

Minatus Limited

Terms and Conditions of Trade (Order Fulfillment Services)

- 1. Interpretation**
 - 1.1 In these Conditions, the definitions in schedule 1 shall apply.
 - 1.2 In these Conditions, the following rules apply:
 - 1.2.1 A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
 - 1.2.2 A reference to a party includes its personal representatives, successors or permitted assigns.
 - 1.2.3 A reference to a statute or statutory provision is a reference to such statute or provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted.
 - 1.2.4 The terms including, include, in particular or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.
 - 1.2.5 A reference to writing or written includes faxes and e-mails.
- 2. Information about us**
 - 2.1 We are Minatus Limited, a company registered in England and Wales under company number 11024682 and with our registered office at 4 Lidgett Lane, Garforth, Leeds, LS25 1EQ. Our main trading address is not our registered office. Our VAT number is 300712854
- 3. Formation of our agreement and the Services**
 - 3.1 You appoint us to provide warehousing, stock management and order fulfilment services, which may include the services described in these Conditions and which are more particularly described in the Service Particulars (**'the Services'**).
 - 3.2 You are a user of the Services from the date that you and we agree (**'the Service Commencement Date'**) until your rights are terminated under these Conditions. The Agreement between us will be formed when you sign the Service Particulars or provide instructions to us to commence preparation for receiving your stock or upon receiving stock (whichever happens first).
 - 3.3 We reserve the right to amend these conditions from time to time. Upon such changes being made, we will give you not less than 1 month's notice that our terms and conditions will change from a specified date. Save where you serve notice, before the specified date and pursuant to these Conditions to terminate the Agreement, your continued use of the Services beyond the specified date will be deemed to constitute your acceptance to the new terms and conditions.
 - 3.4 The Agreement will relate only to the Services which we agree to perform as detailed in the Service Particulars. We will not be obliged to supply any other Services.
 - 3.5 You promise us that you:
 - 3.5.1 own the Goods which you deliver to our Warehouse; or
 - 3.5.2 are authorised by the owner of such Goods to accept these Conditions.
 - 3.6 We can sub-contract any and all of our obligations to other people, but we will remain responsible for such sub-contractors.
- 4. Performance**
 - 4.1 The Services will be fulfilled as far as possible in accordance with any specific time scales notified to you or agreed, and otherwise within a reasonable period of time.
- 5. Charge and Payment**
 - 5.1 We will charge you a fee for the processing of goods received, for picking, packing and dispatching Items on request, for picking and preparing goods for removal by you (or your agents) on termination of this Agreement and we will charge you for (or seek reimbursement for) such other sums which are either specified in this Agreement or which may be agreed between you and us from time to time (**'Charges'**). The Service Particulars contain a list of Charges that apply at the date of issue. Charges (unless otherwise stated) will be quoted ex VAT. VAT will be applied to our Charges and will be payable by you.
 - 5.2 Our Charges for the Services will be payable by you and will be notified to you from time to time.
 - 5.3 We may, by giving 20 Business Days notice, increase the Charge of the Services to reflect any increase in costs in line with inflation and in particular any increase which is due to:
 - 5.3.1 any factor beyond our control (including foreign exchange fluctuations, fuel charges and increases in taxes and duties);
 - 5.3.2 any delay caused by your instructions or your failure to give us adequate or accurate information or instructions.
 - 5.4 At our discretion, we may invoice you at any time after commencement of the Services.
 - 5.5 The Customer shall pay the invoice in full and in cleared funds in accordance with our terms. Payment shall be made to the bank account nominated in writing by us. Time of payment is of the essence.
 - 5.6 Save as otherwise provided, you will pay all amounts due under the Agreement in full without any deduction or withholding except as required by law and you will not be entitled to assert any credit, set-off or counterclaim against us in order to justify withholding payment of any such amount in whole or in part. We may at any time, without limiting any other rights or remedies we may have, set off, against any monies owing by us to you, any amount owing by you to us.
 - 5.7 In the event of a dispute arising in relation to an invoice you will ensure that during the period of dispute unrelated invoices are paid on or before their date and you will only be entitled to withhold payment
- 5.8 If you fail to make any undisputed payment on the due date then, without prejudice to any other right or remedy available to us, we will be entitled to suspend the provision of Services to you.
- 5.9 You acknowledge that our Charges are based on the scope of services to be provided as set out in the Service Particulars. If during the course of this Agreement your actual service profile varies from that set out in the Service Particulars we reserve the right to recalculate our Charges and charge you additional amounts over and above the Charges set out in the Service Particulars based on our prevailing market rates. If you do not agree to such recalculated Charges, we reserve the right to terminate our Agreement with you with immediate effect.
- 6. Customer's insolvency or incapacity**
 - 6.1 If you become subject to any of the events listed in clause 6.2, or we reasonably believe that you are about to become subject to any of them, then, without limiting any other right or remedy available to us, we may cancel or suspend all Services under our Agreement without incurring any liability to you, and all outstanding sums in respect of Services provided shall become immediately due.
 - 6.2 For the purposes of clause 6.1, the relevant events are:
 - 6.2.1 you suspend, or threatens to suspend, payment of your debts or are unable to pay your debts as they fall due or admits inability to pay your debts or (being a company) are deemed unable to pay your debts within the meaning of section 123 of the Insolvency Act 1986, or (being an individual) are deemed either unable to pay your debts or have no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986, or (being a partnership) have any partner to whom any of the foregoing apply; or
 - 6.2.2 you commence negotiations with all or any class of your creditors with a view to rescheduling any of your debts, or make a proposal for or enter into any compromise or arrangement with your creditors other than (where the you are a company) these events take place for the sole purpose of a scheme for a solvent amalgamation of you with one or more other companies or the solvent reconstruction of you; or
 - 6.2.3 (being an individual) you are the subject of a bankruptcy petition or order; or
 - 6.2.4 a creditor or encumbrancer of yours attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days; or
 - 6.2.5 (being a company) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over you; or
 - 6.2.6 (being a company) a floating charge holder over your assets has become entitled to appoint or has appointed an administrative receiver; or
 - 6.2.7 a person becomes entitled to appoint a receiver over your assets or a receiver is appointed over your assets; or
 - 6.2.8 any event occurs, or proceeding is taken, with respect to you in any jurisdiction to which you are subject that has an effect equivalent or similar to any of the events mentioned in clause 6.2.1 to clause 6.2.7 (inclusive); or
 - 6.2.9 your suspend, threaten to suspend, cease or threaten to cease to carry on all or substantially the whole of your business; or
 - 6.2.10 your financial position deteriorates to such an extent that in our opinion your capability to adequately fulfil your obligations under the Agreement has been placed in jeopardy; or
 - 6.2.11 (being an individual) you die or, by reason of illness or incapacity (whether mental or physical), you are incapable of managing your own affairs or becomes a patient under any mental health legislation.
 - 7. Controlled goods and health & safety**
 - 7.1 You will present for storage in our Warehouse only those Controlled Goods which you specifically notify to us in writing.
 - 7.2 We may provide you with health and safety instructions in relation to your conduct at our Warehouse referred to in these Conditions and you agree to ensure that all persons under your control or otherwise acting on your behalf adhere to those instructions.
 - 7.3 You will only send us Goods that are packaged in such a way that they will remain in a condition to be safely handled, stored and carried so as not to cause injury, damage, contamination or deterioration (or the possibility of them) to any person, premises, equipment or to any

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	other items in any way.	11.1.3	allocate a unique tracking number to each Parcel comprising the Goods;
7.4	Unless otherwise agreed, you will provide, and pay for, suitable facilities and equipment for, and will procure, safe and efficient loading and unloading of Goods.	11.1.4	appoint a courier to collect and deliver the Parcel to a recipient at an address notified by you to us.
8.	Access rights and obligations	11.2	A pick request will be generated through your online Shopping Cart (if applicable), by telephone, email, fax, by mail or by other Minatus integrated services. If any of these modes of ordering are unavailable, you will be obliged to use one of those which are available.
8.1	You will be entitled to access to the Warehouse to view your Goods only by pre-arranged appointment. To arrange a visit you must provide us with reasonable notice of the days and times that you would like to attend and the likely duration of the visit. Whilst on site, you shall be required to comply with all health and safety requirements and must be accompanied by a member of our staff. We reserve the right to charge for each and every visit in accordance with our Charges prevailing at the relevant time and which will be available on request.	12.	Integrated Shopping Cart
		12.1	If specified in the Service Particulars, we will integrate the Shopping Carts with our WMS software.
8.2	We can change the location of any Warehouse, but will tell you promptly in advance if we do.	12.2	We will endeavour to ensure that the WMS Software works without fault or interruption, but in common with all software it may from time to time develop bugs or other problems which affects its accuracy, functionality and/or availability.
9.	Receipt of goods	12.3	The Services to the extent that they relate to the WMS Software shall be subject to the provisions set out in schedule 2.
9.1	Unless otherwise agreed in writing, prior to us receiving each and every consignment of your Goods into our Warehouse for storage, you will provide us with information including, but not limited to:	13.	International and air transport
9.1.1	details of the supplier (if relevant),	13.1	We may provide you with certain delivery services that involve international transport, be it by air, road, sea or rail (' International Deliveries ') or non-international air transport, or both, in which case the terms in this paragraph 13 will apply.
9.1.2	a list detailing all of your SKUs and a description of the Goods that each SKU refers to,	13.2	If we provide international air transport, the Carriage By Air Act 1961 (as amended from time to time) (" the Act ") applies as between us and our Common Carrier, and accordingly:
9.1.3	any relevant COSHH data,	13.2.1	our services will be provided in accordance with the Act; and
9.1.4	details of any other health and safety issues that we would reasonable require in order to safely handle and store the Goods.	13.2.2	our liability to you shall be no more than is prescribed in the Act;
9.2	You will continue to provide, and update, such information for all Goods you store with us for the duration of this Agreement. Where you have not provided us with the relevant information we will not be obliged to pay you in connection with any claim you may attempt to make for damaged or lost Goods, nor will we be able to book your Goods onto our WMS.	13.2.3	any claims against us must be made within the periods specified in the Act;
9.3	You will provide us with reasonable notice of Goods being delivered to our Warehouse. Upon your Goods being delivered to our Warehouse (whether by you or one of your suppliers) you will provide us with a delivery note (a " Delivery Note ") specifying:	13.2.4	in all cases our liability to you will not exceed the liability of our Common Carrier to us.
9.3.1	the description, quantity and relevant SKU numbers of the Goods to be stored by us;	13.3	If we provide international road transport, the CMR applies as between us and our Common Carrier, and accordingly:
9.3.2	your relevant Purchase Order or other reference number for the consignment of Goods.	13.3.1	our services will be provided in accordance with CMR;
9.4	We reserve the right to reject, or place in Quarantine, your Goods for storage and not enter them onto our WMS if:	13.3.2	our liability to you shall be no more than is prescribed in the CMR; and
9.4.1	a Delivery Note is not provided in accordance with clause 9.3; or	13.3.3	in all cases our liability to you will not exceed the liability of our Common Carrier to us.
9.4.2	we are concerned in any way about the condition and/or packaging of your Goods by you; or	13.4	If we provide Non-International Carriage, the Montreal Convention as amended by Schedule 1 to the Carriage By Air Acts (Application of Provisions) Order 2004/1899 (" the Order ") applies as between us and our Common Carrier and accordingly:
9.4.3	you fail to provide the information required by paragraph 9.1 or the information you have provided is inconsistent with the Goods we receive, or both.	13.4.1	our Services will be provided in accordance with the Order; and
9.5	If any of the circumstances at clause 9.4 arise, where we have not rejected your Goods, we may keep your Goods in Quarantine, and they will remain in Quarantine until such time as:	13.4.2	our liability to you shall be no more than is prescribed in Article 22 of the Order and you must make any claims against us within the time period(s) specified in Article 31 of the Order;
9.5.1	you provide the Delivery Note or missing information as required by paragraph 9.1 or we agree with you an alternative course of action, or any combination of these; or	13.4.3	in all cases our liability to you will not exceed the liability of our Common Carrier to us.
9.5.2	we agree a re-packaging Charge with you.	13.5	Subject to the Act, the CMR and the Order (as applicable), we will not be liable for any losses incurred caused by the delay in delivering Parcels arising out of the use by us of freight forwarders, airlines or other international transporters.
9.6	We will accept your Goods, initially on an 'unchecked basis' by signing your Delivery Note (as amended if necessary) upon their delivery to our Warehouse, whereupon we will book such Goods onto our WMS and store your Goods until you submit a request to remove specified Goods from our Warehouse.	13.6	If an International Delivery, or a non-international air delivery, combines carriage by air, road or other means of transport, it shall be presumed that any loss or damage arising to your Parcel occurred during the air period of such carriage unless proven otherwise.
9.7	Any Good placed into Quarantine will be subject to additional handling Charges.	13.7	If you regard the limits of liability provided for under the Act and/or the CMR and/or the Order as insufficient, you must make your own insurance arrangements and you hereby agree to assume the risk of all loss or damage above the limits so specified.
10.	Removal of goods	13.8	You are responsible for obtaining, at your own cost, such export licence and other consents in relation to your Parcels as are required from time to time and if reasonably required by us will make these available to us prior to the commencement of the relevant International Delivery.
10.1	When you want to collect your Goods from our Warehouse, you will:	13.9	Notwithstanding paragraph 13.8, we (or our sub-contractors) may (but will not be obliged to):
10.1.1	(unless otherwise agreed and confirmed by us in writing) provide reasonable notice of your intention to collect Goods from our Warehouse (the length of such notice being dependent upon the nature and quantity of Goods you intend to collect);	13.9.1	complete any required documents, amend product or service codes;
10.1.2	advise us on what day and between what times you or your appointed carrier will attend at our Warehouse to collect Goods;	13.9.2	receive your original purchase invoice for the Goods in the Parcel;
10.1.3	if you intend to appoint a carrier, provide details of the carrier who will be attending at our Warehouse for collection;	13.9.3	pay any duties or taxes required under applicable laws and regulations for which you will immediately reimburse us; and
10.1.4	provide to us a full list of the Goods and their SKU codes (where applicable), that you intend to collect (" Collection List ").	13.9.4	redirect your Parcel to the end recipient's import broker or other address upon request by any person we (or our sub-contractors) reasonably believe to be duly authorised.
10.2	Whilst we will always try to meet your requirements for collection, we may not always have sufficient capacity in the Warehouse to deal with collections on short notice and in those cases we will agree with you a time when your Goods can be collected.	13.10	As appropriate we may act, or authorise our sub-contractors to act on your behalf, as your forwarding agent for customs and export control purposes and as end recipient of your Parcels solely for the purposes of designating a customs broker to perform customs clearance and entry.
10.3	Based on your Collection List we will prepare our own record of Goods that we make available for collection (" Goods Collected Note "). We will only be obliged to release Goods if our Goods Collection Note is signed by the person attending for collection. Our Goods Collection Note will be proof of what Goods have been collected and will not be subject to challenge save in the case of fraud or manifest error.	13.11	We may need to supply third parties (including but not limited to, international carriers) with information regarding the Parcel (including but not limited to a full description of the Goods in any Parcel, their value, quantity and weight) and/or you and your intended recipient (including your/their VAT number). You will provide us with all the required information in advance of our commencing our International delivery Services or non international air deliveries and we reserve the right to refuse to provide you with such services if you do not provide us in advance with all such required information.
11.	Pick, Pack and Dispatch		
11.1	If a pick request is made we will:		
11.1.1	pick the Goods from our Warehouse;		
11.1.2	package items in an appropriate manner (each, 'a Parcel');		

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- 13.12 You shall indemnify us in full and hold us harmless from any loss or damage we may suffer and/or incur arising out of your failure to comply with any applicable laws or regulations and/or for your breach of any of the following warranties and representations:
- 13.12.1 all information provided by you/your Business Contacts/your users is complete and accurate in all respects;
- 13.12.2 all applicable customs, import and export and other laws and regulations have been complied with;
- 13.12.3 the Goods in any Parcel to be sent are acceptable for international air transport.
- 13.13 You will reimburse us for all and any charges, duties and taxes owed for our International Delivery Services and indemnify us for all claims, damages and expenses howsoever incurred if the Parcel is deemed unacceptable for whatever reason for transport outside the UK and/or for air transport within the UK. Any Parcels on which duty and other taxes will exceed £500 will be paid by you in advance of any such Parcel's being dispatched.
- 13.14 You will comply with our procedures and policies (as advised to you from time to time) relating to International Deliveries and/or non-international air transport
- 14. General Road Haulage**
- 14.1 Where you ask us to transport and deliver large volumes of Stock within the UK, the terms and conditions of the Road Haulage Association Limited – Conditions of Carriage 2009 (effective 1 September 2009) (or such later edition) shall be incorporated into this Agreement and will apply to such transportation services. In the event of conflict between these terms and the RHA Terms, the RHA terms shall prevail. A copy of the RHA conditions are available on request.
- 15. Risk (IMPORTANT)**
- 15.1 We will take reasonable care of your Goods whilst in our Warehouse.
- 15.2 As the value of Goods may far exceed the Charges paid for the Services, our liability for any damage to Goods whilst in our possession or loss or apparent loss of Goods stored in our Warehouse must be limited as set out in these Conditions, and you must ensure that all Goods delivered to us under this Agreement are insured to your satisfaction.
- 15.3 Our Charges are based on an assumption that we will not check and may not be qualified to check that the Goods that you deliver to us are as specified in your Delivery Note. We will check:
- 15.3.1 that the Items marked with SKUs are properly identified on the Delivery Note;
- 15.3.2 that such Items are recorded on our WMS.
- 15.4 We will **not** check:
- 15.4.1 that an Item to which an SKU is assigned corresponds with a particular description (if given);
- 15.4.2 where an Item is made up of a number of component parts, we will not check and verify the makeup of those component parts;
- 15.4.3 that Items are in good condition (save for the external appearance of Packages).
- 15.5 We will only be responsible (where applicable) for ensuring that we hold such Items as are recorded on our WMS from time to time.
- 16. Our liability and your responsibility to insure**
- 16.1 Only you know the value of your Goods and the value of those Goods may far exceed the Charges levied under the Agreement. Accordingly you agree to:
- 16.1.1 insure all Goods against all insurable risks (including, 'in transit' insurance) to their full insurable value with any right for the insurer to bring a subrogated claim against us being excluded and you agree that the proceeds of such insurance are adequate to compensate you for any loss to any Goods; and
- 16.1.2 waive all rights against us and our sub-contractors, agents and employees to claim for damages caused by any risks for which you are insured.
- 16.2 Subject to clause 16.4, our liability for losses that you suffer as a result of our breach of the Agreement, in tort (including negligence and/or misrepresentation), for breach of any statutory duty, or otherwise, in connection with the Services will be subject to a maximum amount equal to 110% of the aggregate Charges for the Services over the 12 month period prior to the event giving rise to the liability.
- 16.3 Subject to clause 16.4, we will not be liable for losses that you suffer as a result of our breach of the Agreement, in tort (including negligence and/or misrepresentation), under statute or otherwise in connection with the Services, in respect of:
- 16.3.1 indirect or consequential losses, damages, costs or expenses;
- 16.3.2 loss of income;
- 16.3.3 loss of income arising as a result of the WMS Software being unavailable;
- 16.3.4 loss of income as a result of the WMS Software providing inaccurate information relating to the levels of stock held by us on your behalf;
- 16.3.5 loss of an opportunity to supply goods to any of your customers;
- 16.3.6 loss of business;
- 16.3.7 loss of actual or anticipated profits;
- 16.3.8 loss of anticipated savings;
- 16.3.9 loss of use of money;
- 16.3.10 loss of opportunity;
- 16.3.11 loss of, damage to or corruption of, data; or
- 16.3.12 waste of management or office time;
- 16.4 whether or not such losses were reasonably foreseeable or the party in default or its agents had been advised of the possibility of the other incurring such losses. For the avoidance of doubt, clauses 16.3.2 to 16.3.12 apply whether such losses are direct, indirect, consequential or otherwise.
- Nothing in this Agreement excludes or limits our liability for:
- 16.4.1 death or personal injury caused by our negligence;
- 16.4.2 fraud, fraudulent misrepresentation or fundamental misrepresentation;
- 16.4.3 for malicious damage caused by our employees;
- 16.4.4 any other matter for which it would be unlawful for us to exclude or attempt to exclude our liability.
- 16.5 Subject to the other limitations, our liability for any loss or damage caused by us to a particular Item shall be the lower of:
- 16.5.1 the sum of £100;
- 16.5.2 the amount of loss you suffer;
- 16.5.3 the replacement value of the Item;
- 16.5.4 the value of the Item as notified by you to us;
- 16.5.5 any other limitation that we may specifically agree with you.
- 16.6 It is a condition of this Agreement that you will inform us in writing (prior to presenting to us for storage) if any Items have a replacement value of more than £100. If you fail to do so, we will have no liability in relation to the loss or damage of such Items whatsoever.
- 16.7 Subject to clause 13, and save as otherwise provided, in relation to any Items that are picked and packaged for dispatch using a courier, we shall not be responsible for such Parcels once dispatched to a courier for Transit at which point your own insurance must cover any potential losses or damages.
- 16.8 To the extent that we agree to be liable for any loss or damage to Parcels whilst in Transit, or we are so liable by operation of law, our liability to you shall be limited to the lower of:
- 16.8.1 £100.00 for each Parcel;
- 16.8.2 the amount of loss you suffer; or
- 16.8.3 the value of the Parcel, being the replacement cost value of each Item comprised in the Parcel as booked onto the WMS, less the value (if any) of each Item after the loss or damage (as applicable) was sustained.
- 16.9 We are not liable for any loss or damage arising from:
- 16.9.1 Force Majeure;
- 16.9.2 your errors, acts, omissions, misstatements or misrepresentations or any breach by you of your obligations under this Agreement;
- 16.9.3 wastage, defect, or deterioration of any Item;
- 16.9.4 insufficient or improper packing, labelling or addressing by you;
- 16.9.5 Controlled Goods being stored through us.
- 16.10 You acknowledge that the exclusions and limitations in this paragraph are reasonable in all the circumstances.
- 17. Time limits for claims and claims procedure**
- 17.1 Subject to clause 13, we will not be liable for any claim by you under this Agreement unless you give us written notice of your claim:
- 17.1.1 in the case of damage to any Parcel, within 3 days of the end of Transit; or
- 17.1.2 in the case of damage to any Item you collect, on collection; or
- 17.1.3 in any other case of you becoming aware of a claim for damage or lost Stock, within 3 days of becoming so aware.
- 17.2 Where your claim relates to any lost or damaged Stock you must, before we shall have any liability to you, provide us with as much relevant information about the Stock as we may reasonably request, including:
- 17.2.1 proof of value including purchase invoice; and
- 17.2.2 in the case of damage, a photograph of the Stock and, if requested by us, the Stock and its packaging for inspection.
- 18. Termination**
- 18.1 Either you or we can end the Agreement on giving not less than 30 days' written notice.
- 18.2 Upon the termination of this Agreement, you will ensure that:
- 18.2.1 all of your Goods and any waste materials have been collected from our Warehouse;
- 18.2.2 all of our property is returned; and
- 18.2.3 all sums due are paid.
- 18.3 In the event you do not collect your Goods and waste as provided for at clause 18.2:
- 18.3.1 we reserve the right to remove any Goods and waste and return them to your last known place of business, and although we will not be providing Services any longer we will charge you a fee based on our standard carriage rates prevailing at the time together with a handling charge equal to 10% of the carriage charge. In addition we will charge you at our standard rates for storage, packaging dispatch until the Goods have been removed; and
- 18.3.2 if you do not collect your Goods within 20 days after termination we may sell or destroy any of your Goods. You will pay the cost of any destruction. The proceeds of any sale will be set off against any amounts that you owe us and the balance, if any, will be sent to you.
- 18.4 If non-performance of any obligation under the Agreement caused by any Force Majeure shall continue for more than three weeks then you or we may terminate this Agreement immediately by giving notice in writing to the other.
- 19. TUPE**
- 19.1 If we shall become the employer of any Personnel of the Previous

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Service Provider or any of its sub-contractors or of you pursuant to TUPE at the Service Commencement Date as a result of us entering this Agreement with you, you shall indemnify us in full for and against all claims, costs, expenses or liabilities whatsoever and howsoever arising, incurred or suffered by us including without limitation all legal expenses and other professional fees (together with any VAT thereon) in relation to:	25.2	A Force Majeure Event includes any act, event, non-happening, omission or accident beyond our reasonable control and includes in particular (without limitation) the following:
19.1.1 the non-payment of salaries and other emoluments by the Previous Service Provider or you including holiday pay, taxation and National Insurance contributions and contributions to pensions relating to any of the Personnel up to and including the Service Commencement Date;	25.2.1	strikes, lock-outs or other industrial action;
19.1.2 the failure of the Previous Service Provider or you to inform and consult properly or at all under Regulation 13 of TUPE;	25.2.2	civil commotion, riot, invasion, terrorist attack or threat of terrorist attack, war (whether declared or not) or threat or preparation for war;
19.1.3 the termination of the Previous Service Provider of the employment of any of the Personnel, where appropriate, as a result of you terminating your agreement with the Previous Service Provider or the termination of employment of Personnel by you;	25.2.3	fire, explosion, storm, flood, earthquake, subsidence, epidemic or other natural disaster;
19.1.4 the termination by us of the employment of any of the Personnel, and/or any of our existing employees if they are selected following a fair redundancy process rather than any of the Personnel, by reason of redundancy or business reorganisation within 3 months of the Service Commencement Date; and	25.2.4	impossibility of the use of railways, shipping, aircraft, motor transport or other means of public or private transport;
19.1.5 anything done or omitted to be done by the Previous Service Provider or you in respect of any of the Personnel which is deemed to have been done by us by virtue of TUPE ("Employee Claims").	25.2.5	impossibility of the use of public or private telecommunications networks; and
19.2 We shall notify you in writing as soon as reasonably practicable if any Employee Claim is brought against us, setting out in reasonable detail the nature of the Employee Claim. You shall then provide us with such assistance free of charge as may be reasonably necessary to defend the Employee Claim. We shall not make any admission of liability, or compromise any Employee Claim, without your prior written consent (such consent not to be unreasonably withheld or delayed).	25.2.6	the acts, decrees, legislation, regulations or restrictions of any government.
19.3 You shall indemnify us against all Employee Claims arising from your, or the Replacement Service Provider's, failure to perform and discharge any obligation and against any claims in respect of Transferring Employees arising from or as a result of:	25.3	Our performance under the Agreement is deemed to be suspended for the period that the Force Majeure Event continues, and we will have an extension of time for performance for the duration of that period. We will use our reasonable endeavours to bring the Force Majeure Event to a close or to find a solution by which our obligations under the Agreement may be performed despite the Force Majeure Event.
19.3.1 any act or omission by you or the Replacement Service Provider relating to a Transferring Employee occurring on or after the termination of the Service Transfer Date; and	26.	Waiver
19.3.2 all and any claims in respect of all emoluments and outgoings in relation to the Transferring Employees (including without limitation all wages, bonuses, PAYE, National Insurance contributions, pension contribution and otherwise) accrued and payable after the Service Transfer Date.	26.1	If we fail, at any time during the term of the Agreement, to insist upon strict performance of any of your obligations under the Agreement, or if we fail to exercise any of the rights or remedies to which we are entitled under the Agreement, this will not constitute a waiver of such rights or remedies and will not relieve you from compliance with such obligations.
19.4 You and we shall co-operate with each other to ensure that any requirement to inform and consult with employees and/or employee representatives under TUPE as a result of the termination of this Agreement will be fulfilled.	26.2	A waiver by us of any default will not constitute a waiver of any subsequent default.
20. Assignment/sub-contracting	26.3	No waiver by us of any of the terms and conditions of this Agreement will be effective unless it is expressly stated to be a waiver and is communicated to you in writing in accordance with paragraph 23 above.
20.1 We can sub-contract and/or assign our rights and obligations under these Conditions. You may only do so with our prior written consent.	27. Severability	
21. Time not of the essence	27.1	If any of the terms and conditions of the Agreement are determined by any competent authority to be invalid, unlawful or unenforceable to any extent, such term, condition or provision will to that extent be severed from the remaining terms, conditions and provisions which will continue to be valid to the fullest extent permitted by law.
21.1 Whilst we will endeavour to provide the Services in accordance with the Conditions, time shall not be of the essence for the performance of our obligations.	28. Entire agreement	
22. Written communications	28.1	These terms and conditions and any document expressly referred to in them constitute the whole agreement between us and you and supersede all previous discussions, correspondence, negotiations, previous arrangement, understanding or agreement between us and you relating to the subject matter of any Agreement.
22.1 For contractual purposes, you agree to electronic means of communication and you acknowledge that all Agreements, notices, information and other communications that we provide to you electronically comply with any legal requirement that such communications be in writing. This condition does not affect your statutory rights.	28.2	We each acknowledge that, in entering into this Agreement, neither of us relies on, or will have any remedies in respect of, any representation or warranty (whether made innocently or negligently) that is not set out in these terms and conditions or the documents referred to in them.
23. Notices	28.3	Each of us agrees that our only liability in respect of representations and warranties (whether made innocently or negligently) will be for breach of the Agreement.
23.1 All notices given by you to us must be given to Minatus Limited at info@minatus.co.uk or 4 Lidgett Lane, Garforth, Leeds, LS25 1EQ. We may give notice to you at either the e-mail or postal address you provide to us when placing an Order. Notice will be deemed received and properly served 24 hours after an e-mail is sent, or three days after the date of posting of any letter. In proving the service of any notice, it will be sufficient to prove, in the case of a letter, that such letter was properly addressed, stamped and placed in the post and, in the case of an e-mail, that such e-mail was sent to the specified e-mail address of the addressee.	28.4	Nothing in this clause limits or excludes any liability for fraud.
24. Transfer of rights and obligations	29. Our right to vary these terms and conditions	
24.1 The Agreement between you and us is binding on you and us and on our respective successors and assignees.	29.1	We have the right to revise and amend these terms and conditions from time to time to reflect changes in market conditions affecting our business, changes in technology, changes in payment methods, changes in relevant laws and regulatory requirements and changes in our system's capabilities.
24.2 You may not transfer, assign, charge or otherwise dispose of this Agreement, or any of your rights or obligations arising under it, without our prior written consent.	30. General lien	
24.3 We may transfer, assign, charge, sub-contract or otherwise dispose of this Agreement, or any of our rights or obligations arising under it, at any time during the term of the Agreement.	30.1	If you owe us any money, we may keep possession of any of your Goods in our Warehouse until you settle such outstanding amounts. If you owe us any money that is overdue by more than 60 days, we may sell any Goods and use the proceeds to satisfy, in whole or in part, what you owe. We will give you ten days' notice of our intention to exercise this right. You will indemnify us if anything that we sell turns out to belong to a third party.
25. Events outside our control	31. Our relationship	
25.1 We will not be liable or responsible for any failure to perform, or delay in performance of, any of our obligations under this Agreement that is caused by events outside our reasonable control ('Force Majeure Event').	31.1	You and us are not partners, joint venturers, employers, or employees, save as provided otherwise.
	32. Law and jurisdiction	
	32.1	This Agreement for the purchase of Services and any dispute or claim arising out of or in connection with them or their subject matter or formation (including non-contractual disputes or claims) will be governed by English law. Any dispute or claim arising out of or in connection with the Agreement or their formation (including non-contractual disputes or claims) will be subject to the exclusive jurisdiction of the courts of England and Wales.
	Schedule 1 – Interpretation	
	Agreement:	the agreement between us and you for the sale and purchase of Services, including the services provided via the WMS Software, in accordance with these Conditions and incorporating all schedules and appendices;
	Business Day:	a day (other than a Saturday, Sunday or public

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	holiday) when banks in London are open for business;		
Charge: CMR	has the meaning set out in clause 5.1; Convention on the Agreement for the International Carriage of Goods by Road 1956;	Service Transfer Date:	Software; the date on which the Services (or any part of the Services) for whatever reason transfer from us to you or any Replacement Service Provider;
Collection List Common Carrier:	has the meaning set out in clause 10.1.4; a carrier that delivers to any delivery address requested;	Stock:	all or any of your Goods (as the context allows) that we store in our Warehouse which Goods are comprised of Items (which Items are comprised of SKU's);
Conditions:	the terms and conditions set out in this document as amended from time to time including any special conditions agreed between you and us;	Stock Keeping Unit or SKU: Transit	a unique identifier for each distinct unit of your Goods; the physical movement of Stock or Parcels from one location to another;
Controlled Goods:	goods, including but not limited to COSHH goods, which may be sensitive to conditions found in Transit or to X-rays, or which require a licence or permission or with which special precautions must be taken;	Transferring Employees:	those employees whose agreement of employment will be transferred to you or a Replacement Service Provider pursuant to TUPE on expiry or termination of this Agreement;
Delivery Note: Deliverables:	has the meaning set out in 9.3; all Software, systems, items, documents and other materials agreed to be supplied by us to you under this Agreement, as further set out in the Service Particulars;	TUPE:	The Transfer of Undertakings (Protection of Employment Regulations) 2006 (as amended from time to time);
Employee Claims Force Majeure:	has the meaning set out in clause 19.1.5; any event beyond our reasonable control including (without limit) acts of god, adverse weather conditions, fire, flood or any other natural disaster, interruption or failure of utility services including but not limited to electric power, gas or water, road traffic accident, traffic immobilisation, war, invasion, foreign enemy, hostilities, terrorism, civil commotion, revolution, rebellion, riot, insurrection, forfeiture under legal process, industrial action, strike, lockout, stoppage or restraint of labour from whatever cause;	VAT	Value Added Tax chargeable under English law for the time being and any similar additional tax;
Goods:	means your goods which are delivered to us for storage in our Warehouse;	Warehouse: Warehouse Management System or WMS:	one of our storage sites; the system used to assist in the delivery and management of our Service including (if applicable) the services provided through the VMS Software;
Goods Collection Note Initial Term:	has the meaning set out in clause 10.3; the minimum duration of this Agreement between us and you, being that period specified in the Service Particulars in default of which being the period expiring no less than 30 days from the Service Commencement Date;	WMS Software	our software for recording and managing your stock levels and which (if applicable) will become available for you to use as part of the Warehouse Management System;
Item:	means an 'outer' package, box or pallet (as the case may be) comprising one or more Goods to which a single SKU is assigned;	'we' 'us' and 'our': Working Day:	means Minatus Limited (crn 08643681); Monday to Friday (inclusive), excluding UK bank and public holidays;
Parcel:	a single box or packet into which Items are packaged for Transit and which are given a unique tracking label;	'you' and 'your':	the individual, company, partnership or similar business organisation whose details appear on the Service Particulars as our customer or who is otherwise a customer to whom we provide the Services;
the Montreal Convention:	means the Convention for the Unification of Certain Rules for International Carriage by Air done at Montreal on 28 May 1999, and "Non-International Carriage" has the same meaning as that in the Order;		
Personnel:	all employees, staff, other workers, agents and consultants who are or were engaged in the provision of services the same or substantially similar to the Services prior to or on the Service Commencement Date;		
Previous Service Provider:	the provider appointed by you as a provider of some or all of the Services (or services which are similar to the Services) prior to the Service Commencement Date, including you where you provided some or all of such Services yourselves;		
Purchase Order:	your unique number assigned to an order of your Goods which you have placed on your supplier;		
Quarantine:	an area in our Warehouse for storing Goods received from you for storage where we are unable to enter them onto our WMS;		
Replacement Services:	any services which are identical or substantially similar to any of the Services and which you receive in substitution for any of the Services following the termination or expiry of this Agreement, whether those services are provided by you internally or by a Replacement Service Provider;		
Replacement Service Provider:	any third party provider of Replacement Services appointed by you from time to time;		
'Service Commencement Date' Services	has the meaning set out in clause 3.2; means the services provide by us to you under our Agreement and these Conditions;		
Service Particulars	means a document which accompanies these Conditions detailing the scope of the Services to be provided to you by us including full particulars of the Software and Deliverables and the Charges prevailing at the date of issue;		
Shopping Cart	one of more online shopping carts comprised in one or more websites operated or utilised by you for the sale of goods;		
Software	the WMS Software, together with the software used to integrate your Shopping Cart with the WMS		

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Schedule 2 WMS SOFTWARE

- 1. Commissioning**
- 1.1 (If applicable) we will carry out the development work to integrate your Shopping Cart with our Warehouse Management Software ('the Integration Services'). Upon commencement of these works, the fee set out in the Service Particulars shall be due and payable.
- 2. The Service Levels**
- 2.1 The Supplier shall perform the Services in accordance with the Service Levels. The Service Levels shall be:
 - 2.1.1 WMS availability - 98% uptime
 - 2.1.2 "Scheduled Maintenance" shall:
 - 2.1.2.1 be notified to you on 7 days' notice, and
 - 2.1.2.2 not exceed 0.5 hours in a particular instance and 2 hours in any given month, unless otherwise agreed.
- 2.2 Uptime, Service and system / maintenance support shall be available 09:00 to 17:00 (UK time), Monday- Friday, excluding public holidays in England, but at our discretion we will provide support outside those hours upon request. You will be able to purchase additional support at a price to be determined but which will be commensurate with the hourly rates set out in the Agreement.
- 2.3 "Unscheduled Maintenance" shall be notified to you as soon as possible on us becoming aware.
- 2.4 For every continuous period of 90 minutes of unscheduled downtime, a Service Credit equivalent to 1/28th of your last monthly account shall apply.
- 2.5 Without prejudice to any other right you may have under this Agreement or at law, if we fail to meet any of the Service Levels, we shall remedy such failures, which shall include the following:
 - 2.5.1 promptly investigating the cause of the failure or problem and discussing investigation results with you; and
 - 2.5.2 take remedial measures and keep you informed in relation to the same.
- 2.6 Service Credits shall be deducted from the Charges for the period to which they relate and shown as such on the relevant invoice(s) covering that period, or where such Charge has already been paid by you: (i) deducted from the next invoice; or (ii) if the Agreement has expired or terminated, paid to you.
- 3. Intellectual Property Rights**
- 3.1 Save as otherwise expressly set out in this Agreement, neither party shall receive any right, title or interest in or to the Intellectual Property Rights owned or controlled by the other party.
- 3.2 We hereby grant a royalty-free non-exclusive licence for the Term of all Intellectual Property Rights to you which is needed for the receipt and use of the Deliverables and the Services under this Agreement.