

## **NORTHERN IRELAND NON-RECOURSE GENERAL CONDITIONS**

### **1. PAYMENTS TO YOU**

- 1.1 We will pay You the Price of each Debt as described in this Agreement. We will do this by making payments accessible in Your Available Funds provided Your Available Funds, the Funding Limit and any High Involvement are not exceeded. If any of them are You will pay the excess to Us when We demand it. We will pay You as follows:
- (A) a Prepayment for all Unpaid Approved Debts, on the Working Day after We receive Your Debt Schedule for such Debts;
  - (B) the amount or balance of the Price of Debts (after taking away any Prepayment made to You for them), on the Working Day after We Collect them.
- 1.2 We will make payments for Protected Debts as described in Condition 3.
- 1.3 Unless We agree otherwise in Writing We will only pay the Price for each Debt in Sterling. If a Debt is not payable in Sterling:
- (A) You will indemnify Us on demand for Our exchange rate losses (if any);
  - (B) We may provisionally work out the Price of that Debt using the exchange rate for this described in Condition 1.4;
  - (C) when converting any Collection for that Debt into Sterling We will work out the Price using the exchange rate for this described in Condition 1.4. This means that this Price may alter from that worked out under Condition 1.3(B).
- 1.4 The exchange rate for use under Condition 1.3(B) is the rate Our bankers want to buy the relevant currency when We credit the relevant Debt to the relevant Records. The exchange rate for use in Condition 1.3(C) is, at Our discretion, either (i) the rate Our bankers want to buy the relevant currency when We debit the Collection to the relevant Records, or (ii) the closing mid-point rate of the European Central Bank, the quoted rate of the London Foreign Exchange Market or the quoted rate of the Central Bank of Ireland on the date of receipt by Us of the relevant Collection.

### **2. TELLING US ABOUT DEBTS AND CREDIT NOTES**

- 2.1 Unless We require otherwise You must only Tell Us about Debts which are not Excluded Debts. You must do this only once and will do it:
- (A) on the Start Date, for Debts then existing;
  - (B) within 2 days of invoicing the Debt (or, if later, immediately after You become its owner), for Debts not existing on the Start Date.
- 2.2 When Telling Us about a Debt You will automatically make the Promises to Us set out in Condition 6.2. If You cannot do this for a particular Debt You must Tell Us about it separately, mark the relevant Debt Schedule "NOT PROMISED" and set out on it the Promises You cannot make.
- 2.3 Telling Us about a Debt creates a specific assignment of it to Us which enables Us, if We choose, to get a legal assignment of it. This does not affect the general transfer to Us of ownership of all of Your Debts under section B (Transfer of Debts) of the Agreement Particulars.

2.4 Whenever You send Us a Debt Schedule (using whatever method), You will be treated as giving the following notice to Us:

“Pursuant to the terms of the Invoice Finance Agreement between You and Us (including the Conditions currently in effect) We hereby assign to You the Debts evidenced by the invoices detailed in this Debt Schedule and confirm that We have complied with all Our Promises in the Invoice Finance Agreement between us for You to buy Our Debts. The Transaction (if any) under which each Debt arises and Our obligations relating to such Debt have been fully carried out.”

2.5 With each Debt Schedule You will send Us a copy of the invoices for the Debts it Tells Us about and such other documents evidencing those Debts We require. Such documents may include proof that You have completely carried out any Transaction and all of Your obligations relating to the Debts. This applies unless the Special Conditions say otherwise, We tell You in Writing that it does not apply or You send Us a Debt Schedule using the Electronic Facility (when We must receive the required invoices and documents within 2 days of the Debt Schedule being sent).

2.6 You must issue all credit notes as soon as the relevant credit is due, Tell Us about them on a Credit Note Schedule within 2 days of this and give Us a copy of each credit note.

### 3. **CREDIT LIMITS AND CUSTOMER DEFAULT PROTECTION SERVICE**

#### **Setting Limits**

3.1 We may:

- (A) select such Debts as We choose (if any) to be Protected Debts;
- (B) set (and alter) a Credit Limit, a Covered Limit or both for a Customer.

Unless We explicitly give one such limit will be zero. You must truthfully and accurately tell Us promptly everything You know or should know might influence Us in setting or continuing a Credit Limit or Covered Limit. We will choose the method to tell You We have acted under this Condition 3.1 and need not give You any reason for any decision We make under it.

3.2 You can ask Us (verbally or in Writing) to set, or alter, a Credit Limit or a Covered Limit. If You do You must give Us all information We ask for and the Credit Limit or Covered Limit You want.

#### **Exceeding and Altering Limits**

3.3 Unless we agree otherwise, Credit Limits and Covered Limits only cover Debts created after the date on which they are set and which Debts, for the performances of services or goods despatched, are then the subject of an invoice which has been submitted to the Customer. If at any time Unpaid Debts created after this (and which Debts are the subject of an invoice which has been submitted to the Customer) exceed:

- (A) that Customer’s Credit Limit, the excess amount will be Disapproved Debts;
- (B) that Customer’s Covered Limit, the excess amount will not be Protected Debts but will be Disapproved Debts unless We indicate otherwise.

3.4 Debts fall within or outside Credit Limits and Covered Limits based upon invoice date (earliest before latest). Save as referred to in Condition 3.9 below, if We reduce or

cancel a Covered Limit this will only affect Debts about which You Tell Us after such reduction or cancellation. This Condition does not affect any other term of this Agreement.

### **Protected Debts**

3.5 If a Customer tries to pay a Protected Debt by a method (including a cheque) requiring presentation for payment and payment is refused on first presentation that Customer's Covered Limit will automatically become as it was when We received the Debt Schedule on which that Protected Debt was included. If such attempted payment covered more than one Protected Debt the Covered Limit will automatically reduce to the lowest limit for that Customer when We received any Debt Schedule on which any such Protected Debt was included.

3.6 The Price of a Protected Debt will be the sum of:

(A) any Collection relating to it and any amount You hold (or should be holding) relating to it under Condition 6.1(J) which You have not delivered to Us; PLUS

(B) its Protected Part;

LESS Our Discount, other Fees and any other amounts due to Us in relation to it.

Neither a Protected Debt nor the Protected Part will include any amount where and to the extent that such amount is (or would be but for the existence of this Agreement) capable of being covered by an insurance policy held by You or from which You may be entitled to benefit or receive payment. Where the goods which are the subject of a Debt are to be Despatched to, or the services which are the subject of a Debt are to be performed in, or payment is to be made from, a country other than the Customer's country such Debt will not be a Protected Debt unless We agree otherwise in Writing.

3.7 If a Protected Debt is not Collected in full because of a Protected Event, We will pay the Protected Part of such Protected Debt by debiting it to the relevant Records:

(A) at once after We become aware of it, if the Protected Event is a Non-Payment Protected Event;

(B) where the Protected Event is an Insolvency Protected Event, when We are satisfied that the Insolvency Protected Event has occurred;

(C) at once after We become aware of it, if the Protected Event is a Political Risk Protected Event.

You must have paid all Customer Protection Service Fees You owe when a Protected Event happens. If You have not We may not pay under this Condition 3.7. If We treat a Debt as a Protected Debt but later discover that We should not have done this We may treat it as not being a Protected Debt. You must comply with all the requirements of this Agreement which apply to Protected Debts (whether or not they expressly refer to such Debts). This is a condition of Us being responsible for any Protected Debts as described in this Agreement.

3.8 You must make any claim You think You have against Us relating to the Customer Default Protection Service not later than 4 months after the event which You claim created it. If You do not We will have no liability under the Customer Default Protection Service in relation to the relevant claim.

3.9 The Customer Default Protection Service will end:

- (A) on expiry of a Customer Default Protection Service Notice We or You give to the other;
- (B) on the Annual Review Date which follows Us giving You at least 10 Working Days notice in Writing ending on that date and which is given in the month before (but not including) that date; and
- (C) when this Agreement ends.

If the Customer Default Protection Service ends all Covered Limits will automatically become zero. Ending the Customer Default Protection Service under this Condition 3.9 will not affect Our or Your rights and obligations relating to any Protected Debts which are unpaid when it ends. This is except that any misrepresentation or failure to act honestly on Your part in relation to any Protected Debt, any Transaction or any claim that a Protected Event has occurred will have the effect that the Customer Default Protection Service will automatically end in relation to all Protected Debts whether or not Unpaid when it ends. If any such misrepresentation or failure to act honestly on Your part occurs You will refund all Protected Parts We have paid to You as part of the Price of any Protected Debt.

3.10 For each Customer You will tell Us in Writing at once of any:

- (A) change in the information You gave Us when You asked Us to set or alter the Covered Limit for that Customer;
- (B) adverse change in their financial position (including the taking or threat of proceedings for or other steps towards Insolvency and reason to think that they may not pay the Debt);
- (C) Protected Event happening;
- (D) change in any payment or settlement discount offered to or agreed with that Customer;
- (E) request by the Customer for any extension of the original due date for payment (or, if applicable, any revised due date for payment) of any Debt which is due from that Customer;
- (F) institution of any proceedings against the Customer for non-payment of an amount owing; and
- (G) disputes raised by the Customer (whether or not valid).

This Condition 3.10 does not affect any other term of this Agreement.

3.11 A Debt may stop being a Protected Debt other than because the Customer Default Protection Service is ended under Condition 3.9. If this happens no Debts of the relevant Customer (then Unpaid to Us or created afterwards) will be Protected Debts.

3.12 We are not a credit reference agency. Us setting a Credit Limit or a Covered Limit is no indication of a Customer's ability to pay. You will tell no one, including Your Customers, anything about any Credit Limit or Covered Limit (including if it exists).

### **Approved, Protected and Bad Debts**

3.13 An Approved Debt will automatically become a Disapproved Debt:

- (A) when its Approval Period ends;

- (B) on the Insolvency or threat of proceedings for or other steps towards Insolvency of the Customer;
- (C) if You break any Promise relating to that Debt; or
- (D) when this Agreement ends.

We may at any time treat all or any part of an Approved Debt as a Disapproved Debt. If an Approved Debt becomes a Disapproved Debt You must at once Repay it in the currency of the Current Account relating to it. If We require it You will also then pay any other amounts You owe Us.

3.14 At any time after a Termination Event happens We may reduce all or any Covered Limits to zero. All Debts of any Customer whose Covered Limit is reduced to zero (whether then Unpaid to Us or created afterwards) will not be Protected Debts. When this Agreement ends all Covered Limits will automatically become zero.

3.15 If at any time a Customer's Unpaid Debts exceed that Customer's Credit Limit but any report or account We give to You describes such excess as an Approved Debt the excess will only be an Approved Debt so far as it is within the relevant Credit Limit and does not break the High Involvement.

3.16 Where Conditions 3.13 or 3.14 apply We may reassign the relevant Debt to You unless Condition 3.17 applies. This will be begun by Us making the appropriate entries in the Records for its Notified Value. You will not own such Debt until We are paid in cleared funds for it and for all other Debts We are reassigning to You at such time.

3.17 We cannot reassign a Debt under Condition 3.16 if both (A) and (B) below are satisfied:

- (A) it is a Protected Debt and its Customer Protection Period has not ended; and
- (B) no Protected Event has occurred in relation to the Customer who owes it.

We can require You to pay Us or can reassign to You the Unprotected Part of such Debt. This will be begun by Us making the appropriate entries in the Records for the Unprotected Part of such Debt. You will not own the Unprotected Part of such Debt until We are paid in cleared funds for it and for all other Unprotected Parts We are reassigning to You at such time.

3.18 We need not try to recover from the Customer or anyone else before using Our rights under Conditions 3.16 or 3.17.

#### 4. ACCOUNTING AND PAYMENTS TO YOU

##### General

4.1 We will keep such Records and in such currencies as We think fit. The Records will include:

- (A) A Client Account: showing what We owe You if all Unpaid Debts are Collected in full and to which We will debit all Fees. Amounts entered on this account will be treated as Prepayments to which Our Discount as applied to Your Current Account will apply. Such amounts may include amounts owed by You to Us whether or not under this Agreement including ones You owe which have been assigned to Us and amounts owed by You to any Bibby Group Company and We may set off all amounts so entered

against sums We owe You. This applies whether at the relevant time such amounts are actually payable or payable potentially or conditionally and whether or not We guarantee payment of any amount owed by You to any Bibby Group Company. If unknown We may estimate and enter any such amount. By signing this Agreement You request and authorise Us to give any such guarantee;

- (B) A Current Account: showing what You owe Us or We owe You. Its balance may suggest that You have paid charges You owe to Us but this is only a notional position. We will not regard Fees as paid unless this Agreement ends with all other amounts You owe under it having also been paid as well as such Fees. Any amount unpaid when the Agreement ends will be regarded as representing unpaid Fees save to the extent that it exceeds Fees incurred during the period of the Agreement. No interest is due on any amount We owe. If You owe more than the amount worked out by applying the Prepayment Percentage and High Involvement to the Unpaid Approved Debts at any time You will pay Us the difference on demand;
- (C) A Sales Ledger Control Account: showing when We receive Collections (but when calculating Our Discount receipt will be deemed 6 Working Days after this). It may include the Price We expect to pay for a Debt but this may need altering to reflect the final Price We must pay.

- 4.2 We may at any time combine all Records into a single account and require You to pay the net balance to Us on demand. If such combination produces an amount We owe You We may pay this to You or withhold it against amounts You owe Us (and whether at the relevant time actually payable or payable potentially or conditionally). You will indemnify Us on demand for sums We pay under a guarantee We give a Bibby Group Company of sums You owe.
- 4.3 We reserve the right not to make any payments to You for any Debts while You are Insolvent or proceedings for or other steps towards Insolvency are threatened or pending against You.
- 4.4 You will be given such information regarding this Agreement and using such method as We agree with You. Unless You dispute any such information as inaccurate within 15 days of it being sent to You (or published on Our Electronic Facility) You cannot dispute it unless the error is obvious. A certificate of Our company secretary or one of Our directors of any account balance, any loss We suffer or amount You owe Us is conclusive unless containing an obvious or legal error.

## 5. NOTICE TO CUSTOMERS AND COLLECTION OF DEBTS

- 5.1 Unless We agree that You will be Our agent for collecting and enforcing payment of Debts We will collect and enforce as We choose. You will accept whatever decisions We make in doing this even if they reduce the Price of a Debt or result in a Debt being settled for less than its Notified Value.
- 5.2 If We require You to act as Our agent:
  - (A) We will indicate this (and Your duties) by stating in the Agreement Details that You will be Our Collection Agent or by giving You Our authority (by letter);
  - (B) this will be a personal appointment for that purpose only;
  - (C) You will at Your expense carry out Your duties promptly and efficiently;
  - (D) You will keep for Us such records of the Debts and give such information to Customers and to Us as We require; and

- (E) You will pay into such bank account as We require (which, if We require it, will be held in trust for Us and in relation to which We, or Our nominees, shall be the only authorised signatories) all amounts received by You in relation to the payment of Debts assigned to or held in trust for Us under this Agreement without otherwise dealing with them and pending such payment will hold and deal with all such amounts as required by Condition 6.1(J).
- 5.3 We may at any time end Your agency verbally or in Writing. As a genuine estimate of Our extra work due to Your agency ending We may charge You a fee of 10% of the Notified Value of all Debts Unpaid when it ends and of all Debts You Tell Us about after this.
- 5.4 You will write to all Customers who pay You by BACS, CHAPS or any other form of electronic transfer using wording which We will provide to You, giving them Our bank account details and telling them to make payment of Debts to such account. If the Agreement Details say that notice to Customers is required You will ensure that every invoice, statement or other document We specify has such notice as We require that We own the Debts. We may tell Customers that We own the Debts when and using such method as We choose.
- 5.5 We may:
  - (A) allocate any Collection or Reduction as We choose;
  - (B) pay a Customer any credit balance due to them (which until this will be a potential liability You owe Us);
  - (C) take possession of and sell (on terms We choose) any Returned Goods, treating the net proceeds as a Collection relating to the relevant Debt; and
  - (D) (in Our or Your name) contact Customers to verify Debts and take, carry on or settle any action to recover or dispute relating to any Debt as We wish.
- 5.6 You will fully assist Us in collecting Debts and any Returned Goods and in protecting Our rights.

## 6. YOUR PROMISES

### Undertakings

- 6.1 You agree that whilst this Agreement continues and after it ends until We have been paid all sums You owe to Us:
  - (A) unless We give Our prior written consent (by letter):
    - (i) the payment terms agreed with any Customer will not be better than those described in Your Payment Terms and You will not vary any of them for any Debt after Telling Us about it;
    - (ii) You will not issue any credit notes of more than the Credit Note Limit (and will stop issuing any if We ask You verbally or in Writing);
    - (iii) English law will govern every Transaction and Debt;

- (B) each Debt can be transferred to Us, is due in Sterling (unless We give written consent, by letter, to payment in an Approved Currency) and no other person has any Other Interest in it;
- (C) (except for the Protected Part of a Protected Debt in relation to which a Protected Event has happened) the Notified Value of each Debt will be fully paid when due and without retention, dispute, set-off, deduction or counterclaim;
- (D) You will Tell Us separately of each Export Debt and Debt payable in an Approved Currency and of each Debt all or part of which relates to interest or any amount payable under the European Communities (Late Payment in Commercial Transactions) Regulations 2012 (with a breakdown of such interest or amount);
- (E) You will tell Us at once of any:
  - (i) information We ask in relation to a Customer, Debt or a transaction;
  - (ii) Promise which You break;
  - (iii) change of Control (actual or proposed and direct or indirect) of Your business or that of any Associate or Guarantor or in the identity of Your Associates;
  - (iv) proceedings or other steps for or towards Insolvency being begun or threatened against any Relevant Party and the imminent or actual Insolvency of any Customer;
  - (v) taking or threat of steps towards or actual enforcement of any Other Interest or any floating charge becoming fixed over any part of Your assets or undertaking;
  - (vi) change of address of, and material information about the creditworthiness of, a Customer including any unfavourable information concerning a Customer's financial position, reputation or debt payment performance;
  - (vii) dispute You have with a Customer (with full details of such dispute);
  - (viii) Returned Goods which are in Your possession;
  - (ix) Protected Event happening in relation to a Protected Debt;
  - (x) request by a Customer for an extension of the date for payment of any Debt greater than 60 days (or such other period as We may notify You verbally or in Writing) beyond the original due date for payment of that Debt (and if We agree to such a request then, without prejudice to the obligation for such Debt to be paid within the period of extension We agree, if such Debt remains Unpaid at the end of the period of extension We agree You will notify Us of this within 10 days of such period of extension ending);
  - (xi) Customer which fails to take up the goods which are the subject of a Debt or documents which relate to a Debt on first presentation where the payment terms are cash against documents or documents against acceptance;



- (xii) circumstances which should lead you to believe (acting reasonably) that the Customer is unable or is likely to be unable to perform or comply with any of the terms of the Transaction;
  - (xiii) Customer who fails to honour a bill of exchange or a cheque due to lack of funds; and
  - (xiv) institution of any proceedings against a Customer for non-payment of an amount owing;
- (F) You will not, unless We consent (by letter), allow to exist any Other Interest over Your present or future assets or factor, discount, declare in trust or otherwise dispose of any Debts (or allow any Associate to factor, discount, declare in trust or otherwise dispose of any present or future debts or other amounts owing to them);
- (G) You have and will comply with all terms of this Agreement and with all procedures We specify relating to its operation;
- (H) if We ask You will transfer to Us ownership (not Ours under the Linked Rights) of goods the subject of a Debt (and We will be deemed to have asked this on Your Insolvency);
- (I) You will comply with the Data Protection Laws and, in particular, you will ensure that all information relating to this Agreement, any Relevant Person and any Debt is processed by You and shared with Us in accordance with the Data Protection Laws such that We may lawfully use such information for the purposes We identify to You in the privacy notices We provide to You and communications between You and Us;
- (J) You will hold any payment You receive in any way relating to a Debt in trust for Us and:
- (i) deliver to Us at once the actual cash, cheque, instrument or other form of payment or pay it into such bank account as We require and will if necessary endorse such payment to Us before such delivery;
  - (ii) until it is so delivered keep it separate from Your other money and not, under any circumstances, deal with, negotiate it or pay it into any account including Your own bank account; and
  - (iii) We may notify anyone of such trust;
- (A) You will allow Our bankers to credit to Us amounts made payable to You (and give any indemnity or written confirmation We require relating to this);
- (B) You will take reasonable care in granting credit to each Customer ignoring in doing so whether or not any Debt will or may be covered by any credit insurance policy or is to be a Protected Debt;
- (C) You will take all reasonable steps to minimise Our Disbursements and loss caused by a Debt not being Collected in full by the date when payment is due (including ensuring that all rights against goods, Customers and third parties are properly preserved and exercised);
- (D) You will keep proper books and records of account and ensure that they contain appropriate entries in them recording the sale to Us of the Debts;

- (E) You will not create any further Debts with a Customer if We ask You not to do so;
- (F) if a Customer who issues self-billing invoices fails to do so within the 30 day period referred to in the definition of Protected Debt contained in Condition 16 or an Insolvency Protected Event occurs in relation to such a Customer before they have issued such an invoice You will immediately raise an invoice for each Debt which that Customer has not invoiced and submit such invoice(s) to such Customer; and
- (G) You will comply with such requirements as We specify concerning retention of title in relation to the goods which are the subject of each Debt (including that the terms of the Transaction incorporate such retention of title requirements as We specify in relation to such goods). Without limitation these shall include the following:
  - (iv) where the goods which are the subject of the Debt are to be delivered to a Customer who is located in Ireland (but without prejudice to the generality of Condition 6.1(Q)(iii)), the terms of the Transaction include a valid retention of title clause under which title to those goods (and all other goods which are the subject of any Transaction between You and the Customer by which that Debt is owed and which goods have not been paid for by that Customer) is retained by You until the Customer has paid You for all such goods;
  - (v) where the goods which are the subject of the Debt are to be delivered to a Customer who is located in Germany (but without prejudice to the generality of Condition 6.1(Q)(iii)), the terms of the Transaction include a valid retention of title clause in its simple form and its extensions including clauses regarding further processing, current accounts/balances and advance assignments;
  - (vi) the terms of the Transaction include such retention of title requirements as we specify in relation to such goods;
  - (vii) You must request that the Customer accepts in Writing the retention of title provisions We specify to You;
  - (viii) if no response is received from the Customer after 30 days following the request from You referred to in Condition 6.1(Q)(iv) You must send a reminder in Writing to the Customer;
  - (ix) where the Customer refuses to accept the retention of title provisions We specify or You do not receive a response from the Customer within 30 days of the reminder referred to in Condition 6.1(Q)(v) You need take no further action to establish the retention of title provisions We specify to You; and
  - (x) You must provide us with copies of the correspondence referred to in Condition 6.1(Q)(iv) to Condition 6.1 (Q)(vi) if We request this.

## **Warranties**

- 6.2 Except for Debts You Tell Us about separately under Conditions 2.2 or 6.1(D), by Telling Us about a Debt You warrant that:

- (A) the Transaction (if any) creating that Debt and the Debt itself are genuine, lawful, valid and binding, made on Your Payment Terms and:
- (ii) the goods have been delivered to the Customer and the services have been completely carried out which are the subject of that Transaction or Debt or both and no other person has any Other Interest in such goods, services, Transaction or Debt;
  - (iii) the Debt is not an Excluded Debt;
  - (iv) the Debt relates to an established place of business which the Customer has in Northern Ireland or, if we have agreed to buy Your Export Debts, in an Accepted Country;
  - (v) you have given Us complete and accurate details of the Transaction and the Debt;
  - (vi) the Customer which owes the Debt is not Insolvent; and
  - (vii) the Debt is one to which this Agreement applies;
- (B) You own the Debt and can lawfully transfer ownership of it to Us free of any Other Interest save Our own interest;
- (C) before this Agreement was made You told Us in Writing everything You knew or ought to have known might influence Us in deciding to enter into it (on its terms or at all) or in accepting any person as Guarantor and that You will tell Us at once of anything which might change any such decision;
- (D) all Accounts Information and other financial information about Your business or that of an Associate or Guarantor given to Us before the Start Date or which You give to Us while this Agreement continues are, and will be, accurate and fairly represent the financial position of the person to which they relate;
- (E) if, as We may, We require You to get a credit insurance policy and to assign to Us the benefit of such policy:
- (i) You will sign and deliver to Us the documents necessary for such assignment;
  - (ii) the proposal You sent to the insurer upon the basis of which the policy was issued was complete and correct in every way;
  - (iii) You have disclosed to the insurer all information which You know or ought to know might influence the insurer in providing cover under the policy and will continue to do so while this Agreement continues;
  - (iv) You have fully complied with the policy, there have been no acts or omissions which might invalidate it and You will deliver the original policy to Us if We ask;
  - (v) the policy will cover all Debts owned by or held in trust by You for Us and You will promptly make and recover all claims relating to Debts which You have the right to make under the policy; and
  - (vi) You will send Us copies of all communications between You and the insurer at once after You receive or send them;

and while this Agreement continues You will comply with the above warranties as though repeated on each day, pay all premiums when due, deal with any sums You receive under any such policy as a payment under Condition 6.1(J) and tell Us at once if the policy becomes void or is cancelled or lapsed.

## 7. RECORDS AND INFORMATION

- 7.1 You will give to Us:
- (A) Debt Information at once when We ask You;
  - (B) such financial information about You at intervals and for such periods as We may ask; and
  - (C) Your Accounts Information when available but not later than 4 months after (but not including) the last day of each of Your accounting periods which end while this Agreement continues. Your Accounts Information provided under this Condition must be:
    - (i) (if You are a company which must or does file audited accounts) audited and contain a directors report;
    - (ii) (if You are a partnership, a sole trader or a company which need not and does not file audited accounts) certified as true and correct by a firm of chartered or certified accountants.
- 7.2 We may at any time enter any premises You use to get, copy, remove or audit (at Your cost) any of the information referred to in Condition 7.1 and to inspect goods and Returned Goods.
- 7.3 We may disclose to such persons as We think appropriate including Your financiers, auditors, accountants, Guarantors, Credit Agencies, insurers and other professional advisers and to any Bibby Group Company and its financiers (and they may disclose to Us) such information about you as we or they have. You confirm that You have given (or, where such persons' identity alters, will at once give) all necessary instructions to allow this. If we ask you will at once instruct Your auditors or accountants at Your expense to report to us directly about your financial position.

## 8. OUR CHARGES

- 8.1 You will pay Us the charges on the payment dates set out in the Charging Details and will indemnify Us on demand against:
- (A) all Disbursements; and
  - (B) any increase from time to time in the cost to Us of the funds We obtain to provide Prepayments to You under this Agreement including to the discount or interest rate or other costs, charges, fees and expenses relating to such funds (whether such Prepayments are in existence at the time of, or made after, such increase).
- 8.2 Our Discount will be calculated daily on the debit balance on Your Current Account at the end of each day and then debited to Your Client Account. Unless otherwise specified by Us, if a specific Applicable Rate is (a) not available (either temporarily or on a permanent basis) or becomes unrepresentative or its use is restricted or prohibited by a relevant regulatory body; or b) the cost to Us of funding under this Agreement is in excess of Our Discount, We may (at Our discretion) use an alternative rate which We deem appropriate, or use an alternative or successor administrator of a rate or use a rate which expresses as a percentage rate per annum the cost to Us of funding Your facility from whatever source We may select (in each

case making such consequential amendments to the Agreement as We deem appropriate).

- 8.3 We may vary the Factoring Fees, the Minimum Factoring Fees, the Annual Review Fee, the Non-Recourse Fee and the Customer Protection Services Fees (or any of them) by giving You 30 days' notice in Writing at any time after We consider that either of Our risk in, or costs of, operating this Agreement have altered. If the Factoring Fees for a period are less than the Minimum Factoring Fees for that period set out in the Charging Details (or varied under this Condition) You will pay Us the shortfall on the payment date for this set out in the Charging Details. We may debit Your Client Account with the shortfall We believe will happen in any later period.
- 8.4 A Debt may not be payable in Sterling but We may be paying the Price of it in Sterling. If so any Fee which is a percentage of the Notified Value of the Debt will be applied to the Price of the Debt worked out under Condition 1.3(B).
- 8.5 If (i) this Agreement ends earlier than You could end it under Condition 10 or (ii) a Termination Event happens, then for the period from either such event until the time to which this Agreement should continue under Condition 10 You will, if We ask, pay Us (for lost Factoring Fees) the greater of:
- (A) the Minimum Factoring Fees You would have had to pay (less the Factoring Fees already taken by Us for that period); and
  - (B) (B) the Factoring Fees You would have had to pay for that period if payable at an amount per Month (or part Month) equal to (i) if the Agreement has continued for at least 6 Months, the total Factoring Fees charged to You in the 6 Months immediately before this Agreement ended or the Termination Event happened divided by 6; or (ii) if this Agreement has not continued for at least 6 Months, the Factoring Fees equal to the total Factoring Fees charged to You under this Agreement divided by the number of full Months for which it has continued or did continue.
- 8.6 If We agree to alter this Agreement or to provide extra services, reports or facilities for which You ask Us You will pay Us such fees for this as We ask. This includes if We make any payment to You which is more than or made more quickly than is required under Condition 1.1.
- 8.7 You will pay all VAT due on amounts payable by You under this Agreement. No Fees will be refunded.

## 9. **ELECTRONIC FACILITY**

- 9.1 This Condition 9 applies only if the Agreement Details state that You want the Electronic Facility or We and You agree in Writing that it will apply.
- 9.2 While this Agreement continues We give You a non-exclusive personal licence to use the Electronic Facility on Your own computer equipment on terms We specify from time to time in relation to and while this Agreement continues. We may alter, suspend or withdraw the Electronic Facility without notice or liability.
- 9.3 We may charge You for working on or giving You new Electronic Facility versions/updates because You incorrectly use versions/updates.
- 9.4 All Messages You send must be correct and complete, identify the sender and recipient and have verifiable authenticity. We may rely on any Message You appear to have sent.
- 9.5 We and You agree to:

- (A) tell the other at once if it believes there has been defect, fraud or security breach in or resulting from any Message or any breaking of Condition 9.5(C) and to co-operate in seeking a remedy as soon as possible;
- (B) use all reasonable endeavours to ensure its computer system is virus free, Messages are properly stored and can only be accessed and retrieved by authorised persons and to tell the other at once if it believes that such obligations have been or may be broken;
- (C) not tell anyone how the Electronic Facility works (including its security procedures), keep proper security systems for the Electronic Facility and accept all Messages as genuine and as if signed and physically delivered unless corrupted by a proven technical failure;
- (D) if a Message is believed not to be intended for the recipient they will delete it (but not the record of its receipt) and tell the sender (and the other of You or Us) at once; and
- (E) keep a record of all Messages in a form We require, hold this unchanged for 12 months after this Agreement ends and provide it to the other when asked. Our record of Messages will be conclusive except for any obvious errors in it.

9.6 You accept that:

- (A) We can update information on the Electronic Facility at any time without liability to You and that whatever it shows We will only pay You as this Agreement describes;
- (B) We will not be liable for any delay by Us which is caused directly or indirectly by:
  - (ii) any failure or fault of equipment, software, telephone line or other communication system (whether Ours or others);
  - (iii) any error or discrepancy in any Message We receive; or
  - (iv) any unforeseen event including one in Condition 15.2.

9.7 You will indemnify Us on demand for all Disbursements, lost expected savings and damaged goodwill arising from You sending or Us receiving a Message or Us relying on incorrect information in a Message or not receiving a Message from You.

## 10. AGREEMENT PERIOD

10.1 Unless ended by Us because a Termination Event happens this Agreement will continue from (and including) the date it is made for the Minimum Period after which We or You can end it at any time by giving an End Notice to the other expiring on the last day of a Month.

10.2 If We agree in Writing that You can end this Agreement without it continuing as set out in Condition 10.1 You will pay Us such sum as We require in return for this.

## 11. ENDING AGREEMENT

### Termination Events

11.1 We may end this Agreement at once by giving You notice in Writing at any time after:

- (A) You (or any Associate) threaten to, or do, break any agreement with Us or any Bibby Group Company;
- (B) You do not Tell Us of any Debts for 14 consecutive days;
- (C) You threaten to, or do, stop carrying on Your business or change the Nature of Your Business;
- (D) You do not pay when due any financial facility or any such facility is declared due before the date for payment stated in it or You repay without Our consent (by letter) any loan to You by an Associate;
- (E) the Insolvency or threat of Insolvency, death or any legal disability of any Relevant Party (except a Customer) or any Guarantor giving notice of termination of a Guarantee;
- (F) any change (direct or indirect) in Your ownership, Control, composition or constitution, directors, partners, members, financial position or operating performance which We think materially prejudices Us;
- (G) any of Your creditors applies for a court order against Us;
- (H) any waiver, consent, ranking, release, subordination or priority arrangement We obtain from anyone holding any Other Interest over Your assets ends or it is threatened that it will end;
- (I) You or any third party breaks or ends any Promise, representation, warranty or undertaking given to Us in relation to this Agreement or its continuance;
- (J) any of Your directors, partners or members is disqualified from being a director; or
- (K) You, any of Your shareholders, directors, shadow directors, members or partners or any Guarantor is charged with an offence involving dishonesty.

#### **Effect of Termination Event**

- 11.2 On or after a Termination Event (whether or not We end this Agreement) and without limiting Our other rights We can do all or any of the following (with or without giving You notice in Writing):
- (A) not make any further payments to You and require You to pay Us at once all amounts You owe Us (whether or not under this Agreement);
  - (B) require You to buy back any Unpaid Debts for a price equal to the aggregate amount payable by You under Condition 11.2(A) (You not becoming their owner until You have paid such amount to Us in cleared funds);
  - (C) increase Our Discount by 2% (to cover Our increased risk); or
  - (D) reserve for any liabilities We think You may owe Us. Or
- 11.3 If You become Insolvent or stop trading and Our charges under Condition 8.5 are then less than 10% of the Notified Value of all Debts then Unpaid We may charge You the difference as a genuine estimate of Our likely loss from extra work in collecting Debts.

- 11.4 After receiving an End Notice from You We will have the same rights as those in Condition 11.2(D). If this Agreement ends other than due to a Termination Event You must buy all Unpaid Debts then existing for the amount in Condition 11.2(B). This Agreement will apply to and You will not be the owner of such Debts until We are paid in cleared funds for them all.
- 11.5 You will indemnify Us against any claim by a Customer to repayment of any sum We Collect whether We are aware of such claim before or after this Agreement ends.
- 11.6 If this Agreement or any of the services We provide under it ends Our or Your rights or obligations which then exist (including Our right to recover Our Discount until You have fully carried out all Your obligations to Us) will not be affected.

12. **PARTNERSHIPS AND INDIVIDUALS Partnership**

- 12.1 Where You are a partnership as identified in the Client Details:
  - (A) Your obligations in this Agreement will be joint and several obligations of the partners as well as obligations of the partnership. "You" and "Your" will be read as referring to each partner and the partnership;
  - (B) You confirm that the Client Details list all of the partners details as at the Start Date. You will tell Us (by letter) at once of any proposed changes to the partners or partnership name and will make sure that on becoming a partner each new partner signs all documents that We require to bind him to this Agreement;
  - (C) until they are satisfied, each partner will be responsible for Your liabilities under this Agreement (actual, conditional, present, future or otherwise). If Your partners change We may treat this Agreement as continuing as if there were no such change; and
  - (D) We may agree anything relating to this Agreement with any partner(s) without affecting Our rights against the others and treat a notice or demand by Us on You or on any partner and a notice by You to Us as given to (and by) each partner.

**Sole Trader**

- 12.2 If You are a sole trader as identified in the Client Details You must not enter into a partnership without Our prior consent given by letter.

**Sole Traders and Partnerships**

- 12.3 If You are a sole trader or a partnership:
  - (A) You will:
    - (ii) (i) indemnify Us against any Disbursements We incur in registering this Agreement;
    - (iii) (ii) tell Us (by letter) at once if You move Your Business Address or change Your Trading Style and then sign such documents as We may require;
    - (iv) (iii) tell Us (by letter) of any business in which You are interested and if We ask ensure that it sells its debts to a Bibby Group Company;
  - (A) You confirm that Your Residential Address in the Client Details is correct and that You will tell Us (by letter) at once of any changes (including in any changed address about which You tell Us under this Condition); and



- (B) this Agreement binds Your executors, administrators, personal representatives and other persons acting for You.

#### 13.4 **Data Protection**

This Condition 13.4 contains an overview of our Privacy Notice along with brief details of certain privacy rights of individuals in relation to their personal information and how We gather, use and share information about You. In this Condition 13.4 (and in our Privacy Notice) references to how We gather, use and share information about You includes all information about You (whether or not personal information).

##### **Our Role**

We are the data controller in relation to personal information which We collect about You. This means that We are responsible for deciding how We hold and use personal information about You. Personal information, means any information about an individual from which that person can be identified.

##### **Type of Information**

The sort of information We will collect about You and how We collect it is set out in Our Privacy Notice. It is important that You read our Privacy Notice, together with any other privacy notice We may provide on specific occasions when We are collecting or processing personal information about You, so that You are aware of how and why We are using such information.

##### **Your Rights**

You have the right to a copy of the personal information which We hold about You (along with other rights including the right to ask Us to update incorrect or incomplete personal information and to erase it and the right to object to (or request that We restrict) the processing of it) – You can contact Our Data Steward by email at [Data.ie@bibbyfinancialservices.com](mailto:Data.ie@bibbyfinancialservices.com) or by post sent to The Data Protection Steward, Bibby Financial Services Limited, Fourth Floor, Heather House, Heather Road, Sandyford Industrial Estate, Dublin. in order to enforce any of these rights.

You also have the right to complain to the Data Protection Commission if You are not happy about the way Your personal information is used.

##### **Our need for Information and how We may use it**

We will use the personal information We obtain about You, whether from You or from other sources, as set out in our Privacy Notice. This will include to assist with our administration of this Agreement (including making payments and recovering monies in relation to it) and our exercise of our rights under it as well as to carry out activities such as service and product development, training, marketing, credit and financial assessment, market and product analysis, administering insurance claims, audit and preventing fraud and money laundering. In some cases We won't be able to provide products and services to You if We don't have all the information We need.

We will only use Your personal information where We have a lawful basis to do so.

##### **Sharing and Transferring Information**

Details of how We may share Your personal information are set out in Our Privacy Notice.

##### **How long We keep Your Information**

We'll keep Your information for as long as You have a relationship with Us. After that relationship has ended, We'll continue to keep that information to enable Us to comply with our

legal obligations (such as record keeping for tax purposes) and where We may need it for our, or someone else's, legitimate interests (including tackling financial crime and if required in relation to active or potential legal proceedings).

### **Privacy Notice**

Our full Privacy Notice contains more details about our use of Your personal information. A hard copy of our Privacy Notice has been provided to You. You can view our up to date full Privacy Notice via the following link <https://www.bibbyfinancialservices.ie/footer/privacy-notice> at any time.

## **13. TRANSFERS AND INFORMATION DISCLOSURE**

- 13.1 You cannot transfer, delegate, novate, create any Other Interest over or otherwise deal with Your rights or obligations under this Agreement unless We consent (by letter).
- 13.2 You consent to Us transferring, delegating, novating, creating any Other Interest over or otherwise dealing with Our rights and obligations under this Agreement. We may disclose this Agreement and any information relating to it to any person with whom We have done or propose doing any thing described in this Condition and any party involved in this. This will include Our financiers and any security trustee, agent or finance arranger involved in any financing which relates to this Agreement, Our business or that of any Bibby Group Company.

## **14. SERVICE OF NOTICES**

- 14.1 Any notice or demand on You by Us will be validly served if:
  - (A) personally delivered to You or any of Your officers, members or partners and taking effect when delivered;
  - (B) posted or sent by fax or e-mail to Your Service Address or such other address in Northern Ireland You tell Us about (by letter) for the purpose of this Condition; taking effect (if posted) no later than 10am on the next Working Day after being posted and (if faxed or sent by e-mail) when sent.
- 14.2 Notice by You to Us must be by letter sent to Us by recorded delivery post. It will be effective at the time it is recorded as received by Us at Our registered office.

## **15. MISCELLANEOUS**

- 15.1 We may alter the Conditions at any time by making such altered Conditions available on Our Website or, if We choose, posting a copy of them to You. Such altered Conditions will take effect on being made so available or being posted (as appropriate). You are obliged to check our Website regularly for any variations to the Conditions made available there.
- 15.2 We will not be liable for any loss or damage, including consequential or indirect loss, injury or damage or lost anticipated savings caused for whatever reason or if We do not carry out Our obligations under this Agreement due to an unforeseen event. This will include any situation outside Our or a Customer's reasonable control and any natural disaster, currency restrictions, exchange control, governmental or other legal or official requirements, act of God, war, terrorism, revolution, strike, industrial action or failure of computer, postal, communications or banking services.
- 15.3 All payments due from You under this Agreement will be made when due without deduction, withholding or set off. If any deduction or withholding is required by law, You will increase Your payment to Us so that We receive the full amount due before such deduction or withholding.

- 15.4 Any failure or delay by Us at any time or times to require You to perform any provision of this Agreement will not affect Our right to enforce it at a later time.
- 15.5 If You owe Us any amount (whether actually, potentially or conditionally) in a currency other than that of the account to which it is to be debited or accounts held in different currencies are to be combined We may use the middle spot rate of exchange quoted by Our bankers at the time of debit or combination.
- 15.6 You agree that this Agreement is reasonable but that if any part is found to be invalid no other part will be affected.
- 15.7 This Agreement contains all the terms We have agreed with You to the exclusion of any agreement, representation or statement made by Us before it was made. You agree that You have not relied on any representation, understanding or agreement (written or oral) not set out in this Agreement. Nothing in this Agreement excludes liability for fraud. If We have been introduced to You by a third party We have no responsibility for Your dealings with that third party even though We may pay a commission to them.
- 15.8 This Agreement may be signed by You and Us on any number of copies each in identical form but will not take effect until each of You and Us has executed at least one copy. Each copy signed by You or Us will be an original of this Agreement but all of the copies together will be deemed to be one Deed.
- 15.9 This Agreement, and any non-contractual obligations arising out of or in connection with it, will be governed and interpreted by the Laws of England. You agree for Our benefit that You will only use the courts of Ireland for any claims relating to this Agreement or any such obligations. We may use the courts of another jurisdiction if We choose.

## 16. DEFINITIONS

- 16.1 The words set out below will have the meanings set out after them:

<b>“Accepted Country”</b>	All countries except any expressly excluded in or pursuant to the Special Conditions;
<b>“Accounts Information”</b>	Balance sheet and profit and loss account;
<b>“Applicable Rate”</b>	<p>A) for amounts denominated in sterling, the Bank of England’s base rate;</p> <p>B) for amounts denominated in euro, EURIBOR;</p> <p>C) for amounts denominated in US dollars, US Dollar LIBOR;</p> <p>D) for amounts denominated in Swiss francs, the Swiss Average Rate Overnight (“SARON”, as published by or derived from whatever available source We may select);</p> <p>E) for amounts denominated in Japanese yen, the Tokyo Overnight Average Rate (“TONAR”, as published by or derived from whatever available source We may select); and</p> <p>F) for amounts denominated in any other currency, an appropriate rate selected by Us in respect of that currency (as published by or derived from whatever available source We may select),</p> <p>in each case from time to time;</p>
<b>“Approval Period”</b>	The period stated in the Agreement Details after which We may require You to make a Repayment;

<b>“Approved Currency”</b>	All currencies other than Sterling specified in or pursuant to the Special Conditions;
<b>“Approved Debt”</b>	A Debt You Tell Us about which is Unpaid, within the relevant Customer’s Credit Limit and which is not or has not become a Disapproved Debt;
<b>“Associate”</b>	Any of Your: <ul style="list-style-type: none"> <li>• subsidiary or holding companies (as defined in Sections 7 and 8 of the Companies Act 2014);</li> <li>• related companies or of any subsidiary or holding company (or subsidiary of such holding company) within the meaning of Section 2(10) of the Companies Act 2014;</li> <li>• directors, partners, members, shareholders or employees;</li> </ul> and any company, partnership or business in which You or any of the above has a material interest.
<b>“Available Funds”</b>	An amount worked out at the relevant time by Us deducting the debit balance on Your Current Account from the sum of Us applying the Prepayment Percentage to the amount achieved by taking the Price We expect to pay for Approved Debts and deducting from this any Debts which exceed the High Involvement;
<b>“Banking Day”</b>	A day (other than a Saturday or a Sunday) on which banks are open for business in London and Dublin;
<b>“Bibby Group Company”</b>	Bibby Financial Services Limited (registered number 3530461), any subsidiary company of it and any subsidiary of such subsidiary (subsidiary company being as defined in Section 1159 of the Companies Act 2006 of the United Kingdom and/or as defined in Section 7 of the Companies Act 2014 but such that for this purpose a company shall be regarded as a member of another company even if its shares in that other company are registered in the name of (a) its nominee, or (b) another person (or its nominee), by way of, or in connection with the taking of, security);
<b>“Collection”</b>	A payment (in whatever form) received by Us in cleared funds in or towards paying a Debt (including under any credit insurance policy obtained by You pursuant to Condition 6.2(E)); and “Collected”, “Collecting” and “Collect” will be read in light of this;
<b>“Control”</b>	The right to direct how the business of a company or partnership will be managed;
<b>“Covered Limit”</b>	The amount for which We tell You We are willing to accept the risk of Unpaid Protected Debts not being paid due to a Protected Event happening in relation to a named Customer;
<b>“Credit Agency”</b>	Credit reference and fraud prevention agencies We use from time to time;
<b>“Credit Note Schedule”</b>	A document in a form We require on which You will Tell Us about credit notes and, where We allow, which may be sent to Us using the Electronic Facility;
<b>“Credit Limit”</b>	The amount up to which We may regard Debts owing by a particular Customer as Approved Debts;

<b>“Customer”</b>	Any person who owes a Debt;
<b>“Debt”</b>	Any type of debt, payment obligation or monetary claim (actual, conditional, present, future or otherwise and whether or not payment has been earned by performance) owed to You under a Transaction or otherwise together with (if any) VAT and all duties and charges which relate to this and together with the related Linked Rights; and where the context allows a part of any of them;
<b>“Debt Information”</b>	Your records, in whatever form, evidencing the creation of, and dealings with, a Debt (including providing the goods or services, the contract and other documents relating to it and their performance) and any other documents We require;
<b>“Debt Schedule”</b>	A document in a form We require by which You will specifically assign each Debt to Us and, where We allow, which may be sent to Us using the Electronic Facility;
<b>“Despatched”</b>	When You or anyone acting on Your behalf parts with possession of the goods which are the subject of a Debt for the purpose of fulfilling Your obligations to the Customer under the Transaction which relates to that Debt;
<b>“Disapproved Debt”</b>	A Debt which is either not an Approved Debt or which is an Excluded Debt;
<b>“Disbursements”</b>	<p>Losses, costs, claims, charges, stamp and other duties and expenses (including, on a full indemnity basis, bank charges, legal and professional and debt collection fees and in getting evidence and witness attendance at any proceedings, use of Credit Agencies, disbursements, third party costs and Our own administrative expenses and charges as contained in Our scale of charges (if any) published by Us from time to time on Our Website or which is available to You if You ask Us at any time) and any VAT or similar tax thereon We incur directly or indirectly:</p> <ul style="list-style-type: none"> <li>(A) from resolving any dispute relating to a Debt or with a Customer or Collecting or trying to Collect any Debt and any Customer failing to pay a Debt at its full Notified Value;</li> <li>(B) in enforcing or trying to enforce or operating any term of this Agreement, any Guarantee or any Other Interest given to Us relating to this Agreement or protecting Our rights under or resulting from any breaking of any of them;</li> <li>(C) in getting any Guarantee or any Other Interest given to Us relating to this Agreement;</li> <li>(D) any charges for currency conversion or dishonoured payments We incur relating to this Agreement;</li> <li>(E) getting or enforcing (or trying to get or enforce), any waiver, consent, ranking, release, subordination or priority for this Agreement or any Debts from any Other Interest or loan or relating to any Other Interest given to Us by You or any Guarantor;</li> <li>(F) as a result of any transfer or alleged transfer to Us of employees or other personnel under The European Communities (Protection of Employees on Transfer of</li> </ul>

	<p>Undertakings) Regulations 2003 which is caused directly or indirectly because of Us entering into this Agreement (and which shall include any liability for remuneration and benefits including all wages, bonuses, holiday pay, commissions, pension contributions, PAYE and national insurance contributions); and</p> <p>(G) such other charges as We tell You verbally or in Writing from time to time;</p>
<b>“Data Protection Laws”</b>	The General Data Protection Regulation (Regulation (EU) 2016/679) (“ <b>GDPR</b> ”) and any national implementing laws in Ireland (including the Data Protection Act 2018);
<b>“Due Date”</b>	The contractual obligation, as agreed by the Customer and You, for the Customer’s payment of goods or services, provided by You, after an agreed period of credit determined from the date of Your Invoice, or the Invoice month, as evidenced by Your Payment Terms or as subsequently formally amended and agreed by both parties and subject to Our written consent.
<b>“Electronic Facility”</b>	The information link between You and Us available through Our computer system;
<b>“End Notice”</b>	A notice (of not less than the End Notice Period contained in the Agreement Details) given by letter by You or Us to end this Agreement;
<b>“EURIBOR”</b>	The 3 month euro interbank offered rate administered by the Banking Federation of the European Union (or any other person which takes over administration of that rate) displayed on page EURIBOR01 of the Reuters screen (or any replacement Reuters page which displays that rate). If the service ceases to be available, We may specify another service displaying the appropriate rate;
<b>“Sterling” and “£”</b>	The lawful currency of the United Kingdom from time to time;
<b>“Excluded Debts”</b>	<p>Debts You need not Tell Us about until We require it and which at first will include all Debts not due under a Transaction, Debts due under a Transaction creating a Debt of a type stated as being an Excluded Debt in the Special Conditions and, unless We tell You otherwise, the following Debts:</p> <p>(A) Debts owed by an Associate;</p> <p>(B) Debts in the hands of any third party, including a solicitor or debt collector, for collection;</p> <p>(C) Debts for stage or progress payments;</p> <p>(D) Debts arising under a Transaction under which goods are provided on approval, trial, consignment or sale or return or which contains terms entitling the Customer to return the goods;</p> <p>(E) Debts owed by a Customer which has not incurred the Debt for the purposes of its business;</p> <p>(F) Debts regulated by the Consumer Credit Act 1995 (as amended);</p> <p>(G) Debts payable on a pro forma basis or by cash on delivery;</p>

	<p>(H) Debts arising from the sale of capital assets;</p> <p>(I) Debts arising from rental or leasing agreements;</p> <p>(J) Debts owed by a Customer who also supplies goods or services to You;</p> <p>(K) Debts so far as they comprise interest (whether owing under statute or otherwise);</p>
<b>“Export Debt”</b>	A Debt the invoice for which is addressed to a place outside Northern Ireland;
<b>“Fees”</b>	The charges for Our services under this Agreement;
<b>“Guarantor”</b>	A person who at any time gives a guarantee or indemnity of any obligations You owe to Us or to any Bibby Group Company; and <b>“Guarantee”</b> will be read in line with this;
<b>“High Involvement”</b>	The maximum percentage or amount of all Unpaid Approved Debts due from the same Customer against which We may make Prepayments and as stated in the Agreement Details (or which We tell You in Writing from time to time);
<b>“Ireland”</b>	The islands of Ireland excluding Northern Ireland;
<b>“Insolvent”</b>	<p><b>In relation to a company:</b></p> <ul style="list-style-type: none"> <li>• any judgment is obtained against the company and (save in the case of a judgment by the Supreme Court or in respect of which no stay of execution has been granted) the period for lodging a notice of appeal in respect of such judgment has elapsed without such a notice having been lodged and the judgment remains outstanding for 7 days;</li> <li>• any attachment, distress, sequestration, execution or other process is levied, enforced or sued upon or against any of the property, undertaking or assets of the company and same is not paid or discharged within 7 days;</li> <li>• an order is made or effective resolution is passed for the winding up or liquidation of the company or a petition for protection is presented in respect of the company;</li> <li>• an encumbrancer takes possession or a receiver or examiner or liquidator is appointed over the whole or any part of the property, undertaking or assets of the company;</li> <li>• the company enters into any arrangement with its creditors or in Our sole opinion requests a significant time for the payment of its debts or ceases or threatens to cease payment of its debts;</li> <li>• the company stops payment of its debts, or is unable to pay its debts within the meaning of Section 570 of the Companies Act 2014;</li> <li>• any other security granted by the company crystallises or becomes enforceable or any action is taken to enforce such security.</li> </ul>

	<p><b>In relation to an individual:</b></p> <ul style="list-style-type: none"> <li>• the making of an application for a Debt Relief Notice, a Debt Settlement Arrangement and/or a Personal Insolvency Arrangement under the Personal Insolvency Acts 2012 to 2015;</li> <li>• the presentation of a petition or the making of an order for his bankruptcy or sequestration;</li> <li>• his apparent insolvency; or</li> <li>• the granting of a trust deed for his creditors;</li> </ul> <p><b>In relation to a partnership:</b></p> <ul style="list-style-type: none"> <li>• presentation of a petition or the making of an order for the winding up or administration of the partnership;</li> <li>• the making of an application by any partner for a Debt Relief Notice, a Debt Settlement Arrangement and/or a Personal Insolvency Arrangement under the Personal Insolvency Acts 2012 to 2015;</li> <li>• presentation of a petition or the making of an order for the bankruptcy or sequestration of any partner;</li> <li>• apparent insolvency;</li> <li>• dissolution;</li> </ul> <p><b>In relation to any person:</b></p> <ul style="list-style-type: none"> <li>• service of a statutory demand;</li> <li>• seizure, possession, attachment, distraint, execution, sequestration, diligence (whether in execution or on the dependance of any action), interdict, levying, exercising rights of lien or enforcing security rights against or getting an order restraining the disposal of all or any part of the person's income or assets;</li> <li>• the entry or making of any judgment, order or award for the payment of money to another party which remains unsatisfied for a period of 5 Working Days after being entered or made;</li> <li>• entering into a voluntary arrangement or any informal arrangement or composition in satisfaction of debts generally for the benefit of creditors; or</li> <li>• being deemed insolvent;</li> </ul> <p><b>and</b></p> <p>the taking of any steps for the commencement of any proceedings or actions in respect of any of the above matters;</p> <p><b>and</b></p>
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	<p>any analogous procedure or step being taken in any jurisdiction;</p> <p><b>and</b></p> <p><b>“Insolvency”</b> will be read in line with this;</p>
<b>“Linked Rights”</b>	<p>In relation to each Debt and all Returned Goods the benefit of:</p> <p>(A) all Your rights (but not obligations) as an unpaid seller/creditor and under the relevant Transaction (if any), save Your ownership of the relevant goods;</p> <p>(B) all bonds, insurances, securities, guarantees and indemnities and any documents of title to the relevant goods, shipping documents, customs forms, airway bills or similar;</p> <p>(C) all Debt Information and the ownership of all Returned Goods;</p> <p>(D) interest and all cash, cheques, bills of exchange, instruments (negotiable or not) and other forms of payment;</p>
<b>“Message”</b>	Any data sent using the Electronic Facility;
<b>“Month”</b>	A calendar month;
<b>“Notified Value”</b>	The amount of a Debt or credit note You Tell Us (before taking away any Reductions);
<b>“Other Interest”</b>	Any present or future mortgage, charge, security assignment, pledge, lien, hypothecation, option, right of set-off, preferential interest, trust, title retention, tracing right or other security interest or similar arrangement of any type or any agreement, conditional or otherwise, to create or give any of the same;
<b>“Past Due Debt”</b>	In this instance Debts shall be defined as being Past Due when the buyer has any payment obligations to You that remain unpaid more than 60 days after the contractual Due Date of payment
<b>“Prepayment”</b>	Any amount We pay You on account of the Price of a Debt before We Collect it in full;
<b>“Price”</b>	<p>The Collection We receive in relation to a Debt less (in relation to such Debt):</p> <p>(A) Our Discount and Fees and any Reduction due to or taken by the Customer after such receipt; and</p> <p>(B) all other amounts due to Us by You;</p> <p>save that the Price of a Protected Debt will be worked out and paid as described in Condition 3;</p>
<b>“Promises”</b>	The warranties and undertakings You give to Us and set out in Condition 6;
<b>“Protected Debt”</b>	An Unpaid Debt about which You have Told Us owing by a Customer to which We have given a Covered Limit and which Debt falls within such Covered Limit on the basis set out in Condition 3 and in relation to which:

	<p>(A) none of Your Promises to Us has been broken;</p> <p>(B) the period for payment is not greater than the Maximum Payment Period;</p> <p>(C) when You Tell Us about the Debt the Customer is not Insolvent;</p> <p>(D) the Debt is not to be paid under an irrevocable or confirmed letter of credit;</p> <p>(E) the supply or hire of goods or supply of services to the Customer can all be ended by You by giving less than 3 months notice;</p> <p>(F) the Debt is not due from any Government Department, Local Authority or statutory body;</p> <p>(G) at the time the relevant Protected Event occurs the Debt is more than the Minimum Protection Limit;</p> <p>(H) there has been no material change in the information which You gave to Us at the time of You asking Us to set or alter the Covered Limit and You have not knowingly hidden any material fact which would have influenced Our decision to set or alter the Covered Limit for the Customer;</p> <p>(I) You have not asked Us not to claim payment of any Debt from the Customer;</p> <p>(J) You have not failed to comply with any condition We impose in relation to or when setting the Covered Limit (including in relation to any retention of title requirements We impose);</p> <p>(K) an invoice is raised and delivered by You to the Customer within 30 days from the date on which the relevant goods are Despatched to the Customer or the relevant services are completed;</p> <p>(L) the Debt is not payable before the delivery or hiring of the goods or provision of the services to which it relates have been completed;</p> <p>(M) You have not Told Us about such Debt separately pursuant to Condition 2.2;</p> <p>(N) non-payment is not:</p> <p style="padding-left: 40px;">(i) directly or indirectly caused by, contributed to by or arising from the ionising, radioactive, toxic, explosive or other hazardous or contaminating properties or effects of any explosive nuclear assembly or component thereof, nuclear fuel, combustion or waste;</p> <p style="padding-left: 40px;">(ii) caused by or resulting from disputes where the Customer claims for any reason whatsoever that the Customer is justified in withholding partial or full payment or not performing any of the Customer's obligations under the Transaction Provided Always</p>
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	<p>that, subject to it satisfying all other requirements for it being a Protected Debt, the Debt may become a Protected Debt as soon as, and to the extent that, the dispute has been resolved in Your favour either amicably or by a final court judgment or final arbitration award;</p> <p>(iii) caused by or resulting from a failure by You or by any person representing You or acting on Your behalf to fulfil any of the terms and conditions of the Transaction or to comply with the provisions of any law or any order, decree or regulation having the force of law;</p> <p>(iv) caused by or resulting from a failure to obtain any import or export licence or other authorisation necessary for the performance of the Transaction or where performance of the Transaction would contravene any exchange control regulation Provided Always that this provision shall not apply where the necessity to obtain any such licence or other authorisation or to comply with any exchange control regulation came into force after the date when the goods which are the subject of the relevant Debt are Despatched or, in relation to services, the invoice for such services is submitted to the Customer;</p> <p>(v) caused by any law which prohibits or prevents the carrying out of the Transaction (if any) or obligation under which the Debt arises or payment of the Debt; or</p> <p>(O) at the time when the goods which are the subject of the Debt are Despatched, or the services which are the subject of the Debt are invoiced, the Customer does not owe any Debt which is Unpaid more than 60 days (or such other period as We may notify You verbally or in Writing from time to time) after its original due date;</p> <p>(P) the Customer is not a private individual who is not carrying out a commercial activity;</p> <p>(Q) at the time when the goods which are the subject of the Debt are Despatched, or the services which are the subject of the Debt are invoiced, You have not asked anyone to collect any amount owing to You by the Customer;</p> <p>save that an Excluded Debt, a Past Due Debt which exists on the Start Date and Debts We tell You verbally or in Writing from time to time will not fall within this definition cannot be Protected Debts;</p>
<p><b>“Protected Event”</b></p>	<p>Any event set out below, being:</p> <p><b>A Non-Payment Protected Event</b> (in this Agreement a <b>“Non-Payment Protec Event”</b>)</p> <p>A Customer not paying a Protected Debt in full within the Customer Protection Period or such other period as We tell You in Writing;</p>

**B      Insolvency Protected Event** (in this Agreement an “**Insolvency Protected Event**”)

Any of the following situations or events:

- (i)      the institution of a judicial or administrative procedure pursuant to the law of the Customer’s country, whereby the assets and affairs of the Customer are made subject to control or supervision by the court or a person or body appointed by the court or by law, for the purpose of reorganisation or liquidation of the Customer or of the rescheduling, settlement or suspension of payment of its debts;
- (ii)     a procedure as described in (i) above has been rejected or stopped by the court for lack of assets;
- (iii)    the execution of a judgment fails to satisfy the amount owing in full;
- (iv)    an extrajudicial full and final settlement has been agreed with all or the majority of creditors of the Customer and We have given Our prior approval;
- (v)     You show to Our satisfaction that the financial position of the Customer is such that to start or continue legal proceedings will have no cost-effective result;
- (vi)    such situations or events which, in Our sole opinion, in substance or effect are equivalent to the situations and events mentioned in (i) to (iv) above.

**C      Political Risk Protected Event** (in this Agreement a “**Political Risk Protected Event**”)

A Protected Debt owing by a Customer who is based in a country (“**the Relevant Country**”) in respect of which We have indicated to You that We will accept the risk of a Protected Debt owing by that Customer not being paid in full within the Customer Protection Period (or such other period as We may notify You verbally or in Writing) because of any of the following situations or events occurring in relation to that Customer (and provided the currency in which the relevant Transaction is denominated is a currency specified by Us when We indicate the Relevant Country to You):

- (i)      A general moratorium decreed by the government of the Relevant Country;
- (ii)     Political events, economic difficulties, currency shortages or legislative or administrative measures in the Relevant Country which prevent or delay the transfer of amounts deposited by the Customer Provided Always that We will only accept such risk if the Customer deposits such amount within six months (or such other period as We may notify You verbally or in Writing) from the original due date of payment of the relevant Protected Debt;

	<ul style="list-style-type: none"> <li>(iii) A generally binding measure taken in the Relevant Country which gives the Customer a valid discharge of the relevant Protected Debt once the payment for it has been deposited (but where the relevant Transaction does not provide for such discharge) whereas, because of exchange rate fluctuations, such deposit when converted into the currency of the relevant Protected Debt at the time of transfer is less than the amount of the relevant Protected Debt;</li> <li>(iv) The occurrence of war (including civil war, hostilities, rebellion and insurrection), revolution or riot in the Relevant Country Provided Always that any loss arising directly or indirectly from war (whether before or after the outbreak of hostilities) between any of China, France, the United Kingdom, the Russian Federation and the United States of America will not be relevant for this purpose;</li> <li>(v) Cyclone, flood, earthquake, volcanic eruption or tidal wave or other forms of natural disaster in the Relevant Country;</li> <li>(vi) A measure or decision taken by the government of a country other than Northern Ireland which in whole or in part prevents performance of the Transaction;</li> <li>(vii) The cancellation or non-renewal of an export licence or the introduction of a law in England which prohibits or restricts the export of the goods which are the subject of the Protected Debt;</li> <li>(viii) The failure or refusal on the part of a public customer to fulfil any of the terms of the Transaction. For the purposes of this provision a public customer is a Customer We have indicated to You is a public customer;</li> </ul>
<p><b>“Protected Part”</b></p>	<p>Protected Percentage of the sum of the amount of the Protected Debt</p> <p><b>LESS:</b></p> <ul style="list-style-type: none"> <li>(A) its VAT element (or other sales or comparable tax or charge element) and any interest which accrues after the original due date for payment of the Protected Debt;</li> <li>(B) any Reductions which the Customer has taken or is owed in relation to it (net of any VAT included in such Reductions);</li> <li>(C) any Collection relating to it and any amount You hold (or should be holding) relating to it under Condition 6.1(J) which You have not delivered to Us (net of any VAT included in such Collection); and</li> <li>(D) any element of the Protected Debt which relates to any penalties or damages, whether contractual or otherwise, which You may be entitled to be paid by the Customer;</li> </ul>

<b>“Records”</b>	The accounts maintained by Us to record the purchase of Debts, payment and receipt of monies, Fees payable by You and Your liability under and the operation of this Agreement which will include a Sales Ledger Control Account, Current Account and Client Account;
<b>“Reduction”</b>	Any deduction, discount or set off claimed by a Customer or other alteration which reduces the Notified Value of a Debt;
<b>“Relevant Party”</b>	You, any of Your directors, shareholders, members or partners and any Customer, Associate or Guarantor;
<b>“Repayment”</b>	Repayment of any Prepayment; and <b>“Repay”</b> will be read in light of this;
<b>“Returned Goods”</b>	Any goods relating to a Transaction or Debt and which a Customer rejects or returns or indicates a wish to do so or which You or We recover from a Customer;
<b>“Special Conditions”</b>	The conditions contained in the section of this Agreement headed “Special Conditions”;
<b>“Tell”</b>	You telling Us in such form as We require, including within a Message or in a Debt Schedule (or both), that a Debt exists or in a Credit Note Schedule that a credit note has been issued; and <b>“Telling”</b> and <b>“Told”</b> will be read in light of this;
<b>“Termination Event”</b>	An event described in Condition 11.1;
<b>“Transaction”</b>	An agreement entered into by (or the benefit of which has been transferred to) You under which it is agreed to hire or sell goods or supply services to another person;
<b>“UK”</b>	Great Britain and Northern Ireland, the Channel Islands and the Isle of Man;
<b>“Unpaid”</b>	A Debt which has not been fully paid;
<b>“Unprotected Part”</b>	The Notified Value of a Protected Debt less its Protected Part;
<b>“US Dollar LIBOR”</b>	The 3 month London interbank offered rate administered by ICE Benchmark Administration Limited (or any person which takes over administration of that rate) displayed on pages LIBOR01 or LIBOR02 of the Reuters screen (or any replacement Reuters page which displays that rate), if the service ceases to be available, We may specify another service displaying the appropriate rate;
<b>“Website”</b>	Our website detailed in the Introduction to this Agreement on which the Conditions can be found and in which Our scale of charges can be found at <a href="http://www.bibbyfinancialservices.ie/client-area">http://www.bibbyfinancialservices.ie/client-area</a>  (or such other website as We notify You of from time to time);
<b>“Working Day”</b>	Every day except Saturday, Sunday and bank and public holidays in Ireland or the UK;
<b>“Writing”</b>	Letter, fax, e-mail and (where such facility allows) by using the Electronic Facility.

- 16.2 Any reference in this Agreement to:
- (A) a statutory provision includes any amendment, replacement or re-enactment, consolidation or extension of it;
  - (B) a person includes an individual, company, partnership, organisation or trust (whether or not with a separate legal personality) and any other legal person;
  - (C) the singular includes the plural and vice versa and any reference to any gender includes any other gender;
  - (D) a Debt being created is to the date on which that Debt comes into existence or, if later, immediately after ownership of such Debt is transferred to You by a third party;
  - (E) a "month" is to a period of time beginning at midnight on one day in a Month and ending at midnight on the day before the numerically corresponding day in the next Month. If the day on which the period would end is not a Working Day it will end at midnight on the preceding Working Day. If the period starts on the last Working Day in a Month or there is no numerically corresponding date in the Month in which it ends that period will end at midnight on the last Working Day in that later Month;
  - (F) to an "anniversary", where in a subsequent year there is no numerically corresponding date to the Start Date, is to the latest Working Day in the subsequent year which precedes the date on which the anniversary would otherwise occur; and
  - (G) We, Us and Our includes Our successors and assignees.
- 16.3 Terms in italics used in the Columns headed "**TERM**" in the Client Details and Agreement Details and in the Column headed "**CHARGE**" in the Charging Details will have the same meaning in this Agreement (save where defined elsewhere in it).
- 16.4 The meaning of general words introduced by the word "other" are not limited by any word before it or which indicates a particular class of acts, matters or things. The expression "including" means "including without limitation".
- 16.5 Any right or choice We have in this Agreement may be exercised as We choose in Our absolute discretion.
- 16.6 We may do anything You should do under this Agreement instead of You and any monies We incur in doing so will be recoverable by Us from You under this Agreement.
- 16.7 Where in any place outside Northern Ireland the meaning of a word or expression used in this Agreement is to be decided and such word or expression has no counterpart in that place, it will, unless the context otherwise requires, have the meaning of its closest equivalent in that place.