

## TERMS AND CONDITIONS OF ARROWXL LIMITED

These Terms and Conditions and schedules together with CSF comprise the entire agreement between ArrowXL and Client to the exclusion of all other terms ('Agreement'). Where the CSF is inconsistent with the Terms and Conditions and schedules, the CSF shall prevail. These Terms and Conditions shall always prevail over any document and/or statement issued by the Client in any circumstance including if the Client issues a purchase order or performance has otherwise begun.

### 1. Definitions and Interpretation

**ArrowXL:** ArrowXL Limited (company number 04358875) with registered office at Martland Mill Lane, Wigan, WN5 0LZ

**ArrowXL Failure:** a failure by ArrowXL for the specific reasons set out in paragraph 3 of schedule 3

**ArrowXL Group:** ArrowXL, any subsidiary or holding company of ArrowXL and any subsidiary of such holding company ('holding company' and 'subsidiary' are as defined in the Companies Act 2006 as at the date of the Agreement)

**ArrowXL DC:** any UK ArrowXL distribution centre used to provide the Services

**ArrowXL Lien:** the lien defined in clause 4.8

**Base Contract Fuel Price:** the price in pence per litre of diesel (ex VAT) stated in the CSF

**Broker:** the broker appointed by ArrowXL from time to time to facilitate the Ireland Services

**Charges:** all sums payable by Client pursuant to the Agreement and including the rates in the CSF as varied from time to time in accordance with this Agreement or by agreement between the parties

**Client:** the party stated in the CSF

**Commencement Date:** the date stated in the CSF

**Commodity Code:** the product specific code used to classify the goods comprised in any Consignment for Duties and Taxes

**Confidential Information:** information in any form marked confidential or which is by its nature confidential; including information relating to a party's business, pricing, finances, marketing, customers, suppliers, trade secrets, intellectual property and the Data

**Consignment:** Goods (whether one or more items) consigned for delivery to or collection from a Customer at the same time to include Outbound Consignments and Returns

**Consignment Data:** the necessary electronic data provided by the Client, in such format as ArrowXL may require from time to time, to populate the appropriate fields for electronic invoicing, the completion of customs entries and to support in the delivery of the Consignment

**CSF:** Contract Summary Form

**Customer:** the person to or from whom Consignments are delivered or collected by ArrowXL

**Customer Delivery:** delivery of an Outbound Consignment to a Customer

**Dangerous Goods:** means any product defined, designated, or classified as hazardous material, hazardous substance, or dangerous good (including without limitation, limited and excepted quantities, consumer commodity, ORM-D, lithium batteries, and radioactive and magnetic materials) under any applicable law

**Data:** information, including Customer personal data, provided by Client to ArrowXL to enable ArrowXL to perform the Services

**Data Protection Legislation:** all applicable laws, regulations and ICO guidance concerning the processing of personal data in force from time to time in the UK including the retained EU law version of the General Data Protection Regulation ((EU) 2016/679) ("UK GDPR") and the Data Protection Act 2018

**DBS:** ArrowXL's diary booking service for scheduling Customer Deliveries

**Drop Ship Vendors:** a third-party vendor of the Client enabled for direct fulfilment

**Duties and Taxes:** means any duties, taxes, tariffs, levies, customs assessments, charges, penalties, and any other costs and expenses imposed by any domestic or international import or export authority in respect of the Consignment, and including any such additional costs and expenses introduced from time to time following the United Kingdom's exit from the EU

**Employee Liabilities:** all remuneration, holiday pay, emoluments, expenses, tax or NI contributions, redundancy costs, compensation, damages, claims, awards, fines, costs and all other liabilities arising from the employment of any person

**EORI Number:** means an Economic Operator Registration and Identification number

**Failed Delivery:** any delivery or attempt at delivery made to a Customer after the scheduled delivery date

**Force Majeure Event:** any event affecting performance by a party of its obligations under the Agreement arising from matters beyond its control including acts of God, strikes, accidental or malicious damage, fire, riots, consequence of war, invasion, act of foreign enemy hostilities (whether war is declared or not), civil war, rebellion, insurrection, military or usurped power or confiscation, requisition, destruction of or damage to property, extreme weather conditions, terrorism, intervention or action by government or other authority, compliance with guidance from government or public authority (whether or not legally binding), epidemic or pandemic, the direct or indirect effect of ionising radiations or contamination by radioactivity, the imposition of any new administrative processes or other trade barriers arising as a consequence of the United Kingdom's departure from the European Union or otherwise

**Goods:** goods/products which are the subject of the Services as detailed in the CSF or agreed between the parties in writing

**HHTs:** electronic hand-held terminals used by ArrowXL to record PODs, POCs and information relating to the Services

**ICO:** the Information Commissioner's Office or any replacement body carrying out substantially the same role

**Intake Arrangements:** arrangements for intake of Outbound Consignments, via collection by ArrowXL or delivery into ArrowXL DC by Client or its suppliers

**Initial Term:** 12 months from the Commencement Date unless specified otherwise in the CSF

**Ireland Service:** the part of the Services relating to the transportation of Goods (i) from Mainland UK to the Territory; and/or (ii) from the Territory to Mainland UK.

**Ireland Service Consignment Data:** the information and data set out at paragraph 1.5 of Schedule 5

**Ireland Service Indemnities:** the indemnities set out in the Ireland Service Terms

**Ireland Service Terms:** the Ireland Service terms set out at Schedule 5

**Mainland UK:** has the meaning given in paragraph 7 of Schedule 1

**Multi account:** Services are billed against more than one account (CSF contains more than one account number)

**Origin Information:** all information required by any applicable customs authority in respect of county of origin of the Goods

**Outbound Consignments:** Consignments dispatched by ArrowXL for Customer Delivery

**POC:** proof of collection of a Return in HHT or other format

**POD:** proof of delivery of an Outbound Consignment in HHT or other format

**Pre-Advice Cut-Off:** unless stated otherwise in the CSF (a) for Consignments on 24 Hour delivery, 1700 hrs on the Working Day prior to scheduled date of delivery; (b) for Consignments on 2 Working Day delivery, 1800 hrs on the Working Day which is two Working Days prior to scheduled date of delivery; (c) for Consignments on DBS/Out of Area delivery, 1800 hrs on the day of receipt of Consignment by ArrowXL; and (d) for Returns, 1700hrs on the Working Day prior to Customer contact to arrange collection

**Pre-Advice Data:** an electronic file containing information for each Consignment including (as applicable); Customer booking reference, UPI (unique parcel identification) number, description including weight, dimensions and number of parts, Service requirements, supplier code and all other information requested by ArrowXL to enable ArrowXL to contact the Customer and perform the Services, including Customer address, post code, contact number and email address and the Ireland Services Consignment Data (where applicable).

**Profile:** the Client profile in the CSF

**RTS Consignment:** a 'return to sender' Consignment which is an Outbound Consignment where delivery has failed or is cancelled and which remains undelivered. RTS Consignments are treated as Returns but 'RTS' distinguishes between delivered Consignments where Client has authorised a Return, and Consignments that have never been delivered or left ArrowXL's network

**Review Date:** each 12-month anniversary of the Commencement Date

**Return:** a Consignment collected from a Customer for return to Client

**Returns Location:** the location specified in the CSF or such location as specified by the parties in writing

**Services:** the services listed and defined in Schedule 1 and including the Ireland Service

**Service Default:** when a Consignment is not delivered on time in full and undamaged as a result of an ArrowXL Failure

**Service Level:** the level of service described in Schedule 3

**Single Account:** Services are billed against one account (ie CSF contains one account number)

**Storage Charge:** the storage charge set out on the CSF or as otherwise agreed between the parties in writing

**Territory:** Northern Ireland and/or Eire (Republic of Ireland)

**TUPE Regulations:** Transfer of Undertakings (Protection of Employment) Regulations 2006 including any ancillary or replacement legislation as applicable

**Working Day:** any day from Monday to Saturday which is not Christmas Day, Boxing Day or a bank or public holiday in the location where Services are provided

**'writing' or 'written'** includes email unless specifically stated otherwise by ArrowXL.

**'controller', 'data subject', 'personal data' and 'processing'** are as defined under UK GDPR

Any words following the terms 'including', 'include', 'in particular', 'for example' or any similar expression shall be construed as illustrative and shall not limit the meaning of the words preceding those terms.

## 2. ArrowXL Obligations

- 2.1. ArrowXL shall use its reasonable endeavours to provide the Services. The Services shall be provided on Working Days only. ArrowXL may at its discretion supply Services on a non-Working Day.
- 2.2. ArrowXL warrants that it has capacity and authority and all necessary licences, permits and consents required under applicable law to enter into the Agreement and provide the Services.
- 2.3. ArrowXL shall:
  - 2.3.1. use its reasonable endeavours to provide the Services in accordance with Schedule 1 and the Service Level where applicable;
  - 2.3.2. use suitably qualified and licensed personnel for performance of the Services;
  - 2.3.3. ensure vehicles used for provision of the Services are roadworthy and suitable for the carriage of Goods;
  - 2.3.4. comply with all applicable laws affecting the Services;
  - 2.3.5. perform the Services using reasonable care, skill and diligence;
  - 2.3.6. perform the Ireland Services in accordance with Schedule 5.
- 2.4. Services shall not be provided to benefit Client's suppliers (including Drop Ship Vendors) unless ArrowXL gives prior written consent. Where Services are so provided, Client shall be liable for any act, omission or default of the supplier as if it were an act, omission or default of Client.
- 2.5. ArrowXL shall supply all equipment, software and materials necessary to perform the Services.

- Bespoke or non-standard equipment, software, materials or services will be provided at additional cost to Client. Title to all equipment, software and materials shall remain with ArrowXL.
- 2.6. Liability for Goods shall pass to and from ArrowXL in accordance with Schedule 4, unless stated otherwise.
  - 2.7. Without prejudice to any other exclusions or limitations on liability set out in this Agreement, ArrowXL shall have no liability under this Agreement where it has been unable to perform the Services in whole or in part due to:
    - 2.7.1. Client's breach of any term of the Agreement;
    - 2.7.2. Consignments having been held by ArrowXL due to suspected fraud, address queries or Client or Customer request;
    - 2.7.3. Consignments which are received damaged or incomplete;
    - 2.7.4. Goods which are not labelled correctly or the label is not on the agreed package face;
    - 2.7.5. Consignments which are not within agreed size, weight and scale parameters;
    - 2.7.6. an issue having arisen in relation to access to premises or health and safety;
    - 2.7.7. Consignments not being delivered due to an act or omission of the Client, the Customer or any third party;
    - 2.7.8. Consignments being carried pursuant to the Ireland Services; and/or
    - 2.7.9. where clause 12 (Force Majeure) applies;
  - 2.8 Notwithstanding any other provision of this Agreement ArrowXL shall not be committed to provide the Services in respect of any minimum volume of Goods at any time including during Peak Periods. The acceptance of Goods into the ArrowXL network shall at all times be at the discretion of ArrowXL.
- 3. Client Obligations**
- 3.1. Client warrants that:
    - 3.1.1. it has, and shall procure that any supplier shall have, full capacity and authority and all necessary licences, permissions and consents to enter into and receive Services under the Agreement; and
    - 3.1.2. the Agreement is executed by a duly authorised representative of Client.
  - 3.2. Client shall make available to ArrowXL all information reasonably requested from time to time in relation to the Services.
  - 3.3. Save with ArrowXL's written consent, Client shall not during the term of the Agreement and for 12 months afterwards, hire, employ, solicit or entice away any employee of ArrowXL.
  - 3.4. Client must provide sufficient Pre-Advice Data including Customer address, postcode and contact details to enable ArrowXL to contact the Customer and find the Customer address. If Pre-Advice Data is incomplete or inaccurate, provided ArrowXL uses reasonable endeavours to fulfil the order, it shall not be liable for any delay or failure to perform the Services. Client must provide either a mobile number or email address for a minimum of 98.5% of orders and either a mobile or landline number for a minimum of 90% of orders. ArrowXL may charge an administrative fee for each instance where insufficient Pre-Advice Data is provided.
  - 3.5. To enable ArrowXL to plan the Services and bill the Client the correct Charges in line with the CSF:
    - 3.5.1. Clients shall provide comprehensive and accurate details of all Goods within each Consignment including product description/SKU, weight, dimensions and number of items as part of the Pre-Advice Data;
    - 3.5.2. Clients on Multi Account must allocate the Goods to the correct account number to reflect the Goods placed for carriage;
    - 3.5.3. Clients exporting product data to ArrowXL must ensure that:
      - i) the product file uploaded by the Client is regularly reviewed and updated so that the details of the Goods remain accurate and comprehensive; and
      - ii) the product type/category selected by Client in the product file reflects the Goods placed for carriage (or otherwise utilises the product type/category specifically advised by ArrowXL)
  - 3.6 Failure by the Client to comply with any of the requirements of clause 3.5 shall result in associated costs arising for ArrowXL due to the impact of such failure on the Services and the ArrowXL network. ArrowXL reserves the right to charge the Client an administrative fee to reflect the costs incurred by ArrowXL in processing and/or attempting to provide the Services where the Client has failed to comply with clause 3.5.
  - 3.7 Save as where any new types of Goods have the same dimensions and weight as the Goods included in the CSF, Client shall not place for carriage new types of Goods not included in the CSF unless or until a Charge has been agreed and if such Goods are placed for carriage, ArrowXL will charge an amount it deems reasonable pending Charges being agreed.
  - 3.8 Client will ensure additional information is obtained promptly to prevent deliveries and collections from failing; including entry information for flats and resolution of access issues such as narrow lanes or security gates.
  - 3.9 Client shall ensure that Customers are aware of the weight and dimensions of Goods including packaging prior to delivery.
  - 3.10 Client shall ensure all customs documents are complete and accurate to permit timely release of Consignments for delivery and collection in all jurisdictions including Northern Ireland, Eire, Channel Islands and Isle of Man. ArrowXL accepts no liability for late or non-delivery resulting from incomplete or inaccurate documentation. Where Customers are liable to pay Duties and Taxes on Consignments prior to delivery, Client shall procure such payment. In addition to the foregoing Client

- obligations in this clause 3.10, where ArrowXL has agreed to provide the Ireland Service to the Client the Ireland Service Terms shall apply to both parties.
- 3.11 In relation to any deliveries to Jersey following the implementation of GST, the Client must provide all the relevant customs documentation to the Jersey tax authority. In the event the Client has not sent the relevant documentation to allow the Goods to be shipped to Jersey or the Jersey authorities do not allow the Goods into Jersey, Arrow XL will not be liable for any delay resulting from such circumstances. If ArrowXL has to hold the Goods whilst the Client provides the relevant information to ArrowXL or the Jersey tax authorities, ArrowXL will not be liable for any loss or damage to the Goods. Further ArrowXL will only hold the Goods for two (2) Working Days before returning the Goods to the Client at the Client's expense.
- 3.12 Client shall not request ArrowXL performs Services in a manner contrary to any applicable law or regulatory requirement.
- 3.13 Client shall not (and shall procure any supplier shall not) cause to be placed any Dangerous Goods with ArrowXL unless formally and specifically agreed in writing with ArrowXL (within which ArrowXL's consent must be explicit and relate to the particular Dangerous Goods for carriage). The Client must provide ArrowXL promptly with all information and materials required by ArrowXL including the applicable safety certificates and ArrowXL's consent to carry Dangerous Goods (if given in advance) is subject to this documentation being acceptable, appropriate for the Dangerous Goods carried and comprehensive. Where ArrowXL has agreed to carry Dangerous Goods, the Client shall, in addition to the obligations set out in this clause 3.13, ensure that it complies with all of the requirements of Schedule 6. Contravention of this provision may result in Client being required by ArrowXL to retrieve items at its risk and expense or ArrowXL may dispose of items at Client's expense, such action shall be at ArrowXL's option and absolute discretion. Notwithstanding the foregoing the Client shall defend, hold harmless and indemnify and keep indemnified ArrowXL against any and all liabilities, losses, claims including claims made against ArrowXL by other Clients, damages, expenses or costs and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by ArrowXL arising out of or in connection with the Client's breach of this clause 3.13 and/or Schedule 6 and in general the carriage of Dangerous Goods regardless of whether ArrowXL has agreed to carry or hold such items. ArrowXL reserves the right to apply extra Charges to the Client's account for the carriage of Dangerous Goods. Without prejudice to ArrowXL's other rights and remedies pursuant to this Agreement, the breach of this clause 3.13 shall constitute a material breach which is incapable of remedy and for which ArrowXL is entitled to immediately terminate this Agreement.
- 4. Charges and Payment**
- 4.1 Charges are payable in accordance with Schedule 2 and are exclusive of VAT.
- 4.2 Invoices will be issued weekly in arrears and are payable by direct debit within 7 days of issue.
- 4.3 Interest shall be paid on overdue Charges at 4% per calendar year (or part thereof) for as long as Charges remain overdue.
- 4.4 Client shall pay Charges in full and without any set-off (equitable, contractual or otherwise), withholding or deduction and shall not raise debit notes without ArrowXL's consent. Where a supplier receives Services pursuant to clause 2.4, Client will be invoiced directly for such Services.
- 4.5 Without prejudice to clause 4.4, ArrowXL shall not be liable for refunds to Client for any alleged overcharges claimed where invoice queries are raised by Client more than 3 months after date of invoice.
- 4.6 Should Client fail to pay any invoiced Charges within 14 days of the due date, without prejudice to any other right or remedy, all Charges shall immediately become due and payable and ArrowXL may (i) immediately and without notice suspend all Services until payment is received in full; (ii) require revised payment terms before Services are resumed, including provision of a bond or guarantee and/or requesting advance payment for Services; and/or (iii) terminate this Agreement immediately on written notice.
- 4.7 ArrowXL may alter or withdraw payment and any agreed credit terms immediately at any time should it have reasonable concerns regarding the creditworthiness of Client or payment of an invoice is not made within 14 days of the due date.
- 4.8 Notwithstanding any other provision of this Agreement, ArrowXL shall, without prejudice to any other right or remedy, have a general and particular lien over all Goods as security for payment of all sums (whether due or not) claimed by ArrowXL until all Charges and interest are paid in full ("**ArrowXL Lien**").
- 4.9 The ArrowXL Lien shall continue notwithstanding any transfer of ownership of the Goods or change of control of Client. Storage shall be charged at ArrowXL's standard rate for any Goods detained under the ArrowXL Lien or at the third party's rates where ArrowXL is required to pay a competent authority to retain them.
- 4.10 If the ArrowXL Lien is not satisfied within 30 days of ArrowXL giving written notice of the same, ArrowXL may sell the Goods and apply the net proceeds (after deducting expenses of sale) towards monies due from Client and shall upon accounting to Client for any balance be discharged from all liability in respect of the Goods.
- 4.11 With regard to the sale of the Goods pursuant to the ArrowXL Lien: (i) ArrowXL will use a reasonable and appropriate method of sale but it shall not be responsible for any inadequacy of value achieved, and (ii) ArrowXL (and any person deriving title to Goods through it) shall be entitled to use under

licence in connection with the disposal of Goods any copyright material or trademarks, and pass on any manufacturer's standard warranty, relating to them which would be available to an authorised retailer of the Goods.

4.12 In addition to the forgoing provisions of clause 4, the Client shall pay the Charges for the Ireland Service in accordance with the Ireland Service Terms. Where the Client fails to comply with the payment of the Charges for the Ireland Service, ArrowXL shall have the option at its absolute discretion to exercise its rights and remedies set out in Schedule 5.

4.13 ArrowXL may at any time and at its absolute discretion provide a line of credit to the Client with an associated credit limit. The Client shall provide ArrowXL with such accurate information as it reasonably requires in order to set the level of the credit limit. Where the Client exceeds its credit limit it must immediately make a payment to ArrowXL of such sum as is necessary to bring the credit line back within the credit limit. Where the Client fails to make such immediate payment ArrowXL shall have the right to immediately suspend the Services without notice and exercise its right for non-payment set out in clauses 4.8 to 4.11. Where the Client exceeds the credit limit all outstanding sums shall immediately become due and payable. Without prejudice to clause 4.7, ArrowXL may, at its absolute discretion, alter the credit limit at any time on 7 days' notice to the Client. The Client shall have 7 days to pay to ArrowXL the sum required to bring the Client's credit line below the new credit limit. Failure to do so shall allow ArrowXL to suspend the Services immediately and exercise its rights for non-payment set out in clauses 4.8 to 4.11.

4.14 The parties agree that all damage claims in respect of Goods shall be addressed via the ArrowXL damage claim process in accordance with Schedule 4. The Client acknowledges that damage claims are separate and distinct from the invoices issued for Services. The Client shall not have any right of set off whether contractual, equitable or otherwise with regard to damage claims. Invoices for Charges in respect of the Services must be paid in full irrespective of damage claims. Damage claims that have been agreed via the ArrowXL damage claim process shall result in a credit being applied by ArrowXL to the Client's account in accordance with Schedule 4. Any attempt by the Client to (i) offset a damage claim against an issued invoice; or (ii) hold up the payment of an invoice in connection with a damage claim shall be considered a breach of this Agreement and without prejudice to ArrowXL's other rights and remedies ArrowXL shall be entitled to immediately suspend all Services to the Client without notice.

## 5. Review of Charges

5.1 Annually, on each Review Date, all Charges will automatically be increased by any percentage increase in the Retail Price Index in the previous 12 months or 2.5% whichever is higher.

5.2 ArrowXL may review and vary this Agreement and/or the Charges at any time on 7 days' written notice (which can be given to the Client via email). Changes to the Charges may be made in the event of changes impacting the cost of providing the Services where applicable including changes to: scope of Services; Profile; geographical scope or locations; Client requirements; operating costs outside ArrowXL's control e.g. congestion/toll charges, levies, Duties and Taxes, licence requirements(including operator's licence) driver and/or vehicle shortages or compliance with applicable laws.

## 6. Term and Termination

6.1 The Agreement shall take effect on the Commencement Date and unless terminated in accordance with these Terms and Conditions shall continue for the Initial Term and thereafter until terminated by Client giving not less than 90 days' written notice to expire on or after the end of the Initial Term.

6.2 Either party may terminate the Agreement immediately on written notice if:

6.2.1 the other party commits a material breach of the Agreement and, if the breach is capable of remedy, fails to remedy it within 30 days of receipt of written notice from the affected party identifying the breach and requiring its remedy;

6.2.2 an encumbrancer takes possession or a receiver is appointed over the property or assets of the other party;

6.2.3 the other party makes any composition or voluntary arrangement with its creditors, or enters into administration or notice of intention to appoint an administrator is issued;

6.2.4 the other party enters into liquidation or resolution for its winding-up is passed, or a winding-up petition is presented against the other party (in all cases except for a solvent amalgamation or reorganisation);

6.2.5 the other party ceases, or threatens to cease, to carry on all or a substantial part of its business; or

6.2.6 on the occurrence of any event analogous to clauses 6.2.1-6.2.5 in respect of the other party.

6.3 ArrowXL may terminate the Agreement:

6.3.1 immediately on written notice if Client sells or disposes of the whole or a material part of its business or assets or in the event of a change of control of Client (as defined in section 1124 of the Corporation Tax Act 2010 at the date of the Agreement). Client shall promptly give notice in writing to ArrowXL on the occurrence of such event;

6.3.2 immediately without notice where Client fails to pay an invoice within 14 days of the due date for payment;

6.3.3 for convenience at any time on 30 days' written notice;

- 6.3.4 immediately on written notice where ArrowXL deducts or sets off sums against an agreed bond of any amount of monies on account of overdue sums or liabilities owed by the Client to ArrowXL under the Agreement and the same amount is not replaced in full by the Client within 7 days of notice from ArrowXL;
- 6.3.5 immediately on written notice where a guarantee has been agreed with the Client and the guarantor named in such guarantee fails to make any payment due to ArrowXL under the guarantee by the due date for payment;
- 6.3.6 immediately on written notice where the Client exceeds its credit limit and fails to immediately make a payment to ArrowXL of such sum as is necessary to bring its account back within the credit limit; or
- 6.3.7 immediately on written notice where the Client's credit limit has been adjusted by ArrowXL pursuant to clause 4.13 and the Client fails to pay the sum required to bring its account below the new credit limit within 7 days.
- 6.4 ArrowXL may terminate or suspend the Ireland Services in accordance with the Ireland Service Terms. Such termination or suspension shall be independent of the delivery of all other remaining Services agreed to under this Agreement, which shall remain in place and subject to the terms of this Agreement.
- 6.5 Where ArrowXL exercises its right under this Agreement to suspend its Services to the Client it reserves the right to continue to provide all or part of the Services and the Charges for such Services shall be added to the account of the Client. Such right is exercisable at ArrowXL's absolute discretion. For the avoidance of doubt ArrowXL's right to suspend the Services includes (i) the right to suspend the intake of any further Goods from the Client; and (ii) if it so wishes, to remove Goods from the ArrowXL network. Where ArrowXL removes the Goods from the ArrowXL network it shall and at its option either dispose of such Goods, store such Goods and charge the Client all associated storage charges in respect of such duration or return the Goods to the Client at the Client's cost and expense.
- 6.6 Where the Client has at any time during the term of this Agreement, failed to place any orders for Services with ArrowXL for a period of 30 days or more ArrowXL may at its absolute discretion reject subsequent orders for Services from the Client. In addition to the foregoing right ArrowXL may: (i) terminate this Agreement on not less than 48 hours' written notice (ArrowXL may exercise this right of termination at any time after the conclusion of the 30 day period without orders); or (ii) agree to provide the Services on terms amended by ArrowXL.
- 7. Consequences of Termination**
- 7.1 Termination of the Agreement in whole or in part shall not affect the rights and remedies of the parties accrued at termination.
- 7.2 Upon termination, each party shall on request destroy or return all Confidential Information belonging to the other provided that parties may retain copies of information necessary to comply with their legal obligations or to evidence compliance with their obligations under the Agreement.
- 7.3 Upon termination of the Agreement in whole or in part:
- 7.3.1 all Charges (in respect of the Services that have been terminated) shall immediately become due and payable without any set off (whether equitable, contractual or otherwise), counterclaim or deduction and Client shall immediately pay the same;
- 7.3.2 ArrowXL shall account to Client for any agreed credits, claims or debit notes;
- 7.3.3 ArrowXL will provide reasonable assistance to affect the hand-over of Services to Client or its new supplier provided this does not impact on the business of ArrowXL, and with the exception of the Ireland Services, where such assistance shall be at ArrowXL's option. Client shall reimburse all costs and expenses of ArrowXL providing such assistance;
- 7.3.4 ArrowXL may at Client's direction and cost transfer Data and/or Confidential Information to Client's new supplier. Client warrants that such transfer is lawful and does not infringe the rights of any third party. Client shall defend, hold harmless and indemnify and keep indemnified ArrowXL against any and all liabilities, losses, claims damages, expenses or costs and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by ArrowXL arising out of or in connection with any breach of this provision.
- 7.4 In the event of termination ArrowXL shall have the right to require Client to collect the Goods within 7 days of the date of termination.
- 8. Indemnities**
- 8.1 Client shall defend, hold harmless and indemnify and keep indemnified ArrowXL against:
- 8.1.1 all liabilities, losses, claims, damages, expenses and costs and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by ArrowXL arising out of or in connection with a breach of the Agreement by Client or any act, omission, misstatement or misrepresentation by Client or its suppliers;
- 8.1.2 all claims by any tax or government authority relating to Goods transported pursuant to the Agreement.

8.2 Where Client has authorised use of its ArrowXL account by a third party or has failed to keep its account details secure resulting in mis-use, Client will be liable for and shall defend, hold harmless and indemnify and keep indemnified ArrowXL against any and all losses, claims, damages or costs arising out of or in connection with such use or mis-use. Client shall pay any Charges arising out of such use or misuse regardless of whether Services were provided in respect of such Charges.

8.3 Where ArrowXL agrees to provide the Ireland Services the Ireland Service Indemnities will apply.

## 9. TUPE

9.1 The parties agree that provision of the Services is not intended to constitute a relevant transfer under the TUPE Regulations.

9.2 If the provision of Services operates (or is claimed to operate) so as to transfer the contract of employment of any person to ArrowXL:

9.2.1 Client shall notify ArrowXL promptly on becoming aware of such matter; and

9.2.2 within 14 days of receipt of notification under clause 9.2.1, Client may make an offer of employment to such person; and

9.2.3 within 14 days of such offer being made or being due but not made, ArrowXL may terminate the employment of such person; and Client shall defend, hold harmless and indemnify and keep indemnified ArrowXL against any and all Employee Liabilities arising out of the employment and termination thereof of such person until the termination of their employment in accordance with clause 9.2.3. Where ArrowXL decides to employ and not dismiss such employee, Client shall defend, hold harmless and indemnify and keep indemnified ArrowXL against all Employee Liabilities arising prior to the date of employment by ArrowXL (including the extent to which any Employee Liabilities post-dating employment by ArrowXL are attributable to the employee's length of service prior to employment by ArrowXL).

## 10. Limitation of Liability

10.1 Neither party limits or excludes liability:

10.1.1 for fraud;

10.1.2 for death or personal injury caused by its negligence (and in the case of Client, the negligence of its suppliers); or

10.1.3 which and to the extent that it cannot be limited or excluded by law.

10.2 Subject to clause 10.1 and except under the indemnities in this Agreement, neither party shall be liable whether in tort (including for negligence and/or breach of statutory duty), contract, misrepresentation, restitution or otherwise howsoever arising for any:

10.2.1 indirect or consequential losses, damages, costs or expenses; or

10.2.2 loss of production time (whether direct or indirect);

10.2.3 loss of operation (whether direct or indirect);

10.2.4 profits (whether direct or indirect);

10.2.5 business (whether direct or indirect);

10.2.6 goodwill (whether direct or indirect);

10.2.7 wasted expenditure (whether direct or indirect); or

10.2.8 anticipated savings (whether direct or indirect)

howsoever arising under this Agreement.

Clauses 10.2.1 to 10.2.8 apply even where the party in default has been advised of the possibility of such losses.

10.3 ArrowXL shall not be liable for losses arising from:

10.3.1 lack of or defective packaging, labelling or addressing of Goods;

10.3.2 confiscation, detention or destruction of or damage to Goods, property or other goods by or under order of any government, public or local authority or legal process;

10.3.3 wastage, latent defect or natural deterioration of Goods or packaging or damage to mirrors, glass or ceramic items or marble, granite or concrete Goods;

10.3.4 any of the circumstances set out in clause 2.7; and/or

10.3.5 any other liability excluded under this Agreement.

10.4 ArrowXL will not carry livestock, bullion, money, securities, stamps, precious metals, precious stones, jewellery, antiques, artwork, scientific equipment, documents or perishable goods without prior written agreement and accepts no liability for loss or damage to such items even where ArrowXL agrees to carry the same.

10.5 ArrowXL will not compensate Client for goodwill payments to Customers for lost or damaged Goods or any other claims (including property damage) unless agreed in advance in writing and where the Client has followed the applicable procedure in Schedule 4.

10.6 Time shall not be of the essence for performance of the Services delivery times are estimates only and Client's remedies for delay are limited to as set out in the Agreement.

10.7 Save for RTS Consignments, ArrowXL is not liable for damage to Returns.

10.8 Subject to clause 10.10, liability of ArrowXL for lost or damaged Consignments shall be limited to the lower of cost price or cost of repair subject to a maximum limit of £200 per Consignment including a £40 non-recoverable excess payable by Client.

10.9 Subject to clause 10.10, liability of ArrowXL for Bulk Loss (being ten or more Consignments at once) shall be limited to the lower of cost price (subject to the limit at clause 10.8) or £1,300 per tonne.

10.10 Should ArrowXL be unable to deliver a Good on more than 2 occasions and where such failure is not due to a Service Default, ArrowXL shall not be liable for any damage to or loss of the Good after the second delivery has been attempted by ArrowXL. All future storage and delivery attempts shall be made at the risk of the Client.

10.11 Subject to clause 10.1 ArrowXL's total aggregate liability in contract, tort (including negligence and/or breach of statutory duty), misrepresentation, restitution or otherwise, arising out of or in connection with the performance or contemplated performance of this Agreement shall be limited to the lower of five hundred thousand pounds (£500,000) or an amount equivalent to the total Charges (less VAT) invoiced by ArrowXL in the 12-month period immediately preceding any claim.

## 11. Insurance

11.1 ArrowXL is under no obligation to insure Goods.

11.2 ArrowXL shall maintain the following insurances:

- 11.2.1 public liability insurance;
- 11.2.2 employer's liability insurance;
- 11.2.3 commercial vehicle insurance; and
- 11.2.4 all insurances required by law.

11.3 ArrowXL shall provide confirmation of cover under such policies on request.

## 12. Force Majeure

12.1 Neither party shall be liable to the other or deemed to be in breach of the Agreement by reason of any delay or failure to perform some or all of its obligations if the delay or failure is caused by a Force Majeure Event. This will not apply to any failure by Client to pay the Charges.

12.2 If either party claims to be unable to perform its obligations (either on time or at all) due to a Force Majeure Event, it must as soon as practicable inform the other party of the nature and circumstances of the Force Majeure Event providing an estimate of the likely duration where possible. As a result of the Coronavirus or related or subsequent outbreaks, there may be fluctuations in which Services ArrowXL can provide pursuant to changing guidance and local and national lockdowns and other restrictions. Where ArrowXL makes temporary changes (eg switching off a particular Service locally or nationally) ArrowXL will confirm the affected Services via ArrowXL's website which shall be updated as soon as reasonably practicable. The foregoing shall constitute sufficient notification to Client for the purposes of this clause 12.2. For the avoidance of doubt, when providing notifications to the other party under this clause 12.2, the requirements of clause 15 (Notices) shall not apply.

12.3 Where a Force Majeure Event continues for 30 days or more, and Services continue to be substantially affected as a result, either party may terminate the Agreement on written notice to the other.

## 13. Confidentiality and Intellectual Property

13.1 During the term of the Agreement and for 3 years afterwards, neither party shall divulge or allow to be divulged to any third party any Confidential Information of the other party and each party shall only use such Confidential Information for the purposes of complying with its obligations under the Agreement. ArrowXL may contact Customers for feedback to monitor and improve the quality of its Services.

13.2 Each party undertakes to:

13.2.1 keep confidential all Confidential Information belonging to the other;

13.2.2 treat Confidential Information belonging to the other with at least the same degree of care used for its own Confidential Information;

13.2.3 not disclose Confidential Information belonging to the other to any person save for those of its consultants, employees, agents and contractors involved in the provision or receipt of Services who need to know it for that purpose; and provided that such party obtains before disclosure is made to any person, a signed confidentiality undertaking from them; and

13.2.4 use Confidential Information belonging to the other only in connection with the Services and not for its own benefit or the benefit of any other party.

13.3 Clause 13.2 shall not apply to information which:

13.3.1 is or becomes public knowledge other than by breach of this clause 13;

13.3.2 was in the possession of the receiving party without restriction before its disclosure;

13.3.3 is received from a third party who lawfully acquired it and who is under no obligation restricting its disclosure; or

13.3.4 is required to be disclosed under any applicable law or by a court or similar body of competent jurisdiction.

13.4 Client gives permission to ArrowXL for the duration of the Agreement to use Client's official logo or logos (without adaptation) in marketing and promotional materials to show that ArrowXL is a provider of services to Client.

13.5 Save to the extent agreed in writing, neither party shall have any rights to or interest in the intellectual property of the other in respect of any software, documentation, data or materials.

All Data shall be and shall remain the property of Client and ArrowXL shall not acquire any intellectual property or other rights in relation to the Data. Client grants ArrowXL a non-exclusive royalty free licence to use the Data solely in connection with the provision of Services and such license shall expire on termination of the Services. This shall not affect the provisions in relation to personal data at clause 14.

## 14. Data Protection

14.1 The parties agree that, in relation to personal data processed by each of them pursuant to the Agreement, the parties are joint data controllers and neither party is acting as data processor for the other.

14.2 Each party when providing personal data to the other shall:

14.2.1 ensure it has a lawful basis for disclosing the personal data;



- 14.2.2 provide data subjects at the time personal data is collected with all necessary privacy information in a form which complies with the Data Protection Legislation to enable the other party to lawfully use such personal data;
- 14.2.3 ensure that personal data is accurate and up to date, and inform the other party in writing as soon as possible upon becoming aware of any inaccuracies; and
- 14.2.4 comply with all requirements imposed on controllers by the Data Protection Legislation.
- 14.3 Each party when receiving personal data from the other:
- 14.3.1 shall only process such personal data for the purposes of the Agreement;
- 14.3.2 may process personal data outside the European Economic Area provided that it has put in place appropriate safeguards in full compliance with the Data Protection Legislation;
- 14.3.3 shall process personal data securely and put into place and maintain appropriate technical and organisational measures to protect it against unauthorised or unlawful processing and against accidental loss, destruction or damage; and
- 14.3.4 shall comply with all requirements imposed on controllers by the Data Protection Legislation.
- 14.4 Each Party shall nominate a point of contact for all matters arising from this clause 14. ArrowXL's nominated contact is its Legal Counsel at legal@arrowxl.co.uk. Client shall advise ArrowXL of its nominated contact within 7 days of signing the Agreement.
- 14.5 Client must inform ArrowXL as soon as possible (and in any event within 48 hours) upon receipt of any request or complaint by a data subject in relation to personal data being handled by ArrowXL ("**Data Subject Communication**"). Unless the parties agree otherwise in writing, ArrowXL shall control the handling of and response to any Data Subject Communication and Client shall provide such co-operation and assistance as reasonably required.
- 14.6 Each party shall inform the other as soon as possible (and in any event within 48 hours) upon becoming aware of any breach or reasonably suspected breach of this clause 14 ("**DP Breach**"). The party in breach shall immediately implement all measures necessary to remedy the DP Breach and mitigate its effects in addition to taking such steps as necessary to minimise the risk of any similar breach in future.
- 14.7 If: (i) the ICO notifies a party of any actual or potential investigation or enforcement action; or (ii) a third party makes or notifies a party of its intention to make a claim against either party to the Agreement, in each case in connection with personal data shared pursuant to the Agreement ("**DP Action**"), the party receiving such claim or notification shall inform the other as soon as possible (and in any event within 48 hours) upon becoming aware of such DP Action. The parties shall discuss in good faith how to manage the DP Action and if unable to reach agreement, each party may independently take such action as it believes reasonably necessary, keeping the other party updated on request. Neither party shall cause the other to be in breach of the Data Protection Legislation as a consequence of its handling of a DP Action or purport to act on behalf of or represent the other party.
- 14.8 Each party shall keep secure any usernames and passwords that allow them to access the other's systems including but not limited to any customer service, order management or order tracking platform. Each party must inform the other immediately of any actual or suspected breach of this provision so that access may be suspended and the parties shall co-operate in good faith to mitigate the effect of any breach.
- 14.9 Each party shall provide to the other upon request a copy of any relevant data protection impact assessment, privacy notice or policy (including any information security policy).
- 14.10 Each party may (including via authorised representatives) audit the other party's compliance with this clause 14 provided that:
- 14.10.1 the auditing party provides at least 14 days' written notice of such audit to be carried out at an agreed time during normal working hours;
- 14.10.2 the auditing party uses reasonable endeavours to minimise disruption to the other party; and
- 14.10.3 such audit shall take place no more frequently than once every calendar year. Clauses 14.10.1 to 14.10.3 shall not apply to the auditing party where it reasonably believes the other party has committed a material breach of this clause 14.
- 14.11 During any audit pursuant to clause 14.10 the audited party shall:
- 14.11.1 make available such information, documents and materials as the auditing party reasonably requires;
- 14.11.2 provide the auditing party with reasonable access to its systems and premises where personal data are processed or stored; and
- 14.11.3 provide all reasonable assistance and co-operation to the auditing party.
- The audited party may take such steps as necessary to protect or redact confidential or commercially sensitive information and personal data not relevant to the Agreement.
- 15. Notices**
- 15.1 Any notice pursuant to the Agreement must be in writing and may be given by email. A notice will be deemed served if delivered personally (by hand/courier) or by prepaid recorded post to the registered office of the receiving party or in the case

of email at the time of transmission provided that a transmission failure notification is not received by the sender. Notices sent to ArrowXL pursuant to this clause 15 must be sent to the Commercial Director with a copy to [commercialteam@arrowxl.co.uk](mailto:commercialteam@arrowxl.co.uk) and [legal@arrowxl.co.uk](mailto:legal@arrowxl.co.uk).

- 15.2 Any notice delivered personally shall be deemed served at the time of delivery. Any notice served by prepaid recorded post shall be deemed served 48 hours after posting to an address with a valid UK post code. In proving service it is sufficient to show, in the case of a letter sent by prepaid recorded post, that the letter was properly stamped, addressed and placed in the post or if delivered personally that it was delivered or left at the correct address. If deemed receipt for email notices under Clause 15.1 would occur outside business hours in the place of receipt, it shall be deferred until business hours resume. In this Clause 15.2 business hours means 9.00am to 5.00pm Monday to Friday on a day that is not a public holiday in the place of receipt.

## 16. Entire Agreement

- 16.1 This Agreement constitutes the entire agreement between the Parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations, and understandings between them, whether written or oral, relating to its subject matter.
- 16.2 Each Party acknowledges that in entering into this Agreement it does not rely on any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Agreement.
- 16.3 Each Party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in this Agreement.
- 16.4 Nothing in this clause 16 shall limit or exclude any liability for fraud.

## 17. Waiver

Waiver of any right or remedy under the Agreement or at law is only effective if in writing and shall not be deemed a waiver of any subsequent breach or default. Failure or delay by a party to exercise any right or remedy shall not constitute a waiver of that or any other right or remedy unless a timeframe has been stipulated. No single or partial exercise of any right or remedy shall prevent or restrict further exercise of that or any other right or remedy.

## 18. Severance

If any provision of the Agreement is declared by any judicial or other competent authority to be void, voidable, illegal or unenforceable, the parties shall, acting reasonably, amend such provision to lawfully achieve the intention of the parties. If any provision is declared to be void, voidable, illegal or unenforceable, to the fullest extent possible the

rest of the Agreement shall remain in full force and effect as if that provision had not been included.

## 19. Assignment and Sub-contracting

- 19.1 ArrowXL may perform any of its obligations or exercise any of its rights under the Agreement by itself or through ArrowXL Group. ArrowXL may assign its rights and/or obligations under the Agreement to any party without Client's prior consent.
- 19.2 ArrowXL may use sub-contractors to carry out its obligations under the Agreement.
- 19.3 Client may not without the prior written consent of ArrowXL assign, transfer, charge or deal in any other manner with this Agreement or any of its rights under it.

## 20. Contracts (Rights of Third Parties) Act 1999

Save for pursuant to clause 19, a person who is not a party to the Agreement shall have no rights under the Contracts (Rights of Third Parties) Act 1999 to rely upon or enforce any term of the Agreement.

## 21. No Partnership

Nothing in the Agreement shall constitute or be deemed to constitute a partnership, agency or joint venture between the parties and neither party shall act as agent of the other or have any authority or power to bind the other or contract in the name of or create a liability against the other.

## 22. Personnel

Client accepts liability for its personnel and that of its contractors and suppliers and shall use reasonable endeavours to ensure personnel with access to ArrowXL premises comply with all security, health and safety and other policies and rules communicated to them that apply to such premises.

## 23. Variation

Unless otherwise provided for in the Agreement, these Terms and Conditions may only be varied in writing and any variation must be signed by an authorised signatory of each of the parties.

## 24. Anti Bribery

- 24.1 Each party shall:
- 24.1.1 comply with all applicable laws and regulations relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010;
- 24.1.2 not engage in any conduct which would constitute an offence under section 1,2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK;
- 24.1.3 have and maintain in place its own records, policies and procedures (and make copies of the same available on request) to ensure compliance with this clause 24 and enforce such policies and procedures as appropriate;

24.1.4 report to the other party any request or demand for financial or other advantage of any kind of which it becomes aware in connection with the performance of the Agreement; and

24.1.5 immediately notify the other party in writing if a foreign public official as defined under the Bribery Act 2010 becomes one of its officers or employees or a direct or indirect owner of its business or a substantial part thereof.

## 25. Governing Law and Jurisdiction

The Agreement and any dispute or claim arising out of or in connection with it or its subject matter shall be governed by and construed in accordance with the laws of England and subject to the exclusive jurisdiction of the English courts.

### **Schedule 1** **Service Specification**

#### 1. Overview & Terminology

##### 1.1. Overview

- 1.1.1. ArrowXL is not a common carrier.
- 1.1.2. Client is responsible for timely supply of Outbound Consignments to meet Intake Arrangements.
- 1.1.3. ArrowXL will dispatch and deliver Outbound Consignments to Customers.
- 1.1.4. ArrowXL will collect Returns and return them to the Returns Location.
- 1.1.5. ArrowXL strives to work in a paperless environment and, where possible, uses HHTs to record PODs and POCs and other information relating to the Services. Additional administrative charges may apply where Client requires completion of additional paperwork.

##### 1.2. Definition of Services

ArrowXL offers the following Services (as selected by Client on CSF):

Service	Description
24 Hour delivery	Delivery of Consignment within Mainland UK (exc. Isle of Wight) for next Working Day following receipt; subject to receipt of Pre-Advice Data prior to Pre-Advice Cut-Off* and in accordance with the applicable postcode schedule
2 Working Day delivery	Delivery of Consignment within Mainland UK (exc. Isle of Wight) two Working Days following receipt; subject to receipt of Pre-Advice Data prior to Pre-Advice Cut-Off* and in accordance with the applicable postcode schedule
DBS delivery	ArrowXL book Consignment for delivery via direct contact with

Service	Description
	Customer. Date offers made 2-16 days from making initial contact with Customer depending on location*
Out of Area delivery	Delivery of Consignment to non-Mainland UK locations 5-10 Working Days following receipt; subject to receipt of Pre-Advice Data prior to Pre-Advice Cut-Off.
Returns collection	Consignment collected from Customer on date agreed between ArrowXL and Customer and sent to Returns Location; subject to receipt of Pre-Advice Data prior to Pre-Advice Cut-Off
Room of Choice	Location at Customer property where Customer chooses for Consignment to be left (see restrictions for Out of Gauge Items). Room of Choice must be same for all parts of Consignment.
Compulsory unpack	Delivery crew unpack item and request Customer inspection. Packaging removed and disposed of. Excludes flat pack items
Out of Gauge Items	Below are 'Out of Gauge Items' and may need additional resource, subject to additional Charges. Out of Gauge items will only be delivered to ground floor unless accessible by elevator: <ul style="list-style-type: none"> <li>• Exceeding 2.6 metres long; or</li> <li>• heavier than 85kg (up to 120kg)</li> </ul> No item with larger dimensions than those below will be accepted without prior agreement in writing and will be subject to additional Charges: <ul style="list-style-type: none"> <li>• longer than 2.6m; or</li> <li>• heavier than 120kg</li> </ul>
Wet disconnect	Disconnect Customer's existing white goods appliance from pipework/electricity where safe and practicable. Item unplugged only and not disconnected from mains electricity. Only applies where 'like for like' new appliance installed in same location. Does not include secondary locations or provisions for plumbing "fixes" to distressed or inadequate

Service	Description
	pipework from hard wiring in. Delivery crew may abort if considered unsafe. Service only offered in conjunction with Wet Connect and not offered in non-Mainland UK or Isle of Wight
Wet connect	Connect new white goods appliance to Customer's existing pipework/electricity. Wet Connect must be in same location as corresponding Wet Disconnect (if applicable). This does not include secondary locations (ie other than where the Wet Disconnect occurred) or blanking of redundant supplies or plumbing fixes for distressed or inadequate pipework. Plugs will be inserted into pre-existing sockets - appliances will not be hard wired into the mains supply. Delivery crew may abort if considered unsafe. Service not offered in non-Mainland UK or Isle of Wight.
WEEE removal	Removal of 'like for like' WEEE appliance. Title passes to ArrowXL on collection. Not offered in non-Mainland UK or Isle of Wight
Old item removal	Removal and disposal of 'like for like' item e.g. removal of old sofa on delivery of new one
Standard TV Connect	TV unpacked, set up on integral stand and/or placed on but not affixed to pre-existing stand, unit or appropriate surface. Auto-tune activated to existing aerial/signal source. Does not include electrical work. Not offered in non-Mainland UK or Isle of Wight
TV Plug and Play	TV unpacked, set up on integral stand and/or placed on but not affixed to pre-existing stand, unit or appropriate surface. Auto-tune activated to existing aerial/signal source and TV connected to up to 2 peripheral devices (Sky, DVD etc but not computers, sound systems or consoles). Does not include electrical work. TVs will not be wall-mounted. Not offered in non-Mainland UK or Isle of Wight
	Connection of divans to form a single piece of furniture, fitting

Service	Description
	head-board to bed or attaching feet to upholstered furniture. Not offered in non-Mainland UK or Isle of Wight
Complex assembly	Assembly of flat pack and other items. Assembly dwell time/Charge allocated depending on item. Items assembled in accordance with manufacturer instructions only and will not proceed where parts missing. Items will not be fixed to walls or other furniture. Not offered in non-Mainland UK or Isle of Wight
Storage	Goods held at ArrowXL DC in excess of 7 days will attract a storage charge at standard rates unless agreed in CSF. Additional charges apply at all times for pallets and stand trailers (including transportation) allocated for Client Goods whether used or not.
Transportation	Where Intake Arrangements require collection by ArrowXL from Client/supplier locations, transportation Charges apply. Collections are Sundays-Fridays (Saturdays where ArrowXL provides advance warning). Where transportation charges not specified in CSF, ArrowXL standard rates apply depending on location/volume. Cancellation charges (being the full cost) apply to journeys cancelled after 12pm the day before collection.

\*ArrowXL does not provide these Services to all postcodes in Mainland and non-Mainland UK.

- 1.2.1 Arrow XL will for all white goods appliances;
- (i) Only install in domestic properties;
  - (ii) Deliver Consignment to the Room of Choice where safe and practicable. Where there is not clear access to Room of Choice, the delivery crew will require the Consignee to clear and make safe their access. If the Consignee refuses or fails to meet this requirement to the reasonable satisfaction of the delivery crew, the delivery crew will not be able to proceed with the delivery and the delivery will fail. The delivery crew will return the Consignment back to the DC to await instructions;
  - (iii) Disconnect old appliances where safe and practicable - plugs will only be taken out of sockets - appliances that have been hard

wired into the wall must be disconnected before ArrowXL arrive. The delivery crew will evaluate the existing connections and will only disconnect old appliances if in their view it would be safe to do so.

- (iv) ArrowXL will not install appliances in bathrooms or shower rooms.
- 1.2.2 For the avoidance of doubt, for the delivery Service provided for all white goods appliances Arrow XL will not:
- (i) disconnect old appliances if the existing fittings are not suitable for the new appliance,
  - (ii) remove old appliances that are not empty and dry,
  - (iii) connect the appliance if the existing fittings are not suitable for the new appliance,
  - (iv) connect the appliance if it puts the delivery crew or Consignee at risk,
  - (v) connect the appliance if in doing so the correct safety guidelines cannot be met, or
  - (vi) install in bathrooms or shower rooms.
- 1.2.3 For the delivery service for all Goods it is the responsibility of the Client to ensure that, wherever applicable, Customers check before ordering that there is enough room in Room of Choice for the new appliance, there is easy access to a working water connection and an independent waste outlet, it is not required that a hot water pipe is capped off, that the appliance is not more than 1.5 metres from a waste outlet, that the existing appliance's stop valves are working correctly, there is easy access to a working water supply, the stop valve controlling cold water supply is no more than 1 metre away from the appliance, there is sufficient access for ventilation tubes, the Customer does not require a stacking kit or for the appliance to be sited on top of another, that no carpentry is required to install the new appliance, that there is clear and safe passage to the Room of Choice, that delicate objects are put in a safe place, that old appliances to be uplifted are empty and dry, ensure that gas and dual cookers are disconnected only by an engineer on the Gas Safe Register and mains wired electric cookers are disconnected only by an electrically competent person.
- 1.2.4 If the Customer fails to ensure any of the conditions in paragraph 1.2.3 of this Schedule 1 the crew will not be able to proceed with the Service and the Service will fail with no liability to ArrowXL.

### 1.3 Forecasting and Peak

- 1.3.1 Client shall in good faith provide a weekly forecast of daily volumes for each Service not less than six weeks in advance. ArrowXL accepts no liability for any Failed Delivery or obligation to meet the Service Level where Client fails to comply with forecasting requirements. Where unusually high volumes are forecast, or if actual volumes exceed forecast, ArrowXL shall use reasonable endeavours to provide the Services in respect of excess volumes but:
- (a) ArrowXL may refuse excess Consignments and return them at Client's expense;
  - (b) If ArrowXL accepts such Consignments:
    - (i) ArrowXL will not guarantee timescales for delivery;
    - (ii) ArrowXL may without liability suspend Services pending available capacity; and
    - (iii) Client shall pay for the Service on which Consignments were booked, and not the Service received.
- 1.3.2 '**Peak Periods**' means, in any year, the period from Thursday before Easter Sunday to Monday after Whitsun, and the period from Friday before Black Friday in November to the second Friday in January inclusive.
- 1.3.3 Not less than two weeks before each Peak Period, Client shall in good faith provide a forecast of daily volumes for each Service for the duration of Peak Period ('**Peak Forecast**'). In addition, Client shall provide in good faith a provisional forecast for Autumn peak by mid-August and for Spring peak by mid-February.
- 1.3.4 ArrowXL shall use the Peak Forecast to allocate a daily volume allowance for each Service ('**Peak Daily Volume Allowance**'), which shall be advised to Client before the start of Peak Period.
- 1.3.5 For each Service, if Client exceeds Peak Daily Volume Allowance:
- (a) ArrowXL may refuse Consignments in excess of Peak Daily Volume Allowance, and return them at Client's expense;
  - (b) If ArrowXL accepts such Consignments:
    - (i) ArrowXL will not guarantee timescales for delivery;
    - (ii) ArrowXL may without liability suspend Services pending available capacity;
    - (iii) Client shall pay for the Service on which Consignments were booked, and not the Service received;
    - (iv) ArrowXL shall have no liability for any Failed Delivery or obligation to meet the Service Level.

## 2. **Intake of Outbound Consignments**

- 2.1 All Outbound Consignments shall be advised to ArrowXL via Pre-Advice Data from Client prior to

- Pre-Advice Cut-off. Services will not be provided without accurate and complete Pre-Advice Data.
- 2.2 Client shall procure that all inbound loads to ArrowXL DC from Client or its suppliers are booked in. ArrowXL reserves the right to turn away unbooked loads or to issue additional Charges for unloading. Waiting Charges may apply where loads arrive outside of booked times. Client shall ensure Goods are delivered to the correct ArrowXL DC by the requisite cut-off time to enable deliveries to take place as scheduled.
  - 2.3 Where ArrowXL is collecting Outbound Consignments, Client shall provide (and procure any supplier provides) free of charge suitable facilities to enable safe and timely collection.
  - 2.4 Client shall be responsible for loading trailers and shall ensure Outbound Consignments are loaded safely onto carrying vehicles and trailers so as not to cause any hazard or damage during transit to ArrowXL or while unloading.
  - 2.5 For inbound Goods which arrive directly on a container Client must procure that all loads have been checked/treated for contamination (chemical or organic) and arrive with sufficient documentation to identify country of origin, supplier and quantity and type of Goods and in respect of the Ireland Services arrive with the Ireland Service Consignment Data and such other data as is required under the Ireland Service Terms.
  - 2.6 Client shall ensure Outbound Consignments are suitably packaged for transit and Customer Delivery. ArrowXL accepts no liability for loss or damage in the event of any breach of this provision. If an Outbound Consignment is unsuitably packed, ArrowXL may repack the Consignment or repair packaging at Client's expense or return the Consignment to the Returns Location at Client's expense.
  - 2.7 Upon receipt of Outbound Consignments, ArrowXL will check packaging for obvious product damage without opening. QC checks may be carried out by advance agreement subject to additional Charges. Discrepancies in quantity or visible damage will be reported to Client and affected Consignments will not be scanned as received or dispatched for Customer Delivery. Save for in the event of proven Bulk Loss following collection of Outbound Consignments by ArrowXL, ArrowXL accepts no liability for Outbound Consignments until scanned as received at the receiving ArrowXL DC. If further instructions and/or replacements are not received within a reasonable time, ArrowXL will return defective or deficient Consignments at Client's risk and expense.

### **3. Customer Delivery**

#### **3.1 Booking Outbound Consignments for Customer Delivery**

- 3.1.1 Where a Consignment is booked for Customer Delivery via DBS:
  - (a) ArrowXL will attempt to contact Customer to offer a delivery date.

- (b) If ArrowXL is unable to book delivery within 10 Working Days of receipt of Pre-Advice Data, ArrowXL may cancel delivery and return the Consignment to Client at Client's expense.
- 3.1.2 Subject to receipt of Pre-Advice Data, ArrowXL will despatch Consignments for 24 Hour delivery and 2 Working Day delivery as instructed by Client. Client must ensure Customer is expecting delivery on the allocated date.
- 3.1.3 Client is responsible for labelling Outbound Consignments to include, name, address, Customer reference and UPI number and such other information as ArrowXL may require and for ensuring this information is accurate.

#### **3.2 Delivery**

- 3.2.1 ArrowXL will advise Customer of the timeslot for delivery. The timeslot is indicative only and is an estimate. Timeslots can be affected by numerous factors including traffic and weather. ArrowXL shall use reasonable endeavours to arrive within such time and provide the Services in accordance with timeslots. If ArrowXL is unable to provide the Services due to weather conditions all Charges will be applied as if the Services had taken place, as ArrowXL will have incurred the costs notwithstanding that the Services were not completed. Notwithstanding any other provision in this Agreement, ArrowXL shall not be required to provide any form of notice to the Client in respect of a delay in the Services or Charges made pursuant to this paragraph 3.2.1.
- 3.2.2 On the day of delivery, ArrowXL will endeavour to contact Customer prior to arrival (unless delivery is scheduled for 7.30am or earlier), advising of estimated arrival time.
- 3.2.3 Should Customer be unavailable to take delivery ArrowXL will return the Consignment to ArrowXL DC and attempt to re-book delivery with Customer.
- 3.2.4 Delivery may be refused if access to the Room of Choice is obstructed and an alternative location is not offered by Customer. In-home Services may not be performed where to do so may put property or persons at risk.
- 3.2.5 The delivery crew will leave the Consignment in the Room of Choice and confirm with Customer (to the extent possible where unpacking not required) that the Consignment is in good, undamaged condition. Delivery crew will ask Customer to sign POD. Should Customer refuse to sign POD, the delivery crew shall make a note to that effect. Where Coronavirus or related restrictions are in place, the crew will sign the POD for the

Customer or take a photograph of the Consignment (with open door) which shall constitute valid evidence of delivery. The crew's compliance with one of the options available in this paragraph 3.2.5 shall constitute valid evidence of Delivery.

#### **4. Collection of Returns**

##### **4.1 Booking Collection**

- 4.1.1 Unless agreed otherwise, Client will book collection dates directly with Customer via the ArrowXL collection portal.
- 4.1.2 Where applicable, Client will provide ArrowXL with Pre-Advice Data for collections by the Pre-Advice Cut-Off.

##### **4.2 Collection of Returns**

- 4.2.1 ArrowXL will advise Customer of the timeslot for collection. Such timeslot is indicative only and an estimate, and whilst ArrowXL shall use reasonable endeavours to arrive within the timeslot, this cannot be guaranteed. Numerous factors affect timeslots including traffic and weather conditions.
- 4.2.2 On the day of scheduled collection, ArrowXL will endeavour to contact Customer prior to arrival (unless collection is scheduled for 7.30am or earlier), advising them of estimated arrival time.
- 4.2.3 Should Customer be unavailable for collection to take place on the scheduled date, ArrowXL will cancel the collection and attempt to re-book with Customer.
- 4.2.4 Collection may be refused if access is not clear. Delivery crews will note the condition of Returns and any packaging but are not required to check contents.
- 4.2.5 Delivery crew will ask Customer to sign POC. Should Customer refuse to sign POC the delivery crew will make a note to this effect. Where Coronavirus or related restrictions are in place, the crew will sign the POC for the Customer or take a photograph of the Consignment (with open door) which shall constitute valid evidence of collection. The crew's compliance with one of the options available in this paragraph 4.2.5 shall constitute valid evidence of collection.
- 4.2.6 Delivery crews may at their discretion refuse to collect any item considered unsafe or unhygienic or where an item is presented in a way that may result in damage to property or other goods. Delivery crews will use reasonable endeavours to protect items in transit by wrapping and securing, but ArrowXL accepts no liability in that regard. Client must advise Customers to present Returns in a manner suitable for transit by returning them in original or substitute packaging and ensuring loose parts are securely packed away.

#### **5. Returns**

- 5.1 Returns will be sent to the Returns Location by ArrowXL where it has been agreed with Client.

#### **6. Delivery and Collection Exceptions**

##### **6.1 Customer Unavailable (Outbound Consignments and Returns)**

###### **6.1.1 ArrowXL arrives outside booked delivery/ collection day**

ArrowXL will reschedule directly with Customer. Client will not be charged for this failure and usual Charges apply for rescheduled delivery or collection.

###### **6.1.2 ArrowXL arrives on booked delivery/ collection day**

If Customer is unavailable on scheduled day, ArrowXL will leave a card noting date and time of delivery/collection attempt and a contact number for Customer to rearrange delivery or collection. Client will be charged for all Services on each delivery/collection attempt except WEEE removal. ArrowXL will reschedule delivery/collection with Customer.

##### **6.2 Customer refuses delivery/collection on the day**

Client will be charged for all delivery and collection attempts where Customer refuses delivery or collection due to no fault of ArrowXL or where Services cannot be provided due to no fault of ArrowXL.

##### **6.3 Customer Requests**

###### **6.3.1 Leave Unsigned**

ArrowXL will not leave or collect a Consignment without obtaining an authorised signature as POD or POC unless the delivery crew has made reasonable attempts to obtain signature and Customer has refused in which case the crew will make a note to this effect. Alternatively, where Coronavirus (or related) restrictions are in place the delivery crew will sign the POD/POC for the Customer or take a photograph of the Consignment (with open door). The crew's compliance with one of the options available in this paragraph 6.3.1 shall constitute valid evidence of Delivery/collection. ArrowXL accepts no liability for loss or damage to Consignments where Customer refuses to sign POD or POC.

##### **6.4 Customer Unavailable to Sign**

ArrowXL may accept a signature from an authorised adult at the delivery or collection address (demonstration of authorisation evidenced by such person having access to the inside of the property).

##### **6.5 Address Queries**

Should ArrowXL be unable to locate an address after making reasonable attempts, or should an address be inaccessible, then ArrowXL may abandon the delivery or collection attempt. Client will be charged for such attempt.

##### **6.6 Items Too Large or Delivery/Collection unsafe**

Delivery crews may at their discretion decide whether a delivery/collection is feasible with reference to access to Room of Choice, health and safety or risk of damage to the Consignment or other property. Should a Service not be completed ArrowXL will follow the communication requirements in paragraph 6.7. If Client requests ArrowXL re-attempts delivery or collection, ArrowXL accepts no liability for loss or damage. It is at ArrowXL's discretion whether delivery crews assist further with re-attempted delivery or collection.

#### 6.7 Communication Requirements

If delivery or collection is deemed by ArrowXL to be unfeasible ArrowXL will either rearrange subsequent delivery or collection direct with the Customer or liaise with Client with a view to reaching a resolution. Details of delivery and collection failures will be visible to Client via ArrowXL's on-line customer management platform.

### 7. Definition of Areas

7.1 The following areas are covered by the scope of the Agreement. Services to and from areas not in Mainland UK will attract an additional out of area surcharge. Post codes may be subject to change from time to time. Northern Ireland and Eire will only be covered if agreed between the parties. Ireland Service Terms will also apply to all Services to Northern Ireland and Eire.

#### Mainland UK

Mainland UK is defined as England, Isle of Wight, Wales and Southern Scotland, and includes all postcodes other than those listed below within other areas.

#### Grampian & Highlands

Grampian & Highlands are defined as covering the following postcodes, with the exclusion of those listed under Scottish Offshore: AB, DD8-11, IV, KW 1-14, PA21-40, PH 17-26, 30-35, 37-39, 41, 49,50

#### Scottish Offshore

Scottish Offshore is defined as covering postcodes: Orkney (KW15, 16, 17), Shetland (ZE), West Isles Outer Hebrides (HS), West Isles Inner Hebrides (PA20, 41-49, 60-75, 77, 78), Isle of Arran (KA 27), Isle of Cumbrae (KA 28), Hebrides (PH 42-44), Raasay (IV40)

#### Channel Islands & Isles of Scilly

Channel Islands & Isles of Scilly are defined as Guernsey, Jersey, Alderney, Sark and Herm while the Isles of Scilly are St Helen's, St Martin's and St Mary's, covering postcodes: GY, JE & TR 21-25.

#### Isle of Man

The Isle of Man covers the IM postcode area.

#### Northern Ireland

Northern Ireland covers all BT postcode areas. The Ireland Service Terms apply

#### Eire

Eire covers the Republic of Ireland. Post code data must be supplied in accordance with ArrowXL requirements. The Ireland Service Terms apply.

### Schedule 2

### Billing

#### 1. Transport Charges

Charges for transport from or to Client/supplier locations as per CSF or ArrowXL standard transport rates.

#### 2. Customer Delivery / Delivery Attempt (Customer not home, card left)

Charges for delivery attempt (and in-home Services) as per CSF. Parties acknowledge and agree that ArrowXL has calculated Charges with reference to Profile.

Where Charges in the CSF are based on average weights, dimensions or number of parts, the average will be calculated over each quarter. Where the average exceeds the stated amount by more than 3%, ArrowXL reserves the right to re-calculate the Charges accordingly. This will also apply to geographical distribution eg if the percentage distribution of the Goods to any location differs to the proportions recorded in the CSF by more than 3% over a quarter then ArrowXL reserves the right to re-calculate the Charges.

#### 3. Collection of Return / Collection Attempt (Customer not home, card left)

Returns process is the reverse of Outbound Consignments and attracts same Charges per attempt unless CSF states otherwise.

#### 4. Other Charges

##### 4.1 Out of Area Surcharges

Out of Area Surcharges as per CSF or as notified to the Client from time to time.

##### 4.2 ULEZ and Congestion charges

ULEZ and congestion charges at the rates specified in the CSF and based on the postcodes on the Transport for London website or regional website if applicable, which are subject to change.

##### 4.3 Fuel Surcharge

On the last day of each month, a variable fuel adjustment will automatically be applied to Charges for all Consignments transported by ArrowXL. The adjustment will be calculated as 11% (the proportion of ArrowXL's costs that relate to fuel) of the percentage difference between the Base Contract Fuel Price and the diesel price per litre on the following website (or its equivalent from time to time): [www.gov.uk/government/statistical-data-sets/oil-and-petroleum-products-weekly-statistics](http://www.gov.uk/government/statistical-data-sets/oil-and-petroleum-products-weekly-statistics) Adjustments will be applied retrospectively within 30 days of publication of the diesel price (though the right to adjust will not be waived by any delay) and advised via a separate debit or credit note issued by ArrowXL. All additional charges are subject to VAT.

Fuel adjustment is calculated as shown in the following example: e.g. if the Base Contract Fuel Price is £1.10 and the diesel price per litre on the appropriate day listed on the website is £1.13 then the percentage increase over the Base Contract Fuel Price would be 2.7%, 11% of which would be 0.3%.



If all Charges that month for Consignments transported by ArrowXL were £50,000, then the variable fuel adjustment to be invoiced would be £150.

## 5. Deferrals/Cancellations

The below events will attract the Charges stated in the CSF.

### Planning Cut-off Times

- 6:30pm 1 clear Working Day prior to delivery/collection (DBS, 2 Working Day delivery and all collections) e.g. Monday 6.30pm for Wednesday delivery/collection
- 6:30pm the Working Day before delivery (24 Hour delivery)

### Cancellation Charge 1 / Deferral

**Cancellation Post Receipt (deliveries only):** order cancelled after receipt of Consignment by ArrowXL but before planning cut-off time

**Deferral:** delivery/collection deferred to new date after planning cut-off time

### Cancellation Charge 2

**Collection Cancellation:** collection from Customer cancelled after planning cut-off time

**Cancellation Post Route Plan:** delivery cancelled after planning cut-off time. Charge covers allocated space/time to vehicle route as cannot be reallocated post planning. Charge for initial delivery plus a Charge to return Consignment to Client

**“On the Road” Cancellation:** delivery cancelled on delivery day/by Customer refusal at point of delivery. Charge presented in 2 parts for cost of delivery attempt and for returning Consignment

**Cancellation after Delivery Attempt:** as above (On the Road Cancellation) but appears on invoice as one charge rather than 2 parts. Client will be charged for each delivery attempt before cancellation.

## Schedule 3

### Service Level

#### 1. Measurement

- 1.1 Service Level is measured weekly by electronic data captured by ArrowXL.
- 1.2 Without prejudice to clause 2.7, Service Level performance is measured by calculating Service Defaults made by ArrowXL in each weekly measurement period.
- 1.3 **‘Service Default’** is defined as, when a Consignment is not delivered on time in full and undamaged as a result of an ArrowXL Failure.

#### 2. Service Level - Outbound Consignments only

Service Description	Area	Service Level	Service Level Failure
Successful Customer Delivery	Main land UK	Successful delivery attempt to Customers of <b>97.5%</b> of Outbound Consignments on scheduled day (to include rescheduled dates)	<b>90%</b> or below for 8 consecutive weeks.

#### 3. ArrowXL Failure

An **‘ArrowXL Failure’** is defined as:

- 3.1 Driver ran out of time on route to make delivery due to driver failure or an ArrowXL planning failure;
  - 3.2 Goods proven to have been damaged by ArrowXL;
  - 3.3 ArrowXL placed incomplete Order on its vehicle despite all parts of the Order having been placed into the network by the Client in full compliance with the terms of this Agreement;
  - 3.4 ArrowXL unable to locate Customer property despite having been given the correct and comprehensive address at the correct time by the Client in accordance with the terms of this Agreement;
  - 3.5 No room on ArrowXL vehicle caused by an ArrowXL failure in loading or planning;
  - 3.6 Breakdown of ArrowXL’s vehicle due to failed maintenance or driver accident due to driver fault; or
  - 3.7 ArrowXL unable to find Goods or any part of a Consignment within its network despite the Goods having been placed in the ArrowXL network by the Client in full compliance with this Agreement.
4. Without prejudice to clause 2.7, in each case a Service Default shall not be considered for the calculation of Service Level Failure where it has arisen as a result of or has been contributed to by (i) a failure by the Client to comply with any term of this Agreement, (ii) the action or inaction of the Client; and/or (iii) any circumstances which are set out in clause 2.7; and/or (iv) any circumstances which are reasonably outside of the control of ArrowXL whether reasonably foreseeable or not including any Force Majeure Event; and/or (v) the performance of the Ireland Services.
5. The Ireland Services shall not be taken into account for the purposes of calculating Service Level Failure.

#### Remedial Plan

If ArrowXL fails for a period of 8 consecutive weeks to maintain a Service Level of at least **90%** (**‘Service Level Failure’**), the parties shall meet as soon as practicable to discuss reasons for failure and agree a remedial plan to restore the Service Level. This shall constitute the sole

remedy available to Client in respect of any failure to meet the Service Level, or any Service Level Failure.

#### **Schedule 4** **Liability and Claims**

##### Liability for Consignments

1. Subject to clause 10.10, liability for Consignments passes to ArrowXL: for Outbound Consignments collected by ArrowXL from Client/supplier, at the point loaded onto ArrowXL vehicle or trailer; or, where Client or supplier delivers into ArrowXL, at the point Consignments are scanned as received by ArrowXL. ArrowXL is not be liable for Consignments received damaged or incomplete. For Returns, liability passes at the point Consignments are collected from Customer.
2. Subject to clause 10.10, risk remains with ArrowXL until Outbound Consignments are delivered to Customer or Returns arrive at Returns Location. ArrowXL shall not be liable for unloading on arrival at Returns Location. ArrowXL accepts no risk once Consignments have left its custody or control.

##### Claims for Loss or Damage to Consignments

3. ArrowXL shall advise Client on becoming aware of any Consignments (or part of them) expected but not received into ArrowXL DC, or any Consignments received that appear damaged.
4. Client cannot claim in respect of Consignments not scanned into ArrowXL's network unless ArrowXL is transporting Consignments pursuant to Intake Arrangements and a Bulk Loss as described at clause 10.9 of the Terms and Conditions has occurred.
5. The Client will file all claims for loss of or damage to Outbound Consignments using ArrowXL's electronic claims system as advised from time to time. Claims for damage must be submitted to ArrowXL within 7 Working Days of delivery. All claims for loss must be submitted within 28 days of the last tracked movement of the item. ArrowXL will investigate all claims as soon as practicable.
6. ArrowXL will endeavour to respond to all complaints or claims within 14 days. Some complaints or claims may require investigation, which may delay response time. ArrowXL may appoint a representative to investigate Customer complaints directly with the Customer.
7. In the case of alleged loss of Returns, claims shall be advised to ArrowXL in writing by Client within one Working Day of scheduled return. ArrowXL shall not be liable for any damage to Returns except RTS Consignments.
8. ArrowXL will not be liable for alleged loss or damage to Consignments after Customer Delivery where Customer has signed POD (or refused to sign POD or crew have signed HHT due to COVID-19 restrictions) and no complaint of loss or damage was recorded at the time.
9. Where it is alleged that an item has been damaged by ArrowXL, ArrowXL reserves the right to recover the item for inspection. Once Client has been

credited for any claim, title to the item will pass to ArrowXL and ArrowXL shall enjoy the same rights as are set out at clause 4.11(ii) in respect of such Goods.

10. Client shall be precluded from bringing claims for loss or damage to Consignments if the deadlines in this Schedule are not met.
11. ArrowXL will issue credit notes for agreed claims. If credit notes cannot be set-off against available invoices ArrowXL shall pay such sums directly to Client.
12. ArrowXL may request evidence from Client of the cost price of Consignments prior to settlement of claims. If such evidence is not provided within 28 days of request, ArrowXL will reject the relevant claim.
13. ArrowXL shall not be liable for any loss of or damage to Consignments where such damage or loss is not outwardly visible to unchecked Consignments, it has been delivered to the Customer address and for which a signature has been obtained by Customer or alternatively, where Coronavirus (or related) restrictions are in place, where the delivery crew have signed the POD/POC for the Customer or taken a photograph of the Consignment (with open door).
14. All claims are subject to limits on liability in clause 10.

##### Claims for Damage to Customer Property

15. Each party shall inform the other as soon as practicable after becoming aware of any claim or complaint by a Customer alleging property damage during performance of the Services. ArrowXL accepts no liability where Client fails to inform ArrowXL of any claim or complaint in writing within 7 Working Days of delivery.
16. Subject to agreement to the contrary, or any objection by Customer, all claims for property damage shall be dealt with by ArrowXL at ArrowXL's expense and it shall use reasonable commercial efforts to resolve such claims. Where Client deals with any claims direct, it must consult with ArrowXL regarding any admission of liability or proposed settlement and ArrowXL will only be liable for the same if agreed in advance in writing.

#### **Schedule 5** **Ireland Services Terms**

The provision of Services does not place ArrowXL under an obligation to provide the Ireland Services. In all cases where the Ireland Services are provided whether to Northern Ireland (only), Eire (only) or both, the terms of this Schedule 5 shall apply.

The Client acknowledges and agrees that the terms in this Schedule 5 are in addition to the Client's obligations elsewhere in this Agreement, including all Pre-Advice Data requirements set out in this Agreement. Due to the nature of the Ireland Services all of the additional Client obligations under this Schedule 5 must be met for ArrowXL to provide the Ireland Services.

The parties acknowledge that a failure by the Client to comply with the Client's obligations can prevent customs clearance and affect other Clients' shipments. ArrowXL shall be entitled to remove Goods from the Ireland Services without liability at any time in the process where it becomes aware that any provisions of the Agreement have not been met by the Client.

These Ireland Service Terms relate to both Northern Ireland and Eire but only apply to Northern Ireland to the extent applicable.

References in this Schedule 5 to 'export' and 'import' include movement to and from Northern Ireland (as well as Eire).

### 1. Client's Obligations

- 1.1 The Client shall identify and inform ArrowXL of any Goods that are subject to pre-export/import regulatory controls.
- 1.2 The Client shall be responsible for obtaining, at its own expense, all necessary licences, permits and consents (including import and/or export licences, permits and consents) required to enable the transportation and delivery of the Consignment.
- 1.3 The Client shall at all times comply with any applicable national and international export and import control regulations and all directions from such authorities.
- 1.4 The Client shall ensure that the Goods do not include any items:
  - (i) prohibited by the law or regulation of any government or public or local authority of any country where the Goods are carried and/or received;
  - (ii) which require a licence or permit in order to transport (unless obtained pursuant to paragraph 1.2);
  - (iii) which are subject to import, export, or transportation restrictions imposed by the laws applicable in the country of destination; and
  - (iv) which are subject to any licences, permits, certificates, restrictions, or anti-dumping or countervailing laws or regulation in the country of destination.
- 1.5 The Client acknowledges that strict customs documentation requirements are in place for the Ireland Services, which if not met will prevent ArrowXL successfully shipping. The Client shall in relation to each of the Goods comprised in each Consignment and in accordance with such timescales and format as ArrowXL, the Broker and/or any customs authority specifies, provide ArrowXL, the Broker and/or the any applicable customs authority with:
  - (i) a commercial invoice (including EORI Number, a clear, accurate, complete and unambiguous description of the Goods and the Incoterm agreed between the Client and the Customer and such additional information that ArrowXL reasonably

- requires in such format as ArrowXL may require from time to time);
  - (ii) a Commodity Code for each of the Goods;
  - (iii) the value of the overall Consignment and the value of the individual Goods within such Consignment;
  - (iv) export/import reason, whether duty is paid or unpaid, name of sender and currency used for pricing;
  - (v) the Origin Information;
  - (vi) any information (including all documents and/or Consignment Data) required by any relevant customs authorities, the Customs Broker and/or ArrowXL;
  - (vii) all applicable declarations including safety and security declarations for export and import; and
  - (viii) all information, Consignment Data and documentation which is required and/or necessary to comply with all applicable laws and regulations.
- 1.6 The Client shall ensure that all information provided by it pursuant to paragraph 1.5 above shall be accurate, complete and up to date.
  - 1.7 The Client warrants that:
    - (i) it is either the exporter/importer of the Goods or the duly authorised agent of the exporter/importer of the Goods comprised in any Consignment;
    - (ii) it is not among the individuals or entities identified on the SDN list or any of the United Nations or any other national or international comparable list.
  - 1.8 The Client warrants that it has not and agrees that it shall not at any time whether deliberately or negligently make any misrepresentation to ArrowXL, the Broker and/or any applicable authority (including customs authorities).
  - 1.9 The parties agree that ArrowXL shall be appointed as the Direct Representative of the Client under applicable customs legislation. Such appointment shall be at ArrowXL's option and discretion. Where such appointment is made the Client shall provide ArrowXL, the Broker and any applicable authority with such documentation as each reasonably requires to evidence the appointment. ArrowXL shall only act as the Indirect Representative of the Client for the purposes of customs legislation where ArrowXL has agreed to do so in formal written notice signed by a director of ArrowXL.
  - 1.10 The Client shall ensure that the Goods have been properly and sufficiently packaged and labelled for overseas transit to the intended destination, so that the Consignment will not be lost, delayed or damaged whilst being transported.
  - 1.11 Without prejudice to the liability of the Client set out elsewhere in this Agreement or at law and the ArrowXL remedies, where the Client has failed to comply with its obligations set out in paragraph 1.5 and/or 1.6, and ArrowXL notifies the Client of the same, the Client shall send the missing, correct, up to date and complete information to ArrowXL within 24 hours of the ArrowXL notification.

## 2. ArrowXL Rights

2.1 ArrowXL reserves the right to (but shall not be obliged to) open and inspect all Consignments which are provided by the Client for the Ireland Services to check for Goods which may be:

- (i) incapable of carriage to the country of destination within ArrowXL's standard procedures, customs, declarations and handling methods;
- (ii) non-compliant with any law;
- (iii) not as described on the accompanying customs documentation and/or Ireland Consignment Data; or
- (iv) otherwise not in compliance with this Agreement.

For the avoidance of doubt, ArrowXL's rights set out pursuant to this paragraph 2 shall in no way place any liability on ArrowXL in respect of the suitability of the Consignment or any Goods for export to the Territory or import to Mainland UK. Liability for such suitability for export to the Territory and import to Mainland UK shall remain at all times with the Client as the exporter or importer as applicable.

2.2 ArrowXL reserves the right to:

- (i) transfer any required information to the competent authorities in respect of any Consignment received by it for export to the Territory or import to Mainland UK; and/or
- (ii) apply the procedure required by such competent authorities including the destruction of the Consignment at the Client's cost and ArrowXL will under no circumstances be held liable for the same.

2.3 To the extent that ArrowXL is not prohibited from doing so by any applicable authority, law or regulation it shall provide the Client with as much advance notice of a requirement or instruction received by it pursuant to paragraph 2.2 above as is reasonably practicable to allow the Client to take appropriate action.

2.4 The parties acknowledge that the export and import processes to and from the Territory are new and not embedded. The parties agree that given the complexity of the export and import processes and the potential for delays outside of the control of ArrowXL, Service Levels shall not be applied to the Ireland Services. ArrowXL's delivery of the Ireland Services shall not be taken into account in respect of any other Services or Service Levels agreed between the parties.

2.5 ArrowXL reserves the right to impose reasonable restrictions and/or require additional documentation or Consignment Data depending upon the requirements of its Broker, the requirements of any relevant authority or any learnings, changes, streamlining or developments in the provision of the Ireland Services. ArrowXL shall at all times act reasonably in doing so with the objective of providing the Ireland Services in an efficient and compliant manner and shall provide as much advance notice to the Client of such changes as is reasonably practical.

2.6 The Client acknowledges that regulatory and customs clearances may be required for certain goods, and failures may occur within the export and import processes that are not under ArrowXL's full control which may extend the transit time and may delay delivery. ArrowXL shall not be liable for any delays in the Ireland Services.

## 3. Remedies

3.1 The Client acknowledges that failure to complete documentation correctly can prevent shipments meeting customs compliance requirements. Without prejudice to any additional rights and remedies available to ArrowXL where the Client fails in its obligations under this Agreement, ArrowXL has the right, to:

- (a) remove the Goods in whole or in part from the Ireland Services;
- (b) return the Goods to the Client at the Client's cost, this may be done by ArrowXL at its discretion and in accordance with ArrowXL's timescales including where correct data is not received by ArrowXL within 24 hours of notification to the Client;
- (c) store the Goods pending receipt of the correct, accurate and up to date information and charge the Storage Charge and all such costs as ArrowXL incurs as a result of such failure;
- (d) to require the Client to collect the Goods, during any period of non-collection the Storage Charge shall be applied

During storage, at any time prior to any collection, return, shipment, disposal or destruction and during transit for the return of the Goods, the Goods shall be held solely at the Client's risk.

3.2 Without prejudice to and in addition to ArrowXL's general rights set out above, if any information set out in paragraph 1.5 is missing, incorrect or incomplete ArrowXL may (at its option), contact the Client and with the Client's agreement amend the incorrect or incomplete information. Such changes shall not absolve the Client of responsibility for such information and ArrowXL shall have no liability (whether in contract, tort including negligence and/or statutory duty, misrepresentation, or otherwise and howsoever arising) in respect of such changes.

## 4. Payment and Prices

4.1 The Client shall pay to ArrowXL the Charges including for the Ireland Services (including Duties and Taxes and Out of Area Surcharges, fees for customs clearance, administrative and Storage Costs) in accordance with the CSF, clause 4 of the Agreement and this Schedule 5. For the avoidance of doubt all such sums shall be considered Charges for the purposes of the Agreement.

4.2 Should ArrowXL exercise its variation right under clause 5.2 of the Agreement, the parties agree that the required notice can be given to the Client via email.

- 4.3 Liability for Duties and Taxes on the Goods shall be the responsibility of the Client as the exporter/importer as applicable. ArrowXL may assist in the facilitation of the payment of certain Duties and Taxes to ease transport to the Territory. ArrowXL's performance of the Ireland Services is conditional on the Client (a) putting in place a customs payment bond to the satisfaction of ArrowXL; (b) making an advanced payment to ArrowXL; or (c) holding a deferred payment account with HMRC in respect of the Duties and Taxes (together referred to as "**Duty Payment Requirements**").
- 4.4 ArrowXL reserves the right to specify which of the Duty Payment Requirements it requires from the Client to perform the Ireland Services. ArrowXL reserves the right to change this requirement at any time on reasonable written notice to the Client. The Client shall provide ArrowXL with such evidence as ArrowXL reasonably requires to evidence that the appropriate Duty Payment Requirement has been put in place and where applicable, contains the sums required by ArrowXL to cover all payments made on the Client's behalf by ArrowXL or third parties acting on behalf of ArrowXL.
- 4.5 With the exception of the deferred payment account, payment should be made in respect of the Duty Payment Requirements in accordance with the timescales and directions reasonably required by ArrowXL. The Client shall ensure that such payment is made in full and is accurate.
- 4.6 The Client shall at all times remain fully liable and responsible for managing VAT and any other taxes that relate to the Goods that are part of the Ireland Services, this includes in respect of returning Goods to Mainland UK.
- 4.7 The Client shall ensure that all representations regarding VAT and or any other applicable taxes whether made to ArrowXL, the Broker, any applicable authority or any applicable third party associated with the Ireland Services are accurate, complete and up to date.
- 4.8 Where required by ArrowXL the Client shall provide ArrowXL with such evidence as ArrowXL reasonably requires, in accordance with such timescales as ArrowXL reasonably requires, that the Client is managing and paying VAT and taxes in a manner that complies with the requirements of all applicable authorities.
- 4.9 In the event that ArrowXL pays or agrees to pay to any third party any Duties and Taxes in respect of any Client's Goods:
- (i) ArrowXL shall do so on the sole basis that in doing so it is acting as the Client's fully authorized agent;
  - (ii) whether or not delivery of the goods is made to the Delivery Address, and or the Duties and Taxes are disputed, the Client shall immediately upon receipt of the ArrowXL duty invoice in respect of such Duties and Taxes shall settle such duty invoice in full;
- (iii) in the event of the Client failing to comply strictly with paragraph 4.9(ii) above, ArrowXL shall be at full liberty to deal with the Goods in accordance with paragraph 3.1 and/or suspend the Ireland Services;
  - (iv) ArrowXL may make the payment via the Broker, such payment shall be subject to the Client's full compliance with the Agreement. The Broker shall pay such Duties and Taxes that are applicable to the Consignments, and it agrees to, which are subject to the Ireland Services based on the information provided by the Client pursuant to paragraph 1.5.
- 5. Customs Broker**
- 5.1 The Client appoints ArrowXL as its agent for the purpose of clearing and entering the shipment through customs. ArrowXL reserves the right to subcontract this obligation to the Broker. The Client acknowledges that ArrowXL is the 'consignee' for the purpose of designating a customs broker to perform customs clearances and entries.
- 5.2 Where ArrowXL has appointed a Broker, the Client agrees to provide such additional information and provide such cooperation as is reasonably required by the Broker, in accordance with such timescales as is reasonably required by the Broker.
- 6. Termination and Suspension Rights**
- 6.1 Where the Client fails to comply with any of its obligations under this Schedule ArrowXL shall have the right to:
- (i) terminate the Ireland Services on such notice period as ArrowXL reasonably specifies in a written notice to the Client (such notice may be given by email); or
  - (ii) stop or suspend the Ireland Services on written notice to the Client (such notice may be given by email).
- 6.2 Given the nature of the export and import processes, there may be failures or changes within the processes which have a material impact on the commercial viability of the Ireland Services. ArrowXL reserves the right to immediately and indefinitely suspend the Ireland Services at its discretion at any time on written notice to the Client (which can be given by email). Without prejudice to the generality of the foregoing, in exercising its right under this paragraph 6.2 ArrowXL shall take into account, the commercial viability of the provision of the Ireland Services, the demand, the complexities and failures in the customs process, changes or clarifications in the rules, processes, regulations and requirements of customs authorities, changes in costs, supplier's actions or inactions, supplier and ArrowXL processes, changes in services and goods provided by suppliers and price alterations by suppliers and such additional issues as may arise under an export and import system.
- 6.3 ArrowXL agrees that where it exercises its right under paragraph 6.2 it shall keep the Client informed as to the suspension and shall inform the

Client as soon as reasonably practicable on becoming aware of when the suspension period will end and the Ireland Services will resume or alternatively it will issue a notice of termination of the suspended Services pursuant to paragraph 6.4.

- 6.4 Notwithstanding the foregoing either party reserves the right to terminate the Ireland Services for convenience at any time on not less than 30 days' written notice to the other party, such notice can be given by email.
- 6.5 The parties agree that any suspension or termination of the Ireland Services which occurs pursuant to this paragraph 6 or elsewhere in this Agreement shall not affect the provisions of any other Services agreed by the parties under this Agreement or elsewhere. Such Services shall remain in place unaffected and in accordance with the applicable terms.

## 7. Liability for loss, damage and delay

- 7.1 For the avoidance of doubt the exclusions to ArrowXL's liability set out at Clause 10 of the Agreement shall apply to the delivery of the Ireland Services. In addition to the exclusions set out in clause 10 of the Agreement, ArrowXL shall have no liability (whether in respect of the Goods or otherwise) for any seizure under legal process, any other acts or omissions of any customs office, governmental bodies or other regulatory agencies, and any observance by ArrowXL of any rules, regulations, guidance, decisions and orders issued by customs, governmental bodies and regulatory agencies.
- 7.2 Any specific timescales for delivery and/or collection which ArrowXL gives in respect of the Ireland Services are estimates only. ArrowXL shall not be deemed to be in breach of the Agreement or have any liability to the Client (whether in contract, tort including negligence and/or statutory duty, misrepresentation, restitution or otherwise and howsoever arising) for any failure to fulfil any delivery and/or collection within any specified timescales.

## 8. Indemnity

- 8.1 The Client shall indemnify and keep indemnified ArrowXL fully and hold it harmless against all liabilities, losses, claims, damages, expenses, fines and costs and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) that ArrowXL suffers or incurs as a result of any duty or tax that arises pursuant to the Ireland Services.
- 8.2 The Client shall indemnify and keep indemnified ArrowXL and hold it harmless against all liabilities, losses, claims, damages, costs, and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) fines and expenses, howsoever arising out of or in connection with:
- 8.2.1 any failure by the Client to comply with any term of this Schedule 5;

- 8.2.2 any claim or demand being made by any third party against ArrowXL in respect of the Client's breach of this Schedule 5;
- 8.2.3 ArrowXL's appointment as the Client's Direct or Indirect Representative and/or agent (and which occur as a direct result of ArrowXL's failure);
- 8.2.4 any failure by the Client to comply with any law, regulations, rule, government guidance, direction and/or requirement of any applicable customs authority.

## 9. Returns

- 9.1 Subject to the payment by the Client of the return collection Charges, in accordance with Schedule 2 paragraph 3 including the applicable Out of Area Surcharge for the return of the Goods, ArrowXL may offer a returns service as part of the Ireland Services at its discretion and in accordance with the fees and charges as are agreed with the Client, which shall form part of the Charges for the purposes of this Agreement.
- 9.2 ArrowXL may offer a returns service as part of the Ireland Services at its discretion and in accordance with such fees and charges as are agreed with the Client, which shall form part of the Charges for the purposes of this Agreement.
- 9.3 The Client acknowledges and agrees that any Goods that have been delivered to the Territory will not be able to be returned via the returns control process that applies to other Services.
- 9.4 Collection notes shall be raised in accordance with ArrowXL's procedures and Goods shall be returned to an ArrowXL warehouse or ArrowXL's delivery partner warehouse ("**Warehouse**")
- 9.5 Unless an alternative process is agreed with the Client in writing, ArrowXL or a third party on behalf of ArrowXL shall carry out an assessment on the returned Goods at the Warehouse to categorize each Good as follows and take the appropriate corresponding action as follows:
- (a) Pristine – pack for return shipment;
  - (b) Pristine but not packed correctly – pack correctly for return shipment;
  - (c) Not pristine but sellable – hold for sale to the agreed third party, the Storage Charge will apply until collection; and
  - (d) Unsellable – send for scrapping.
- 9.6 The Client shall be responsible for providing all required documentation to ArrowXL, the Broker and/or the Customs authority to facilitate the return of any Goods to Mainland UK.

## 10. Variation

Without prejudice to clause 5.2, ArrowXL shall be entitled to make amendments to the terms of this Schedule 5 on 30 days' written notice to the Client to reflect changes in the delivery of the Ireland Services, including to reflect changes in the process, regulations, rules and operations of any applicable authority.

## Schedule 6

### Dangerous Goods - Lithium Batteries

1. The only Dangerous Goods that ArrowXL agrees to carry (subject to ArrowXL providing its consent in accordance with clause 3.13) are lithium batteries that meet the criteria in this Schedule 6.
  2. The carriage of lithium batteries as part of the Services shall be subject to the provisions set out in this Schedule 6 and clause 3.13.
  3. The Client warrants, represents and shall ensure that (i) any Goods placed for carriage with ArrowXL on behalf of the Client fully comply with the relevant requirements of **ADR** (European Agreement concerning international carriage of Dangerous Goods by Road), **IMDG** (International Maritime Dangerous Goods) and the special provisions stated in this Schedule 6; and (ii) it will only place for carriage Dangerous Goods consented to by ArrowXL in accordance with clause 3.13; (iii) the Goods comply with the specifications as applicable in this Schedule 6; (iv) that it has appointed its own competent Dangerous Goods Safety Adviser; (v) that it shall provide all correct and accurate safety certificates that correspond to the Dangerous Goods being presented for carriage; and (vi) it shall provide all such additional information as ArrowXL requires in respect of the Dangerous Goods and shall ensure that it is complete, accurate and in such format as ArrowXL has required.
- 4. Lithium Batteries for Powered Vehicle**
- 4.1 Arrow XL does not agree to carry:
    - (a) Lose lithium batteries;
    - (b) Lithium batteries packed with equipment;
    - (c) Lithium batteries which are over 5kg in weight;
    - (d) Goods which do not comply with UN3171.
  - 4.2 Arrow XL shall only carry lithium batteries installed in the equipment contained in the Goods provided that they are in line with Special Provision 388 & 666 of the ADR.
- 5. Lithium Batteries for Powered Equipment**
- 5.1 ArrowXL does not agree to carry loose lithium batteries and Client must not place loose lithium batteries for carriage.
  - 5.2 ArrowXL shall carry lithium batteries packed with equipment contained in the Goods provided that:
    - (i) the cells are equal to or less than 20Wh OR the lithium batteries are equal to or less than 100Wh (in line with Special Provision 188);
    - (ii) lithium batteries must be packed in inner packaging that completely encloses the battery;
    - (ii) Lithium batteries must be protected to prevent damage and/or short circuits;
    - (iii) The packaging must comply with UN3481 and Special Provision 188 and must display the below label.

- 5.3 ArrowXL shall carry batteries installed in the equipment contained in the Goods provided that:
  - (i) the cells are equal to or less than 20Wh OR the lithium batteries are equal to or less than 100Wh (in line with Special Provision 188)
  - (ii) The lithium battery must be installed within the product but disconnected with an effective means of preventing accidental activation; and
  - (iii) The packaging must comply with UN3481 and Special Provision 188 and display the below label.



- 6. Collections of Goods containing lithium batteries.**
- 6.1 ArrowXL only agrees to collect Goods which meet the specifications in paragraphs 1-5 together with the other requirements in this Schedule 6 (and for which ArrowXL has provided its consent in accordance with clause 3.13).
  - 6.2 The Client shall not raise a request for collection of any Goods containing lithium batteries where the Good has experienced or is suspected to have experienced any defect or failure that is or could be related to the lithium batteries, for the avoidance of doubt this includes all mechanical failures and performance issues, slow or non-charging issues, loss of charge issues and issues involving switching on and off (together and each a **'Battery Failure'**)
  - 6.3 Where a Client has raised a request for collection in respect of a Good which contains lithium batteries, ArrowXL reserves the right to require the applicable Customer to complete a safety questionnaire over the phone (which, for the avoidance of doubt, shall be entirely without prejudice to the Client's obligation in clause 6.2 to not request collection of any Good which have or are suspected to have experienced Battery Failure). ArrowXL shall not collect any Good (i) for which the applicable Customer has not completed the safety questionnaire; and/or (ii) for which ArrowXL has reason to believe the Customer has not answered the safety questionnaire accurately.
  - 6.4 ArrowXL shall not collect any Good containing lithium batteries where the Customer refuses or fails to comply with the reasonable instructions of ArrowXL, or ArrowXL reasonably believes that the Customer has not complied with its reasonable instructions with regard to the repackaging and presentation of the applicable Goods for collection.

**7. General**

- 7.1 The Client shall ensure that the packages containing Dangerous Goods are properly packed in compliance with the ADR & IMDG Regulations, in strong robust boxes in accordance with the ADR & IMDG.
- 7.2 If any of the Goods are being shipped to any off-shore islands around UK, the Client will provide a completed DGN which will be placed in a document envelope and attached to the Goods.
- 7.3 The Client warrants that its employees understand the requirements for the carriage of Dangerous Goods Regulations by Road & if relevant IMDG by Sea.

Declared on behalf of the Client:

Name and title of signatory:

Date: