



## Now for the boring stuff

**These trading conditions are to ensure you get the level of service that we promise you and so that we deliver the experience that your customers deserve, living up to the promises you make.**

**We are serious about supporting the growth of your business and we want nothing to get in the way.**

**So, let's get started and looking forward to Lift Off!**





## 1. DEFINITIONS AND INTERPRETATIONS

The following terms shall have the following meanings:

- 1.1 "Business Day": means any day other than a Saturday, Sunday or public holiday in Ireland when banks in Dublin are open for business.
- 1.2 "Data Protection Legislation": means (i) the Data Protection Act 1998, until the effective date of its repeal (ii) the General Data Protection Regulation ((EU) 2016/679) ("GDPR") and any national implementing laws, regulations and secondary legislation, for so long as the GDPR is effective in Ireland, and (iii) any successor legislation to the Data Protection Act 1998 and the GDPR, in particular the Data Protection Bill 2017-2019, once it becomes law.
- 1.3 "Demand": means any action, award, claim or other legal recourse, complaint, cost, debt, demand, expense, fine, liability, loss, outgoing, penalty or proceeding.
- 1.4 "Employees": means the persons wholly or mainly employed by the Customer in the provision of the services that will be carried out by ParcelPlanet instead of the Customer at the commencement of these trading conditions.
- 1.5 "Intellectual Property": means patents, rights to inventions, trade marks and service marks, trade names, business names and domain names, logos, copyright and related rights, moral rights, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use and protect the confidentiality of confidential information, technical or commercial information (including drawings, plans, specifications and research data) and rights in computer software and programmes 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.
- 1.6 "Price": means the total amount to be paid by the Customer to ParcelPlanet for the Services as referred to in the Schedule of Charges and any other prices communicated to the Customer by ParcelPlanet from time to time.
- 1.7 "Proposal": means the description of the services provided by ParcelPlanet to the Customer under these trading conditions and includes a schedule of charges.
- 1.8 "RFI": means the request for information form provided by ParcelPlanet and completed by the Customer.
- 1.9 "Schedule of Charges": means the Rate Card which are annexed to these trading conditions as Schedule 1.
- 1.10 "Services": means the services being provided by ParcelPlanet to the Customer more specifically set out in the Proposal and the Rate Card.
- 1.11 "Service Level Agreement": means the service level agreement annexed to these trading conditions as Schedule 2.
- 1.12 "Territory": means worldwide.

- 1.13 "TUPE" means the Transfer of Undertakings (Protection of Employment) Regulations 2006.
- 1.14 References to clauses and schedules are to clauses of and schedules to these trading conditions.
- 1.15 References to any statutes regulations or other matters includes reference to any extensions enactments or replacements of the same.
- 1.16 The headings in these trading conditions are for convenience only and shall not affect its interpretation.



## **2. APPOINTMENT AND DURATION**

- 2.1 The Customer appoints ParcelPlanet as an agent throughout the Territory to provide the Services during the term (as defined below) on these terms and conditions, and the Schedule of Charges. In the event of any conflict between these terms and conditions and the Schedule of Charges the Schedule of Charges shall prevail followed by these terms and conditions.
- 2.2 These terms and conditions and the Schedule of Charges together form the agreement between the Customer and ParcelPlanet.
- 2.3 Nothing in the agreement shall create or be deemed to create a partnership, joint venture or the relationship of employer and employee between the parties.
- 2.4 The customer will provide ParcelPlanet with a minimum of 3 months notice of intention to exit. Notice must be given by email to the Operations Manager and email confirmation of receipt must be received by the customer. Date of confirmation will be the start of the 3 months notice period.



## **3. AMENDMENTS TO THE PRICE OR SERVICES**

- 3.1 The Proposal is based upon ParcelPlanet's assessment of labour and prices of its sub-contractors and in reliance upon information provided by the Customer. ParcelPlanet reserves the right at its option to amend the Price or to terminate on written notice in the following circumstances:
  - 3.1.1 where any of the information provided by or on behalf of the Customer to ParcelPlanet (including but not limited to the RFI) is inaccurate, out-of-date, insufficient, incorrect, incomplete or misleading; or
  - 3.1.2 more specifically where the volume of the Goods housed and distributed under these trading conditions vary (upwards or downwards) by 20% or more than the volumes referred to in the RFI and/or outlined by the customer to ParcelPlanet.
- 3.2 ParcelPlanet may with the agreement of the Customer in accordance with clause 3.5 increase the Price in respect of any increased cost to ParcelPlanet for the provision of the Services.
- 3.3 In respect of clause 3.2, ParcelPlanet shall notify the Customer of any such increase as soon as is

reasonably practicable after ParcelPlanet has received notification itself of any such increase, in which circumstances ParcelPlanet and Customer shall meet to discuss the impact on Price.

- 3.4 ParcelPlanet shall as soon as practicable notify the Customer in writing of such amendments to the Price **PROVIDED THAT** from the date on which ParcelPlanet notifies the Customer of any price change, the Customer shall have a period of 14 days to discuss this with ParcelPlanet, and if at the end of that period the parties are not agreed on Price, either party may give 3 months' notice to the other to terminate these trading conditions and neither party shall be liable to the other except that ParcelPlanet shall be entitled to payment for the Services provided until the date of termination. For the avoidance of doubt, the Price charged for any payment outstanding will be as per the previously agreed Price and not the revised price which is currently under discussion between ParcelPlanet and the Customer. This clause shall not apply to any changes to the Price that arise pursuant to clauses 3.1.1, 3.1.2, 3.3 and 3.4.



#### **4. MUTUAL OBLIGATIONS**

Neither party to these trading conditions shall:-

##### **4.1 CONFIDENTIALITY**

Neither party to these trading conditions shall at any time after the commencement of these trading conditions divulge or allow to be divulged to any person or use or allow to be used any confidential information relating to the business or affairs of the other party other than:

- 4.1.1 to persons who have signed an agreement undertaking to keep information confidential in a form approved by the other party;
- 4.1.2 to the minimum extent required by an order of any court of competent jurisdiction or any regulatory, judicial, governmental or similar body or any taxation authority; or
- 4.1.3 as is required by any laws or regulations of any country with jurisdiction over the affairs of the party.

##### **4.2 INTELLECTUAL PROPERTY**

Neither party to these trading conditions shall use, exploit, licence or assign the Intellectual Property of the other party or cause or permit anything which may damage or endanger the Intellectual Property of the other or damage or endanger the other party's title to its Intellectual Property or assist or allow others to do so.

##### **4.3 DATA PROTECTION**

- 4.3.1 Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 4.3 is in

addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation. In this clause 4.3, Applicable Laws means (for so long as and to the extent that they apply to ParcelPlanet) the law of the European Union, the law of any member state of the European Union and/or Domestic Irish Law; and Domestic Irish Law means the Irish Data Protection Legislation and any other law that applies in Ireland.

- 4.3.2 The parties acknowledge that for the purposes of the Data Protection Legislation, the Customer is the data controller and ParcelPlanet is the data processor (where data controller and data processor have the meanings as defined in the Data Protection Legislation). Schedule 5 sets out the scope,

nature and purpose of processing by ParcelPlanet, the duration of the processing and the types of personal data and categories of data subject (as defined in the Data Protection Legislation).

- 4.3.3 Without prejudice to the generality of clause 4.3.1, the Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the personal data to ParcelPlanet for the duration and purposes of these trading conditions.
- 4.3.4 Without prejudice to the generality of clause 4.3.1, ParcelPlanet shall, in relation to any personal data processed in connection with the performance by ParcelPlanet of its obligations under these trading conditions:
- (a) process that personal data only on the written instructions of the Customer unless ParcelPlanet is required by Applicable Laws to otherwise process that personal data. Where ParcelPlanet is relying on laws of a member of the European Union or European Union law as the basis for processing personal data, ParcelPlanet shall promptly notify the Customer of this before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit ParcelPlanet from so notifying the Customer;
  - (b) ensure that it has in place appropriate 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, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting personal data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to personal data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);
  - (c) ensure that all personnel who have access to and/or process personal data are obliged to keep the personal data confidential; and
  - (d) not transfer any personal data outside of the European Economic Area unless the prior written consent of the Customer has been obtained and the following conditions are fulfilled:
    - (i) the Customer or ParcelPlanet has provided appropriate safeguards in relation to the transfer;
    - (ii) the data subject has enforceable rights and effective legal remedies;
    - (iii) ParcelPlanet complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any personal data that is transferred; and
    - (iv) ParcelPlanet complies with reasonable instructions notified to it in advance by the Customer with respect to the processing of the personal data;
  - (e) assist the Customer, at the Customer's cost, in responding to any request from a data subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
  - (f) notify the Customer without undue delay on becoming aware of a personal data breach;
  - (g) at the written direction of the Customer, delete or return personal data and copies thereof to the Customer on termination of the agreement unless required by Applicable Law to store the personal data; and
  - (h) maintain complete and accurate records and information to demonstrate its compliance with this clause 4.3.

- 4.3.5 The Customer consents to ParcelPlanet appointing reputable domestic and international carriage partners as third-party processors(s) of personal data under these trading conditions. ParcelPlanet confirms that it has entered or (as the case may be) will enter with the third-party processor(s) into a written agreement substantially on that third party's standard terms of business or incorporating terms which are substantially similar to those set out in this clause 4.3. As between the Customer and ParcelPlanet, ParcelPlanet shall remain fully liable for all acts or omissions of any third-party processor appointed by it pursuant to this clause 4.3.
- 4.3.6 ParcelPlanet may, at any time on not less than 30 days' notice, revise this clause 4.3 by replacing it with any applicable controller to processor standard clauses or similar terms forming party of an applicable certification scheme (which shall apply when replaced by attachment to these trading conditions).



## **5. CUSTOMER'S OBLIGATIONS**

- 5.1 In consideration of the Services to be rendered by ParcelPlanet under these trading conditions the Customer shall observe, comply with, indemnify and warrant to ParcelPlanet as provided for in these trading conditions.
- 5.2 The Customer warrants that all information provided by the Customer to ParcelPlanet, including information contained within the RFI is accurate and correct.
- 5.3 The Customer warrants that it will complete ParcelPlanet's direct debit mandate and/or payment method assigned.
- 5.4 In the event that the Customer breaches any of the terms of the credit terms, ParcelPlanet reserves the right to do any of the following:
- 5.4.1 terminate these trading conditions;
  - 5.4.2 remove credit under the credit terms
  - 5.4.3 amend the terms of the credit terms
- 5.5 The Customer warrants that it has legal and beneficial title to the Goods.



## **6 COMPANY'S OBLIGATIONS**

- 6.1 ParcelPlanet will provide the Services during the Term.
- 6.2 ParcelPlanet warrants that it will meet any Key Performance Indicators ("KPIs") as documented and agreed in the Service Level Agreement and that in the event that ParcelPlanet fails to meet those KPIs the Customer shall serve notice on ParcelPlanet to remedy the matter and if ParcelPlanet has not remedied the matter within 60 Business Days of such notice then the Customer shall be entitled to terminate these trading conditions on written notice.



## **7 INSURANCE**

It shall be the responsibility of the Customer to take out insurance of its Goods to cover all risks against which a reasonably prudent person would insure.



## **8. PAYMENT and VAT**

- 8.1 The Customer agrees to pay ParcelPlanet the Price during the Term in accordance with clause 8.
- 8.2 VAT for the Services provided will be levied at the prevailing Revenue Commissioners rate and will be added directly to invoices payable in addition to any amounts due under the agreement. All indirect taxes, duties and levies will also be payable in addition to any amounts due under these trading conditions but credit terms may vary at ParcelPlanet's discretion.
- 8.3 Any sums paid by retainer or prepayment are not in any circumstances returnable.
- 8.4 Unless otherwise provided in the Proposal ParcelPlanet will invoice the Customer monthly and payment in full shall be due to ParcelPlanet within 30 days after the date of a valid invoice.
- 8.5 Payment will be provided by direct debit only and must be completed and in place before the date of commencement of services. Direct Debit maybe debited by a third party as authorised and on behalf of ParcelPlanet.



## **9. LIMITATION AND LIABILITY**

- 9.1 ParcelPlanet's total liability to the Customer shall be subject to the limitations as set out in the IIFA Standard Trading Conditions 2018.
- 9.2 Each exclusion or limitation of liability in these trading conditions shall be construed as separate, distinct and severable and shall not apply to any claims for death or personal injury arising from ParcelPlanet's negligence.



## **10. TERMINATION FOR BREACH**

- 10.1 Either party shall be entitled forthwith to terminate these trading conditions by written notice to the other if that other party shall be adjudged insolvent or bankrupt or shall be unable to pay its debts as they fall due or shall make assignment for the benefit of its creditors generally or have a receiver or administrator appointed for it or for any of its property or assets or shall have a petition presented or a resolution passed for its winding up or if a notice is issued convening a meeting for the purpose of passing any such resolution or if it experiences any similar or analogous event in any jurisdiction.
- 10.2 Either party shall be entitled to terminate these trading conditions forthwith by written notice to the other if that other party commits any continuing or material breach of any of the provisions of these trading conditions and, in the case of such a breach which is capable of remedy, fails to remedy the same within 20 Business Days after receipt of a written notice giving full particulars of the breach and requiring it to be remedied.
- 10.3 For the purposes of clause 10.2, a breach shall be considered capable of remedy if the party in breach can comply with the provision in question in all respects other than as to the time of performance (provided that time of performance is not of the essence).



## **11. TERMINATION CONSEQUENCES**

- 11.1 In the event of these trading conditions being terminated for any reason the Customer shall immediately pay to ParcelPlanet all arrears of payments and any other sums due to ParcelPlanet under the terms of these trading conditions.
- 11.2 In addition to clause 11.1, in the event that a termination is instigated for any reason ParcelPlanet shall be entitled to charge the Customer a “Re-work charge” as referred to in the Schedule of Charges to cover the cost of collection of the Goods.
- 11.3 Either party shall be entitled to exercise any one or more of the rights and remedies given to it under the terms of these trading conditions and the determination of these trading conditions shall not affect or prejudice such rights and remedies and each party shall be and remain liable to perform all outstanding liabilities under these trading conditions notwithstanding that the other may have exercised one or more of the rights and remedies against it.
- 11.4 If the Customer fails to make any payment due under these trading conditions in full on the due date ParcelPlanet shall (without prejudice to any other right or remedy available to ParcelPlanet) be entitled to:
- (a) terminate these trading conditions;
  - (b) charge interest on the amount outstanding from the due date to the date of receipt by ParcelPlanet at the annual rate of 4% above the base lending rate of the ECB;
  - (c) continue charging the Customer for the storage of the Goods at its current rates from time to time;
  - (d) a general lien on all Goods and property belonging to the Customer, exercisable in respect of all sums lawfully due from the Customer to ParcelPlanet. ParcelPlanet shall be entitled, on the expiry of 14 days’ notice in writing to dispose of the Goods or property in such manner and at

such price as it thinks fit and to apply the proceeds towards the amount outstanding.

- 11.5 ParcelPlanet may without prejudice to any other rights it may have set off any liability of the Customer to ParcelPlanet against any liability of ParcelPlanet to the Customer.



## 12. WARRANTY

Each of the parties warrants its power to enter into these trading conditions and has obtained all necessary approvals to do so.



## 13. SEVERANCE

If any provision of these trading conditions shall be found by any court or administrative body of competent jurisdiction to be invalid or unenforceable the invalidity or unenforceability of such provision shall not affect the other provisions of these trading conditions and all provisions not affected by such invalidity or unenforceability shall remain in full force and effect. The parties hereby agree to attempt to substitute for any invalid or unenforceable provision a valid or enforceable provision which achieves to the greatest extent possible the economic legal and commercial objectives of the invalid or unenforceable provision.



## 14. WHOLE AGREEMENT

These terms and conditions and the Schedule of Charges shall constitute the entire agreement between the parties with respect of its subject matter, supersede all previous agreements and understandings between the parties, excludes any other terms and conditions inconsistent therewith which the Customer might seek to impose even though such other terms and conditions may be submitted in a later document and/or purport to exclude or supersede any terms or conditions inconsistent with them or may be contained in any offer acceptance or counter offer made by the Customer, and may not be modified except by an instrument in writing signed by the duly authorised representatives of the parties.



**15. NOTICES**

Any notice to be served on either of the parties by the other shall be sent by prepaid recorded delivery or registered post to the address of the relevant party shown at the head of these trading conditions and shall be deemed to have been received by the addressee 2 Business Days after posting.

**15. CHANGE OF ADDRESS**

Each of the parties shall give notice to the other of a change of address or telephone or similar number at the earliest possible opportunity but in any event within 48 hours of such change.



**16. JOINT AND SEVERAL**

All agreements on the part of either of the parties which comprise more than one person or entity shall be joint and several and the neuter singular gender throughout these trading conditions shall include all genders and the plural and the successor in title to the parties.



**17. PROPER LAW AND JURISDICTION**

Each party irrevocably agrees, for the sole benefit of ParcelPlanet that, subject as provided below, the courts of the Republic of Ireland shall have exclusive jurisdiction over any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with these trading conditions or its subject matter or formation. Nothing in this clause shall limit the right of ParcelPlanet to take proceedings against the Customer in any other court of competent jurisdiction, nor shall the taking of proceedings in any one or more jurisdictions preclude the taking of proceedings in any other jurisdictions, whether concurrently or not, to the extent permitted by the law of such other jurisdiction.



**18. RIGHTS CUMULATIVE**

All rights granted to either of the parties shall be cumulative and no exercise by either of the parties of any right under these trading conditions shall restrict or prejudice the exercise of any other right granted by these trading conditions or otherwise available to it.



**19. WAIVER**

The failure by either party to enforce at any time or for any period any one or more of the terms or conditions of these trading conditions shall not be a waiver of them or of the right at any time subsequently to enforce all terms and conditions of these trading conditions.



## 20. COSTS

Each of the parties shall bear their own costs in connection with these trading conditions.



## 21. DISPUTE RESOLUTION

All disputes differences or questions arising out of these trading conditions or as to the rights and liabilities of the parties hereto or as to the construction of interpretation hereof shall be referred to the directors of the parties who shall discuss (by call or in person) to resolve the issues in question within 14 days of one of the parties notifying the other of the dispute, in default of agreement within 14 days of that meeting referred to in this clause the parties shall be entitled to take such action as they see fit.



## 22. ADVERTISING

Either party may not use its connection with the other party in its advertising without the other's prior written consent.



## 23. ASSIGNMENT AND SUB-CONTRACTING

- 23.1 ParcelPlanet may assign or sub-contract any such part or parts of these trading conditions with the consent of the Customer, consent cannot be unfairly or unreasonably withheld.
- 23.2 The Customer may assign or sub-contract any such part or parts of these trading conditions provided ParcelPlanet provides its consent, consent cannot be unfairly or unreasonably withheld.
- 23.3 These trading conditions and all rights under it may not be assigned or transferred by the Customer without the prior written consent of ParcelPlanet such consent to be not unreasonably withheld or delayed.



## 24. OVERSEAS ASPECTS

The obtaining of all necessary consents licences or permissions in Ireland, the Customers country or any country of import or export in respect of the Goods are the responsibility of the Customer.



## 25. TUPE

25.1 Where the provision of the Services by ParcelPlanet to the Customer results in a service provision change under TUPE, the Customer undertakes to ParcelPlanet:

- (a) that it has complied and shall comply in all respects with its obligations under regulation 11 and 13 of TUPE;
- (b) to fully indemnify and hold ParcelPlanet harmless against all Demands (including legal and other professional fees and expenses) which ParcelPlanet may incur arising from or in connection with:
  - (i) any failure by the Customer to comply with its obligations under regulation 13 of TUPE;
  - (ii) the employment of the Employees or the termination of their employment by the Customer before the date of the transfer under TUPE; and/or
  - (iii) any employees not disclosed by the Customer who claim to have been entitled to have transferred to ParcelPlanet under TUPE because of the transfer.

25.2 In the event of the termination of these trading conditions within 6 months of the transfer of the Employees under TUPE the Customer shall fully indemnify ParcelPlanet in relation to any redundancy costs (including legal and other professional fees and expenses) incurred as a result in respect of the Employees.

ParcelPlanet is a trading name of D.M.G Ventures Ltd. VAT: IE 6426842E