

## TERMS AND CONDITIONS

### 1. DEFINITIONS

In this document the following words shall have the following meanings:

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

“**Consumer**” means a Customer who is a consumer as defined in section 12 of the Unfair Contract Terms Act 1977.

“**Contract**” means the contract between the Supplier and the Customer for the sale and purchase of the Goods incorporating these Terms and Conditions.

“**Customer**” means any person who purchases Goods from the Supplier.

“**Delivery**” means the delivery of the Goods to the Customer by the Supplier and/or the availability of the Goods to be collected from the Supplier’s premises by the Customer whichever is the earlier.

“**Deposit**” means the deposit as stated in the Proforma Invoice usually being a minimum of 50% the total price for the Goods.

“**Goods**” means the goods set out in the Order.

“**Intellectual Property Rights**” means patents, trade marks, service marks, trade names, registered and unregistered designs, technique, trade or business names, copyright (including, but not limited to, rights in software), database rights, design rights, rights in confidential information and any other intellectual property rights whatsoever irrespective of whether such intellectual property rights have been registered or not which may subsist in any part of the world.

“**Order**” means the Customer’s sales order for the Goods as set out in the Sales Order Form and/or the Customer’s written acceptance of the Proforma Invoice.

“**Proforma Invoice**” means the proforma invoice which incorporates the Supplier’s quotation for the

Goods and the Specification.

“**Sales Order Form**” means a statement of work, quotation or other similar document describing the Goods and incorporating the Proforma Invoice to be provided by the Supplier in writing.

“**Specification**” means any specification for the Goods, including any related drawings, that is agreed in writing by the Customer and the Supplier as part of the Proforma Invoice.

“**Supplier**” means Charles Edwards Heritage Limited.

“**Terms and Conditions**” means the terms and conditions set out in this document and as varied from time to time in accordance with clause 25.

“**VAT**” means value added tax chargeable under the Value Added Tax Act 1994 and any similar replacement or additional tax.

### 2. CONSTRUCTION

A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).

A reference to a party includes its personal representatives, successors or permitted assigns.

A reference to **writing** or **written** includes e-mails.

### 3. APPLICATION OF CONDITIONS

Unless modified by special arrangements in writing by the Supplier, these Terms and Conditions apply to the Contract to the exclusion of any terms and conditions proposed or stipulated by the Customer or which are implied by trade, custom, practice or course of dealing.

The Contract constitutes the entire agreement between the parties and the Customer acknowledges that, aside from as specifically stated in the Contract, it has not relied on any statement, promise or representation made or given by or on behalf of the Supplier which is not set out in the Contract.

Any samples, drawings, descriptive matter, or advertising produced by the Supplier and any descriptions or illustrations contained in the Supplier’s catalogues, brochures or website are produced for the sole purpose of providing an indication of the Goods described in them and they shall not form part of the Contract.

### 4. ORDERS

The Order constitutes an irrevocable offer by the Customer to purchase the Goods in accordance with these Terms and Conditions. The Customer is responsible for ensuring that the terms of the Order and any applicable Specification submitted by the Customer are entirely complete and accurate for the Customer’s intended purpose.

Orders must be placed in writing and must include the payment of the Deposit as requested by the Supplier in its discretion.

The Order shall only be deemed to be accepted when the Supplier issues a written acceptance of the Order on a Sales Order Form, at which point the Contract shall come into existence and be binding on the parties. On the written acceptance of an Order, a unique reference number will be given to the Customer by the Supplier. Full payment of the balance must be paid prior to or upon the release of the goods in accordance with clause 11.

A quotation for the Goods given by the Supplier shall not constitute an offer capable of acceptance. A quotation shall only be valid for a period of 30 Business Days from its date of issue.

The Supplier reserves the right to refuse any Order in its absolute discretion.

### 5. GOODS

Almost all of the Goods are created as bespoke items for the Customer with unique styles, finishes and materials available for the Customer to choose. An indication of the Goods available to be ordered are described in the Supplier's catalogues, brochures and website with each Good subject to the agreement of a bespoke Specification.

**To the extent that the Goods are to be manufactured in accordance with a Specification supplied by the Customer, the Customer shall indemnify the Supplier and continue to indemnify the Supplier against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other professional costs and expenses) suffered or incurred by the Supplier in connection with any claim made against the Supplier for actual or alleged infringement of a third party's Intellectual Property Rights arising directly or indirectly out of or in connection with the Supplier's use of the Specification. This clause 5 shall survive termination of the Contract.**

The Supplier reserves the right to amend the Specification if it deems it commercially appropriate and/or if required by any applicable statutory or regulatory requirements.

The Supplier reserves the right (in its absolute discretion) to vary the technique, design, construction and Specification without notice ("Variation"). Such Variation may result in an amendment to the Specification from the description photographic illustration or specification included in the literature of the Supplier and/or the website of the Supplier.

Where the Supplier supplies Goods to the Customer which are made to Specification, the Customer will

have no right to cancel the Order or to any refund of any amount paid unless work has not been started by the Supplier and a fee may be payable in accordance with clause 20.

## 6. PRICE

The price of Goods shall be the price set out by the Supplier in the Proforma Invoice, or, if no price is quoted, the price which is current at the date of delivery as set out in the Supplier's published price list in force as at the date of delivery.

The Supplier may, by giving notice to the Customer at any time before Delivery, increase the price of the Goods to reflect any increase in the cost of the Goods that is due to:

- (a) any factor beyond the Supplier's control (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);
- (b) any request by the Customer to change the date(s) for Delivery, quantities or types of Goods ordered, or the Specification;
- (c) any delay caused by any instructions of the Customer or failure of the Customer to give the Supplier adequate or accurate information or instructions; or
- (d) any breach by the Customer of the terms of this Contract.

**The price of the Goods is exclusive of the costs and charges of packaging of the Goods, which shall be invoiced to the Customer separately if requested by the Customer in writing.**

The Customer shall remain responsible for the packaging of the Goods unless agreed otherwise in writing with the Supplier. The price of the Goods is exclusive of amounts in respect of VAT. The Customer shall, on receipt of a valid VAT invoice from the

Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Goods.

Customers in the EU must pay VAT unless a valid EC VAT number is provided. No VAT will be charged on goods shipped directly to countries outside the EU on the provision that the Supplier receives the necessary export documentation from the Customer within three months from the date of the invoice. If the necessary documentation is not received, VAT will be invoiced to the Customer and will be immediately payable by the Customer.

VAT will be charged on goods collected by hand and taken outside the EU. VAT will be reimbursed within 20 Business Days of the Supplier receiving a valid stamped HM Revenue & Customs Retail Export Scheme form from the Customer and any other documentation or information the Supplier may request from time to time.

VAT will be charged in the Supplier's discretion if the Customer is a new customer of the Supplier's and/or the Customer has failed to promptly provide a valid stamped HM Revenue & Customs Retail Export Scheme form and/or other required documentation. If charged incorrectly VAT will be reimbursed to the Customer within 20 Business Days of the Supplier receiving from the Customer a valid stamped HM Revenue & Customs Retail Export Scheme form and/or other required documentation.

## 7. TRADE DISCOUNT

At the Supplier's discretion and as appropriate, a discount may be applied to the price of Goods for a Customer who is purchasing the Goods for purposes relating to that Customer's trade, business, and/or who is acting as a trader ("**Trade Customer**"). This discount is not available to a Customer who is either a

Consumer or who is purchasing the Goods on behalf of a Consumer.

In order to establish the Customer's status with the Supplier as a Trade Customer, the Customer may be requested to provide the Supplier with information at any time, including:

- a. the nature of its business;
- b. Company or limited liability partnership number (if applicable);
- c. its VAT number (if applicable);
- d. its business bank account details;
- e. its Unique Tax Reference;
- f. Construction Industry Scheme number (if applicable); and
- g. any other additional information or evidence the Supplier, in its complete discretion, believes will assist it in determining the status of the Customer.

All such details provided to the Supplier will be used for the purpose of verifying the Customer as a Trade Customer and/or to determine the Customer's compliance with the terms of this Contract.

As the Supplier relies entirely on the information provided by the Customer to establish the Customer's status as a Trade Customer, each time the Customer places its order for Goods as a Trade Customer, the Customer warrants and represents to the Supplier the following:

- a. it is making the purchase of the Goods in the course of its business as a genuine Trade Customer;
- b. it is not a Consumer;
- c. it is not an agent or other representative of a consumer; and
- d. all business details and/or information provided to the Supplier are true, accurate and complete, and not misleading and/or

incomplete in any respect.

Notwithstanding any other remedy available to the Supplier, if at any point (including after the expiration or termination of this Contract) the Supplier determines that a trade discount was given to Customer who is not a Trade Customer, the Customer must pay to the Supplier immediately on demand the difference between the discounted price paid by the Customer for the Goods and the full price of the Goods at the time of their purchase (as notified by the Supplier).

## 8. PAYMENT

The Supplier may invoice the Customer for the Goods on or at any time after the acceptance of an Order and may be subject to the payment of the Deposit.

The Deposit shall be paid by the Customer immediately upon the agreement and acceptance of the Proforma Invoice by the Customer signing the Proforma Invoice or providing to the Supplier its written acceptance of the same.

The Customer shall pay the invoice in full and in cleared funds within 20 days of the date of the invoice or prior to collection of the Goods, whichever is earlier. Time of payment is of the essence.

The Customer shall pay all amounts due under the Contract in full without any deduction or withholding except as required by law and the Customer shall not be entitled to assert any credit, set-off or counterclaim against the Supplier in order to justify withholding payment of any such amount in whole or in part. The Supplier may at any time, without limiting any other rights or remedies it may have, set-off any amount owing to it by the Customer against any amount payable by the Supplier to the Customer.

Payment can be accepted in pound sterling only and

can be made by wire transfer (to the account details given below), cheque or by credit or debit card. There is a 3% surcharge for payments made using American Express. Credit card details can be phoned through or faxed and will be destroyed by the Supplier once processed. The Supplier does not accept credit card details by e-mail. This is not a secure method of transferring information and the Supplier does not accept any responsibility or liability for the safety of any sensitive details sent by this method.

Customers must remit stating their unique reference number as the payment reference.

The Supplier's bank details are as follows:

Coutts & Co. Commercial Banking  
440 Strand London WC2R 0QS  
Sort Code: 18-00-02  
Account No.: 01631152  
Account Name: Charles Edwards Heritage Limited.  
Swift: COUTGB22  
IBAN: GB61COUT18000201631152

All bank or transfer charges are to be paid by the Customer with the Supplier receiving the full amount stated on the invoice.

## 9. CUSTOMER'S INSOLVENCY OR INCAPACITY

If the Customer becomes subject to any of the relevant events listed at (a)-(g) of this clause 9, or the Supplier reasonably believes that the Customer is about to become subject to any of them, then, without limiting any other right or remedy available to the Supplier, the Supplier may immediately cancel or suspend all further deliveries under the Contract or under any other contract between the Customer and the Supplier without incurring any liability to the Customer, and all outstanding sums in respect of Goods delivered to the

Customer shall become immediately due and payable.

For the purposes of this clause 9, the relevant events are:

- (a) any meeting of creditors of the Customer is held or any arrangement or composition with or for the benefit of its creditors (including any voluntary arrangement as defined in the Insolvency Act 1986) is proposed or entered into by or in relation to the Customer (other than for the purpose of a bona fide reconstruction or amalgamation);
- (b) a supervisor, receiver, administrator, administrative receiver or other encumbrancer takes possession of or is appointed over or any distress, execution or other process is levied or enforced (and is not discharged within seven days) upon the whole or any substantial part of the assets of the Customer;
- (c) the Customer ceases or threatens to cease to carry on business or is or becomes unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986;
- (d) a petition is presented, or a meeting is convened for the purpose of considering a resolution, for the making of an administrative order, the winding-up, bankruptcy or dissolution of the Customer;
- (e) the Customer's financial position deteriorates to such an extent that in the Supplier's opinion the Customer's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy;
- (f) (being an individual) the Customer dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his or her own affairs or becomes a patient under any mental health legislation; and
- (g) any event analogous to any of the foregoing occurs in any jurisdiction.

Termination of the Contract, however arising, shall not affect either of the parties' rights and remedies that

have accrued as at termination. Clauses which expressly or by implication survive termination of the Contract shall continue in full force and effect.

## 10. LEAD-TIMES

Lead-times can vary from approximately 4 to 16 weeks and are dependent on receipt of the Deposit, the Customer supplying all other necessary information required for the Order and complying with these Terms and Conditions. Any lead-time or delivery date specified by the Supplier is provided as a guide only.

## 11. COLLECTIONS AND SHIPPERS

The Supplier will inform the Customer when the Goods are available to be collected. Customers should collect the Goods or instruct their representative or shippers to pick up the Goods from:

Charles Edwards Workshop  
Unit 10  
10-12 Lombard Road  
London  
SW19 3TZ

8.00am – 4.00pm Monday – Friday during Business Days

Goods will not be released by the Supplier unless the Customer's collection note and sale order number as incorporated in the Sales Order Form is presented at the time of collection.

The Supplier reserves the right to charge storage costs if Goods are not collected within 7 days of a Customer being informed that an Order is ready for Delivery at a pro-rata rate of £30 per week.

## 12. FREE LONDON DELIVERIES (Excluding Door Furniture Orders)

12.1 Our designated courier carries out Deliveries between:

10am – 5pm, on Wednesdays.

Where reasonably practicable, Customers are contacted on the morning of delivery to confirm delivery details, time slot and that someone will be present to check and sign for the order.

The areas covered by our courier service are:

E1, E2, E3, E4, E5, E6, E7, E8, E9, E10, E11, E12, E13, E14, E15, E16, E17, E18.

EC1, EC2, EC3, EC4.

N1, N2, N3, N4, N5, N6, N7, N8, N9, N10, N11, N12, N13, N14, N15, N16, N17, N18, N19, N20, N21, N22.

NW1, NW2, NW3, NW4, NW5, NW6, NW7, NW8, NW9, NW10, NW11.

SE1, SE2, SE3, SE4, SE5, SE6, SE7, SE7, SE8, SE9, SE10, SE11, SE12, SE13, SE14, SE15, SE16, SE17, SE17, SE18, SE19, SE20, SE21, SE22, SE23, SE24, SE25, SE26, SE27, SE28.

SW1, SW2, SW3, SW4, SW5, SW6, SW7, SW8, SW9, SW10, SW11, SW12, SW13, SW14, SW15, SW16, SW17, SW18, SW19, SW20.

W1, W2, W3, W4, W5, W6, W7, W8, W9, W10, W11, W12, W13.

WC1, WC2.

12.2 Customers outside of these areas must engage

their own shipping/courier service to arrange Delivery of the Goods at their own cost and expense.

12.3 Upon Delivery, the Customer will be required to sign confirming that the items have been received in good condition.

12.4 The Supplier does not accept liability for any damage to the Goods once they have been removed from the Supplier's premises. Any damage to Goods identified by the Customer must be notified to the Supplier within 48 hours of the time of Delivery.

#### 12.5 UK DELIVERIES

For deliveries outside of the London areas specified above Customers are responsible for arranging the Delivery of the Goods and all associated costs and expenses. The Supplier may be able to provide details of couriers or shippers if required.

Customers are advised to insure Goods against damage whilst in transit and storage prior to Delivery.

#### 12.6 TRACKING AN ORDER

Free London Deliveries – If reasonably practicable the Customer will be contacted on the day of Delivery. If you have not received your Goods at the specified time, please contact your account manager.

UK/Rest of World – The Customer will not be able to track the Delivery of an Order with the Supplier.

#### 12.6 PACKING

Where reasonably practicable Goods are bubble wrapped and packed in cardboard boxes. Customers with special packing requirements must inform the Supplier of them in advance in writing and where the Supplier can accommodate them an extra charge may be payable by the Customer. Alternatively the Customer may be required to liaise with professional third party suppliers with details of such packing

requirements.

### 13. COLLECTIONS FOR EXPORT

For deliveries abroad you will need to engage the services of a shipping company.

Once the Goods have left the Supplier's premises, the Supplier accepts no responsibility nor liability for any damage to the Goods. Customers must present their collection note and sale order number at the time of collection, or instruct the shippers to do so when collecting on the Customer's behalf. Without the collection note and sale order number, the Supplier will not release the Goods.

### 14. STORAGE

The Supplier reserves the right to charge a storage fee of £30 per item per week for completed Orders that are not collected within 7 days of the date of Delivery.

### 15. TITLE AND RISK

15.1 The risk in the Goods shall pass to the Customer once the Goods leave the Supplier's premises.

15.2 Title to the Goods shall not pass to the Customer until the Supplier has received payment in full (in cash or cleared funds) for:

- (a) the Goods; and
- (b) any other goods or services that the Supplier has supplied to the Customer in respect of which payment has become due.

15.3 Until title to the Goods has passed to the Customer, the Customer shall:

- i. hold the Goods on a fiduciary basis as the Supplier's bailee;
- ii. store the Goods separately from all other goods held by the Customer so that they remain readily

- iii. identifiable as the Supplier's property;
  - iii. not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
  - iv. maintain the Goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery;
  - v. notify the Supplier immediately if it becomes subject to any of the events listed in clause 9; and
  - vi. give the Supplier such information relating to the Goods as the Supplier may require from time to time,
- and the Customer may not resell or use the Goods in the ordinary course of its business without the prior written permission of the Supplier.

15.4 If before title to the Goods passes to the Customer the Customer becomes subject to any of the events listed in clause 9, or the Supplier reasonably believes that any such event is about to happen and notifies the Customer accordingly, then, provided that the Goods have not been resold, or irrevocably incorporated into another product, and without limiting any other right or remedy the Supplier may have, the Supplier may at any time require the Customer to deliver up the Goods and, if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Goods are stored in order to recover them.

15.5 The Customer acknowledges, accepts and agrees that (a) the Goods should be insured by the Customer against loss and damage during, without limitation storage and/or delivery of the Goods; and (b) the Customer is entirely responsible for the packing of Goods prior to transit and the Supplier advises the Customer to procure professional third party expertise in such packing.

### 16. CUSTOMER TO INSPECT GOODS ON DELIVERY

Customers are required to immediately inspect the

Goods for the purpose of ascertaining whether or not at the time of Delivery they are damaged. Customers are required to notify the Supplier as soon as is reasonably practical in the event that the Goods are found on inspection to be defective, damaged or not accurate to the Specification. If the Customer chooses not to inspect Goods they will be accepted by the Customer to be without defect or damage.

## 17. LIMITATION OF LIABILITY

17.1 Nothing in these Terms and Conditions shall limit or exclude the Supplier's liability for:

- (a) death or personal injury caused by its negligence, or the negligence of its employees (as applicable);
- (b) fraud or fraudulent misrepresentation;
- (c) breach of the terms implied by section 12 of the Sale of Goods Act 1979;
- (d) defective products under the Consumer Protection Act 1987; or
- (e) any matter in respect of which it would be unlawful for the Supplier to exclude or restrict liability.

17.2 Subject to clause 17.1:

- (a) the Supplier shall under no circumstances whatever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for:
  - a. any loss of business, use, profit, anticipated profit, contracts, revenues, goodwill or anticipated savings;
  - b. loss of data or use of data;
  - c. damage to the Customer's reputation; or
  - d. consequential, special or indirect loss or damage;

even if the Supplier has been advised of the possibility of such loss or damage.

- (b) the Supplier's total liability to the Customer in

respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed 100% of the price of the Goods.

## 18. SUPPLIER'S WARRANTY

18.1 The Supplier confirms that on delivery, and for a period of 12 months from the date of delivery (**warranty period**), the Goods shall:

- (a) conform in all material respects with their description and any applicable Specification;
- (b) be free from material defects in design, material and workmanship; and
- (c) be of satisfactory quality (within the meaning of the Sale of Goods Act 1979); and
- (d) be fit for any purpose held out by the Supplier.

18.2 Subject to clause 18.1, if:

- (a) the Customer gives notice in writing to the Supplier during the warranty period within a reasonable time of discovery that some or all of the Goods do not comply with the warranty set out in clause 18.1;
- (b) the Supplier is given a reasonable opportunity to examine such Goods; and
- (c) the Customer (if asked to do so by the Supplier) returns such Goods to the Supplier's place of business at the Customer's cost,

the Supplier shall, at its option, repair or replace the defective Goods, or refund the price of the defective Goods in full.

18.3 The Supplier shall not be liable for Goods' failure to comply with the warranty set out in clause 18.1 in any of the following events:

- (a) the Customer makes any further use of such Goods after giving notice in accordance with clause 18.2;

- (b) the defect arises because the Customer failed to follow the Supplier's oral or written instructions as to the storage, commissioning, installation, use and maintenance of the Goods or (if there are none) good trade practice regarding the same;
- (c) the defect arises as a result of the Supplier following any drawing, design or Specification supplied by the Customer;
- (d) the defect arises because the Goods were not installed correctly by a qualified electrician;
- (e) the Customer alters or repairs such Goods without the written consent of the Supplier;
- (f) the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions; or
- (g) the Goods differ from their description or the Specification as a result of changes made to ensure they comply with applicable statutory or regulatory requirements.

18.4 Except as provided in this clause 18, the Supplier shall have no liability to the Customer in respect of the Goods' failure to comply with the warranty set out in clause 18.1.

18.5 The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 are, to the fullest extent permitted by law, excluded from the Contract. These Terms and Conditions shall apply to any repaired or replacement Goods supplied by the Supplier. It is the Customer's responsibility to determine the suitability of the Goods for its intended purpose. It is the Customer's responsibility to ensure that the installation of any Goods and any required assembly is performed by a qualified electrician, in accordance with any instruction furnished by the Supplier (if any) or trade practice and custom and in accordance with local codes and bylaws.

## 19. CONSUMER RIGHT OF RETURN AND REFUND - ADDITIONAL TERMS ONLY

## RELATING TO CUSTOMERS WHO ARE CONSUMERS

19.1 A Customer who is a Consumer has the following rights to cancel an Order for Goods (other than for Goods made to the Consumer's Specification or Goods which have been personalized), and receive a refund:

19.1.1 if the Order is for a single Good, a Consumer may cancel the Order within 14 calendar days of receiving the Good; or

19.1.2 if the Order is for a more than one Good, a Consumer may cancel the Order within 14 calendar days of receiving the last Good in the Order.

Consumers will not be able to cancel an Order where Goods are made to the Consumer's Specification or have been personalized (but this will not affect the Consumer's legal rights as a consumer in relation to Goods made to the Consumer's Specification or personalized that are faulty or not as described).

**19.2 To cancel a Contract, a Consumer needs to let the Supplier know within the period specified in clause 19.1 it has decided to cancel. This can be done by:**

**(a) completing the cancellation form which accompanies these Terms and Conditions and is available on the Supplier's website at <http://www.charlesedwards-acrosstheroad.com/>;**

**(b) e-mailing the Supplier at [info@charlesedwards.com](mailto:info@charlesedwards.com);**

**(c) telephoning the Supplier on +44 (0) 20 7736 7172; or**

**(d) post to 19a Rumbold Road, London SW6 2HX.**

If using e-mail or post, please include details of the Order to be cancelled to help identify it. Where the Consumer has provided the Supplier with an email address, a Consumer will receive an e-mail from the

Supplier to confirm it has received the Consumer's cancellation. If the cancellation notice is provided by e-mail or by post, then cancellation is effective from the date the e-mail or letter was sent.

19.3 If a Consumer cancels an Order in accordance with clauses 19.1 and Clause 19.2, the Supplier will refund the Deposit or, if paid in full, the price the Consumer paid for the Goods. However, please note the Supplier is permitted to reduce the refund to reflect any reduction in the value of the Goods, if this has been caused by the Consumer handling them in a way which would not be permitted in the Supplier's shop. If the Supplier provides the refund before it is able to inspect the Goods and later discovers a Consumer has handled the Goods in an unacceptable way, the Consumer must immediately pay the Supplier an appropriate amount. The Supplier will make any refunds due as soon as reasonably practicable and in any event within the deadlines indicated below:

(a) if the Goods have been received by the Consumer and the Supplier has not offered to collect them: 14 days after the day on which the Supplier receives the Goods back or, if earlier, the day on which the Consumer provides the Supplier with evidence that it has sent the Goods back.

(b) if the Goods have not been received by the Consumer or the Consumer has received the Goods and the Supplier has offered to collect the Goods: 14 days after the Consumer informs the Supplier of its decision to cancel the Contract.

19.4 If a Consumer cancels an Order for Goods under clause 19.1 and the Supplier has already dispatched the Goods, the Consumer (not the Supplier) is responsible for returning the Goods to the Supplier, including the cost of doing so. If the Consumer notifies the Supplier that it wishes the Supplier to collect the Goods or to arrange the collection of the Goods for return to the Supplier, the Supplier will charge the Consumer the direct cost of collection. The Supplier will not refund

any charges for delivery and any charge for collection of the Goods will be deducted from the refund that is due to the Consumer.

19.5 Clause 12.5 and clause 15.1 do not apply to a Consumer. Risk in the Goods passes from the Supplier to the Consumer upon:

(a) collection of the Goods from the Supplier by the Consumer or its representative, shippers or couriers under clause 11 or clause 12.5; or

(b) delivery of the Goods to the Consumer by the Supplier's designated courier under clause 12.1 (if this service is available to the Consumer and the Consumer chooses to use it).

19.6 Further to clause 10, the Supplier and the Consumer both agree, due to the nature of the Goods, delivery of the Goods may exceed 30 days from the Consumer's receipt of the written acceptance of the Order on a Sales Order Form under clause 4.

19.7 If the Goods are found to be damaged on receipt by the Consumer and such damage was not caused by the Consumer, the Supplier will refund (a) the Deposit or, if paid in full, the price the Consumer paid for the Goods, and (b) the cost of returning the Goods to the Supplier by, unless otherwise agreed in writing with the Supplier, the least expensive delivery method (provided that this is a common and generally acceptable method). A refund under this clause will be made by to the Consumer promptly after the Consumer notifies the Supplier in writing that the Goods are damaged and provided evidence the Consumer has returned the Goods and the cost of returning the Goods.

19.8 No refund will be paid by the Supplier for damaged Goods where the damage was caused by the Consumer and the Consumer will be liable for damage to any returned Goods at any time before such Goods are received by the Supplier. The Supplier reserves the right to charge the Consumer an amount for any Goods

which are not returned in the same condition as they were received by the Consumer or if the Consumer returns the Goods at the expense of the Supplier.

19.9 No refund of the cost of returning the Goods to the Supplier will be made by the Supplier for Goods which were not damaged upon receipt by the Consumer. Such Goods must be returned at the Consumer's expense.

19.10 The Supplier will make any refund to the Consumer via the method by which the Consumer made payment.

19.11 All Goods in respect of which a refund is to be paid under this clause 19 must be returned to the Supplier in accordance with clause 21.

19.12 Where the Consumer has no right to a refund, the Supplier may be able to sell unwanted Goods on a Consumer's behalf (provided they are returned to the Supplier in accordance with the terms of this Contract). All items will be sold at the price of purchase unless agreed in advance with the Consumer. The Supplier will use reasonable endeavours to facilitate such a sale however the Supplier cannot guarantee to sell unwanted Goods and if the Supplier has not managed to sell the unwanted Goods within 3 months of their return, the Supplier will request the Consumer collect the Goods from the Supplier's premises. If the Goods are not collected within 4 weeks of such request, the Consumer will incur storage charges of £30.00 per item, per week until the Goods are collected or until they are sold by the Supplier at any price. Upon sale of the unwanted Goods by the Supplier under this clause:

- (a) a commission of 25% will be taken from the sale price by the Supplier; and
- (b) the Customer will be entitled to a refund less the commission charge.

19.13 If a Consumer has a complaint it should address it in writing to the Supplier at 19a Rumbold Road, London SW6 2HX.

19.14 Advice about a Consumer's legal right to cancel the Contract under the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 is available from a Citizens' Advice Bureau website or office.

## **20. CANCELLATION, REFUND AND UNWANTED GOODS**

20.1 Subject to clause 19, Customers who wish to cancel an Order must notify the Supplier in writing within 48 hours of the Order being accepted by the Supplier. The Supplier may retain money paid by the Customer (including without limitation any Deposit) to the value of any work already carried out on the Order and the Customer will be charged a restocking charge (to be determined at the Supplier's sole discretion) based on the total value of the Order.

20.2 Save for as set out in clause 19, the Customer (not the Supplier) is responsible for returning the Goods to the Supplier, including the cost of doing so. All Goods must be returned to the Supplier in accordance with clause 21. If the Customer notifies the Supplier that it wishes the Supplier to collect the Goods or to arrange the collection of the Goods for return to the Supplier, the Supplier will charge the Customer the cost of collection including any administrative fees. The Supplier will not refund any charges for delivery and any charge for collection of the Goods will be deducted from the refund that is due to the Customer.

20.3 The Supplier may cancel an Order before Delivery where the Goods ordered are not available. In such circumstances, the Supplier will

- (a) inform the Customer as soon as reasonably practicable;

- (b) where possible provide the Customer with the option to order substitute goods; and
- (c) where it is not possible to order substitute good, or the Customer declines the option to do so, refund the Deposit or any other advanced payment made for the Goods.

## **21. RETURNING GOODS TO THE SUPPLIER**

If Goods are to be returned under these Terms and Conditions, all Goods must be returned to the Supplier: (a) at 19a Rumbold Road, London SW6 2HX; (b) without undue delay; and (c) in the same condition as they were received by the Customer.

## **22. NON-ASSIGNMENT BY THE CUSTOMER**

The Customer may not at any time assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract without the prior written consent of the Supplier.

The Supplier may at any time assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.

## **23. WARRANTY BY THE CUSTOMER**

The Customer hereby warrants and represents to the Supplier that (i) it is an ultimate end-user or is an authorised dealer for the Goods; (ii) it has full power, capacity and authority to enter into and perform this Contract and, if a corporate entity or partnership, is executed by its duly authorised representative; and (iii) agrees to comply with all applicable laws and regulations. In the event of any breach of this warranty the Supplier shall be entitled to terminate the Contract forthwith by notice in writing and the Customer shall indemnify the Supplier against any loss, damage or expense resulting from a breach of this condition.

## **24. INTELLECTUAL PROPERTY RIGHTS**

24.1 The Intellectual Property Rights in the Goods, the Supplier's website and content (including without limitation the photographs, images, designs and catalogues of designs) are, and shall remain, the property of the Supplier and the Customer shall not use nor reproduce, copy, create nor manufacture goods using such content without the Supplier's prior written consent.

24.2 The Intellectual Property Rights associated with the Goods is the property of the Supplier and the Customer acquires no rights in or to such Intellectual Property Rights.

24.3 The Parties shall do, and execute or arrange for the doing and executing of, each necessary act, document and thing that are reasonably necessary or desirable to perfect the right, title and interest of the Supplier in and to the Intellectual Property Rights in the Goods.

24.4 The Customer acknowledges, accepts and agrees that the Supplier shall retain and own all Intellectual Property Rights in any Goods which are:

24.4.1 personalised, adapted, personal designed by instruction and/or agreement with the Customer unless agreed otherwise in advance by the Supplier; and/or

24.4.2 created from designs (including drawings) which are produced by the Customer and/or in collaboration with the Customer.

24.5 The Customer warrants and represents that it has all rights, entitlements and licences to use and include any content, designs and associated Intellectual Property Rights as referred to in Clause 24.4 and that use by the Supplier of such content, designs and associated Intellectual Property Rights will not create

any actual or threatened loss or liability for the Supplier and the Customer shall indemnify the Supplier and keep the Supplier indemnified against such threatened or actual loss or liability and any legal costs and expenses associated with the same.

24.6 The Customer agrees, acknowledges and accepts that all Intellectual Property Rights relating to the Goods together with any right or entitlement to seek registered protection for such Intellectual Property Rights shall remain the sole property of the Supplier and shall inure solely for the benefit of the Supplier. Should any right, title or interest in or to the Intellectual Property Rights associated with the Goods become vested in the Customer (by operation of law or otherwise) the Customer shall hold the same on trust for the Supplier and shall, at the written request of the Supplier, immediately and unconditionally assign (with full title guarantee) free of charge any such right, title or interest or goodwill to the Supplier and execute any documents and do all acts required by the Supplier for the purpose of properly assigning the aforementioned and enabling the Supplier to exploit such Intellectual Property Rights fully.

## **25. WAIVER**

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

## **26. FORCE MAJEURE**

If the Supplier is hindered or prevented (whether temporarily or permanently) from procuring supplies to enable it to supply the Goods or if such supply is prevented or hindered by reason, without limitation, of acts of God, war, Act of Parliament, or orders, regulations or bye laws made under statutory authority, labour disputes involving the Supplier's workforce, interruption of power supply, failure of sources of supply, interference by a third party, civil commotion, fire, flood or other natural disaster, or any causes of whatever kind and whenever occurring being a cause beyond the Supplier's reasonable control, (circumstances of Force Majeure), then the Supplier may cancel performance of the Contract for as long as and to the extent that the prevention or hindrance may last and such cancellation shall not give rise to any claims by the Customer, and the Customer shall remain liable to pay for the Goods Delivered prior to the date of such cancellation.

## **27. SEVERANCES AND SAVING OF RIGHTS**

Should any Court or competent authority find that any provision of the Contract (or part of any provision) is illegal or unenforceable, such provision shall, to the extent required, be deemed to be deleted and the validity and enforceability of the remaining provisions of the Contract shall continue in full force and effect.

If any invalid, unenforceable or illegal provision of the Contract would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

## **28. VARIATION OF CONTRACT**

Except as set out in this Contract any variation to the Contract, including the introduction of any additional

terms and conditions, shall only be binding when agreed in writing and signed by the Supplier.

### **29. THIRD PARTY RIGHTS**

A person who is not a party to the Contract shall have no rights under or in connection with it pursuant to the Contracts (Rights of Third Parties) Act 1999.

### **30. FURTHER ASSURANCE**

The Customer shall, and shall procure that any necessary third party shall, promptly execute and deliver such documents and perform such acts as may be required by the Supplier for the purpose of giving full effect to the Contract.

### **31. STATUS OF CUSTOMER**

Nothing in the Contract or the relationship between the parties shall render the Customer an employee, worker, agent or partner of the Supplier and the Customer shall not hold itself out as such. The Customer shall have no right to bind the Supplier.

### **32. ALTERNATIVE DISPUTE PROVISIONS**

If any dispute arises out of these Terms and Conditions or the Contract, the parties shall attempt to settle it by negotiation. To this end they shall use their respective reasonable endeavours to consult or negotiate with each other in good faith, and recognising their mutual interests, attempt to reach a just and equitable settlement satisfactory to both parties. Negotiations shall be conducted between the respective senior executives of the parties who have authority to settle disputes.

If the parties are unable to settle any dispute by negotiation within 21 days the parties shall attempt to settle it by mediation administered by the Centre for

Dispute Resolution (“CEDR”). To initiate a mediation a party must give written notice to the other parties to the dispute requesting a mediation. The mediation shall be conducted in accordance with the CEDR Model Mediation Procedure current at the date of the referral which sets out the procedures to be adopted, the process of selection of the mediator and the costs involved, and which terms are deemed incorporated into this agreement.

The mediation shall take place in London and the language of the mediation shall be English. The mediation agreement shall be governed by, and construed and take effect in accordance with English law. The courts of England shall have exclusive jurisdiction to settle any claim, dispute or matter or difference which may arise out of, or in connection with, the mediation.

Nothing in this clause 31 shall restrict the Supplier’s right to enforce the payment of a debt in any way it sees fit.

### **33. LAW AND JURISDICTION**

The Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and interpreted in accordance with English law and the parties agree to accept the exclusive jurisdiction of the Courts of England.