



## **BRADAN UK LTD TERMS & CONDITIONS OF BUSINESS**

- 1. Definitions** In these conditions:
  - 1.1 “the Company” means Bradan UK Limited
  - 1.2 “the Client” means the person entering into the Contract with the Company
  - 1.3 “the Contract” means the contract entered into by the Company and the Client
  - 1.4 “the Services” means the services to be performed and work to be done by the Company under the Contract
  - 1.5 “the Goods” means the items which are the subject of the Contract
  - 1.6 “these Conditions” means the terms and conditions printed on these pages
  - 1.7 “Dangerous Goods” means anything specified in the current list issued by the Health and Safety Commission (or any official body performing the same or similar functions), any weapon, drug, poison, damaging or explosive article or substance or anything likely to encourage vermin or other pests or likely to cause infection, or anything which in the sole opinion of the Company is of a similar nature
  - 1.8 “Regulation” includes any rule or regulation of a legislative character howsoever enacted or authorised
  - 1.9 words in the singular include the plural and words in the plural include the singular
  - 1.10 words in the neuter or masculine genders include the feminine and also include legal persons without gender.

## **2. Effect of these conditions and method of variation**

- 2.1 The Contract is subject to these Conditions.

- 2.2 No terms or conditions apply to the Contract other than these Conditions.
- 2.3 These Conditions may not be varied except in writing signed by a Director of the Company.
- 2.4 The Client admits that its decision to enter the contract has not been influenced by any oral statement as to the effect of these Conditions or by any oral statement that is inconsistent with any of these Conditions or which purports to offer anything different from any of these Conditions.

### **3. Parties and sub-contractors**

- 3.1 The Client enters into the Contract:
  - (a) as the sole owner of all legal and beneficial interests in the Goods; or
  - (b) for and on behalf of that owner, in which case it also warrants that it is duly authorised by that owner to enter into the Contract and that the owner has the legal capacity to enter into the Contract.
- 3.2 The Company may sub-contract part or the whole of the Contract provided that the name of any such sub-contractor shall be provided to the Client on request. For the purposes of this Condition 3.2 the Company contracts for itself and as agent of and trustee for its servants and agents, and such other sub-contractors and other sub-contractors' servants and agents, and except where the context requires, every reference in these Conditions to the Company shall be deemed to include such other sub-contractor, servant and agent.
- 3.3 The liability of each component of the Company as defined in Condition 3.2 above shall not exceed that of the Company.
- 3.4 Subject to these Conditions, the Company shall be responsible for the acts and omissions of its agents and servants when such agents or servants are acting within the scope of their employment as if such acts or omissions were its own.

### **4. The Goods**

- 4.1 The Client warrants that the Goods are in all respects as described to the Company, including particularly (but without prejudice to the generality of this requirement) as to their nature, weight, quantity, condition and dimensions.
- 4.2 If the Goods include Dangerous Goods then:
  - (a) The Goods shall be accompanied by a full written declaration of their nature and contents and the Client warrants that the Goods comply with

all Regulations concerning their storage, transport, packaging and labelling.

- (b) At any time while the Goods are the Company's responsibility, the Client shall inform the Company in writing of any change in any Regulation affecting the Dangerous Goods, including of the introduction of any such Regulation.
- (c) Without prejudice to the generality of the foregoing, the Client shall provide the Company in writing with such information in relation to the Goods as will make obvious to the Company any hazards created by the Goods together with any action to be taken in an emergency. Notwithstanding any other provision in these Conditions, the Goods shall not be the Company's responsibility until and unless such information has been provided.

## **5. Transport Services**

The provisions of this Condition 5, apply if the Services include the transport of the Goods.

5.1 The Company shall do the following (hereinafter "the Transport Services"):

- (a) provide a means of transport for the Goods (hereinafter "the Means of Transport");
- (b) load the Means of Transport with the Goods;
- (c) transport the Goods from the place designated by the Client for collection of the Goods (hereinafter "the Collection Point") to the place designated by the Client for their delivery (hereinafter "the Delivery Point"); and
- (d) unload the Goods from the Means of Transport at the Delivery Point;
- (e) throughout the period that the Goods are the Company's responsibility, provide that a policy of insurance is in place such that the Goods are insured against the risks mentioned in that policy to a value mentioned in that policy. The policy is not "all risks": the Client is advised to ensure that the policy is sufficient for its requirements and a written copy of the terms of the policy will be sent to the Client on request.

5.2 The Client warrants that:

- (a) the Collection and Delivery Points will be freely and continuously accessible by the Means of Transport throughout the period while the Goods are loaded and unloaded;

- (b) clear and sufficient routes will be available for the unimpeded movement of the Goods by the Company at and about the Collection and Delivery Points. By way of example only, this warranty means that the Client must ensure that any corridor, stairway, lift, hall, passage or doorway is wide enough for the Goods and is unobstructed;
- (c) the floors and other elements of any building or structure at the Collection or Delivery Points will safely bear the loads placed on them in the course of executing the Contract;
- (d) all items intended to constitute the Goods have been notified to the Company;
- (e) on the date and at the times agreed in the Contract, the Goods will be ready for transport and the places designated as the Collection and Delivery Points will be ready and available for collection and delivery of the Goods;
- (f) it will inspect the Goods within 24 hours of delivery.

5.3 The Client may by notice in writing to the Company postpone the date or times for the provision of the Transport Services (hereinafter “the Transport Services Date”) but in the event of any postponement by the Client the Company may make the following charges:

- (a) if the postponement is notified more than 10 complete days before the Transport Services Date, no charge;
- (b) if the postponement is notified between 8 and 10 complete days before the Transport Services Date, 15% of the charge for the Transport Services;
- (c) if the postponement is notified between 48 hours and 8 complete days before the Transport Services Date, 20% of the charge for the Transport Services;
- (d) if the postponement is notified within 48 hours of the Transport Services Date, the entire charge for the Transport Services;
- (e) if the Transport Services Date has already been postponed by the Client then, if the Company chooses, any further postponement by the Client will be treated as if it were a postponement by the Client under Condition 5.3(d) of these Conditions.

5.4 The Client may by notice in writing to the Company withdraw from the Contract prior to the time at which the Goods become the Company’s

responsibility but in the event of any withdrawal by the Client the Company may make the following charges:

- (a) if the withdrawal is notified more than 10 complete days before the date on which the Transport Services were intended to be executed, no charge;
- (b) if the withdrawal is notified between 8 and 10 complete days before the date on which the Transport Services were intended to be executed, 25% of the charge for the Transport Services;
- (c) if the withdrawal is notified between 48 hours and 8 complete days before the date on which the Transport Services were intended to be executed, 30% of the charge for the Transport Services;
- (d) if the withdrawal is notified within 48 hours of the date on which the Transport Services were intended to be executed, the entire charge for the Transport Services.

5.5 The Client may by notice in writing to the Company withdraw from the Contract after the time at which the Goods become the Company's responsibility but in the event of any such withdrawal by the Client the Company may make the following charges:

- (a) the entire charge for the Transport Services;
- (b) any additional costs (including any storage costs) incurred by the Company in returning the Goods to the Collection Point. The Company may, without incurring any liability to the Client, postpone such return if returning the Goods would otherwise jeopardise or increase the expense of performing any other contract between the Company and any other person.

5.6 The ownership of any materials packaging and equipment used in providing the Transport Services remains with the Company.

## **6. Storage Services**

The provisions of this Condition 6 apply if the Services include the storage of the Goods.

6.1 Following acceptance by the Company of the Goods for storage, the Company will (if requested) provide the Client with a written receipt of the Goods. The Company's written receipt is not evidence of the condition of any of the Goods, or of any other characteristic of the Goods including (but without prejudice to the generality of the foregoing) as to their quantity or volume.

- 6.2 The Client may collect the Goods (or any part of them) from storage at any time between the hours of 7am and 5pm between Monday and Friday (except on a public/bank holiday), after having given not less than 24 hours notice to the Company.
- 6.3 The Contract may be terminated
- (a) by the Company by not less than 21 days notice in writing served on the Client; or
  - (b) by the Client by not less than 21 days notice in writing served on the Company.
- 6.4 Notwithstanding that the Goods may have been removed from storage prior to the expiration of the 21 days mentioned above, all storage charges will be payable by the Client up until the expiration date.
- 6.5 The Contract may also be terminated by the Company forthwith and without more if in the Company's opinion
- (a) the Client's financial position becomes unsatisfactory or if the Client ceases to pay its debts in their entirety as they become due or is deemed to be unable to pay its debts as they become due; or
  - (b) the storage of the Goods poses a risk to the health and safety of any person (including the Company); or
  - (c) the storage of the Goods may cause damage to the property of any person (including the Company).
- 6.6 The Client will remove the Goods from storage by no later than the termination of the Contract.
- 6.7 If the Goods have not been removed by the termination of the Contract and no new Contract has been expressly agreed then the Company may freely choose to:
- (a) continue to store the Goods and charge the Client twice the rate mentioned in the Contract; or
  - (b) auction the Goods and, after having deducted its reasonable expenses, return the proceeds to the Client. The Company may conduct such an auction even if it has already continued to store the Goods under Condition 6.7(a).
- 6.8 The Client warrants that a policy of insurance is in place in respect of the Goods such that the Goods are insured in their full reinstatement value

against loss or damage howsoever caused at all times while the Goods are in storage.

## **7. Responsibility for the Goods**

- 7.1 Subject to these Conditions, if the Services consist only of the transport of the Goods, then the Company's responsibility for the Goods shall begin when it commences to load the Goods and shall end when it has finished unloading them or when the Client withdraws from the Contract, whichever is sooner.
- 7.2 Subject to these Conditions, if the Services consist of the transport and storage of the Goods, then the Company's responsibility for the Goods shall begin when it commences to load the Goods and shall end when the Client withdraws from the Contract or the Contract is terminated, whichever is sooner.
- 7.3 Subject to these Conditions, if the Services consist only of the storage of the Goods, then the Company's responsibility for the Goods shall begin when the Company accepts the Goods into storage and shall end when the Contract is completed or terminated.

## **8. Notification**

- 8.1 The Client shall notify the Company in writing of any claim arising out of or in relation to the Contract within 7 days of the date when the Goods cease to be the Company's responsibility.
- 8.2 All written communications from the Company to the Client shall be deemed to have been received by the Client within 2 days after posting by the Company, provided that the Company uses pre-paid post and addresses the written communication to the Client at the Client's last known address.

## **9. Company's liability to Client**

9.1 The Company is not liable for:

- (a) loss, damage or delay which is not caused by its actual fault;
- (b) consequential losses or damages;
- (c) loss or damage of whatever type that has not been notified in accordance with Condition 8 of these Conditions;
- (d) damage to the Goods caused by climatic conditions or by the weather;
- (e) loss or damage caused by any delay by the Company in commencing or completing the Services;

- (f) items taken or left in error either by the Company or by the Client;
- (g) loss or damage incurred after the Goods have ceased to be the Company's responsibility.

9.2 The amount of the Company's liability arising out of or in connection with the Contract shall not exceed

- (a) in relation to Transport Services, the amount recoverable (if any) on a claim under the insurance policy mentioned in clause 5.1(e) above;
- (b) in relation to Storage Services, £100 per tonne on the gross weight of the Goods or the total amount of the charges for the Storage Services, whichever is the lesser.

## **10. Indemnity**

10.1 The Client shall indemnify the Company against any loss, damage injury or expense incurred by the Company and against any claim made by any third party for any loss, damage or injury caused by or arising by reason of:

- (a) the fact that any premises or property (unless owned by the Company) onto which the Company reasonably goes for the purpose of carrying out the Services, are not reasonably fit and safe for that purpose;
- (b) all claims and demands whatsoever suffered or incurred by the Company in consequence of injury to persons and/or loss of or damage to property caused by or arising out of the storage by the Company of Dangerous Goods whether or not declared by the Client as such;
- (c) all claims and demands whatsoever by whoever made in excess of the liability of the Company under these Conditions.

## **11. Data**

11.1 If the Goods include data electronically or magnetically stored (such as on a computer), then the Client warrants that it has copied the data onto a medium suitable for protecting the data against loss or damage (hereinafter "the Backup") and suitable for enabling the data to be used independently of the Goods.

11.2 The Client warrants that the Goods do not include the Backup and that it will keep the Backup safe and separate from the Goods at all times until the Goods cease to be the Company's responsibility.

## **12. Payment**



- 12.1 Sums due from the Client under the Contract will be invoiced by the Company and must be paid within 28 days of the date of the invoice.
- 12.2 The Client will pay interest on any sum not so paid at the rate of 2% per annum above the base rate for the time being of Barclays Bank Plc. Such interest will be calculated on a daily basis.
- 12.3 The Client may not make any deduction or set off (whether legal or equitable) whatsoever from the sums payable to the Company under the Contract.
- 12.4 The Company shall have a general right of lien against the Goods in respect of any sum whatsoever due from the Client to the Company. If any such lien is not satisfied within a reasonable time the Company may sell any or all of the goods as agent for the Client and will account to the Client for any proceeds after having applied the proceeds first towards discharging its reasonable expenses associated with the sale and next towards discharging the sums due from the Client to the Company.
- 12.5 Any combined value of contract/project exceeding £100,000.00, a deposit of 30% is made payable on commencement of works.
- 12.6 If a contract/project is terminated after the commencement of works has begun, then a fee of all expenses accrued to date and a cancellation fee of 10% of the value of the contract/project are to be paid within 28 days

### **13. General**

- 13.1 The Company is not a common carrier. Any Goods carried by the Company are subject to the conditions of any other carrier concerned in the transport provided that the liability of the Company shall be limited to any such conditions and shall not be extended thereby.
- 13.2 If the Contract involves the international carriage of the Goods by road so that the Carriage of Goods by Road Act 1965 is deemed to modify the terms of these Conditions the statutory terms shall only apply to that part of the Contract which consists of the carriage of goods by road and shall not apply to any other preparatory, warehousing or site work.
- 13.3 None of these Conditions shall be vitiated by the illegality, invalidity or unenforceability of any other of these Conditions.
- 13.4 The Company shall be relieved of its obligations under the Contract to the extent that performance is prevented by failure of the Client, fire, weather conditions, industrial dispute, labour disturbance, mechanical failure, riot, affray or any other cause whatsoever beyond the reasonable control of the Company.

13.5 The Contract is governed by the laws of England.