



GENERAL TERMS & CONDITIONS

**THE CUSTOMER'S ATTENTION IS SPECIFICALLY DRAWN TO CLAUSES 7 AND 8
HEREUNDER DEALING WITH LIMITATION OF LIABILITY AND INDEMNITIES.**

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1 DEFINITIONS AND INTERPRETATION

1.1 DEFINITIONS

In these General Terms & Conditions and unless the context otherwise dictates, the following terms and phrases shall have the meanings set out below:

"Applicable Regulations" means all statutes, regulations, by-laws, order, directions or other lawful requirements, industry codes or standards for the time being applicable to the performance of the Service Provider's duties and obligations under this Contract.

"Bloodstock" means any horse, or other animal or livestock or semen and/ or equipment whatsoever to which any Business concluded between the Service Provider and the Customer relates.

"Business" means the Contracts undertaken by the Service Provider and services ancillary thereto including those undertaken gratuitously.

"Business Day" means a day normally worked by a company in the United Arab Emirates, not being a Friday or Saturday or Public and National Holidays.

"Consignment" means the Bloodstock and any good(s), package(s) and/or equipment for which the Service Provider is to arrange Services.

"Contract" means the agreement between the Service Provider and the Customer for any work to be undertaken by the Service Provider on behalf of or at the request of the Customer including work or services undertaken gratuitously pursuant to the terms of the Letter of Instruction and these General Terms & Conditions.

"Customer" means the Owners and/or any other person or body corporate at whose request and/or on whose behalf the Service Provider agrees to perform the said Services.

"Gross Negligence" means a conscious and voluntary disregard of the need to use reasonable care, which is likely to cause foreseeable grave injury or harm to persons, property or both; and such conduct is extreme when compared to ordinary negligence, which is a mere failure to exercise reasonable care.

"GT&C" mean these General Terms and Conditions.

"Letter of Instruction" means the document on the Service Provider's letterhead, which is to be completed by the Customer and which sets out the details of the Bloodstock for which Services are to be provided.

"Reasonable and Prudent Manner" means the exercise of a reasonable degree of skill, expertise, diligence and foresight which would from time to time be expected of skilled and experienced professional service providers engaged in similar undertakings of a similar type in connection with the logistics industry of a similar scale and circumstances and in accordance with reasonable industry professional standards and practices.

"Services" means the services described more fully in section 2 below to be provided to the Customer by the Service Provider.

"Service Charge" means the fees and charges payable by Customer to Service Provider for the provision of Services.

"Service Provider" means Equitrans Logistics LLC.

"Parties" mean the Service Provider and the Customer collectively.

"UAE Commercial Code" means, UAE Law 18 of 1993, The UAE Code of Commercial Practice.

1.2 INTERPRETATION

In these GT&C:

- (a) the index and headings are for convenience only and shall not affect its interpretation;
- (b) reference to any gender includes the others, and words in the singular include the plural and vice versa;
- (c) references to legislation include any statute, bye-law, regulation, rule, subordinate or delegated legislation or order, and reference to any legislation in force at the date of these GT&C is to such legislation as amended from time to time and to any legislation replacing it or made under it;
- (d) reference to a person shall be construed so as to include an individual, firm, partnership, trust, joint venture, company, corporation, body corporate, unincorporated body, association, organisation, any government or state or any agency of a government or state, or any local or municipal authority or other governmental body; and
- (e) the words "include", "including" and "in particular" shall not be interpreted as limiting the generality of any foregoing words.

2 SERVICES

Performance of Service

- 2.1 Service Provider is a professional and experienced logistic service provider specializing in the transportation of Bloodstock. The Service Provider is a commission agent (not a carrier) for the purposes of the UAE Commercial Code and therefore will procure all of its services as an agent.
- 2.2 Customer has requested, and the Service Provider has agreed to perform the Services on the terms and subject to the conditions of the Contract, and the Customer has agreed to receive and pay for such Services on the terms of the Contract.
- 2.3 When acting as a commission agent the Service Provider does not make or purport to make any contract of carriage with the Customer for the collection, storage, packing or handling, carriage, exportation/ importation clearances or any other associated service of any Bloodstock nor for any other physical service in relation to them; instead the Service Provider acts solely on behalf of the Customer in securing services by establishing contracts with third parties.
- 2.4 At the Customer's written request, the Service Provider will provide evidence of any contract negotiated with a third party on the Customer's behalf. Such contracts will

be in the name of the Service Provider and/ or the Customer, but for the account of the Customer.

- 2.5 The Service Provider shall be entitled to retain and be paid all brokerages, commissions, allowances and other remunerations customarily retained by or paid to freight forwarders.

Customer Requirements via Letter of Instruction

- 2.6 Customer will communicate to the Service Provider its requirement for Services (or various aspects thereof) by sending a Letter of Instruction to the Service Provider.
- 2.7 The terms of these GT&C may be varied, amended or added to by virtue of any terms specified in a Letter of Instruction and mutually agreed by the Parties. The Parties agree that the terms of the said Letter of Instruction will prevail over any inconsistent terms and conditions contained in or referred to in these GT&C.
- 2.8 Service Provider will be deemed to accept each signed and duly received Letter of Instruction unless it objects thereto in writing within two (2) Business Days of receipt.

Services to be Performed

- 2.9 The Service Provider shall be entitled, and the Customer hereby expressly authorizes the Service Provider such entitlement, to enter into contracts on behalf of the Customer and its principal (where applicable) and to arrange:
- (a) for the carriage of the Consignment by any route or means or person;
 - (b) for the collection, packing and/ or handling, safe keeping, boarding, loading, unloading and transportation of the Consignment by any person at any place and for any length of time;
 - (c) for the hiring of grooms to accompany the Bloodstock as and when necessary, but at the complete discretion of the Service Provider; and
 - (d) do such acts as may in the opinion of the Service Provider be reasonably necessary in the performance of its obligations in the interests of the Customer and its principal (where applicable).
- 2.10 The Service Provider reserves itself a reasonable liberty as to the means, route and procedure to be followed in the handling and transportation of Consignment. In any case where no particular route is agreed between the Service Provider and the Customer, the Customer agrees that the agreed route is that which the Service Provider reserves to itself a reasonable liberty to follow.
- 2.11 The contract of carriage between the Customer and the actual carrier shall be in accordance with the terms and conditions of the carrier, where applicable.
- 2.12 The Service Provider will not accept or deal with Bloodstock of a dangerous or damaging nature or with Bloodstock suffering from infectious or contagious disease or which may have been in contact with other infected animals. The Service Provider shall have complete discretion to reject Bloodstock for any such reason, or in the event Bloodstock is ultimately rejected by the carrier for similar reasons any costs incurred or due and owing to the carrier or other service provider(s) shall be for the Customer's account.

- 2.13 If the Customer and/ or its principal and/ or nominee does not take prompt delivery of any Bloodstock the Service Provider shall be entitled to board the Bloodstock at the Customer's sole risk and expense. Should the Bloodstock not be collected within a reasonable time after notice has been given to the Customer to take delivery of the Bloodstock, the Service Provider may, at its sole discretion, sell or otherwise dispose of the Bloodstock as it deems fit and the expense of such actions will be for the sole account of the Customer. After the Service Provider's debts have been settled in full, including any costs whatsoever incurred in selling or otherwise disposing of the Bloodstock, the balance of funds shall be remitted to the Customer.
- 2.14 The Service Provider shall not be bound to recognize any title to the Bloodstock in any person other than the Customer or its principal where prior written notice and evidence has been provided. However, should Service Provider receive evidence that title to the Bloodstock rests with a third party (i.e. not the Customer or its principal) then the Service Provider may, at their complete discretion, act upon such actions and take all reasonable steps which the Service Provider deems appropriate.

Boarding

- 2.15 When in the Service Provider's opinion it is reasonably necessary to do so the Service Provider may board Bloodstock that is in transit or awaiting shipment either at a facility of its own or at a third party boarding facility.
- 2.16 The Service Provider will, where appropriate also board Bloodstock when it has been specifically requested in writing to do so by the Customer.
- 2.17 When boarding Bloodstock on behalf of Customer the Service Provider shall, whether using its own facilities or those belonging to a third party, make reasonable charges for the provision of such boarding facilities; similarly, the cost of all associated expenses incidental to boarding, including medicine or veterinary examination, re-examination require by the import regulations or the country of destination shall be payable by the Customer without prejudice to the Service Provider's rights against any other third party.

Additional Services

- 2.18 At the Customer's request, and subject to Service Provider's acceptance, Service Provider may provide or procure the provision of additional services. The provision of these additional services will be at a fee to be mutually agreed between the Parties and subject to the provisions of these GT&C.

Standard of Performance

- 2.19 Service Provider will perform the Services in:
- (a) a Reasonable and Prudent Manner; and
 - (b) accordance with all Applicable Regulations.
- 2.20 Service Provider shall keep full and proper records for a period of eighteen (18) months from the date of the provision of Services showing all transactions and proceedings relating to the Services provided hereunder.
- 2.21 Service Provider shall immediately notify the Customer of any accidents or damages which involve the Consignment, following which Service Provider will take all reasonable steps to mitigate any losses.

3 CUSTOMER'S RESPONSIBILITIES AND WARRANTIES

Customer Responsibilities

- 3.1 In consideration of Service Provider obligations under the Contract and performance of such Services, Customer shall throughout the term of the Contract:
- (a) pay Service Provider the Service Charges as agreed and in accordance with Clause 5 below;
 - (b) save where the same is caused by the sole negligence of or breach of Contract by the Service Provider, the Customer shall be liable for all duties, taxes, levies and charges whatsoever to any authority or governmental department arising out of the provision of Services and shall indemnify the Service Provider against any such outlay that the Service Provider may be required to pay on the Customer's behalf;
 - (c) provide the Service Provider with personnel, as and when needed, to facilitate and assist the Service Provider in performing the Services hereunder; and
 - (d) provide all other such assistance to the Service Provider where reasonable to do so in order to facilitate and assist the Service Provider to provide the Services.
- 3.2 Obtain and supply to the Service Provider any and all documentation required by the Service Provider and the authorities in any country of exportation or importation through which the Consignment is to pass, including but not limited to: import and export licenses; veterinary certificates; and identification papers. The Service Provider shall not be responsible for any delay or loss arising from the Customer's failure to provide these documents upon request, nor in the event there are any discrepancies with any of the documentation supplied.

Customer Warranties

- 3.3 Customer warrants, undertakes and represents to the Service Provider that:
- (a) it is either the owner or authorized agent of the owner of the Bloodstock and if the latter that it has the full authority of his principal to enter into the Contract;
 - (b) it will give all necessary instructions in good time and warrants the accuracy of any information provided, including, but not limited to:
 - (i) the Customer shall give complete disclosure of the Bloodstock's full travel history concerning any accident(s) and/ or incident(s) where the Bloodstock was either a danger to itself and/or other Bloodstock and/or property;
 - (ii) the Customer shall advise if the Bloodstock is pregnant and the estimated date of foaling;
 - (iii) the Customer shall advise of any special travel requirements which must be complied with, including where travel spaces / stalls larger than one third (i.e. 70 cms in width, maximum) are necessary to either accommodate the physical dimensions of the Bloodstock or the temperament / behaviour of the Bloodstock (if such instructions are not

provided then it is considered that no special requirements are required, including travel spaces / stalls larger than one third (1/3);

- (c) no equipment for which Services are to be provided comprises, contains or is packaged in any dangerous, noxious or illegal substance whatsoever; and does not include military equipment, arms, ammunition and/or nuclear materials;
- (d) if Bloodstock is accepted on delivery and without any objection being made prior to delivery, the Customer is deemed to confirm that such Bloodstock is healthy and uninjured;
- (e) save to the extent the Service Provider receives prior written notification to the contrary, the Customer warrants that the Bloodstock is in all respects fit for purpose, to be so dealt with and capable of enduring normal transit without damage or injury and, in particular, is free of disease or infestation of any description whatsoever and has not to the knowledge of the Customer been in contact with any diseased or infected animal(s) within the previous 60 (sixty) days;
- (f) the Customer may at any time cancel the request for Services before the Service Provider concludes the transportation contracts, in which case the Customer will reimburse the Service Provider for the expenses incurred and compensate for the work performed, and in case of consolidations could be liable for a percentage of airfreight and/or any other charges which might be applicable;
- (g) in the event the Bloodstock is unable to travel due to unforeseen circumstances beyond the control of either the Service Provider or the Customer, the Customer may elect to either pay the additional costs incurred by the Service Provider to arrange replacement transportation or alternatively wait until another consignment of Bloodstock is ready to be transported; and
- (h) the Contract constitutes valid and binding obligations on Customer and Customer has full power to enter into and perform its obligations under the Contract and has taken all necessary corporate and other actions to approve and authorize the transactions contemplated by this Contract and Customer's representative agreeing this Contract has full power, competency and authority to do so.

3.4 The Customer acknowledges the Service Provider's complete discretion to act upon such actions and take all necessary steps which the Service Provider deems appropriate should the Service Provider be provided with evidence that a third party (i.e. not the Customer or its principal) has clean title to the Bloodstock, as per Clause 2.14 above. In such cases, the Customer will hold the Service Provider harmless and will indemnify and keep them indemnified against all liabilities and costs whatsoever arising from or in connection with.

4 INSURANCE

4.1 Unless otherwise agreed in writing, the Customer shall, at its own expense, procure and maintain for the period during which the provision of Services are provided any other insurance(s) deemed necessary, including but not limited to Bloodstock insurance.

4.2 Unless otherwise agreed in writing, the Service Provider will not procure bloodstock insurance for the horse(s) and it will be assumed that the horse(s) for which

Services are to be provided are fully insured by their owners or that their owner does not require such insurance to be obtained for the period during which Services hereunder are provided.

5 FEES AND PAYMENT TERMS

Fees

- 5.1 The Letter of Instruction evidences, among other things, details of the Bloodstock, transportation points and the agreed Service Charge. In the event the Service Charge is to be adjusted as a result of a change in the requirements of the Customer or as a result of an adjustment in a third party's costs and/or charges, the Service Provider will provide written notification to the Customer who in turn agrees to accept these changes, unless it is wholly unreasonable to expect them to do so.
- 5.2 The Service Charge referred to in this Contract does not include (exclusive of) any goods and services tax, and any other tax, duty or fee imposed from time to time by any government or other authority. Any sales and services tax, or any other tax or duty imposed in accordance with the relevant tax law, or any other applicable law or regulation, shall be paid by Customer.

Payment terms

- 5.3 Service Provider shall invoice the Customer for the Services and those additional charges where applicable. Unless agreed in writing otherwise, all invoices raised by Service Provider shall be paid by Customer, by return and before the performance of the Services, without any set-off or deduction whatsoever.
- 5.4 If Customer fails to make any payment due to the Service Provider in full prior to the performance of the Services (unless agreed otherwise) and has failed to give a reasonable written explanation for such failure to Service Provider, then, without prejudice to any other right or remedy, Service Provider shall be entitled to charge Customer interest on any unpaid amount at 4% above the UAE Interbank Interest Rate for two months Dirham deposits from time to time in force. Interest will be charged monthly until payment is made.
- 5.5 All payments under the Contract and these GT&C shall be made by (a) electronic transfer to the bank account of Service Provider specified in the relevant invoice, quoting the invoice number against which the payment is made or (b) by cheque (not post-dated).
- 5.6 Customer should report any disputes on the invoices submitted by the Service Provider within seven (7) working days from the time the invoice is received by the Customer.

Provision of credit

- 5.7 Where the Service Provider has agreed to extend credit to the Customer payment shall be within thirty (30) days of the date of the invoice without any set-off or deduction whatsoever.

6 LIEN

- 6.1 Service Provider shall have a lien on the Bloodstock and any documents relating thereto for any amount payable to Service Provider under the Contract or these GT&C and for all previously unsatisfied debts whatsoever due to Service Provider by Customer, and for any losses or liabilities that Service Provider may have

incurred due to Customer's negligent acts or omissions, and for that purpose shall have the right to enforce such lien in any manner, including selling the Bloodstock by public auction or private treaty.

7 LIMITATION OF LIABILITY

- 7.1 THE SERVICE PROVIDER SHALL NOT BE LIABLE FOR THE DESTRUCTION OF, OR DAMAGE TO OR DELAY IN DELIVERY OF THE BLOODSTOCK IN QUESTION, SAVE WHERE THE DESTRUCTION, DAMAGE OR DELAY IS DIRECTLY RELATED TO THE GROSS NEGLIGENCE OF OR FRAUD BY THE SERVICE PROVIDER IN PERFORMING THE SERVICES HEREUNDER.
- 7.2 THE BLOODSTOCK IS ACCEPTED BY THE SERVICE PROVIDER AT THE SOLE RISK OF THE CUSTOMER AND/ OR ITS PRINCIPAL (WHERE DISCLOSED) AND THE SERVICE PROVIDER SHALL BE UNDER NO LIABILITY WHATSOEVER, WHETHER IN CONTRACT OR OTHERWISE, FOR THE DEATH, INJURY, ILLNESS OR ESCAPE THEREOF, HOWSOEVER ARISING, NOR FOR ANY LOSS OR DAMAGE WHATSOEVER SUFFERED BY THE CUSTOMER OR ANY THIRD PARTY CLAIMING BY ANY ACTION PERFORMED OR OMITTED BY THE SERVICE PROVIDER, ITS SERVANTS OR AGENTS IN CONNECTION WITH THE BLOODSTOCK.
- 7.3 THE SERVICE PROVIDER SHALL BE RELIEVED OF LIABILITY FOR ANY LOSS OR DAMAGE IF AND TO THE EXTENT THAT SUCH LOSS OR DAMAGE IS CAUSED BY:
- (a) STRIKE, LOCK-OUT, STOPPAGE OR RESTRAINT OF LABOUR, THE CONSEQUENCES OF WHICH THE SERVICE PROVIDER IS UNABLE TO AVOID BY THE EXERCISE OF REASONABLE DILIGENCE; AND
 - (b) ANY CAUSE OR EVENT WHICH THE SERVICE PROVIDER IS UNABLE TO AVOID AND THE CONSEQUENCES WHEREOF THE SERVICE PROVIDER IS UNABLE TO PREVENT BY THE EXERCISE OF REASONABLE DILIGENCE.
- 7.4 ALL WARRANTIES, CONDITIONS AND OTHER TERMS IMPLIED BY STATUTE OR COMMON LAW ARE, TO THE FULLEST EXTENT PERMITTED BY LAW, EXCLUDED FROM THESE GT&C.

8 INDEMNITIES

- 8.1 IF THE BLOODSTOCK CAUSES DAMAGE TO OR DESTRUCTION OF ANOTHER SHIPMENT OR THE PROPERTY OF A CARRIER, THE CUSTOMER SHALL HOLD HARMLESS AND INDEMNIFY THE SERVICE PROVIDER FOR ALL LOSSES AND EXPENSES ARISING THEREFROM. ANY BLOODSTOCK (OR PART THEREOF) WHICH, FOR WHATEVER REASON, IS LIKELY TO ENDANGER PERSONS OR PROPERTY (INCLUDING THE MODE OF TRANSPORT) MAY BE ABANDONED OR DESTROYED BY THE SERVICE PROVIDER WITHOUT LIABILITY ATTACHING TO THE SERVICE PROVIDER.
- 8.2 CUSTOMER SHALL HOLD HARMLESS AND KEEP THE SERVICE PROVIDER, ITS OFFICERS, DIRECTORS, AGENTS, AND EMPLOYEES INDEMNIFIED FROM AND AGAINST:
- (a) ANY LIABILITY, LOSS, DAMAGE, COSTS AND EXPENSES WHATSOEVER (INCLUDING WITHOUT PREJUDICE TO THE GENERALITY OF THE FOREGOING, ALL DUTIES, TAXES, IMPOSTS, LEVIES, DEPOSITS AND OUTLAYS OF WHATSOEVER NATURE LEVIED

BY ANY AUTHORITY IN RELATION TO THE SERVICES PROVIDED) ARISING OUT OF THE SERVICE PROVIDED BY THE SERVICE PROVIDER;

- (b) ANY CLAIM, DAMAGE, LOSS, LIABILITY OR EXPENSE WHICH SERVICE PROVIDER MAY SUFFER OR INCUR IN RESPECT OF DAMAGE TO PROPERTY OR INJURY TO OR DEATH OF PERSONNEL EMPLOYED BY ANY THIRD PARTY, INSOFAR AS THE CLAIM, DAMAGE, LOSSES, LIABILITY OR EXPENSE ARE ATTRIBUTABLE TO THE BLOODSTOCK AND NOT TO THE NEGLIGENT ACTS OR OMISSIONS OF SERVICE PROVIDER;
- (c) ANY LIABILITY, LOSS, DAMAGE, COSTS AND EXPENSES WHATSOEVER ARISING FROM ANY BREACH OF THE CUSTOMER OF ANY WARRANTY CONTAINED HEREIN OR FROM THE NEGLIGENCE OF THE CUSTOMER, ITS EMPLOYEES, AGENTS;
- (d) ANY LOSS OR LIABILITY CAUSED TO SERVICE PROVIDER DUE TO INADEQUATE OR INACCURATE DOCUMENTATION PREPARED BY OR ON BEHALF OF CUSTOMER, OR AS A RESULT OF GOVERNMENT ACTION IN RELATION THERETO;
- (e) TO THE EXTENT THAT SUCH CLAIM ARISES IN RELATION TO THE USE BY SERVICE PROVIDER OF ANY EQUIPMENT PROVIDED OR PROCURED BY THE CUSTOMER FOR USE BY SERVICE PROVIDER IN CONNECTION WITH THE PERFORMANCE OF SERVICE PROVIDER'S OBLIGATIONS UNDER THIS CONTRACT AND THESE GT&C; AND
- (f) CUSTOMER WILL INDEMNIFY AND KEEP INDEMNIFIED SERVICE PROVIDER AGAINST ALL LIABILITIES ARISING DIRECTLY OUT OF ANY BREACH BY THE CUSTOMER OF THE WARRANTIES GIVEN IN CLAUSE 3; AND
- (g) SAVE AS TO THE EXTENT THAT SUCH IS CAUSED BY FAULT OR NEGLIGENCE OF SERVICE PROVIDER, THE CUSTOMER SHALL BE LIABLE FOR AND SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS SERVICE PROVIDER, ITS OFFICERS, DIRECTORS, AGENTS, SERVANTS AND EMPLOYEES FROM LIABILITY AND/OR CLAIMS AGAINST THEM BASED ON INJURY TO ANY PERSON, DAMAGE OR LOSS OF PROPERTY, OR ANY OTHER DAMAGES ARISING FROM ANY WILLFUL OR NEGLIGENT ACT OR OMISSIONS OF THE CUSTOMER, ITS EMPLOYEES, AGENTS OR SUB CONTRACTORS.

8.3 THE PARTIES SHALL INDEMNIFY AND HOLD EACH OTHER HARMLESS AGAINST ALL AND ANY CLAIMS ARISING OUT OF:

- (a) THE PERSONAL INJURY OR DEATH OF THEIR RESPECTIVE PERSONNEL, SERVANTS OR AGENTS; AND
- (b) LOSS OF OR DAMAGE TO EACH OTHER'S PROPERTY.

8.4 IF CUSTOMER FAILS TO TAKE DELIVERY OF THE CONSIGNMENT OR PART THEREOF IN ACCORDANCE WITH THE RELEVANT TRANSPORTATION DOCUMENTS, SERVICE PROVIDER MAY WITHOUT NOTICE UNSTOW THE CONSIGNMENT OR THAT PART THEREOF AND/OR BOARD THE CONSIGNMENT OR THAT PART THEREOF, AS THEY DEEM APPROPRIATE. SUCH BOARDING SHALL CONSTITUTE DUE DELIVERY HEREUNDER, AND THEREUPON ALL LIABILITY WHATSOEVER OF SERVICE PROVIDER IN

RESPECT OF THE CONSIGNMENT OR THAT PART THEREOF SHALL CEASE. SERVICE PROVIDER SHALL BE ENTITLED TO RECOVER FROM THE CUSTOMER ALL ASSOCIATED CHARGES OR EXPENSES IN RELATION TO THE BOARDING THAT SERVICE PROVIDER MAY INCUR.

8.5 SERVICE PROVIDER SHALL BE UNDER NO LIABILITY WHATSOEVER TO CUSTOMER FOR ANY LOSS OF WHATSOEVER NATURE, WHETHER DIRECT OR INDIRECT (INCLUDING, BUT NOT LIMITED TO, ANY LOSS OF TIME, LOSS OF PROFIT, LOSS OF REVENUE OR EARNINGS, LOSS OF USE OF THE BLOODSTOCK, LOSS OF CONTRACT, LOSS OF GOODWILL OR REPUTATION, LOSS RESULTING FROM THE LIABILITY OF CUSTOMER TO ANY OTHER PERSON OR ANY OTHER INDIRECT, SPECIAL OR CONSEQUENTIAL LOSS WHATSOEVER) AND HOWSOEVER ARISING.

8.6 THE CUSTOMER UNDERTAKES TO MAKE NO CLAIM AGAINST ANY DIRECTOR, MANAGER, SERVANT OR AGENT OF THE SERVICE PROVIDER AND TO INDEMNIFY THE SERVICE PROVIDER AGAINST ALL CLAIMS, COSTS AND EXPENSES HOWSOEVER ARISING AND BY WHOMSOEVER MADE.

9 **ADVERTISING AND CONFIDENTIALITY**

9.1 The Parties may disclose to third parties that the Service Provider is an authorised service provider for Customer but the Parties shall not disclose details of the Services provided to third parties.

9.2 Each party shall protect the confidentiality of information provided by the other party, or to which the receiving party obtains access by virtue of its performance under the Contract or the GT&C, that either has been identified as confidential by the disclosing party or by its nature warrants confidential treatment. The receiving party shall use such information only for the purposes of the Contract or the GT&C and shall not disclose it to anyone except its employees who have a need to know the information.

9.3 These nondisclosure obligations shall not apply to information that is or becomes public through no breach of the Contract or the GT&C, is received from a third party free to disclose it, is independently developed by the receiving party or is required by law to be disclosed, provided that in the event disclosure is required by law, the receiving party shall provide the disclosing party with prompt written notice of the disclosure required, and shall assist the disclosing party, at the disclosing party's request, in obtaining a protective order in respect of such disclosure.

9.4 Confidential information shall be returned to the disclosing party upon its request, except that each party may retain one copy in its legal files solely for purposes of documenting its compliance with its obligations hereunder.

10 **TERMINATION**

10.1 The Contract may be terminated by cause by immediate notice in writing:

- (a) by either party to the other, where the other party has committed a material breach of the Contract or these GT&C and has failed to remedy the breach within thirty (30) days of receipt of notice from the other party requesting such remedy;
- (b) by either party with immediate effect if the other party is unable to pay its debts as they fall due or an order is made or a resolution passed for its liquidation, winding-up or dissolution (otherwise than for the purposes of a

solvent amalgamation or reconstruction) or an administrative or other receiver, manager, trustee, liquidator, administrator or similar officer is appointed over all or any substantial part of its assets or takes formal steps towards making any kind of composition, compromise or arrangement involving it and any of its creditors or anything analogous to the foregoing shall occur in any jurisdiction; and

- (c) by Service Provider where invoice(s) due to Service Provider remain unpaid by the Customer for more than thirty (30) days after the same became due, provided that Service Provider has demanded payment by notice to the Customer and the invoice(s) have remained unpaid for seven (7) days or more following such notice.

10.2 Any termination of the Contract or these GT&C (howsoever occasioned) shall not affect any accrued rights or liabilities of either party nor shall it affect the coming into force or the continuance in force of any provision of the Contract or the GT&C which is expressly or by implication intended to come into or continue in force on or after termination.

11 **FORCE MAJEURE**

11.1 If either party is prevented from carrying out its obligations under the Contract or these GT&C by reason of Force Majeure, which in the case of the Contract or these GT&C shall mean any act of God or nature, riots, strikes, lock-outs, wars and similar events beyond the reasonable control of the Parties, then the party affected by the Force Majeure event shall immediately notify the other party and undertakes to do all things reasonable in the circumstances in co-operation with the other party, to carry out its obligations as nearly as possible in conformity with all the terms and conditions of the Contract and these GT&C and shall take steps appropriate in the circumstances to minimize the losses which may be incurred by both Parties.

11.2 In the event that the Force Majeure conditions continue for a period of two (2) months or more, then either party may terminate the Contract or the GT&C by immediate notice to the other party.

12 **VARIATION AND WAIVER**

12.1 No variation of the Contract or these GT&C and no agreement at variance with any of the terms and conditions hereof shall be binding on the Parties hereto unless contained in writing and signed by them (including their respective agents duly authorised hereto).

12.2 No employee of the Service Provider has the Service Provider's authority to alter or vary the terms of the Contract.

12.3 Failure or delay by either Party to exercise any of its rights under the Contract or these GT&C shall not be deemed to be a waiver thereof and shall not preclude the exercise of such right in the future.

13 **NOTICES**

13.1 All notices hereunder shall be in writing and shall be deemed to have been duly given:

- (a) when delivered, if delivered by courier or other messenger (including registered mail) during normal business hours of the recipient;

- (b) when sent, if transmitted by fax or e-mail and a successful transmission report or return receipt is generated;
- (c) on the fifth (5th) business day following mailing, if mailed by national ordinary mail, postage pre-paid; or
- (d) on the tenth (10th) business day following mailing, if mailed by airmail, postage pre-paid.

14 **GOVERNING LAW AND JURISDICTION**

- 14.1 The Contract, including these GT&C shall be governed by the laws of the United Arab Emirates as applicable in the Emirate of Dubai.
- 14.2 All such claims or disputes arising out of or in connection with the Contract and these GT&C, including any question regarding its existence, validity, application or termination the Parties shall be referred to and finally resolved by arbitration under the Rules of the DIFC-LCIA Arbitration Centre. The number of arbitrators shall be one. The seat of the arbitration shall be in the Dubai International Financial Centre. The language to be used in the arbitration shall be English.
- 14.3 Notwithstanding the provisions of this Clause 14, Service Provider shall be entitled to take action through the Courts of any country in which assets of Customer may be located to obtain security for any and all claims of Service Provider against Customer and/ or obtain the enforcement of any arbitration award against Customer.

15 **MISCELLANEOUS**

- 15.1 It is agreed and understood between the Parties hereto, that Service Provider is free to provide similar services to customers other than Customer pursuant to any separate agreement.
- 15.2 The Contract and these GT&C shall apply to and bind the successors and assignees of the Parties hereto.
- 15.3 If any provision of the Contract and these GT&C is prohibited by law or judged by a court to be unlawful, void or unenforceable, the provision shall, to the extent required, be severed from the Contract and these GT&C and rendered ineffective as far as possible without modifying the remaining provisions of the Contract and these GT&C, and shall not in any way affect any other circumstances of or the validity or enforcement of the Contract and these GT&C.
- 15.4 The Contract and these GT&C shall not constitute or imply any partnership, joint venture, agency, fiduciary relationship or other relationship between the Parties other than the contractual relationship expressly provided for in the Contract and these GT&C.
- 15.5 The Contract and these GT&C constitute the entire agreement between the Parties relative to the Services and supersedes all prior agreements, arrangements and negotiations between the Parties in respect of its subject matter.