

Rossman terms and conditions of sale

1 INTRODUCTION

1.1 In these conditions the following terms shall have the following meaning:

“Applicable Law” means all applicable laws, legislation, statutory instruments, regulations and governmental guidance having binding force whether local or nation (or international in any relevant jurisdiction).

“Applicable Data Protection Laws”: means:

- a) To the extent the UK GDPR applies, the law of the United Kingdom or of a part of the United Kingdom which relates to the protection of personal data;
- b) To the extent the EU GDPR applies, the law of the European Union or any member state of the European Union to which the Company is subject, which relates to the protection of personal data;
- c) All other data protection and privacy legislation from time to time in force as applicable to a party, including the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended.

“Bribery Laws” means the Bribery Act 2010 and all Applicable Laws in connection with bribery or anti-corruption and associated guidance published by the Secretary of State for Justice under the Bribery Act 2010.

“The Company” means Rossman Limited, a company registered in England and Wales under company number 11117324 and its registered office being Nicholas House, River Front, Enfield, Middlesex, United Kingdom, EN1 3FG.

“Conditions” means the Company’s terms and conditions set out in this document.

“Confidential Information” means any commercial, financial or technical information, information relating to the Goods, plans, know-how or trade secrets which is obviously confidential in nature or has been identified as confidential, or which is developed by a party in performing its obligations under, or otherwise pursuant to the Contract.

“Contract” means the agreement between the Company and the Customer for the sale and purchase of the Goods incorporating these Conditions and the Order, and including all its schedules, attachments, annexures and statements of work.

“Control” has the meaning given to it in section 1124 of the Corporation Tax Act 2010 OR means the beneficial ownership of more than 50% of the issued share capital of a company or the legal power to direct or cause the direction of the management of the company] and **Controls, Controlled and under common Control** shall be construed accordingly.

“Customers” means the person or persons who are purchasing the Goods and or Services from the Company.

“Documentation” means any descriptions, instructions, manuals, literature, technical details or other related materials supplied in connection with the Goods.

“Force Majeure” means an event or sequence of events beyond a party’s reasonable control preventing or delaying it from performing its obligations under the Contract including an act of God, fire, flood, lightning, earthquake or other natural disaster, war, riot or civil unrest, interruption or

failure of supplies of power, fuel, water, transport, equipment or telecommunications service, or material required for performance of the Contract, strike, lockout or boycott or other industrial action including those involving the Company's or its workforce, but excluding the Customer's inability to pay or circumstances resulting in the Customer's inability to pay.

"Goods" means the goods specified in the Order and agreed to be supplied to the Customer in accordance with these Conditions.

"Order" means an order for the Goods from the Company placed by the Customer.

"Price" means the price exclusive of VAT for the Goods as stated in the Order unless clearly specified.

"Services" shall mean any connected services such as installation, maintenance etc as set out in any Order placed by the Customer.

"Specification" means the description, any samples, or Documentation provided for the Goods and their packaging set out or referred to in the Contract.

1.2 In these Conditions, unless the context requires otherwise:

1.2.1 a reference to the Contract includes these Conditions, the Order, and their respective schedules, appendices and annexes (if any);

1.2.2 any clause, schedule or other headings in these Conditions is included for convenience only and shall have no effect on the interpretation of the Conditions;

1.2.3 a reference to a 'party' includes that party's personal representatives, successors and permitted assigns;

1.2.4 a reference to a 'person' includes a natural person, corporate or unincorporated body (in each case whether or not having separate legal personality) and that person's personal representatives, successors and permitted assigns;

1.2.5 a reference to a 'company' includes any company, corporation or other body corporate, wherever and however incorporated or established;

1.2.6 a reference to a gender includes each other gender;

1.2.7 words in the singular include the plural and vice versa;

1.2.8 any words that follow 'include', 'includes', 'including', 'in particular' or any similar words and expressions shall be construed as illustrative only and shall not limit the sense of any word, phrase, term, definition or description preceding those words;

1.2.9 a reference to 'writing' or 'written' includes any method of reproducing words in a legible and non-transitory form;

1.2.10 a reference to legislation is a reference to that legislation as in force at the date of the Contract;

2 SCOPE OF CONTRACT/FORMATION OF CONTRACT

- 2.1 These Conditions apply in their entirety to the supply of all Goods and Services by the Company. They supersede any previously issued terms and conditions of purchase or supply.
- 2.2 No terms or conditions endorsed on, delivered with, or contained in the Customer's purchase conditions, order, confirmation of order, specification or other document shall form part of this Contract except to the extent that Company otherwise agrees in writing.
- 2.3 Any Order placed by the Customer is subject to acceptance by the Company and no Contract shall be formed until the Company indicates such acceptance. Each accepted Order (together with these Conditions) shall constitute an individual legally binding Contract between the Company and the Customer.
- 2.4 The Company may indicate acceptance of an Order at its discretion including without limitation by signing and Order referring to these Conditions, verbally, in writing or by delivering and/or supplying requested Goods and/or Services.
- 2.5 If the Company is unable to accept an Order, it shall notify the Customer in writing as soon as reasonably practicable.
- 2.6 The Company may accept or reject an Order at its discretion. An Order shall not be accepted, and no binding obligation to supply any Goods or Services shall arise, until the earlier of:
 - 2.6.1 the Company's written acceptance of the Order; or
 - 2.6.2 the Company dispatching the Goods or Services or notifying the Customer that they are available for collection (as the case may be).
- 2.7 Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptances or offer, invoice or other documentation or information issued by the Company shall be subject to correction without any liability on the part of the Company.
- 2.8 The Company shall sell, and the Customer shall purchase the Goods and/or Services in accordance with these Conditions, which shall govern the Contract to the exclusion of any other terms and conditions made or purported to be made the Customer.
- 2.9 The Company may issue quotations to the Customer from time to time. Quotations are invitations to treat only. They are not an offer to supply the Goods or Services and are incapable of being accepted by the Customer.

3 ORDER

- 3.1 The Customer shall indicate its requirements for Goods by placing an Order and the Customer shall be solely responsible for the accuracy of each Order including, without limitation, measurements and dimensions of the Goods required, and the Company shall not be under any obligation to indicate or correct any inaccuracies, omissions or errors and the Company does not accept any liability if any alterations to the Order are necessary arising from any inaccuracies in the Order and reserves the right to charge the Customer for all reasonable costs, expenses or losses, including direct and indirect consequential losses, arising from such alterations.

- 3.2 Subject to acceptance by the Company of an Order and the Customer discharging its obligations provided by this Contract and in consideration of payment by the Customer of the Price the Company shall supply Goods in accordance with the terms of this Contract.
- 3.3 No Order which has been accepted by the Company may be cancelled by the Customer and the Customer may not return undamaged Goods except with the Company's prior written agreement. The Customer will pay the Company for all reasonable costs and losses including administration costs incurred by the Company in respect of the work completed by the Company and/or arising from the cancellation of the Contract.

4 VARIATION

All terms of the Contract between the Customer and the Company are contained in these Conditions. No representations or warranties are made or given by the Company save as appear herein. No variation or addition to the Contract shall have effect unless agreed in writing and signed by a Director of the Company and a fully authorised representative of the Customer. No alleged oral agreement will be accepted.

5 PRICE AND PAYMENT

- 5.1 The price for the Goods and/or Services shall be as set out in the Order or, where no such provision is set out, shall be calculated in accordance with the Company's scale of charges in force from time to time OR as advised by the Company from time to time before the date the Order is placed.
- 5.2 The Price payable shall be any fees charged by the Company excluding any value added tax (where applicable) and any delivery charges which the Customer shall pay in accordance with Condition 5.3.
- 5.3 The Customer shall pay to the Company the Price in cash, cheque, debit/credit card or bank transfer in pounds sterling within 30 days of the delivery of the Goods and upon receipt of the invoice. Payment will only be deemed to have been made when the Company has received cleared funds. Unless the Customer has an agreed credit account with the Company.
- 5.4 The Company may increase the Prices with immediate effect by written notice to the Customer where there is an increase in the direct cost to the Company of supplying the relevant Goods and which is due to any factor beyond the control of the Company.
- 5.5 The Customer shall not be entitled to deduct any monies from the payment due whether by way of set-off, counterclaim, discount, abatement or otherwise unless ordered by a valid court order or agreed in writing at the Company's entire discretion.
- 5.6 All payments required under the Contract shall become immediately due and payable on termination of the Contract in accordance with clause 17.
- 5.7 Time of payment is of the essence. If the Customer fails to make any payment on the due date pursuant to the Contract the Customer shall pay default interest to the Company on the amount outstanding at the rate prescribed by the Late Payment of Commercial Debts (Interest) Act 1998

and any amendments to the same in enforce from time to time, together with any compensation applicable under that Act. Interest will run from the date payment was due until the date payment is received by the Company and/or any Court Judgment whichever comes sooner. The Company further reserves the right to charge for all reasonable costs including administration to enforce payment of the outstanding sums such costs are to be added to the debt owed by the Customer.

- 5.8 Any variation to the applicable rate of VAT or any imposition of VAT or other taxes imposed by the legislation will be charged at the appropriate rate at the time of delivery.

6 ALTERATIONS TO AN ORDER

- 6.1 The Company does not accept any liability if alterations are made to the Order and reserves the right to charge the Customer for all reasonable costs, expenses or losses, including direct and indirect consequential losses, arising from alterations.
- 6.2 Any alterations required by the Customer must be notified by email to the Company and the Customer accepts that such alterations may incur delays in delivery of the Goods or provision of Services and/or additional costs and charges. In the event that alterations are required the Company does not give any guarantee that the colour size finish or component of the replacement Goods will match those Goods previously ordered.
- 6.3 The Company reserves the right to make reasonable alterations to Goods and Services to accommodate the Customer's request for alterations and/or Customer premises and reserves the right to make reasonable adjustments to the Price to reflect any alterations made.

7 ACCESS AND PREPARATION

- 7.1 The Customer shall grant the Company and all persons employed or subcontracted to the Company to supply the Goods and Services an irrevocable license to enter the Customer's premises at all times for the purpose of delivering the Goods and delivering any applicable Services, and where the Customer's right to retain the Goods has terminated, to recover them.
- 7.2 The Customer shall ensure and be responsible for:
- 7.2.1 The necessary preparation of its premises;
- 7.2.2 The general safety of its premises so as not to cause injury or damage to the Company's employees, sub-contractors, equipment or the Goods. The Customer shall be liable to pay to the Company all reasonable costs charges or losses, including direct, indirect and consequential loss, loss or damage to property and losses arising from injury or death of any person, arising directly from the Customer's negligence or failure to perform its obligation under this clause.
- 7.3 Failure by the Customer to fulfil the above obligations will result in delay of the provision of Services and the Company shall be entitled to recover any additional costs and charges it incurs as a result of such delay from the Customer and such additional costs and charges shall be added to the Price and payable by the Customer.

8 DELIVERY

- 8.1 The Goods shall be delivered by the Company, or its nominated carrier, to the location on the dates specified in the Order.
- 8.2 The Company will use its reasonable endeavours to supply the Goods and (where applicable) provide the Services at a time convenient to the Customer but for the avoidance of doubt normally during the hours of 8am and 5pm Monday to Friday. Dates and approximate times will be advised by the Company. If the Customer fails to take delivery on an agreed date and time the Company reserves the right to charge the Customer for all reasonable costs (including, but not limited to, storage and administration costs), charges or losses, including direct, indirect and consequential loss, incurred by the Company as a result of the Customer being unable to take delivery of the Goods. Subject to the Customer being liable for such costs, charges or losses, the Company will postpone the delivery of the Goods and/or provision of Services by a reasonable period and advise the Customer of an alternative date and time.
- 8.3 The Goods shall be deemed delivered on arrival by the Company or its nominated carrier.
- 8.4 Time of delivery is not of the essence. The Company shall use its reasonable endeavours to meet delivery dates, but such dates are indicative only.
- 8.5 The Company shall not be liable for any delay in, or failure of delivery caused by:
- 8.5.1 the Customer's failure to make a delivery location available;
 - 8.5.2 the Customer's failure to prepare the delivery location;
 - 8.5.3 the Customer's failure to provide the Company with adequate instructions for delivery and installation;
 - 8.5.4 Force Majeure.
- 8.6 If the Customer fails to accept delivery of the Goods the Company shall store and insure the Goods pending delivery, and the Customer shall pay all reasonable storage and insurance charges or any other costs and expenses incurred by the Company in doing so.

9 RISK AND TITLE

- 9.1 All risks, damage or loss to Goods shall pass to the Customer on delivery. In the event that the Customer fails to take delivery without good reason, risk in the Goods shall also be deemed to have been passed to the Customer at the time of attempted delivery. The Customer must ensure that prior to the provision of the Services the Goods will be stored separately from all other goods held by the Customer so that they remain readily identifiable as the Company's property and at a dry and secure location.
- 9.2 Notwithstanding delivery or any other provision of these Conditions, the title and ownership in the Goods shall not pass to the Customer until the Company has received in cash or cleared funds payment in full of the Price. Until ownership has passed the Customer shall (i) hold the Goods on a fiduciary basis as the Company's bailee; (ii) maintain the Goods in satisfactory condition; (iii) keep the Goods insured on the Company's behalf; and (iv) not remove, deface or

obscure any identifying mark or packaging on or relating to the Goods; but the Customer may resell the Goods in the ordinary course of business.

10 **GUARANTEE/WARRANTY**

10.1 The Company warrants that subject to the other provisions of these Conditions upon delivery the Goods shall be of satisfactory quality within the meaning of the Sales of Goods Act 1979.

10.2 The Company shall not be liable for a breach of the above warranty:

10.2.1 If the Customer fails to give written notice of any defect to the Company;

10.2.2 The Order contains any inaccuracy in respect of the information provided by the Customer;

10.2.3 If the Customer does not allow the Company a reasonable opportunity to inspect the Goods after receiving such notice;

10.2.4 If the Customer makes any further use of the Goods after giving such notice;

10.2.5 If the defect arises because of the Customer's mis-use, general wear and tear or if the Customer failed to follow the Company's oral or written instruction as to the storage, installation, commissioning, use or maintenance of the Goods;

10.2.6 If the Customer alters or repairs such Goods without the written consent of the Company;

10.2.7 If the Goods are altered, tampered with or in any way damaged by other contractors/persons working on the premises after the initial installation has taken place.

10.3 The warranty in this clause 10 cannot be assigned without prior written agreement from the Company.

10.4 Subject to clause 10.2, if any of the Goods do not conform with the above warranty the Company shall at its option repair or replace such Goods (or the defected part) or refund the price of such Goods provided that, if the Company so requests, the Customer shall, at the Company's expense, return the Goods or the part of such Goods which is defective to the Company. In considering whether a full or partial refund is to be given, account will be taken of the benefit provided by the Goods to the Customer.

10.5 If the Company complies with clause 10.4 it shall have no further liability for a breach of the warranty in respect of such Goods.

10.6 Except as set out in this clause 10:

10.6.1 the Company gives no warranties and makes no representations in relation to the Goods;
and

10.6.2 shall have no liability for their failure to comply with the warranty in clause **Error! Reference source not found.**

10.6.3 and all warranties and conditions (including the conditions implied by ss 13–15 of the Sale of Goods Act 1979), whether express or implied by statute, common law or otherwise are excluded to the extent permitted by law.

11 Anti-Bribery

- 11.1 For the purposes of this clause **Error! Reference source not found.** the expressions ‘adequate procedures’ and ‘associated with’ shall be construed in accordance with the Bribery Act 2010 and legislation or guidance published under it.
- 11.2 Each party shall comply with applicable Bribery Laws including ensuring that it has in place adequate procedures to prevent bribery and use all reasonable endeavours to ensure that:
- 11.2.1 all of its personnel;
 - 11.2.2 all others associated with it; and
 - 11.2.3 all of its subcontractors;
involved in performing the Contract so comply.
- 11.3 Without limitation to clause **Error! Reference source not found.**, neither party shall make or receive any bribe (which term shall be construed in accordance with the Bribery Act 2010) or other improper payment or advantage or allow any such bribe or improper payment or advantage to be made or received on its behalf, either in the United Kingdom or elsewhere and shall implement and maintain adequate procedures to ensure that such bribes or improper payments or advantages are not made or received directly or indirectly on its behalf.
- 11.4 Any breach of this clause **Error! Reference source not found.1** by the Customer shall be deemed a material breach of the Contract that is not remediable and shall entitle the Company to immediately terminate the Contract by notice.

12 Indemnity and Insurance

- 12.1 The Customer shall indemnify the Company from and against any losses, damages, liability, costs (including legal fees) and expenses which the Company may suffer or incur directly or indirectly from the Customer’s breach of any of its obligations under the Contract.
- 12.2 The Customer shall have in place contracts of insurance with reputable insurers incorporated in the United Kingdom to cover its obligations under the Contract. On request, the Customer shall supply (so far as is reasonable) evidence of the maintenance of the insurance and all of its terms from time to time applicable.

13 Limitation of Liability

- 13.1 The following provisions set out the entire financial liability of the Company (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Customer in respect of:
- 13.1.1 Any breach of these Conditions;
 - 13.1.2 Any use made by the Customer of any of the Goods, or of any product incorporating any of the Goods; and
 - 13.1.3 Any representation, statement or tortious act or omission including negligence arising under or in connection with the Contract.
- 13.2 All warranties, conditions and other terms implied by 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.

13.3 Nothing in these Conditions excludes or limits the liability of the Company:

13.3.1 For death or personal injury caused by the Company's negligence; or

13.3.2 For any other losses which cannot be excluded or limited by Applicable Law; or

13.3.3 For any matter which it would be illegal for the Company to exclude or attempt to exclude its liability; or

13.3.4 For fraud or fraudulent misrepresentation.

13.4 Subject to clauses **Error! Reference source not found.** and **Error! Reference source not found.**, the Company shall not be liable for consequential, indirect or special losses.

13.5 Subject to clauses **Error! Reference source not found.** and **Error! Reference source not found.**, the Company shall not be liable for any of the following (whether direct or indirect):

13.5.1 loss of profit;

13.5.2 loss of revenue;

13.5.3 loss or corruption of data;

13.5.4 loss or corruption of software or systems;

13.5.5 loss or damage to equipment;

13.5.6 loss of use;

13.5.7 loss of production;

13.5.8 loss of contract;

13.5.9 loss of commercial opportunity;

13.5.10 loss of savings, discount or rebate (whether actual or anticipated);

13.5.11 harm to reputation or loss of goodwill; and/or

13.5.12 wasted expenditure.

13.6 Subject to clauses 13.3 and 13.7, the Company'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 Price.

13.7 The limitations of liability set out in clauses **Error! Reference source not found.** to 13.5 shall not apply in respect of any indemnities given by the Customer under the Contract.

13.8 Any warranty provided in clause 10.1 will be binding on the Company in respect of the following Goods and the following periods from the date of installation:

- 13.8.1 10 years in respect of cabinets, Rossman doors and Rossman panels
- 13.8.2 5 years in respect of Uform frontages and décor panels
- 13.8.3 Lifetime in respect of Blum hinges, drawer boxes and wirework
- 13.8.4 10 years in respect of Vauth Sagel bins
- 13.8.5 10 years in respect of Hafele wirework
- 13.8.6 7 years in respect of Hafele (Loox) lighting.

13.9 Whilst every effort will be made to supply the Goods in the colour/shade chosen by the Customer the exact colour/shade cannot be guaranteed neither can the Company guarantee that the colour/shades are identical to those shown in the Company's advertising material and brochures. In particular where natural timbers are used the Customers must expect variations in colour and grain. Over time, natural timber products; including stained and painted timber products will change colour due to the effects of natural sunlight. These changes are not considered defect. Replacement items, if required under this guarantee may appear to differ in colour as a result of being new. Painted timber products may show hair line cracks to joints and / or around centre panel to frame. These are natural features caused by movement of the independent component parts and cannot be avoided. These characteristics are not considered defect. The Company will not be liable for any slight impactation in any parts made of glass.

13.10 The Company reserves the right to substitute a similar or equivalent product of comparable quality, if the original material or product required as part of the Goods in no longer available or if the manufacturers discontinue doors.

14 INTELLECTUAL PROPERTY RIGHTS

14.1 All drawings, descriptive dimensions and illustrations or any other pictures contained in any sales literature and price estimate supplied by the Company to the Customer are approximate only and shall not form part of the Contract. In addition any intellectual property rights in drawings or technical documents or any other information as may be supplied by the Company to the Customer, including specifications, shall remain at all times the property of the Company and such drawings or technical documents or any such other information may not be copied, reproduced or communicated to any third party without the Company's prior written consent.

15 CONFIDENTIALITY

15.1 The Customer shall keep confidential all Confidential Information of the Company and shall only use the same as required to perform the Contract. The provisions of this clause shall not apply to:

15.1.1 any information which was in the public domain at the date of the Contract;

15.1.2 any information which comes into the public domain subsequently other than as a consequence of any breach of the Contract or any related agreement;

15.1.3 any information which is independently developed by the Customer without using information supplied by the Company; or

15.1.4 any disclosure required by law or a regulatory authority or otherwise by the provisions of the Contract.

15.2 This clause **Error! Reference source not found.** shall remain in force for six (6) years after termination of the Contract.

15.3 The Customer shall not make any public announcement or disclose any information regarding the Contract, except to the extent required by law or regulatory authority.

16. PRODUCT RANGE REVISIONS

16.1. The Company continually seeks to improve its products and reserves the right to alter, delete or add any item, colour, size, finish, component or service from its range without prior notice. Every effort will be made to match the Goods with goods provided under previous order(s) but the Company is unable to give any guarantee that the colour, size, finish or component will match.

17. TERMINATION

17.1. Without prejudice to any other provision in these Conditions and without prejudice to any rights or remedies either party may have against the other, the Contract shall terminate immediately and any rights to possession of the Goods which the Customer has at the time shall terminate immediately if:

17.1.1. the Customer commits a material breach of the Contract and such breach is not remediable;

17.1.2. the Customer has failed to pay any amount due under the Contract on the due date and such amount remains unpaid 30 days after the date that the Company has given notification to the Customer that the payment is overdue; or

17.1.3. The Customer has a bankruptcy order made against it or makes an arrangement or composition with its creditors, or otherwise takes the benefits of any statutory provision for the time being in force for the relief of insolvent debtors, or (being a body corporate) convenes a meeting of creditors (whether formal or informal), or enters into liquidation (whether voluntary or compulsory) except a solvent voluntary liquidation for the purpose only of reconstruction or amalgamation or has a receiver and/or manager, administrator or administrative receiver appointed of its undertaking or any part thereof or a resolution is passed or a 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 or Customer suffers or allows any execution, whether legal or equitable, to be levied on his/its property or obtained against him/it or is unable to pay its debts within the meaning of sections 123 of the Insolvency Act 1986.

17.2. The accrued rights of the parties as at termination shall not be affected.

17.3. On termination the Customer shall be liable to pay all outstanding and unpaid invoices and the Company shall be entitled to raise and invoice for Services performed and/or Goods supplied but not invoiced and such invoice(s) shall become due for payment immediately on receipt by the Customer.

17.4. The Company may terminate the Contract any time by giving not less than four weeks' notice in writing to the Customer if the Customer undergoes a change of Control or if it is realistically anticipated that it shall undergo a change of Control within two months.

18. FORCE MAJEURE

18.1. The Company shall not be deemed to be in breach of the Contract for any delays or failures in performance of the Contract which result from Force Majeure.. The Company shall further be under no liability to the Customer for any circumstances beyond the Company's control or any event which results from Force Majeure.

19. DATA PROTECTION

19.1. Where the Company shall collect and use any personal data in connection with this Contract, it shall do so under its privacy policy [ADD LINK].

19.2. For the purposes of this clause 19, the terms controller, processor, data subject, personal data, personal data breach and processing shall have the meaning given to them in the UK GDPR.

19.3. Both parties will comply with all applicable requirements of Applicable Data Protection Laws. This clause **Error! Reference source not found.** is in addition to, and does not relieve, remove or replace, a party's obligations or rights under Applicable Data Protection Laws.

19.1.1. The provisions set out in this clause 19 shall apply in respect of any circumstances in which the Customer is the controller, and the Company is a processor in relation to any personal data processed by the Company pursuant to this Contract or any Order. The parties acknowledge and agree that for the purposes of Applicable Data Protection Laws, where the Company processes any of the Customer's personal data on behalf of the Customer or its affiliates in connection with any Services, this Contract or any Order, then the Customer shall be the controller and the Company shall be the processor.

19.1.2. The Customer consents to, (and shall procure all required consents, from its personnel, representatives and agents, in respect of) all actions taken by the Company in connection with the processing of personal data, provided these are in compliance with the then-current version of the Company's privacy policy (**Privacy Policy**). In the event of any inconsistency or conflict between the terms of the Privacy Policy and this Contract, the Privacy Policy will take precedence.

19.2. Without prejudice to the generality of clause 19.2, the Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the any personal data to the Company for the duration and purposes of this Contract.

19.3. Without prejudice to the generality of clause 19.21, the Company shall, in relation to Customer Personal Data:

- 19.3.1. process that personal data only on the documented instructions of the Customer, unless the Company is required by Applicable Laws to otherwise process that personal data (“**Purpose**”). Where the Company is relying on Applicable Data Protection Laws as the basis for processing personal data, the Company shall notify the Customer of this before performing the processing required by the Applicable Data Protection Laws unless those Applicable Data Protection Laws prohibit the Company from so notifying the Customer on important grounds of public interest. The Company shall inform the Customer if, in the opinion of the Company, the instructions of the Customer infringe Applicable Data Protection Laws;
- 19.3.2. implement suitable technical and organisational measures to protect against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data, which shall be appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures;
- 19.3.3. ensure that any personnel engaged and authorised by the Company to process personal data have committed themselves to confidentiality or are under an appropriate statutory or common law obligation of confidentiality;
- 19.3.4. assist the Customer insofar as this is possible (taking into account the nature of the processing and the information available to the Company), and at the Customer's cost and written request, in responding to any request from a data subject and in ensuring the Customer's compliance with its obligations under Applicable Data Protection Laws with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
- 19.3.5. notify the Customer without undue delay on becoming aware of a personal data breach involving the personal data;
- 19.3.6. at the written direction of the Customer, delete or return personal data and copies thereof to the Customer on termination of the Contract unless the Company is required by Applicable Law to continue to process that personal data; and
- 19.3.7. maintain records to demonstrate its compliance with this clause **Error! Reference source not found..**

19.4. The Customer provides its prior, general authorisation for the Company to:

- 19.4.1. appoint processors to process the personal data, provided that the Company:
 - 19.4.1.1. shall ensure that the terms on which it appoints such processors comply with Applicable Data Protection Laws, and are consistent with the obligations imposed on the Company in this clause **Error! Reference source not found.;**
 - 19.4.1.2. shall remain responsible for the acts and omission of any such processor as if they were the acts and omissions of the Company; and
 - 19.4.1.3. shall inform the Customer of any intended changes concerning the addition or replacement of the processors, thereby giving the Customer the opportunity to object to such changes provided that if the Customer objects to the changes and

cannot demonstrate, to the Company's reasonable satisfaction, that the objection is due to an actual or likely breach of Applicable Data Protection Law, the Customer shall indemnify the Company for any losses, damages, costs (including legal fees) and expenses suffered by the Company in accommodating the objection.

19.4.2. transfer personal data outside of the UK as required for the Purpose, provided that the Company shall ensure that all such transfers are effected in accordance with Applicable Data Protection Laws. For these purposes, the Customer shall promptly comply with any reasonable request of the Company, including any request to enter into standard data protection clauses adopted by the EU Commission from time to time (where the EU GDPR applies to the transfer) or adopted by the Commissioner from time to time (where the UK GDPR applies to the transfer).

19.5. Either party may, at any time on not less than 30 days' notice, revise this clause **Error! Reference source not found.** by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when replaced by attachment to this Contract).

20. ASSIGNMENT

The Company may assign the Contract or any part of it to any person, firm or company but the Customer shall not be entitled to assign the Contract or any part of it without the prior written consent of the Company.

21. GENERAL

21.1. Each right of remedy of the Company under the Contract is without prejudice to any other right or remedy of the Company whether under the Contract or not.

21.2. If any provision of the Contract is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable it shall to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness be deemed severable and the remaining provisions of the Contract and the remainder of such provision shall continue in full force and effect.

21.3. Any failure or delay by the Company in enforcing or partially enforcing any provision of the Contract shall not be construed as a waiver of any of its rights under the Contract. Any waiver by the Company of any breach of, or any default under, any provision of the Contract by the Customer shall not be deemed a waiver of any subsequent breach or default and shall in no way affect the other terms of the Contract.

21.4. The parties to the Contract do not intend that any term of the Contract shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to it.

21.5. The Contract constitutes the whole agreement and understanding or agreement between them relating to the subject matter of the Contract.

- 21.6. The Customer shall not offer or give, or agree to give, to any member, employee or representative of the Company any gift or consideration for any kind as an inducement or reward for doing or refraining from doing, or for having done or refrained from having done, any act in relation to the obtaining or execution of this or any other contract with the Company or for showing or refraining from showing favour or disfavour to any person in relation to this or any such contract. The attention of the Customer is drawn to the criminal offences by the Bribery Act 2010.
- 21.7. The Company shall be entitled to set-off under the Contract any liability which it has or any sums which it owes to the Customer under the Contract.
- 21.8. The Customer recognises that any breach or threatened breach of the Contract may cause the Company irreparable harm for which damages may not be an adequate remedy. Accordingly, in addition to any other remedies and damages available to the Company, the Customer acknowledges and agrees that the Company is entitled to the remedies of specific performance, injunction and other equitable relief without proof of special damages.

22. NOTICES

- 22.1. All communication and notices between the parties about the Contract shall be in writing and delivered by hand, sent by pre-paid first class post or via electronic communication ("email"):
- 22.1.1. (in case of communications to the Company) to its registered office or such changed address (including email) as shall be notified to the Customer by the Company; or
- 22.1.2. (in the case of communications to the Customer) to its registered office or such changed address (including email) as shall be notified to the Customer by the Company;
- or
- 22.1.3. Communications shall be deemed to have been received:
- 22.1.3.1. If sent by pre-paid first class post, two days (excluding Saturdays, Sundays and banks and public holidays) after posting (exclusive of the day of posting); or
- 22.1.3.2. If delivered by hand, on the day of delivery;
- 22.1.3.3. If sent by email on a working day prior to 4:00pm, at the time of transmission and otherwise on the next working day.

23. CONFLICTS WITH CONTRACT

- 23.1. If there is a conflict between the terms contained in the Conditions and the terms of the Order, schedules, appendices or annexes to the Contract, the terms of the Conditions shall prevail to the extent of the conflict.

24. DISPUTE RESOLUTION

- 24.1. Any dispute arising between the parties out of or in connection with the Contract shall be dealt with in accordance with the provisions of this clause **Error! Reference source not found.**
- 24.2. The dispute resolution process may be initiated at any time by either party serving a notice in writing on the other party that a dispute has arisen. The notice shall include reasonable information as to the nature of the dispute.

24.3. The parties shall use all reasonable endeavours to reach a negotiated resolution through the following procedure:

24.3.1. Within 10 Business Days of service of the notice, the representatives of each of the parties shall meet to discuss the dispute and attempt to resolve it.

24.3.2. If the dispute has not been resolved within 10 Business Days of the first meeting of the representatives, then the matter shall be referred to the managing directors (or persons of equivalent seniority) of each of the parties.

24.4. Until the parties have completed the steps referred to in clause 224.3, and have failed to resolve the dispute, neither party shall commence formal legal proceedings except that either party may at any time seek urgent interim relief from the courts.

25. GOVERNING LAW

25.1. The formation, existence, construction, performance, validity and all aspects of the Contract shall be governed by the laws of England and Wales and the parties submit to exclusive jurisdiction of the courts of England and Wales.