

# SCHOTT TRANSPORT LTD TERMS AND CONDITIONS

## 1. Interpretation

### 1.1 Definitions:

Box	any box or article, other than a Media Tape, sent by the Customer, which contains information belonging to or in the possession of the Customer, and to which Schott Transport shall apply a unique barcode identifier;
Business Day	a day, other than a Saturday, Sunday, public holiday in England or 24 or 31 December, when banks in London are open for business;
Charges	the charges payable by the Customer for the supply of the Services in accordance with clause 5, including where applicable the Exit Charges;
Commencement Date	has the meaning set out in clause 2.2;
Conditions	these terms and conditions, as amended from time to time in accordance with clause 13.5;
Contract	the contract between Schott Transport and the Customer for the supply of the Services in accordance with these Conditions;
Control	shall be as defined in section 1124 of the Corporation Tax Act 2010, and the expression <b>change of Control</b> shall be construed accordingly;
CPI	the Consumer Price Index in the Monthly Digest of Statistics published by the Central Statistical Service of HM Government (or, if the same is no longer published, then the most appropriate alternative source of similar data);
Customer	the person or firm who purchases the Services from Schott Transport;
Customer Default	has the meaning set out in clause 4.2;
Data Protection Legislation	the Data Protection Acts 1998 and 2018 and any successor legislation in force from time to time in the UK, other laws, regulations and secondary legislation in relation to data processing, as amended or updated from time to time, in the UK; and unless and until the GDPR is no longer directly applicable in the UK, the General Data Protection Regulation ((EU) 2016/679).
Deliverables	the deliverables set out in the Schedule 1;
Exit Charges	the Charges payable by the Customer on termination of the Contract in accordance with clause 11.1.2;

Intellectual Property Rights	patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how), 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 in any part of the world;
Item	any Box, Media Tape or such other material, which Schott Transport agrees to store from time to time on behalf of the Customer;
Media Tape	any digital or magnetic media, whether loose or stored in transit cases, which is used for the storage of information, which Schott Transport agrees to store on behalf of the Customer and to which shall be applied a unique barcode identifier;
Premises	Schott Transport' premises or such other secure premises of equivalent standard as Schott Transport shall from time to time use for the storage of Items;
Personal Data	has the meaning given to it under the applicable Data Protection Legislation
Prohibited Materials	items that are: dangerous to persons or property; narcotic; explosive; toxic; radioactive; organic; highly inflammable; contaminating; vermin; insects; linked to suspected terrorist activities; or illegal or unsafe to store or handle in an enclosed area or under normal storage conditions;
Schott Transport	Schott Transport, a company registered in England and Wales with company number 03934562, whose registered office is at 20 Lingfield Point, Darlington DL11RW;
Schott Transport Materials	has the meaning set out in clause 4.1.6;
Services	the storage services, including the Deliverables, supplied by Schott Transport to the Customer, as set out in the Schedule 1 and such other services as Schott Transport agrees to provide to the Customer from time to time;
Specification	the specification of the Services provided in writing by Schott Transport to the Customer, as set out in Schedule 1;
Year	the period of 12 (twelve) months from the Commencement Date and each consecutive period of 12 (twelve) months thereafter during the continuance of this Contract.

## 1.2 Interpretation:

- 1.2.1** A reference to a statute or statutory provision is a reference to it 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.

1.2.2 Any phrase introduced by 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.

1.2.3 A reference to **writing** or **written** includes email.

## 2 Basis of Contract

2.1 Schedule 1 constitutes an offer by Schott Transport to perform the Services in accordance with these Conditions.

2.2 The Contract shall come into existence on the earlier of the Customer's acceptance of the offer, which shall be deemed to have occurred when it has signed and returned to Schott Transport these terms or, if the Customer does not sign and return this document, the Customer making Items available to Schott Transport and Schott Transport' performance of any part of the Services (the **Commencement Date**).

2.3 Subject to clause 10, the Contract will continue for an initial period of 3 (three) Years (the **Initial Term**).

2.4 The Contract shall automatically continue at the end of the Initial Term for further periods of 12 (twelve) months (each an **Extended Term**), unless the Customer gives written notice to Schott Transport not later than 3 (three) months before the end of the Initial Term or the applicable Extended Term, to terminate this Contract at the end of the Initial Term or applicable Extended Term.

2.5 These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

2.6 Any quotation given by Schott Transport within Schedule 1 is only valid for a period of 20 (twenty) Business Days from its date of issue and Schott Transport reserves the right to withdraw any quotation at any time before acceptance.

## 3 Schott Transport' Obligations

3.1 Schott Transport shall supply the Services to the Customer in accordance with the Specification in all material respects.

3.2 Schott Transport shall use all reasonable endeavours to meet any performance dates specified in this Agreement, but any such dates shall be estimates only and time shall not be of the essence for performance of the Services.

3.3 Schott Transport shall have the right to make any changes to the Services, which are necessary to comply with any applicable law or safety requirement or which do not materially affect the nature or quality of the Services, and Schott Transport shall notify the Customer in any such event.

3.4 Schott Transport warrants to the Customer that the Services will be provided using reasonable care and skill.

3.5 Schott Transport shall:

3.5.1 keep all Items in safe custody at the Premises and shall not without the Customer's prior written consent part with possession, custody or control of any of them or any part of them otherwise than in accordance with the Specification;

3.5.2 keep each set of Items separately and distinctly from any other set of Items and each set of Items shall be kept in such a manner so

that they are readily identifiable and distinguishable from any other kind held by Schott Transport on behalf of the Customer;

**3.5.3** take reasonable precautions to protect the Items against adverse weather conditions, fire and theft; and

**3.5.4** store all Media Tapes in a one hour fireproof environment.

**3.6** The customer acknowledges and agrees that Schott Transport' liability, if any, for loss, damage, or destruction to part or all of the material stored or transported (including loading and unloading) hereunder shall be limited to £3 (three pounds) per box, £9 (nine pounds) per tape or £0.25 (twenty five pence) per file (where files are stored on open file racking), unless the Customer declares an excess valuation and pays an additional monthly charge for said excess valuation. In such case liability shall be limited to the amount of the excess valuation per box, tape or file..

## **4 Customer's Obligations**

### **4.1 The Customer shall:**

**4.1.1** co-operate with Schott Transport in all matters relating to the Services;

**4.1.2** provide Schott Transport, its employees, agents, consultants and subcontractors, with access to the Customer's premises, office accommodation and other facilities as reasonably required by Schott Transport to allow Schott Transport to perform the Services;

**4.1.3** provide Schott Transport with such information and materials as Schott Transport may reasonably require in order to supply the Services, and ensure that such information is accurate in all material respects;

**4.1.4** prepare its premises for its receipt of the Services;

**4.1.5** obtain and maintain all necessary licences, permissions and consents, which may be required before the Commencement Date; and

**4.1.6** keep and maintain all materials, equipment, documents and other property of Schott Transport (the **Schott Transport Materials**) at its premises in safe custody at its own risk, maintain the Schott Transport Materials in good condition until returned to Schott Transport, and not dispose of or use the Schott Transport Materials other than in accordance with Schott Transport' written instructions or authorisation.

**4.2** If Schott Transport' performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation (a **Customer Default**):

**4.2.1** Schott Transport shall, without limiting its other rights or remedies, have the right to suspend performance of the Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations to the extent the Customer Default prevents or delays Schott Transport' performance of any of its obligations;

**4.2.2** Schott Transport shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from

Schott Transport' failure or delay to perform any of its obligations, as set out in this clause 4.2; and

**4.2.3** the Customer shall reimburse Schott Transport on written demand for any costs or losses sustained or incurred by Schott Transport arising directly or indirectly from the Customer Default.

**4.2.4** The occurrence of any one or more of the following events shall constitute a **Customer Default** ("Events of Default"):

**4.2.4.1** Failure to pay any sum due hereunder within fifteen (15) days of when due; or,

**4.2.4.2** Breach of any provisions of this Contract; or

**4.2.4.3** The Customer becomes insolvent or files, or has filed against it, any proceeding in court seeking debtor relief.

**4.2.5** Upon the occurrence of any of the Events of Default, Schott Transport, at its sole option, may exercise any or all of the following remedies without terminating the Contract:

**4.2.5.1** Demand in writing that The Customer pick up the stored Items; or

**4.2.5.2** Deliver the stored Items to the Delivery Address, or if none specified, to The Customer address.

**4.2.5.3** Upon thirty (30) days advance written notice to The Customer, Schott Transport may destroy the stored Items. (In this regard, The Customer recognises that, since the Stored Material has little or no market value, that sale of the Items would be impossible, and destruction is the only way for Schott Transport to mitigate its damage.)

**4.2.5.4** If this Contract shall not have been terminated, The Customer shall continue to pay all sums due under this Contract up to and including the date of delivery of the stored Items as provided in (b) above.

**4.2.5.5** Terminate this Contract, whereupon Schott Transport shall recover all damages suffered by reason of such termination.

In the event Schott Transport takes any action pursuant to clause 4.2, it shall have no liability to The Customer or anyone claiming through The Customer. The exercise by Schott Transport of any one or more of the remedies provided in this Contract shall not prevent the subsequent exercise by Schott Transport of any one or more of the other remedies herein provided. All remedies provided for in this Contract are cumulative and may, at the election of The Company, be exercised alternatively, successively or in any other manner and are in addition to any of the rights provided by law. The Company shall be entitled to include all reasonable fees and costs incurred in connection with the enforcement of this Contract.

#### **4.3 The Customer:**

- 4.3.1 warrants that it is the owner or legal custodian of the Items and has full authority to allow Schott Transport to store the Items in accordance with this Contract;
- 4.3.2 acknowledges Schott Transport can provide insurance for Items at the Premises and in transit to and from at the rate agreed in Schedule 1. Should the Customer not take this option, they are solely responsible for arranging insurance on the Items at the Premises and in transit to and from;
- 4.3.3 except as provided for below, warrants that the value of each Item does not exceed £3.00 per box, £9 per tape or £0.25p per file (where files are stored in open file racking) (the **Value Limit**). If the Customer considers that an Item's value exceeds the Value Limit, it shall notify Schott Transport in writing not less than 72 (seventy two) hours prior to its collection by or delivery to Schott Transport and, upon receipt of such notification, Schott Transport will arrange insurance cover on the customers behalf subject to the customer paying the monthly premium to Schott Transport. In this respect liability to the Customer in respect of such item(s) will be in accordance with the insurance terms and conditions provided;
- 4.3.4 before presenting the Items for storage, shall inform Schott Transport in writing of any special precautions necessitated by the nature, weight or condition of the Items or of any statutory duties specific to the Items with which Schott Transport may need to comply;
- 4.3.5 shall ensure that Items do not contain Prohibited Material. To the extent that the Customer is aware that any Item contains or may contain Prohibited Material, it shall notify Schott Transport in advance of Schott Transport's performance of the Services. Schott Transport has the right, in its sole discretion, to open and inspect any Items, whether pursuant to a Customer notification or otherwise, that it suspects contains Prohibited Material and to refuse to provide the Services in respect of such Items and inform any relevant authorities;
- 4.3.6 shall ensure that all Items are made available in suitable containers, which are in good and serviceable condition and securely and properly packed in compliance with any statutory regulations or official or recognised standards. Schott Transport reserves the right to re-box any Items tendered by the Customer in containers where it reasonably considers that the container is not in good condition and where further deterioration is likely to occur during storage. The Customer will pay Schott Transport's reasonable costs of re-packaging together with the cost of the new container. If the Customer does not have suitable containers, Schott Transport will supply sufficient containers to the Customer and will invoice the Customer for the containers supplied at the rates specified in Schedule 1;
- 4.3.7 shall ensure that each Item is numbered and identified on the Item's face (not its lid) and shall further ensure that Schott Transport is provided with sufficient information to enable it to

record index and apply a unique barcode identifier to it in accordance with the Specification;

- 4.3.8** if the Customer changes the information recorded on the outside of any Item that it has retrieved from the Premises, shall notify Schott Transport of such change(s) to ensure that Schott Transport' records are updated. The Customer acknowledges that Schott Transport will not accept any responsibility for the identification of Items and it is the sole responsibility of the Customer to ensure that Items are at all times clearly and adequately identified and any changes in that identification are notified to Schott Transport immediately;
- 4.3.9** shall provide adequate facilities for the collection and/or the delivery of Items in a loading bay or access area that can be used by Schott Transport for the purpose of parking a vehicle temporarily while delivering or collecting Items. The Customer shall provide Schott Transport with any required parking permit prior to Schott Transport' delivery or collection. In the event that Schott Transport' vehicle receives a parking or other traffic restriction penalty due to the failure of the Customer to provide adequate facilities, Schott Transport will re-charge the Customer for the appropriate penalty together with a reasonable administrative charge;
- 4.3.10** on receipt by Schott Transport of new or returned Items, shall supply an inventory of the Items detailing the Customer's reference information, in a form acceptable to Schott Transport, that will be used by the Customer for subsequent retrievals. The Customer will be informed of any discrepancy between such inventory and the Items actually received by Schott Transport;
- 4.3.11** acknowledges that Schott Transport will not hand over or permit withdrawals of any Items from the Premises to any person who is not able to provide proof of identity satisfactory to Schott Transport;
- 4.3.12** if the Customer wishes to collect any Items from the Premises, acknowledges that Schott Transport reserves the right to require the Customer's duly authorised representative whilst at the Premises to be accompanied by a Schott Transport representative at all times and to charge the Customer a rate agreed at the time of the request; and
- 4.3.13** shall provide written notice to Schott Transport of a request for permanent retrieval from the Premises or destruction of any Items stored at the Premises and Schott Transport will provide the Customer with an estimate of when it will be able to effect such permanent retrieval or destruction and thereafter shall use reasonable endeavours to comply with such estimates and, in the case of destruction of such Items, will provide to the Customer appropriate evidence of such destruction.

**4.4** The Customer will indemnify Schott Transport, its subcontractors, agents, employees, successors and assigns in respect of any loss or damage whether direct or consequential arising out of the storage or delivery of the Items, which arises from any negligent act or omission of the Customer or any failure on the

part of the Customer to perform or comply with the terms of the Contract or any breach of the Customer's warranties stated in clause 4.

## 5 Charges and Payment

- 5.1 The Customer shall pay to Schott Transport the Charges which, subject to the remainder of this clause 5, shall be those set out in Schedule 1.
- 5.2 For the purposes of calculation, any part month will be charged as a whole month where the Service is listed as attracting a per month charge.
- 5.3 Charges are based on Schott Transport' standard business hours and, rates shall be calculated on the basis of an eight-hour day from 8.00 am to 5.00 pm worked on Business Days.
- 5.4 Schott Transport shall be entitled to charge an overtime rate of 150 (one hundred and fifty) per cent of the standard daily fee rate on a pro-rata basis for each part day or for any time worked by individuals whom it engages on the Services outside the hours referred to in clause 5.3.
- 5.5 Schott Transport shall be entitled to charge the Customer for any expenses reasonably incurred by the individuals whom Schott Transport engages in connection with the Services including, but not limited to, travelling expenses, hotel costs, subsistence and any associated expenses, and for the cost of services provided by third parties and required by Schott Transport for the performance of the Services, and for the cost of any materials.
- 5.6 During the Contract term, destruction and permanent retrieval requests will be actioned subject to 1 (one) months written notice. Schott Transport will set out a reasonable time Schedule for each request to be completed by. Storage charges will continue until the end of the month for items agreed for picking in the month. The standard destruction / permanent retrieval picking rate is 100 (one hundred) boxes per Business Day.
- 5.7 The Charges shall remain fixed during the Initial Term, subject always to the Customer in any Year disposing of not greater than 25 (twenty five) per cent of the number of Items stored by Schott Transport at the commencement of such Year.
- 5.8 If in any Year, the Customer disposes of greater than 25 (twenty five) per cent of such Items, the Customer shall become liable for additional Charges. These charges will be on a sliding scale based on the value of the storage of the Items for the remainder of the contract term.
- 5.9 An increase by a rate in equivalent of the relative percentage increase in the CPI shall be applied by Schott Transport each year after the expiry of the Initial Term. If in any Year after the expiry of the Initial Term, Schott Transport wishes to increase the Charges by a rate in excess of the relative percentage increase in the CPI during such Year, it may do so by giving not less than 6 (six) weeks' written notice to the Customer setting out its reasons for the proposed increase.
- 5.10 If such increase in the Charges is not acceptable to the Customer, it shall notify Schott Transport in writing within 2 (two) weeks of the date of Schott Transport' notice and Schott Transport shall have the right, without limiting its other rights or remedies, to terminate the Contract by giving no less than 4 (four) weeks' written notice to the Customer.
- 5.11 Schott Transport reserves the right to charge the Customer for waiting time in accordance with the rates specified in Schedule 1 if Items requested for



delivery or collection cannot be delivered or collected by Schott Transport at the appointed time.

- 5.12** If the Customer requires Schott Transport to retrieve an Item from the Premises, additional Charges for such retrieval shall be payable in accordance with the rates specified in Schott Transport' prevailing price list.
- 5.13** Schott Transport shall invoice the Customer monthly in arrears.
- 5.14** The Customer shall pay each invoice submitted by Schott Transport within 30 (thirty) days of the date of the invoice and in full and in cleared funds to a bank account nominated in writing by Schott Transport, and time for payment shall be of the essence of the Contract.
- 5.15** All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax chargeable for the time being (**VAT**). Where any taxable supply for VAT purposes is made under the Contract, the Customer shall, on receipt of a valid VAT invoice from Schott Transport, pay to Schott Transport such additional amounts in respect of VAT as are chargeable on the supply of the Services at the same time as payment is due for the supply of the Services.
- 5.16** Schott Transport requires payment to terms. In the event that an account is outstanding, we will refer the matter to our debt collection agents, which will incur costs of 15% + vat. Any costs incurred to collect the debt will be added to the debt, plus VAT at the prevailing rate. You agree that you will be legally liable to pay us that surcharge, and that payment of the same can be enforced against you in court. You also agree to pay interest at the relevant reference rate provided for under the Late Payment of Commercial Debts (Interest) Act 1998 and subsequent amendments, which interest is payable both after and before any judgment of the court and continues to accrue.
- 5.17** The Customer shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law). Schott Transport may at any time, without limiting its other rights or remedies, set off any amount owing to it by the Customer against any amount payable by Schott Transport to the Customer.

## **6 Change Control**

- 6.1** If either party wishes to change the scope or execution of the Services or the Specification for any reason, it shall submit details of the requested change to the other in writing.
- 6.2** If either party requests a change referred to in clause 6.1, Schott Transport shall, within a reasonable time (and in any event not more than 10 (ten) Business Days after receipt of the Customer's request), provide a written estimate to the Customer of:
- 6.2.1** the likely additional time required to implement the change;
  - 6.2.2** any necessary variations to the Charges arising from the change; and
  - 6.2.3** any other impact of the change on this Contract.
- 6.3** Any proposed additions, variations and impacts referred to in clause 6.2 shall be kept to a minimum so far as is reasonably possible and, in the case of variations to the Charges, shall be calculated on a basis which is consistent with the

component pricing or method of calculation of charges referred to in Schedule 1 or, if this is not appropriate, shall be a fair and reasonable proposed variation.

**6.4** Unless both parties agree to a proposed change in writing, there shall be no change to the scope or execution of the Services or the Specification and the parties agree to act reasonably and in good faith in their discussions relating to any proposed change and their efforts to reach any such agreement.

**6.5** If the parties agree to a proposed change, the change shall be made, only after agreement of the necessary variations to the Charges, the scope or execution of the Services or Specification, and any other relevant terms of the Contract to take account of the change that has been reached and this Contract has been varied in accordance with clause 13.5.

**6.6** If Schott Transport requests a change referred to in clause 6.1 in order to comply with any applicable law and such change does not materially affect the nature or scope of the Services or the Charges, the Customer shall not unreasonably withhold or delay its agreement to it.

## **7 Intellectual Property Rights**

**7.1** All Intellectual Property Rights in or arising out of or in connection with the Services shall be owned by or, where applicable, the Customer hereby assigns such Intellectual Property Rights to, Schott Transport.

**7.2** The Customer acknowledges that, in respect of any third party Intellectual Property Rights, the Customer's use of any such Intellectual Property Rights is conditional on Schott Transport obtaining a written licence from the relevant licensor on such terms as will entitle Schott Transport to license such rights to the Customer.

**7.3** All Schott Transport Materials are the exclusive property of Schott Transport.

## **8 Limitation of Liability:**

**8.1** Nothing in the Contract shall limit or exclude Schott Transport' liability for:

**8.1.1** death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;

**8.1.2** fraud or fraudulent misrepresentation; or

**8.1.3** breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession) or any other liability which cannot be limited or excluded by applicable law.

**8.2** Subject to clause 8.1, Schott Transport shall not be liable to the Customer, whether in contract, tort (including negligence), for breach of statutory duty, or otherwise, arising under or in connection with the Contract for:

**8.2.1** loss of profits;

**8.2.2** loss of sales or business;

**8.2.3** loss of agreements or contracts;

**8.2.4** loss of anticipated savings;

**8.2.5** loss of use or corruption of software, data or information;

**8.2.6** loss of damage to goodwill; or

**8.2.7** any indirect or consequential loss.

8.3 Subject to clause 8.1, Schott Transport' total liability to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with the Contract shall be limited to, subject to clause 4.3.3:

8.3.1 the lesser of the Customer's proved loss or £3.00 (three pounds) per Box; and

8.3.2 the lesser of the Customer's proved loss or £9.00 (nine pounds) per Media Tape.

8.3.3 the lesser of the Customer's proved loss or £0.25 (twenty five pence) where stored on open racking.

8.4 The terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.

8.5 Any claim by the Customer against Schott Transport for loss, damage or destruction of Items must be presented in writing to Schott Transport within a reasonable time and in any event no longer than 60 (sixty) days after the Customer is notified by Schott Transport that loss, damage or destruction to part of or all of the Items has occurred.

## 9 Data Protection

9.1 Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 9 is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation.

9.2 The parties acknowledge that for the purposes of the Data Protection Legislation, the Customer is the data controller and the Schott Transport is the data processor (where **Data Controller** and **Data Processor** have the meanings as defined in the Data Protection Legislation).

9.3 Without prejudice to the generality of clause 9.1, the Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data to **Schott Transport** for the duration and purposes of this agreement.

9.4 Without prejudice to the generality of clause 9.1, Schott Transport shall, in relation to any Personal Data processed in connection with the performance by Schott Transport of its obligations under this agreement:

9.4.1 process that Personal Data only on the written instructions of the Customer (including as required for the proper provision of the Services pursuant to this Contract) unless Schott Transport is required by the laws of any member of the European Union or by the laws of the European Union applicable to Schott Transport to process Personal Data (**Applicable Laws**). Where Schott Transport is relying on laws of a member of the European Union or European Union law as the basis for processing Personal Data, Schott Transport shall promptly notify the Customer of this before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit Schott Transport from so notifying the Customer;

9.4.2 ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the Customer, to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the

unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be Schott Transportd in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);

**9.4.3** ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential; and

**9.4.4** not transfer any Personal Data outside of the European Economic Area unless the prior written consent of the Customer has been obtained and the following conditions are fulfilled:

**9.4.4.1** the Customer or Schott Transport has provided appropriate safeguards in relation to the transfer;

**9.4.4.2** the data subject has enforceable rights and effective legal remedies;

**9.4.4.3** Schott Transport complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and

**9.4.4.4** Schott Transport complies with reasonable instructions notified to it in advance by the Customer with respect to the processing of the Personal Data;

**9.4.5** assist the Customer, at the Customer's cost, in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;

**9.4.6** notify the Customer without undue delay on becoming aware of a Personal Data breach;

**9.4.7** at the written direction of the Customer, delete or return Personal Data and copies thereof to the Customer on termination of the agreement unless required by Applicable Law to store the Personal Data; and

**9.4.8** maintain complete and accurate records and information to demonstrate its compliance with this clause 9.

**9.5** Schott Transport will (subject to the provisions of this Contract which will prevail in the event of any conflicting terms) process Personal Data in accordance with the Schott Transport Privacy Code of Conduct and other policies in relation to data protection in force as updated and published on its website at <https://www.Storeabox.co.uk/>.

**9.6** The Customer consents to Schott Transport appointing Acora Limited as a third-party processor of Personal Data under this agreement. Schott Transport confirms that it has entered or (as the case may be) will enter with the third-party processor into a written agreement incorporating terms which are substantially similar to those set out in this clause 9. As between the Customer and the Schott Transport, Schott Transport shall remain fully liable for all acts or omissions of any third-party processor appointed by it pursuant to this clause 9.

**9.7** Either party may, at any time on not less than 30 days' notice, revise this clause 9 by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when replaced by attachment to this agreement).

## **10 Termination**

**10.1** Without limiting its other rights or remedies, either party may terminate the Contract with immediate effect by giving written notice to the other party if:

**10.1.1** the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business;

**10.1.2** the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or

**10.1.3** the other party's financial position deteriorates to such an extent that in the terminating party's opinion the other party's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.

**10.2** Without limiting its other rights or remedies, Schott Transport may terminate the Contract with immediate effect by giving written notice to the Customer if:

**10.2.1** the Customer fails to pay any amount due under the Contract on the due date for payment and remains in default not less than 14 (fourteen) days after being notified in writing to make such payment; or

**10.2.2** there is a change of Control of the Customer.

**10.3** Without limiting its other rights or remedies, Schott Transport may suspend provision of the Services under the Contract if the Customer becomes subject to any of the events listed in clause 10.1.1 to clause 10.1.3 or Schott Transport reasonably believes that the Customer is about to become subject to any of them, or if the Customer fails to pay any amount due under this Contract on the due date for payment.

## **11 Consequences of Termination**

**11.1** On termination of the Contract:

**11.1.1** the Customer shall immediately pay to Schott Transport all of Schott Transport's outstanding unpaid invoices and interest and, in respect of the Services supplied but for which no invoice has been

submitted, Schott Transport shall submit an invoice, which shall be payable by the Customer immediately on receipt;

**11.1.2** Schott Transport will invoice the Customer in advance for all costs involved with permanently retrieving the Items, including storage, handling and permanent retrieval surcharge. All barcoded items will need to be reconciled and permanently retrieved at the rate set out in Schedule 1.

**11.1.3** The removal of Items from store will not commence until the end of the 3 (three) month notice period, unless otherwise agreed in writing. Schott Transport will agree a project start date with the Customer and prepare a cost and activity Schedule during the notice period for the Customer to sign off in advance;

**11.1.4** the Customer shall return all of the Schott Transport Materials and any Deliverables which have not been fully paid for. If the Customer fails to do so, Schott Transport may enter the Customer's premises and take possession of them. Until they have been returned, the Customer shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this Contract;

**11.1.5** the accrued rights, remedies, obligations and liabilities of the parties as at expiry or termination shall be unaffected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry;

**11.1.6** clauses which expressly or by implication survive termination shall continue in full force and effect; and

**11.1.7** unless the parties expressly agree in writing otherwise, all licences granted by Schott Transport to the Customer shall automatically terminate.

**11.2** If Schott Transport terminates the Contract pursuant to clause 10.2 or 10.3, without affecting any other right or remedy available to it, and the Customer has failed to pay the Exit Charges within 3 (three) months of being notified in writing that such Exit Charges have become due and payable, Schott Transport may at its sole option without further notice to the Customer make available for collection or deliver back the Items to the Customer or destroy the same.

**11.3** If, for any reason, Schott Transport continues to provide any element of the Services after termination of the Contract, Schott Transport may charge the Customer at such rates as would have been charged had the Contract not been terminated.

## **12 Confidentiality.**

**12.1** In this clause 12, Confidential Information shall mean any and all information (whether or not in writing and in any electronic or other form on any media), including all Personal Data, all confidential or proprietary information relating to the business, affairs, customers, clients, suppliers of a party and the terms of this Contract (and any quotation, correspondence or discussions which gave rise to this Contract), which is not generally available to the public (other than as a direct or indirect result of the information being disclosed in breach of this Contract) or which is lawfully in the possession of the party on a non confidential basis.

- 12.2** In order (without limitation) to protect each party's commercial interests and in order to comply with Data Protection Legislation, each party undertakes that it shall not at any time disclose to any person any Confidential Information, except as permitted by clause 12.3.
- 12.3** Each party may disclose the other party's Confidential Information:
- 12.3.1** to its employees, officers, representatives, subcontractors or advisers who need to know such information for the purposes of carrying out the party's obligations under the Contract and only to the extent required for such purpose. Each party shall ensure that its employees, officers, representatives, subcontractors or advisers to whom it discloses the other party's Confidential Information comply with this clause 12; and
  - 12.3.2** as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 12.4** Neither party shall use the other party's Confidential Information for any purpose other than to perform its obligations under the Contract.

### **13 General**

- 13.1** Neither party shall be in breach of this Contract nor liable for delay in performing, or failure to perform, any of its obligations under this Contract if such delay or failure results from events, circumstances or causes beyond its reasonable control.
- 13.2** Schott Transport may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights under the Contract and may subcontract or delegate in any manner any or all of its obligations under the Contract to any third party or agent. The Customer shall not, without the prior written consent of Schott Transport, assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract.
- 13.3** The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- 13.4** Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Contract.
- 13.5** No variation of the Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).
- 13.6** A waiver of any right or remedy is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. A delay or failure to exercise, or the single or partial exercise of, any right or remedy shall not:
- 13.6.1** waive that or any other right or remedy; or
  - 13.6.2** prevent or restrict the further exercise of that or any other right or remedy.

- 13.7** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.
- 13.8** If a dispute arises out of or in connection with the Contract or the performance, validity or enforceability of it (a **Dispute**) then, subject to clause 13.8.3, the parties shall follow the dispute resolution procedure set out in this clause:
- 13.8.1** either party shall give to the other written notice of the Dispute, setting out its nature and full particulars (a **Dispute Notice**), together with relevant supporting documentation. On service of the Dispute Notice, suitably authorised representatives of each party shall attempt in good faith to resolve the Dispute;
  - 13.8.2** if the authorised representatives referred to in clause 13.8.1 are for any reason unable to resolve the Dispute within ten (10) Business Days of service of the Dispute Notice, the parties shall attempt to settle it by mediation in accordance with the CEDR Model Mediation Procedure. Unless otherwise agreed between the parties, the mediator shall be nominated by CEDR Solve. To initiate the mediation, a party must serve notice in writing (an **ADR notice**) to the other party requesting a mediation. A copy of the ADR notice should be sent to CEDR Solve. The mediation shall start not later than twenty (20) Business Days after the date of the ADR notice. Unless otherwise agreed by the parties, the place of mediation shall be nominated by the mediator; and
  - 13.8.3** the commencement of a mediation shall not prevent the parties commencing or continuing court proceedings.
- 13.9** Any notices to be served under the Contract may be personally delivered or sent by pre-paid first class post or facsimile transmission and may be sent, delivered or transmitted to either party at its registered office or such other address as is notified for this purpose from time to time by either party to the other. A notice shall be deemed to have been given immediately on personal delivery or facsimile transmission or 48 hours after posting if sent by first class post, and in proving such service it shall be sufficient to show that the envelope was properly addressed and put into the post. The Contract reference number should be quoted in all correspondence.
- 13.10** No one other than a party to the Contract shall have any right to enforce any of its terms.
- 13.11** Schott Transport will acknowledge in writing to customers that as the service provider the company will maintain all applicable PCI DSS requirements to the extent the service provider possesses or otherwise stores, processes, or transmits cardholder data on behalf of the customer, or to the extent that they could impact the security of the customer's cardholder data environment.
- 13.12** The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by, and construed in accordance with the law of England and Wales.



**13.13** Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.