

I Wallond Fencing Contractors Ltd  
STANDARD TERMS AND CONDITIONS FOR THE SUPPLY OF GOODS AND SERVICES

1. Application of Terms and Conditions

The Supplier shall supply and the Customer shall purchase the Goods and Services in accordance with the quotation, specification schedule and the accepted order which shall at all times be subject to these Terms and Conditions. The Contract shall be to the exclusion of any other terms and conditions subject to which any such quotation is accepted or purported to be accepted, or any such order is made or purported to be made, by the Customer, except as implied by law.

2. Definitions and Interpretation

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

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“Business Day” “Commencement Date”

“Confidential Information”

“Contract”

“Contract Price” “Customer”

“Delivery Date”

means any calendar day of the week.;

means the commencement date for the Contract as set out in either the quotation, specification schedule or / and the accepted order.

means, in relation to either Party, information which is disclosed to that Party by the other Party pursuant to or in connection with this Agreement (whether orally or in writing or any other medium, and whether or not the information is expressly stated to be confidential or marked as such);

means the contract for the hire and / or purchase and sale of the Goods and / or the supply of the Services under these Terms and Conditions however ordered;

means the price stated in the Contract payable for the Goods;

means the person who accepts a quotation or offer of the Supplier for hire and / or the sale of the Goods and supply of the Services, or whose order for the Goods and Services is accepted by the Supplier;

means the date on which the Goods are to be delivered or the hire / purchase period is to commence as is stipulated in the Customer’s order and accepted by the Supplier;

“Goods”

“Month” “Services”

“Supplier”

“Web Site”

“Refurbished and Used Goods”

“Rental / Hire Agreement”

means the goods (including any instalment of the goods or any parts for them) which the Supplier is to supply in accordance with these Terms and Conditions, which may be either new goods or refurbished from used condition;

means a calendar month;

means the Goods or Services to be provided to the Customer in the manner as set out in the quotation, specification schedule and / or the accepted order.

means I Wallond Fencing Contractors Ltd, a private limited company incorporated in England & Wales with registered number 08800172 whose registered office is situated at 65 Bishops Oak Rise TN10 3NS and which is a supplier and fitter of fencing, hoarding, and other related garden products.

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means the official internet web site and any other such portal of the Supplier and so including e-mail, text message or any other such form of electronic communication with I Wallond Fencing Contractors Ltd.

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means goods and products having had at least one previous owner and which have been refurbished to a satisfactory standard to be used safely and effectively for the purpose for which they were manufactured.

means a rental or hire agreement for a designated period of either new goods and products or those having had at least one previous owner and which have been refurbished to a satisfactory standard to be used safely and effectively for the purpose for which they were manufactured which are offered for long term hire with or without an option to purchase at the end of the contractual hire period.

### 3. Application of Terms and Conditions

3.1 Unless the context otherwise requires, each reference in these Terms and Conditions to “writing “ and any cognate expression includes a reference to any communication effected by electronic or facsimile transmissions or similar means. In any such case the additional

terms and conditions contained in Appendix ' B ' hereafter shall form part of any contract with the Supplier and the Customer.

3.2 a statute or a provision of a statute is a reference to that statute or provision as amended or re-enacted at the relevant time;

3.3 "these Terms and Conditions" is a reference to these Terms and Conditions and any Schedules as amended or supplemented at the relevant time;

3.4 a Schedule is a schedule to and is to be treated as part of and to be included in these Terms and Conditions; and : –

(i) a Clause or paragraph is a reference to a Clause of these Terms and Conditions" (other than the Schedules) or a paragraph in the relevant Schedule.

(ii) a " Party " or " Parties " refer to the parties to these Terms and Conditions.

3.5 The headings used in these Terms and Conditions are for convenience only and shall have no effect upon the interpretation of these Terms and Conditions. Words imparting the singular number shall include the plural and male shall include female and vice versa. References to any gender shall include the other gender.

#### 4. Basis of Sale and Service

4.1 The Supplier's employees or agents are not authorised to make any representations concerning the Goods or Services unless confirmed by the Supplier in writing. In entering into the Contract the Customer acknowledges that it does not rely on, and waives any claim for breach of, any such representations which are not so confirmed.

4.2 No variation to these Terms and Conditions shall be binding unless agreed in writing between the authorised representatives of the Customer and the Supplier.

4.3 Sales literature, price lists and other documents issued by the Supplier in relation to the Goods and Services are subject to alteration without notice and do not constitute offers to sell the Goods which are capable of acceptance. No contract for the sale of the Goods and Services shall be binding on the Supplier unless the Supplier has issued a quotation which is has accepted an order placed by the Customer by whichever is the earlier of:

(i) the Supplier's written acceptance; (ii) delivery of the Goods;

(iii) provision of the Services;

(iv) the Supplier's invoice.

4.4 Any typographical, clerical or other accidental errors or omissions in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by the Supplier shall be subject to correction without any liability on the part of the Supplier.

## 5. The Goods

5.1 No order submitted by the Customer shall be deemed to be accepted by the Supplier unless and until confirmed in writing by the Supplier's authorised representative.

5.2 The specification for the Goods shall be that set out in the Supplier's sales documentation unless varied expressly in the Customer's order (if such variation(s) is / are accepted by the Supplier). The Goods will only be supplied in the minimum units thereof stated in the Supplier's price list or in multiples of those units. Orders received for quantities other than these will be adjusted accordingly.

5.3 Illustrations, photographs or descriptions whether in catalogues, brochures, price lists or other documents issued by the Supplier are intended as a guide only and shall not be binding on the Supplier. Refurbished goods or bespoke designs may differ in design, specification and colour due to subsequent upgraded models having been altered from earlier models by the manufacturer.

5.4 The Supplier reserves the right to make any changes in the specification of the Goods which are required to conform with any applicable safety or other statutory or regulatory requirements or, where the Goods are to be supplied to the Customer's specification, which do not materially affect their quality or performance.

5.5 No order which has been accepted by the Supplier may be cancelled by the Customer except with the agreement in writing of the Supplier on the terms that the Customer shall indemnify the Supplier in full against all loss (including loss of profit), costs (including the cost of all labour, transport and materials used), damages, charges and expenses incurred by the Supplier as a result of such cancellation.

## 6. The Services

6.1 With effect from the Commencement Date the Supplier shall, in consideration of the price being paid in accordance with Clauses 6 and 7 will provide the goods or Services expressly identified in any quotation, specification schedule and / or any accepted order.

6.2 The Supplier will use reasonable care and skill to perform the Services identified in the quotation, specification schedule and / or any accepted order.

6.3 The Supplier shall use its reasonable endeavours to complete its obligations under the Contract, but time will not be of the essence in the performance of such obligations.

## 7. Price

7.1 The price of the Goods and Services shall be the price listed in the Supplier's catalogue, brochure and / or current price list at the date of acceptance of the Customer's order or such other price as may be agreed in writing by the Supplier and the Customer.

7.2 Where the Supplier has quoted a price for the Goods other than in accordance with the Supplier's published price list the price quoted shall be valid for 21 days only or such lesser time as the Supplier may specify.

7.3 The Supplier reserves the right, by giving written notice to the Customer at any time before delivery or provision, to increase the price of the Goods and/or Services to reflect any increase in the cost to the Supplier which is due to any factor beyond the control of the Supplier (including, without limitation, any foreign exchange fluctuation, currency regulation, legislative changes, alteration of duties, significant increase in the costs of labour, materials or other costs of manufacture), any change in delivery dates, quantities or specifications for the Goods and services which are requested by the Customer, or any delay caused by any instructions of the Customer or failure of the Customer to give the Supplier adequate information or instructions.

7.4 Except as otherwise stated under the terms of any quotation / specification schedule or accepted order or in any variation by writing with the Supplier, and unless otherwise agreed in writing between the Customer and the Supplier, all prices are inclusive of the Supplier's charges for packaging, transport and supply.

7.5 The price is exclusive of any applicable value added tax, excise, sales taxes or levies of a similar nature which are imposed or charged by any competent fiscal authority in respect of the Goods and Services, which the Customer shall be additionally liable to pay to the Supplier.

## 8. Payment

8.1 Subject to any special terms agreed in writing between the Customer and the Supplier, the Supplier shall invoice the Customer for the price of the Goods and Services on ordering the Goods and / or the provision of the services (as applicable), unless, in the case of Goods, the Goods are subject to be collected by the Customer or the Customer wrongfully fails to take delivery of the Goods, in which event the Supplier shall be entitled to invoice the Customer for the price at any time after the Supplier has notified the Customer that the Goods are ready for collection or (as the case may be) the Supplier has tendered delivery of the Goods. Where the goods, services or equipment are the subject of a hire agreement then the Customer shall be invoiced monthly or for such payment period as agreed with the Customer. Where the Customer has an option to purchase the goods at the end of the hire period a final invoice for the goods shall be issued to the Customer and the goods shall only pass in title on payment of the final invoice amount.

8.2 The Customer shall pay the price of the Goods for purchase or to be hired (less any discount or credit allowed by the Supplier, but without any other deduction, credit or set off) on the date shown in the contract which shall be on the Supplier's invoice or otherwise

in accordance with such credit terms as may have been agreed in writing between the Customer and the Supplier in respect of the Contract. Payment shall be made on the due date notwithstanding that delivery or provision may not have taken place and/or that the property in the Goods has not passed to the Customer. The time for the payment of the price shall be of the essence of the Contract. Receipts for payment will be issued only upon request. Deposits are non refundable.

8.3 All payments shall be made to the Supplier as indicated on the form of acceptance or invoice issued by the Supplier and only to its designated bank account if by bank transfer or by cheque.

## 9. Delivery and Collection

9.1 Delivery of the Goods shall be made by the Supplier delivering the Goods to the place in the United Kingdom specified in the quotation, specification schedule and / or accepted order. If no such place is so specified, delivery shall be deemed to have been made by way of the Customer collecting the Goods at the Supplier's premises at any time after the Supplier has notified the Customer that the Goods are ready for collection.

9.2 The Goods/Services may be delivered by the Supplier in advance of the Delivery Date upon giving reasonable notice to the Customer.

9.3 If the Customer fails to take delivery of the Goods/Services, or any part of them, on the Delivery Date and / or fails to provide any instructions, documents, licences, consents or authorisations required to enable the Goods to be delivered on that date, the Supplier shall be entitled upon giving written notice to the Customer to store or arrange for the storage of the Goods and then risk in the Goods shall pass to the Customer, delivery shall be deemed to have taken place and the Customer shall pay to the Supplier all costs and expenses including storage and insurance charges arising from such failure.

9.4 With effect from the Commencement Date the Supplier shall, in consideration of the price being paid in accordance with these Terms and Conditions and the any quotation / specification schedule or accepted order provide the goods and / or services expressly identified in the quotation / specification schedule and / or accepted order.

9.5 If you are collecting goods from our premises, we have a forklift and trained staff available to help when loading your vehicle. Please ask for assistance at the sales counter if additional help is required. Although we can help, you are solely responsible for the safe loading of your vehicle, with respect to the weight, size, positioning and securing of any product. I Wallond Fencing Contractors Ltd reserves the right to refuse to load goods by forklift if we feel it is unsafe or unreasonably difficult.

## 10. Non-Delivery of Goods and Services

10.1 If the Supplier fails to deliver the Goods or provide the Services or any of them on the Delivery Date (or Commencement Date, as appropriate) other than for reasons outside the Supplier's reasonable control or the Customer's or its carrier's fault:

(a) if the Supplier delivers the Goods and/or provides the Services within a 21 day period thereafter then the Supplier shall have no liability in respect of such late delivery; or

(b) if the Customer gives written notice to the Supplier within the 21 day period thereafter (Business Days after the Delivery Date (or Commencement Date, as appropriate) and the Supplier fails to deliver the Goods and/or Services within 7 Business Days thereafter after receiving such notice the Customer may cancel the order and the Supplier's liability shall be limited to the excess (if any) to the cost of the Customer (in the cheapest available market) of similar goods or services to those not delivered or provided over the price of the Goods or Services not delivered or provided.

## 11. Risk and Retention of Title

11.1 Risk of damage to or loss of the Goods shall pass to the Customer at : –

(a) (in the case of Goods to be delivered at the Supplier's premises), at the time when the Supplier notifies the Customer that the Goods are available for collection;

(b) (in the case of Goods to be delivered otherwise than at the Supplier's premises), the time of delivery or, if the Customer wrongfully fails to take delivery of the Goods, the time when the Supplier has tendered delivery of the Goods; or

(c) in the case of Goods being installed by the Supplier, the time that the Supplier notifies the Customer that the installation is complete.

11.2 Notwithstanding delivery and the passing of risk in the Goods, or any other provision of these Terms and Conditions, legal and beneficial title to the Goods shall not pass to the Customer until the Supplier has received in cash or cleared funds payment in full of the price of the Goods on purchase or payment of a final amount specified to be paid on completion of the term of the hire purchase agreement.

11.3 Sub-Clause 11.2 notwithstanding, legal and beneficial title of the Goods shall not pass to the Customer until the Supplier has received in cash or cleared funds payment in full of the price of the Goods and any other goods supplied by the Supplier and the Customer has repaid all moneys owed to the Supplier, regardless of how such indebtedness arose. .The only exception shall be goods of a "fragile" or "delicate nature " or those goods that by their structure can be easily damaged in movement or otherwise, where title shall then legally pass at time of delivery.

11.4 Until payment has been made to the Supplier in accordance with these Conditions and until title in the Goods has passed to the Customer, the Customer shall be in possession of

the Goods as bailee for the Supplier and the Customer shall store the Goods separately and in an appropriate environment, shall ensure that they are identifiable as being supplied by the Supplier and shall insure the Goods against all and any reasonable risks.

11.5 In the event that the Customer sells or transfers the Goods to a third party before legal and beneficial title has passed to him under these Conditions, the proceeds of the sub-sale or transfer (or such proportion as is due to the Supplier) shall be held by the third party on behalf of the Supplier. The Customer shall ensure that such moneys are held separately from, and are in no way mixed with, any other moneys or funds, and that all moneys held on the Supplier's behalf are identified as such.

11.6 The Supplier may, in accordance with the provisions of the Companies Act 2006, register any charge created by these Terms and Conditions.

11.7 The Customer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Goods which remain the property of the Supplier, but if the Customer does so all money owing by the Customer to the Supplier shall (without prejudice to any other right or remedy of the Supplier) forthwith become due and payable.

11.8 The Supplier reserves the right to repossess any Goods in which the Supplier retains title without notice and to collect all outstanding contractual payments due. The Customer irrevocably authorises the Supplier to enter the Customer's premises during normal business hours for the purpose of repossessing the Goods in which the Supplier retains title and inspecting the Goods to ensure compliance with the storage and identification requirements of sub-Clause 11.4.

11.9 The Customer's right to possession of the Goods in which the Supplier maintains legal and beneficial title shall terminate immediately if : –

(a) the Customer commits or permits any material breach of his obligations under these Conditions;

(b) the Customer enters into a voluntary arrangement under Parts I or VIII of the Insolvency Act 1986, the Insolvent Partnerships Order 1994 (as amended), or any other scheme or arrangement is made with his creditors;

(c) the Customer is or becomes the subject of a bankruptcy order or takes advantage of any other statutory provision for the relief of insolvent debtors;

(d) the Customer convenes any meeting of its creditors, enters into voluntary or compulsory liquidation, has a receiver, manager, administrator or administrative receiver appointed in



respect of its assets or undertaking or any part thereof, any documents are filed with the court for the appointment of an administrator in respect of the Customer, notice of intention to appoint an administrator is given by the Customer or any of its directors or by a qualifying floating charge-holder (as defined in paragraph 14 of Schedule B1 of the Insolvency Act 1986), a resolution is passed or petition presented to any court for the winding up of the Customer or for the granting of an administration order in respect of the Customer, or any proceedings are commenced relating to the insolvency or possible insolvency of the Customer.

## 12. Assignment

12.1 The Supplier shall have and maintain the right to assign the Contract (or any part of it) to any other person, firm or company without the prior consent of the Customer.

12.2 The Customer shall not be entitled to assign the Contract or any part of it without the prior written consent of the Supplier.

## 13. Defective & Refurbished Goods

13.1 If on delivery any of the Goods are defective in any material respect and either the Customer lawfully refuses delivery of the defective Goods or, if they are signed for on delivery as "condition and contents unknown" the Customer gives written notice of such defect to the Supplier within 7 Business Days of such delivery, the Supplier shall at its option:

(a) replace the defective Goods within 21 Business Days of receiving the Customer's notice; or

(b) refund to the Customer the price for those Goods (or parts thereof, as appropriate) which are defective ;

(c) The Supplier shall have no further liability to the Customer in respect thereof and the Customer may not reject the Goods if delivery is not refused or notice given by the Customer as set out above.

13.2 No Goods may be returned to the Supplier without the prior agreement in writing of the Supplier. Subject thereto any Goods returned which the Supplier is satisfied were supplied subject to defects of quality or condition which would not be apparent on inspection shall either be replaced free of charge or, at the Supplier's sole discretion. The Supplier shall refund or credit to the Customer the price of such defective Goods but the Supplier shall have no further liability to the Customer. The Customer shall be responsible for returning the goods to the Supplier but if they are unable to do so the Supplier will arrange transportation at an itemised cost which shall be payable in advance of collection.

13.3 The Supplier shall be under no liability in respect of any defect arising from fair wear and tear, or any wilful damage, negligence, modification, dismantling, subjection to normal conditions, failure to follow the Supplier's instructions (whether given orally or in writing),

misuse or alteration of the Goods without the Supplier's prior approval, or any other act or omission on the part of the Customer, its employees or agents or any third party.

13.4 Goods, other than defective Goods returned under sub-Clauses 13.1 or 13.2, returned by the Customer and accepted by the Supplier may be credited to the Customer at the Supplier's sole discretion and without any obligation on the part of the Supplier.

13.5 Subject as expressly provided in these Terms and Conditions, and except where the Goods are sold under a consumer sale, all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.

13.8. The Supplier shall have and maintain the right to refuse to accept the return of any used damaged and / or modified items, not returned in their original unopened packaging or for reasons of health & safety, except where such packaged goods are clearly faulty or damaged at the point of supply.

13.8 New goods are supplied with a manufacturers warranty as standard on such supplied goods (where applicable). Used goods are supplied with a warranty at the Suppliers discretion, which will be restricted to parts & labour and shall not cover any call out charge due for a surveyors or engineers inspection, any transportation costs or for consumable items such as nails, bolts, paint, creosote or any other like or similar components. The Supplier and the Customer may, (at the Suppliers contractual discretion), extend the warranty period.

13.9 Any warranty supplied with any product shall become void if a product is altered, modified, used for a purpose other than that intended by the manufacturer and the Supplier, dismantled by a third party (other than a recognised official installer, repairer or inspector) or damaged by the user whilst in course of normal use.

13.12 Bespoke and special order items cannot be the subject of a refund or exchange unless faulty or damaged at the time of delivery. Any change in a Customer's bespoke requirements will be subject to an additional charge.

#### 14. Customer's Default

14.1 If the Customer fails to make any payment on the due date then, without prejudice to any other right or remedy available to the Supplier, the Supplier shall be entitled to:

(a) cancel the order or suspend any further deliveries or provision of Goods and Services to the Customer : –

(b) appropriate any payment made by the Customer to such of the Goods and/or Services (or the goods and/or services supplied under any other contract between the Customer and the Supplier) as the Supplier may think fit (notwithstanding any purported appropriation by the Customer) ; and

(c) charge the Customer interest (both before and after any judgement) on the amount unpaid, at the rate of 15% per annum above Bank of England declared bank interest rate as determined by it from time to time, until payment in full is made (a part of a month being

treated as a full month for the purpose of calculating interest), together with a £10.00 late payment administrative charge.

14.2 This condition applies if:

(a) the Customer fails to perform or observe any of its obligations hereunder or is otherwise in breach of the Contract ;

(b) the Customer becomes subject to an administration order or enters into a voluntary arrangement under Parts I or VIII of the Insolvency Act 1986 or the Insolvent Partnerships Order 1994 (as amended) or (being an individual or firm) becomes bankrupt or (being a company) goes into liquidation;

(c) an encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Customer;

(d) the Customer ceases, or threatens to cease, to carry on business ; or

(e) the Supplier reasonably concludes that any of the events mentioned above is about to occur in relation to the Customer and notifies the Customer accordingly.

14.3 If sub-Clause 14.2 applies then, without prejudice to any other right or remedy available to the Supplier, the Supplier shall be entitled to cancel the Contract or suspend any further deliveries under the Contract without any liability to the Customer, and if the Goods have been delivered but not paid for the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.

## 15. Liability

15.1 The Supplier shall not by reason of any representation, implied warranty, condition or other term, or any duty at common law or under express terms of the Contract (or these Terms and Conditions), be liable for any loss of profit or any indirect, special or consequential loss, damage, costs, expenses or other claims (whether caused by the Supplier's servants or agents or otherwise) which arise out of or in connection with the supply of the Goods and Services.

15.2 All warranties, conditions and other terms implied by any statute or common law (save for the conditions implied by section 12 of the Sale of Goods Act 1979) are, to the fullest extent permitted by law, excluded from the Contract.

15.3 The Customer shall be liable and shall indemnify the Supplier for any defect arising from wear and tear, wilful damage, negligence, dismantling and / or modification and against all damages, costs, claims and expenses suffered by arising from loss or damage to any equipment (including that of third parties) caused by the Customer, its agents or

employees. The Customer shall be liable for any costs incurred in repairing a supplied product resulting from damage or injury to a third party or their property or any further liability. Rental and hire contracts do not include insurance, which may be purchased from the Supplier on request.

15.4 Where the Customer consists of two or more persons such expression throughout shall mean and include such two or more persons and each or any of them. All obligations on the part of such a Customer shall be joint and several obligations of such persons.

15.5 The Supplier shall not be liable to the Customer or be deemed to be in breach of these terms and conditions by reason of any delay in performing, or any failure to perform, any of the Supplier's obligations if the delay or failure was due to any cause beyond the Supplier's reasonable control.

15.6 Nothing in these Terms and Conditions excludes or limits the liability of the Supplier :-

a) for death or personal injury caused by the Supplier's negligence;

b) for any matter which it would be illegal for the Supplier to exclude or attempt to exclude its liability; or

c) for fraud or fraudulent misrepresentation.

15.7 Subject to the remaining provisions of this Clause 15 :-

a) the Supplier's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of the Contract shall be limited to the Contract Price; and

b) the Supplier shall not be liable to the Customer for any pure economic loss, loss of profit, loss of business, depletion of goodwill or otherwise, in each case whether direct, indirect or consequential, or any claims for consequential compensation whatsoever (howsoever caused) which arise out of or in connection with the Contract.

## 16. Confidentiality

16.1 Each Party undertakes that, except as provided by sub-Clause 16.2 or as authorised in writing by the other Party, that it shall, at all times during the continuance of the Contract and for 12 calendar months after its termination :-

a) keep confidential all Confidential Information;

b) not disclose any Confidential Information to any other person, except as required by operation of law. ;

c) not use any Confidential Information for any purpose other than as contemplated by and subject to these Terms and Conditions and the Contract;

d) not make any copies of, record in any way or part with possession of any Confidential Information; and

e) ensure that none of its directors, officers, employees, agents or advisers does any act which, if done by that Party, would be a breach of the provisions of sub-clauses 16.1.a) to d) above.

16.2 Either Party may disclose any Confidential Information to : –

a) any sub-contractor or supplier of that Party ;

b) any governmental or other authority or regulatory body; or

c) any employee or officer of that Party or of any of the aforementioned persons, parties or bodies;

d) to such extent only as is necessary for the purposes contemplated by these Terms and Conditions and the Contract, or as required by law, and in each case subject to that Party first informing the person, party or body in question that the Confidential Information is confidential and (except where the disclosure is to any such body as is mentioned in sub-Clause 16.2. above or any employee or officer of any such body) obtaining and submitting to the other Party a written undertaking from the person in question, as nearly as practicable in the terms of this Clause 16, to keep the Confidential Information confidential and to use it only for the purposes for which the disclosure is made; and

16.3 use any Confidential Information for any purpose, or disclose it to any other person, to the extent only that it is at the date of the Contract, or at any time after that date becomes, public knowledge through no fault of that Party, provided that in doing so that Party does not disclose any part of that Confidential Information which is not public knowledge.

16.7 The provisions of this Clause 16 shall continue in force in accordance with their terms, notwithstanding the termination of the Contract for any reason.

## 17. Communications

17.1 All notices under these Terms and Conditions and under the Contract shall be made in writing and be deemed duly given if signed by, or on behalf of, a duly authorised officer of the Party giving the notice and so as to include e-mail and other forms of electronic communication.

17.2 Notices shall be deemed to have been duly given:

a) when delivered, if delivered by courier or other messenger (including registered mail) during the normal business hours of the recipient; or

b) when sent, if transmitted by facsimile or e-mail and a successful transmission report or return receipt is generated; or

c) on the fifth business day following mailing, if mailed by national ordinary mail, postage prepaid; or

d) on the tenth business day following mailing, if mailed by airmail, postage prepaid.

e) All notices under this Agreement shall be addressed to the most recent address, e-mail address, or facsimile number notified to the other Party.

#### 18. Force Majeure

18. Neither party shall be liable for any delay in performing their obligations where such failure or delay results from any cause beyond the reasonable control of either party. Such causes include, but are not limited to, power failure, Internet Service Provider failure, industrial action, civil unrest, fire, flood, storms, earthquakes, acts of terrorism, acts of war, act of God, Governmental action or any such other event that is beyond the control of the Party in question.

#### 19. Waiver

19. The Parties agree that no failure by either Party to enforce the performance of any provision in these Terms and Conditions or under the Contract shall constitute a waiver of the right to subsequently enforce that provision or any other provision. Such failure shall not be deemed to be a waiver of any preceding or subsequent breach and shall not constitute a continuing waiver.

#### 20. Severance

20. The Parties agree that, in the event that one or more of the provisions of these Terms and Conditions or the Contract are found to be unlawful, invalid or otherwise unenforceable, that those provisions shall be deemed severed from the remainder of these Terms and Conditions (and, by extension, the Contract). The remainder of the Terms and Conditions comprising the Contract shall then be deemed to be valid and enforceable.

#### 21. Third Party Rights

21. No person who is not a party to the Contract shall have any contractual rights under the Contract pursuant to the Contracts (Rights of Third Parties) Act 1999.

#### 22 Data Protection

22.1 All personal data that may need to be used or which is obtained by either party shall be collected, processed, and held in accordance with the provisions of EU Regulation 2016 / 679 (General Data Protection Regulation ("GDPR")) and the Customers rights under the GDPR or any subsequent or amending legislation.

22.2 For complete details of the Suppliers processing, storage, and retention of personal data including, but not limited to, the purpose(s) for which personal data is used, the legal basis or basis for using it, details of personal data sharing (where applicable), please refer to the Suppliers Privacy Notice available from its registered office by request.

#### 23. Data Processing Clause

23.1 " Data Protection Legislation " means :

a) unless and until EU Regulation 2016/679 General Data Protection Regulation (“GDPR”) is no longer directly applicable in the UK, the GDPR and any national implementing laws, regulations, and secondary legislation (as amended from time to time), in the UK and subsequently following Britain departing the EU.

b) any legislation which succeeds the GDPR.

## 24. Data Processing

24.1 In this Clause 24. “personal data”, “data subject”, “data controller”, “data processor”, and “personal data breach” shall have the meaning defined in Article 4, EU Regulation 2016/679 General Data Protection Regulation (“GDPR”).

24.2 The Parties hereby agree that they shall both comply with all applicable data protection requirements set out in the Data Protection Legislation. This Clause 24. shall not relieve either Party of any obligations set out in the Data Protection Legislation and does not remove or replace any of those obligations.

24.3 For the purposes of the Data Protection Legislation and for this Clause 24, the Supplier shall be deemed to be the “Data Controller” and also the “Data Processor”.

24.4 The type(s) of personal data, the scope, nature and purpose of the processing, and the duration of the processing are set out in Schedule ‘A’ hereafter.

24.5 The Data Controller is authorised by the Customer to outsource data processing to a reputable third party Data Processor acting on behalf of the Data Controller.

24.5 The Data Controller shall ensure that it has in place all necessary consents and notices required to enable the lawful transfer of personal data to the Data Processor for the purposes described in this Agreement.

24.6 The Data Controller shall ensure that the Data Processor shall, with respect to any personal data processed by it in relation to its performance of any of its obligations under this Agreement : –

a) Process the personal data only on the written instructions of the Data Controller unless the Data Processor is otherwise required to process such personal data by law. The Data Processor shall promptly notify the Data Controller of such processing unless prohibited from doing so by law.

b) The Data Controller shall to the best of its knowledge and belief ensure that the Data Processor has in place suitable technical and organisational measures (as approved by the Data Controller) to protect the personal data from unauthorised or unlawful processing, accidental loss, damage or destruction. Such measures shall be proportionate to the potential harm resulting from such events, taking into account the current state of the art in technology and the cost of implementing those measures. Measures to be taken are set out in Schedule ‘A’ hereafter.



c) The Data Controller shall ensure that any and all staff with access to the personal data (whether for processing purposes or otherwise) are contractually obliged to keep that personal data confidential at all times, and

d) Not transfer any personal data outside of the European Economic Area (or the United Kingdom following its departure from the EU) without the prior written consent of the Data Controller and only if the following conditions are satisfied:

(i) The Data Controller and /or the Data Processor has/have provided suitable safeguards for the transfer of personal data;

(ii) Affected data subjects have enforceable rights and effective legal remedies;

(iii) The Data Processor complies with its obligations under the Data Protection Legislation, by providing an adequate level of protection to any and all personal data so transferred; and

(iv) The Data Processor complies with all reasonable instructions given in advance by the Data Controller with respect to the processing of the personal data.

(v) Assist the Data Controller at the Data Controller's cost, in responding to any and all requests from data subjects in ensuring its compliance with the Data Protection Legislation with respect to security, breach notifications, impact assessments, and consultations with supervisory authorities or regulators (including, but not limited to, the Information Commissioner's Office);

(vi) Notify the Data Controller without undue delay of a personal data breach;

(vii) On the Data Controller's written instruction, delete (or otherwise dispose of) or return all personal data and any and all copies thereof to the Data Controller on termination of this Agreement unless it is required to retain any of the personal data by law; and

(viii) Maintain complete and accurate records of all processing activities and technical and organisational measures implemented necessary to demonstrate compliance with this Clause 24 and to allow for audits by the Data Controller and/or any party designated by the Data Controller.

24.7 The Data Controller shall contractually restrict The Data Processor so that it may not sub-contract any of its obligations with respect to the processing of personal data under this Clause 24.

24.8 Either Party shall have the right on giving a minimum of 30 calendar days notice in writing to their notified address by ordinary first class post replace this Clause 24 with any applicable data processing clauses or similar terms that form part of an applicable certification scheme. Such terms shall then be deemed to override this clause.

## 25. Safe Working Environment

24.1 Where the Customer requires the Supplier to undertake installation work on its products at a designated location, the Customer shall be responsible for ensuring that the Supplier's workers, employees or contractors (or sub-contractors) have full and unfettered access to the site or premises on which to install its products or to carry out the work



required and that such site is geographically specified, is a safe working environment, is accessible during normal working hours and has no restrictions, obstructions or matters that may or would restrict or prohibit the ability of the Supplier to complete the Contract and if in such case the Supplier shall be entitled to give seven calendar days notice of the difficulties in undertaking the Contract and if not rectified within the notice period shall be entitled to treat the contract as terminated by issuing notice to such effect and any deposits or payments made in advance shall be returned to the Customer within 14 calendar days.

24.2 If the Supplier has partially completed the Contract before such difficulties arise it shall be entitled to deduct its costs and reasonable expenses up to the date of termination of the Contract.

## 26. Insurances

26.1 The Supplier shall be responsible for insurances for the goods up to the date of supply and thereafter such liability shall pass to the Customer. Where the Customer requires the Supplier to supply hire equipment such hire insurance shall be the responsibility of the Customer who shall ensure such hire equipment is kept in a secure place when not in use and is maintained and operated in a way commensurate with its intended use and purpose and shall not be operated or used otherwise.

26.2 Unless otherwise notified to the Customer the Supplier shall insure its workman and operations on site until such times as either the Contracted work is completed or it issues notification to the Customer that it is no longer discharging this and that the requirement to insure any such liability is the responsibility of the customer.

## 27. Law and Jurisdiction

25.1 The Terms and Conditions of this Contract (and so as including any non-contractual matters and obligations arising therefrom or associated therewith) shall be governed by and construed in accordance with the laws of England and Wales.

## SCHEDULE A

### 1. Data Processing Scope

The processing of all personal information supplied to the Supplier by the Customer

#### Nature

Processing into a retained computer files and / or other forms of electronic storage or retention of personal information supplied by the Customer.

#### Purpose

Data processing shall be carried out for the purposes of customer identification, personal details (including addresses), special needs and requirements, disabilities, health, and any other relevant information necessary to enable the Supplier to effectively discharge its contractual obligations (current or future contracts).

#### Duration

The Supplier as Data Controller will hold such information for such period as allowed by statute but shall destroy any such records held other than those necessary to record its legal contractual position on direct written request of the Customer.

## 2. Types of Personal Data

The Supplier shall process the following types of personal data :

Name, address, date of birth, age, disability and special needs, nationality, ethnic origin, special requirements, health condition, height, weight, mobility, financial rating (if relevant to the supply of credit), disability and health history, any other details necessary for it to legally discharge its contractual obligations.

## 3. Categories of Data Subject

Name, personal details, health, nationality, ethnic origin, finance.,

## SCHEDULE B – ELECTRONIC COMMUNICATION AND ORDERS 26. Electronic Communication & Contract Finalisation

26.1 When the Customer uses the online service or e-mail or any other form of non-written communication they are communicating with us as the Supplier electronically. The Supplier will or may communicate with the Customer electronically in a variety of ways including e-mail, text, in-app push notices or by or by posting e-mail messages or communications on the web site or through our message centre. For contractual purposes, the Supplier and the Customer agree that all contractual agreements, notices, disclosures and other communications provided by us as the Supplier electronically satisfy any legal requirement that such communications shall be in writing unless mandatory applicable laws require that a different form of communication shall be used. A contract of sale by this method is concluded when the Customer finalises their order electronically.

## 27. Copyright, Author's Rights and Database Rights

27.1 All content included or made available through the Supplier's website or other electronic site such as text, graphics, logos, button icons, images, audio clips, video, digital downloads, data compilations and all other such content, is the property of the Supplier or its content suppliers and is protected by applicable international copyright, author's rights and database right laws.

27.2 No person (including the Customer or a third party) may extract and / or re-utilise, copy, process, store, disseminate or otherwise process in any manner whatsoever without the express written consent of the Supplier and / or content copyright owner, including utilising any data mining, robots, or any like or similar data gathering and extraction tools (whether once or on multiple occasions) for storage, re-utilisation, processing without the express written permission of the Supplier and / or create or publish any database that features any part of the Suppliers database or to create any like or similar feature based on any such content without express written consent.

## 28. Trademarks

28.1 All graphics, logos, page headers, designs, colourisation, styling, layout, trade marks and design are the copyright of the Supplier and must not be reproduced, published, modified or stored in any format whatsoever or used in connection with any product or service that is not the Supplier's and must not be utilised in any manner likely to cause confusion or discredits or damages the reputation of the Supplier.

28.2 Any other graphics, logos, page headers, designs, colourisation, styling, layout, trade marks and design not the copyright of the Supplier are the rights of the respective owners who may not be affiliated or connected with the Supplier and which may be protected under their appropriate jurisdictional copyright and registration protocols and legislation.

## 29. Licence and Access

29.1 Subject to compliance with these terms and conditions the Supplier grants a limited , non-exclusive, non-transferable non – sub- licensable licence to access and make personal and non-commercial use and utilisation of the Supplier's website and such licence does not include any right of resale or commercial use of any of any service or its contents and / or any use or collection of product listings and descriptions or prices or any downloading or copying of account information for the benefit of any other merchant, supplier or any other person or any use of data mining, robots, or similar data gathering and extraction tools.

29.2 All rights not expressly granted by these terms and conditions are reserved and retained by the Supplier and / or its licensors and Suppliers, subsidiaries, publishers, rights holders or other such content providers.

29.3 The web site services of the Supplier may only be used by the Customer as designated by the Supplier and as permitted by law and all and any rights not specifically granted to the Customer by way of use of the web site or other electronic services or access are reserved and retained by the Supplier, its subsidiaries or agents and / or associated companies and so no part of the web services design, logos or layout may be reproduced in any form or matter whatsoever (and so as to include text, page layout, graphics, design, or other parts thereof) without express written consent and all such material stands as the copyright of the Supplier.

29.4 The services of the Supplier shall only be used as permitted by law and may be terminated by the Supplier at any time on a failure to comply with the terms and conditions of use.

## 31. Communications

31.1 The Customer may post reasonable reviews, comments and other fair content and send e-cards and other communications as long as such content is not illegal, obscene, abusive, threatening, defamatory, invasive, infringes legal rights or intellectual property or which is injurious to any third parties or which is controversial, abusive or demeaning and which does not contain viruses, political campaigning, commercial solicitation, chain letters, mass mailing, or any form of spam.

31.2 The Supplier reserves the right (but not in the absence of a valid notice form) to remove, edit, clarify and / or respond to any such content posted and any such content shall be by way of grant of the Customer the copyright of the Supplier at time of posting on a

non-exclusive, royalty free license to publish, reproduce, promote, translate and modify any such content including the right to sub-license to any third party and no moral rights are transferred by this provision. The Customer shall have the right to delete or restrict access to any such content from public view.

31.1 The Customer represents and warrants to the Supplier that they own or otherwise control all of the rights to the content that they post as at the date of posting and that such content is (i) accurate and (ii) does not breach these terms and conditions or laws of the jurisdiction and will not cause injury to any person or entity and the Customer expressly agrees to indemnify the Supplier for all and any claims brought by a third party against it so as to include all and any damages, costs, expenses, fees and other payments. Except where any liability of the Supplier arises from a failure to properly remove content when notified by Notice Form of the unlawful nature of the content. By deleting such content the Customer commensurately withdraws all associated legal rights relating to such content which shall then lapse.

## 32. Updates

32.1 The Customer agrees and declares that these terms and conditions shall continue to apply to any software owned by the Supplier (and so as to include any updates, upgrades, modifications and any related documentation).

## 33. Other Parties

33.1 The Customer agrees and declares and notes that other parties (“ Third Party Suppliers “ ) may provide services or sell product lines on the web site or any other electronic portal of the Supplier and the Supplier is not responsible for examining or evaluating or warranting the content or offerings of any of these linked or associated web sites or electronic portals of Third Party Suppliers and the Customer declares agrees and undertakes to be responsible for reviewing the terms and conditions of any such Third Party Supplier and the Supplier is neither the buyer or seller of any such products or services offered and shall not be a party to any such contract made or entered into by the Customer and a Third Party Supplier.

## 34. Operation of Web Site & Electronic Portals by Supplier

34.1 The Supplier declares that it will do everything reasonably practical to ensure that its web site, e-mail and other electronic portals operated by it shall be uninterrupted and that transmissions will be error free but the Customer declares and accepts that the Supplier cannot due to the nature of the internet guarantee continued uninterrupted operation and that the web site and electronic portals shall remain uninterrupted or continuously available and the Supplier reserves and maintains the right to modify or suspend any part of its web site or electronic portals for maintenance, update, modification, repairs or the introduction of new services, facilities or services but the Supplier will try to minimise the frequency and duration of any such interruption.

34.2 In the event that interruption means that the Supplier does not receive any such order, communication or notice then no legal contract shall be made for supply of goods or services and the obligation is on the Customer to ensure that satisfactory receipt of such has been made with the Supplier.

### 35. Liability of the Supplier

35.1 The Supplier shall not be liable for any losses not caused by a breach on its part or for any business loss (so as to include loss of profits, revenue, contracts, goodwill, anticipated savings, data, wasted expenditure and / or goodwill) and / or for any indirect or consequential losses that were not foreseeable.

35.2 Nothing in these terms and conditions shall limit or exclude any responsibility of the Supplier for fraudulent misrepresentation made by the Supplier or for death or personal injury caused by its negligence or wilful misconduct.

### 36. Safe Working Environment

36.1 Where the Customer requires the Supplier to undertake installation work on its products at a designated location, the Customer shall be responsible for ensuring that the Supplier's workers, employees or contractors (or sub-contractors) have full and unfettered access to the site or premises on which to install its products or to carry out the work required and that such site is geographically specified, is a safe working environment, is accessible during normal working hours and has no restrictions, obstructions or matters that may or would restrict or prohibit the ability of the Supplier to complete the Contract and if in such case the Supplier shall be entitled to give seven calendar days notice of the difficulties in undertaking the Contract and if not rectified within the notice period shall be entitled to treat the contract as terminated by issuing notice to such effect and any deposits or payments made in advance shall be returned to the Customer within 14 calendar days.

36.2 If the Supplier has partially completed the Contract before such difficulties arise it shall be entitled to deduct its costs and reasonable expenses up to the date of termination of the Contract.

### 37. Insurances

37.1 The Supplier shall be responsible for insurances for the goods up to the date of supply and thereafter such liability shall pass to the Customer. Where the Customer requires the Supplier to supply hire equipment such hire insurance shall be the responsibility of the Customer who shall ensure such hire equipment is kept in a secure place when not in use and is maintained and operated in a way commensurate with its intended use and purpose and shall not be operated or used otherwise.

37.2 Unless otherwise notified to the Customer the Supplier shall insure its workman and operations on site until such times as either the Contracted work is completed or it issues notification to the Customer that it is no longer discharging this and that the requirement to insure any such liability is the responsibility of the customer.

### 38. Changes to Service or Amendments to Terms & Conditions of Use

38.1 The Supplier reserves the right to make any changes to its services, policies, terms and conditions at any time and any such changes will come into force immediately upon adoption and if any of the current terms and conditions is deemed invalid, void or for any reason unenforceable then that condition will be deemed to be severable and shall not affect the validity and enforceability of any remaining condition.

### 39. Reverse Engineering

39.1 Unless explicitly permitted under the law of jurisdiction or by the strict written permission of the holder of any intellectual property rights, no Customer or other party shall authorise, encourage or assist any other person to copy, modify, reverse engineer, decompile, disassemble or otherwise tamper with, re-engineer or modify with any software, programme, structure, or portal (whether in whole or in part) in order to create any copy, derivative, facsimile (in whole or in part) or any replica without the express written permission of the Supplier, its subsidiary or any associated companies.

### 40. Product information & Availability

40.1 Unless explicitly indicated otherwise, the Supplier is not the manufacturer of the products sold on its website or other such portal and whilst every effort is made to ensure the accuracy of such product information given, actual product packaging and materials may contain more and different product information from that stated on the web site or other portal of the Supplier.

### 42. Children

40.1 No products, equipment and / or services are sold for purchase by children. Any such children's products offered on the web site or other portal are for purchase by adults only.

### 43. Waiver

43.1 The Supplier reserves the right to take action on the breach of any term or condition within the statutory applicable limitation of action period and the fact that no such action is taken after a breach does not constitute or indicate any waiver of the right of action.

### 44. Law and Jurisdiction

44.1 The Terms and Conditions of this Contract (and so as including online, web site and any other e-portal ordering and or any non-contractual matters and obligations arising therefrom or associated therewith), shall include clauses 1 to 44. together with Schedules A and B, all of which shall be governed by and construed in accordance with the laws of the legal jurisdiction of England and Wales.