

# Voyage Care: Terms and Conditions

## 1. APPLICATION

- 1.1. This Agreement forms Voyage Care's standard terms and conditions for property services and by accepting or carrying out an order for property services from Voyage Care (the "Order") placed through the Voyage Property System (or via any other method by reference to these terms and conditions) the Supplier accepts that these standard terms and conditions apply to any goods and services supplied and that no other terms apply.

## 2. INTERPRETATION

- 2.1. The definitions and other standard provisions set out in Appendix 1 apply to this Agreement.

## 3. COMMENCEMENT AND DURATION

- 3.1. This Agreement shall commence on the date the Supplier first accepts or carries out an Order and terminates when all works have been completed as required by all Orders, and all of Voyage Care and the Suppliers' responsibilities and liabilities relating to all Orders under this Agreement have been completed or discharged by Voyage Care.

## 4. ORDERS

- 4.1. Each Order shall be part of this agreement and shall not form a separate contract to it. If there are any queries or disputes in connection with the Order and this Agreement, the terms of this Agreement shall take precedence and be binding on both parties.
- 4.2. The Supplier accepts that the accrual amount detailed within the Order is an estimate only. If a Supplier/Contractor needs to amend the order value, then they will need to use the Voyage Property System (where they have access) to apply for an uplift to the order value. This will then go through to the Voyage Property Team for approval.
- 4.3. Time is of the essence in relation to any performance dates for the Supplier. If the Supplier fails to meet the relevant deadlines, then (without prejudice to Voyage Care's right to terminate this agreement and any other rights it may have), Voyage Care may:
  - 4.3.1. refuse to accept any subsequent performance of the Works under the relevant Order which the Supplier attempts to make;

- 4.3.2. purchase substitute services from elsewhere and reclaim from the Supplier any additional costs incurred as a result of procuring such services from a third party instead of the Supplier;
- 4.3.3. hold the Supplier accountable for any loss and additional costs incurred; and
- 4.3.4. have any sums previously paid by Voyage Care to the Supplier in respect of the affected Works refunded by the Supplier within 7 days of terminating this agreement.

4.4. The Supplier shall:

- 4.4.1. provide the goods and services specified in the relevant Order;
- 4.4.2. ensure that the goods and services supplied will conform in all respects with the Order and shall be fit for any purpose expressly or implicitly made known to the Supplier by Voyage Care;
- 4.4.3. perform the services with the highest level of care, skill and diligence in accordance with best practice in the Supplier's industry, profession or trade;
- 4.4.4. ensure that all goods, materials, standards and techniques used in providing the goods and services are of the best quality and are free from defects in workmanship, installation and design;
- 4.4.5. co-operate with Voyage Care in all matters relating to the Order, and comply with Voyage Care's instructions;
- 4.4.6. at all times obtain and maintain during the term of this agreement, all necessary licences and consents and comply with all relevant legislation in relation to:
  - 4.4.6.1. the goods and services; and
  - 4.4.6.2. the installation and use of the Supplier's Equipment.
- 4.4.7. observe all health and safety rules and regulations and any other reasonable security requirements that apply at any of Voyage Care's premises from time to time.
- 4.4.8. hold all Voyage Care Materials in safe custody at its own risk, maintain such Voyage Care Materials in good condition until returned to Voyage Care, and not dispose of or use Voyage Care Materials other than in accordance with Voyage Care's written instructions or authorisations;
- 4.4.9. not do or omit to do anything which may cause Voyage Care to lose any licence, authority, consent or permission on which it relies for the purposes of conducting its business;
- 4.4.10. comply with any additional obligations imposed on it as set out in an Order; and
- 4.4.11. put right any defects identified on inspection after completion of the Order within the timeframe specified by Voyage Care;
- 4.4.12. have in place its own liability insurance up to at least £5 million of cover.

## **5. SERVICE LEVELS**

- 5.1. All Orders will be allocated to Suppliers via the Voyage Property System.
- 5.2. The Supplier shall confirm acceptance of allocated jobs via the Voyage Property System as soon as reasonably practicable unless it is not accessible for any reason. If the Supplier does not have access or for any reason cannot access the system then the Supplier must update the Voyage Property Team on 01543 484666 as soon as practicable.
- 5.3. The Supplier must attend the relevant location no later than the date and time specified in the Response SLA stated in the relevant Order, any issues arising that will or are likely to delay attendance at the relevant location until after that date and time must be communicated to the Voyage Care Property Support Team immediately.
- 5.4. The Supplier must complete all works comprised in each Order no later than the date and time specified in the Completion SLA stated in the relevant Order, any issues arising that will or are likely to delay completion of all relevant works until after that date and time must be communicated to the Voyage Care Property Support Team immediately. The Completion SLA stated within the relevant order will match the agreed SLA as captured in Schedule 1 of this agreement however, in the event of a difference, the SLA in this agreement will take precedence.
- 5.5. The Supplier must upon arrival at the relevant location update the Voyage Property System with their onsite arrival time information. Where the Supplier does not have access to the Voyage Property System they should call or email the onsite arrival time to the Voyage Property Team with this information.
- 5.6. Suppliers must close down all allocated jobs upon completion of the allocated work via the Voyage Property System. Where the Supplier does not have access to the Voyage Property System they should call or email the onsite arrival time to the Voyage Property Team with this information.
- 5.7. On Order completion the Supplier must raise all relevant invoices relating to that order within the Voyage Property System. Invoices will only be approved by Voyage where the Supplier has obtained appropriate approval prior to invoicing.
- 5.8. In the event of failed adherence to agreed SLA performance levels, as detailed in Schedule 2, Voyage Care will issue a request for a 'Credit' to the appropriate value to be paid by the supplier within 30 days of receipt of the credit request

## **6. SUPPLIERS PERSONNEL**

- 6.1. In relation to the Supplier's personnel, the Supplier shall ensure that all personnel:

- 6.1.1. who attend any Voyage Care site in connection with any Order have undergone a DBS check within the last three years from the date of attendance on site;
- 6.1.2. have the necessary skills and experience to enable them to perform the tasks assigned to them, and that such personnel are in sufficient number to enable the Supplier to fulfil its obligations under this agreement;
- 6.1.3 comply with any relevant Government legislation relating to COVID-19 and adhere to Voyage Care's infection control policies and procedures of which they will be notified in advance.

## **7. VOYAGE CARE'S OBLIGATIONS**

- 7.1. Voyage Care shall:
  - 7.1.1. provide the Supplier with all necessary co-operation in all matters relating to the Works;
  - 7.1.2. provide reasonable access to Voyage Care's premises and data and other facilities as may reasonably be requested by the Supplier and agreed with Voyage Care in writing in advance, for the purposes of the Order;
  - 7.1.3. provide to the Supplier all documents, information, items and materials required under an Order;
  - 7.1.4. inform the Supplier of all health and safety and security requirements that apply at any of Voyage Care's premises to which the Supplier will require access.
- 7.2. In consideration of the provision of the goods and services in accordance with this agreement and the relevant Order by the Supplier, Voyage Care shall pay the amount specified in the Voyage Property System in relation to any Order (as varied if a variation has been requested and approved by Voyage Care) within 30 days of the receipt of the invoice.
- 7.3. The Supplier shall only invoice Voyage Care at the time that the order has been marked as Complete in the Voyage Care Property System.
- 7.4. If Voyage Care fails to make a payment due to the Supplier under this agreement by the due date then, without limiting the Supplier's right of termination, Voyage Care shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause will accrue each day at 2% a year above the Bank of England's base rate from time to time, but at 2% a year for any period when that base rate is below 0%.
- 7.5. If Voyage Care disputes a payment in good faith, then the interest payable under Clause 7.4 is only payable after the dispute is resolved, on sums found or agreed to be due, from the day after the dispute is resolved until payment.

## **8. LIMITATION OF LIABILITY**

- 8.1. References in this clause to liability include every kind of liability arising under or in connection with this agreement including liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.
- 8.2. Nothing in this agreement shall limit or exclude the Supplier's or Voyage Care's liability for:
- 8.2.1. death or personal injury caused by its negligence, or the negligence of its personnel, agents or subcontractors;
  - 8.2.2. fraud or fraudulent misrepresentation; or
  - 8.2.3. breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession) or other liability which cannot be limited or excluded by applicable law; or
- 8.3. Nothing in this agreement shall limit or exclude the Supplier's liability under any specific indemnity in these terms and conditions.
- 8.4. Subject to clause 8.2 :
- 8.4.1. neither party to this agreement shall have any liability to the other party for any indirect or consequential loss arising under or in connection with this agreement;
  - 8.4.2. the Supplier's total liability to Voyage Care arising under or in connection with this agreement shall be limited to ten times the total value and cost of the Works paid and payable by Voyage Care under all this agreement.
- 8.5. Notwithstanding clause 8.4.1, the losses for which the Supplier assumes responsibility and which shall be recoverable by Voyage Care include:
- 8.5.1. sums paid by Voyage Care to the Supplier pursuant to this agreement, in respect of any services not provided in accordance with the terms of this agreement;
  - 8.5.2. wasted expenditure;
  - 8.5.3. additional costs of procuring and implementing replacements for, or alternatives to, the Works, including consultancy costs, additional costs of management time and other personnel costs and costs of equipment and materials;
  - 8.5.4. losses incurred by Voyage Care arising out of or in connection with any claim, demand, fine, penalty, action, investigation or proceeding by any third party (including any subcontractor, Supplier personnel, regulator or customer of Voyage Care) against Voyage Care caused by the negligent act or omission of the Supplier; and
  - 8.5.5. anticipated savings.

## 9. TERMINATION

- 9.1. Without affecting any other right or remedy available to it, either party may terminate this agreement with immediate effect by giving written notice to the other party if:
- 9.1.1. the other party fails to pay any amount due under this agreement on the due date for payment and remains in default not less than 30 days after being notified in writing to make such payment;
  - 9.1.2. the other party commits a material breach of any term of this agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 10 days after being notified in writing to do so;
  - 9.1.3. the Supplier repeatedly breaches any of the terms of this agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this agreement;
  - 9.1.4. the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 (IA 1986) as if the words “it is proved to the satisfaction of the court” did not appear in sections 123(1)(e) or 123(2) of the IA 1986;
  - 9.1.5. the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with any of its creditors other than (being a company) for the sole purpose of a scheme for a solvent amalgamation of the whole or any part of the other party’s assets and such attachment or process is not discharged within 14 days;
  - 9.1.6. any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in 9.1.4 or 9.1.5; or
  - 9.1.7. the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business.
- 9.2. For the purposes of 9.1.2, material breach means a breach (including an anticipatory breach) that is serious in the widest sense of having a serious effect on the benefit which the terminating party would otherwise derive from a substantial portion of this agreement over the term of this agreement. In deciding whether any breach is material no regard shall be had to whether it occurs by some accident, mishap, mistake or misunderstanding.
- 9.3. On termination of this agreement under this clause 9:
- 9.3.1. all existing Orders shall terminate automatically;
  - 9.3.2. the Supplier shall immediately deliver to Voyage Care all goods comprised in Orders whether or not they are complete and return all Voyage Care Materials and Voyage

Care's Equipment. If the Supplier fails to do so, then Voyage Care may enter the Supplier's premises and take possession of them. Until they have been delivered or returned, the Supplier shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this agreement; and

the Supplier shall, if so, requested by Voyage Care, provide all assistance reasonably required by Voyage Care to facilitate the smooth transition of the Orders to Voyage Care or any replacement Supplier appointed by it including the assistance as set out in the relevant Order; and

9.3.3. any provision of this agreement that expressly or by implication is intended to come into or continue in force on or after termination of this agreement shall remain in full force and effect.

9.4. Termination or expiry of this agreement shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the agreement which existed at or before the date of termination or expiry.

## **10. ANTI-MODERN SLAVERY**

10.1. The Supplier, undertakes and warrants that neither it or neither of its officers, employees, agents or sub-contractors has: -

10.1.1. committed an offence under the Modern Slavery Act 2015 (an MSA offence);-

10.1.2. been notified that it is subject to an investigation relating to an MSA offence or prosecution under the Modern Slavery Act 2015; or

10.1.3. become aware of any circumstances within its supply chain which could give rise to an investigation relating to an alleged MSA offence or prosecution under the Modern Slavery Act 2015.

## **11. ANTI-BRIBERY**

11.1. The Supplier shall comply with all applicable laws relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 ("Relevant Requirements") and shall have and shall maintain in place throughout the term of this agreement its own policies and procedures, including but not limited to adequate procedures under the Bribery Act 2010, to ensure compliance with the Relevant Requirements and will enforce them where appropriate.

11.2. The Supplier shall:

11.2.1. promptly report to Voyage Care any request or demand for any undue financial or other advantage of any kind received by the Supplier in connection with the performance of this agreement; and

11.2.2. from time to time upon Client's request certify to Voyage Care in writing signed by an officer of the Supplier, compliance with this clause by the Supplier and all persons associated with it. The Supplier shall provide such supporting evidence of compliance as Voyage Care may reasonably request.

11.3. The Supplier shall ensure that any person associated with it who is performing services in connection with this agreement does so only on the basis of a written contract which imposes on and secures from such person terms equivalent to those imposed on the Supplier by this clause. The Supplier shall be responsible for the observance and performance by such persons of the Relevant Requirements and shall be directly liable to Voyage Care for any breach by such persons of any of the Relevant Requirements.

11.4. Breach of this clause shall be deemed a material breach of this agreement.

11.5. For the purpose of this clause, the meaning of adequate procedures and foreign public official and whether a person is associated with another person shall be determined in accordance with section 7(2) of the Bribery Act 2010 (and any guidance issued under section 9 of that Act), sections 6(5) and 6(6) of that Act and section 8 of that Act respectively. For the purposes of this clause a person associated with the Supplier includes but is not limited to any subcontractor of the Supplier.

## **12. ANTI-FACILITATION OF TAX EVASION**

12.1. The Supplier shall:

12.1.1. not engage in any activity, practice or conduct which would constitute either: a UK tax evasion facilitation offence under section 45(1) of the UK Criminal Finances Act 2017 (the "Act"); or a foreign tax evasion facilitation offence under section 46(1) of the Act;

12.1.2. have and shall maintain in place throughout the term of this Agreement such policies and procedures as are both reasonable to prevent the facilitation of tax evasion by another person (including without limitation employees of the Supplier and to ensure compliance with this clause; and

12.1.3. promptly report to Voyage Care any request or demand from a third party to facilitate the evasion of tax within the meaning of Part 3 of the Act in connection with the performance of this Agreement.

12.2. Breach of this clause shall be deemed a material breach of this agreement.



### 13. DATA PROTECTION

- 13.1. Both parties will comply with all applicable requirements of the UK Data Protection Legislation. This clause is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the UK Data Protection Legislation.
- 13.2. The parties acknowledge that for the purposes of the UK Data Protection Legislation, Voyage Care is the controller and the Supplier is the processor. Appendix 2 sets out the scope, nature and purpose of processing by the Supplier, the duration of the processing and the types of personal data and categories of data subject.
- 13.3. Without prejudice to the generality of Clause 13.1, Voyage Care will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the personal data to the Supplier for the duration and purposes of this agreement.
- 13.4. Without prejudice to the generality of *Clause 13*, the Supplier shall, in relation to any personal data processed in connection with the performance by the Supplier of its obligations under this agreement:
  - 13.4.1. process that personal data only on the documented written instructions of Voyage Care unless the Supplier is required by Applicable Laws to otherwise process that personal data. Where the Supplier is relying on the laws of a member of the European Union or European Union Law as the basis for processing personal data, the Supplier shall promptly notify Voyage Care of this before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit the Supplier from so notifying Voyage Care;
  - 13.4.2. ensure that it has in place appropriate technical and organisational measures, reviewed and approved by Voyage Care, to protect against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting personal data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to personal data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);
  - 13.4.3. ensure that all personnel who have access to and/or process personal data are obliged to keep the personal data confidential; and
  - 13.4.4. not transfer any personal data outside of the European Economic Area unless the prior written consent of Voyage Care has been obtained and the following conditions are fulfilled: (i) Voyage Care or the Supplier has provided appropriate safeguards in

relation to the transfer; (ii) the data subject has enforceable rights and effective legal remedies; (iii) the Supplier complies with its obligations under the UK Data Protection Legislation by providing an adequate level of protection to any personal data that is transferred; and (iv) the Supplier complies with reasonable instructions notified to it in advance by Voyage Care with respect to the processing of the personal data;

- 13.4.5. assist Voyage Care, at Voyage Care cost, in responding to any request from a data subject and in ensuring compliance with its obligations under the UK Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
- 13.4.6. notify Voyage Care without undue delay on becoming aware of a personal data breach;
- 13.4.7. at the written direction of Voyage Care, delete or return personal data and copies thereof to Voyage Care on termination of the agreement unless required by Applicable Law to store the personal data;
- 13.4.8. maintain complete and accurate records and information to demonstrate its compliance with this clause and allow for audits by Voyage Care or Voyage Care's designated auditor of such records and information and immediately inform Voyage Care if, in the opinion of the Supplier, an instruction infringes the UK Data Protection Legislation; and
- 13.4.9. indemnify Voyage Care against any loss or damage suffered in relation to any breach by the Supplier of its obligations under this clause.

13.5. Voyage Care does not consent to the Supplier appointing any third-party processor of personal data under this agreement. The Supplier confirms that it has entered or (as the case may be) will enter with the third party processor into a written agreement substantially on that third party's standard terms of business **OR** incorporating terms which are substantially similar to those set out in this *Clause 13* and in either case which the Supplier confirms reflect and will continue to reflect the requirements of the UK Data Protection Legislation. As between Voyage Care and the Supplier, the Supplier shall remain fully liable for all acts or omissions of any third-party processor appointed by it pursuant to this *Clause 13*.

## **14. AUDIT**

- 14.1. The Supplier shall allow Voyage Care (or its professional advisers) to access the Supplier's premises, personnel, systems and relevant records to verify that the Fees and any other sums charged to Voyage Care under this agreement are accurate.
- 14.2. Subject to the Supplier's confidentiality obligations, the Supplier shall provide Voyage Care (and its professional advisers) with all reasonable co-operation, access and assistance in relation to each audit.
- 14.3. Voyage Care shall provide at least 2 days' notice of its intention to conduct an audit and any audit shall be conducted during Business Hours.

14.4. Voyage Care and its professional advisers shall have the right to take copies of any records which they reasonably require and remove such copies and the Supplier shall provide the necessary facilities to assist in copying free of charge.

## **15. INTELLECTUAL PROPERTY RIGHTS**

15.1. Voyage Care and its licensors shall retain ownership of all Intellectual Property Rights in Voyage Care Materials.

15.2. The Supplier:

15.2.1. warrants that the receipt, use and onward supply of the goods and services by Voyage Care shall not infringe the rights, including any Intellectual Property Rights, of any third party; and

15.2.2. shall indemnify Voyage Care against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred or paid by Voyage Care arising out of or in connection with any claim brought against Voyage Care for actual or alleged infringement of a third party's Intellectual Property Rights arising out of, or in connection with, the receipt, use or supply of the Works and the Deliverables.

## **16. INSURANCE**

16.1. During the term of this agreement and for 6 years after the expiry or termination of this agreement, the Supplier shall maintain in force, insurance policies with reputable insurance companies, against all risks that would normally be insured against by the Supplier in connection with the risks associated with this agreement, and produce to Voyage Care on request both the insurance certificate giving details of cover and the receipt for the current year's premium in respect of each insurance.

## **17. COMPLIANCE WITH LAWS AND POLICIES**

17.1. In performing its obligations under this agreement, the Supplier shall comply with the Applicable Laws.

17.2. The Supplier will inform Voyage Care as soon as it becomes aware of any changes in the Applicable Laws.

## **18. CONFIDENTIALITY**

- 18.1. Each party agrees that it shall not at any time during this agreement, and for a period of six years after termination of this agreement, disclose to any person any confidential information concerning the business, affairs, Voyage Care, clients or suppliers of the other party or of any member of the group of companies to which the other party belongs, except as permitted by Clause 7.2.
- 18.2. Each party may disclose the other party's confidential information:
- 18.2.1. to its employees, officers, representatives or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with this agreement. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this Clause 14; and
  - 18.2.2. as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 18.3. No party shall use any other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with this agreement.

## **19. GENERAL PROVISIONS**

- 19.1. The Supplier shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under this agreement.
- 19.2. Voyage Care may at any time assign, mortgage, charge, delegate, declare a trust over or deal in any other manner with any or all of its rights under this agreement, provided that it gives prior written notice of such dealing to the Supplier.
- 19.3. Any variation of the terms of this agreement shall not be effective unless it is in writing and signed by both parties authorised representatives.
- 19.4. A waiver of any right or remedy under this agreement or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy.
- 19.5. A failure or delay by a party to exercise any right or remedy provided under this agreement or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under this agreement or by law shall prevent or restrict the further exercise of that or any other right or remedy.

- 19.6. A party that waives a right or remedy provided under this agreement or by law in relation to one party or, takes or fails to take any action against that party, does not affect its rights in relation to any other party.
- 19.7. The rights and remedies provided under this agreement are in addition to, and not exclusive of, any rights or remedies provided by law.
- 19.8. If any provision or part-provision of this agreement is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this agreement.
- 19.9. If any provision or part-provision of this agreement is deemed deleted under clause 8.8 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.
- 19.10. This agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- 19.11. Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this agreement.
- 19.12. If there is an inconsistency between any of the provisions of this agreement and the provisions of the Order, the provisions of this agreement shall prevail.
- 19.13. Nothing in this agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party.
- 19.14. Each party confirms it is acting on its own behalf and not for the benefit of any other person.
- 19.15. Unless it expressly states otherwise, this agreement does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this agreement.
- 19.16. The rights of the parties to rescind or vary this agreement are not subject to the consent of any other person.
- 19.17. Any notice given to a party under or in connection with this agreement shall be in writing and shall be:
- 19.17.1. delivered by hand or by pre-paid first-class post at its registered office (if a company) or its principal place of business (in any other case); or

19.17.2. sent by email to the address at [contracts@voyagecare.com](mailto:contracts@voyagecare.com).

19.18. Any notice shall be deemed to have been received:

19.18.1. if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address;

19.18.2. if sent by pre-paid first-class post; 8.18.3. if sent if sent by email.

19.19. This agreement and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales. Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this agreement or its subject matter or formation.

## APPENDICES

### Appendix 1

#### Definitions and Standard Terms

##### 1. DEFINITIONS

1.1. The following definitions apply to these terms and conditions:

**Affiliate:** any entity that directly or indirectly controls, is controlled by, or is under common control with another entity.

**Applicable Laws:** all applicable laws, statutes and regulations from time to time in force.

**Business Day:** every day of the week including Saturdays, Sundays or public holidays in England.

**Control:** shall be as defined in section 1124 of the Corporation Tax Act 2010, and the expression change of Control shall be construed accordingly.

**Controller, processor, data subject, personal data, personal data breach, processing and appropriate technical measures:** as defined in the UK Data Protection Legislation.

**Intellectual Property Rights:** patents, rights to inventions, copyright and related rights, trademarks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

**Modern Slavery Policy** means the Licensees anti-slavery and human trafficking policy as set out in writing and notified in writing to the Supplier at commencement of this agreement and each time the policy is updated.

**Order:** an order for property services from Voyage Care placed through the Voyage Property System (or via any other method by reference to these terms and conditions).

**Service Manager:** the individual or Voyage Care Property Manager with overall responsibility at Voyage Care's premises where works has been completed.

**Supplier:** any person who accepts an order from Voyage Care placed through the Voyage Property



System (or via any other method by reference to these terms and conditions)

**Supplier's Equipment:** any equipment, including tools, systems, cabling or facilities, provided by the Supplier, its agents, subcontractors or consultants to Voyage Care and used directly or indirectly in the supply of the Works, including any such items specified in an Order.

**Supplier Performance Review Meeting:** an agreed monthly or quarterly meeting attended by representatives from the Voyage Care Procurement and/or Property Team and representatives from the supplier, as nominated by the supplier, in which the agreed Key Performance Indicators and SLA's, as measured via the Voyage Property System, are reviewed and any appropriate actions agreed.

**Voyage Care Materials:** all documents, information, items and materials in any form (whether owned by Voyage Care or a third party), which are provided by Voyage Care to the Supplier in connection with any Order

**UK Data Protection Legislation:** all applicable data protection and privacy legislation in force from time to time in the UK including the General Data Protection Regulation ((EU) 2016/679); the Data Protection Act 2018; the Privacy and Electronic Communications Directive 2002/58/EC (as updated by Directive 2009/136/EC) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended.

**Voyage Care:** Voyage 1 Limited and all its Affiliates

**Voyage Property System:** the Application used by Voyage Care accessible at <https://emplus.urgtech.com/>.

**VAT:** Value added tax.

## 2. INTERPRETATION

2.1. paragraph headings shall not affect the interpretation of this agreement.

2.2. A person includes a natural person, corporate or unincorporated body.





- 2.3. The Appendices form part of this agreement and shall have effect as if set out in full in the body of this agreement. Any reference to this agreement includes the Appendices.
- 2.4. A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 2.5. Unless the context otherwise requires, words in the singular shall include the plural and, in the plural shall include the singular.
- 2.6. Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 2.7. This agreement shall be binding on, and ensure to the benefit of, the parties to this agreement and their respective personal representatives, successors and permitted assigns, and references to any party shall include that party's personal representatives, successors and permitted assigns.
- 2.8. A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
- 2.9. A reference to a statute or statutory provision shall include all subordinate legislation made from time to time.
- 2.10. Unless the context otherwise requires, any reference to European Union law that is directly applicable or directly effective in the UK at any time is a reference to it as it applies in England and Wales from time to time including as retained, amended, extended, re-enacted or otherwise given effect on or after 11pm on 31 January 2020.
- 2.11. A reference to writing or written includes by email and post via recorded delivery.
- 2.12. Any obligation on a party not to do something includes an obligation to take preventative measures not to allow that thing to be done.



## Appendix 2

### Data Protection and Data Processing

#### PART A 1. DEFINITIONS AND INTERPRETATION

1.1 The definitions and rules of interpretation in this paragraph apply in this Schedule 3.

**“Data Protection Impact Assessment”** has the meaning set out in Article 35 of the GDPR;

**“Data Subject”** means an individual who is the subject of Personal Data;

**“Erasure (Right to)”** has the meaning set out in Articles 17 of the GDPR;

**“GDPR”**: means the General Data Protection Regulation;

**“Object (Right to)”** has the meaning set out in Article 21 of the GDPR;

**“Personal Data”** has the meaning set out in the GDPR and relates to personal data, or any part of such personal data, which is Processed for the Controller by the Processor, or by a sub-processor in accordance with this Schedule 6;



**“Personal Data Breach”** has the meaning set out in Article 4(12) of the GDPR;

**“Portability”** has the meaning set out in Article 20 of the GDPR;

**“Processing”** has the meaning set out in Article 4(2) of the GDPR in relation to the Personal Data and terms such as Process and Processed shall be construed accordingly; **“Rectification”** has the meaning set out in Article 16 of the GDPR;

**“Restriction (Right to)”** has the meaning set out in Article 18 of the GDPR;

**“Right of Access”** has the meaning set out in Article 15 of the GDPR;

## **2. DATA PROCESSING OBLIGATIONS**

2.1 This Schedule 3 applies where either party to this Agreement processes Personal Data as a Processor on behalf of the other party (acting as Controller) to the Agreement and the terms Controller and Processor shall apply accordingly and shall have the meaning given in the UK Data Protection Legislation.

2.2 The Processor shall Process the Personal Data in accordance with Part B of this Schedule 3 and only on the Controller’s written instructions. The Processor shall not Process the Personal Data for any other purpose save as otherwise required by the laws of the European Union applicable to the Processor, in which case the Processor will promptly notify the Controller of such requirement to the extent permissible by law.

2.3 The Processor shall only Process adequate, relevant and limited Personal Data as is necessary for the purpose of the Processing and shall each party shall undertake to keep the Personal Data accurate and up to date throughout undertaking such Processing.

2.4 The Processor will keep a record of any Processing of Personal Data it carries out on behalf of the Controller.

2.5 If the Processor receives any complaint, notice or communication which relates directly or indirectly to the Processing of the Personal Data or to either party's compliance with UK Data Protection Legislation, the Processor shall without undue delay notify the Controller and the Processor shall provide the Controller with full co-operation and assistance in relation to any such complaint, notice or communication.



- 2.6 The Processor shall immediately inform the Controller if any Personal Data is lost or destroyed or becomes damaged, corrupted, or unusable and take such further action as the Controller may reasonably request in order to comply with UK Data Protection Legislation. The Processor will make regular backups of any Personal Data it stores on electronic media and will promptly restore the latest backup that it holds at its own expense.
- 2.7 The Processor shall immediately notify the Controller without undue delay after becoming aware of a Personal Data Breach, and at the very latest within 12 hours unless there is reasoned justification.
- 2.8 The Processor shall without undue delay comply with any request from the Controller requiring the Processor to amend, securely transfer or delete the Personal Data held by the Processor in the format and on the media reasonably specified by the Controller at the Processor's expense.
- 2.9 At the Controller's request, and without undue delay, the Processor shall provide to the Controller evidence of the Processor's compliance with the GDPR principles including but not limited to Data Protection Impact Assessments, contact details of its Data Protection Officer (if appointed), Data Subject rights, records of Processing of Personal Data, employee training records and copies of relevant policies and procedures.
- 2.10 The Processor shall ensure that all employees handling the Personal Data: a) are informed of the confidential nature of the Personal Data and subject to an appropriate duty of confidentiality; b) have undertaken training in relation to the UK Data Protection Legislation relevant to their role; and c) are aware both of the Processor's duties and their personal duties and obligations under UK Data Protection Legislation and this Agreement.
- 2.11 The Processor shall notify the Controller within one working day if it receives a request from a Data Subject exercising their Right of Access to, request for Portability of, Objection to Processing of, Rights to Rectification, Restriction, or Erasure of, that person's Personal Data.
- 2.12 The Processor shall provide the Controller with full co-operation and assistance in relation to any request made by a Data Subject.
- 2.13 The Processor shall not disclose the Personal Data to any Data Subject or to a third party other than at the Controller's written request or as provided for in this Agreement.
- 2.14 The Processor shall return the Personal Data to the Controller when it ends the relevant Processing, or, at the election of the Controller, shall destroy the Personal Data and confirm such destruction to the Controller.



2.15 The Controller is entitled, on giving at least three days' notice to the Processor, to inspect or appoint representatives to inspect all facilities, equipment, documents and electronic data relating to the Processing of Personal Data under this Agreement by the Processor. The requirement under this paragraph 2.15 to give notice will not apply if the Controller believes that the Processor is in breach of any of its obligations under this Schedule 3.

2.16 The Processor may only authorise a third party (sub-processor) to Process the Personal Data: a) subject to the Controller's prior written consent where the Processor has supplied the Controller with full details of such sub-processor; b) provided that the sub-processor's contract contains terms which are substantially the same as those set out in this Agreement or as otherwise required in writing by the Controller; c) provided that the Processor ensures that there are robust monitoring arrangements in place in relation to the Processing of Personal Data by the subprocessor to the Controller's reasonable satisfaction; d) provided that the sub-processor's contract terminates automatically on termination of this Agreement; and e) the Processor acknowledges that the Processor will remain liable to us for any breach of the sub-processing contract or noncompliance with any UK Data Protection Legislation of any sub-processor.

2.17 The Processor warrants that the Processor will take appropriate technical and organisational measures against the unauthorised or unlawful Processing of Personal Data and against the accidental loss or destruction of, or damage to, Personal Data to ensure compliance with Article 32 of the GDPR, having regard to the nature of the Personal Data which is to be protected and the risk of harm which might result from any security breach.

2.18 The Processor agrees to indemnify and keep indemnified and defend the Controller at its own expense against all costs, claims, damages or expenses incurred by the Controller or for which the Controller may become liable due to any act or omission of the Processor or its employees or agents or any sub-processor engaged by the Processor, or any failure by the Processor, its employees or agents or any sub-processor to comply with any of its obligations under this Agreement and any UK Data Protection Legislation or any sub-processing contract put in place by the Processor. In the event that the Controller and the Processor are jointly liable for any such costs, claims, damages or expenses, the Processor's liability under this paragraph 2.18 shall be reduced by a fair and reasonable amount proportionate to the Controller's responsibility for such costs, claims, damages or expenses.

## **PART B 1. DATA PROCESSING DETAILS**

### **1. Subject-matter of processing:**



Personal data in relation to adults who are vulnerable and employees of either party.

**2. Duration of the processing:**

Neither party shall retain or process Personal Data for longer than is necessary to carry out the agreed purposes, provided that, where retention is required in accordance with statutory or professional requirements, the parties shall retain Personal Data for a period of up to 6 years.

**3. Nature and purpose of the processing:**

To provide housing and associated support services to adults with enduring mental health problems, who will be occupants at the relevant property and supported in relation to their support needs. To carry out automated individual decision-making, specifically profiling, as defined in Article 22 of the GDPR for the purpose of assessing referrals relating to potential occupants.

**4. Type of Personal Data:**

- date of birth
- names
- contact addresses
- telephone numbers
- email addresses
- National Insurance numbers
- medical history and data
- family contact information
- any other sensitive personal data required

**5. Categories of Data Subjects:**

- adults