

## IRELAND 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 Unless We agree otherwise in *Writing* We will only pay the *Price* for each *Debt* in *Euro*. If a *Debt* is not payable in *Euro*:-
- (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 1.3;
  - (C) when converting any *Collection* for that *Debt* into *Euro* We will work out the *Price* using the exchange rate for this described in Condition 1.3. This means that this *Price* may alter from that worked out under Condition 1.2(B).
- 1.3 The exchange rate for use under Condition 1.2(B) is the rate We want to buy the relevant currency when We credit the relevant *Debt* to the relevant *Records*. The exchange rate for use in Condition 1.2(C) is the rate We want to buy the relevant currency when We debit the *Collection* to the relevant *Records*.

### 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 (be 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

#### Setting Limits

- 3.1 We may set (and alter) a *Credit Limit* for a *Customer*. Unless We explicitly give one such limit will be zero. You must truthfully and accurately tell Us everything You know or should know might influence Us in setting or continuing a *Credit 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 after, a *Credit Limit* If You do You must give Us all information We ask for and the *Credit Limit* You want.

#### Exceeding and Altering Limits

- 3.3 *Credit Limits* only cover *Debts* created after they are set. if at any time *Unpaid Debts* created after this exceed that *Customer's Credit Limit*, the excess amount will be *Disapproved Debts*.
- 3.4 *Debts* fall within or outside *Credit Limits* based upon invoice date (earliest before latest).
- 3.5 We are not a credit reference agency. Us setting a *Credit Limit* is no indication of a *Customer's* ability to pay. you will tell no one, including *Your Customers*, anything about any *Credit Limit* (including if it exists).

#### Approved Debts

- 3.6 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.
- 3.7 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*.
- 3.8 Where Condition 3.6 applies We may reassign the relevant *Debt* to You. 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.

3.9 We need not try to recover from the *Customer* or anyone else before using *Our* rights under Condition 3.8.

#### 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) Irish law will govern every *Transaction* and *Debt*;
  - (B) each *Debt* can be transferred to *Us*, is due in *Euro* (unless *We* give written consent, by letter, to payment in an *Approved Currency*) and no other person has any *Other Interest* in it;
  - (C) 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 2002 (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*;
    - (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*;
    - (vii) dispute *You* have with a *Customer* (with full details of such dispute); and
    - (viii) *Returned Goods* which are in *Your* possession;
  - (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 be properly registered under the *DPA* and will ensure that all information relating to this *Agreement* or a *Debt* is processed by *You* as required by the *CPA* and get all relevant consents for *Us* to receive and process information for the purposes set out in Condition 12.6;
- (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;
- (K) *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);
- (L) *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;
- (M) *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; and
- (N) *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*.

## **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;-
    - (i) 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*;
    - (ii) the *Debt* is not an *Excluded Debt*;
    - (iii) the *Debt* relates to an established place of business which the *Customer* has in Ireland or, if *We* have agreed to buy *Your Export Debts*, in an Accepted Country;
    - (iv) *You* have given *Us* complete and accurate details of the *Transaction* and the *Debt*;
    - (v) the *Customer* which owes the *Debt* is not Insolvent; and
    - (vi) 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 on the debit balance on *Your Current Account* and then debited to *Your Client Account*
- 8.3 We may vary the *Factoring Fees*, the *Minimum Factoring Fees* and the *Annual Review Fee* (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 *Euro* but *We* may be paying the *Price* of it in *Euro*, 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 1.2(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) 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:-
  - (i) any failure or fault of equipment, software, telephone line or other communication system (whether Ours or others);
  - (ii) any error or discrepancy in any *Message* We receive; or
  - (iii) 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, subject to Condition 10.2, 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.
- (L) Any declaration provided for the benefit of *Us* and/or the *SBCI* being untrue or false, or the breach of any representation or warranty provided pursuant to this *Agreement*.

### 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);
  - (D) reserve for any liabilities *We* think *You* may owe *Us*; or
  - (E) where this Agreement is entered into pursuant to the SBCI SME Scheme, *We* may terminate the Financial Advantage made available by *Us* under this Agreement, if after the agreement period has ended any residual debit balance remains outstanding on the facility.
- 11.3 If *You* become Insolvent or stop trading and *Our* charges under Condition 8.5 are then less than 15% 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. SBCI SME SCHEME

- 12.1 Where facilities are sanctioned under the SBCI SME Scheme, the facilities are supported by the SBCI (which in turn is supported with finance by the European Investment Bank, Kreditanstalt für Wiederaufbau and the Ireland Strategic Investment Fund (together "**SBCI Funders**")) and are sanctioned at an interest rate which is lower than the interest rate which would apply to such facilities without the SBCI support. Facilities sanctioned under the SBCI SME Scheme are intended for the purposes of projects/activities which comply with the Eligibility Criteria.
- 12.2 As a consequence of the finance provided by SBCI, the following additional conditions will apply (in addition to these *Our* existing general terms and conditions as may be amended from time to time):

*You* undertake:

- (A) to use any funds advanced by *Us* exclusively for the purposes specified in this Agreement;
- (B) to comply with Environmental Laws and supply, upon *Our* request (acting as agent of the SBCI), evidence to verify *Your* fulfilment of the obligations set out in this Clause 12.2;
- (C) to act in accordance with the relevant standards of EU law, as well as the relevant laws of Ireland or other applicable laws, save for any derogation made by the SBCI Funders for the purpose of this Agreement;
- (D) to maintain in force all rights of way or use and all permits, licenses, approvals or authorisations necessary;
- (E) to keep books and records of all financial transactions and expenditures in connection with this Agreement;

- (F) that to the best of *Your* knowledge, no funds invested by *You*, used by *You* in connection with this Agreement or used by *You* to make payments to *Us* are of illicit origin, used for or are the product of any money laundering activities or activities linked to the financing of terrorism. *You* will promptly inform *Us* if at any time *You* become aware of the illicit origin of any such funds;
- (G) to allow persons designated by the SBCI and the SBCI Funders, as well as persons designated by any EU Body (each a “**Designated Person**”) when so required by the relevant mandatory provisions of European Union law upon reasonable notice and during working hours:
- (i) to visit *Your* place of business, sites installations and works and to conduct such checks as they may wish;
  - (ii) to interview *Your* representatives and not obstruct contacts with any other person involved in or affected by this Agreement; and
  - (iii) to review *Your* books and records in relation to this Agreement and to be able to take copies of related documents to the extent permitted by the law; and
  - (iv) to provide each Designated Person, or ensure that each Designated Person is provided, with all necessary assistance for the purposes described in this clause;
- (H) to take, within a reasonable timeframe, appropriate measures in respect of any member of *Your* management team who has been convicted by a final and irrevocable court ruling of a Criminal Offence perpetrated in the course of the exercise of his/her professional duties, in order to ensure that any such member of its management team is excluded from any activity in relation to any funds made available by *Us* under this Agreement;
- (I) to promptly inform *Us* of any measure taken by *You* pursuant to paragraph (H) above;
- (J) to the extent permitted by law to promptly inform *Us* of any credible allegation, complaint or information with regard to Criminal Offences related to this Agreement;
- (K) to acknowledge that the SBCI Funders may be obliged to divulge such information relating to *You* and this Agreement to any competent EU Body in accordance with the relevant mandatory provisions of EU law;
- (L) to comply with all laws applicable to *You* including, without limitation, all applicable laws relating to the Environment and all applicable European Union laws;
- (M) that, as at the date of this Agreement and any renewal, extension, or variation thereof, *You* satisfy the Eligibility Criteria;
- (N) that, as at the date of the Agreement *You* satisfy the criteria of an Eligible SME (including any amendments or additions which may have been made to such criteria as at that date);
- (O) that *You* are not a defendant in any proceedings brought by the European Commission;
- (P) that the entry by *You* into this Agreement (on its own or cumulatively with any other State Aid received by *You* or to which *You* may be entitled within the last three fiscal years) will not breach or cause to be breached any threshold or limit on De Minimis Aid and *You* will provide a valid declaration prior to acceptance of this Agreement setting out the amount,

if any, of De Minimis Aid received in the current and two previous fiscal years and such declaration to be provided by *You* is true, accurate and complete in all respects;

- (Q) to pay all amounts payable under this Agreement in case of non-compliance with these terms and conditions;
- (R) that any payments to *Us* under this Agreement shall be made by *You* from a bank account in *Your* name maintained with a duly authorised financial institution in the jurisdiction of *Your* incorporation or place of residence.
- (S) in the event that *You* cease to satisfy the Eligibility Criteria or cease to qualify as an Eligible SME, *You* shall immediately inform *Us* in writing within 5 business days of ceasing to meet this criteria.

12.3 By entering into this Agreement *You* permit *Us* to provide information about *You* and this Agreement to the SBCI, the SBCI Funders, any EU Body and any State Body.

12.4 In the event of any conflict between *Our* general terms and conditions and these SBCI SME Scheme additional terms and conditions, the SBCI SME Scheme additional terms and conditions (as set out in this Clause 12) shall prevail.

#### 12.5 SBCI Data Protection

Information provided by *You* may be used by *Us* and disclosed to SBCI for the purposes of determining eligibility for the SBCI SME Scheme, the prevention of moneylaundering/financing of terrorism and other legitimate business purposes of SBCI. Each of *Us* and SBCI may disclose the information to its respective successors, assigns and transferees, and its and their respective advisers, delegates and agents, and in the case of SBCI, the SBCI Funders (collectively the “**Disclosees**”) for such purposes.

The amount of the facilities being sought is provided under the European Commission Regulation on De Minimis Aid. Small amount(s) of State aid, up to EUR200,000 in any three-year period to any one enterprise, are regarded as too small to significantly affect trade or competition in the common market. Such amounts are regarded as falling outside the category of state aid that is banned by the EC Treaty and may be awarded on behalf of a Member State (in this case, SBCI) without notification to or clearance by the European Commission. A Member State is required to have a mechanism to track such aid (called “**De Minimis Aid**”) and to ensure that the combined amount of De Minimis Aid payments from all sources to any one enterprise in any three-year period does not exceed the EUR200,000 limit. *You* are required to provide details of all other De Minimis Aid which has been granted to *You* or *Your* company/organisation within the past three years. It should be noted that a false declaration by an aid recipient which results in the breach of the EUR200,000 limit could give rise to the De Minimis Aid being recovered with interest.

*You* acknowledge and accept that to the extent that any of the information constitutes personal data, within the meaning of the Data Protection Acts 1988 and 2003 as amended (the “**DPA**”), such personal data will be used by *Us* and may be disclosed to and used by SBCI and the Disclosees, for the purposes set out above.

*You* further acknowledge and accept that in connection with such purposes, the information may be transferred to countries outside the European Economic Area (“**EEA**”) that may not have data protection laws or have data protection laws that do not provide the same level of protection as EU Data Protection law. Such transfers will only be carried out for the purposes described above, or as otherwise required by law or regulation, in accordance with applicable data protection legislation.

To the extent consent is necessary under the DPA or other applicable data protection legislation, *You* expressly consent to the use of the personal data,

including the transfer of the personal data outside the EEA, as outlined above. *You* acknowledge and accept that *We* and SBCI are entitled to use and further disclose the personal data for such purposes without requiring *Your* consent where such use is legitimate within the meaning of the DPA or other applicable data protection legislation.

To the extent that the personal data relates to an individual other than *You*, *You* warrant that *You* have been authorised by that individual to provide to *Us* the personal data relating to that individual, for use by *Us* and disclosure to and use by SBCI and the Disclosees, for the purposes outlined above, and where necessary to consent on that individual's behalf to its use and transfer in the manner outlined above.

An individual has the right, at any time, to request a copy of any personal data (within the meaning of the DPA) that *We* hold in relation to him/her (for which *We* may charge a fee) and to have inaccuracies in that information corrected.

**Definitions for the purposes of Clause 11 and this Clause 12 applying to SBCI SME Scheme facilities:**

<b>"Criminal Offence"</b>	means any of the following offences as applicable: fraud, corruption, coercion, collusion, obstruction, money laundering and financing of terrorism.
<b>"De Minimis Aid"</b>	means Financial Advantage which complies with the requirements of the De Minimis Regulations.
<b>"De Minimis Regulations"</b>	means EU Regulation No 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid.
<b>"Eligibility Criteria"</b>	means the eligibility criteria set by the SBCI from time to time at its sole discretion and which are available on <i>SBCI's</i> website <a href="http://sbci.gov.ie/">http://sbci.gov.ie/</a>
<b>"Eligible SME"</b>	means an SME that is engaged in an economic activity, has a significant presence in Ireland and which meets the Eligibility Criteria.
<b>"Environment"</b>	means humans, animals, plants and all other living organisms including the ecological systems of which they form part and the following media:  (a) air (including, without limitation, air within natural or man-made structures, whether above or below ground);  (b) water (including, without limitation, territorial, coastal and inland waters, water under or within land and water in drains and sewers); and  (c) land (including, without limitation, land under water).
<b>"Environmental Law"</b>	means any applicable law or regulation which relates to:  (a) the pollution or protection of the Environment;  (b) harm to or the protection of human health;  (c) the conditions of the workplace; or  (d) the generation, handling, storage, use, release or spillage of any substance which, alone or in combination with any other, is capable of causing harm to the Environment, including, without limitation, any waste.
<b>"EU Body"</b>	Means any institution or other body of the European Union

<b>“Financial Advantage”</b>	<p>means the financial benefit calculated as follows:</p> <p>the difference between:</p> <p>(i) the price expressed in basis points, over 6 month EURIBOR, at which <i>We</i> can borrow funds of a comparable nature and maturity in the relevant bank market; and</p> <p>(ii) the price expressed in basis points, over 6 month EURIBOR, at which the SBCI will provide funds to <i>Us</i> (ie. the margin).</p> <p>A certificate provided by an officer authorised by <i>Us</i> (if requested in writing), stating the amount of financial advantage so calculated shall be conclusive and binding on <i>You</i>, save in the event of manifest error.</p>
<b>“SBCI”</b>	means the Strategic Banking Corporation of Ireland
<b>“SBCI SME Scheme”</b>	means the framework agreement and terms whereby SBCI makes facilities available through credit providers to support the availability of credit to the SME sector
<b>“SME”</b>	means a micro, small or medium-sized enterprise within the meaning of Commission Recommendation 2003/361/EC of 6 May 2003.
<b>“State Aid”</b>	means state funding (including funding provided by the Lender) which, but for an exemption granted pursuant to regulations adopted by the EU Commission (including but not limited to the De Minimis Regulations), meets the criteria in Article 107(1) of the Treaty on European Union.

### 13. PARTNERSHIPS AND INDIVIDUALS

#### Partnership

13.1 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 Stan 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

13.2 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

13.3 If *You* are a sole trader or a partnership:-

- (A) *You* will:-
  - (i) indemnify *Us* against any *Disbursements We* incur in registering this Agreement;
  - (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;
  - (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*;
- (B) *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
- (C) this *Agreement* binds *Your* executors, administrators, personal representatives and other persons acting for *You*.

## Data Protection

13.4 In addition to the requirements of Clause 12.5 in respect of SBCI SME Scheme facilities, *You* agree to *Us* and any *Bibby Group Company* storing and processing in any way information about *You* to carry out certain activities. Such activities are administration, service and product development, training, marketing, credit and financial assessment, market and product analysis, preparing statistics, protecting interests, insurance claims, audit, preventing fraud and money laundering and operating this *Agreement* including making payments and recovering monies in relation to it *You* accept that information may be passed by *Us* and any *Bibby Group Company* to persons based outside the European Economic Area where data protection laws may be less demanding than those in Ireland and consent to such information being passed to such persons.

13.5 *We* may search *Your* record kept by a Credit Agency including to check any application by *You* to *Us*. Others making searches will see details of *Our* searches and *We* and others may use searches to prevent fraud or money laundering or make credit decisions about *You*. If *You* give or are involved in *Us* being given inaccurate information and *We* suspect fraud. *We* may record this with a Credit Agency. Such information, and information referred to in Condition 13.6(A) below, may be shared with other organisations.

13.6 *We* may give information about *You*, this *Agreement* and any *Debts* and *Customers* to:-

- (A) a Credit Agency, for it and others searching its records to use to help make decisions about *You*, *Your* associated businesses or household's members;
- (B) services providers (including *Our* or *Your* insurers for underwriting or claims purposes (who may pass it to persons they deal with and to users of their services and give *Us* information and personal data from their own sources)), to help them carry out their services;
- (C) legal and tax advisers and other advisers, to help provide their services;
- (D) any actual or potential *Guarantor*, to assess their obligations to *Us* or so that *We* can enforce such obligations against them;
- (E) bankers, financiers or other advisers acting for *Us* or *You*, so that they can carry out their services to *Us* or *You*;



- (F) any person to whom *We* may wish to transfer the *Debts* or *Our* rights and obligations for either) under this Agreement, or from who *You* may wish to obtain a facility, to make such transfer or facility possible;
  - (G) any *Bibby Group Company*, to assess *Your* financial position or consider offering other facilities to *You*; and
  - (H) any person *We* are allowed or required to do so by law.
- 13.7 If *You* do not wish *Us* or other *Bibby Group Companies* to contact *You* about services for market research or of possible interest to *You* please tell *Our* Data Protection Compliance Officer (details in Condition 12.9), *We* will not pass information about *You* to others for direct marketing.
- 13.8 *We* may monitor and/or record *Your* phone calls to *Us* for training or security purposes. Such recordings belong to *Us*.
- 13.9 If *You* want details of the *Credit Agencies* and other persons described in this Condition 13, please contact the Data Protection Compliance Officer, *Bibby Financial Services (Ireland) Ltd*, 3rd Floor, Heather House, Heather Road, Sandyford, Dublin 18, Ireland, telephone 00 353 129 74904 or such other address or telephone number as *We* tell *You*. *You* have a right to a copy of the information *We* hold about *You* if *You* write to such Officer. A fee will be payable.
- 14. TRANSFERS AND INFORMATION DISCLOSURE**
- 14.1 *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).
- 14.2 *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*.
- 15. SERVICE OF NOTICES**
- 15.1 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 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.
- 15.2 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.
- 16. MISCELLANEOUS**
- 16.1 *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.
- 16.2 *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.

- 16.3 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.
- 16.4 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.
- 16.5 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.
- 16.6 *You* agree that this *Agreement* is reasonable but that if any part is found to be invalid no other part will be affected.
- 16.7 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. *Vow* 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.
- 16.8 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.
- 16.9 This *Agreement*, and any non-contractual obligations arising out of or in connection with it, will be governed and interpreted by the Laws of Ireland, *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.

## 17. DEFINITIONS

17.1 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 Spec/of Conditions;
<b>“Accounts Information”</b>	Balance sheet and profit and loss account;
<b>“Approval Period”</b>	The period stated in the <i>Agreement Details</i> after which <i>We</i> may require <i>You</i> to make a Repayment;
<b>“Approved Currency”</b>	All currencies other than <i>Euro</i> specified in or pursuant to the <i>Special Conditions</i> ;
<b>“Approved Debt”</b>	A <i>Debt You Tell Us</i> about which is <i>Unpaid</i> , within the relevant <i>Customer's Credit Limit</i> and which is not or has not become a <i>Disapproved Debt</i> ;
<b>“Associate”</b>	Any of <i>Your</i> :- <ul style="list-style-type: none"> <li>• subsidiary or holding companies (as defined in sections 7 &amp; 8 of the Companies Act 2014 (as amended));</li> </ul>

	<ul style="list-style-type: none"> <li>related companies or of any subsidiary or holding company (or subsidiary of such holding</li> <li>company) within the meaning of section 2(10) of the Companies Act 2014 (as amended);</li> <li>directors, partners, members, shareholders or employees;</li> </ul> <p>and</p> <p>any company, partnership or business in which <i>You</i> or any of the above has a material interest;</p>
<b>“Available Funds”</b>	An amount worked out at the relevant time by <i>Us</i> deducting the debit balance on <i>Your Current Account</i> from the sum of <i>Us</i> applying the <i>Prepayment Percentage</i> to the amount achieved by taking the <i>Price We</i> expect to pay for <i>Approved Debts</i> and deducting from this any <i>Debts</i> which exceed the <i>High Involvement</i> ;
<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 s1 159 of the UK Companies Act 2006 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 <i>Us</i> in cleared funds in or towards paying a <i>Debt</i> (including under any credit insurance policy obtained by <i>You</i> pursuant to Condition 6.2(E)); and " <i>Collected</i> ", " <i>Collecting</i> " and " <i>Collect</i> " 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>“Credit Agency”</b>	Credit reference and fraud prevention agencies <i>We</i> use from time to time;
<b>“Credit Note Schedule”</b>	A document in a form <i>We</i> require on which <i>You</i> will <i>Tell Us</i> about credit notes and, where <i>We</i> allow, which may be sent to <i>Us</i> using the <i>Electronic Facility</i> ;
<b>“Credit Limit”</b>	The amount up to which <i>We</i> may regard <i>Debts</i> owing by a particular <i>Customer</i> as <i>Approved Debts</i> ;
<b>“Customer”</b>	Any person who owes a <i>Debt</i> ;
<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 <i>You</i> under a <i>Transaction</i> or otherwise together with (if any) VAT and all duties and charges which relate to this and together with the related <i>Linked Rights</i> ; and where the context allows a part of any of them;
<b>“Debt Information”</b>	<i>Your</i> records, in whatever form, evidencing the creation of, and dealings with, a <i>Debt</i> (including providing the goods or services, the contract and other documents relating to it and their performance) and any other documents <i>We</i> require;
<b>“Debt Schedule”</b>	A document in a form <i>We</i> require by which <i>You</i> will specifically

	assign each <i>Debt</i> to <i>Us</i> and, where <i>We</i> allow, which may be sent to <i>Us</i> using the <i>Electronic Facility</i> ;
<b>"Disapproved Debt"</b>	A <i>Debt</i> which is either not an <i>Approved Debt</i> or which is an <i>Excluded Debt</i> ;
<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 <i>Credit Agencies</i>, disbursements, third party costs and <i>Our</i> own administrative expenses and charges as contained in <i>Our</i> scale of charges (if any) published by <i>Us</i> from time to time on <i>Our</i> Website or which is available to <i>You</i> if <i>You</i> ask <i>Us</i> at any time) and any VAT or similar tax thereon <i>We</i> incur directly or indirectly:-</p> <p>(A) from resolving any dispute relating to a <i>Debt</i> or with a <i>Customer</i> or Collecting or trying to <i>Collect</i> any <i>Debt</i> and any <i>Customer</i> failing to pay a <i>Debt</i> at its full <i>Notified Value</i>;</p> <p>(B) in enforcing or trying to enforce or operating any term of this Agreement, any <i>Guarantee</i> or any <i>Other Interest</i> given to <i>Us</i> relating to this <i>Agreement</i> or protecting <i>Our</i> rights under or resulting from any breaking of any of them;</p> <p>(C) in getting any <i>Guarantee</i> or any <i>Other Interest</i> given to <i>Us</i> relating to this Agreement;</p> <p>(D) any charges for currency conversion or dishonoured payments <i>We</i> incur relating to this Agreement;</p> <p>(E) getting or enforcing (or trying to get or enforce), any waiver, consent, ranking, release, subordination or priority for this <i>Agreement</i> or any <i>Debts</i> from any <i>Other Interest</i> or loan or relating to any <i>Other Interest</i> given to <i>Us</i> by <i>You</i> or any <i>Guarantor</i>;</p> <p>(F) as a result of any transfer or alleged transfer to <i>Us</i> of employees or other personnel under the Transfer of Undertakings (Protection of Employment) Regulations 2006 which is caused directly or indirectly because of <i>Us</i> entering into this <i>Agreement</i> (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>such other charges as <i>We</i> tell <i>You</i> verbally or in <i>Writing</i> from time to time;</p>
<b>"DPA"</b>	The Data Protection Act 1988 amended by the Data Protection (Amendment) Act 2003;
<b>"Electronic Facility"</b>	The information link between <i>You</i> and <i>Us</i> available through <i>Our</i> computer system;
<b>"End Notice"</b>	A notice (of not less than the End Notice Period contained in the <i>Agreement Details</i> ) given by letter by <i>You</i> or <i>Us</i> to end this Agreement;
<b>"Euro" and "€"</b>	The lawful currency of Ireland from time to time;
<b>"Excluded Debts"</b>	<i>Debts</i> <i>You</i> need not <i>Tell Us</i> about until <i>We</i> require it and which at first will include all <i>Debts</i> not due under a <i>Transaction</i> , <i>Debts</i> due under a <i>Transaction</i> creating a <i>Debt</i> of a type stated as being an

	<i>Excluded Debt</i> in the <i>Special Conditions</i> and, unless <i>We</i> tell <i>You</i> otherwise, the following <i>Debts</i> :-
	<p>(A) <i>Debts</i> owed by an Associate;</p> <p>(B) <i>Debts</i> in the hands of any third party, including a solicitor or debt collector, for collection;</p> <p>(C) <i>Debts</i> for stage or progress payments;</p> <p>(D) <i>Debts</i> arising under a <i>Transaction</i> under which goods are provided on approval, trial, consignment or sale or return or which contains terms entitling the <i>Customer</i> to return the goods;</p> <p>(E) <i>Debts</i> owed by a <i>Customer</i> which has not incurred the <i>Debt</i> for the purposes of its business;</p> <p>(F) <i>Debts</i> regulated by the Consumer Credit Act 1995 (as amended);</p> <p>(G) <i>Debts</i> payable on a pro forma basis or by cash on delivery;</p> <p>(H) <i>Debts</i> arising from the sale of capital assets;</p> <p>(I) <i>Debts</i> arising from rental or leasing agreements;</p> <p>(J) <i>Debts</i> owed by a <i>Customer</i> who also supplies goods or services to <i>You</i>;</p> <p>(K) <i>Debts</i> so far as they comprise interest (whether owing under statute or otherwise);</p>
"Export Debt"	A <i>Debt</i> the invoice for which is addressed to a place outside <i>Ireland</i> ;
"Fees"	The charges for <i>Our</i> services under this Agreement;
"Guarantor"	A person who at any time gives a guarantee or indemnity of any obligations <i>You</i> owe to <i>Us</i> or to any <i>Bibby Group Company</i> , and " <b>Guarantee</b> " will be read in line with this;
"High Involvement"	The maximum percentage or amount of all <i>Unpaid Approved Debts</i> due from the same <i>Customer</i> against which <i>We</i> may make <i>Prepayments</i> and as stated in the <i>Agreement Details</i> (or which <i>We</i> tell <i>You</i> in <i>Writing</i> from time to time);
"Ireland"	The islands of Ireland excluding Northern Ireland;
"Insolvent"	<p>In relation to a company:-</p> <ul style="list-style-type: none"> <li>• any judgement is obtained against the company and (save in the case of a judgement 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 judgement has elapsed without such a notice having been lodged and the judgement remains outstanding for 7 days;</li> <li>• my 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</li> </ul>

	<p>protection is presented in respect of the company;</p> <ul style="list-style-type: none"> <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 <i>Our</i> 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 or is able to pay its debts within the meaning of Section 570 of the Companies Act 2014 (as amended);</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 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>• 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 dependence 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 <i>Working Days</i> 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</p>
--	--

	<p>or actions in respect of any of the above matters; .</p> <p><b>and</b></p> <p>any analogous procedure or step being taken in any jurisdiction;</p> <p><b>and</b></p> <p>"<i>Insolvency</i>" will be read in line with this;</p>
"Linked Rights"	<p>In relation to each <i>Debt</i> and all <i>Returned Goods</i> the benefit of:-</p> <p>(A) all <i>Your</i> rights (but not obligations) as an unpaid seller/creditor and under the relevant <i>Transaction</i> (if any), save <i>Your</i> 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 <i>Debt</i> Information and the ownership of all <i>Returned Goods</i>;</p> <p>(D) interest and all cash, cheques, bills of exchange, instruments (negotiable or not) and other forms of payment;</p>
"Message"	Any data sent using the <i>Electronic Facility</i> ;
"Month"	A calendar month;
"Notified Value"	The amount of a <i>Debt</i> or credit note <i>You Tell Us</i> (before taking away any <i>Reductions</i> );
"Other Interest"	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;
"Prepayment"	Any amount <i>We</i> pay <i>You</i> on account of the <i>Price</i> of a <i>Debt</i> before <i>We</i> <i>Collect</i> it in full;
"Price"	<p>The <i>Collection</i> <i>We</i> receive in relation to a <i>Debt</i> less (in relation to such <i>Debt</i>):-</p> <p>(A) <i>Our</i> <i>Discount</i> and Fees and any <i>Reduction</i> due to or taken by the <i>Customer</i> after such receipt; and</p> <p>(B) all other amounts due to <i>Us</i> by <i>You</i>;</p>
"Promises"	The warranties and undertakings <i>You</i> give to <i>Us</i> and set out in Condition 6;
"Records"	The accounts maintained by <i>Us</i> to record the purchase of <i>Debts</i> , payment and receipt of monies, Fees payable by <i>You</i> and <i>Your</i> liability under and the operation of this <i>Agreement</i> which will include a <i>Sales Ledger Control Account</i> , <i>Current Account</i> and <i>Client Account</i> ;
"Reduction"	Any deduction, discount or set off claimed by a <i>Customer</i> or other alteration which reduces the <i>Notified Value</i> of a <i>Debt</i> ;
"Relevant Party"	<i>You</i> , any of <i>Your</i> directors, shareholders, members or partners and any <i>Customer</i> , Associate or <i>Guarantor</i> ,

"Repayment"	Repayment of any <i>Prepayment</i> , and " <b>Repay</b> " will be read in light of this;
"Returned Goods"	Any goods relating to a <i>Transaction</i> or <i>Debt</i> and which a <i>Customer</i> rejects or returns or indicates a wish to do so or which <i>You</i> or <i>We</i> recover from a <i>Customer</i> ;
"Special Conditions"	The conditions contained in the section of this <i>Agreement</i> headed "Special Conditions";
"Tell"	<i>You</i> telling <i>Us</i> in such form as <i>We</i> require, including within a <i>Message</i> or in a <i>Debt Schedule</i> (or both), that a <i>Debt</i> exists or in a <i>Credit Note Schedule</i> that a credit note has been issued; and " <b>Telling</b> " and " <b>Told</b> " will be read in light of this;
"Termination Event"	An event described in Condition 11.1;
"Transaction"	An agreement entered into by (or the benefit of which has been transferred to) <i>You</i> under which it is agreed to hire or sell goods or supply services to another person;
"UK"	Great Britain and Northern Ireland, the Channel Islands and the Isle of Man;
"Unpaid"	A <i>Debt</i> which has not been fully paid;
"Website"	<i>Our</i> website detailed in the Introduction to this <i>Agreement</i> on which the <i>Conditions</i> can be found and in which <i>Our</i> scale of charges can be found at <a href="http://www.bibbyfinancialservices.ie/clientarea">http://www.bibbyfinancialservices.ie/clientarea</a> for such other website as <i>We</i> notify <i>You</i> of from time to time);
"Working Day"	Every day except Saturday, Sunday and bank and public holidays in Ireland or the UK;
"Writing"	Letter, fax, e-mail and (where such facility allows) by using the <i>Electronic Facility</i> ;
"£"	The lawful currency of the UK from time to time.

17.2 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.

17.3 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).

17.4 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".

17.5 Any right or choice *We* have in this *Agreement* may be exercised as *We* choose in *Our* absolute discretion.

17.6 *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*.

17.7 Where in any place outside 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.