

## Strikes Bailiffs Limited – Terms & Conditions

The Customer's attention is particularly drawn to the provisions of clause 8.

### 1. INTERPRETATION

1.1. **Definitions.** In these Conditions, the following definitions apply:

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

**Charges:** the charges payable by the Customer for the supply of the Services in accordance with clause 5.

**Commencement Date:** has the meaning set out in clause 2.2.

**Conditions:** these terms and conditions as amended from time to time in accordance with clause 12.7.

**Contract:** the contract between the Supplier and the Customer for the supply of Services in accordance with these Conditions.

**Customer:** the person or firm who purchases Services from the Supplier.

**Debtor:** the individual from whom the Customer wishes the Supplier to recover a debt via the Services and whose details are given in the Order.

**Order:** the Customer's order for Services as set out in the purchase order form.

**Personal Data:** the information on the individual(s) supplied to the Supplier by the Customer to enable the Services to be performed.

**Services:** the bailiff services supplied by the Supplier to the Customer as described on the Supplier's website.

**Supplier:** Strikes Bailiffs Limited registered in England and Wales with company number 08339325 whose registered office is Westbourne House, 99 Lidgett Lane, Garforth, LS25 1LG

1.2. **Construction.** In these Conditions, the following rules apply:

- (a) a **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);
- (b) a reference to a party includes its successors or permitted assigns;
- (c) a reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted;
- (d) any phrase introduced by the terms **including, include, in particular** or any similar expression, shall be construed as illustrative and shall not limit the sense of the words preceding those terms; and
- (e) a reference to **writing** or **written** includes faxes and e-mails.

## **2. BASIS OF CONTRACT**

- 2.1. The Order constitutes an offer by the Customer to purchase Services in accordance with these Conditions.
- 2.2. The Order shall only be deemed to be accepted when the Supplier issues written acceptance of the Order at which point and on which date the Contract shall come into existence (**Commencement Date**).
- 2.3. The Contract constitutes the entire agreement between the parties. The Customer acknowledges that it has not relied on any statement, promise, representation, assurance or warranty made or given by or on behalf of the Supplier which is not set out in the Contract.
- 2.4. These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 2.5. Any quotation given by the Supplier shall not constitute an offer, and is only valid for a period of 20 Business Days from its date of issue.

## **3. SUPPLY OF SERVICES**

- 3.1. The Supplier shall carry out the Services in so far as is reasonably practicable in accordance with the Order, having regard to good commercial practice in the industry.
- 3.2. The Customer acknowledges that the Supplier must work within the legal guidelines set down for enforcement agents and, consequently, the Supplier shall not be in breach of contract is, as a result of any legal requirements or as a result of recommendations by the police or other official body the Supplier is unable to carry out the Services. For the avoidance of doubt, the Charges shall be payable for any Services the Supplier performs which cannot be completed as a result of this clause 3.2
- 3.3. The Supplier shall used people of reasonable skill and experience to perform the Services.

## **4. CHANGE CONTROL**

- 4.1. The scope of the Services shall be as described on the Supplier's website.
- 4.2. If either party requests a change to the scope or execution of the Services, the Supplier shall, within a reasonable time, provide a written estimate to the Customer of:
  - (a) the likely time required to implement the change;
  - (b) any necessary variations to the Supplier's charges arising from the change; and
  - (c) any other impact of the change on the Contract.

- 4.3. If the Customer wishes the Supplier to proceed with the change, the Supplier has no obligation to do so unless and until the parties have agreed the necessary variations to its charges, the Services and any other relevant terms of this agreement to take account of the change in writing.
- 4.4. Notwithstanding clause 4.3, the Supplier may, from time to time and without notice, change the Services in order to comply with any applicable safety or statutory requirements, provided that such changes do not materially affect the nature, scope of, or the charges for the Services. If the Supplier requests a change to the scope of the Services for any other reason, the Customer shall not unreasonably withhold or delay consent to it.

## 5. CUSTOMER'S OBLIGATIONS

- 5.1. The Customer shall:
- (a) ensure that the terms of the Order and the information provided on the Debtor are complete and accurate;
  - (b) provide all relevant Personal Data on the Debtor
  - (c) co-operate with the Supplier in all matters relating to the Services;
  - (d) provide the Supplier, its employees, agents, consultants and subcontractors, with access to the necessary premises as reasonably required by the Supplier;
  - (e) provide the Supplier with such information and materials as the Supplier may reasonably require in order to supply the Services, and ensure that such information is accurate in all material respects;
  - (f) obtain and maintain all necessary licences, permissions and consents which may be required before the date on which the Services are to start;
  - (g) immediately inform the Supplier of any payments it receives from the Debtor; and
  - (h) follow any reasonable instructions or advice given by the Supplier in relation to the progression of the Services.
- 5.2. If the Supplier's performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation (**Customer Default**):
- (a) the Supplier shall without limiting its other rights or remedies have the right to suspend performance of the Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations to the extent the Customer Default prevents or delays the Supplier's performance of any of its obligations;
  - (b) the Supplier shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from the Supplier's failure or delay to perform any of its obligations as set out in this clause 4.2; and

- (c) the Customer shall reimburse the Supplier on written demand for any costs or losses sustained or incurred by the Supplier arising directly or indirectly from the Customer Default.
- 5.3. By placing the Order, the Customer is providing their consent for the Supplier to enter onto the specified property and to carry out all lawful and necessary acts required to recover the debt in accordance with the Specification and the Order.
- 5.4. The Customer authorises the Supplier to arrange for payment of any outstanding debts either in full or by arranging an instalment plan.
- 5.5. The Customer warrants that it has the authority to;
  - (a) provide the necessary information on the Debtor to the Supplier;
  - (b) authorise the Supplier to carry out the Services; and
  - (c) provide the Supplier with access to any of its properties at which it has requested the Supplier to carry out the Servicesand shall indemnify the Supplier against any costs or losses it may suffer as a result of the breach of this clause 5.5
- 5.6. The Customer shall, at its own expense execute all documents and do all acts and things reasonably required by the Supplier to give effect to the Services and shall provide access to all information and documentation which is within its possession which is reasonably required by the Supplier to enable the Supplier to fulfil its obligations.

## **6. CHARGES AND PAYMENT**

- 6.1. The Charges for the Services;
  - (a) shall be as stated on the Order in accordance with the Supplier's current price list as shown on the Supplier's website or, if no fixed Charges are stated or the Customer requires services outside the scope of the Service, on a time and materials basis calculated in accordance with the Supplier's standard daily fee rates, as set out on the Supplier's website; and
  - (b) in addition, the Supplier shall be entitled to charge the Customer for any expenses reasonably incurred by Supplier or the individuals whom the Supplier engages in connection with the Services including, but not limited to, travelling expenses, court fees, and for the cost of services provided by third parties and required by the Supplier for the performance of the Services.
- 6.2. The Supplier shall invoice the Customer on the earlier of completion of the Services monthly in arrears.
- 6.3. The Customer shall pay each invoice submitted by the Supplier:
  - (a) within 30 days of the date of the invoice; and

- (b) in full and in cleared funds to a bank account nominated in writing by the Supplier, and

time for payment shall be of the essence of the Contract.

- 6.4. The Supplier shall, if permitted by law, attempt to recover some or all of the Charges from the Debtor.
- 6.5. If the Debtor cannot pay the Charges, or the Supplier is not permitted to recover the Charges from the Debtor, the Customer shall be responsible for paying the Charges in accordance with clause 6.4.
- 6.6. All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax chargeable for the time being (**VAT**). Where any taxable supply for VAT purposes is made under the Contract by the Supplier to the Customer, the Customer shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier 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.
- 6.7. If the Customer fails to make any payment due to the Supplier under the Contract by the due date for payment, then the Customer shall pay interest on the overdue amount at the rate of 4% per cent per annum above HSBC Bank's base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount.
- 6.8. The Customer shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law). The Supplier may at any time, without limiting its other rights or remedies, set off any amount owing to it by the Customer against any amount payable by the Supplier to the Customer.

## **7. CONFIDENTIALITY**

A party (**receiving party**) shall keep in strict confidence all information of a confidential nature and have been disclosed to the receiving party by the other party (**disclosing party**), its employees, agents or subcontractors. The receiving party shall only disclose such confidential information to those of its employees, agents and subcontractors who need to know it for the purpose of discharging the receiving party's obligations under the Contract, and shall ensure that such employees, agents and subcontractors comply with the obligations set out in this clause as though they were a party to the Contract. The receiving party may also disclose such of the disclosing party's confidential information as is required to be disclosed by law, any governmental or regulatory authority or by a court of competent jurisdiction. This clause 6 shall survive termination of the Contract.

**8. PERSONAL DATA**

- 8.1. The Customer and the Supplier acknowledge that for the purposes of the Data Protection Act 1998, the Customer is the Data Controller and the Supplier is the data processor in respect of any Personal Data.
- 8.2. The Supplier shall process the Personal Data only in accordance with the Customer's instructions from time to time and shall not process the Personal Data for any purpose other than those expressly authorised by the Customer.
- 8.3. Each party agrees to indemnify and keep indemnified and defend at its own expense the other party against all costs, claims, damages or expenses incurred by the other party or for which the other party may become liable due to any failure by the first party or its employees or agents to comply with any of its obligations under this agreement or the Data Protection Act.
- 8.4. The Customer acknowledges that the Supplier is reliant on the Customer for direction as to the extent to which the Supplier is entitled to use and process the Personal Data. Consequently, the Supplier will not be liable for any claim brought by a Data Subject arising from any action or omission by the Supplier, to the extent that such action or omission resulted directly from the Customer's instructions.

**9. LIMITATION OF LIABILITY: THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE**

- 9.1. Nothing in these Conditions shall limit or exclude the Supplier's liability for:
  - (a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;
  - (b) fraud or fraudulent misrepresentation; or
  - (c) breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession).
- 9.2. Subject to clause 8.1:
  - (a) the Supplier shall under no circumstances whatever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the Contract; and
  - (b) the Supplier's total liability to the Customer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed 110% of the Value of the Services provided under the Contract.
- 9.3. The terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.
- 9.4. This clause 8 shall survive termination of the Contract.

## **10. TERMINATION**

- 10.1. Without limiting its other rights or remedies, either party may terminate the Contract with immediate effect by giving written notice to the other party if:
- (a) the other party commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 14 days of that party being notified in writing to do so;
  - (b) the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply;
  - (c) the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors;
  - (d) the other party's financial position deteriorates to such an extent that in the Supplier's opinion the Customer's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy; or
  - (e) the other party (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his own affairs or becomes a patient under any mental health legislation.
- 10.2. Without limiting its other rights or remedies, the Supplier may terminate the Contract with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under this Contract on the due date for payment and fails to pay all outstanding amounts within 21 days after being notified in writing to do so.
- 10.3. Without limiting its other rights or remedies, the Supplier may suspend provision of the Services under the Contract or any other contract between the Customer and the Supplier if the Customer becomes subject to any of the events listed in clause 9.1(b)) to clause 9.1(e), or the Supplier reasonably believes that the Customer is about to become subject to any of them, or if the Customer fails to pay any amount due under this Contract on the due date for payment.
- 10.4. Without limiting its other rights or remedies, the Supplier may terminate the Contract with immediate effect by giving written notice to the Customer if the Customer fails to provide any information on the Debtor in a timely manner or, fails to correct any wrong information immediately upon being informed of this by the Supplier.

## **11. CONSEQUENCES OF TERMINATION**

On termination of the Contract for any reason:

- (a) the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, the Supplier shall submit an invoice, which shall be payable by the Customer immediately on receipt;
- (b) the accrued rights, remedies, obligations and liabilities of the parties as at expiry or termination shall be unaffected, 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; and
- (c) clauses which expressly or by implication survive termination shall continue in full force and effect.

## **12. FORCE MAJEURE**

- 12.1. For the purposes of this Contract, **Force Majeure Event** means an event beyond the reasonable control of the Supplier including but not limited to strikes, lock-outs or other industrial disputes (whether involving the workforce of the Supplier or any other party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law, police or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or subcontractors.
- 12.2. The Supplier shall not be liable to the Customer as a result of any delay or failure to perform its obligations under this Contract as a result of a Force Majeure Event.
- 12.3. If the Force Majeure Event prevents the Supplier from providing any of the Services for more than 6 weeks, the Supplier shall, without limiting its other rights or remedies, have the right to terminate this Contract immediately by giving written notice to the Customer.

## **13. GENERAL**

### **13.1. Assignment and other dealings.**

- (a) The Supplier may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights under the Contract and may subcontract or delegate in any manner any or all of its obligations under the Contract to any third party or agent.
- (b) The Customer shall not, without the prior written consent of the Supplier, assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract.

### **13.2. Notices.**

- (a) Any notice or other communication given to a party under or in connection with the Contract shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, sent by pre-paid

first class post or other next working day delivery service, commercial courier, fax or e-mail.

- (b) A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 12.2(a); 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; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by fax or e-mail, one Business Day after transmission.
- (c) The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

**13.3. Severance.**

- (a) 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.
- (b) If any provision or part-provision of this Contract is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

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

13.5. **No partnership or agency.** Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, nor constitute either party the agent of the other for any purpose. Neither party shall have authority to act as agent for, or to bind, the other party in any way.

13.6. **Third parties.** A person who is not a party to the Contract shall not have any rights to enforce its terms.

13.7. **Variation.** Except as set out in these Conditions, no variation of the Contract, including the introduction of any additional terms and conditions, shall be effective unless it is agreed in writing and signed by the Supplier.

13.8. **Governing law.** This Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual

disputes or claims), shall be governed by, and construed in accordance with the law of England and Wales.

- 13.9. **Jurisdiction.** Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Contract or its subject matter or formation (including non-contractual disputes or claims).