



## Loop Scheme Standard Terms

### For Pallet Supply and Pallet Collections - March 2024 v1

#### 1. INTERPRETATION

##### 1.1 Definitions:

**Beyond Economical Repair:** destroyed, contaminated or otherwise rendered unusable, or damaged beyond economical repair, in each case in the reasonable opinion of Loop.

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

**Pallet Loop collection Conditions:** these terms and conditions as amended from time to time in accordance with clause 23.

**Contract:** the order by a Loop Member for the delivery or collection of Pallets and other services in accordance with these Conditions.

**Control:** has the meaning given in section 1124 of the Corporation Tax Act 2010, and the expression change of control shall be construed accordingly.

**Collection Fee:** the fee payable by the Loop Member in respect of each collection as calculated at the standard rates published by Pallet Loop and agreed by the parties.

**Collection Date:** the date confirmed by Loop for a collection as confirmed by Loop to the Loop Member.

**Collection Delay Charge:** the charge payable by the Loop Member pursuant to clause 5.5 and calculated at the standard rates published by Pallet Loop from time to time or as otherwise agreed by the parties.

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

**Loop Back:** the website or online portal which Loop may specify and make available from time to time through which a Loop Member can access Loop relevant information.

**Loop:** Pallet Loop Limited (company number 11849072).



**Loop Hub:** a location made available from time to time by Loop to the Loop Member for Return of pallets if arranged.

**Loop Member:** a person, entity or firm which is an approved user of Loop products and / or services.

**Loop Member Representative:** a duly authorised representative of the Loop Member.

**Loop Member Site:** the Loop Member's agreed location for a Delivery or a Recovery.

**Loop Network:** the loop pallet network operated by Loop.

**Loop Pallets:** the Loop pallets (or any part of them) hired, loaned to or otherwise used by the Loop Member and owned by Loop.

**Minimum Ex-Works Collection Number:** Full load of Pallets or such other number of Loop Pallets as agreed in advance by Loop for collection.

**Minimum Delivery Number:** a full lorry-load of Loop Pallets or such other number of Loop Pallets as agreed in advance by Loop for pallet deliveries.

**Minimum Recovery Number:** No minimum quantity if fixed fees for collections have been agreed by Loop. If there are no fixed fees for collections then minimum collection quantity is 50 Pallets (not including pool pallets – Chep / IPP / LPR).

**Non-Loop Pallet:** any pallet which is not a Loop Pallet or a Waste Pallet.

**Non-Loop Disposal Fee:** the fee payable by the Loop Member in respect of each Non-Loop Pallet Recovered or Returned as calculated at the standard rates published in the Loop Back from time to time or as otherwise agreed by the parties. This does not apply if fixed fees or fees per white pallet collections have been agreed.

**Pallets:** the Loop Pallets, Non-Loop Pallets and/or Waste Pallets as the context requires.

**Recovery:** the recovery or collection by Loop of any Pallet from a Loop Member in accordance with the Contract and **Recovered** shall be construed accordingly.

**Recovery Date:** the period between the hours of 8am to 6pm on the date agreed by Loop for a Recovery.

**Recovery Fee:** the fee payable by the Loop Member in respect of each Loop or white Pallet Recovered as calculated at the standard rates published in the Loop Back from time to time or as otherwise agreed by the parties.

**Recovery Delay Charge:** the charge payable by the Loop Member pursuant to clause 9.6 and calculated at the standard rates published in the Loop Back or as otherwise agreed by the parties.

**Recovery Shortfall Charge:** the charge payable by the Loop Member pursuant to clause 9.4 and calculated at the standard rates published in the Loop Back from time to time or as otherwise agreed by the parties. Note: This charge does not apply if a fixed fee for a collection is agreed.

**Return:** the return of any Pallets by a Loop Member to a Loop Hub and Returned shall be construed accordingly.



**Return Date:** the date agreed by Loop for a Return.

**Return Pallet Payback** – This is the credit that Pallet Loop pays to the Loop Member returning the Loop Pallet back to Pallet Loop. The Payback is £4 for all Loop Pallet specifications in good condition. The payback reduces to £2 if the pallet requires repair or cleaning. Loop Payback is subject to annual review.

**Recovery Request:** a request by a Loop Member for a Recovery, either in writing or verbally.

**Request:** an Ex-Works Collection Request, an Issue Request, a Recovery Request or a Return Request.

**Specification:** the description or specification of the Pallets as set in the Issue Request or as otherwise agreed by the parties.

**Waste Pallet:** any Pallet which Loop considers in its absolute discretion to be Beyond Economical Repair or of a design or condition that has no ability to be re-used as a pallet in the future.

**Waste Pallet Disposal Fee:** the fee payable by the Loop Member in respect of each Waste Pallet Recovered or Returned as calculated at the standard rates published in the Loop Back from time to time or as otherwise agreed by the parties. This does not apply if a fixed price for a collection or a price per white pallet has been agreed.

## 1.2 Interpretation:

- (a) A reference to a statute or statutory provision is a reference to it as amended or re-enacted. A reference to a statute or statutory provision includes all subordinate legislation made under that statute or statutory provision.
- (b) 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 sense of the words, description, definition, phrase or term preceding those terms.
- (c) Any obligation on a party not to do something includes an obligation not to allow that thing to be done.
- (d) A reference to **writing** or **written** includes faxes and emails.

## 2. BASIS OF CONTRACT

- 2.1 These Conditions apply to the Contract exclusion of any other terms that the Loop Member at any time seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.
- 2.2 The Contract governs the overall relationship between Loop and the Loop Member in relation to the supply of Loop Pallets and services by Loop to the Loop Member and sets out the procedure for the Loop Member can request Loop Pallets or services from Loop.



2.3 Each Request shall form a separate Contract between Loop and the Loop Member and no Request shall not enter into force, be legally binding or have any other effect on Loop unless it is accepted by Loop, either in writing or verbally.

**3. ISSUE REQUEST FOR LOOP PALLETS (APPLIES TO LOOP PALLET SUPPLY)**

3.1 If the Loop Member wishes to request an Issue, the Loop Member shall make an Issue Request.

3.2 Each Issue Request should include the following information:

- (a) the number and specification of Loop Pallets Requested for Issue;
- (b) whether the Request is for a Delivery or a Ex-Works Collection;
- (c) if a Delivery, the address of the relevant Loop Member Site;
- (d) up to date contact details for the Loop Member Representative who will be responsible for receiving pallets at the Loop Member Site, which shall include the mobile phone number of Loop Member Representative and a contact number for the main site office at the Loop Member Site.

3.3 Unless agreed otherwise in advance, Loop shall not provide a Ex-Works Collection or Delivery which is less than the Minimum Ex-Works Collection Number or Minimum Delivery Number as defined in the specific customer contract.

3.4 Not less than five days before the beginning of each month, the Loop Member shall give to Loop a forecast of the Loop Pallets it expects to make an Issue Request for during the three months following that month. There is an obligation on the Loop Member to provide a forecast or otherwise notify Loop when it does not expect to make an Issue Request.

**4. USAGE OF LOOP PALLETS AND SUITABILITY (APPLIES TO LOOP PALLET SUPPLY)**

4.1 Loop shall issue for hire or loan the Loop Pallets to the Loop Member subject to these Conditions.

4.2 The choice of Specification of the Loop Pallets in an Issue Request is the sole responsibility of the Loop Member and Loop will have no liability if the agreed Specification is not suitable for the Loop Member's use of the Loop Pallets.

4.3 It is the sole responsibility of the Loop Member to check the state of repair, fitness for the purpose held by Loop, and condition of any Pallet prior to the Loop Member using any Pallet, if the Loop Member has any concern with the condition of any Pallet they should contact Loop as soon as reasonably practicable after Delivery and provide Loop with the appropriate details.



**5. DELIVERY OF LOOP PALLETS (APPLIES TO LOOP PALLET SUPPLY)**

- 5.1 Delivery of the Loop Pallets shall be made by Loop or its contractors. Loop shall use all reasonable endeavours to effect Delivery on Delivery Date but any such times shall be estimates only and time shall not be of the essence for Delivery.
- 5.2 Loop shall be entitled at any time before the Delivery Date to change the Delivery Date to be the day before, or to be the day after, the original Delivery Date. Loop shall use reasonable endeavours to notify the Loop Member of any change in the Delivery Date, and to provide a revised estimate Delivery Date to the Loop Member.
- 5.3 The Loop Member shall procure that a Loop Member Representative shall be present at each Delivery. Acceptance of Delivery by such representative shall constitute conclusive evidence that the Loop Member has examined the Loop Pallets and has found them to be in good condition, complete and fit in every way for the purpose for which they are intended. If required by Loop, the Loop Member Representative shall sign a receipt confirming such acceptance.
- 5.4 To facilitate Delivery, the Loop Member shall at its sole expense provide all requisite facilities, access and suitable working conditions to enable Delivery to be carried out safely and expeditiously.
- 5.5 If unloading of the Loop Pallets at the Loop Member's Site has not been completed within 60 minutes of Loop arriving at the Loop Member's Site on the Delivery Date, Loop shall be entitled to charge a Delivery Delay Charge for any additional time which Loop (or its contractor) has to wait to commence unloading.
- 5.6 The Loop Member shall provide Loop with such information as Loop may reasonably require for Delivery and ensure that such information is complete and accurate in all material respects.

**6. EX-WORKS COLLECTION OF LOOP PALLETS (APPLIES TO LOOP PALLET SUPPLY)**

- 6.1 The Loop Member shall not attempt a Ex-Works Collection unless the Issue Request has been agreed by Loop and Loop has agreed the Ex-Works Collection Date and confirmed it to the Loop Member. Loop shall be entitled at any time before the Ex-Works Collection Date to change the Ex-Works Collection Date to be the day before, or to be the day after, the original Ex-Works Collection Date.
- 6.2 The Loop Member shall provide Loop with such information as Loop may reasonably require for a Ex-Works Collection and ensure that such information is complete and accurate in all material respects.
- 6.3 If the Loop Member does not fulfil an agreed Ex-Works Collection on the Ex-Works Collection Date, Loop shall be entitled to charge a Ex-Works Collection Delay Charge.

## **7. TRANSFER OF LOOP PALLETS TO LOOP MEMBERS**

- 7.1 The Loop Member shall only part with possession or control of any Loop Pallet by means of a Transfer of goods or a Recovery of pallets.
- 7.2 The Loop Member shall use reasonable endeavours to maintain and make available to Loop an accurate record of all Loop Pallet Transfers to the Loop Member including the name of the Loop Member to whom the Loop Pallets are Transferred, the number of Loop Pallets Transferred, and the Loop Member Site where the Loop Pallets are Transferred to by the Loop Member.

## **8. USE OF THE LOOP PALLETS**

- 8.1 The Loop Member shall ensure that the Loop Pallets are kept and operated at all times in a suitable environment, are only used for the purposes for which they are designed, and used in a proper and safe manner by trained competent staff in accordance with all laws and any applicable Loop policies or guidelines from time to time. The Loop Member shall not use the Loop Pallets for any unlawful purpose.
- 8.2 The Loop Member shall take such steps (including compliance with all safety and usage instructions provided by Loop) as may be necessary to ensure that the Loop Pallets are at all times safe, do not become contaminated and are without risk to health or goods when they are being used.
- 8.3 The Loop Member shall not make any alteration to any Pallet or remove any existing component from any Pallet and shall always ensure that the Loop Pallets remain identifiable as being Loop's property.

## **9. RECOVERY REQUEST FOR LOOP PALLETS AND OTHER WHITE / NON LOOP PALLETS (APPLIES TO PALLET COLLECTIONS)**

- 9.1 The Loop Member can request a Recovery by submitting a Recovery Request to Loop.
- 9.2 Each Recovery Request should include the following information:
- (a) details of the relevant Loop Member Site;
  - (b) the number of Loop Pallets to be Recovered;
  - (c) the number of any white / Non-Loop Pallets to be Recovered;
  - (d) up to date contact details for the Loop Member Representative who will be responsible for the Recovery at the Loop Member Site, which shall include the mobile phone number of Loop Member Representative and a contact number for the main site office at the Loop Member Site.

- 9.3 Loop shall use reasonable endeavours to schedule a Recovery Date within the agreed service period (3 day or 10 day service levels) from the end of day on receiving a Recovery Request, but time shall not be of the essence for Recovery.
- 9.4 The Loop Member shall ensure that there is no less than the Minimum Recovery Number of Pallets available for Collection (50 pallets for 10 day service) at each Recovery requested by the Loop Member. If the number of Pallets available for Collection at any Recovery is less than the Minimum Recovery Number, Loop shall be entitled to charge a Recovery Shortfall Charge.
- 9.5 The Loop Member shall procure that a Loop Member Representative shall be present at each Recovery and shall be responsible for the safe loading of the Pallets at the Loop Member Site on to transportation used by Loop for Recovery, including providing any necessary equipment and personnel.
- 9.6 If the loading by the Loop Member of the Pallets being Recovered is not completed within 60 minutes from the time of arrival by Loop (or its contractor) at the Loop Member Site, Loop shall be entitled to charge a Recovery Delay Charge for each hour or part thereof.

#### **10. RETURN REQUEST OF LOOP PALLETS (APPLIES TO PALLETS RETURNED TO A LOOP SITE)**

- 10.1 The Loop Member can request a Return by submitting a Return Request. The Loop Member shall not attempt a Return to a Pallet Loop site unless the Return Notice has been agreed by Loop.
- 10.2 Each Return Request shall include the following information:
- (a) the number of Loop Pallets to be Returned;
  - (b) the number of White / Non-Loop Pallets to be Returned;
  - (c) the Loop Hub where the Return will be made; and
  - (d) a 4-hour time slot when the Return will be made on the Return Date.
- 10.3 Loop shall use reasonable endeavours to schedule a Return Date within the period of 72 hours of receiving a Return Request, but time shall not be of the essence for Returns.
- 10.4 Loop shall at its absolute discretion be entitled, without giving reason, to reject the Return of any Non-Loop Pallet or Waste Pallet, and it shall be the Loop Member's sole responsibility and expense to ensure that any Pallet rejected for Return is safely and immediately removed from the Loop Hub.

#### **11. LOOP MEMBERS' OBLIGATIONS**

- 11.1 To enable Loop to perform its obligations to the Loop Members, the Loop Member shall always give reasonable co-operation to Loop in all matters relating to the usage, hire or loan of the Loop Pallets and otherwise to enable Loop to perform its obligations to the Loop Member.



- 11.2 The Loop Member shall provide Loop, and its subcontractors or consultants, with access to the Loop Member's premises, vehicles or storage containers as reasonably required by Loop and at reasonable times to perform its obligations under these Conditions, or to carry out a stock audit. The Loop Member shall provide Loop with reasonable assistance in Loop so doing and provide Loop with such information as Loop shall reasonably request from the Loop Member.
- 11.3 The Loop Member shall ensure that its employees and contractors, while on any Loop Hub or any other premises of Loop, will comply with all relevant rules and regulations laid down by Loop from time to time for the behaviour of its own employees and contractors, displayed or otherwise notified to the Loop Member in from to time including being published on the Loop Back. Loop shall be entitled to remove any employee or contractor whom has failed to, or whom Loop reasonably believes to likely not to, comply with such rules, regulations and requirements.
- 11.4 For collections the Loop member must load the Loop vehicles and have the materials handling equipment that is suitable to do so safely. The Loop member must ensure the pallets loaded are stable and suitable for transportation – with strapping applied to the pallets if the stack is visibly unstable.

## **12. LOOP'S WARRANTY – FOR USERS OF LOOP PALLETS**

- 12.1 Loop warrants that on Delivery the Loop Pallets shall substantially conform to the Specification, be of satisfactory quality, fit for the purpose held out by Loop, and have a load capacity as specified in the relevant technical specification published from time to time in the Loop Back.
- 12.2 Any samples, drawings, descriptive matter or advertising issued by Loop, and any descriptions or illustrations contained in Loop's catalogues, brochures or on its website, are issued or published for the sole purpose of giving an approximate idea of the Loop Pallets described in them. They shall not form part of the Contract or have any contractual force.

## **13. OWNERSHIP AND ACCESS TO PALLETS – FOR USERS OF LOOP PALLETS**

- 13.1 The Loop Pallets shall always remain the property of Loop, and the Loop Member shall have no right, title or interest in or to any Pallet, save the right to possession and use of the Loop Pallets subject to the terms and conditions of these Conditions.
- 13.2 The Loop Member shall not do anything which will or may jeopardise the right, title or interest of Loop in the Loop Pallets.
- 13.3 The Loop Member shall not suffer or permit the Loop Pallets to be confiscated, seized or taken out of its possession or control under any distress, execution or other legal process, but if any Loop Pallets are so confiscated, seized or taken, the Loop Member shall notify Loop and the Customer shall at its sole expense use its best endeavours to procure an immediate release of the Loop Pallets





and shall indemnify the Lessor on demand against all losses, costs, charges, damages and expenses incurred as a result of such confiscation.

- 13.4 The Loop Member shall not dispose of or otherwise deal with any Loop Pallet except in accordance with these Conditions and otherwise in any way which is in any way inconsistent with Loop's ownership of all the Loop Pallets.
- 13.5 All Intellectual Property Rights in or arising out of or in connection with the Loop Pallets or their supply shall be owned by Loop and the Loop Member shall indemnify Loop against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by Loop arising out of or in connection with any breach of the provisions of this clause 13.5.
- 13.6 Title in the White / Non-Loop Pallets and Waste Pallets shall pass to Loop on Return or Recovery. Risk in the Non-Loop Pallets and Waste Pallets shall not pass to Loop until Loop receives payment in full from the Loop Member of the White / Non-Loop Pallet collection Fee and the Waste Pallet Disposal Fee (if part of the contract).

**14. TERMS OF THE RETURN PALLET PAYBACK – APPLIES TO LOOP PALLETS**

- 14.1 Subject to clause 14.2, Loop shall repay £4 back to the Loop Member in respect of any Loop Pallet Recovered from the Loop Member which is in immediate re-usable condition. £2 is repaid for Loop pallets that need repair or cleaning. No Payback applied if the Loop pallet is Beyond Economical Repair.
- 14.2 Loop shall be entitled to keep for its own account the Payback in respect of any Loop Pallet which is Beyond Economical Repair. The Loop Member acknowledges that this is reasonable in order to compensate Loop for the loss or damage to Loop Pallets which have special value to Loop.

**15. CHARGES AND PAYMENTS (APPLIES TO SUPPLY AND COLLECTION OF PALLETS)**

- 15.1 The following transactions between Pallet Loop and Members may apply, subject to contract:
- (a) Issue Fee in respect of each Pallet Issued to it;
  - (b) Delivery Fee in respect of each Delivery;
  - (c) Recovery Fee fixed in respect of each Recovery made by Loop;
  - (d) Non-Loop Pallet Disposal Fee;
  - (e) Waste Pallet Disposal Fee;
  - (f) Ex-Works Collection Delay Charge;

- (g) Delivery Delay Charge;
- (h) Recovery Delay Charge;
- (i) Recovery Shortfall Charge.
- (j) Loop Payback.
- (k) White / Non-Loop pallet charge

Not all charges apply to all customers.

For collection customers – 3 Day collections, only charges c, d, e, h, j and k may apply.

For collection customers – 10 day collections, only charges d, e, h, l, j and k may apply.

For manufacturers using Loop pallets only charges a, b, f and g may apply.

- 15.2 If Loop has not agreed a specific Issue Fee, Delivery Fee, Recovery Fee, Non-Loop Pallet Disposal Fee or Waste Pallet Disposal Fee with the Loop Member, the Loop Member is deemed to have agreed the fees or charges at Loop's standard rates from time as published by Loop on the Loop Back or otherwise.
- 15.3 Loop shall invoice the Loop Member according to the specific customer terms in their Contract.
- 15.4 Loop shall be entitled to set-off and deduct the amount of any Payback from any amounts payable by the Loop Member to Loop.
- 15.5 If any invoice results in a negative balance such that the Loop Member is owed a credit amount by Loop, Loop shall pay such credit balance to the Loop Member to the terms of their contract.
- 15.6 All amounts payable by the Loop Member under the Contract are exclusive of amounts in respect of value added tax chargeable from time to time (**VAT**). Where any taxable supply for VAT purposes is made under the Contract by Loop to the Loop Member, the Loop Member shall, on receipt of a valid VAT invoice from Loop, pay to Loop such additional amounts in respect of VAT as are chargeable on the supply of the Services at the same time as payment is due for the supply of the Services. VAT is applied to all payments and Payback.
- 15.7 If the Loop Member fails to make a payment due to Loop under the Contract by the due date, then, without limiting Loop's remedies under Clause 17, the Loop Member shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this Clause 15.8 will accrue each day at 4% a year above the Bank of England's base rate from time to time, but at 4% a year for any period when that base rate is below 0%.



- 15.8 All amounts due by the Loop Member shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).
- 15.9 The Loop Member will reimburse Loop for any costs and expenses (including professional fees) which it suffers or incurs in the recovery (or attempted recovery) of any overdue amounts payable by the Loop Member to Loop.
- 15.10 Payment of any Payback shall be made by electronic bank transfer to the bank account nominated by the Loop Member. No payments will be made or accepted by Loop in cash.

**16. LIMITATION OF LIABILITY**

- 16.1 The restrictions on liability in this Clause 16 apply to every liability arising under or in connection with the Contract including liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.
- 16.2 Nothing in the Contract limits any liability which cannot legally be limited, including liability for death or personal injury caused by negligence, or fraud or fraudulent misrepresentation.
- 16.3 Subject to clause 16.2, Loop's total liability to any Loop Member under the Contract in any circumstances shall not exceed the lower of £1,000 and the total amount of Issue Fees paid by the Loop Member in the period of 12 months immediately before the occurrence of the event giving rise to the claim(s).
- 16.4 Subject to clause 16.2, Loop shall in no circumstances have any liability for loss of profits, loss of sales or business, loss of agreements or contracts, loss of anticipated savings, loss of use or corruption of software, data or information, loss of or damage to goodwill, any indirect or consequential loss.
- 16.5 Unless the Loop Member notifies Loop that it intends to make a claim in respect of an event within the notice period, Loop shall have no liability for that event. The notice period for an event shall start on the day on which the Loop Member became, or ought reasonably to have become, aware of the event having occurred and shall expire 3 months from that date. The notice must be in writing and must identify the event and the grounds for the claim in reasonable detail.
- 16.6 This Clause 16 shall survive termination of the Contract.

**17. TERMINATION**

- 17.1 Without affecting any other right or remedy available to it, Loop may terminate the Contract as detailed in the customer specific contract.

- 17.2 Without affecting any other right or remedy available to it, Loop Member party may terminate the Contract by giving Loop written notice as per their specific contract. Note: Does not apply to collection customers.
- 17.3 Without affecting any other right or remedy available to it, Loop may terminate the Contract with immediate effect by giving written notice to the Loop Member if the Loop Member:
- (a) fails to pay any amount due under the Contract on the due date for payment;
  - (b) commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 30 days of that party being notified in writing to do so;
  - (c) takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by request of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;
  - (d) suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business;
  - (e) undergoes a change of Control; or
  - (f) financial position deteriorates to such an extent that in Loop's opinion the other party's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.
- 17.4 Without affecting any other right or remedy available to it including under clause 17.3, Loop may suspend the performance of its obligations under the Contract if the Loop Member fails to pay any amount due under the Contract on the due date for payment, the Loop Member becomes subject to any of the events listed in clause 17.3(c) to clause 17.3(f) or Loop reasonably believes that the Loop Member is about to become subject to any of them.

## **18. CONSEQUENCES OF TERMINATION**

- 18.1 On termination of the Contract:
- (a) the Loop Member shall immediately pay to Loop all of Loop's outstanding unpaid invoices and interest and, in respect of any fees or charges for which no invoice has been submitted, Loop shall submit an invoice, which shall be payable by the Loop Member immediately on receipt;
  - (b) the Loop Member shall make available for Ex-Works Collection by Loop all Loop Pallets in its possession or control. If the Loop Member fails to do so, then Loop may enter the Loop Member's premises, vehicles or storage containers and take possession of them. Until they have been returned, the Loop Member shall be solely responsible for their safe keeping and will not use them for any purpose.

- 18.2 For the purpose of giving full effect to clause 18.1, the Loop Member hereby gives Loop an irrevocable licence to enter any premises, vehicle or storage container occupied or used by the Loop Member from time to time and to take such actions and steps as Loop considers reasonable to take possession of any Pallet.
- 18.3 Termination or expiry of the Contract shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry.
- 18.4 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Contract shall remain in full force and effect.

## **19. FORCE MAJEURE**

- 19.1 Loop shall not be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under the Contract if such delay or failure result from events, circumstances or causes beyond its reasonable control.

## **20. ASSIGNMENT AND OTHER DEALINGS**

- 20.1 Loop may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Contract.
- 20.2 The Loop Member shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under the Contract without the prior written consent of Loop.

## **21. CONFIDENTIALITY**

- 21.1 Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, Loop Members, clients or suppliers of the other party, except as permitted by clause 21.2.
- 21.2 Each party may disclose the other party's confidential information:
- (a) to its employees, officers, representatives, subcontractors or advisers who need to know such information for the purposes of carrying out the party's obligations under the Contract. Each party shall ensure that its employees, officers, representatives, subcontractors or advisers to whom it discloses the other party's confidential information comply with this clause 21; and
  - (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.



21.3 Neither party shall use the other party's confidential information for any purpose other than to perform its obligations under the Contract.

## **22. ENTIRE AGREEMENT**

22.1 The Contract 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.

22.2 Each party acknowledges that in entering into the Contract it does not rely on, and shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Contract.

22.3 Nothing in this clause shall limit or exclude any liability for fraud.

## **23. VARIATION**

23.1 Loop may vary these Conditions from time to time and any variation shall be deemed to apply to any Requests made by a Loop Member after the time of the variation.

## **24. WAIVER**

24.1 A waiver of any right or remedy under the Contract or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or default. A failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under the Contract or by law shall prevent or restrict the further exercise of that or any other right or remedy.

## **25. SEVERANCE**

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

## **26. NOTICES**

26.1 Any notice or other communication given to a party under or in connection with the Contract shall be in writing and shall be delivered by hand or by pre-paid first-class post or other next working



day delivery service at its registered office (if a company) or its principal place of business (in any other case); or sent by fax to its main fax number or sent by email to the address provided by the party for this purpose.

- 26.2 Any notice or other communication shall be deemed to have been received:
- (a) if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address;
  - (b) if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second Business Day after posting or at the time recorded by the delivery service; or
  - (c) if sent by email, at the time of transmission, or, if this time falls outside business hours in the place of receipt, when business hours resume. In this *Clause 26.2(c)*, 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.
- 26.3 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any other method of dispute resolution.

## 27. THIRD PARTY RIGHTS

- 27.1 Unless it expressly states otherwise, the Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.
- 27.2 The rights of the parties to rescind or vary the Contract are not subject to the consent of any other person.

## 28. GOVERNING LAW AND JURISDICTION

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