

24. Data Protection

24.1 Definitions and Interpretations

In this Data Protection Addendum, the following definitions shall apply:

"Client Data" any Personal Data provided to TWE by the Customer for processing in accordance with the terms of the Agreement.

"Controller" means the natural or legal person, public authority, agency or any other body which alone or jointly with others determines the purposes and means of the processing of personal data; where the purposes and means of processing are determined by EU or Customer State laws, the Controller (or the criteria for nominating the controller) may be designated by those laws.

"Data Subject" means an identifiable natural person about whom a Controller holds Personal Data. For the purposes of the Agreement and this Data Protection Addendum, this may include an individual whose details are provided to TWE by the Client as part of the Client Data or whose details are contained within the Supplier Data.

"GDPR" means General Data Protection Regulation (EU) 2016/679 as in force from time to time as transposed into domestic legislation of each Customer State and as amended, replaced or superseded from time to time, including by the GDPR and laws implementing or supplementing GDPR.

"Customer" means the customer of TWE Haulage Ltd.

"Personal Data" shall have the meaning set out in the GDPR specifically this means any information relating to a Data Subject; who can be identified directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.

"Privacy and Data Protection Requirements" all applicable laws and regulations relating to the processing of personal data and privacy in any relevant jurisdiction, including, if relevant, the GDPR, the Regulation of Investigatory Powers Act 2000, the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000 (SI 2000/2699) and the Privacy and Electronic Communication Regulations 2003, any amendment, consolidation or re-enactment thereof, any legislation of equivalent purpose or effect enacted in the United Kingdom, and any orders, guidelines and instructions issued under any of the above by relevant national authorities, a judicial authority in England and Wales or a European Union judicial authority.

"Processor" means a natural or legal person, public authority, agency or any other body which processes Personal Data on behalf of the Controller.

"Sub-processor" means a natural or legal person, public authority, agency or any other body contracted by the Processor to process Personal Data for the purpose of carrying out a specific processing activity on behalf of the Controller.

"Supplier Data" means any Personal Data provided to TWE and/or the Client by the Data Supplier or used within TWE's products and services in accordance with the terms of the Agreement.

"Supervisory Authority" means an independent public authority which is established by a Customer State pursuant to Article 51 of GDPR.

"TWE" means TWE Haulage Ltd

24.2 Customer's Obligations with relation to data protection laws

24.2.1 The parties agree that when the Customer is a Controller and TWE is a Processor for the purposes of processing Protected Data pursuant to this Agreement. The Customer shall at all times comply with all Data Protection Laws in connection with the processing of Protected Data. The Customer shall ensure all instructions given by it to TWE in respect of Protected Data (including the terms of this Agreement) shall at all times be in accordance with Data Protection Laws.

24.2.2 The parties agree that when the Customer is the Processor and TWE is the Controller for the purposes of processing Protected Data pursuant to this Agreement. The Customer shall at all times comply with all Data Protection Laws in connection with the processing of Protected Data. The Customer shall ensure all instructions given to it by TWE in respect of Protected Data (including the terms of this Agreement) shall at all times be in accordance with Data Protection Laws.

24.2.3 In accordance with the Data Protection Laws, taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of the processing of the Protected Data to be carried out under or in connection with this Agreement, as well as the risks of varying likelihood and severity for the rights and freedoms of natural persons and the risks that are presented by the processing, especially from accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to the Protected Data transmitted, stored or otherwise processed, the Customer shall implement appropriate technical and organisational security measures appropriate to the risk, including as appropriate those matters mentioned in Articles 32(a) to 32(d) (inclusive) of the GDPR.

24.3 TWE's obligations with relation to data protection laws

24.3.1 TWE shall process Protected Data in compliance with the obligations placed on it under Data Protection Laws and the terms of this Agreement.

24.3.2 In accordance with the Data Protection Laws, taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of the processing of the Protected Data to be carried out under or in connection with this Agreement, as well as the risks of varying likelihood and severity for the rights and freedoms of natural persons and the risks that are presented by the processing, especially from accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to the Protected Data transmitted, stored or otherwise processed, TWE shall implement appropriate technical and organisational security measures appropriate to the risk, including as appropriate those matters mentioned in Articles 32(a) to 32(d) (inclusive) of the GDPR.

24.4 Instructions

24.4.1 TWE shall only process (and shall ensure TWE Personnel only process) the Protected Data for the purpose of fulfilling its obligations under this Agreement (and not otherwise unless alternative processing instructions are agreed between the parties in writing) except where otherwise required by applicable law (and shall inform the Customer of that legal requirement before processing, unless applicable law prevents it doing so on important grounds of public interest).

24.4.2 Without prejudice to Clause 24.2, if TWE believes that any instruction received by it from the Customer is likely to infringe the Data Protection Laws it shall promptly inform the Customer and be entitled to cease to provide the relevant Services until the parties have agreed appropriate amended instructions which are not infringing.

24.4.3 The Customer shall only process (and shall ensure Customer personnel only process) the Protected Data for the purpose of fulfilling its obligations under this Agreement (and not otherwise unless alternative processing instructions are agreed between the parties in writing) except where otherwise required by applicable law (and shall inform the Customer of that legal requirement before processing, unless applicable law prevents it doing so on important grounds of public interest).

24.5 Sub-processors

The Customer provides their consent for TWE to use Sub-processors in the delivery of the services. Where TWE uses third parties and where they are acting as a Sub-Processor in relation to Client Data TWE shall:

24.6.1 in relation to EEA resident Personal Data, enter into a legally binding written agreement that places the equivalent data protection obligations as those set out in this Data Processing Addendum to the extent applicable to the nature of the services provided by such Sub-processor, in particular providing sufficient guarantees to implement appropriate technical and organisational measures in such a manner that the processing will meet the requirements of the GDPR;

24.6.2 shall remain liable for any act or omission of a Sub-processor that does not comply with the data protection obligations as set out in this Data Protection Addendum; and

24.6.3 where required by law, TWE shall inform the Customer of any intended changes concerning the addition or replacement of a Sub-processor with access to Client Data and give the Customer the opportunity to object to such changes.

24.7 International transfers/ Third Countries

TWE shall not cause or permit any Client Data belonging to an EEA resident to be transferred outside of the EEA unless such transfer is necessary for the purposes of TWE carrying out its obligations under the Agreement in which case, the provisions of this clause 8 shall apply.

24.7.1 **Transfer subject to adequate safeguards:** Subject to clauses 8.3 and 8.4, if an EEA resident's Personal Data is to be processed outside of the EEA, GBG agrees to provide and maintain appropriate safeguards as set out in Article 46 GDPR to lawfully transfer the Personal Data to a third country.

24.7.2 **Transfers based on adequacy decisions:** Clause 8.2 shall not apply if the processing of the Personal Data is carried out in a country that the European Commission has considered as offering an adequate level of protection.

24.8 Audits and processing

TWE shall, in accordance with Data Protection Laws, make available to the Customer such information that is in its possession or control as is necessary to demonstrate TWE compliance with the obligations placed on it under this Clause 27 and to demonstrate compliance with the obligations on each party imposed by Article 28 of the GDPR (and under any equivalent Data Protection Laws equivalent to that Article 28), and allow for and contribute to audits, including inspections, by the

Customer (or another auditor mandated by the Customer) for this purpose (subject to a maximum of one audit request in any 12 month period under this Clause 24.10).

24.9 Breach Notification

24.9.1 The Customer shall notify TWE without undue delay and in writing on becoming aware of any Personal Data Breach in respect of any Protected Data.

24.9.2 TWE shall notify the Customer without undue delay and in writing on becoming aware of any Personal Data Breach in respect of any Protected Data.

24.10 Survival

This Clause 27 shall survive termination or expiry of this Agreement indefinitely in the case of Clauses 24.4 and 24.10 and until 12 months following the earlier of the termination or expiry of this Agreement in the case of all other paragraphs and provisions of this Clause 24.

24.11 Liability

Neither party excludes or limits its liability in respect to the terms of the Data Protection Addendum.

24.13 Miscellaneous

24.15.1 A person who is not a Party to this Data Protection Addendum has no rights under the Contracts (Rights of Third Parties) Act 1999 or otherwise to enforce the provisions of this Data Protection Addendum.

24.15.2 Where applicable, the Parties agree that if, upon review following GDPR coming to force, the provisions of this Data Protection Addendum do not comply with GDPR then both Parties agree to cooperate in good faith to renegotiate the terms of this Data Processing Addendum to ensure compliance with GDPR.