



Terms of Service

PLEASE READ THESE TERMS AND CONDITIONS (“**Terms**”) CAREFULLY. THEY APPLY TO ALL PRODUCTS AND SERVICES OFFERED BY SJS Consultancy Services Ltd.

Version: 1.1
Updated: 01/11/ 2023

The Parties

SJS Consultancy Services Limited

Referred to within this document as “SJS”, a company incorporated under the Laws of England with Company Number **15243975** and whose registered office is situated at:

Buckswood Grange
Rocks Road
Uckfield
E Sussex
TN22 3PU
United Kingdom

Client

Referred to within this document as “the Client” with company details as registered on the SJS Software, including: country of domicile, registration number, VAT ID and operating, registered, and billing address.

1. Defined Terms

In these Terms, unless the context requires otherwise, the following expressions have the following meanings:

“**Business Day**” means a day other than a Saturday, Sunday or public holiday in England when banks in London are not open for business.

“**Carriage**” means the services employed by SJS to deliver goods to recipients on behalf of the Client.

“**Charges**” shall mean the charges for the Software, Services and all other items as specified in the Schedules.

“**Client**” as detailed at the top of this document, refers to the client for whom Ascot Logistics will provide services and to whom this contract relates.

“Confidential Information” information, data and material of any nature, which either party may receive or obtain in connection with the Services which is designated as confidential by either party or that ought reasonably to be considered as confidential (however it is conveyed or on whatever media it is stored).

“Customer Care” shall mean the inbound call handling and customer response service provided by SJS on behalf of the Client.

“Exit Plan” shall mean the course of action and applicable costs agreed by both parties in advance of terminating this Agreement.

“Facility Fee” is a supplementary charge that SJS reserve the right to invoice the Client under circumstances where trading or external factors negatively impact the viability of centres or specific fulfilment activities undertaken on behalf of the Client.

“Forecasts” shall mean data provided by the Client detailing predicted fulfilment activity in the future. Unless otherwise stated, this data shall be presented in weekly format for a minimum period of six weeks in advance.

“Fragile Goods” shall mean items deemed to require specialist storage, handling or distribution, including (but not limited to): glassware, ceramics, porcelain, calibrated devices, delicate fabrics and jewellery.

“Fulfilment” shall mean the handling of goods and dispatching of parcels on behalf of the Client by from their warehouse facilities.

“Fulfilment House Due Diligence Scheme” means the HM Revenue & Customs scheme for the registration of fulfilment houses as described at: <https://www.gov.uk/guidance/fulfilment-house-duediligence-scheme#businesses-that-must-be-registered>

“Fulfilment Request” means a request that you submit to us to fulfil Units as part of the Services.

“Initial Period” shall mean the initial period of this Agreement which, unless otherwise specified within this Agreement is determined to be one calendar month from the Installation Date.

“Normal Business Hours” means 8.00 am to 5.00 pm local UK time, each Business Day.

“Parties” means SJS and the Client and "Party" shall be construed accordingly.

“Purpose” shall mean the execution of this Agreement.

“Quotation” shall mean the document detailing the Software and Services to be provided by SJS to the Client.

“Schedules” shall mean those parts of this document specified as a Schedule or a Project Plan, SLA, KPI, or otherwise, defining the variables related to this Agreement.

“Services” shall mean the Fulfilment, Customer Care and Carriage services as detailed within the Schedule.

“Service Confirmation Email” has the meaning given in clause 3a of these Terms.

“Site” means the website www.sjsconsultants.co.uk.

“SLA” shall mean the Service Level Agreement and any subsequent penalties as set out within the Schedule.

“Software” shall mean the Software provided by SJS and detailed within the Baseline System Specification, referred to within Change Requests and detailed within the Schedule.

“Unit” means a unit of Your Product(s) that you deliver to us in connection with the Services.

“Universal Tariff” details the prevailing charges for Services provided by SJS3. These are published within the Software and subject to change.

“Unsuitable Unit” means a Unit: (a) that is defective, damaged, unfit for a particular purpose, or lacking required labels; (b) that it would be unlawful for us to store, sell or otherwise distribute within the United Kingdom or the European Union; (c) that we determine is unsellable or unfulfillable; or (d) that we determine, acting reasonably, is otherwise unsuitable for any reason.

“we” means SJS Consultancy Services Ltd, a company registered in England and Wales under company number 15243975 and with our registered office at **Buckswood Grange, Rocks Road, Uckfield, E Sussex, TN22 3PU**, and **“our”** and **“us”** shall be construed accordingly. **“you”** means you as the client or the business you represent and **“your”** shall be construed accordingly.

“Your Product(s)” means the products that you sell and wish us to provide Services in respect of.

2. About these Terms

These Terms will apply to Services we provide to you. We may update these Terms from time to time. Updated terms will apply to Services ordered from the date of the update onwards (they will not have retrospective effect). Every time you wish to order Services, please check these Terms to ensure you understand the terms, which apply at that time. We will also indicate at the top of these Terms when they were last updated.

3. Contract Formation

- a. A contract between you and us is formed upon your acceptance of these Terms.
- b. By accepting these Terms, you confirm that you are at least 18 years old and either:
 - i. acting in a personal capacity, for the purposes of your business, and that you accept that these Terms will apply; or
 - ii. where you are acting on behalf of a partnership, company or other legal entity, that you have the right and authority to accept these Terms on behalf of such partnership, company or other legal entity.
- c. You warrant that you have not been induced to enter into an agreement on these Terms by any prior representations or warranties, whether oral or in writing, except as specifically contained in these Terms, and you hereby irrevocably and unconditionally waives any right you may have to claim damages for any misrepresentation unless it was made fraudulently.

4. Transportation to Us

- a. You will ensure that:
 - i. all Units are properly packaged for protection against damage and deterioration during transportation;
 - ii. terms of freight shall be "C.I.P. (Carriage and Insurance Paid) Destination" (unless otherwise agreed); and
 - iii. all Units comply with labelling and other requirements that we advise you of prior to delivery to us.
- b. You will be responsible for all costs incurred to transport the Units to the warehousing destination (including costs of freight and transit insurance) unless otherwise agreed. You will prepay all such transportation costs and we will not pay these costs.
- c. You are responsible for payment of all customs, duties, taxes and other charges (unless otherwise agreed). In the case of any improperly packaged or labelled Unit, we may return the Unit to you at your expense or re-package or re-label the Unit and charge you a corresponding fee.
- d. You will not deliver to us, and we may refuse to accept, any shipment of any Unsuitable Unit.
- e. In light of the Fulfilment House Due Diligence Scheme, you warrant and undertake to us that the Units you deliver to us for storage are owned by you or a Associated Company and you are an organisation established within the United Kingdom.
- f. Should the units be owned by an Associated Company, it is an express condition of this contract that the Client submits full trading information prior to delivery, including but not limited to: company registration number, address, contact name and UK VAT number. Failure to adhere to this requirement will result in immediate suspension of all Services undertaken for the Client (and Associated Companies).
- g. Where you are an organisation established outside the United Kingdom, all trading activities must be compliant with the Fulfilment House Due Diligence scheme and applicable tax laws.

5. Use of Brand(s)

Subject to formal request, you shall not withhold reference of your brand or brands for use by us and our ongoing marketing programme. This activity includes; prominent website credits, website links, case studies, press releases, seminars, presentations, inserts and off-the-page advertising.

6. Service Levels

- a. We shall provide the Services with reasonable skill and care.
- b. The following Key Performance Indicators ('KPIs') and Service Level Agreement ('SLA') will be measured on a daily, weekly and monthly basis. Please note that the validity of this Service Level Agreement is strictly subject to provision of relevant activity Forecasts. In all other circumstances, Services are provided on the basis of best endeavour:

Activity	KPI	SLA
Response to an Andon Event (critical issue) – all Clients	2 working hours	4 working hours
Response to a Support Case – Premier Client	4 working hours	8 working hours
Response to a Support Case - Select Client	8 working hours	16 working hours
Response to a Support Case – Flex Client	12 working hours	24 working hours
Receipting, inspection and put away of compliant stock	8 working hours	16 working hours
Receipting, inspection and put away non-compliant stock	40 working hours	56 working hours
Reworking of stock and/or completion of works order	24 working hours	40 working hours
Resolution of picking discrepancies	4 working hours	8 working hours
Processing of returned stock	24 working hours	40 working hours
Security and accuracy of stock (subject to full stock take)	99.50%	99%
Same day dispatch where order fully reserved by noon	98.00%	98%

7. Storage

- a. We will provide storage services as described in these Terms and on the Site once we confirm receipt of delivery.
- b. Our confirmed receipt of delivery does not:
 - i. indicate or imply that any Unit has been delivered free of loss or damage,;
 - ii. indicate or imply that we actually received the Units of Your Product(s) specified by you for such shipment; or
 - iii. waive, limit, or reduce any of our rights under these Terms.
- c. We will keep records that track inventory of Units stored in any of our fulfilment centres. We may move Units between our fulfilment centres.
- d. We reserve the right to impose, and change from time to time, scheduling restrictions and volume limitations on the delivery and storage of your inventory in our fulfilment centres, and you will comply with any of these restrictions or limitations.

8. Fulfilment

- a. We will ship Units from the inventory of Products to the shipping addresses submitted by you as part of a Fulfilment Request.
- b. We may ship Units separately that are included in a single Fulfilment Request.

9. Customer Returns

- a. We will receive and process returns of any Units in accordance with these Terms and any applicable policies published on the Site. Unless otherwise described in the Services you have ordered, you or an Associated Company will be responsible for and will accept and process returns of, and provide refunds for, any Units returned by a customer.
- b. All Units that are properly returned and have not become Unsuitable Units will be placed back into the inventory of Products.
- c. We will, at your direction, either return or dispose of any Unit that is returned to us by a customer and that we determine is an Unsuitable Unit.
- d. You or an Associated Company will retake title of all Units that are returned by customers.
- e. You will be responsible for any VAT and Intrastat obligations as result of any returns.

10. Returns to You and Disposal

- a. You may, at any time, request that Units be returned to you or an Associated Company or that we dispose of Units at your/their cost.
- b. We may return any Units (including Unsuitable Units) to you or an Associated Company for any reason, including upon termination of our agreement with you on these Terms.
- c. Returned Units will be sent to a shipping address designated by you. However, if (a) the designated address we have for you is outdated, incorrect or outside the applicable territory, (b) you have not provided or, upon our request, confirmed a designated shipping address, or (c) if we cannot make arrangements for you to pay for the return shipment, then the Unit(s) will be deemed abandoned and we may elect to dispose of them in our sole discretion.
- d. We may dispose of any Unsuitable Unit (and you will be deemed to have consented to our action):
 - i. immediately if we determine in our sole discretion that the Unit creates a safety, health or liability risk to us, our personnel or any third party;
 - ii. if you fail to direct us to return or dispose of any Unsuitable Unit within thirty (30) days (or as otherwise specified in any applicable policy) after we notify you.
- e. In addition, you will reimburse us for any damages or expenses incurred in connection with any Unsuitable Units.
- f. We may dispose of any Unit we are entitled to dispose of in the manner we prefer. Title to each disposed Unit will transfer to us at no cost to us as necessary for us to dispose of the Unit, and we will retain all proceeds, if any, received from the disposal of any Unit.
- g. You will promptly notify us of any recalls or threatened recalls of any of Product(s) and cooperate and assist us in connection with any recalls, including by initiating the procedures for returning items to you under our standard processes. You will be responsible for all costs and expenses you, we or any of our or your affiliates incur in connection with any recall or threatened recall of any of Product(s) (including the costs to return, store, repair, liquidate or deliver to you or any vendor any of these products).

11. Customer Care

- a. We will have no customer service obligations other than to pass any enquiries to you using the contact details you provide. Unless customer service has been agreed and costed in.

12. Pricing

- a. The prices of the Services will be as per the Universal Tariff quoted on the Site, or customised rate cards supplied upon quotation. We take all reasonable care to ensure that the prices of Services are correct at the time when the relevant information was entered onto the system.

Universal Tariff –

- a. Customised quotations take precedent over any published tariffs.
- b. Service activity centrally managed on shared software platform, includes the following modules: i. Sales Order Processing

- ii. Inventory Management and Inventory Transfers
 - iii. Reporting
- c. Standard software configuration may be subject to bespoke development and chargeable Change Requests.
- d. First five users are free of charge, additional users charged at £20.00 each, per week. Price includes set-up training, licencing, hosting and support.
- e. Stock receipting subject to 100% checking. All stock put away to locations with barcode label. All warehouse tasks barcode-verified using Mobile software application.
- f. Storage charge based on total space usage, as measured by cubic metre (or part). Should aged stock (mid and long term holdings) be mixed in the same location, storage will be charged at the higher, applicable rate.
- g. Prices for the Services may change from time to time. If they do, the up-to-date version will always be available on the Site. Any revised version of these prices will be effective immediately when it is displayed on the Site.
- h. Please note it is always possible that, despite our reasonable efforts, some of the Services on the Site may be incorrectly priced. If we discover an error in the price of the Services you have ordered, we will inform you of this error and give you the option of continuing to purchase the relevant Services at the correct price or cancelling the service. We will not undertake services until we have your instructions. If we are unable to contact you using the contact details you have provided, we will treat the service as cancelled and notify you in writing. Please note that if the pricing error is obvious and unmistakable and could have reasonably been recognised by you as a mispricing, we do not have to provide the relevant Services to you at the incorrect price.
- i. SJS shall be entitled at any time after the expiry of the Initial Period, to increase any or all charges in accord with any change in SJS standard scale of charges by giving to the Client not less than thirty days prior written notice.
- j. Any deposits, prepayments or commitment fees shall be non-refundable.
- k. Amendments, modifications and alterations to this Agreement shall be made in writing and signed by authorised representative of each party.
- l. In certain circumstances where productivity of SJS centres is impacted, the Facility Fee may be invoked, revoked or amended, subject to a minimum thirty (30) days' notice.
- m. In the event that activity levels are below ten (10) orders per week, twelve months after commencement of Services i.e. from billing period 53, SJS reserve the right to invoke the Facility Fee at the prevailing rate without notice.

13. Invoicing and Payment

- a. A weekly invoice for the Services provided to you is calculated and raised, in arrears, for the period Monday 00.00 to Sunday 23.59.
- b. Invoice(s) for the week previous and a statement will be sent to you by email no later than noon every Monday (or adjacent working day).
- c. All charges referred to in this Agreement are exclusive of VAT and other taxes, which shall be charged at the rate and in the manner for the time being prescribed by applicable law.
- d. Charges shall become due and payable without prior demand and no payment shall be considered made until it is received by SJS in cleared funds.
- e. Direct debit instruction to collect payment is placed by close of business on the Monday on which the relevant invoice is sent. A forward-dated cash posting will be made on your account at the same time, allocated against the applicable invoices.
- f. Each invoice in respect of our Services shall be supported by applicable reports, which may include:
 - i. Charging/Costing Report which includes a breakdown of dispatched retail invoices;
 - ii. Chargeable Log covering goods inward time, bar coding & miscellaneous activity;
 - iii. Fulfilment Log which includes the number of orders received, items, discrepancy and failure information; and/or
 - iv. Case Summary Report detailing all support provided by us to you and/or your customers.
- g. Invoices may be queried in writing to your dedicated Fulfilment Expert within 7 days following the date of the relevant invoice. A case with unique reference will be logged within 16 working hours

and we will endeavour to send a full response to you within 40 working hours. This response may include a full or partial credit where we deem that is appropriate. Credits are posted (but not allocated) to your account and deducted from the next scheduled invoice and direct debit payment.

- h. We shall have a general lien on all Units in its possession, custody or control for all sums due at any time from you, and shall be entitled to sell or dispose of such Units as agent for you and at your expense and apply the proceeds in or towards the payment of such sums on 28 days' notice in writing to you. Upon accounting to you for any balance remaining after payment of any sum due to you and the costs of sale or disposal you shall be discharged of any liability whatsoever in respect of the Units.
- i. We shall be entitled to invoice for any sums due when such sums fall due. If any sum is not paid within applicable terms then (without prejudice to our other rights and remedies) we reserve the right to charge interest on such sums on a day to day basis from the first day after the due date for payment to the date of actual payment (both dates inclusive) at the rate of 5% above the base rate of Natwest Bank plc from time to time in force, compounded weekly. Such interest shall be paid on demand. In addition to, or in the alternative, SJS may suspend the provision of any or all of the agreed licenses and services until such time as payment is made.

14. Confidentiality

- a. Each party may be given access to Confidential Information from the other party in order to perform its obligations under these Terms. A party's Confidential Information shall not be deemed to include information that:
 - i. is or becomes publicly known other than through any act or omission of the receiving party;
 - ii. was in the other party's lawful possession before the disclosure;
 - iii. is lawfully disclosed to the receiving party by a third party without restriction on disclosure;or
 - iv. is independently developed by the receiving party, which independent development can be shown by written evidence.
- b. Subject to clause 14d, each party shall hold the other's Confidential Information in confidence and not make the other's Confidential Information available to any third party, or use the other's Confidential Information for any purpose other than the performance of its obligations under these Terms.
- c. Each party shall take all reasonable steps to ensure that the other's Confidential Information to which it has access is not disclosed or distributed by its employees or agents in violation of these Terms.
- d. A party may disclose Confidential Information to the extent such Confidential Information is required to be disclosed by law, by any governmental or other regulatory authority or by a court or other authority of competent jurisdiction, provided that, to the extent it is legally permitted to do so, it gives the other party as much notice of such disclosure as possible and, where notice of disclosure is not prohibited and is given in accordance with this clause 14d, it takes into account the reasonable requests of the other party in relation to the content of such disclosure.
- e. From time to time, for the purposes of system developments, testing or trouble shooting, we may take a copy of our systems that would include the data we hold for your company. All personal identifiable information will be redacted as soon as the copy is taken and the system copy will only be kept for as long as is necessary, to complete the work required.
- f. This clause 14 shall survive termination of the Services, however arising

15. Limitations on Liability

- a. Except in respect of injury to or death of any person or any other liability which cannot be limited or excluded by law (for which no limit applies), our liability in respect of each event or series of connected events linked to any Products or Services that we provide shall not exceed £250,000.
- b. We shall not be liable to you for loss of profits or contracts, replacement software or services, loss of goodwill or other special, indirect or consequential loss whether arising from negligence, software failures or malfunctions, breach of contract or howsoever.

- c. Except as expressly set out in these Terms, each party hereby excludes all warranties, conditions, terms and undertakings, express or implied, whether by statute, common law, trade practice, custom, course of dealing or otherwise (including without limitation as to quality, performance or fitness or suitability for purpose) to the fullest extent permitted by law.
- d. We shall not be liable for any damage, breakages or loss arising from the storage, handling, dispatch and shipping of Fragile Goods.
- e. In the event of a claim by the Client in relation to lost or damaged items brought about due to negligence on behalf of SJS, the limit shall be £100.00 per tonne, in line with the United Kingdom Warehousing Association Contract Conditions.
- f. All clients are responsible for the insurance of their products and stock, unless specifically agreed beforehand. If SJS are asked to insure a clients products, SJS will get an insurance quotation for contents cover and will pass that cost on to the client, with a 10% administration fee.

16. Force Majeure

- a. Neither party shall be liable to the other party under these Terms if it is prevented from or delayed in performing its obligations under these Terms, or from carrying on its business, by acts, events, omissions or accidents beyond its reasonable control, provided that the affected party can demonstrate that it has taken steps to mitigate the effect such event and has notified the nonaffected party of such an event and its expected duration.

17. Termination

- a. Either party may terminate this Agreement at any time, subject to fourteen days' written notice, completion of an Exit Plan and clearance of all balances on account.
- b. Either party may terminate the Services provided under these Terms immediately upon giving notice in writing to the other party, if the other party commits any material breach of these Terms and, in the case of a breach capable of being remedied, shall have failed, within thirty days after the receipt of a request in writing so to do, to remedy the breach.
- c. You shall be considered in material breach if you have a receiver or administrative receiver appointed over any part of your undertaking or assets or shall pass a resolution for winding up or a court of competent jurisdiction shall make an order to that effect or if you enter into any voluntary arrangement with your creditors or shall become subject to an administration order or shall cease to carry on business.
- d. Notwithstanding anything else contained herein, the Services provided under these Terms may be terminated by us on giving seven days' notice in writing to you if you have failed to pay any sum due under these Terms, without our express permission, other than for debts which can reasonably be determined to be in dispute.
- e. Any termination of the Services provided under these Terms (howsoever occasioned) shall not affect any accrued rights or liabilities of either party nor shall it affect the coming into force or the continuance in force of any provision hereof which is expressly or by implication intended to come into or continue in force on or after such termination.
- f. Upon termination of the Services provided under these Terms, we shall invoice you, and you shall pay: (i) all charges and expenses not previously invoiced under these Terms and relating to the provision of the Services to you; and (ii) all costs necessarily or unavoidably incurred by us as a result of the termination.

18. Dispute Resolution

- a. It is the clear and specific intention of both parties that disputes arising within the relationship between you and us shall be managed and resolved without recourse to legal proceedings, unless as a last resource when all other means of resolving the dispute have been exhausted. Failure to follow the proposed dispute management procedure set out forthwith shall put the failing party in material breach of contract, at that time.
- b. In the event of any dispute arising out of these Terms, the dispute is, in the first instance to be put before the senior officers of both parties (who are each armed with the absolute right to compromise

in order to reach an agreement), who shall meet with the sole purpose of resolving the dispute by mutual agreement. This entire meeting shall be “without prejudice” but, should there be a satisfactory outcome, the resolution shall be created at or shortly after the meeting and signed by both parties.

- c. If a dispute cannot be resolved as a result of the initial meeting, a second meeting between the senior officers shall be arranged. At least three days prior to this meeting both attendants will set out clearly their position following the first meeting, emphasising why they could not resolve the dispute and shall put to the other party an open (not without prejudice) proposal to end the dispute, which must show a clearly compromised position. Should there be a satisfactory outcome, the resolution shall be created at or shortly after the meeting and signed by both parties.
- d. In the event of this second meeting failing to produce a resolution, the parties shall refer the dispute to an independent arbitrator appointed by the Advisory, Conciliation and Arbitration Service ('ACAS'). Such arbitration shall be in accordance with the provision of the Arbitration Act 1996 or any statutory modification or enactment thereof. Any decision of the arbitrator shall be binding on both parties. Each party shall bear its own costs of such arbitration.
- e. Any dispute which may arise between the parties concerning these Terms shall be governed by English Law.

19. General

- a. You shall not assign, transfer, charge, declare a trust over or deal in any other manner with any or all of its rights or obligations under these Terms without our prior written consent.
- b. We may subcontract any of our obligations under these Terms, but, for the avoidance of doubt, no such subcontracting arrangement shall release us from any of our obligations under these Terms and we shall remain fully responsible to you for the proper and complete discharge of all such obligations.
- c. No failure or delay by a party to exercise any right or remedy provided under these Terms or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy.
- d. If any provision or part-provision of these Terms 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 these Terms.
- e. Notice given under these Terms shall be in writing and shall be delivered by hand or sent by prepaid first class recorded delivery or by email to such person as one party may inform the other party in writing from time to time or to a director of the relevant party at the head office, main UK office or registered office of such party. A notice shall be treated as having been received, if delivered by hand within Normal Business Hours when so delivered or, if delivered by hand outside Normal Business Hours, at the next start of Normal Business Hours, or if sent by first class recorded delivery mail on a Business Day, at 8.00 am on the second Business Day subsequent to the day of posting, or, if the notice was not posted on a Business Day, at 8.00 am on the third Business Day subsequent to the day of posting, or if sent by email, if sent within Normal Business Hours when so sent or, if sent outside Normal Business Hours, at the next start of Normal Business Hours provided the sender has either received an electronic confirmation of delivery or has telephoned the recipient to inform the recipient that the email has been sent.
- f. Nothing in these Terms creates any rights or benefits enforceable by any person not a party to it (within the meaning of The Contracts (Rights of Third Parties) Act 1999).

This Agreement forms the entire Agreement between the parties.