

DP WORLD SOUTHAMPTON

TERMS AND CONDITIONS FOR PURCHASE OF GOODS & SERVICES

DEFINITIONS

In these Terms and Conditions, unless the context requires, the following words bear the following meanings:

Adequate Procedures means adequate procedures, as referred to in section 7(2) of the Bribery Act 2010 and any guidance issued by the Secretary of State under section 9 of the Bribery Act 2010

Agreement means the agreement between the Purchaser and the Supplier consisting of the Purchase Order, these Terms and Conditions, the Specification, and any other documents (or parts thereof) specified in the Purchase Order or otherwise expressly incorporating these Terms and Conditions

Anti-Corruption Legislation means the Bribery Act 2010 in the United Kingdom and any applicable law, rule, regulation and other legally binding measure relating to the prevention of bribery, corruption, fraud or similar related activities (in each case, as amended from time to time)

Applicable Laws and Standards means, depending on the context, all or any laws (including for the avoidance of doubt the health and safety laws, work permits and residency requirements), statutes, proclamations, recommendations, codes of practice, DP World Standards, bye-laws, directives, regulations, statutory instruments, rules, orders, decisions, rules of court, delegated or subordinate legislation, rules of common law or any European Union legislation (including any declarations of conformity), at any time or from time to time in force in the United Kingdom and which are or may become applicable to the Agreement, any agreement or document referred to in the Agreement, or the Services and/or Goods.

Commencement Date has the meaning set out in clause 2.4

Delivery has the meaning set out in clause 4.5

Documents means any drawings, reports, specifications, operating and maintenance manuals, product information, schedules and other information and documentation and the designs contained in them prepared or provided or to be prepared or provided by the Supplier or others on its behalf in the performance of the Services and/or the provisions of the Goods

DP World Southampton has the meaning provided for in the definition of SCT below

DP World Standards means the standards, methods, practices, procedures, guidelines, and policies in force from time to time

Goods means the goods (or any part of them) set out in the Agreement

Intellectual Property Rights means any registered and unregistered trade marks, trade names, brand names, logos, trade dress, registered and unregistered designs, patents, and any applications for registration thereof, and any know how, copyright and database rights wherever subsisting

Purchaser means the DP World legal entity specified in the Purchase Order

Purchase Order means the Purchaser's Purchase Order or any other order for Goods and/or Services issued by the Purchaser to the Supplier together with any other documents (or part thereof)

specified in the Purchase Order and any amendments thereto

Replacement Supplier means any individual or third party contractor with whom the Purchaser contracts to provide services the same as or similar to the Services prior to, on or following a Service Cessation Date

SCT means Southampton Container Terminals Limited, with company number 01960484, a company formed under the laws of England and Wales, having its registered office at 16 Palace Street, London SW1E 5JQ, trading as **DP World Southampton**

SCT Port means the port operated by SCT and the surrounding site or associated areas controlled by SCT in Southampton

Service Cessation has the meaning given to it in clause 21.1

Service Cessation Date has the meaning given to it in clause 21.1

Services means the services covered by the Agreement

Specification means the specification detailed in a schedule to be attached to these Terms and Conditions, or as separately documented by the Purchaser in writing (whether by email or otherwise) which sets out the performance required of the Goods and/or Services

Supplier means the person, firm (or any individual partner thereof), or company from whom the Purchaser purchases the Goods and/or Services

Terms and Conditions means the terms and conditions set out below

Transferring Supplier Personnel means all Supplier Personnel who are wholly or mainly assigned to the provision of the Services on a Service Cessation Date

TUPE means the Transfer of Undertakings (Protection of Employment) Regulations 2006

1 Construction

- 1.1 References to clauses are unless otherwise stated to clauses of the Terms and Conditions.
- 1.2 References in the Terms and Conditions to statutory provisions shall be construed as references to those provisions as respectively replaced or amended or re-enacted from time to time and includes any subordinate legislation for the time being in force made under it.
- 1.3 Words importing the singular include the plural and vice versa, words importing a gender include every gender and references to persons include bodies corporate or unincorporated.
- 1.4 The headings to the clauses do not affect their interpretation.
- 1.5 References to either party herein include references to its successors in title, permitted assignees and novatees.
- 1.6 If any provision of the Terms and Conditions is prohibited by law or judged by a court or other competent tribunal to be unlawful, void or unenforceable, the provision shall, to the extent required, be severed from the Terms and Conditions and rendered ineffective as far as possible without modifying the remaining provisions of the Terms and Conditions, and shall not in any way affect any other circumstances of or the validity or enforcement of the Terms and Conditions.
- 1.7 No variation or addition to the Terms and Conditions or the Purchase Order is effective unless

and until the Purchaser so agrees in writing.

2 Status of Terms and Conditions

- 2.1 Save in the event that the parties have entered into a bespoke agreement, which governs the relationship and is signed by the Purchaser, these Terms and Conditions shall apply to the provision of all Goods and/or Services in relation to the Purchaser unless and to the extent agreed otherwise by the Purchaser in writing prior to the commencement of the performance or provision of the Services and/or Goods. For the avoidance of doubt, these Terms and Conditions do not cover and exclude services provided by shipping lines at the SCT Port which are either governed by separate terminal services agreements between SCT (Co. No. 01960484) and the relevant shipping line or, in the absence of such a terminal services agreement, the general terms and conditions will apply to the shipping line and can be found at <https://www.dpworldsouthampton.com/about/terms-and-conditions>
- 2.2 Subject to clause 2.1, the Agreement governs the dealings between the Purchaser and the Supplier and shall prevail to the exclusion of any conditions proposed by the Supplier or referred to in any quotation, invoice or other documents or communications by the Supplier.
- 2.3 The Purchase Order constitutes an offer by the Purchaser to purchase Goods and/or Services from the Supplier in accordance with these Terms and Conditions.
- 2.4 The Purchase Order shall be deemed to be accepted on the earlier of:
- (a) the Supplier issuing written acceptance of the Purchase Order; or
 - (b) any act by the Supplier consistent with fulfilling the Purchase Order; or
 - (c) a date which is 14 days after the Purchase Order is sent by the Purchaser to the Supplier provided no written rejection notice is received by the Purchaser from the Supplier within such 14 day period

at which point and on which date the Agreement shall come into existence and be the deemed Commencement Date.

- 2.5 Any conditions which the Supplier purports to impose or incorporate will not form part of the Agreement.

3 Supply and Standard of Services and Goods

- 3.1 The Supplier shall from the Commencement Date and for the duration of the Agreement provide the Services to the Purchaser in accordance with the terms of the Agreement.
- 3.2 The Supplier shall meet any performance dates for the Services specified in the Agreement or if there are no such dates, the Supplier shall furnish such programmes for the Services as the Purchaser may reasonably require within 14 days of receipt of the Purchase Order. The Supplier's programmes shall give details of its proposals for carrying out the Services within the time stipulated indicating the sequence and timing of all operations forming part of the Services.
- 3.3 The Supplier warrants and represents to the Purchaser that any Services performed by the Supplier or duly appointed sub-contractor:
- (a) shall be performed by suitably qualified personnel in a good and workmanlike fashion and with all due speed, with the best care, skill and diligence required in accordance with best practice in the Supplier's industry, profession or trade; and
 - (b) shall be carried out in accordance with the Agreement, with current industry standard

codes of practice and the highest standards prevailing in the Supplier's industry, and that all necessary licences, work permits or other authorisations have been obtained.

- 3.4 If any Goods or materials required by the Supplier for the provision of the Services are not delivered fully in accordance with any stipulations in the Agreement, the Supplier shall immediately effect correct delivery and shall be responsible for any additional costs and expenses incurred by both parties in so doing.
- 3.5 The Purchaser shall have the right, during the performance of the Services, to immediately suspend any payment obligation in respect of the Services if the performance does not conform in quality with any stipulations in the Agreement or if the performance is delayed.
- 3.6 The Supplier must ensure that all Goods and/or Services conform to all specifications and samples given by the Supplier or stipulated by the Purchaser and that they are fit for any purpose which the Purchaser has expressly made known to the Supplier or for which they may reasonably be expected to be intended.
- 3.7 Where Goods are supplied in breach of the Agreement, the Purchaser has the right at its discretion, to demand that the Supplier shall, as soon as reasonably practicable repair or replace any or all of the Goods. The Purchaser's rights under this clause shall be without prejudice to the Purchaser's other rights to reject the Goods and claim damages and repayment of the price (or any part thereof) whether under the Agreement or otherwise. Where the Services performed are considered incomplete, inadequate or not in accordance with what was agreed, the Purchaser has the right, at its discretion, to demand that the Supplier shall, as soon as reasonably practicable, reperform the Services without prejudice to the Purchaser's other rights to reject the Services and claim damages and repayment of any Price (or part thereof) whether under this Agreement or otherwise.
- 3.8 The Supplier shall provide the Purchaser with any Documents as part of the Goods and/or Services including any other documentation which the Purchaser may need to comply with the obligations imposed by the Control of Substances Hazardous to Health 2002 (COSHH) as amended or any similar regulations, rules or requirements. Such documentation shall include, without limitation, material safety data sheets.
- 3.9 Where required by the Purchaser, the Supplier shall provide independent documentary evidence of the quality of the Goods supplied. Such independent documentary evidence may include (but shall not be limited to) milling certificates, quality certificates or such other Documents as the Purchaser might require.
- 3.10 The Supplier shall ensure that its personnel have the necessary permissions, status and credentials required by any Applicable Laws and Standards to work in England and Wales.

4 Delivery of Goods and Provision of Services

- 4.1 Unless otherwise instructed in writing by the Purchaser's nominated representative, all Goods must be delivered and all Services must be performed at the SCT Port.
- 4.2 The date for the delivery of the Goods and/or the provision of the Services shall be as specified in the Purchase Order.
- 4.3 The Supplier shall supply the Purchaser with details of the anticipated lead times between placing an order and delivery of any Goods and/or Services and the Supplier shall keep the Purchaser informed of progress.
- 4.4 If Goods and/or Services are incorrectly delivered the Supplier shall be responsible for additional expenses incurred in delivering them to the correct point specified in the Agreement or subsequently advised in writing by the Purchaser.

4.5 Delivery occurs:

- (a) upon handing over or installation of Goods by the Supplier to the Purchaser at the SCT Port or such other place as specified in the Purchase Order and in accordance with the terms of the Agreement; or
- (b) where an installation certificate or similar document is required, on handing over of the installation certificate or similar document and in accordance with any other terms of the Agreement.

4.6 The quantity specified in the Agreement may not be changed without the Purchaser's prior written consent. Quantities delivered in excess of those stated in the Agreement may not be accepted.

5 Imported/Exported Goods

5.1 Without prejudice to clause 7 hereof, where Goods are supplied across international borders, the Supplier shall:

- (a) promptly complete any declarations and make any applications necessary for the intended supply of the Goods;
- (b) pay any duty, VAT, customs charges or other taxes or imposts payable upon the supply of the Goods;
- (c) promptly obtain any licences, clearances or other consents necessary for the supply of the Goods;
- (d) arrange and pay for suitable export packing of the Goods; and
- (e) arrange and pay for the carriage of the Goods so as to ensure delivery in accordance with clause 4 hereof.

5.2 If the Supplier is unable to comply with its obligations in clauses 5.1(a) to 5.1(e), it must notify the Purchaser prior to entering into the Agreement.

6 Passing of Property and Risk in Goods

6.1 Subject to clause 4.5, the title and risk in Goods shall remain with the Supplier until:

- (a) they are delivered at SCT Port or at such other place specified in the Agreement;
- (b) a nominated employee of the Purchaser signs a delivery note; and
- (c) the provisions of clauses 3.4, 3.6 and 3.7 of these Terms and Conditions are complied with

at which point they shall pass to the Purchaser (the **Delivery Date**).

6.2 Neither payment by, nor passage of property or risk in the Goods and/or the Services to, the Purchaser shall be deemed to constitute acceptance of the Goods and/or the Services.

6.3 The Supplier warrants that at the Delivery Date the Supplier has:

- (a) full, clear and unencumbered title to all the Goods; and

- (b) obtained and shall make available to the Purchaser all licences, clearances, consents and authorisations necessary for the provision of the Goods and/or Services to the Purchaser.

6.4 The Supplier shall keep the Goods insured until the Delivery Date.

7 Contract Price and Terms of Payment

7.1 The price payable for the Goods and/or Services is as stated in the Purchase Order and unless otherwise agreed shall be exclusive of VAT, and inclusive of all packaging, loading, carriage, delivery, installation, insurance and other related charges. Any increase in the price for any reason shall be subject to the express prior written consent of the Purchaser.

7.2 Provided the Goods and/or Services have been delivered to the Purchaser on the Delivery Date, payment will be made by the Purchaser to the Supplier for Goods and/or Services which comply with the Agreement. Payment will be made within 30 days from receipt of invoice. VAT, where applicable, will be shown separately on all invoices as a strictly net extra. The Purchaser reserves the right to set off any sums in respect of which the Supplier may be in default to the Purchaser.

7.3 Invoices must include such supporting information required by the Purchaser to verify their accuracy and the relevant Purchase Order number. The Purchaser will accept no liability whatsoever for invoices, delivery notes or other communications which do not bear a Purchase Order number, which are not addressed to the correct registered legal entity, or which do not follow the instructions of the Purchaser.

8 Inspection

8.1 The Purchaser has the right, but is not obliged, at any time during normal working hours to inspect any Goods and/or Services which are the subject of the Agreement prior to the Delivery Date.

8.2 Inspection of the Goods and/or Services by the Purchaser does not relieve the Supplier of or otherwise reduce any obligation, responsibility or liability under the Agreement or otherwise.

8.3 The Purchaser may use any reasonable means to satisfy itself that the correct materials, workmanship, skill and care are being or have been used.

8.4 If the Purchaser reasonably considers that the Goods and/or Services are not in accordance with the Purchase Order or otherwise in breach of the Agreement:

- (a) the Purchaser has the right to instruct alternative suppliers of Goods and/or Services to provide the Goods and/or Services; and
- (b) any increase in cost to the Purchaser of instructing alternative suppliers shall be borne by the Supplier.

9 Purchaser's Premises

9.1 All personnel appointed by the Supplier or the Supplier's subcontractors or agents working within the Purchaser's premises must report to the person designated by the Purchaser in the Purchase Order prior to commencing work or to such other person as may from time to time be nominated by the Purchaser.

9.2 Where any Purchase Order requires the Supplier to provide Goods and/or Services to SCT, the Supplier and its employees, sub-contractors and agents working on the premises must:

- (a) observe all relevant statutory rules, regulations, bye-laws and site regulations;
 - (b) comply with the reasonable instructions (including notices) of the Purchaser, their employees or appointed agents; and
 - (c) comply with the DP World Standards, particularly those applicable to the SCT Port
- 9.3 All personnel appointed by the Supplier or the Supplier's subcontractors or agents working on the Purchaser's premises must be competent, appropriately trained, courteous and well presented.
- 9.4 The Purchaser has the right to request the immediate removal from the SCT Port of the Supplier's employees, subcontractors, agents (or the employees of either of them) or anyone under the instruction of the Supplier.
- 9.5 The Supplier shall take all reasonable steps to advise any employees, subcontractors, agents (or employees of either of them) or anyone instructed by or on behalf of the Supplier that entry onto the SCT Port is subject to these Terms and Conditions and to supply that party with a copy of those conditions.
- 9.6 The Supplier shall ensure that the Supplier and any subcontractor or agent of the Supplier arranges and maintains in full force at all times adequate insurance to cover the Supplier (or the subcontractor or agent, as the case may be) for its liabilities arising from or in relation to any Goods and/or Services on the SCT Port whether such liabilities arise under the Agreement or otherwise.
- 9.7 The insurance arranged in accordance with clause 9.6 shall be on terms which:
- (a) provide for a waiver of subrogation for any claims against the Purchaser; and
 - (b) cannot be varied or withdrawn except with the written agreement of the Purchaser.
- 9.8 The Supplier shall provide to the Purchaser copies of any insurance policies or a letter from their insurers providing details of the insurance provisions arranged in accordance with clause 9.6 within 7 working days of a request.
- 9.9 The Supplier shall not do, cause or suffer to be done anything which might vitiate or otherwise prejudice the terms of such insurance or any claims thereunder.

10 Purchaser's Remedies

- 10.1 If Goods are not supplied and/or delivered or Services are not performed on the agreed due dates specified in the Purchase Order and/or agreed in writing or otherwise in accordance with the terms of the Agreement, the Purchaser may, without prejudice to any other rights it may have, at its discretion:
- (a) cancel the Agreement in whole or in part upon written notice to the Supplier;
 - (b) in the case of Goods which do not comply with the undertakings set out in the Agreement, reject the Goods (in whole or in part) whether or not title has passed and return them to the Supplier, require the Supplier to repair or replace the rejected Goods or to provide a full refund of the price of the rejected Goods (if paid);
 - (c) accept the Goods and/or Services without prejudice to its right to claim damages for any loss or damage incurred as a result of the Goods and/or Services not conforming with the Agreement or any other breach of these Terms and Conditions;

- (d) refuse to accept any subsequent performance of the Services and/or delivery of the Goods which the Supplier attempts to make;
 - (e) recover from the Supplier any costs incurred by the Purchaser in obtaining substitute goods and/or services from a third party;
 - (f) where the Purchaser has paid in advance for the Services that have not been provided by the Supplier and/or Goods which have not been delivered by the Supplier, to have such sums refunded by the Supplier; and
 - (g) claim damages for any additional costs, loss or expense incurred by the Purchaser arising from the Supplier's failure to supply Goods or perform Services in conformity with the Agreement.
- 10.2 Payment by the Purchaser for Goods and/or Services will not prejudice any right of rejection or any other remedy afforded by the Agreement or otherwise.
- 10.3 If the Purchaser rejects any Goods, the property and risk in the Goods shall immediately revert to the Supplier. Rejected Goods will be removed by the Supplier at its expense and the Supplier shall reimburse the Purchaser for any storage costs or any other expense or loss of whatever nature incurred by the Purchaser in respect of the rejected Goods.
- 10.4 These Terms and Conditions extend to any repaired or replacement Goods and/or Services supplied by the Supplier.
- 10.5 The Purchaser's rights under the Agreement are in addition to its rights and remedies implied by statute and common law.

11 Compliance with Statutes and Regulations

- 11.1 The Goods and/or Services must comply in all respects with the Specification or any modifications that may be agreed in writing. The Goods and/or Services supplied must also comply in all respects with the Agreement, Applicable Laws and Standards, the implied conditions, save as otherwise provided for in clause 11.2, the warranties and terms contained in the Sale of Goods Act 1979, the Supply of Goods and Services Act 1982, other relevant statutes, any statutory re-enactment(s) or modification(s) thereof, regulations and other legal requirements.
- 11.2 The Goods must be supplied with adequate instructions and such applicable Documents as to use and use-by date, fit for the purpose for which they are intended, of satisfactory quality, and free from defects in design, material and workmanship and remain so for a period of 12 months from the Delivery Date.

12 Prevention of Corruption

- 12.1 The Supplier shall (and procure that its officers, employees and agents shall) conduct its business, and require any subcontractors to conduct their business, in compliance with all Anti-Corruption Legislation at all times.
- 12.2 Without prejudice to the Supplier's obligation to comply with the Anti-Corruption Legislation, the Supplier warrants that it has employed and shall maintain its own Adequate Procedures designed to prevent incidences of corruption. Further, if not already in place, the Supplier shall appoint a senior manager or working committee tasked with monitoring the adequacy of, and adherence to, such procedures.
- 12.3 The Supplier shall ensure that any other person associated with the Supplier who is performing the Services or providing Goods in connection with the Agreement does so only on the basis of

a contract which imposes on such person terms equivalent to those imposed on the Supplier in this clause.

- 12.4 The Supplier shall notify the Purchaser without delay of any breach or potential breach of the Anti-Corruption Legislation that the Supplier becomes aware of, and it shall cooperate with the Purchaser and provide to the Purchaser all information that is reasonably requested by the Purchaser for the purpose of assessing its own potential liability under the Anti-Corruption Legislation arising in connection with any such breach or potential breach.

13 Compliance with Anti-Slavery and Human Trafficking Laws and Policies

- 13.1 In performing its obligations under the Agreement, the Supplier shall:
- (a) comply with all applicable anti-slavery and human trafficking laws, statutes, regulations and codes from time to time in force including, but not limited to, the Modern Slavery Act 2015; and
 - (b) have and maintain throughout the duration of the Agreement its own policies and procedures to ensure its compliance; and
 - (c) not engage in any activity, practice or conduct that would constitute an offence under sections 1, 2 or 4 of the Modern Slavery Act 2015 if such activity, practice or conduct were carried out in the UK; and
 - (d) require in writing that each of its subcontractors and suppliers shall comply with the anti-slavery policy and with all applicable anti-slavery and human trafficking laws, statutes, regulations and codes from time to time in force including, but not limited to, the Modern Slavery Act 2015.

14 Intellectual Property Rights

- 14.1 The Supplier shall grant to the Purchaser, or shall procure the grant to the Purchaser of, a royalty-free, irrevocable, perpetual and non-exclusive licence to use and to reproduce all and any Documents for any purpose whatsoever connected with continuing any element of the Services and operating, maintaining, repairing, modifying, re-figuring, correcting and replacing the Goods.
- 14.2 The Supplier shall not be liable for any negligent or improper use of the Documents nor use of the Documents for a purpose other than that for which they were prepared. Such licence shall include the right to grant sub-licences and shall be freely assignable by the Purchaser.
- 14.3 As contemplated by the Copyright, Designs and Patents Act 1988, to the extent that the Supplier is the author of the Documents, the Supplier waives its rights against the Purchaser and the Purchaser's assignees and sub-licensees to the extent that the exercise of such rights would prevent or impede the licence described in clause 14.1. To the extent that others are the authors of the Documents, the Supplier shall procure for the Purchaser and its assignees and sub-licensees an equivalent waiver of the others' rights.
- 14.4 The Supplier warrants that in the performance of the Goods and/or Services it has not infringed and will not knowingly infringe any copyright or any other intellectual property or design rights.

15 Force Majeure

- 15.1 Neither party shall be liable to the other as a result of any delay or failure to perform its obligations under the Agreement if and to the extent such delay or failure is caused by an event or circumstance which is beyond the reasonable control of that party which by its nature could not have been foreseen by such a party or if it could have been foreseen was

unavoidable.

- 15.2 If such event or circumstances prevent the Supplier from supplying the Goods and/or Services for more than four weeks, the Purchaser shall have the right, without limiting its other rights or remedies, to terminate the Agreement with immediate effect by giving written notice to the Supplier.

16 Indemnity and Insurance

- 16.1 The Supplier shall indemnify the Purchaser against any direct liabilities, damages, claims, costs, losses and expenses incurred or paid by the Purchaser howsoever arising from any defect in the Goods and/or Services or any breach by the Supplier of its obligations hereunder or of any statutory duty or from any act or omission of the Supplier's employees, agents or subcontractors.
- 16.2 For the duration of the Agreement, the Supplier shall maintain in force, with a reputable insurance company, professional indemnity insurance, product liability insurance, and public liability insurance to cover the Supplier's liabilities that may arise under or in connection with the Agreement and shall, on the Purchaser's request, produce the insurance certificate in respect of each insurance.
- 16.3 The Supplier shall provide all reasonable assistance in defending any claims made against the Purchaser arising from or in relation to any act, neglect, default or omission of the Supplier or any breach of the Supplier's warranties, undertakings or obligations under the Agreement or any Agreement between the Supplier and the Purchaser.
- 16.4 Nothing in this clause shall restrict or limit either party's general obligation at law to mitigate any loss it may suffer or incur as a result of an event that may give rise to a claim under an indemnity in this Agreement.
- 16.5 For the avoidance of doubt, neither party shall be liable to the other for any indirect liability including loss of profit, loss of income, loss of production, loss of contracts, loss of revenue, or indirect consequential loss suffered by the other and are expressly excluded.

17 Purchaser's liability

- 17.1 Save where the Supplier can prove deficiency, direct loss and/or damage or delay was caused by the negligent or unlawful act or omission of the Purchaser, the Purchaser is exempt from all such liability whatsoever for deficiency, direct loss and/or damage or delay as a result of the Services and/or the supply of the Goods however or whenever caused.
- 17.2 In the event that the Supplier can prove that any deficiency, direct loss and/or damage or delay was caused by the negligent or unlawful act or omission of the Purchaser, then the total direct liability under or in connection with the Agreement, whether in contract, tort or otherwise shall not exceed £500,000 (five hundred thousand pounds) in the aggregate which sum shall be inclusive of any and all legal costs incurred by the Supplier.

18 Termination

- 18.1 If either party to the Agreement is in breach of the Agreement and does not remedy the breach within 30 days of notice from the other party to do so (if capable of remedy), the other party may terminate the Agreement immediately by notice to the party in breach.
- 18.2 The Purchaser shall be entitled to terminate the Agreement immediately by notice if the Supplier shall become bankrupt, dissolved, wound up, or shall compound or make any arrangement with its creditors or have a receiver, administrative receiver, liquidator or provisional liquidator appointed over all or any part of its assets or go into liquidation (whether

voluntary or otherwise) save as part of a bona fide reconstruction not involving insolvency or shall take or suffer to be taken any similar action as a result of its liability to pay its debts or its insolvency.

- 18.3 The Agreement may be cancelled at any time by the Purchaser for any reason whatsoever, by giving the Supplier at least 48 hours' notice pre-Delivery. Termination or expiry shall not relieve either party from any liability or action accrued prior to such termination or expiry. In the event of termination or expiry of the Agreement, the Purchaser shall pay the Supplier costs of Goods and/or Services received by the Purchaser in accordance with the terms of the Agreement. The Purchaser's liability is limited to Goods and/or Services received, and no further loss or liability will accrue on their account.
- 18.4 If the Purchaser terminates the Agreement in accordance with clauses 18.1, 18.2 or 18.3 and the Purchaser has paid any sums to the Supplier in respect of the Goods and/or Services to be supplied pursuant to the Agreement (whether by way of deposit, advance or any other payment):
- (a) where the Supplier has not made a Delivery of all of the Goods and/or Services to the Purchaser, all (or part thereof) such sums shall be immediately repayable to the Purchaser in full without deferment, deduction or set off; and
 - (b) where the Supplier has delivered a part of the Goods and/or Services to the Purchaser, the Supplier shall be entitled to retain such sums as represent the value to the Purchaser of the part delivered but shall not be entitled to demand any further payment from the Purchaser or any payment in excess of the sums already paid.

19 Consequences of Termination

- 19.1 On termination of the Agreement, for any reason, the Supplier shall return to the Purchaser all Documents provided to the Supplier by the Purchaser including all documents containing Intellectual Property Rights whether or not then complete.
- 19.2 The accrued rights and remedies of the parties as at termination shall not be affected and clauses which expressly or by implication have effect after termination shall continue in full force and effect.

20 Data and Data Protection

- 20.1 During the term of this Agreement, the parties shall comply with all the relevant and applicable provisions of the Data Protection Act 2018 (and any re-enactment or amendment) and General Data Protection Regulation (EU Regulation 2016/079) (and any re-enactment or amendment) or the data protection principles contained therein and all similar laws, regulation and mandatory guidelines (the **DPA Law**) as the same relate to the subject matter of this Agreement.
- 20.2 Each party agrees that, at the other party's request, it shall provide such reasonable assistance as may reasonably be required to enable the requesting party to comply with the DPA Law as such compliance relates to this Agreement.

21 TUPE

- 21.1 The Purchaser and the Supplier agree that on the termination of this Agreement or any other cessation of the Services or part thereof (each a **Service Cessation**) TUPE may apply with the effect that the contracts of employment of the Transferring Supplier Personnel will transfer on the date of Service Cessation (the **Service Cessation Date**) to either the Purchaser or a Replacement Supplier.

21.2 The Supplier undertakes that, following receipt of a written notice from the Purchaser to terminate this Agreement pursuant to clauses 18.2 or 18.3, it shall not without the prior written consent of the Purchaser:

- (a) alter the terms and conditions of employment of any Supplier Personnel; or
- (b) assign any other individual, who is not a Supplier Personnel at the time of receipt by the Supplier of a written notice referred to above, to the provision of the Services.

21.3 The Supplier undertakes that it shall upon the Purchaser's request (provided that the Purchaser makes no more than one such request in any six month period) to the extent permitted under the DPA Law, promptly (and in any event within two weeks), provide personal information about any Supplier Personnel, such information to include:

- (a) the name (or payroll/employee ID number), age (or date of birth) and date of commencement of employment;
- (b) details of all remuneration payable and any other benefits provided;
- (c) details of current disciplinary or grievance issues and/or legal actions;
- (d) copies of standard terms of employment, including handbooks and policies and any other material terms and conditions of employment applicable to any Supplier Personnel; and
- (e) information about applicable collective arrangements applicable to any Supplier Personnel.

21.4 The Supplier agrees that the information referred to at clause 21.3 above may be shared with potential Replacement Suppliers, subject to any such potential Replacement Supplier giving confidentiality undertakings satisfactory to the Purchaser.

21.5 The Supplier shall indemnify the Supplier (on behalf of itself and any Replacement Supplier) in respect of all costs, claims and expenses to the extent that the same arise out of or in connection with:

- (a) any claim by or on behalf of any Transferring Supplier Personnel or Supplier Personnel which relates to any fault, act or omission of the Supplier at any time before the relevant Service Cessation Date;
- (a) a dismissal by the Supplier of any Transferring Supplier Personnel prior to the Service Cessation Date; or
- (b) any failure by the Supplier to comply with its obligations under regulations 13 or 14 of TUPE.

21.6 For the avoidance of doubt, the Purchaser shall be entitled to bring actions against the Supplier on behalf of any Replacement Supplier in respect of costs, claims and expenses suffered by any Replacement Supplier. If the Purchaser exercises this right, any costs, claims and expenses suffered by any Replacement Supplier shall be deemed to be actual costs, claims and expenses suffered by the Purchaser.

22 Confidentiality

The Supplier's employees and subcontractors shall not disclose any confidential information which it has or possesses relating to the Purchaser, the Purchaser's business or the Purchaser's customers. This clause shall not apply to information already in the Supplier's possession (which the Supplier has full right to disclose), within public knowledge (other than by breach of

this clause), which the Supplier independently develops or which the Supplier is obliged to disclose by law. There shall be no publicity by the Supplier or its subcontractors in relation to the Purchaser, the Purchaser's business or the Goods and/or Services (including all such posts and/or releases on social media or other form of digital media) without the Purchaser's prior written consent. No Supplier or third party is permitted to take any photo or video coverage whilst on the SCT Port, and any such imagery shall be the property of the Purchaser and is not to be taken, used or stored. CCTV footage may be taken by SCT whilst on the SCT premises (including the SCT Port) and shall be in accordance with DP World Standards. This clause shall survive termination of the Agreement.

23 Assignment

The Agreement is personal to the Supplier. The Supplier may not assign or transfer any of its rights or subcontract any of its obligations under the Agreement. The Purchaser may assign the whole or any part of its rights and obligations under the Agreement to any person, firm or company.

24 Third Party Rights

No person who is not a party to the Agreement shall have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term or condition of the Agreement.

25 Waiver

Any failure by the Purchaser to enforce or partially enforce any provision of the Agreement will not be construed as a waiver of its rights under the Agreement.

26 Severability

Any provision of these Terms and Conditions which is declared void or unenforceable by any competent authority or court shall to the extent of such invalidity or unenforceability be deemed severable and shall not affect the other provisions of these Terms and Conditions, which shall continue unaffected.

27 Notices

Any notice to be served on either party shall be served personally by first class pre-paid post. The parties' respective addresses for service shall be those stated in the Purchase Order or such other address as the party to be served may have previously notified in writing. Any notice, if delivered personally, shall be deemed to have been served at the time of delivery; and if sent by post, shall be deemed to have been served on the second business day following posting.

28 Governing Law and Jurisdiction

The construction, validity and performance of the Agreement shall be governed by the laws of England and Wales, and both parties hereby submit to the exclusive jurisdiction of the courts of England and Wales.