

# **Terms of Business**

**Terms of Business NFE GROUP Ltd**

**August 2018 V.1**

## Terms of Business

**PLEASE NOTE:** These terms of business govern the relationship between You as a Client or Supplier respectively and Us as a provider of Services to You in Your capacity as Client or Supplier. Please read these carefully as they affect Your rights under the law and take effect to become binding on You without a requirement for Your signature.

### 1. Definitions

In this Agreement, the following words have the meanings set out below:

**Agreement** - the agreement between each Client / Supplier and NFE Group which consists of those conditions in these Terms of Business which are stated herein to apply to You as a Client and/or You as a Supplier respectively.

**Client** - the people and organisations who are authorised to have access to the providers services as identified in the Service Agreement or quotation.

**Controller, Data Controller, Processor, Data Processor, Data Subject, Joint Controller, Personal Data, processing and appropriate technical and organisational measures:** as set out in the Data Protection Laws (as defined below) in force at the time

**Costs & Charges** - means the figures set out in Schedule 1 or your written quotation and payable by Client to NFE Group for provision of the Services.

**Criteria** - the requirements set by Us from time to time which prospective Suppliers must meet in order to become a Supplier

**Customer** – A person who buys goods or services from NFE Group online shop or business

**Data** - the information provided by Suppliers / Clients to Us, and any other information provided to us for our Database which we may include in the Database Copy at any time.

**Database** - the database which is made available to Clients / Suppliers on our Site(s).

**Database Copy** – information taken from the Data and included on the Database

**Data Protection Laws:** The Data Protection Act 1998 and any related legislation or regulation in place from time to time including the General Data Protection Regulation (GDPR)(EU) 2016/679 ("GDPR")

**Trial User** - a prospective Client or Supplier that has registered on the Site whose details may no longer be up to date and no Service Agreement is in place, but you are bound by our Terms of Business.

**GDPR:** as defined at Data Protections Laws definition above

**Intellectual Property Rights** - copyrights, patents, trademarks, service marks, database rights, design rights (whether registered or unregistered), trade secrets and all other similar rights of ownership

**NFE Group** - NFE Group Ltd, or any of its associated companies or brands including but not limited to Automotional Ltd and Performance on Demand Ltd. Is the company, firm, organisation, entity or individual

to whom products or services are or are due to be supplied.

**User** - means You in Your capacity as a Client or Supplier (or both) as identified by You in Your Registration and Application form and as authorized by Us to access the Site and Database and / or make use of our Services as applicable to You.

**Performance Parameters** - means the instructions and procedures specified by **Client** appearing at Schedule 2 in the Service Agreement, if or as required.

**Privacy Policy:** the Privacy Policy for this Agreement provided by Us between Us and You

**Services** - the services we provide to You as a Client and / or You as a Supplier, as set out in the Service Agreement specified at clause 3 and any other services that NFE Group and Client may agree from time to time, which includes without limitation and access to the Database

**Service Agreement / Event Confirmation** – NFE Groups requirements specifying how the provision of services are to be supplied and managed, issued to you, if or as required.

**Site** - the NFE Group websites, [www.nfegroup.co.uk](http://www.nfegroup.co.uk), [www.automotional.com](http://www.automotional.com), [www.legaltotow.co.uk](http://www.legaltotow.co.uk), [www.performanceondemand.co.uk](http://www.performanceondemand.co.uk)

**Supplier** - an organisation with whom NFE Group is associated and who will, for a majority of the services provided, supply to NFE Group on a preferred supplier basis.

**Supporting Documents** - the operating manuals, user instructions, technical literature and all other related material we may provide to you from time to time to support Your use of the Database and the Database Copy

**Registration** - the process you are required to complete in order to become a User

**Reports** - means detailed reports in accordance with **Client's** requirements.

**"We", "Us", "Our"** - means NFE Group Limited a company incorporated and registered in England and Wales with company number 07558039 whose registered office is at Building 3a Western Paddock, Donington Park, Castle Donington, Derbyshire, DE74 2RP (and anyone who takes over our business)

**"You", "Your"** - the person(s) or organization(s) named as the Client or Supplier

Except where the context requires otherwise, words denoting the singular include the plural and vice-versa; words denoting persons include firms and corporations and vice-versa.

Clause headings are for ease of reference only and do not affect the construction of this Agreement.

Any reference to any document (including this Agreement) or any provision of it includes such document and provision as is from time to time varied or supplemented in accordance with its terms or by agreement between the parties.

## **2. Registration Process**

2.1 In order to become a User, You are required to complete the Registration process via the Site. As part of Your Registration.

2.2 Registration requirements are set out on the Site and may be amended from time to time.

### **Suppliers**

2.3 You warrant that the information provided to us during your Supplier Approval and Your Supplier Questionnaire is current, accurate, complete and not misleading.

2.4 You acknowledge and agree that we may share any Data You have provided to Us with third parties for the purposes of verifying its compliance with the warranty provided under clause 2.3 above, notwithstanding that We are not obliged to do so.

## **3. Fees & Cancellation**

3.1 Where VAT is applicable, this will be applied at the prevailing rate and is payable in addition to the Fee(s)

3.2 Where bookings have been confirmed between the Client and NFE Group, the following charges will apply to cancellations/re-scheduled training sessions and/or amendments initiated by the Client prior to the product being delivered:

Within 14 calendar days: 100% of prevailing Client rate

Between 15 and 30 calendar days: 50% of prevailing Client rate

30 calendar days or longer: £20.00 (administration fee) plus any costs incurred by NFE Group (plus 10% for bought in services)

All cancellations must be advised in writing.

3.3 The above cancellation charges are only applicable to services provided by the NFE Group and as such where other costs are incurred prior to any cancellation being made these will be charged in full. E.g. venue hire, travel, hotels, other bought in services.

3.4 Where a trainee(s) fails to attend a training session, the full rate is still payable, and no refunds will be made. A trainee will be deemed to have not attended a training session if the trainee arrives more than one hour after the scheduled starting time for the session.

3.5 Where a trainee is unable to attend, the Client may send a substitute.

3.6 Once web-based products have been delivered (invitation sent) no refund will be given.

3.7 For monthly billed web-based products; NFE group must be informed by e-mail 7 days prior to the monthly invoice date that users are to be deactivated from the web based programme

3.8 Any/all additional charges will be agreed at the time of booking or prior to the service being delivered.

3.9 Where Clients purchase any online package with no minimum contract term and/or no admin fee the cost of any Drivers Licence checks already commissioned will be charged at the full current advertised rate when the programme is cancelled within the first 3 months. This fee will be in addition to the agreed monthly charge and the start date will be deemed as the date on which the ‘invitation’ was sent.

3.10 Where incorrect details are provided by a client, or driver, and a ‘failed’ driver licence check results then this will be charged at the agreed driver licence fee.

#### **4. Use of the Database**

4.1 In return for Your compliance with Your obligations under this Agreement, and if applicable Your payment, We grant You (on the terms set out in this Agreement) a right to use the Database (which is not exclusive to You and which You cannot transfer to any other person) to use the Database Copy.

4.2 We will not transfer any title, rights of ownership or Intellectual Property Rights in the Database or the Supporting Documents to You. You will not remove or delete any marks of ownership on the Supporting Documents.

4.3 At all times when accessing and using the Database You will ensure the appropriate use of the Database by all Your users and is included in Your applicable business processes.

#### **5. Data Protection**

5.1 During or following Your Registration, we may collect certain information from You as defined in the Privacy Policy about Your current suppliers which may constitute Personal Data, including without limitation information on such suppliers' directors and other company officers. Such Personal Data shall be used for the purposes as defined in the Privacy Policy.

5.2 In respect of such Personal Data collected from You, You acknowledge and agree that You remain the Data Controller in respect of such Personal Data and that We will act as Data Processor.

5.3 You warrant to Us that You have lawful grounds for processing Personal Data.

5.4 Where We process such Personal Data under or in connection with this Agreement, We shall:

5.4.1 save as required otherwise by law, only process the Personal Data as supplied by You as is necessary to perform Our obligations under this Agreement and only in accordance with the Privacy Policy or as instructed by You;

5.4.2 put in place appropriate technical and organisational measures to meet our obligations under the Data Protection Laws which You agree are appropriate measures;

5.4.3 ensure that Our staff who have access to such Personal Data are subject to appropriate confidentiality obligations;

5.4.4 be entitled to engage sub-processors to process such Personal Data;

5.4.5 not process or transfer the Personal Data referred to under clause 6.7 outside the

European Economic Area without the prior documented consent from You (which consent is also to be provided by You on behalf of any third party without delay);

5.4.6 have in place the appropriate technical and organisational security measures to protect Personal Data referred to in clause 6.7 against accidental or unlawful destruction, loss, alteration, unauthorised disclosure or access;

5.4.7 notify You without undue delay after becoming aware of any personal data breach involving Personal Data, taking into account the nature of processing and the information available to Us;

5.4.8 take appropriate technical and organisational measures, insofar as is possible, to assist You in responding to requests for data (but We will not itself respond to any such data subject request except on written instructions from the You). Furthermore, We will, upon Your request, provide assistance to the You relating to Your obligations under Articles 32-36 of the GDPR taking into account the information available to Us. We may charge You our reasonable costs (or the rates otherwise agreed between the parties) for Our time spent and expenses incurred in providing You with co-operation and assistance as required by this clause;

5.4.9 will make available to You such information as You reasonably requests to show compliance with Article 28 of the GDPR and permit and contribute to such audits conducted by the You (or Your appointed auditors). You will give reasonable notice of any audit and will be fully liable for any associated costs (including Ours.); and

5.4.10 save as may be required by law, at Your cost and option either delete or return the Personal Data provided by You to You on expiry or termination of this Agreement provided always that nothing in this clause shall oblige Us to provide assistance which does not relate directly to the Services or information that we have acquired from another source;

5.4.11 We shall inform You in writing if, in Our opinion, an instruction from You infringes the Data Protection Laws but only in relation to a breach of the GDPR and/or other European Union or European Member State data protection provisions and not jurisdictions outside of these areas. However, you acknowledge that:

- (a) this clause shall not relieve You of Your obligation to ensure that all instructions to Us comply with all applicable legislation, including all Data Protection Laws; and
- (b) We may charge You Our reasonable costs (or the rates otherwise agreed between the parties) for Our time spent and expenses incurred in providing You with co-operation and assistance as required by this clause.

5.4.12 Notwithstanding anything to the contrary in this Agreement, if any of the following occur:

- (a) any changes/modifications to the Data Protection Laws (including in connection with the withdrawal of the United Kingdom from the European Union and/or the EEA) including the requirement to amend, update, modify or replace any systems We use to process the Personal Data;
- (b) any new, clarified or amended guidance or polices issued by a supervisory authority; and
- (c) any direction or instruction issued by a supervisory authority (whether relating to You or Us in respect of the Services (including any processing of the Personal Data);

then any increased effort or costs incurred by Us in association with the aforementioned shall be additionally chargeable to You.

5.4.13 You shall indemnify Us against any liability, fines, claims, demands, expenses and costs (including legal fees) arising as a result of: any breach of the Data Protection Laws by You, or Us acting in accordance with any instruction, policy or procedure of Yours.

### **Supplier Approval**

5.5 During Supplier Approval, we may collect certain information from You (the Supplier) as defined in the Privacy Policy which would constitute Personal Data (as defined by Data Protection Laws), including without limitation information on Your directors and other company associates. The Personal Data will be used for the purposes as defined in the Privacy Policy.

5.6 In respect of clause 6.1, You acknowledge and agree that You remain a Data Controller in respect of such Personal Data and that, in conjunction, We will act as Joint Controller, as defined under Article 26 of the GDPR.

5.7 You warrant that You have the correct lawful grounds and basis for providing to Us, or allowing Us to collect from You, such Personal Data that will permit us to use the Personal Data for the purposes as defined in Our Privacy Policy and in compliance with the Data Protection Laws.

### **Client Registration**

5.8 During the client registration, we may collect certain information from You (the Client) as defined in the Privacy Policy which may constitute Personal Data (as defined by Data Protection Laws). Such Personal Data will be used for the purposes as defined in the Privacy Policy

5.9 In respect of clause 6.4, You acknowledge and agree that You remain a Data Controller in respect of such Personal Data and that, in conjunction, We will act as Joint Controller, as defined under Article 26 of the GDPR.

5.10 You warrant that You have the correct lawful grounds and basis for providing to Us, or allowing Us to collect from You such Personal Data which will permit us to use the Personal Data for the purposes as defined in the Privacy Policy and in compliance with the Data Protection Laws

## **6. Confidentiality**

6.1 You will (and You will ensure that Your employees, agents, elected members, officials, trustees and advisers will) treat as strictly confidential and keep secret the Database Copy and the Supporting Documents, and all other information We give You. Other than as expressly granted under this Agreement, You shall prevent and not allow any Database Copy to be disclosed, used, sold, assigned, leased, sub-licensed, commercially exploited or marketed in any way or manner by You (or your employees, agents, elected members, officials, trustees and advisers if applicable).

6.2 You will only share Database Copy, Supporting Documents or information with those employees, agents, elected members, officials, trustees and advisers who need to know it. You will make sure that such employees, agents, elected members, officials, trustees and advisers agree (before You give them that Database Copy, Supporting Documents or information) to meet their obligations under this clause 7.

6.3 You will indemnify us for any claims, losses, liabilities, costs and expenses We suffer as a result of Your failure to act in line with clause 7, including any failure by Your employees, agents, elected members, officials, trustees and advisors to do the same.

6.4 You will comply at all times with the Freedom of Information Act 2000 and any other amending legislation in place from time to time.

## **7. Database and Database Copy Your Obligations**

7.1 You warrant that:

- (a) all Data You provide us with is complete, accurate, current and not misleading; and
- (b) Our inclusion of the Data in the Database Copy for use by any other person will not infringe the right of another person in respect of any trademarks or any other Intellectual Property Rights.

7.2 For the duration of this Agreement, You will be entitled to review the Database Copy. You will also be entitled to amend any inaccuracies by sending Us notice in writing.

7.3 You are responsible for telling us if the Database Copy is not correct or up to date, including in respect to any Database Copy that has been amended from time to time. Unless You notify us otherwise in writing, We will assume that the information in the Database Copy is correct and up to date.

7.4 You will tell Us in writing immediately if the Data is no longer correct, or if You become aware that any information on the Database Copy is not correct, and send Us any information We may reasonably need or ask for to make the Database Copy correct. We will amend the information on the Database Copy within 30 days of You telling Us about any necessary amendments.

7.5 You acknowledge and agree that We will be entitled to make whatever alterations We consider necessary or desirable to the Database Copy at any time as long as the information contained still accurately reflects the Data; and

7.6 You will indemnify Us for any claims, losses, liabilities, costs and expenses We suffer as a result of any false, inaccurate, out of date or misleading information You provide. You will also indemnify Us for any royalty, compensation or other amount which We become liable to pay to any other person in connection with Your breach of clause 8.1(b) above.

7.7 If 'You' includes two or more legal persons, You will each be liable jointly and separately for any liability You may have under this Agreement.

## **Our Treatment of the Data You Provide**

7.8 We will use the Data as We see fit to create the Database Copy and will take reasonable care in preparing the Database Copy and publishing it on the Database. As detailed in our Privacy Policy.

7.9 We accept no liability whatsoever for any losses or damage You suffer as a result of any action taken by Us under this clause 8.

7.10 Nothing in this Agreement is intended to affect Your Intellectual Property Rights in the Data You provide to Us.

## **8. Support**

8.1 We will provide You with phone advice and technical support services about completing Registration and using the Database. If you would like details of this, please ask Us.

## **9. Client / Supplier Obligations**

9.1 That unless expressly agreed in writing to the contrary, the contract for the supply of products or services by NFE Group to the Client/Supplier is solely between those two parties and that in no case, unless agreed in writing in advance, will the contract be between the NFE Group and the Client / Supplier insurer, insurance broker or other intermediary.

9.2 That in certain cases, for example where an intermediary (insurer, broker or similar) has been instrumental in establishing the provision of services or products by the NFE Group to the Client / Supplier, a summary report of the training will be issued by NFE Group. Copies of this report will be made available to the Client / Supplier and to the intermediary, provided that the intermediary is bona fide and that nothing contained herein shall interfere with the fiduciary relationship between the NFE Group and the Client / Supplier or the Client / Supplier and the intermediary

9.3 To provide a 'co-ordinator' to expedite the operation of the contract and assist with the booking of trainees on to courses.

9.4 To provide roadworthy and suitably insured vehicles (for business use) for the purposes of receiving practical on-the-road driver training; except where other arrangements have been made in writing.

9.5 To the terms of payment set out following and further that the NFE Group reserves the right not to undertake or continue the delivery of its products or services where the Client / Supplier credit status is deemed unsatisfactory or where vehicles supplied for training are not roadworthy or adequately insured.

9.6 That where, on a particular training day, training is unable to take place for reasons outside the control of the NFE Group (examples being, but not limited to, trainer illness, poor weather, etc.) no refunds or any other compensation will be paid. The NFE Group will, however, offer an alternative training date as soon as practically possible.

9.7 In extreme adverse weather conditions or other force majeure, no refunds of any monies paid or due to be paid with respect to the booking will be forthcoming, nor will requests for compensation be entertained. The NFE Group will, however, offer an alternative training date as soon as practically possible.

9.8 NFE Group will, as an integral constituent of on-the-road training, endeavor to cover Fuelsave, Fuelgood or Ecodriving techniques with participating drivers. Some of this training may qualify for an Ecodriving Scheme subsidy, payable by the Energy Saving Trust to NFE Group. Data protection legislation requires that we make clear to the Client / Supplier (and by inference the client / Supplier employees/drivers) the following: In order to administer the Ecodriving Scheme, we need to process your personal data. This includes passing it on to the Energy Saving Trust who will process that data solely for the purposes of

administering the Ecodriving Scheme. Their processing may include the passing on of data to the Department for Transport for the sole purpose of administering the Ecodriving Scheme.

9.9 The NFE Group reserves the right to re-arrange dates and times of off-road training as track availability and operational matters dictate.

9.10 Certain refresher training is designed to be provided on a 3:1 trainee to trainer ratio. As a result, trainees may find they are sharing aspects of the course with trainees from other clients or Organisations. Bookings should be made in groups of three if the customer prefers this not to occur.

## 10. Online Purchases

10.1 In the unlikely event your order is damaged in transit please contact us by email at [enquiries@nfegroup.co.uk](mailto:enquiries@nfegroup.co.uk)

10.2 If you suspect a fault with your product on receipt please email us at the same address within 7 days of purchase. We will then either assess the possible fault ourselves or may direct you to the respective manufacturer's helpline. This initial call may prevent any unnecessary return to us saving you, the customer the return delivery cost should the product be found in full working order. In such a case we will reserve the right to return the goods to you with a £10 administration charge. However if there is an obvious defect and/or under the manufacturer's recommendation it needs to be returned, please notify [enquiries@nfegroup.co.uk](mailto:enquiries@nfegroup.co.uk) and a returns reference will be given to you.

10.3 Once an Order has been dispatched it cannot be cancelled. If a customer's order is returned to us undelivered, we will be happy to arrange re-delivery, however the return shipping costs and redelivery costs will be the Customer's responsibility. If the customer wishes to cancel their order once it has been returned to us, we will be happy to issue a refund if the order is cancelled within 14 days of the order date, however the actual postage costs and any return postage costs will be deducted from the total. If a customer fails to collect or fails to arrange a re-delivery date for a parcel which Royal Mail or a Courier has attempted to deliver within 7 days of the original delivery attempt, the parcel will be returned to us.

10.4 The NFE Group is happy to resend the order after it has been returned to us, however because Royal Mail has attempted delivery we are unfortunately unable to resend your parcel free of charge. Postage and packaging charges will apply and need to be paid in advance by the customer before a returned order can be resent. If a customer has provided us with incorrect or incomplete delivery details during the checkout process and the order is delayed during transit or lost, the NFE Group will not be held liable and no refund or replacement will be issued.

10.5 Orders will normally be dispatched on the same day they are received, provided they have been placed - and have been received by us - before 2:00pm Monday-Friday excluding public holidays. Orders will only be processed and dispatched once we have received full payment for the goods. Standard Delivery orders are sent via Royal Mail 1st Class, items over £12.50 will be sent via Recorded Delivery - orders sent via this service are normally delivered to the customer within 1-5 working days of posting (applies to UK customers only), not including weekends or public holidays, unless otherwise stated. Once an order has been dispatched, we are unable to control the delivery time, for any special requests to receive an order by a certain date or left with neighbours must be emailed separately to [vanessa@nfegroup.co.uk](mailto:vanessa@nfegroup.co.uk) prior placing an order to avoid disappointment. Failure to do so will not be our responsibility in the event of loss.

10.6 We regret that we cannot be held liable for delays in shipping caused by the courier/carrier. Only orders that have not been delivered within 15 working days of posting, can be declared as "missing" or "lost". If your order is declared as "missing" or "lost" by Royal Mail, we will be re-sending your order as soon as we have received confirmation of this from Royal Mail. Orders cannot be re-sent until we have had

confirmation from Royal Mail that your parcel is "missing" or "lost". Refunds will not be issued until we have received confirmation or compensation from Royal Mail.

10.7 If an order has been signed for, it will be deemed as delivered and the customer will need to contact us in the first instance, we will then offer tracking numbers so as the customer can contact their local Royal Mail delivery office or UPS directly for any disputes. Please note, we are unable to offer refunds on personal items due to hygiene such as bath products, eye masks and footsie wear the product has direct contact with the skin unless the items are returned unopened unused. Within 30 days of purchase, if your goods are faulty we will offer a prompt replacement or refund of the relevant components. This does not apply to faults caused by accident, neglect or misuse. A replacement will only be issued when the faulty item provided is in 'as new' condition and undergone an initial technical examination. We must be notified of the fault within 30 days of purchase along with proof of purchase which MUST be provided. If your purchase develops a fault after 30 days and within its 12 month guarantee we will ask you to either return the goods to ourselves or direct to the manufacturers. We generally recommend to return goods direct to the manufacturers as this will be quicker. Any goods that are faulty will be replaced or repaired free of charge. PLEASE NOTE: Any repairs must be accompanied by your original purchase receipt. Any goods that have a more than 12 months warranty we may apply a small administration charge to cover administration costs after the first 12 months, usually £6.50

10.8 PLEASE NOTE: It may take up to 4-6 weeks for repairs to be undertaken, depending on the manufacturer and the problem.

10.9 Please retain the original packaging for returning your order.

10.10 You have the right to cancel your order with us, in accordance with Consumer Protection

10.11 (Distance Selling) Regulations 2000. The period in which you can exercise that right is 7 working days beginning the day after your goods are received. The goods must be returned, unused with all the original packaging present within the 7 days of the notice to cancel. Returns postage charges will not be paid by the NFE Group. We reserve the right to have the goods inspected by a technician prior to replacement or refund.

10.12 Prices shown are the price you pay, unless individually specified. On almost all our products, there is no postage, shipping, handling or other costs within the UK mainland. For the larger items we have to charge postage and the price will be clearly specified within that particular product's description. If your item has more than a 5 day delay we will notify you. You will always be emailed with confirmation of your order.

10.13

## **11. Termination**

### **Clients**

11.1 We may terminate services immediately by giving You notice in writing if:

- (a) You breach any of Your obligations under this Agreement
- (b) You do not use the Database for more than six months, unless You agree this with Us in writing;
- (c) You:
  - (i) are made bankrupt;
  - (ii) have a receiver or an administrative receiver appointed over You or any part of Your business or assets;
  - (iii) pass a resolution for winding up (otherwise than for a genuine scheme of solvent merger)

- or reconstruction,) or a court makes an order to that effect;
- (iv) enter into any voluntary arrangement with Your creditors;
  - (v) have to follow an administration order; or
  - (vi) stop trading
  - (vii) any payment is overdue

11.2 You may terminate Your Service Agreement, if or as required, by giving Us notice in writing in line with Your Service Agreement, clause 6.

11.3 Termination of this Agreement will not affect either of our rights or responsibilities which continue up to the date this Agreement ends. Clauses 5, 6, 15, 16 and 21 will continue to apply following termination of the Agreement.

### **Suppliers**

11.4 We may terminate Our services immediately by giving You notice in writing if:

- (a) You breach any of Your obligations under this Agreement (including without limitation a failure to meet any of the Supplier Approval requirements we issue from time to time and / or a breach of the Terms of Use)
- (b) You do not complete your Supplier Approval
- (c) You:
  - (i) are made bankrupt;
  - (ii) have a receiver or an administrative receiver appointed over You or any part of Your business or assets;
  - (iii) pass a resolution for winding up (otherwise than for a genuine scheme of solvent merger or reconstruction), or a court makes an order to that effect;
  - (iv) enter into any voluntary arrangement with Your creditors;
  - (v) have to follow an administration order; or
  - (vi) stop trading
  - (vii) any payment is overdue

### **12. Events beyond our Control**

12.1 Neither We nor You will have any liability whatsoever for any delays or failures in our performance of this Agreement resulting from any event arising beyond our reasonable control (including, but not limited to, war or national emergency, accident, force majeure, fire, riot and strike).

12.2 We each agree to tell each other immediately about any such event and to try to reduce the effect of such event on the performance of our obligations under the Agreement as soon as reasonably possible.

### **13. Transferring or Subcontracting**

13.1 You may not transfer, subcontract or otherwise pass on any of Your rights or responsibilities under this Agreement.

13.2 We will be entitled to transfer, subcontract or otherwise pass on all or any of Our rights and responsibilities under this Agreement to any person without requirement for Your permission.

## **14. Changes to Terms of Business**

14.1 We may change these Terms of Business at any time and any such changes will vary the Services between us without the need for your consent.

14.2 We will tell you about any such changes where possible by email (shall be deemed to have been duly sent on the date of transmission) and such Changes will not come into force for at least 30 days after we tell you about them and our notification of changes will indicate the date at which the change comes into force.

## **15. Partnership**

15.1 Nothing in this Agreement is intended to, or shall be interpreted to, establish any partnership or joint venture between You and Us, nor will anything in this Agreement constitute You or Us as being the other's agent. Neither of us is authorized to make or enter into any commitments for or on behalf of the other person. You and We each confirm that we are acting on our own behalf and not for the benefit of any other person.

## **16. Governing Law**

16.1 This agreement shall be read and construed in accordance with and be subject to English Law. Any claim made pursuant to the provision of this agreement shall be brought before a court of competent jurisdiction within the United Kingdom.

## **17. Warranties**

- 17.1 NFE Group warrants and represents to Client that it will carry out its duties under this Agreement to the best of current industry standards and practice and with due diligence care and skill.
- 17.2 Notwithstanding any other provision in the Agreement NFE Group's liability to Client for death or injury resulting from its negligence or that of its employees, agents or sub-contractors shall not be limited.
- 17.3 In all other respects NFE Group gives no warranties conditions or representations whatever, express or implied, whether by law or otherwise and whether by itself or by any third party. NFE Group shall not be liable to Client in any manner whatever (whether for breach of contract, negligence or otherwise) in respect of any loss or damage whether direct consequential economic or of any other kind. Client waives releases and disclaims any other such warranties conditions representations and liabilities on the part of NFE Group.

## **18. Indemnity**

18.1 Subject to any liability which NFE Group may have to Client pursuant to clause 5.2 Client indemnifies NFE Group and its employees and agents and shall keep each of them fully indemnified at all times against all actions claims demands proceedings costs expenses fines penalties taxes losses and liabilities whatever in anyway arising out of this Agreement and arising during the period of this Agreement but whenever incurred, including in particular (without limitation) all those arising from or connected with:

18.1.1 Delivery, possession, use, operation, management, maintenance, insurance, or repossession of the Vehicles

18.1.2 Loss, injury or damage sustained by Client, or by any third party, including liability for injury or death.

18.2 Client further agrees to defend NFE Group against any action or proceedings relating to any such losses as are mentioned in paragraph 7.1 of these Conditions and to permit NFE Group at its option to become a party to any such action or proceedings and to indemnify NFE Group against all costs (including legal costs) arising from any such defence.

## **19. Employment Law**

NFE Group warrants to Client that none of its employees nor the employees of any other party who have been involved in the provision of any of the Services will become employees of Client by reason of the transfer of the provision of the services to Client and the operation of the Transfer of Undertakings (Protection of Employment) Regulations 1981 ('The Regulations').

## **20. Insurance**

NFE Group will effect at its own expense and maintain during the term of this agreement with a reputable insurance company insurance cover against injury to any person or property with a limit of not less than £10,000,000 in respect of any one incident arising directly or indirectly out of NFE Group's performance of the Services undertaken in this Agreement.

## **21. Miscellaneous**

21.1 This Agreement forms the entire agreement between You and Us and replaces any previous Agreement(s) in place between us.

21.2 If we fail to use or delay in using any right We have under this Agreement, We do not waive such right and may still use that right (and any other rights under this Agreement) at a later date or in any other situation where You fail to carry out any of Your responsibilities under this Agreement.

21.3 If any provision of this Agreement is held to be illegal or unenforceable, this will not affect the validity or enforceability of any of the other provisions which will still apply and continue to be enforceable by law.

21.4 This agreement is not intended to create any right that any other person can enforce. The Contracts (Rights of Third Parties) Act 1999 is expressly excluded from this Agreement.