

Terms and Conditions

All services performed by or on behalf of Alcazar Art Storage Ltd(with registered company number 13447687) (the “**Company**”) for the Customer shall be subject to these terms and conditions of service, which set out the rights, obligations and responsibilities of the Company and the Customer.

These terms and conditions, together with any terms and conditions contained within any Quotation, apply to the contract entered into between the Company and the Customer for the supply of Services (a “**Contract**”) and shall constitute a legally binding contract between the Company and the Customer (to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing).

The Company shall provide services to the Customer which may include, but is not limited to, storage and warehouse services, transportation and shipping, packaging and installation and provision of advice in relation to the same (the “**Services**” for Customers of [fine] art and related property (the “**Property**” or “**Goods**”).

Any quotation given by the Company shall not constitute an offer, and is only valid for a period of 28 days from its date of issue.

“**Customer**” shall mean the person or entity to whom the Company is providing services and who has signed and returned to the Company a Contract.

“**Quotation**” the quotation provided by the Company to the Customer (as amended from time to time) for the supply of Services, as set out in the Customer's written acceptance of the Company's quotation.

“**Working Days**” a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.

Where we use the word ‘You’ or ‘Your’ it means the Customer: ‘We’, ‘Us’ or ‘Our’ means the **Company**.

The Company reserves the right to amend any specification of the Service set out in any Quotation or the Contract if necessary to comply with any applicable law or regulatory requirement, or if the amendment will not materially affect the nature or quality of the Services, and the Company shall notify the Customer in any such event.

These terms and conditions are subject to change and may be varied by the Company from time to time.

Please be aware that in Clauses 8, 9, 10, and 11 We limit or exclude Our liability for loss and damage. We recommend You arrange insurance to cover your Goods or Property.

1. Our Quotation

- 1.1 Our Quotation, unless otherwise specifically stated, does not include insurance, cancellation/postponement waivers, customs duties, port charges (including, but not limited to, demurrage or inspection charges) or any fees or taxes payable to government bodies or agencies.
- 1.2 Our Quotation is valid for twenty-eight days from the date of issue. Unless already included in Our Quotation, reasonable changes will apply in the following circumstances:
 - 1.2.1 If the provision of Services does not commence within twenty-eight days of acceptance of the Contract.
 - 1.2.2 Where We have given You a price including re-delivery from store within Our Quotation and the re-delivery from store has not taken place within six months from the date of the issue of the Quotation.
 - 1.2.3 Our costs change because of fuel or toll charges.
 - 1.2.4 The Services are carried out on a day other than a Working Day or outside normal hours (08.00-17.00hrs) at Your request.
 - 1.2.5 We supply any additional services not specified within our Quotation, including moving or storing extra goods and as a result of any delays in transit in accordance with Clause 12 (in which case these terms and conditions apply to such additional services).
 - 1.2.6 The entrance or exit to any premises, stairs, lifts or doorways are inadequate for free movement of the Goods without mechanical equipment or structural alteration, or the approach, road or drive to collect any Goods is unsuitable for Our vehicles and/or containers to load and/or unload within 20 meters of the doorway.
 - 1.2.7 We have to pay parking or other fees or charges (including fines where You have not arranged agreed suspension of parking restrictions) in order to carry out Services on Your behalf. For the purpose of these terms and conditions, parking fines for illegal parking caused by Our negligence are not fees or charges and You are not responsible for paying such fees or charges.
 - 1.2.8 There are delays or events outside Our reasonable control which increase or extend the resources or time allowed to complete the agreed Services.
 - 1.2.9 If We agree in writing to increase Our limit of liability set out in Clause 8.1 prior to the Services commencing.
 - 1.2.10 If We incur any liabilities (including, but not limited to, all charges, damages, expenses (including legal expenses) or

penalties) as a result of being required to dispose of any prohibited items in accordance with Clause 4.3.

- 1.3 You agree to pay on demand any reasonable fees and charges arising from the above circumstances.

2 Work not included in the Quotation

- 2.1 Unless agreed by us in writing, we will not:
 - 2.1.1 Dismantle or assemble furniture of any kind.
 - 2.1.2 Disconnect, re-connect, dismantle or re-assemble appliances, fixtures, fittings, or equipment.
 - 2.1.3 Move items from a loft, unless properly lit and floored and safe access is provided.
 - 2.1.4 Move or store any goods excluded under Clause 4. Our staff are not authorised or qualified to carry out such services. We recommend that a properly qualified person is separately engaged by You to carry out such excluded services.

3 Your responsibility

- 3.1 It is Your responsibility to:
 - 3.1.1 Arrange adequate insurance cover for the Goods submitted for transit and/or storage, against all insurable risks. Our liability is limited under Clauses 8.1 and 8.2.
 - 3.1.2 Obtain at Your own expense, all documents, permits, permissions, licences, customs documents necessary for the collection and delivery of Goods.
 - 3.1.3 Pay for any parking or meter suspension charges incurred by Us in carrying out our Services (other than where any fines for illegal parking have been caused by Our negligence).
 - 3.1.4 Be present or represented throughout the collection and delivery of Goods unless otherwise pre-arranged.
 - 3.1.5 Where We provide You with inventories, receipts, job sheets or other relevant documents, You will ensure that such documents are signed by You or Your authorised representative as confirmation of collection or delivery of the Goods.
 - 3.1.6 Take steps to ensure that nothing that should be removed is left behind and nothing is taken away in error.
 - 3.1.7 Arrange proper protection for Goods left in unoccupied or unattended premises, or where other people such as (but not limited to) tenants or workmen are, or will be present.
 - 3.1.8 Prepare adequately and stabilize all appliances or electronic equipment prior to their removal or collection.
 - 3.1.9 Provide Us with an accurate, correct and up to date contact address and telephone number during removal, collection, transit and storage of Goods.
 - 3.1.10 Arrange appropriate transport, storage or disposal of Goods listed in Clause 4.
 - 3.1.11 Collect the Goods from Our storage or premises as notified to the Customer within [3] Working Days of the Company notifying the Customer that the Goods are ready (or such other time as may be agreed between the Customer and the Company).

4 Goods not to be submitted for transport or storage

- 4.1 Subject to Clause 4.1.7, unless previously agreed in writing by a director or other authorised representative of the Company, the following goods must not be submitted for removal, collection, transit or storage and will under no circumstances be collected, moved or stored by Us:
 - 4.1.1 Potentially dangerous, damaging or explosive items, including gas bottles, aerosols, paints, firearms and ammunition.
 - 4.1.2 Goods likely to encourage vermin or other pests or to cause infestation or contamination. We shall notify you in writing as soon as practicable if any of the Goods, are in Our opinion hazardous to health, dirty or unhygienic or likely to attract vermin or pests and under what conditions we would be prepared to accept such Goods or whether we refuse to accept them. Should we refuse to accept the Goods We will have no liability to You.
 - 4.1.3 Perishable items and/or those requiring a controlled environment.
 - 4.1.4 Any animals, birds, fish, reptiles or plants (or any other living organism).
 - 4.1.5 Goods which require special licence or government permission for export or import.
 - 4.1.6 Under no circumstances will prohibited or stolen goods, drugs or pornographic material be moved or stored by Us.
- 4.2 **The items listed under Clause 4.1.1 may present risks to health and safety and of fire. Items listed under Clauses 4.1.2 to 4.1.6 carry other risks and You should make Your own arrangements for their transport and storage.**
- 4.3 If You submit any goods specified (or similar to) those goods specified in clause 4.1 without Our knowledge, We will make them available for Your collection and if You do not collect them within a reasonable time specified by us, We may apply for a court order to dispose of any such goods. You agree to pay Us any liabilities (including, but not limited to, all charges, damages, expenses (including legal costs) or penalties) incurred by Us in disposing of such Goods.

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5 Ownership of Goods

- 5.1 By entering into this Agreement, you represent and warranty to the Company that:
- 5.1.1 The Goods to be collected, removed and/or stored by Us are legally owned by You or You have the full authority from the legal owner of the Goods to enter into this Contract.
- 5.1.2 The Goods are owned or held free of any legal charge, security, lien or any other encumbrance.
- 5.1.3 If you are not the legal owner of the Goods, You have made the legal owner fully aware of Contract and these terms and conditions prior to entering into the Contract .
- 5.1.4 The Contract constitutes valid, legal and binding obligations on the Customer in accordance with its terms.
- 5.1.5 The execution and delivery by the Customer of the Contract, and compliance with its terms, shall not breach or constitute a default (a) under any agreement or instrument to which the Customer is a party or by which the Customer is bound; or (b) of any order, judgment, decree or other restriction applicable to the Customer.
- 5.2 If at any time following the commencement of the provision of any Services under the terms of the Contract prior to termination of the Contract another person has or obtains any legal interest in the Goods, You will immediately advise Us of their name and address in writing.
- 5.3 Without prejudice to the Company's right to claim on any other basis, or to take advantage of any other remedies available to the Company, if any representation or warranty set out in Clauses 5.1.1 to 5.1.5 proves to be untrue or inaccurate, the Customer covenants to pay the Company on demand all costs and expenses (including damages, legal and other professional fees and costs, penalties, expenses and consequential losses whether arising directly or indirectly) incurred by the Company as a result of the representation or warranty being untrue or inaccurate (and if any such sum is subject to tax in the hands of the Company, the additional amount required to ensure that the net amount received by the Company is the amount that the Company would have received if the payment was not subject to tax).
- 5.4 If You wish to transfer or assign any of your rights or obligations under the Contract to any other party, You may do so with our prior written consent and You will advise Us in writing giving Us their full name and address and any other information that we may reasonably require. Our Contract with You will remain in force until We have received a signed agreement (and any other documentation required by us) from the third party agreeing to be bound under the terms of the Contract and these terms and conditions.

6 Charges if You postpone or cancel the removal

- 6.1 If You postpone or terminate the Contract in accordance with Clause 21 prior to us commencing any Services , We reserve the right to charge you a reasonable postponement or cancellation fee according to how much notice is given to Us as follows:
- 6.1.1 More than 10 Working Days before the initial collection of any Goods from the Customer was due to start: No charge.
- 6.1.2 Between 5 and 10 Working Days before the initial collection of any Goods from the Customer was due to start: [30%]
- 6.1.3 Less than 5 Working Days before the initial collection of any Goods from the Customer was due to start: not more than 60% of the removal/collection charge.
- 6.1.4 Within 24 hours of the initial collection of any Goods from the Customer; not more than 100% of the [removal] charge.
- 6.1.5 On the day the Services start or at any time after the Services commence: up to 100% of our fees.

7 Payment

- 7.1 Unless otherwise agreed by Us in writing, payment is required in full by cleared funds at the time of booking any Services. In default of such payment, We reserve the right to refuse to commence removal or storage until such payment is received. Such advance payments are protected under the BAR Pre-Payment Protection scheme as detailed in the BAR Code of Practice
- 7.2 In respect of all sums which are overdue to Us, We will charge interest on a daily basis calculated at 4% per annum above the prevailing base rate for the time being of the Bank of England.

8 Limitation of Liability

- 8.1 The Company shall be liable for any damage to, loss, or theft of the Client's artworks whilst in the Company's custody, subject to a maximum liability of **£10,000 per item**. This liability is limited to the actual market value of the artwork at the time of loss or damage, but in no event shall the Company's liability exceed the stated limit of £10,000 for any individual item.
- 8.2 The Company shall not be liable for any loss, theft, or damage to any artwork beyond the aforementioned limit of £10,000 per item, unless agreed otherwise in writing by both parties. The Client is responsible for ensuring that the artwork is adequately insured for its full value if it exceeds this limit.
- 8.3 **Client's Obligation to Declare Value**
It is the Client's responsibility to inform the Company in writing of the value of any artwork exceeding £10,000 prior to storage, and to arrange additional insurance coverage for such items if required.
- 8.4 For Goods destined to, or received from a place outside the United Kingdom:

- 8.4.1 We will only accept liability for loss or damage arising from Our negligence or breach of contract whilst the Goods are in Our physical possession, or whilst the Goods are in the possession of others if the loss or damage is established to have been caused by Our failure to pack the Goods to a reasonable standard where We have been contracted to pack the Goods that are subject to the claim.
- 8.4.2 We do not accept liability for Goods confiscated, seized, removed or damaged by Customs Authorities or other Government Agencies unless such confiscation, seizure removal or damage arose directly as a result of Our negligence.
- 8.5 For the purposes of the Contract, an item is defined as:
- 8.5.1 The entire contents of a box, parcel, package, carton, or similar container; and
- 8.5.2 Any other object or thing that is moved, handled stored by us.

9 Damage to premises or property other than Goods

- 9.1 Because third party contractors or others are frequently present at the time of collection or delivery it is not always possible to establish who was responsible for loss or damage. Therefore Our liability to You is limited as follows:
- 9.1.1 If we cause loss or damage to premises or property other than Goods for removal as a result of our negligence, Our liability shall be limited to making good the damaged area only.
- 9.1.2 If We cause damage as a result of moving Goods under Your express instruction, against our advice (whether oral or in writing), or where moving the Goods in the manner instructed by You is likely to cause damage, We shall not be liable.
- 9.1.3 If We are responsible for causing damage to Your premises or to property other than Goods submitted for collection and/or storage, You must record this on the worksheet or delivery receipt as soon as practically possible after the damage occurs or is discovered and notify us of such damage within 5 Working Days of such damage being caused .
- 9.2 This Clause 9 is a fundamental term of the Contract.

10 Exclusions of liability

- 10.1 We shall not be liable for loss, damage or any other liability caused by fire or explosion, unless we have been negligent. It is Your responsibility to insure Your Goods.
- 10.2 We shall not be liable for delays or failures to provide the Services as a result of war, invasion, acts of foreign enemies, hostilities (whether war is declared or not), civil war, terrorism, rebellion and/or military coup, pandemic, Act of God, adverse weather, third party industrial action, vandalism or any other events outside our reasonable control.
- 10.3 Other than as a result of Our negligence or breach of contract, We will not be liable in respect of any Goods for any loss, damage or failure to produce the Goods as a result of:
- 10.3.1 Normal wear and tear, natural or gradual deterioration, leakage or evaporation or from perishable or unstable goods.
- 10.3.2 Moth or vermin or similar infestation.
- 10.3.3 Cleaning, repairing or restoring, unless We arranged for such work to be carried out.
- 10.3.4 Changes caused by atmospheric conditions such as dampness, mould, mildew, rusting, tarnishing, corrosion, or gradual deterioration unless directly linked to ingress of water.
- 10.3.5 For any Goods in carton, case or other container not both packed and unpacked by Us.
- 10.3.6 For electrical or mechanical derangement to any appliance, instrument, clock, computer or other equipment unless there is evidence of related external damage.
- 10.3.7 For any Goods which have a pre-existing defect or are inherently defective.
- 10.3.8 For perishable items and/or those requiring a controlled environment unbeknown to us.
- 10.3.9 For prohibited goods referred to in Clause 4.
- 10.3.10 For any loss or damage, costs or additional charges that may arise from Your failure to discharge Your responsibilities set out in Clause 3.1.
- 10.4 No employee, director, agent, worker or contractor of Ours shall be separately liable to You for any loss, damage, mis-delivery, errors or omissions under the terms of the Contract.
- 10.5 Where Goods are handed out from Our store or premises, Our liability will cease upon handing over the Goods to You or Your authorised representatives.
- 10.6 Your sole remedy against us will be for breach of contract only and neither we nor Our employees, consultants, directors or agents will be liable to you for indirect or consequential loss, loss of profit or reputation or for any unforeseeable loss.
- 11 **Time limit for claims**
- 11.1 If You or Your authorised representative(s) collect the Goods, We must be notified in writing of any loss or damage to Your Goods at the time the Goods are handed to You or Your representative(s) or as soon as practically possible (but in any case within [5] Working Days of collection), otherwise We shall not be liable to You for any such loss or damage.
- 11.2 For Goods which We [return to You/deliver], You must give Us detailed notice in writing of any loss and damage within [5] Working Days of [return/delivery] by Us, otherwise We shall not be liable to You for any

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such loss or damage. We may agree to extend this time limit upon receipt of Your written request to do so provided such request is received within such [5] Working Day period.

12 Delays in transit

- 12.1 Other than by reason of Our negligence, We will not be liable for delays in transit.
- 12.2 If through no fault of Ours We are unable to deliver Your Goods at the required time/date, We will take the Goods into Our store. Any additional Service(s) provided to You as a result, including (but not limited to) storage and re-delivery, will be at Your cost and expense.
- 12.3 Any transit times quoted by Us are estimated and based upon information known to Us at the time. Transit times may vary due to a number of factors outside Our control.
- 12.4 We will not be liable for any loss or damage incurred by You as a result of delays in transit time unless directly attributable to Our negligence.

13 Our Right to Hold the Goods (lien)

“Lien” is a legal right of a holder of goods to hold such goods until the customer has paid all outstanding charges due to such person.

We shall have a right to withhold and ultimately dispose of some or all of the Goods if You fail to pay the costs and charges and any other amounts due to Us under the Contract or any other agreement entered into between the Customer and the Company. For the avoidance of doubt, such costs and charges include any costs or charges or other liabilities that We have paid out on Your behalf. While We hold the Goods You will be liable to pay all storage charges and other costs (including legal costs) reasonably incurred by Us in recovering Our charges and applying Our right of lien. These terms and conditions shall continue to apply.

14 Our right to sub-contract Our Services

- 14.1 We reserve the right to sub-contract some or all of our Services.
- 14.2 If We sub-contract any of our Services, then these terms and conditions will still apply.

15 Route and method

- 15.1 We have the right to choose the method and route by which to carry out the Services and the location in respect of storage.
- 15.2 Unless it has been specifically agreed otherwise in writing in our Quotation, other space/volume/capacity on Our vehicles and/or the container may be utilised for consignments of other customers.

16 Applicable law

- 16.1 The Contract and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.
- 16.2 Each of the Company and the Customer irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.

17 Your forwarding address

- 17.1 If You instruct Us to store Your Goods, You must provide a correct and up to date address and telephone number and email and notify Us of any changes. We shall be able to rely on your latest address and contact details notified to Us.
- 17.2 Any notices from You to Us must be sent to [email/address].
- 17.2 All correspondence and notices given by You or Us will be deemed to have been received the other within [2] Working Days of service of any letter (if sent by post) or transmission of any email (or, if sent by airmail or overseas courier, within 7 Working Days of service).

18 List of Goods (inventory/ archive) or receipt

Where We produce a list of Your Goods (archive or inventory) or a receipt and send it to You, it will be accepted as accurate unless You write to us within [5] Working Days of the date of receipt of any such list by You, or within such other period as may be agreed between us, notifying Us of any errors or omissions in such list.

19 Revision of storage charges

We review our storage charges periodically. You will be given 30 days' notice in writing of any increases.

20 Our right to Sell or dispose of the Goods

- 20.1 If payment of Our charges relating to Your Goods is in arrears, and on giving You no less than three months' notice, We are entitled to require You, by service of a written notice on You, to remove Your Goods from Our custody or premises and pay all monies due to Us. If You fail to pay all outstanding amounts due to Us within [5] Working Days of any such written notice, without prejudice to any other remedies that We may have against You, We may sell or dispose of some or all of the Goods without further notice. The cost of the sale or disposal will be charged to You and payable on demand. The net proceeds will be credited to Your account and any eventual surplus will be paid to You without interest. If the full amount due is not received, We may seek to recover the balance from You.

- 20.2 Without prejudice to the Company's right to claim on any other basis, or to take advantage of any other remedies available to the Company, the Customer covenants to pay the Company on demand all costs and expenses (including damages, legal and other professional fees and costs, penalties, expenses and consequential losses whether arising directly or indirectly) incurred by the Company as a result of the sale or disposal of any Goods under this Clause 20 (including, but not limited to, any tax).

21 Termination and suspension

- 21.1 Without affecting any other right or remedy available to it, the Company may terminate the Contract by giving the Customer not less than three months' written notice.
- 21.2 Without affecting any other right or remedy available to it, the Company may terminate the Contract by giving the Customer not less than 20 Working Days' written notice.
- 21.3 Without affecting any other right or remedy available to it, the Company may terminate the Contract with immediate effect by giving written notice to the Customer if:
 - 21.3.1 the Customer fails to pay any amount due under the Contract on the due date for payment;
 - 21.3.2 the Customer commits a material breach of its obligations under the Contract and (if such breach is remediable) fails to remedy that breach within [10] Working Days after receipt of notice in writing to do so;
 - 21.3.3 the Customer's financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of the Contract is in jeopardy; or
 - 21.3.4 the Customer becomes bankrupt or takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), obtaining a moratorium, being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction.
- 21.4 Without affecting any other right or remedy available to it, the Company may suspend the supply of Services under the Contract or any other contract between the Customer and the Company if the Customer fails to pay any amount due under the Contract on the due date for payment, the Customer becomes subject to any of the events listed in Clause 14.2(b) to Clause 14.2(d), or the Supplier reasonably believes that the Customer is about to become subject to any of them
- 21.5 If We can release the Goods to You earlier, We will endeavor to do so, provided that your account is paid up to date.
- 21.5 Charges for storage are payable up to and including the date of termination of the Contract.
- 21.6 On termination of the Contract the Customer shall immediately pay to the Company all of the Company's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, the Company shall submit an invoice, which shall be payable by the Customer immediately on receipt.
- 21.6 Termination or expiry of the Contract shall not affect any rights, remedies, obligations and liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry.
- 21.7 Any provision of the Contract that expressly or by implication is intended to have effect after termination or expiry shall continue in full force and effect.

22 Visiting a storage facilities

- 22.1 The Customer agrees (and agrees to procure that any of its representatives) abide by the rules that are advised by the manager at any storage facilities and acknowledge and agree that when such persons are at a storage facility they will be required to be under CCTV surveillance.
- 22.1 All visits to storage facilities are by appointment only and must be agreed beforehand by a member of the Company's staff in writing 24 hours before any proposed visit, Monday to Friday and only between the hours of 9 am - 5pm.

24 Data Protection

- 1. The following words and expressions have the following meaning unless the context requires otherwise:
- 2. **Controller, Processor, Data Subject, Personal Data Breach, processing and appropriate technical and organisational measures:** as defined in the Data Protection Legislation.
- 3. **Data Protection Legislation:**
 - 3a To the extent the UK GDPR applies, the law of the United Kingdom or of a part of the United Kingdom which relates to the protection of Personal Data; or
 - 3b To the extent the EU GDPR applies, the law of the European Union or any member state of the European Union to which the Customer or Provider is subject, which relates to the protection of personal data.
- 4. **Domestic Law:** the law of the United Kingdom or a part of the United Kingdom.
- 5. **EU GDPR:** the General Data Protection Regulation ((EU) 2016/679).

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6. **EU Law:** the law of the European Union or any member state of the European Union.
7. **UK GDPR:** has the meaning given to it in section 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018.
- 24.2 The Customer and the Company each agree to comply with all applicable requirements of the Data Protection Legislation. This clause [24] is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation.
- 24.3 The Customer and the Company acknowledge that for the purposes of the Data Protection Legislation, the Customer is the Controller and the Company is the Processor.
- 24.4 Without prejudice to the generality of clause [24.2], the Customer will ensure that he or it has all necessary appropriate consents and notices in place to enable the lawful transfer of the Personal Data to the Company and/or lawful collection of the Personal Data by the Company on behalf of the Customer for the duration and purposes of the Contract.
- 24.5 Without prejudice to the generality of clause [24.2] the Customer shall, in relation to any Personal Data processed in connection with the performance by the Company of its obligations under these terms and conditions:
- 24.5.1 process that Personal Data only on the documented written instructions of the Customer unless the Company is required by Domestic Law or EU Law to otherwise process that Personal Data. Where the Company is relying on Domestic Law or EU Law as the basis for processing Personal Data, the Company shall promptly notify the Customer of this before performing the processing required by the Domestic Law or EU Law unless the Domestic Law or EU Law prohibits the Company from so notifying the Customer;
- 24.5.2 ensure that it has in place appropriate technical and organisational measures to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);
- 24.5.3 ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential; and
- 24.5.4 not transfer any Personal Data outside of the UK or EEA unless the prior written consent of the Customer has been obtained and the following conditions are fulfilled:
- (i) the Customer or the Company has provided appropriate safeguards in relation to the transfer;
 - (ii) the data subject has enforceable rights and effective legal remedies;
 - (iii) the Company complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and
 - (iv) the Company complies with reasonable instructions notified to it in advance by the Customer with respect to the processing of the Personal Data;
- 24.5.5 assist the Customer, at the Customer's cost, in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
- 24.5.6 notify the Customer without undue delay on becoming aware of a Personal Data Breach;
- 24.5.7 at the written direction of the Customer, delete or return Personal Data and copies thereof to the Customer on termination of the Contract unless required by Domestic Law or EU Law to store the Personal Data; and
- 24.5.8 maintain complete and accurate records and information to demonstrate its compliance with this clause [24].
- 24.6 The Customer consents to the Provider appointing third parties as third-party processors of Personal Data under the Contract if required and, if so, only substantially on that third party's standard terms of business or incorporating terms which are substantially similar to those set out in this clause [24] and in either case which the Company undertakes will reflect and will continue to reflect the requirements of the Data Protection Legislation.
- 25 **General**
- 25.1 A waiver of any right or remedy is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy.
- 25.2 A delay or failure to exercise, or the single or partial exercise of, any right or remedy shall not waive that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy.
- 25.3 The Contract constitutes the entire agreement between the Customer and the Company. Each of the Customer and the Company acknowledge that in entering into the Contract it does not rely on any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each of the Customer and the Company agree that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Contract.
- 25.4 The Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.