

AIREDALE FENCING LTD
Terms & Conditions
for Supply of Goods & Services

1. INTERPRETATION

The following definitions and rules of interpretation apply in this agreement.

1.1 Definitions:

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

Cancellation: act of deciding that an organized event will not happen or of stopping an order for something.

Cancellation Fee: fee payable by the Client for cancelling the works, in accordance with [Clause 8.4](#).

Client: the individual, person, or firm (including, corporate bodies, associations and sole traders) who purchases the Goods and/or Services from the Supplier.

Client Default: has the meaning given in [Clause 7.2](#).

Commencement Date: has the meaning given in [Clause 2.2](#).

Conditions: these **terms** and **conditions** as amended from time to time in accordance with [Clause 17.8](#).

Contract: the contract between the Supplier and the Client for the supply of Goods and/or Services in accordance with these **Conditions**.

Data Controller: has the meaning set out in GDPR Article 24 and section 1(1) of the Data Protection Act 1998.

Data Subject: an individual who is the subject of Personal Data.

Deliverables: the deliverables set out in the Order produced by the Supplier for the Client.

Delivery Location: has the meaning given in [Clause 5.1](#).

Deposit: a non-refundable (subject to [Clause 13.1](#)) sum payable as a first instalment to book or purchase) the Supplier's Goods and/or Services with the balance being payable later.

Force Majeure Event: has the meaning given to it in [Clause 15](#).

GDPR: General Data Protection Regulation.

Goods: the goods (or any part of them) set out in the Order.

Goods Specification: any specification for the Goods, including any relevant plans or drawings, that is agreed in writing by the Client and the Supplier.

Installation: Installation of products and Materials .

Intellectual Property Rights: patents, rights to inventions, copyright and related rights, trademarks and service marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

Order: the Client's order for the supply of Goods and/or Services, as set out in the Client's acceptance of the Supplier's Estimate. Acceptance of the Quote is subject to agreement of details specified and is agreement for the Supplier to book a Commencement Date.

Personal Data: has the meaning set out in GDPR Article 4.1 and section 1(1) of the Data Protection Act 1998 and relates only to personal data, or any part of such personal data, in respect of which the Client is the Data Controller and in relation to which the Supplier is providing Services under the Contract.

Processing and process: have the meaning set out GDPR Article 4.2 and section 1(1) of the Data Protection Act 1998.

Quote: a proposed price for the Supplier's goods or services based on certain conditions for a particular job or service.

Services: the services, including the Deliverables, supplied by the Supplier to the Client as set out in the Service Specification.

Service Specification: the description or specification for the Services provided in writing by the Supplier to the Client.

Supplier: Airedale Fencing Ltd registered in England and Wales with a company number 11154413.

Supplier Materials: has the meaning given in [Clause 7.1\(h\)](#).

1.2 Interpretation:

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

2. BASIS OF CONTRACT

- 2.1 The Order constitutes an offer by the Client to purchase Goods and/or Services in accordance with these **Conditions**.
- 2.2 The Order shall only be deemed to be accepted when the Client issues acceptance of the Order by accepting via the Supplier's online system, by email or by Issuing a Purchase Order at which point, and on which date the Contract shall come into existence (**Commencement Date**).
- 2.3 Any samples, drawings, descriptive matter, or advertising issued by the Supplier and any descriptions of the Goods or illustrations or descriptions of the Services contained in the Supplier's catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Services and/or Goods described in them. They shall not form part of the Contract or have any contractual force.
- 2.4 These **Conditions** apply to the Contract to the exclusion of any other **terms** that the Client seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 2.5 Any quotation given by the Supplier shall not constitute an offer, and is only valid for a period of 24 hours from its date and time of issue.
- 2.6 All of these **Conditions** shall apply to the supply of both Goods and Services except where application to one or the other is specified.

3. GOODS AND MATERIALS

- 3.1 The Goods and Materials are described as per the Goods Specification provided by the Supplier.
- 3.2 The Supplier reserves the right to amend the Goods Specification if required by any applicable statutory or regulatory requirement, and the Supplier shall notify the Client in any such event.
- 3.3 The risk in the Goods supplied by the Supplier shall pass to the Client on completion of delivery.
- 3.4 Title to the Goods supplied by the Supplier shall not pass to the Client until the Supplier receives payment in full cleared funds (by cash, BACS, Bank Transfer or Credit Card) for the Goods.
- 3.5 Until title to the Goods has passed to the Client, the Client shall:
 - (a) store the Goods separately from all other goods held by the Client so that they remain readily identifiable as the Supplier's property;

- (b) not remove, deface, or obscure any identifying mark or packaging on or relating to the Goods;
- (c) maintain the Goods in satisfactory condition and keep them insured against all risks for their full price on the Supplier's behalf from the date of delivery;
- (d) notify the Supplier immediately if it becomes subject to any of the events listed in [Clause 13.2\(c\)](#), to [Clause 13.2\(f\)](#); and
- (e) give the Supplier such information relating to the Goods as the Supplier may require from time to time.

4. QUALITY OF GOODS AND MATERIALS

4.1 The Supplier confirms the following warranties apply to the Goods and Materials used in providing their services shall:

- (a) the Manufacturer's warranty (and its limitations) will apply to the Goods and Materials at all times;
- (b) all Goods and Materials supplied to be of satisfactory quality (within the meaning of the Sale of Goods Act 1979).

4.2 The Supplier shall not be liable for the Goods' failure to comply with the warranty in [Clause 4.1](#) if:

- (a) the Client makes any further use of such Goods after giving a notice of an defect and/or malfunction;
- (b) the defect arises because the Client failed to follow the Manufacturer's or Suppliers oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Goods and Materials or (if there are none) good trade practice;
- (c) the defect arises as a result of the Supplier following any drawing, design or Goods Specification supplied by the Client;
- (d) the Client alters or repairs such Goods and Materials without the written consent of the Supplier or Manufacturer;
- (e) the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal working **conditions**; or
- (f) the Supplier is required to make changes to the Goods and Materials to make them functional;
- (g) the Goods and Materials differ from their description as a result of changes made to ensure they comply with applicable statutory or regulatory standards.

4.3 The Supplier accepts no liability for any natural products (e.g. wood) which are purchased or installed, which may warp, crack or changes to knot holes due to natural causes and are beyond the Supplier's control.

4.4 Except as provided in this [Clause 4](#), the Supplier shall have no liability to the Client in respect of the Goods and Materials failure to comply with the warranty set out in [Clause 4.1](#).

4.5 If you have any questions or complaints about the Goods or Services, please contact us. You can telephone our customer service team at 01274 964930 or write to us at info@airedalefencing.co.uk.

4.6 **Summary of your legal rights (CONSUMERS ONLY).** The Supplier is under a legal duty to supply Goods and Materials that are in conformity with this contract. See the box below for a

summary of Consumer Client's (only) key legal rights in relation to this. Nothing in these **terms** will affect your legal rights.

This is a summary of your key legal rights. These are subject to certain exceptions. For detailed information please visit the Citizens Advice website www.adviceguide.org.uk or call 0808 2231133.

If your product is **goods**, for example furniture, the Consumer Rights Act 2015 says goods must be as described, fit for purpose and of satisfactory quality. During the expected lifespan of your product your legal rights entitle you to the following:

- up to 30 days: if your goods are faulty, then you can get an immediate refund.
- up to six months: if your goods can't be repaired or replaced, then you're entitled to a full refund, in most cases.
- up to six years: if your goods do not last a reasonable length of time you may be entitled to some money back.

If your product is **services**, for example, the Consumer Rights Act 2015 says:

- you can ask us to repeat or fix a service if it's not carried out with reasonable care and skill, or get some money back if we can't fix it.
- if you haven't agreed a price beforehand, what you're asked to pay must be reasonable.
- if you haven't agreed a time beforehand, it must be carried out within a reasonable time.

4.7 If you wish to exercise your legal rights to reject Goods you must either return them in person to where you bought them, post them back to us or (if they are not suitable for posting) allow us to collect them from you. We will pay the costs of postage or collection.

4.8 The **terms** of these **Conditions** shall apply to any repaired or replacement Goods supplied by the Supplier.

5. DELIVERY OF GOODS

5.1 Where the Supplier is required to source goods, they shall arrange delivery of the Goods to the location set out in the Order or such other location as the parties may agree (**Delivery Location**).

5.2 Delivery of the Goods shall be completed on the completion of unloading of the Goods at the Delivery Location.

5.3 Any dates quoted for delivery of the Goods are approximate only, and the time of delivery is not of the essence of the contract. The Supplier shall not be liable for any delay in delivery of the Goods by the selected third party.

5.4 If the Client fails to take delivery of the Goods on the agreed date, then except where such failure or delay is caused by a Force Majeure Event the Supplier reserves the right change the work Commencement Date.

5.5 The Client will ensure that delivery is accepted at the Delivery location and will indemnify the Supplier in respect of all costs and liabilities incurred by the Supplier as a result of any delay in or refusal of acceptance of delivery or unloading.

5.6 The Supplier, at their discretion will endeavour to comply with any reasonable request by the Client for postponement of delivery but shall be under no obligation to do so. Where postponement is agreed by the Supplier in writing, the Client shall if required pay all costs and

expenses occasioned, thereby including a reasonable charge for storage and any increased costs of delivery and any costs incurred by the Supplier in relation to any insurance payments reasonably made by it.

- 5.7** The Supplier may deliver the Goods by instalments, at their discretion. Any delay in delivery or defect in an instalment shall not entitle the Client to cancel any other instalment.
- 5.8** Where the Client is purchasing fencing in accordance with [Clause 6.1\(a\)](#), no claim for damage to the Goods in transit will be considered by the Seller unless the following terms have been adhered to:
- (a)** An appropriately qualified signature, (e.g. "Material received damaged, (signed)") is clearly made by the Client on the delivery note; and
 - (b)** The Supplier is advised in writing of the precise particulars of the damage, within 48 hours of receipt of items; and
 - (c)** Claims will not be considered for short weight measure or delivery or unsuitability **unless** the Supplier is notified in writing and given an opportunity for verifying the same within 48 hours.

6. SUPPLY OF SERVICES

- 6.1** These Terms and Conditions apply to the following Services (with full details of the specific Services which are to be provided to be detailed in the Quote), provided by the Supplier:
- (a)** Sales of Fencing and Gates;
 - (b)** Installation of Fencing and Gates;
 - (c)** Maintenance and Repairs;
 - (d)** Gate Automation/Access Control.
- 6.2** The Supplier shall use all reasonable endeavours to meet any performance dates specified in the quotation, but any such dates shall be estimates only and time shall not be of the essence for performance of the Services.
- 6.3** The Supplier will require the site to be ready for them to commence the agreed works upon attendance on the agreed date and time. If the Supplier is unable to commence the agreed works they reserve the right to charge a fee in accordance with [Clause 8.5](#), which the Client will be liable to pay.
- 6.4** Where the Supplier is providing their Installation Services (in accordance with [Clause 6.1\(b\)](#)) the following terms will apply:
- (a)** all site work can be carried out by the Supplier if it so desires in one continuous operation through to completion;
 - (b)** where there is good digging ground, free from subterranean obstructions and mechanical tools (compressors and breakers) will not be required;
 - (c)** lines and levels will be provided to the Supplier by the Client or it's surveyor;
 - (d)** there will be free access to both sides of the fence line where needed;
 - (e)** there will be a safe storage area to be provided for the Supplier's material on site.
 - (f)** prices quoted by the Supplier shall include the supply and placing of the necessary concrete for post bases to the relevant specification.

- 6.5** The Supplier reserves the right to amend the Specification if necessary to comply with any applicable law or regulatory requirement, or if the amendment will not materially affect the nature or quality of the Services, and the Supplier shall notify the Client in any such event.
- 6.6** The Supplier warrants to the Client that the Services will be provided using reasonable care and skill.
- 6.7** Where the Supplier is instructed to provide the Gate Automation/Access Control Services (in accordance with [Clause 6.1\(d\)](#)), any such warranty, call out or service contract relating to these Services (following installation) must be addressed with our preferred third party, details of which will be provided.
- 6.8** In supplying the Services the Client is put on notice that there may be disruption, dirt, and mess at the Works site. The Supplier will endeavour to keep this to a minimum.
- 6.9** The Supplier is entitled to deliver the works in one or more consignment at the Supplier's sole discretion unless otherwise expressly agreed.
- 6.10** If the Supplier is required to supply any Goods and/or Services supplied by a third party, the Supplier does not give any warranty, guarantee or other term or condition as to the quality, fitness for purpose or otherwise, but shall, where possible, pass on to the Client the benefit of any warranty, guarantee or indemnity given by such third party to the Supplier.
- 6.11** The Supplier reserves the right to submit a new and separate proposal, for written approval if the Client requests changes or revisions which are deemed to be in excess of ten percent (10%) of the time required to produce the initial deliverables, and or the value or scope of the services. Work shall not begin on the revised services and/or until a fully signed revised proposal and, if required, any additional retainer fees are agreed.
- 6.12** The Supplier shall be entitled to appoint one or more sub-contractors/third parties to carry out all or any of its obligations under the contract.

7. CLIENT'S OBLIGATIONS

7.1 The Client shall:

- (a)** ensure that the **terms** of the Order and any information it provides in the Service Specification and the Goods Specification are complete and accurate;
- (b)** co-operate with the Supplier in all matters relating to the Services;
- (c)** provide the Supplier with full and clear access to the Works site where the Services are to be supplied;
- (d)** provide the Supplier with such information and materials as the Supplier may reasonably require in order to supply the Services, and ensure that such information is complete and accurate in all material respects;
- (e)** provide the Supplier with water and suitable power on the works site;.
- (f)** provide the supplier with suitable parking, within 10 metres of site;
- (g)** provide the Supplier with a suitable toilet on site, including where applicable, a portaloos;
- (h)** (where applicable) ensure any site plan provided by the Clients surveyor, clearly mark out all fence boundaries and gate positions both on an accurate site plan supplied and their actual position on site. The Supplier cannot accept responsibility for any incorrect fence line or gate position upon commencement of contract works;

(i) (where applicable) ensure all required local authority planning permission relevant to any of the works are obtained before the commencement on site of any contracted works. Written proof of planning consent may be required by the Supplier prior to the ordering of Goods and Materials/commencement of any works on site;

(j) (where applicable) ensure all underground services (including electrical cables, telephone/data cables, water & gas service pipes, drains, chemical storage containers and underground conduits) are to be indicated clearly on an accurate site plan and their actual position on site as the Supplier cannot accept responsibility for any damage being caused to any unmarked underground services during the contracted Works period on site;

(k) disclose in full to the Supplier details of any and all neighbour boundary disputes prior to the Supplier accepting any works orders;

(l) obtain necessary permission when from neighbours (including relevant organisations including but not limited to, the MOD, Airports, Railways, and other government organisations) when Works involve shared boundaries. The Client will be required to fully liaise a works schedule with the appropriate organisation, before commencement of works on site;

(m) (where applicable) provide utility plans of the site indicating where underground and over ground services such as: (gas, mains electric, telephone, water, sewage, oil,) are situated to minimise the potential for accidental damage to any services by ground penetration or use of heavy plant or excavators. Whilst every care is taken to avoid any disruption and a cable avoidance tool (CAT) scan is carried out by the Supplier to commencement of any new fence installation the Supplier cannot be held responsible for any cable strikes. The Client agrees that Supplier shall bear no liability for any damage caused to any over or underground services and that the responsibility for repairing any such damage caused shall solely be the Clients;

(n) ensure that the fence line is clearly pegged out and identified prior to the Supplier's commencement on site. The Supplier will accept no responsibility for identifying or demarcating the fence line;

(o) notify the Supplier, at least 48 hours prior to the commencement of work of any changes or additional work that is required in addition to the original Estimate;

(p) obtain and maintain all necessary licences, permissions and consents which may be required for the Services before the date on which the Services are to start;

(q) keep all materials, equipment, documents, and other property of the Supplier (**Supplier Materials**) at the Client's premises in safe custody at its own risk, maintain the Supplier Materials in good **condition** until returned to the Supplier, and not dispose of or use the Supplier Materials other than in accordance with the Supplier's written instructions or authorisation;

(r) provide the Supplier with all relevant Notification periods, in good time;

(s) comply with all applicable laws, including health and safety laws.

7.2 If the Supplier's performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Client or failure by the Client to perform any relevant obligation (**Client Default**):

(a) without limiting or affecting any other right or remedy available to it, the Supplier shall have the right to suspend performance of the Services until the Client remedies the Client Default, and to rely on the Client Default to relieve it from the performance of any of its obligations in each case to the extent the Client Default prevents or delays the Supplier's performance of any of its obligations;

(b) the Supplier shall not be liable for any costs or losses sustained or incurred by the Client arising directly or indirectly from the Supplier's failure or delay to perform any of its obligations as set out in this [Clause 7.2](#);

(c) the Client shall reimburse the Supplier on written demand for any costs or losses sustained or incurred by the Supplier arising directly or indirectly from the Client Default.

8. CHARGES AND PAYMENT

8.1 The Charges for the **Services** shall be calculated on a time and materials basis:

(a) the Charges shall be calculated in accordance with the Supplier's fee stipulated in the Quote and Payment will be required in accordance with [Clause 8.1\(b\)](#);

(b) the Supplier's Services (see [Clause 6.1](#)) will be charged in the following manner:

- (i) Deposit (non-refundable) – 25% of the total value of the work, payable within 3 days of the Supplier's invoice and required prior to commencement; and
- (ii) Balance – 75% of the total value of the work, payable upon conclusion and within 14 days of the Suppliers invoice; or
- (iii) Schools (only) - will be payable in full upon conclusion of the agreed Services and within 30 days of the Suppliers invoice.

8.2 The price stipulated by the Supplier is for the works as described in Quote only. Any variations to the works in content and quality will result in variations to the prices charged. This includes but is not limited to variations to works on new build properties, where buildings are not straight and thus require further work from the Supplier. Details of the additional fees will be provided by the Supplier, but the original fee will still be due (irrespective of additional work) and payable in accordance with [Clause 8.1\(b\)](#).

8.3 If the Supplier incurs additional costs in the performance of the contract either by reason or alteration in the Client's instructions or the lack of or delay in the receipt of such instructions or by reason of unforeseen interruptions delay overtime requirements, unusual hours, mistakes or additional, or varied works in circumstances where the Supplier is not responsible, then the Supplier may increase the contract price to cover such extra costs and to allow for overheads and profit thereon.

8.4 If the Client cancels the agreed work at any time after the Commencement Date ([Clause 2.2](#)) the Supplier will retain the non-refundable deposit as a Cancellation Fee. If the deposit has not been paid at point of cancellation, the Supplier will provide an invoice which will be payable immediately.

8.5 If the Supplier is unable to commence works due to delays (see [Clause 6.3](#)) then the Client will liable to pay a fee of £50.00, which is payable immediately upon receipt of invoice.

8.6 The Client shall pay each invoice submitted by the Supplier by Cash, Direct Bank Transfer, Card payment or BACS in full and in cleared funds to a bank account nominated in writing by the Supplier, and time for payment shall be of the essence of the Contract. The Client is not permitted under any circumstances to cancel/reverse a Credit Card payment transaction with their provider once, once the payment transaction has been made to pay the Supplier. If the Client attempts to do so and a fee is incurred by the Supplier, the Client will be liable to pay this.

8.7 All amounts payable by the Client under the Contract are inclusive of amounts in respect of value added tax chargeable from time to time (**VAT**). Where applicable, the VAT element of the invoice will be clearly specified and payment of this taxable element, is due upon the supply of the Services or Goods at the same time as payment is due for the supply of the Services or Goods.

8.8 If the Client fails to make a payment due to the Supplier under the Contract by the due date, then, without limiting the Supplier's remedies under [Clause 13](#) (Termination), the Client shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this [Clause 8.8](#) will accrue each day at 8% a year above the

Bank of England's base rate from time to time, but at 8% a year for any period when that base rate is below 0%.

8.9 The Client will be liable for (and the Supplier is entitled to recover) any and all legal costs, charges and expenses incurred by the Supplier in recovering any outstanding and overdue sums from the Client in relation to this Contract.

8.10 All amounts due under the Contract shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

9. INTELLECTUAL PROPERTY RIGHTS

9.1 All Intellectual Property Rights in or arising out of or in connection with the Services (other than Intellectual Property Rights in any materials provided by the Client) shall be owned by the Supplier.

9.2 The Supplier grants to the Client, or shall procure the direct grant to the Client, of a fully paid-up, worldwide, non-exclusive, royalty-free licence during the term of the Contract to copy the Deliverables (excluding materials provided by the Client) for the purpose of receiving and using the Services and the Deliverables in its business.

9.3 The Client shall not sub-license, assign or otherwise transfer the rights granted in [Clause 9.2](#).

9.4 The Client grants the Supplier a fully paid-up, non-exclusive, royalty-free, non-transferable licence to copy and modify any materials provided by the Client to the Supplier for the term of the Contract for the purpose of providing the Services to the Client.

10. DATA PROTECTION AND DATA PROCESSING

10.1 The Client and the Supplier acknowledge that for the purposes of General Data Protection Regulation (GDPR), the Client is the Data Controller, and the Supplier is the Data Processor in respect of any Personal Data.

10.2 The Supplier shall process the Personal Data only in accordance with the Client's instructions from time to time and shall not process the Personal Data for any purposes other than those expressly authorised by the Client.

10.3 The Supplier shall take reasonable steps to ensure the reliability of all its employees who have access to the Personal Data.

10.4 Each party warrants to the other that it will process the Personal Data in compliance with all applicable laws, enactments, regulations, orders, standards, and other similar instruments.

10.5 The Supplier warrants that, having regard to the state of technological development and the costs of implementing any measures, it will:

(a) take appropriate technical and organisational measures against the unauthorised or unlawful processing of Personal Data and against the accidental loss or destruction of, or damage to, Personal Data to ensure a level of security appropriate to:

(i) the harm that might result from such unauthorised or unlawful processing or accidental loss, destruction, or damage; and

(ii) the nature of the data to be protected.

(b) take reasonable steps to ensure compliance with those measures.

10.6 Each party agrees to indemnify and keep indemnified and defend at its own expense the other party against all costs, claims, damages, or expenses incurred by the other party or for which the

other party may become liable due to any failure by the first party or its employees or agents to comply with any of its obligations under this [Clause 10](#).

10.7 The Client acknowledges that the Supplier is reliant on the Client for direction as to the extent to which the Supplier is entitled to use and process the Personal Data. Consequently, the Supplier will not be liable for any claim brought by a Data Subject arising from any action or omission by the Supplier, to the extent that such action or omission resulted directly from the Client's instructions.

10.8 The Supplier may authorise a third party (subcontractor) to process the Personal Data provided that the subcontractor's contract is on **terms** which are substantially the same as those set out in this agreement.

11. CONFIDENTIALITY

11.1 Each party undertakes that it shall not at any time during the Contract, and for a period of five years after termination of the Contract, disclose to any person any confidential information concerning the business, affairs, Client's, or Client's Suppliers of the other party, except as permitted by [Clause 11.2](#).

11.2 Each party may disclose the other party's confidential information:

(a) to its employees, officers, representatives, subcontractors, or advisers who need to know such information for the purposes of carrying out the party's obligations under the Contract. Each party shall ensure that its employees, officers, representatives, subcontractors or advisers to whom it discloses the other party's confidential information comply with this [Clause 11](#); and

(b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

11.3 Neither party shall use the other party's confidential information for any purpose other than to perform its obligations under the Contract.

12. LIMITATION OF LIABILITY:

12.1 Nothing in the Contract shall limit or exclude the Supplier's liability for:

(a) death or personal injury caused by its negligence, or the negligence of its employees, agents, or subcontractors;

(b) fraud or fraudulent misrepresentation; or

(c) breach of the **terms** implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession) or any other liability which cannot be limited or excluded by applicable law.

12.2 Subject to [Clause 12.1](#), the Supplier shall not be liable to the Client (in addition to any other terms of this contract which limit their liability), whether in contract, tort (including negligence), for breach of statutory duty, or otherwise, arising under or in connection with the Contract for:

(a) loss of profits;

(b) loss of sales or business;

(c) loss of agreements or contracts;

(d) loss of anticipated savings;

(e) loss of use or corruption of software, data, or information;

- (f) any damage, losses or issues arising from pre-existing issues to the Works site which are not directly related to the agreed works;
- (g) any loss, damage or issues arising from work carried out by the Supplier's selected third party. Any such claim should be brought directly against the third party, details of which will be provided by the Supplier upon request;
- (h) loss of or damage to goodwill; and
- (i) any indirect or consequential loss.

12.3 Subject to [Clause 12.1](#), the Supplier's total liability to the Client, whether in contract, tort (including negligence), breach of statutory duty or otherwise, arising under or in connection with the Contract, shall be limited to 100% of the total charges paid under the Contract.

12.4 The Supplier will not be liable for any damage caused to the Client's items of any sort, including fixtures and fittings caused prior to commencement or during the course the agreed works and for a period of 6 months post completion.

12.5 The **terms** implied by sections 13 to 15 of the Sale of Goods Act 1979 and the **terms** implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.

12.6 All claims against Supplier must be brought within one 1 year after the cause of action arises and Supplier waives any statute of limitations which might apply by operation of law or otherwise

12.7 This [Clause 12](#) shall survive termination of the Contract.

13. TERMINATION

13.1 Without affecting any other right or remedy available to it, either party may terminate the Contract prior to commencement by giving the other party 7 days written notice. If the Client terminates the Contract they will still be liable for the cancellation fee as per [Clause 8.4](#). If the Supplier terminates the Contract at this point, they will refund the deposit within 14 days.

13.2 Without affecting any other right or remedy available to it, Supplier may terminate the Contract with immediate effect by giving written notice to the other party if:

- (a) the Client commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 48 hours of that party being notified in writing to do so;
- (b) the Client fails to pay any amount due under the Contract on the due date for payment
- (c) the Client takes any step or action in connection with its entering bankruptcy, administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business;
- (d) the Client (where applicable) suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business;
- (e) the Client's financial position deteriorates to such an extent that in the terminating party's opinion the other party's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy; or
- (f) there is a change of control of the Client;

13.3 Without affecting any other right or remedy available to it, the Client may terminate the Contract by providing 7 days written notice to the Supplier if:

- (a) the Supplier commits a material breach of its obligations under the Contract and (if such breach is remediable) fails to remedy that breach within 48 hours after receipt of notice in writing to do so;
- (b) the Supplier takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business
- (c) the Supplier suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business.

13.4 Without affecting any other right or remedy available to it, the Supplier may suspend the supply of Services under the Contract or any other contract between the Client and the Supplier, if the Client fails to pay any amount due under the Contract on the due date for payment, the Client becomes subject to any of the events listed in [Clause 13.2\(c\)](#) to [Clause 13.2\(f\)](#), or the Supplier reasonably believes that the Client is about to become subject to any of them.

14. CONSEQUENCES OF TERMINATION

14.1 On termination of the Contract:

- (a) the Client shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and, in respect of Services and Goods supplied but for which no invoice has been submitted, the Supplier shall submit an invoice, which shall be payable by the Client immediately on receipt;
- (b) the Client shall return all of the Supplier Goods and Materials and any Deliverables which have not been fully paid for. If the Client fails to do so, then the Supplier may enter the Client's premises and take possession of them and if the Supplier is required to dismantle any items the Client will be liable to pay a fee for this (detail will be provided by the Supplier). Until they have been returned, the Client shall be solely responsible for their safe keeping and will not use them for any purpose not connected with the Contract.

14.2 Termination or expiry of the Contract shall not affect any rights, remedies, obligations, or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry.

14.3 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Contract shall remain in full force and effect.

15. FORCE MAJEURE

Neither party shall be liable for failure to perform, nor be deemed to be in default, under this Agreement for any delay or failure in performance resulting from causes beyond its reasonable control, including but not limited to acts of God, acts of Governmental authorities, acts of terrorism, natural catastrophe, fire, storm, flood, earthquake, riot, insurrection, civil disturbance, sabotage, embargo, blockade, acts of war, accident, epidemics, lightning damage, electromagnetic interference, radio interference, strikes, industrial dispute, power failure or any other cause beyond its reasonable control..

16. MEDIA

16.1 All pictures or videos taken on deliveries or on site shall form part of proof of deliveries or installation works completed.

16.2 The Client provides express consent to any media being used for the following social media platforms for marketing purposes: Facebook, YouTube, Instagram or TikTok.

16.3 Only Schools are exempt from this due to child safety concerns. If you do not wish any media to be used for marketing purposes this must be made clear in writing at quoting stage.

17 GENERAL

17.1 Assignment and other dealings

(a) The Supplier may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Contract.

(b) The Client shall not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any of its rights and obligations under the Contract.

17.2 Notices

(a) Any notice or other communication given to a party under or in connection with the Contract shall be in writing and shall be delivered by hand or by pre-paid first-class post or other next working day delivery service at its principal place of business; or sent by email to the address specified in the quote or order.

(b) Any notice or other communication shall be deemed to have been received: if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address; if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second Business Day after posting or at the time recorded by the delivery service; or, if sent by fax or email, at 9.00 am on the next Business Day after transmission.

(c) This clause does not apply to the service of any proceedings or other documents in any legal

17.3 Severance

If any provision or part-provision of the Contract is or becomes invalid, illegal, or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal, and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.

17.4 Waiver

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

17.5 No partnership or agency

Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, constitute either party the agent of the other, or authorise either party to make or enter into any commitments for or on behalf of the other party.

17.6 Entire agreement.

- (a) The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations, and understandings between them, whether written or oral, relating to its subject matter.
- (b) Each party acknowledges that in entering into the Contract it does not rely on, and shall have no remedies in respect of any statement, representation, assurance, or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation [or negligent misrepresentation] based on any statement in the Contract.
- (c) Nothing in this clause shall limit or exclude any liability for fraud.

17.7 Third parties rights

The Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any **term** of the Contract.

17.8 Variation

Except as set out in these **Conditions**, no variation of the Contract shall be effective unless it is agreed in writing and signed by the parties (or their authorised representatives).

17.9 Governing law

The Contract and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.

17.10 Jurisdiction

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