

Citicare Terms and Conditions

Your attention is specifically drawn to the provisions of condition 7 (Limitation of Liability) and condition 8 (Insurance).

Insuring your goods is your responsibility. No insurance will be provided by us unless arranged under condition 8.3. For any queries in respect of insurance please contact Citicare@citipost.co.uk

1. Definitions

1.1. In these terms and conditions, the following words have the meanings or shall be interpreted as stated below:

Agreement: the agreement for the provision of Services by Citicare to the Client of which these terms and conditions form part;

Brexit: the scheduled withdrawal of the United Kingdom from the European Union.

Business Day: any weekday (Monday to Friday) excluding public holidays in England;

Company: Citicare Limited, company number 12571215;

Conditions: these terms and conditions;

Confidential Information: names and addresses of the Client's customers and details of product specifications and designs and any other information of a confidential nature supplied to Citicare in connection with this Agreement;

Client: the person, firm or company who purchases Services from the Company.

Goods: the goods and/or materials which are the subject of the Services;

Handling Charges: the amount charged to the Client in respect of services provided by Citicare and referred to in Citicare's relevant estimate or tender;

Insolvency Event where:

- a) a receiver, administrative receiver, administrator, manager or official receiver is appointed over the Client's affairs;
- b) the Client goes into liquidation, unless for the purpose of a solvent reconstruction or amalgamation;
- c) distress, execution, sequestration levied or issued against any part of the Client's assets and is not paid within seven days;

Services: storage, warehousing, order processing, picking and packing and/or dispatch services to be provided by Citicare under this Agreement together with any other services which Citicare provides or agrees to provide to the Client;

Service Levels: the service levels agreed by both parties in writing from time to time.

VAT: value added tax at the rate in force from time to time.

1.2. All references to a statutory provision include references to any statutory modification, consolidation or re-enactment of it and all instruments or orders made pursuant to it.

1.3. Words denoting the singular include the plural and vice versa; words denoting any gender include all genders; and words denoting persons include corporations, partnerships, other unincorporated bodies and all other legal entities and vice versa.

1.4. The condition headings are inserted for ease of reference only and do not affect their construction.

2. Application of conditions

2.1. These Conditions:

- 2.1.1. apply to and are incorporated into the Agreement; and
- 2.1.2. prevail over any inconsistent terms or conditions contained, or referred to, in the Client's purchase order, confirmation of order or acceptance of an estimate or which are implied by law, trade custom, practice or course of dealing.

2.2. An estimate given by Citicare constitutes an offer to supply the Services on these Conditions. No offer made by Citicare may be accepted by the Client and no contract between the parties will come into force other than:

- 2.2.1. by a written acknowledgement issued by the Client; or
- 2.2.2. (if earlier) by Citicare starting to provide the Services at the request of the Client when a contract for the supply and purchase of those Services on these Conditions will be established. The Client's standard terms and conditions, if any, attached to, enclosed with or referred to in any purchase order or other document will not govern this Agreement.

2.3. Estimates are given by Citicare on the basis that no Agreement will come into existence except in accordance with the Conditions

2.4. Any estimate is valid for a period of 30 days from its date (provided Citicare has not previously withdrawn it) and will then automatically lapse.

3. Citicare obligations

- 3.1. Citicare will use reasonable endeavours to provide the Services and will perform with reasonable care and skill and in accordance with generally recognised commercial practices and standards, and where applicable in accordance with the Service Levels detailed in Appendix 1
- 3.2. Citicare shall provide personnel with appropriate experience and expertise to ensure that the Client receives the Services to a high quality. Citicare personnel will be qualified, trained and competent to the reasonable satisfaction of the Client.
- 3.3. Citicare personnel will be available to provide support and account management services from 9 a.m. to 5 p.m., Monday to Friday excluding Public Holidays and any other

reasonable periods of closure as agreed by the parties and advised by Citicare in advance giving at least 30 days' notice.

3.4. Citicare shall at all reasonable times during this Agreement allow the Client, or its representatives, access by prior appointment to:

- the premises of Citicare for the purpose of inspecting records and documents in the possession custody or control of Citicare in connection with the provision of the Services and in relation to reviewing compliance by Citicare with its obligations set out in this Agreement
- carry out a stock count or to be present while Citicare carries out a stock count.

3.5. Citicare shall institute and maintain a properly documented system of quality control to ensure that the Services and Service Levels are at all times properly maintained.

3.6. Citicare shall be free to use such subcontractors or agents as it may at its absolute discretion choose to appoint.

4. Client's obligations

4.1. The Client will co-operate with Citicare in all matters relating to the Services.

4.2. Citicare will not accept or deal with any noxious, dangerous, hazardous, inflammable or explosive Goods or any Goods likely to cause damage. Should the Client nevertheless deliver any such Goods to Citicare or any subcontractor or agent of Citicare or cause Citicare or any subcontractor or agent of Citicare to handle or deal with any such Goods, the Client will be liable for all loss or damage caused by or in connection with such Goods however arising and will indemnify Citicare against all losses, damage, liabilities, costs, claims, and expenses whatsoever arising in connection with such Goods and the Goods may be destroyed or otherwise dealt with at the sole discretion of Citicare, so long as the Goods are in the custody or under the direction of Citicare.

4.3. The Client will indemnify Citicare in respect of all costs, charges, demands, liabilities or losses sustained or incurred by Citicare arising directly or indirectly from the Client's fraud, negligence, failure to perform or delay in the performance of any of its obligations under this Agreement or arising from the contents of any of the Goods, including any loss of profit, loss of reputation, loss or damage to property, loss arising from injury to or death of any person and loss of opportunity to deploy resources elsewhere and including any costs, changes or losses resulting from any claim that any of the Goods do not belong to the Client or that the Client is not authorised to instruct Citicare in relation to them.

4.4. The Client will indemnify Citicare in respect of all costs, charges, demands, liabilities or losses sustained or incurred by Citicare including (but not limited to) any duty, taxes, levies, customs assessments, fines or other penalties and unusual costs, claims and expenses (including administrative costs) arising as a result of Citicare shipping any of the Client's goods outside of the UK.

4.5. In the event that Citicare incurs, pays or agrees to pay to any costs or charges as mentioned in 4.4 in respect of the Client's goods:

4.5.1. Citicare shall do so on the sole basis that in doing so it is acting as the Client's fully authorised agent; and

4.5.2. whether or not delivery of the goods is made to the address designated by the Client, immediately upon receipt of Citicare's invoice in respect of such duty and/or tax and/or levy the Client shall settle such invoice in full.

5. Charges and payment

5.1. The Client agrees to pay the Handling Charges, such charges to be reviewed annually by the parties or otherwise agreed by the parties in writing.

5.2. Invoices for ongoing fulfilment activity be issued on a monthly basis. Invoices for any special projects which may be agreed as such by the parties in writing will be issued upon completion of the project or as otherwise agreed in writing between the parties. All invoices shall be issued by Citicare electronically as PDF files.

5.3. The Client will pay each invoice submitted to it by Citicare, in full and in cleared funds, no later than the final Business Day of the month immediately following the month in which the invoice was raised.

5.4. Without prejudice to any other right or remedy that it may have, if the Client fails to pay Citicare on the due date, Citicare may:

5.4.1. charge interest on such sum from the due date for payment at the annual rate of 4% above the base lending rate from time to time of Natwest Bank accruing on a daily basis and compounded quarterly until payment is received, whether before or after any judgment and Citicare; and/or

5.4.2. suspend all Services until payment has been made in full.

5.5. Time for payment to Citicare is of the essence of this Agreement.

5.6. Citicare will have a general lien over the Goods in the possession of Citicare as security for any sums owed to it by the Client under this Agreement or otherwise. Storage will be charged for any goods detained under lien. If any lien is not satisfied within a reasonable time Citicare may at its absolute discretion sell the Goods concerned and apply the proceeds in or towards discharge of the lien and the expenses of the sale.

5.7. Citicare may, without prejudice to any other rights it may have, set off any liability of the Client to Citicare against any liability of Citicare to the Client.

5.8. Where the Client is a private company, it is Citicare's usual practice to require one or more of the directors or shareholders ('responsible individuals') to be potentially personally responsible for payment of Citicare's charges. Whilst Citicare would normally expect payment by the client, Citicare reserves the right to recover payment from responsible individuals.

5.8.1 If there is more than one responsible individual, liability is joint and several, which means that each of them is individually responsible for paying the full amount of Citicare's charges - although, if that were to occur, that individual would normally have the right to recover a share from the others.

5.8.2 The liability of 'responsible individuals' is a primary, rather than a secondary, liability. This means that Citicare is entitled to claim against responsible individuals directly, without having made claim against the client. We would only do this if absolutely necessary.

6. Confidentiality and data protection

6.1. Citicare will treat as confidential all information disclosed to it by the Client. The information will only be disclosed by Citicare to any subcontractor, agent or other third party to the extent that such disclosure is necessary for the performance of the Services. This obligation of confidentiality will not apply to any information which was known to Citicare prior to its disclosure by the Client, is disclosed to Citicare by a third party without any obligation of confidentiality or enters into the public domain other than by a breach of this condition by Citicare.

6.2. The Client will comply with its obligations under the Data Protection legislation in relation to all personal data transferred to Citicare and will keep indemnified Citicare in respect of all costs, claims, demands, actions, liabilities, damages and expenses which it may suffer or incur as a result of any breaches of such legislation.

6.3. The parties acknowledge that for the purposes of the Data Protection Legislation, the Client is the data controller and Citicare is the data processor. Citicare will only retain personal data on its systems according to the Client's instructions and will only process any personal data solely for the purpose of performing the Services and no other purpose.

6.4. Citicare shall:

6.4.1. ensure that it has in place appropriate and proportionate technical and organisational measures to protect against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected,

6.4.2. ensure that all personnel who have access to and/or process personal data are bound by contractual and/or statutory obligations to keep any personal data confidential,

6.4.3. co-operate and assist the Client, at the Client's cost, in responding to any complaint, request, notice or communication ("third party request") from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators,

6.4.4. provide such co-operation, assistance and information to

the Client as may be reasonably required, without undue delay, to enable the Client to comply with any third party request or to complete any data protection impact assessment as reasonably required by the Client from time to time pursuant to the Data Protection Legislation,

6.4.5. notify the Client within one working day of becoming aware of a Personal Data breach,

6.4.6. co-operate with and assist the Client in taking all reasonable measures that are required in response to any Personal Data breach, as reasonably requested by the Client, including to remedy or mitigate the effects of any Personal Data breach.

6.5. Upon completion of the Services the Client will provide Citicare with instructions for the return or destruction of personal data.

6.6. The Client shall ensure that any computer data supplied, by whatever method, to Citicare is clean, uncorrupted and capable of being processed and does not contain any computer viruses. In the event of computer data being received by Citicare corrupt or containing viruses, Citicare may, at its own option, return the data to [CLIENT] or decontaminate it at the Client's expense. For the avoidance of doubt, corruption occurring during any form of electronic transmission to Citicare shall be at the Client's risk.

7. Limitation of liability

7.1. This condition sets out the entire financial liability of Citicare (including any liability for the acts or omissions of its employees, agents and subcontractors) to the Client in respect of:

7.1.1. any breach of this Agreement;

7.1.2. any use made by the Client of the Services; and

7.1.3. any representation, statement or tortious act or omission (including negligence) arising under or in connection with this Agreement.

7.2. All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from this Agreement.

7.3. Nothing in these Conditions limits or excludes the liability of Citicare:

7.3.1 for death or personal injury resulting from negligence; or

7.3.2. for any damage or liability incurred by the Client as a result of fraud or fraudulent misrepresentation by Citicare; or

7.4. Subject to conditions 7.2 and 7.3:

7.4.1. Citicare will not be liable, whether in contract, tort (including for negligence or breach of statutory duty), misrepresentation or otherwise however for:

a) loss of profits;

b) loss of business;

c) depletion of goodwill and/or similar losses;

- d) loss of anticipated savings;
- e) loss of goods;
- f) loss of contract;
- g) loss of use;
- h) loss of corruption of data or information; or
- i) any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses.

7.5. Citicare's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise arising in connection with the performance or contemplated performance of this Agreement will be limited to the Handling Charges paid for the Services.

7.6. If Citicare's performance of its obligations under this Agreement is prevented or delayed by any act or omission of the Client or any of its agents, subcontractors or employees, or as a result of any Brexit-related process or procedure, Citicare will not be liable for any costs, charges or losses whatsoever sustained or incurred arising directly or indirectly from such prevention or delay.

7.7. By entering into the Agreement, the Client acknowledges and agrees that it does not rely on any undertaking, promise, assurance, statement, representation, warranty or understanding (whether in writing or not) of Citicare or any person who is not a party to the Agreement, relating to the subject matter of this Agreement, other than as expressly set out in this Agreement.

7.8. No legal proceedings (including any counterclaim) may be brought against Citicare unless they are issued and served within nine months of the event giving rise to the claim.

8. Insurance

8.1. The Goods are stored and dispatched by Citicare at the entire risk of the Client and Citicare accepts no liability for any loss or damage to the Goods however such damage may be caused.

8.2. The Client should arrange suitable insurance cover for the Goods. However, at the written request of the Client, Citicare will endeavour to arrange an all-risks insurance policy for the Goods at the cost of the Client. The terms of the policy and details of the insured risks are available from Citicare upon written request.

8.3. Citicare will not be responsible for ascertaining whether or not the Client requires Citicare to arrange insurance for the Goods and the Client should ensure that notification of this is given to Citicare as soon as possible. If no notification is received, Citicare will assume that the Client does not wish Citicare to insure the Goods under clause 8.2 and that it will be making its own arrangements.

8.4. If the Client wishes Citicare to insure the Goods, the Client must specify a total estimated replacement value in respect of the Goods.

8.5. Until Citicare has notified the Client that insurance cover has commenced, the Client should ensure that it has made its own insurance arrangements.

8.6. Citicare will not be liable to make any payment to the Client to the extent that, in the event of a claim, the full value of the Goods cannot be recovered by the Client for any reason.

9. Termination

9.1. This Agreement shall, subject to earlier termination in accordance with this clause 9, be for the agreed minimum period and subject to both parties' agreement may be extended as appropriate.

9.2. Citicare may terminate the Agreement with immediate effect at any time by notice in writing to the Client if:

9.2.1. The Client fails to pay any amount due under this Agreement on or before the due date;

9.2.2. The Client is in material or persistent breach of any provisions of this Agreement and the breach, if capable of remedy, has not been remedied within 10 Business Days after receipt by the Client of notice requiring the breach to be remedied;

9.2.3. The Client suffers an Insolvency Event;

9.3. Either party may give not less than three months' notice that they wish to terminate this Agreement at the end of which period the obligation of Citicare to supply the Services will cease.

9.4. On termination of this Agreement for any reason:

9.4.1. The Client will immediately pay to Citicare all of Citicare's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, Citicare may submit an invoice, which will be payable immediately on receipt;

9.4.2. The Client will procure that any Goods being stored by Citicare at the date of termination are removed from Citicare's premises at the cost of the Client. If the Client fails to remove them within seven days Citicare may dispose of them in such manner as it sees fit at its absolute discretion at the cost of the Client;

9.4.3. The accrued rights of the parties as at termination and the continuation of any provision expressly stated to survive or implicitly surviving termination, will not be affected.

9.5. If this Agreement is terminated, all the rights and obligations of the parties will cease immediately, except for those provisions expressly stated to survive termination of this Agreement. Termination of this Agreement will not affect any rights or liabilities arising prior to termination.

10. Force majeure

Citicare will have no liability to the Client under this Agreement if it is prevented from or delayed in performing its obligations under this Agreement or from carrying on its business by acts, events, omissions or accidents beyond its reasonable control, including without limitation strikes, lock-outs or other industrial disputes, failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction,

accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or subcontractors.

11. General

- 11.1. No variation of this Agreement or these Conditions will be valid unless it is in writing and signed by or on behalf of each of the parties.
- 11.2. A waiver of any right under this Agreement is only effective if it is in writing and it applies only to the party to whom the waiver is addressed and the circumstances for which it is given.
- 11.3. If any provision of this Agreement is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions will remain in force.
- 11.4. If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, that provision will apply with whatever modification is necessary to make it valid, enforceable and legal.
- 11.5. Each of the parties acknowledges and agrees that, in entering into this Agreement it does not rely on any undertaking, promise, assurance, statement, representation, warranty or understanding.
- 11.6. The Client will not, without the prior written consent of Citicare, assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under this Agreement.
- 11.7. Citicare may at any time assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under this Agreement.
- 11.8. This Agreement is made for the benefit of the parties to it and (where applicable) their successors and permitted assigns and is not intended to benefit, or be enforceable by, anyone else.
- 11.9. This Agreement and any dispute or claim arising out of or in connection with it or its subject matter, will be governed by, and construed in accordance with, the law of England and Wales.
- 11.10. The parties irrevocably agree that the courts of England and Wales will have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Agreement or its subject matter.