

# Terms of Agreement - The Collect Group Limited, 1<sup>st</sup> January 2023

This Agreement is made between The Collect Group Limited (a registered company in England and Wales, to which 08031231 number applies), and the Customer

IT IS HEREBY AGREED THAT:

## 1. DEFINITIONS AND INTERPRETATION

In this Agreement, 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 or SLA:

“Agreement” means this document incorporating the front page and the Schedules attached hereto and the Conditions and the SLA;

“Carriage” means the collection, holding, transportation, delivery and other services undertaken with regard to a Consignment;

“Charges” means all charges payable by the Customer 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 Customer in connection with the Carriage or imposed by regulatory bodies in relation to the Consignment(s), and any other amounts payable under this Agreement;

“Commencement Date” means the date specified on the SLA or the date of the first booking of a consignment, if earlier;

“Conditions” means the Terms and Conditions of Carriage, which is annexed;

“Confidential Information” means any information confidential in nature (whether in existence before or after the date of this obligation whether capable of being registered or not in any country, utility model, get-up and rights in domain names;

“Low Cost Parcels” and “LCP” and “Collect Pro” and “Boost Parcels” are trading styles and mean the contracting entity as detailed on the front page of the Agreement;

“No Signature Service” and “Non-POD” and “Non-Proof of Delivery” means the delivery of a Consignment by TCG where TCG is not required to obtain a proof of delivery, signed or otherwise, from the Receiver;

“Party” and “Parties” means TCG and the Customer;

“Receiver” means the party specified on the Consignment Note to whom the Consignment is to be delivered;

“Safe Place” means a place which in TCG’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;

“Schedules” means any extra parts to the Agreement outlining the basis for trading and forming part of the Agreement.

“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 the SLA;

“SLA” means the Service Level Agreement detailing the services available to the Customer, and the charges and surcharges that apply to the Consignment;

“TCG” means The Collect Group Limited;

“The Collect Group Property” means any TCG 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 TCG loaned to the Customer during the term of this Agreement;

“The Collect Group Software” means any software, object code, systems, applications, computer programmes and releases thereof owned by, belonging to or created by TCG;

“Working Day” means when TCG is 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 headings are for convenience only and shall not affect the interpretation of this Agreement.

1.4 If any provisions in the Agreement conflict, the following order of precedence shall apply in respect of the conflicting provisions: (a) the Prices and Additional Charges; (b) this part of the Agreement, excluding the Prices and Additional Charges; (c) the Conditions; and (d) any other Schedules.

## **2. TERM & TERMINATION**

2.1 This Agreement shall commence on the Commencement Date and shall continue indefinitely until terminated by either TCG or the Customer in accordance with the provisions of this Agreement.

2.2 This Agreement may be terminated in whole or in part by either TCG or the Customer on 7 days’ written notice.

2.3 On termination all TCG Property and Products and any property owned by or belonging to a third party and supplied to the Customer in connection with the Services must be returned to TCG within 7 days of the date of termination.

### **3. THE SERVICES**

3.1 TCG shall provide the Services as detailed in this Agreement to the Customer.

3.2. TCG 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 Customer to be detrimental to TCG's commercial and/or operational interests.

3.3. Where the Customer uses the No Signature or Non-POD Service, TCG 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. TCG shall have no liability for any loss or damage occurring before, during or after delivery. Damaged goods may be disposed of at the discretion of TCG.

3.4 TCG may perform any of the following activities on the Customer's behalf in the course of providing the Services:

3.4.1 complete any documents, amend product or service codes, and pay any duties or taxes required under applicable laws and regulations;

3.4.2 act as the Customer's forwarding agent for customs and export control purposes and as receiver solely for the purpose of designating a customs broker to perform customs clearance and entry; and

3.4.3 redirect the Consignment to the Receiver's import broker or other address upon request by any person who TCG believes in its reasonable opinion to be authorised.

3.5 The Customer shall be prohibited from re-selling the Services to any third party unless TCG's prior written consent has been obtained. In the event that the Customer re-sells the Services, TCG shall have the right to immediately terminate this Agreement.

### **4. CHARGES**

4.1 The Charges agreed by the Parties are as specified in writing. The provisions of this sub-clause 4.1 shall be without prejudice to sub-clauses 4.2 and 4.3 below and paragraph 8 of the Conditions.

4.2 TCG 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 force majeure event as set out in paragraph 12 of the Conditions, and increases

in Government or any other authority's fiscal or statutory charges payable by TCG (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 Customer shall pay the Charges without set-off, withholding or deduction within seven (7) days from the date of invoice by direct debit. If the Customer 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 TCG 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 Customer 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 Customer 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 TCG following an upfront payment by the Customer to cover any further services to be provided by TCG.

4.4 If at any time and in good faith, the Customer disputes all or any of the Charges:

4.4.1 the Customer will notify TCG within 7 days of the invoice date details of any disputed Charges, specifying the grounds for the dispute and the amount in dispute;

4.4.2 the Customer will pay to TCG the invoiced amount within 7 days. Any credits agreed by TCG will be processed subsequently. TCG may from time to time, at its own discretion, agree in writing to accept payment of all amounts not disputed by the Customer, pending resolution in accordance with sub-clause 4.4.3;

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 Customer 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.

4.4.6 All charges shall be paid by the Customer by Direct Debit. In the event TCG does not receive payment by Direct Debit on the due date for payment for any reason howsoever arising all charges shall immediately become due and payable and TCG will hold all Consignments and suspend all services until payment of all charges is made in full. Services thereafter will only be provided by TCG following an upfront payment by the Customer to cover any services to be provided by TCG.

## **5. LIABILITY**

5.1 TCG's liability for loss or damage sustained by the Customer as a consequence of TCG's acts or omissions in the performance of the Services is limited in accordance with paragraph 9 (Liabilities) of the Conditions.

5.2 Without prejudice to any liability of the Customer to TCG, the Customer shall also be responsible for any liability of its affiliates to TCG, resulting from this Agreement or the Services provided hereunder.

5.3 Where the Customer has authorised the use of its TCG account details by a third party, or where the Customer has failed to keep its account details secure resulting in the fraudulent use of the account by a third party, then the Customer shall be liable and shall indemnify TCG for all Charges incurred on the Customer's account.

## **6. DISPUTE RESOLUTION**

6.1 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 appropriate senior managers of the Parties.

## **7. CUSTOMER OBLIGATIONS, WARRANTIES AND INDEMNITIES**

7.1 Certain commodities listed in paragraphs 6.1 and 6.2 of the Conditions of this Agreement may be accepted for Carriage by TCG within the UK mainland only (excluding any location serviced by air or sea) subject to prior written approval being obtained from an authorised TCG representative. The Customer shall comply with TCG's regulations regarding the Carriage of prohibited and restricted items and TCG must be allowed the opportunity to give authorisation and specific instructions where dangerous goods are to be carried.

7.2 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 Customer warrants that:

7.2.1 the Consignment was prepared in secure premises by Customer's employees;

7.2.2 the Customer employed reliable staff to prepare the Consignment; and

7.2.3 it protected the Consignment against unauthorised interference during preparation, storage and transportation to TCG.

7.3 The Customer hereby fully indemnifies and holds TCG 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.

## **8. INTELLECTUAL PROPERTY**

8.1 All Intellectual Property created or developed by TCG or which forms part of the Services shall at all times remain the property of TCG.

8.2 The Customer hereby agrees that it has read and agrees to be bound by any relevant TCG Software licences and any other third party software licences. Any licences granted hereunder will immediately terminate on the termination or expiry of this Agreement.

## **9. SUB-CONTRACTING**

9.1 TCG shall be entitled to assign, transfer or sub-contract the Carriage or any part thereof to any third party sub-contractor or its Affiliates. TCG shall remain liable to the Customer to the extent set out in this Agreement for the performance of any sub- contractor. The Customer shall not be entitled to assign, transfer or sub-contract its rights or obligations under this Agreement without the prior written approval of TCG.

10.2 Any sub-contractor or agent of TCG 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 TCG.

## **10. THIRD PARTY RIGHTS**

10.1 Subject to clause 9 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 Customer shall be deemed to be a third party under this Agreement.

## **11. NOTICES**

11.1 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 or such other address in England as the recipient may designate 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.

## **12. CONFIDENTIALITY AND ANNOUNCEMENTS**

12.1 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 12.2 below.

12.2 Each Party may disclose the other Party's Confidential Information:

12.2.1 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 clause 12; and

12.2.2 as may be required by law, court order or any governmental or regulatory authority.

12.3 Neither Party shall use the other Party's Confidential Information for any purpose other than to perform its obligations under this Agreement.

12.4 This clause 12 shall not apply to Confidential Information which is:

12.4.1 or becomes part of the public domain through no fault of the receiving Party;

12.4.2 known to the receiving Party prior to the disclosure by the disclosing Party without an obligation to keep such Confidential Information confidential;

12.4.3 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

12.4.4 independently developed by the receiving Party without any breach of this Agreement.

12.5 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.

## **13. VARIATION AND WAIVER**

13.1 No variation of this Agreement shall be valid unless it is in writing and signed by an authorised

representative of each Party.

13.2 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.

## **14. SEVERABILITY**

14.1 If any provision of this Agreement is held invalid by a court of competent jurisdiction, all valid provisions that are severable from the invalid provision(s) shall remain in full force and effect. Parties shall in that case enter into consultation with the aim of coming to an agreement as to the replacement of the invalid and/or nullified provision with a new provision, whereby the purpose and the tenor of the invalid and/or nullified provision is taken into account to the greatest degree possible.

## **15. ENTIRE AGREEMENT & CONFLICTING PROVISIONS**

15.1 This Agreement including any variations agreed between the Parties in accordance with clause 13, 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.

## **16. GOVERNING LAW**

16.1 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 exclusive jurisdiction of the English courts.

## **Terms and Conditions of Carriage Important Notice**

These Conditions between TCG and the Customer are for the Carriage of Consignments and shall apply to the Customer from the time that TCG accepts a Consignment for Carriage unless otherwise agreed in writing by an authorised representative of TCG. The Customer's statutory rights and entitlements hereunder are not affected. Every Consignment is carried on a limited liability basis as provided in paragraph 9. The Customer warrants that it is either the owner of the Consignment or that it is authorised by the owner to accept these Conditions on the owner's behalf.

# 1. DEFINITIONS

The following definitions apply to these Conditions:

“Boost Parcels” is a trading style and means The Collect Group Ltd (Company No. 8031231)

“Carriage” means the collection, holding, transportation, delivery and other services undertaken with regard to a Consignment;

“Charges” means all charges payable by the Customer including but not limited to charges for the Carriage, surcharges (including but not limited to emergency, operational and fuel surcharges), storage charges, VAT, taxes, interest, fines, administration charges, duties, customs duties, levies, imposts, insurance premiums and any other amounts properly chargeable to the Customer in connection with the Carriage or imposed by regulatory bodies in relation to the Consignment(s), and any other amounts payable under these Conditions;

“Collect Pro” is a trading style and means The Collect Group Limited (Company No. 8031231)

“Conditions” means these Terms and Conditions of Carriage;

“Consignment” means all goods that travel under Consignment Notes (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 TCG for Carriage;

“Consignment Note” means the document incorporating these Conditions specifying the destinations and the number of parcels which may include a manifest or label produced by a TCG automated system or otherwise;

“Customer” means the party who contracts with TCG and who is responsible for the Charges;

“Equipment” means any special appliances to be provided by the Sender and/or Receiver, where required, for the loading or unloading of a Consignment;

“International Services” means a Consignment destined for any address outside of the UK or Northern Ireland;

“Low Cost Parcels” and “LCP” are trading styles and mean The Collect Group Limited (Company No. 8031231)

“POD” means proof of delivery of a Consignment by any means including signature in electronic or written form, or by photographic image or by GPS co-ordinates or by any other evidence such as a driver’s confirmation of delivery;

“Prohibited Items” means items that TCG does not carry, except with the express written permission of TCG;

“Receiver” means the party specified on the Consignment Note to whom the Consignment is to be delivered;

“Restricted Items” means items that may be carried on the condition that there is no liability for loss or damage and may nevertheless require the written permission of TCG;

“Return To Sender” means the return of any item to the sender usually be the account holder’s address;

“Schedule” means any additional pages forming part of the Agreement;

“Sender” means the party sending the Consignment;

“Service Option” means the service selected at the time of booking and generating the shipping label;

“SLA” means the Service Level Agreement detailing the services available to the customer and the charges surcharges that apply to the Consignment; and

“TCG” means The Collect Group Limited.

## **2. COLLECTIONS, DELIVERIES AND ROUTING**

2.1 Consignments are delivered to the delivery address but not necessarily to the named Receiver personally.

2.2 One attempt to deliver will be made by TCG. Thereafter TCG may request instructions from the Receiver following which re-delivery will be made by TCG dependent upon the service selected and subject to the associated Charges. The SLA will contain specific details regarding delivery attempts. It is the Customer's responsibility to ensure the appropriate service is selected at the time of dispatch or booking the collection.

2.3 Where appropriate TCG may deliver Consignments to an address within a reasonably immediate vicinity where the Receiver is not available, at the Customer's risk.

2.4 Consignments to addresses with a central receiving area will be delivered to that area.

2.5 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 TCG.

2.6 The data scanned by TCG shall prevail if there is a discrepancy between the data provided by the Sender or Customer, and the data scanned by TCG in connection with the Consignment.

2.7 TCG will make every reasonable effort to deliver Consignments according to TCG's regular delivery schedules but these are estimates only and are not guaranteed. Any timescales given by Service Options are indicative only. A failure to deliver Consignments within the indicative timescale shall not be deemed to be a breach of contract. TCG is not liable for any damages or loss caused by delays howsoever arising, or for any claims for carriage costs to be refunded.

2.8 All route planning shall be at the sole discretion of TCG. The Customer acknowledges that Carriage over weekends, Bank Holidays and Public Holidays may impact on the expected delivery time.

2.9 Collections and deliveries which take more than fifteen minutes may be subject to a surcharge.

2.10 Where TCG has been requested to collect a Consignment and upon collection there is no Consignment to collect, then TCG may charge the Customer an aborted collection charge.

2.11 TCG may open and inspect a Consignment at any time for any reason but is under no obligation to do so.

2.12 TCG shall have no liability for any loss or damage occurring after delivery.

2.13 Couriers and booking agents are not responsible for the interpretation of these Conditions and TCG shall not be liable for any representation, guidance or interpretation of these Conditions.

2.14 TCG may at any time at its sole and reasonable discretion refuse to carry any Consignment.

### **3. TERMINATION**

3.1 These Conditions may be terminated for any reason by either party on 7 days' notice.

3.2 TCG may terminate these Conditions immediately where the Customer (i) is in breach of these Conditions; or (ii) becomes insolvent or bankrupt or suffers any such other analogous event.

### **4. UNDELIVERABLES**

4.1 Consignments cannot be delivered to PO boxes.

4.2 If the Receiver refuses delivery or cannot accept delivery or the Consignment is deemed by the Receiver to be unacceptable or the Receiver cannot reasonably be identified or located then TCG shall use reasonable efforts to return the Consignment to the Sender at the Customer's cost, failing which TCG shall be entitled to dispose of or sell the Consignment without incurring any liability to the Customer or to any other party whatsoever. The Customer shall be responsible for all costs associated with the disposal or sale of the Consignment and TCG shall be entitled to deduct from the proceeds of the sale sufficient funds to meet these costs.

4.3 If no one is available to take delivery, TCG will make a further attempt or attempts and if delivery cannot be completed, TCG will apply a Return To Sender label and return the Consignment to the Sender at the Customer's cost.

4.4 Consignments which do not fall within the Service Option limits set out in the SLA may not be delivered and may be subject to additional charges and may be returned to the Sender at the Customer's cost.

### **5. LOADING AND UNLOADING**

5.1 When collection or delivery takes place at the Sender or the Receiver's premises, TCG shall not be under any obligation to provide any equipment, power or additional manpower required for such collection or delivery.

5.2 It is the Customer'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 TCG agrees to load or unload such Consignment, such loading or unloading shall be at the Customer's risk and TCG shall have no liability whatsoever and shall be indemnified by the Customer for any damage howsoever arising in the course of or as a result of loading or unloading such Consignment without the Equipment.

## **6. UNACCEPTABLE CONSIGNMENTS & RESTRICTIONS**

6.1 Unless otherwise agreed to in writing by TCG, the following Prohibited Items will not be carried by TCG: live animals (including birds, fish, insects, spiders, larvae, pupae etc); complete firearms, firearm parts, ammunition, explosives (including fireworks, flares, blasting caps and party poppers) weapons or items that could be used as weapons (these include but are not limited to decorative swords, kitchen knives, axes, shears, cleavers etc); imitation (replica) firearms, weapons, explosive devices or ammunition; 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); hazardous goods; human and animal 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, counterfeit goods and narcotics); ivory and other banned products; medical samples (includes bodily fluids and tissue samples both animal and human); 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, unused stamps, traveller's cheques, activated SIM cards, money and event tickets); banderols and tax stickers; bullion, loose precious stones; drugs (controlled under applicable current Misuse of Drugs legislation); personal data; pornography; tobacco; overweight parcels (that weigh in excess of 31.5kg). This list of items may be amended by TCG from time to time.

6.2 Unless otherwise agreed in writing by TCG, the following Restricted Items if presented for carriage are carried by TCG on the condition that there is no liability whatsoever for loss or damage, whether with regard to the item itself or with regard to matters of a consequential nature. It remains for the customer to make adequate provision for such eventualities and to assume the risk while indemnifying TCG: antiques and art works; jewellery and costume jewellery; furs and garments trimmed with furs; glassware, mirrors, ceramics and pottery; irreplaceable/unique items; high value goods (with an order value in excess of £1000); plants, perishables (including fresh foods or foods with a limited life) or any perishable requiring a temperature controlled environment; used components and car parts containing any lubricants; legal drugs and pharmaceutical products; non-hazardous liquids including paint.

6.3 Dangerous goods in limited quantities as permitted by law and regulations may be accepted for carriage by TCG subject to a site visit and an audit in advance of any Consignment being shipped. TCG may agree specific liability arrangements subject to sign-off.

6.4 TCG may at its sole discretion refuse to carry other items not listed in paragraph 6.1 and 6.2

6.5 TCG carries no items listed in paragraphs 6.1 and 6.2 on its International Services and TCG does not carry any dangerous goods (in limited quantities or otherwise) on international services.

## **7. CUSTOMER OBLIGATIONS**

7.1 Notwithstanding the provisions of paragraph 9.4, the Customer 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) TCG's packaging advice. TCG shall be entitled to refuse to carry Consignments which are not suitably packaged. The Customer shall fully indemnify and hold TCG 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 paragraph;

7.1.2 all Consignments are correctly labelled, and that all labels shall be securely fixed, clear, of the correct quality and definition to allow scanning to take place, 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 TCG shall be entitled to refuse to carry the entire Consignment. TCG, 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 TCG. Such data 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 Receiver including the postcode, a mobile telephone number, and an email address. If the Customer has failed to provide all such necessary data, then TCG shall be entitled to refuse to carry the Consignment and/or may charge the Customer accordingly. The Customer shall fully indemnify and hold TCG 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 paragraph;

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 paragraph 6 above and all legal and statutory obligations and regulations regarding the Carriage of the Consignment. The Customer shall fully indemnify and hold TCG harmless for any costs, expenses, loss or damage howsoever arising in circumstances where: (i) the Customer or a third party submits items for Carriage which fall within paragraph 6.1; or (ii) the Customer 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 Customer shall fully indemnify and hold TCG harmless for any costs, expenses, loss or damage incurred by TCG as a result of such breach howsoever arising;

7.1.7 it shall keep confidential and not disclose any information relating to these Conditions including services provided under them and shall not make any press release or other public announcement about The Collect Group or any of its trading styles including but not limited to Collect Pro, Collect Now, Boost Parcels, LCP and Low Cost Parcels, or any matter relating to these Conditions without TCG's prior written consent; and

7.1.8 it shall notify TCG in writing and request TCG's prior approval for the Carriage of any Consignment with a value in excess of £1,000.

7.2 In the event of a breach of any of the obligations in paragraph 7.1 above which causes loss of or damage to the Consignment, or delay or mis-delivery or non-delivery, then TCG's liability as specified in paragraph 9 will be excluded.

7.3 Subject to paragraph 9.4 below, if the Receiver, Sender or any other party makes any claims for liabilities or damages or makes any attempt to recover any costs or expenses ("Claim") against TCG, its agents or sub-contractors, then the Customer shall indemnify TCG, its agents and sub-contractors against any such Claim where TCG has already paid the Customer the limits set out in paragraph 9 and/or where TCG's liability to the Sender or Receiver or any other party exceeds the limits set out in paragraph 9.

## **8. CHARGES**

8.1 The Customer shall pay or reimburse TCG for all Charges without any deduction.

8.2 Where the Customer has an account with TCG, payment shall be made without set-off, withholding or

deduction within seven (7) days from date of invoice by direct debit otherwise all Charges are payable in advance of Carriage. If the Customer 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 TCG 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 Customer 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 Customer 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 TCG following an upfront payment by the Customer to cover any further services to be provided by TCG.

8.3 All Charges are exclusive of VAT and such Charges may be subject to variation by TCG from time to time.

8.4 TCG reserves the right to make surcharges to recover costs associated with national or international or industry-wide situations, including but not limited to fuel price increases, increases in Government or any other authority's fiscal or statutory charges payable by TCG and variations in vehicle excise duty.

8.5 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 Customer. Should the volume, distribution profile or expenditure vary then TCG shall have the right to implement a reasonable adjustment of the applicable Charges.

## **9. LIABILITIES**

9.1 Subject to paragraphs 9.3 to 9.6 and 10 below, TCG'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:

9.1.1 in the event of loss of or damage to the whole of a Consignment or mis-delivery or non-delivery of the Consignment, in respect of services where a signature is required, TCG's liability shall not exceed £50 unless varied by a Schedule to this Agreement or varied by way of details recorded on an SLA such that the maximum liability is raised to a higher level not exceeding £100 or reduced to a lower level; and

9.1.2 in the event of loss of or damage to part of a Consignment, TCG's liability shall be calculated pro-rata in accordance with condition 9.1.1 above.

9.2 Subject to paragraphs 9.3 to 9.6 and 10 below, in the event of any other Claim made under these

Conditions other than in respect of delay, loss or damage to a Consignment or mis-delivery or non-delivery of the Consignment, TCG's maximum liability under these Conditions shall be limited to £50 per Consignment.

9.3 TCG shall have no liability whatsoever unless the Customer commences actions as detailed in clause 19 within 1 month from the date the Consignment was collected for Carriage.

9.4 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.

9.5 Nothing in these Conditions shall restrict or exclude liability of the Customer or TCG 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.

9.6 The Warsaw and Montreal Conventions may apply to the Carriage and may further limit the liability of TCG.

## **10. CLAIMS PROCEDURE**

10.1 The Customer shall comply with the claims procedure as issued by TCG and amended from time to time; the claims procedure will vary according to the Customer's choice of service level and delivery company aligned to the service level selected by the Customer.

10.2 TCG shall be entitled to require proof of the cost price excluding VAT and if applicable the weight of the whole or any part of the Consignment.

10.3 In respect of all claims relating to the loss of or mis-delivery or non-delivery of a Consignment, claims must be made by the Customer in writing via the TCG online portal, within 14 calendar days of the date of despatch, except where the service selected by the Customer is one which is offered at an enhanced level of liability as noted in paragraph 9.1.1 in which case claims must be made within seven working days of the due date of delivery, with day one being the due date of delivery.

10.4 All claims for damage to a Consignment or partial loss of Consignment must be made by the Customer in writing via the TCG online portal within 7 calendar days of the date of delivery, except where the service selected by the Customer is one which is offered at an enhanced level of liability as noted in paragraph 9.1.1

in which case claims must be made within 3 working days if the proof of delivery has been signed without endorsement to the effect that the Consignment was received as damaged or there was a shortage, or made within 7 working days of the day of delivery where there has been an endorsement of damage or shortage on the proof of delivery; in either case, day 1 is the day of delivery.

10.5 For the purposes of calculating time limits by which claims should be submitted and subsequent supporting information must be submitted, working day means Monday to Friday excluding Bank Holidays, and means by 5.00pm on the final working day; calendar day means Monday to Sunday including Bank Holidays, but where the final day for submitting claims or supporting information ordinarily falls on a Saturday, Sunday or Bank Holiday, then the final day for submission is recalculated such that claims and supporting information must be submitted on the preceding working day by 5.00pm.

10.6 Should the Customer fail to comply with the time limits specified in paragraphs 9.3, 10.3, 10.4 or 10.5, then TCG shall have no liability whatsoever.

## **11. INSURANCE**

11.1 Where available and where requested by the Customer, TCG may arrange insurance for the loss of or physical damage from an external cause to the Consignment only. The Customer shall be responsible for the payment of the premium and for complying with any requirements under the claims handling process for submissions and complying with time limits.

11.2 It is the Customer's responsibility to either seek insurance coverage through TCG (where available) or make its own insurance arrangements in such sums and against such risks as it deems appropriate if the Customer is not satisfied with the level of TCG's liability under these Conditions, Schedules and SLA.

11.3 Subject to paragraph 7.1.8, the Customer's notification shall not be deemed to be a declaration of interest for insurance purposes. Where such approval for Carriage has been granted by TCG, TCG shall not be deemed to have insured the Consignment unless the Customer has paid the associated insurance premiums. TCG's liability shall always be limited as set out in paragraph 9.

11.4 The Customer hereby waives all rights of subrogation which might otherwise exist under the insurance policies possessed by the Customer with coverage for Consignments in Carriage, for any claim or action in excess of the liability limits in these Conditions.

## **12. EVENTS BEYOND THE COLLECT GROUP'S CONTROL**

12.1 TCG 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.

## **13. SUB-CONTRACTING**

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

## **14. DATA PROTECTION**

14.1 All personal data provided to TCG under these Conditions will be held and processed by TCG its servants, agents and where applicable carefully selected third party companies and shall be used fairly, in confidence and solely for the purpose of providing the services. TCG shall keep such personal data secure and shall comply with the Data Protection Act 1998.

14.2 The Customer warrants that all personal data provided to TCG has been fairly and lawfully obtained and the Customer has authority to disclose such personal data to TCG and for TCG to lawfully process it. The Customer shall fully indemnify and holds harmless TCG for any costs, expenses, losses or damage howsoever arising out of its failure to comply with this warranty.

## **15. SEVERABILITY**

15.1 The invalidity, unenforceability or illegality of any provision in these Conditions shall not affect any other part of these Conditions.

## **16. VARIATION AND WAIVER**

16.1 No variation of these Conditions 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 rights under these Conditions shall not be deemed to be a waiver or failure to exercise any other right under these Conditions.

## **17. THIRD PARTY RIGHTS**

17.1 Subject to paragraph 13.2, the parties agree that the provisions of the Contracts (Rights of Third Parties) Act 1999, shall not apply to these Conditions.

## **18. LIEN**

18.1 TCG shall have a specific and general lien on any Consignment and associated documentation during Carriage for all Charges due. TCG shall be entitled to sell or dispose of the Consignment and associated documentation at the expense of the Customer after having given the Customer 14 days' notice of such disposal and to apply any proceeds towards payment of any overdue Charges. TCG shall account to the Customer 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.

## **19. ARBITRATION**

19.1 These Conditions may be amended from time to time by us, including, without limitation by adding or deleting services or amending compensation levels. You should regularly refer to our website [[www.collectgroup.co.uk](http://www.collectgroup.co.uk)] to obtain a copy of the Conditions which apply when you send a Consignment. Your sending a consignment with TCG is deemed acceptance by you of the conditions as so amended from time to time.

## **20. ENTIRE AGREEMENT**

20.1 Subject to the compulsory application of any relevant legislation or international convention, these Conditions, the claims procedures and the Consignment Note shall constitute the entire agreement between the parties and shall supersede the provisions of any previous contract, warranty, representation or misrepresentation made or given relating to the Carriage of Consignments.

## **21. GOVERNING LAW**

21.1 These Conditions and any non-contractual obligations arising out of or in connection with them shall be governed by and construed in accordance with the laws of England and the parties submit to the exclusive jurisdiction of the English courts.