



## TERMS OF PURCHASE

### 1. Interpretation

#### 1.1 In these Terms:

**"Buyer"** means Kuehne + Nagel Limited (an English Company No. 01722216);  
**"Contract"** means the contract for the sale and purchase of the Goods and/or the supply and acquisition of the Services which incorporates these Terms and the Order;  
**"Data Protection Legislation"** means all applicable data protection and privacy legislation in force from time to time, including the Data Protection Act 2018, the GDPR as transposed into the national legislation of the United Kingdom by operation of section 3 of the European Union (Withdrawal) Act 2018; and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426);  
**"Deliverables"** means all documents, products and materials developed by the Seller or its agents, contractors and employees as part of or in relation to the Services and/or the Goods in any form or media, including drawings, maps, plans, diagrams, designs, pictures, computer programs, data, specifications and reports (including drafts);  
**"Delivery Address"** means the address for delivery stated by the Buyer on the Order;  
**"Goods"** means the goods (including any installment of the goods or any part of them) (if any) described in the Order including any goods supplied by the Seller pursuant to the supply of the Services;  
**"Insolvent"** means an event where any one of the following occurs in relation to a party:  
 (a) any step or action is taken, any notice, document, petition or application is filed at court, or any resolution is passed, in connection with that party entering administration, a moratorium, provisional liquidation, a company voluntary arrangement, an arrangement under Part 26A of the Companies Act 2006 or any other composition or arrangement with its creditors (other than in relation to a solvent restructuring), bankruptcy, being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring) or having a receiver appointed over any of its assets;  
 (b) an event similar or analogous to those listed in a) above occurs under the law of any jurisdiction of a party; or  
 (c) a party suspends, or threatens to suspend, or ceases, or threatens to cease, to carry on all or a substantial part of its business.  
**"Intellectual Property Rights"** means patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in designs, rights in computer software, database rights, rights to use, and protect know-how and trade secrets, and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future;  
**"Malicious Software"** means any software program or code intended to destroy, interfere with, corrupt or have a disruptive effect on program files, data or other information, executable code or application software macros, whether or not its operation is immediate or delayed, and whether such software program or code is introduced wilfully, negligently or without knowledge of its existence;  
**"Order"** means the Buyer's purchase order to which these Terms shall apply;  
**"Price"** means the fixed price of the Goods and/or the charge for the Services as described more particularly in Clause 7;  
**"Security Requirements"** means Kuehne + Nagel's "Service Provider Security Requirements" policy as notified or otherwise made available to the Seller;  
**"Seller"** means the person or company from whom the Buyer purchases the Goods and/or Services as described more particularly in the Order;  
**"Services"** means the services, including any Deliverables, provided by the Seller under the Contract (including but not limited to the Transport Services) and any related services performed by the Seller;  
**"Service Level Agreement"** means any service level agreement provided by the Buyer to the Seller;  
**"Specification"** means the description or specification for Services and/or Goods including any related plans, drawings, data or other information or requirements of Buyer relating to the Goods and/or Services as agreed with or supplied by the Buyer failing which as proposed by the Seller so long as it is commensurate with best industry practice;  
**"Terms"** means these standard terms of purchase;  
**"The Supplier Code of Conduct"** means the Buyer's Supplier Code of Conduct set out in Schedule 1 of these Terms.  
**"Tradeshift"** means the Buyer's electronic invoicing system;  
**"Transport Services"** means Services involving the provision of transport, distribution or warehousing services;  
**"TUPE"** means the Transfer of Undertakings (Protection of Employment) Regulations 2006.

**1.2** Any reference in these Terms to a statute or a statutory provision shall be construed as a reference to that statute or provision as amended, re-enacted or extended at the relevant time. A reference to a statute or statutory provision includes all subordinate legislation made under that statute or statutory provision.

**1.3** The headings in these Terms are for convenience only and shall not affect their interpretation.

**1.4** Unless stated otherwise, a reference to **writing or written** does not include email.

**1.5** Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, phrase or term preceding those terms.

**1.6** The terms, "controller", "processor", "processing" shall have the meanings given to them in the Data Protection Legislation.

### 2. Basis of Purchase

**2.1** The Order constitutes an offer by the Buyer to purchase the Goods and/or acquire the Services from the Seller on and subject to these Terms.

**2.2** Except where the Buyer and the Seller have entered into a separate bespoke contract which has been negotiated and agreed in writing by duly authorised representatives of both parties at no less than director level, and which expressly excludes these Terms, these Terms shall apply to the Contract to the exclusion of any other terms that the Seller seeks to impose or incorporate in any quotation or otherwise or which are implied by trade, custom, practice or course of dealing. The Seller shall not, and shall ensure that its personnel shall not, attempt to bind the Seller or Buyer to any terms and conditions which are not these Terms or agreed in the Order.

**2.3** In the absence of the Seller rejecting the Order in writing beforehand, the Order shall be deemed to be accepted by the Seller on the earlier of:

**2.3.1** 9.00am on the third business day (as defined in clause 4.6.3 below) following submission of the Order by the Buyer; or

**2.3.2** any act by the Seller consistent with fulfilling the Order, at which point and on which date the Contract shall come into existence.

**2.4** This Contract shall not grant the Seller any exclusive right to supply Goods and/or perform the Services to the Buyer. The Buyer does not guarantee the purchase of any minimum volume, any specific amount, tonnage, or revenue to the Seller unless otherwise specifically set forth in an Order.

### 3. Specifications

**3.1** Subject to the provisions of these Terms, the quantity, quality and description of the Goods and/or the Services shall be as specified in the Order and/or in any Specification supplied by the Buyer to the Seller or agreed in writing by the Buyer.

**3.2** The Seller shall (and shall assist the Buyer to) comply with all applicable regulations and/or other legal requirements concerning the manufacture, packaging, packing and delivery of the Goods and/or the performance of the Services.

**3.3** The Seller shall ensure that all Goods are marked in accordance with the Buyer's instructions and any applicable regulations and/or other legal requirements.

### 4. Supply and Delivery of Goods

**4.1** The Seller shall ensure that the Goods shall:

**4.1.1** correspond with their description, the Order and any applicable Specification;

**4.1.2** be of satisfactory quality (within the meaning of the Sale of Goods Act 1979) and fit for any purpose held out by the Seller or made known to the Seller by the Buyer, expressly or by implication, and in this respect the Buyer relies on the Seller's skill and judgement;

**4.1.3** be free from defects in design, materials and workmanship and remain so for 12 months after delivery;

**4.1.4** comply with all applicable statutory and regulatory requirements relating to the manufacture, labelling, packaging, storage, handling and delivery of the Goods; and

**4.1.5** be properly packed and secured in such manner as to enable them to reach their destination in good condition.

**4.2** The Seller shall ensure that at all times it has and maintains all the licences, permissions, authorisations, consents and permits that it needs to carry out its obligations under the Contract in respect of the Goods and that it at all times complies with The Supplier Code of Conduct.

**4.3** The Seller shall remain fully responsible for the Goods despite any inspection or testing which might be carried out by the Buyer and any such inspection or testing shall not reduce or otherwise affect the Seller's obligations under the Contract.

**4.4** If following such inspection or testing the Buyer considers that the Goods do not comply or are unlikely to comply with the Seller's undertakings at Clause 4.1, the Buyer shall inform the Seller and the Seller shall immediately take such remedial action as is necessary to ensure compliance.

**4.5** The Seller shall ensure that each delivery of the Goods is accompanied by a delivery note which:

**4.5.1** shows the date of the Order, the Order number (if any), the type and quantity of the Goods (including the code number of the Goods (where applicable)), special storage instructions (if any), handling instructions (if any), and, if the Goods are being delivered by instalments, the outstanding balance of Goods remaining to be delivered; and

**4.5.2** states clearly any requirement for the Buyer to return any packaging material for the Goods to the Seller. Any such packaging material shall only be returned to the Seller at the cost of the Seller.

**4.6** The Seller shall deliver the Goods:

**4.6.1** on the date specified in the Order;

**4.6.2** DDP (as defined in Incoterms 2020) to the Delivery Address or as otherwise instructed by the Buyer; and

**4.6.3** during the Buyer's normal hours of business on a **business day** (a day other than Saturday, Sunday or an English Bank Holiday), or as instructed by the Buyer.



- 4.7** Delivery of the Goods shall be completed on the completion of unloading by the Seller of the Goods at the Delivery Address.
- 4.8** The Seller shall not deliver the Goods in instalments without the Buyer's prior written (to include email) consent. Where it is agreed that the Goods are delivered in instalments, they may be invoiced and paid for separately. However, failure by the Seller to deliver any one instalment on time or at all or any defect in an instalment shall entitle the Buyer to the remedies set out in Clause 10 in respect of the whole Order as well as any instalment.
- 5. Supply of Services**
- 5.1** The Seller shall from the date set out in the Order and for the duration of the Contract supply the Services to the Buyer in accordance with the terms of the Contract.
- 5.2** The Seller shall meet any performance dates for the Services as specified in the Order and shall in any event always perform the Services promptly and pro-actively, and in accordance with these Terms.
- 5.3** In providing the Services and/or supplying any Goods, the Seller shall:
- 5.3.1** co-operate with the Buyer in all matters relating to the Services, and comply with all instructions of the Buyer;
- 5.3.2** perform the Services with the best care, skill and diligence in accordance with best practice in the Seller's industry, profession or trade;
- 5.3.3** use personnel who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number to ensure that the Seller's obligations are fulfilled in accordance with the Contract;
- 5.3.4** ensure that the Services and any Deliverables will conform with all descriptions and specifications set out in the Specification and/or Order, and that the Deliverables shall be fit for any purpose that the Buyer expressly or impliedly makes known to the Seller;
- 5.3.5** provide all equipment, tools and vehicles and such other items as are required to provide the Services;
- 5.3.6** use the best quality goods, materials, standards and techniques, and ensure that the Deliverables, and all goods and materials supplied and used in the Services or transferred to the Buyer, will be free from defects in workmanship, installation and design;
- 5.3.7** obtain and at all times maintain all licences and consents which may be required for the provision of the Services;
- 5.3.8** comply with all applicable laws, regulations, regulatory policies, guidelines or industry codes (including Governmental codes) which may apply to the provision of the Services, and with The Supplier Code of Conduct;
- 5.3.9** comply with all applicable provisions of the Security Requirements and any Service Level Agreement;
- 5.3.10** observe all health and safety rules and regulations and any other security or other requirements that apply at any of the Buyer's premises including but not limited to rules relating to parking, gatehouse notification and waiting locations;
- 5.3.11** not do or omit to do anything which may cause the Buyer to lose any licence, authority, consent or permission upon which it relies for the purposes of conducting its business, and the Seller acknowledges that the Buyer may rely on act on the Services; and
- 5.3.12** ensure that it shall not, and procure that its personnel and sub-contractors shall not, hold itself out as having authority to bind the Buyer without the express written consent of the Buyer.
- 6. Supply of Transport Services**
- 6.1** Where the Seller provides Transport Services it shall (and shall procure that each of its sub-contractors shall):
- 6.1.1** at all times maintain full and comprehensive legal liability insurance cover in respect of damage to or loss of any goods transported, handled and/or stored by it for the Buyer as part of the Services;
- 6.1.2** procure that its personnel performing the Transport Services obtain signed proof of delivery forms and other documentation when delivering and/or collecting goods as the Buyer shall direct;
- 6.1.3** procure that all of its employees, agents, personnel or sub-contractors performing the Transport Services at all times:
- 6.3.3.1** hold and shall have held for a minimum continuous period of 2 years relevant Heavy Goods Vehicle licences which have no more than 6 penalty points endorsed thereon; and
- 6.3.3.2** remain of smart appearance and act in a courteous and polite manner;
- 6.1.4** ensure that all vehicles used in the performance of the Transport Services at all times are fit for the purpose and are maintained in a clean, tidy and roadworthy condition; and
- 6.1.5** instruct (and check that) all its drivers take on board the vehicle used for Transport Services the relevant documentation confirming the origin of the goods being transported together with the relevant invoice, packing list and transport documents or any other document required by applicable legislation.
- 7. Price and Payment Terms**
- 7.1** The Price of the Goods and the Services shall be as stated in the Order and, unless otherwise so stated in writing in it, is:
- 7.1.1** exclusive of any applicable value added tax (which shall be payable by the Buyer subject to receipt of a valid VAT invoice);
- 7.1.2** inclusive of all charges for packaging, packing, shipping, carriage, insurance and delivery of the Goods to the Delivery Address, inclusive of all charges for performance, insurance and delivery of the Services, and inclusive of any duties, tax, imposts and/or levies other than value added tax.
- 7.2** No increase in the Price may be made (whether on account of increased material, labour or transport costs, fluctuation in rates of exchange or otherwise) without the prior consent of a duly authorised representative of the Buyer in writing.
- 7.3** The Seller must invoice the Buyer on or within 6 (six) months of delivery of the Goods or after completion of the Services, as the case may be, and each invoice shall quote the number of the Order. Failure by the Seller to do so will result in no fee being due thereafter in respect of the related Goods and/or Services.
- 7.4** All invoices must be submitted to the Buyer electronically via Tradeshift, citing a valid purchase order number. The Seller's failure to comply with such requirement shall result in non-payment and no fee will be due thereafter in respect of the related Goods and/or Services.
- 7.5** In consideration of the supply of Goods and/or Services by the Seller in accordance with the Contract, the Buyer shall pay the Price of the Goods and/or the Services within 90 (ninety) days from the date of a proper invoice.
- 7.6** The Buyer may at any time, without notice to the Seller, set off any liability of the Seller to the Buyer against any liability of the Buyer to the Seller, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under the Contract. Any exercise by the Buyer of its rights under this Clause shall not limit or affect any other rights or remedies available to it under the Contract or otherwise. The Seller shall not set off any liability of the Buyer without the Buyer's prior written consent.
- 7.7** The applicable interest rate for unpaid (and undisputed) sums due under the Contract is 2% a year above the Bank of England's base rate from time to time.
- 8. Risk and Ownership**
- 8.1** Risk of damage to or loss of the Goods shall pass to the Buyer on delivery to the Buyer in accordance with the Contract.
- 8.2** Property in the Goods shall pass to the Buyer on: (i) delivery to the Buyer in accordance with the Contract; (ii) once payment for them has been made; or (iii) they have been appropriated to the Contract (whichever occurs first).
- 8.3** The Seller hereby warrants and guarantees that it shall not under any circumstances impose or seek to impose a lien, or allow to be created, whether general or specific, a charge or other encumbrance in respect of the Goods and/or the property of the Buyer, whether in respect of any claims for outstanding sums under the Contract or otherwise.
- 8.4** Should the Buyer provide or otherwise make available to the Seller any property of the Buyer: (i) property in it shall at all times remain with the Buyer (and shall be marked as such by the Seller); (ii) risk in it shall be with the Seller; (iii) the Seller shall be responsible for keeping it safe, secure and properly maintained; and (iv) the Seller shall return it forthwith on request from the Buyer.
- 9. Warranties**
- 9.1** The Seller warrants to the Buyer that the Goods shall:
- 9.1.1** be of satisfactory quality (within the meaning of the Sale of Goods Act 1979,) and fit for any purpose held out by the Seller or made known to the Seller at the time the Order is placed;
- 9.1.2** be free from defects in design, material and workmanship;
- 9.1.3** correspond with any relevant Specification and/or sample; and
- 9.1.4** comply with all statutory requirements and regulations relating to the sale of the Goods.
- 9.2** The Seller warrants to the Buyer that:
- 9.2.1** the Services will be performed by appropriately qualified and trained personnel, with due care and diligence and to a high standard of quality;
- 9.2.2** the Services shall comply with all applicable statutory requirements, regulations and Government initiatives; and
- 9.2.3** the Seller has made its own comprehensive enquiries to satisfy itself as to the accuracy and adequacy of any information supplied to it by or on behalf of the Buyer before entering into the Contract and has fully considered such matters when calculating the Price and its ability to attain its contractual duties.
- 9.3** No representations, warranties, or conditions are given or assumed by the Buyer in respect of any information which is provided by the Buyer and any such representations, warranties or conditions are excluded, save to the extent that such exclusion is prohibited by law.



## 10. Remedies

- 10.1** If the Seller fails to deliver the Goods, perform the Services by the applicable date, or otherwise comply with its duties under the Contract, without limiting or affecting any other rights or remedies available to it, then the Buyer may at its sole option:
- 10.1.1** require the Seller to repair the Goods or to supply replacement Goods and/or Services in accordance with the Contract within seven days;
- 10.1.2** (regardless of whether the Buyer has previously required the Seller to repair the Goods or to supply any replacement Goods and/or Services) treat the Contract as discharged by the Seller's breach and require the repayment of any part of the Price which has been paid;
- 10.1.3** terminate the Contract with immediate effect (and with no liability to the Seller) by giving written notice to the Seller;
- 10.1.4** refuse to accept any subsequent performance of the Services and/or delivery of the Goods which the Seller attempts to make;
- 10.1.5** recover from the Seller any costs incurred by the Buyer in obtaining substitute goods and/or services from a third party;
- 10.1.6** require a refund from the Seller of sums paid in advance for Services that the Seller has not provided and/or Goods that the Seller has not delivered; and/or
- 10.1.7** claim damages for any additional costs, loss or expenses incurred by the Buyer which are in any way attributable to the Seller's failure.
- 10.2** These Terms shall extend to any substituted or remedial services and/or repaired or replacement goods supplied by the Seller.
- 10.3** The Buyer's rights under the Contract are in addition to its rights and remedies implied by statute and common law.
- 10.4** The Seller shall maintain complete and accurate records of the work done, time spent and materials and records used by it in performing the Contract and shall allow the Buyer to inspect such records at all reasonable times on request.

## 11. Indemnity

- 11.1** The Seller shall indemnify and keep indemnified the Buyer in full against all liability, loss, damages, costs and expenses (including legal expenses) awarded against or incurred or paid by the Buyer as a result of or in connection with:
- 11.1.1** any breach of any warranty or undertaking given by the Seller in relation to the Goods and/or the Services;
- 11.1.2** any claim that the Goods and/or the Services infringe, or their importation, use, receipt or resale, infringes the patent, copyright, design right, trade mark or other Intellectual Property Rights of any other person;
- 11.1.3** any liability under the Consumer Protection Act 1987 in respect of the Goods;
- 11.1.4** any act or omission of the Seller or its employees, agents, personnel or sub-contractors in supplying, delivering and installing the Goods; and
- 11.1.5** any act or omission of any of the Seller or its employees, agents, personnel or sub-contractors in connection with the performance of the Services and/or the supply of the Goods.
- 11.2** Nothing in this Contract limits any liability which cannot legally be limited, including liability for:
- (a) death or personal injury caused by negligence;
- (b) fraud or fraudulent misrepresentation;
- (c) breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession); or
- (d) any other liability which cannot be limited or excluded by applicable law.
- 11.3** Subject to Clause 11.2, the Buyer's total liability to the Seller, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with the Contract shall be limited to one hundred per cent (100%) of the total Price paid by the Buyer under the relevant Contract during the 12 months immediately preceding the date on which the claim arose.

## 12. Force Majeure

Neither the Seller nor the Buyer shall be liable to the other or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, any of its obligations in relation to the Goods and/or the Services, if the delay or failure is due to an event, circumstance or cause beyond its reasonable control (a "Force Majeure Event") provided always that a cause is not a Force Majeure Event if it is attributable to the Seller's (or its personnel's) willful act, neglect or failure to take reasonable precautions against the relevant Force Majeure Event or if a reasonable and prudent service provider should have foreseen and provided for the cause in question. The parties agree, understand and accept that Brexit (the UK's exit from the EU) is not a Force Majeure Event. If a party is prevented from or hindered or delayed in performing its obligations under the Contract by a Force Majeure Event then it shall: a) notify the other party in writing (to include email) of this as soon as reasonably possibly giving full details of the matter; b) use all

reasonable endeavours to mitigate the effects of such Force Majeure Event; and c) resume performance of its obligations affected by the Force Majeure Event as soon as reasonably possible. If the Force Majeure Event continues for more than one week, the party not affected may terminate the Contract immediately by written notice to the affected party.

## 13. Intellectual Property

- 13.1** All Intellectual Property Rights arising out of or in connection with the Goods and/or Services and/or Deliverables shall be owned by the Buyer. The Seller, pursuant to and for the consideration of the Price, hereby assigns to the Buyer absolutely with full title guarantee all its right, title and interest in any Intellectual Property Rights arising from the Services and/or the Goods and/or the Deliverables. At its own expense the Seller shall, and shall use all reasonable endeavours to procure that any necessary third parties shall, promptly execute and deliver such documents and perform such acts as may be reasonably required for the purpose of giving effect to such assignment.

- 13.2** Any Specification supplied by the Buyer to the Seller in connection with the Contract, together with any of Buyer's copyright, design rights or any other Intellectual Property Rights in the Specification, shall be the exclusive property of the Buyer.

## 14. Termination

- 14.1** The Buyer may cancel the Contract in respect of all or part only of the Goods and/or the Services by giving notice (to include mail) to the Seller at any time before delivery of the Goods and/or performance of the Services, in which event the Buyer's sole liability shall be to pay to the Seller the Price for the Goods already delivered and/or Services already performed by Seller with the written authorisation of the Buyer, less the Seller's net saving of cost arising from cancellation.

- 14.2** The Buyer may terminate the Contract without liability to the Seller by giving notice to the Seller at any time if:

- 14.2.1** the Seller becomes Insolvent; or

- 14.2.2** the Buyer reasonably believes that the Seller is about to become Insolvent.

- 14.3** The Buyer may terminate the Contract for convenience at any time upon one week's notice (to include email) without any liability save for any Services already performed and/or any Goods already provided to the Buyer (excluding any Services and/or Goods which the Buyer has not authorised).

- 14.4** On the termination or expiry of the Contract the Seller shall return or otherwise dispose of, as the Buyer requests, all of its property. Provisions of the Contract which by implication are to continue shall survive its termination or expiry.

## 15. Bribery, Modern Slavery & Tax Avoidance

- 15.1** In supplying the Services and/or the Goods and in carrying out its obligations under the Contract, the Seller will, and shall ensure that its sub-contractors will, comply in all respects with all applicable legal, regulatory and other requirements relating to anti-bribery, anti-corruption and modern slavery including the Bribery Act 2010, the Modern Slavery Act 2015 and any equivalent legislation in any other jurisdiction in which the Seller and its sub-contractors operate. The Buyer may terminate the Contract immediately upon notice (to include email) in the event the Seller has failed to meet its obligations in this Clause 15, whereupon the Buyer shall have no further obligation or liability under the Contract.

- 15.2** The Buyer or its designated representatives shall have the right to access, audit and review the books and records of the Seller, and to keep copies thereof, to the extent necessary to ascertain Seller's compliance with the Contract. The Seller shall fully and in a timely manner cooperate in any such review or audit conducted by or on behalf of the Buyer, including responding accurately and completely to all enquiries and providing any requested documents.

- 15.3** The Seller shall ensure that it does not and shall not use any type of payroll company or internal in-house systems that employ or use practices (including, without limitation, off-payroll working) that are or could be deemed as tax avoidance, irrespective of any purported legality. Further, the Seller shall ensure that neither it nor any of its group companies nor any members of its supply chain (including but not limited to its sub-contractors) shall commit any offence under the Criminal Finances Act 2017.

- 15.4** The Seller shall indemnify and keep the Buyer indemnified at all times from and against all losses, claims, damages, liabilities, expenses and costs (including any incidental costs) on a full indemnity basis incurred by the Buyer in respect of any breach by the Seller of any of the provisions of this Clause 15.

## 16. Data Protection

Each party shall: (i) comply with its respective obligations under Data Protection Legislation in connection with carrying out its obligations under the Contract; and (ii) take all steps reasonably requested by the other party to assist it (or a member of the other party's group) in complying with such obligations. Where a party is acting as controller of any personal data being processed under the Contract, it shall process that data in accordance with its published privacy notices. Where a party is acting as a processor, the parties agree to enter into a separate data processing agreement in respect of that processing.



**17. TUPE**

The Seller shall fully indemnify and keep indemnified the Buyer at all times upon demand from and against all claims, liabilities, expenses and incidental costs (on a full indemnity basis) incurred by the Buyer in respect of the employment of and/or the termination of the employment of any individual and in respect of any claim arising out of the actual or alleged application of TUPE to the Contract or the commencement and/or termination of any services provided by the Seller.

**18. Confidentiality**

**18.1** The Seller undertakes, in respect of any information of the Buyer which the Seller receives or has access to, to treat such information as confidential and not without the Buyer's prior written consent to communicate or disclose any part of such information to any person except:

**18.1.1** to those employees, agents, sub-contractors and other suppliers on a need to know basis who are directly involved in the Contract and/or the supply of Goods and/or Services to the Buyer;

**18.2** the Seller's auditors, professional advisers and any other persons or bodies having a legal right or duty to access or knowledge of the confidential information in connection with the business of the Seller, in each case ensuring such persons are subject to provisions no less onerous than this Clause 18.

**18.3** The Seller shall not make, or permit any person to make, any public announcement concerning the existence, subject matter or terms of the Contract, the wider transactions contemplated by it, or the relationship between the parties, without the prior written consent of the Buyer.

**18.4** This Clause 18 will not apply to any information which:

**18.4.1** at the time of disclosure is demonstrably (to the Buyer's reasonable satisfaction) already in the public domain or in the possession of the Seller;

**18.4.2** after disclosure becomes part of the public domain otherwise than by breach by the Seller of the provisions of these Terms; or

**18.4.3** is required to be disclosed by mandatory law, a governmental entity or regulatory body with valid jurisdiction.

**18.5** The Seller will delete all received confidential information of the Buyer and will safely dispose any hardcopies thereof upon request of the Buyer.

**19. Software and Anti-Virus**

**19.1** The Seller shall ensure that any software which it uses, supplies or otherwise makes available under the Contract:

**19.1.1** is a currently supported versions of that software;

**19.1.2** is free of material defects and errors;

**19.1.3** performs in accordance with the user manuals and the published specification for such software;

**19.1.4** is provided at no additional cost to the Buyer; and

**19.1.5** runs smoothly and efficiently and will, save for any agreed down-time (Buyer's approval not to be unreasonably withheld), operate on a 24/7 basis for each and every 365 days of the year.

**19.2** The Seller shall use the latest version of anti-virus software available from an industry leading anti-virus software vendor to check and delete Malicious Software which might otherwise be supplied to the Buyer.

**19.3** If any Malicious Software is found by the Seller which might have an adverse impact on the Buyer it shall immediately notify the Buyer in writing and shall use all reasonable endeavours to reduce the effect of the Malicious Software and to restore the Goods and/or Services supplied to their original operating efficiency and the standard required under the Contract. The costs of complying with this Clause 19 shall be borne by the Seller.

**20. General**

**20.1** The Contract is personal to the Seller and the Seller shall not assign or transfer or purport to assign or transfer to any other person any of its rights or sub-contract any of its obligations under the Contract. If a duly authorised representative of the Buyer provides its written approval for the Seller to sub-contract then the Seller shall be fully liable for all acts and omissions of such sub-contractor and the Seller shall indemnify and keep indemnified the Buyer in full on demand in respect of any losses, expenses and/or claims arising from and/or relating to such sub-contractor.

**20.2** As a pre-condition to the Seller sub-contracting Services to a personal services company, it shall ensure it has conducted the necessary assessments to determine the sub-contractor's employment status in accordance with the IR35 regulations and will comply with any income tax and national insurance contributions. The Seller is fully responsible and shall fully indemnify and keep indemnified the Buyer in respect of any income tax, National Insurance and social security contributions and any other liability, deduction, contribution, assessment or claim arising from or made in connection with either the performance of the Services or any payment or benefit received by the personal services company in respect of the Services, where such recovery is not prohibited by law.

**20.3** No variation to this Contract shall be binding unless formalised under a variation agreement and signed by authorised representatives of both the Buyer and the Seller at no less than director level.

**20.4** A notice required or permitted to be given by either party to the other under the Contract shall be in writing (to include email where the Contract allows) and addressed to that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified in writing under this provision to the party giving the notice.

**20.5** No waiver by the Buyer of any breach of the Contract by the Seller shall be considered as a waiver of any subsequent breach of the same or any other provision.

**20.6** If any provision of the Contract is held by any court or other competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of the Contract and the remainder of the provision in question shall not be affected.

**20.7** The Contract, and any dispute arising under or in connection with it, the Goods and/or Services shall be governed by the laws of England, and the Seller irrevocably agrees to submit to the exclusive jurisdiction of the English courts.

**20.8** The Seller shall act in good faith at all times and shall use all reasonable endeavours to resolve any disputes between it and the Buyer to the reasonable satisfaction of the Buyer.

**20.9** In addition to the insurance requirements set out in Clause 6.1, during the term of the Contract and for a period of one year after its expiry or termination, the Seller shall maintain in force full and comprehensive insurance policies with reputable insurance companies against all risks that would normally be insured against by a prudent business in connection with the risks associated with the Contract, and produce to the Buyer on demand full particulars of that insurance and the receipt for the then current premium. In addition, the Seller shall ensure that, during the term of the Contract and for a period of one year after its expiry or termination, it maintains in force with reputable insurance companies all insurances that the Seller is required to possess at law.

**20.10** 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.

These Terms are accepted for and on behalf of:

Signed by.....

Date.....

Name.....

Position.....

Company.....





**SCHEDULE 1**  
**THE SUPPLIER CODE OF CONDUCT**

Kuehne + Nagel is a global leader in international forwarding with 900 locations in more than 100 countries. We deal with a large network of suppliers and other third parties that contribute to our success. The way we purchase supplies and contract out operations affects our reputation as a responsible corporate citizen. Our suppliers play an important role as enablers of our sustainable growth and overall success. Kuehne + Nagel has set forth principles that are key for economic, social and environmental sustainability in order to ensure long-time success of Kuehne + Nagel and its stakeholders. Because of this, Kuehne + Nagel requires its suppliers to adhere to the principles embodied in the Supplier Code of Conduct and to use reasonable efforts to ensure that their own suppliers will also comply with these principles.

Laws and Ethical Standards Suppliers shall conduct their business in an ethical manner and act with integrity. This includes: 1. Suppliers shall comply with all laws of the applicable legal system. 2. Suppliers shall comply with international and local anti-corruption and bribery laws and standards. This includes that the Seller may not offer services, gifts or benefits to Kuehne + Nagel employees in order to influence employee conduct in representing Kuehne + Nagel. 3. All Seller workers should be encouraged to report concerns or illegal activities in the workplace.

Labour Suppliers shall be committed to uphold internationally proclaimed human rights of workers. The labour elements include: 1. Child labour: Suppliers shall not employ children under the age of 15. If national laws or regulations allow children between the ages of 13 and 15 to perform light work, such work is not permitted in any case if it hinders a minor from the completion of compulsory schooling or training, or if the employment would be harmful to their health or development (ILO convention 138). 2. Freely chosen employment: Suppliers shall not use forced, indentured or involuntary prison labour. 3. Working Hours and compensation: Suppliers shall comply with local laws and regulations regarding working hours, wages and benefits. 4. Non-Discrimination: Suppliers shall provide a workplace free of harassment and discrimination. Discrimination for reasons such as race, colour, age, gender, sexual orientation, ethnicity, disability, religion, political affiliation, union membership or marital status is not tolerated. 5. Freedom of Association: Suppliers shall recognize the right of free association of employees and to neither favour nor discriminate against members of employee organizations or trade unions.

Health and Safety Suppliers shall comply with occupational health and safety regulations and provide a work environment that is safe and conducive to good health in order to preserve the health of employees and prevent accidents, injuries and work-related illness.

Environment Suppliers shall comply with all applicable environmental laws, regulations and standards. Suppliers are encouraged to conserve natural resources, to avoid the use of hazardous materials where possible and to encourage the diffusion of environmentally friendly technologies implementing sound life-cycle practices.

Supply Chain Suppliers shall use reasonable efforts to promote the principles stated in this Supplier Code of Conduct among its suppliers and to comply with the principles of non-discrimination with regard to supplier selection and treatment.

**Declaration of the Seller:**

1. We have received a copy of the Supplier Code of Conduct and hereby commit ourselves, in addition to our commitments set out in these Terms and the Contract, to comply with its principles and requirements. 2. We agree that any breach of the principles stipulated in this Supplier Code of conduct is considered a material breach of the Contract by the Seller. 3. We agree that this declaration is subject to the substantive laws, legal proceedings and venue which are set out in these Terms and the Contract.

Sign.....

Date.....

Name.....

Seller.....