstanding the provisions of this paragraph 4.2 Parcelpoint will for the duration of this Agreement provide the Customer with adhesive shipment labels at no extra cost.
- 4.3 The Customer will pay at Parcelpoint’s prevailing rates for replacement of all or part of the Products, parts, labour, materials and transportation, for any maintenance or repairs which are necessary due to:
- 4.3.1 misuse, abuse or neglect of the Products whilst in the Customer’s possession;
- 4.3.2 use of the Products not in conformance with the Specification, Parcelpoint Property documentation and/or Parcelpoint’s written instructions from time to time; or
- 4.3.3 modification, repair, alteration or maintenance of the Parcelpoint Property by any person or entity other than Parcelpoint without Parcelpoint’s written consent.
- 4.4 Where Parcelpoint provides a modem as part of the Parcelpoint Property the Customer will be responsible for all costs associated with installation of the telephone line and call costs.

5. Customer Obligations

- 5.1 The Customer agrees:
- 5.1.1 to inspect the Products on delivery and notify Parcelpoint immediately in writing of any defects in the Products;
- 5.1.2 to have the necessary systems and facilities in place to enable electronic data interchange with Parcelpoint;
- 5.1.3 not to pass any viruses, worms, Trojan horses, time locks or time bombs or similar thing to Parcelpoint through its use of the Products;

- 5.1.4 to allow Parcelpoint or its duly authorised agent or representative upon reasonable notice during working hours to inspect and/or repair the Products;
- 5.1.5 to use the Products in a skilful and proper manner and in accordance with any Specification issued for them and to ensure that the Products are operated and used by properly skilled and trained personnel, and indemnify Parcelpoint against any failure to do so;
- 5.1.6 to make no alteration, and not to remove any existing components from the Products (unless in the ordinary course of repair and maintenance as approved by Parcelpoint);
- 5.1.7 to assume all risks (including for loss or damage) and to insure and keep the Products insured throughout the duration of this Agreement, against all risks on a comprehensive insurance policy at their list price in the case of hardware, or restoration price in the case of software;
- 5.1.8 to keep the Products in its own possession at the Location and in compliance with any policy of insurance relating to the Products;
- 5.1.9 not, without the prior written consent of Parcelpoint, to use the Products in any location except the Location;
- 5.1.10 not, without the prior written consent of Parcelpoint, to use the Products in combination with any other hardware, software or systems, nor remove or move any Products;
- 5.1.11 not to transfer, sell, assign, sub-licence, pledge, or otherwise dispose of, encumber or suffer a lien or encumbrance upon or against any interest in the Products;
- 5.1.12 to deliver up the Products in good condition (ordinary wear and tear excepted) and in working order at the expiry of the Agreement or upon the earlier termination of this Agreement to such address as Parcelpoint shall notify to the Customer;
- 5.1.13 to notify Parcelpoint in writing immediately of any loss or damage to the Products and to indemnify Parcelpoint against such loss or damage;
- 5.1.14 to deliver to Parcelpoint the relevant delivery note for the Products (including where Parcelpoint agrees to exchange any Products for whatever reason) and for the avoidance of doubt, Parcelpoint may deem use of the Products as delivery ;
- 5.1.15 to ensure at all times that it is using the most up-to-date version of the Parcelpoint Software as provided by Parcelpoint from time to time. Parcelpoint shall have no liability to the Customer for any loss or damage resulting from the Customer's failure to comply with this paragraph 5.1.15;
- 5.1.16 to pay for all data communication, interface and all other costs arising out of the use of the Products whilst at the Location; and
- 5.1.17 to use the Products for the processing and management of Consignments to Parcelpoint and for no other purpose.