

## Tachograph Analysis Agreement

An agreement between The Road Haulage Association and the operator (details given below) to carry out independent analysis of the drivers' hours records, that will be periodically supplied by the operator, as shown:-

This agreement is made on the \_\_\_\_\_ day of month \_\_\_\_\_, 20\_\_ between \_\_\_\_\_

a. whose address/registered office is \_\_\_\_\_ of the one part and

b. The Road Haulage Association Tachograph Analysis Service.  
of the other part.

1. **The Road Haulage Association Tachograph Analysis Service agrees to :-**

- a. analyse all tachograph charts/ drivers hours records supplied by the operator, named above.
- b. return the tachograph charts/ drivers records to the operator once analysis has been completed. supply to the operator a detailed, printed, analysis document for each set of records:-
  - (i) giving details of individual daily drivers' hours infringements
  - (ii) details of weekly statistical data
  - (iii) information on any other tachograph errors
- c. provide the operator with advice and information, with regard to any infringements reported.

2. **The operator agrees** that he/ she will -

- a. Submit to The Road Haulage Association Tachograph Analysis Service completed tachograph charts/ driver records, relating to journeys undertaken by drivers' following the orders and instructions of the operator:
  - (i) within 4 weeks of the Agreement, and, thereafter;
  - (ii) every 4 week (s)
- b. pay to The Road Haulage Association such fee per tachograph chart/ daily drivers record as is agreed at the outset of this contractual arrangement.

3. This Agreement may be ended by either party giving to the other 3 months written notice of his/ her intention to end it.

4. This Agreement incorporates the attached Tachograph Analysis Service: Terms of Business

**Schedule**

Signature of authorised representative of the operator

NAME (please print):

Date:

Signature of authorised representative of The Road Haulage Association

NAME (please print):

Date:



# TACHOGRAPH ANALYSIS SERVICE: TERMS OF BUSINESS

## TACHOGRAPH ANALYSIS SERVICE: TERMS OF BUSINESS THE OPERATOR'S ATTENTION IS PARTICULARLY DRAWN TO THE PROVISIONS OF CLAUSE 10.

### 1. Interpretation

#### 1.1 Definitions:

**Agreed Purposes:** the procurement of the Services by the RHA for the Operator

**Business Day:** a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.

**Charges:** the charges payable by the Operator for the supply of the Services in accordance with clause 5.

**Commencement Date:** has the meaning set out in clause 2.2.

**Conditions:** these terms and conditions as amended from time to time in accordance with clause 13.5.

**Contract:** the contract between the RHA and the Operator for the supply of Services in accordance with these Conditions.

**Customer Portal:** shall have the meaning set out in clause 3.2.

**Data Protection Legislation:** the UK Data Protection Legislation and (for so long as and to the extent that the law of the European Union has legal effect in the UK) the GDPR and any other directly applicable European Union regulation relating to privacy.

**Deliverables:** the tachograph analysis reports referred to in clause 3.1(b) produced by the RHA for the Operator through the RHA System.

**GDPR:** General Data Protection Regulation ((EU) 2016/679).

**Intellectual Property Rights:** patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how), 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.

**Licensed User:** means an employee of the Operator permitted by these Conditions and the RHA to use the Services and access the RHA System.

**Member:** an Operator who is a current member of the RHA.

**Non-Member:** an Operator who is not a Member.

**Operator:** the person or firm who purchases the Services from the RHA. **Operator Default:** has the meaning set out in clause 4.13.

**Operator Records:** the digital/analogue tachograph charts and/or drivers records supplied, in whatever form, to the RHA by the Operator.

**Order:** the Operator's order for Services (to include the number of drivers whose data is to be analysed through the Services) as set out in the Operator's purchase order form or the Operator's written, e-mailed or verbal acceptance of the RHA's quotation, as the case may be.

**Permitted Recipients:** The parties to this agreement, the employees of each party, any third parties engaged to perform obligations in connection with this agreement, in particular TruTac or any replacement supplier of the Services.

**Personal Data:** any personal data (having the meaning set out in the Data Protection Legislation) supplied by the Operator to the RHA for the purposes of the Contract.

The Customer shall own all right, title and interest in and to all of the Personal Data and shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of the Personal Data.

**Services:** the tachograph analysis services, including the Deliverables, supplied by the RHA to the Operator as set out in these Conditions.

**Software:** tachograph analysis software used as part of the RHA System and downloaded by the Operator through the Website.

**RHA:** Road Haulage Association Limited, a company registered in England and Wales with company number 00391886.

**RHA System:** the web-based, automated, digital and analogue tachograph analysis reporting system which operates using the Software.

Shared Personal Data: the personal data to be shared between the parties and TruTac or such replacement supplier of the Services.

Term: the period of 12 months from the Commencement Date.

[Terms of Use: the terms of use found at the Website.]

UK Data Protection Legislation: any data protection legislation from time to time in force in the UK including the Data Protection Act 1998 or 2018 or any successor legislation

Website the RHA Analysis website at [www.rhaanalysis.uk.net](http://www.rhaanalysis.uk.net)

## 1.2 Interpretation:

(a) A reference to a statute or statutory provision is a reference to it as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted.

(b) Any phrase introduced by the terms including, include, in particular or any similar expression, shall be construed as illustrative and shall not limit the sense of the words preceding those terms.

(c) A reference to writing or written includes fax and email.

## 2. Basis of contract

2.1 The Order constitutes an offer by the Operator to purchase Services in accordance with these Conditions.

2.2 The Order shall only be deemed to be accepted when the RHA issues written or emailed acceptance of the Order at which point and on which date the Contract shall come into existence (Commencement Date). The Contract shall continue for the Term (or until terminated under the terms of these Conditions, whichever is the earliest) after which time, the Contract shall automatically terminate.

2.3 Any descriptive matter or advertising issued by the RHA, and any descriptions or illustrations contained in the RHA's website or brochures, are issued or published for the sole purpose of giving an approximate idea of the Services described in them. They shall not form part of the Contract or have any contractual force.

2.4 These Conditions apply to the Contract to the exclusion of any other terms that the Operator seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

2.5 Any quotation given by the RHA shall not constitute an offer, and is only valid for a period of 30 days from its date of issue.

## 3. Supply of Services

3.1 The RHA shall procure the Services for the Operator such services consisting of the following:

(a) Unlimited data analysis for the number of drivers specified in the Order through the RHA System;

(b) The ability for the Operator to build a detailed, analysis report through the RHA System in respect of the number of

drivers specified in the Order, with such report including some or all of the following information:

(i) Details of individual daily drivers' hours infringement;

(ii) Details of weekly statistical data; and

(iii) Information on any other tachograph errors or infringements which the Operator has specifically requested, in writing, that the RHA should identify/analyse.

(c) Access to the RHA's telephone support team who may provide advice on the analysis provided by the RHA under clause

3.1(a) above.

3.2 The Services shall be delivered to the Operator by TruTac Ltd (Co Reg No: 2521511) or such other provider as the RHA shall in its absolute discretion determine.

3.3 Upon commencement of the Contract, the Operator will be permitted to download the Software and will then be provided with a unique user name and password which it will need to use to access the RHA System through a customer portal account assigned to the Operator ('Customer Portal'). The Operator will have access to the RHA System for the Term unless such access or the Contract is terminated earlier in accordance with these Conditions.

3.3 The Operator acknowledges that any other services provided by the RHA which are accessible through the Customer Portal, the Website or the RHA System, may be subject to separate terms and conditions and charges.

3.4 The RHA shall use all reasonable endeavours to meet any performance dates which the RHA may specify to the Operator, but any such dates shall be estimates only and time shall not be of the essence for performance of the Services.

3.5 The RHA shall have the right to make any changes to the Services which are necessary to comply with any applicable law or safety requirement, or which do not materially affect the nature or quality of the Services, and the RHA shall notify the Operator in any such event.

## 4. Operator's obligations

4.1 The Operator shall:

(a) ensure that the terms of the Order are complete and accurate;

(b) co-operate with the RHA in all matters relating to the Services;

(c) download all Operator Records in accordance with any time periods set out in applicable law or guidance (including, without limitation, any guidance issued by the DVSA), or otherwise in a timely manner; and

(d) provide the RHA with such information and materials as the RHA may reasonably require in order to supply the Services; and ensure that such information is accurate in all material respects.

4.2 The Operator acknowledges and agrees that:

(a) the Services do not include analysis of any Operator Records which relate to a period dated before the date of this Contract (including without limitation, backdated digital records or charts) or a number of drivers exceeding the number specified in the Order;

(b) the Services and any related Deliverables are based strictly on the paperwork and the materials provided by the Operator and accordingly the RHA shall have no liability to the Operator for any omissions in the Services and any of the Deliverables as a result of the failure of the Operator to provide any relevant information or materials at the relevant time;

(c) any Deliverables are for the sole use of the Operator and not for the use of any third party. The Operator further acknowledges and agrees that such Deliverables will not be relied upon by any third party and the RHA shall have no liability whatsoever for any loss caused to third parties in reliance upon any Deliverables; and

(d) any Deliverables provided to the Operator shall not be changed by the RHA after delivery to the Operator (including, without limitation, where new information is provided to the RHA after the Services were performed since the Services are performed based upon the information provided at the time of performance of the Services) unless there is manifest error on the part of the RHA.

4.3 The Operator will not, and will ensure that any Licensed User will not, use the RHA System to post, transmit, distribute, upload, store or destroy any Data;

(a) in a manner which will infringe any IPR of, or any trade secret belonging to, any person; or

(b) which infringes the privacy of any other person; or

(c) which is defamatory, obscene, threatening, abusive of another person or otherwise inappropriate.

4.4 The Operator will, and will ensure that each Licensed User will, keep any User Name and Password given to him or her by RHA for use in connection with the Services confidential and secure at all times and will not disclose or divulge any such Password to any other third party.

4.5 The Operator will not, and will ensure that each Licensed User will not, breach or attempt to breach the security of the Website, including, without limitation:

(a) accessing, or attempting to access any Data not intended for the Operator (or any of its Licensed Users) or logging into a server or account to which the Operator (or any of its Licensed Users) is not authorised to access;

(b) attempting to probe, scan or test the vulnerability of a system or network or to breach security or authentication measures without proper authorisation; or

(c) attempting to interfere with services to any other Operator, host or network, including, without limitation, via means of submitting a virus to the Website, "overloading", "flooding", "spamming" or "mailbombing" or "crashing".

4.6 The Operator is responsible for its activities and the activities of Licensed Users and, by accepting these Services from the RHA, is agreeing to ensure that both the Operator and its Licensed Users abide by these Conditions. If irresponsible or

illegal activity takes place the Service may be subject to suspension, termination or other action as the RHA may deem appropriate without notice. Subsequent actions such as re-enabling of the Services or formal cessation of the Services shall be done in consultation with the Operator.

4.7 Without prejudice to the other provisions of these Conditions, and on reasonable written notice to the Operator, the RHA reserves the right at its sole discretion to vary, enhance, modify, substitute or amend, at its own expense, any element of the RHA System.

4.8 The RHA will use reasonable endeavours to ensure that the RHA System is operating and available at all times to the Operator and Licensed Users. However due to updating, necessary maintenance down-time, reliance on third parties and conditions outside of the RHA's control, RHA cannot guarantee uninterrupted, error-free, secure or timely availability of any part or all of the RHA System.

4.9 In the event of unscheduled maintenance being required the RHA shall not be liable for any costs, losses, expenses or damages resulting from or related to the unavailability of the RHA System.

4.10 The RHA cannot guarantee that any transmissions of information or Data to, from and via the Website or via email to or from the RHA will not be altered, intercepted or tampered with outside of the RHA System and accepts no liability for loss or damage arising directly or indirectly as a result of such incident taking place.

4.11 The Operator is solely responsible for any breaches of security affecting servers resulting from negligence in security details and problems within the Operator owned content. If the Operator's server is involved in an attack on another server or system, the RHA may shut down such server and launch an investigation, once diagnosed, to determine the cause and/or source of the attack. In such event, the Operator is solely responsible for the cost to rectify any damage done to the Operator's server and any other requirement affected by the security breach. The Operator should ensure that any passwords for the RHA System are changed if there is a suspected breach of security or there are personnel changes.

4.12 [The Operator should ensure that it and its Licensed Users comply with the Terms of Use.]

4.13 If the RHA's performance of any of its obligations under these Conditions is prevented or delayed by any act or omission by the Operator or failure by the Operator to perform any relevant obligation (Operator Default):

(a) the RHA shall without limiting its other rights or remedies have the right to suspend performance of the Services until the Operator remedies the Operator Default, and to rely on the Operator Default to relieve it from the performance of any of its obligations to the extent the Operator Default prevents or delays the RHA's performance of any of its obligations;

(b) the RHA shall not be liable for any costs or losses sustained or incurred by the Operator arising directly or indirectly from the RHA's failure or delay to perform any of its obligations as set out in this clause

4.13; and

(c) the Operator shall reimburse the RHA on written demand for any costs or losses sustained or incurred by the RHA arising directly or indirectly from the Operator Default.

## 5. Charges and payment

5.1 The Charges for the Services shall be based on a fixed fee for the number of drivers specified in the Order, per year, with differing fees applying depending on whether the Operator requires digital or analogue analysis. The RHA will advise the RHA of the applicable fees in a quotation or otherwise prior to the Operator placing an Order.

5.2 If the Operator requests additional drivers to the number stated in the Order, or uploads data to the RHA system relating to drivers not included within the number specified in the Order, then additional Charges will apply.

5.3 If the number of drivers decreases during the Term from the number set out in the Order, the RHA will not be obliged to refund the Charges or any part of the Charges.

5.4 The RHA shall invoice the Operator upon acceptance of the Order.

5.5 The Operator shall pay each invoice submitted by the RHA:

(a) within 30 days of the date of the invoice in the case of Members and prior to commencement of the Services in the case of Non-Members, or in quarterly instalments if agreed in advance by the RHA; and

(b) in full and in cleared funds to a bank account nominated in writing by the RHA, and

(c) time for payment shall be of the essence of the Contract.

5.6 All amounts payable by the Operator under the Contract are exclusive of amounts in respect of value added tax chargeable for the time being (VAT). Where any taxable supply for VAT purposes is made under the Contract by the RHA to the Operator, the Operator shall, on receipt of a valid VAT invoice from the RHA, pay to the RHA such additional amounts in respect of VAT as are chargeable on the supply of the Services at the same time as payment is due for the supply of the Services.

5.7 If the Operator fails to make any payment due to the RHA under the Contract by the due date for payment then the Operator shall pay interest on the overdue amount at the rate of 4% per cent per annum above Lloyds Bank PLC's base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Operator shall pay the interest together with the overdue amount.

5.8 The Operator shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law). The RHA may at any time, without limiting its other rights or remedies, set off any amount owing to it by the Operator against any amount payable by the RHA to the Operator.

5.9 Charges remain payable in full regardless of how the Operator uses the Software or analysis provided as part of the Services.

## 6. Intellectual Property Rights

6.1 All Intellectual Property Rights in or arising out of or in connection with the Services, the Software and the RHA System belong to the RHA or its licensors, and the Operator acknowledges and agrees that rights in the Software and the RHA System are licensed (not sold) to the Operator, and that the Operator has no rights in, or to, the Software and the RHA System other than the right to use it in accordance with these Conditions.

6.2 The Operator acknowledges that, in respect of any third party Intellectual Property Rights, the Operator's use of any such Intellectual Property Rights is conditional on the RHA obtaining a written licence from the relevant licensor on such terms as will entitle the RHA to license such rights to the Operator.

6.3 Subject to the other provisions of these Conditions, the Operator will indemnify and keep indemnified in full and on demand, the RHA from and against all costs, liabilities, and expenses (including, without limitation, legal costs) directly relating to, resulting from or arising out of:

(a) any use (other than use permitted in accordance with these Conditions) which the Operator and/or any of its Licensed Users, employees, agents, consultants and/or subcontractors make of the Services and the RHA System (including, without limitation, where such use infringes the IPR of the RHA or any third party who has licensed its IPR to the RHA); or

(b) any breach by the Operator and/or any of its Licensed Users of these Conditions.

## 7. Software

7.1 In consideration of the Operator's obligation to pay Charges, the RHA grants to the Operator and the Licensed Users a non-transferable, non-exclusive licence for the duration of this Contract to use and access the RHA System remotely, via the internet through the use of a browser.

7.2 The Operator will comply with, and ensure that any Licensed User will at all times comply with the provisions of these Conditions and, in particular, shall not:

(a) copy, adapt, reverse engineer, decompile, disassemble or modify the Software in whole or in part or attempt to do any such thing;

(b) rent, lease, sub-license, loan, translate, merge, adapt, vary or modify the Software;

(c) make alterations to, or modifications of, the whole or any part of the Software, or permit the Software or any part of it to be combined with, or become incorporated in, any other programs;

(d) sub-license, assign or novate the benefit or burden of the Contract in whole or in part;

(e) allow the Software to become the subject of any charge, lien or encumbrance; or

(f) deal in any other manner with any or all of its rights and obligations under these Conditions;

(g) provide or otherwise make available the Software in whole or in part (including object and source code), in any form to any person without prior written consent from the RHA;

(h) use the Software or the Services in any unlawful manner, for any unlawful purpose, or in any manner inconsistent with these Conditions, or act fraudulently or maliciously, for example, by hacking into or inserting malicious code, including viruses, or harmful data, into the Software, the Services or any operating system;

(i) infringe the RHA's IPR or those of any third party in relation to the Operator's use of the Software or any Services, including the submission of any material, (to the extent that such use is not licensed under these Conditions);

(j) transmit any material that is defamatory, offensive or otherwise objectionable in relation to its use of the Software or the Services;

(k) use the Software or the Services in a way that could damage, disable, overburden, impair or compromise the RHA's systems or security or interfere with other users; and

(l) collect or harvest any information or data from RHA's System or attempt to decipher any transmissions to or from the servers running the Services.

## 8. Data Protection

8.1 Shared Personal Data. This clause sets out the framework for the sharing of personal data between the parties as data controllers. Each party acknowledges that one party (the Data Discloser) will regularly disclose to the other party (the Data Recipient) Shared Personal Data collected by the Data Discloser for the Agreed Purposes.

8.2 Effect of non-compliance with Data Protection Legislation. Each party shall comply with all the obligations imposed on a controller under the Data Protection Legislation, and any material breach of the Data Protection Legislation by one party shall, if not remedied within 30 days of written notice from the other party, give grounds to the other party to terminate this agreement with immediate effect.

### 8.3 Particular obligations relating to data sharing.

The Operator shall:

a) ensure that it has all necessary notices and consents in place to enable lawful transfer of the Shared Personal Data to the Permitted Recipients for the Agreed Purposes;

b) give full information to any data subject whose personal data may be processed under this agreement of the nature such processing. This includes giving notice that, on the termination of this agreement, personal data relating to them may be retained by or, as the case may be, transferred to one or more of the Permitted Recipients, their successors and assignees;

Each party shall:

a) process the Shared Personal Data only for the Agreed Purposes;

b) not disclose or allow access to the Shared Personal Data to anyone other than the Permitted Recipients;

c) ensure that all Permitted Recipients are subject to written contractual obligations concerning the Shared Personal Data (including obligations of confidentiality) which are no less onerous than those imposed by this agreement;

d) ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the other party, to protect against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data.

e) not transfer any personal data received from the Data Discloser outside the EEA unless the transferor:

a. complies with the provisions of Articles 26 of the GDPR (in the event the third party is a joint controller); and

b. ensures that (i) the transfer is to a country approved by the European Commission as providing adequate protection pursuant to Article 45 GDPR; (ii) there are appropriate safeguards in place pursuant to Article 46 GDPR; or (iii) one of the derogations for specific situations in Article 49 GDPR applies to the transfer.

8.4 Mutual assistance. Each party shall assist the other in complying with all applicable requirements of the Data Protection Legislation. In particular, each party shall:

a) consult with the other party about any notices given to data subjects in relation to the Shared Personal Data;

b) promptly inform the other party about the receipt of any data subject access request;

c) provide the other party with reasonable assistance in complying with any data subject access request;

d) not disclose or release any Shared Personal Data in response to a data subject access request without first consulting the other party wherever possible;

e) assist the other party, at the cost of the other party, in responding to any request from a data subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;

f) notify the other party without undue delay on becoming aware of any breach of the Data Protection Legislation;

g) at the written direction of the Data Discloser, delete or return Shared Personal Data and copies thereof to the Data Discloser on termination of this agreement unless required by law to store the personal data;

h) use compatible technology for the processing of Shared Personal Data to ensure that there is no lack of accuracy resulting from personal data transfers;

i) maintain complete and accurate records and information to demonstrate its compliance with this clause 8 and the Operator shall allow the RHA to audit such records; and

j) provide the other party with contact details of at least one employee as point of contact and responsible manager for all issues arising out of the Data Protection Legislation, including the joint training of relevant staff, the

procedures to be followed in the event of a data security breach, and the regular review of the parties' compliance with the Data Protection Legislation.

8.5 Indemnity. The Operator shall indemnify the RHA 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 professional costs and expenses) suffered or incurred by the RHA arising out of or in connection with the breach of the Data Protection Legislation by the Operator, its employees or agents, provided that the RHA gives to the Operator prompt notice of such claim, full information about the circumstances giving rise to it, reasonable assistance in dealing with the claim and sole authority to manage, defend and/or settle it.

10. Limitation of liability: THE OPERATOR'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE

10.1 Nothing in these Conditions shall limit or exclude the RHA's liability for:

- (a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;
- (b) fraud or fraudulent misrepresentation; or
- (c) breach of the terms implied by section 2 of the Supply of Goods and Services Act

1982 (title and quiet possession) or any other liability which cannot be limited or excluded by applicable law.

10.2 Subject to clause 10.1, the RHA shall not be liable to the Operator, whether in contract, tort (including negligence), for breach of statutory duty, or otherwise, arising under or in connection with the Contract for:

- (a) loss of profits;
- (b) loss of sales or business;
- (c) loss of agreements or contracts; (d) loss of anticipated savings;
- (e) loss of use or corruption of software, data or information;
- (f) loss of damage to goodwill; and
- (g) any indirect or consequential loss.

10.3 Subject to clause 10.1, the RHA's total liability to the Operator, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with the Contract shall be limited to [the total Charges paid under the Contract].

10.4 In addition to clause 10.3, RHA shall not be liable to the Operator, whether in contract, tort (including negligence), for breach of statutory duty, or otherwise, arising out of the Operator's use of, or reliance on, the Services (including any analysis or recommendations provided) or any action or inaction taken as a result of the same.

10.5 The RHA will not be liable to the Operator for:

- (a) any loss or damage arising out of or in connection with any software or hardware, not forming part of the RHA System;

(b) any loss or damage arising out of or in connection with any loss of service or disruption to availability of any element of the RHA System for any reason.

10.6 The Operator acknowledges that the RHA System has not been developed to meet the Operator's individual requirements, and that it is therefore the Operator's responsibility to ensure that the facilities and functions of the RHA System meet its requirements.

10.7 The terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.

10.8 This clause 10 shall survive termination of the Contract.

11. Termination

11.1 Without limiting its other rights or remedies, either party may terminate the Contract with immediate effect by giving written notice to the other party if:

(a) the other party commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within [14] days of that party being notified in writing to do so;

(b) the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;

(c) the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or

(d) the other party's financial position deteriorates to such an extent that in the terminating party's opinion the other party's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.

11.2 Without limiting its other rights or remedies, the RHA may terminate the Contract with immediate effect by giving written notice to the Operator if the Operator fails to pay any amount due under the Contract on the due date for payment and remains in default not less than [14] days after being notified in writing to make such payment.

11.3 Without limiting its other rights or remedies, the RHA may suspend provision of the Services under the Contract or any other contract between the Operator and the RHA if the Operator becomes subject to any of the events listed in clause 11.2(b) to clause 11.2(d) or the RHA reasonably believes that the Operator is about to become subject to any of them, or if the Operator fails to pay any amount due under this Contract on the due date for payment.

12. Consequences of expiry or termination

12.1 On expiry or termination of the Contract for any reason:

(a) the Operator shall immediately pay to the RHA all of the RHA's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, the RHA shall submit an invoice, which shall be payable by the Operator immediately on receipt;

(b) the Operator's access to the Customer

Portal and the RHA System shall cease;

(c) where the Operator Records are in physical form, the RHA shall return the same to Operator as soon as practicable;

(d) the accrued rights, remedies, obligations and liabilities of the parties as at expiry or termination shall be unaffected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry; and

(e) clauses which expressly or by implication survive termination shall continue in full force and effect.

12.2 After the expiry of [3] months from the date of expiry or termination of the Contract, the RHA may delete any data or Customer Records in its possession and supplied by the Operator.

### 13. General

13.1 Force majeure. Neither party shall be in breach of these Conditions nor liable for delay in performing, or failure to perform, any of its obligations under these Conditions if such delay or failure result from events, circumstances or causes beyond its reasonable control.

#### 13.2 Assignment and other dealings.

(a) The RHA may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights under these Conditions and may subcontract or delegate in any manner any or all of its obligations under these Conditions to any third party or agent.

(b) The Operator shall not, without the prior written consent of the RHA, assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under these Conditions.

#### 13.3 Confidentiality.

(a) Each party undertakes that it shall not at any time during the Contract disclose to any person any confidential information concerning the business, affairs, Operators, clients, members or suppliers of the other party, except as permitted by clause 13(b).

(b) Each party may disclose the other party's confidential information:

(i) to its employees, officers, representatives, subcontractors or advisers who need to know such information for the purposes of carrying out the party's obligations under these Conditions. Each party shall ensure that its employees, officers, representatives, subcontractors or advisers to whom it discloses the other party's confidential information comply with this clause 13.3; and

(ii) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

(c) Neither party shall use the other party's confidential information for any purpose other than to perform its obligations under these Conditions.

#### 13.4 Entire agreement.

(a) These Conditions constitute the entire agreement between the parties and supersede and extinguish all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

(b) 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 these Conditions. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in these Conditions.

13.5 Variation. No variation of these Conditions shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

13.6 Waiver. A waiver of any right or remedy is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. A delay or failure to exercise, or the single or partial exercise of, any right or remedy shall not:

(a) waive that or any other right or remedy; or

(b) prevent or restrict the further exercise of that or any other right or remedy.

THE OPERATOR IS DEEMED TO HAVE ACCEPTED THESE CONDITIONS UPON SIGNING AND DATING BELOW, OR BY INSTRUCTING THE RHA TO PERFORM THE SERVICES, WHICHEVER IS THE EARLIEST:-

13.7 Severance. If any provision or part-provision of these Conditions is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of these Conditions.

#### 13.8 Notices.

(a) Any notice or other communication given to a party under or in connection with these Conditions shall be in writing, addressed to that party at its registered office or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, or sent by pre-paid first class post or other next working day delivery service, commercial courier, fax or email.

(b) A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 13.8(a); if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; if delivered by commercial courier, on the date and at the time that the



courier's delivery receipt is signed; or, if sent by fax or email one Business Day after transmission.

(c) The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

13.9 Third parties. No one other than a party to the Contract shall have any right to enforce any of its terms.

13.10 Governing law. The Contract, 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.

13.11 Jurisdiction. 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 the Contract or these Conditions or their subject matter or formation.

Signed by [ \_\_\_\_\_ ], a director, for and on behalf of

[ \_\_\_\_\_ ]

Date